

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an opinion concerning whether a judge is disqualified from sitting in a criminal proceeding or a civil proceeding where the prosecuting witness or the plaintiff is the daughter of a retired Judge of the circuit. Your specific question is whether the relationship of the prosecutrix to the retired Circuit Judge would prohibit or disqualify all other Circuit Judges of the Circuit from presiding over either of these trials.

The disqualification of a Judge is governed under the Alabama Canons of Judicial Ethics by Canon 3C. Pertinent to this opinion, that Canon provides as follows:

- (1) 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 the opinion of the Commission that disqualification under this Canon must be considered on a case by case basis. See Opinion 82-136. The mere fact that the prosecutrix in a criminal case or the plaintiff in a civil case is the child of a retired Judge of the circuit does not require the disqualification of any of the judges of the circuit in the proceedings in question. However, facts could be present in these cases which could cause disqualification. These facts could include, among others, the nature of the relationship between the judges of the circuit and their families, personal friendship between a particular sitting judge and the retired judge and/or his daughter, the nature of the case, or the personal bias or prejudice of any particular judge, etc.

For your further consideration we include a copy of our previous opinions 81-99 and 82-136.

Very truly yours,

JUDICIAL INQUIRY COMMISSION