



EL PASO BAR JOURNAL

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“The El Paso Bar Journal is a bi-monthly publication of the El Paso Bar Association. Articles, notices, suggestions and/or comments should be sent to the attention of Nancy Gallego. All submissions must be received by the Bar office on or before the 10th day of the month preceding publication. Calendar listings, classified ads, display ads, and feature articles should not be considered an endorsement of any service, product, program, seminar or event. Please contact the Bar office for ad rates. Articles published in the Bar Journal do not necessarily reflect the opinions of the El Paso Bar Association, its Officers, or the Board of Directors. The El Paso Bar Association does not endorse candidates for political office. An article in the Bar Journal is not, and should never be construed to be, an endorsement of a person for political office.”

THE PRESIDENT’S PAGE

The probability that we may fail in the struggle ought not to deter us from the support of a cause we believe to be just.

ABRAHAM LINCOLN

On May 1st, the legal community will celebrate Law Day, a day created to strengthen our great heritage of liberty, justice, and equality under the law. This year’s theme is A Legacy of Liberty—Celebrating Lincoln’s Bicentennial. Abraham Lincoln is widely regarded as one of this country’s greatest presidents, for both his eloquence and his inspiring leadership. As we celebrate this distinguished lawyer and president, let us not forget that the battle for justice is just as important today. The economic downturn has had a negative impact on many industries and unfortunately, the legal community is not immune. The number of low-income Texans in need of free or reduced rate legal services has significantly increased, while at the same



time, a drop in interest rates has impacted IOLTA funds, the major source of funding for such services. This drop in funding has created a “crisis of epic proportions” for programs that provide legal aid to the poor according to Chief Justice Wallace Jefferson. In 2007, a special fund provided Texas legal aid agencies with \$20 million to support services for people at or below the federal poverty line. This year, the fund is projected to plummet to \$1.5 million, Jefferson said. That will force some legal aid programs to greatly scale back services, and other programs may close, said Betty Balli Torres, executive director of the Texas Access to Justice Foundation, which distributes the money. Jim Sales, who in the

early 1980s helped create a volunteer legal services program for the working poor and a foundation to support it and now heads the Texas Access to Justice Commission (“TAJC”) said, “for any citizen to be denied access to the justice system renders meaningless—at least to them—the whole concept of the rule of law of society.” To address this issue, the EPBA Board of Directors unanimously adopted a Resolution Supporting Funding For Civil Legal Aid In Texas (see page 15). The Resolution supports TAJC’s request for \$37 million from general revenue and requests such funds be allocated to bridge this loss of IOLTA funding. The Resolution was sent to the El Paso legislative delegation, as well as to the Chairs and Vice-Chairs of the Senate Committee on Finance, the House Appropriations Committee, the Select Committee on Federal Economic Stabilization Funding, and the Appropriations Stimulus Subcommittee. I encourage each of you to contact your Legislators to express support for this funding. We owe it to the less fortunate among us to be their voice during this time of need.

Cori

You can read the Resolution Supporting Funding for Civil Legal Aid in Texas on page 15

EL PASO BAR ASSOCIATION

April Bar Luncheon

Tuesday, April 14, 2009

El Paso Club, 201 E. Main, 18th Floor, Chase Bank

\$20 per person. 12:00 Noon

*We will have a panel discussion on the
Speciality Courts in El Paso County*

Please make your reservations by Monday, April 13, 2009 at noon by calling
Nancy at 532-7052 or via email at nancy@elpasobar.com



CALENDAR OF EVENTS

MAY- APRIL 2009

April, 2009

Friday, April 3

MABA General Meeting

Tuesday, April 7

EPBA BOD Meeting

Wednesday, April 8

EPWBA Monthly Meeting

Friday, April 10

EPBA & County Office Closed –

Good Friday

Sunday, April 12

Easter Sunday

Tuesday, April 14

EPBA Monthly Luncheon

Wednesday, April 15

EPWBA Anti-Hunger Program Begins

Wednesday, April 15

TRLA Legal Clinic

Thursday, April 16

EPYLA Monthly Meeting

Thursday, April 16

EPYLA Happy Hour

Wednesday, April 22

Administrative Professional's Day

Thursday, April 23

EPPA Monthly Meeting

Saturday, April 25

EPYLA Family Day Picnic

May, 2009

Friday, May 1

MABA General Meeting

Tuesday, May 5

Cinco de Mayo

Tuesday, May 5

EPBA BOD Meeting

Saturday, May 9

Law Day Chess Tournament

Saturday May 9

EPYLA Golf Tournament

Saturday, May 9

Law Day Dinner and Awards Presentation

Sunday, May 10

Mother's Day

Tuesday, May 12

EPBA Monthly Luncheon

Saturday, May 16

Armed Forces Day

Wednesday, May 20

EPWBA Positive Role Model Graduation

Wednesday, May 20

TRLA Legal Clinic

Thursday, May 21

EPPA Monthly Luncheon

Monday, May 25

EPBA and County Courthouse

Closed – Memorial Day

Saturday, May 30

EPWBA Charity Bash

PLEASE NOTE: Please check the Journal for all the details regarding all above listed events. If your club, organization, section or committee would like to put a notice or an announcement in the Bar Journal for your upcoming event or function for the months of June, 2009, please have the information to the Bar Association office by Tuesday, May 5, 2009. In order to publish your information we must have it in writing. WE WILL MAKE NO EXCEPTIONS. We also reserve the right to make any editorial changes as we deem necessary. Please note that there is no charge for this service: (915) 532-7052; (915) 532-7067-fax; nancy@elpasobar.com- email. If we do not receive your information by the specified date please note that we may try to remind you, but putting this journal together every month is a very big task and we may not have the time to remind you. So please don't miss out on the opportunity to have your event announced.

May Bar Luncheon

Tuesday, May 12, 2009

El Paso Club, 201 E. Main, 18th Floor, Chase Bank

\$20 per person. 12:00 Noon

*Guest Speaker will be Hall of Fame Coach,
and Native El Pasoan, Nolan Richardson.*

**Please make your reservations by Monday, May 11, 2009 at noon by calling
Nancy at 532-7052 or via email at nancy@elpasobar.com**

Nolan Richardson's Bio

Born – 12/27/41, raised in El Paso, Texas by grandparents who were themselves the children of slaves.

Attended the segregated Douglas School until Brown v. Board of Education allowed him to become the first African-American student at Bowie High School.

Good student and outstanding football, basketball, baseball and track athlete at Bowie; was not allowed to stay with the rest of the BHS baseball team at a segregated hotel in Abilene for regional tournament.

As a UTEP sophomore (the season before Haskins arrived), despite leading the team in scoring and rebounding, was not allowed to travel to a 3-game tournament at Centenary College in Louisiana because Louisiana schools would not even allow blacks to compete against their teams.

After completing his basketball eligibility, he played baseball his senior year (UTEP's first season of having the sport) and hit .421 with 10 home runs and was among the NCAA leaders in RBIs.

Drafted by Houston Colts 45's (MLB), Dallas Chaparrals (ABA), and San Diego Chargers (NFL). Spent 2 years with Chargers, before returning to El Paso to begin coaching career.

Coached 10 years at Bowie; 190W-80L.

Coached 2 years at West Texas Jr. College in Snyder, Texas. In 2nd year, went undefeated (37-0) and won National Jr. College title.

Coached 5 years at Tulsa (119-37); NIT Champions in 1981; multiple NCAA appearances; in state rivalry record against Oklahoma, Oklahoma State and Oral Roberts 17-1.

Coached Arkansas 1985-2002. 1994 NCAA Champs; three final four appearances, won over 70% of all games.

Coached Panama's National Team in 2005.

Coached Mexico's National Team in 2007.

2008, Inducted into National Collegiate Basketball Hall of Fame with co-inductees Charles Barkley and Danny Manning.

Rus Bradburg is writing Nolan Richardson's biography, scheduled for publication by Harper-Collins Press in Dec, 2009

El Paso Charities Supported By Nolan Richardson's Annual Golf Tournament

The Ronald McDonald House which accommodates families whose children are in local hospitals fighting for their young lives.

The San Martín de Porras House of Hope with their educational programs that teach unwed teenage mothers how to make better lives for themselves and their babies so that they will have a chance at a bright future and escape the trap of the welfare system.

The Yvonne Richardson, Mark Haskins, Bobby Joe Hill, Jim Barnes, and Thelma White Scholarship Foundations, including The Hispanic Chamber of Commerce Education Foundation in raising money to ease financial burdens so that more students will get an opportunity to further their education.

The Advocacy Center which helps abused children.

The Amigo Kidney Fund with their Bus and Lift Fund. This fund provides assistance to patients who need transportation or money to obtain their life-sustaining dialysis treatments and to those who must travel to Houston for advanced treatment.

