

Oral History of Carol Garfiel Freeman
Third Interview
April 22, 2021

Carol Freeman: We left off the last time after the Rufus Brown case, where the defendants had been found not guilty, based basically on absence of facial hair. And I had noted that at the time that that case was in trial, in May 1971, there was a series of bank robberies in northwest Washington, and all the banks, or a huge number of the banks in the northwest area, had been staked out, including one on McArthur Boulevard, just near Arizona Avenue. And there was, in fact, a bank robbery on the day, at the end of May, a bank robbery at that bank, at the end of which a policeman was killed. Later that morning, the police arrested three defendants driving in an old van. The van was being driven by a woman named Heidi Fletcher, who was the daughter of the former Deputy Mayor of Washington. And in the back, suffering from a leg wound from one of the policemen's guns, was a man named Eros Timm, and the third defendant, also in the van, was a man named Lawrence Daniel Caldwell. These were all essentially what, at that time, would have been called hippies, and they were arrested and charged at the end of May with felony-murder, bank robbery, and related offenses. I think I had mentioned that I had gotten married in October of '69 and that I was, in fact, pregnant during the Rufus Brown trial, and my oldest son was born in August 1971. This was in 1971. My appointment to represent Mr. Brown was under the Criminal Justice Act, which had a limit for reimbursement of, I think, \$15 for out-of-court work, and \$30 for in-court,

but there was a provision that if you provided additional services, in certain cases, if the court approved, and Judge Bazelon, Chief Judge of the Court of Appeals, agreed, your fee could include what was called excess compensation. And I had spent a considerable amount of time on the *Brown* case, so that even though the fee would go to the firm that I was working for, I wanted to try to get additional funding from the court for my work on the *Brown* case.

So one day in, I think it was in October of 1971, I went down to the court to see Judge June Green to ask her if she would approve my request for excess compensation. I left my two-month-old baby with a friend and I went down to court. And it turned out that that day in court, there was a hearing on this Eros Timm case. Now, Heidi's family had retained Edward Bennett Williams to represent her. Edward Bennett Williams was probably the most prominent criminal defense lawyer in the city at the time. Mr. Timm's family had hired a man who was in a group of what would be called "Fifth Street Lawyers." He was a sole practitioner; he was an older man. I don't know how to describe this, but he was not in the group of highly creative, energetic defense lawyers in the Fifth Street group. And Caldwell had a court-appointed counsel. This was a death-penalty case, and so the defendants were entitled to have two attorneys represent them.

Well, Mr. Timm had stood up in court during the hearing that day and said that he was not satisfied with the lawyer that had been retained by his family. He wanted a court-appointed lawyer. He had been speaking to a guy named Michael Fayed, who was with the Georgetown Prettyman program,

and he wanted Mike to represent him. Mike was not very experienced. He had just recently graduated. And so when I appeared in the courtroom, Judge Green called me up to the bench and asked if I would be available to accept an appointment to represent Eros Timm, which floored me at the moment, because this was absolutely the most important case pending in the court in Washington at that time. I asked her if she would give me a few moments to think about it, since I had this newborn baby and I didn't have any help in the house. I did go out and talk to my husband over the phone, who said, of course, take it. And my husband, at the time, had taken a position with the State Department, so he had a fairly regular schedule. He was mostly located in Washington, not subject to being transferred overseas.

So I accepted the appointment to represent Eros Timm. I was still on maternity leave. My firm, which had had a very advanced view of what to do with maternity leave, suggested that I not return to the firm until I finished with my new case. So over the next four or five months, I was involved with representing Eros Timm. The first item of interest was—

Jodi Avergun: Let me interrupt you, Carol, I have a couple of questions here.

Carol Freeman: OK. Do I need to finish or do you want to ask them now?

Jodi Avergun: No, I want to ask about this part before you go on, because I don't understand about the maternity leave. So, did the firm pay you to remain on leave while you did this case?

Carol Freeman: I was on maternity leave after August 26 when my son was born. It was a little unclear at that time, how long the maternity leave was going to last. I

had thought I would definitely go back to working for the law firm after I had the baby. It was a small firm, I think they had about four partners and five associates, one of whom was also a woman. She was within a year or two of my age. She was married but she had no children at that time. And they were willing to let me go back on an hourly basis, and I said, oh no, I want to work full-time. And I did, in fact, plan to go back. But it was unclear how long my maternity leave was going to last. They basically suggested that I complete the representation of this new case and then come back to the firm.

