

RHODE ISLAND ETHICS COMMISSION

Advisory Opinion No. 2025-41

Approved: July 1, 2025

Re: Thomas J. Cronin, Esq.

QUESTION PRESENTED:

The Petitioner, who was recently nominated to become the Town of Coventry's Municipal Court Judge, a municipal appointed position, and who is an attorney in private practice, requests an advisory opinion regarding whether, upon his appointment to the position, he would be prohibited by the Code of Ethics from representing clients before the Coventry Town Council, Planning Board, Zoning Board, and Probate Court.

RESPONSE:

It is the opinion of the Rhode Island Ethics Commission that the Petitioner, who was recently nominated to become the Town of Coventry's Municipal Court Judge, a municipal appointed position, and who is an attorney in private practice, will not following his appointment be prohibited by the Code of Ethics from representing clients before the Coventry Town Council, Planning Board, Zoning Board, or Probate Court.

The Petitioner was recently nominated by the president of the Coventry Town Council for appointment by the town council to the position of Municipal Court Judge. The Petitioner states that municipal court sessions begin at 5:00 p.m. and are held twice per month. He further states that the municipal court has jurisdiction over traffic violations, housing violations, animal control violations, and various other violations of town ordinances. The Petitioner represents that the town has only one municipal court judge and that in circumstances where the municipal court judge is either unavailable or has a conflict of interest, the probate judge presides over municipal court matters, but not vice versa.¹

In his private capacity, the Petitioner is an attorney in private practice. He states that his legal practice focuses on land use matters, including real estate closings, builders' representation, and small business representation. He further states that his law office is located in Coventry and that he represents clients before the Coventry zoning board,

¹ The Petitioner explains that in circumstances where the probate court judge is unavailable or has a conflict of interest, the town solicitor presides over probate matters.

planning board, and town council. The Petitioner notes that he would not ordinarily represent clients before the municipal court. The Petitioner informs that his law partner focuses her practice on estate planning matters and that she regularly represents clients before the Coventry probate court.

The Petitioner represents that members of Coventry's planning and zoning boards, as well as the probate judge, are appointed by the town council. The Petitioner further represents that the municipal court does not have any appointing, fiscal, or jurisdictional authority over the town council, zoning board, planning board, or probate court. Further, he states that the municipal court does not have appellate jurisdiction over matters heard by the town council, planning board, zoning board, or the probate court. The Petitioner notes that appeals of decisions by the planning board, zoning board, and the probate court are heard by the Superior Court. Finally, the Petitioner states that his firm does not handle criminal or family law cases and may refer those cases to attorneys who handle them; however, he notes that his firm does not have any contractual relationship with any other firm for referrals. Given this set of facts, and cognizant of the Code of Ethics' prohibition against representing himself or others before the municipal court, the Petitioner seeks guidance from the Ethics Commission regarding whether, if he accepts appointment to the position of Coventry municipal court judge, he would be prohibited by the Code of Ethics from representing clients before the Coventry planning board, zoning board, town council, and probate court.

The Code of Ethics prohibits a public official from representing himself or any other person before a state or municipal agency of which he is a member, by which he is employed, or for which he is the appointing authority. R.I. Gen. Laws § 36-14-5(e)(1) & (2); 520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016) (Regulation 1.1.4). A person represents himself or another person before an agency when he participates in the presentation of evidence or arguments before that agency for the purpose of influencing the judgment of that agency in his favor or in favor of another person. R.I. Gen. Laws § 36-14-2(12) & (13); Regulation 1.1.4. Additionally, 520-RICR-00-00-1.4.1 Acting as an Attorney for Other than State or Municipality (36-14-5008) (Regulation 1.4.1) prohibits, among other things, a municipal appointed or elected official having fiscal or jurisdictional control over a municipal agency from acting as a compensated attorney before that agency in a matter in which the municipality has an interest or is a party.

Furthermore, no person subject to the Code of Ethics shall engage in any business, employment, transaction, or professional activity which is in substantial conflict with the proper discharge of his duties or employment in the public interest. § 36-14-5(a). A substantial conflict of interest exists if a public official has reason to believe or expect that he, any person within his family, his business associate, or any business by which he is employed or which he represents will derive a direct monetary gain or suffer a direct monetary loss by reason of his official activity. R.I. Gen. Laws § 36-14-7(a). The Code of Ethics also prohibits a public official from using his public office or confidential

information received through his public office to obtain financial gain for himself, any person within his family, his business associate, or any business by which he is employed or which he represents. § 36-14-5(d).

