

Moral and ethical dilemma in the case of Spaulding v Zimmerman

Law



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Ethics Question The case of Spaulding v Zimmerman involves a moral and ethical issue that demonstrates the typical conflict that a lawyer faces between protecting his client's interests yet ensuring that fairness and justice are achieved. This case presents an ethical dilemma wherein the question of disclosure arises as a mandate to satisfy the requirements of morality and truth, but in an instance where it is not advantageous to the client's interests.

The Law Council of Australia has established rules for model conduct of lawyers¹, however these tend to revolve around a client centered approach which is inimical to the practice of law in an ethical manner, rather it tends to be centered around better earning and protecting the client at any cost. ² Such a client centered approach makes lawyers amoral and indifferent to maintain ethical standards or morality in the practice of law, thereby engaging in role differentiated behavior that ignores moral considerations in the case of clients, which would be relevant and applicable in the lawyer's own life. ³ Warrerstrom argues that while such an approach may be useful in criminal cases in ensuring that all clients get a fair chance in court, irrespective of the lawyer's personal convictions in that relevant area, it is not applicable on a wider basis to all cases. Positivist philosophy also separates law and morals, so that a lawyer is not necessarily required to make a moral decision, rather he/she is expected to ensure that the client's best interests are served as far as possible within the framework of the law. In the instant case of Spaulding v Zimmerman, the issue that arises is the need to disclose potentially damaging information mandated from an ethical standpoint. Lawyers are to work in the best interests of their clients, yet they

are also considered officers of the Court who must serve the cause of fairness, equity and justice. 4 A lawyer has a paramount duty to the Court⁵ to pursue the course of justice, which shapes the kind of society that we live in. Allowing individuals to escape with wrong doing is not in the interests of justice or fairness to all men. Therefore, in the instant case, the professional responsibility of the lawyer would have mandated the disclosure of knowledge that could be inimical to the Plaintiff in the long run, especially since the Defendants were morally in the wrong, to have caused bodily harm to the Plaintiff. However the argument of the defendants also holds merit, in that it is the responsibility of the plaintiff and plaintiff's counsel to ensure that his best interests are served, therefore they were not obliged to disclose the contents of the medical report.

In this moral and ethical dilemma, it must be remembered that the purpose of litigation is to secure justice. Unless full and fair compensation is made to the Plaintiff for injuries sustained as a result of acts of the defendant, true justice cannot be said to be done. It is the lawyer's professional responsibility to disclose all evidence relevant to the case and not merely that which favors his own client, which in a sense, amounts to the concealment or manipulation of evidence. 6 Therefore in this case the actions of the lawyer in concealing evidence relevant to the case was not ethical or professional. In the same place, I believe that such evidence should have been disclosed because its nature is such that its relevance to the final decision cannot be ignored or set aside.