

**ETHICS OPINION NUMBER 55
OF THE MISSISSIPPI BAR
RENDERED NOVEMBER 12, 1979
AMENDED APRIL 6, 2013**

CONFLICT OF INTEREST – GOVERNMENT ATTORNEY - Prosecuting attorney may not represent individual in reinstatement of driver's license lost as result of attorney's prosecution in lower court.

The Ethics Committee of The Mississippi Bar has been asked to render an opinion concerning the ethical propriety of a prosecuting attorney representing an individual in a circuit court for reinstatement of driving privileges after having lost the driving privileges as a result of the attorney's prosecutorial work in the lower court.

The concern here is whether an attorney, acting as a city prosecutor and employed by a municipality, can with propriety prosecute an individual for an offense, and then accept private employment from that individual and seek to restore rights lost during that prosecution.

Rule 1.11 of the Mississippi Rules of Professional Conduct (MRPC) provides that a lawyer shall not represent a private client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee.

In the instant matter, the prosecuting attorney has apparently not left the employment of the city as prosecuting attorney. Rule 1.7(a), MRPC, provides that a lawyer shall not represent a client if the representation of that client will be directly adverse to another client. Rule 1.7(b), MRPC, provides that a lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests.

The Committee is of the opinion the attorney cannot ethically represent the individual he prosecuted in an action to restore rights lost as a result of that prosecution.