

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

October 4, 1978

You have requested the opinion of this Commission concerning the following question:

“Does the law, the Constitution or Canons of Ethics require a municipal court judge to resign his judicial office before running for a non-judicial elected office?”

Upon consideration of your request, it is the opinion of this Commission that under the Constitution of Alabama a municipal court judge does not have to resign his judicial office before running for a non-judicial office. Such judges are exempted by Section 6.065 of Amendment 328, Constitution of Alabama, 1901, from the prohibition in Section 6.08 of Amendment 328, supra, against judges seeking a non-judicial elective office while serving as a judge.

While it appears under Canon 7 of the Alabama Canons of Judicial Ethics that a municipal court judge would have to resign his judicial office to seek an elective non-judicial office, we find the constitutional provisions to be controlling in this instance. Thus, this provision of Canon 7 is inapplicable to municipal judges.