

Committee Opinion
April 1, 1987

LEGAL ETHICS OPINION 908

ATTORNEY-CLIENT - WITHDRAWING
AS COUNSEL.

An attorney was court appointed to represent a client involuntarily committed under the Involuntary Commitment Statute Section 37.1-67.3 of the 1950 Code of Virginia. The client's spouse, parents and two psychiatrists all testified that the client is mentally ill. The client, however, is articulate, intelligent, college educated and alert, understands the mechanics of the appeal and is capable of making a decision as to whether or not to appeal the case. The client disagrees with the circuit court's decision and insists upon appeal even though the attorney is of the opinion that the appeal lacks merit. The committee declines to opine as to the existing law of Virginia relating to involuntary commitments. It is not improper for the attorney to file a motion with the appropriate court requesting leave to withdraw under DR:2-108(C) if the existing law supports the decision rendered by the circuit court and if the attorney has properly apprised the client of his rights to an appeal. Should the motion to withdraw be denied, the attorney has a duty to prosecute the appeal. [DR:2-107(A)(2), DR:2-108(C); EC:2-31, EC:2-33, EC:2-34]

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Legal Ethics Committee Notes. – Rule 1.14 provides guidance to lawyers representing clients under a disability.