



Briefcase

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WWW.OKCBAR.ORG

The Historic White House Home for the Abel Law Firm

By Lynn Mares

The Abel Law Firm moved in 2007 from downtown's Leadership Square to the historic neoclassical "White House" in north-east Oklahoma City. Built in 1930 by magazine distributor, banker and civic leader, Harvey P. Everest, the Southern Colonial-style Everest Mansion was far out in the country at that time, when North Kelley was known as the Edmond Highway. Now the building is in the heart of the city at the corner of Kelley and N.E. 63rd Street, convenient to I-35, I-235 and I-44.

Harvey Everest was an interesting and, by all accounts, a very likeable gentleman. He was president of Liberty National Bank & Trust. He provided start-up capital for Carl C. Magee, the Oklahoma City inventor of the parking meter (which made its debut in the city in 1935). Harvey's brother, Herbert, suffered a disabling injury in a coal mine accident in Coalgate, which inspired



him to invent a folding wheelchair. In 1900, Harvey's uncle, Judge Jean Harrison Everest, owned the first automobile in the city — a Stanley Steamer. Harvey was issued a special permit by the Oklahoma City mayor to drive when he was only 11 years old and went on to become an owner of a Cadillac dealership for a short time in the 1950s.

Harvey Everest spent \$36,000 constructing his 8000-square-foot mansion and acquired 31 surrounding acres for tennis courts, a swimming pool, gardens, woods, fields and horse stables. Architects Schumacher and Winkler designed the 14-

room house with a two-story entrance hallway and hand-built, curved oak staircase. The mansion also had a recreation room in the basement, a sun room on the south end, and a breakfast room on the north. Music from a pipe organ in the basement was piped into the first-floor living room. The exterior walls were one-foot-thick masonry over a concrete basement. The mansion was originally to be red brick with white trim and blue-green shutters. There were four imposing two-story white columns along the front portico. A garage and servants' quarters were in separate buildings to the west.

Although Everest had other property — a ranch in Osage country and a cabin in Colorado — the mansion was his family's regular home until 1964. Sen. Robert S. Kerr was a frequent visitor and Lyndon B. Johnson played cards there.

After Everest sold the property to Investors Diversified Services, the mansion served as an office building. Henry Bellmon occupied an office there at one point. The

See **WHITE HOUSE, PAGE 15**

Planning Ahead Guide Completed and Posted to OBA Website

By Susan Shields and Travis Pickens

At the direction of OBA President Renee DeMoss, the *Planning Ahead Guide: Attorney Transition Planning in the Event of Death or Incapacity*, a handbook and forms, was recently completed by a working group of attorneys selected by President DeMoss. The book was adapted from a similar handbook authored by the Oregon State Professional Liability Fund, which generously provided access to the OBA, so long as the book is used by Oklahoma Bar members for their own benefit and not sold or distributed for profit. You will find it on the OBA website www.okbar.org, by logging onto my.OKBar.org and clicking on the "Attorney Transition Planning Guide" link.

With the baby boomer generation of lawyers getting ever closer to retirement, it is essential that each lawyer in our bar have a transition plan. Approximately fifty percent of the current bar membership is composed of lawyers age fifty and older. Perhaps due to this fact, the offices of Ethics Counsel and General Counsel are receiving an increased number of calls from loved ones or clients of

See **PLANNING PAGE 5**

Lionel

By Jim Croy

Lucius A. Pendegraft lay face-down on the thick carpet, his nearly useless spindly legs splayed behind him. And, just as in the commercials, he could not pull himself up. How, one might ask, had he gotten himself into this predicament, and why was he laughing?

An hour before, he had finished his morning shave and shower and shuffled slowly back to his bed. His bedroom suite was only slightly larger than the house in which he had grown up—large enough that even though he was confined to it, it did not seem confining. Just as he reached the



See **LIONEL, PAGE 15**

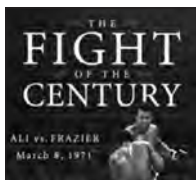
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**OKLAHOMA COUNTY
BAR ASSOCIATION
MISSION STATEMENT**

Volunteer lawyers and judges dedicated to serving the judicial system, their profession, and their community in order to foster the highest ideals of the legal profession, to better the quality of life in Oklahoma County, and to promote justice for all.



From the President

Emulate The Reading Man

By Jim Webb
OCBA President

We are already smack dab in the middle of the 2014 holidays. Wow. Regardless of your background and experience, most would agree this is a time of reflection, a time of renewal, a time of giving. As OCBA members, we are, in part, “dedicated to serving... [our] community in order to foster the highest ideals of the legal profession [and] to better the quality of life in Oklahoma County.” The best gifts are ones of service, and we need not look very far to see an example of a fabulous giver.

Carver Mark Twain Head Start Program is on Main Street, just east of Villa. The program is designed for 3-4 year old kids who live below the poverty level. As you might expect, the 30 to 40 kids come from all kinds of backgrounds and have all kinds of needs, both academic and social. The goal, according to the program’s Site Director, Carla Price, is to give these kids everything they need to be prepared for kindergarten.

Enter “The Reading Man,” as he is very affectionately called by these precious preschoolers. Every month, our very own Bob Sheets leaves his high-rise downtown office and successful law practice at

Phillips Murrah and enters the world of Carver Mark Twain Head Start. Bob leads the charge for the “Reading Buddies” program, in which he and others (including OCBA staffer Pam Bennett) read books aloud to the kids.



Jim Webb

Bob gets down on the floor and sits “crisscross-applesauce” with the kids, refusing to sit in what they call the “big people chair.” Bob shares a healthy snack (typically baby carrots and fruit) with the kids and invariably tells them the story behind whatever colorful tie he is wearing that particular day. They love his ties. But they love the interaction with Bob so much more. According to many studies, that type of interaction with adults is pivotally important to literacy success as these kids grow.

Last but not least, Bob and his colleagues provide every single one of the kids with two books.

Every visit. Every month. Year after year. For many of these kids, the books they receive from “The Reading Man” are the only physical items that are “theirs.” For this group of children, that is extremely important.

What Bob does is the very definition of servant leadership. It’s the very definition of giving. It’s the very definition of what

we should be about as the OCBA. Carla Price summed it up by saying, “Bob is quite the winner in our book.” Bob’s work should inspire us all, not just in this holiday season, but year-round. On behalf of the hundreds of kids who have been positively impacted over the years, I say, “Thank you, thank you, Reading Man.”

Switching gears a bit, the Honorable Geary Walke took me up on my request to share ideas for expanding the membership and reach of the OCBA. As a result, we have the perfect gift for you to give another lawyer in Oklahoma County for the holidays. The price is right – completely free.

Between now and January 15, every member of the OCBA can nominate a single (as in 1 — not necessarily unmarried) attorney to become a *new* member of the OCBA, and the new member’s dues will be completely waived for the first year. As you think of whom to nominate, I would encourage you to think of lawyers from all different types of practice, including government, in-house, and the like. All you need to do is call the OCBA office (236-8421) and leave the name and address of your nominee. Our staff will take it from there by mailing him or her a new membership packet.

Thanks to Judge Walke for this great idea. Keep the new ideas flowing, folks. My door is always open. Please email me at jim.webb@chk.com or call me at 935-9594. Happy Holidays and let’s look forward to a productive, fun 2015 together!

A reception was held in the home of Justice Yvonne Kauger honoring Judge Linder.



(Pictured from left to right) Judge Struhbar, Justice Edmondson, Judge Lumpkin, Justice Combs, Justice Kauger, Justice Taylor, Judge Linder, Judge Lovell, Judge Adams, Judge Goree, Judge Lewis, Justice Watt, and Justice Colbert.

Also Licensed In... Texas

By C. Austin Reams*

Firm letterheads these days often feature an asterisk (*) next to attorneys who are “also licensed” in jurisdictions other than Oklahoma. Possibly due to the growth of the energy industry in this region during these oil boom times, additional licensure in Texas appears more common. After recently completing the application process for admission to Texas, this author discusses some of the primary requirements and costs. This article is for the purpose of discussion only. Applicants should defer all questions to the Texas Board of Law Examiners and independently review the Rules Governing Admission to the Bar of Texas (“Rules”).

Attorneys who are admitted to practice in the State of Oklahoma may be eligible for admission to Texas without being required to take the Texas bar exam (an application referred to as “AWOX”) if the applicant has been “actively and substantially” engaged in the lawful practice of law for at least five (5) of the seven (7) years immediately preceding the filing of the application. (See Rule XIII.) ‘Active and substantial’ law practice generally means working full-time as an attorney. (See Rules for more information about the types of legal work that will qualify.) The requisite five (5) years of legal practice need not be consecutive, meaning, for example, that applicants who took a year off or worked part-time during two (2) of the last seven (7) years, may still be eligible for admission without examination.

The requirements of Rule XIII may give some applicants reason for expediency, depending on their circumstances. For example, if an attorney has been working as a full-time associate for the last seven (7) years, and has recently left a firm to start a solo practice, she may want to complete the application sooner than later, since it may be less cumbersome to meet her burden to show full-time work for the requisite period of time.

As part of Rule XIII, the Texas Board of Bar Examiners requires applicants to submit evidence of active and substantial practice of law, including copies of each federal income tax return, with all schedules, W-2, K-1 and 1099 forms, for each calendar year during which employment as an attorney is being claimed. This may be a challenge to some applicants who have not kept copies of their tax returns; although, copies can be requested from the Internal Revenue Service for the current and past six (6) years. In addition to

obtaining a letter from each of her prior employers describing her legal position and duties, to confirm that she was actively and substantially engaged in the practice of law, her tax returns should show that she was making a salary of a full-time attorney (although the reasonableness of associate salaries these days is another matter of discussion).

Thus, if such an applicant waits more than two (2) years to submit her application, while she is building her new practice, she may find that it becomes more of a challenge (although not impossible) to show active and substantial law practice, since her income level may have taken a hit in the first year (as will be reflected by her tax returns) and she can no longer rely on a letter of confirmation from a prior firm for the years that she worked solo. For the first couple of years of a new law practice, she may spend only half of her time (or less) practicing law and the rest trying to build a book of business. If she has worked full-time as a solo, she may still be able to meet her burden with other evidence. Texas also requires two (2) client references and she can present other forms of evidence to show full-time work, such as listing other attorneys with knowledge about her law practice. (See Special Notice Regarding Rule XIII Documentation for more information.) In this example, the applicant may be better off submitting the application within the first two (2) years after leaving the firm job since there may be fewer hoops to jump through to demonstrate that she meets the requirements of Rule XIII.

