

**Judicial Election Oversight Committee**

**2022 Judicial Elections**

**Public Opinion No. 2022-07**

**2021-M-01306-SCT**

**FILED**

**OCT 26 2022**

OFFICE OF THE CLERK  
SUPREME COURT  
COURT OF APPEALS

The Judicial Election Oversight Committee (“Oversight Committee”) received a complaint filed by judicial Candidate A against Candidate B. In the complaint, Candidate A alleges that Candidate B, who currently serves as a justice court judge, has stated in a speech to a jury venire and in other public and private venues that he is the only “judge” in their race. Candidate A alleges that this claim is misleading because she serves as a special master in chancery court. Candidate A asks the Oversight Committee to instruct Candidate B to cease claiming to be the only “judge” in this race. Candidate A relies on Public Opinion No. 2018-24 of the former Special Committee on Judicial Election Campaign Intervention (“Special Committee”).

In Public Opinion No. 2018-24, the Special Committee addressed a similar issue. In that case, Candidate M, a part-time municipal judge, claimed that he was “the only sitting judge” in the race. His opponent, Candidate L, filed a complaint and alleged that such statements were misleading because she served as a special master in chancery court. The Special Committee agreed with Candidate L. The Special Committee cited what is now Mississippi Code Annotated section 41-21-61(b),<sup>1</sup> which provides a definition of “Chancellor” for purposes of civil commitment proceedings under sections 41-21-61 through -107. Section 41-21-61(b) states: “As used in Sections 41-21-61 through 41-21-107, unless the context otherwise requires, the following terms defined have the meanings ascribed to them: . . . (b) ‘Chancellor’ means a chancellor or a special master in chancery.” Based on this definition, the Special Committee reasoned that Candidate L, as a special master, “may be considered to be a ‘judge.’” In addition, although the Special Committee did not find that Candidate M had knowingly misrepresented Candidate L’s qualifications, the Special Committee did “instruct[] Candidate M to no longer claim to be the ‘only sitting judge’ in the campaign.”

In the present case, in response to Candidate A’s complaint, Candidate B argues that a special master in chancery court is not a “judge” because a special master has no authority to render final and binding decisions and only reports and makes recommendations to a chancellor. Candidate B argues that the definition in section 41-21-61(b) is only intended to clarify that a special master may take certain actions in civil commitment proceedings and does not transform a special master into a chancellor or a

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<sup>1</sup> In 2018, the relevant provision was section 41-21-61(a). It was moved to subsection (b) without change in 2019. *See* 2019 Laws, ch. 468, § 3 (S.B. No. 2328).

“judge.” Accordingly, Candidate B argues that the Oversight Committee should not follow Public Opinion No. 2018-24 of the former Special Committee.

The Oversight Committee agrees with Candidate B and hereby disapproves of Public Opinion No. 2018-24 of the former Special Committee. A special master in chancery does not have “the full power of the court” or the authority to issue a binding “final decision.” *Banks v. Banks*, 648 So. 2d 1116, 1124 (Miss. 1994). Special “masters are not supernumerary judges and should not be utilized as such.” *Id.* (quoting former M.R.C.P. 53 cmt.). As the Mississippi Supreme Court has stated, “[t]he report of the master in chancery has no efficacy until it is confirmed by the chancery court. The very purpose of appointing a master in chancery is to *aid* the court . . .” *Evans v. Davis*, 401 So. 2d 1096, 1099 (Miss. 1981) (emphasis added); *accord In Matter of J.W.*, 220 So. 3d 202, 203 (¶5) (Miss. Ct. App. 2017) (holding that a special master’s ruling was not a final, appealable judgment because the chancellor had not accepted it); *Davison v. Miss. Dep’t of Human Servs.*, 938 So. 2d 912, 915 (¶5) (Miss. Ct. App. 2006).

Special masters perform important functions and are subject to some—but not all—of the requirements of the Code of Judicial Conduct. *See* Miss. Code Jud. Conduct, Application of the Code of Judicial Conduct, sections A & D. Nonetheless, there is a clear distinction between the authority of a judge and that of a special master. Therefore, the Oversight Committee declines to follow and disapproves of Public Opinion No. 2018-24 of the former Special Committee. In addition, the Oversight Committee finds that Candidate B has not knowingly misrepresented Candidate A’s qualifications, and the Oversight Committee declines to take any action against Candidate B.