

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

December 9, 1994

This is in response to your request for an advisory opinion from the Judicial Inquiry Commission. Your question involves a judge's potential disqualification due to a part-time bailiff who is married to an attorney in a local law firm.

It is the opinion of this Commission that under Canon 3C(l), Alabama Canons of Judicial Ethics, that a judge must disqualify him or herself from sitting in any proceeding in which the firm of the judge's bailiff's spouse represents a party. That disqualification may not be remitted. In Advisory Opinion 83-90, this Commission held that a judge is disqualified under Canon 3C(l) from sitting in any proceeding in which the firm of the bailiff-law clerk's spouse represents a party. See also 85-231 holding that a judge is disqualified from sitting in any proceeding in which the law firm of the judge's clerk-bailiff's brother represents a party if the brother participates in any way in the proceedings.

In your situation, the bailiff will work part-time and can be assigned to any of the three circuit and two district judges in the circuit. Disqualification of the judge may be avoided simply by reassigning the bailiff to another judge for all duties in connection with the proceeding in which the firm of the bailiff's spouse represents a party.

This opinion has been approved by and is the opinion of the entire Commission.