



The Supreme Court of Kansas

Kansas Judicial Center

Topeka, Kansas 66612-1507

JUDICIAL ETHICS ADVISORY PANEL

Judicial Ethics Opinion JE 85

October 22, 1998

FILED

OCT 26 1998

CAROL G. GREEN
CLERK OF APPELLATE COURTS



FACTUAL BACKGROUND: A city, by charter ordinance, has established procedures for the appointment of its municipal judges. The city has prepared and submitted a proposed contract of employment, to be signed by each municipal judge.

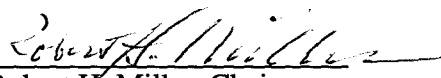
QUESTION: Do Paragraphs 4, 5 and 8 of the proposed contract violate Canon 1 of the Code of Judicial Conduct? (1997 Kan. Ct. R. Annot. 427)

DISCUSSION: Paragraph 4 provides for the suspension or removal of a municipal judge by the city council at any time "for cause." "Cause" is not defined. Rulings by the judge in cases, and other exercises of judicial discretion, are not excluded from "cause," and thus a judge could be suspended or removed because of the way he or she decided individual cases.

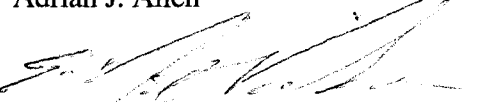
The last sentence of Paragraph 5 requires the judge to be available for discussion of "municipal court matters" with the city council, the city manager, the city attorney, and any other city staff at all reasonable times. Rulings by the judges in individual cases are not excluded from "municipal court matters."

Paragraph 8 requires the individual judge to follow the "orders," "directions" and "policies" of the administrative judge. Failure to do so constitutes grounds for termination of the agreement - - i.e., for suspension or removal of the judge by the city council.

CONCLUSION: We conclude that Paragraphs 4, 5 and 8 of the proposed contract attempt to limit the independence of the individual judge in making his or her respective decisions in individual cases, and thus is violative of Canon 1 of the Canons of Judicial Conduct, cited above.


Robert H. Miller, Chairman


Adrian J. Allen


E. Newton Vickers