Jodi Avergun: But were you paid? Did they pay you?

Carol Freeman: I have no recollection. I mean, this was—

Jodi Avergun: Did you feel it was generous at the time for them to do that? Were they holding your job open for you?

Carol Freeman: It wasn't the kind of firm that had a certain number of positions it needed to fill. They expected me to come back, they wanted me to come back. I have no recollection of how long they were going to pay me on maternity leave.

Jodi Avergun: OK, all right, and then—

Carol Freeman: That was absolutely not an issue for me.

Jodi Avergun: OK, I understand. And then the judge, who you were going to see about getting your excess compensation, was she familiar with your work otherwise? Was she somebody that you knew or you just happened to be a lawyer on the panel who showed up in her courtroom?

Carol Freeman: She was the trial judge in the Rufus Brown case.

Jodi Avergun: Ah, OK.

Carol Freeman: And I had over a series of years of with her conducted pretrial proceedings, there was an *en banc* appeal by the government, there were hearings, and then there was this trial that had occurred in May over the course of probably two weeks.

Jodi Avergun: Got it.

Carol Freeman: And I probably had been before her when I was an assistant U.S. Attorney, because this was '71, I forget exactly when she joined the bench, but, oh, she knew me quite well.

Jodi Avergun: OK, perfect. That makes perfect sense.

Carol Freeman: And I was in her courtroom to talk to her about approving the request for excess compensation for the time I spent on the Rufus Brown case.

Jodi Avergun: Right, I got that part. OK, please go on, I'm sorry to interrupt your flow.

Carol Freeman: There was a law in the District in Columbia, in the federal court at the time, that somebody under the age of 21 at the time of a crime would be presumed to be eligible for sentencing under the Youth Corrections Act, which would allow the court and the prison authorities to send the person to a youth facility and be flexible and supposedly reform the person and be flexible as to how much time the person will be spending in custody. This applied even in the case of a serious felony like murder. And Heidi had the benefit of turning 21, I'm going to say in November, I forget exactly which months were involved. And unfortunately, my client, Eros, turned 21 just after the robbery, before he had a lawyer. So this very favorable sentencing alternative was not available to him.

Well, Edward Bennett Williams, who represented Heidi, brought her into court, pleaded her guilty to the whole indictment, and then asked for Youth Corrections Act sentencing. And when I say the whole indictment, there was a first-degree murder charge, there probably was a felony murder charge. There were assault charges, there were a whole bunch of different charges in the indictment. So she was going to plead guilty, and I felt that I needed to be in court when she pleaded guilty, in order to make sure that nothing came out that would be detrimental to the rights of my client, Eros Timm.

So Judge Green knew that I didn't have a babysitter. I brought my three, maybe three-month-old baby into her chambers in a stroller or a carriage. I gave her young, male, unmarried law clerk a bottle of Enfamil, and went into the courtroom to represent my client. Judge Green and her law clerk, who was so accommodating, it was really, probably a first in the federal court there.

Jodi Avergun: Love that story.

Carol Freeman: They were very, very nice about it. And the plea and the sentencing took all day. So at the lunch recess, I retrieved my baby and I had one of the court's security officers let me into a jury room, and I was at that point, breastfeeding. So I fed my little baby, appropriately, during the recess, in the jury room. And then I returned him to Judge Green's chambers. Alan has, in fact, turned out to be, he doesn't call himself a trial lawyer now, because it's all civil and very few cases go to trial, but he is a litigator, and I wonder whether having been with me while I tried the *Brown* case, and

having this early introduction to the courthouse, prompted him to go along that path.

There's another instance, when he was about seven years old, I was representing a woman in a case involving alleged transfer of narcotics in a lot of a car dealership, and Alan had a sore throat or an ear infection or something. So I had to take him to the doctor before I went to court. So he spent most of the trial, I thought, in a witness room. But apparently, at the age of seven, he found his way into the courtroom and sat there quite quietly while the case was going on. And at the recess there, he needed to take some medicine that he didn't want to take. And again I enlisted the assistance of the court security officer. Alan tells the story a little bit more vividly than I do, but he had his medicine, we went back in the courtroom. The jury went out, the jury found my client not guilty, it turns out it was a good verdict, and I asked Alan what he thought. And he said he would have convicted her because he believed the police officer.

