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Federal Defender Newsletter

March 2017

CJA PANEL TRAINING

The next **Sacramento** CJA panel training is Wednesday, March 15, 2017 at 5:00 p.m. in the jury lounge, 4th floor of the federal courthouse, 501 I Street. Scott Cameron and Kurt Heiser will present on "New CJA Policies: What They Mean for Panel Attorneys."

The next Fresno CJA panel training is Tuesday, March 21, 5:30-6:30 in the jury room of the federal courthouse: Tim Garrison and Sam Eilers, trial attorneys with the Federal Defenders of San Diego, Inc. will present "Keeping 'Em on a Short Leash -- Challenging the Reliability of Human/Narcotics Detector Dogs"

EMPLOYMENT RIGHTS WORKSHOP

The Federal Defender's Office will present an Employment Rights Workshop Thursday, March 30, 2017, 1:30-3pm, at the Federal Courthouse, 7th Floor, Conference Room B. AFD Hannah Labaree and Julie Aguilar Rogado, esq., from Legal Services of Northern California will present.

Clients, attorneys, and anyone working with defendants are encouraged to attend.

LAWYERS: ENCOURAGE CLIENTS YOU KEEP IN TOUCH WITH TO ATTEND THIS WORKSHOP.

This workshop is designed to prepare and equip federal defendants for employment by addressing important topics, such as:

- ✓ Knowing which questions employers are allowed and not allowed to ask.
- ✓ How to respond to illegal questions.
- ✓ How to answer the felony question.
- ✓ Plus, other topics related to employment rights for those with a criminal background.

Please RSVP to
Crystal_Richardson@fd.org

A joint effort between the Federal Defender's Office, Federal Pretrial Services, and Federal Probation Department



Save the Dates for our
Pathways to Progress Fairs

- 👉 Fresno: 4/20/17,.
 - 👉 Sacramento: 4/27/17, 12:30-4 pm.
- Encourage your Clients to attend!**

CJA On-Line & On Call

Check out www.fd.org for unlimited information to help your federal practice. You can also sign up on the website to automatically receive emails when fd.org is updated.

The Federal Defender Training Division also provides a **telephone hotline** with guidance and information for all FDO staff and CJA panel members: 1-800-788-9908.

PODCAST TRAINING

The Federal Defender's Office for the Southern District of West Virginia has started a training podcast, "In Plain Cite." The podcast is available at <http://wvs.fd.org>. The podcast may be downloaded using iTunes.

REDESIGN OF WWW.FD.ORG

The new design of www.fd.org will launch on Monday, March 6, 2017. Many of the previously publically-accessible postings will now be available through a log-in. CJA lawyers are able to log in, and any private defense lawyer can apply for a log-in from the cite.

TOPICS FOR FUTURE TRAINING SESSIONS

Know a good speaker for the Federal Defender's panel training program? Want the office to address a particular legal topic or practice area? Email suggestions to:

Fresno: Peggy Sasso, peggy_sasso@fd.org,
or Karen Mosher, karen_mosher@fd.org.

Sacramento: Lexi Negin, lexi_negin@fd.org or
Ben Galloway, ben_galloway@fd.org.

PLEASE DONATE TO CLIENT CLOTHES CLOSET

The Federal Defender's Office maintains a clothes closet providing court clothing to your clients. We are in dire need of court-appropriate clothing for women. Please consider donating any old suits, or other appropriate professional clothing to the Client Clothes Closet.

CJA REPRESENTATIVES

Scott Cameron, (916) 769-8842 or snc@snc-attorney.com, is our District CJA Panel Attorneys' Representative handling questions and issues unique to our Panel lawyers. David Torres of Bakersfield, (661) 326-0857 or dtorres@lawtorres.com, is the Backup CJA Representative.

NATIONAL DEFENDER SERVICES TRAININGS **(register at www.fd.org)**

*Race in The Federal Criminal Court:
Strategies in Pursuit of Justice*
Baltimore, Maryland
April 06 - April 08, 2017

Fundamentals of Federal Criminal Defense
Houston, Texas
June 08 - June 09, 2017

Winning Strategies
Houston, Texas
June 08 - June 10, 2017

SUPREME COURT**CERT. GRANTS**

The Supreme Court granted cert. in *Class v. United States*, No. 16-424, to decide the question whether "a guilty plea inherently waives a defendant's right to challenge the constitutionality of his statute of conviction."

