

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

March 26, 1982

The Judicial Inquiry Commission has considered your request for an opinion concerning whether a judge is disqualified from sitting in a proceeding in which the judge's child is employed as a secretary by an attorney who represents a party to the proceeding.

It is the opinion of the Commission that disqualification of a judge may be required in a proceeding under the circumstances which you describe. This opinion is based upon Canon 3C(l) which provides in pertinent part that:

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

This Canon then sets out some instances in which disqualification is specifically required. Most pertinent here are those instances set out in Canon 3C(l). These instances are not exclusive of all other instances in which a judge related to a person in some other way connected to the proceeding might be required to disqualify himself. Other instances would be too numerous for this Commission to attempt to set out in detail. Therefore, a judge must himself assess the facts and circumstances surrounding the proceeding, his relationship with the employee of the firm, and the employee's relationship to the proceeding to determine whether the judge should disqualify himself. However, the mere fact that the judge's child is a secretary working for the firm does not require the judge's disqualification.

Particular fact situations may, of course, be presented to the Commission for an advisory opinion.

Very truly yours,