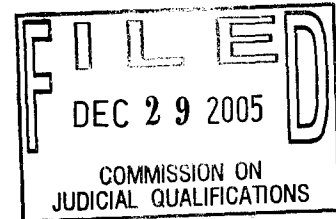




The Supreme Court of Kansas

KANSAS JUDICIAL CENTER
301 S.W. 10th Ave.
Topeka, Kansas 66612-1507



JUDICIAL ETHICS ADVISORY PANEL

Judicial Ethics Opinion JE 135 December 29, 2005


A district magistrate judge inquires whether he or she may bid at public auction and possibly buy a tract of land being sold at Sheriff's sale as the result of a foreclosure action. The district magistrate judge had nothing to do with the foreclosure action, has no jurisdiction over such an action, and did not know of the action until reading the published notice of sheriff's sale. The foreclosure action is in the district court on which the district magistrate judge serves.

In Judicial Ethics Advisory Opinion JE 124, issued December 6, 2004, we considered a matter in which an estate was opened by Judge A, and the fiduciary proposed to sell land at public auction. The judge asked if he or she might bid at the auction and buy the land.

We said no: "Whether it is a private sale or public auction, a judge should not buy assets from an estate which is pending in a court upon which the judge is sitting."

The matter now before us is not an estate sale; it is a foreclosure sale. The inquiring district magistrate judge has had nothing to do and could have nothing to do with the foreclosure proceeding. The district magistrate judge could neither approve nor disapprove the sale, or direct or deny the issuance of a sheriff's deed. Such matters lie exclusively with district judges. See K.S.A. 2004 Supp. 20-302b(5).

We conclude that bidding at a public auction arising out of a foreclosure action could not "reasonably be perceived to exploit the (district magistrate) judge's official position." Canon 4D(1), 2005 Kan. Ct. R. Annot. 571. Neither does such action give the appearance of impropriety. Canon 2A, 2005 Kan. Ct. R. Annot. 559.



Robert H. Miller, Chairman



Fred S. Jackson

Adrian J. Allen not participating.