In the case before the Court, the defendant raised Second Amendment and due process challenges to his prosecution under 40 U.S.C. 5104(e), which prohibits carrying on, or having readily accessible, a firearm on the grounds of the U.S. Capitol building. (He had firearms in his car, which was parked and locked in a parking lot.) He ultimately pled guilty, conceding his factual guilt. The plea agreement did not contain an express waiver of his right to appeal his conviction. On appeal, he re-raised his constitutional challenges to the statute. The D.C. Circuit held that by pleading guilty, he waived all "claims of error on appeal, even constitutional claims."

The circuits currently disagree on this question. Two circuits (First and Tenth) agree with the D.C. Circuit that a guilty plea waives constitutional challenges to the statute of conviction. Other circuits (Third, Fifth, Sixth, Ninth, and Eleventh) hold that a guilty plea does not inherently waive such constitutional challenges. Three others (Fourth, Seventh, and Eighth) allow facial, but not as-applied, constitutional challenges to a conviction.

DECISION

In *Buck v. Davis* (No. 15-8049, 2-22-17), the Supreme Court condemned the use of race-based testimony in sentencing. The case involved a Texas jury's decision

whether to sentence the Petitioner to death. A key question was whether he was likely to be violent in the future. The Petitioner's attorney presented the testimony of a psychologist, who stated that Petitioner's race - he is African-American - made him statistically more likely to commit violent acts. The jury concluded that Petitioner should be executed for his crimes. Six justices of the Court, with the Chief Justice writing for the Court, described the prospect that Petitioner "may have been sentenced to death in part because of his race" as a "disturbing departure from a basic premise of our criminal justice system."

NINTH CIRCUIT

US v. Vazquez-Hernandez, No. 15-10009 (3-3-17)(Sessions, D.J., w/Gould & Berzon). The Ninth Circuit finds plain error in a jury instruction and then enters a judgment of acquittal for attempted illegal entry.

The defendant made a living washing car windows at the Mariposa Point of Entry in Nogales. He had prior illegal entries, but for the past several years, morning, noon, and night, day after day, he plies his trade as the cars line up. The configuration of the POE is such that Border Patrol allows such tradespeople, including those selling wares, to enter into a pre-inspection area, which is U.S. territory. As the Ninth Circuit observes, there are hundreds of cameras and many armed agents.

Periodically, the Border Patrol sweeps the area, and clears out the tradespeople, who flee back to Mexico. In this particular sweep, Mr. Vazquez was nabbed, and Border Patrol officers claimed he had been looking longingly to the US, seemed unusually attentive, and had appeared to want to reenter.

BRADY MATERIALS

Charged with attempted illegal reentry, the defendant argued that he was under "official restraint" when he came to the pre-inspection area. He and others always fled back to Mexico. The government therefore failed to show that he intended to remain in the United States. The court's instruction did not contain this crucial element--the intent to remain—which was important here given the facts, nor did it address the specific intent requirement of attempted illegal reentry together with official restraint. The jury asked a question that displayed confusion on this very point. The failure of the court thus to so instruct was plain error.

As for the judgment of acquittal, the defendant was nabbed in the pre-inspection area, where he was observed. He previously fled back to Mexico when the sweeps came. The government's evidence that the defendant intended to go northward, and remain in the US, was exceedingly weak. The Ninth Circuit concluded that no rational trier of fact could find the defendant guilty beyond a reasonable doubt.

LETTER FROM THE DEFENDER

I offer the below, which I wrote years ago, to remember Clint Bamberger, the lawyer who represented John Brady through his appeals to the Supreme Court, through Brady's resentencing, and became his friend for the remainder of Brady's life. Both Clint and John Brady proofed this for me. Brady was concerned the portion about Clint visiting the Supreme Court before his argument demeaned Clint, who was a hero to him. I thought it humanized Clint and was certainly something with which all we lawyers can identify. Clint didn't mind.

John Brady looked across at his son. He swallowed deeply, speaking slowly and solemnly, telling the most difficult tale he knew: the story of John Brady's life, the life he had before this child was born.

