JUDICIAL INQUIRY COMMISSION

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DISQUALIFICATION WHEN A RELATIVE OF THE JUDGE IS A SECRETARY WITH A LAW FIRM INVOLVED IN A CASE

ISSUES

Is a judge disqualified to hear city appeal cases due to his daughter working as a secretary with the law firm that represents the city? **Answer:** The mere fact of such employment does not require disqualification of the judge, but the judge should assess the circumstances in each proceeding to determine whether disqualification is otherwise required.

FACTS

A circuit judge's daughter works as a receptionist/secretary with a law firm that represents a particular city in the jurisdiction in which the judge sits. Appeals from the city come before the judge. The judge's daughter does clerical work, but not on the city appeals.

DISCUSSION

The Commission has previously advised that the mere fact that a judge's child is a secretary working for an attorney or firm who represents a party to the proceeding does not require the judge's disqualification, but that the judge must assess the facts and circumstances surrounding each proceeding, his relationship with the employee, and the employee's relationship to the proceeding to determine whether he should disqualify himself. Advisory Opinion 82-134. This opinion, as well as similar opinions involving certain other close relatives, are based on the general provision in Canon 3C(1) that a judge should disqualify himself in any proceeding in which his "impartiality might reasonably be questioned." Advisory Opinions 82-134, 84-217, and 90-401.

While the mere fact of such employment does not require disqualification, the existence of other associated circumstances might do so. For example, if the judge's relative has discussed the particular proceeding with the judge, or has brought circumstances involving the matter to the judge's attention, disqualification would be required. Advisory Opinion 90-401.

It would be impossible for the Commission to provide a comprehensive list of potential circumstances that might result in disqualification. However, it notes that the fact that the judge's daughter does not work on city appeals certainly is a factor weighing against disqualification.

REFERENCES

Advisory Opinions 82-134, 84-217, and 90-401.

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