

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

July 8, 1985

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a probate judge is disqualified from performing certain "non-adversary" judicial functions when the judge's son is the attorney of record. Specifically, you ask whether the judge is disqualified from admitting a will to probate when waivers of notice of hearing have been signed by all interested parties and filed with the court.

It is the opinion of the Commission that a probate judge is disqualified from sitting in any judicial proceeding in which the judge's son represents a party and appears as attorney of record. However, this disqualification may be remitted under the provisions of Canon 3D.

Sincerely,

JUDICIAL INQUIRY COMMISSION