The Candlelighters of the El Paso Area with their Camp Courageous. This wonderful camp that takes terminally ill children to summer camp so that they can get a much needed and much deserved break from their hospital beds. At time, perhaps, for a few minutes, a few hours or maybe a few days of feeling good so that they can have fun.

Reach for a Star, Children's Grief Center, Rescue Mission of El Paso, Assistance League of El Paso, Child Crisis Center, Prevent Blindness of El Paso, Special Olympics, Caesar Tovar Cancer Fund, Avance, Cancer Society, Leukemia Lymphoma Society, KSII FM (Stuff the Bus), Assistance League of El Paso, Humane Society, Salvation Army, Diabetes Association and Make a Wish.

Judge Patrick Garcia's SAFPF Re-Entry Drug Court Program

By MICHAEL ALVARADO

384th SAFPf Re-Entry Drug Court Compliance Officer

Anthony is a homeowner preparing to start a new family. He may seem like any other young man, only Anthony savors his strength and freedom more than most. He nearly spent the rest of his life in prison—and feared he would die there, but for a unique program in El Paso that helps young drug addicts get clean and back on their feet. (Please See “A Personal Story” page 7)

Judge Patrick Garcia established the 384th Substance Abuse Punishment Facility program to help people like Anthony have a choice—something other than the street, other than a perpetual cycle of drugs and violence. The program began in 2003, with the goal of reaching out in a new way to promote a drug-free life for adults who have been placed on probation. They had to meet certain criteria—such as having had their probation yanked after failing a drug screening.

It isn't just another feel-good program. It's hard work, and it's intense. Essentially, it's a new home for those offenders. It's a six-month residential substance abuse treatment facility. Once completed, the adults reintegrate into society, slowly at first. Even after the second phase at the halfway house, the intense intervention and monitoring continues.

The program's Compliance Officer, Michael Alvarado, describes this program as follows:

Our program lasts 18-21 months, or up to a time period determined by the Judge and the Drug Court Team. Advancement through the program will depend on the participant's progress. Whether an individual remains in the program (18) months or (21) months is up to him or her. The program is 'client driven.'

The program is divided into (3) phases and based on a 'point system.' In order to move from phase to phase, certain criteria must be met. The program's rules and expectations are provided to participants in a 'client handbook' and these rules and expectations are explained by the Judge to the participants in their initial visit to



the court. The objectives outlined for each client include: reporting to the Court & Supervision Officer, abstaining from any alcohol & drug use, attending AA / NA meetings, obtaining a sponsor, random urine & breath analysis, maintaining employment, unannounced home visits conducted by a El Paso County Sheriff Deputy and El Paso Police Officer, attend and actively participate in group and individual sessions with a Substance Abuse Counselor.

At first the client is required to report to the Court and their Supervision Officer on a weekly basis. A team meeting or “staffing” is held prior to the court session. The team comprise the Judge, a public defender, a supervision Officer, a chemical dependency counselor, a surveillance Officer, and representatives from local treatment centers and the compliance officer. “Staffings” are attended by the entire Team and are used as forums to discuss the progress and regress of all clients. In addition, the team numerically evaluates clients. The numerical rating or point system is utilized as

a tool for determining client readiness for phase advancement and client compliance, adherence to program requirements and appropriate incentives or sanctions.

If a client adheres to program rules and his or her behavior/attitude reflects a positive and drug-free lifestyle, the client will advance to the next phase, which results in a lifting of restrictions. Slowly releasing the reigns' demonstrates that a pillar of trust is being established. Clients at this level begin to talk positively about change. They also tend to take positive actions for themselves without being told to do so. Cognitive changes for the better are reflected in the quality of their decision-making.

The SAFPf re-entry court is one of five (5) Drug Courts in the El Paso County. One unique component of the re-entry court is that it will accept 'violent offenders.' Unlike many Drug Courts throughout the United States who do not accept violent offenders the SAFPf Drug Court recognizes the importance of allowing this distinct population the opportunities afforded to others.

Judge Patrick M. Garcia believes that a history of alcohol and drug abuse is often at the core of anti-social criminal behavior. When it is, Judge Garcia believes that the alcohol and drug abuse problem must be addressed, regardless of the offense.

With hard work and dedication, many SAFPf participants are on the road to recovery. The court has graduated over fifty individuals, and it has seen the birth of eight drug free babies. After completing the program, one person graduated from UTEP. Many have purchased their own homes and automobiles for the first time. Others have been placed in high management positions with national corporations.

Drug courts and mental health courts are revolutionizing our criminal justice system. “Therapeutic jurisprudence” is gaining support in our courthouse and throughout the nation for one reason: it works.

Hi, my name is Anthony...

The following is a Personal Story of how Judge Patrick Garcia's SAFPF Drug Court helped one young man recover from the ravages of drug addiction and recover his life. Please read "Judge Patrick Garcia's SAFPF Re-Entry Drug Court Program" (on page 6).

I am an alcohol and drug addict. I started drinking when I was 13 and started using cocaine when I was 16. I've lost relationships, lived on the streets, and had many jobs. I have been in and out of jail throughout my adult life. When I entered Drug Court I had nothing to show for my life.

The first time I went through the SAFPF program I thought I could do my time, graduate, and then still do what I wanted to do. Four months later I found myself back in front of the Judge.

This time because of my addiction I lost everything: my home, car, freedom and worst of all almost my life. As I once again sat in front of the Judge Garcia, I had given up on myself. I was prepared to serve my time.

But Judge Garcia had different plans for me and for my life. He said he wasn't giving up on me. He wasn't going to give up on me even though at that moment I had given up on myself.

Judge Garcia sent me back to SAFPF. If Judge Garcia could believe in me, I thought perhaps I could believe in myself. I decided to work the program. I made a commitment to myself to give up my addictions and to begin living my life the way I should have begun living it many years ago.

When I was released from the program I went to a half way house. Judge Garcia let me stay an extra month so I could find a job and a place to live. Three weeks later I got a job and I left the half way house. I was on my

own again.

Since then I've stayed away from alcohol or drugs.

Last year I asked Judge Garcia for permission to move back to Utah so I could be with my brothers. The judge granted my request. I moved back home.

Today I own a home, truck, and a boat. I have a good job, and many things I never thought I would have. I plan to get married in April. I am enjoying my life, being spiritually as well as physically alive.

Judge Garcia and his team helped me have what I have now: a loving family, closeness with my brothers—in short, a meaningful life. Thank you, Judge Garcia, and all of you who helped me turn my life around.

THE NA PEUYKAM CHIBEL TRIBAL DRUG COURT

■ BY JUDGE LAWRENCE LUJAN

The Tigua Indian Tribal Court operates under the jurisdiction of the Nation of the Ysleta del Sur Pueblo, a federally recognized U.S. American Indian tribe located in El Paso, Texas. The Ysleta del Sur Pueblo is one of three tribes located in Texas. It was formally established and recognized as "Tigua" in 1682, after the Pueblo Revolt of 1680.

We are located at 9241 Socorro Rd., in El Paso's lower valley. Our facilities consist of the Tribal Court Building where we house our law library and Tribal Police Department.

Headed by Tribal Prosecutor Tom Diamond, the Ysleta del Sur Pueblo has its own legal department. To practice law in the Ysleta del Sur Pueblo, one must belong to the tribal bar of the Ysleta del Sur Pueblo.

The Tribal Court exists to ensure peace and order on the reservation through enforcement of the Tribal Code of Laws. The Tribal Court provides an orderly procedure for conflict resolution that reflects tribal custom, traditions and community standards. The court also combines multidisciplinary services



(Tribal Education Department, Tribal Social Services Department, Tribal Alcohol and Substance Abuse Program, and the Tribal Police Department) to assist participants in acquiring the courage, strength and character essential to their development.

The dockets of the Tribal Court include the administration of a Youth Court program and a juvenile Healing to Wellness (Drug Court), which is referred to as the Na Peuykam Chibel Court. Our Youth Court Program requires our youth to adhere to a regimented program for six

months. However, our Youth Drug Court Program—Na Peuykam Chibel Court—requires our youth to adhere to a regimented program for nine months. These time frames are the minimum time required to participate and to successfully complete the program. However, due to the nature of alcohol or drug dependency, sometimes participation in the Na Peuykam Chibel Court program does exceed nine months. We use both the success of the youth to complete the program as well as review of cases for recidivism as a gauge of our success with our youth court programs.

Although we are a tribal court governed by unique rules, we are committed to working cooperatively with the larger El Paso community. We continue to be active both locally through programs such as the Border Children's Mental Health Collaborative, and with the annual local National Association of Drug Court Professionals Drug Court graduation ceremony. In addition, we seek partnership nationally through association with the Native American Indian Court Judges Association. We invite you to visit with us. Our web address is <http://www.ysletadelsurpueblo.org/>.

Child Protective Services Cases and Family Drug Courts: *A Partnership of Hope*

■ BY JUDGE OSCAR G. GABALDÓN, JR.

