

THE SAN ANTONIO DEFENDER

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THIS IS YOUR ORGANIZATION!

SACDLA Remembers

Harry Nass

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Harry Nass, Constitutional Lawyer

by Mark Stevens

Harry Nass, a charter member of both the Texas, and the San Antonio Criminal Defense Lawyers Association, died on January 11, 2010. He was 76, and had been a lawyer for more than 50 years.

Harry carried inside his jacket pocket a well-worn, pocket-sized copy of the United States Constitution. I don't remember when I first saw it, but he told me he never went to court without it. For years after this, whenever I saw Harry, I would ask to see his Constitution, and he always had it. Although Harry may have actually used the booklet in court on occasion, I always thought its real purpose was not as a research tool, but rather as something inspirational, something tangible to remind him every day why he did what he did.

To be sure, Harry was a fine lawyer, certainly one of the best ever seen in San Antonio.¹ But he was more than a lawyer. He liked rockabilly music, and played the guitar. He drove an old white pickup truck, usually with a few empty Lone Star beer cans rattling around in the bed. He was a faithful Catholic who rarely missed the 8:00 am Sunday mass at Blessed Sacrament. He was the proud son of a San Antonio lawyer, Harry Nass, Sr., and he and Jeanette, his wife of 55 years, raised five children. The first thing Harry asked me whenever I saw him, without fail, was, "How are Miss Stephanie and your girls?" After that we usually talked a little law.

Before I met Harry, I heard another lawyer call him "Nasty Nass". This guy was a former prosecutor who had been bested by Harry in an important criminal case, and probably still carried a grudge. In fact, there was nothing nasty about Harry at all. I never saw him lose his temper or even raise his voice in court. To the contrary, he had just the right attitude with prosecutors: he was respectful, courtly even, but he never, ever, played the groveling bootlicker, afraid to say anything that

might possibly offend a vindictive opponent, thereby precipitating withdrawal of a plea offer, or Heaven forbid, a jury trial. Harry was not mean-spirited at all, but he certainly understood that ours is an adversarial system of justice. And pity the poor fool who tried to bully or bluff Harry Nass the way she had done before with some other less tenacious member of the defense bar. That was just not going to happen.

I remember exactly how I met Harry. In 1984 a man named Casillas was stabbed to death on Fridell Street on San Antonio's deep west side, and two brothers were indicted for his murder. I was appointed to represent "Pino", and another lawyer was appointed for "Kiké". I asked for a meeting with Kiké's lawyer at his office, and was surprised to see Harry, who I knew of, but had never met. Eventually I learned that the other lawyer had been appointed, but, feeling himself not up to the task, had asked Harry to help. Harry not only helped, he took control of Kiké's defense. Kiké's case was called to trial before his brother's, on a Monday morning in September, 1985. Ten days later, just before midnight, the jury found him not guilty. Court-appointed lawyers today complain about inadequate compensation, and rightly so, but things were much worse 25 years ago. I doubt that Harry and the other lawyer split more than \$2000. for this lengthy and difficult murder trial. But Harry didn't do that one for the money. A brother-lawyer needed help, and Harry Nass was there for him. That's all.

Harry knew a lot about cross-examination. He and Charlie Butts reversed two murder convictions long ago in the Court of Criminal Appeals,² producing a seminal Texas case interpreting *Davis v. Alaska*. There was a time when the only thing I knew — or thought I knew — about Sir Walter Raleigh was that he once lay his cape over a puddle so that Queen Elizabeth would not get her stockings muddied. Harry taught me that Sir Walter had actually been an early hero in the battle to gain the

right to confront one's accusers. Charged with treason, the main evidence against Raleigh was a letter written by one of his alleged accomplices, Lord Cobham.³ The court ignored Raleigh's demand: "let Cobham be here, let him speak it. Call my accuser before my face." Though Raleigh himself got no relief — he was convicted, confined for years in the Tower of London, and eventually executed — his misfortune resulted in reforms in English law, and went on to form the basis of our Sixth Amendment right to confrontation. When you asked Harry Nass about cross-examination, you often got a history lesson for no extra charge.

About 15 years ago, Ed Camara and I tried a murder case in the 226th. A venire of 60 took their seats in the courtroom, and Harry was among them. I told the prosecutors that they could have their peremptories and all ten of ours if they would just consent to Harry's impanelment. Not surprisingly, they declined. Immediately. And in no uncertain terms. After we examined the group and made our strikes, Jude Harle called the 12 lucky citizens forward, including Harry Nass. Harry bounded out of his seat and made his way toward the box, and the two prosecutors looked at each other, devastated and thinking that they had made the blunder of their careers. The judge quickly announced that he was just joking, the prosecutors' hearts starting beating again, and everyone else had a good laugh. Our client was convicted of a lesser offense, a misdemeanor,

and that wasn't bad, but I think she might have fared even better had Harry served.

I was so impressed with Harry's pocket-sized Constitution that I wrote to Congressman Henry B. Gonzalez, and requested one for myself.⁴ I carried it for a while, then stopped. Now that Harry is gone, I've started bringing it with me again when I go to the courthouse. It reminds me of one reason why I do what I do. It also reminds me of Harry Nass, a real lawyer, and a really good man.

Footnotes

¹ We criminal lawyers try to claim Harry as one of us, but he was also an effective civil litigator. And, over the years he represented many, many police officers and firefighters administratively, before the San Antonio Firemen's and Policemen's Civil Service Commission.

² *Evans v. State*, 519 S.W. 2d 868 (Tex. Crim. App. 1975).

³ See Raleigh's case, 2 How. St. Tr. 1, 27 (1603).

⁴ I did not live in Congressman Gonzalez's district, but I would not have owned or carried a Constitution provided me by my own representative, a man who seemed to have little understanding of, or appreciation for, our Bill of Rights. If you have similar misgivings about your elected official, I suggest you contact Henry B's son, Congressman Charlie Gonzalez, a former Judge from San Antonio, who, like his father, has an excellent grasp of the Constitution.

JUDGE LISA K. JARRETT

436TH DISTRICT COURT

Welcome to the newly created 436th District Court, a juvenile court that works alongside Judge Carmen Kelsey's and Judge Laura Parker's Courts. The Court is located at 600 Mission Road in the same building as Juvenile Detention.

Our Associate Judge, Yvonne Gomez, will be starting February 9, 2010. Our Court Reporters are Holly Dietert and Candy Zavala.

The main number for our Court Coordinator, Jesse Alvarez, is 335-1194. Our fax number is 335-7685. Our Clerks are Jessica Bogardus, Alice Gonzales and Jode Sanchez. Our bailiffs are Joe Salinas and Krissy Perez.

Normally, the main docket is called on Fridays at 8:30 am. At that time, parties will be able to confer and either stipulate (plead) or reset their case for stipulation or trial. Additional dockets will be called Monday through Thursday at 8:30 am, as the case load dictates. Trials will normally begin on Tuesday mornings, with contested motions being heard the day before. Detention hearings will be held at 2:30 pm Monday through Friday.

Everyone in the 436th District Court is eager to work with you. Please let us know if we can help.

