

ETHICS OPINION

RO-91-39

QUESTION:

"After passing the Alabama State Bar Exam in September 1989, I began a private law practice in Mobile, Alabama. In January of 1990 I sued an individual on behalf of a client for a delinquent account. A judgment was taken by the plaintiff after the district court trial. After several attempts to collect this judgment, a garnishment was filed on behalf of the Plaintiff on or about May 10, 1990. On or about May 31, 1990, I left the civil practice of law in Mobile and became a full-time Assistant District Attorney in S█████ County, Alabama.

My employment with the S█████ County District Attorney's Office lasted from June 1990 through August 1991. I then became a full-time Assistant District Attorney for the J█████ County District Attorney's Office.

In February 1991 I, along with the two members of the law firm with which I was closely associated in Mobile, Alabama, were sued by the Defendant in the above-referenced district court case, D█████ P█████. Mr. P█████ is alleging a violation of the Fair Debt Collection Practices Act.

The question to be answered is whether or not I can represent myself, pro se, in this action filed by D█████ P█████. It is my intention to only represent myself and not to be involved in any way in any other legal representation.

As I have been given an informal opinion from your office, I am now requesting a formal opinion."

* * *

ANSWER:

You are entitled to represent yourself, pro se, just as any other individual litigant.

DISCUSSION:

A lawyer-litigant has the same right as any other individual litigant to represent himself or herself. See Wolfram, Modern Legal Ethics, §14.4.1, p. 803, West Publishing Co. (1986); Theabold v. Botein, Hays, Shlar & Hertzburg, 465 F.Supp. 609 (S.D.N.Y. 1979); Hickman v. Frerking, 4 Kan. App.2d 590, 609 P.2d, 682 (1980).

It should be noted that the Code of Alabama, §12-17-184 (11) prohibits district attorneys and assistant district attorneys from practicing law,

directly or indirectly -- except in the discharge of the official duties of their offices. While the statute was, in all probability, never intended to prohibit an assistant district attorney from representing himself or herself, such a determination is a legal question which is beyond the authority of this Commission to decide.

RWN/clr

10/21/91