Marlboro Country

My story starts in Marlboro Country in 1932. It is not a story of the West and cowboys, the way the ads make out. I am the son of white tobacco farmers in southern Maryland, Marlboro Country, one of the richest tobacco-growing areas in the United States, with some of the poorest people growing it. I was born with a lump on the side of my head and I cried constantly, as if I was always in pain, always uncomfortable. Doctors didn't expect me to survive the winter. Like my older brother before me, my parents, your grandparents, left me with relatives. I went to live with your great-grandparents on their small farm and actually got better. While the lump went away, it was replaced by the world's worst ear infection. This infection came with pus leaking from my ears, smelling like death; so foul, people stayed away from me. It lasted until I was about 20. You can imagine the way the other kids teased me; my own family kept their distance.

I dropped out of school at fifteen to work the farm full-time. After that, when I wasn't working, it was either cars, girls, or fishing. My parents came back into my life when I was 19. They lived in Washington D.C., where my father drove a bus. My relationship with him was strained ever after, though I eventually got close to my mother, almost too late, and despite the fact she threatened to shoot me with my own gun when I was fist-fighting with my older brother. That made me mad, though, and I joined the Air Force a month later

without saying "Goodbye."

It was the Korean War. I did Basic at Lackland Air Force Base, Texas. I was independent, I was accepted, and I thought to make a career of the military. Next, I was transferred to Larson Air Base, Washington, where I worked as an Air Force policeman and moved easily up ranks. Sometimes, I hopped flights to Maryland to see my family, hoping to impress everyone. I wanted to serve overseas and put in the application. Then I met my first wife (yes, I was married briefly many years before I met your mother) and we married two months after we met. Wouldn't you know, a year-and-a-half into a five year stint, my overseas orders came through, not to any place glamorous, but to Thule, Greenland. I got there just as winter started. I guess I'm one of those people who need more sunlight and, by March, 1953, I was very depressed and got morale leave home. My wife told me she wanted a divorce; funny because it was thinking of her that got me through that tough icy winter. I went AWOL to save my marriage, then stayed AWOL to avoid returning to Greenland. I almost committed suicide rather than go back. The Air Force hospitalized me till I was stable. Some wanted me dishonorably discharged, but through the selflessness of the Chaplain and because of two-and-a-half year's good conduct, I was given a general discharge under honorable conditions.

I tried to salvage my first marriage. She was a teacher, so I tried college for a while. I worked at a detective agency, then at a gas station. Depression set in again. I was selfish and I didn't treat my first wife well at all. By 1957, we were divorced and I returned to Maryland.

My grandmother took me in again. She lived with my aunt, no longer on a tobacco farm, but in a town called Odenton, Maryland. I worked my father's farm a few

miles away, then got my first truck driving job, driving a moving van. Ever since Greenland, I didn't do well cooped up and truck driving got me out. I quit it, looking for greener pastures, which never appeared. When I couldn't get my job back or find other work, with the rent being due and feeling I had nowhere to turn, depression engulfed me again. I bought a gun, ammo, and lots of whiskey, ready to end my life. A girl I was seeing came by and screamed at me not to do it. Then the police came, but their trying to talk me out of suicide only made me more determined to do it. Then my father arrived. He said to go ahead and shoot myself. So I did, the bullet going clear through my chest, lodging in my back, just missing my heart. The alcohol saved me. I was only 25.

"It Never Should Have Happened."

My recuperation took months, during which your great-grandmother died, me unable to help her. The only light was my friendship with Charles Donald Boblit and his younger married sister, Nancy.

Boblit and Nancy were around my age. They thought me worldly, which fed my ego. And they were as unemployed as me. We spent lots of time together and I fell in love with Nancy. I convinced myself she did not care for her husband, because she belittled him in company. And she didn't discourage me. And then she was pregnant, pregnant with my child.

