

ETHICS ADVISORY PANEL  
Opinion #92-64, Request #290  
Issued July 23, 1992

An attorney seeks Panel advice with regard to locating a missing client. The attorney represented the client before the client entered into the military. Prior to being assigned for active duty the client put the matter on hold. Recently, the attorney was informed that the client is no longer with the military. The attorney has exhausted all efforts in locating the client and seeks Panel advice.

The Panel is of the belief that Rule 1.16(b)(4),(5),(6) "Declining or Terminating Representation" governs this inquiry. The Rule states that:

(b) . . . a lawyer may withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interest of the client, or if:

(4) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(5) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(6) other good cause for withdrawal exists.

The Panel is of the opinion that the attorney may seek to withdraw from the representation. "Ordinarily the client is entitled to notice of counsel's intention to withdraw, . . . . It does not follow, however, that an attorney must continue to serve a client indefinitely when he is unsuccessful in locating him after reasonable efforts to do so." Schmittinger v. Grogan, 128 A.2d 114, 182 Pa. Super. 399 (Penn. 1956). "Whether an attorney can withdraw when he cannot locate his client is a matter between the court and a member of its bar . . . ." Id. at 117.