

Judicial Inquiry Commission

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September 29, 1986

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a judge is disqualified from sitting in a criminal proceeding in which his son acts as an assistant district attorney or if the judge is disqualified from sitting in any criminal proceeding involving the district attorney's office in which the judge's son is employed as an assistant district attorney.

Both questions have been previously considered by the Commission. In advisory opinion 80-89 the Commission advised that under Canon 3C a judge is disqualified from sitting in any proceeding, including a criminal proceeding, where the judge is related to one of the attorneys within the fourth degree of affinity or consanguinity. See also, advisory opinion 79-64. In advisory opinions 80-90, 80-101 and 83-171 the Commission advised that the employment as an assistant district attorney of a person related to the judge within the fourth degree of consanguinity or affinity does not cause the disqualification in all criminal proceedings involving the district attorney's office. Disqualification is only required in those cases in which the judge's relative is known by the judge to be involved.

Sincerely,

JUDICIAL INQUIRY COMMISSION