

Judicial Inquiry Commission

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MONTGOMERY, ALABAMA 36104

July 31, 1998

The Judicial Inquiry Commission has considered your request for an advisory opinion concerning whether a judge may hire as her bailiff the mother-in-law of a prominent local attorney who handles numerous domestic relations and other civil cases in the judge's court. You state that, if such employment causes disqualification from cases involving this attorney, it would pose a tremendous problem for the other judges in your circuit.

It is the opinion of the Commission that the Alabama Canons of Judicial Ethics prohibit a judge from hiring as her bailiff the mother-in-law of a local attorney where such employment would cause more than occasional disqualification of the judge.

In another context, the canons require a judge to minimize the number of cases in which he or she is disqualified, and a judge is required to "conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Canons 4C(3) and 2A. The Commission has previously held that, where a close relative of the judge's bailiff is an associate with a local law firm, the judge is disqualified under Canon 3C(1) in any case in which a party is represented by an attorney from the firm unless the bailiff does not participate in the case in any way. Advisory Opinions 83-190, 85-231, and 94-536. Under the facts in Advisory Opinion 94-536, disqualification of the judge could be minimized because the situation could be conveniently handled by reassigning the bailiff to another judge whenever the firm in question appeared in a case.

The Commission reaffirms its prior holding in Advisory Opinions 83-190, 85-231, and 94-536 that a judge is disqualified from hearing any case in which the firm of a close relative of the judge's bailiff represents a party. Where the attorney's firm appears before the judge more than occasionally, and reassignment of the bailiff is not a convenient option in the circuit, the Canons of Judicial Ethics do not allow the judge to hire the close relative of a local attorney as her bailiff.

Yours truly,

JUDICIAL INQUIRY COMMISSION