I remember, on learning of her pregnancy, I felt I had to support her, immediately. So I wrote her a check for \$35,000. The amount stood for nothing - nothing in the bank, representing no particular accounting. I told her to wait to cash it; in a few weeks, the money would be in the bank. Clinton Bamberger, my lawyer, remembers instead Boblit, who was (maybe still is) somewhat mentally unstable, finding out his sister was

pregnant and confronting me, wanting to know how I planned to support his sister and the baby. As Bamberger recalls it, Boblit was dissatisfied with my support ideas and insisted we rob a few banks. I remember the bank robbery idea emerging between the two of us.

No matter whose idea it was, it took on a life of its own. I know it seems insane now, but then, when we discussed it, it seemed to be the only option. It was never a question of right or wrong, only of when, where and how. The "where" was a bank we watched in Stevensville. We guessed the bank would have the most money Saturday morning, after everyone had deposited their paychecks the previous day. And, since tellers don't just hand over the money when someone asks, we took a shotgun from one of my uncles. Boblit owned a sawed-off shotgun and we also decided to buy a pistol. We were ready by Friday morning, June 27, 1958. But we needed some money to get through that day. I remembered William Brooks.

Raised by foster parents, Brooks was known as a person who did "what he was told" - no more, no less. I first met him when he was a young man, working at various tobacco farms in Marlboro country, including several small farms belonging to my relatives. Those rare times when Brooks had spare change, he would take us Brady children for candy and ice cream. During those infrequent trips, Brooks gave extra attention to me, despite or because of my malodorous ear infection. As machines began to overtake the labors of Marlboro's men and women, Brooks found work at a plastics factory in Odenton. From Mary Elliott, a nurse at the plant, he rented a little house down a dirt road on the acreage she lived on in Severn, a few miles away. For the first time, Brooks was in his own comfortable place. He was even able to save money and saved enough to buy a new two-tone Ford

Fairlane in mid-June, 1958.

Friday morning I drove to Brooks' house, which was set back, from the road. My clunker - muffler bad, engine misfiring, held together by the accumulated grime - struggled to make it down the unpaved drive outside town. I begged him, pleaded for some money, admiring his new car. I drove him into town so he could get smaller bills to give me. When I left with the \$2 he loaned me, I decided this bank robbery could not happen with my decrepit car; we needed newer wheels and it made sense to take Brooks' car. We would carjack Brooks (before the term carjacking was invented), drive him into the woods and leave him there, a long walking distance from anywhere, taking his car for the job. I thought I made it clear to Boblit we would not hurt Brooks. I thought I made that clear.

While Brooks was working the afternoon-to-midnight shift, Boblit, with his shotgun, and I, pistol in hand, parked my car off Brooks' driveway. We placed a log across the dirt road and waited. Returning home from work, Brooks stopped, got out of his car to remove the log. Boblit ordered him to the back of his car. When Brooks begged not to be hurt, Boblit irrationally told him over and over to "Shut up," eventually hitting Brooks on head with the shotgun. Because he was bleeding, we didn't leave Brooks in the woods. Instead, he was put in the back seat and driven away. The plan changed - to take Brooks somewhere where he would eventually get help, but not until after our bank robbery and getaway.

Past an isolated gravel pit, we both took Brooks from the back seat. He stumbled and moaned while Boblit and I walked him into a nearby wood. He was disoriented. I left him in a clearing, figuring he'd fall and pass out, long enough for us to drive far away. When I looked back, Boblit had taken off his pink shirt and

“throttled,” that is strangled, Brooks with it. By the time I ran to them and separated them, Brooks was dead. We put him in the woods and I covered him with leaves and branches. Boblit said and says I’m the one who killed Brooks.

We took Brooks’ jewelry and emptied his wallet of its \$250. Then, taking his car, our bank robbery plans abandoned, we drove away. Boblit left Brooks’ car in Lynchburg, Virginia, and continued on to family there.

I traveled, with my \$125, to Cuba. I was going to fight with Fidel Castro, to liberate Cuba from its dictatorship, to be a revolutionary. Back in the 50s, Castro was not despised in the U.S. like he is today. A law school graduate, Castro was exiled from Cuba for leading an attack against a military barracks. He gave speeches for democracy in Cuba and was anti-communist. The United States supported him then, as had I. Twice I arranged to ship guns to Castro in Mexico before he went back to Cuba in 1956. My first father-in-law owned a trucking company and, unknown to him, I coordinated sneaking guns from Washington south. After my divorce, when I drove trucks on the East Coast, I drove the guns myself.

