

Inactive member of Florida Bar, judicial applicant

Number: INFORMAL

Date: September 27, 2001

Mr. Joshua A. Whitman, Chair
Fourth Circuit Judicial Nominating Commission
The Butler Pointe Building
4500 Salisbury Road, Suite 340
Jacksonville, Florida 32256

Dear Mr. Whitman:

As Chair of the Fourth Circuit Judicial Nominating Commission, you ask whether an "inactive" member of The Florida Bar may apply to a Judicial Nominating Commission for a legislatively created Circuit Court vacancy.

Article V, section 8, Florida Constitution, in setting forth the qualifications for judicial office, states in part:

"No person is eligible for the office of circuit judge unless the person is, and has been for the preceding five years, a member of the bar of Florida."

Rule 1-3.1, Rules Regulating The Florida Bar, provides that the membership of the Bar "shall be composed of all persons who are admitted by the Supreme Court of Florida to the practice of law in this state and who maintain their membership pursuant to these rules."

Rule 1-3.2 sets forth membership classification. Subsection (a) of the rule defines "Members in Good Standing" as only those persons who have paid annual membership fees or dues for the current year and who are not retired, resigned, delinquent, inactive, or suspended. Subsection (c) of the rule defines "Inactive Members" and states that inactive members "may not hold themselves out as being able to practice law in Florida or render advice on matters of Florida law."^[1] In addition, Rule 1-3.2(c)(5) provides that an inactive member may "not hold any position that requires the person to be a licensed Florida attorney[.]"

Thus, inactive members are not entitled to practice law in this state or to hold any position that requires the person be a licensed attorney. It would therefore appear that applicants for the position of circuit court judge must be members in good standing.

Moreover, Article V, section 8, Florida Constitution, states that "[u]nless otherwise provided by general law, a person shall be eligible for election or appointment to the office of county court judge in a county having a population of 40,000 or less if the person is a member in good standing of the bar of Florida."^[2] Common sense would dictate that if a county judge is required to be a member in good standing of The Florida Bar, circuit court judges would also be required to meet that standard.

Accordingly, I am of the view that an "inactive" member of The Florida Bar does not meet the qualification for judges and, therefore, may not apply to a Judicial Nominating Commission for a legislatively created Circuit Court vacancy.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgk

[1] Rule 1-3.2(c)(4), Rules Regulating The Florida Bar.

[2] *And see* s. 34.021(1), Fla. Stat., providing:

"No person is eligible for election or appointment to the office of county court judge unless the person is, and has been for the preceding 5 years, *a member in good standing* of the bar of Florida prior to qualifying for election to such office or submitting his or her name to the appropriate judicial nominating commission for appointment. However, a person is eligible for election or appointment to the office of county court judge in a county having a population of 40,000 or less if he or she is a member in good standing of the bar of Florida." (e.s.)