

*Arizona Supreme Court  
Judicial Ethics Advisory Committee*

ADVISORY OPINION 96-13  
(November 8, 1996)

**Service as Church Usher in Light of Prohibition  
Against Solicitation of Donations**

**Issues**

May a judge pass a collection basket while serving as an usher during a church service?

**Answer:** Yes.

**Facts**

A judge serves as an usher at church. Among the duties is the passing of a collection basket for donations during the church service. The usher makes no verbal requests for donations and is not identified as a judge in any way.

**Discussion**

Canon 4(C)(4)(b) provides that a judge should not solicit funds for any educational, religious, charitable, or civic organization, or use or permit the use of the prestige of office for that purpose. The question here is whether the judge, serving as an usher at church, violates this fund raising provision of the code.

The mandate of Canon 4 is that a judge shall so conduct the judge's extrajudicial activities as to minimize the risk of conflict with judicial obligations. The canon recognizes that a judge should be involved in the community which includes participation in church activities, if the judge so chooses, so long as those activities do not reflect adversely on the judge's impartiality or interfere with the performance of the judge's judicial duties. Nor should a judge allow the prestige of the office to be used to pressure persons in any manner.

In Opinion 93-01 we answered, yes, to the question of whether a judge may serve in a position of authority in a religious organization or play a prominent role in a religious ceremony or service. We stated, however, that "The sole limitation placed on a judge's activities in the area of religion is a prohibition against soliciting funds for religious organizations."

In the State of New York a comparable committee to ours issued a joint opinion in 89-3 and 89-4 (September 1989) on identical facts and found that the passing of a collection basket does not constitute solicitation of funds so long as the act is confined to the mere physical act of collecting contributions and not soliciting them. It further concluded that such conduct does not create the appearance of impropriety.

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In this case the judge, performing the duties of a church usher, is acting in a non-judicial capacity while serving the church in a customary manner as an unidentified usher. The handing of a collection basket to the first person in each pew without words of solicitation is not the type of conduct sought to be prohibited by the code. The risk of conflict with the judge's judicial obligations and the risk that a person would feel pressured by the prestige of the judge's office is minimal under these circumstances even if some members knew that the usher was a judge or considered the act of passing the basket as a solicitation.

The committee finds no improper solicitation or fund-raising in a judge passing a collection basket while serving as an usher during a church service under the facts presented here.

### **Applicable Code Sections**

Arizona Code of Judicial Conduct, Canon 4(C)4(b) (1993).

### **Other References**

Arizona Advisory Committee on Judicial Ethics, Opinion [93-01](#) (Feb. 12, 1993).

New York Advisory Committee on Judicial Ethics, Opinions 89-83 and 89-84 (Sept. 12, 1989).