

**ETHICS OPINION NUMBER 38  
OF THE MISSISSIPPI STATE BAR  
RENDERED APRIL 2, 1977  
AMENDED APRIL 6, 2013**

**CONFLICT OF INTEREST - JUDGES** - Where no formal division exists in the courts system to protect the integrity of the legal system, a lawyer who acts as a city judge presiding only over traffic offenses cannot be permitted to participate in criminal cases as an advocate in the same court.

An opinion from this Committee has been requested on the following question: May an attorney who serves on a part-time basis as a municipal court judge presiding only over traffic offenses also represent criminal defendants as an advocate in the same city court?

In resolving this question, the Committee has considered the effect that the attorney's actions in these two different capacities would have on both the administration of the municipal court and the public at large. In regard to the persons employed by or working at the municipal court, they would be forced to work with the same attorney as both a municipal official and as counsel for a party appearing before the court. The inconsistency as well as the potential for preferred treatment is readily apparent.

Of greater concern to the Committee, however, is the impression which such conduct could create in the minds of the public. Serious doubts exist as to whether the public could effectively distinguish these capacities in which the attorney is acting. Furthermore, the burden to so distinguish should not even be placed on the public's shoulders. ABA Opinion 192 (1939) states in part that "an attorney holding public office should avoid all conduct which might lead the layman to conclude that the attorney is utilizing his public position to further his professional success or personal interest."

In order to protect the integrity of the legal profession and judicial system as a whole, the Committee believes that an attorney should not be permitted to serve as a traffic judge and counsel for criminal defendants in the same municipal court.