
attorney-client privilege keeps man in prison

Posted by Tony_S - 2008/01/21 03:39

OK, this just seems immoral.

2 public defenders are told by their client that he, not the guy convicted, killed two cops 25 years ago - but that his attorneys can't say anything until he dies. In the meanwhile both the killer and the guy convicted are serving life sentences. Eventually, the killer dies, and the attorneys come forward.

One of the attorneys should have come forward 25 years earlier - let an innocent man live his life.

Here's the story out of Chicago: Attorney-client privilege keeps wrong man in prison.

Did their actions meet professional ethics? Probably. Was it moral? No.

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Re:attorney-client privilege keeps man in prison

Posted by Jackie - 2008/01/21 16:44

As troubling as it is, that is simply the reality of the practice. Attorneys have a duty of loyalty to their clients, and the attorney-client privilege is the foundation of the profession. It's intended to encourage open and honest communications. There are only a handful of similar privileges (doctors, priests, spouses).

It's a tragic story, and to be perfectly honest, I don't know how the attorneys slept at night for all those years (probably why I'm not cut out to be a defense attorney). But at the same time, confidentiality is the bedrock of privilege. There are very few exceptions to this rule of professional conduct for attorneys. The only one that matters is that an attorney may reveal communications of a client if the attorney was consulted for advice that will assist in the furtherance of a crime.

It is ironically comforting to know that there are attorneys, and other professionals such as journalists, that will stay true to their ethics and duties. As unfortunate as it was for those two men who were wrongly convicted, I would not go so far as to call such loyalty immoral. There's more blame to go around. We should be questioning police tactics and our judicial system as well.

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Re:attorney-client privilege keeps man in prison

Posted by Tony_S - 2008/01/21 16:47

How about this as an option:

Break attorney-client privilege, then stop being an attorney.

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Re:attorney-client privilege keeps man in prison

Posted by Jackie - 2008/01/21 17:16

That's always an option, though not likely feasible. However, if I'm ever in that situation, I'll do the moral thing so long as you agree to support me for the rest of my life. Do we have a deal Tony? ;)

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Re:attorney-client privilege keeps man in prison

Posted by Sumo - 2008/01/21 20:33

Just to be clear, there is a common misconception that an attorney get to decide when to keep the attorney-client privilege or not. The privileged belongs to the client, only they can waive it. If the attorney does it, it may mean the evidence cannot be used and the attorney may have s/he license to practice law revoked and s/he may have civil liability. The attorney-client privilege is one of the most protected under the law, over doctors, and over the husband/wife, which barely exists anymore. be careful with this topic, its loaded with pitfalls.

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Re:attorney-client privilege keeps man in prison

Posted by Jacob - 2008/01/24 12:00

here is another case of DNA evidence acquiting an innocent man because of an over zellous detecive & DA.

<http://www.cnn.com/2008/CRIME/01/23/masters.case/index.html>

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