
E-75-6 Request by administrator of estate for delivery of tape recording of client from attorney

Facts

An attorney is retained by client to defend the client against a shoplifting charge. The attorney makes a tape recording of the client's discussion of the matter. At trial, the client is found guilty but the case is left open for dismissal upon a finding of 6 months good conduct on the part of the defendant. Shortly thereafter, the client dies. His widow, who is appointed special administrator of his estate, seeks to obtain the tape recording, or a copy of it, for her own personal sentimental reasons. It seems that during her husband's lifetime no other recording was made of his voice; therefore, she wants the only available recording. Incidentally, the tape was played for her once and she knows the contents of it. May the attorney who made the tape recording release it to the widow without violating the Canons of Ethics?

Opinion

It is the opinion of this committee that under the provisions of Canon 4 and DR 4-101, it would not be ethical or proper to disclose, to the widow, the contents of the particular tape recording, nor to release, loan or deliver the tape recording. This opinion is limited to the facts and circumstances described in the above facts, which do not indicate the existence of any of the circumstances described in DR 4-101(C).