

FORMAL OPINION NO. 47*

An inquiry was directed to the Idaho State Bar Ethics Committee as to the professional and ethical duty of an attorney to communicate with a defendant when he has been appointed by the court to represent the indigent defendant.

We submit this duty is clearly answered by Canon 4 and a portion of Canon 5 of Professional Ethics. Canon 4 provides:

"A lawyer assigned as counsel for an indigent prisoner ought not to be asked to be excused for any trivial reason, and should always exert his best efforts in his behalf."

Canon 5:

". . . Having undertaken such defense, the lawyer is bound by all fair and honorable means, to present every defense that the law of the land permits, to the end that no person may be deprived of life or liberty, but by due process of law . . ."

Therefore, it is our opinion that an attorney so appointed by the court, and having indicated his willingness to accept the appointment, has a definite and clear duty to contact the defendant with reasonable promptness, and thereupon enter into the defense of the matter. We submit that reasonable promptness might fairly be tested against the time the attorney would require to interview a defendant for whom a requested retainer had been fully paid.

DATED July, 1968.

*This opinion is confirmed by the new disciplinary rules. See, DR 6-101 and DR 7-101, Idaho Code of Professional Responsibility.