The Ethics Commission has consistently opined that the Code of Ethics does not prohibit various municipal judges, including municipal court judges, from representing clients before other municipal bodies over which the municipal judges do not have jurisdiction in their judicial roles. For example, in Advisory Opinion 2021-49, the Ethics Commission opined that an associate judge of the Cranston Municipal Court, who in his private capacity was a practicing attorney, was not prohibited by the Code of Ethics from representing clients before the Cranston Probate Court, the Cranston Zoning Board of Review, and the Cranston City Council, or from representing clients charged with criminal offenses by the Cranston Police Department, provided that the representation was not related to a matter in which the petitioner was involved as an associate judge of the Cranston Municipal Court or over which the Cranston Municipal Court had jurisdiction. See also A.O. 2003-71 (opining that a Tiverton municipal court judge could represent private clients before the Tiverton Town Council, the Tiverton Zoning Board of Review, and other municipal bodies, including individuals charged with criminal offenses by the Tiverton Police Department, provided that the representation was not related to a matter in which the petitioner was involved in his capacity as municipal court judge or over which the Tiverton Municipal Court had jurisdiction); A.O. 2003-34 (opining that a Newport municipal court judge could represent clients before the Newport Zoning Board of Review, provided that the cases were not related to matters in which the petitioner was involved as the town's municipal court judge or over which the municipal court had jurisdiction); A.O. 98-80 (opining that a West Warwick municipal court judge could represent private clients before the West Warwick Probate Court, Planning Commission, Zoning Board and Town Council provided that case was not related to matter in which he was involved as municipal court judge or over which the municipal court had jurisdiction). Contra A.O. 98-42 (opining, among other things, that an alternate Woonsocket municipal court judge could not represent individuals charged with criminal violations by the Woonsocket Police Department while also conducting bail hearings in criminal matters brought by the Woonsocket Police Department).

Here, although the town council is the appointing authority for the municipal court judge, the municipal court judge is not a member or an employee of the town council. The municipal court judge is likewise not a member or an employee of the planning board, zoning board, or the probate court. The Petitioner does not have appointing authority over members of the municipal bodies before which he would like to appear and represent clients; nor does the Petitioner have any fiscal or jurisdictional control over those municipal bodies. Therefore, the prohibitions set forth in § 36-14-5(e) and Regulation 1.4.1 are inapplicable here. Furthermore, the Petitioner's duties as a municipal court judge are limited to adjudicating matters that are outside of the jurisdiction of the town council, planning board, zoning board, and probate court, and the municipal court does not have appellate jurisdiction for decisions made by those public bodies. Finally, the Petitioner's

representation of clients before the aforementioned public bodies would be on matters unrelated to any in which the Petitioner is involved as a municipal court judge or over which the municipal court has jurisdiction. Thus, the prohibitions found in sections § 36-14-5(a) and (d) are also inapplicable. Accordingly, based on the facts as represented, the relevant provisions of the Code of Ethics, and prior advisory opinions issued, it is the opinion of the Ethics Commission that the Petitioner may, if appointed to the position of municipal court judge, represent clients before the town council, planning board, zoning board, and the probate court.

This Advisory Opinion is strictly limited to the facts stated herein and relates only to the application of the Rhode Island Code of Ethics. Under the Code of Ethics, advisory opinions are based on the representations made by, or on behalf of, a public official or employee and are not adversarial or investigative proceedings. Finally, this Commission offers no opinion on the effect that any other statute, regulation, agency policy, ordinance, constitutional provision, charter provision, or canon of judicial or professional ethics may have on this situation.

Code Citations:

§ 36-14-2(12)

§ 36-14-2(13)

§ 36-14-5(a)

§ 36-14-5(b)

§ 36-14-5(d)

§ 36-14-5(e)

§ 36-14-7(a)

520-RICR-00-00-1.1.4 Representing Oneself or Others, Defined (36-14-5016)

520-RICR-00-00-1.4.1 Acting as an Attorney for Other than State or Municipality (36-14-5008)

Related Advisory Opinions:

A.O. 2021-49

A.O. 2003-71

A.O. 2003-34

A.O. 98-80

A.O. 98-42

Keywords:

Acting as Agent

Private Employment