

Judicial Inquiry Commission

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August 1, 1984

The Judicial Inquiry Commission has considered your request for an opinion concerning whether a judge is disqualified from sitting in a case in which a party to the proceeding is the wife of the judge's brother's wife's brother.

Your question is governed by Canon 3C(l)(d)(i) of the Alabama Canons of Judicial Ethics. In pertinent part, that Canon provides that a judge is disqualified from hearing any proceeding in which his disqualification is required by law or in which:

“(d) He or his spouse, or a person within the fourth degree of relationship to either of them, or the spouse of such a person:

(i) is named a party to the proceeding ...”

Relative to this opinion, disqualification is required when the judge is related to a party within the fourth degree by consanguinity or affinity. See §12-1-12, Code of Alabama, 1975.

It is the opinion of the Commission that under these provisions disqualification occurs under the present facts only if the party or the party's spouse is related to the judge or the judge's spouse by consanguinity within the fourth degree.

In the present instance, the pertinent relationship is that between the judge, his brother and his brother's wife. The brother is related to the judge within the fourth degree, and under the provisions of the Canon, the brother's wife is the spouse of the person related within the fourth degree. The disqualification stops with this relationship and does not continue to the relatives of the brother's wife. Therefore, the judge is not disqualified from sitting in the proceeding in question.

Very truly yours,

JUDICIAL INQUIRY COMMISSION