“A journey of a thousand miles begins with a single step.” This Chinese saying epigrammatically embraces the idea of what drug courts are all about. They are about helping people to take one step at a time in the direction of sobriety, which often involves a lengthy journey of recovery. While drug courts may, in part, be meant to hold people accountable for their substance abuse, they are primarily there to lift the spirit of men and women enslaved by the lure and powerful attraction of illicit drugs and alcohol. Drug courts serve as tools of therapeutic jurisprudence and as problem-solving systems; they are designed to help enable and empower those dehumanized by substance abuse to achieve a drug free lifestyle and to obtain a new lease on enjoying a fruitful, meaningful, and worthwhile existence.

Substance abuse is perhaps one of the most destructive forces leading to the break up of families and often time irreparably hurting children. Substance abuse infiltrates the lives of many families, and frequently triggers a devastating storm that leads to child abuse and neglect. Recognizing this reality, the 65th Judicial District Family Court, which is a designated Victims Act Model Court of the National Council of Juvenile and Family Court Judges, created two types of drug courts to exclusively serve the needs of parents with substance abuse issues involved with Child Protective Services (“CPS”). At the present time, over eighty per cent of court cases brought by the Child Protective Services division of the Texas Department of Family and Protective Services involve one or more parents with substance abuse issues. Family drug courts are essential partners with CPS in carrying out the federally mandated preservation and reunification efforts that the state agency is required to pursue. The two El Paso family drug courts for Child Protective Services cases



have proven to be innovative and trail blazers, helping to reunify families successfully and expediently, and helping to maintain a low recidivism in substance abuse reoccurrences.

The first of the 65th Judicial District Family Court’s drug courts is referred to as the Intervention Track Family Drug Court. It is designed to provide a full range of drug court services to parents with substance abuse issues who have an active CPS court case. The drug court program entails an intensive array of services which include, among other things, inpatient and outpatient services, random drug testing, counseling and therapy on a wide spectrum of areas, parenting classes, and other services deemed necessary and appropriate for the individual participants. The judicial supervision of the drug court also involves the professional support of a treatment team, composed of CPS staff, drug court staff, treatment providers, and other professionals, which closely reviews each participant’s needs and progress in the program. The judge and the treatment team work diligently to consistently assure that drug court participants are afforded quality assistance, training, and services at every stage of the program. There are three phases which participants must successfully

complete before graduating from the drug court program. Generally, the duration of the program is from six months to one year. There are also support groups and other post-drug court services available to the participants upon graduation, so that the drug court graduates continue to have access to support systems to help them maintain sobriety.

The second drug court managed by the 65th Judicial District Family Court is referred to as the Preservation or Preventive Track Family Drug Court. This is a relatively new type of family drug court, and there are very few presently in existence in the country. As jurisdictions become more aware and familiar with this type of family drug court, it is expected that they will become more popular. The Preservation or Preventive Track Family Drug Court mirrors all aspects of the Intervention Track Family Drug Court, except that the participants of this drug court do not have an active Child Protective Services “court case.” Basically, it is a drug court that seeks to preserve the family by affording the full gambit of services offered in the Intervention Track Drug Court. Its objective is not only to protect and keep children safe but also to help prevent the removal of the children from

their homes. That is, the goal is to provide the necessary professional assistance to families with substance abuse issues so that those families never have to come into the court system through the institution of a lawsuit filed by CPS, and have their children removed. Those coming into this family drug court are people referred to the program by the CPS Family Based Safety Services (FBSS) case workers and supervisors.

People join these family drug courts on a voluntary basis. Prospective participants are asked to first observe some of the drug court sessions before deciding whether to enter or not

enter the program. Additionally, prospective participants can ask questions and receive information prior to making their decision to become part of the drug court program. The idea is for the individuals to make an informed decision and to have ample time afforded to them to recognize the tremendous advantages and benefits of joining what many consider to be a very promising substance abuse program.

In essence, drug courts are about second chances. They are about people helping people. Asa Hutchinson, the Under Secretary for Border and Transportation Security and Former Administrator with the Drug Enforcement

Administration, sees drug courts as an avenue of opportunity. He states: "Through drug courts, we have an opportunity to build an era of responsibility...Everyday you are giving people a second chance at a new future. That is what America is about. We are a nation of second chances." And so it is that we all have a stake in this. We all have a responsibility to help lift others, for as the celebrated American businessman, William Pollard, observes, "It is the responsibility of leadership to provide opportunity, and the responsibility of individuals to contribute." Drug courts do precisely that. They contribute the gift of opportunity.

AMERICAS HIGH WINS SECOND IN STATE MOCK TRIAL COMPETITION

■ BY ROBERT ALMONTE II

Every year high school students throughout the State of Texas compete in the Texas High School Mock Trial Competition. The Dallas Bar Association Mock Trial Committee is responsible for the organization and administration of the statewide high school mock trial program, which was established in 1979. The program is organized through the 20 Texas Education Agency's Regional Service Centers, reaches more than 200 Texas schools each calendar year, and involves more than 4,500 students annually. This year all teams were provided facts in a fictional case styled *The State of Texoma vs. Bo Tyde*. Tyde was indicted for the criminal offense of arson and conspiracy to commit arson. Competing teams had to be prepared to present testimony and argue this case for both the prosecution and defense.

The El Paso Regional competition consisted of 16 teams from across the city. In this tournament, Americas High and Franklin High advanced to the final round, where ultimately Americas won 1st place. Because more than ten teams competed in the El Paso Regional competition, both teams advanced to the State Competition which was held the first weekend of March in Dallas.

The Americas High School Mock Trial Team, composed of 10 talented high school students, was coached by District Attorney Jaime Esparza and Assistant District Attorney Robert Almonte II. The team worked hard for



Front Row: Rocky Hardee, Zach Fields, Texas Quezada, Savannah Rappe, Brianna Salinas, Elena Esparza, Teresa Candelaria (Teacher Sponsor) Back Row: Robert Almonte II (Attorney Coach), Luisa Garcia, Diana Ibarra, Jorge Ibarra, Edwin Felix

their victory. They began practicing in October 2008, and continued practicing almost everyday for almost six months—working not only on weekdays, but also on weekends and during holidays.

Over 150 teams competed at regional competitions throughout the State and the top 24 teams advanced to the State Competition. At the State Competition, led by team captain

Elena Esparza, Americas accomplished what few El Paso teams have been able to do over the years: they advanced to the final round of the competition after beating Hillcrest High School of Dallas in the semi-final round. Americas represented El Paso with distinction, losing in the final round to Skyline High School of Dallas in a split decision and finishing 2nd in the State Competition.

EPYLA STAR OF THE MONTH

MATT WATSON

By PATSY LÓPEZ

EPYLA is pleased to honor Matt Watson as the organization's "Star of the Month." You may recognize Matt Watson as half of the bankruptcy firm of Watson & Maynez, but there is much more to Matt than meets the eye.

Matt was born in Lafayette, Louisiana and grew up in Houston, Texas. From a very young age he engaged his entrepreneurial spirit. At the age of eleven years old, when most kids are out playing baseball and spending hot summer days at the local swimming pool, Matt started a lawn mowing business. He worked out a great deal with a friend in which he located jobs and his friend mowed the lawns. Matt revived his lawn mowing business every summer until he turned sixteen and found his first job.

Although Matt has been employed in some fashion ever since, it took a little motivation to give him focus as to what he wanted to do with his life. It was only a culmination of a strange series of events that Matt describes as "a perfect storm" that put Matt on track to become an attorney.

Matt says that when he was 19 years old he "literally had no direction." However, in that same year and within the span of about six months Matt narrowly cheated death when he totaled his

vehicle by hitting a railroad train on Highway 90, realized the death of a family member, and was robbed and assaulted at gunpoint. These experiences made Matt realize that he had been taking his opportunities for granted.

When it was discovered that the wrong person was identified and charged as Matt's assailant he made it his personal mission to become a criminal defense attorney. Matt finished undergrad and attended law school at the University of Houston Law Center from which he graduated in August 2002. Although Matt ultimately decided that criminal law was not for him, he made some good real estate investments and shortly after finishing law school he moved to El Paso. Matt worked for the El Paso City Attorney's Office for four and a half years.

While at the City Matt did mostly real estate work with community development, and the planning, research and development department, as well as ZBA, the City Plan Commission, and Historic Landmark Commission. Although Matt reflects favorably on his time at the City the entrepreneur in him won out and he cashed out his pension and retirement savings to take

a chance. After briefly working for Richard T. Marshall, one of his mentors, Matt rolled the dice and opened a consumer bankruptcy law practice with his former law school classmate, Omar Maynez.

Although Matt reports that he has never worked harder in his life than he does now, he is more satisfied than he has ever been. Matt spends the scarce spare time he has available grilling, hiking, running, mountain biking, and generally enjoying what he refers to as the "amazing El Paso geography" with his girlfriend Karen.