So, I've got some very interesting and not-stuffy stories about babies in the courthouse. It was a very nice courthouse to work in. It's always been, at least through 2004, which is the last time I was there working, a nice place to work. The judges were all accommodating and I had a very, very good time, professionally, with respect to that.

So, going back to the Heidi trial, the Eros Timm trial, we had a few interesting episodes while it was going on. There was a motion to suppress. I asked that the courtroom be closed because I didn't want the press to publicize the testimony and possibly prejudice prospective jurors. And the

retained lawyer for my client objected because he thought his client was entitled to an open trial. Judge Green agreed to close the courtroom.

It was clear after some investigation that a psychiatric defense would be appropriate, and the family had retained a pretty mediocre psychiatrist to examine Mr. Timm. And so I made contact with a psychiatrist named Jonas Rappaport, who was the Chief Psychiatrist of the Supreme Bench of Baltimore. Footnote, he died this past year, and I happened to see the obituary. He was the founder of the concept of forensic psychiatry. So we wanted to retain this very competent man to examine our client, and I say “we” because Mike Fayed from the Prettyman program was co-counsel with me during all of this activity.

I went into court and asked for the court to approve the appointment, payment for the psychiatrist, and Judge Green said, she thought perhaps I was shopping for a favorable psychiatrist. And I said, no Your Honor, I am not. She did, in fact, grant the motion. The *Washington Post* published the article under the headline “Defense Counsel Admits That She Is Shopping for a Favorable Psychiatrist.” Judge Green was so annoyed, she called the reporter into court and reamed him out for misrepresenting what had happened in the courtroom.

We didn’t have a lot of contact with the family, and my client had some serious difficulty communicating with Dr. Rappaport. So we had a difficult psychiatric defense. The most vivid part of the trial was when we called Heidi as a witness to testify to how Timm was behaving around the time of this activity, this robbery and murder. And we needed that because Heidi

and Caldwell were the only people he was really dealing with. He didn't have much contact with his family. And Heidi, of course, took the Fifth Amendment even though she had already pleaded guilty and sentenced, because as I will describe, Timm and Caldwell were involved in an attempted robbery with which Heidi had not been charged. And it was a very dramatic moment when in court Heidi kept taking the Fifth Amendment. This was not with a jury present, of course. At least I'm pretty sure it was. She kept taking the Fifth Amendment. Eros, at one point, stood up, knocked the table over and said, "You've got to testify, it's my life!" Anyway, that was one moment during the trial.

There was another moment during the trial, when the prosecution offered evidence of an attempted robbery in Charlottesville around the same time. And apparently, the defendants had all been identified, the two male defendants, had been identified as being involved in that. Well, it turned out that they had gone into this small bank in Charlottesville. Caldwell, armed with a shotgun, went over to talk to one of the bank officers who was at a desk. Eros went up to the teller and asked for her to give him all her money. And she said, "We don't have any money, we only have checks," which of course was probably not true. And he repeated that, and she said, "We don't have money, we only have checks." So he walked over to Caldwell and said, "They don't have any money, let's get out of here," and they left. They were, I think, later on, convicted of that attempted robbery. Anyway, it was a long trial. The defendants were convicted. They were not sentenced to death. And we took an appeal, but the conviction was

affirmed, and Eros Timm ended up at Lewisburg Penitentiary. I did visit him once at Lewisburg, when we were working on the appeal. I found out later that in 1983, he had been knifed by somebody and died. Many years later, in October of 1998, when I had become a staff attorney at the U.S. District Court, I went in and had a long conversation with Judge Green, who was a senior judge at that point, and we talked about the case. And she said she really did not intend for him to die in prison. She felt sorry that that had happened.

A footnote about the case: In 1998 I joined court as a staff attorney in the *pro se* unit, which handled cases brought by poor people who didn't have lawyers. We worked for the judges, not for the plaintiffs, but we were each assigned a number of pending cases. And the person whose place I took had been assigned to several cases brought by Lawrence Daniel Caldwell, who was still a prisoner at Lorton. He had had a rocky few year of imprisonment, and actually escaped for a while. But then he quieted down, and he was a very intelligent guy. And he started writing legal papers for other prisoners and advocating for better conditions for prisoners. And so he brought down the ire of some of the correctional officers, and he was really very badly treated by the correctional people at Lorton. So he had a lot of cases pending, which had been assigned to Judge Gladys Kessler for consideration. And I went in and told Judge Kessler that Caldwell had been a codefendant of a client of mine in this very notorious case that Judge Kessler knew about And I asked her whether I should recuse myself from working on his cases, and she concluded that because I had not had any

representation of him, I didn't have to recuse myself. So I did find out what happened to Caldwell. He had a number of civil cases. He had a federal Civil Rights Act trial that was conducted when I was working with Judge Kessler. And he received, I think, \$174,000 from the jury for maltreatment at Lorton. And later, Judge Kessler wrote an opinion essentially granting him parole. So he's been paroled since January 2004 and he's been working with the National Prison Project.

