

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

March 2, 1987

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics, a District Court Judge may serve as an officer or member of the Board of Directors of a local Child Advocacy Center and speak to groups about the problems of child abuse and activities of the Center. The Center is a non-profit corporation organized for civic purposes pursuant to Section 10-3A-1 et seq., Code of Alabama 1975. The judge states that the purpose of the Center is to provide a central location for, and the resources to accommodate, the following activities in cases of child abuse and serious physical abuse:

1. interagency and interprofessional cooperation in case management;
2. gathering of evidence, verbal testimony, including medical documentation and all other relevant evidence necessary for criminal prosecution, custody proceedings or other actions involving these cases;
3. appropriate intervention to and for the child and the family in a relaxed, facilitating environment;
4. assistance to the participating agencies working together in the treatment of child victims, their families, and the offenders;
5. training for professionals, students, and lay persons involved in the treatment of this abuse;
6. research on child sexual abuse and serious physical abuse.

In the past the judge, prior to assuming the bench, has been involved in fund-raising activities for the Center. A judge's participation in extra-judicial activities is governed by Canon 5 of the Alabama Canons of Judicial Ethics. That Canon provides:

“A Judge Should Regulate His Extra-Judicial Activities To Minimize the Risk of Conflict with His Judicial Duties.”

Canon 5B further provides in pertinent part that:

“A judge may participate in civic ... activities that do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties. A judge may serve as an officer, director ... of [a] ... civic organization or institution not conducted for the economic or political advantage of its members, subject to the following limitations:

- (1) A judge should not serve if it is likely that the organization or institution will be engaged in proceedings that would ordinarily come before him or will be regularly engaged in adversary proceedings in any court.
- (2) It is desirable that a judge not solicit funds for any educational, religious, charitable, fraternal, or civic organization or institution, or use or permit the use of the prestige of his office for that purpose, but he may be listed as an officer, director, or trustee of such an organization or institution.
- (3) A judge should not give investment advice to such an organization or institution, but he may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.”

Paramount in this Canon is that the civic activity neither reflect adversely upon the judge's impartiality nor interfere with the proper performance of his judicial duties. Therefore, initially the judge's service as an officer or member of the Board of Directors of the Center would depend upon the nature of the cases handled by the judge in his official capacity and the degree of the participation of the Board of Directors in the activities of the Center. It is our understanding that the judge will be assigned to sit in preliminary hearings and to hear misdemeanors involving child abuse offenses. It appears that the Center is directly involved in the investigation and prosecution of child abuse complaints. These facts would automatically reflect adversely on the judge's impartiality in these cases. Under these circumstances, the judge's impartiality might reasonably be questioned under the provisions of Canon 3C. He would therefore be required to recuse himself in all child abuse cases in which the Center is involved.

Based on the foregoing, it is the opinion of the Commission that serving as an officer or member of the Board of Directors does not fall within the permitted activities of Canon 5.

It is further the opinion of the Commission that a judge is not prohibited from speaking to groups on the problems of child abuse. Due to the Center's activities in criminal investigation and litigation he should refrain from any speeches about the Center's activities other than statements which describe, without characterizing those activities. He is again restricted by the provisions of Canon 5. These restrictions include that such speeches or talks should not be made if through their content, or otherwise they will tend to reflect adversely on the judge's impartiality, interfere with the proper performance of his judicial duties, or aid in the solicitation of funds for the Center.

Sincerely,

JUDICIAL INQUIRY COMMISSION