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Memorable Murder Trials of Los Angeles

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MEMORABLE MURDER TRIALS OF LOS ANGELES

Sensational murder trials have always been a staple of Hollywood films, but the true life drama of Los Angeles criminal history is just as baroque. Behind the colorful characters and bizarre circumstances of the city's most infamous crimes, however, lie important legal precedents which have resonance in today's courtrooms.

By Gerald F. Uelmen

Los Angeles completed the first year of its bicentennial by setting a new record: 1,042 murders in one year. We're well on the way to breaking that record during the second year of our bicentennial, with murder trials becoming rather routine affairs in Los Angeles courtrooms. But it wasn't always that way.

A murder trial used to be a pretty spectacular affair. When Los Angeles boasted six daily newspapers, the headlines would blare out every gory detail of the evidence, and the lawyers who tried the murder cases became well-known celebrities. The headlines have faded, and the Rogers and Gieslers are gone now, but the cases are still there in the official reports. A few of the most memorable murder trials stand out among the many accounts on the shelves of the Los Angeles law library.

Gerald Uelmen's vignettes of Los Angeles legal history have appeared in the January 1980 and November 1980 issues of Los Angeles Lawyer magazine. He is a professor of law at Loyola Law School.

L. EWING SCOTT

There's a delightful story which regularly appears wherever trial lawyers gather, attributed to a different lawyer arguing a different case each time it's told:

A criminal defense lawyer is making his closing argument to the jury. His client is accused of murder, but the body of the victim has never been found. He dramatically withdraws his pocket watch and announces to the jury, "Ladies and gentlemen, I have some astounding news. We have found the supposed victim of this murder alive and well, and, in exactly one minute, he will walk through that door into this courtroom."

A hushed silence falls over the courtroom, as everyone waits for the momentous entry. Nothing happens.

The lawyer then says, "The mere fact that you were watching that door, expecting the victim to walk into this courtroom, suggests that you have a reasonable doubt whether a murder was committed." Pleased with the impact of the stunt, he then sits down to await an acquittal.

The jury is instructed, files out and files back 10 minutes later with a verdict finding the defendant guilty. Following the proceedings, the astounded lawyer chases after the jury foreman to find out what went wrong. "How could you convict?" he asks. "You were all watching the door!"

The foreman explains, "Most of us were watching the door. But one of us was watching the defendant, and he wasn't watching the door."

The story is apocryphal, but if there was ever a case where this tactic could have been used, it was the case of People v. L. Ewing Scott. Except L. Ewing Scott probably would have been watching the door.

Scott's wife disappeared from their
fashionable home at 217 North Bentley Avenue in Bel Air on May 16, 1955. She was never heard from again. Evelyn Scott was 63 years old, in good health, a bright, sociable lady with many friends. Twice divorced and twice widowed, her marriage to L. Ewing Scott was her fifth. She was worth more than $400,000 when she married Scott in 1949, and throughout their marriage she was his sole support.

After Evelyn disappeared, numerous friends and acquaintances asked Scott where his wife was. His explanations were inconsistent. He usually replied that she was sick and had gone away. Meanwhile, he found two new girl friends upon whom he lavished gifts of Evelyn's jewelry and other belongings. As suspicion grew, an investigation of Scott's financial transactions turned up an extensive pattern of forgeries to convert Evelyn's wealth to his use. Prior to her disappearance, Scott had convinced his wife to convert $200,000 in securities into cash, which was kept in a safety deposit box. Three days after her disappearance, he forged a signature card giving him access to the box. When the box was opened 10 months later, investigators found two sealed envelopes filled with sand.

Detectives went to the Scott home and probed the grounds with six-foot steel rods. All they came up with were a denture and some eyeglasses, both later identified as items Mrs. Scott had used every day. The glasses had been delivered to her only three weeks before she disappeared.

While the search for Evelyn continued, Scott was charged with 13 counts of forgery and theft. Released on bail, he fled to Canada and was not apprehended until one year later, when he was recognized by a Canadian customs officer while crossing the border after a trip to Michigan. Meanwhile, a murder indictment had been returned by the Los Angeles County Grand Jury.

Deputy district attorneys J. Miller Leavy and Arthur L. Alarcon (now a judge of the United States Court of Appeals for the Ninth Circuit) presented the case for the prosecution. They called more than 50 witnesses to weave a web of circumstantial evidence that excluded any reasonable hypothesis of innocence. At one point in the three-and-a-half month trial, an impatient Judge Clement D. Nye reminded the lawyers, "This is a trial, not a way of life." Defense attorneys Al Mathews and P. Basil Lambros found a store manager, a railroad ticket clerk, and a bar patron who swore they had seen Mrs. Scott in various places after May 16, but Scott himself never took the stand. The prosecutors made much of Scott's silence in their argument to the jury:

Mr. Scott wants you to go upstairs to the jury room and come back with a verdict saying, "Mr. Scott, you're not guilty." Yet Mr. Scott won't walk 30 feet to the witness stand, sit down, look you in the eye, and say, "Ladies and Gentlemen, I'm not guilty."

