

ETHICS OPINION

RO-84-190

[REDACTED]

QUESTION:

"I have been approached by a police officer for advice, and possible representation, in a criminal case on an indictment which may be returned against him in E [REDACTED] County, Alabama.

Before undertaking to represent him, and/or give him advice, in any way, I told him that since I serve as Municipal Judge for the City of O [REDACTED], Alabama, and have contact with the Police Department, in that manner, I needed the benefit of an advisory opinion from you as to whether or not, there would be a conflict of interest, and, in the event, he was indicted and a civil suit filed against the City of O [REDACTED], Alabama, by the personal representative of the slain man.

As you probably have guessed, this arose out of the shooting and killing of a suspect while fleeing from the police officers, one of whom is my prospective client."

ANSWER:

We perceive no ethical impropriety in your representing the police officer should he be indicted and representing the City of O [REDACTED] should a civil suit be filed against the city by the personal representative of the slain man if in your capacity as Municipal Judge for the City of O [REDACTED] you have not and will not act upon any facet of the merits concerning the possible indictment or civil suit against the City.

DISCUSSION:

Disciplinary Rule 9-101(A) provides:

"A lawyer shall not accept private employment in a matter upon the merits of which he has acted in a judicial capacity,"

Disciplinary Rule 9-101(B) provides:

"A lawyer shall not accept private employment in a matter in which he had substantial responsibility while he was a public employee."

Disciplinary Rule 9-101(A) and Disciplinary Rule 9-101(B) appear to be the only pertinent parts of the Code of Professional Responsibility bearing upon the issue described in your request for opinion. From the facts set forth in your request for opinion we do not believe that either

of these Disciplinary Rules come into play and, therefore, we see no objection to the representation which you propose in your request for opinion.

WHMjr/vf

2-19-85