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OPINION COMMITTEE



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RQ-0517-KP

October 17, 2023

Office of the Attorney General
Attention Opinion Committee
P.O. Box 12548
Austin, Texas 78711-2548

We are requesting an opinion on the following questions currently pending in Gray County in light of Article XVI, Section 40, of the Texas Constitution (prohibition against dual office holding), the common law doctrine of incompatibility, and the Texas Code of Judicial Conduct...

Can an Elected Official, Constable, hold two oaths concurrently and maintain both offices? The second position is Municipal Court Judge.

If not, would the Constable's position be considered vacated?

Would the Constable be disqualified from becoming a candidate in an election for a non-judicial office unless he first resign the Municipal Court bench?

The Precinct 2 Constable was elected to his third term in 2022, taking office in January of 2023. Recently, the Constable has taken the appointed position of Municipal Court Judge of Lefors, Gray County, Texas. The Constable is currently sitting as Municipal Court Judge while simultaneously fulfilling his duties as the elected Constable.

Sincerely,

A handwritten signature in cursive script that reads "Franklin McDonough".

Franklin McDonough
District Attorney

FM/mr