

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

December 29, 1986

The Judicial Inquiry Commission has considered your request for an opinion concerning whether, under the Alabama Canons of Judicial Ethics, a judge's spouse may, after marriage to the judge, continue her employment as a sergeant with the County Sheriff's Department and under what circumstances would the judge be disqualified in cases involving his wife or the Sheriff's Department. The judge presently usually handles Trooper cases and rarely handles cases involving the Sheriff's Department.

It is the opinion of the Commission that the Canons of Judicial Ethics do not prohibit the judge's wife's employment. However, under Canon 3C of the Alabama Canons of Judicial Ethics the judge is disqualified from sitting in any proceeding in which his spouse may be involved or which might affect his spouse's employment. In this regard, the judge should seek to be informed as to whether his spouse will appear as a material witness in any case involving the Sheriff's Department. It is further the opinion of the Commission that the judge's impartiality might not reasonably be questioned in cases involving members of the Sheriff's Department by the mere fact that his wife is employed in that department. Canon 3C requires more for disqualification to occur. Disqualifying factors include but are not limited to the following: A personal bias or prejudice on the part of the judge or a knowledge of disputed evidentiary facts, 3C(l)(a); his spouse has a financial or other interest in the subject matter, 3C(l)(c); or his spouse is a party or is known by the judge to be a material witness, 3C(l)(d).

Sincerely,

JUDICIAL INQUIRY COMMISSION