Supreme Court of Kentucky

2014-12

ORDER

IN RE: CODE OF CONDUCT FOR CIRCUIT COURT CLERKS

Section 1. Statement of Purpose and Applicability

Circuit court clerks play a key role in the administration of justice. From maintaining official records to collecting fees, fines, and costs, circuit court clerks perform a variety of duties prescribed by Kentucky's constitution, statutes, rules, and administrative procedures that are integral to Court of Justice (hereafter "COJ") operations. Therefore, it is essential that circuit court clerks uphold high standards of integrity, impartiality, and independence in their personal and professional affairs in order to promote public confidence in the judicial system. Circuit court clerks shall diligently perform their duties and avoid situations that might lead to conflict, the appearance of conflict, or the appearance of impropriety between self-interest and their duty to the courts and the general public.

While circuit court clerks are ultimately accountable to the voters in their counties for their conduct in office, they are also, pursuant to KRS 30A.010, subject to the administrative control of the Chief Justice of the Supreme Court of Kentucky. As such, this Code, which shall be known as the "Code of Conduct for Circuit Court Clerks," has been developed for the purpose of defining the norms of conduct and practice for circuit court clerks, whether elected or appointed, and thereby contributing to the preservation of public confidence in the integrity, impartiality, and independence of Kentucky's judicial system. The Code of Conduct for Circuit Court Clerks shall be applicable to all circuit court clerks, elected and appointed.

Section 2. Compliance with Statutes and Rules of the Court

All clerks shall comply with the Constitution of Kentucky, Kentucky Revised Statutes, Kentucky Supreme Court Rules, including the Kentucky Rules of Civil and Criminal Procedure, applicable portions of the Administrative Procedures of the Court of Justice, Part III, the lawful directives of the Chief Justice of the Supreme Court of Kentucky and the local judiciary, and orders of the Supreme Court of Kentucky and the local judiciary.

Section 3. Confidential Information

(1) Confidential information includes, but is not limited to:

(a) Information required to be kept confidential by federal law, state law, court rule, administrative regulation, or court order, including but not limited to, Social Security numbers, taxpayer identification numbers, dates of birth, financial account numbers, and medical information;

(b) Information on pending cases not already a matter of public record;

(c) Any other information learned or developed during the course of working within the COJ that derives independent economic value from not being generally known or readily ascertainable by other persons. Confidential information includes, but is not limited to, procedures, manuals, confidential reports and communications, and financial information.

(2) Circuit court clerks, current and former, shall not directly or indirectly:

(a) Use confidential information for personal gain or the personal gain of any other person; nor,

(b) Disclose confidential information that is not otherwise in a public record acquired during the course of holding office except as required in the performance of official duties, or as otherwise required by law.

Section 4. Performance of Duties

(1) Circuit court clerks shall fully and adequately perform all duties and obligations of their office as set forth in the Constitution of Kentucky, Kentucky Revised Statutes, Kentucky Supreme Court Rules, including the Kentucky Rules of Civil and Criminal Procedure, and applicable portions of the Administrative Procedures of the Court of Justice, Part III.

(2) Circuit court clerks shall perform their duties impartially:

(a) With courtesy and respect for the public, litigants, lawyers, subordinate employees, and all others with whom the clerk interacts as a part of his or her official duties ; and,

(b) Without bias or prejudice, shown by words or conduct, based upon race, national origin, color, religion, sex, sexual orientation, age, disability, genetic information, smoker or nonsmoker status, veteran's status, or political affiliation.

(3) Circuit court clerks shall exercise discretion in their comments to avoid the appearance of partiality or abuse of position.

(4) Circuit court clerks may respond to inquiries from the public concerning court procedures but shall not provide legal advice.

(5) While holding a position in the COJ, a circuit court clerk who is an attorney must not engage in the practice of law outside the scope of his or her duties, except a circuit court clerk may act *pro se* and may, without compensation, give legal advice to and draft or review documents for a member of his or her family. All circuit court clerks previously engaged in the practice of law shall cease all advertising upon election or appointment to office.

Section 5. Abuse of Position

(1) Circuit court clerks shall avoid conduct which may give the appearance of impropriety or the appearance that the circuit court clerk is using his or her office to further private interests.

(2) A circuit court clerk shall not use or attempt to use his or her office to secure unwarranted privileges or exemptions for himself or herself or others.

(3) Examples of unwarranted privileges or exemptions include, but are not limited to:

(a) Accepting, soliciting, or agreeing to accept any gift, favor, loan, discount, hospitality, service, or anything of value totaling $25 or morefrom any person or business that may give the appearance of impropriety or under circumstances from which it could be reasonably inferred that the purpose of the donor is to influence the circuit court clerk's actions, decisions, judgment or performance of duty.

(b) Requesting or accepting any additional fee or gratuity over the circuit court clerk's regular compensation for his or her official duties.

(4) A circuit court clerk shall use the resources, property, and funds under his or her official control judiciously and solely in accordance with the

laws of Kentucky and pursuant to the orders of the Chief Justice of the Supreme Court of Kentucky, orders of the Supreme Court of Kentucky, and orders of the local judiciary.

Section 6. Conflict of Interest

(1) A conflict of interest or its appearance can seriously undermine the public's confidence and trust in the judiciary. Circuit court clerks shall identify and avoid conflicts of interest.

(2) A conflict of interest may exist when a circuit court clerk participates in a decision that may directly or indirectly impact that circuit court clerk, or a member of his or her family.

Section 7. Political Activities

(1) No circuit court clerk may coerce, force or require any COJ employee to make any contribution for political purposes.

(2) No circuit court clerk may coerce, force or require any COJ employee to solicit or take part in soliciting for political purposes.

(3) Circuit court clerks are prohibited from using COJ time or resources for the purpose of political solicitation.

(4) Campaign literature or other election material shall not be displayed in any facility owned, leased or otherwise occupied by the COJ under the control and direction of the circuit court clerk.

(5) Pursuant to Kentucky Constitution §165 and KRS 61.080, certain offices are considered incompatible by law. Acceptance of an incompatible office voids the first office as a matter of law.

Section 8. Violation of the Code of Conduct for Circuit Court Clerks

(1) Any violation of this Code of Conduct for Circuit Court Clerks may be referred to and/or addressed by the Circuit Court Clerks Conduct Commission for appropriate disciplinary action and/or remedial measures.

(2) Violations of this Code of Conduct include but are not limited to the following:

(a) Misconduct in office;

(b) Any willful refusal or persistent failure to perform the duties and obligations as set forth in the Constitution of Kentucky, Kentucky Revised Statutes, Kentucky Supreme Court Rules, including the Kentucky Rules of Civil and Criminal Procedure, and applicable portions of the Administrative Procedures of the Court of Justice, Part III;

(c) Professional incompetence;

(d) Habitual intemperance;

(e) Any willful refusal or persistent failure to conform to official policies and directives adopted by the Supreme Court or issued by the Chief Justice in his constitutional capacity as Chief Executive Officer of the Court of Justice;

(f) Conviction of a crime; or

(g) Noncompliance with this Code of Conduct.

All sitting; all concur.

Entered this 13th day of June 2014.

CHIEF JUSTICE