

Committee Opinion
March 12, 1991

LEGAL ETHICS OPINION 1400

ATTORNEY/CLIENT RELATIONSHIP —
DISCLOSURE — ZEALOUS
REPRESENTATION: ATTORNEY'S
DUTY TO REVEAL ERROR IN
SENTENCING DOCUMENT.

Attorney represents Defendant on criminal charges. Defendant is indicted by a grand jury for a *felony*, tried, found guilty, and sentenced in open court by the judge, orally, to incarceration for several months in jail. The sentencing document later signed by the judge, however, erroneously states that Defendant was sentenced for a *misdemeanor* to a term of several months in jail.

The Committee opined that defense counsel is not under any affirmative obligation to reveal that the court document erroneously stated that the client had been sentenced for a misdemeanor rather than a felony, unless the client requested that he inform the court of the error. Under DR:7-101(A)(3), it would be unethical for an attorney to reveal information that will prejudice or damage his client.

The Committee believes that since the information in question is readily available to the court, defense counsel is not engaging in attempting to conceal or deliberately failing to disclose that which he is required by law to reveal pursuant to DR:7-102(A)(3), assuming that the lawyer does not endorse the document or otherwise participate in the drafting of it. (DR:7-101(A)(3); DR:7-102(A)(3); LE Op. 1186, LE Op. 1331.)

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