

My Life Fighting the Death Penalty

Dr. Ed Bronson

I wanted to talk a little bit about my personal history as well as the cases I've been, I think lucky enough to be involved in. I came to Chico State in 1969 to teach Constitutional Law, and then sort of stumbled into founding CLIC which has had a remarkable run. Who would've thought that a program started over 40 somewhat years ago with still be operating in much more successful than when I was doing it. Among other things, I was able to write the curriculum when we started the criminal justice, degree program here. I was the pre-law adviser. I was a general troublemaker including involvement in the gun strike here at Chico State, if you don't know about that, the Chico 15. And some of my students who've come back, many who've become judges and it's the most thrilling thing for me to get a call where either the lawyers, I just got a call today, where two of my students are the defense lawyers in a change of venue case involving some pretty horrific events. I worked on the very infamous Crittenden case here in Chico where two of our most prominent citizens were brutally murdered. And the defendant was a student here at Chico State with real racial overtones. Successful in getting your change of venue but the case is coming back. And it looks like I'm involved again in certain issues in the case. All the judges - was a thrill last year to have six of them come back to talk to all of our students about their experiences here and how their involvement in CLIC. And the general climate in Chico played a role in what they were able to do. And it's particularly a kick to be testifying as a so-called expert in front of my prior students which is kind of neat.

A couple of years ago, I had the opportunity. We had a wonderful student who was one of those who came back here, who'd been a young undergraduate here, walked into my office, and I kind of, I guess you'd say, put the fear of God into her and try to instill some real confidence. And she went on to become an outstanding young attorney, and now judge. Shortly after she started working as a public defender, I sent her some audio tapes of her first trial which was our first mock trial here at Chico State. And frankly, she was something less than a star. But growth and maturity comes to us all. And I was really thrilled that when she was installed as a judge, actually it's been over 10 years now, she invited me to be part of her installation and I was able to at that big ceremony, able to read into the record, the letter of recommendation that I'd written all those years ago. But even more, at least almost made me cry, was at the end of that trial that she done, she gave me a gift, a little toy gavel. And I had it on my desk for many years. And as she was being installed as a trial judge, I was able to give her that gavel back, and it was a real tearjerker for me as I said.

You know many of my former students here, here in the pre-law program or related activities like Paul Persons, wonderful member of our faculty. And you'd probably know Teddy DeLorenzo, Dane Cameron, Sally Anderson, Carla Zimmerly and several others. And students and teaching have been my real love here, here at Chico but also in programs that I've been involved in and major programs in Micronesia at eight or nine different law schools, and five or so other colleges and universities.

I grow up in Chicago. My father died when I was 15. And I ended up then going to six different high schools. I also got involved in the military, it doesn't seem quite appropriate for a kind of a left-winger now. I am listed in the combat engineers, National Guard when I was 17. I was a Naval ROTC in college. And when the Korean War broke out, there was no college deferment. And the way we dodge the draft which we enlisted in the air force and that's what I did for four years that I served. When I got out, I wasn't done. I joined the Air National Guard. And then after I graduated from college and was going to law school, I used to teach at night at the local air force base on the B--you know what the B-36 was, that was the big intercontinental bomber in United States. I taught about certain electronic systems on that plane. I dropped out of law school for a year to become a field service engineer where I worked on the bomb navigation system for the B-52, and later on the first of the intermediate range ballistic systems, the one that was in Europe in those days.

Then I finished law school and went to graduate law school. During that time, I worked as a technical writer, all the manuals and how to repair and maintain and troubleshoot, the electronic system the guiding test equipment for the first Polaris Submarine, that was the first submarine that had a missile on it. Then, I finished law school that was in NYU, my graduate law school. And I worked on other type programs including the Titan III, intercontinental ballistic missile system. And then, I had a career for close to four years as a professional gambler. I had my own club in downtown Denver where we had a whole area almost as big as this room off the lobby where people came in and gambled often for very high stakes.

