

## Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

September 29, 1987

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a presiding circuit judge, who is a candidate for re-election, is disqualified from appointing the absentee election manager for the election in which the judge is seeking office. In the event of disqualification, you ask what procedure should be followed. You set out in your opinion request those statutes which govern the appointment of the absentee election manager. One of these statutes, Section 17-10-13, specifically requires that the circuit clerk is disqualified from serving as absentee manager when he is a candidate for office. The presiding circuit judge is then required to appoint someone to serve in that position. Sections 17-10-2 and, 17-10-13, Code of Alabama, 1975.

Upon considering these statutes and the Alabama Canons of Judicial Ethics, it is the opinion of the Commission that if the presiding circuit judge is also a candidate for office, he should allow another judge of this circuit to assume the duties of presiding circuit judge for the purpose of appointing the absentee election manager. In reaching this opinion, the Commission specifically considered Canon 2 of the Alabama Canons of Judicial Ethics. That canon provides that:

“A judge should avoid impropriety and the appearance of impropriety in all his activities.”

This canon governs non-judicial as well as judicial duties required of a judge. It is therefore the opinion of the Commission that a judge's appointing the absentee election manager in an election in which the judge is a candidate constitutes the appearance of impropriety. The judge should disqualify himself and allow another judge to assume the duties of presiding judge for this purpose.

Sincerely,

JUDICIAL INQUIRY COMMISSION