Somewhere between all this Matt also finds the time to give back to the El Paso Community by working with Habitat for Humanity, participating in an SISD/EPBA mentoring program, volunteering an evening out of every month with his law partner to participate in Texas RioGrande Legal Aid's monthly legal clinic, and doing pro-bono Chapter 7 filings in coordination with TRLA.

In addition to being a well rounded attorney, Matt is a down to earth individual and active board member of EPYLA. We look forward to seeing him use his drive for success to lead EPYLA in the future.



EL PASO COUNTY DISPUTE RESOLUTION CENTER MEDIATION:

Federal, District, County Court-Ordered
or Attorney-Referral Cases, Civil, Family and Probate

To schedule daytime or weekday at 6:00 p.m.
contact: Gloria @ 546-8189 or Patricia @ 533-4800 x 133

No fee for Civil or Probate cases
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CRIME AND PUNISHMENT

(Part III)

The Path of Justice for the Murder of Ted Andress Leads Finally Through a Restroom Window

■ BY BALLARD C. SHAPLEIGH

This is the seventh and last article in a series describing the assassination of Ted Andress, the prominent attorney and civic leader for whom Andress High School is named. He was killed fifty years ago at the El Paso International Airport at the hand of Harold Eidinoff, M.D. The series about the Andress murder began with the May, 2008 issue of the Bar Journal and concludes with this epilogue recounting the last of Eidinoff's continuing efforts to avoid the consequences of his actions. ---Clinton Cross



Grover L. Stephens (foreground), an associate in the Andress firm, at a New Year's Day parade party at 1131 Montana Jan. 1, 1960 - photo courtesy of Gertrude A. Goodman.

A wise man once said that doctors are the same as lawyers; the only difference is that lawyers merely rob you, whereas doctors rob you and kill you too. And when it comes to killing it bears repeating that nothing is more wretched than the mind of a man conscious of guilt.

In the mind of assassin Harold Eidinoff, M.D., the nagging conceit that a lawyer - Ted Andress - might try to kill him by shooting him on sight at some chimerical time and place justified a claim of self-defense or, as some might put it, the right of preemptive murder. For the District Attorney's office, the nagging memory of having contended, rather vigorously, that Harold Eidinoff had no mental illness at all was juxtaposed cheek to jowl against the fine-grained distinction that Eidinoff had not recovered from the mental illness that the DA's office insisted, originally, that he did not have.

Harold L. Eidinoff graduated from the NYU School of Medicine and obtained his license to practice medicine in New York in 1933. His New York license, still recorded under number 60-027974 in the Office of the Professions-New York State Education Department, is designated as "not registered." This means that registration of Eidinoff's license lapsed without explanation; it is not shown as being suspended, revoked or surrendered. When asked about any disciplinary history associated with the license, the New York authorities curtly say that, "there have been no disciplinary actions and there is currently nothing pending."

The Texas Medical Board, under the number B9376, also maintains a record of Eidinoff's Texas license. He received his Texas medical license in 1946. The registration status of his license shows "not active." But a "date of discipline" is given as February 20, 1960, a little over a year after the killing. The disciplinary status reads, "Canceled by Board." However, Board personnel are unable to provide details about the invalidation. They claim that no files exist.

Neither the Texas nor the New York licensing authorities possess any information about the mess created by Eidinoff in 1959, which, for Eidinoff at least, came to an abrupt end with a Cherokee county jury's 50-minute verdict in 1968.



Ted Andress circa 1959



Cherokee County Courthouse built in 1941.

Minutes before the verdict was announced, Eidinoff told a reporter, "I'm not optimistic." Earlier in the nine-day trial, he told another reporter that his chances of winning freedom were at best 50-50, but he was wrong.

After the verdict was announced, Eidinoff and his attorney, Willis Jarrell from Tyler, reportedly appeared "dumbfounded at their good fortune." For several minutes, they sat in silence at counsel table, not saying a word. Eidinoff then turned to his lawyer and shook his hand, and former hospital attendants who testified in his behalf crowded around to congratulate him. One court employee curiously made the comment to reporters that, "In Cherokee County, we're tired of fooling with this man. I don't believe

you could find a jury here who wouldn't want to turn him loose and get him out of here."

The newspaper headlines read that a jury had found Eidinoff sane, but that he still faced obstacles to gaining his freedom. After the trial, newspaper accounts quoted El Paso District Attorney W. Barton Boling that, "there remained many legal uncertainties applying the new mental health code" including whether Eidinoff could be released from hospital confinement pending the state's motion for new trial and appeal, and whether jurisdiction had even been proper in a Cherokee county court when the original commitment had issued from a Lubbock county court.

After the trial, Boling returned to work on his large caseload in El Paso. As he says, "I tried most of the murder cases myself," usually sitting first chair. During his term, the district attorney's office employed only four or five assistants. So in addition to personally trying most of the major cases, Boling also handled the grand jury and traveled "down district," as the 34th Judicial District also includes Hudspeth and Culberson counties.

"At any one time," Boling says, reciting easily from memory, "my assistants included lawyers like Jack Ferguson, James H. Kreimeyer (now in Belton), Mike Thompson, John Fashing, Odell Holmes, Bob Earp, Don Leslie, Edward Marquez, Stewart Victorson (now in Chicago) and Wanda Creamer, the first female lawyer employed by the El Paso District Attorney's office." He also says that Edward Marquez, later judge of the 65th District Court, was the first Hispanic to hold the position of First Assistant, a fact that was noted in a Juarez newspaper article.

James I. Perkins, the Cherokee County Attorney who assisted Boling during the 1968 trial in Rusk, whose family first settled in the area in the early 1830s and who is now president and chairman of the Board of Citizens 1st Bank of Tyler, remembers that James Kreimeyer, Boling's assistant, was the son of a well-known former Rusk superintendent and psychiatrist. He notes that the maximum security unit, where Eidinoff was hospitalized, is now a full penitentiary.

Perkins remembers hearing that Eidinoff kept a list of people who he would kill or harm when he got out. Perkins recalls seeing a story in a police gazette or detective magazine, with a photo of Eidinoff wearing a funny looking outfit, describing how Percy Foreman had advised Eidinoff that Foreman could not represent him *before* the doctor killed someone - that would indicate premeditation. Perkins



W. Barton Boling was the third El Paso District Attorney to deal with the Eidinoff case.

describes Eidinoff as possessing aggressive tendencies, a high intellect and with no lack of ego. Eidinoff, he says, assisted in writing a thesis for a law enforcement officer attending college - he became very upset when the student did not receive an "A". On another occasion, Perkins recalls, Eidinoff participated in a parade organized by and for hospital patients by riding on a float dressed, oddly, as Aristotle Onassis.

In Perkins' view, Eidinoff knew, from a medical standpoint, that he could not match wits with former superintendent Dr. Charles Castner. But this dynamic changed with a change in Eidinoff's doctors, as Castner had retired and was no longer a state's witness. While the no-nonsense Castner intimidated Eidinoff, his retirement permitted Eidinoff to turn the tables. Eidinoff seemed to intimidate his later doctors with his torrential letter writing. During the trial, Perkins says, one doctor in particular acted as if he could not make up his mind about Eidinoff's mental status.

Mr. Perkins, who is also a former board member of the Texas Department of Mental Health and Mental Retardation as well as the former Chairman of the Board of Regents of Stephen F. Austin State University, and a former Rusk City Attorney, knew some of the jurors. He says the Eidinoff case affected how people did their jobs at Rusk. Hospital personnel were serious about fulfilling their responsibilities, and very concerned about someone like Eidinoff getting any breaks because he was an M.D. In Perkins' view, Eidinoff was mentally ill and should have remained hospitalized.

To handle the motion for new trial, Boling

persuaded Attorney General Crawford Martin to give Eidinoff's case more attention. The AG put assistant attorney general Allo B. Crowe, Jr. in charge.

At some point after the verdict, press reports began to circulate that Eidinoff and his lawyer had entered into an agreement for the killer to remain detained until the state could appeal the jury's October 2 verdict that Eidinoff was now sane. Eidinoff's lawyer, Willis Jarrell, was feeling confident. He reverted to the more comfortable role of an indignant criminal defense lawyer whose client has been wrongfully imprisoned.

Jarrell wrote Rusk State Hospital Superintendent Arch Connolly concerning these reports, demanding that, "In the event you do not furnish me with the names of the attorneys who claim I made an agreement with them in regard to holding Dr. Eidinoff, I will assume your statement was and is false. For three years now, my objective has been to secure the release of Dr. Eidinoff and not to humor you, the heads of the hospitals, nor the district attorney's office in El Paso."

While the defense lawyer was feeling confident and combative, the client was thinking it was simply time to leave. It was Monday, the 4th of November, the day before the national elections in 1968 contested by Republican Richard Nixon and Democrat Hubert Humphrey.

