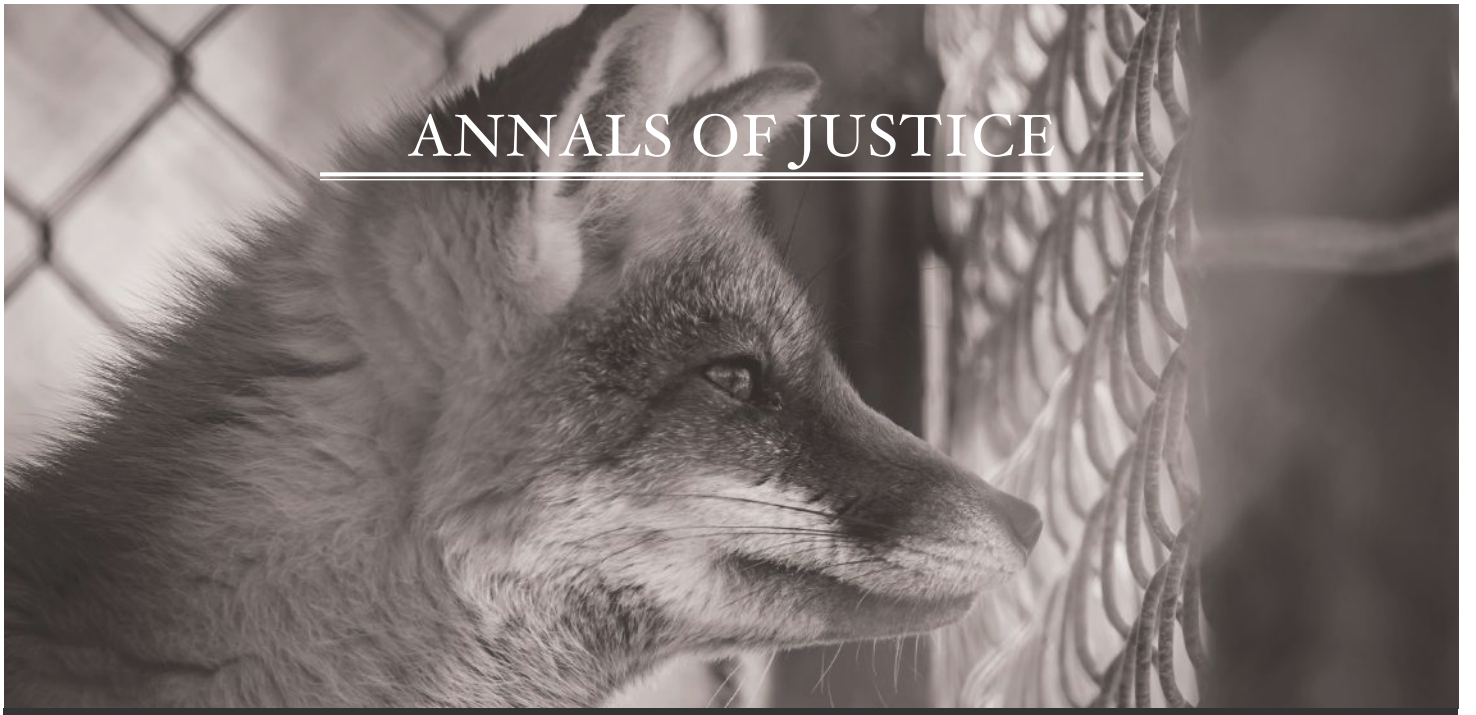

CHRONICLE OF THE SILVER FOX

By Steve LaCheen

Looking back 40 years, I do not recall why attorney Harold Levy chose to refer to me Ralph D., one of five clients of his caught in a DEA drug sting involving a kilo of cocaine. I knew Levy only by his reputation for having been removed as counsel in a contested divorce case when the judge learned he had become romantically involved with his client. As to the matter which prompted the call, Levy advised he would be representing the lead defendant, Ronald Raiton, and was scouting for counsel for Ralph and the others. From our discussion, the case seemed to present a viable argument for suppression of evidence, as well as a respectable fee, and I told Levy I was happy to oblige and looked forward to meeting my potential client, to be assured that the referral would be as acceptable to him as it was to me.

