

Judicial Inquiry Commission

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November 23, 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 ruling on a post-trial motion in a certain proceeding. It appears from the facts that after rendition of judgment and prior to the filing of the motion, the judge's secretary's son became employed by the plaintiff's wife's business. The plaintiff's attorney and the defendant and defense attorney have made known to the court, in writing, the desire of the parties that the judge issue a ruling in this matter.

It is the opinion of the Commission that the facts as stated do not cause the judge to be disqualified from sitting to hear and decide the post-trial motion.

Judicial disqualification is governed by Canon 3C of the Alabama Canons of Judicial Ethics. In pertinent part that Canon provides:

“C. Disqualification:

- (1) A judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned ...”

In applying this standard, the Commission has issued previous opinions holding that a judge is not disqualified from sitting in a proceeding where the judge's child is employed as a secretary by an attorney representing a party (Opinion No. 82-134) or where the judge's daughter is employed by a retail grocery chain which is involved in a proceeding before the judge (Opinion No. 82-133). In these opinions the Commission considered less remote relationships than those considered here. Therefore, based on our previous opinions and the provisions of Canon 3C, it is the opinion of the Commission that, without more, the mere employment of a judge's secretary's son by the wife of a party to a proceeding after judgment has been rendered, does not cause the judge's disqualification.

Sincerely,

JUDICIAL INQUIRY COMMISSION