

September 03, 2002

Honorable John R. Scott  
Benton County Courthouse  
102 N.E. "A" Street, Box 12  
Bentonville, AR 72712

RE: Advisory Opinion 2002-07

Dear Judge Scott:

In your letter of August 20, 2002, to the Judicial Ethics Advisory Committee, you ask whether ethical improprieties might arise from a proposed reassignment of cases in Divisions IV and V of the 19<sup>th</sup> Judicial Circuit West of Benton County, Arkansas. You state that your tenure as Circuit Judge of Division V began on October 1, 2001. Judge Xollie Duncan, who joins you in requesting this advisory opinion, presides over Division IV cases, Judge Duncan's tenure having begun on September 11, 2000. On January 1, 2003, Judge Duncan and you will exchange positions and you will preside over Division IV and Judge Duncan over Division V.

You state that for a variety of reasons you and Judge Duncan believe it would greatly facilitate the efficient management of cases and enhance judicial economy for all cases pending on January 1, 2003 in Division IV to be transferred to Division V and vice versa. Specifically, you ask this committee whether you and Judge Duncan may ethically direct your circuit clerk to effectuate the transfer of cases consistent with your proposal.

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You note that the proposal would seem compatible with Administrative Order No. 14 of the Arkansas Supreme Court, which reads in part:

The creation of divisions shall in no way limit the powers and duties of the judges as circuit judges. Judges shall not be assigned exclusively to a particular division so as to preclude them from hearing other cases which may come before them.

We see nothing in the proposed reassignment of cases which, in the opinion of the committee, would impinge on the Code of Judicial Conduct. However, the issue is, we believe, essentially a matter of judicial administration rather than judicial ethics and would, therefore, exceed the purview of this committee.

Yours very truly,

Steele Hays  
For the Committee