

ETHICS OPINION

RO-91-40



QUESTION:

"A question has arisen concerning a possible conflict of interest, I may have in handling criminal cases. My chief legal assistant, who is currently studying to take the Alabama Bar Exam, has a brother who is also the Chief Deputy District Attorney for this circuit. Although I have received an informal opinion from the local Bar Association that there is no conflict, I wish to receive a formal, written opinion on this matter.

My question is twofold:

- (1) Is it a conflict for me to handle criminal cases while having an employee in my office whose brother is Chief Deputy District Attorney in the same circuit; and
- (2) would the situation change when this individual passes the Alabama bar Exam and continues to work in my office?"

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ANSWER:

It does not constitute a conflict of interest for you to handle criminal cases while at the same time employing the brother of the Chief Deputy District Attorney in your law office. This would be true regardless of whether your employee is a lawyer or a non-lawyer. Rule 1.8(i) of the Rules of Professional Conduct prohibits a lawyer related to another lawyer as parent, child, sibling or spouse from representing a client in a representation directly adverse to a person represented by the related lawyer. As the comment to this rule indicates, the disqualification is personal and is not imputed to a member or employee of the firm with whom the lawyer is associated.

LGK/vg

10/10/91