So that was the ending to this case that was of very great significance in my career. And the reason it was significant is, I decided criminal law is much more interesting than anti-trust. And actually, although I had planned to go back to the firm, I decided I did not want to go back to the firm once I had the baby. I thought it would be more flexible to be essentially a sole practitioner. And so for the next ten years I was a sole practitioner, working, basically, out of my basement. I signed up with all the courts for CJA appointments, the D.C. Court of Appeals, the Superior Court or General Sessions, and I think by that time it had become Superior Court, and the Federal Trial and Appellate Courts. And also over the next ten years, I took a lot of CLE courses. Domestic relations matters, trusts, bankruptcy, criminal-law courses, all sorts of CLE courses. And I had a large mixture of civil work as well as criminal. I did a lot of collection work for some psychiatric and psychological social-work practitioners, which I got basically through a friend. I did some real-estate closings. I did some simple domestic matters. The most vivid of those that I remember was the case where, these were older people, and the only thing they were disputing

was who was going to get their Redskins tickets that they had. So we settled that one.

We ended up in 1975 selling our house in the District and moving to Maryland. We engaged a real-estate agent in connection with that move. And through him, I was retained by an associate of his, a French woman, who was actually hospitalized and dying. I did a simple will for her. And I got involved with some international estate matters after she died, which was interesting. I did some historical preservation work for a company that had a building down on 7th Street, where there was some issue about whether the façade could be amended, and some other issues. I had a bankruptcy case with a very, very nice woman who was addicted to Kron chocolates. She was a psychiatric social worker, I think. And we worked together and I got her back on a budget, and she ended up getting back in sync with her finances. And so I gave her a present of a Kron chocolate afterwards.

Criminal cases: I think there are two cases that I could mention, one of which was a client named Eric Atkinson, who was charged with a sale to an undercover agent, a sale of drugs to an undercover agent. He was not arrested until a few weeks after the alleged sale. And he had a very, very distinctive broken tooth in the front of his mouth. And the agent who allegedly bought from him did not recognize that, did not notice anything about his teeth. He was, however, convicted. And I filed a notice of appeal for him, even though I didn't really think there was much to appeal on. And I went and talked to him, and he said, "That's OK, drop the appeal. You

should not feel badly that I was convicted. I did not, in fact, do this sale, but I've done others." Which, I mean, he was a very nice person.

I represented a woman on a forgery case. I think it had to do with treasury checks stolen from mailboxes. She had a young son. She was incarcerated at the Women's House of Detention, which was at, the number pops into my mind, 1010 North Capital Street. And she found it difficult to provide herself with clean laundry. So I ended up buying up clean undergarments for her and delivering them to her. We kept up a correspondence of some sort for several years afterwards, and I don't know what happened to her after that.

The most significant appellate case I had was the case of Harry Laumer, 409 A.2d 190 in 1979, which was the leading case in the District of Columbia on declarations against penal interests. Generally, until recently, relatively recently, only declarations against civil interests could be admitted, declarations that would otherwise be hearsay. And this case determined for the District of Columbia, that declarations of penal interest would be admissible under certain conditions: that the declarant was unavailable; that the court considered when and to whom this out-of-court statement was made; and that there were corroborating circumstances, circumstances that would corroborate the truthfulness of the declaration. When the case was argued *en banc* before the D.C. Court of Appeals my father-in-law was in the audience, they were visiting at that point. And I think he enjoyed seeing a member of his family argue that case. Mr. Laumer had been working for

the Metro construction, and he gave me one of the yellow hats that the Metro people wear.

So those are picking out some of the more interesting cases in the first ten years. I was also, at that point, from 1972 on, active in various bar association and other activities. Just listing them: I was on the board of trustees of the Public Defender Service; I was a trustee of the Client Security Trust Fund; I was on the board of the Young Lawyers Section of the Bar Association of D.C.; I was active in the Criminal Practice Institute which was a trial practice program provided in a collaboration between the Public Defender Service and the United States Attorney's Office. Going on further into the 80's, I was president of our local Citizen's Association; President for a year or so of the Montgomery Women's Bar; and active and an officer of the Maryland State Bar Correctional Reform Section.

