



American Board of Criminal Lawyers

# THE ROUNDTABLE



Vol. MMXVII, No. 4

Form **1040**

Department of the Treasury—Internal Revenue Service (99)  
**U.S. Individual Income Tax Return**

**2016**

OMB No. 1545-0074

April 2017

Just wait 'til next year

EARNING OVER-PENS

Spring

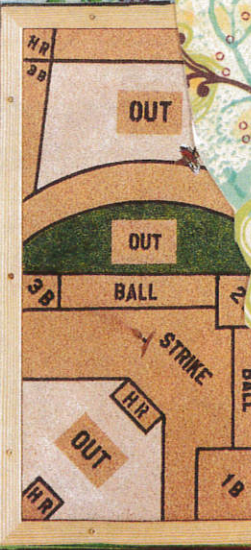
LE JOURNAL

Use your  
downtime  
wisely.

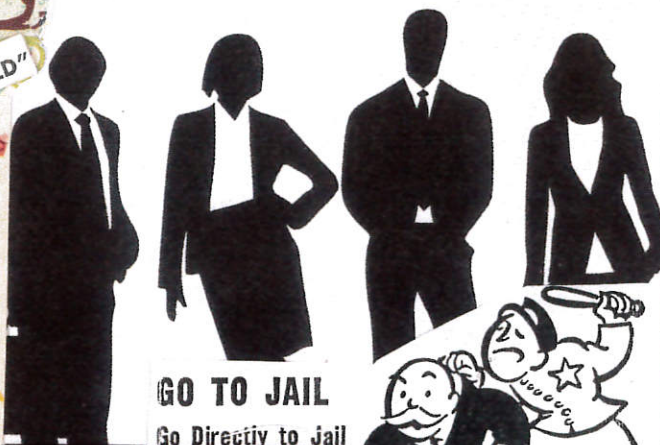
INCOME TAX  
REFUND  
COLLECT \$

L'CHAIM

strive to be  
out standing  
in your field.



"CHECK IN YOUR PHONE, CHECK OUT THE WORLD"



GO TO JAIL  
Go Directly to Jail



Spectacular

Spring

Spectacular



## **TIDBITS:**

### **UPDATE: INTERNET PHARMACY**

**John Brink** does it the hard way. Jury says NOT GUILTY on all counts, including the recently added misdemeanors the Govt asked to be included.

- Peter Wold

...

I might add that **Brink's** physician client sometimes wrote 1000 prescriptions in a day and the finding of not guilty by the jury, even on the strict liability misdemeanors, indicates the prescriptions were valid and we are opening our own internet pharmacy because it was netting \$20 million dollars a month.

- Joseph Friedberg

**John Beck**, our newest ALABAMA trial guru, brings home the bacon. Just now, after a Baldwin County jury trial where his client was charged with Vehicular murder, .24 BAC at time of the accident, estimated to be driving 90 to 100 mph. You call that evidence?

Verdict for criminally negligent homicide misdemeanor...

Go John Beck.

- Tommy Spina

Garden City attorney and Westbury Village Justice, **Thomas F. Liotti**, has presented a Continuing Legal Education (CLE) video recorded program entitled: The Trial, a 6 hour legal seminar dealing with the preparation for civil and criminal trials; strategies; trial techniques and ethical considerations involved. Part I for 3 hours is entitled: The Trial: Winning Techniques and Part II for 3 hours is entitled: The Trial: Tricks of the Trade. The CLE is sponsored by the National Academy of Continuing Legal Education (web: [www.nacle.com](http://www.nacle.com)) and is available online to lawyers and judges nationwide for CLE credit.

My son John just won a motion to suppress on a stop and search based upon a certified drug canine alert on a car containing contraband. He subpoenaed the officers reports. In Florida every time an officer deploys his drug dog he is required to file a report. The officer deployed his dog 134 times in a nine month period from Dec 2015 till Sept 2016. According to the reports filed by the officer the dog alerted every time. On only 24 occasions did the officer find contraband, on the remaining 110 reports the officer claimed in his reports that there was residue or the smell of marijuana. Just a note to remind that all lying cops are not this stupid.

