

Judicial Inquiry Commission

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February 28, 1989

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Canons of Judicial Ethics a retired circuit judge may engage in the private practice of law. The judge in question serves as a part-time active retired circuit judge, who from time to time receives assignments of cases from the Chief Justice. The judge does not serve in a full time capacity as a retired active Circuit Judge on any court in this State. The specific questions presented are as follows:

1. Can an active retired Circuit Judge, who is not assigned to continuous duty in any circuit or with any appellate court, but who does accept assignments in individual cases from time to time, practice law?
2. If the answer to the preceding question is No, under what circumstances, if any, can an active retired Circuit Judge practice law?
3. Under what circumstances, if any, is a retired Circuit Judge prohibited from practicing law?

It is the opinion of the Commission that the judge in question is not prohibited from engaging in the private practice of law. This opinion is based on the provisions of Canon 3F and the Compliance Section of the Canons. Canon 3F prohibits a judge from practicing law. However, under the Compliance provisions of the Canons, Section D(2) provides:

"Retired ... judges, who are serving part time on the Supreme Court or on either of the Courts of Appeals or on any circuit court or district court in the state, in an active duty status, shall be required to comply with all of these Canons, except Canon 5C(3), D, E ,F, G and Canon 6C.
(Emphasis supplied)"

Under these provisions, a part-time active retired Circuit Judge is not prohibited from engaging in the practice of law. However, the judge should be ever mindful of the provisions of Canon 5C(3) and manage his law practice so as to minimize the number of cases in which he is disqualified. The judge should therefore, as an attorney, decline to accept employment in those cases in the circuit or circuits in which he is likely to receive assignments from the Chief Justice.