

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

March 26, 1982

The Judicial Inquiry Commission has considered your request for an opinion concerning whether it is appropriate under the Canons of Judicial Ethics for a judge in a criminal case, after a plea of guilty, to solicit a confidential report from the victim regarding the crime. The solicitation from the victim is as follows:

“I would appreciate it if you would write me prior to the sentencing date and tell me your feelings about this case. Please feel free to express your deepest emotions, and what effect, if any, this case has had on you, not only financially, but also emotionally. I am of the opinion that you have a right to be heard in this matter. Your reply will be kept in confidence.”

From the facts presented, it is the opinion of the Commission that the solicitation in question would violate Canon 3A(4) of the Alabama Canons of Judicial Ethics, that Canon provides:

“A judge should accord to every person who is legally interested in a proceeding, or his lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte communications concerning a pending or impending proceeding.”

Should any such communication from the victim be made a part of the court file or the pre-sentence report, the solicitation would not constitute an ex parte communication under this Canon.

Very truly yours,