

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-133
Issued: January 1976

This opinion was decided under the Code of Professional Responsibility, which was in effect from 1971 to 1990. Lawyers should consult the current version of the Rules of Professional Conduct and Comments, SCR 3.130 (available at <http://www.kybar.org>), before relying on this opinion.

Question: If a lawyer serves as county judge *pro tempore*, is he precluded from defending criminal cases in quarterly and circuit court?

Answer: No.

References: KRS 25.270, 30.150; *In re Kenton County Bar Assn*, 236 S.W.2d 906 (Ky. 1951); Opinion KBA E-16 (1963), E-37 (1970); ABA Formal Opinion 161 (1936), ABA Informal Opinion 855 (1965); KRS 25 270, 30 150

OPINION

The applicant is a practicing lawyer. He states that as county judge pro tem he would sit little more than the two weeks a year when the county judge takes a vacation. Under KRS 25.270, he would be compensated on the basis of time actually served.

A county judge may not practice civil cases in his own court and certain probate-connected cases in circuit court, KRS 30.150; and he may not defend criminal cases in any court in his own county, *In re Kenton County Bar Assn*, 236 S.W.2d 906 (Ky. 1951); Opinions KBA E-16 (1963), E-37 (1970). Under these same authorities, a county judge pro tem is placed under these same restrictions if, by reason of the frequency of his service or otherwise, the public is likely to identify him with the county court. In the circumstances of this case, we do not believe that is likely to happen. *See* ABA Formal Opinion 161 (1936), ABA Informal Opinion 855 (1965).

The applicant may not practice in any matter that has come before him as county judge *pro tem*. Otherwise, there are no restrictions he must place on his practice, civil or criminal.

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.