



**ILLINOIS STATE
BAR ASSOCIATION**

ISBA Advisory Opinion on Professional Conduct

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This Opinion was AFFIRMED by the Board of Governors in May 2010. Please see the 2010 Illinois Rules of Professional Conduct 1.6 and 3.3(a). This opinion was affirmed based on its general consistency with the 2010 Rules, although the specific standards referenced in it may be different from the 2010 Rules. Readers are encouraged to review and consider other applicable Rules and Comments, as well as any applicable case law or disciplinary decisions.

**Opinion No. 89-13
April 9, 1990**

Topic: Missing Client

Digest: A defense attorney whose client has disappeared may reveal such confidences or secrets upon requesting a continuance at a status call if required by court order or law to do so, but such attorney may not give a false reason for requesting a continuance.

Ref.: Rule 1-102(a)(4)
Rule 4-101
Rule 2-110(c)(1)(D)

FACTS

At criminal docket calls at which the prosecutor and defense attorneys announce to the judge the status of the case, the permitted responses are: "ready for trial", "plea date", or "continuance". A request for a continuance by the defense, and the reason therefor, must be placed in writing unless agreed to by the state. Occasionally criminal defendants disappear or have cut off all contact with their attorneys, but their attorneys are still of record.

QUESTION

How should a defense attorney respond at status call when requesting a continuance when the

criminal defendant has disappeared or cut off all contact with the attorney?

OPINION

The attorney cannot give an untruthful reason for the request for a continuance. Rule 1-102(a)(4). If the information with regard to the lack of contact by the client with his attorney is a secret or a confidence (as defined in Rule 4-101(a)), the attorney cannot disclose such information unless required by law to do so, in which event the attorney may disclose such information (Rule 4-101), or appeal the order, or test the law, or, under the circumstances described, seek permission of the court to withdraw from the representation "because...his client...by other conduct renders it unreasonably difficult for the lawyer to carry out his employment effectively." Rule 2-110(c)(1)(D)

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