- Barry W. Beroset (3/21/17)

**Bruce Morris** got an amazing result Thursday on his Healthcare Fraud case in Alabama: 12 months probation for his pharmacist!

- Richard Tegmeier

The Cleveland Metropolitan Bar Association has nominated **Ian Friedman** for a four year term to automatically go through the chairs as Vice President, President-Elect, President, and Past President. Not only is it unusual for a criminal defense lawyer to receive the nomination for the greater metropolitan Cleveland area but he was selected from a field of outstanding lawyers. As if that were not enough, the Cleveland-Marshall College of Law has chosen Ian to receive the 2017 Alumni of the Year Award. Hats off to Ian. He makes us all proud.

- John H. Rion

A few weeks ago, Criminal Defense Attorneys of Michigan (CDAM) awarded **Bill Swor** with the Right to Counsel Award. This award is presented to an attorney "for a significant body of work.. and is typically a reflection of a lifetime of service to defendants and the criminal justice community." Bill has also received CDAM's "Justice for All" Award as a member of the defense team defending four young Middle Eastern men falsely accused of being a "sleeper cell" in post-9/11 Detroit. CDAM has no more awards to give Bill.

**Jim Thomas** and I co-presented the award. Jim spoke lovingly of his decades of friendship with Bill, dating back to their days as kids from the same east side neighborhood. I shared "9 Fun Facts about Bill Swor", which were G rated out of respect for the presence of Bill's five grandchildren who adore their Gido and should always do so. We had a video photo montage which revealed that Bill, once upon a time, DID have hair.

In accepting the award, Bill spoke of meeting Anthony Ray Hinton, the appellant in Hinton v Alabama, who spent 30+ years on Alabama's death row before his conviction was vacated by SCOTUS for IAC. Hinton's federal habeas attorneys told Bill their biggest problem was getting someone to care about Hinton's IAC. I think the words were "give a shit". Bill's message to the assembled criminal defense attorneys: be the person who cares. Typical Bill response and deflection away from himself.

So let's raise a glass to celebrate Ian and Bill in Montreal.

- Peggy Raben





# Anatomy of a Trial

by J. William Gallup

*"It is by no means enough that a lawyer be a capable advocate. He must be that of course, but also a great deal more. He must be a gentle man of refined manners, liberal education, punctilious courtesy, and the nicest sense of personal honor." - J. William Gallup*

It was still dark outside when he pushed open the heavy oak door and stepped into what had become his entire universe, a courtroom in the aptly-named Hall of Justice. The room was quiet and serene as a church. The walls were paneled and bare, but in the old man's eyes, he could visualize the Stations of the Cross.

Slowly, he crossed the room to the jury box, empty now, but soon to be filled with the twelve men and women who would decide his client's fate. As he stared at the empty seat, he could almost hear the words of the Jesuit Priest who had taught his jurisprudence class back in law school: "We have twelve jurors, because Jesus Christ had twelve disciples."

## J. William Gallup



**J. William Gallup** was born in Three Hills, Alberta, Canada. He graduated from the University of Nebraska with B.S. and M.S. degrees and received a J.D. from Creighton University School of Law in 1964. He is a former Assistant City Prosecutor, Deputy County Attorney and Assistant United States Attorney. He is a Fellow of The American Board of Criminal Lawyers (past President)

and Fellow of the American College of Legal Medicine. He served in the U.S. Army and U.S. Marine Corps.

Looking up at the bench, he could visualize the judge who would be presiding over his trial. He would be dressed in a black robe because America's judicial system was patterned after the English where the Chancellor in Equity was a Catholic Bishop, and he was approached with a prayer.

The American judge, he liked to tell jurors, was also a priest, but he was a legal priest dispensing the Sacrament of Justice. Most judges, he knew, liked to hear this comment.

