

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 whether a judge is disqualified from hearing a Rule 32 Petition For Relief From Conviction Or Sentence where the petitioner has alleged that he had a discussion with the judge during the pendency of the trial proceedings in which the judge told him that he was guilty. The petitioner's allegation against the judge is false, and appears to be a part of a pattern of accusations of misconduct against the petitioner's attorneys, the police, the court reporter, and various other persons. You indicate that you have not developed a personal bias against the petitioner as a result of the petitioner's allegations, and that you can rule impartially on the claims for relief presented in the petition.

This Commission has long held that a litigant's actions toward or statements to a judge during the course of a judicial proceeding do not cause the judge to be disqualified unless the judge is actually influenced and develops a personal bias or prejudice as a result. Advisory Opinions 90-391, 92-452, and 95-574. Even the filing of a lawsuit or a complaint with this Commission against a judge is usually not in itself enough to cause disqualification absent actual personal bias or prejudice on the judge's part. Advisory Opinions 77-29, 83-176, 86-273, 87-292, 88-326, 89-383, 90-403, and 92-447.

It is the opinion of the Commission that you are not disqualified to hear the Rule 32 petition in this case.