Eidinoff was taken to the Cherokee County courthouse in Rusk to appear at a hearing on the state's motion to set aside the sanity verdict and to grant a new trial. He was accompanied by attendants from Rusk State Hospital. Allo B. Crowe, Jr. of the AGs office was present to prosecute the state's motion for new trial. After the afternoon hearing, a few of the participants remained in the courtroom including Jarrell and the judge.

Crowe later told reporters that the hearing had concluded and that the judge had ruled against the state. Since it would take some time to draw the order, Crowe had left the courtroom while Eidinoff remained inside. After the verdict in October, Rusk officials had tipped their hand by indicating that, although declared legally sane, Eidinoff was required to stay at Rusk "for some time" and would be discharged whenever the legal avenues for his release had been clarified.

Eidinoff asked to use the restroom. The request was granted. Security was relaxed. Eidinoff had been committed for a long time; there was no cause for concern. He was not even accompanied by any guards. It was reported to be an atmosphere of "no problems,

no worries.”

Eidinoff walked into the restroom and disappeared. He was never seen within the State of Texas again.

Boling remembers that Crowe telephoned him from Austin that afternoon to give him the news. The conversation lasted about half an hour. Boling does not remember if Crowe told him that he, Crowe, had heard the news on the radio or had gotten a call from the Texas Department of Public Safety, or maybe it was a combination of both. But, the message was the same.

Eidinoff, Crowe said, asked to go to the men’s room on the first floor and never came back. Crowe told Boling that Eidinoff jumped out of the men’s room window, and confirmed the press accounts that Eidinoff ran to a waiting car with an unidentified person believed to be a male behind the wheel, and drove away.

The DPS had been calling Crowe, asking what they were supposed to do and how they were going to get Eidinoff back. Naturally, Crowe turned to Boling for the answers.

Huddling on the telephone, Boling asked Crowe, “What authority allows you to go after him and bring him back? How are you going to get a warrant? He was acquitted of murder. There are no criminal charges pending against him. Now he has a jury verdict in a civil case that says he is o.k.! So what authority allows us to bring him back?”

Boling told Crowe he would do a little research and get back to him. Boling says he found one old statute that pre-dated the new Mental Health Code, but it did not really address the issue. When talking about these matters, Barton Boling (like Richard T. Marshall and James I. Perkins) displays a remarkable memory and an ability to recall minute facets of the forty-year-old case. The old statute, Boling says, “provided that if someone had escaped from a ‘mental farm,’ then you could go get him back. But the statute had never been interpreted and contained no annotations. And it used that term – ‘mental farm.’” Rusk was no mental farm.

The search for Eidinoff was “unaccountably delayed,” as authorities in Tyler were not notified until several hours later. Dr. Arch Connolly issued an all-points bulletin for Eidinoff’s capture. The *Times* reported that “in El Paso, lawyers and others connected with the case anxiously waited word as to whether he had been located or had made good his escape. Although Eidinoff has insisted he would not come back to El Paso..., the circumstances surrounding the case left some doubt as to the



Ed Peticolas (L) and Jack Luscombe (R), former law partners enjoying the fall colors of New England in October, 2008.

dependability of his statement.” The *Times* also reported that wife Sylvia was still in El Paso “operating the [Hawaiian Royale] motel” but she said she had not corresponded with her husband in a long time.

Rusk officials indicated that though declared legally sane, Eidinoff was required to stay at Rusk “for some time,” and would be “discharged whenever the legal avenues for his release had been clarified.” They cited an AG opinion holding that patients committed by a criminal district court could not be released except by the authority of the committing court, and that court was in Lubbock.

The *El Paso Times* reported that local officials and other citizens in El Paso had “believed for years that Eidinoff’s release would constitute a danger to them.” The *Herald-Post* said that “his escape brought some trepidation to El Pasoans,” and that some feared Eidinoff “might plan to return here to take ‘revenge’ against them.”

Judge Berliner, for example, was known to keep a handgun in the chambers of the 171st District Court as a precaution in the event of Eidinoff’s return. Perhaps it was for these reasons that the authorities responsible for Eidinoff’s release were slow to turn him loose after the verdict. This included Dr. Arch Connolly, the Rusk superintendent, who Eidinoff had previously sued.

On Thursday night, November 7th, Eidinoff called his attorney from an undisclosed location in New York. The killer told the lawyer, “It’s not as warm up here as it is in Texas. And I can tell you, it’s a long, long way by bus.”

Attorney Jarrell told the press that, “We just want the world to know we’re not running. We’ll cross other bridges when we come to

them. We’ll stand on our legal rights. Eidinoff isn’t running. He’s going to stay in New York, though, and he intends to practice medicine in New York. He decided to leave because he had a court order telling the superintendent to discharge him.”

Jarrell quoted Eidinoff saying, “If you were a voluntary patient and wanted out, he [Dr. Arch Connolly, superintendent of the Rusk hospital] has got to discharge you in 96 hours or file a complaint. The court order I have is 30 days old, and Connolly has been quoted in the press as saying he would not discharge me.” Jarrell added that an appeal to the Texas Supreme Court would take about a year and, for that reason, Eidinoff decided to leave. When asked if anyone helped him, Jarrell said he had not asked.

Once again, District Attorney Barton Boling was left with few choices. The Texas Department of Public Safety called him, he says, and agitated for a warrant to arrest and return Eidinoff to Texas. “What for - what’s the charge?” Boling asked. Again, he pointed out that Eidinoff had already been acquitted of murder in 1959, and now he had the added advantage of a jury verdict finding him sane. So Boling asked the attorney general for an opinion. The extradition statutes covered escaped criminals but left the matter of escape from an asylum in doubt.

Eidinoff had to have the last word. In a letter to *Times* reporter, Art Leibson, he claimed he did not escape, but just left the hospital as he was entitled to do. He wrote:

The jury found me sane on October 3 and I should have left the court a free man. However, my attorney wanted me to wait until the judge signed the order, which my attorney had to prepare. I simply went back to the hospital Oct. 3 to pack my clothes and other personal possessions. When I got there, I found out that I couldn’t get out. They had all sorts of silly excuses. First, they said Dr. Connolly was out of town and couldn’t sign the papers...everyone knew he was there. On the following day, Dr. Connolly received the court order, ordering him to discharge me, as prescribed by law. He said he would not let me go. He had been advised to keep me imprisoned by the attorney general on the grounds they were going to appeal it.

Eidinoff said he waited the necessary thirty days for the court order to become final, knowing that the motion for new trial would be denied, and packed his clothes and possessions and sent them from the hospital before Nov. 4th.

By the following week, Eidinoff broadcast a live, on-the-air interview by telephone with a Ft. Worth radio station, in an event arranged by his lawyer, saying that as far as he was concerned "the litigation is finished." He said he would not go back to El Paso because of threats made against him.

Eidinoff went on to continue practicing medicine in New York. During his last trial in Cherokee county, he told a reporter that he planned to go east and enter the medical field again. At age 59, he did not wish to spend ten years establishing a practice, but thought he could do a good job in state medical work

or with some organization like the Veteran's Administration.

He corresponded with Art Leibson. Leibson told another El Paso Times reporter in 1978, "I get postcards from [Eidinoff] from Paris, London, all over the world. He just got married, a young nurse up there in New York and she told me, when we were having dinner not long ago, 'I didn't know anything about his background until after we were married.'"

Harold Eidinoff, of Riverdale, N.Y., died March 25, 1997. He was described only as "the beloved husband of Patricia, father of Harvey, brother of Maxwell," and the grandfather of three

grandsons. He was interred in Miami Beach.

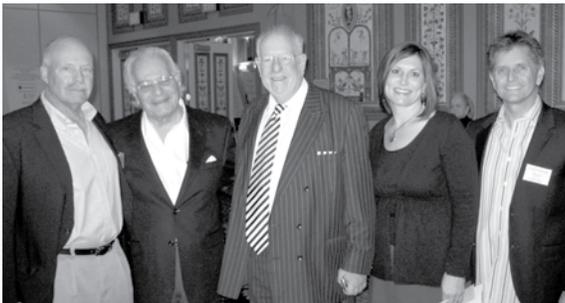
So that's the story of how, fifty years ago, a well-known doctor shot and killed a prominent lawyer on Wednesday evening, January 28, 1959, and - to a certain way of thinking and in the opinion of many people who remember the episode - got away with murder.

