

Judicial Inquiry Commission

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June 30, 1980

The Judicial Inquiry Commission has considered your request for an opinion concerning whether the Alabama Canons of Judicial Ethics prohibit the practice of law by an inactive retired circuit judge.

It is the opinion of the Commission that the Canons of Judicial Ethics do not prohibit the practice of law by a retired circuit judge serving as an inactive supernumerary. Section D of Compliance With the Canons of Judicial Ethics and the Commentary thereto were added by amendment by the Alabama Supreme Court on April 2, 1980. Section D(I) provides:

“Retired and supernumerary justices or judges, who are not serving on the Supreme Court or on either of the courts of appeals or on any circuit court or district court in the state, in any active duty status, shall not be required to comply with any of these canons.”

Thus, an inactive, retired judge is not prohibited from practicing law by the Canons of Judicial Ethics.

However, should the retired judge be called to active status to serve part-time on any court in this State, other than a municipal court, the judge would be required under Section D(2) of the Compliance section to comply with Canon 5F and thus would be prohibited from continuing in the practice of law.

Furthermore, the commentary to Section D provides:

“Retired and supernumerary justices or judges are not continuing in office under §6.08 of amendment 328, Constitution of Alabama of 1901.”

However, since your questions concerning §6.08 and the Code sections concern more an interpretation of these sections rather than of the Canons of Judicial Ethics, they might be presented more appropriately to the Attorney General.