

JUDICIAL INQUIRY COMMISSION

DATE ISSUED: September 12, 2008

ADVISORY OPINION 08-894

COURT ADMINISTRATION: APPRECIATION LETTERS TO JURORS/VENIREPERSONS

ISSUE

May a judge send appreciation letters to persons who responded to summonses for jury service?

Answer: Yes, if the letters are in compliance with certain guidelines

FACTS

A judge requests advice regarding sending appreciation letters to all persons who responded to summonses for jury service.

DISCUSSION

The Commission has, on occasion, indicated incongruous positions regarding the circumstances under which a judge may send appreciation letters to jurors and venirepersons at the conclusion of a jury term of court. *Compare* Advisory Opinion 95-552 with Advisory Opinion 93-482. The tension between these opinions arises from the perception that such correspondence, by a constellation of particular circumstances, could have the appearance of political-campaign conduct. In such a case, § 36-12-61, Code of Alabama (1975), would apply, prohibiting the judge from using or permitting to be used any state-owned property of any character or description, including stationary, stamps, office equipment, and office supplies, for the promotion or advancement of the interest of any candidate for the nomination or election to any public office of the State of Alabama.

The viewpoint of the legal and judicial communities, however, has evolved from the narrow conclusion that any commendatory letter to jurors/venirepersons constitutes political-campaign conduct only. Rather, there is “the growing recognition that judicial outreach is a valued part of the judicial role and includes outreach to jurors.” Reporter’s Explanation of Changes to the Comment to Rule 2.8, 2007 ABA

Model Code of Judicial Conduct. *See also* Canon 3B(11), 1990 ABA Model Code of Judicial Conduct (“A judge . . . may express appreciation to jurors for their service to the judicial system and the community.”). *See, e.g.*, Arizona Advisory Opinion 01-01 (reissued January 22, 2003) (certificates or letters of appreciation that simply acknowledge a juror’s performance of his or her civic duty without reference to the outcome of a particular case are consistent with Canon 3B(11) of Arizona’s Code of Judicial Conduct, which states, “A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding, but may express appreciation to jurors for their service to the judicial system and the community.”); New York Advisory Opinion 07-77 (a judge may write a letter of welcome and gratitude to jurors when they first report for jury duty); New York Advisory Opinion 95-53 (a judge may write letters to jurors, thanking them for their completed service, but cannot praise or criticize them for their verdict); Texas Advisory Opinion 68 (judges may send a form letter, on letterhead containing the names of the judges and the district and court clerks and at the county’s expense, expressing their appreciation to those persons who reported for jury duty if the content of the letter is a genuine expression of appreciation, the letter is mailed routinely when the panel is discharged, and the signatory privileges are rotated regularly); Texas Advisory Opinion 67 (a judge may ethically write letters of appreciation to jurors if he avoids the appearance of impropriety in selecting the content of the letter and mails the letter immediately after the service has been rendered and on a routine basis).

In keeping with this refinement of the judicial role, the Commission issues the following advisory parameters in regard to appreciation letters to jurors/venirepersons:

1. Such letter should be sent only to those persons who reported for jury duty.

2. Such letter's content should be limited simply to the expression of appreciation for the recipient's civic service to the judicial system. It should not address the particulars of any case, including the outcome of a case.
3. The letter must be written in the signatory judge's or judges' official capacity. More specifically, the judge or judges signing the letter must have had some official contact with the recipients. *See* Advisory Opinion 82-160 (citing Canon 1).
4. The letters should be mailed routinely and immediately after the service has been rendered.

Court stationary, stamps, and personnel may be used without express authorization by court rule or the presiding judge. (Modifying in part Advisory Opinions 83-178 and 95-552; overruling in part Advisory Opinion 93-482; overruling Advisory Opinion 82-126.)

In conclusion, judicial outreach, including taking steps to improve the jury system and the quality of a juror's experience, is a prevailing objective of the judicial office, and a judge is encouraged to express the appreciation of the judicial system to jurors and venirepersons. While observing their duty under Canon 3A(3) to be dignified and courteous to jurors, signatory judges should be mindful of Canon 1's duty to uphold the integrity and independence of the judiciary, Canon 2's requirement to avoid impropriety and the appearance of impropriety in all his activities, and Canon 7A(1)'s caution to endeavor at all times to refrain from political activities inappropriate to the judicial office. Advisory Opinions 82-126 and 82-160.

The Commission approves and recommends the following letter:

Dear _____:

Thank you for discharging the important responsibility of jury duty.

In responding to the jury summons, you provided to persons before the court one of the cherished rights of our democracy: the right to a jury trial. Without the cooperation of citizens like you, the preservation of that right would be endangered.

You can be proud that you have contributed in a meaningful way to the preservation of that right and to the operation of your judicial system.

Sincerely,

Name(s) of Judge(s)

REFERENCES

Alabama Canons of Judicial Ethics, Canons 1, 2, 3A(3), and 7A(1).

Alabama Advisory Opinions 95-552, 93-482, 83-178, 82-160, and 82-126.

Ala. Code § 36-12-61 (1975).

1990 ABA Model Code of Judicial Conduct, Canon 3B(11).

2007 ABA Model Code, Reporter's Explanation of Changes to the Comment to Rule 2.8.

Arizona Advisory Opinion 01-01 (reissued January 22, 2003).

Arizona's Code of Judicial Conduct, Canon 3B(11).

New York Advisory Opinions 07-77 and 95-53.

Texas Advisory Opinions 68 and 67.

This opinion is advisory only and is based on the specific facts and questions submitted by the judge who requested the opinion pursuant to Rule 17 of the Rules of Procedure of the Judicial Inquiry Commission. For further information, you may contact the Judicial Inquiry Commission, P.O. Box 303400, Montgomery, Alabama 36130-3400; tel.: (334) 242-4089; fax: (334) 353-4043.