



Judicial Ethics Advisory Committee

MEMBERS:

Hon. Edwin Alderson
Municipal Judge Retired

Prof. Howard W. Brill

Hon. John Plegge
Circuit Judge Retired

October 26, 2006

Raymond L. Spruell, Jr., Esq.
Attorney at Law
P.O. Box 8087
Jonesboro, AR 72403-04

Re: Advisory Opinion No. 2006-04

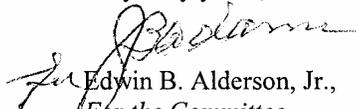
Dear Mr. Spruell:

In your request for an opinion, which was dated October 23, 2006, you stated that you are a publicly-announced candidate for Circuit Judge in the Second Judicial District, Position 7. You stated that you are a former District judge who has served as Special Circuit Judge and Special Chief Justice of the Arkansas Supreme Court, but that you were not an incumbent judge. You asked if a judicial candidate who is not an incumbent judge may be pictured in a judge's robe or seated at a judge's bench in campaign materials, including newspaper and television advertisements.

The Arkansas Code of Judicial Conduct, Canon 5A(3)(d), states that a candidate for judicial office shall not "(iii) knowingly misrepresent the identity, qualifications, present position or other fact concerning the candidate or an opponent." Your question can be answered by the application of this provision.

In Advisory Opinion No. 2005-08, we stated that an individual who had in the past served for two years as a District Judge would violate the Code provision set forth above if he or she used the term "Judge" in campaign materials. Such use would misrepresent his or her "present position." For the same reason, we feel that a judicial candidate who is not an incumbent judge should not be pictured in a judge's robe or seated at a judge's bench in campaign materials. See Shaman, et al., *Judicial Conduct and Ethics*, sec. 11.11 (2nd ed. 1995).

Very truly yours,


Edwin B. Alderson, Jr.,
For the Committee

Judge John Plegge did not participate in this opinion.