

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-143
Issued: March 1976

Question: May a lawyer, who merely shares office space with a Quarterly Court trial commissioner, defend criminal cases in courts (other than the division of Quarterly Court in which the office-sharer sits) in the same county in which the office-sharer sits?

Answer: Qualified yes.

References: Opinion KBA E-61 (1972); Canon 5, 7

OPINION

Basically this question is answered by the answer to Question 5 in Opinion KBA E-61 (1972).

The lawyer may not accept employment in any case which may be or has been tried on the merits before the office-sharing trial commissioner. He may not accept employment in any case in which the office-sharer may conduct an examining trial, even though the defendant intends to waive examining trial. Because he should not be in a position of having to decide whether or not to question the legality of an act of the office-sharer (Canons 5, 7), he should not accept employment in any case in which the legality of any such act may foreseeably be an issue. If such an issue becomes apparent after he accepts employment, he must withdraw.

With these exceptions, the lawyer may accept employment in any criminal case.

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). Note that the Rule provides: "Both informal and formal opinions shall be advisory only; however, no attorney shall be disciplined for any professional act on his part performed in compliance with an opinion furnished to him on his petition, provided his petition clearly, fairly, accurately and completely states his contemplated professional act."