

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

2018-12 Opinion

The Special Committee on Judicial Election Campaign Intervention received a request for an opinion on the following issue:

1. Can a judicial candidate have a fundraising event for campaign contributions where the invitation indicates that the Democratic or Republican nominee for Congress will be the special guest?

Response: A candidate for judicial office is not allowed to solicit campaign contributions. *See Williams–Yulee v. Fla. Bar*, 135 S.Ct. 1656, 191 L.Ed.2d 570 (2015). Also, Canon 5(C)(2) Mississippi Code of Judicial Conduct provides that:

A candidate shall not personally solicit or accept campaign contributions A candidate may, however, establish committees of responsible persons to conduct campaigns for the candidate Such committees may solicit and accept reasonable campaign contributions, manage the expenditure of funds for the candidate's campaign and obtain public statements of support for the candidacy. Such committees are not prohibited from soliciting and accepting reasonable campaign contributions and public support from lawyers.”

The Special Committee finds no rule or law that prohibits a candidate’s committee from having a fundraising event that indicates a Democratic or Republican nominee for Congress as the special guest.

2. Can a non-judicial candidate from another election endorse a judicial candidate?

Response: It is permissible for a non-judicial candidate from another election to endorse a judicial candidate. Mississippi Code Annotated section 23-15-976 provides:

A judicial office is a nonpartisan office and a candidate for election thereto is prohibited from campaigning or qualifying for such an office based on party affiliation. The Legislature finds that in order to ensure that campaigns for nonpartisan judicial office remain nonpartisan and without any connection to a political party, political parties and any committee or political committee affiliated with a political party shall not engage in fund-raising on behalf of a candidate or

officeholder of a nonpartisan judicial office, nor shall a political party or any committee or political committee affiliated with a political party make any contribution to a candidate for nonpartisan judicial office or the political committee of a candidate for nonpartisan judicial office, nor shall a political party or any committee or political committee affiliated with a political party publicly endorse any candidate for nonpartisan judicial office. No candidate or candidate's political committee for nonpartisan judicial office shall accept a contribution from a political party or any committee or political committee affiliated with a political party.

In *Mississippi Republican Party v. Musgrove*, 3:02CV1578WS (S.D. Miss. 2002), the Mississippi Republican Party State Executive Committee brought a declaratory judgment action against the State of Mississippi to declare that Mississippi's statutory prohibition on political parties endorsing or contributing to the campaigns of judicial candidates violates the freedom of political speech guaranteed by the United States Constitution and the Mississippi Constitution of 1890. Judge Henry Wingate ruled:

Mississippi Code Annotated § 23-15-976 . . . with the exception of the first sentence stating “[a] judicial office is a nonpartisan office and a candidate for election thereto is prohibited from campaigning or qualifying for such an office based on party affiliation,” is hereby declared void of the First and Fourteenth Amendments to the Constitution of the United States.

The Special Committee is aware of no other rule or law that would prohibit a non-judicial candidate from endorsing a judicial candidate.

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:

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