



Judicial Ethics Advisory Committee

MEMBERS:

Hon. Edwin Alderson
Municipal Judge Retired

Prof. Howard W. Brill

Hon. John Cole
Circuit Judge Retired

P R E S S R E L E A S E

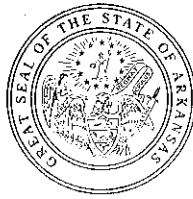
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FOR IMMEDIATE RELEASE

March 29, 2013

The Arkansas Judicial Ethics Advisory Committee issued an advisory opinion to Judge Robert Bynum Gibson of Monticello, Arkansas.

A copy of the Advisory Opinion is attached.



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March 29, 2013

Judge Robert Bynum Gibson
Drew County Courthouse
Monticello, AR 71655

Re: Opinion No. 2013-03

Dear Judge Gibson:

In your letter of March 1, 2013 you asked, "Am I automatically disqualified from presiding in my assigned cases, where one of the parties is represented by one of my first or third cousins?" In your request you cite Canon 2, Rule 2.11 and also made other citations and attached charts on relationships.

Our answer to your question is that you are not automatically disqualified. The Procedural Rules of our Committee state: "1. Pursuant to Section 5 of Act 791 of 1991, a Judicial Ethics Advisory Committee is hereby created to give advisory opinions to elected officials, judicial officers and candidates for judicial office seeking opinions concerning the compliance of an intended, future course of conduct with the Arkansas Code of Judicial Conduct." Our opinions are limited entirely to the interpretation of the Arkansas Code of Judicial Conduct.

Under the Terminology section of the Code it states, " 'Third degree of relationship' includes the following persons: Great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew, and niece. See Rule 2.11". Canon 2, Rule 2.11 (A) provides, "A judge shall (*emphasis supplied*) disqualify himself or herself in any proceeding in which the judge's impartiality might reasonable be questioned, including but not limited to the following circumstances:" Subsection (2) under this Section (a), in part, addresses the situation whereby a person within the third degree of relationship to the judge is acting as a lawyer in the proceeding. As defined in the Code itself, first cousins and third cousins are not within the third degree of relationship.

This does not mean that you cannot disqualify yourself should you see circumstances other than "third degree relationships" that may apply to a cousin that in your opinion might make your impartiality reasonably questioned. Also, although you are not disqualified by the operation of Rule 2.11(A)(2), you should be alert to all situations where your "impartiality might reasonably be questioned" by a cousin appearing before you.

For the Committee
Judge Edwin Alderson