

## Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

April 30, 1990

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 proceeding in which the child of the judge's father's first cousin represents a party.

It is the opinion of the Commission that the mere fact of the relationship described above does not require the judge's disqualification. Judicial disqualification is covered primarily by Canon 3C of the Alabama Canons of Judicial Ethics. In pertinent part that Canon 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, including but not limited to instances where:

\* \* \* \*

- (d) He or his spouse, or a person within the fourth degree of relationship to either of them, or the spouse of such a person: (emphasis supplied)

\* \* \* \*

- (ii) Is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

Thus, for any disqualification to be based purely upon a familial relationship, the relationship must fall within the fourth degree. The relationship described here is outside of that purview, falling within the fifth degree. Therefore, the Canons make no provision for disqualification based solely on that relationship.

Sincerely,

JUDICIAL INQUIRY COMMISSION