

Judicial Inquiry Commission

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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 any proceeding where one of the parties is represented by a member of a law firm which employs the judge's teen-aged daughter as a part-time clerical assistant.

It is the opinion of the Commission that, under the Canons of Judicial Ethics, the mere fact that the judge's child is employed in a clerical capacity by a law firm does not cause the judge's disqualification in the proceeding described. However, a judge must himself examine the facts and circumstances surrounding the child's employment, the proceeding, the judge's relationship with the employee and the employee's relationship to the proceeding to determine whether disqualification is otherwise required.

Our opinion is based upon Canon 3C of the Alabama Canons of Judicial Ethics and upon the application of that Canon in previous advisory opinions issued by the Commission. Canon 3C provides that a judge is disqualified from sitting in any proceeding "in which his disqualification is required by law or his impartiality might reasonably be questioned." In applying that Canon, the Commission has advised that a judge is not disqualified from sitting in a proceeding by the mere fact that the judge's child is employed as secretary to an attorney representing a party (opinion 82-134); that the judge's wife is bookkeeper for the firm representing a party (opinion 80-66); or that the judge's child serves as law clerk in a firm representing a party (opinion 85-239).

However, in each instance the judge has the burden of assessing the facts and circumstances surrounding the proceeding to determine the existence of other facts or circumstances which might cause his impartiality to reasonably be questioned. For instance, if the judge's relative has discussed the proceeding with the judge or has brought circumstances involving the matter to the judge's attention, such action would cause the judge's disqualification. The existence of such factors or circumstances must be reviewed by the judge.

Sincerely,

JUDICIAL INQUIRY COMMISSION