

Judicial Inquiry Commission

800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

August 15, 1997

The Judicial Inquiry Commission has considered your request for an advisory opinion regarding a judge's obligation to recuse himself or herself from hearing criminal cases prosecuted by a nephew.

It is the opinion of the Commission that a judge is disqualified from hearing a criminal case prosecuted by a nephew, although the disqualification is subject to remittal.

In Advisory Opinion 95-546, the Commission observed that it has been its consistent opinion ... that a judge is disqualified under Canon 3C of the Canons of Judicial Ethics in any proceeding in which an attorney for one of the parties is related to the judge within the fourth degree of consanguinity or affinity. The nature of the proceeding does not affect this disqualification. Id. Because the disqualification arises from Canon 3C(1)(d), it is subject to remittal provided the procedure in Canon 3D is followed.

Very truly yours,