Applicants may also be surprised to learn that they must have taken and passed the Multistate Professional Responsibility Examination (MPRE) with a scaled score of 85 or higher. (See Rule II (a)(7).) This is an absolute requirement. Even if applicants have been practicing law for forty (40) years, they must be able to demonstrate compliance with this Rule. Such applicants may find that the MPRE (first administered in 1980) did not even exist (or was not yet required in their jurisdiction) when they were first admitted to practice law. If so, applicants can register to take the next MPRE test (usually offered in March, August, and November for \$80.00) by contacting the National Conference of Bar Examiners, which also will provide prior scores. For applicants who took the test but cannot remember their scores, it is suggested that they request their scores before completing the application. Texas will not refund their

application fees if denied admission. Any applicant who made an eighty-four (84) or less will need to re-take the test. Used MPRE study materials can be found on eBay for around \$75.00.

Ample time should also be set aside to complete the application, which may seem like an expensive scavenger hunt. In addition to a completed application, submitted on-line, which includes an education and employment history, with the names and contact information for immediate supervisors, applicants must also provide: FBI Fingerprint Cards; Certification of Juris Doctorate, submitted and completed by the applicant’s law school; Authorization / Release Forms (with applicant’s notarized signature); original Certificate(s) of Good Standing and statement(s) of discipline from every other jurisdiction to which the applicant has been admitted; proof of citizenship (e.g. birth certificates); proof of name change; and other requirements. (See Rules II and XIII.) Depending on the type of documents and the number of copies requested, merely compiling the application for admission can easily amount to more than \$100.00.

Regarding overall cost, the fee for the application for admission without examination is \$890.00 (application and investigation). Including the other aforementioned costs, the initial fees are closer to \$1,100. However, the fees and costs do not stop there. Once, and if, an application is approved, the applicant must still complete the State Bar of Texas Registration / Attorney Profile Form, pay a licensing fee of \$515.00 and join the State Bar of Texas. Even after an applicant has received her license and bar card, she must still take a continuing legal education course, “A Guide to the Basics of Law Practice” (again, no matter how long she has been practicing law), at a cost of \$170.00. Thus, once all fees and costs have been paid, and the license has been framed, the overall costs are around \$2,000.00. And then come the extra annual bar dues!

An AWOX application may be submitted at any time, and the approval process time may vary. (This author’s application was approved in June within one month of completion.) However, it is suggested to avoid the particularly busy months of October and January, when the volume of applications increases.

Good luck applicants!

**In addition to Oklahoma, C. Austin Reams is also licensed in California, Texas and Missouri.*

Events & Seminars

DECEMBER 16

CLE Breakfast Seminar
“50 Hot Technology Tips in 50 Minutes”
7:30 a.m., Bar Office

CLE Luncheon Seminar
“Courtroom Etiquette & Decorum in Oklahoma County – A Judge’s Perspective”
12 Noon, Bar Office

CLE Evening Seminar
“Practical Tips for Handling Insurance Bad Faith Cases”
5:30 p.m., Bar Office

DECEMBER 25 & 26

Christmas Holidays
Bar Office Closed

DECEMBER 30

CLE Breakfast Seminar
“The Updated Laws on Same Sex Marriage; How It Affects Oklahoma Employer/ Employees”
7:30 a.m., Bar Office

CLE Luncheon Seminar
“Provisional Waivers – a Path to Citizenship for Some Undocumented Aliens”
12 Noon, Bar Office

CLE Evening Seminar
“Procrastination – Why You Do It & What to Do About It”
5:30 p.m., Bar Office

FEBRUARY 7-15, 2015

Aspen Ski Seminar
Aspen, Colorado

MARCH 27-29, 2015

Bench & Bar Conference 2015
Quartz Mountain Resort

JUNE 15, 2015

Annual OCBA Golf Tournament
Gaillardia Golf & Country Club



A Picture is Worth 1000 Words

By Judge Vicki Robertson (Retired)

For the past several months, attorneys have been featured in picture quizzes from *Oklahoma County Bar Association Pictorial Directories* from 1974 and 1976. These quizzes have generated discussion, laughter, and even some not too veiled

threats that some attorneys would get even with me (I may have to seek a VPO).

The most obvious difference between then and now is hair, whether it be permed or simply missing in action. Facial hair was more prevalent in 1976 (although not on the females, fortunately).

Some of the wide ties could also function

as bibs. Luckily, photo gray glasses are no longer utilized.

In the interest of full disclosure, we have located my oldest *Pictorial Directory* picture. I would list the year, but then my age would be revealed (I do love my Medicare.) I hope that you have enjoyed this trip down Memory Lane as much as I have!

And the Court Said

An Olio of Court Thinking

By Jim Croy

December 28, 1914
One Hundred Years Ago

[Excerpted from, *Petitti v State*, 1914 OK CR 152, 145 P. 305.]

This appeal is prosecuted from a judgment and sentence that Tony Petitti, plaintiff in error, be imprisoned in the state penitentiary at McAlester for the term of five years for the crime of arson.

The information alleges, in substance, that on the 12th day of December, 1910, Tony Petitti did willfully and feloniously set fire to and burn certain goods and chattels, the property of the said Tony Petitti, to wit, a certain stock of merchandise located in a certain store building in the town of Alderson, Pittsburg county, Okla., and in the possession of said Tony Petitti, with the unlawful and felonious intent thereby to injure and defraud certain corporations, to wit, Hamburg-Bremen Fire Insurance Company of Hamburg, Germany, and the Fire Association of Philadelphia. It appears from the record that on the 14th day of December, 1910, a complaint was filed before a justice of the peace at McAlester, charging Tony Petitti, John Petitti, and Jasper Petitti with the crime above charged, and all three were held to answer to the next term of the superior court, commencing on the first Monday in January, 1911. The transcript of the justice of the peace in said case was not filed in the superior court until July 30, 1911, and no information was filed in said court until November 21, 1911, or nearly a year after the preliminary examination was had. No information was ever filed against John and Jasper Petitti. Upon arraignment the defendant filed his motion to dismiss, and that he be discharged for want of prosecution, under section 6095 of the Code of Criminal Procedure. That section is as follows:

“When a person has been held to answer for a public offense, if an indictment or information is not filed against him at the next term of court at which he is held to answer, the court must order the prosecution to be dismissed, unless good cause to the contrary is shown.”

To this motion the state replied by the county attorney as follows:

“(1) That it is true that the defendant had his preliminary and was held to the superior court on December 20, 1910, and that the transcript in the case was not filed by the justice of the peace with the clerk of said court until July 30, 1911, but your respondent shows to the court that the preliminary was held so shortly before the January term of the superior court that said cause could not have been brought to hearing at said term for want of time.

“Respondent further shows to the court that defendant was on bond from the date of the preliminary, and had attorneys residing in the city of McAlester, and that the delay of the justice of the peace in sending up his transcript was not called to the attention of the justice of the peace, the county attorney, or the court, and that said transcript was in fact filed by the justice of the peace after the setting of the criminal docket for the July term of said court, and that the county attorney did not find such transcript until shortly

before the filing of the information herein; that when he did find it he filed the information immediately, set the cause down for hearing at the present term of the court, and is now ready for trial.

“Respondent further shows to the court that the county was without funds with which to hold an April term of the court, without power to make a debt for such expenses, and therefore could not hold said term.

“Your respondent submits that he has shown sufficient cause for not bringing this case to a trial sooner, and submits that said motion should be denied.”

The provision of Procedure Criminal above quoted was enacted in the light and under the operation of section 20, Bill of Rights, providing that “in all criminal prosecutions the accused shall have the right to a speedy and public trial.” Const. art. 2, sec. 20. The authorities uniformly hold that such statutes are enacted for the purpose of enforcing the constitutional right, and that they constitute a legislative construction or definition of the constitutional provision...

It was the duty of the justice of the peace, as the committing magistrate, to return immediately to the clerk of the superior court of Pittsburg county the original complaint, with his order holding the defendants to answer the same indorsed thereon, also the warrant and transcript of the testimony of the witnesses examined before him, and all undertakings of bail taken by him, together with a certified transcript of the proceedings as they appear on his docket...

It is undisputed that two terms of said court had passed before the magistrate returned to the clerk of the said court the papers in the case, and if no cause existed other than appears in the record for his failure to return them earlier than he did, he was guilty of inexcusable negligence. Three terms of said court had passed without an information being filed against the defendant. Under the facts as shown, the court below should have granted the defendant’s motion, and dismissed the prosecution against him. The want of time and press of business on the part of the county attorney is not “good cause to the contrary,” within the meaning of that phrase as used in said section. The bond mentioned in the county attorney’s reply was for the appearance of the defendant at the next term of said court, and we know of no law that requires the defendant or his attorneys to call the county attorney’s attention to the dereliction of the committing magistrate. The filing of the information in the trial court could not be affected by the condition of the court fund.

We are constrained to think that the reply of the county attorney to the motion to dismiss was in effect a confession that the motion was well founded. It follows that the judgment should be reversed, and the court below directed to dismiss the prosecution and discharge the defendant.

December 14, 1939
Seventy-Five Years Ago

[Excerpted from *Hays v State*, 1939 OK CR 156, 97 P.2d 94.]

The defendant was charged in the county court of Garfield county with the crime of unlawful possession of intoxicating liquor;

was tried, convicted, and sentenced to pay a fine of \$100 and to serve 60 days in the county jail, and has appealed.

A motion was made by the defendant to suppress the evidence, alleging the invalidity of the purported search warrant issued, that it was in violation of the Constitution of the United States, the Bill of Rights of this state, and in violation of his statutory rights.

Evidence was offered by the defendant in support of this motion, and it revealed that the affidavit upon which the search warrant was issued could not be produced at the hearing for the reason that the same was not in the files of the justice of the peace who issued the same, and had been lost, and the search warrant itself showed that no return had been made by the officer to whom the search warrant was issued as required by the statute.

It is shown that the search warrant was issued to “John Hess, a peace officer in and for Garfield county”, but that he was not present at the time the search was made; but it was made by other police officers.

* * *

The docket of the justice of the peace was introduced in evidence, showing the filing of a complaint or affidavit, and the issuance of a warrant. The court said: “The rule of evidence requiring that the best evidence shall be produced, to the exclusion of secondary and hearsay, is violated by the admission of oral testimony to show the contents or recitals of a search warrant and the complaint or affidavit upon which such warrant issued.