I went to the Americana Hotel, gave the password to the desk clerk, and arranged for pick up later that afternoon to be taken Castro, who, at that time, was the chief of a guerilla army in the Cuban mountains. But, in the day’s wait, I found my conscience. I was convinced, since I didn’t actually kill Brooks, the worst crime I committed was car theft. “[N]o one knew where Brooks’ body was, that it had not been uncovered.” I thought for sure they’d caught Boblit. I decided I needed to help Boblit - I needed to go back. Instead of waiting for my revolutionary rendezvous, I went to the American Consulate.

I told them I was wanted in the United States, that there was a warrant for my

arrest concerning a car theft. The officials checked, but they found no warrant and asked me to come back the next day. I did. They explained they still found no warrant, no report of a car theft. I insisted I needed to talk with the FBI, so they arranged for me to fly to Miami.

Phone calls between Havana and the Federal Bureau of Investigation (FBI) in the United States resulted in my getting to Miami, Florida, into the waiting arms of federal law enforcement. Agents threatened to arrest Nancy if I didn’t confess. So I did - twice. I showed them where Brook’s body was; I showed them where to find the car. They told the newspapers I admitted killing Brooks, just to drive his new car. That wasn’t it at all.

In separate trials, Boblit and I pointed the finger at each other, blaming the other for the ultimate killing of William Brooks. We didn’t deny the planned robbery, the car theft, nor being present when Brooks was killed.

My family retained lawyer George Woelfel. Woelfel was elderly, the country lawyer incarnate. However, his age manifested in a form of narcolepsy and he was known to fall asleep in court, during trial. Court clerks had developed a routine of kicking Woelfel’s feet to awaken him. He slept during parts of my trial. I was convicted and sentenced to death. So was Boblit, in a separate trial after mine, not to a jury but to a judge, Judge Benjamin Michaelson, the “hanging judge,” saying I was the murderer.

Death Row

There were pigeons on the death cell window sills. For many row inmates, that was their only contact with the outside world and nature. Inmates were permitted out of their cell only once a week to shower. They had only slippers for shoes. The gas chamber was on the floor below

the row. Inmates who exhausted their appeals, with no pardon or commutation, stayed in a cell near the gas chamber to pass their final days, their final hours. When one of the death row inmates was to be killed, screens were placed in front of each cell so other inmates would not see the death walk. But they knew about it.

My mother - your grandmother - was murdered about a month after I got to death row - raped then, with a shoelace, strangled. My father was a suspect for a time, but the crime was never solved. Some in my family blamed me. Eventually, only one relative ever visited me.

There were two chaplains serving Maryland's death row. One, a Catholic priest named Father Toby, listened to me and took an interest in me. He actually thought I was intelligent. Father Toby gave me a copy of *The City of God* by Saint Augustine to read, then gave me more books. He believed me when I said I did not kill Brooks.

It was Father Toby who called E. Clinton Bamberger, a Baltimore civil lawyer with Piper Marbury. Bamberger finished college and went to law school on the G.I. Bill. In 1944, during World War II, he tried to enlist in the Navy Air Corps. They rejected him because he had allergies, so he went to the Army Air Corps, doing boot camp in Mississippi. He only had a year in when the War ended. Admitted to the Maryland Bar in 1951, Bamberger worked for the State Attorney General's Office. The Office did all the State's criminal appeals and Bamberger wrote about 10 while he was there. From government employment, Bamberger went into private practice with Piper Marbury.

Bamberger did not promise Father Toby anything except to look into my case. He contacted Woelfel who had started my first appeal. Despite the separate trials and sentencings, the Maryland Court of Appeals in 1959, considered Boblit's and

my appeals together, and affirmed our death sentences, together.

It was after that appeal, preparing for clemency, that we learned for the first time, through Boblit's trial transcripts, that prosecutors tried to admit the various statements Boblit gave to police. In all but one, Boblit said I was Brooks' murderer. In the last statement, the fifth statement - an unsigned, written statement - Boblit confessed he wanted to shoot Brooks, claimed the robbery was my idea, that I ordered him to strangle Brooks, so he "took and twisted * * * [his] shirt sleeve and choked him." Boblit, in this one statement, said **he** strangled Brooks! This statement was precluded from his trial and it was news to me. Bamberger learned Woelfel had asked for all of Boblit's statements and the fifth and last one was news to Woelfel.

