

The Good Old Days

By Sharon Weedin

Please excuse the dearth of current ethics analysis in this issue's article, as we take a nostalgic look back at a seminal case in Missouri lawyer discipline jurisprudence.

Although (according to Wikipedia) the term "film noir" was not coined until 1946, Missouri Supreme Court Judge Frank Ely Atwood penned a script, or rather judicial opinion, in 1933 with a plot line, complete with dialog, seemingly made for the silver screen. The setting: 1931 St. Louis. The plot: wealthy kidnap victim enlists lawyer's assistance to secure release. The denouement: disbarment. The case: *In re Richards*, 63 S.W.2d 672 (Mo. banc 1933).

It all started, at least according to Mr. Richards, with a telephone call he received in his St. Louis law office on the afternoon of November 9, 1931. The caller was a *St. Louis Post-Dispatch* reporter named Rogers, who shortly thereafter appeared at Mr. Richards' office with the odd news that a wealthy kidnap victim named Berg had written Berg's lawyer, Mr. Levinson, directing that Mr. Richards be hired to help Mr. Berg's family secure his release. The news was odd in no small part because Mr. Berg did not know Mr. Richards. Mr. Richards nevertheless charitably agreed to be of service to the Berg family for a \$1,000 up-front fee, plus \$10,000 if he successfully secured Mr. Berg's safe release.

Mr. Berg, a "prosperous fur merchant," had been kidnapped three days earlier from his chauffeured car at the intersection of York and Euclid as he was being driven to his home in the Park Plaza Hotel. Mr. Berg's cap-

tors compelled him to write the letter directing Mr. Levinson to contact Mr. Richards (after, we are pleased to note, the lawyer initially contacted declined to participate). It was apparently Mr. Levinson's idea, in an early instance of imbedded journalism, to use the *Post-Dispatch* reporter as a go-between with Mr. Richards.

Upon receiving a telephone call later that day from a former client (a gang leader named Heuer whom Richards had gotten out of trouble in Indianapolis), who assured Richards that he was "dealing for the people that have Mr. Berg," Mr. Richards hastened to inform the caller that he did not yet represent the Berg family, as he had not received word that the family was willing to pay his requested fee. Negotiations nevertheless ensued wherein Heuer confided to Mr. Richards that the kidnappers really wanted \$75,000 in exchange for Mr. Berg, but would take \$50,000.

Word soon came from Mr. Levinson that the family would indeed pay Mr. Richards the requested fee for the safe return of Mr. Berg. The next morning, at Mr. Levinson's office, the following colloquy took place between Levinson and Richards (quotations are taken directly from *In re Richards*, 63 S.W.2d 672 (Mo. banc 1933)):

Levinson: Are you ready and willing to accept a thousand dollars from me as a retainer fee from the Berg family?

Respondent: Yes, sir.

Levinson (opening desk drawer and taking out two packages, which he handed to Respondent): There is five hundred dollars in each package in

ten and twenty dollar bills.

Levinson (continuing): Fifty thousand dollars is a lot of money.

Respondent: Yes, it is, Mr. Levinson.

Levinson: Eleven thousand dollars is a nice fee for you to get.

Respondent: It is.

While Mr. Levinson agreed to pay Mr. Richards his "nice fee" up-front, he told Richards that the family did not want to pay the ransom until after Mr. Berg was released. In a show of trust not often found among today's felons and their victims, the kidnapper told Mr. Richards the gang was "willing to take his word" that the ransom would be paid after Berg's release.

Later that afternoon, Mr. Heuer called Mr. Richards with the following instructions:

Heuer: Have you got a pencil and paper?

Respondent: Yes.

Heuer: Well, now, the place is Hamilton and Roosevelt place; the time is 11:45. Now, I want you to write these things down: Deliver \$11,000 to a man named Eyerkuss, at 18—North Twentieth street; his telephone number is —— ; deliver \$500 to my brother, John Heuer, 72—North Broadway; deliver \$3,000 to a man named George Peak at the LaSalle Hotel and tell him to keep that until someone calls for it.

Respondent: All right.

Heuer: Bring the balance

of the money to Kansas City, register at the Baltimore Hotel, wait until you hear from me or until some one calls you and says it is "Blackie."

(Good thing he made sure Richards had a pencil and paper).

Instructions in hand, all that remained was for Richards and Levinson to figure out where the heck Hamilton and Roosevelt Place was.

Respondent: The time is 11:45, and the place is Hamilton avenue and Roosevelt place.

Levinson: Where is Roosevelt Place?

Respondent: I don't know; have you a city directory?

Levinson: Yes, right here (pointing to a shelf).

Respondent (after thumbing directory): There it is, 2800 north.

Levinson: Let's write that down (tearing off a slip of paper

from an adding machine); will you put it down?

Mr. Richards never made the prescribed contact with Eyerkuss, Peak, or Blackie, as he was arrested on kidnapping charges before any of the ransom money was paid. Mr. Richards was, interestingly, subsequently acquitted on the criminal charges, although it later developed that his trial counsel bribed a juror, leading to that lawyer's disbarment. *In re Lacy*, 112 S.W.2d 594 (Mo. App. 1937).

Mr. Richards' criminal acquittal did not deter the Supreme Court's inquiry into his fitness to continue practicing law, thereby establishing the jurisprudential precedent that acquittal of criminal charges will not relieve a lawyer of disciplinary scrutiny. *See also In re Storment*, 873 S.W.2d 227 (Mo. banc 1994).

After questioning why the kidnappers would force Mr. Berg to name Mr. Richards as the person who should be paid to secure his release, why the kidnappers

evinced such implicit confidence in Mr. Richards, and questioning the propriety of demanding an \$11,000 fee from the helpless Mr. Berg and his anguished family, the Supreme Court of Missouri concluded that Mr. Richards should be disbarred.

In addition to providing an entertaining read, *In re Richards* settled the theretofore highly contentious issue of where jurisdiction over lawyer discipline matters lay. The answer, as we now know, is that the Supreme Court of Missouri has inherent original jurisdiction over such proceedings.

Oh, with Mr. Levinson's and Mr. Rogers' help, St. Louis police secured Mr. Berg's safe release from the Heuer gang.

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