* * *

Section 810, Okla. Stats. 1931, 67 Okla. St. Ann. § 1, provides as follows:

“Whenever the record of any judgment or decree, or other proceeding, of any court of this State, or any part of the record of any judicial proceeding or any other public records, shall have been lost or destroyed, any person interested therein may, on application by petition in writing, under oath, to the proper court of the county wherein the records were kept, on showing, to the satisfaction of such court, that the same has been lost or destroyed without fault or neglect of the person making such application, obtain an order from such court, authorizing such defect to be supplied by a duly certified copy of such original record, where the same can be obtained; which certified copy shall, thereafter, have the same effect as such original record would have had, in all respects.”

Section 3233, Okla. Stats. 1931, 22 Okla. St. Ann. § 1233, provides that a return to a search warrant shall be verified by the affidavit of the officer. The written return to the execution of a search warrant is ordinarily the best evidence of what the executing officers did.

Under the statute duly certified copies of the record in question would have the same validity and effect as the original complaint, or affidavit and warrant issued thereon. It would have been proper for the county attorney to ask for such substitution as soon as the loss was discovered.

When the motion to suppress the search warrant in this case was filed, it would have been an easy matter for the county attorney

to have followed the above statute and substituted the lost affidavit, and the same could have been introduced in the place of the original. The reason for this substitution is seen in the fact that the premises searched in the instant case were the home of the defendant. The statute requires that the affidavit upon which a search warrant is issued to search a home shall state certain, definite facts. Without the affidavit or the substitute therefor being introduced, the court was without information as to whether the facts were alleged upon which the search warrant could be issued. This substitution should have been made in the manner prescribed by the statute.

The Supreme Court of this state has decided that a justice of the peace court comes within the terms of the statute above quoted, and that the substitution may be made of lost documents within that court. *Indian Territory Illuminating Oil Co. v. Burke*, 113 Okla. 517, 49 P.2d 508.

From what has been above stated, it will be unnecessary to discuss any other error submitted in this case; and for the reasons above stated, the judgment of the county court of Garfield County is reversed.

December 9, 1964
Fifty Years Ago

[Excerpted from *Pope v. State* 1964 OK CR 116, 397 P.2d 513.]

Plaintiff in Error, Dennis L. Pope, hereinafter referred to as defendant, was charged in the County Court of Garfield County with Operating a Motor Vehicle While Under the Influence of Intoxicating Liquor. He was tried by a jury, found guilty, and his punishment assessed at a \$500.00 fine, and One Year (1) in the county jail. He has perfected his appeal to this Court within the time prescribed by law, asserting numerous assignments of error. The first being that the trial court erred in overruling the Motion of defendant to quash the array of the jury panel. On page 67 of the casemade, the following transpired:

“MR. SELLERS: Comes now the defendant and moves the court quash the array of the entire jury panel for the reason that the Clerk has drawn names of the jury from an open box and the names are not folded and this is contrary to the statutes and prejudicial to the rights of the defendant.

“THE COURT: Overruled.

“MR. SELLERS: We offer at this time in evidence the testimony of Mr. Wallace, who observed the drawing, and ask the court to excuse the jury while we examine the Clerk as to the drawing.

“THE COURT: Overruled.

“MR. SELLERS: We challenge the array and request the court to quash the entire panel.

“THE COURT: The motion is denied, the challenge is denied, and the request is denied and exception is granted * * * get on with the case.

“MR. SUMMERS: We have legal authority here.

“THE COURT: I don’t care to hear it. Allright, Mr. County Attorney.”

Our Oklahoma Statutes read very clearly as to the mandatory requirements on draw-

See **OLIO, PAGE 14**

Stump Roscoe

By Roscoe X. Pound

Things are relatively quiet here on the *London After Midnight* front. Junior continues to serve as guardian of Mr. Crenshaw and, of course, Sylvia. Given the lack of recent mischief from our white-sheeted friends, as well as getting to work in close proximity with Sylvia, it's been like a paid vacation. As for Mr. Blum, we've ensconced him in the home of one of Junior's uncles up in the Ramapo Mountains. Given that most of Junior's relatives probably own more light arms than the Picatinny Arsenal, we figured that to be as safe a place as any. They all had Thanksgiving dinner up there, an event at which I'd like to be a fly on the wall. By the way, to all my OCBA pals out there, I hope your Thanksgiving holiday was a good one.

Ernie Trani and I continued to work with our respective friends on our respective sides of the law. Both Main Justice and Southern Poverty Law Center had huge dossiers on Stockel and his bunch. Unfortunately, knowledge doesn't always equate to proof enough to seek an indictment. This particular group of hate-peddlers had proven very adept at covering their tracks as well as very difficult to turn as witnesses. This last, the fevered zealotry and tendency to operate in packs made them particularly dangerous. In addition, they had formed alliances with a variety of biker groups, white supremacy movements and militias, making them a sort of hydra-headed outfit quite difficult to kill off.

Winter had already given us here in the East a few good blasts, and I had reason to suspect that we might even have some snow for or around Christmas. Maybe that might jump start me to begin Christmas shopping. The Parks and Recreation folks had done a pretty good job at clearing the trails at Laurel

Hill Park so that I could take my thrice-weekly 5K run this week. I had to run against the wind today and the struggle seemed to boast the endorphins even higher. A light, cold mist, began to fall as I broke into a cool-down trot on my way back to my car. As I drew closer, I could see a figure in the shadows of a fir tree. I removed my Kel-Tec 9 mm., my "running gun" from the kangaroo pocket in my hoodie and held it down against my leg. Then I moved to a near-by vehicle to put its engine block between us. I saw no one else in the area.

The shadow figure moved out from the cover of the trees, resolving itself into the form and features of Ernie Trani. He held his arms wide as he walked over to my car.

"Good to see you're awake," he said.

I did not holster my gun as I approached. "What're you doing here?"

"Monday, Wednesday and Friday you do a 5K run before you go into work. Tuesday, Thursday, and Saturday you undo whatever good the run did you reading the paper at Sinkers and Joe. It'd make it easy to assassinate you."

"I might surprise you on that." I replied.

He considered that for a moment. "Yeah, you might at that. At any rate, I'm here to take you to an early lunch. Hope you like gyros."

"What's the occasion?"

He smiled. "Christmas."

We drove to a strip shopping center which was badly in need of a plow or some sand. "There's a space over there."

"This one's closer," I said.

"Too small."

"I can make it."

I could've too, except for a patch of black ice. It skewed my entry ever so slightly, but enough to put me up against the SUV to my

right. Shame too. Still had the dealer's temporary tags on. Ernie shot me a "told you so" smile. We got out of the car to take a look. There was about seven inches of black laid atop the new blue of the vehicle.

"Nobody can tell you anything, can they?" Ernie said reprovingly.

I ignored him and turned back and started to get back in the car. At that moment, the driver's side window of the adjacent vehicle rolled down and two guys sat in the front seat. The driver said: "Twenty bucks and we didn't see nothin'."

Ernie stepped up to him, hands fishing around in his coat pocket. "Hmmm. Short on cash. How about you leave and I don't give you something from here." He held a pistol at waist level. The guy in the passenger seat started a stream of "OGod, OGod, OGod." The driver, however, remained unflappable. "Man, you ain't gonna do nothin' with that. That shot goes off and all these shoppers'll be taken pictures of you on their cell phones, and you'll be as good as in Rahway."

"Got a point," Ernie said. He reached into his other pocket and pulled out a suppressor, which he screwed on to his weapon. "There, that better?" he asked.

The driver's eyes bulged. He gunned his engine and pulled away, fishtailing as he high-tailed it out of the lot. "I better leave a note," I said.

"Just park the car," said Ernie. "I'll handle the note." He reached under his coat and pulled out a pen and a small notebook.

We went into the restaurant. They had decorated for Christmas, in part displaying seasonal cheer, but mainly devotionals such as Nativity scenes and pictures of St. Nick, the historical one as opposed to the "right jolly old elf" in red. The owner greeted Ernie warmly. As we seated ourselves, Ernie

requested two specials.

"Something's on your mind besides Christmas," I said.

"Yep, we got an appointment."

"With...?"

"That Stockel guy. January fifth. It's a Tuesday, so no donuts."

"And you got that, how?"

Ernie shrugged. "I know someone who knows someone. You know how it works."

"It's a ways off," I said.

"I try not shoot folks before Christmas if I can help it."

Lunch came. We discussed our agenda for the scheduled meeting, and what we had garnered from connections on both sides of the law. We agreed that the appointment did not mean that Stockel would passively await the meeting and that we needed to keep our guard up. We needed to meet with Blum again. After about an hour of strategizing, I left. The SUV I clipped had departed. Surprisingly, I found the same vehicle sitting in one of the parking spaces outside my office. This guy didn't waste time. Once inside, I found Father Auggie conversing with Rae, no one else in sight. The good Father seemed agitated.

"I'll tell you why," he growled. "I stopped at a store on my way here to show you my new car. When I got back to my car there was a scratch along the side and this was in the windshield. He handed me a scrap of paper that said:

"Look, pal. Sorry about your vehicle. I'm not going to leave a name or address, but people are watching so I gotta write something."

May all your surprises this holiday season be pleasant ones, and may the new year bring peace and happiness to you and yours.

PLANNING from PAGE 1

lawyers who have either died, often suddenly, or become disabled, and are no longer able to practice. Typically, the lawyer has not adequately prepared for this possibility. Even when the lawyer is a member of a firm or legal department, the transition from such a situation is not always smooth, and the confusion can be especially acute if the lawyer is in solo practice. No lawyer knows everything about the practice of the lawyer in the next office or building.

This *Planning Ahead Guide* has been created with the hope that it will assist all Oklahoma lawyers, especially those in solo practice, to plan for the succession or winding down of their practices, just as they would hopefully plan for their personal estates. The failure to plan not only puts clients in temporary jeopardy, but can add another layer of stress to an unprepared, despondent family, who are often not equipped or motivated to deal with such a situation.

The new OBA *Planning Guide* is in place to help you start this important process now. You can make the forms and checklists your own, and the Guide gives you a perfect place to start. The OBA and OCBA urge you to start your planning today, to protect your valued clients, staff and family.

This article originally appeared in the Dec. 13, 2014, Oklahoma Bar Journal. Reprinted with permission.

