

**ETHICS OPINION NUMBER 133  
OF THE MISSISSIPPI BAR  
RENDERED JUNE 4, 1987  
AMENDED APRIL 6, 2013**

**CONFLICT OF INTEREST** - A Municipal Judge should not represent an individual in a criminal defense on matters in which that judge has participated.

The Ethics Committee of The Mississippi State Bar has been asked to render an Opinion of the following facts:

A Municipal Judge (a part-time position) wants to know if he can represent individuals as their criminal defense lawyer in Circuit Court on matters originating in that judge's Municipal Court and in which the Municipal Judge acted in his judicial capacity.

Rule 1.12(a) of the Mississippi Rules of Professional Conduct (MRPC), provides that:

Except as stated in paragraph (d), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer, or law clerk to such person or as an arbitrator, mediator or other third-party neutral, unless all parties to the proceeding give informed consent confirmed in writing.

The Committee is of the opinion that in regard to matters such as appeals from the Municipal Court and matters in which the Municipal Judge served as the Judge on preliminary hearings, that the Judge should not serve as the defense attorney for the individual charged with violations at a preliminary hearing or a trial resulting in an appeal.

On the other hand, however, should the Municipal Judge not be involved in the lower Court proceedings which is true in many cases where Municipal Judges do not hold preliminary hearings but leave that duty strictly to Justice Court Judges, the Committee feels that there would be no conflict for the Municipal Judge to represent a criminal defendant in Circuit Court. The Comment to Rule 1.12, MRPC, indicates that a judge is not prohibited from representing a client in a matter that was pending in the court but in which the judge did not participate.

In conclusion, the Committee feels that if the Municipal Judge is involved in proceedings as a Municipal Judge involving a criminal defendant, that Judge may not represent that criminal defendant in Circuit Court. However, if the Municipal Judge does not participate in any preliminary proceedings involving a criminal defendant, then that Municipal Judge would not be precluded from representing the defendant on a felony charge