

Kentucky Trial Court Review

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September 2012

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Medical Negligence - A radiologist was blamed for missing a lesion on the plaintiff's spine while reviewing a chest CT scan after a gallbladder surgery – the lesion grew quickly over a year, so much so, that it resulted in a burst fracture of the plaintiff's spine – this burst has left the plaintiff paralyzed from the waist down

Bradley v. Boykin, 10-193

Plaintiff: Arden J. Curry, II, *Pauley Currey*, Charleston, WV

Defense: D.C. Offutt, Jr. and Stephen J. Burchett, *Offutt Nord Burchett*, Huntington, WV

Verdict: \$10,407,839 for plaintiff

Court: **Boyd**, J. Davis, 4-20-12

Calvin Bradley, then age 56, underwent a laparoscopic cholecystectomy in April of 2008. As he recovered from that surgery, a chest CT scan was taken. It was reviewed by a radiologist, Dr. Mayola Boykin. Boykin reported it as normal.

In fact Boykin had missed a dangerous and fast-growing lesion on Bradley's spine at the T-10 level. Over the next ten months, the lesion continued to grow. Suddenly on 2-24-09 the growth of the lesion caused a burst fracture of Bradley's spine at the T-10 level. Bradley has since been paralyzed from the waist down and is wheelchair bound. He also relies on a colostomy.

Bradley sued Boykin and alleged error by her in misreading the CT scan and thereby missing the lesion. His proof described the lesion as large, open and destructive, the standard of care requiring her to report it. The theory further developed that had Boykin made the correct diagnosis, paralysis would have been avoided as the lesion could have been treated with radiation.

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[Interestingly while the lesion was cancerous and by the time of trial, Bradley was in the terminal stages of the disease, the record indicates it was not tried as a cancer case.]

Bradley's radiology expert was Dr. Richard Baron, Chicago, IL. His medical bills were \$432,121 and future care was valued at \$2,686,640. Catherine Ingebrigtsen, Fernandina Beach, FL, served as the life care plan expert. Lost wages were \$152,708, Bradley seeking \$505,009 more for impairment. The plaintiff's economist was William Cobb,

Charleston, WV. The plaintiff also sought \$9,000,000 for pain and suffering, his wife seeking \$1,000,000 more for her consortium interest.

Boykin defended the case and postured that a reasonably competent radiologist would not have reported this lesion. Her radiology experts were Dr. Dennis Whaley, Lexington and Dr. Amjad Alkadri, Valparaiso, IN. A third expert, Dr. Ivan Borrello, Oncology, Baltimore, MD, indicated in his CR 26 disclosures that he was prepared to discuss Bradley's limited life expectancy

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