Ralph showed up for our meeting, accompanied by Levy's client, Raiton. After advising both that I was uncomfortable discussing the matter with Mr. Raiton in the absence of his attorney, and because I had no clue at that moment whether the matter would proceed to resolution with all five defendants still in lock-step, I thought it best to postpone any such discussion pending clarification of those potential conflict issues. Although somewhat nonplussed, Ralph gave me the requested retainer and said he would wait my call to reschedule. Raiton said nothing before they left; but 10 minutes later he was back in my office, alone.

He didn't like the fact that I had suggested that there was even the slightest possibility that any of the defendants might develop an individual agenda somewhere along the way; and besides, he wanted to be sure I knew that he was the real client. He was paying for everyone; he would be making all the critical decisions as to strategy; and he would be the ultimate authority as to how the case would play out in the long run. I told Mr. Raiton that, regardless of whatever arrangement he had with his co-defendants, I would have to assure myself that whatever decisions Ralph made would be made with full knowledge of all facts, and were not only made voluntarily but were in his best interests; all of which I said I would be discussing with Attorney Levy to be certain that it was understood that I was representing Ralph as an individual.

At that point, Raiton told me that he had a master plan that would keep everyone in the cocaine case out of prison. He knew he could give the government a prize they had been seeking for years: the prosecution of someone tied to the Philadelphia Mob for involvement in illegal drug activity. He intended to create the largest methamphetamine organization ever, to attract one of the big-name local mobsters, and then trade that information and cooperation for a key to the prison for himself and his co-defendants in the cocaine case.

I held up my hand to stop him from continuing and advised him that if he was telling me that he was going to commit an offense, or how he planned to commit an offense *in futuro*, it would not be a privileged confidence, and he should keep any such thoughts to himself. He smiled and asked if I now

[Ralph] handed it back and said, "No thanks. I think I just got the best advice I ever received, and it would be cheap at twice the price."

understood that he was the real client, because it was only through his efforts that he could save the other four, and he needed everyone to follow his directions to the letter or they would all end up in prison. That was why, he said, standing up to leave, that future meetings would include all clients as well as any attorneys who would be available.

The minute the door closed behind him, I called Ralph and told him I had to see him as soon as possible, alone, and in confidence, and not to speak to anyone before we spoke. We met in the restaurant two floors above my office, and I told him that, in my opinion, he and his co-defendants in the cocaine case were going to be sold out down the road by their leader to save his own skin. Whether Raiton's grand plan bore fruit or not, he was going to become a cooperator with the government, and that would require him to "come clean" with everything he knew about everybody; and "everybody" would necessarily include Ralph and the others, none of whom would have known of Raiton's cooperation agreement or been protected by it.

Since Ralph, not Raiton, was my client, I explained to him why I could not continue to represent him under the conditions set down by Raiton and, considering what I now knew of Raiton's plans, probably not under any circumstance. I said I would refund the retainer so he could retain other counsel. He asked for my advice as to what he should do, and I said he should do whatever he had to do to avoid stepping into the quicksand, and I handed him the envelope with the cash retainer.

He handed it back and said, "No thanks. I think I just got the best advice I ever received, and it would be cheap at twice the price."

We shook hands and he left. After advising Levy I could not represent Ralph subject to Raiton's rules, I had no further contact with that case.

About two years later, I received a call from Attorney Levy, who informed me that he and four of Raiton's associates had been indicted on charges of importing a 55-gallon drum of phenylpropanone, or P2P, a chemical used in the manufacture of methamphetamine, from West Germany by way of Canada, and asked me if I would represent him on those charges. The government's chief witness was his former client and associate, Ronald Raiton. My immediate reaction was that I would have to be certain that there were no conflict-of-interest issues arising from my prior brief representation of Ralph D.

