

Explosion on Board the USS *Iowa*

April 19, 1989, at 9:53 a.m.



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For those of us who knew from an early age that we always wanted to become attorneys, it goes without saying that we had a compelling feeling of being able to make a difference.

After four years of undergraduate education, three years of law school, and ultimately passing the bar examination, we grasped the concept that it was time to turn all those years of education into reality—to go out into the world as lawyers and make a difference.

As problem solvers, peacemakers, enforcers of the law, defenders of the defenseless, voices for those unable to speak, and advocates for victims, we would finally have our opportunity to, in fact, make a difference. Not make a difference necessarily in everyone's lives, but at least make a difference in a few lives—more specifically, those of our clients. The intangible is a difference that would bring some understanding, some meaning, to our clients' lives that they could not begin to make meaning of on their own.

How many times have we as lawyers had that precise opportunity—the ability to bring meaning to a virtually unexplainable set of facts and circumstances?

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For me, making a difference could not have had more meaning than it did on April 19, 1989. The events of that day gave more meaning to my professional life when I learned of the death of a young man from Eaton Rapids named Walter Scot Blakey, who had enlisted in the U.S. Navy right out of high school and served as a gunner's mate on the USS *Iowa*.

To say I knew Scot (as he was called by his friends and family) or the Blakey family before his death would be an overstatement. He was a member of the family that always sat behind the Nolan/Blasi clan at Sunday morning mass at St. Peter's Catholic Church in Eaton Rapids for the previous 3–4 years.

During mass, there is always a pause in the celebration when you turn to shake hands and offer peace to those sitting in front of and behind you. That ritual is applicable to those in every pew unless you are, of course, sitting in the first or last pew in the church.

In the Nolan/Blasi family, it was a well-established fact that we always sat in the first pew at St. Peter's. Little Bridget and Patrick were more likely to behave during Father Bill's homily when they sat in the first row rather than farther back in the congregation where their misbehavior might be less recognized and tolerated. And so it was that the family in the second row, the Blakeys, became our family to bless with, "Peace be with you."

I am not sure if we had known then that the only son of their four children had enlisted in the navy. We were only aware he had not attended mass with the rest of his family for a few months.

It doesn't take much to awaken the sleepy town of Eaton Rapids, located 22 miles south of Lansing. The smell of a strong Starbucks grande coffee might normally be sufficient. On April 19, 1989, however, no amount of caffeine was needed.

The news broke slowly, but then spread like wildfire: "Explosion on board the USS *Iowa*." Gun Turret 2 had exploded, killing all 47 sailors in the crew. Everyone knew that Scot Blakey was on the USS *Iowa*. The only question among the locals was whether he had been in that turret.

Two naval officers arrived at the Blakey residence in an unmarked black sedan and walked slowly toward the front door. Gene and Mary Lou Blakey knew enough about naval protocol to know this was an ominous sign of what could only be tragic news.

When Gene opened the door, the somber look of the naval officers was unambiguous. The Blakeys knew without saying a word—or without the naval officers speaking a word—that Walter Scot Blakey was one of the 47 sailors killed in the explosion on the USS *Iowa*. Any hope that Scot, their only son, had survived what was being reported as a massive explosion was instantly dashed.

Parents know when tragedy strikes. It may be in the form of a call from the state police in the middle of the night, stating that there has been a terrible accident and a child has died. It may be a knock on the door that no parent wants to answer. It is a total unraveling of the natural process of life. Parents should (and willingly would choose to) die before ever having to experience the loss of a child. It has been said that when you lose a parent, you have lost your past, but when you lose a child, you have lost your future.

A few days later, my secretary came back to my office to tell me Gene Blakey was in the reception area inquiring whether I was available or if he could schedule an appointment to see me. I knew he must have wanted to talk about the death of his son. I assumed he wanted to talk to me as a fellow parishioner and not as a lawyer.

I walked to our reception area and witnessed a man, a loving husband and father,

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trying to hold together his emotions. I recognized the despair. I had seen that look before from clients who had lost a beloved family member. The look on Gene's face begged for some type of meaning, some way to make sense of his loss. He was searching for some type of understanding.

I embraced Gene and told him that I was terribly saddened by Scot's death. As we walked back to my office, I could feel the pain with every step. I could hear the unmistakable sobbing behind me. It was the longest walk to my office that I can ever remember. What if I had just been told that I had lost my son or daughter? How could I help? What could I say to comfort him?