This was seven years before the ruling of the U.S. Supreme Court in Griffin v. California [380 U.S. 609 (1965)], in which Justice William Douglas dissented from a denial of certiorari in Scott's case, arguing that the Court should address the issue of the constitutionality of adverse comment on the defendant's failure to testify (364 U.S. 471). But L. Ewing Scott was too early with that argument. He was convicted of first degree murder, and the jury fixed the penalty at life imprisonment.

On appeal, the Second District Court of Appeals confronted a case that was considered "without precedent in this country." Never before had an American court decided a murder case in which the corpus delicti was proven entirely by circumstantial evidence. Invariably, there had always been proof of death by direct evidence, production of a body or an admission by the defendant. Thus, the court reached all the way to England for authoritative precedent, finding a close parallel in the case of Regina v. Onufrejczyk [1 Q.B. 388]
The Onufrejczyk case has made it into most law school criminal law casebooks to trip the tongues of first year law students. Justice Clement Shinn's opinion in People v. Scott [176 C.A.2d 458 (1959)] has not been accorded this honor, probably because he took 40 pages to summarize the facts. In affirming Scott's conviction, the court concluded that no theory of innocence could be constructed from the evidence. "Appellant merely says, and others may say, 'But Mrs. Scott may still be alive.' They would have to rest their belief upon some mythical or miraculous hypothesis, since it could not find support in any reasonable deduction from the established facts. But the law is reason; it does not proceed upon fantasy or remote and unrealistic possibilities" (176 C.A.2d, at 508).

L. Ewing Scott served every day of his sentence. He refused to apply for parole, insisting that a parole application would be construed as an admission of guilt. He whiled away the years preparing a series of writs, not only challenging his conviction, but challenging a host of minor indignities, including his exclusion from membership in the Loyal Order of the Moose. The docket for the Second District Court of Appeals contains no less than 11 different applications for extraordinary writs sought by L. Ewing Scott. Scott was ultimately released from prison two years ago, at the age of 85.

Since the Scott case, there have been other prosecutions in which the victim's body could not be found. Prosecutor J. Miller Leavy was recently called out of retirement to assist Hawaiian authorities with one such case. And Scott was cited as authority in upholding the conviction of Charles Manson for the murder of "Shorty" Shea, whose body has not been found. In People v. Manson [71 C.A.3d 1, 42 (1977)], the court held, "The fact that a murderer may successfully dispose of the body does not entitle him to an acquittal. That is one form of success for which society has no reward."

What became of Mrs. Scott's body is still a favorite topic for speculation among Los Angeles homicide detectives. Some believe that she became part of the Sunset Boulevard overpass on the San Diego Freeway. The overpass is a short distance from the Scott home, and fresh concrete was being poured on the day of her disappearance.

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Other theories include the poaching of a fresh grave at the nearby Veteran's Cemetery, or a makeshift grave in the mountainous terrain of Mulholland Drive, where Scott liked to take his new girlfriends for Sunday drives after his wife disappeared. The secret may never be known. As Justice Shinn put it, "We can only conclude that [L. Ewing Scott] has felt immune...in the belief that his wife's body lies where it cannot be found. This has been his attitude from the beginning" (176 C.A.2d, at 500). Apparently, it still is. But on the other hand, "...Mrs. Scott may still be alive."

RATTLESNAKE JAMES

The idea for using a rattlesnake as a deadly weapon originated a long time ago. The credit must go to a pond behind the house and drowned her. The snakes were even brought into court and marked as exhibits at the trial.

The evidence also included a full confession in which the defendant admitted this serpentine skullduggery. The confession was the proud accomplishment of a very persistent district attorney named Buron Fitts. For six months after the death of James' wife, Fitts had detectives shadow the barber in the hopes of uncovering evidence of murder. The detectives rented a bungalow next to James' home and secretly entered it to place microphones in his bedroom. For two weeks, every word spoken in the room was recorded on dictaphones next door. On the morning of April 19, 1936, the microphones disclosed that James was in a very com-
weeks later, after getting a confession from another participant in the murder, the DA decided to try again. James went out on his 1937 Chevrolet, and he managed to jump out just before the car went over the cliff. There were lots of things Crawford could not account for, however. He couldn’t explain why he was unscathed after jumping out of a car moving 50 miles per hour. The only explanation he had for not reporting the accident, which had happened 12 hours before, was that “they were all dead anyway.”

In reviewing these facts, the United States Supreme Court noted that the detectives and the district attorney had violated five different provisions of the California Penal Code in the course of their interrogation. “Their lawless practices here took them close to the line,” the Court stated. But the majority concluded the conduct was not so coercive that it infringed upon due process of law. After all, said the Court, the defendant exhibited “a self-possession, a coolness, and an acumen throughout his questioning, and at his trial, which negates the view” that he was coerced. Justices Hugo Black and William Douglas dissented, arguing that “due process of law, preserved for all by our Constitution, commands that no such practices as that disclosed by this record shall send any accused to his death.”

