

Judicial Inquiry Commission

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August 6, 1985

The Judicial Inquiry Commission has considered your request for an opinion concerning whether, under the Canons of Judicial Ethics, a district court judge may serve as a member of the Sumter County Districting Commission. The Sumter County Districting Commission was authorized by Act 85-488 of the 1985 Alabama Legislature. The Commission is created to draw lines dividing Sumter County into six districts for the purpose of electing members of the county commission and the county board of education. Sumter County is attempting to change its at-large election of members to representative bodies to election from districts. The members of the Districting Commission are appointed by the county board of education, the county commission and the legislative delegation from Sumter County.

Extra-judicial appointments of judges are governed primarily by Canon 5 of the Alabama Canons of Judicial Ethics and Canon 2 in conjunction with Amendment 328 of the Constitution of Alabama, 1901.

Canon 5B of the Alabama Canons of Judicial Ethics provides that a judge may participate in civic and charitable activities under certain circumstances. However, Canon 5G regulates extra-judicial appointments. That Canon provides:

“It is desirable that a judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice or unless required by law.”

Canon 2 requires that a judge respect and comply with the law. Section 6.08 of Amendment 328 provides in pertinent part:

- “(b) No judge, except the judge of a probate court, shall seek or accept any nonjudicial elective office, or hold any other office of public trust, excepting service in the military forces of the state or federal governments.
- “(c) The supreme court shall adopt rules of conduct and canons of ethics, not inconsistent with the provisions of this Constitution, for the judges of all courts of this State.”

In order to read the foregoing provisions consistently, Canon 5 cannot be read to permit that which the Constitution prohibits. The Constitution clearly prohibits a judge from holding any other position of public trust. Therefore, if a member of the Sumter County

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Districting Commission holds a “position of public trust”, then a judge would not be permitted to hold the extra-judicial position. Further, under Canon 2A, a judge, who held such a position would necessarily fail to respect and comply with the law as required by Canon 2A.

While we do not construe the provisions of the Alabama Constitution., it is the opinion of the Commission that under Canon 5G a judge should not continue as a member of the Sumter County Districting Commission.

Sincerely,

JUDICIAL INQUIRY COMMISSION