



JUDICIAL INVESTIGATION COMMISSION

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October 5, 2010

Re: JIC Advisory Opinion 2010-18

Dear Judge

Your recent communication to the Judicial Investigation Commission asking for an advisory opinion was reviewed by the Commission. In that letter you state that you are in the process of hiring a new court reporter for your court. The front-runner for the position currently works in the Circuit Clerk's Office as a Deputy Clerk and her son is an attorney who routinely practices in your court. You asked whether it would be a conflict to hire the mother of the attorney to work in your office since her son routinely practices before you.

To address the question which you have raised, the Commission has reviewed Canon 2A and Canon 3E(1) of the Code of Judicial Conduct which state in relative part:

Canon 2. A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

A. A judge shall respect and comply with the law, shall avoid impropriety and the appearance of impropriety in all of the judge's activities, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 3 states in relevant part:

Canon 3. A judge shall perform the duties of judicial office impartially and diligently.

E. Disqualification. (1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, . . .

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Based upon the language contained in these Canons and the sensitive nature of the position of court reporter in your court, it is the opinion of the Commission that the son would not be allowed appear in your court if his mother were the court reporter. See also Brown v. Dietrick, 191 W.Va. 169, 444 S.E.2d 47 (1994)

The Commission is unaware of whether the attorney son is a member of a firm and if so what his relationship to other members in the firm may be (*i.e.* partner, associate). So the Commission does not address whether other attorneys who may be associated with the son may appear in your court.

It is hoped that the opinion fully addresses the question which you have raised. If there is any other question regarding this matter do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Ronald E. Wilson', with a long horizontal flourish extending to the right.

Ronald E. Wilson, Vice-Chairperson
Judicial Investigation Commission

REW:nb