

Four Lessons in Law I Learned at Age Nine

By Hon. Curt A. Benson

Policeman Slain Here

MONDAY, JANUARY 20, 1969

"He wanted to be a policeman and was a policeman to the end," said Supt. Johnson of Vonk.

"His father (Herman Vonk) came on the department just after I did," Johnson added. "He left the department and drove a truck for a while, then joined the sheriff's department. He died of cancer in 1959."

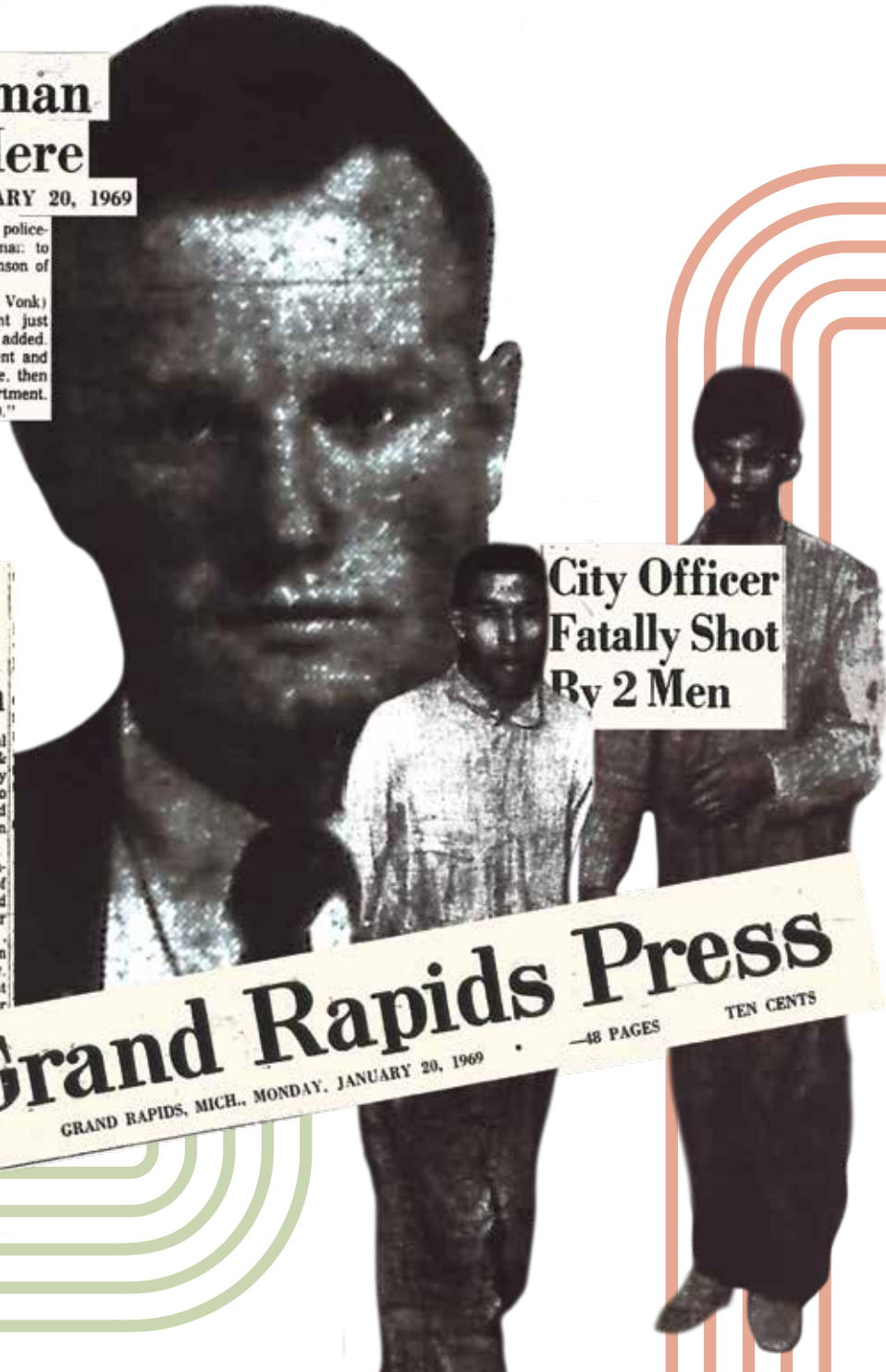
Attorney Named in Vonk Death

Robert A. Benson, of the local legal firm of Roach, Twohey & Benson, was named Tuesday by Circuit Judge Stuart Hoffius to represent two men charged with the murder of Patrolman Wayne Vonk.

