

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

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This is in response to your request for an advisory opinion from the Judicial Inquiry Commission. Your question is whether you are disqualified to preside over a civil matter where you and two of the defendants are in the same Sunday school class.

Under the Alabama Canons of Judicial Ethics, disqualification is governed by Canon 3C. That canon requires disqualification where the judge's "impartiality might reasonably be questioned." The test to determine whether under a certain set of circumstances a judge's impartiality might reasonably be questioned is: disqualification occurs when, "facts are shown which make it reasonable for members of the public or a party, or counsel opposed to question the impartiality of the judge," Acromag-Viking v. Blalock, 420 So.2d 60, 61 (Ala. 1982) and, "would a person of ordinary prudence in the judge's position knowing all of the facts known to the judge find that there is a reasonable basis for questioning the judge's impartiality?" In re Sheffield, 465 So.2d 350, 356 (Ala. 1984).

In Advisory Opinion 93-510, this Commission held that the facts that a judge is not a member of but occasionally attends a church which is a defendant in a civil action over which he presides and considers the pastor a friend is not a ground for disqualification.

"Whether or not disqualification is required when a friend appears as a party to a suit before a judge depends on how personal the relationship is between the judge and the party." J. Shaman, S. Lubet, J. Alfini, Judicial Conduct and Ethics § 5.15 at 125 (1990). See advisory opinions 81-99; 83-183.

"The bias or prejudice which has to be shown before a judge is disqualified must be 'personal' bias, and not 'judicial' bias. Personal bias, as contrasted with judicial, is an attitude of extra-judicial origin, or one derived non coram iudice. In re White, 53 Ala. App. 377, 300 So.2d 420 (1977). The fact that one of the parties before the court is known to and thought well of by the judge is not sufficient to show bias. Duncan v. Sherrill, 341 So.2d 946 (Ala. 1977)."

McMurphy v. State, 455 So.2d , 924, 929 (Ala.Cr.App. 1984). "[I]t is an inescapable fact of life that judges serving throughout the state will necessarily have had associations and friendships with parties coming before their courts. A judge should not be subject to disqualification for such ordinary relations with his fellow citizens." Ex parte Hill, 508 So. 2d

269, 272 (Ala.Civ.App. 1987) (judge's recusal upheld where judge recused himself because "there has been a long association between the parties and this judge and his wife, from living together at an early age in an apartment complex to communication and schooling of the children, church affiliation and many other associations over the years"). See Clemmons v. State, 469 So. 2d 1324 (Ala.Cr.App. 1985) ("That the trial judge and victim knew each other and possibly enjoyed a friendship both professionally and socially is not reason enough to require the judge to recuse himself").

The circumstances requiring disqualification in Bryars v. Bryars, 485 So.2d 1187 (Ala.Civ.App. 1986) involved joint ownership of land and other financial relationships between a judge and an attorney and a close personal friendship. Those circumstances are not present in this case.

It is the opinion of this Commission that the mere fact that a judge and one or more defendants attend the same Sunday school class does not require the judge's disqualification and does not present a situation in which the judge's impartiality might reasonably be questioned.

This opinion has been considered by and is the opinion of the entire Commission.