

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

January 31, 1990

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a judge, who presided at a criminal trial which is now pending on appeal, may submit a letter to the State Bar Grievance Committee assessing the character and quality of defense counsel's representation of defendant as against a grievance complaint for ineffective assistance of counsel. Different counsel has been appointed to represent the defendant on appeal and therefore ineffective assistance may be a claim which is raised for appellate review. The judge has been requested by trial counsel to submit the letter. He has not been contacted by the Bar Grievance Committee.

It is the opinion of the Commission that under the Alabama Canons of Judicial Ethics a judge may submit an assessment of an attorney's performance at a specific trial, pending an appeal, to the State Bar Grievance Committee. The judge may present evidence to the Committee concerning facts known to the judge about the attorney's performance; the judge like any other material witness may testify to facts and circumstances within his knowledge. We have examined the Canons of Judicial Ethics and find no prohibition against a judge so testifying.

Sincerely,

JUDICIAL INQUIRY COMMISSION