

Judicial Inquiry Commission

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June 30, 1980

The Judicial Inquiry Commission has considered your request for an opinion concerning the following question:

“Should a judge disqualify himself in any proceeding where one of the parties to the action is an attorney and the attorney's law partner represents the judge in an unrelated matter and all parties to the proceeding knowingly and intelligently consent on the record that the judge may try the case?”

It is the opinion of the Commission that the remittal of disqualification under Canon 3 D of the Alabama Canons of Judicial Ethics applies only to disqualification under Canon 3C(l)(c) and 3C(l)(d). Since your disqualification, based on the above stated fact, is based upon the general disqualification provision in Canon 3C(l):

“A judge should disqualify himself in a proceeding in which ... his impartiality might reasonably be questioned ...”

Canon 3D is inapplicable.

This opinion is not retroactive as to the specific case with which you were originally concerned, nor as to any other similar matters which may have been considered by you between June 4, 1980 and the date you receive this opinion.