

JUDICIAL INQUIRY COMMISSION

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ADVISORY OPINION 00-752

DISQUALIFICATION WHEN THE JUDGE IS PRESIDENT OF THE HIGH SCHOOL ATHLETIC CLUB AND THE SCHOOL'S ATHLETIC DIRECTOR IS A PARTY

ISSUE

Is a judge who is the president of a local high school athletic club disqualified to hear an adoption proceeding brought by the high school's athletic director/head football coach?

Answer: Yes, the judge's impartiality might reasonably be questioned in this case.

FACTS

The athletic director and head football coach of a local high school is in the process of attempting to adopt his stepson. The biological father objects to the adoption, and the action has been removed to the juvenile court. The district judge who presides over the juvenile court has been active in the high school's athletic club for several years; he was elected president of the club two years ago and is currently serving his second term in this position. The judge's son attends the high school and is involved with the athletic program at the school. The athletic director/head football coach acts as the liaison between the various high school athletic programs and the athletic club. As a result of his involvement with the club, the judge has had contact and interaction with the athletic director/coach over the last two years in connection with high school sporting events and occasional public charitable functions. The judge has disclosed his involvement with the athletic club and the athletic director/coach to the attorneys in the case, and the biological father has objected to the judge presiding over the case at trial.

DISCUSSION

Although not stated in the written facts presented to the Commission, the Commission understands that the judge has no personal bias or prejudice concerning a party in the case, and no personal knowledge of disputed evidentiary facts concerning the proceeding. Disqualification is required by Canon 3C(1)(a) if the judge has any personal bias or prejudice concerning a party or any personal knowledge of disputed evidentiary facts.

Since it does not appear that any of the other specific grounds for disqualification stated in the subsections to Canon 3C(1) apply, the issue is whether the judge is disqualified under that canon's general provision requiring disqualification when the judge's "impartiality might reasonably be questioned." The test under this canon is: "Would a person of ordinary prudence in the judge's position knowing all of the facts known to the judge find that there is a reasonable basis for questioning the judge's impartiality?" *In re Sheffield*, 465 So.2d 350, 356 (Ala. 1984). The issue under Canon 3C(1) is not whether the judge is impartial in fact, but rather whether another person, knowing all of the circumstances, might reasonably question the judge's impartiality. *Ex parte Duncan*, 638 So.2d 1332, 1334 (Ala. 1994).

As the Commission has previously observed, judges necessarily will have associations and even friendships with attorneys and parties coming before their courts, and a judge is not disqualified for such ordinary relationships with fellow citizens. Whether or not a judge is disqualified based on friendship depends on how personal the relationship is between the judge and the person connected to the lawsuit.

Advisory Opinions 95-541, 99-722, and 99-729. *See also*, J. Shaman, S. Lubet, J. Alfini, *Judicial Conduct and Ethics*, § 4.15 at 137 (3rd ed. 2000); and *Ex parte Hill*, 508 So.2d 269, 272 (Ala. Civ. App. 1987).

In this particular case, it is the opinion of the Commission that, under the totality of the facts presented, the judge's impartiality might reasonably be questioned. Thus, the judge is disqualified under Canon 3C(1).

REFERENCES

Alabama Advisory Opinions 95-541, 99-722, and 99-729.

Alabama Canons of Judicial Ethics, Canons 3C(1) and 3C(1)(a).

Ex parte Duncan, 638 So.2d 1332 (Ala. 1994).

Ex parte Hill, 508 So.2d 269 (Ala. Civ. App. 1987).

In re Sheffield, 465 So.2d 350 (Ala. 1984).

J. Shaman, S. Lubet, J. Alfini, *Judicial Conduct and Ethics*, § 4.15 (3rd ed. 2000).

This opinion is advisory only and is based on the specific facts and questions submitted by the judge who requested the opinion pursuant to Rule 17 of the Rules of Procedure of the Judicial Inquiry Commission. For further information, you may contact the Judicial Inquiry Commission, 800 South McDonough Street, Suite 201, Montgomery, Alabama 36104; tel.: (334) 242-4089; fax: (334) 240-3327; e-mail: jic@alalinc.net.