

## Judicial Inquiry Commission

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August 29, 1989

The Judicial Inquiry Commission has considered your request for an opinion concerning whether, under the Alabama Canons of Judicial Ethics, a part-time municipal court judge or a member of his law firm may represent a police officer or ex-police officer of the municipality in a matter in which the officer is charged with a criminal offense. The matter is not pending nor will it or any related matters become pending before the municipal court. However, there are cases pending before the municipal court in which the police officer is involved as a prosecution witness or complainant.

It is the opinion of the Commission that, under the Alabama Canons of Judicial Ethics, the municipal court judge is prohibited from representing the police officer in the defense of the criminal action and he should discourage his firm from accepting such representation.

A judge's extra-judicial financial activity is governed primarily by Canon 5C of the Alabama Canons of Judicial Ethics. That Canon provides:

- (1) A judge should refrain from financial or business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties or exploit his judicial position.

\* \* \* \*

- (3) A judge should manage his investments and other financial interests to minimize the number of cases in which he is disqualified.

In considering this Canon in this instance, we must also consider Canon 3C, the disqualification Canon. Canon 3C provides:

- (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 the present instance, the judge would be disqualified from sitting in any proceeding in which his or his firm's criminal defendant client appears as a complaining witness. Therefore, such representation by the judge would "interfere with the proper performance of his judicial duties" and would fail to "minimize the number of cases in which he is disqualified." Therefore, such representation by the judge would violate Canon 3C.

89-379  
Page 2

Of course, the Canons of Judicial Ethics do not govern the judge's law firm. However, we believe that Canon 5C imposes upon the judge a duty to inform his firm that the firm's representation of the police officer will cause the judge's disqualification from performing his official duties as judge in any matter involving the client and will therefore interfere with the proper performance of his judicial duties.

Sincerely,

JUDICIAL INQUIRY COMMISSION