

Judicial Inquiry Commission

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February 4, 1986

The Judicial Inquiry Commission has considered your request for an opinion concerning three questions arising under the Alabama Canons of Judicial Ethics. Your questions are as follows:

1. May a part-time Municipal Court Judge also serve as a part-time Assistant District Attorney? **86-251**
2. If so, under what circumstances must he recuse himself or is he disqualified from sitting in municipal cases?
3. May a part-time Municipal Court Judge actively participate in the campaign of another person for a non-judicial office? **86-252**

In response to your first question, a review of the Alabama Canons of Judicial Ethics reveals no prohibition against a part-time Municipal Court Judge also serving as a part-time District Attorney. Under the Compliance provisions of the Canons, particularly Part A, a part-time judge is not required to comply with the provisions of Canon 5D, E, F, and G. These provisions specifically deal with extra-judicial financial and avocational activities. Therefore, it is the opinion of the Commission that a part-time Municipal Court Judge is not prohibited by the Canons of Judicial Ethics from also serving as a part-time Assistant District Attorney.

Your second question must be answered on a case-by-case basis. For guidance, the Commission directs you to Canon 3C of the Alabama Canons of Judicial Ethics and Part A (2) of the Compliance section of the Canons. These two provisions are specifically concerned with disqualification. We particularly note that Part A (2) of the Compliance section of the Canons provides that a part-time judge "should not act as lawyer in a proceeding in which he has served as a judge or in any other proceeding related thereto." This provision would, of course, prohibit a Municipal Court Judge from serving as an Assistant District Attorney in any proceeding relating to a matter in which he has been involved as a judge.

Your third question is governed by Canon 7 of the Alabama Canons of Judicial Ethics. That Canon provides that "A Judge Should Refrain From Political Activity Inappropriate to His Judicial Office." Canon 7A strongly discourages but does not prohibit a judge's involvement in a non-judicial political campaign. While the Canon does require that a judge resign his office before running for a non-judicial office, that prohibition does not

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apply to Municipal Court Judges. See Amendment 328, Constitution of Alabama, 1901. Based on Canon 7, it is the opinion of the Commission that a Municipal Court Judge is not prohibited from becoming involved in a political campaign of another person for a non-judicial office. However, in becoming so involved the judge should adhere strictly to the provisions and admonitions of Canon 7.

Sincerely,

JUDICIAL INQUIRY COMMISSION