Marvin L. Holden, 24, of Lansing, and Denver Goree, 28, of 746 Logan St. SE, are charged with shooting the police officer Sunday when Vonk, 21, apprehended them to question them about an armed robbery. Both are held without bond at the Kent County Jail after demanding District Court hearings.

City Officer Fatally Shot By 2 Men

The Grand Rapids Press
 GRAND RAPIDS, MICH., MONDAY, JANUARY 20, 1969
 VOL. 77—NO. 130
 —48 PAGES
 TEN CENTS



On Sunday, January 19, 1969, two young men robbed a grocery store on the west side of Grand Rapids. The store owner ran into the street and flagged down a 21-year-old rookie police officer who was patrolling the area alone. The officer gave chase and stopped the robbers' car four blocks away. The driver got out of the car with a pistol in hand and walked toward the officer. There was a struggle, then a shot. The officer fell backward with a bullet in his chest. He died three hours later.¹

My father, a lawyer, was appointed to represent the driver with the pistol. When the trial took place in the early summer of 1969, my dad took my older brother and me to watch. I was nine. Fifty years later, my memory of the trial is shadowy and patchy. But there remain in my mind's eye a few clear and powerful images from that trial, images that evolved into four lessons that helped shape my own legal career.

In one image, I see myself standing next to my dad in the hallway of the old Kent County Hall of Justice as four women approach. They were crying. One woman held a handkerchief to her reddening nose as she spoke to my father in a hoarse voice.

"How does it look, Mr. Benson?"

I had never seen a grownup cry, not like that—eyelids swollen, tears streaming, face blotchy, breath halting, voice cracking and hoarse. Nor had I ever seen such a pained look on my father's face when he paused before answering the question.

"Yeah," he said, looking her in the eyes. "It's so hard to tell with juries."

Lesson one: The families grieve. Sometimes their boys fight. They shoot. They're taken to jail. They go to prison. Some in the family see it coming; most are stunned. But they all grieve with inexpressible anguish. In the past 30 years, I have spent my fair share of time with crying relatives.

"Yeah," I say, remembering to look in their eyes. "It's so hard to tell with juries."

Another image: the driver has taken the witness stand. He tells an improbable story of how he got out of the car with the pistol resting on the flat of his palm. He claims he was offering it to the police officer, but the officer suddenly went for his own gun and the startled driver regripped his pistol in a firing position. He ordered the officer to unholster his revolver and drop it. As soon as the officer's revolver hit the pavement, the officer lunged for the driver's gun. The two men came together, banged into the getaway car, and the driver's gun fired, the driver testified, "by accident."

During cross-examination, the prosecuting attorney was drawing out details of the physical confrontation. At one point, the driver said, "I shot the gun." Realizing his mistake, the driver quickly

followed with, "The gun went off." Even the two young boys sitting in the front row of the courtroom right behind defense counsel recognized the gaffe. My brother and I looked at each other and grimaced.

The prosecutor paused his questioning. In a slow, clear voice, he said to the court reporter, "Would you please read that back?"

The reporter said, "I shot the gun. The gun went off."

Still another pause. The prosecutor moved to a different line of questioning.

Lesson two: when your opponent is self-destructing on the stand, get out of his way. The driver had just betrayed himself and the prosecutor had good instincts. He stopped. He let the enormity of the mistake sink in. Any brass, triumphant sneer, or prize-winning follow-up question and the prosecutor would have diminished the force of the moment. Fifty years later, I still remember that cross-examination.

