



The Supreme Court
of Kansas

Kansas Judicial Center
Topeka, Kansas 66612-1507

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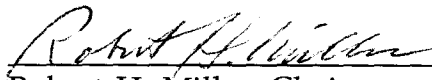
Judicial Ethics Opinion JE-60

December 12, 1995

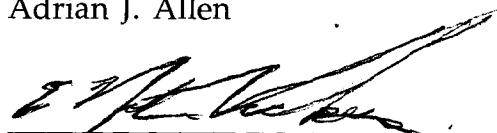
Question: May a district judge be appointed special administrator of a decedent's estate, and thereafter as the executor, to serve temporarily pending the appointment of someone else?

Facts: Prior to the time he became a judge, a will was executed in which the judge was nominated as the executor. The testator was not a member of the judge's family. The will also nominated an alternate executor but he predeceased the testator. The testator died a resident of Oklahoma. Oklahoma counsel advised the judge that, under Oklahoma law, the decedent's brother will be appointed if the judge elects not to serve. Prior to her death, the decedent gave the judge written instructions to prevent her brother from "taking over" possession of her estate by whatever legal means are necessary. Special administration is considered necessary to authorize cremation which the decedent requested.

Answer: A judge is prohibited from serving as executor, administrator or other personal representative except for the estate of a member of the judges family [1995 Kan. Ct. R. Annot. 601A-4E(1)]. Since the decedent was not a member of the judge's family, the judge cannot be appointed special administrator or executor even under these compelling facts.


Robert H. Miller, Chairman


Adrian J. Allen


E. Newton Vickers