

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

May 1, 1989

The Judicial Inquiry Commission has considered your request for an opinion concerning whether a judge should take certain actions toward an attorney, whose Alabama license to practice law has lapsed and who is now in the process of seeking reinstatement. The attorney is licensed in another state. Your inquiry concerns whether the judge should allow the attorney to conclude cases in which he is involved or should the judge require the attorney to associate another member of the bar.

The advisory opinion authority of the Commission extends only to advising judges on the application of the Canons of Judicial Ethics. Canon 3B(2) and (3) sets standards for a judge to follow in administering proceedings before him. That Canon requires that:

- (2) A judge should require his staff and court officials subject to his direction and control to observe the standards of fidelity and diligence that apply to him.
- (3) A judge should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge has personal knowledge.

Therefore, pursuant to this Canon, a judge should take whatever legal steps which may be necessary to assure that attorneys appearing before him are properly licensed pursuant to §34-3-1, Code of Alabama, 1975.

Further, we note that DR 3-10-(A) of the Code of Professional Responsibility for Alabama attorneys requires that:

“A lawyer should not aid a non-lawyer in the unauthorized practice of law.”

Judges should also adhere to this standard in carrying out their responsibilities under Canon 3B of the Alabama Canons of Judicial Ethics.

Sincerely,

JUDICIAL INQUIRY COMMISSION