

Judicial Inquiry Commission

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June 26, 1998

The Judicial Inquiry Commission has considered your request for an advisory opinion whether a judge is disqualified to hear a petition to modify in a certain domestic relations case when the judge had been informed following a hearing in the case the previous year that the defendant had voiced threats against the judge and others to his attorney following the hearing. It has been alleged that the sheriff's office provided security for the judge at his chambers after the judge was advised of the threats, but the judge has no recollection concerning this point. The judge states that threats unfortunately are not uncommon in domestic relations cases. Counsel for the defendant now states that his perception of the defendant's comments was erroneous, and that the defendant made statements while angered that he did not mean.

It is the opinion of the Commission that the judge is not disqualified under the foregoing circumstances unless he actually developed a personal bias or prejudice against the defendant due to what occurred.

A litigant's actions toward or statements to a judge during the course of a judicial proceeding do not cause the judge to be disqualified unless the judge is actually influenced and develops a personal bias or prejudice as a result. Advisory Opinions 89-391, 97-636, 98-686, and 98-695. To hold otherwise would allow a litigant to control judicial proceedings whenever a litigant becomes dissatisfied with the course of the proceedings. If the judge does not feel affected by the litigant's actions, the judge is not disqualified.

Yours truly,

JUDICIAL INQUIRY COMMISSION