

## Judicial Inquiry Commission

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This is in response to your request for an advisory opinion from the Judicial Inquiry Commission concerning the following matter.

A local attorney has informed you that he wishes to represent indigent defendants who are charged with speeding in district court. That attorney wants you, as district judge, to communicate his offer to those defendants by either 1) permitting that attorney to make an announcement before the call of the docket, 2) making a general announcement of the attorney's offer yourself, or 3) advising each individual defendant who is indigent and charged with speeding of counsel's offer.

Although the Commission does not assume any improper motive on behalf of the attorney, you are absolutely correct in your concern about his proposal. It is the opinion of the Commission that your participation in any of these alternatives would be highly unethical.

Initially, we note that the appearance of impropriety and inappropriateness is pervasive and rampant in each arrangement. Under Canon 2 of the Alabama Canons of Judicial Ethics a judge must avoid even the appearance of impropriety. In appointing counsel to represent indigents, a judge should avoid favoritism. Canon 3B(4). Dissemination of information by attorneys about legal services is strictly governed by the Alabama Rules of Professional Conduct. The comment to Rule 7.3 recognizes that "[t]here is a potential for abuse inherent in direct solicitation by a lawyer in person . . . of prospective clients known to need legal services."

Each alternative would constitute a violation of Canon 2A which requires that a judge "conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." The type of relationship the local attorney advocates at least implicitly gives rise to the inference that the attorney and the judge are in collusion. Canon 3 requires that a judge perform the duties of his or her office impartially. The appearance of such impartiality would not be present under the proposed arrangement.

Assuming that the attorney would charge a fee for his representation if the case were appealed, the judge would run afoul of Canon 2C. That canon requires that a judge "should not lend the prestige of his office to advance the private interests of others; nor should he convey or permit others to convey the impression that they are in a special position to influence him."

It is the opinion of the Commission that you should not participate in any of the proposed alternatives listed above.