

Informal Opinion 20-1

June 4, 2020

Question:

A presiding judge has asked the committee whether a display of pictures of members of the local county bar association is permitted in the courthouse.

Answer:

The presiding judge may not allow the pictures to be displayed in the courthouse.

Discussion:

The presiding judge of a district has asked whether a display of pictures of members of the local county bar association is permitted in the courthouse. The pictures are “yearbook-style pictures” placed in a four-foot-by-four-foot frame. According to information received by the committee, members of the local county bar association may opt to have their picture displayed but are not required to do so. The lawyers pay the costs of the photographer and framing. Lawyers who practice in the courthouse but are not members of the county bar association are not allowed to participate in the display.

In Informal Opinion 99-2, the Ethics Advisory Committee addressed whether a court may display a plaque recognizing the trial lawyer of the year. The committee determined that such a plaque could not be displayed. The committee relied on then Canons 1 and 2 in stating that displaying the plaque in the courthouse is problematic because “it may convey the impression that the court is endorsing certain lawyers,” and “the plaque may create the perception of partiality by the judiciary as a whole.” The committee stated that individuals who enter the courthouse and see the plaque may question the court’s ability to remain impartial in cases regarding the lawyer shown on the plaque.

The current opinion request is different from Informal Opinion 99-2 in that the picture frames include many lawyers, with no single lawyer being highlighted. The committee nevertheless determines that the reasoning from Informal Opinion 99-2 applies to this request and the pictures may not be displayed in the courthouse.

Rule 1.2 of the Code of Judicial Conduct requires judges to promote public confidence in the independence, integrity, and impartiality of the judiciary. The rule states that judges must not engage in any conduct that undermines public confidence in the judiciary. Rule 1.3 mandates that judges not abuse the prestige of judicial office or allow others to do so. And rule 2.4(C) prohibits judges from conveying or allowing others to convey the impression that any person or organization is in a position to influence the judge. Each of these rules applies to this request.

Displaying the pictures may undermine public confidence in the impartiality of the judiciary. The display does not include all the lawyers who practice in that courthouse. Membership in a county bar association is voluntary and will not include every lawyer who practices in a particular county. And lawyers who are not members of the bar association but nevertheless practice in the local courthouse are not allowed to participate in the display. A litigant who enters the courthouse and sees a picture of opposing counsel displayed in the courthouse, but does not see a picture of their counsel, may question the court's ability to be impartial.

The display may also convey the impression that those lawyers whose pictures are displayed are in a special position to influence the court. The committee has no doubt the judges in the courthouse will be impartial, but the code addresses appearances, in addition to actual conduct. See rule 1.2. A courthouse must be free from any suggestion a particular lawyer or lawyers are favored by the court. As the committee stated in Informal Opinion 99-2, “[a] courthouse is a symbol of impartial justice that reflects upon all the judges who work in the building as well as upon the judiciary as a whole.”

The committee therefore determines that pictures of members of the local county bar association may not be displayed in the courthouse. Although not specifically asked in this opinion request, the committee determines that a courthouse could display pictures of members of the bar who are no longer practicing, as long as there is no reference to a law firm that currently exists. The committee recognizes that a historical display of lawyers who have practiced and retired will not convey an impression of partiality or that any particular lawyer is in a special position to influence the courts.