

**ETHICS OPINION NUMBER 187
OF THE MISSISSIPPI BAR
RENDERED JUNE 7, 1991**

DECLINING OR TERMINATING REPRESENTATION - An attorney may request withdrawal as appointed counsel for an indigent where that indigent client has filed a bar complaint against the attorney.

The Ethics Committee of the Mississippi State Bar has been requested to render an opinion on the following set of facts:

Court appointed counsel for an indigent defendant, charged with attempted rape and subsequently charged for destruction of public property while in jail, wishes to know the ethical considerations of requesting to withdraw as counsel when the client has filed a Complaint with the Mississippi State Bar Association against the attorney. Is there a conflict of interest for this attorney who must defend himself from his client, and should the Court allow the attorney's request to withdraw and appoint another attorney?

It should be stated at the outset, that this Committee in no way will attempt to tell a Court what to do concerning motions pending before it. However, this Committee may respond as to what ethical considerations should guide the Attorney making the request herein. The Committee is of the opinion that the proper answer to this request may be found in portions of Rule 1.16 and Rule 6.2 of the Mississippi Rules of Professional Conduct. Rule 1.16 indicates that a lawyer may withdraw from representing a client for good cause if withdrawal can be accomplished without material adverse effect on the client. Rule 6.2(c) indicates that a lawyer should not avoid appointment to represent a person except for good cause such as the client being so repugnant to the lawyer as to be likely to impair the client-lawyer relationship or the lawyer's ability to represent the client.

In the factual situation presented, the attorney has already been appointed to the representation, and the problem arises in that communication between the lawyer and the client would be strained, to say the least, by the client having filed a complaint with the Bar Association against the attorney. While the ultimate determination as to whether or not the attorney may withdraw is up to the Court, the comment to Rule 1.16 states that "The lawyer's statement that professional considerations require

termination of the representation ordinarily should be accepted as sufficient by the Court".

The Committee is of the opinion that once a client files a bar complaint against an attorney that the client-lawyer relationship has been so drastically shattered that the conflict of interest between the attorney and the client would arise and be so great as to prevent the attorney from adequately representing the client. While indigent criminal clients normally have no choice as to who will represent them, the Committee feels that the obvious conflict of interest in having the attorney to continue representation would thwart justice to such an extent that the attorney may ethically request to withdraw from representation.

It should be finally noticed that Rule 1.6 M.R.P.C, authorizes a lawyer to reveal information relating to representation of a client to establish the lawyer's claim or defense in a controversy between the lawyer and the client. Also, Rule 1.7 M.R.P.C. prohibits a lawyer from representing a client if such representation would be materially limited by the lawyer's own interest.