

OFFICE OF THE
ATTORNEY GENERAL

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STATE OF ALABAMA

APR 20 1990

90-00228

Honorable Mac Smith
Chairman
Cleburne County Commission
Cleburne County Courthouse
Heflin, Alabama 36264

Probate Judges - Judicial
Retirement - Supernumerary
Status

Under facts presented, Judge
William H. Young is not
entitled to receive retirement
benefits.

The county should refund any
retirement contributions Judge
Young paid to the county.

Further questions concerning
this matter should be addressed
to the Retirement Systems of
Alabama.

Dear Judge Smith:

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

QUESTIONS

Please examine the enclosed documents and
advise as to the following:

1. Is Judge William H. Young eligible to
be a member of the Judicial Retirement
System?

2. If the answer to question 1 is no, is he eligible for supernumerary retirement?
3. If the answer to questions 1 and 2 is no, can the county refund Judge Young his money?

FACTS AND ANALYSIS

We have been furnished with a copy of documents which indicate that on January 12, 1977, Judge Young filed with the Alabama Supreme Court a declaration of election to join the judicial retirement system. We have been further informed that on January 11, 1977, Judge Young wrote a check in the amount of \$1200.00 to the Cleburne County General Fund for retirement contributions.

Finally, we have been told that Judge Young served one six-year term as probate judge.

Upon reviewing Code of Alabama 1975, § 12-18-84, which sets forth the eligibility requirements for probate judges, we note that the law simply does not provide for retirement benefits for a person who serves one six-year term, except, of course, in cases of disability.

It is the opinion of this office that Judge Young's six-year term would not make him eligible to receive retirement benefits of any kind. The county should, however, refund to Judge Young any retirement payments he may have made during his term.

Finally, if you have further questions concerning this matter, you may wish to address them to the Retirement Systems of Alabama.

CONCLUSION

Under the facts presented, Judge William H. Young is not entitled to receive retirement benefits.

The county should refund any retirement contributions Judge Young paid to the county.

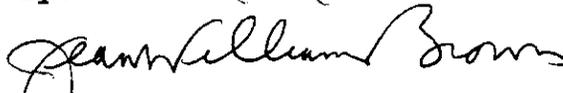
Honorable Mac Smith
Page 3

Further questions concerning this matter should be addressed to the Retirement Systems of Alabama.

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

Sincerely,

DON SIEGELMAN
Attorney General
By:



JEAN WILLIAMS BROWN
Assistant Attorney General

DS/JWB/cg
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