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*"It became necessary
to destroy the town
to save it."*

-Unidentified U.S. Army Major to
Correspondent Peter Arnett
(referring to the destruction of Ben
Tre, South Vietnam in 1968)

Quotes of the MONTH

*"On the one hand,
I would like to expect the
best of every person I meet,
but on the other hand,
that would make me a dog."*

-Robert Brault, writer (b. 1938)



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iBar Definitive Playlists

By Chris Deason and Judge Don Deason

We were in Colorado two years ago visiting Don’s brother Dave, a musician who lives in Manitou Springs. On a Saturday night, early August, a cool evening while Oklahoma was sweltering in 110 degree plus temperatures, we were treated to our first concert at **Red Rocks Amphitheater**, located just west of Denver in the foothills of the Rockies. Red Rocks Park is maintained by the city of Denver, and there have been musical performances held there for more than 100 years, ranging from opera and classical to Native American ceremonies. The amphitheater itself was constructed between 1936 and 1941 by a combined Civilian Conservation Corps and Works Progress Administration project. Nestled between three large red sandstone outcroppings with seating for just under 10,000, it is probably the world’s premier outdoor music venue.

One of the earliest memorable rock ‘n’ roll performances was by the **Beatles** in August of 1964. Ironically, it was the only show on the tour that was not sold out. An “incident” at a 1971 **Jethro Tull** concert caused Red Rocks to be closed for any rock acts for the next five years. The concert had been sold out for two weeks, and the trouble started when three to four thousand people sitting on the hills surrounding Red Rocks decided to storm the amphitheater, scaling the back wall and spilling over the rock formations. Police dropped tear gas canisters from helicopters, while rocks and bottles were hurled at police, and at least one car was overturned and burned. While the riot was limited to the areas surrounding the amphitheater, that didn’t keep clouds of tear gas from cascading down the natural canyon-like configuration of the seating area and collecting on the stage. It was said that the only true heroes of the night were the members of Jethro Tull, who played on as tear gas explosions continued outside. As singer **Ian Anderson** finished the first song, he said to the audience, “Welcome to World War Three.” Red Rocks would become famous in the MTV era when rock concerts resumed as the setting for the video of U2’s live performance of *Sunday Bloody Sunday*.

Our experience was far more tame than either of those instances. The lineup for that night was **Trombone Shorty, Band of Horses**, with headliner **My Morning Jacket**. Trombone Shorty got the audience going with his brand of New Orleans flavored funk, even channeling James Brown at one point. Band of Horses suffered the fate of the opening act, when concert goers are more interested in talking, drinking beer, and smoking various substances. Too bad for them. We really enjoyed their set, and have been fans ever since. As the sun went down behind us and the lights of Denver came on in the distance, My Morning Jacket took the stage as a full moon rose over the stage behind them. They played a massive 29 song set that didn’t conclude until the early morning hours, and the audience still screamed for more. When MMJ front man **Jim James** took the stage for the 6 song encore, he told the audience, “Every time we play here, it’s like we walked through the gates of Paradise and came out on the other side.” It was an incredible evening, and we urge any music lovers to put Red Rocks on your list of musical destinations.

Andy Walding: Mr. Walding was a tad vague when asked about himself. It was either an attempt to be mysterious or he is actually a modest and humble man. Mr. Walding didn’t tell us anything about his parents, where he was born and raised or any interesting details about his life. What we have discovered is that he graduated from a Catholic boarding school in Subiaco, Arkansas, at an undisclosed time. He attended the University of Arkansas (soooooe, pig!), but transferred to the University of Oklahoma for an undisclosed reason. He claims to have obtained a degree in accounting, passed the requisite exams and became a CPA. We actually did confirm Mr. Walding’s 1990 graduation from the OU College of Law. After practicing with Fellers Snider for 25 years, he set up a private practice with Blake Patton, forming Walding & Patton, PLLC, which focuses on business litigation. We happen to know that Mr. Walding practices in other areas of the law, because we’ve seen him do it. He tried to identify his favorite songs from the last 50 years of loving music. The list below is comprised of his “solid tracks.”

Song Title	Artist
Little Wing	The Jimi Hendrix Experience, 1967
I’m Going Home	Ten Years After, 1968
Pinball Wizard	The Who, 1969
Fearless	Pink Floyd, 1971
American Girl	Tom Petty & The Heartbreakers, 1976
Once In A Lifetime	Talking Heads, 1986
Rabbit	Ray Wylie Hubbard, 2006
Rockin’ Robin	Michael Jackson, 1971 (Guilty Pleasure)

Cindy Goble: Ms. Goble is the Managing Attorney and Pro Bono Coordinator for Legal Aid Services of Oklahoma’s Oklahoma City Law Office. She is a 1990 OU College of Business grad and a 1993 OU College of Law grad. Her initial foray in the legal profession was with Talley & Perrine Law Firm, practicing primarily criminal law under the OIDS contract. Some shake up must have happened there because it became Perrine & Associates in 1997. By 2000, Ms. Goble was in private practice and then joined the do-gooders at Legal Aid Services of Oklahoma, where she has happily toiled away since 2004. In her spare time she works to improve her 1926 historic Gatewood Neighborhood home, except when she’s watching OU football games. Cindy’s guilty pleasure is *much less* guilty than Andy’s.

Song Title	Artist
Thunderstruck	ACDC
Imagine	John Lennon
Only In America	Brooks and Dunn
Walking in Memphis	Marc Cohn
Enter Sandman	Metallica
Feels Like Home	Chantal Kreviazuk
Dark Horse	Katy Perry (Guilty Pleasure)

Book Review

By Rex Travis

What to Do About the War on Drugs?

Two Oklahoma County Lawyer/Authors have written novels dealing with the subject “What to Do About the War on Drugs?” So far as I know, each worked separately on their books and did not know the other was doing a work on the same general subject matter. Jerry Sokolosky published first in 2011 his novel, *Politics Money and Drugs The Clerk will Call the Roll* (Sokolosky, Jerry D. *Politics Money and Drugs The Clerk Will Call The Roll*. Oklahoma City, 2011). Then, in 2013, Ray Tompkins published *Best Laid Plans* (Tompkins, Ray. *Best Laid Plans North Charleston: CreateSpace Independent Publishing Platform*, 2013.)

Each use a similar literary device in which the protagonist is a politician somewhat in the mold of the particular author and with some knowledge of the “war on drugs.” Sokolosky’s protagonist is a DEA Agent who has fought the war on drugs and come to realize it is a war in name only and that the result is an ongoing war with no progress toward resolving the drug problem in the society. He is, of course, a Democrat, as is Sokolosky. He’s running for Congress, to do something about it.

Tompkins’ protagonist is a Republican, as is Ray, and is quite pleased with the war on drugs, which he views as less than a smashing success only due to the efforts of the drug cartels to infiltrate American politics and procure



decriminalization, if not legalization of all drugs. Interestingly, in Sokolosky’s Democratic universe, it is the Latin-American drug dealers who want to avoid decriminalization and keep up the war on drugs as this will keep the street value of the product at a higher level and produce more revenue. Interestingly, both sides’ principal advocates for these disparate positions, are quite desirable characters with just an understandable point-of-view difference which we can easily overlook.

Both stories terminate in highly dramatic fashion with broken careers and families. Perhaps the really scary thing about these books is that both authors are no strangers to the American political process. Both have done yeoman-like service to their respective parties’

legislative election efforts and yet do not seem fazed by what sounds to me like a cess-pool of political financing. Maybe I’ve led a sheltered life.

Both books move along well. Neither is terribly long. Ray’s is less than 200 pages while Jerry’s comes in at 260, both with large print. Both books are surprisingly readable, for a product by a guy who has long earned his living writing legal briefs.

You might want to give each of them a call and ask them if they can find a copy of the book for you. (I’ll bet they can!) Ray can be reached at 607-8303. Jerry’s number is 427-6869. Buy both books. You can read them in a Saturday afternoon. It will make a couple of old lawyers happy!

Old News

Excerpts from
OCBA News:
June, 1973, Part 2

Special Notice for Municipal Counselor Applicants

The Municipal Counselor is general counsel and chief legal advisor to the City. Candidates are invited to apply who are lawyers with a minimum of five years law experience. Background in municipal law would be valuable, but not necessary. Duties include directing the work of a staff of lawyers and a budget of several hundred thousand dollars. Income range: \$21,000 and up depending on experience. All benefits available as apply to other municipal employees, i.e., health and accident insurance, life insurance and retirement benefits. Written application should be made to the Mayor’s Office, Mayor Patience Latting, 200 North Walker, Oklahoma City, Oklahoma, 73102. All applications should include at least three references and resume. Closing date: August 1, 1973. The applications will remain confidential.



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Cindy Welch, Sonya Porter, Laurie Jones & Cindy Goble



Jim Webb, Judge Lisa Davis & David Cheek



Judge Tim Henderson & John Heatly

'Tis The Season to Be Franco'd

By Matthew Kane

Love him or hate him, James Franco is definitely interesting and enigmatic. He may have smoked a little too much not-tobacco product, and, at least according to some sources (like my wife), is a little pretentious. His good friend Seth Rogen has described him as “weird,” but that is a good thing in a Hollywood intent on squeezing every last drop from a successful property through sequels, prequels and shared “cinematic universes.”

Regardless, I felt it was my moral and civic obligation to prepare you for the upcoming Franco-centric holiday season. Franco will be ubiquitous: plastered across the Internet, TV, print and the silver screen. As one would expect simply playing the odds, some, if not all of that exposure appears to be worth a view.

While best known as a thespian, having played an extraordinarily wide array of roles including one as an attorney – albeit a lawyer under the influence of illegal substances and involved in various untoward activities – Franco has quite the eclectic history. He hosted the *Oscars* to a 99 percent percent disapproval rating, by my estimate, although vocal Anne

Hathaway fans may have been responsible for the 1 percent. He has released several books, including a poetry compilation earlier this year – *I think you'll hate these films, because they're mine... You have to like no-good movies to like movies...* – feeling enlightened yet? His NYU thesis film, a behind the scenes look at *Saturday Night Live* (when John Malkovich, Franco's equal, if not superior, in the odd duck department), was recently released on Hulu, and he now teaches the trade to young ingénues.

Speaking of *SNL*, while he has hosted before (his turn as young Vogelcheck introducing his girlfriend to his overly affectionate family had the audience in tears) and he has dropped in for guest spots (the reveal at the end of *Monster Pals* was perfection), he will certainly make heads turn once again when he hosts with Nicki Minaj this holiday season. However, *SNL* will likely not be his most memorable television appearance of the yuletide.