Father Toby contacted the prosecutor and asked to see the fifth, not-admitted statement. The prosecutor claimed the statement had been given to Woelfel, though Woelfel told Bamberger he had never seen it. Bamberger to this day does not know for sure if Woelfel had. But he had a basis for a motion to set aside the verdict and sentence and seek a new trial, to get the case back before the court.

Though Judge Michaelson believed Woelfel when he testified he knew nothing of a Boblit fifth statement, he denied me a new trial and sentencing. In 1960, the Maryland Court of Appeals dismissed my appeal saying it was unclear what we wanted from the trial judge - was it a new trial, to correct an illegal sentence or to reduce my sentence? - but that I could file a habeas petition, which we did. Judge Michaelson again denied me a new trial or sentencing, but, in 1961, the Maryland Appeals Court said I was to get a new sentencing - life or death - but no new trial.

Bamberger and I talked about working to get a life sentence from all this, to forget the new trial. But on the last day to file for

United States Supreme Court review, in the last hour of the last day to file, Bamberger sped to Washington D.C. from Baltimore to file my petition for writ of certiorari to fight for a new trial. Amazingly, it was accepted. Unlike the massive preparation lawyers arguing before the Supreme Court undertake today, Bamberger spent hours rehearsing and preparing on his own. He went to D.C. the week before his argument, to become familiar with the building and the courtroom, where he would stand and where the Justices sat, (and to find where the men's room was). Bamberger has said he would die a happy man if he could get and destroy every last copy of his March 1963 oral argument. But if it was as bad as he claims it was, how could I have gotten a second chance? In his first and only appearance before the Supreme Court, he persuaded two justices I should have a new trial. The others at least agreed I should have a new sentencing, that the prosecutor's suppression of evidence favorable to me, whether suppressed in good or bad faith, violated due process and the statement should have been disclosed.

But, from 1963 on, I was in limbo, waiting for my new sentencing. I wrote short stories and books. And for my fellow death row inmates, many of whom were illiterate and mentally ill, I wrote petitions, being the only one to continue fighting for their lives after lawyers, courts and families had given up. Three of them were killed while I was there - when the Row became overcrowded, they put me in the cell on the floor with the gas chamber, near the cell where others waited just before being gassed. Then, in 1966, 5 years after the Maryland Court of Appeals vacated my death sentence and 3 years after the Supreme Court agreed, I was finally taken from death row to the county jail . . . and waited. There was no procedure, no rule

set up to convene a second jury to decide only my fate - life or death.

During this time, Bamberger asked for help from Elsbeth Levy Bothe, who had more experience with criminal (specifically death row) cases than he did. Bothe was a graduate of the University of Chicago and the University of Maryland Law School. A lawyer since 1952, when there were not many female lawyers, she was considered an activist lawyer, involved in cases with the labor movement and civil rights, with conscientious objectors and reservists called up during Vietnam. She had even been the target of McCarthyism. She gave me ideas to try and I filed papers and petitions, but none worked. I confess, I had something of a crush on her. She thought I should just be released "because the State treated me so shabbily."

My sentence without a sentence even made me the subject of a 1969 book by New York Times reporter, Richard Hammer, called *Between Life and Death*. This was one of Bothe's ideas - to call Hammer. What happened next? I don't know if it was Hammer's book or, as Bamberger thought, Governor Marvin Mandel (he succeeded Spiro Agnew as Maryland's governor after Agnew became Vice President) that did it. I think it was Bothe, who was serving with Governor Mandel in Maryland's Constitutional Conventions of 1967-1968, who worked on Mandel and persuaded him to have prosecutors drop pursuing death. Bothe believes my lingering "case had become a distinct embarrassment to the A[nne] A[rundel] justice system, and the judge wanted to finish it off . . ."

What or whoever it was, on December 24, 1970, twelve years after Judge Michaelson and Judge Matthew Evans jointly pronounced I would die in the gas chamber, Judge Evans sentenced me, age 37, to life in prison. I never benefitted from my Supreme Court decision.

