

Judicial Inquiry Commission

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This is in response to your request for an advisory opinion from the Judicial Inquiry Commission. Your question is whether it is unethical for a district court judge to refuse to handle domestic relations cases where the presiding circuit court judge, pursuant to Ala. Code 1975, § 12-17-70, has designated that all domestic relations cases be handled by that district court judge.

There are two district court judges in the Twenty-Ninth Judicial Circuit. Section 12-17-70, provides:

“In those districts having more than one district court judge, the presiding circuit court judge may designate from time to time a district court judge, who shall have the same powers and authority as a circuit judge to handle all cases involving domestic relations, divorce, annulments of marriage, custody and support of children, granting and enforcement of alimony, proceedings under the Reciprocal Nonsupport Act and all other domestic and marital matters over which the circuit court has jurisdiction as well as all laws pertaining to juvenile and nonsupport cases arising in the county under Title 30 of this Code and who shall serve as an ex officio circuit judge when handling such cases, regardless of any provisions contained in this title or any other laws to the contrary; provided, that in those counties having one district judge and in which a circuit judge is currently empowered to handle the aforementioned classes of cases as well as juvenile cases, such power and authority shall not transfer to the district judge without the express authorization of the presiding circuit judge.”

It is the opinion of this Commission that it would be highly improper and unethical for a district court judge to refuse to handle domestic relations cases where the presiding circuit court judge has designated, pursuant to Ala. Code 1975, § 12-17-70, that all domestic relations cases be handled by that district court judge.

The refusal of any judge to carry out the lawful command of a higher court constitutes conduct which tends to subvert the integrity and independence of the judiciary in violation of Canon 1, Alabama Canons of Judicial Ethics.

Such a refusal would constitute a violation of Canon 2A which provides that “[a] judge should respect and comply with the law and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” Such a refusal would also constitute a violation of Canon 2B which requires a judge to “avoid conduct prejudicial to the administration of justice which brings the judicial office into disrepute.”

Canon 3A requires a judge to “perform the duties of his office impartially and diligently” and states that a judge’s “judicial duties include all the duties of his office prescribed by law.” The Canons nowhere state that a judge may decide which statutory duties the judge will or will not perform. Canon 3A(5) requires a judge to “dispose promptly of the business of the court.”

Rule 13, Alabama Rules of Judicial Administration, provides:

“The presiding circuit judge may temporarily assign circuit or district court judges to serve either in the circuit or district courts within the circuit.”

Canon 3B(l) requires a judge to “facilitate the performance of the administrative responsibilities of other judges and court officials.”

This advisory Opinion has been approved by and is the opinion of the entire Commission.