Franco will also make an appearance on a special episode of *Naked and Afraid*.

See **FRANCO, PAGE 15**



Partnering for ThanksGIVING

(Pictured left to right) Erin Potter Sullenger, associate at Crowe & Dunlevy, and Leslie Lynch with the Oklahoma Bar Association (OBA) Women in Law Committee, stand with diaper and baby food donations collected by Crowe & Dunlevy for the Lawyers Fighting Hunger Thanksgiving campaign. The women and mothers of the OBA Women in Law Committee partnered with Lawyers Fighting Hunger to provide a day's worth of diapers and baby food in addition to Thanksgiving meals given to each sponsored family.

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JENNA RADER
Intellectual Property | Real Estate

Edward Snowden: Hero or Traitor?¹

Part one of a five-part article reprinted from *The Nebraska Lawyer* with permission of the Omaha Bar Association.

See next month's *Briefcase* for a continuation of this article, II: *Where Are We Today With Domestic Surveillance*

By G. Michael Fenner

Is Edward Snowden a hero or a traitor? Let me work my way up to an answer to that question.

I. A Brief History of the U.S. Surveillance of Domestic Communications

I will start with an oversimplified history of American surveillance of domestic communications: not surveillance of communications taking place outside the U.S. As someone once said, "Outside the United States, the CIA prowls the alleys without a leash."²

If your data leaves the country—even if only routed through an outside server—our intelligence community can access it at will. We learned not so long ago that the CIA got ahold of Mayer, Brown & Platt attorney-client privileged documents because the client was outside the U.S. and the documents were captured outside the U.S.

CIVIL WAR: Domestic surveillance by the Federal Government was first used on a significant scale under President Lincoln during the Civil War. But, of course, this was surveillance of an enemy that was operating domestically.

WWI: During WWI a Military Intelligence Division (MID) was created within the Army. Its charge included locating German spies and saboteurs. It didn't find many enemy agents, so it turned its attention to the investigation of Americans MID considered dangerous: real or suspected labor unionists, pacifists, socialists, Communists, and civil rights activists.

AFTER WWI: After the war, MID joined with the newly created FBI. They compiled dossiers on thousands of American citizens, conducted illegal raids, made illegal arrests, and subjected many citizens to interrogation. They helped local authorities crush labor strikes and suppress racial disturbances.



WWII: During World War II, domestic military surveillance expanded substantially. By then, military intelligence was called G-2. FDR gave G-2 responsibility for protecting defense plants, and it established a network of thousands of informants. G-2 reported on radical labor and political groups and what it called "semiradical" groups concerned with pacifism and civil liberties. Do you see a pattern here?

AFTER WWII: Shortly after WWII the federal government persuaded—and here's where the surveillance begins to look a little bit modern. The federal government persuaded the three major American tele-

graph companies to hand over most of their traffic. That program continued until 1975 and collected the telegrams of 75,000 American citizens.³

THE '60s: In the '60s, under J. Edgar Hoover, the FBI devoted considerable resources to the secret surveillance of anti-war protestors, desegregationists, and Communists. At the same time, the CIA was heavily engaged in secret domestic surveillance. Much of Hoover's surveillance was illegal. And all domestic surveillance by the CIA was directly contrary to federal statutory law. The causative events were, by and large, the civil rights movement and the protests against the war in Viet Nam.

When this FBI and CIA surveillance came to light, Congress did three things. But first...

MARCH 8, 1971: How did we learn of this '60s surveillance? The first trickle of information came to the media in the form of documents stolen from the FBI. The theft happened under cover of darkness on March 8, 1971, the night the country's attention was focused on the Fight of the Century: the Ali-Frazier fight in Madison Square Garden. Burglars took a lock pick and a crowbar and broke into the Media, Pennsylvania, office of the FBI. They put nearly every document in the office into boxes, carted them off to a house in the Pennsylvania woods, and anonymously mailed the stolen documents to various newspaper reporters.

Here is what one of the burglars said, "When you talked to people... about what the FBI was doing, nobody wanted to believe it. There was only one way to convince people that it was true, and that was to get it in their handwriting."⁴

One of the documents was a memo from Hoover that urged agents to step up their interviews of antiwar activists and members of dissident student groups. Hoover wrote, "[I]t will enhance the paranoia endemic in these circles and will further serve to get the point across that there is an FBI agent behind every mailbox."⁵ Likely the most absurd of these documents revealed that the FBI sent Martin Luther King an anonymous blackmail letter threatening to expose his extramarital affairs if he did not commit suicide.⁶

FISA, FISC, & SENATE SELECT COMMITTEE: When this FBI and CIA surveillance came to light, Congress stepped in. The year was 1978, 36 years ago.

- Congress passed a statute, Foreign Intelligence Surveillance Act (FISA) to put a leash on domestic surveillance.
- Congress created the Federal Intelligence Surveillance Court (FISC) where, in part, the Executive Branch is to seek warrants allowing domestic surveillance.
- Congress created the Senate Select Committee on Intelligence to oversee our intelligence agencies.

Thirty-six years ago Congress separated the surveillance power leaving some with

the Executive Branch and giving some to a court and some to a legislative-oversight committee—creating two buffers between Executive Branch surveillance and us.

EXPLOSIONS: The next-to-the-last stop in this brief history of domestic surveillance: (1) Technology has exploded. (2) Our ability to communicate worldwide, to transmit data and documents—instantaneously, continuously, and essentially for free—has exploded. (3) Our ability to collect, categorize, collate, and store that information has exploded. (4) The ability of our enemies to terrorize us has exploded. (5) On 9-11 the Twin Towers exploded.

The law is having trouble keeping up.

JUNE 15, 2013, THE GUARDIAN: On June 15, 2013, the British newspaper *The Guardian* reported the first of several leaks of classified material from Edward Snowden. Former Deputy CIA Director Michael Morell said that this was the "most serious compromise of classified information in the history of U.S. intelligence."⁷ I don't know about that. I am not qualified to judge it. I just know that it was said by a man who might be qualified to judge.

LESSONS TO BE LEARNED: Of course there are lessons to be learned from this history. First, these powers are conferred in times of war or domestic turmoil. Historically "turmoil" has included labor-union organization, civil-rights activism, and war protests.

Second, once granted, these powers are *always* expanded and often in ways that are *ultra vires*. Like censorship, the surveiller first surveils the one thing and then looks for something more to surveil. We all want to keep our jobs; we all want our



organizations to grow. The power of the surveiller expands, the scope of the surveillance expands, and it keeps expanding until something or someone stops it.

Third, whenever we set up this kind of security system there is a great tendency to produce "false-positive errors: [to] label as suspicious people and events that are actually perfectly normal."⁸ To label as suspicious, for example, desegregationists, anti-war protestors, and union organizers—those opposed to those in power.

Endnotes

- 1 This article began as a 20-minute speech to the Omaha Bar Ass'n and became a one-hour speech to the 8th Circuit Judicial Conference.
- 2 John Radsan, *THE UNRESOLVED EQUATION OF ESPIONAGE AND INTERNATIONAL LAW* (2007), reprinted in *ETHICS OF SPYING: A READER FOR THE INTELLIGENCE PROFESSIONAL* (Jan Goldman ed. 2010).
- 3 Up to this point, much of this history is based on material found at *THE OXFORD COMPANION TO AMERICAN MILITARY HISTORY Domestic Surveillance* (Oxford University Press, Inc., 2000) found at *Answers.com* 19 Oct. 2014. <http://www.answers.com/topic/domestic-surveillance> (last visited Oct. 19, 2014).
- 4 Newsfeed.Time.com (Jan. 7, 2014) available at <http://newsfeed.time.com/2014/01/07/new-details-on-historic-fbi-office-burglary-and-other-fascinating-news-on-the-web/> (last visited Oct. 19, 2014).
- 5 Betty Medsger, *Remembering an Earlier Time when a Theft Unmasked Government Surveillance*, *THE WASHINGTON POST* (Jan. 10, 2014) available at http://www.washingtonpost.com/lifestyle/style/remembering-an-earlier-time-when-a-theftunmasked-government-surveillance/2014/01/10/30e9ee44-7963-11e3-8963-b4b654bcc9b2_story.html (last visited Oct. 19, 2014).
- 6 Editorial: *Los Angeles Daily News* (Jan. 7, 2014), available at <http://www.dailynews.com/opinion/20140107/unchecked-government-power-leads-to-dangerous-excess-editorial> (last visited Oct. 19, 2014).
- 7 CBS News, 60 Minutes, John Miller interview with Mike Morell (Oct. 30, 2013) available at <http://www.cbsnews.com/news/the-deputy-director-mike-morell/> (last visited Oct. 19, 2014).
- 8 Malcolm Gladwell, *Trust No One*, *THE NEW YORKER* 70, 73 (July 28, 2014).

G. Michael Fenner



G. Michael Fenner, James L. Koley, '54, Professor of Constitutional Law, received his Bachelor of Arts degree from Kansas University in 1965; and his JD, with distinction, from the University of Missouri-Kansas City in 1969. From 1969-1972 he was a trial attorney in the Honors Law Graduate Program with the United States Department of Justice. He joined the Creighton Law faculty in 1972. He served as President of the Nebraska State Bar Association in 2013-2014.



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Are Your Coronary Arteries Only Somewhat Narrowed?

By Warren E. Jones

I assume that you understand that a heart attack occurs when there is a blockage of an artery in your heart. That blockage, of course, causes there to be a cessation of flow of oxygen and glucose to the working heart muscle. The newest JAMA (*Journal of the American Medical Association*) contains a study reflecting how even small blockages are predictive of heart attacks.

The researchers first measured, by angiogram, the level of obstruction and the extent of obstruction. By extent, I mean whether the obstruction (of whatever size) was in one, or two, or three coronary arteries.

The researchers then followed the approximate 38,000 subjects for only one year to see whether they had either a heart attack or actually died (from any cause). As you might expect, those subjects with more blockage had much greater odds of heart attacks and mortality than those subjects with less blockage. Both were compared to those subjects with little or no blockage. By definition, subjects with less than twenty percent "stenosis," the medical term for narrowing of the artery, were the subjects against whom those with twenty percent or more stenosis were compared.

Those with twenty percent or more but less than fifty percent were categorized as having "non-obstructive" coronary artery disease (CAD), while those with at least fifty percent stenosis were categorized as having "obstructive" CAD.

