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PROFILES

In this issue of the Journal, we introduce a new section entitled "Profiles." The Profiles section will highlight the practices of public interest attorneys. Our goal is to draw attention to their work and give our readers a view of the nature and variety of public interest practice.

MICHAEL AVERY

As a student at Yale College in the sixties, Michael Avery was required to live in the dormitories on campus. Avery and a few other students protested this restriction and successfully challenged it. Avery moved off campus into a ghetto area in the city and worked as a neighborhood organizer with a local civil rights group. He continued to live in the same neighborhood when he went to Yale Law School but gradually began to do more work with a local attorney, Catherine G. Roraback, the leading civil liberties and civil rights lawyer in Connecticut.

In the first of many civil rights cases that Avery dealt with, a local leader of the most militant civil rights organization in New Haven was framed by the police on a drug charge. Roraback defended him, and Avery worked for her as a student the rest of the time he was in school. This was certainly a tumultuous time for the country: the civil rights movement was at its peak; the anti-war movement was, by necessity, a hotbed of urgent activity; and the women's liberation movement was beginning to roll forward. Although there were not many jobs, per se, there was plenty to do if one wanted to practice public interest law. From June, 1970, when Avery graduated from law school, until the fall when he was sworn in to the Connecticut Bar, he was inundated with requests for legal help.

During the next three decades Avery's work in public interest law increased dramatically. He went into practice in New Haven, Connecticut in 1970 and practiced there until March, 1977. Avery first served as an ACLU staff attorney during the Black Panther trial in New Haven to represent Black Panthers and their supporters on civil liberties issues. Avery handled many other civil liberties cases for the ACLU during the Vietnam War. In one of his first cases, Avery defended two young men who had raised the Viet Cong flag on the flagpole on the New Haven Green, as a protest against the war. They were prosecuted under Connecticut's "red flag" statute, an anti-Communist statute passed earlier this century. Avery challenged the statute on First Amendment grounds, and the case was dismissed.

In addition to trial practice, Avery also taught on a part-time basis for many years. In New Haven, with his partner John Williams, and with Professor Thomas Emerson of the Yale Law School, a leading First Amendment scholar, Avery taught a course for several years called the Political Justice Workshop. Avery and his colleagues met in a seminar once a week with students who then worked on police brutality cases in Avery's office.

During those years Avery also had an opportunity to teach a seminar on the police at Yale College. He wanted to call the seminar "Police Misconduct," but Yale did not find the title sufficiently scholarly and objective, so they made Avery call it "Police Conduct and Misconduct." In 1977, he wrote *Police Misconduct: Law and Litigation*, together with David Rudovsky from Philadelphia. Initially, the National Lawyer's Guild published it, but within a few years the book was sold to the Clark Boardman Publishing Company in New York for wider distribution. Avery calls this book his most intellectually satisfying writing project. Over 14,000 copies have been sold and the book is recognized as the leading treatise in the area.

Avery's writing career began, however, with a book called the *Pro Se Dissolution Manual*, which he wrote with Diane Polan and Sarah D. Eldrich. The three authors worked with women at the New Haven Women's Center who wanted to represent themselves in their divorce cases. While this is a common practice today, it was unheard of at the time. Avery and his co-authors tested the materials they wrote with three women from the Women's Center. The day before the women went to court, Avery went to see the judge to explain what was happening. On the day of the hearing, several supporters came to court to watch the women present their cases, all of which were uncontested divorce cases involving no children. The hearings went off without a hitch and when the last one was finished, an audible sound of relief and excitement ran through the room. Avery, Polan and Eldrich then published their materials in a book form and for many years sold them through women's centers around Connecticut.

In 1977, Avery moved to Boston. For several years he taught courses on political and civil rights, family law, evidence and trial practice at Northeastern University. In the past few years, Avery has taught evidence at Boston College. Recently, Avery wrote, with Professor Mark Brodin of Boston College, the Sixth Revision to Chief Justice Liacos' *Handbook of Massachusetts Evidence*. The book has for many years been accepted as the authoritative treatise on evidence law in the state of Massachusetts.

In 1978 Avery litigated a civil suit against two police officers of the Commonwealth of Puerto Rico. The police officers shot and killed two young men in the remote mountains of Puerto Rico. The victims, Arnaldo Dario Rosado and Carlos Enrique Soto, were Independistas - advocates of independence for the island of Puerto Rico. The officers claimed that the victims were terrorists who were assaulting communications towers in the mountains. They further claimed that they had been forced to shoot the young men in self-defense when the victims resisted arrest and started a gun battle.