The "Silver Fox," as Raiton had taken to referring to himself, had accomplished his goal.

"No problem, there," said Levy. "Ralph's not in the case; he wasn't even charged."

Raiton had in the interim done exactly what he said he would. He had created the largest, most successful methamphetamine operation in anyone's memory, while cooperating with the government. What Ralph had done was to take my advice to separate himself from Raiton and his co-defendants. Following their convictions in the cocaine case, he did not join in the appeal but surrendered to serve his sentence. He had been in custody during the entire relevant time, and that had saved him from being charged in the P2P. The other members of Raiton's old "crew," including my new client, the lawyer Levy, were in due course tried, and convicted, based upon the testimony of Ronald Raiton.

The "Silver Fox," as Raiton had taken to referring to himself, had accomplished his goal. After his proposal to become an undercover operative had been rejected outright by the Drug Enforcement Administration agents because they saw him as their ultimate target, Raiton rewrote the playbook. After being convicted in the cocaine case, and while making millions in the importation and sale of P2P and the manufacture of meth, Raiton found friendly government law enforcement agents to whom to sell his services. Rejected by the DEA, he looked for and found a home with the Federal Bureau of Investigation.

Raiton knew, from former "K&A Gang" burglars, with whom he had been involved in the meth business, that some of the local mobsters wanted in on the lucrative enterprise. They had no access to either the required raw materials or the know-how to create the finished product; but they did have the money and they did have an available distribution/collection network. Raiton had the knowledge and the ability to import P2P. So, it was a marriage made in Hell, one in which the mob, or at least one of its capos, Raymond "Long John" Martorano, was very much interested.

Raiton promised the FBI agents that he could deliver Long John on a silver platter, and they bought his proposition. Not only did he deliver as promised, he delivered 10 times over what he promised. Ultimately, Ronald Raiton was responsible for the prosecution and conviction of over 40 people. But that was later. In the beginning, there was Raiton and Long John, the last days of the K&A burglars turned meth cookers and distributors, and the ensuing legal pyrotechnics that were created as the result of the singular efforts of the Silver Fox. Martorano had taken the bait, and Raiton had trapped him and their K&A intermediary, and both were caught red-handed. Raiton's role as undercover operative was revealed, and the government indicted 40 of his associates for their activities on his behalf.

I represented one of the defendants in each of three "Raiton trials." In the first case—the prosecution of Ronald Raiton's early crew—I represented Harold Levy, who was charged with providing legal and extra-legal services to facilitate Raiton's importation of 55-gallon drums of P2P into the United States. The evidence was overwhelming—Raiton's surreptitious recordings of his associates were impossible to dispute—and all five defendants were convicted and sentenced, Levy to five years.

In the second round of cases, all guilty pleas, I represented Bobby F., a lower-level meth dealer who had been caught in a single transaction. His case was resolved by a negotiated guilty plea for a sentence of probation. And then there was the third case, which initially involved about 30 defendants, including Raiton's former intimates, friends, hangers-on and girlfriends, most of whom would eventually pleaded guilty.

The collection of those defendants assembled for their initial bail hearings before a federal magistrate resembled nothing so much as the tableaux vivant of an international fashion show, a collection of glitterati lacking only paparazzi. Raiton had, pursuant to his cooperation agreement with the authorities, turned on and turned in everyone with whom he had any relationship, including two girlfriends, each unaware of the existence of the other. My new client, Roman Smolen, had been the captain of Raiton's yacht, the Antares, which the government claimed had been used to transport P2P from the Bahamas to Miami.

That trial, referred to as "Raiton III," followed the two earlier trials and two years of defense investigative efforts that had uncovered a bumper crop of material with which to impeach Raiton, including the fact that the government had permitted Raiton to send several million dollars out of the country to some banking safe haven in Europe even though his wife was suing him for back child support. He had sold his condominium and furniture in Florida to one of his FBI handlers at less that bargain prices; and he had committed several other violations of FBI informant protocol, including making a $50,000 loan to a former assistant U.S. attorney. The defense was well prepared to cross-examine Mr. Raiton.