Somewhat more significant is the fact that I was a member of Committee on Admissions in District of Columbia for several years. I think I may have mentioned, maybe I didn't, that in the summer of '69, Sylvia Bacon, who was on the Committee on Admissions, asked if I would assist her in grading some of the bar exams, which I did. And later on, Alan Kay, who was a Magistrate Judge later on, was a member of the Committee on Admissions, and I graded some bar exams for him. When Alan's term ended, he recommended that I be appointed to succeed him, and I was. And the most interesting part of that appointment was that we had the cases of several people who had been convicted of crimes, and then after they had been released, had gone to law school and wanted to become members of the bar.

The most notorious of those applicants is the man whose name appears on the reported case, Daniel Manville, who had been a soldier in Vietnam, had come back and was at Central Michigan University, I believe, and with some other people, went into the apartment of an undergraduate, supposedly to recover payment for some drugs, I'm a little fuzzy on the details there. But during the course of that invasion, they had some chloroform with them, and Manville used chloroform to knock out one of the people in the apartment. And the person had an allergic reaction and died, Manville pleaded guilty, I believe, to manslaughter. But after he was released, he led an exemplary life, worked for the ACLU's National Prison Project. One of the other people involved in the appeal was a young man who had problems in college and committed an attempted bank robbery. So he served his sentence, he came out, he went to law school. Then there was a third man from New York, who had a bunch of, I believe, drug and other kinds of convictions.

Anyway, the Committee on Admissions decided that these people had sufficiently shown their current good moral character and recommended their admission with, I think, one dissent in the committee. It went up to the Court of Appeals. The Court of Appeals concluded that there should be some additional investigation. It was remanded. The Committee engaged an entity to conduct additional investigations, did so, had more hearings, and with the additional information reaffirmed its conclusion that these people had shown their good moral character and should be admitted. I wrote the brief for the Committee. I argued it for the Committee, before the

Court of Appeals, *en banc*. And the Court of Appeals, Judge Ferren, I believe, wrote the opinion, agreed with our position, with some dissent by my good friend, Judge Frank Nebeker, that noted that my other good friend, John Terry, had also dissented, or would have dissented, but he had taken senior status at the time. [See correction later on.] The Manville case is at 538 A2d 1128, and that was from 1988.

Jodi Avergun: Hold on, who was the opponent? Who's fighting the admission?

Carol Freeman: I'm not sure there was, the court may have appointed somebody to argue the opposite position, but it was not really an A versus B appeal. The decision from the Committee on Admissions needed to be approved by the Court of Appeals.

Jodi Avergun: OK. I didn't understand that part.

Carol Freeman: The other major activity that I had was with the ABA Criminal Justice Section. Over the years, I had been a member of the ABA but not taken an active part in its activities. But then in 1982, Sylvia Bacon was the Chair of the Section, and appointed me to chair an appellate issues committee, which presented some resolutions for the ABA House of Delegates to consider on procedures involving Death Penalty. I then served on the board of the *Criminal Justice* magazine, beginning at least shortly after it was founded, until maybe ten years ago, maybe it was a little longer than that. I was a member of the book publishing committee of the Section. At various times I was Vice Chair of Publications of the Section and also served on the Council of the Section. I served on the ABA Standing Committee on Publications. And then after I retired in 2004, I took over writing the *Cert*

Alert column for the magazine and did that for 15 years until a year-and-a-half ago.

So that takes me to 1982. I came back from the ABA annual meeting in 1982, thinking that this was really exciting. I really liked criminal law, and I wished somebody would offer me a regular position to just do criminal law cases. And at that point, I had three children: Alan, born in '71; Pete, born in '74; and my daughter, Susie, who had been born in '79. And I was ready at that point to move out of my basement, into something more formal. I never had live-in help. I was always lucky enough to find full-time day help, some very, very lovely people who helped take care of my children when I wasn't there. But I was ready to do something more formal. And I had known, probably back in the Justice Department, but certainly in the U.S. Attorney's office, a man named Ted Wieseman who had been in the U.S. Attorney's office, and he had married a woman named Mary Folliard, who was also an assistant U.S. Attorney. And they had a small firm in Rockville that did a lot of both criminal and civil cases. And Ted and Mary and I had been in general discussions about whether maybe I would come up and join them in their law firm. And at that point, Mary was appointed to be the Special Counsel in the federal government. And Ted was appointed District Public Defender for Montgomery County. And Ted asked whether I would come up and be his deputy in the Public Defender's office. And this was exactly what I was looking for at that time. So beginning in September of '82, for the next seven years, I was Deputy District Public Defender for Montgomery County. And the case that I began

