



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 303

February 9, 1996

Whether a retired judge who hears cases by assignment may use the title "Judge" in political advertising or campaign communications. (AOR-338)

The Ethics Commission has been asked whether a retired judge who hears cases by assignment may use the title "Judge" in political advertising or campaign communications. *See* Elec. Code § 251.001(16), (17) (defining "political advertising" and "campaign communication").¹ The specific question is about material that appears in roughly the following form:

ELECT

JUDGE JOHN SMITH

10000TH DISTRICT COURT

The name of the judge and the number of the court have, of course, been changed. The candidate in question is a retired judge who hears cases by assignment and is seeking election to a district court. *See* Gov't Code §§ 75.001, 75.002 (regarding assignment of cases to retired judges).

A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office he does not hold at the time the representation is made. Elec. Code § 255.006(b); *see also id.* subsec. (a) (a person commits an offense if the person knowingly enters into an agreement to print political advertising with the intent to represent to an ordinary and prudent person that a candidate holds a public office he does not hold at the time the agreement is made). The question here is whether campaign material in the form set out above represents that the candidate currently holds the elective judicial office he seeks.

A retired judge who hears cases by assignments exercises the authority of a judge. Attorney General Opinion H-526 (1975) (senior judge sitting by assignment continues to serve as a judicial officer and must file a personal financial statement under Government Code chapter 572). In our opinion, therefore, the use of the title "Judge" by a retired judge who sits by assignment does not, by itself, represent that the former judge holds an office he does not hold.²

SUMMARY

The use of the title "Judge" by a retired judge who sits by assignment does not, by itself, represent that the former judge holds an office he does not hold.

¹ We assume that the material at issue here constitutes both "political advertising" and a "campaign communication."

² Similarly the use of the title "Judge" by an incumbent seeking a higher judicial office does not, by itself, violate the provisions of section 255.006 of the Election Code.