

## **JUDICIAL ETHICS COMMITTEE**

### **ADVISORY OPINION NO. 05-01**

**September 29, 2005**

The Committee has been asked to render an opinion as to what law practice limitations apply as the result of an attorney's becoming a part-time divorce referee and whether the Canons of Judicial Ethics apply to such a person.

### **DISCUSSION**

These inquiries are answered by Tennessee Supreme Court Rule 10, Section C of the portion of the canons explaining their application, which provides in part that “[p]art-time general sessions judges, part-time juvenile court judges[,] part-time municipal judges, part-time divorce referees, part-time juvenile referees, and part-time judicial commissioners shall be considered continuing part-time judges.” Tenn. Sup. Ct. R. 10, Canon 5C. Section A provides in part that “[a]ll judges shall comply with this Code except as provided below.” Section C(3) of the application provisions of the canons provides that a continuing part-time judge “shall not practice law in the court on which the judge serves or in any court subject to the appellate jurisdiction of the court on which the judge serves, and shall not act as a lawyer in a proceeding in which the judge has served as judge or in any other proceeding related thereto.” This is standard language from the American Bar Association Code of Judicial Conduct, and this fact likely explains why a provision of our code would appear to be of very limited application in Tennessee. It appears that these provisions are intended to prevent “part-time judges,” as defined broadly by the Canons, both from appearing as an attorney in a court whose appeals go to the court of the part-time judge and from appearing in the part-time judge’s own court, presumably before a special judge. Thus, the Committee concludes that the Canons of Judicial Ethics apply to a part-time divorce referee. However, the part-time referee would not be disqualified by virtue of his/her judicial position from appearing as an attorney before the circuit court judge making the referee appointment, so long as it was not a matter with which the appointee had dealt as a referee.

### **CONCLUSION**

The Canons of Judicial Ethics apply to a part-time divorce referee and permit him/her to practice law in the court of the judge appointing the attorney to the referee position.

FOR THE COMMITTEE:

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ALAN E. GLENN, JUDGE

CONCUR:

CHANCELLOR THOMAS R. FRIERSON, II

JUDGE CHERYL A. BLACKBURN

JUDGE JAMES F. RUSSELL

JUDGE BETTY THOMAS MOORE