

LAWYERS PROFESSIONAL RESPONSIBILITY BOARD

Repealed: January 26, 2006

OPINION NO. 2

DEFENSE OF CRIMINAL CASES BY A COUNTY ATTORNEY

It is improper for a county attorney of one county to accept the defense of a criminal case in another county of the state. Nevertheless, this rule would be outweighed in any case where the accused would be deprived of competent counsel or put to an unreasonable burden of expense by the application of this rule. In this event, the county attorney to be retained, as soon as practicable after he is asked to represent the accused, shall petition a judge of the court before which the matter is to be tried for permission to represent the accused. Upon a proper showing of good cause, the judge may issue an order approving defense of the case by the petitioner. If the court decides that the facts of the situation do not justify granting this exception, the attorney involved shall then withdraw from the case. In any event, defense counsel who is also a county attorney shall scrupulously refrain from any reference to his position as a county attorney in the course of all proceedings.

Adopted: October 27, 1972.

Repealed: January 26, 2006.