

Final

RHODE ISLAND SUPREME COURT
ETHICS ADVISORY PANEL
Opinion No. 98-12, Request No. 749
Issued June 11, 1998

Facts:

The inquiring attorney has represented Client X, an ACI inmate, in a pending civil matter. In response to a request for updated medical records from the ACI infirmary, the inquiring attorney's staff was told that Client X had instructed the infirmary not to provide the medical records and that the inquiring attorney no longer represented him/her. A representative of the inquiring attorney's office went to the ACI in an attempt to discuss with Client X the status of the representation. However, Client X refused to discuss the matter, except to express his/her dissatisfaction with and rejection of the inquiring attorney's representation. In addition, Client X made a threat against the inquiring attorney. Client X has a long criminal history and is presently serving a multiple year sentence upon a felony. Client X is eligible for parole in 1999.

Issue Presented:

The inquiring attorney asks whether the Rules of Professional Conduct prohibit him/her from notifying the Parole Board and the Attorney General of Client X's threat against him/her, or from seeking a restraining order.

Opinion:

The Rules of Professional Conduct do not prohibit the inquiring attorney from seeking a restraining order for his/her own protection or from notifying either the Parole Board or the Attorney General about the client's threats.

Rule 1.6 of the Rules of Professional Conduct prohibits lawyers from revealing information relating to [e] representation of a client. The Rule states:

Rule 1.6. Confidentiality of Information. -

(a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraph (b).

(b) A lawyer may, but is not obligated to, reveal such information the extent the lawyer reasonably believes necessary

(1) to prevent the client from committing a criminal act that the lawyer believes is likely to result in imminent death or substantial bodily harm;
or

(2) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client.

The Panel is of the opinion that Client X's threat against the inquiring attorney may constitute or lead to disclosure of information relating to the representation. The lawyer may notify the Parole Board and the Attorney General of the threat, or apply for a restraining order without violating Rule 1.6 so long as the lawyer reasonably believes it is necessary under subparagraph (b) (1).

The Panel notes that although Client X has discharged the inquiring attorney and that withdrawal from the representation is required under Rule 1.17 (a) (3) the inquiring attorney's withdrawal is subject to the permission of the court in pending litigation. The Panel further cautions that even after withdrawal, the inquiring attorney has a duty to maintain confidentiality about Client X's case unless the exceptions stated in Rule 1.6 (b) apply.