

Committee Opinion
August 24, 1987

LEGAL ETHICS OPINION 965

COURT-APPOINTED ATTORNEY –
DISCLOSURE – TERMINATING
REPRESENTATION: COURT-
APPOINTED ATTORNEY DISCLOSING
CLIENT'S INTENTION TO COMMIT A
CRIME.

A court-appointed attorney is representing a client in a habeas corpus proceeding who informs the attorney of his intention to sue former counsel. In addition, he has offered to pay the current attorney a fee in addition to the fee he will receive as a court-appointed attorney, and he has expressed a lack of confidence in the current attorney's ability to represent him and is making unreasonable demands upon him.

Disciplinary Rule 4-101(D)(1) [DR:4-101] permits an attorney to reveal the client's criminal intention unless thereupon abandoned after the attorney has advised his client of the legal consequences of his action and urged the client not to commit the crime. The committee believes, however, that the current attorney may avoid any criminal acts by advising his client of the implications of his statements and actions, and by the attorney not accepting any additional money.

Disciplinary Rule 2-108(C) [DR:2-108] provides that in any court proceeding, counsel-of-record shall not withdraw except by leave of court after notice to the client as to the time and place of the motion of leave to withdraw. In any other matter, a lawyer shall continue representation, notwithstanding good cause for terminating the representation when ordered to do so by a tribunal. Furthermore, EC:2-31 and EC:2-34 provide in part that a court-appointed attorney shall not seek to be excused from the representation of a person unable to obtain counsel except for compelling reasons, which do not include repugnance of the subject matter of the proceeding, the identity or position of the person involved in the case, the belief of the lawyer that the defendant in a criminal proceeding is guilty, or the belief of the lawyer regarding the merits of the civil case. The committee cannot make recommendations on whether compelling reasons exist for the court to allow the attorney to withdraw. [DR:4-101(D)(1); DR:2-108(C); EC:2-31; EC:2-34]

Committee Opinion
August 24, 1987