It would be superfluous to try to capture here the daily sturm und drang of that jury trial, in which the nine holdout defendants were confronted with the overwhelming evidence compiled against them by their erstwhile leader, Raiton—corroborated by his latter day cohorts in the Philadelphia Police Department Drug Task Force and the newly minted FBI Drug Squad. Suffice to say, the trial itself proceeded at a frenetic pace over a period of several months.

I do not recall much of the day-to-day testimony. What I do recall were two incidents when I was able to score significant admissions from a major prosecution witness, which clearly affected the jury's perception of their credibility.

Why, I wondered. It couldn't be that the government had gone to bat for him because he had not yet been cooperating with the government. So, why?

The first occurred during the cross-examination of Lt. John Wilson, the leader of the so-called "Five Squad," the Philadelphia narcotics officers who had been instrumental in working with the recently formed FBI Drug Squad, which had no prior experience investigating and prosecuting drug cases. Lt. Wilson had taken a particular interest in working with Raiton, and there was some suspicion that he had probably squeezed some personal benefit from the arrangement.

Wilson testified to the execution of a search warrant at Raiton's apartment and acknowledged preparing the inventory listing of the various items seized, which included a Glock pistol. But the government had not turned over a corresponding property receipt. I subpoenaed the property receipt, which, upon production, was revealed to be an after-the-fact falsification. On cross-examination, Lt. Wilson admitted that he had taken the gun for himself, with Raiton's blessing. It wasn't the proverbial "smoking gun," but it served to illustrate for the jury one more way in which Ronald Raiton had corrupted the law enforcement agents into serving him rather than the other way around.

The second incident of successful cross-examination involved the Silver Fox himself. Raiton testified as expected, and each defense counsel then cross-examined him. Most of the examinations followed the usual pattern—concentrating on the informant's own offenses, the extent of his ill-gotten gains, the enormous long sentence he was facing, and his expectation of leniency in return for his cooperation—for all of which the federal prosecutors had "prepped" Raiton to expound on his newly found path to morality on the side of the angels.

When it was my turn to cross-examine Raiton, I did not want to rehash what had been accomplished by other counsel, so I took a different tack. I confronted Raiton with a number of instances in which he had previously signed a document under oath in which he made a promise that was either false when made or false as a promise intended to be broken.

I started with some simple documents, such as his signature acknowledging bail conditions in connection with his original arrest on the federal cocaine charges several years earlier, each of which conditions he grudgingly admitted he had violated, as well as similar conditions of his bail pending appeal in that case. I also cross-examined him with regard to false statements he had made in connection with various applications filed with the state, with his landlord, with credit card applications, and, then, most important, his signature on his acknowledgment of the conditions of his probation following his New Jersey state conviction a half-dozen years earlier for engineering an illegal food stamp scheme. I questioned Raiton about promises he had made under oath to the federal judge that he would not commit another crime if granted bail on appeal, which Raiton cheerfully and brazenly admitted.

Then, for no apparent reason, he threw out the line, "Isn't that how it always goes? That's how it always went for me. But those promises are really hard to keep counselor."

I asked him if he had made the same promises to the New Jersey state court judge before whom he had pled guilty for the food stamp fraud at a time when he was already engaging in the conduct that landed him in federal court in Philadelphia in the cocaine case, and he responded in the affirmative. On further probing, he admitted, almost gleefully, that he had lied under oath almost every time he had the opportunity to do so, "until now," that is.

I had gotten from Raiton as many admissions as I would need to make my final argument, but I wanted one more, so I returned to his prior courtroom falsehoods.

