

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

March 14, 1997

The Judicial Inquiry Commission has considered your request for an advisory opinion concerning whether a municipal judge would be disqualified in cases brought by the municipality where the judge's son is a municipal council member.

It is the opinion of the Commission that the municipal judge is disqualified under the circumstances set out. Our opinion is based on the specific provisions of Canon 3C(1)(d)(i) as follows:

“(1) A judge should disqualify himself in a proceeding in which his disqualification is required by law or his impartiality might reasonably be questioned, including but not limited to instances where:

* * *

(d) He or his spouse, or a person within the fourth degree of relationship to either of them, or the spouse of such a person:

(i) Is named a party to the proceeding, or an officer, director, or trustee of a party;”

Thus the canons are clear in any proceeding in which an officer, director, or trustee of a party is related to the judge within the fourth degree of consanguinity or affinity to a judge, the judge is disqualified. See also Advisory Opinion 88-342. In this case, the judge's son is a member of the city council, the governing body of the city, which is or will be a party. He is therefore an officer of a party. The son is within the requisite degree of relationship. Thus, the judge is disqualified. The disqualification holds without regard to whether the matter is civil or criminal. See Advisory Opinion 88-342.

Respectfully submitted,

JUDICIAL INQUIRY COMMISSION