

## The Clinic

By John M. Sims

It was Tuesday, a “Clinic” day. The “Clinic” was the Wayne State University Law School Criminal Practice Clinic and Seminar—the “Clinic” to third-year law students in 1976-1977. We were going to “G-1” for our first appearance as actual practitioners of the art and science of criminal defense.

“We” were Al (Seawolf) Hammond, Kenny (Capt. Krazo) Claypoole, and me. We had undergone “extensive” training before making this first foray into the arena—three boring weeks, two days per week, of morning-long observations of the Public Defender’s office attempting to hold back the tide, watching the City of Detroit’s prosecutors seek to imprison every miscreant in the environs of the Motor City with the audacity to pilfer the property of another. We felt that was more than enough preparation. It’s only G-1, misdemeanor court in Records Court. It didn’t get any more basic than that. How many times could you watch retained counsel shake down the criminals in the bullpen for loose change, watches, and pens to cover their retainers for pleading them guilty? This was not Alan Early trying a “Young Boys” murder.

We were full of ourselves and our ability to hoodwink the professors at Wayne into believing we understood and cared about the “Law.” All we were really interested in was getting into a real court and seeing if we had the stuff to actually pull it off in front of a judge or a jury. Today, we would get our own clients and fly solo—or as close as allowed by court rule under the supervision of a practicing attorney. Our initiation would be presided over by the Honorable G.B Hartwell, also known as Hemorrhoids (when his were acting up, he would stand up to sentence a defendant to jail.)

Seawolf had already managed a miracle this morning—finding a parking place in Greektown.

We would not have to fear dismantling and destruction of his 1964 Chevelle by roving bands of Visigoths. Detroit may have its “reputation,” but if you parked in Greektown, a block away from the police department and within an Al Kaline peg to home from Records Court, you were generally safe. Braving the multitudes of lawyers, judges, bailiffs, and cops, we made our way to the dungeon known as G-1.

If you have never had the misfortune of being arrested and tried for shoplifting in the city of Detroit, you can’t comprehend G-1. It’s a room of about 50 feet by 50 feet that sits in the southwestern corner of the basement of Records Court. The elevators that run through the middle of Records Court open facing east, so you turn right out of the elevators, then right around the elevator bank, and then left into the courtroom. Entering through the double doors, you see 10 rows of benches for spectators running from the entry wall to the bar that separates the public from the practitioners. Inside the bar are two tables covered with files providing a workplace for the prosecutor and the defense—the prosecutor sits on the right. Behind the prosecutor’s table sitting on the bench that makes up the inner portion of the bar are store detectives waiting their chance to testify. Behind the defense table, you’d find defense counsel talking to their clients for the first time to find out what the heck the case is all about.

In the right-hand corner sits the bench and behind it is a door that leads to the judge’s chambers. To the left is the bullpen, where the alleged perpetrators of nefarious deeds sit until they either retain counsel, seen swooping about the courtroom like buzzards seeking carrion, or are offered the services of the public defender or one of his minions—Seawolf, Capt. Krazo, and me.

The public defender was Albert (just call me Bert) Westbrook, who had pulled oars in this galley of the legal profession for six years and was as tired of the stench as any man alive. He hid the stench by smoking two or three cigarettes at a time. This morning, he had one in his mouth and one

burning in the ashtray. No biggie—Judge Hartwell usually climbed on the bench with his pipe sending forth a fog of the nastiest-smelling tobacco known to the civilized world.

Bert was there early; he was always early. He was one of those dedicated public servants who actually loved his job as it sucked the life out of him. He said he was going to leave this pit and do appellate work or take a gig in the 'burbs, but you could see he would keel over of a heart attack on the job 10 years down the road stressing out over some punk kid who got sent up for 30 days. That was his problem—he cared. This morning, he was sorting through files when we came in. He called us over to his table, handed each of us a file, and said, “Sooner or later, you got to get on that horse and see if you can ride. But just because it’s your first shot, don’t expect Ramrod to give you any slack.”

The City of Detroit was represented by David Wright, a.k.a. Ramrod. This guy was so rigid he must have had a stainless steel rod surgically implanted in his backbone. After two years as a guard at DeHoCo (Detroit House of Corrections) and 12 years as a Detroit police officer, he graduated from law school and now was imposing his form of justice on the denizens of G-1. I couldn’t figure out how so much white bread got stuffed into one person. He reeked of the suburbs and would have looked perfect on the cover of “Aryan Youth.” He hated defense counsel because they were defense counsel and attempted to free those pieces of crud so righteously arrested by his brethren on the “Force.” This sense of righteousness overflowed to cover the brethren in G-1 who were usually Pinkerton store dicks, cop wannabes. None of this really mattered at the time, because Bert had just placed files in each of our hot little hands. We had clients. Oh, the glory of it all. Then we met those clients.

