

Barrett v. Virginia State Bar

Supreme Court of Virginia

April 22, 2005

This case involves a lawyer, Timothy Martin Barrett, who was in the process of being divorced by his wife. The Virginia State Bar Disciplinary Board suspended his license for three years as the result of numerous violations. The Virginia Supreme Court affirmed some and reversed others, and sent the case back for, essentially, a new sentencing since many of the issues were reversed.

First, before the spouse, who was not a lawyer, obtained a lawyer, Barrett sent her two e-mails in which he argued his legal case against her to her. He told where venue would be, how she would not be able to get spousal support, how he might end up with the marital home and get child support, and several other items. The Disciplinary Board felt that this was the giving of legal advice to a pro se person not represented when the lawyer was adverse. Three Justices agreed, but four did not. The four felt that those statements were his opinion of his legal position, and not legal advice to her.

Second, after Barrett's ex spouse obtained a lawyer, Barrett sent to that lawyer some harassing communications. In those he attacked her personally, attacked her religious beliefs, and repeatedly threatened her with disciplinary action. He insisted on referring to her by her married name even though she had been divorced and taken a new name. These actions the Virginia Supreme Court agreed were violations of the Disciplinary Rules.

The Court said "Attorneys are required to act with common courtesy and civility at all times in their dealings with those concerned with the legal processes...an attorney who exhibits a lack of civility, good manners and common courtesy...tarnishes the entire image of what the bar stands for." Quoting the Supreme Court of Kansas.