

## Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

February 29, 1988

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a judge's wife's relative by marriage may serve as a substitute court reporter for the judge. The judge points out that under Section 12-17-270, Code of Alabama, 1975 a court reporter may not be related to the trial judge within the fourth degree by marriage or by blood. You further point out that it would appear under Norris v. Presley, 292 Ala. 155, 290 So.2d 643 (1974), that the court reporter being the affine of the judge's wife is not related to the judge by either blood or marriage. The judge asks the Commission to confirm the above interpretation of the law and to address whether the appointment would constitute a violation of the Canons of Judicial Ethics.

The advisory opinion authority of the Commission extends only to the proper application of the Alabama Canons of Judicial Ethics and the Commission can neither confirm nor deny your interpretation of the applicable statute. However, under Canon 2A of the Alabama Canons of Judicial Ethics a judge must respect and comply with the law.

The general rule appears to be that as between a husband and wife a person related to the wife by affinity is not related to the husband. The same is true of the affines of the husband through his blood relations. There do not appear to be any cases in Alabama on this specific point. Therefore, it is the opinion of the Commission that a judge, who follows the general rule in this respect, would not commit any ethical violation. The judge should remain ever mindful of developing law and act accordingly.

Sincerely,

JUDICIAL INQUIRY COMMISSION