My client was a skinny, six-foot-tall, 19-year-old black kid named Dwayne Percival. My first question was, “Why did your mother name you Dwayne? The only Dwaynes I know are from

Kentucky or Ypsilanti.” His response set all right with the world as I knew it.

“My family is originally from Kentucky and my momma stuck me with this redneck handle ‘cause she liked it.”

Dwayne was charged with shoplifting a man’s three-piece suit from Hudson’s. He had three priors for shoplifting and no defense, but he had an explanation. You see, this Friday was prom night and the young lady sitting in the spectators’ section, waving coyly at Dwayne and at least seven months pregnant, was his date for the prom. He had promised her that he would be “clean and sharp” for the prom in a new suit he would buy with his winnings from the “numbers,” but instead he had scored Pistons tickets and figured to get a new suit by means of a five-finger discount.

Sadly, I had to explain to Dwayne that his prospects for escorting the beaming Promethia, for that was her name, were not good. It appeared that he might be attending the Friday-night sing along in DeHoCo as Judge Hartwell was, at this moment, standing up to pronounce a 60-day, all expenses paid vacation at that location for one of Dwayne’s fellow bullpen residents. I told him that I would talk to the prosecutor and see if anything less than jail time was a possibility.

I wanted to run this situation by Bert, but he was busy entering a plea. In G-1, cases were tried or plead with all participants standing in front of the judge’s bench while the rest of the world continued its normal course around the sun without interruption. I spotted Seawolf sitting on the back bench with his client. I purged my sad story of Dwayne and the prom all over his shoes. He was as sympathetic as he could be, but not very helpful. His client, a young lady, was a first offender, and he had already done the “Monkey Dance” with Ramrod. On our first day observing in G-1, Capt. Krazo had remarked after watching a few pleas being negotiated that, “Any two-year-old chimpanzee can cop a plea to a dismissal for costs on a first offender.” He was, as always, dead-on in that analysis. Since then, we referred to copping a plea for a first offender as the “Monkey

Dance.”

Seawolf reminded me that Ramrod had none of the milk of human kindness and with Dwayne a three-time loser, he was likely fresh meat for the tough guys in DeHoCo. I had to try anyway. After Bert finished with his plea, Ramrod went back to his seat at counsel table and I approached him with the humility of a whipped puppy.

“Prosecutor Wright, might I have a word with you about Mr. Percival?”

“Go away, I got nothing for him. I remember his last trip here. He can plead on the nose and beg for mercy from Hemorrhoids, or he can go to trial, be convicted, and beg for mercy from Hemorrhoids.”

Well, at least it was short and sweet. I shared with Dwayne the sum of this imparted knowledge.

“Well, what do you want to do?” I asked.

“If I’m going to go to jail I might as well take my chances with a trial. Maybe a jury will let me go?”

He looked at me with hope in his eyes and I shot it down like a slow duck on opening day. “There is no jury here. You get the judge and that’s it, unless you have an issue to appeal. Then we can try for a writ from the chief judge and that might get you a jury. You have no legal issues. You did it and they got you cold.”

His response warmed my heart and turned my stomach. “I know that, man, I been here before. I know I won’t make bond even if I do get ol’ T.J. (Chief Judge T. J. Wallace) to give me a break. Trial is the only chance I got. Let’s roll them bones.”

At that moment, I knew that Dwayne Percival was the better lawyer in that conversation. I felt relieved to be dealing with a professional, even if he was a professional criminal. I couldn’t shake

the sense of doom. I didn't want to start my career trying a case that had a cold nose and wagged its tail, a case I had no hope of winning. But, when all else fails, roll them bones.

I told Bert about the case and he laughed as he walked up to advise the judge that we had a trial in the Percival matter. Fifteen minutes later, the four players in this drama stood before the bench. I held the far left position. Ramrod looked like a tent pole on the right end. Between us stood Dwayne and Quincy Dickerson, Pinkerton store guard for Hudson's. Hemorrhoids swore in Quincy and Dwayne at the same time, "Just in case it gets that far," he said. Then the perjury commenced.