I had obtained a transcript of Raiton's sentencing in the New Jersey fraud case, in which he had sworn to the judge that he had been living a crime-free life, and I wanted him to admit that he had already been engaging in the criminal conduct leading to his conviction in the cocaine case when he made those statements—and had never suffered any punishment therefor. So, I asked him if he had been brought back before the judge in New Jersey for violating his probation after he had been convicted in the federal cocaine case. Raiton admitted he had, in fact, appeared before the judge in New Jersey, and that his probation in that case had not been revoked, and he had never been sentenced for violating his probation.

Why, I wondered. It couldn't be that the government had gone to bat for him because he had not yet been cooperating with the government. So, why? And then it hit me.

"You bribed that judge, didn't you?" I asked.

The ensuing silence was palpable. Raiton opened his mouth as though to deny the accusation, then closed it and just sat there, silent, until the judge directed him to answer.

"Well," said Raiton, "I can't say for sure, but that's what my lawyer said the additional $25,000 was for."

Bingo! It didn't make any difference whether the judge actually ever received the bribe; what the jury next heard was Raiton's version of what the lawyer had told him about when and to whom the payment was made, and how Raiton believed that it was with that payment he had bought his way out of a jail sentence in that case. And now, he was trying to do exactly the same thing, not just by legitimate cooperation with the authorities, but with the bribes with which he bought his way into the FBI, and the gifts and below-market bargain sale of his Florida condo, the gift of the firearm to Lt. Wilson, the $50,000 loan to a former assistant U.S. attorney, etc. In other words, this was just another stitch in the same pattern.

We had a field day with our closing speeches to the jury; and the jury reciprocated in the only way they could: by acquitting the defendants. When the formal proceedings were concluded, the jury foreperson sent a note to the judge asking if it was permissible for the jurors to invite him and all counsel to a celebratory drink at a nearby restaurant. The judge said he would not attend, but counsel were free to do so, if they wished. And we did indeed.

We had a field day with our closing speeches to the jury; and the jury reciprocated in the only way they could: by acquitting the defendants.

Over drinks and snacks later that afternoon with the defense attorneys who attended (no prosecutor showed up), the woman who had been the foreperson told us that none of the jurors liked Raiton from the beginning, and, as the trial when along, they came to see him as "a Godless man," whose word would never be received as being truthful, let alone sufficient to convict someone of a crime and take away their freedom.

I never saw my client or any of the other defendants in Raiton III again, but there were several interesting developments in the aftermath of that trial:

First, the judge, on his own, scheduled a hearing for the five defendants who had been convicted in Raiton I, including my client Levy. The judge made a statement on the record that he believed the government had been guilty of misconduct in their dealings with Raiton, and he invited defense counsel to submit motions for reconsideration. We did, and he reduced the sentences of all five defendants—Levy's to time served, freeing him on the spot.

Second, about a month later, I received a phone call from one of Raiton's FBI handlers, who informed me that Raiton was having a problem with U.S. Probation on his federal conviction in the cocaine case, and he wanted to retain me to represent him in that matter. I declined the invitation.

Third, another word about Lt. Wilson and the Five Squad: several years later, after Wilson and five members of his squad had themselves been convicted of extorting money from drug dealers and related offenses, then ex-Lt. Wilson referred to me one of his squad members on whose behalf I obtained a reduction of his sentence. That, however, is a story for another day.

Raiton, too, had "another day." After completing his sentence on the cocaine case, and salting away his ill-gotten gains offshore, he returned to the United States, and some years later became involved in a murder-for-hire conspiracy and the use of a helicopter to airlift a lifer to escape from prison in California. He was able to play the double agent card again and avoided going to prison again. I was contacted by an attorney representing the defendant against whom Raiton was the chief witness, and I provided him with as much information as I had, and I believe it helped him negotiate a satisfactory plea for his client.

I never heard anything further about Ronald Raiton. I assumed that the Silver Fox had gone to ground. I never had sufficient interest to find out for sure . . . until now, that is. According to Google, he is 84 and living in San Francisco under an assumed name. ■

Steve LaCheen *(slacheen@concentric.net), a partner with LaCheen, Wittels & Greenberg, is a member of the Editorial Board of The Philadelphia Lawyer.*