

Judicial Inquiry Commission

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April 19, 1996

The Commission has considered your request for an advisory opinion concerning the contours of a presiding municipal judge's authority with respect to the day-to-day operations of the municipal court, with particular respect to supervision of the clerk's office and investigation of alleged wrong doing by court employees. However, under Rule 17 of the Rules of the Judicial Inquiry Commission, the Commission may only provide opinions as to whether certain specified action contemplated or proposed by a judge would constitute a violation of the canons.

Canon 3B(l) of the Alabama Canons of Judicial Ethics provides that "[a] judge should require his staff and court officials subject to his direction and control to observe the standards of fidelity and diligence that apply to him." If you have a question as to whether a particular action you propose to take would constitute a violation of this canon, the Commission will render an appropriate opinion upon submission of such question. However, your true concern appears to involve the scope of a municipal judge's legal authority to direct and control the actions of a municipal court clerk and the clerk's office staff under various provisions of the Alabama Constitution, the Code of Alabama, and the Alabama Rules of Judicial Administration. This Commission is not empowered to interpret such provisions.

If the Administrative Office of Courts is unable to answer your questions, it appears that the Attorney General may provide an opinion upon appropriate written request on questions of law concerning the construction of the applicable statutory provisions. Under §12-2-19(d), Ala. Code 1975, the Clerk of the Supreme Court "shall give his opinion on any question of the interpretation of any rule of administration promulgated by the Supreme Court to any other officer or official of the state who shows a need for such opinion and requests the same." Thus, the Clerk of the Supreme Court is authorized to provide opinions as to the scope of a municipal judge's authority under Rule 4.II of the Rules of Judicial Administration.

Yours truly,

JUDICIAL INQUIRY COMMISSION