Guard Dickerson testified that he had observed a subject in the menswear department of Hudson's on the day in question wearing a three-quarter length, black leather coat. He was drawn to this subject because his head seemed to be on a swivel, constantly scoping the area. He testified this was normal conduct for shoplifters and tipped him to keep an eye on this subject. While observing the subject he saw him pick a man's three-piece suit off the rack and take it into a dressing room. Moments later, the subject left the dressing room without the suit. He then quickly headed toward the door with the guard on his tail. On the way, the guard noticed the pants showing under the coat worn by the subject matched the suit that had been taken into the dressing room.

Upon leaving the building, Dickerson shouted, "Stop, thief!" The subject turned and saw the guard coming toward him. He started to run, but ran straight into a Detroit City bus. The guard grabbed him, shoved his face into the ever-present motto on the side of the bus that read "Coleman Young: Moving Detroit forward," and noticed that the subject was wearing the three-piece suit complete with price tags.

The prosecutor then asked, "Do you recognize the subject you apprehended in the courtroom today?"

“Yes, he is standing next to me.”

“Did you retrieve anything from the defendant?”

“Yes.”

“What was it you retrieved from the defendant?”

“A man’s three-piece suit.”

“What did you do with that item?”

“I placed it in a brown paper bag. I put my name, defendant’s name, and the date on it and placed it in the secure evidence locker at the store.”

“Did you bring that with you today?”

“Yes, it is right here.”

“Can you identify it as the same bag?”

“Yes, my writing is right here on the side.”

“Would you open that bag and show the court its contents?”

Whereupon Guard Dickerson ripped open the top of the bag, reached in, and brought out for the viewing pleasure of all persons in the courtroom a yellow, paisley print, woman’s sun dress.

I was stunned. I looked back at Bert. He was covering his mouth, holding back laughter. Ramrod looked like he was about to have a stroke. Dwayne stage whispered to me, “*DO SOMETHING.*”

I did.

“Your Honor, I object to the admission of this item as being without foundation and contrary to the proofs offered. I further move the court to dismiss all charges against my client as the complaint clearly states that my client is charged with stealing a man’s three-piece suit, and the proofs offered are that he stole a woman’s dress.”

Ramrod couldn't get his mouth to work—he was still in shock—but he didn't have to. Judge Hartwell stood up. He leaned over the bench and looked me right in the eye and said, “Look, sonny, I know he stole something. You know he stole something. I don't care what it was ... GUILTY! Bailiff, take this man away.”

The next thing out of my mouth was not in keeping with proper courtroom decorum.

“*WHAT?*! You can't do that!”

Bert, Seawolf, and Capt. Krazo dragged me out the door and into the hall.

“Hold your water, calm down. Think about what just happened.” Bert said. “I'll get you a habeas in five minutes and before Hemorrhoids can sentence your guy you're back here with a writ.”

I calmed down a little. It took 15 minutes, but by then I was standing outside the chief judge's chambers. I told his secretary what I was looking to do. She took the paperwork and said over her shoulder as she went in to see the judge, “Bert wouldn't send you here if you didn't have something.”

Two minutes later, I was heading back to G-1 with a writ signed by the chief judge. As I passed by the elevators, I walked straight into Dwayne Percival and Promethia. Dwayne picked me up, hugged me, and said, “Man, that was fantastic! You are the best!”

“What are you talking about? What are you doing out here? What's happening?”

“After you left the room, the judge called me up front. That other guy, the older one, he was objecting all over the place, but the judge just went ahead and sentenced me. He sentenced me to time served and told me I could go home. Then that other guy he shut up and Promethia, she started crying and I got the hell out of there. Man, you are the best lawyer I ever had!”

That night, Bert met us at the Circa Bar for drinks. We reviewed the day's events again and again. We had more than one round of drinks. As Bert fumbled into his coat—he refused our offers

to drive him home, noting we were all much more intoxicated than he—he turned to me and said, “This was your first. It’s good, you will never forget it. Never lose that outrage that bolted out of you when the judge said, ‘Guilty.’ Remember that he was guilty. That outrage was because it was unfair, not because it was inaccurate. When you lose the outrage over what’s unfair, you need to get out of this business, because you’ll be no good for yourself or anyone else.” With that, he chugged down the rest of his beer, lit a smoke, and left Seawolf, Capt. Krazo, and me to finish off the night, and all the drinks we could, while envisioning a future full of Dwayne Percivals.