

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

July 29, 2025

Opinion No. 25-014

Simultaneous Service as a Part-Time General Sessions Judge and Juvenile Magistrate

Question

Is a recurring part-time general sessions and juvenile court judge in a class five county allowed to accept an appointed position to serve as a juvenile magistrate in a different and distinct class one county and hold both positions simultaneously?

Opinion

Likely not. Article VI, Section 7 of the Tennessee Constitution prohibits the judge of an inferior court from holding any other office of trust or profit. And based on existing precedent, we believe a court would likely conclude that the position of juvenile magistrate constitutes an office of trust or profit within the meaning of this provision.

ANALYSIS

The position of juvenile magistrate is provided for in Tenn. Code Ann. § 37-1-107, and at the start, the statute signals that the position is largely subordinate to the juvenile court's power. Under the statute, a juvenile court judge "may appoint" one or more persons to act as magistrates, and each appointed magistrate "shall hold office at the pleasure of the judge." Tenn. Code Ann. § 37-1-107(a)(1). And beyond the powers of appointment and dismissal, the statute extends the judge's control over magistrates to other areas too. For instance, the statute mandates that the judge set the magistrate's compensation with "approval of the county legislative body or the pertinent governing body," *id.*, and it allows the judge to direct which "case or class of cases" the magistrate hears. *Id.* § 37-1-107(b). And on top of these features, the statute provides that the magistrate's orders are reviewable by the judge. *Id.* § 37-1-107(c)-(d).

But through their positions, juvenile magistrates fulfill an important, and public, role within the State. Juvenile magistrates are known as "officer[s] of the judicial system" whose "duty it is to perform judicial functions." Tenn. Code Ann. §§ 16-15-209(g)(1)(B), 17-2-118(f)(1)(B), 17-2-122(b). And once a juvenile court judge directs that a case or class of cases will be heard by a magistrate, the magistrate has "the powers of a judge" and "the same authority as the judge to issue any and all process." Tenn. Code Ann. § 37-1-107(b). Cases handled in the first instance by a magistrate are "conducted in the same manner as cases heard by the judge," *id.*, and under this framework, juvenile magistrates may preside over a variety of cases with a profound impact, such as those involving dependency and neglect, custody and visitation, and termination of parental rights. *See* Tenn. Code Ann. §§ 37-1-103 and -104 (outlining the juvenile court's jurisdiction); *In re Tamera W.*, 515 S.W.3d 860, 864 (Tenn. Ct. App. 2016) (juvenile magistrate ruled on

dependency and neglect petition); *Cipolla v. Coutras*, No. M2023-00890-COA-R3-JV, 2024 WL 3672068, at *1 (Tenn. Ct. App. Aug. 6, 2024) (juvenile magistrate presided over “[m]ost of the proceedings” in connection with a petition to modify parenting plan); *In re Jamie G.*, No. M2014-01310-COA-R3-PT, 2015 WL 3456437, at *16 (Tenn. Ct. App. May 29, 2015) (juvenile magistrate suspended mother’s visitation); *State Dep’t of Children’s Servs. v. F.R.G.*, No. E2006-01614-COA-R3-PT, 2007 WL 494996, at *9 (Tenn. Ct. App. Feb. 16, 2007) (noting that a juvenile court referee¹ “appropriately conducted the [termination] proceeding within his authority as Juvenile Court Referee”). Juvenile magistrates have even decided whether a juvenile will be tried as an adult. *State v. Gray*, No. E2021-01134-CCA-R3-CD, 2022 WL 17332569, at *1, 10-12 (Tenn. Crim. App. Nov. 30, 2022) (concerning juvenile magistrate’s transfer of a juvenile to criminal court).

The question here is whether a recurring part-time general sessions and juvenile court judge in a class five county may accept appointment as a juvenile magistrate in a different and distinct class one county and hold both positions simultaneously. That question implicates both statutory and constitutional constraints.

The statutory restraint, found in Tenn. Code Ann. § 16-15-5002(b), is a narrow one. The general rule under the statute is that part-time general sessions judges, including those in a class five county, “shall not be prohibited from the practice of law or other gainful employment while serving as judge.” Tenn. Code. Ann. § 16-15-5002(b). But there is one exception: The statute prohibits extra-judicial employment for these judges if it “constitutes a conflict of interest.” *Id.* There does not appear to be any categorical conflict of interest in the dual service contemplated, though a potential conflict of interest certainly could arise in certain factual scenarios.

