
location of a criminal

Posted by great1 - 2008/02/22 02:54

i know you can not conceal the location of a criminal, but are you required to come forward and volunteer it to authorities if not asked? If its not volunteered is that aiding and abeting?

=====

Re:location of a criminal

Posted by Jacob - 2008/02/22 21:02

its not obstruction of justice if you are the defendant's attorney.....

=====

Re:location of a criminal

Posted by LK311 - 2008/02/22 21:40

You are supposed to report it to the cops, but whether you would be charged with obstruction would depend on teh facts. I also think there is a morality question in this one.

=====

Re:location of a criminal

Posted by great1 - 2008/02/23 01:50

i guess i should have posed the question as: does an attorney have to disclose the whereabouts of his client if his client is in hiding from the law??? Not interested in the morality issue.....im an attorney :)

=====

Re:location of a criminal

Posted by Jackie - 2008/03/04 23:50

Great1, your remark is funny.... are we to presume that attorneys are not interested in morality?
:)

The answer to your question is, it depends on the jurisdiction. Without being long-winded, courts in different states have concluded different things. Also, the Rules of Professional Conduct also vary from state to state. Some states stand firm that the attorney-client privilege as well as the ethical obligation of confidentiality protects against compelling an attorney to disclose the whereabouts of his fugitive client. Other states have determined that such whereabouts is neither privileged nor confidential.... in which case the attorney would be compelled to disclosed or risk being held in contempt of court.

So the first thing you should do is acquaint yourself with the rules of professional conduct and the case law in your jurisdiction. It's a no brainer if your state protects the information. But if you're in a state that does not, once you learn of your client's whereabouts, first advise him to turn himself in (and when he says no), then advise him that if you are asked whether you know the client's location, you will be compelled to disclose it to the authorities.

Either way you slice it, the attorney is not harmed. And always keep in mind, your client, whether a fugitive or otherwise, always has a RIGHT to an attorney.

=====

Re:location of a criminal

Posted by abigei - 2008/03/06 14:09

Jackie,,,,,lighten up :P

There is a real issue of aiding and abetting when you visit a fugitive client. The question is whether the client's location needs to be disclosed or is location privileged? It appears that location is not privileged. 18 USCA § 1071. Concealing person from arrest

Elements of harboring a fugitive are that defendant knew about federal warrant issued for fugitive's arrest, that defendant engaged in physical acts that aided fugitive in avoiding detection and apprehension, and that defendant intended to prevent fugitive's discovery. U.S. v. Zerba, C.A.8 (Iowa) 1994, 21 F.3d 250, rehearing denied.

Post edited by: abigei, at: 2008/03/06 14:09

=====

Re:location of a criminal

Posted by Jackie - 2008/03/11 15:17

What's the issue? You're visiting your CLIENT. Whether you meet face-to-face or talk on the phone, what's the difference? If you read 18 USCA § 1071 annotated, you'll see that in the cases where someone was convicted, the prosecution had proven an element of the crime through some very compelling circumstantial evidence.

Assuming an attorney is going to advise and counsel his client ... and the attorney stays within those parameters, then where's the "aiding and abetting" issue? Whether location of a fugitive client is privileged or not depends on the jurisdiction.

=====

Re:location of a criminal

Posted by Docket - 2008/03/11 21:07

I think the only issue when visiting a fugitive is whether you conceal his location or help him evade arrest. The best example is where the attorney cashes checks for the fugitive.

=====

Re:location of a criminal

Posted by Tim46 - 2008/03/12 14:04

In your example of cashing checks, I believe that the attorney is committing the additional crime of money laundering under the RICO statute. Helping a fugitive evade is one thing, but cashing checks would be something completely different.

=====