

**ISSUE**

May a judge sign the nominating petition of a partisan candidate for office?

**ANSWER**

Yes, with caution

**FACTS**

The circulator of a petition for a partisan candidate for office asks a judge to sign the candidate's nominating petition.

**DISCUSSION**

The issue presented involves SCR 60.03(2), a portion of its comment, and SCR 60.06 (2).

**A. SCR 60.03**

SCR 60.03 provides:

A judge shall avoid impropriety and the appearance of impropriety in all of the Judge's activities.

. . . .

(2) A judge may not allow family, social, political or other relationships to influence the judge's judicial conduct or judgment. A judge may not lend the prestige of judicial office to advance the private interests of the judge or of others or convey or permit others to convey the impression that they are in a special position to influence the judge.

The comment to SCR 60.03 (2) provides in part:

This subsection does not reach the matter of the judge's endorsement of a candidate for judicial or other nonpartisan elective office. That matter is left for consideration together with other issues involving a judge's political and campaign activity to the committee the court will appoint to study and to make recommendations to the court.

**B. SCR 60.06**

SCR 60.06(2) recites:

(2) Party Membership. Except for activities concerning his or her own election, a judge shall not be a member of any political party or participate in its affairs, caucuses, promotions, platforms, endorsements, conventions or activities. A judge shall not make or solicit financial or other contributions in support of its causes or publicly endorse or speak on behalf of its candidates or platforms (emphasis added).

Wis. Stat. §8.10(2)(b) recites in pertinent part:

Each nomination paper shall have substantially the following words printed at the top:

I, the undersigned, request that the name of. . ., residing at. . .be placed on the ballot at the. . .election to be held on . . .as a candidate so that voters will have the opportunity to vote for (him or her) for the office of (name of office). I am eligible to vote in the (name of jurisdiction or district in which candidate seeks office). I have not signed the nomination paper of any other candidate for the same office at this election.

An elector is defined in Wis. Stat. § 6.02 as:

**6.02 Qualifications, general.** (1) Every U.S. citizen age 18 or older who has resided in an election district or ward for 10 days before any election where the citizen offers to vote is an eligible elector.

If the language of Wis. Stat. § 8.10(2)(b) or substantially the same language appears on the nomination petition, a judge may sign the petition because the judge is acting in his or her private capacity as an elector and joins with other electors in requesting that voters be given an opportunity to vote for a person seeking an office. By signing the petition, the elector does not endorse the candidate.

If the language on the petition departs from the requirements of the statute to a degree that an elector signing it indicates support for a candidate, the judge should not sign the petition. The judge would then violate the terms of SCR 60.06(2).

The committee is aware that certain partisan candidates have used photocopies of petitions in their advertising. The publication of the petition does not change its primary purpose,

but the public could perceive that petition signers support the candidate. The judge who signs a petition for a partisan candidate should consider, 1) whether the candidate intends to publish the petition the judge signs; 2) if the petition should be published by the candidate, whether the public will be aware that the petition's purpose is to place the candidate's name on the ballot and does not imply support for the candidate by the elector whose signature appears on the petition.

For the reasons recited in the preceding paragraph, judges should not use their titles if and when they sign nominating petitions.

### **CONCLUSION**

A judge may sign a nominating petition for a partisan candidate for office, but the judge should consider the precise language of the petition and whether the petition may be used for any purpose other than filing with the appropriate public official.

### **APPLICABILITY**

This opinion is advisory only, is based on specific facts and questions submitted by the petitioner to the Judicial Conduct Advisory Committee, and is limited to questions arising under Supreme Court Rules, Chapter 60-Code of Judicial Conduct. This opinion is not binding upon the Wisconsin Judicial Commission or the Supreme Court in the exercise of their judicial discipline responsibilities. This opinion does not purport to address provisions of the Code of Ethics for Public Officials and Employees, subchapter III of Ch. 19 of the statutes.

I hereby certify that this Formal Opinion No. 00-2 issued by the Judicial Conduct Advisory Committee for the State of Wisconsin this 18th day of January, 2001.

Thomas H. Barland  
Chair