

Judicial Inquiry Commission

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April 3, 1985

The Judicial Inquiry Commission has considered your request for an opinion concerning whether ethical considerations are involved where the brother of the judge's clerk-bailiff is an associate with a local law firm. The immediate ethical implications arising in this fact situation are those concerning disqualification in proceedings in which the brother's law firm represents a party to the proceeding.

It is the opinion of the Commission that the judge is disqualified from sitting in any proceeding in which the law firm of the judge's clerk/bailiff's brother represents a party if the brother of the judge's clerk-bailiff participates in any way in the proceeding.

Previously, in Opinion 83-190, this Commission considered a similar situation. There the clerk-bailiff's spouse was employed by a local law firm. The Commission held that, due to the relationship of a trial court judge with his law clerk, the judge is disqualified from sitting in any proceeding in which the law clerk's spouse or spouse's firm appeared as counsel. See Canon 3C(l) of the Alabama Canons of Judicial Ethics. The Commission further held that the disqualification does not apply if the law clerk takes no part in the proceeding and does not discuss any aspect of the proceeding with the judge. Opinion 83-190 is hereby reaffirmed. The same reasoning applies in the present fact situation.

Should you have any specific questions relating to any of the other Canons, the Commission will be happy to address them.

Yours very truly,

JUDICIAL INQUIRY COMMISSION