

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an advisory opinion regarding the propriety of a judge's explaining the rationale for imposing a sentence in a criminal matter where the time for appeal has expired. The sentence has been criticized as inappropriately severe and, as the price of explaining the rationale to one prominent critic, the judge would recuse himself from hearing a Rule 32 petition for post-trial relief.

It is the opinion of the Commission that it would not be appropriate for a judge to explain the rationale underlying an imposed sentence to a critic of that sentence even where the judge is willing to recuse from hearing a Rule 32 petition if one is filed.

Canon 3A(1) provides that, with respect to a judge's adjudicative responsibilities, "A judge should be faithful to the law and maintain professional competence in it. He should be unswayed by partisan interests, public clamor, or fear of criticism." In Advisory Opinion 80-86, the Commission concluded, "Except under the most extraordinary circumstances, a judge should refrain from commenting on specific cases in which he has participated, especially where such comment could compromise the validity of any ruling or order entered by him in such cases." While this opinion was rendered in response to a question regarding a judge's proposed statements during an election campaign, the Commission cited it in Advisory Opinion 85-247, where it concluded that judges should avoid comments on the trials of decided cases if such comments might cause the decision to be questioned or reflect poorly on the legal system. The proposed explanation would be offered in response to criticism, but it is part of a judge's lot to bear such criticism, however misguided. To do otherwise might obligate a judge to offer an explanation anytime one of his or her rulings is criticized and thus raise the issue of disqualification in subsequent proceedings regarding the matter.