

*From the editor: on losing: the case of former NY State Supreme Court Justice  
Vincent Keogh  
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John McCain gave a gracious concession speech, but neither he nor any of us trial lawyers probably take losing very well. Judge Ed Korman once said something like, “It’s easy to forget your wins, but the cases that stick with you are the ones you lost.” Judge Korman was trained in part by the late Simon Rifkind who taught that you had to bring passion to your advocacy. Since most of us do bring passion, we don’t walk away from a loss with 100 percent peace of mind- however good a job we might have done.

In my first three years as a rookie lawyer at White & Case, the cases on which I worked, for the most part, reached successful resolution points. Texas Gulf successfully defended the case against it by the SEC at the trial stage before the Second Circuit remanded it for further proceedings, White & Case client Aramco was successful in a little jury trial in which I second-seated an esteemed trial lawyer, Chester Bordeau, and White & Case client, the Bond Buyer, was successful in enjoining a newspaper competitor from stealing news from the Bond Buyer’s wire service. When White & Case partner Jack Johnston, stood to argue the appeal in the First Department the late Justice Aaron Steuer, a former White & Case lawyer, said, “Sit down Captain Johnston.” Jack had lost both legs below the knee to German machine gunners in WW II. The case was won by the client when it’s editors put fake news stories on its wire service, which were copied faithfully in the competitor’s newspaper.

It was at this point, that White & Case loaned me out full time for almost a year to the lawyer representing the late Vincent Keogh in a disbarment proceeding. Vincent Keogh was the brother of then Brooklyn congressman, Eugene Keogh, who had close ties

to White & Case partners. Former New York State Supreme Court Justice Keogh had been convicted of the federal crime of conspiring to improperly influence a federal judge. Since conspiracy was a federal felony but a NY State misdemeanor, Keogh was entitled to a *de novo* hearing on the issue of his fitness to remain an attorney. A felony conviction would have required automatic disbarment. The late Bruce Bromley, Cravath senior partner and a leader of the bar, had been appointed as hearing officer. Keogh's criminal trial had been before the late Judge Edward Weinfield. At the criminal trial, Keogh's co-defendants were former Eastern District of New York acting U.S. Attorney Elliot Kahaner and Long Island "businessmen," Anthony "Ducks" Corallo and Sanford J. Moore.

The indispensable witness in convicting Vince Keogh had been orthopedist Dr. Robert Erdman. He was a frequent visitor to the Brooklyn courts as an expert witness in tort cases. Vince Keogh sat as a judge only in the condemnation part of the New York Supreme Court for Kings County, and he was apparently not concerned when Erdman cultivated his friendship. Keogh frequently rode in Erdman's limousine, and according to Keogh's testimony, when he was a bit short in being able to pay for screen and storm windows and doors for his Great Barrington summer home, Erdman was only too happy to lend him the money.

Thereafter, at some point in the relationship, Erdman sought Keogh's help in securing consideration for a light sentence for Moore who was being sentenced by U.S. Bankruptcy Judge Leo F. Rayfiel. Erdman asked Keogh if he would put in a good word for Moore with his friend Rayfiel. When Keogh started to say something at lunch at a

downtown Brooklyn restaurant, Rayfiel stopped Keogh abruptly saying something like, “Stay away from this one Vince! It’s dirty!”

The matter might have ended there, but legend has it that Attorney General Bobby Kennedy was walking through the Brooklyn U.S. Attorney’s office with his arm around acting U.S. Attorney Kahaner when Ducks Corallo saw them. Corallo was being questioned in connection with a plea bargain and stopped the questioner and pointed at Kahaner while Kennedy’s arm was around him. Corallo said, “I don’t know anything about what you’re talking about, but I do know something I can tell you about him (pointing to Kahaner.) Corallo told the questioner that he and Moore had paid \$35,000 through Dr. Robert Erdman of which \$17,500 was paid to Kahaner and \$17,500 was paid to Keogh for his approach of Rayfiel on the behalf of Corallo’s business colleague, Moore.

Thus, on the basis of Corallo’s, Erdman’s and Moore’s testimony Keogh and Kahaner were prosecuted. Erdman agreed that he had taken the \$35,000 from Corallo and that he had paid \$17,500 to Keogh on Moore’s behalf. Although the jury was out for a long period apparently deadlocked, and Judge Weinfeld twice gave the jury an “Allen charge,” both Keogh and Kahaner were convicted. Keogh was sentenced to two years of which he served eight months in a federal penitentiary before being paroled. Philip Handelman, Keogh’s lawyer in the disbarment hearing had hired investigators and tried to use the disbarment hearing to develop enough evidence to seek *coram nobis* relief in federal court. There were a number of items developed such as evidence about Moore’s and Corallo’s background and as to Erdman’s character including evidence that he had

been decertified as a physician in New York for diverting a patient's drug prescription to his own use.

As I recall, I digested about 4,500 pages of testimony for the criminal trial and about the same for the disbarment trial and wrote a post hearing brief of over 75 pages. Despite my good efforts, Referee Bromley disbarred Keogh; he was also unsuccessful in the *coram nobis* proceeding in which I had much less of a role. Having left White & Case, I had only a limited amount of spare time to work on the federal proceedings.

There were a lot of believers that Keogh was innocent including the late powerful Kings County Surrogate, Nat Sobel. Sobel frequently participated in strategy sessions with Handelman, me and Handelman's two associates, Bob Trien and Art Sobel. (Art is a friend to this day.) Judge Sobel critiqued my post hearing brief and worked with me in the writing of it. Weinfeld, of course, was not one of the believers and there is some irony because Judge Sobel was apparently about as close to Weinfeld as he was to Keogh.

Years later when I was serving on the New York City Bar Federal Court's Committee, the chair, then Debevoise partner John Koetl, invited Judge Weinfeld for dinner with a few of us on the committee. We were to participate in a federal courts panel on which Judge Weinfeld was also a panelist. At dinner, the revered judge reminisced about the evening he got a call from Manhattan District Attorney Morgenthau. He asked Judge Weinfeld if he had a few minutes to spare to meet someone. The judge said "yes" and a short time later Morgenthau was in his chambers with by now Senator Robert Kennedy. According to the judge, Bobbie wanted to know about the Keogh trial since he had taken a lot of heat from his father and his brother John

for prosecuting Keogh. (In John Kennedy's race for the White House in 1960, Gene Keogh had been a key person in delivering the New York delegation to Kennedy.) The judge told the senator, "Don't worry. The evidence came in like a tide at the end!"

I said nothing to Weinfeld- who was like a God to me- about my efforts for Keogh and my belief in his innocence. In some way my own innocence as a lawyer was broken by the Keogh case. I had very little responsibility for Justice Keogh losing his post trial proceedings and no responsibility for his losing the criminal trial, yet, the case still sticks with me more than any other one. To this date, I still believe Justice Keogh's story. He was a nice man and I regret the tragedy to his family. Unfortunately, at the very least, he broke a "people, places and things" rule that almost every good judge follows, *i.e.*, be cautious about the "people" with whom you fraternize; don't go to "places" or events where your appearance would not be seeming for a judge, and don't take "things" from anyone not in your family, etc.

There is one other footnote. One of the other people on (now Judge) Koetl's Federal Courts committee had been a law clerk to Judge Weinfeld as had Judge Koetl. This fellow told me that when he came to work for Judge Weinfeld, the senior law clerk told the newcomer that there was one matter which he was not to touch, "a case involving some old judge;" that case was one on which "Judge Weinfeld wanted to work on by himself."