with was the Ed Mann case. I don't know if you were around then. But a Black professional employee of IBM, named Edward Mann, had run into the IBM building on Fernwood Road, which was known as the Rusty Bucket, and he was armed with a shotgun and perhaps some other weapons, and had shot up the place and killed three people. This had happened, probably in August 1982. I haven't looked back to see exactly when it happened. And he was, in fact, eligible for the public defender. This was also a death-penalty case, and he was entitled to two lawyers. He turned out to be paranoid. An investigation showed that he had put strips or threads at the doors of his house and in the windows, so that people would not come in without him being aware. I can't recall exactly what there was about it, but I would go to talk to him in the jail, and would be having a perfectly lucid conversation, and all of a sudden I'd realize I had no idea what he was talking about. He went off on tangents. And there came a point at which he really thought that his lawyers were working against him. So we had a hearing, and Judge William Miller found that he was not competent to stand trial. He was sent to the Clifton T. Perkins State Hospital, supposedly for treatment. After a year or two, he decided he didn't want to be there. I won't speculate as to what was in his mind, but he agreed to let us represent him, provided we did not raise the insanity defense. Judge Miller found that he was competent to stand trial. So, once he was found competent to stand trial, the decision as to whether to raise the insanity defense was up to him. He pleaded guilty to 75 counts of murder, assault and various other defenses and was sentenced by Judge Miller to three consecutive life terms, plus

1,080 years, which at that point was the longest sentence ever imposed in Montgomery County.

Jodi Avergun: You said 1,080 years?

Carol Freeman: After the three consecutive life sentences, yes. Judge Miller wanted to make sure he'd never get out!

Jodi Avergun: Oh my. OK.

Carol Freeman: In 1986, he hung himself in prison.

Jodi Avergun: Oh.

Carol Freeman: He was a very, very unfortunate person. He came from a very lovely, respectable middle-class family in Washington. I visited his, I don't know if it was his mother and his aunt, but I visited some elderly relatives of his in their very nice brownstone. Very respectable, very good people. And he was one of the first Black professionals hired by IBM. I don't know whether he had some sort of genetic predilection to mental illness, or whether he was accurately seeing what was happening to him at IBM. But he ended up, he really was mentally ill. He was paranoid. There would have been a very fine insanity defense. It was just a very sad case because he felt he was not well-treated by IBM, and that was why he went into the building — a very sad case. OK. That was the first case I had with the public defender's office. And I can mention a few other cases.

You wanted to know at one point if I had any contact with clients afterwards. There were two clients that I had and I think of them together because, supposedly, they were sort of girlfriend / boyfriend in the Montgomery County Detention Center, although I'm not sure how much

contact they had. I will only use their first names. One of them is still alive, the other one isn't. There was a woman named Julie, who was involved with drugs, and a guy named Jeffrey, who was involved with burglaries. They were both young, in their early 20s if not just 21 or so. Julie's father was a CIA employee. She was addicted to drugs and alcohol. Jeffrey had been adopted by a couple. The father worked, I recall, for IBM, and the mother was a special ed teacher. I had contact with Julie's father. I had contact with Jeffrey's parents for many years after I represented him. We exchanged Christmas cards, nice people. Both Julie and Jeffrey had the good luck to be assigned to Judge Paul Weinstein, and Jeffrey had the good fortune to be assigned to a probation agent, Edward Leatherman. Both Judge Weinstein and Ed Leatherman wanted the two of them to succeed. They pleaded guilty to various offenses, in separate cases, but I link them together because they both had the same judge, who was very reluctant to revoke probation for them.