Then, I started my PhD program. And that was very exciting. And shortly after I started teaching at the University of Colorado, the United States Supreme Court came down with a big decision on what the issue was call--I won't bother to explain it. But it was the death-qualified jury which was the issue of whether juries who are selected to hear a death penalty case can be fair on the issue of guilt. That is to somebody who believes in the death penalty, are they more likely to convict somebody than somebody who opposes death penalty. So, I was teaching a big freshmen class, and that seemed like a great class project. So, I involved my students in carrying out some research on that issue. Given my great background in psychology, I've had one freshmen class in survey research. I had no classes in psychology where I'd had one freshmen class, and sociology where I had had no classes. But somehow, it seemed interesting in something to follow. And I thought I could do that kind of thing. So, we did it. And that was the first time I ever got involved in the death penalty. My only awareness of it was certain very high profile cases involving racial or political discrimination where the death penalty was imposed either on minorities, that's in the case of know of it, Scottsboro Boys in Alabama or Sacco and Vanzetti to so-called anarchists in Massachusetts. And I read books, and that was about it. But that since I was going to be writing about it, I have it learn a little more. And frankly I was quite shocked at what I found. When I was investigating in my research was what I called and usually the key to a successful social scientist is to give fancy names that things that people already know about. So in this situation, I investigated what I called the "banana ice cream syndrome." Well, the idea was, what do I know about you if you tell me that you like your favorite flavor is banana ice cream? Do I know anything else about your general attitudes or behavior or beliefs? The answer is no. You don't know anything. On the other hand, if you tell me at least at the time when this was a bigger matter that living together before marriage is a sin, or

that the most important value in a home is discipline. Do you think I know some other attitudes and values you might have? Well, the focus of my research was to determine whether the banana ice cream syndrome, whether that was if to work or whether your attitude to the death penalty would predict whether or not you'd been more favoring the prosecution, more conviction prone. And intuitively, I thought the death penalty would be very predictive. And I found that at least in my studies that indeed people who favored the death penalty were much more likely to be oriented toward the prosecution to favor of it. Also, I found that there were very significant demographic impacts, that is, if you kick off the jury people, who oppose the death penalty, you'd have juries that in terms of a whole bunch of variables, race even religion, gender, education, income that skewed the jury, that that made it less a fair cross section of the entire community. Well, I published my results in the article. And I was surprised to have a telephone call from somebody who had a death penalty case in Los Angeles. And he wanted me to testify on my findings. Well, I was shocked, thrilled that somebody would actually pay my air fare to listen to me, do what I'm doing here and talk about things. And so, I did that and I found that I really enjoyed testifying. So, I probably testified on that issue all around the country, 50, 60 times. And they were all of course death penalty cases. So, this fuddy-duddy college professor was getting involved in some the most horrible, indeed horrendous cases that you could imagine. And over time, I've been continued to be involved in such cases. But then, including a couple of cases and one of which went to the California Supreme Court where they published three pages of my surveys because I did other surveys using my students to conduct them here and/or two major ones here in--once I came to Chico state and they published them all. And the Chief Justice ruled the decision, we didn't quite win but we won a lot of that we wanted.

And one that I testified in Arkansas about that reached the United States Supreme Court. And although it was pretty darn crucial, we won in the Federal District Court, we won in the Court of Appeals Federal and we came close in the Supreme Court, lost 6 to 3. Well, what happened was, around 1982, I got asked to testify as what is called a Laying On of Hands Expert. That means my role was to come in for the defense as it turned out, and say that the experts that they were using on change of venue about which I knew very little, that they were great people. It was the field that, you know, the field poll that is used in California, terrific survey research people and the major expert in the case of professor that I worked with a lot who teaches at UC Santa Cruz, that they were great and they were confident and they were tops. That was about it. And we won that case. I don't know that I played a major role. But at least, it was fun to win. And then, I got call to do another case to play the same role. And the guy who was going to be the major expert who knew something about venue, though, that one have taken much. He couldn't do it. So, with two weeks to go, I testified in that case, both of those in Sacramento and it went fairly well. Once again, I enjoyed testifying. And after that, I got asked to do a lot of them, probably I've done to stand venue couple of a hundred, 300, I'm not sure how many that I've been involved in. Right now, one that I haven't talked about much but we'll be doing the Boston case involving the marathon killing. I got that case coming up. I was asked to do the case in Aurora, Colorado, the theater shooting where many people were killed. And I've done most, I think, it's probably fair to say of the big cases that have been heard in our country, the recent one in Arizona where the shooter shot Gabby Giffords, the Congresswoman and the federal judge and others. And you name it probably and I've been involved in it. It's not that I'm all that good because sometimes I rise to the very heights of mediocre, but at least,

