

Judicial Inquiry Commission

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August 31, 1981

The Judicial Inquiry Commission has received and considered your request for an opinion concerning the following questions:

- (1) Can a part-time municipal judge be retained by the municipality (which employs him as a judge) to give the municipality legal advice? (This question assumes that the legal advice sought does not relate to a proceeding in which the judge has served as judge.)
- (2) Can a part-time municipal judge be employed by the municipality (which employs him as a judge) to represent the municipality in court? (This question makes the same assumption as question number 1.)

As you are aware, the Judicial Inquiry Commission is authorized to give its opinion only upon matters concerning the Alabama Canons of Judicial Ethics. However, in order to fully answer your questions, the Commission must first note the provisions of Section 12-14-30(d), Code of Alabama, 1975. That Code section pertains specifically to municipal judges and provides as follows:

“. . . No judge shall be otherwise employed in any capacity by the municipality during his term of office.”

This provision appears to prohibit a municipal judge from being employed as an attorney by the municipality which employs him as a judge. Should this interpretation of Section 12-14-30(d) be correct, then the employment of a municipal judge as an attorney by the municipality which employs him as a judge would be prohibited under Canon 2A of the Alabama Canons of Judicial Ethics. Canon 2A provides that:

“A judge should respect and comply with the law ...”

The question of the appropriate application of Section 12-14-30(d) to the situation which you present would be more appropriately addressed to the Attorney General of Alabama for his opinion.

Very truly yours,