

California Judges Association
OPINION NO. 10

(Originally issued: January 11, 1958)

APPEARANCE ON TELEVISION PROGRAM

AUTHORITY: Canons 2B, 4D(2)

I. Background

A judge of the municipal court has requested the Committee's opinion of the propriety of his or her participation as a judge in a simulated traffic court proceedings in a weekly half-hour commercially sponsored television program.

II. Question

Is a judge's participation in a commercially sponsored television program such as would justify a reasonable suspicion that the prestige of his or her office is being utilized to promote a commercial product?

III. Answer

Yes.

Factual Background

A judge now presiding in a regular misdemeanor arraignment court appears regularly on a weekly half-hour television show entitled "Traffic Court," sponsored by the Southern California Chevrolet Dealer Association. The judge is featured in its main role as a traffic judge and clothed in his or her judicial robes and using the judge's own name and official title. He or she conducts simulated court proceedings with regular court attaches serving as clerk and bailiff. Although it is a "live" broadcast, the show is televised from the studio and no actual courtroom scenes are used. A general outline is followed without a completed script in order to create a feeling of spontaneity and insure a full and free exercise of the judge's discretion in the conduct of the proceedings.

The show consists of the reenactment of a series of actual traffic court cases, including arraignments and trials. It is produced in cooperation with various official agencies interested in traffic safety and the administration of justice. A deputy city attorney and a deputy public defender serve as prosecutor and defense counsel respectively, and Los Angeles police officers act as witnesses. Only the traffic violators and some witnesses are portrayed by professional actors. All the participants receive compensation for their services. The proceedings are based on cases involving traffic violations which have been heard in the Los Angeles Traffic Court. The judge, however, does not always impose the same judgment as in the original cases, "sentence" and "punishment" are left entirely to his or her discretion, and the judge imposes whatever "judgment" he or she deems proper at the time. The judge is free to conduct himself or herself as he or she would in his or her own courtroom and he or she does so, molding the role to fit his or her own judicial personality.

The producer has taken great care to adhere to every facet of actual courtroom procedure by insisting on an accurate picture of the Traffic Court, its operation, physical appearance, procedures and methods. Program planning conferences attended by the producer, judge, and representatives of all involved agencies, are held weekly. The judge also serves as technical advisor and controls the selections, preparation and use of material, and its manner of presentation. The judge supervises,

instructs, provides information, interprets, counsels and serves as arbiter in every detail of the planning and production of the program.

The show begins and ends with announcements publicizing the sponsor, and during the performance it is interrupted with commercials designed to sell automobiles. Although the judge does not in any way directly participate in advertising the sponsor's product, he or she is at times shown on the bench during the commercial while the sponsor makes its plea for traffic safety. Originally unsponsored, the show was put together essentially as a public service program. Because of its spontaneity and aura of authenticity, which the producer feels cannot be successfully achieved without the participation of a real judge, it soon developed wide-audience appeal which made it a valuable commercial property to the station and available for sale and attractive to commercial advertisers. When it was purchased by the sponsor, the show had not only developed into popular entertainment, acquiring close to three-quarters of a million viewers, but it so enhances its public service features as to permit its use as an official training instrument by the Board of Education in some of the public schools.

All interested in its production agree that it is the element of authenticity and the presence and participation of a real judge that produce the show's dramatic qualities and create its commercial value for station and sponsor. The proceedings appear so authentic that thousands of viewers firmly believe that they are witnessing actual court scenes televised in the courtroom while court is in session. It is generally conceded that without the participation of a real judge not only would the show be in danger of losing its official standing with the Board of Education, but in all probability it would lose much of its spectator appeal rendering it commercially less profitable to advertiser and station.

IV. Discussion

The Committee is mindful of the vast preparation, meticulous care and many safeguards employed by both producer and judge to insure dignity of presentation and integrity of performance. Their efforts have resulted in a successful combination of dramatic quality found in popular entertainment and education needed in public service programming. Although it is not the function of the Committee to pass on the merits of any given program, it feels that the nature, extent and effect of the judge's participation in "Traffic Court" cannot be truly reflected without a thorough consideration of all the features of the show.

The real issue raised by the judge's inquiry lies in the commercial aspect of the program and requires an interpretation of Canon 2B(2), which reads in pertinent part as follows: "A judge shall not lend the prestige of judicial office to advance the pecuniary or personal interest of the judge or others..."

Obviously this Canon does not denounce the appearance of a judge on a television program merely because it is commercially sponsored. There are many television appearances that might not be proper, but might well afford a judge legitimate opportunity to perform a public service. The Committee is not here concerned with a guest appearance in which a judge is introduced or interviewed, or with his or her participation in a panel or other discussion, or a show in which a judge appears only as part of or incidental to the regular program.

The consideration of the Committee is directed to a regular weekly appearance on a full half-hour show, in which not only is prominence given to the judge's identity and official position, but the main role is portrayed by him in his capacity as a judge, conducting simulated court proceedings and performing the same acts the judge daily performs in the exercise of his official duties as a judge of the municipal court.

In analyzing the show, it is clear that the basis of the drama and human interest which hold such popular appeal, and the educational features which attract those interested in its public service aspect, is the authentic quality of the show's courtroom scenes created by the producer's strict adherence to actual methods, procedures and practices, the use of records in actual cases, and the participation of a real judge

conducting all judicial proceedings as carefully and efficiently as the judge does from the bench.

The purpose of the limitation found in Canon 2B(2) is to prevent a judge's name and/or his office from being directly or indirectly used as an instrument for attracting public attention to a sponsor, his business or his product. Without the dignity and the prestige that only a real judge can lend to the proceedings, "Traffic Court" would lose much of its authentic and official quality. This prestige is produced by a combination of factors: the judge's presence on the program; the use of the judge's name, official title, and judicial robes; the prominence given the judge's judicial office in the main role around which the show is built; the judge's control of the entire proceeding and the free exercise of the judge's discretion in conducting them.

The judge is as truly a judge of the municipal court on the screen as in real life. It is the judge's dignity and the prestige of the judge's name and office that give the show an official standing in the mind of the layman. Will not the average viewer be well impressed with the character and reputation of an advertiser who can so closely identify and associate his product and himself with the judicial office as to obtain the services of a real judge to conduct his show and appear on it regularly in its main role? Will not the public have a fair reason to believe that there is at least a tacit official judicial approval of the reliability of the sponsor and the quality of his product? In this instance, is it not really the use of the judge's name and the power and prestige of the judicial title and office that attract the attention of the viewer, first to the program, and then to the sponsor and its product?

It is the opinion of the Committee, based upon the facts submitted to it, that the judge's participation in the television show "Traffic Court" is such that inevitably justifies a reasonable suspicion that the power and prestige of the judicial office is being utilized to promote a commercial product, and that such participation is a violation of Canon 2B(2).

A rotation of judges so that a different one appears on each show to avoid the repetitious appearance of one judge has been suggested, but rotation would not make judicial participation any more acceptable. It is not the presence of the person or identity of a particular judge that is objectionable, but the appearance of any judge, the use of the title and the office, and the manner, nature and extent of their use, that create the situation in which the power and prestige of the judicial office can be taken advantage of and utilized for commercial purposes.

This opinion is advisory only. The Committee acts on specific inquiries submitted, and its opinion is based on facts as set forth in the submitted inquiries.

COMMITTEE ON JUDICIAL ETHICS
January 11, 1958