



The Supreme Court of Kansas

Kansas Judicial Center
Topeka, Kansas 66612-1507



JUDICIAL ETHICS ADVISORY PANEL

Judicial Ethics Opinion JE-40

November 30, 1992

Topic

May an incumbent judge write a letter addressed to the Supreme Court Nominating Commission stating that he believes a potential nominee is qualified to fill the vacancy in question

Question: A district judge asks "is it permissible for a judge to write a screening committee concerning judicial appointments."

Answer: Yes. We assume the judge is referring to a letter to be addressed to the Supreme Court Nominating Commission with respect to a vacancy on the Supreme Court or the Court of Appeals.

Procedure for the nominating commission is spelled out by statute. K.S.A. 20-133 and K.S.A. 20-3004 both state "under no circumstances may the commission describe potential nominees as applicants or otherwise suggest that they are seeking to be nominated." In view of this mandate a letter of recommendation such as described by the district judge cannot be considered a public recommendation or endorsement of a potential nominee.

It should be noted that the letter in question herein is distinguished from the letter described in our opinion JE 27 in that the letter considered therein was addressed to the governor, the appointing authority, and endorsed one of three candidates, which we noted was prohibited by the provisions of Canon 7.

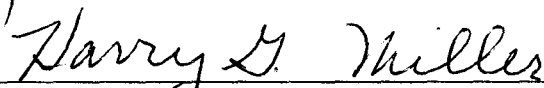
An incumbent judge is often in a unique position to measure the qualifications of a potential nominee for the position to be filled. We believe a letter to that effect is permissible and may serve as an aid to a commission in selecting nominees. Reference Canon 4.



Robert H. Kaul, Chairman



John W. Brookens



Harry G. Miller