However, as every lawyer knows, no act is criminal unless the mind is also criminal. But guilty or not, people like Harold Eidinoff, M.D. will probably always find it better to murder an infant in its cradle rather than nurse an unacted desire. *Colorín colorado, este cuento se acabado.*

The Ted Andress Assassination series is written to commemorate the 110th anniversary of the Bar Association with assistance and encouragement from Edgar Rincón Luna for which the author is grateful. The following resources have been used: Sonnichsen Special Collections Department, University of Texas at El Paso Library, *El Paso Herald-Post* records, MS 348; The Paul Freund Papers, Eidinoff, Harold 1966 Box 13, Folder 7, Harvard Law School Library; *Ex Parte Eidinoff*, 408 S.W.2d 540 (Tex. Civ. App.- Tyler, 1966, writ ref. n.r.e.); *Eidinoff v. Kreimeyer* 87 S. Ct. 898, 386 U.S. 905, 17 L. Ed. 2d 801 (1967); *Eidinoff v. Connolly*, 281 F. Supp. 191 (U.S. Dist. Ct.- N. Dist. Tex. 1968); *Connolly v. Eidinoff*, 442 S.W. 2d 415 (Tex. Civ. App.- Tyler 1969, d'm w/out juris.); *Time Magazine*, March 18, 1966 and March 21, 1969, The *El Paso Times* and The *El Paso Herald Post* archives of the El Paso Public Library; and personal interviews. This presentation includes the creative work of others. This property is being used by permission or under a claim of "fair use" pursuant to 17 U.S.C. §107, and was created pursuant to fair use guidelines and further use is prohibited.



The El Paso Women's Bar Association's Past Presidents Luncheon was held March 7, 2009 at Ardovino's Desert Crossing. Back row, pictured left to right: Cori Harbour, Sarah Snook, Lina Ortega, Kathleen Anderson, Susan Larsen, Cezy Collins, Linda Samples and Diana Valdez Front row, pictured left to right: Mara Blatt, Toni Estaville, Kitty Schild and Leila Hobson



Judge Tom Spieczny, Joseph "Sib" Abraham, Las Vegas Mayor Oscar Goodman, Cori Harbour & Carlos Cardenas.

13TH ANNUAL CIVIL TRIAL SEMINAR



Judge Yvonne Rodriguez & Judge Maria Salas-Mendoza



Bruce Koehler, Steve James & Francisco "Paco" Dominguez



RESOLUTION SUPPORTING FUNDING FOR CIVIL LEGAL AID IN TEXAS

WHEREAS, The El Paso Bar Association, embraces the principles that our nation promises justice for all, not just for those who can afford to pay for it;

WHEREAS, the most recent U.S. Census reports that 3.9 million people live below the poverty level in Texas, and more than 5.1 million qualify for civil legal aid to the poor;

WHEREAS, Texas ranks ninth among the 50 United States in income inequality between the rich and the poor;

WHEREAS, Texas currently ranks 43rd in the nation in overall funding for legal services and there is an estimated one legal aid attorney for every 11,500 low income Texans;

WHEREAS, in 2007, more than 107,000 persons received urgent legal help from programs funded by the Texas Access to Justice Foundation;

WHEREAS, the Border region of Texas and Mexico, including El Paso County, has historically been the most economically disadvantaged area of Texas, with poverty rates that, in general exceed the state average, and in some cases, more than triple the poverty rate;

WHEREAS, in 2005, 29% of the El Paso population lived below the poverty level;

WHEREAS, the Texas Access to Justice Foundation was created by Supreme Court Order in 1984 to administer the Interest on Lawyers' Trust Accounts (IOLTA) program to fund nonprofit organizations that provide free civil legal aid to low-income Texans and is the leading state funder for civil legal aid in Texas;

WHEREAS, the drop in interest rates has brought the IOLTA Program from \$20.1M in FY 2007 to \$12.2M in FY 2008 and is now estimated to drop to \$1.5M in FY 2010 and 2011 and would need \$37M for a Biennium to offset the anticipated shortfall;

WHEREAS, Texas Access to Justice Foundation has made a request to the Texas Legislature for \$37M from general revenue to offset the loss of IOLTA funds;

THEREFORE, BE IT RESOLVED that the El Paso Bar Association supports the Texas Access to Justice Foundation in its request to the Texas Legislature for \$37M from general revenue and requests such funds be allocated to bridge this loss of IOLTA funding.

SIGNED this 23rd day of March, 2009.

Cori Harbour, President
El Paso Bar Association

SENIOR LAWYER INTERVIEW

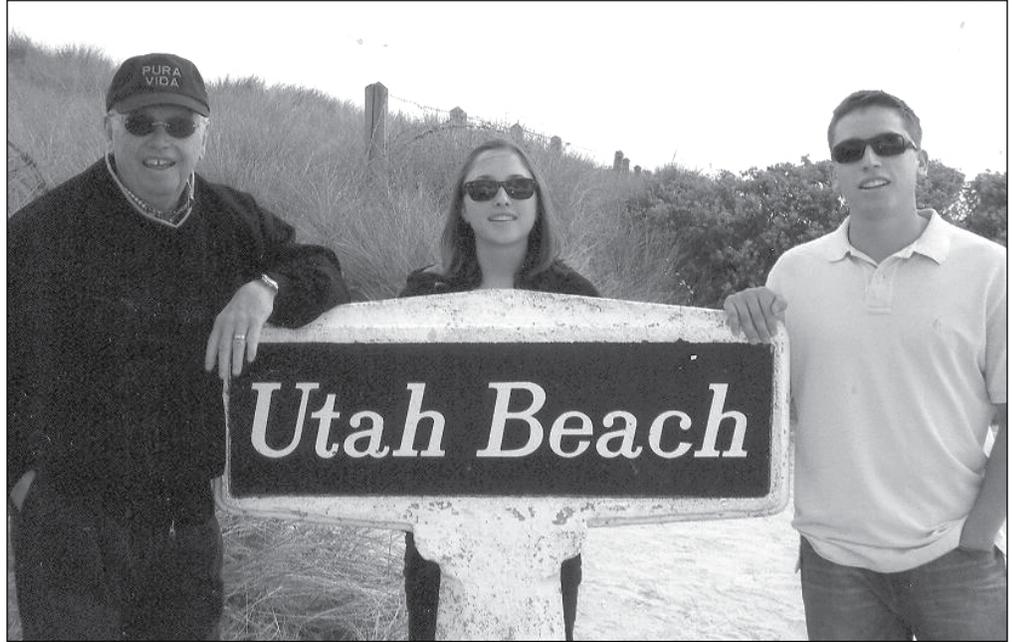
BOB HOY

■ BY CLINTON F. CROSS

Bob Hoy, one of our 50 year lawyers, is a licensed lawyer and a retired car dealer.

When Bob Hoy began practicing law, attorneys were held in greater esteem than car dealers.

Bob Hoy's life challenge to us is to emulate his public service-- to work as he worked to improve his trade and his community.



Bob Hoy with his grandchildren, Meg and Drew

CROSS: Where were you born?

HOY: In 1933 in El Paso at the Masonic Hospital located at Five Points.

CROSS: Who were your parents?

HOY: Robert H. Hoy, Sr. had nine brothers and sisters and he never graduated from high school. When he was in his early twenties, he followed three of his brothers from Arkansas to El Paso and in the late 1920's got in the grocery business. He managed the second of what would become a chain of two hundred supermarkets and convenience stores in three states operating under the name Food Mart with headquarters in El Paso. He retired in the late '60's as the Chief Operating Officer of the company, which was listed on the New York stock exchange.

About 1916 my maternal grandmother followed a couple of her sisters from New Orleans to El Paso, bringing her infant child, my mother, with her. My mother's step-father was Richard Owen, a civil engineer. During the Mexican Revolution, Richard was in Juarez doing survey work when Pancho Villa's soldiers captured him and tied him to a tree. During the night, a young Mexican girl untied him.

He waded across the Rio Grande and made his way back home. That was the last job he ever agreed to do in Juarez.

CROSS: Brothers and sisters?

HOY: I have a younger sister who lives in Oregon and a deceased younger brother.

CROSS: Where did you go to school?

HOY: I went to Crocket Grade School. I graduated from Austin High School in May, 1951. I went to Texas Western College for one year. I then transferred to the University of Texas at Austin. I got a pre-law undergraduate degree, and in 1957 my Bachelor of Laws degree.

CROSS: So then what did you do?

HOY: I wanted to an FBI agent. But when I was in law school I got married, and we had a son and the FBI was no longer an option.

CROSS: Wait a second. Before you fully answer my question, tell me about your wife.

HOY: My wife of fifty-three years is Rose Ann McClellan, originally from Houston. We had two sons, Robert III and Steve M. Hoy.

Robert died of AIDS in 1991 at age 35. Steve manages two of our automobile dealerships here. Steve married Annette Cordova of El Paso, who is a practicing OB/GYN medical doctor. They have four children, Robert Andrew, Margaret, and Elizabeth and Allie Rose (who are twins). The two oldest are in college.

CROSS: O.K., back to your career. What did you do when you returned to El Paso?

HOY: I knocked on a lot of doors, trying to find a job. One day I was on the street outside the Bassett Tower and ran onto Hughes Butterworth who told me he thought there were two lawyers on the eleventh floor that needed an associate. I took the next elevator to the eleventh floor and asked to see one of the lawyers, Doyle Gaither. I introduced myself and told him I was looking for work. Doyle wanted to know who referred me. I told him Hughes Butterworth. He hired me on the spot.

