

April 19, 1973

OPINION LETTER NO. 147
Answer by letter-Wieler

Honorable William Dick Fickle
Prosecuting Attorney
Platte County
Post Office Box B
Platte City, Missouri 64079



Dear Mr. Fickle:

This is in response to your request for an opinion as to whether or not a county judge is disqualified from holding his office when he is employed by a corporation which has large property holdings in the county.

There are no constitutional or statutory provisions which would disqualify a person for the office of county judge because of private employment. The mere fact that a county judge is employed by a private entity with large property holdings in a county is not grounds for disqualification of his office.

However, this does not mean that a county judge is free to participate in decisions which affect his employer. Section 49.220, RSMo 1969, provides for transfer of a cause or proceeding pending before the county court to the circuit court of the county when a majority of the judges of the county court have a personal interest in the cause or proceeding. This statute has been interpreted to mean that no judge of the county court shall sit in any case or proceeding in which he has a personal interest, or when he is related to either party. Wheeler v. Weston Special Benefit Assessment Road District of Platte County, 294 S.W.2d 353, 356 (K.C. Ct.App. 1956). While county courts are no longer courts of record, we believe that the canons of ethics applicable to judges of courts of record provide a guideline for conduct by county court judges who are charged with the conduct of county affairs. Rule 2.04 of the Supreme Court Rules provides as follows:

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"A judge's official conduct should be free from impropriety and the appearance of impropriety; he should avoid infractions of law; and his personal behavior, not only upon the Bench and in the performance of judicial duties, but also in his everyday life, should be beyond reproach."

In our opinion, the relationship between an employer and an employee is such that a county judge should disqualify himself in any hearing or proceeding before the county court in which the outcome would directly affect the judge's private employer.

Yours very truly,

JOHN C. DANFORTH
Attorney General