

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT

PANEL B

IN RE: **BYRON COLE RHODES**
 ARKANSAS BAR ID No. 79186
 CPC Docket No. 2004-071

CONSENT FINDINGS & ORDER

The formal charges of misconduct upon which this Consent Order is premised, involving respondent attorney Byron Cole Rhodes of Hot Springs, Arkansas, arose from information brought to the attention of the Committee on Professional Conduct by Letri Buckley Bradford of Georgetown, South Carolina, in 2001.

Gyronne Buckley is the brother of Letri Buckley Bradford. In 1999, Gyronne was convicted of two counts of delivery of a controlled substance in Clark County Circuit Court. An appeal to the Arkansas Supreme Court resulted in reversal of the conviction and a retrial. In March, 2001, Gyronne was found guilty of two counts of delivery of a controlled substance (crack cocaine) and sentenced to twenty-eight (28) years in the Arkansas Department of Correction. A Judgment and Commitment Order was entered on March 27, 2001, and a Notice of Appeal was filed. Gyronne was displeased with the result of the trial and requested that his sister, Letri Bradford, seek new counsel.

On May 22, 2001, Ms. Bradford went to the office of Byron Cole Rhodes, in Hot Springs and spoke to him about representing her brother Gyronne. Also present during the meeting were Letri's mother, Jezeree, and Letri's husband, James Bradford III. Mr. Rhodes was asked if he would go to the prison to speak with Gyronne. Mr. Rhodes stated that he would go Monday, May 28, 2001, Memorial Day. He stated that he would not do anything until he was employed and that he would require two thousand (\$2,000) dollars. The Buckleys indicated that they would be able to pay that amount. Mr. Rhodes agreed not to charge by the hour, as he told them it would get very expensive that way. An appointment was scheduled for 4:00 p.m. on May 24, 2001, for payment. The Buckleys left with Rhodes a copy of the transcript from Gyronne's 1999 trial and they told him he would need a transcript of the March 2001 trial as well.

On May 24, 2001, Rhodes was paid the \$2,000 he requested in the May 22 meeting. Ms. Bradford informed Mr. Rhodes that she was going to visit Gyronne at the Arkansas Department of Correction on May 26 and asked whether she should inform him that Rhodes would meet with him on May 28. Mr. Rhodes indicated that it would be okay for her to tell him that. Rhodes stated that he had not reviewed the transcript provided to him on May 22 as he had not been employed at that time. There was no written fee agreement between Rhodes and Buckley or Bradford.

On May 25, 2001, Letri Bradford called Rhodes at 9:00 a.m. and informed him that she had changed her mind and wanted her money back. Rhodes stated that his secretary had already taken the check to the bank and it had been cashed. Bradford asked Rhodes if he would issue a check for her to pick up from his office. Rhodes stated that since she was going to visit Gyronne to tell him that he would visit with him on June 2 instead of May 28. Rhodes asked Bradford to inform him on May 29 whether Gyronne wanted a visit from Rhodes.

On May 29, Bradford called Rhodes to inquire whether he was still going to visit Gyronne on June 2. Rhodes stated that he had canceled his visit after the May 25 telephone conversation when Bradford stated that she wanted her money back. Bradford informed Rhodes that her mother would stop by his office to pick up a check from him. Rhodes stated that he could make an arrangement for Gyronne to call Rhodes.

On May 30, Gyronne called Rhodes and spoke to him. Following the telephone conversation, Gyronne called Bradford and informed her that he did not want Rhodes to represent him in the matter. James Bradford then called Rhodes at his office and instructed him to stop all work on Gyronne's matter and to total the cost of the services rendered. Bradford informed Rhodes that his mother-in-law would stop by the office to pick the check up.

Jezeree Buckley scheduled an appointment with Rhodes to pick up the check. When she arrived at Rhodes' office, she did not speak with Rhodes. The secretary gave Ms. Buckley a billing statement showing an amount due of \$1,475 above the \$2,000 that had already been paid. Rhodes stated that the billing statement was prepared only at the request of James Bradford. Rhodes stated that he has done absolutely nothing to collect on

the statement, as it was prepared for the purpose of showing the amount of time he spent on the matter.

Letri Bradford returned to Arkansas and met with Rhodes on June 11. No agreement could be reached regarding the matter. Rhodes stated that he offered to refund the \$1,475 that the detailed, itemized statement showed was over the \$2,000 fee paid. On June 13, James Bradford prepared a letter to Rhodes demanding a detailed accounting of all charges pertaining to Gyronne's case. The letter was sent by certified mail, return receipt requested. The letter was received by Rhodes on June 14. There was no further communication between the Bradfords or Mr. Buckley with Rhodes.

Rhodes stated that he had several office and telephone conversations with the Bradfords, a telephone conference with Gyronne's former attorney, and reviewed the transcript of the 1999 trial. In addition, Rhodes had a telephone conversation with Gyronne on May 30, 2004, that lasted forty-nine (49) minutes and was a collect call from the Arkansas Department of Correction.

Upon consideration of the formal complaint and attached exhibits, admissions made by the Respondent, the terms of the written consent, the approval of Panel B of the Committee on Professional Conduct, and the Arkansas Model Rules of Professional Conduct, the Committee on Professional Conduct finds:

1. That Byron Cole Rhodes violated Model Rule 1.5(b) when, upon being employed by Letri Buckley Bradford to represent Gyronne Buckley on an appeal from a conviction in Clark County Circuit Court and having not regularly represented either Ms. Bradford or Gyronne Buckley, he failed to indicate the basis or rate of the fee to either Ms. Bradford or Mr. Buckley. Model Rule 1.5(b) requires that when a lawyer has not regularly represented a client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

WHEREFORE, in accordance with the consent to discipline presented by Mr. Rhodes and Executive Director, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct that Respondent Byron Cole Rhodes, Arkansas Bar No. 79186, be, and hereby is, **cautioned** for his conduct in this matter, ordered to pay restitution of \$1,450.00 for the benefit of Letri Buckley Bradford, and ordered to pay costs of \$50.00. The fine, restitution, and costs assessed herein shall be payable by cashier's

check or money order payable to the “Clerk, Arkansas Supreme Court” delivered to the Office of Professional Conduct with thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE
ON PROFESSIONAL CONDUCT - PANEL B

By _____

J. Michael Cogbill, Chairperson, Panel B

Date _____