

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-263
Issued: July 1982

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>), especially Rules 7.01-7.50 and the Attorneys' Advertising Commission Regulations, before relying on this opinion.

Question: May a lawyer put in an advertisement for legal services a picture of the lawyer's face?

Answer: Qualified yes.

References: Bates v. State Bar of Arizona, 433 U.S. 384 (1977); In the Matter of R.M.J., 455 U.S. 191, 102 S.Ct. 929 (1982); Kentucky Bar Assn v. Gangwish, 630 S.W.2d 66 (1982); KBA E-254

OPINION

This opinion is in direct response to the recent Supreme Court case In the Matter of R.M.J., 455 U.S. 191, 102 S.Ct. 929 (1982) and seeks to have the Ethics Committee reconsider the recently adopted KBA E-254.

In reviewing the recent cases out of the Supreme Court of the United States and Kentucky the Ethics Committee is of the opinion that a photograph of a lawyer's face would not be false, fraudulent or misleading and, therefore, is permissible Bates v. State Bar of Arizona, 433 U.S. 384 (1977); In the Matter of R.M.J., 455 U.S. 191, 102 S.Ct. 929 (1982) Kentucky Bar Assn v. Gangwish, 630 S.W.2d 66 (1982).

Black's Law Dictionary 902 (rev 5th ed 1979), defines misleading as "Delusive, calculated to lead astray or to lead into error."

It is the opinion of the Ethics Committee that a photograph may very well be misleading. In order not to be misleading a photograph of the lawyer's face must be of recent origin. The Committee feels that a photograph that is older than one year would be misleading to the prospective clients of the lawyer in that it would mislead the clients as to the age of the lawyer.

It should be specifically noted that this opinion is directed solely at the advertisement placing a picture of the lawyer's face in a lawyer's advertisement for legal services.

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.