Judicial Inquiry Commission
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December 27, 1985

The Judicial Inquiry Commission has considered your request for an opinion concerning whether a circuit judge is disqualified from sitting in certain proceedings.

Under the facts presented, the judge is serving as the executor of the estate of a deceased person. The estate includes both rural property and two mobile homes. The judge's wife is a beneficiary of the estate. The judge raises the question of disqualification as to two judicial proceedings. The first proceeding seeks a declaration as to the propriety of current assessment, for tax purposes, of the value of rural property in the county, including that owned by the estate, and further seeks to have such property reassessed at a lower value. The second proceeding seeks a judicial determination of the validity of a local act concerning the licensing and taxation of mobile homes.

Based on the facts presented and the Alabama Canons of Judicial Ethics, it is the opinion of the Commission that the judge is disqualified from sitting in either of the described proceedings.

Canon 3C of the Alabama Canons of Judicial Ethics governs disqualification of judges. That Canon provides in pertinent part as follows:

> 1. A judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned, including but not limited to instances where:
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> (c) He knows that he, individually or as fiduciary, or his spouse or minor child residing in his household, has a financial interest in the subject matter in controversy ...

Further, Canon 3D allows for the remittal of a 3C(I)(c) disqualification where specified procedures are followed.

Here the subject matter in controversy is the valuation of rural property for tax purposes and the licensing and taxing of mobile homes. The judge as a fiduciary (executor of the estate) and his spouse (as a beneficiary) both have a financial interest in each subject matter. The judge should therefore disqualify himself in each proceeding. Disqualification may be remitted under the specific provision of Canon 3D.