

A What-a-case! Kind Of Opinion

October 11, 1988 | By James Warren, Maurice Possley & Joseph Tybor.

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What`s this? An unknown script for a thriller found in the grave of Alfred Hitchcock?

No, it`s just another opinion from the federal appeals court in Chicago. But to alter a turn of phrase from its author, Frank Easterbrook, what an opinion!

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Easterbrook spurned the latest effort of John Branion, a once-prominent Chicago physician who also served as personal physician to Ugandan dictator Idi Amin, to overturn a jury conviction for the murder of his wife more than 20 years ago.

Evidence against Branion was circumstantial, but, Easterbrook notes,

``what circumstances!``

Branion himself called police after finding Donna Branion in a pool of blood. He did not investigate her condition, saying he knew she was dead by the discoloration of her legs. A pathologist testified that her legs showed no such lividity.


Ballistics experts determined the murder weapon was a rare, 9mm., 38-caliber Walther PPK. Branion owned one, but it was missing from his locked gun cabinet and never found.

Found in the cabinet were a brochure for Branion`s Walther PPK and two boxes of 38-caliber ammunition. One box was full. The other was short four shells. Four shell casings were found near the body of his wife. Branion soon married his mistress, a nurse.

Through Anthony D`Amato and Thomas Geraghty, Northwestern University law professors, Branion argued that he could not have been in his apartment around 11.30 a.m., the

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time of the shooting, on Dec. 22, 1967.

They also argued that a bribe attempt of trial judge Reginald Holzer-convicted years later in the Greylord investigation for extorting bribes-and an improper conversation between Holzer and Patrick Tuite, the

prosecutor and now a successful defense lawyer, prejudiced Branion.

Easterbrook notes from sworn materials submitted by Branion`s attorneys that Holzer solicited \$20,000 from Branion supporters after Branion`s conviction. In exchange, Holzer was to set aside the jury verdict and free Branion, or so the supposed plot went. Only \$10,000 apparently was paid, according to court documents.

Tuite got word that Holzer planned to free Branion and visited the judge`s chambers, trying to convince Holzer to let the case proceed through normal appellate channels, Easterbrook recounts. Such meetings, known as ex parte conversations, are forbidden.

After the visit, Holzer apparently changed his mind and left the conviction intact, but let Branion out on \$5,000 bond while an appeal was pending. When it was turned down, Branion fled to Uganda and ministered to the crazed Amin. He was returned to the U.S. in 1983, when he began serving his 20- to 30-year sentence.

Branion`s attorneys contended that Tuite`s visit with Holzer contaminated the proceedings. Easterbrook chastised Tuite for the visit but didn`t feel that it merited reversal or a new trial.

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Branion ``may have lost the opportunity to receive an unjust, capricious, perhaps even paid-for acquittal,`` Easterbrook wrote. ``The possibility that the (Holzer-Tuite) meeting swindled Branion out of a corrupt acquittal may show that Judge Holzer did not deliver what was paid for, but it hardly establishes constitutional prejudice.``

The melodrama may continue. D`Amato finds the prosecution case a

``physical impossibility,`` adding that he ``will not rest if there is anything legally I can do for this fellow. Even if he told me he did it, I wouldn`t believe him.``

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