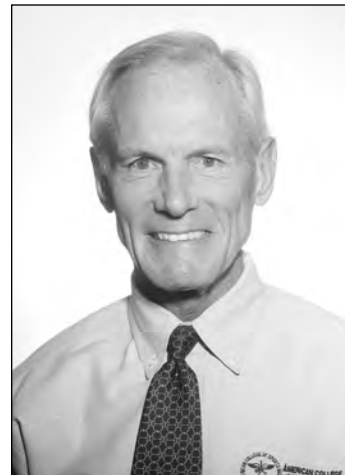
Against those with no or little obstruction, the one year heart attack rate increased progressively by one vessel (one coronary artery) non-obstructive CAD, by two vessel non-obstructive CAD, by three vessel non-obstructive CAD, by one vessel obstructive CAD, by two vessel obstructive CAD, and by three vessel obstructive CAD.

Relative to subjects with no apparent CAD, subjects with one vessel non-obstructive CAD had a one-year heart attack risk twice as large; subjects with two vessel non-obstructive 4.6 times as large; and three vessel non-obstructive 4.5 times as large. Of course, those with obstructive CAD were at even higher risks.

Similar relationships were noted when both one-year all-cause mortality and combined heart attack and mortality outcomes were examined. One-year mortality rates demonstrated a largely progressive relationship with increasing CAD

extent.

So, the heart attack risk, rather than abruptly increasing between non-obstructive and obstructive CAD, progressively increased by CAD extent. Again, subjects with non-obstructive CAD had an associated risk of heart attack that was 2 to 4.5-fold greater than among those with no apparent CAD. Therefore, there is a need to recognize that non-obstructive CAD is associated with significantly increased risk for heart attacks. In the words of the study author, "these results reveal the limitations of a dichotomous character-



Warren Jones

ization of angiographic CAD into 'obstructive' and 'non-obstructive' to predict heart attacks and highlight the importance of preventive strategies such as pharmacotherapy treatments and lifestyle modifications to mitigate these risks."

The authors further stated, "The recognition that ruptured plaque, rather than occlusive plaque, is the genesis for most heart attacks, along with the recognition that the majority of ruptured plaques arise from non-obstructive CAD, suggest that non-obstructive CAD is associated with significant risk for heart attacks and all cause mortality."

So, it is clear to me that the traditional dichotomous framework for CAD, which is useful for characterizing and managing ischemia and symptoms, should not be applied to heart attack risks inherent in CAD.

It is also clear to me that lifestyle therapies and therapies such as anti-platelet agents and statins in patients with clearly defined non-obstructive CAD are necessary.

The take-home message? Even if you have no risk factors for CAD, visit with your doctor about having an angiogram done. Certainly, if you have one or more risk factors for CAD (high blood pressure, high cholesterol, smoking, family history of CAD, obesity, impaired fasting glucose, or a sedentary lifestyle), ask your doctor if there is any reason NOT to have an angiogram done.

Warren E. Jones, JD, HFS, CSCS, CEQ, is an American College of Sports Medicine (ACSM) Health Fitness Specialist, a National Strength and Conditioning Association Certified Strength and Conditioning Specialist, and a holder of an ACSM Certificate of Enhanced Qualification. His clients range from competitive athletes to the morbidly obese. He can be reached at wejones65@gmail.com or at 405-812-7612.

Bar Observer

Durbin, Larimore & Bialick Announces New Managing Partner

The law firm of Durbin, Larimore & Bialick P.C. (DLB) is pleased to announce that **David Donchin** has been appointed as managing partner. Donchin succeeds Jim Larimore, who has held the position since the firm's inception in 1983. As managing partner, Donchin oversees the day-to-day operations and long-term planning for the law firm which is comprised of 20 attorneys who represent clients in all areas of the law.

Since joining DLB in 1988, Donchin has built a strong litigation practice involving insurance law, complex litigation, personal injury law, products liability, employment law, environmental law and medical malpractice. In addition to his law practice, Donchin has served as an adjunct professor at the University of Oklahoma College of Law for Trial Practice, and as a member of the faculty of the Southern Region of the National Institute of Trial Advocacy.

Donchin was elected into the *American College of Trial Lawyers*, which is limited to the top one percent of a state's total attorneys. He has been a perennial selection by his peers for inclusion in *Super Lawyers* since its inception in 2006, for personal injury defense. *Oklahoma Magazine* and *Super Lawyers Magazine* have recognized him as one of Oklahoma's top 50 lawyers in 2010, 2011 and 2013. He is also ranked among Oklahoma's top 10 lawyers for 2014 by *Super Lawyers Magazine*. Donchin was selected for inclusion by Benchmark Litigation in 2013 and 2014 for insurance law and medical malpractice.

Donchin's educational background includes a bachelor of arts degree and a law degree from the University of Oklahoma.

Porter Hedges Expands Energy Practice with New Office in OKC led by Partner C. Ray Lees

Porter Hedges has expanded its energy practice with the opening of a new office in Oklahoma City led by partner **C. Ray Lees**. Mr. Lees' practice focuses on upstream and midstream oil and gas transactions including mergers, acquisitions & divestitures, joint ventures, finance, and real estate. He joins Porter Hedges along with of counsel Kendra D. Streeter and associates John H. Edwards and David K. Gannaway.

Mr. Lees has advised clients of some of the oil and gas industry's largest conventional and unconventional oil and gas acquisition and divestiture transactions, including deals with a combined value of more than \$80 billion over the last ten years. He has worked in every significant shale basin in the country, including the Barnett, Eagle Ford, Fayetteville, Haynesville, Marcellus, Mississippi Lime, Niobrara, Permian, and Utica plays. He has also counseled clients in equity commitments from private investors and energy financing transactions involving oil and gas and midstream assets across the country. Prior to establishing the Oklahoma City office for Porter Hedges, Mr. Lees was managing partner of Commercial Law Group, P.C. in Oklahoma City.

The Porter Hedges energy team counsels domestic and international clients on onshore and offshore oil and gas upstream and mid-

stream transactions, including both conventional and unconventional oil and gas transactions, mergers, acquisitions, divestitures, joint ventures, energy infrastructure projects, and energy-based financing/reserve-based lending. With an energy transactions team of more than 40 attorneys, Porter Hedges advises clients across the full spectrum of the energy industry.

Crowe & Dunlevy Adds Four Associates in OKC

Crowe & Dunlevy recently announced the hiring of **Emilie A. Blanchard**, **Andrew E. Henry**, **Charles A. Knutter** and **Lauren K. Ottaway** as associates in the firm's Oklahoma City office.

Blanchard serves as an associate in the Litigation & Trial practice group. She received her Juris Doctor from the University of Tulsa College of Law, where she served as an editor of the Law Review. During her time in law school, Blanchard was honored with the Order of the Curule Chair and named Most Outstanding Law Student. She also won CALI Awards of Excellence in Criminal Law and Administration, Civil Procedure II, Family Law, Remedies and Secured Transactions.

Her undergraduate degrees in international studies and Spanish from the University of Oklahoma proved to be a valuable resource at the Boesche Legal Clinic where she was honored for her work on the Immigrants' Rights Project. Blanchard also served as a law clerk to the Honorable Robert E. Bacharach in the Tenth Circuit Court of Appeals prior to joining the firm.

Henry serves the firm's clients as a member of the Litigation & Trial practice group. Henry graduated from the University of Oklahoma College of Law with honors in 2014. During law school, he served as a note and comment editor of the *Oklahoma Law Review* and was a member of Phi Delta Phi. Henry received several honors and awards, including American Jurisprudence awards in Remedies and Trial Techniques and selection into the Order of the Coif and Order of the Barristers. He gained legal experience while competing in the American Bar Association National Appellate Advocacy competition, where his moot court team advanced to the national quarter-finals for two consecutive years.

Prior to attending law school, Henry studied economics at Oklahoma State University. During his freshman year, he was honored as one of the university's top 10 freshmen men. In his senior year, Henry was named a Senior of Significance, an award given to the top 1 percent of seniors. He graduated magna cum laude in May 2011.

Knutter serves in the Energy & Natural Resources and Litigation & Trial practice groups. While pursuing his Juris Doctor at the University of Oklahoma College of Law, Knutter served as symposium editor for the *Oklahoma Law Review*. He was a member of the Energy Law Student Association, led the Student Bar Association's Outreach Committee and served as the vice president and National Convention representative for the Federalist Society. Knutter also mentored first-year law students and represented OU Law in various moot court competitions while maintaining his place on the Dean's Honor Roll.

A native of Healdton, Oklahoma, Knutter gained practical oilfield experience working for various oilfield service companies while

earning his undergraduate degree from the University of Oklahoma. He worked as a summer associate for Crowe & Dunlevy prior to joining the firm's Oklahoma City office.

Ottaway joins the firm's Private Wealth & Closely-Held Business and Taxation practice groups, focusing on wealth planning, tax-exempt organizations, trust and estates and taxation. She earned her Juris Doctor from Boston University School of Law, graduating cum laude, where she served as a member of the *American Journal of Law & Medicine*. Additionally, Ottaway earned a Master of Laws in Taxation and an Estate Planning certificate from Georgetown Law Center in Washington, D.C. She is a graduate of Washington and Lee University with a Bachelor of Arts in history.

She is active in the community and serves on several boards, including Infant Crisis Services, Inc. Young Professionals, United Way Emerging Leaders Steering Committee and Lighthouse Academies of Oklahoma City. She is a member of the Junior League of Oklahoma City and is a 2013-14 Leadership Oklahoma City LOYAL Class IX member.

American College of Bankruptcy to Induct Attorney Hoch

The American College of Bankruptcy recently announced that Crowe & Dunlevy attorney **William H. Hoch** will be inducted as a fellow of the college on March 13, 2015 in Washington, D.C. Hoch joins an elite list of only six Oklahoma members. Crowe & Dunlevy attorney **Mark A. Craig** is also a fellow.

Hoch is a director in the firm's Oklahoma City office and serves as chair of the Bankruptcy & Creditor's Rights practice group. He has practiced at the firm since 1995, concentrating in the areas of creditor's rights, bankruptcy, commercial litigation, foreclosure, Fair Debtor Collection Practices Act, TILA litigation, RESPA litigation and HOEPA litigation.