In fact, Rosado and Soto had been set up by an undercover agent provocateur of the police, who had engineered the entire scenario. Soto and Rosado were executed by the police after they had been taken into custody and while they were handcuffed. It was nearly six years, however, before the true facts came to light.

The National Lawyers Guild, which founded a civil rights project in Puerto Rico, brought together Avery and other lawyers from the Guild to litigate the

civil suit against the officers. Since he began his practice in 1970, Avery has been a member of the National Lawyer's Guild. The Guild is a progressive organization of lawyers, law students and legal workers, which attempts to bring about social change through law, and to provide legal defense against social and political oppression and discrimination. Avery believes that most of the best public interest lawyers he knows in this country are members of the Guild. The support of the Guild and Guild members has been essential to his work and to that of other lawyers with similar practices around the country.

The case took nearly ten years to resolve, and did not reach a turning point until it was investigated by the Legislature of Puerto Rico, which was able to offer immunity to some of the police officers. As a result, ten officers were indicted and convicted on federal perjury charges, and on second-degree murder charges in Puerto Rico. The incumbent Governor, who had defended the police throughout, was defeated in the next election, and the opposition political party swept into power. The Commonwealth of Puerto Rico eventually settled the civil case for a substantial payment to the estates of the victims.

While the case provided a unique opportunity for Avery to see first-hand the colonial oppression the United States has wrought against the people of Puerto Rico, another case, in 1982, illustrated the extent of police brutality closer to home. The case involved the Halls, a black family who lived in Sharon, Massachusetts. Mr. Hall was in charge of safety at the Polaroid Corporation in Cambridge. Mr. Hall's daughter Sandra was a student at the Milton Academy and had spent a Saturday night at the home of a fellow track team member in Milton. On Sunday morning, Mr. Hall went to pick up his daughter.

As Mr. Hall waited for his daughter in the driveway of her friend's house, a neighbor in this exclusively white section of the town telephoned the police and reported that she thought there was an intruder on the premises. The police arrived with guns drawn. After some brief conversation, they dragged Mr. Hall from his car, threw him on the ground, picked him up, dropped him again, then finally handcuffed him and dragged him off to the police station. In the process, one of the officers struck Sandra Hall.

At the police station, the officers quickly realized that they had made a grave mistake. However, they insisted upon holding Mr. Hall in custody until he agreed to sign a release that he would not file suit against them. After ninety minutes at the station, with his daughter in tears, he finally succumbed to their pressure and signed.

Mr. Hall did not suffer serious physical injury, but the incident was an enormous insult to the whole family. As a result, despite the fact that he had signed a release, Mr. Hall decided to sue the town. The police and the Town of Milton completely stonewalled the case, insisting they had done nothing wrong and denying that any of their actions were racially motivated. It was apparent to the Halls that they had been singled out, degraded and humiliated solely based upon the color of their skin. The jury agreed and awarded compensatory and punitive damages to Mr. Hall and his daughter in the combined amount of \$435,000. The fact that an all-white jury could understand the devastating nature of this blatant act of racism, despite the lack of serious physi-

cal injuries, convinced Avery of the enormous democratic value of the American jury system, when working at its best.

Avery's current practice consists primarily of civil rights, personal injury, and criminal defense matters. He also handles housing discrimination, sex discrimination, sexual harassment, and First Amendment cases. Recently, he has also represented women in Title IX claims challenging the denial of equal opportunity in athletic programs at educational institutions.

Michael Avery will tell anyone that his politics have not changed over the years. He has always believed that the most important work a lawyer can do is to make himself or herself available to people struggling for justice and progressive social change. At times such work may take on the character of "law reform," actually attempting to change society by changing its laws. Some cases may become important because of the impact they have on the public consciousness of a social problem. At other times, legal work may be defensive - protecting people from oppression or discrimination. There are many important ways in which lawyers may serve progressive ends through their practice; no one type of practice is more socially significant than others.

But Avery has also learned over the years, that seeking justice through the law is, as in politics, a process which is never complete. Avery believes that justice, fairness and equality are elusive, and that perhaps human nature does not incline itself naturally in that direction. Ultimately, however, Avery is an optimist who thinks that when we call on the best in people, we find it.

Michael Avery believes that the effort to seek justice is ennobling and rewarding in itself. And he lives his life making that effort.

Luis M. Ramos