

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

October 4, 1977

Upon consideration of the facts which you submitted to us, it is the opinion of this Commission that Canon 3 of the Alabama Canons of Judicial Ethics does not require that you disqualify yourself in the matter you have described and which is presently pending before your court. The facts surrounding your question of disqualifications are as follows:

Plaintiff filed a civil action in the circuit court of Mobile County. By lot, the case was assigned to you as Circuit Judge. You set the case for trial December 7, 1977. Plaintiff, being displeased with the trial date and feeling that the trial date should have been set earlier, and being displeased with the court's overruling a motion for summary judgment, filed a civil rights action in federal court charging you as trial judge with racial discrimination. In this federal lawsuit plaintiff asks the federal court to order you to set an earlier trial date; to grant his motion for summary judgment in the case pending in your court; to enjoin you from discrimination against litigants on the basis of race; and to grant plaintiff nominal damages.

You stated in your request for an opinion that you feel completely competent to give the plaintiff a fair and impartial trial without prejudice to him.