

Maryland Judicial Ethics Committee

Opinion Request Number: 2009-16

Date of Issue: November 16, 2009

■ Published Opinion □ Unpublished Opinion □ Unpublished Letter of Advice

Judge May Keep Prize Obtained in a Raffle

Issue: May a judge keep a prize obtained in a raffle in which all attendees at a national conference were entered?

Answer: Yes.

Facts: The requesting judge attended a national conference sponsored by an organization created to study and improve state courts. At the conclusion of the conference, there was a drawing in which all attendees were entered. Vendors who demonstrated their products at the conference provided the prizes. The name of the requesting judge was drawn, and the judge won a computer monitor valued at \$750.00. Other attendees won televisions, GPS devices and similar prizes.

Discussion: The issues raised by this request are whether acceptance of the prize would give rise to the appearance of impropriety, pursuant to Canon 2A of the Maryland Code of Judicial Conduct, and whether the judge's conduct could be improperly influenced by receipt of the prize, pursuant to Canon 2B.

The Code of Judicial Conduct does not directly address the receipt of prizes. A prize won in a drawing is essentially a gift from the sponsor of the drawing. Canon 4D(5) (Financial Activities) addresses gifts to judges. It generally prohibits gifts to judges except for specified items. The Comment to Canon 4D(5) explains: “[h]owever innocently intended, favors or gifts from persons not in a judge’s immediate family may create an appearance that the judge could be improperly beholden to the donor.” Illustrative of the Comment are two types of gifts that *are* permitted, pursuant to Canon 4D(5):

(d) ordinary social hospitality;

...

(f) a bequest, favor [or] gift ... from a relative or close personal friend whose appearance or interest in a case would in any event require a recusal....

Canon 4D(5)(i) authorizes acceptance of a gift if the donor is “not a person whose interests have come or are likely to come before the judge....”

The prize, or gift, in question was awarded to the judge in a random drawing in which all attendees were entered. The judge was not favored over any other attendee,

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and the sponsor of the conference could not have anticipated that the name of any particular judge would be drawn. The vendors who contributed the prizes, similarly, could not have anticipated which judge would draw any specific prize.

There is nothing improper about winning a prize in a random drawing. The judge did not attend merely to win a prize, nor did the judge take any action to gain an advantage over others in the drawing. The judge attended the conference in the performance of judicial duties. The drawing was simply a gratuity for the time and attention of the judges who attended the conference.

Nothing about the circumstances here suggests that acceptance of the computer monitor would influence, or appear to influence, the judge's conduct. The prize was not a gift to the judge personally. The award was random, a matter of happenstance. It came in the course of a national conference put on by an entity created to advance state courts. The vendors of the prizes are no more likely to come before the judge than any other business entities with which all citizens, including judges, routinely deal. (The judge should be cautious, however, if the vendor of the monitor should solicit the judge's court for business).

The judge is advised to report the prize as a gift on his or her annual financial disclosure statement pursuant to Md. Rule 16-815.

Application: The Judicial Ethics Committee cautions that this opinion is applicable only prospectively and only to the conduct of the requestor described in this opinion, to the extent of the requestor's compliance with this opinion. Omission or misstatement of a material fact in the written request for opinion negates reliance on this opinion.

Additionally, this opinion should not be considered to be binding indefinitely. The passage of time may result in amendment to the applicable law and/or developments in the area of judicial ethics generally or in changes of facts that could affect the conclusion of the Committee. If you engage in a continuing course of conduct, you should keep abreast of developments in the area of judicial ethics and, in the event of a change in that area or a change in facts, submit an updated request to the Committee.