



# The Supreme Court of Kansas

Kansas Judicial Center

Topeka, Kansas 66612-1507

JUDICIAL ETHICS ADVISORY PANEL

Judicial Ethics Opinion JE 108

August 10, 2001



**QUESTION:** A judge asks if he or she may permit a defendant, convicted of a misdemeanor, to make a contribution to a charity of the defendant's choice in lieu of imposing the usual fine of \$300.

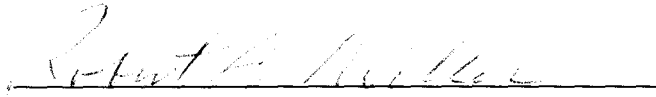
**DISCUSSION:** The judge explains that it has been a local practice that an attorney would ask the judge if his or her client could pay \$200 to a charity rather than pay a \$300 fine. The judge does not suggest this course of action and does not select the charity.

K.S.A. 2000 Supp. 4502 and 4503a prescribe the penalties for misdemeanors. We find no alternative such as that suggested by the judge, and we are cited no statutory authority for the alternative.

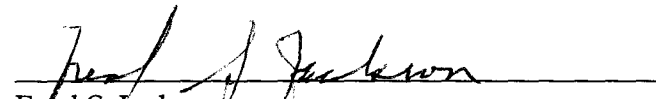
Canon 2A of the code of Judicial Conduct, 2000 Kan. Ct. R. Annot. 471, requires a judge to "respect and comply with the law." Canon 2B, 2000 Kan. Ct. R. Annot. 472, provides that . . . "A judge shall not lend the prestige of judicial office to advance the private interests of . . . others . . ." See also Canon 4C(4)(b), 2000 Kan. Ct. R. Annot. 482, which provides that "A judge should not solicit funds for any . . . charitable . . . organization, or use . . . the prestige of office for that purpose."

A judge may not authorize an alternative to a fine unless authorized by statute to do so. Further, if the judge imposes the suggested alternative and makes an order to that effect, the judge is advancing the private interest of whatever charity defendant selects.

CONCLUSION: We conclude that the judge may not impose as a sentence the giving of a contribution to charity rather than the fine prescribed by statute.

  
Robert H. Miller, Chairman

  
Adrian J. Allen

  
Fred S. Jackson