

Maryland Judicial Ethics Committee

Opinion Request Number: 2021-10

Date of Issue: June 07, 2021

Published Opinion Unpublished Opinion Unpublished Letter of Advice

Judge May Not Perform a Simulated Public Marriage Ceremony¹

Issue: May a judge perform a simulated public marriage ceremony?

Answer: No.

Facts: The Requestor is a senior judge whose former law clerk asked that the judge perform his/her public marriage ceremony. Due to the global pandemic, the wedding date was twice postponed. The former law clerk now wishes to have a private marriage ceremony to be followed with a larger public marriage ceremony when the pandemic is over. The law clerk has requested that the judge perform both ceremonies but would like to keep the private ceremony a secret, thus creating the appearance that the larger public marriage ceremony is the first and only ceremony. The Requestor seeks an opinion as to whether the judge can preside over the second public marriage ceremony.

Discussion: Rule 18-100.4 (Preamble) and Rule 18-101.2 (Promoting Confidence in the Judiciary) are applicable to the issue presented.

Rule 18-100.4(b) provides:

(b) **Dignity of Judicial Office.** Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

Rule 18-101.2 provides:

- (a) **Promoting Public Confidence.** A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.
- (b) **Avoiding Perception of Impropriety.** A judge shall avoid conduct that would create in reasonable minds a perception of impropriety.

Comment [1] to Rule 18-101.2 adds:

Public confidence in the judiciary is eroded by improper conduct and conduct that creates the appearance of impropriety. This principle applies to both the professional and personal conduct of a judge.

¹ Judge Graeff and Judge Eyler did not participate in this Opinion.

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Comment [3] to Rule 18-101.2 adds:

Conduct that compromises or appears to compromise the independence, integrity, and impartiality of a judge undermines public confidence in the judiciary. Because it is not practicable to list all such conduct, the Rule is necessarily cast in general terms.

The Nebraska Judicial Ethics Advisory Committee in Opinion No. 89-6 addressed this same issue and concluded that a judge performing a simulated marriage ceremony “would lend the prestige of the official office to the occasion in violation of that part of 2B which states: ‘[a] judge should not lend the prestige of his or her office to advance the private interest of others;. . .’”

In response to the Requestor’s inquiry, pursuant to the Maryland Code, judges in Maryland, including senior judges, are permitted to perform marriage ceremonies. Rule 18-501 (Scope of Chapter). However, here we conclude, as did the Nebraska Judicial Ethics Advisory Committee, that a judge presiding over a simulated marriage ceremony would violate the Maryland Code of Judicial Conduct. The judge’s presence as the officiant ultimately would give credence to the ceremony and would certainly give the attendees a false impression that the ceremony was official. A judge officiating a sham ceremony could undermine the public’s confidence in the judiciary as an independent and impartial body and would call into question the judge’s integrity. The public must be confident that judges are acting with the highest integrity in all settings.

Application: The Maryland Judicial Ethics Committee cautions that this Opinion is applicable only prospectively and only to the conduct of the Requestor described herein, to the extent of the Requestor’s compliance with this opinion. Omission or misstatement of a material fact in the written request for opinion negates reliance on this Opinion. Additionally, this Opinion should not be considered to be binding indefinitely.

The passage of time may result in amendment to the applicable law and/or developments in the area of judicial ethics generally or in changes of facts that could affect the conclusion of the Committee. If the request for advice involves a continuing course of conduct, the Requestor should keep abreast of developments in the area of judicial ethics and, in the event of a change in that area or a change in facts, submit an updated request to the Committee.