The old lawyer looked at the counsel tables. The one nearest the jury box was usually occupied by the prosecutors. Their mission, although some of them didn't realize it, was not to get a conviction, but to seek justice. He always reminded them of this fact in final argument.

The table farthest from the jurors was where defense lawyers sat. Their job, the lawyer liked to think and which he usually told the jurors, was best understood by a short story everyone knew. It was the story of a mob advancing on a frightened young prostitute who cowered in the village square as the mob surged forward with sticks and stones. Suddenly, the lawyer would tell the jurors, "a man knelt down and brushed his hand through the dirt, as if looking for a name. He stood up and raised his hand. 'Let he who is without sin cast the first stone', he said, and the mob stepped back."

"That man", the lawyer would say, "was Jesus Christ, our first criminal defense lawyer. I don't have any Christ-like qualities, but I'm following in his footsteps."

The lawyer sat down at the defense table. He didn't cover it with law books, notebooks, or legal pads. He knew the case and could recite the testimony he knew was coming from memory. He sat and contemplated the most compelling arguments he could make to the jury.



## ANATOMY OF A TRIAL

The lengthy silence, serenity and darkness was punctuated by the click of a light switch, the opening of doors and the appearance of the prosecutors, who wheeled in their law books, exhibits, brief cases, and other trappings that marked them as PROSECUTORS.

As they covered their table with a sea of papers, books and exhibits, the old lawyer smiled. He liked to appear as the underdog; his unadorned table made him appear unarmed and outnumbered. He hoped the jurors would see him as Rocky and the prosecutors as Apollo Creed. He also hoped he wouldn't be seen as an old fool. He had instructed his client to shave his beard, cut his pony tail, and dress in his Sunday best. It really didn't matter if he did or not. If he appeared in his beard, pony tail and leather jacket, the lawyer would simply tell the jurors that neither he nor his client were trying to fool anyone. "You see my client as he really is", he would say. "I could have cut his hair, shaved his face, and dressed him up in a suit and tie, but I wanted you to see my client without any costume or makeup. I want him judged by the evidence and not his appearance."

The client slid into the chair behind his lawyer. "How do I look?" he inquired. "I got a new pair of jeans for the trial."

"Not bad," the old lawyer replied. "You look like a young Willy Nelson. Are those new tattoos on your biceps?"

The prospective jurors were all seated in the courtroom awaiting the arrival of the judge. His presence was announced by the banging of a gavel, and he approached the bench with all the solemnity of a politician stepping in front of a podium. This judge didn't waste time, and the jury box was quickly filled. The old lawyer was happy. He didn't have any jury selection expert, but he did have two men with beards and another who owned a Harley-Davidson. As far as the lawyer was concerned, it didn't get much better than that. When the juror with the Harley learned, as he would, that not only did the defendant ride a Harley, but that it was a "Fat Boy", there would be instant rapport and, hopefully, at least one vote for acquittal. So much, the lawyer thought, for the art of jury selection.

Opening statements were brief and the prosecutors began their case. They rested at the end of the day. Before leaving for the night the old lawyer prepared his client for his testimony, which would be the only evidence offered by the defense. "If the jury likes you, they will acquit you," he said. "Be sincere and tell the truth".

The next morning the sun was shining, the birds were singing and the old lawyer was smiling. He was always smiling when he was trying a case because he believed that trials were the legal equivalent of a blood transfusion. They kept him alive.

The defendant was well prepared. He spoke sincerely, looked at the jurors and frequently smiled. The old lawyer was pleased. He thought his client was planting seeds that would sprout, back in the jury room, into reasonable doubt.

Slowly he moved towards the moment he and his client had prepared which would be, the lawyer hoped, the climax of the trial.

During the interviews with his client, the lawyer had learned that he had only one eye, a significant fact because the police officer had testified that the defendant's eyes were bloodshot and glassy. (This was a drunk driving case).

The young man had lost his eye in a hunting accident. He had also served in the military but had never left the States. "The officer testified that your eyes were bloodshot and watery," the old lawyer asked. "Was that testimony accurate?"

