



The Supreme Court of Kansas

Kansas Judicial Center
Topeka, Kansas 66612-1507



FILED

OCT 27 2003

CAROL G. GREEN
CLERK OF APPELLATE COURTS

JUDICIAL ETHICS ADVISORY PANEL

Judicial Ethics Opinion JE 113
October 27, 2003

This request comes from a candidate for appointment as a municipal judge. The candidate has a brother who is the local chief of police. The questions raised are:

- 1. Is the relationship itself prohibited?**
- 2. At what point would a recusal be mandated?**
- 3. Would a recusal be necessary only when the brother - chief of police - appears before the municipal judge?**

Two canons are applicable. Canon 2A states:

“A judge shall ... act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” 2002 Kan. Ct. R. Annot. 503.

Canon 3E(1)(d)(iii) and (iv) state:

“E. Disqualification.

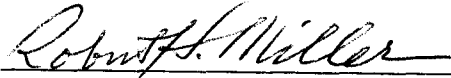
- (1) A judge shall disqualify himself or herself in a proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to instances where....**

(d)...a person within the third degree of relationship to [the judge]...

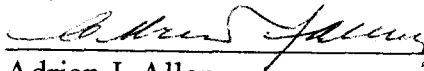
(iii) is known by the judge to have a more than de minimis interest that could be substantially affected by the proceeding.

(iv) is to the judge's knowledge likely to be a material witness in the proceeding."

The Chief of Police or one of the officers under his supervision would be the complaining witness in most if not all cases. Thus a recusal is mandated under the cited canons, unless there is a remittal of disqualification in every case under Canon 3F. 2002 Kan. Ct. R. Annot. 511.



Robert H. Miller, Chairman



Adrian J. Allen



Fred S. Jackson