I remember Julie at one point, she was on drugs, she was off drugs. At one point, Judge Weinstein continued her probation on condition that she go to an inpatient drug treatment program, and I drove her out to a facility in Alexandria to sign her in to this residential program, and we were in contact off and on. Sometime later her father called me and said she had been doing well, but she had been walking down the highway late at night and was run over and she died. Jeffrey was off and on. At one point, Ed Leatherman and I drove up to his parent's place in Pennsylvania where he had a pending case, and Ed testified for him. I spoke to him, actually, via his parents, they

gave me his number. I spoke to him about, oh, ten years ago. He was in Philadelphia, he was doing well. He had married, he had a child, and he was doing carpentry. So those are clients I remember with whom I had a little contact afterwards.

My best case was that of a man named Terry who, in 1983, was charged with rape of a five-year-old girl named Keisha. Terry was six feet, six inches tall, and he was living with the little girl's mother. It was a very messed up family. There was a child in need of assistance proceeding involving one of the little girl's older brothers who had been sexually abused. And the little girl's older sister and her boyfriend would engage in sexual activities in the living room, which the little girl would see. And she was probably ignored by most of the family. But while they were involved with her older brother, the social worker started talking to her and she apparently told the family members that Terry had "goosed" her. And so she was asked to describe that many times before social workers, before State's attorneys, before all sorts of different people. And they gave her dolls to play with. She probably never had any dolls in her life before that. They took her to Children's Hospital, and the doctor said that it was almost impossible to examine her, because her vagina was very tight. But the doctor that the state always used in these sex-abuse cases said that she had been raped. I concluded that for this six foot, six inch man, it was almost impossible.

Anyway, we went to trial before Judge John McAuliffe, and after the jury was sworn the time came for the little girl to be qualified to testify, because

a child at that age, you have to determine that she knows what “to tell the truth” means. And I, at that point, had a four-year-old daughter. So I asked my daughter what “telling the truth” meant, and she said, “it’s when you say what really happened,” which I thought was a perfectly reasonable way for a little girl to say what telling the truth is. So we went to trial and the little girl could not properly, sufficiently answer Judge McAuliffe’s questions on what telling the truth is, so he found her not competent to testify. She was not able to testify, and so the government dismissed the case. I felt sorry for the little girl. She came into court, her hair was nicely braided, she was clutching a doll that she’d been given, very sad case. I have no idea what happened to her.

However, in the year 2000, I went to Union Hardware on Wisconsin Avenue to buy a shelf for my bathroom. And after I made the purchase, the salesperson called for somebody from the back room to carry it out to my car for me. And as we were walking out, the man said, “You’re Miss Freeman, aren’t you?” I said yes. He identified himself, and he said, “You saved my life.” If he had gone to prison as a child molester, his life would have been worth nothing. To that extent, that’s probably the best case I ever had. And it was really nice, I felt good about that.

Jodi Avergun: That’s a great story, Carol. I have chills listening to it.

Carol Freeman: That’s a nice story. And I’m glad I went that day to buy a shelf in Union Hardware.

Jodi Avergun: Union Hardware closed last year. I don’t know if you know.

Carol Freeman: I think I heard that, yeah.

Carol Freeman: Well, let's see, I had another case of a little old man who used to—and I say little, he really was little—and he was half blind and half deaf, and he liked to give candy out to the little girls in the neighborhood. And they had a Safe Touch program at school, and some of the little girls decided they would say that this man had molested them. The same doctor that was called by the state in the previous case said that, definitely, he had molested her. I talked to my own gynecologist, and had some information, some evidence with which to cross-examine the doctor, and it was at least very likely that whatever injury the doctor saw had been caused because the little girl had done it herself. So my client was found not guilty, that was another good case.

The other big case from the public defender's office was the case of Clarence Leake, and this is public, so I can use his name. Clarence Leake was accused of kidnapping and various other offenses involving an assault or an episode at the Kensington Temple of the Church of Jesus Christ of Latter Day Saints. He had had a recommend for the Temple, but it had expired. And he appeared at the door one day and wanted to be admitted. And his recommend had expired, but Clarence took the older man who was at the door hostage, and made him take him up to the top floor to the Solemn Assembly Room, which is the room which not even everybody who has a recommend from the Temple is allowed to go into. He had come complete with some water and some food. And later a guard came up looking for the older man, and Clarence took him hostage, too.

The police called the hostage rescue team, and there was a siege for a long period of time, and I'm trying to decide carefully how I phrase what went on, because I don't want to disclose attorney-client confidences, even though this is long past. There was, in fact, a reason, in my client's mind, why he had to be in the Solemn Assembly Room. And while that reason was active, he wasn't going to let his hostage go. He needed to be up there. The older man started having chest pains, so he let him go, but he still kept the security guard with him. And finally there came a point where it was time to go, and he said to the security guard, "OK, you can go now," and the event was over. He surrendered himself. He never answered the hostage-rescue officer as to what demands he had, because his demand, basically, was that he needed to be up in that room.