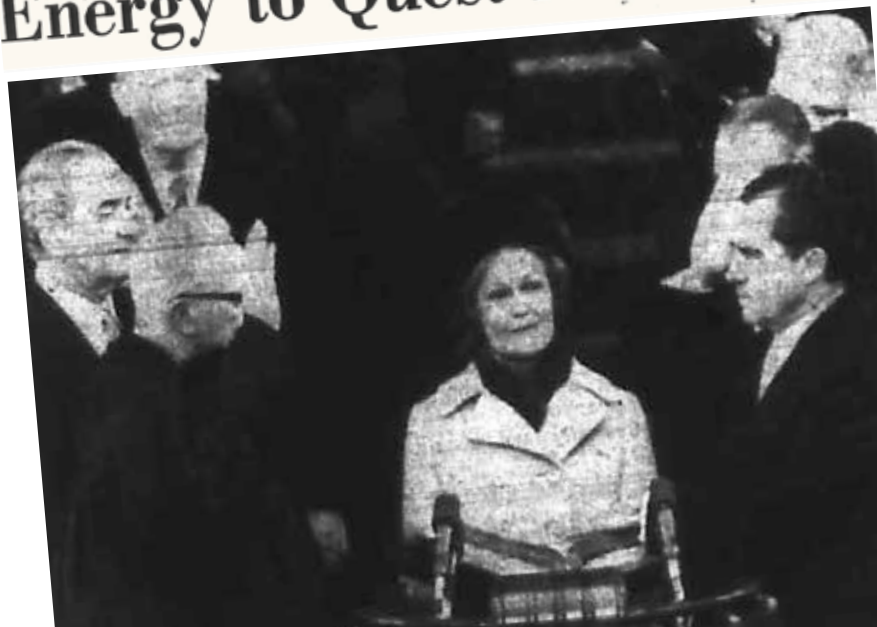
The last image: I'm alone with my mom in the kitchen a few days after the guilty verdict. I don't remember what I said, but I must have expressed some confusion or surprise over the verdict. I remember very clearly my mom putting down her utensils and giving me a long, sympathetic look.

"Oh honey," she said. "Your father had no chance of winning that trial."

I stared at her stupidly. No one told me.

As I matured over the years, I often reconsidered what I heard in court that day. The driver's story—that he was only trying to hand the gun to the officer—became considerably less believable with each passing year. Besides, the felony murder rule, especially as it applied in 1969, all but

Nixon Sworn, Will Dedicate Energy to Quest for Peace



guaranteed a conviction. Today, I recognize that the trial was fair and the verdict true.

Though I was only nine and not yet reading newspapers, I knew my dad was trying a high-profile case. The officer's murder was front-page news. He was a 21-year-old rookie who died bravely. Just two days before *The Grand Rapids Press* put his murder on its front page, it had published his wedding announcement in the society section.² It was all so sad. I remember my mom getting some menacing, anonymous phone calls. She wouldn't tell me what was said.

It's a banal observation that criminal defense lawyers are a counterbalance to the muscle of government. But here, I learned my third lesson: sometimes criminal defense lawyers are a counterbalance to society itself. It wasn't only the prosecutor who opposed my dad's client, but also a frustrated police department and an angry, worried public. The client was scorned and despised by everyone. Some of that hatred rubbed off on the lawyer. "How can he represent those people?" is less a question than a denunciation, an indictment. What they were really saying is, "How dare he represent this man?"

In *To Kill a Mockingbird*, protagonist Atticus Finch famously defends a black man accused of raping a white woman. Atticus's daughter, Scout, tells her father that most people in the town think it's wrong to defend the accused man.

"They're entitled to full respect for their opinions," Atticus says. "But before I can live with other folks, I've got to live with myself. The one thing that does not abide by majority rule is a person's conscience."³

My dad could have written that line of dialogue.

Atticus Finch is a role model for many lawyers. Though I admire old Atticus, I never needed him. I had my dad. He revealed to me the true meaning of justice, fairness, and duty. Through these attributes, I learned my fourth and most important lesson in law: lawyers must be driven by ethics and constitutional principles, not public sentiment.

I've learned over the years that many people will simply never understand what lawyers do or why we do it. They'll never see the integrity behind our choices or the morality of our causes. For many, our constitution and our Anglo-American legal traditions are faint, unimportant things. But not for lawyers. Lawyers must "with firmness in the right, as God gives us to see the right"⁴ fulfill the oath we swore when we were admitted to the bar. We must in all respects conduct ourselves "personally and professionally in conformity with the high standards of conduct imposed upon members of the bar."⁵ To do anything less shames us and dishonors our calling. ■



Hon. Curt A. Benson is a Kent County Circuit Court judge assigned to the civil/criminal division and distinguished professor emeritus at Western Michigan University Cooley Law School, where for 14 years he taught evidence, civil procedure, contracts, tort, and insurance law. Benson's private practice focused on civil and criminal litigation. He is a published legal author and frequent public speaker.

ENDNOTES

1. Kotlar, *Policeman Slain Here*, Grand Rapids Press (January 20, 1969), p 1.
2. *Id.*, at p 3.
3. Lee, *To Kill a Mockingbird* (Philadelphia: J B Lippincott & Co, 1960), pp 139-140.
4. Abraham Lincoln's Second Inaugural Address (March 4, 1865).
5. *Lawyer's Oath*, SBM <<https://www.michbar.org/generalinfo/lawyersoath>> (website accessed September 14, 2020).