The more significant restriction, which is the focus of our discussion herein, is one grounded in Article VI, Section 7 of the Tennessee Constitution. That constitutional provision states that the “Judges of the Supreme or Inferior Courts” shall not “hold any other *office of trust or profit* under this State or the United States.” Tenn. Const. art. VI, § 7 (emphasis added). Both general sessions and juvenile court judges are judges of “Inferior Courts,”² and we thus agree that resolution of the question presented likely turns on whether the position of juvenile magistrate is considered an “office of trust or profit” within the meaning of Article VI, Section 7.³ If the position constitutes such an office, then a part-time general sessions and juvenile court judge in one county could not constitutionally serve as a juvenile magistrate in another county simultaneously. The key question then is what constitutes an office of trust or profit under Article VI, Section 7.

¹ We note that juvenile magistrates were formerly known as “juvenile referees.” The referee terminology was utilized until 2009, when the General Assembly redesignated the position as “juvenile magistrate.” 2009 Tenn. Pub. Acts, ch. 235, § 1.

² See *Franks v. State*, 772 S.W.2d 428, 429-30 (Tenn. 1989) (stating that “[g]eneral sessions courts are inferior courts within the meaning of Article VI, Section 7” and noting that “[a] juvenile judge is a judge of an inferior court”); *Shelby Cnty. Election Comm’n v. Turner*, 755 S.W.2d 774, 777 (Tenn. 1988) (stating that the “Juvenile Court is an inferior court within the meaning of the constitution”).

³ To be clear, nothing herein should be construed as expressing an opinion as to whether the proposed scenario underlying your question would present any issue under the Code of Judicial Conduct. Although your request engages with that subject and arguably invites this Office to weigh in on the matter, we note that “[t]his Office does not interpret the Code of Judicial Conduct.” Tenn. Att’y Gen. Op. 01-116 (July 20, 2001). Judges with ethical questions “may wish to consult the Judicial Ethics Committee.” *Id.*

Neither the Tennessee Constitution nor statutory authority define the phrase “office of trust or profit.” *Patterson v. Tenn. Dep’t of Safety & Homeland Sec.*, No. M2022-00740-COA-R3-CV, 2025 WL 473547, at *5 (Tenn. Ct. App. Feb. 12, 2025), *perm. app. filed*, No. M2022-00740-SC-R11-CV (Tenn. June 16, 2025). In the absence of a definition, courts begin “by reading the plain language and giving terms ‘their ordinary and inherent meaning.’” *McNabb v. Harrison*, 710 S.W.3d 653, 658 (Tenn. 2025) (quoting *State v. Phillips*, 159 Tenn. 546, 21 S.W.2d 4, 5 (1929)). And here, that task should naturally start by engaging with the term “office.”

Within the broader body of Tennessee case law, the term “office” has not always been subject to a consistent manner of presentation or definitional understanding. Of relevance to our later discussion, we note that some conceptions of “office” have focused on the term as implicating an “assigned duty or function,” or a “post, appointment, situation, place, [or] position.” *Frazier v. Elmore*, 173 S.W.2d 563, 565 (Tenn. 1943). But at the same time, a more detailed connotation has also long been a part of this States’s—and Nation’s—jurisprudence. In the early 1900s, for instance, the Tennessee Supreme Court noted that the term “office” implies “not merely place,” but also “term or tenure.” *Day v. Sharp*, 161 S.W. 994, 996 (Tenn. 1913). And in an earlier 1867 decision from the United States Supreme Court, which Tennessee courts have cited,⁴ an understanding beyond mere “place” was also touted. *See U.S. v. Hartwell*, 73 U.S. 385, 393 (1867) (stating that “office” “embraces the ideas of tenure, duration, emolument, and duties”).

Because judicial decisions have sometimes accorded “office” different variants in meaning depending on the case or issue at hand, a similar malleability has emerged in how courts have construed the phrase “office of trust or profit.” *Cf. State ex rel Byrge v. Yeager*, 472 S.W.3d 657, 662 (Tenn. Ct. App. 2015) (noting that the dividing line between public office and public employment “is sometimes not too clearly marked by judicial decisions” (quoting *Glass v. Sloan*, 281 S.W.2d 397, 398 (Tenn. 1955))). As a general proposition, this makes it somewhat difficult—perhaps even impossible—to state that there is a uniform vision for what an “office of trust or profit” might mean in the abstract.

Indeed, a *universal* standard for what it means to hold an “office of trust or profit” does not appear to be readily derivable from Tennessee case law. On the one hand, some cases have focused on whether public office “characteristics” are associated with a given position to determine whether it is an “office of trust or profit.” *See Patterson*, 2025 WL 473547, at *6. This approach is similar to how courts have often decided whether something is an “office” within the meaning of the Tennessee Constitution or statutory provisions, *see generally Glass*, 281 S.W.2d at 398-99 (noting there are various “criteria” that inform what is a “public office”), and it is the approach courts have taken when determining whether someone holds an “office of trust or profit” for purposes of the State’s ouster statute at Tenn. Code Ann. § 8-47-101.⁵ *See, e.g., Yeager*, 472 S.W.3d at 663. Public office “characteristics” that Tennessee courts typically consider include “a fixed term of duration, prescribed compensation, delineation of rights and duties, and a mandatory

⁴ *See, e.g., State v. Crump*, 183 S.W. 505, 507 (Tenn. 1916).

