

AO 1984-85/22

NEW HAMPSHIRE BAR ASSOCIATION
Ethics Committee Advisory Opinion #1984-85/22
Payment of Assigned Counsel Fees by Former Indigent Criminal Defendant
June 11, 1985

RULE REFERENCES:

*Rule 1.5

SUBJECTS:

*Fees

CODE REFERENCES:

*DR2-106(A)

STATUTORY REFERENCES:

*RSA 604-A:4

*Supreme Court Rule 47

ANNOTATION:

An attorney who receives payment for services rendered as court-appointed indigent defense counsel from the State cannot accept additional payment for those services from any other source. (DR2-106(A)).

QUESTION:

An attorney represented an indigent criminal defendant in the Superior Court and was only paid a portion of his indigent defense bill by the State. Is it unethical for him to accept voluntary payment from the client of the difference between the bill submitted and the amount he was paid?

RESPONSE:

A lawyer is entitled to a reasonable fee for services. At the same time, a lawyer must assist the profession in making legal counsel available to indigent persons. In the case of court-appointed representation of indigents in criminal cases, RSA 604-A:4 gives the Court the power to fix the fee of the lawyer of each matter, utilizing the guidelines set forth in Supreme Court Rule 47. Once the Court has set the fee it would be improper for the lawyer to receive payments from any source other than the State as the fee for services rendered. DR2-106(A).