

Judicial Inquiry Commission

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July 31, 1998

The Judicial Inquiry Commission has considered your request for an advisory opinion whether a part-time municipal judge may represent a police lieutenant of the municipality in a §1983 action filed against the officer and the municipality in federal court. The lieutenant and the men who work under him in the criminal investigation division of the police department rarely, if ever, come into contact with the municipal judge's court.

It is the opinion of the Commission that the municipal court judge may not represent the police lieutenant in the federal lawsuit at issue.

A judge's extra-judicial financial activity is governed primarily by Canon 5C of the Alabama Canons of Judicial Ethics. That canon provides, in pertinent part: "(1) A judge should refrain from financial and business dealings that tend to reflect adversely on his impartiality, interfere with the proper performance of his judicial duties, or exploit his judicial position." The Commission believes that representation by a municipal court judge of a member of the municipality's police force tends to reflect adversely on the judge's impartiality, whether or not the particular police officer in question ordinarily appears in cases in the municipal court. The Commission also finds it significant in this regard that the municipality is a co-defendant in the federal suit, and that the officer in question has a supervisory position with the police force, albeit not over other officers who regularly appear before the judge. The Commission concludes that representation of the lieutenant is not permissible under the Alabama Canons of Judicial Ethics.

Yours truly,

JUDICIAL INQUIRY COMMISSION