

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

August 16, 1978

The Judicial Inquiry Commission has considered your request for an opinion concerning whether any potential breach of the Canons of Ethics exists in your presiding over a case involving a negligence action against a certain hospital. It appears that you sat on the Board of Directors of the Hospital from May 1969 until May 1975. You state that in your best judgment the lawsuit will not involve any hospital policy set while you were a member of the Board of Directors. Nor does the suit involve any purchase or approval for purchase of any hospital equipment which was obtained while you were a member of the Board. The events out of which the action arise occurred February 18, 1976 or about seven and one-half months after your association with the hospital ended.

Essentially, your request for an opinion concerns whether under the above set of facts you would be required to recuse yourself as presiding judge in this case in the event that attorneys and parties on both sides are informed of your past association with the hospital and make no objection to your presiding. Under these circumstances this Commission finds no violation of the Canons of Ethics.

Under the Alabama Canons of Judicial Ethics, recusal is covered in Canon 3C. Canon 3C provides in pertinent part as follows:

“(I) A judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned, including but not limited to instances where:

(a) He has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding....”

It is our opinion that under the facts as you have stated them, if you have no personal knowledge of disputed evidentiary facts and if, in your opinion, your impartiality might not be reasonably questioned, then you would not be in violation of Canon 3C.