

JUDICIAL INQUIRY COMMISSION

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ADVISORY OPINION 01-781

DISQUALIFICATION WHERE ATTORNEY LEASES OFFICE SPACE TO JUDGE'S RELATIVE

ISSUES

Is a judge disqualified to hear cases involving an attorney who rents office space to the judge's son, who also is an attorney?

Answer: No.

FACTS

A local attorney proposes to rent office space to a circuit judge's son, who also is an attorney. Their offices would be in the same building, but they would hold themselves out separately and have separate signs and stationery.

DISCUSSION

In Advisory Opinion 95-545, the Commission addressed a question of disqualification arising from an attorney sharing office space with another attorney who was a close relative of the judge. The Commission concluded that the mere fact that the two attorneys shared office space did not require disqualification, but that the judge should examine the facts in each case to determine whether any additional circumstances existed under which his impartiality might reasonably be questioned (such as his relative having somehow participated in the case), or whether the lawyer/ relative had an interest that could be substantially affected by the outcome of the proceeding. Canons 3C(1) and 3C(1)(d)(ii).

A landlord-tenant relationship does not create the kinds of questions about impartiality due to appearances that sharing office space might possibly create. The offices of the two attorneys are not physically connected, and the judge's relative would have no potential interest in the outcome of cases handled by his landlord.

It is the opinion of the Commission that a judge is not disqualified to hear cases involving an attorney due to the mere fact that the attorney rents office space to the judge's son, who is also an attorney.

REFERENCES

Alabama Advisory Opinion 95-545.

Alabama Canons of Judicial Ethics, Canon 3C(1).

This opinion is advisory only and is based on the specific facts and questions submitted by the judge who requested the opinion pursuant to Rule 17 of the Rules of Procedure of the Judicial Inquiry Commission. For further information, you may contact the Judicial Inquiry Commission, 800 South McDonough Street, Suite 201, Montgomery, Alabama 36104; tel.: (334) 242-4089; fax: (334) 240-3327; E-mail: jic@alalinc.net.