

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

October 3, 1997

The Judicial Inquiry Commission has considered your request for an opinion concerning whether, under the Alabama Canons of Judicial Ethics, a retired judge, who is assigned to assist in the disposition of criminal cases in a Circuit, may serve as a consultant for the county in which he serves as an active retired judge. The duties of the consultant would be to serve as a non-judicial consultant periodically monitoring the status of persons being detained in the Jefferson County jails; reviewing and evaluating a list of detainees in the Jefferson County Jail, facilitating the successful implementation and operation of the "Break the Cycle" program, and consulting and coordinating with and serving as advisor to the County Commission with regard to these and other jail issues. The retired judge would receive remuneration for his services as consultant and advisor.

It is the opinion of the Commission that the Canons of Judicial Ethics do not prohibit such service. The judge must, of course, take care that cases assigned to him do not include those in which he has gained personal knowledge or ex parte knowledge while serving as the consultant.

The Compliance section of the Alabama Canons of Judicial Ethics provides for the applicability of certain canons to active retired judges serving on a part-time basis. Section D(2) provides "Retired and supernumerary justices or judges, who are serving part-time on the Supreme Court or on either of the courts of appeals or on any circuit court or district court in the state, in an active duty status shall be required to comply with all of the Canons, except Canon 5C(3), D, E, F, G, and Canon 6C." By excepting Canons 5C(3) and G from application to part-time retired active judges, such judges are not required to manage their extra judicial financial interests to "minimize the number of cases in which he would be disqualified" and are free to accept appointments to governmental committees, commissions, or other positions concerned with issues of fact or policy. Since the judge considered here is a part-time active circuit judge, he is free to accept the position as consultant.

Yours very truly,

JUDICIAL INQUIRY COMMISSION