I've done so many and I've been around so long. I'm 84, so I've been doing for long, long time and so the phone keeps ringing. And that's been great fun for me. I just returned from every year we have this conference in Monterey involving people who work on death penalty. We probably had, I don't know, 1,300 people or something like that, lawyers and others who worked in death penalty or capital litigation, because I sort of expand it. You know, I do issues like severance of defendants in capital cases whether two or more defendants who are charged together and are tried together can get a fair trial whether they need to be separated in order to get fair trials, that's called severance. And for some reason, I'm the only one that's studying a research in that area. And so, I probably have done 50 or 60 of those cases all around the country.

Then, I want to pick up my notes here and leave out some of them. Well, I haven't mentioned at least a couple of something you may recognize. Was the name Richard Allen Davis, ring your bell the Polly Klaas case, the one that led--getting the three strikes law pass because it was so horrible? Let me see if I've written down a couple of others. Civil cases hurricane Katrina, lawsuits against insurance companies, the Enron skilling case, some of you know about that. The Unabomber case, some of these cases probably go back before many of you were born. But they were at least big ones at that time. The Night Stalker case in Los Angeles, pretty awful stuff. The more recently, the BART case in Oakland that the security officer who shot an African-American claiming he thought he was shooting his Taser but was actually shooting his revolver. The Elizabeth Smart case in Utah, the young woman that was kidnapped and held hostage for many, many months by sort of a Mormon renegade.

Let's see, I jotted down a couple of them. Well, the local one that will be coming to trial and the not too distant future is the Crittenden case which was I mentioned already, which was a pretty awful incident.

By the way, the first venue case that I got involved in, although I really knew nothing about it then. It happen just a few, actually probably feet from here, anybody know what that was? Have you heard the Chico 15? It was the first Earth Day, back in what? 1970 I was it? Around that time, where First Street used to be open through traffic. And so, some students and faculty thought that sort of is a demonstration of the need for environmental protection against the noise and pollution right in the middle of our campus. They should close First Street. Of course, you've never known it any other way. And so, they did what I called some creative jaywalking. So, they sort of cross halfway in the middle of all the traffic and stop and have a conversation. And the authorities here, who were you might say somewhat unenlightened, arrested them. And they didn't arrest them for just for jaywalking, which it wouldn't have been much. But they asked--they arrested them for conspiracy to commit a misdemeanor. That's the law, it still is. If you commit a misdemeanor, you know, that's a fine maybe a few days in jail, no big deal. But if you and I talk about it, conspire, plan it, that's conspiracy and conspiracy is a felony. So, this really was furor at the time of Chico 15 including faculty and students who were arrested. And so, I did a little survey and I was prepared to testify based on the paucity of knowledge they had about the prejudice. But we did some other things. And in those days, the appellate courts in California and elsewhere were far more liberal, that is they really cared about things like fair trials and whether or not the authorities violated the law. And our Appellate Court in this area was called the third DCA, held that charging of a felony in a case like that--which was so close to impinging

on free speech was wrong and it couldn't stand and they dismissed it. So, I didn't have to do much else. So, although we challenge the grand jury and some research--what purported to be the research on the grand jury here in Butte county and some other issues in, but the case went away.