He is AV-rated by Martindale Hubbell and listed in The Best Lawyers in America (Mortgage Banking and Foreclosure Law; Litigation/Banking Finance; Litigation/Bankruptcy; Bankruptcy and Creditor-Debtor Rights Law/Insolvency and Reorganization; and Commercial Litigation). Hoch has also been selected as a Super Lawyer in the areas of business litigation, bankruptcy and creditor's rights and general litigation.

Hoch received his Juris Doctor from the Columbus School of Law at The Catholic University of America and has a Bachelor of Arts from The Catholic University of America in Washington, D.C.

The American College of Bankruptcy is an honorary professional and educational association of bankruptcy and insolvency professionals. The college plays an important role in sustaining professional excellence and supports educational and pro bono efforts in local communities around the country. College fellows include commercial and consumer bankruptcy attorneys, judges, insolvency accountants, turnaround and workout specialists, law professors, government officials and others involved in the bankruptcy and insolvency community.

Criteria for selection include: the highest standard of professionalism, ethics, character, integrity, professional expertise and leader-

ship contributing to the enhancement of bankruptcy and insolvency law and practice; sustained evidence of scholarship, teaching, lecturing or writing on bankruptcy or insolvency; and commitment to elevate knowledge and understanding of the profession and public respect for the practice. There are 34 nominees being honored and recognized for their professional excellence and exceptional contributions to the fields of bankruptcy and insolvency. The nominees reside in 24 states (including the District of Columbia) and three foreign countries.

Susan Shields Honored with 2014 Roger Scott Memorial Award

The Oklahoma Bar Foundation honored **Susan Shields**, a shareholder with McAfee & Taft, with its prestigious Roger Scott Memorial Award during the Oklahoma Bar Association's 2014 annual meeting on November 14, 2014 in Tulsa, Oklahoma. The award honors those who have gone above and beyond the demonstrate their voluntary commitment and dedication required to sustain the vitality and growth of the Foundation through continued active recruitment of new fellows from the ranks of the membership of the Oklahoma Bar Association as well as other significant efforts on behalf of the OBF.

The award is named after **Roger Scott**, an Oklahoma lawyer who served as a trustee of the Oklahoma Bar Foundation from 2003 to 2009.

Shields served on the Oklahoma Bar Foundation Board of Trustees from 2007 through 2014, including as an officer from 2010-2014 and as its president for the 2013 term. She also served on numerous task force and committees and chaired the audit committee for five years. In 2010, she was honored with the OBF President's Award for outstanding service. Shields also previously served on the OBA Board of Governors and is the current OBA vice president.

Shields is a tax attorney whose practice is focused on wealth transfer tax planning for high net worth families and individuals, business planning for closely held family businesses, estate and trust administration, business entity formation, and the formation and administration of tax-exempt organizations. Her achievements have earned her election into the prestigious American College of Trust and Estate Counsel and inclusion in several leading industry publications, including The Best Lawyers in America and Oklahoma Super Lawyers, in which she has also been named to its exclusive list of "Top 50 Oklahoma Lawyers" and "Top 25 Women Lawyers."

The Oklahoma Bar Foundation is a nonprofit organization founded in 1949 by members of the Oklahoma Bar Association to accomplish law-related charitable good works statewide.

Crowe & Dunlevy Attorney Makes Lawyers of Color 2014 Hot List

Honoring early- to mid-career minority attorneys in the Southwest Region

Crowe & Dunlevy associate **Anthony Hendricks** was recently selected by Lawyers of Color for its 2014 Hot List. The organiza-

See **BAR OBSERVER, PAGE 14**

OLIO from PAGE 4

ing and selecting a jury. Title 22, Okl.St. Ann. § 593, reads:

“At the opening of the court the clerk must prepare separate ballots, containing the names of the persons returned as jurors, which must be folded as nearly alike as possible, and so that the same cannot be seen, and must deposit them in a sufficient box. R.L. 1910, § 5827.” (Emphasis ours.)

And, further, in § 595: “Before the name of any juror is drawn, the box must be closed and shaken, so as to intermingle the ballots therein. The clerk must then, without looking at the ballots, draw them from the box. R.L. 1910, § 5829.”

In the instant case, defendant offered, in his Motion, to present testimony to support his contention. However, the trial court summarily overruled his motion, and would not allow any evidence to be heard, pro or con.

This does constitute error sufficient to justify reversal. We cannot condone the trial court’s action in refusing defendant’s offer of proof. The selection of a fair and impartial jury is a fundamental right of the defendant.

We will re-state the rule as laid down by this Court in the early case of *Grant v. State*, 11 Okl.Cr. 396, 146 P. 919, (1915) as follows:

“It is of the utmost importance that court officials should be held to the strict observance of the provisions of law prescribing their procedure and duties, and their conduct should be such that no possible suspicion can attach to them of having acted in a manner prejudicial to the accused, or in his favor. Courts cannot be too strict in compelling a rigid and vigilant observance of the provisions of the statutes designed to preserve inviolate the right of trial by jury and the purity of jury trials.”

Our conclusion is that the defendant has not been convicted in accordance with the rules of law provided to secure fair trials by impartial and competent jurors, and in view of the statutes cited, and the ruling in the *Grant* case, supra, it is hereby the opinion of this Court that this case be reversed and remanded for a new trial.

December 5, 1989

Twenty-Five Years Ago

[Excerpted from *Red Dog Saloon v. Board of Adjustment of City of Oklahoma City*, 1989 OK CIV APP 98, 791 P.2d 112.] Trial Judge: Opinion By: Judge Carol Hansen, Bailey and Reynolds concurring, Legal Counsel: Kenneth D. Jordan, Oklahoma City, for appellant, J.W. Coyle, III, Oklahoma City, for appellee.

This case arises from an application for a zoning variance to the Oklahoma City Board of Adjustment (Board) (Defendant/Appellant). This application was filed by Ray Mackey d/b/a The Red Dog Saloon (Plaintiff/Appellee) for his nude dancing establishment located at 6417 North West

10th Street.

Pursuant to § 59-6200.1(E)(1) of the Oklahoma City Municipal Code, an “Adult Entertainment Use” must obtain a “Conditional Use Permit” in order to legally operate. To be eligible to obtain a Conditional Use Permit the adult entertainment use must be able to meet all of the “Development Regulations for Adult Entertainment Uses” contained in § 59-6200.1(E)(1)(d) as follows:

(d) Development Regulations for Adult Entertainment Uses. Any person applying for a conditional use permit to locate, remodel, alter, rebuild, or relocate any of the above referenced uses within the City of Oklahoma City must show that said use will comply with the following developmental criteria as well as all others contained within this Article generally:

1. Adult entertainment uses as specified here and above shall be permitted to locate only in the “C-3 community commercial district” (3200.13), the “C-4 general business district” (3200.14) and the “C-CBD central business district” (3200.15).

2. No conditional use permit shall be granted for any proposed location which is within a one-thousand foot (1,000) radius of any other adult entertainment use as specified herein above.

3. No adult entertainment use shall be allowed to locate within a five-hundred foot (500) radius of any church, public or private school, (type which offers a compulsory educational curriculum) or public or private park. Nor shall any adult entertainment use be allowed within five-hundred feet of any area zoned for residential use.

4. All distances required to be met pursuant to the terms of this section shall begin at the property line of the proposed use and be measured to the nearest property line of the public or private school, park, church, residentially zoned area or adult entertainment use within the prescribed distance, if any.

Plaintiff was denied a Conditional Use Permit by the Director of the Community Development Department because it is not located in a designated commercial zoning district as required by § 59-6200.1E(1)(d) (1), and it is located within 500 feet of an area zoned for residential use contrary to § 59-6200.1E(1)(d)(3). Plaintiff then applied for a variance from Defendant.

After presentation of evidence by all concerned, Defendant denied the requested variance. Plaintiff thus perfected its appeal to the district court. It alleged in its petition that it was entitled to a zoning variance for its establishment and that the “Adult Entertainment Use” ordinance (ordinance) is unconstitutional and a violation of the First and Fourteenth Amendments to the United States Constitution. The trial court in reversing the order of the Board, ruled Plaintiff was entitled to a variance. In granting the variance the trial court found:

(a) that the application of the ordinance to the subject property would impose an unnecessary hardship; and

(b) that the property involved is peculiar in that the Red Dog Saloon has operated at this location for over 17 years with no evidence of adverse effects; and

(c) that the variance, if granted, would not impair the purposes and intent of the ordinance; and

(d) that substantial justice will be done if the variance is granted.

Defendant appeals this ruling.

For its first proposition of error Defendant contends the district court was obligated to uphold the decision of Defendant to deny the variance requested by Plaintiff, unless the decision was arbitrary or an abuse of Defendant’s discretion to deny the variance. In variance cases a presumption does exist in favor of the correctness of the Board’s rulings. But because in this case Defendant’s decision was reversed, the presumption that initially attached to its validity is to be regarded as having been overcome by the adverse ruling of the trial court. *Vinson v. Medley*, 737 P.2d 932 (Okla. 1987). A proceeding to review a board’s decision either to grant or deny a variance is equitable in nature. *Banks v. City of Bethany*, 541 P.2d 178 (Okla. 1975). Unless clearly contrary to the weight of the evidence, the district court’s decree will not be disturbed. *Banks v. City of Bethany*, supra. The trial court must conduct a de novo inquiry and it has the same power as Defendant to grant or deny a variance. *Bailey v. Uhls*, 503 P.2d 877 (Okla. 1972).

For the Board to grant a variance to an applicant, that applicant must show that (1) a variance would not be contrary to public interest; (2) an unnecessary hardship would arise if the ordinance were literally enforced; (3) the spirit of the ordinance would be upheld; and (4) substantial justice would be done by granting the variance. *Vinson v. Medley*, supra. Defendant contends Plaintiff’s evidence is not sufficient to show that Plaintiff’s application meets each of the elements for the grant of a variance. As concerns the first element, Mr. Mackey testified he was within 500 feet of apartment complexes and a residence. However, a map of the property and the surrounding area shows that where the business is located is in the center of a block isolated as an island, as it were. Although the property itself is within 500 feet of some apartments, the building itself is somewhat removed. The public interest is set forth in the purpose clause of the ordinance. That clause states:

It has become apparent that the concentration of “adult entertainment uses” in the City of Oklahoma City tends to result in the blighting and deterioration of those areas subject to such concentration. Accordingly, it is deemed necessary to regulate such uses in a manner reasonably calculated to prevent the occurrence of such deleterious effects upon surrounding properties.

