

NEW YORK STATE BAR ASSOCIATION
Professional Ethics Committee Opinion

Code*: EC 2-7
DR 2-103(D)

QUESTION

Is it proper for a lawyer to participate in a plan for supplying legal services by a non-profit religious organization to radio listeners in such matters as public investment opportunities, tax and estate planning, information concerning trusts, annuities and wills?

OPINION

This Committee held in N.Y. State 163 (1970) that a labor union may supply free legal services to its members in any area related to the members' employment or their relations with their employers, including workmen's compensation, industrial accidents, arbitration of labor grievances, health and accident claims arising from employment, seniority rights, company housing, etc. However, the Committee further held that such organization should not be permitted to supply such services in domestic relations, estate matters, home purchases and other legal matters having no connection with the union's primary function of representing its members in its dealings with their employers.

Because there is no reasonable relationship between the services of the non-profit religious organization and the legal services contemplated, it would be improper for a lawyer to cooperate with such group legal service activities.

In addition, Wise, Legal Ethics, p. 217 (2d ed. 1970) provides that:

"The lawyer who participates is in danger of violating the prohibitions of the canons against representing inconsistent interests, against solicitation, and against aiding in the unauthorized practice of law by laymen, as well as the proscription against permitting the intervention of laymen between himself and his client.

"It does not matter whether the attorney is an independent practitioner or a full-time employee of the [institution]."

Opinion #173 - 12/11/70 (57-70)

Topic: Part-time Public Defender;
Private Criminal Practice.

Modified by #587 (1987)

Digest: A part-time Public Defender may be privately retained to represent an accused who is not indigent and has not requested the services of the Public Defender's Office if no conflict exists.

NEW YORK STATE BAR ASSOCIATION
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QUESTION

1. Is it proper for a lawyer who serves as a Public Defender, on a part-time basis, to be retained to represent an accused who is not an indigent and who has not requested the services of the Public Defender's Office?

2. Is such representation proper if the interests of a co-defendant represented by the Public Defender's Office conflict with those of his client?

OPINION

It is proper for a lawyer who serves as a Public Defender on a part-time basis to be retained to represent an accused who is not indigent and who has not requested the services of the Public Defender's Office prior to retaining the Public Defender. ABA Inf. 1112 (1969).

N.Y. State 165 (1970) held that a part-time Assistant Public Defender could not, in his private capacity, represent a defendant who had been refused representation by the Public Defender's Office as unqualified for public assistance. In the instant case, since the defendant never sought Public Defender aid and is not indigent, there is no appearance of impropriety. Accordingly, in the absence of a conflict of interest, the lawyer could properly represent the defendant as a private client.

N.Y. State 171 (1970) which held that a part-time district attorney could not represent a criminal defendant is not applicable because the part-time district attorney is counsel for the State.

Where there are co-defendants with conflicting interests, both cannot be represented by the Public Defender's Office or by members of his staff, either in their private or public capacities. In such cases special counsel should be appointed. N.Y. State 33 (1966).

N.Y. State 33 (1966) is not inconsistent with this opinion because it related to an "Assistant" Public Defender appointed solely to handle conflict of interest cases and not to serve as a regular member of the Public Defender's Office.

Opinion #174 - 12/11/70 (59-70) Topic: Office Signs.

Digest: Sign near street in front
of building may be improper.

Code#: DR 2-102 (A)(3)

QUESTION

Where the building in which the lawyer has his office is set back from the street, if a dignified law office sign on the building on or near the office door is legible from the street, may a sign be placed near the street in front of the building?