

JUDICIAL ETHICS ADVISORY COMMITTEE

Opinion No. 92-7

FACTS

A judge writes that he has been asked to submit a letter of recommendation on behalf of a court clerk, who has been nominated for an award known as "The Outstanding County Official of the Year." This judge, before becoming a judge, was a county attorney, who worked closely with this person and was very familiar with her work.

Our opinion is requested as to whether it is ethical for this judge to write the requested letter.

OPINION

Canon 2 of the Nebraska Code of Judicial Conduct, adopted by order of The Nebraska Supreme Court, effective September 1, 1992, states:

"A Judge Shall Avoid Impropriety and the Appearance of Impropriety in all of the Judge's Activities."

Section B of the Canon states:

"A Judge shall not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge. A judge shall not testify voluntarily as a character witness."

The commentary to this section is helpful in answering this request. This commentary states in part:

"Although a judge should be sensitive to possible abuse of the prestige of office,

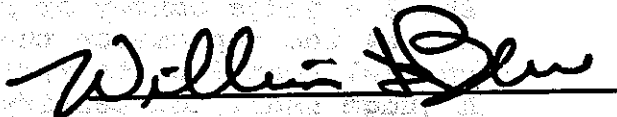
a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation."

The judge writes that he has personal knowledge of the court clerk's leadership and dedication in her job. He has also worked with her in organizing a county wide law day event, and has knowledge of some facets of her personal life. This information would be of value to the group.

We note that the judge did not initiate the letter, it was requested. The judge has personal knowledge of the work and achievements of the clerk and of some facets of her personal life. Also, this does not really advance the private interest of the clerk, rather, the fact that a court clerk receives this honor, would tend to promote the public respect for, and confidence in the court system and its personnel.

It appears to us that the Code of Conduct permits the judge to write a letter of recommendation in this instance, outlining his personal knowledge of her and her contributions, which he became aware of when he was a county attorney.

Adopted by the Committee this 8th day of October, 1992.



Chairperson