CROSS: Was anyone else with the firm?

HOY: Jack Brewster.

CROSS: *How long were you with that firm?*

HOY: After a couple of years the firm split. Jack and I formed the firm of Brewster and Hoy. Then we added Phil Cole. The firm was renamed Brewster, Hoy, and Cole. Phil later became a highly regarded federal magistrate.

After a few more years, I left and became a partner in the firm of Goodman, Hallmark, Hoy, and Beard. I stayed with them until December 31, 1972.

CROSS: *Then what?*

HOY: I purchased the local Volkswagen dealership in January, 1973. While I was never foolish enough to represent myself in any legal matter, my legal education and experience practicing law for fourteen years was very helpful in managing a business venture.

CROSS: *Why did you quit the law business?*

HOY: I have been asked that question many times. Rather than give a long answer, I just say "I wanted to make an honest living for a change." I always get a good laugh. I really left the practice because for me it was not a happy way to make a living. Office practice never appealed to me and litigation is full of unhappy people including clients, witnesses, judges, jurors, and opposing counsel.

CROSS: *And I know you're still selling cars.*

HOY: I managed our business from 1973 to 1998. By 2000 we had grown from one dealership which sold Volkswagens to three dealerships with eight franchises (Hoy-Fox Automotive Market which sells and services Mercedes-Benz, Volkswagen and Volvo; Hoy-Fox Acura/Infiniti, and Hoy-Fox Toyota, Scion and Lexus. Steve Fox went to work for me in 1975 and later became a partner. My son, Steve, joined us in 1988 and is also a partner. In 1998 I stepped down as CEO, sold more stock to Steve Fox, and gifted stock to Steve Hoy. In 2000 I retired from any active part in the business, but I am still a partner in the stores.

CROSS: *As a car dealer, did you participate in trade association activities?*

HOY: I was active in the Texas Automobile Dealers Association from 1975 to 2000, and I was elected chairman of the Association in 1996/1997. Governor Clements appointed me to the Texas Motor Vehicle Commission in

1981 for a six year term, and I served as its chairman from 1984 to 1986. During that time, I am proud that we adopted an advertising code, and we passed the Texas Lemon Law.

CROSS: *Were you ever recognized for your contributions?*

HOY: In 1988 the Texas Automobile Dealers Association nominated me for the National Automobile Dealers' Association-Time Magazine Quality Dealer Award. There were 68 national nominees and I was one of seventeen finalists. In 1989, I was one of twenty-two dealers in the country to receive the American International Dealers' Association-Sports Illustrated Dealer of Distinction Award. Remember, there are probably 15,000 dealers in the country. In 1991, I was one of eight dealers to receive the American International Dealers' Association-Sports Illustrated Dealer All-Star Dealer Award. During my career, I was also elected by my peers three times to the Volkswagen National Dealer Counsel, and three times to the Mercedes-Benz National Dealer Counsel.

CROSS: *Any other public service?*

HOY: I was elected to the El Paso City Council in 1969, and served a two year term. In 1973 I served as Vice Chairman of the El Paso Civil Service Commission. In the 1970's I served as Vice Chairman to a Special Crime Commission appointed by Mayor Don Henderson to investigate corruption in the police department, and we did identify and eradicate significant abuses.

CROSS: *Let me see if I understand: you're married, parenting children, selling cars, trying to improve the automobile industry, serving on city council, and rooting out corruption. I assume your plate was full.*

HOY: Not really. I have been active in UTEP alumni activities for at least forty years. I have been a member of the UTEP Development Board for fifteen years. I was Vice Chairman of that board from 1999 to 2006. I was Vice Chairman of the Legacy Campaign at UTEP, which when completed in 1999 was UTEP's most successful fundraising campaign in its history. During the past twenty-five or more years, I have been particularly active in the field of health care. I have been Chairman of the Board of Managers of R.E. Thomason General Hospital; served on the Board of directors of El Paso Cancer Treatment Center; served as Chairman of Providence Memorial Hospital Board of Trustees; and served as Chairman of El Paso Del Norte Health Foundation. I was also Chairman of the Business Roundtable and I was a founding member and Chairman of the Business Leadership Research Council (which is now the Paso Del Norte Group). I have also been very active in Texans for Lawsuit Reform since its founding in 1994.

CROSS: *So where did you develop your dedication to public service?*

HOY: From the practice of law I developed an interest in our community from politics to other kinds of civic involvement. Also, over the years of practice, I did enjoy representing and counseling clients from all walks of life with many different needs.

50 YEARS LAWYERS



(Left to right) Sanford Cox, Frank Hart, Fred Morton, Don Studdard, John Steinberger, and W.C. "Pat" Dudley. Not in the picture: Thomas M. Diamond, Jr., Wayne S. Gerber, Robert H. Hoy, Jr., Robert F. Mayhall and Richard L. Reep



Legal Literati

This month the El Paso Bar Journal literary page presents a Donna J. Snyder poem

THREE SIDES OF THE SAME MOON

shadows drench the mesas with the brilliance of night
midnight snowscapes under mid summer full moon

when there is no moisture--

no frigid desert air or vapors off the hot river--

your eye is easily deceived

while she waxes you perceive depth in shadows
dark passageways to nowhere but where you are
in the third cycle love must always trick the eyes

the overripeness of bruises

the blemishes

all the defects veiled

their effect diffused in the twilight

no one knows the point where space and time cease to matter

Snyder has practiced law in the public interest since 1982, and is currently in the criminal division of the Office of the County Attorney. She founded and continues to present weekly creative writing workshops through the Tumblewords Project. Her work has been published in many on line and print literary journals and magazines.

Legal Literati call for submissions: The practice of law requires the ability to use the written or spoken word to provoke or prompt an intended result. Consequently, throughout history, lawyers have been known for creativity in the arts as well as in formulating arguments. The El Paso Bar Association wants to celebrate this aspect of the legal profession, and to encourage its members to recognize and cultivate their own creative impulses. We ask members or other law related professionals to provide their poems, lyrics, very short stories, or other creative expression. **Please submit your work for consideration to Poetry Editor Donna J. Snyder via email to donna.snyder@ca.epcounty.com.**

ADVANCE SHEET, circa 1201

BY CHARLES GAUNCE

Legal Reference Librarian University of Texas at El Paso

From thousands of cases translated from Latin and French and published by the Seldon Society in London, England, Charles Gaunce researches the English Common Law and shares with us a few selected cases.

This case reminds us that while human nature may never change, culture and the law do change. There's hope for humanity, after all. Clinton F. Cross

The case:

Malot Crawe [accuses] Robert, Godfrey's son, of rape. He comes and defends. It is testified that he thus raped her and that she was seen bleeding. By leave of the justices they made concord on the terms of his espousing her.

Comment:

This case comes to us by way of the Hundred of Eastwivelshire before the Justices in Eyre in the third year of the Reign of King John (1201).

A hundred is a subdivision of a county that has its own court. The last Hundred Court in England was abolished in 1971.

This case is of interest because there is actually a lot going on here.

First, how has our concept of justice changed? If we accept the proposition that criminal activity is punished for the benefit of society as a whole,

then how does having the rapist marry the rape victim advance this? I would be interested if any of you criminal defense practitioners have had any success in getting any robbery charges dismissed by having the accused sign a promissory note in favor of the victim, and then telling the prosecutor that the parties have reached an agreement. Anyone...Anyone...Bueller?

Second, why would anyone believe that a rapist is a good candidate for marriage?

Third, why would a rapist put himself in daily contact with his victim where she can poison him with her cooking, slay him as he sleeps, or simply make his life a living Hell? Any rapist who thinks marriage to his victim is a better result than simply spending several years incarcerated deserves the punishment about to be inflicted simply because he is too stupid to realize what misery is about to befall him.

Finally, to what extent is the judiciary becoming a willing dupe to a plot by the youth to achieve the ends they desire? One has to wonder if Malot's parents had forbidden her to see that Robert character, a man of obviously inferior breeding.

But hormones of youth have a way of expressing themselves. If this case was from Italy, one could easily envision that the female lead would be named Juliet and the male lead would be Romeo. How does a parent protect his/her child from an order of the Court?



Name:

Manny Barraza

Court:

Criminal District Court One

Years on the Bench:

Sworn in January 1, 2009

Education:

J.D., University of Texas School of Law, 1978

BA in Journalism, University of Texas at El Paso, 1976

Riverside High School, 1973

Court Coordinator:

Grace Herrera

What comes to mind when you hear the word "justice"?:

Fairness. Each litigant must have full confidence that their side will be heard.

Describe a moment when you, as either a judge or lawyer, felt justice was achieved:

When I was fresh out of law school, a 17-year-old client came to my office. Her sister was trying to gain custody of her daughter. She had no money. I agreed to represent her pro bono. She retained custody of her daughter. I still remember that case as hers was a just result.

