

Maryland Judicial Ethics Committee

Opinion Request Number: 2002-18

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Published Opinion Unpublished Opinion Unpublished Letter of Advice

Inappropriate for Judge to Facilitate Defendant's Offer of Donation to Satisfy Previously Imposed Traffic Fine

Following a judge's imposition of a traffic fine and after providing the defendant with several extensions to either pay the fine or perform community service, without success, the defendant proposed to satisfy the fine through a donation of items from a "sports collectibles" inventory. This "offer" apparently prompted the judge to consider whether the judge could direct those items to a particular charitable organization, such as the local boys and girls club.

Canon 1 of the Maryland Code of Judicial Conduct provides that a judge should "observe high standards of conduct so that the integrity and independence of the judiciary may be preserved." Canon 2A reminds judges to "avoid even the appearance of impropriety" and to "act ... in a manner that promotes public confidence in the integrity and impartiality of the judiciary." Additionally, Canon 4C(2) prohibits a judge from soliciting funds for any civic or charitable organization or "us[ing]... the prestige of the judge's office for that purpose... ."

In [Opinion Request No. 1999-08], dated June 11, 1999, the Committee found a violation of Canon 4C(2) where a judge grants the prosecutor's motion to stet a criminal charge on the condition that a charitable donation be made by the defendant. Under such circumstances the Committee found that the judge's order directing the "donation" to a charity was "tantamount to a solicitation of funds."

In [Opinion Request No. 1999-10], dated March 6, 2000, the Committee addressed the issue of whether a judge was permitted to order a defendant to contribute to an organization which oversees a substance abuse fund, as a condition for extending probation or probation before judgment. In expressing reservations regarding the practice of ordering or coercing a defendant to make a contribution to an organization which oversees a substance abuse fund, the Committee noted that "[t]he judiciary might ... be seen as an advocate or fund-raiser for the special interest. This, in turn, may adversely affect the 'integrity and independence of the judiciary' and present the 'appearance of impropriety.'"

A donation to a charitable organization such as the local boys and girls club may be laudable under certain circumstances. However, the direction by a judge of a donation to a specific charity is in the nature of a solicitation of funds for that charity. Moreover, to allow a defendant who has repeatedly failed to comply with a fine imposed by the court to propose another "bargain," and then to facilitate the offer, could serve to undermine the public's confidence in the integrity and independence of the judiciary and gives the appearance of impropriety.