

Final

**Rhode Island Supreme Court
Ethics Advisory Panel Op. 2023-8
Issued September 14, 2023**

FACTS

The inquiring attorney was appointed to represent a client in a post-conviction relief matter in the Superior Court. During the representation, the inquiring attorney amassed a substantial case file of both paper and electronic documents numbering in the “thousands” of pages.

The inquiring attorney terminated his representation of the client after the client filed a disciplinary complaint against the inquiring attorney. The client (now former client) has since obtained new counsel who has entered his appearance in the matter, which remains ongoing. The inquiring attorney has transferred the electronic portion of the former client’s case file to the new attorney. The former client has indicated in writing that the inquiring attorney may transfer the remaining, paper portion of the file to the new attorney; however, the new attorney has not yet responded to the inquiring attorney’s attempts to schedule a time to transfer the paper file.

ISSUE PRESENTED

The inquiring attorney asks what his ethical obligations are concerning the disposition of the remaining, paper portion of his former client’s case file.

OPINION

The inquiring attorney should deliver the remaining, paper portion of his former client’s case file to the former client’s new attorney because his representation of the former client has terminated.

REASONING

Upon termination of representation, Rule 1.16(d) requires a lawyer to surrender to his or her former client those papers and other property to which the former client is entitled:

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client’s interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

In addition, Rule 1.15(d) requires that “a lawyer shall promptly deliver to the client . . . any funds or other property that the client . . . is entitled to receive”

A client’s file has long been recognized as the property of the client which he or she is entitled to receive. See Ethics Advisory Panel Op. 2016-04 (2016); Op. 92-88 (1993); Op. 90-38 (1990). In this case, the inquiring attorney has in his possession a letter from the former client authorizing him to transfer the case file to the former client’s new attorney. The inquiring attorney has already transmitted the electronic portion of the case file to the new attorney. To perfect his termination of representation of the former client, the inquiring attorney should transfer the remaining, paper portion of the case file to the new attorney forthwith.