⁵ Although the statute excepts certain officers from its scope, Tenn. Code Ann. § 8-47-101 generally outlines grounds for removal for “[e]very person holding any office of trust or profit, under and by virtue of any of the laws of the state, either state, county, or municipal.” Tenn. Code Ann. § 8-47-101.

rather than permissive appointment.” *Patterson*, 2025 WL 473547, at *6 (citing *State ex rel. Harris v. Buck*, 196 S.W. 142, 144 (Tenn. 1917)). On the other hand, a recent appellate decision considering the ouster statute’s “office of trust or profit” language indicated that characteristics were not fully determinative of whether someone holds an “office of trust or profit.” *See Yeager*, 472 S.W.3d at 663 (finding it useful to also consider the purpose of the ouster law). Still, though, it can be expected that a consideration of public office characteristics will largely drive the analysis of what constitutes an “office of trust or profit” in ouster cases.

The Tennessee Supreme Court’s decision in *State ex rel. Harris v. Buck* illustrates this point. There, the Tennessee Supreme Court examined whether a county engineer held an “office of trust or profit” within the meaning of Tennessee’s ouster law. *Buck*, 196 S.W. at 142. The *Buck* court ultimately answered this question in the negative and observed that several characteristics of a public office were not provided for by the underlying legislation connected to the position. *Id.* at 143-44. The way the court viewed things, if the General Assembly had intended to create an office, it would have “at least . . . fixed the tenure, the duration, the fees or emoluments, the rights and powers, as well as the duties of the office.” *Id.* at 144. These features were, after all, “important essentials in the creation of a public office.” *Id.*

But as alluded to earlier, not all cases appear to have followed a characteristics-based approach in analyzing what constitutes an “office of trust or profit.” Indeed, whereas *Buck*’s “essentials” generally mirror the attributes underlying the more detailed understanding of “office” mentioned earlier, the Tennessee Supreme Court appeared to take a different tack when it unpacked the meaning of “office” in *Frazier v. Elmore*. According to the *Frazier* court, in the context of Article VI, Section 7 of the Tennessee Constitution—the very provision at issue here—“office”

must be given its broad meaning, so as to effectuate the apparent intent of the constitutional prohibition against a diversion or division of the time and labor, energies and abilities of judges of our courts, which might destroy, or diminish their capacity to discharge the exacting duties of their responsible positions; and also to limit them to one source of compensation.

Frazier, 173 S.W.2d at 565.

In connection with this “broad” approach to the term “office” and gleaned constitutional concern relating to judges’ time, energies, and labor, the *Frazier* court cited definitions of “office” that largely pertained to place and function. For instance, in addition to noting that “office” meant an “assigned duty or function,” the court noted that synonyms for the term were “post, appointment, situation, place, [and] position.” *Id.* And the court added that “office” “commonly suggests a position of (especially public) trust or authority.” *Id.*

Even outside of highlighting these more general understandings of “office,” the *Frazier* court’s discussion appeared to eschew the type of characteristics-based analysis the *Buck* court had promoted. For one, even though *Buck* was decided before *Frazier*, the *Frazier* court did not mention it. In addition, the broad meaning that the *Frazier* court gave to “office” allowed the court to not concern itself with knowing all the attributes of the other “office” at the center of its review.

Whereas the *Buck* court had expressed concern for knowing whether a position involved certain “essentials” of a public office, *Buck*, 196 S.W. at 144, the *Frazier* court was able to determine that the position at issue implicated Article VI, Section 7 even though the court was largely in the dark as to the position’s details. Although the *Frazier* court discussed how the other position at issue there was one of military service, the court acknowledged the specific position “does not appear” in the record. *Frazier*, 173 S.W.2d at 564. And in the same vein, the court acknowledged that the record did not disclose “the precise character of the duties,” “the nature of the military service,” nor “the [specifics of] compensation.” *Id.* at 565. But this was all deemed to be of no moment. Ultimately, the *Frazier* court remarked that, “[w]hatever may be the post or station in the military service of the United States which complainant is occupying, he is in a place of trust and honor and is receiving compensation therefrom.” *Id.* at 565-66. And in the end, the *Frazier* court commented that, “if not technically holding another ‘office,’ within the letter of the prohibition, he is certainly within its spirit.” *Id.* at 566. As the court stated, “[t]he letter killeth, the spirit maketh alive.” *Id.*⁶

The differences manifested through the juxtaposition of the above approaches are far from trivial. The *Buck* and *Frazier* courts appear to have respectively offered fundamentally different frameworks for deciphering what an “office of trust or profit” might mean. Those differences may matter here.

