

OFFICE OF LEGAL AFFAIRS

ADVISORY OPINION

Advisory Opinion # AO-2013-004

Subject: Representation of briefly incarcerated client under 45 C.F.R. § 1637

Date: June 24, 2013

QUESTION

permits SVLAS to continue to
on after learning that the client is being incarcerated for a seven-week

BRIEF ANSWER

ts LSC grant recipients to represent a client in litigation after learning
: (1) the client became incarcerated after litigation had commenced;
ion is brief, i.e., less than three months, and (3) the litigation is likely
od of incarceration. These prerequisites are met in this case. SVLAS
to her incarceration. The client's incarceration is for seven weeks.
e litigation have been deferred until after the client's incarceration
stances, SVLAS's continued representation of the client during the
ceration, and limited work on behalf of the client during the period of
from prejudice and to comply with ethical standards, comport with
37.

DISCUSSION

them are as follows. The client and SVLAS signed a representation
. Under the agreement, SVLAS represented the client in Juvenile and
("JDR") proceedings she had initiated for spousal support and a
me the agreement was executed, the client had obtained a protective

S counsel appeared with the client in JDR for a support hearing. At
for the client's husband informed SVLAS counsel that the client's
e complaint in Circuit Court in which spousal support was placed at
ow that the Circuit Court divorce case was filed on April 18, 2013. A
he Circuit Court case for May 3, 2013. On April 23, 2013, SVLAS

counsel sent the client a representation agreement for the Circuit Court case along with draft responsive pleadings to the Circuit Court complaint.

Under Virginia civil procedure, Circuit Courts and JDR courts have concurrent jurisdiction over spousal support cases. Va. Code Ann § 16.1-244.A. If a divor

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the client during her period of incarceration. The limited work done by SVLAS during the

prior to the client's incarceration), appeared at a hearing on May 3 scheduled prior to the client's incarceration, and obtained a continuance of all matters until after the end of the client's incarceration on June 17. SVLAS's limited work for the client during incarceration was necessary to preclude prejudice to the client and to comply with ethical obligations.



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