

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

March 4, 1987

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a circuit judge may appoint a certain attorney to represent a defendant in a criminal case. The attorney is a former judge, who when acting as judge, signed orders for the continuances in the matter.

It is the opinion of the Commission that a judge should not appoint an attorney in a criminal case where the attorney has in the past served as a judge in the matter. Under Canon 1 of the Alabama Canons of Judicial Ethics, a judge is required to uphold the integrity and independence of the judiciary. The Canon further provides:

“An independent and honorable judiciary is indispensable to justice in our society. A Judge should participate in establishing, maintaining, and enforcing, and should himself observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.”

While no Canon specifically prohibits the appointment in question, it is necessary under Canon 1 to erect a barrier between judicial duties and attorney services performed by a former judge so that no question may arise concerning the independence of the judiciary.

Sincerely,

JUDICIAL INQUIRY COMMISSION