

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an advisory opinion as to whether a judge must be subpoenaed before he can ethically appear to give testimony in a proceeding or whether a judge may appear voluntarily to give testimony in a legal proceeding.

The Alabama Canons of Judicial Ethics provide that a judge should not testify voluntarily as a character witness at any hearing before any court. Canon 2C. The Commentary to this provision explains that a judge must testify as a character witness if officially summoned. Thus, a judge must be officially summoned before he or she may appear to give character testimony.

The Alabama Canons of Judicial Ethics do not contain a blanket requirement that a judge be officially summoned before the judge may give testimony other than character testimony. Nevertheless, in many situations voluntarily testifying may lend the prestige of the judge's office to advance the private interests of others in violation of another portion of Canon 2C, or otherwise give an appearance of impropriety in violation of Canon 2. Thus, it is the opinion of the Commission that it is generally the better practice for a judge not to give testimony unless officially summoned to do so.

Sincerely,

JUDICIAL INQUIRY COMMISSION