

*Special Committee on Judicial Election Campaign Intervention  
2018 Judicial Elections*

**2018-16 Opinion**

The Special Committee on Judicial Election Campaign Intervention received an anonymous complaint filed against Candidate H (a candidate for \_\_\_\_\_ Court). The complaint alleges that Candidate H is pictured on Facebook with Candidate I (a candidate for [a different court]) at a fundraiser supporting Candidate I. The complaint alleges that Candidate H is in violation of Canon 5, and by attending a fundraiser supporting Candidate I, she is publicly endorsing a judicial candidate.

In response, Candidate H admitted that she attended Candidate I's fundraiser and that there was a picture of her with Candidate I on Facebook. She claimed that she, as well as several other candidates, have incorrectly interpreted Canon 5, believing that a candidate is permitted to attend a fundraiser for another candidate who is running in an election which is not in their district or on their ballot.

Further, she indicated that she is not on Candidate I's campaign committee, is not a donor, was not a sponsor of the event, does not have a campaign sign for Candidate I in her yard or at my office, and have made no statements to the media on his behalf. She asserts that she attended the fundraiser as a long-time friend and fellow law school graduate.

Candidate H stated that she understood this was a violation of Canon 5 and that she has contacted anyone that she knows may have the picture in question on their Facebook page and asked that they remove the post and confirmed that all persons She also states that the post has been removed from Facebook and that the picture should no longer be on Facebook in any way shape or form. The Special Committee notes that the picture indicates that Candidate H was wearing a sticker in support of Candidate I.

The Special Committee is satisfied with Candidate H's response. However, the Special Committee is of the opinion that there is no prohibition against a judicial candidate attending another political or judicial candidate's fundraiser or event. Indeed, Canon 5C(1) provides:

C. Judges and Candidates Subject to Public Election.

(1) Judges holding an office filled by public election between competing candidates, or candidates for such office, may, only insofar as permitted by law, attend political gatherings, speak to such gatherings in their own behalf while

candidates for election or re-election, identify themselves as members of political parties, and contribute to political parties or organizations.

### **Commentary**

Section 5C recognizes the distinction between appropriate political activities by judges and candidates subject to non-partisan election and those subject to partisan elections. The language of Section 5C differs from that of corresponding provisions in the ABA Model Code, Sections C(1)(a)(ii) and (iii), in recognition of Mississippi's non-partisan elections for certain positions. Furthermore, Section 23-15-973 et seq., Miss. Code Ann. (1972) imposes restrictions on candidates and political organizations to assure the non-partisan quality of judicial elections for Supreme Court, Court of Appeals, Chancery Court, Circuit Court and County Court justices and judges. Section 5C(1) permits judges subject to election at any time to be involved in limited political activity. Section 5D, applicable solely to incumbent judges, would otherwise bar this activity. Section 5C(1)(b)(iv) of the ABA Model Code has not been incorporated. Attending or speaking at a political party gathering in the judge's own behalf while a candidate does not constitute alignments or affiliation with the party sponsoring the gathering.

The Special Committee is of the opinion that a judicial candidate may in fact "attend political gatherings [and] speak to such gatherings in their own behalf." Candidate H was not in violation for attending the political gathering of another candidate. However, Candidate H was in violation of this Canon when she placed another candidate's sticker on her dress, which indicated that she was in attendance not simply on her "own behalf."

The Special Committee has determined that Candidate H has taken the appropriate steps to comply with Canon 5 when she removed any photographs from social media that indicate she has publicly supported Candidate I. The Special Committee declines to take further action.

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This opinion is limited to the scope and authority of the Special Committee under the Mississippi Code of Judicial Conduct.

Any questions should be in writing and directed to:

***Special Committee on Judicial Election Campaign Intervention***

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