

## Judicial Inquiry Commission

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This is in response to your request for an advisory opinion from the Judicial Inquiry Commission. Your request is whether it is unethical for you to accept a gift of a smoked turkey from a lawyer or firm practicing in your circuit.

Canon 5C(4) provides: "Neither a judge nor a member of his family residing in his household should accept a gift, bequest, favor, or loan from anyone if it reflects expectation of judicial favor." Canon 2 requires a judge to avoid even the appearance of impropriety.

Judges and their families may accept "ordinary social hospitality," as well as gifts and favors from relatives. J. Shaman, S. Lubet, J. Alfini, Judicial Conduct and Ethics § 7.28 at 200 (1990). Under the Alabama Canons of Judicial Ethics a judge may accept a gift from an attorney who practices before the judge where the gift does not reflect expectation of judicial favor and where the gift does not create the appearances of impropriety. In deciding whether or not to accept a gift, the judge should consider the nature of the gift as well as the circumstances under which and the time when the gift was given. For example, the gift of a smoked turkey at Christmas may not violate any Canon of Judicial Ethics. However, the gift of that same turkey on another date by an attorney who has a case pending before the judge may very well have all the appearances of an attempted bribe or an attempt to curry the judge's favor. The decision whether or not to accept the gift is one which must be made by the judge on a case by case basis after a consideration of all the surrounding circumstances.

These same guidelines apply where the gift is from a clerk or confidential employee.

This opinion has been considered by and is the opinion of the Judicial Inquiry Commission.