

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

February 10, 1988

The Judicial Inquiry commission has considered your request for an opinion further clarifying advisory opinion 87-315. In that opinion the commission advised that a circuit judge should not appoint an absentee election manager for an election in which he is a candidate. You ask that that opinion be modified to allow the judge to appoint a absentee election manager in an election in which he is an unopposed candidate. You point out that under such circumstances the judge's service in making such appointment could not affect the outcome of his own political race.

It is the opinion of the Commission that advisory opinion 87-315 should be modified to the extent that the Alabama Canons of Judicial Ethics, and more specifically Canon 2, are not violated where, under Sections 17-10-2 and 17-10-13 Code of Alabama 1975, a judge appoints an absentee election manager in an election in which he is an unopposed candidate. For purposes of this opinion where both political parties field candidates for the judge's position, the judge is considered to have opposition if either his party or any opposition party fields more than one candidate for the judge's position. The appearance of impropriety in Canon 2 relied upon in opinion 87-315, continues to exist where the judge's position in the appointment of an absentee election manager could influence the selection of his general election opponent.

For purposes of this opinion, a judge is considered to be an unopposed candidate until he knows or has reason to believe that he will have a candidate in opposition to him. In a primary election, the opposition may be either within his own party or, as described above, due to the fielding of two or more candidates for the judge's position by an opposition party.

Sincerely,

JUDICIAL INQUIRY COMMISSION