After the Father-Son Talk: Garden Party

Brady was paroled May 17, 1974 from the prison in Hagerstown, Maryland. He said his life since then was best described as a "Garden Party," like the song written by Ricky Nelson:

*But if memories were all I sang, I'd
rather drive a truck.*

Brady married a nurse from the local community hospital who he met while on work furlough. He enrolled in college, majoring in Criminal Justice, "because it seemed easy" after all the research and writing he did while waiting for Maryland to kill him. After 33 credits and a 2.75 GPA, the demands of fatherhood took priority and he put formal education on hold. A son and daughter were born before he divorced after twelve years of marriage.

Though divorced, Brady became the father he never had. He married for the third time shortly after his divorce, remaining married until his death. He had two grandchildren when we spoke.

In his seventies when we talked, Brady awoke at 4:00 a.m. each morning, got to work by 6:00 a.m., at the same job he had for over 20 years, driving a truck. He was home by 6:00 p.m. To relax, he went fishing. Freshwater, saltwater, it didn't matter, keeping only the ones he planned to prepare and eat. Confidently and with evidence of practice, he described the fish fillet knife, its flexibility, how it does the work for its user.

Even with time's passage, he still felt remorse. "It was a tragic thing that happened. It never should have happened. I'm not calloused enough to disregard it. I was a part of it." And it was a part of him still, forty plus years later.

Boblit

Boblit also escaped death. In 1972, the Supreme Court, in Furman v. Georgia, found unconstitutional the manner in which death sentences were imposed, so Boblit was also serving only life. He too was paroled. In 1992, at age 62, he was rearrested, charged and convicted of rape, and sentenced to life. His parole in the Brooks murder was revoked. Now in his eighties, he currently serves two life sentences in Cumberland, Maryland's Western Correctional Institution.

Bothe

Bothe continued her fight in unpopular causes, becoming involved in several Supreme Court cases until she became the first woman appointed to the Maryland Public Defender's Office in 1972. Her challenges to the death penalty resulted in 25 defendants being freed from Death Row. In 1978, she was the third woman appointed as judge in the Baltimore Circuit Court.

The retired Bothe was an avid real crime reader, reviewed books and collected skeleton-themed art. Bothe and Bamberger were both in Florida during the 2004 presidential election as poll-watchers. She died early 2013 after stroke complications. She was remembered as "always there for justice . . . fair, just, but could be very tough."

Bamberger

Bamberger stayed with Piper Marbury for 17 years. In the 1970s, he was named the first National Director of the Legal Services Program in the Office of Economic Opportunity [OEO], part of the War on Poverty. It "was the first federal program to support civil legal assistance for the poor," a precursor to every Legal Aid office in the country. When President

Nixon closed the OEO and its Legal Services program, Congress voted to create the Legal Services Corporation. Bamberger was then its Executive Vice President. He has spoken around the world, assisting many countries to develop their own legal aid agencies.

Bamberger's other mission was teaching. A former dean of Catholic University of America Law School, he taught at Harvard, Stanford, and other law schools in the United States and around the world. He tirelessly worked to make law school relevant to its students' eventual law practice, a factor many a lawyer will attest is lacking. In retirement, he was busier than when he was working, receiving awards and accolades for his contributions and enthusiasm. His awards included Lawyer of the Year in 1988 for the St. Thomas More Society of Maryland, and Senior Fulbright Scholar, Tribuvan University law faculty, Kathmandu, Nepal.

And he and Brady stayed in touch until Brady's death by natural causes in 2009. Bamberger died at 90 years old in February 2017, 2 months after his wife of 65 years, Katherine's death

The phone rang in Bamberger's home. As he had done thousands of times, he picked it up and put it to his ear. This call was different.

Mr. Bamberger, I'm John Brady's son. I just wanted to thank you for saving my father's life.

NOTES

In truth, John Brady talked with his son about his life, though likely not as detailed as here. The phone call to Clinton Bamberger happened as described above.

Thanks to:

John Brady
E. Clinton Bamberger
The Honorable Elsbeth Levy Bothe
Fredric F. Kay
Beth Harber

Resources

Case History

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