

## Judicial Inquiry Commission

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August 3, 1987

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 proceeding in which one of the parties is represented by an attorney, who five years previously was recommended by the judge to represent a former employee in a divorce action.

It is the opinion of the Commission that, while this fact situation emphasizes the dangers inherent in a judge recommending an attorney, even to a close friend or a former employee, disqualification is not required under Canon 3C of the Alabama Canons of Judicial Ethics. The judge may, however, recuse himself should he find it appropriate.

Under the Alabama Canons of Judicial Ethics disqualification is governed by Canon 3C. That Canon requires disqualification where the judge's "impartiality might reasonably be questioned." The Alabama Supreme Court has set up guidelines or tests to determine whether under a certain set of circumstances a judge's impartiality might reasonably be questioned. The Court has held that disqualification occurs when, "facts are shown which make it reasonable for members of the public or a party, or counsel opposed to question the impartiality of a judge," Acromag-Viking v. Blalock, 420 So.2d 60, 61 (Ala. 1982) and, "would a person of ordinary prudence in the judge's position knowing all of the facts known to the judge find that there is a reasonable basis for questioning the judge's impartiality"? In the Matter of Billy Joe Sheffield, 465 So.2d 350, 356 (Ala. 1984). .

Under these facts, the Commission finds no violation of Canon 3C.

Sincerely,

JUDICIAL INQUIRY COMMISSION