I was assigned to represent him, along with another assistant public defender. And we had an insanity defense that we raised. I spoke with a psychologist or a psychiatrist, I forget which, who lived in Utah, who specialized in hyper-religiosity, and concluded that that was this man's problem, because it was a religious factor as to why he needed to be in the Solemn Assembly Room. During the course of the representation, our client wanted us to subpoena the Angel Gabriel and some other saints and angels. The Angel Gabriel is the one whose statue is at the top of the Temple spire. Now, my investigator and I had the subpoenas typed up, and we went to the Temple with the subpoenas. We wanted to have the client have confidence in us, which is why we typed up the summonses, even though we knew perfectly well that these were dead people, and they

weren't going to appear. But we went to the Temple with the summonses and knocked on the door and said what we were there for, and the people were very, very nice. They knew who we were, they were very cordial, very friendly, they couldn't have been nicer. I explained that we wanted to serve subpoenas and who they were for. They said, "Well the Angel Gabriel is up on the spire if you want to go up and serve him." And I said, "Well, maybe we can just leave them with you," which we did. So that was an incident there.

The Salt Lake City press covered the trial and took some videos. Members of the ward that the client had been a member of in Virginia came to the trial. They brought him food, because he claimed there was some problem with the food provided by the sheriff. There was a moment when the sheriff would allow the video cameras in the cell block to videotape my client coming out of the cell, and I objected to that, although I don't think Judge Messitte agreed with my objection. I forget exactly what happened with that. The trial was held before Judge Peter Messitte, who's an absolutely excellent judge. He later on went to the federal court in Baltimore. The most memorable part of the trial was the following: My client was testifying under cross-examination by John McCarthy, the Assistant State's Attorney. He was very quiet, and I was looking down at my notes for something or other. All of a sudden this voice boomed out! John had asked him something that required him to say something about what God had said, and Clarence, in the voice of God, spoke out very loudly. That was pretty startling. Anyway, he was found, in fact, not criminally responsible of

kidnapping and use of a handgun, so that we won on the major charges. He was found guilty of two counts of false imprisonment and two counts of assault. He was sent to Perkins for evaluation. The Perkins doctors had always concluded that he was not mentally ill and stuck to that opinion. We appealed the convictions on the false imprisonment and assault counts. The conviction was reversed because the trial judge rejected our request that the jury be instructed as to the consequences of a not criminally responsible verdict. But we went back to Judge Messitte, and the client ended up pleading to the two counts of false imprisonment (the assault counts had merged) and was sentenced to four years, all suspended but the time he had spent in custody, so he was released pretty soon. Later on, a few years later, there was a pro-choice march on the Mall, and I went down with my then ten or twelve-year-old daughter. And who did we see but Clarence Leake. So we spoke and said hello, but that was that.

So what else can I say? Here's another case. I hadn't planned much more than this, but there was one client, an older man, who was a skilled writer. He had quit high school to join the merchant marine, and then he went to Vietnam, where he got involved with heroin. He did very well for a while afterwards, but he committed several housebreakings in Montgomery County to get money to pay for the drugs. He pleaded guilty. He was sentenced to a lengthy sentence. I never heard of him after that, this was probably in the eighties that I represented him. I looked him up in September of 2015, when I was beginning to write up some of my cases. He was not in custody. But last October (2020) I got a letter from him,

written the previous April, a year earlier. He wanted me to know that he had become a success. In prison he had gotten into a 12-step program that he had continued with. He served 10 years of Judge Mitchell's sentence before he was paroled. Ultimately, he started a business and raised a daughter by himself. So that was really nice. I wrote back to him and said how nice it was to hear from him, and I was so pleased that he had done well, and I think I may have said I hoped he continued writing, because he really wrote very well.

Jodi Avergun: That's so interesting. Do you still have the letter?

Carol Freeman: Oh, of course I kept the letter, absolutely!

Jodi Avergun: What would you think about including that with the oral history, or would you want to see if that client would want it published?

Carol Freeman: I'll think about that because I think it might be personal for him.

Jodi Avergun: Carol, I think we've accomplished a lot. I think we should talk about logistics and next steps.