We sat in my office for the better part of that morning. I tried to comfort him as a father and did the best thing I could do; I sat and listened.

Making a difference as a lawyer was the furthest thing from my mind. Making a difference as a Catholic, as a father, as a fellow parishioner, and as a counselor was first and foremost. Here was someone who wanted to rationalize what had taken place over the last couple of days. How could this have happened? Why did it happen? What type of a God would ever inflict this much suffering or loss upon a family?

As our visit neared its end, Gene simply asked if I would look into what had happened on the USS *Iowa* as some comfort to him, Mary Lou, and their three daughters. Where else could he go? I assured him I would do whatever I could to find out what had happened.

Thus began my commitment to Gene and Mary Lou that involved an investigation and lawsuit against the U.S. Navy that lasted more than six years.

Almost immediately after the explosion, the U.S. Naval Investigative Services began

looking into the accident. The navy ran a series of tests on the propellant and the projectile to try to determine the cause of the explosion. The findings of a four-month probe placed the blame on Clayton Hartwig, a sailor from Cleveland, Ohio, who allegedly used a timer to detonate the propellant. It even asserted the homophobic theory that he may have had a jilted affair with a fellow sailor from Indianapolis named Kendall Truit. David Smith, a friend of Hartwig's, also confirmed the existence of the timer, something he later denied.

It wasn't long before the navy changed its theory, concluding that a chemical detonation device placed between two bags of propellant caused the accident. Later, Sandia National Laboratories concluded that the explosion was caused by over-ramming the propellant, which caused the chemical to be released and detonate.

As I began my investigation, I focused on educating myself about the ship. The USS *Iowa* was nicknamed "The Big Stick" because of its massive size and guns. It was one of four of the fastest and largest battleships in the world. The *Iowa*, the *Missouri*, the *Wisconsin*, and the *New Jersey* were sister ships; two were assigned to the Pacific fleet and two to the Atlantic fleet. These massive battleships were more than 887 feet in length—approximately three football fields—and had a top speed of approximately 38 miles per hour.

I attended congressional hearings in Washington, D.C., to follow firsthand the testimony given by the naval experts and witnesses on board. I traveled to Norfolk, Virginia, to view the ship and its damaged turret when it returned to the naval base. I was allowed to videotape the inside of the turret after filing suit in the U.S. District Court for the Eastern District of Virginia. I was granted pro hac vice status to argue

the navy's motion to dismiss before then Judge Robert Dumars.

I filed an appeal to the 4th Circuit Court of Appeals and argued our appeal of Judge Dumars' ruling before the three-judge panel in Richmond, Virginia. That court ruled against us as well, citing a 1950 United States Supreme Court case now commonly referred to as the Feres Doctrine, which carved out an exception to the Federal Torts Claim Act giving U.S. citizens the right to file suit against the federal government under certain circumstances. The Feres Doctrine restricted members of the U.S. military from filing suit if "the injury or death was to a member of the military and that injury or death was incident to his or her service while in the military."

I was certain that the Blakeys' case was destined to be overturned as a result of the deaths that had occurred on board the USS *Iowa* on April 19, 1989. An appeal to the United States Supreme Court was rejected when the Court denied leave, ending my hopes of overturning the Feres Doctrine for the Blakey family and 33 other families who had joined our complaint as plaintiffs.

To say that it was a long road is an understatement. The rule of law had run its course. It came to its conclusion as a small-town lawyer from Michigan tried to make a difference for a local family. The Blakeys and the other families were allowed to seek justice under our Constitution. They were allowed to participate in our legal system and given their day in court. They were allowed time to grieve the losses of their loved ones.

It is a case I will never forget or regret taking.

As a lawyer and friend, I will always remember the events that unfolded on that day at 9:53 a.m. I will forever believe that I did, in fact, make a difference for the families of the USS *Iowa*.

If you have a chance to mark the date of April 19 on your calendar, please do so. At 9:53 a.m., observe a one-minute moment of silence, for it will certainly honor those sailors who gave their lives for their country.

And yes, I believe it will make a difference. Never forgotten and always remembered, we can make a difference for our clients. That's what we do, and that's why I'm so proud of our profession. ■