Because the property is standing alone in

a block, there is no concentration of adult entertainment uses resulting in blighting and deterioration of those areas. The trier of fact found the variance did not conflict with the public interest.

Furthermore, because of the distance requirements also set forth in the ordinance regarding schools, parks and residences, the City desires to avoid exposing children to an adult subject. It is noteworthy that one protest letter was received and later withdrawn. It appears the people immediately in the area of Plaintiff’s property do not have much concern about the deleterious effects on their properties.

Next, regarding whether an unnecessary hardship would arise if the ordinance were literally enforced, Mr. Mackey testified that he would probably go bankrupt and that it would be very likely he would have an \$800,000.00 building sitting empty. He further testified he doubted if anyone would be able to lease it for any other purpose because it was especially constructed for nude dancing entertainment.

An unnecessary hardship is found when (1) there is some degree of interference with an ordinary legal property right from which the hardship would arise; (2) the hardship is peculiar or unique to the applicant’s situation; (3) the degree of severity of the hardship imposed by the ordinance is not essential to carry out the spirit of the ordinance; and (4) substantial deprivation results to the applicant. It is obvious there is some degree of interference with Plaintiff’s property right to operate its business if the variance should not be granted. This hardship is unique to Plaintiff’s situation, inasmuch as Plaintiff has been in business at the 10th Street location for the past 19 years and argues its establishment is a landmark or an institution. Mr. Mackey has a tremendous monetary investment in the establishment. The spirit of the ordinance, i.e., to avoid the blight of the neighborhood, remains intact because although the property comes within 500 of the apartment complex, the building itself is somewhat removed. Moreover, the property does avoid churches, schools, and parks by at least 500 feet. Finally, substantial deprivation will result to Plaintiff if it is forced to move its operation to another location.

Although we are cognizant that financial loss has little bearing on whether an unnecessary hardship has been established, we have outlined facts to show Plaintiff’s property was unique to its situation. The trial court’s ruling that an unnecessary hardship would arise if the ordinance were literally enforced is not against the clear weight of the evidence.

In our prior discussion dealing with unnecessary hardship, we found that the spirit of the ordinance would be upheld. And lastly, for all the reasons stated above, we agree with the trial court’s finding that substantial justice will be served by granting the variance. The findings of the trial court are not against the clear weight of the evidence. Accordingly, the judgment of the trial court is AFFIRMED.

BAR OBSERVER from PAGE 13

tion selected 100 early- to mid-career minority attorneys from the Southwest Region for the list, which recognizes attorneys who are excelling in the legal profession. In 2013, Crowe & Dunlevy associate **André Caldwell** was selected for the Lawyers of Color Hot List.

Hendricks serves as an associate in the Environmental, Litigation & Trial and White Collar, Compliance & Investigations practice

groups in the firm’s Oklahoma City office. He received his Juris Doctor from Harvard Law School, where he served as a member of the *Harvard Law and Policy Review*. He was also a member of the National Criminal Justice Institute Trial Advocacy team. Hendricks was a 2007 Marshall Scholar and holds a master’s in public policy and administration and a master’s in politics and communications from the London School of Economics. He also holds a Bachelor of Arts degree in speech communication from Howard University in Washington,

D.C.

The honorees were chosen through a two-pronged process. The selection committee spent months reviewing nominations and researching bar association publications and legal blogs in order to identify promising candidates. Nominations from mentors, peers and colleagues were accepted. The selection committee also made editorial picks of attorneys who had noteworthy accomplishments, especially those active in legal pipeline initiatives. Honorees were profiled in *Lawyers of Color’s*

Hot List 2014 Issue (July 2014).

About *Lawyers of Color*

Lawyers of Color, which was founded as On Being A Black Lawyer, has been recognized by the American Bar Association, National Black Law Students Association and National Association of Black Journalists. Founded in 2008 as a news and resource center, the company has grown into a social media firm providing research, career development and brand marketing opportunities to clients.

WHITE HOUSE from **PAGE 1**

building was also famous as the White House Restaurant and later Sarducci's until 1984 when it was vacated. While empty, it was vandalized, and, in 1988, while being renovated to become the law offices of Sturm & Brawler, it burnt to the ground in an arson fire (for which three individuals were eventually convicted). Only three columns and the walls were left standing.

LIONEL from **PAGE 1**

bed, he decided to venture out into the hall. This was a Olympian feat – the ten yard shuffle, and it was as far into the world as he could venture nowadays. Maybe further again in the future, but for now, this was the limits of his life. He stood in the hall, leaning on the balustrade, looking down at the beautiful Christmas tree in the grand hall below. The base of the tree was hidden by mounds of presents, waiting to be passed out in the coming hours.

Always before he had played Santa on Christmas morn, but not this year. Over the past year his world had shrunk as his illness had grown. First it was to the grounds of the estate, and then to the house itself. Finally, when he could no longer make it up and down the stairs, it had shrunk to his bedroom suite and this strip of the hallway. It hadn't supposed to have been like this. If you had more money than God, you were not supposed to just wither away like this. But, it was like that – exactly like that. He returned to the bed, exhausted.

His dozing was interrupted thirty minutes later by a sense that he was being stared upon. He cocked one eye open to

Subsequently, it was completely rebuilt in the style of the original home, supervised by architect Bruce Bockus. The original chandeliers were saved and remain today. An elevator was added to span two floors and the basement. The former living room is now the large reception area with a fireplace. The building has sixteen offices, two conference rooms and lots of parking. The building also has a kitchen, law library, exhibit storage for active files and a recre-

find a seven-year-old face inches from his own.

"Are you awake Grandpa? Come on. Get up. It's Christmas!"

"Merry Christmas, Teddy," he smiled. What a wonderful age seven must be for Christmas morning. Teddy was tugging on his grandpa's pajamas. "Come on, Grandpa. Get up. I got you something!" Teddy was so excited that Lucius started to fear for the boy's bladder. He could see a huge package behind his grandson – one the boy could not have carried up by himself. He waited for the secret to be sprung, and it was not a long wait. "It's a train set, Grandpa!"

"A train set?" he queried.

"Don't you remember? You told me you always wanted a Lionel train for Christmas when you were growing up? I got you one!"

Lucius did remember telling Teddy that he had never gotten a Lionel train for Christmas because they were so expensive. But that had been two years ago.

"I don't know why you said they cost too much, Grandpa. It only cost four hundred dollars." Thanks to his grandfather, Teddy had no idea how much that was.

ation room equipped with a full-sized pool table.

Six attorneys and eleven staff members work for the firm. Employees and visitors are regularly entertained by deer and peacocks who apparently still believe they are out in the country. The building and grounds remain a lovely reminder of the early days of Oklahoma City and one of the industrious men who was instrumental in the city's development.

"Teddy, when I was your age, my dad didn't make that much money in a whole month." In 1958, he remembered, the price had been one tenth what it was today, but still out of his parents' reach.

That concept did not compute in Teddy's young, privileged brain, and he danced with excitement.

"You have to open it for me, Teddy."

The lad needed no further encouragement, and wrapping paper flew everywhere, revealing a real Lionel freight train. It was beautiful. In a heartbeat Teddy was removing the train and track from the box, spreading them out on the floor. "Come on, Grandpa! Come down and help me," Teddy begged.

"I'm sorry, Teddy, but the fact is that if I do, I can't get back up." He looked into the boy's disappointed eyes.

From behind him he heard his son's voice say, "Don't worry, Pops. I'll help you up. God knows you have helped me up enough times." Lucius smiled at his son through teary eyes, and together they managed to lower him to the floor, where he and his grandson started connecting the sections of track.

Book Review

AND NOW ...An Oral History of "Late Night with David Letterman"

Brian Abrams, Kindle, 2014, \$2.99

This readable, smallish, and very reasonable work is engaging for those reasons and also for all the reasons an oral history is appealing. The '80s version of Letterman is good stuff, probably the best. To hear those engaged with this time and experience is almost like being in the green room. As with all such times, one wants to be where flurries of expression and innovation are rife. The people talking to us, of course, hold back some, and we always would like to have more.

We should not be surprised that a wit and intellect like Letterman's are protected. During breaks, it seems, the band plays continuously and too loudly for the guests to engage the Big Guy in conversation. Few are able to talk to Dave in the green room, even. The "ideas" meetings are driven by Dave. But then, when something is working, for decades, few challenge the plan; genius prevails.

We read about Letterman's relationship with Johnny Carson, and the break with NBC, and a lot of other stuff that is more interesting, really. As the Letterman era comes to an end, this is a quick read which will bring on some nostalgia, as well.

FRANCO from **PAGE 10**

The premise is simple. Drop off two strangers well versed in outdoor skills in a hostile environment with nothing but a selected survival tool each – almost invariably a machete and fire-starter (although occasionally some far less useful object, including duct tape, a magnifying glass and goggles). Only there is a twist – Franco, purportedly expecting to find himself paired up with a skilled professional, finds himself stranded with his bestie Rogen. Hilarity is certain to ensue, although given their promotion schedules, apparent lack of survival skills and

choices of sunglasses and toilet paper as survival tools, it seems unlikely they will last the goal of twenty-one days.

After trying to break the Internet with the posterior of a member of the first family of reality television, *Paper*, the formerly unknown, and soon to return to obscurity, New York-based magazine, is following up with a free calendar comprised solely of Franco selfies in its December issue. Or you can apparently download the complete calendar from its website – I have elected not to do primary source research, as I fear that I might have our IT informing a senior partner that I was searching for the afore-

mentioned NSFW photographs.

Perhaps the most interesting Franco holiday treat is the feature film *The Interview*, opening on Christmas Day. What could go better together than the celebration of the birth of Christ and a comedic tale of an attempted assassination of Kim Jung Un? While my children might find it hilarious – but will never see it given the apparent adult oriented nature of the film – the reactionary fury of North Korea has rivaled its vituperative proclamations following the release of the perineal classic *Team America: World Police*. Indeed, there has been some suggestion that North Korea insti-

gated the recent cyberattack against Sony in retaliation. Presumably, Franco will join Trey Parker and Matt Stone as celebrities who will not be accompanying Dennis Rodman on his next trip to Pyongyang.

So there you have it, or at least the highlights as of time of print. The only surprise would be if the engaging Franco did not have something else in the works, keeping us all on high alert throughout the eight days of Hanukkah, twelve days of Christmas, seven days of Kwanzaa, Festivus, Boxing Day and New Year's. Happy holidays and Franco-watching to you and yours.

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