

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 92-09
(June 5, 1992)

Ownership of Complimentary Law Books

Issue

Upon retirement from the bench may an appellate court judge retain complimentary reporter volumes received during his term of office?

Answer: Yes.

Facts

Upon assuming office, all appellate judges in the State of Arizona receive from the publishing company a complimentary subscription to the advance sheets and bound volumes of *Arizona Reports* beginning with the then current volume and continuing during a judge's tenure in office. The publishing company has clearly stated that the copies are provided to individual judges and are not intended to supplant the state's obligation to provide a set of reporters to the judges.

Discussion

Canon 5C(4) provides "neither a judge nor a member of his family residing in his household should accept a gift, favor, or loan from anyone except as follows:

(a) A judge may accept a gift incident to a public testimonial to him; books supplied by publishers on a complimentary basis for official use."

It is the opinion of the Advisory Committee that such complimentary volumes may become the private property of the individual judge at the time accepted. If the books were accepted by the judge as a personal gift, then he or she may retain them upon leaving office. Whether the books were accepted as a private gift or as state property depends on the intention of the parties. For example, did the judge allow the court to inventory the books, mark them with the court's identification, and maintain them (as by replacing a lost or damaged volume at the court's expense)? Did the judge pay any applicable federal or state income taxes incurred by accepting the books? Did the judge report the gift on any applicable financial disclosure statements? The answers to these questions would help establish the ownership of the books at a later date.

The books can be received as a gift by the judge and still be intended "for official use" within the meaning of Canon 5E(4)(a). Even though the books will not be in "official use" when the judge leaves the bench, their original acceptance by the judge is permissible because they were intended for official use at the time of receipt.

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Applicable Code Sections

Arizona Code of Judicial Conduct, Canons 5C(4) and 5E(4)(a) (1985).