"No", the defendant replied. "I have only one eye."

"Can you remove it and show it to the jury if the prosecutor asks you to?"

"Sure", he answered.

"Were you in the military?"

"Yes I was."


"How did you lose your eye?"

"It was shot out."

"No further questions."

The answer to the question was truthful, but it created the false but favorable impression that the eye had been shot out during combat. The prosecutor, heeding the cardinal rule that you never ask a question you don't know the answer to, asked no questions about how the eye was lost for fear of hearing a heroic tale about being ambushed by a squad of Chinese soldiers and shooting his way out.

As the lawyer watched his client step down from the witness stand, he couldn't help but smile. The power of suggestion could often work wonders in a trial. It also didn't hurt when two of the jurors were Korean War veterans.

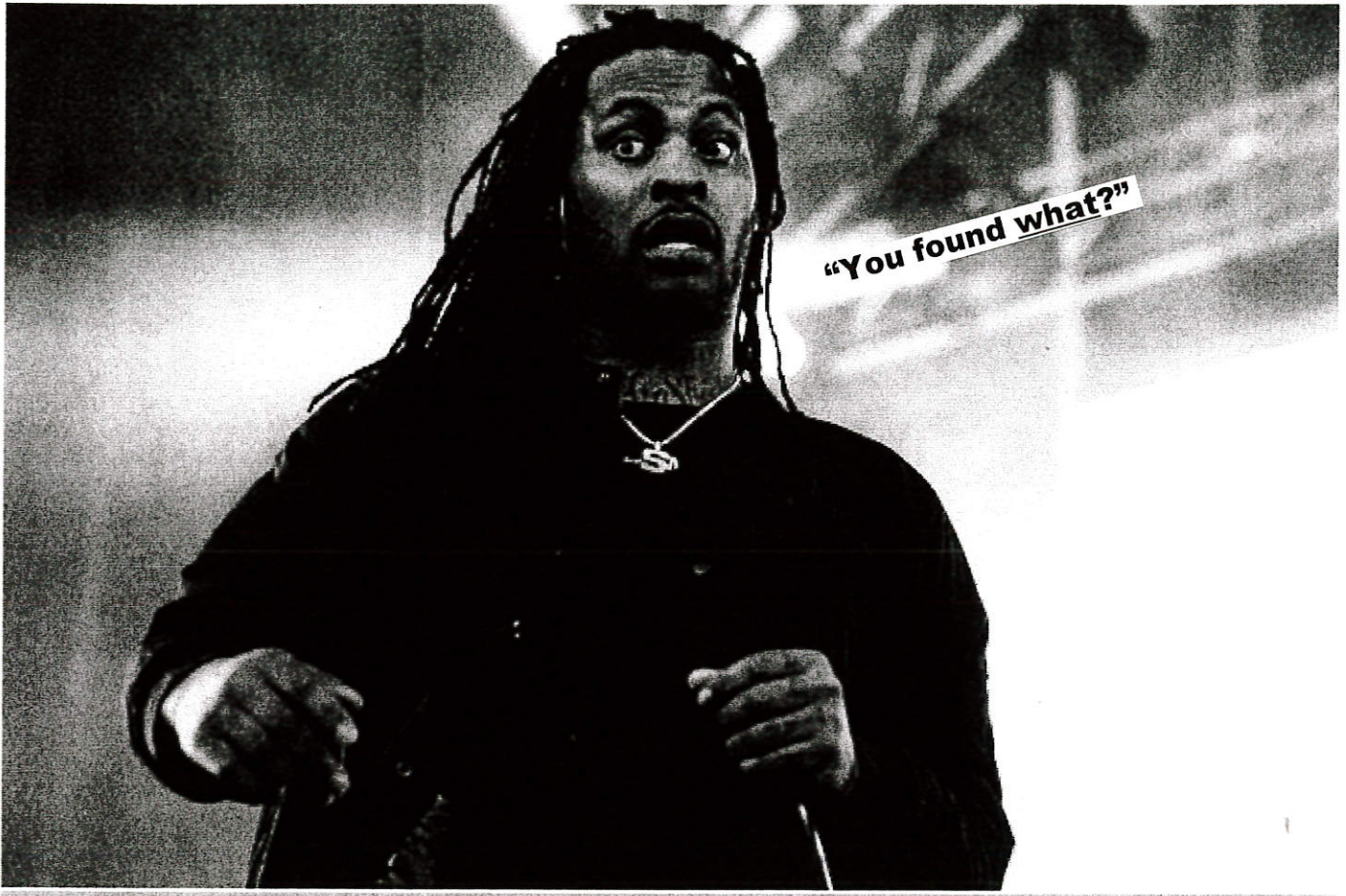
The jurors went out to deliberate, and the old lawyer went up to the top floor of the courthouse where he sat down on a bench and studied the beautiful murals that adorned the walls directly beneath the dome. As he looked around, he could feel the ghosts of all the great lawyers who had tried cases in the courthouse before him. His fervent hope was that someday he would be right up there with them. 



