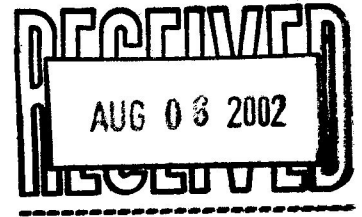


JUDICIAL ETHICS COMMITTEE  
Advisory Opinion 02-3  
Issued: July 23, 2002



**Question presented**

Whether the Maine Judiciary may accept certain items provided them as gifts to the visiting Chief Justices and their families attending the Rockport, Maine meeting of the National Conference of Chief Justices.

**Statement of Facts**

The National Conference of Chief Justices (NCCJ) holds its annual meetings in various states throughout the country. Depending upon the resources of the hosting state, the visiting Chief Justices may receive mementos of the state during their stay. This summer, NCCJ will hold its annual meeting in Rockport, Maine. The Maine Judicial Branch does not have the resources to fund the provision of mementos. However, the Administrative Office of the Courts has received some token gifts of minimal value to the donors for the visiting Chief Justices, including those from L.L. Bean, the Maine Writers Guild, and Maine author Stephen King. It is unlikely that the donors will ever come before the visiting Chief Justices for whom the gifts are clearly intended.

**Discussion**

The issue of whether it is improper for the Maine Judiciary to accept these gifts to provide as mementos implicates Canon 4D(5) of the Maine Code of Judicial Conduct (Code). Canon 2 is also of general relevance, in that it is concerned with avoiding impropriety and appearances of impropriety.

Canon 4D(5) applies to acceptance of gifts by judges. Therefore, before applying Canon 4D(5) to the facts at hand, it must be determined whether the gifts delivered to the

Administrative Office of the Courts for the benefit of the visiting Chief Justices constitute gifts to a judge. Because the Code is concerned with the conduct of Maine judges, the question narrows to whether the donated items constitute gifts to the Maine Judiciary.

The Judicial Ethics Committee (Committee) has addressed a related question in Advisory Opinion 98-1, in which the Committee found that a gift of \$1000 from the Maine Trial Lawyers Association to the Maine Trial Judges Association should conservatively be viewed as a gift to a group of Maine judges; although no individual judge benefited directly, all members of the Maine Trial Judges Association could be viewed as benefiting from the gift. The application of Canon 4D(5) in that matter hinged upon the language limiting the acceptance of gifts to circumstances in which “the donor . . . is not a party or other person who has come or is likely to come or whose interests have come or are likely to come before the judge.” Canon 4D(5)(h). The Committee felt it likely that the interests of the Maine Trial Lawyers Association or its members would come before the members of the Maine Trial Judges Association.

In the matter currently before the Committee, there are three circumstances that suggest that Canon 4D(5) does not apply. First, the gifts have been given for the benefit of the visiting Chief Justices. Although the Maine Judiciary is the conduit for those gifts, it is neither the intended nor actual recipient of the gifts. Second, the gifts given are of de minimus monetary value to both the donors and recipients. Third, it is unlikely that any of the donors will come before any of the visiting Chief Justices to whom the gifts will be given.

Although it appears that Canon 4D(5) does not apply to this situation, it is in keeping with the conservative approach of the Committee to consider the result should Canon 4D(5) be found to apply. This requires the assumption that the Code is applicable to judges sitting outside the State of Maine. Under this assumption, the same factors of de minimus value and

unlikelihood of appearance before the recipients remove this situation from the scope of Canon 4D(5).

### **Conclusion**

Whether or not Canon 4D(5) of the Code is found to apply to the situation, the Maine Judiciary should be able to receive the gifts on behalf of, and distribute them to, the visiting Chief Justices without violating the Code.