

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

March 14, 1997

The Commission has considered your request for an advisory opinion whether a municipal judge is disqualified from hearing cases in which a party is represented by his wife's first cousin.

Canon 3C(1) (d) (i) provides that a judge is disqualified when, *inter alia*, a person within the fourth degree of relationship to the judge or his spouse is an officer, director, or trustee of a party. This provision has always been interpreted to require disqualification of a judge where a party's attorney is related to either the judge or the judge's spouse within the fourth degree, either by consanguinity or affinity. Advisory Opinions 79-64, 80-69, 80-91, 82-169, 85-236, 86-263, 86-282, 87-319, 89-356, 90-411, 93-486, 93-512, 93-513, and 95-546. The only exception to this that has been recognized has involved situations where the litigant hired the attorney/relative after significant proceedings in the case, in order to avoid abuse of the rule by litigants. See, e.g., Advisory Opinion 95-586.

Thus, it is the opinion of the Commission that you are disqualified to hear cases in which a party is represented by your wife's first cousin. Advisory Opinions 80-69, 86-282, 93-486, 93-513, and 95-566. However, this disqualification is subject to remittal under the procedure in Canon 3D. Advisory Opinion 95-546.

Respectfully submitted,

JUDICIAL INQUIRY COMMISSION