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Opinion No. 86-100

August 18, 1987

Mr. Joe O'Bryan
Attorney at Law
P.O. Box 687
Cabot, AR 72023

Dear Mr. O'Bryan:

This unofficial opinion is written in response to your following questions:

1. Is a juvenile referee a part-time judge?
2. Is a bastardy referee, as defined by Ark. Stat. Ann. §34-701.1, a part-time judge?

Pursuant to the Code of Judicial Conduct, Canon 7, a referee is considered to be a judge.

Anyone, whether or not a lawyer, who is an officer of a judicial system performing judicial functions, including an officer such as a referee in bankruptcy, special master, court commissioner, or magistrate, is a judge for the purpose of the Code.

Therefore, the juvenile referee and bastardy referee are considered to be judges.

The determination as to whether an individual is considered to be a part-time judge will depend on the facts in each case. Pursuant to the Per Curiam Opinion of the Arkansas Supreme Court, October 25, 1982 (82-114), the following three requirements determine the classification.

1. Does the individual serve on a continuing or periodic basis? and

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2. Is this individual permitted by law to devote time to some other profession or occupation? and...

3. Is the compensation less than that of a full-time judge?

Therefore, if the above criteria is met, he or she would be considered to be a part-time judge.

The Attorney General is authorized to render formal and official opinions to officers and departments of the State government only. Necessarily, therefore, the foregoing is not to be considered a formal opinion of the Attorney General but is an informal and unofficial expression of view given with the desire to be helpful to you.

Sincerely,



J. MARK LEWIS
Assistant Attorney General

JML:dc