At his murder trial, there was a lot more explaining to do when the prosecution offered evidence of Crawford’s recent purchase of numerous insurance policies on the lives of his wife and children, and of his assurances to numerous people that he would soon have substantial amounts of cash. The most damning evidence of all, however, was the autopsy report. It revealed that four of the five victims died from concussions and hemorrhaging resulting from a crescent shaped wound on the forehead. The wounds matched the flat end of a jack hammer supplied as standard equipment on 1937 Chevrolet sedans.

Although Crawford’s lawyer, Bill Larsen, was an accomplished magician, it would have taken an impressive bag of tricks to explain away such overwhelming circumstantial evidence. And prosecution attorneys had a few tricks of their own. They arranged several experiments whereby automobiles similar in size and weight to a 1937 Chevrolet were allowed to descend the mountain without braking from the point where Crawford claimed his brakes went out. The cars coasted to a stop one mile above the point where Crawford’s
Chevrolet went over the side. The jury convicted Crawford of four counts of murder, and he was sentenced to four consecutive terms of life imprisonment. On appeal, the convictions were affirmed over Crawford's claim that the experiment with other cars lacked a proper foundation (41 Cal.App.2d 198, 1940).

The Crawford case was Bill Larsen's swan song as a criminal defense attorney. He accepted the case as a favor to his mother, who had once employed Crawford as the family chauffeur, but after it was over, he lost his appetite for criminal law. Larsen formed a traveling magic show with his family and made his mark as a magician. The family magic tradition is carried on today by his two sons, Milt and William, Jr., who own and operate the Magic Castle in Hollywood.

SLEEPY LAGOON

A few blocks west of Slauson Avenue and Atlantic Boulevard in the City of Maywood, a small city park lies beside the dry concrete bed of the Los Angeles River. Although nearly every Chicano in Los Angeles has heard of Sleepy Lagoon, not many know that this is where it was. But they know what happened here.

It was August of 1942. A birthday party was going on at the home of the Delgadillo family, 5509 East Slauson, less than a half mile from Sleepy Lagoon, a traditional lover's lane parking spot. A crowd of young Mexican-American boys and their girlfriends had left the Delgadillo party around midnight and gone to Sleepy Lagoon. While there, they were attacked and beaten by a crowd of boys from Downey. Seeking revenge, they rounded up as many as 10 carloads of friends and returned to Sleepy Lagoon. The Downey boys were gone, so the caravan proceeded to the Delgadillo party. There, a free-for-all ensued, and when the crowd left, the body of Jose Diaz was found with his head bashed in.

The response to all this was remarkable. The chief probation officer for Los Angeles County announced that every available man-hour was needed for a war effort against "kid gangsters," "gang members" and "saboteurs." The grand jury indicted 22 persons for the murder of Diaz. And police made dragnet arrests of what they called "puanchucos," taking 300 into custody in one day. The Mexican-American community responded with riots and demonstrations. The police responded with more arrests. After a 13-week trial before Judge Charles W. Fricke, 17 of the defendants were found guilty of various charges; 12 of them were convicted of the murder of Diaz. On October 4, 1944, the convictions of all the defendants were reversed by the California Court of Appeal in People v. Zammora, 66 C.A. 2d 166 (1944).

Although the prosecution had no witnesses to the killing of Diaz, they proceeded on the theory that a conspiracy to commit murder was formed before the caravan left to seek revenge at Sleepy Lagoon. Thus, as long as any member of the conspiracy killed Diaz, all were liable for the murder. While the court of appeal had no problem with this theory, it found the evidence to prove it sorely lacking. If an agreement had been shown, it was no more than an agreement to retaliate with fists. And no evidence established that Diaz met his death at the hands of any party to such an agreement.

The court could have stopped there, but it didn't. It went on to criticize the conduct of Judge Fricke in his repeated rebukes to the defense counsel during the trial. In this respect, Zammora is a very distinguished opinion. It is constantly cited by wounded defense counsel when they claim that a trial judge prejudiced their defendant-clients by impatient rebukes of the defense counsel. And the courts of appeal just as constantly find Zammora distinguishable from the case at bar.

The defendants contended they were prejudiced by frequent references during the trial to their membership in the 38th Street Gang. The court found that the term did not convey any opprobrious or sinister implications, saying: "It seems only reasonable to assume that the use of the word gang referred only to the usual and ordinary crowd of young people living in any particular neighborhood, who associate themselves together, and from time immemorial has been referred to as a gang." One can only wonder whether those words had the same ring in 1944 as they do today.

The claim of racial prejudice in the case was directly dismissed by the court in the final paragraph of the opinion. Noting that the victims as well as the defendants were of Mexican lineage, the court concluded:

There is no ground revealed by the record upon which it can be said that this prosecution was conceived in, born, or nurtured by the seeds of racial prejudice. It was instituted to protect Mexican people in the enjoyment of rights and privileges which are inherent in everyone, whatever may be their race or creed, and regardless of whether their status in life be that of the rich and influential or the more lowly and poor.

As to that conclusion, however, the court of appeal was not the final judge. The verdict of history in the case of Sleepy Lagoon has been a bit more harsh. Today, Sleepy Lagoon has entered the lexicon as a catch phrase for police repression of Chicanos.
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