

LO 88-02

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June 2, 1988

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: Ethics Question

Dear [REDACTED]

The Ethics Committee of the North Dakota State Bar Association met on June 1, 1988, to discuss your request for an opinion dated April 22, 1988.

The Committee sees no ethical problems with your acting as Municipal Judge for the City of [REDACTED], [REDACTED], North Dakota, while at the same time acting as State's Attorney for [REDACTED] County, North Dakota.

Question two in your letter presents a stickier problem in that you would be acting both as a municipal judge in [REDACTED] County and a prosecutor in that county as Assistant State's Attorney for [REDACTED] County. Although there is no ethical prohibition against such conduct, the Committee is certainly concerned about the conflicts of interest that could arise in such a dual capacity and would suggest that you guide yourself by attempting to avoid all ethical conflicts that could arise from such dual capacity.

The Committee believes that any time you act in your judicial capacity as municipal judge in regard to a particular case, you would be precluded from acting as a prosecutor in that case or any related cases. You should limit your access to files in one capacity which would somehow influence your actions or knowledge in acting in the other capacity. Once you take some action as municipal judge or prosecutor in a particular case, you would be precluded from acting in the other capacity in regard to that case or any related case.


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Your conduct should be guided by a desire to avoid any conflicts of interest which likely will arise from acting in each position.

Sincerely,

Patrick J. Ward, Chairman,
Ethics Committee, State
Bar Association of North
Dakota

PJW:gb
a:klein602.1tr

5/19/88 MT;

88-02

April 22, 1988

Mr. Patrick J. Ward
Attorney at Law
P.O. Box 1695
Bismarck, ND 58501

RE: ETHIC'S OPINION

Dear Mr. Ward:

As I indicated in our telephone conversation earlier this week, I hereby formally request an opinion on the following questions:

1. Whether I can accept an appointment as the municipal judge for the City of [REDACTED], [REDACTED] County, North Dakota, while at the same time being the State's Attorney for [REDACTED] County, North Dakota?

2. If your answer to my first question is yes, then I would like to know also if there would be any ethical considerations which would prohibit me from being an Assistant State's Attorney for [REDACTED] County?

As an Assistant State's Attorney for [REDACTED] County, my role would be to cover for [REDACTED], the State's Attorney, when he is unavailable due to vacation, conflict of interest, etc.

If you have any questions or need any additional information, please don't hesitate to contact me.

Sincerely yours,

[REDACTED] COUNTY STATE'S ATTORNEY

APR 25 '88
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