

JUDICIAL ETHICS COMMITTEE

ADVISORY OPINION NO. 97-4

The Committee has been asked to render an opinion for a judge concerning a request he has received from a disbarred attorney who is seeking reinstatement. The disbarred attorney has requested that the judge write a letter to the Board of Professional Responsibility, addressing whether the judge feels that such reinstatement would affect the community's perceptions or opinions of attorneys due to the disbarred attorney's prior bad acts and convictions. The judge making the request states that "I feel [the disbarred attorney] is attempting to use my influence as a character witness."

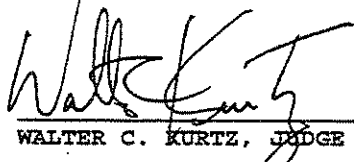
The subject matter of the request is addressed in the Code of Judicial Conduct Canon 2B which states that "[a] judge shall not testify voluntarily as a character witness." The Commentary states that "[a] judge must not testify voluntarily as a character witness because to do so may lend the prestige of the judicial office in support of the party for whom the judge testifies. ...A judge may, however, testify when properly summoned. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness."

Since the requesting judge believes that the letter requested of him is an effort to use him as a character witness, the Committee believes that the judge must refuse to write the letter. If the disbarred attorney wishes the judge to appear before the Board of Professional Responsibility, then the judge should only do so in response to a subpoena.

RECEIVED
TN Supreme Court Administrative

OCT 08 1997

FOR THE COMMITTEE:



WALTER C. KURTZ, JUDGE

CONCUR:

PEAY
FRIERSON
PEETE

OCTOBER 3, 1997

RECEIVED
TN Supr - Court Administrative

2

OCT 08 1997