As a judge, what responsibility do you feel towards the community?:

The community must have total confidence in the court system. I am committed to the speedy and efficient processing of cases consistent with fairness and justice.



LAW DAY CHESS TOURNAMENT

If you are a lawyer or paralegal and play chess, please participate in the **Law Day Chess Match** to be held this year on **May 9th** at **St. Clements Episcopal Church, 810 N. Campbell St.**, from 9:00 a.m. to 2:00 p.m.

You can participate by just **SHOWING UP** at the church (go to the back entrance on Montana near the school) before the tournament begins, but we would appreciate pre-registration.

You can pre-register by contacting Omar Carmona by phone at 929-9555, or by E-mail at: carmonalaw@gmail.com.

If you can't reach Omar, call Gerald Georges at 546-3528 and leave a message.

HON. ROBERT J. GALVAN COUNTY LAW LIBRARY NEWS

By LYNN SANCHEZ

The Law Library has acquired the following materials of general interest, which are available for check out:

Anderson, Ken,

Dan Moody: Crusader for Justice

(Georgetown Press, Georgetown, Texas, 2008).

Blodgett, Dorothy; Blodgett, Terrell; Scott, David:

The Land, the Law, and the Lord: The Life of Pat Neff

(Home Place Publishers, Austin, Texas, 2007).

Brown, Norman; Hood, Bonnet, and Little Brown Jug:

Texas Politics, 1921—1928

(Texas A. & M. University Press, College Station, Texas, 1984).

Chalkley, John: Zach Lamar Cobb:

El Paso Collector of Customs and Intelligence During the Mexican Revolution 1913-1918

(Texas Western Press, The University of Texas at El Paso, El Paso, Texas, 1998).

Thomason, Ewing:

Thomason: The Autobiography of a Federal Judge (Texas Western Press, The University of Texas at El Paso, El Paso, Texas, 1971).

Above the Law



"WELL, I SUPPOSE IF YOU GIVE EVERYTHING YOU STEAL TO THE POOR YOU MIGHT JUST QUALIFY AS A NON-PROFIT."

Marc Jacobs, Esq. is a partner at Michelman & Robinson, LLP. Combining his professional and personal interests, in his spare time, Marc authors the "Above the Law" legal cartoons focusing on the humorous relationship between life and law. For more information on Above the Law, please visit www.marcjacobsllaw.com

Do you have ? legal worries ●

Come to our free legal clinics
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Absolutely no cost to receive legal advice!

When: Third Wednesday of the month

Time: From 5:00p.m. to 7:00p.m.

Place: 1331 Texas

(Corner of Texas & Newman)

Individuals are seen on a first come, first serve basis. Legal clinics are made possible by Texas RioGrande Legal Aid, a nonprofit organization that provides free legal services to low-income and disadvantaged clients.

Call 585-5100 or email receptionistelp@trla.org for more info.

On the web visit: www.trla.org/teams/cli.php



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Texas RioGrande Legal Aid



Food from the Women's Bar 2009

The Legal Community Fights Hunger in El Paso

April 20 – May 15, 2009

60% of clients served by the West Texas Food Bank have to choose between paying for food and paying for utilities.

35% have to choose between paying for food and paying their rent.

45% had to choose between paying for food and paying for medicine or medical care.

The West Texas Food Bank distributes over 5 million pounds of food per year through a network of more than 170 partner agencies in 22 counties covering over 45,000 square miles. In El Paso alone, the food bank distributes almost 2 million pounds of food every year.

Food from the Women's Bar makes a difference

- ◆ 2009 marks the first year that the El Paso legal community will participate in *Food from the Women's Bar*, a program that has proven successful in San Francisco to replenish food bank supplies to meet families' increased need for food during the summer months.
- ◆ *Food from the Women's Bar* features a four-week effort among law firms and legal offices in which participants can contribute money, donate food, and/or volunteer time sorting and packing food at the West Texas Foodbank. We would like to mobilize the legal community as a whole to help alleviate hunger in West Texas.

Help us reach the 2009 Food from the Women's Bar goals

\$5,000 (more than 50,000 meals)

500 pounds of food

50 volunteer shifts

For more information, contact the Food from the Women's Bar coordinator, Toni Estaville at (915) 227-7372 or food@elpasowba.org.

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Fax: 915-833-7305
palafoxpatricia@sbcglobal.net

▶▶▶ ASSOCIATION NEWS

El Paso Women's Bar Association

- ♦ The El Paso Women's Bar Association will hold its April meeting on Wednesday, April 8, 2009 at 12:00 noon at Original Jaxon's on Mesa and Castellano. There will be a CLE presentation on Criminal Law
- ♦ *Food from the Women's Bar* is a new Anti-Hunger program that the El Paso Women's Bar Association is bringing to El Paso. For more information please contact Toni Estaville at 227-7372 or at food@elpasowba.org
- ♦ The EPWBA will unveil the Kids' Law Library at Aoy Elementary on Wednesday, May 20, 2009, during the Positive Role Model Program graduation. A special thanks goes out to Linda Samples and Cori Harbour for coordinating this project.
- ♦ The EPWBA will hold its annual charity event, Lawyers Got Talent? on Friday, May 29, 2009 at the El Paso Country Club. Proceeds benefit the Legal Charitable Foundation of El Paso. Please contact Andrea Cortinas, Sarah Shook, or Diana Valdez at 533-2493 or Toni Estaville at 227-7372 for tickets, sponsorship opportunities or to perform in the talent show..

El Paso Paralegal Association

- ♦ The El Paso Paralegal Association will hold its April meeting on Thursday, April 23, 2009 at 12:00 noon at the El Paso Club. Guest speaker will be David Jeans of Ray, Valdez, McChristian and Jeans.
- ♦ The May meeting will be held on Thursday, May 21, 2009 at the El Paso Club at 12:00 noon. Guest speaker will be Jeff McElroy of Ray, Valdez, McChristian and Jeans. Please RSVP to Ruby Zuniga at 533-4424.

El Paso Young Lawyers Association

- ♦ The El Paso Young Lawyers will hold their April meeting on Thursday, April 16, 2009 at Medallions Resturant, 501 Texas Ave.. Happy Hour will be held at 5:30 p.m at a location TBA.
- ♦ The EPYLA May meeting and Happy Hour will be announced via the EPYLA listserv at a later date.
- ♦ The EPYLA will hold a Family Picnic on Saturday, April 25, 2009 at Memorial Park from 12:00 – 4:00 p.m. Join us for a fun day. For additional information contact cmq@lawyer.com

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EL PASO YOUNG LAWYERS GOLF TOURNAMENT

SATURDAY, MAY 9, 2009, 8:00 A.M.
PAINTED DUNES GOLF COURSE

\$75.00 fee includes Golf, Cart, Range Balls

4-person scramble
Cash Prizes for 1st, 2nd & 3rd place
Ditty Bags
Door & Hole Prizes
Food, Drinks, Snacks

To sign up call 533-0009 or email cmq@lawyer.com

PUBLIC NOTICE APPOINTMENT OF UNITED STATE MAGISTRATE JUDGE EL PASO, TEXAS

The United States District Court for the Western District of Texas is accepting applications for the position of full-time United States Magistrate Judge at El Paso, Texas. The term of office is eight years and the current annual salary for the position is \$155,756.00.

A full public notice for the magistrate judge, application forms, and application submission procedures are posted on our web site at: <http://www.txwd.uscourts.gov/jobs/default.asp>

Questions may be directed to Ms. Lorre K. Kukla, Director of Human Resources, (210) 249-4034 x 505. The application must be received no later than May 30, 2009. Application submission procedures will be attached to the application.

**The United States District Court
is an Equal Opportunity Employer**

Save the Date!

El Paso Women's Bar Association's Charity Bash 2009:



LAWYERS GOT TALENT?!

Please join us in honoring the
2009 Winner of the Trailblazer Award

May 30, 2009, 6:00 p.m.

El Paso Country Club
5000 Country Club Pl # B, El Paso, TX 79922

**Tickets: \$75.00 per person
\$60 Government/Non-Profit Rate**

*For more information, please contact Toni Estaville
at testaville@epcounty.com or Andrea Cortinas at acor@scotthulse.com*



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Cori Harbour, President
The Board of Directors of the
El Paso Bar Association
cordially invite you to the annual

LAW DAY DINNER AND AWARDS PRESENTATION

Saturday, May 9, 2009

Coronado Country Club, 1044 Broadmoor Dr.

Happy Hour: 6:00 p.m. – 7:00 p.m.

Dinner: 7:00 p.m.

Awards Presentation: 8:00 p.m.

*For the kids: Face Painting, Jumping
Balloon & Balloon Animals*

\$50.00 per Adult (cash bar)

\$15.00 per child (*special menu and treats for kids*)

RSVP by Friday, May 1, 2009

Casual Attire

