

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 09-134

Complainant: No. 0308110435A

Judge: No. 0308110435B

ORDER

The judge self-reported a possible violation of Canon 5 involving a petition he signed opposing a political initiative. Unbeknownst to the judge, the petition was used in a political ad that appeared in a local newspaper listing the names of the signers. The commission found that the judge's conduct did not violate the code in this instance. Accordingly, the case is dismissed pursuant to Rules 16(a) and 23.

Dated: July 23, 2009.

FOR THE COMMISSION

 \s\ Keith Stott
Executive Director

Copies of this order were mailed to the complainant and the judge on July 23, 2009.

This order may not be used as a basis for disqualification of a judge.

MAY 20 2009



Superior Court of Arizona
County

Linda Haynes
Staff Attorney
COMMISSION ON JUDICIAL CONDUCT
1501 W. Washington, Suite 229
Phoenix, AZ 85007

Re: Self Report

Dear Ms. Haynes and members of the commission:

I regretfully need to bring to your attention an unintentional violation of Canon 5.A.(5) regarding political activity.

As background information, it may help to know that today (Tuesday, May 19, 2009) the voters of _____ will decide one issue: whether to grant the city council the authority to negotiate the construction of a baseball/sports facility with an increase of the city sales tax revenues if an agreement with a professional baseball franchise could be successfully negotiated within the next ten years. Some weeks ago, I was approached at a local restaurant and was asked to sign a petition that I understood was being sent solely to the city council members of the City of _____, expressing concern over entering into an agreement without specified conditions or concessions. I unfortunately believed that I could sign the petition as I had equated the petition to that of a nomination petition or contribution to a candidate. In those situations, although the nomination petitions and the financial reports of candidates are subject to public inspection, they are not considered public endorsements. (I also acknowledge however that in smaller communities such as _____, I need to be mindful of the commentary to Canon 5, and Opinions 96-07 and 02-01). I also believed that Advisory Opinion 02-01 allows certain communication with the city council on civic issues, and concluded that the petitions fit within one of those exceptions.

In this case, I erroneously understood that only the council was going to receive the petitions, although I certainly acknowledge that the petitions would be subject to review by a member of the public if requested. Based on that misunderstanding, I mistakenly believed that I was permitted to sign. At the time, I was not told that the petition would be used in a campaign ad. However, I need to also admit that I did not specifically ask if the petitions were to be used for any other purpose. I have known the person circulating the petition for several years, and did not ask for any clarification on that issue.

On Sunday, May 17th, I was surprised to discover that an ad appeared in our local paper regarding the election being held today, and that my name had been included. I have enclosed for your review a copy of the ads that ran in the Dispatch on Sunday, May 17, 2009 which may better explain the issue being voted on today, and, which contains my name among those asking voters to vote "no".

I would like the commission to know that if I had been told that the petitions were for a political ad, I would not have signed it. However, I do not want that statement to suggest that I am trying to excuse my decision. Obviously, signing the petition was poor judgment on my part despite my understanding of how those were to be used. I certainly regret any discredit to the bench by that decision, and will await your response.

Sincerely,