



**STATE OF VERMONT
JUDICIAL ETHICS COMMITTEE**

Opinion No.: 37
Date: January 8, 2026
To: [name redacted in posted version pursuant to A.O. 35, ¶ 6]

The Committee has researched and reviewed the matter you presented to it. The following is the opinion of the Committee and a response to your inquiry pursuant to Administrative Order No. 35.

Question Presented

Whether an assistant judge who is called for jury duty in the superior court where the judge presides may participate in voir dire proceedings, particularly if the judge has previously heard Relief from Abuse cases involving the same defendants?

Short Answer

Judges are not automatically excused from jury service and may be called for jury duty. A judge may not, however, serve as a juror in a matter of which the judge has prior knowledge on in which the judge has previously participated under Rule 2.11(a).

Relevant Provisions of Code of Judicial Conduct

Vermont statute, 4 V.S.A. §962(a) sets the qualifications for jury service:

- (a) A person shall be qualified for jury service if the person:
 - (1) is a citizen of the United States who has attained the age of majority;
 - (2) resides within the geographical jurisdiction of the court in which called to serve;
 - (3) is able to read, write, understand, and speak the English language;
 - (4) is capable, by reason of mental or physical condition, to render satisfactory jury service; and
 - (5) has not served a term of imprisonment in this State after conviction of a

felony.¹

Vermont law also explicitly states that “[n]o person shall be automatically excused from jury service; however, the presiding judge may excuse a person from all or part of the two-year period upon individual request showing undue hardship on the prospective juror or the employer.” 4 V.S.A. § 962(b).

The relevant provisions of the Vermont Code of Judicial Conduct 2019 (“the Code” or “V.C.J.C.”) include the following rules and guidance:

- Canon 1, Rule 1.1: “A judge shall comply with the law, including the Code of Judicial Conduct.”
- Canon 1, Rule 1.2: “A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.”
- Canon 2, Rule 2.11(A): “A judge shall disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned, including but not limited to the following circumstances: (1) The judge has a personal bias or prejudice concerning a party or a party’s lawyer, or personal knowledge of facts that are in dispute in the proceeding.... [or if] (6) The judge... (d) previously presided as a judge over the matter in another court.”

Background

An assistant judge received notice from the superior court for the county in which the judge resides to report for jury duty. All the cases in the pending jury draw are criminal matters. The assistant judge has previously participated in and ruled on relief from abuse hearings involving the scheduled defendants, and the jury trials would involve the same underlying facts that resulted in a finding of abuse by the judge.

Analysis

Vermont law provides that “[n]o person shall be automatically excused from jury service.” 4 V.S.A. § 962(b). The court rules reiterate that a person is qualified for jury service if the person meets certain basic qualifications and that “[n]o other person shall be automatically excused or barred from jury service.” Rule 1. To address issues specific to an individual juror, the statute goes on to provide that “however, the presiding judge may excuse a person for all or part of the two-year period upon individual request showing undue hardship on the prospective juror or the employer.” Thus, there is no automatic exemption from jury duty for judges.

The Vermont Code of Judicial Conduct provides that “[a] judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and

¹ Vermont law also allows a person to be excused from jury duty if they have served jury duty in a state court three times within the past two years. 9 V.S.A. §963; Vt. Jury Select. Rule 8.

impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.” Rule 1.2. The Code also requires a judge to disqualify himself in any proceeding in which their impartiality might reasonably be questioned, including matters in which the judge has knowledge of the facts in a case or previously presided over the matter. Rule 2.11(A). Under the facts presented here, it appears that the judge would be disqualified from serving as a juror in any case involving defendants whose relief from abuse proceedings on which the judge previously sat. However, if at least one of the cases for which a jury is being drawn does not involve matters on which the judge previously sat, the judge may be eligible to serve on that jury.

A New York state ethics opinion concluded similarly that a judge “‘is no different from any other’ individual so summoned” to serve as a juror and must report for service unless excused through regular channels. N.Y.S. Comm. Prof. Eth. Op. 22-141 (10/27/2022)(citation omitted).

The Vermont Code requires judges to comply with the law. Rule 1.1. The Vermont Judiciary has established a process for jurors to request to be excused from service or a particular jury draw. According to the Judiciary website, that process requires submitting an email, fax, or juror questionnaire asking to be excused, along with documentation.² See <https://www.vermontjudiciary.org/jurors/jury-services>. Once a potential juror submits the juror questionnaire, “the superior court clerk shall indicate thereon whether the person is qualified for jury duty.” Vt. Jury Select. Rule 4(b).

The Committee notes that there may be other reasons why a judge may be excused from either appearing for selection or from selection to serve as a juror on a specific case, such as unreasonable hardship. However, judges are not automatically excused and must follow the established procedures to request an excuse.

In some other states, state law provides a blanket exemption for some or all judges. See, e.g., Minn. Court Rule 808 (district court judges, court of appeals judges, and supreme court justices disqualified from jury service); Va. Code Ann. § 8.01-341 (judges exempt from juries in civil and criminal cases); Fla. Stat. § 40.013 (no judge qualified to be juror); 42 Pa. C.S.A. § 4503 (judges exempt from jury duty); Neb. Rev. Stat. § 25-1650 (judges disqualified to serve as grand or petit jurors). Vermont law, however, does not include such an exemption.

Conclusion

For the reasons discussed herein, it is the opinion of this Committee that a judge who is called for jury duty is not entitled to an automatic excuse from duty but instead must follow the procedure established by the courts to present any disqualification or excuse as would any other citizen. A judge who has knowledge of a matter or who has

² “(b) Upon return and receipt of the questionnaire, the superior court clerk shall indicate thereon whether the person is qualified for jury duty.”

presided on the case in another court would be disqualified from serving on a jury in that particular case but might be eligible to serve as a juror in other, unrelated cases.

Members of the Judicial Ethics Committee

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