

Judicial Inquiry Commission

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February 26, 1991

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a District Court Judge is disqualified from sitting in a child support proceeding in which his wife, as an Assistant District Attorney, previously represented the State of Alabama. Since the judge assumed office on January 15, 1991, his wife has assumed other duties in the District Attorney's office and another Assistant District Attorney has assumed the child support duties.

In numerous advisory opinions, this Commission has maintained the position that under Canon 3C of the Alabama Canons of Judicial Ethics a judge is disqualified from sitting in any proceeding in which his relative within the fourth degree serves as an Assistant District Attorney. We have further advised that this disqualification extends to any case in which the relative/Assistant District Attorney appears. Thus, based on the prior advisory opinions of the Commission, it is the opinion of the Commission that the judge is disqualified from sitting in any proceeding in which his wife has previously participated. Disqualification may be remitted by following the procedures set out in Canon 3D.

Sincerely,

JUDICIAL INQUIRY COMMISSION