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STATE OF ALABAMA

APR 30 1990

90-00256

Honorable Bobby T. Branum  
Circuit Clerk  
Butler County  
P.O. Box 134  
Greenville, Alabama 36037

Elections - Absentee Ballots -  
Election Officials - Conflict of  
Interest

A circuit clerk is not disqualified from serving as a member of the appointing board or as absentee election manager when the circuit clerk's son is running for office.

Dear Mr. Branum:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION

Would I be disqualified to perform the duties imposed upon me with respect to appointing polling officials and with respect to being absentee election manager if my son, a candidate for District Judge in the county: (a) has no opposition in the primary election; (b) has opposition in the primary election; or (c) has opposition in the general election?

FACTS AND ANALYSIS

Code of Alabama 1975, § 17-10-2 provides for the circuit clerk to serve as absentee election manager when the register of the county declines such duties or the county has no register. A circuit clerk or register may be disqualified from serving as absentee election manager pursuant to § 17-10-13 which states:

"When the circuit clerk, register or register in chancery is a candidate for any office and has opposition, he shall be disqualified from performing any of the duties imposed by this chapter with reference to the handling of absentee ballots. At least 55 days prior to the election, the circuit clerk, register or register in chancery shall certify to the presiding circuit judge of the county his candidacy with opposition and that he is disqualified to serve or otherwise prevented from serving. The presiding circuit judge shall thereupon appoint a person to serve as absentee election manager in the manner provided for in section 17-10-2." (Emphasis added.)

This office has previously held that there are no state laws that prohibit the circuit clerk from serving as absentee election manager while the circuit clerk's son seeks office. Opinion to Honorable S. A. Rip Armistead, Circuit Clerk, 1st Judicial Circuit, under date of March 9, 1988 (88-00201). Thus, a circuit clerk is not disqualified from serving as absentee election manager when his son runs for office, regardless of whether his son has opposition.

Pursuant to Code of Alabama 1975, § 17-6-1, the clerk of the circuit court also serves as a member of the appointing board for elections in that county.

Code of Alabama 1975, § 17-6-3, specifies when the circuit clerk is disqualified from serving on the appointing board and states:

"When the judge of probate, sheriff or clerk of the circuit court is a candidate for election to any office at that election, he shall not serve on the appointing board. The judge of probate shall certify to the

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clerk or register of the circuit court the fact of the candidacy of any member of the appointing board immediately after the certificate of nomination, or petition, as provided in section 17-7-1, is filed with him." (Emphasis added.)

There are no other Code provisions that would disqualify a circuit clerk from serving as a member of the appointing board when the circuit clerk's son is running for office. Accordingly, a circuit clerk is not prohibited from serving as a member of the appointing board when his son runs for office, regardless of whether his son has opposition.

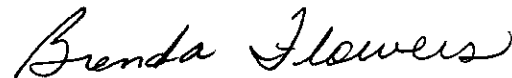
CONCLUSION

A circuit clerk is not disqualified from serving as a member of the appointing board or as absentee election manager when the circuit clerk's son is running for office.

I hope this sufficiently answers your question. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

DON SIEGELMAN  
Attorney General  
By:



BRENDA FLOWERS  
Assistant Attorney General

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