

1 Butler County Bar Association v. Bradley.

2 [Cite as *Butler Cty. Bar Assn. v. Bradley* (1996), ____Ohio St. 3d ____.]

3 *Attorneys at law -- Misconduct -- Public reprimand -- Work*
4 *influenced or controlled by a party other than the client.*

5 (No. 96-523 -- Submitted April 15, 1996 -- Decided July 3, 1996).

6 On Certified Report by the Board of Commissioners on Grievances
7 and Discipline of the Supreme Court, No. 94-19.

8 The Butler County Bar Association (“relator”) filed a complaint on
9 April 18, 1994, charging respondent, Ronald L. Bradley of Cincinnati, Ohio,
10 Attorney Registration No. 0005279, with violating several Disciplinary
11 Rules. Respondent filed an answer asserting that his conduct was in
12 compliance with the Code of Professional Responsibility. The parties
13 prepared stipulations which were admitted in evidence at a May 15, 1995
14 hearing on the matter before a panel of the Board of Commissioners on
15 Grievances and Discipline of the Supreme Court (“board”). At the hearing
16 the following facts were adduced.

17 The respondent, a specialist in estate planning, was present at several
18 seminars on that subject conducted by insurance agent, Richard Villers, in

1 the offices of Home Federal Savings and Loan Association and attended by
2 Helen K. Dalrymple. After one seminar in early 1991, where respondent
3 answered general questions concerning legal matters, it was stipulated that
4 Dalrymple briefly spoke with respondent personally following the
5 presentation. As a result of her talk with respondent and her attendance at
6 the seminar, Dalrymple decided to create a living trust. She contacted
7 Villers, with whom she had discussed her financial situation many times,
8 and he recommended that respondent be the lawyer to prepare the living
9 trust.

10 Dalrymple gave her financial documents and \$850 in checks payable
11 to respondent to Villers who had quoted that amount as respondent's fee.
12 [Dep. p. 26] Villers transmitted both the checks and the financial
13 information to respondent. When respondent called Dalrymple for further
14 information, he told her that because of her previous marriage and children
15 by that marriage, more work would be involved than previously anticipated,
16 and he would require an additional fee of \$800. She refused to pay any
17 additional fee.

1 Respondent prepared first drafts of various documents consisting of a
2 six-page will, several powers of attorney, and a living will with related
3 documents, all totaling forty-one pages and a seventy-two-page trust
4 agreement made up of eighteen sections. He took them to Dalrymple's
5 home; Dalrymple perceived them as a huge portfolio of documents and
6 refused to execute them, believing them too extensive for her purposes.
7 Dalrymple asked that the \$850 be refunded. Respondent declined to return
8 the fee, but offered to make any changes to the documents desired by
9 Dalrymple. Dalrymple then took the documents to another attorney who
10 prepared a living trust for her for \$250.

11 Dalrymple contacted Villers about a refund of the fee, and he told her
12 that he intended to recover the full \$850 from respondent. When Villers
13 was unsuccessful, Dalrymple contacted the Butler County Bar Association
14 in April 1993 to complain about her dealings with respondent. In 1995,
15 during the course of these proceedings, respondent sent Dalrymple \$250 in
16 partial reimbursement of the fee paid to him.

17 Respondent stipulated that he had violated DR 5-107(B) (avoiding
18 influence by one other than the client). The panel so found and

1 recommended that a public reprimand be imposed. Upon its review of the
2 record, the board additionally found that the respondent did not meet
3 privately with Dalrymple prior to drafting the proposed documents, and
4 adopted the panel's recommendation that respondent receive a public
5 reprimand.

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7 *James G. Robinson and James Grevey, for relator.*

8 *Charles W. Kettlewell and Mark H. Aultman, for respondent.*

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10 *Per Curiam.* We concur in the findings of misconduct by the board.

11 After reviewing both the record and the board's report, we conclude that
12 Dalrymple's estate planning information was transmitted to respondent by a
13 non-lawyer and that the non-lawyer set the initial fee before either the client
14 or the non-lawyer consulted with respondent. The respondent entered into a
15 relationship that allowed the client to perceive that the setting of a fee, the
16 obtaining of information, and the possible refund of the fee could be
17 controlled by a non-lawyer. An attorney should avoid even the perception
18 that his or her work can be influenced or controlled by a party other than the

1 client. We agree with the board that a public reprimand is warranted and
2 respondent is so reprimanded. Costs taxed to the respondent.

3 *Judgment accordingly.*

4 MOYER, C.J., DOUGLAS, RESNICK, F.E. SWEENEY, PFEIFER, COOK
5 and STRATTON, JJ., concur.

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