

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a judge is disqualified from sitting in a proceeding in which one of the litigants informs the judge that the litigant plans to file a complaint against the judge with the Alabama Judicial Inquiry Commission. Under the facts presented, the judge answered his office telephone to discover that the litigant was on the phone. The litigant began to discuss his case. The judge informed the litigant that a judge cannot discuss pending matters with a litigant and that the litigant should contact his attorney. The litigant then informed the judge that he was going to contact the Judicial Inquiry Commission.

It is the opinion of the Commission that the foregoing circumstances do not cause the judge's disqualification in further proceedings involving the litigant. This opinion is based on the provisions of the Alabama Canons of Judicial Ethics and prior opinions of this Commission.

There are three provisions of the Canons which are particularly applicable here. Canon 3 sets forth the standard to be followed by judges in performing the duties of the judicial office. That Canon provides:

"A Judge Should Perform the Duties of His Office Impartially and Diligently."

More specifically, Canon 3C protects the impartiality of judicial decision making by providing for judicial disqualification where a judge's impartiality might reasonably be questioned. And further, Canon 1 imposes a duty upon judges to uphold the integrity and independence of the judiciary. Taken together, these provisions place upon a judge a duty to perform the office of judge with independence from influences other than the proper administration of justice and with integrity, diligence and impartiality.

In meeting these high standards, it has long been recognized that, without more, a litigant's actions toward a judge or statements to a judge during the course of a judicial proceeding do not cause the judge to be disqualified. To hold otherwise would allow a litigant to control judicial proceedings by making disqualifying statements whenever the litigant became dissatisfied with the course of the proceedings. Such would cause utter chaos in the conduct of judicial proceedings and the administration of justice. Of course, should the judge actually feel threatened and become influenced by a litigant's remarks or actions, he must immediately disqualify himself from further participation in the proceedings. See in accord with this opinion, advisory opinion 87-292.