For instance, if a court were to assess the position of juvenile magistrate under *Buck*’s framework, we think it would be unlikely that the court would regard the position as an “office of trust or profit.” When previously heeding *Buck*’s direction, this Office noted that the General Assembly reflects a clear intent to create an “office” when, among other things, it provides for “the term of office” and “its compensation.” Tenn. Att’y Gen. Op. 98-215 (Nov. 23, 1998). Such typical hallmarks of a public office are of course lacking here. As noted earlier, juvenile magistrates serve “at the pleasure” of the juvenile court judge that appoints them. Tenn. Code Ann. § 37-1-107(a)(1). And they also have no fixed compensation by statute. That, too, is subject to the involvement of the appointing judge. *See id.* (providing that the judge sets the magistrate’s compensation with “approval of the county legislative body or the pertinent governing body”). Overall, then, we think that the framework articulated by *Buck* generally counsels against the understanding that a juvenile magistrate holds an “office of trust or profit.” *See Patterson*, 2025 WL 473547, at *6 (relying on *Buck* for the notion that when a position is a mere appointee and works at the discretion of another official, it is evidence that the position is employment rather than a position of trust or profit); *see also* Tenn. Att’y Gen. Op. 98-215 (Nov. 23, 1998) (opining that an appointed superintendent did not hold an office of trust or profit, “particularly in view of the fact that a superintendent has no fixed term of office”).

But if a court were to view this question under *Frazier*’s framework, its conclusion would probably be different. As we outlined earlier, the *Frazier* court adopted a broad meaning of

⁶ Beyond what we have already mentioned—but further illustrating that the “essentials” discussed in *Buck* did not carry the same type of weight in *Frazier*—we note that the *Frazier* court appeared to favorably reference another Tennessee Supreme Court case in the course of its discussion, one in which, in the context of another provision, the court had determined that someone was an “officer” even though they were “without a fixed term or compensation, [and were] dependent on fees.” *Frazier*, 173 S.W.2d at 565.

“office” out of its concern for “effectuat[ing] the apparent intent” of Article VI, Section 7. *Frazier*, 173 S.W.2d at 565. And here, we think it is likely that simultaneous service as a juvenile magistrate in another county would impede the intent of Article VI, Section 7 that the *Frazier* court identified. Such dual service would invariably lead to competition between counties for a judicial officer’s time, labor, and attention. So it makes sense that the position of juvenile magistrate falls within the broad definition of “office.” That position clearly involves labor in another “appointment,” “place,” and “position.” *Id.* And whereas the *Frazier* court also noted that “office commonly suggests a position of (especially public) trust or authority,” *id.*, we think juvenile magistrates certainly serve in such a capacity given their role in Tennessee’s court system. As we detailed earlier, once a juvenile court judge directs that a case or class of cases will be heard by a magistrate, the magistrate has “the powers of a judge” and “the same authority as the judge to issue any and all process.” Tenn. Code Ann. § 37-1-107(b). And cases handled in the first instance by a magistrate are “conducted in the same manner as cases heard by the judge.” *Id.* And as we also noted, juvenile magistrates may preside over a variety of cases that can have a profound impact on the citizens of this State. Ultimately, given the *Frazier* court’s emphasis on according “office” a broad meaning, *Frazier*, 173 S.W.2d at 565, and given its concern for the “spirit” of the constitutional prohibition it interpreted, *id.* at 566, a court following its direction would probably regard a juvenile magistrate as holding an “office of trust or profit.”

And because *Frazier* specifically gave meaning to the constitutional provision at issue in your request, courts would be likely to follow its lead in resolving the question you have posed. No doubt, the *Frazier* court’s approach appears to be in tension with how other decisions, like *Buck*, have given meaning to the “office of trust or profit” language in other contexts. But this Office has previously alluded to the potential for tension in this area, noting that “[u]nder Tennessee case law . . . a person can hold an ‘office’ for one purpose and not for another.” Tenn. Att’y Gen. Op. 99-156 (Aug. 19, 1999). And in the same opinion, we observed that *Buck* was “not controlling” of inquiries related to Article VI, Section 7, as it “was not construing the phrase ‘office of trust or profit’ for purposes of [that provision].” *Id.* By contrast, we noted that *Frazier* was a “leading case construing the phrase ‘office of trust or profit’ for purposes of Article VI, Section 7.” *Id.*

In summary, therefore, we believe that a court would likely conclude that the position of juvenile magistrate constitutes an office of trust or profit within the context of Article VI, Section 7. And as a result, it is this Office’s opinion that a part-time general sessions and juvenile court judge in one county is likely, under existing precedent, constitutionally prohibited from simultaneously serving as a juvenile magistrate in another county.

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