

STATE OF TENNESSEE

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August 24, 2004

Opinion No. 04-139

Judicial Residence

QUESTION

In a judicial district composed of four counties served by four circuit judges elected by the voters of the district, may the General Assembly constitutionally require that one of the judges reside in at least one of three specific counties within the district?

OPINION

No.

ANALYSIS

The opinion request asks us to assume the existence of a four-county judicial district in which all the voters of the district elect four circuit court judges. The question is whether, for the next judicial election in August 2006, the General Assembly may require that at least one of the judges reside in one of three specific counties within the district. It is our opinion that such legislation would violate Article VI, Section 4, of the Tennessee Constitution, which provides:

The Judges of the Circuit and Chancery Courts, and of other inferior Courts, shall be elected by the qualified voters of the district or circuit to which they are to be assigned. *Every Judge of such Courts* shall be thirty years of age, and *shall before his election, have been a resident* of the State for five years and *of the circuit or district one year*. His term of service shall be eight years.

(Emphasis supplied). As pertains to this question, then, the Tennessee Constitution requires that a circuit court judge be a resident of the circuit or district to which the judge is assigned.

The Tennessee Supreme Court has previously determined that legislation changing the residency requirement to a particular county within a judicial district is unconstitutional. *State ex rel. Rudolph v. Powell*, No. 84-36-I, (Tenn. July 10, 1984) (per curiam order) (copy attached). In that case, Chapter 931 of the Public Acts of 1984 added a third judgeship to the Nineteenth Judicial District consisting of Montgomery County and Robertson County. The Act provided: "The circuit court judge elected in 1984 to serve Part I of the circuit court of the Nineteenth Judicial District shall be a resident of Robertson County but shall serve the entire district." 1984 Tenn. Pub. Acts ch. 931,

§ 6(19)(a). Thus, the 1984 legislation provided that at least one of the circuit judges to be elected for the two-county judicial district must reside in one particular county. The Supreme Court concluded that the county residency requirement violated the Tennessee Constitution:

Chapter 931 of Tennessee Public Acts of 1984 is declared to be invalid and unconstitutional insofar as it purports to require that the circuit court judge elected in 1984 to serve Part I of the Circuit Court of the Nineteenth Judicial District must be a resident of Robertson County. The Court is of the opinion that this provision conflicts with Article VI, § 4 of the Tennessee Constitution.

State ex rel. Rudolph v. Powell, No. 84-36-I, (Tenn. July 10, 1984) (per curiam order) (copy attached).

Based on the Court's decision, it is our opinion that the legislation proposed in the opinion request would also violate Article VI, Section 4, by imposing a county residency requirement for a circuit court judge to be assigned to a four-county judicial district. The Tennessee Constitution only requires the judge to be a resident of the circuit or district that the judge is to serve.

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