

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

August 9, 1996

The Commission has considered your request for an advisory opinion as to whether a judge is disqualified to sit in a case under the following circumstances:

The plaintiff/husband in this domestic relations case attended the Air Force Academy in about the late 1970's and the judge attended the Air Force Academy from 1961 to 1963. The plaintiff/ husband's parents lived next door to the judge for some period of time that the judge cannot recall after the plaintiff graduated from high school and went away to the academy. The plaintiff/husband's parents gave the judge a \$30 campaign contribution in 1988. The defendant/wife's attorneys gave the judge \$200 in campaign contributions in 1988.

Under the Alabama Canons of Judicial Ethics, disqualification is required when the judge's "impartiality might reasonably be questioned." Canon 3C(1). The test to determine whether a judge's impartiality might reasonably be questioned is "would a person of ordinary prudence in the judge's position knowing all of the facts known to the judge find that there is a reasonable basis for questioning the judge's impartiality?" In re Sheffield, 465 So. 2d 350, 356 (Ala. 1984).

In Advisory Opinion 95-541, the Commission held that the mere fact that a judge and a party attended the same Sunday school class does not present a situation in which the judge's impartiality might reasonably be questioned and, thus, did not require disqualification. The Commission likewise finds no basis for reasonably questioning a judge's impartiality in the fact that the judge and a party both attended the Air Force Academy at some point in time.

"Whether or not disqualification is required when a friend appears as a party to a suit before a judge depends on how personal the relationship is between the judge and the party." J. Shaman, S. Lubet, J. Alfini, Judicial Conduct and Ethics Section 4.15 at 124 (1995).

"The fact that one of the parties before the court is known to and thought well of by the judge is not sufficient to show bias. Duncan v. Sherrill, 341 So. 2d 946 (Ala. 1977)."

Murphy v. State, 455 So. 2d 924, 929 (Ala. Cr. App. 1984). "[I]t is an inescapable fact of life that judges serving throughout the State will necessarily have had associations and friendships with parties coming before their courts. A judge should not be subject to disqualification for such ordinary relations with his fellow citizens." Ex parte Hill, 508 So. 2d 269, 272 (Ala. Civ. App. 1987). See also, Clemmons v. State, 469 So. 2d 1324

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(Ala. Cr. App. 1985). The type of close personal friendship with a party that would require disqualification under Canon 3C(1) is not present in this case. Compare, Bryars v. Bryars, 485 So. 2d 1187 (Ala. Civ. App. 1986).

Finally, this Commission has held that the mere receipt of a campaign contribution from a party or counsel does not require a judge's disqualification. Advisory Opinions 84-213 and 96-607. It is the opinion of this Commission that the modest contribution by the plaintiff's father in this case is not a ground for disqualification.

Sincerely,

JUDICIAL INQUIRY COMMISSION