

Advisory Opinion #2003-01

(adopted September 11, 2003)

Question: *May a Superior Court Judge who sentenced a felon write a letter to the pardon board or parole board at the request of the convicted felon?*

Opinion: Canon 2 B of the Alaska Code of Judicial Conduct states, in part, that "A judge shall not use or lend the prestige of judicial office to advance the private interests of the judge or others." The relevant commentary to that section states: "Although a judge should be sensitive to possible abuse of the prestige of office, a judge may, based on the judge's personal knowledge, serve as a reference or provide a letter of recommendation. However, except in very limited circumstances, a judge must not initiate the communication of information to a sentencing judge or a probation or corrections officer. A judge may provide to such persons information for the record in response to a formal request."

A judge should not write a letter at the request of the convicted person nor write a letter on the judge's own initiative. Either a sentencing judge or a judge who presided over the criminal trial may respond to an official request by the pardon or parole board for information that the judge had at the time of sentencing or trial. That request is an official formal request that clearly addresses the judge in the judge's official capacity.

Trial or sentencing judges should not initiate letters to pardon or parole boards without a request by the board. A response that is either initiated by the judge or is at the request of an individual may lead a reasonable observer to believe that the judge has a personal interest in the matter and is using the prestige of judicial office to further that interest. The judge would also be wise to follow an U.S. advisory committee's view (*see U.S. Advisory Opinion 65*(1980)*) that allows a judge to convey only objective information that would assist in the determination. These judges should also refrain from personal opinions, values, or conjecture about the character of the person in any letter and the content should be narrowly drafted to address the criteria used by the pardon or parole board. Because the only permissible communications are "official" communications, official court stationery should be used for the letters to the pardon or parole board.

This opinion is not intended to restrict the ability of judges to act in their personal capacity when a member of their immediate family is either the victim of the crime or the convicted person coming before the board.

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