

## Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

December 18, 1992

This is in response to your request for an advisory opinion from the Judicial Inquiry commission. Your question is whether you are disqualified from presiding over a case in which the city is a party under the following facts.

Your wife is employed as the library director for the city-county public library board which is a quasi-governmental entity whose members are appointed by the county and city pursuant to Ala. Code 1975, § 11-90-2. Although your wife has a written employment agreement with the board, she is paid as a city employee so that she can participate in the city's group insurance program. The board receives funds from the city, county, and state.

It is the opinion of this Commission that you are not disqualified to preside over a case in which the city is a party merely because your wife is employed as the library director for the city-county public library and is paid as a city employee. You would be disqualified if your wife, by virtue of her employment, had an "interest that could be substantially affected by the outcome of the proceeding." Canon 3C(I)(c), Alabama Canons of Judicial Ethics. See Pestar v. Remington Arms Company, Inc., 443 N.Y.S.2d 987, 988 (1981) (mere fact that judge's son was employed by the defendant did not involve an interest that could be substantially affected by the outcome of the suit).

In Advisory Opinion 88-322, this Commission held that a judge is not disqualified from a case where the Board of Education which employs his wife as a teacher is a named party unless that employment provides some interest which could be substantially affected by the outcome of the proceeding.

This opinion has been approved by the Judicial Inquiry Commission. If you have any questions regarding this or any other matter please do not hesitate to contact me.