# Waka Flocka Flame found not guilty of gun charges

By Associated Press

March 9, 2017 | 3:02pm



Waka Flocka Flame  
Getty Images

JONESBORO, Ga. — A lawyer for rapper Waka Flocka Flame says a jury has found his client not guilty of charges filed after a handgun was found in his carry-on bag during a security scan at Atlanta's airport.

The rapper, whose real name is Jaquari Malphurs, was arrested in October 2014. He faced charges including carrying a weapon in an unauthorized location.

Defense attorney Drew Findling said a Clayton County jury took less than half an hour Thursday to acquit his client following a four-day trial.

Findling said he's extremely happy with the jury's decision. He said the defense had maintained from the beginning that the whole thing was a mistake; that the rapper had accidentally taken his wife's bag to the airport without knowing the gun was inside.

FILED UNDER CELEBRITY ARRESTS, COURTS, WAKA FLOCKA FLAME

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## The RoundTable

Steve LaCheen, Editor

Rita Bognanni, Staff



## Future Meetings

June 23-25, 2017: Montreal, Quebec

October 6-9, 2017: Greenbrier, WV

Feb. 16-18, 2018: Beverly Hills, CA (Montage)

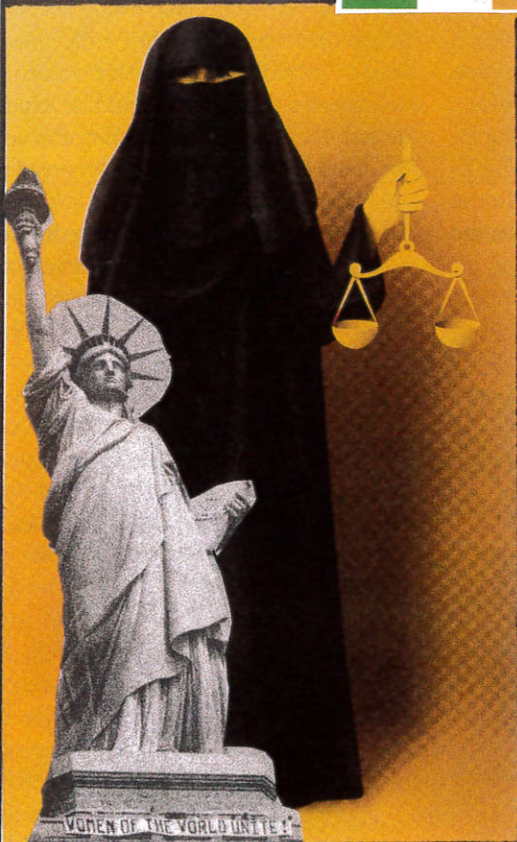
June 15-17, 2018: Edinburgh, Scotland (Balmoral)

Oct. 5-7, 2018: Cleveland, OH (RitzCarlton)

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“...with liberty and justice for all.”