

Lewis Walked Into the Unknown and Made a Difference

By Matthew Keenan, Shook, Hardy & Bacon, Kansas City, Mo.

Lawyers, by the nature of their profession, seek to make a difference in the lives of their clients. Whether it's writing a will, defending a civil suit, or representing someone on the brink of losing his or her civil liberties, this is what separates lawyers from doctors or any other profession. But as the writer Tom Peters once said, "unless you walk out into the unknown, the odds of making a profound difference are pretty low."

One would be hard-pressed to find anyone who took a bigger leap into the unknown than Bob Lewis, the former Court of Appeals judge, who passed away four years ago. But if you think Bob Lewis was just an appellate judge, then you don't know about his role as a criminal defense lawyer in one of the most notorious crime sprees in Kansas history. That would be his representation of James C. Hunter. And if Hunter's name is not familiar to you, all of that is about to change.

The paths of Hunter and Lewis converged in a dramatic way in the month of January 1985 when Lewis was assigned to defend Hunter against first-degree murder charges in Thomas County.

The Crime

Hunter was one of three people charged with a crime spree in Northwest Kansas. When the criminal justice system ran its course, there were three trials and their ultimate conclusions were something no one could have possibly anticipated. And through it all, a community torn by violence found ways to make peace.

While there are many facts in dispute, a few are not controverted. Hunter lived in Amoret, Mo., a small town just across the state line from La Cygne, Kan. On Feb. 13, 1985, he was hitchhiking from Texas to the Kansas City area. Near Wichita, the car that picked him up already had three passengers — Mark Walters, Lisa Dunn, and Daniel Remeta. What Hunter did not know was that at least one of these passengers had already murdered four people in Florida and Arkansas, and the number of victims was about to grow.

With Hunter as their new passenger, and driving north on I-135, they turned west, not east, on I-70. Four hours later Remeta would murder a 27-year-old worker at the Stuckey's Restaurant at the Grainfield exit off I-70. By 4 p.m. authorities had discovered the crime and the chase was on. Soon thereafter, Thomas County Undersheriff Ben Albright pulled the car over.

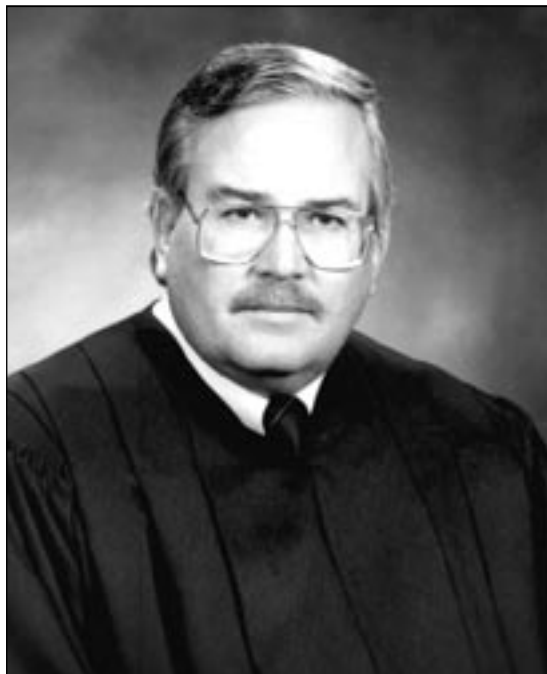
One of those four passengers shot Albright twice; he survived his serious injuries to become an important witness implicating Hunter. Thirty minutes later Remeta and his pas-

sengers arrived at the town of Levant, a nearby community of 100 people. Two young workers at the grain elevator there — Rick Schroeder, 29, of Levant, and Glenn Moore, 55, of Colby — were shot execution style leaving two families with six children between them.

An hour later, after a shootout near a farm house, Mark Walters was shot and killed, and Remeta was wounded. Remeta, Hunter, and Dunn were all charged with two counts of first-degree murder and multiple related felonies. Remeta and Dunn faced additional counts from the crimes committed in other states.

The Appointment

District Judge Keith R. Willoughby asked Bob Lewis to represent Hunter. Willoughby also appointed Jake Brooks, of Scott City, to represent Dunn, and Jerry Fairbanks, of Goodland, to defend Remeta. Lewis had worked in the Attorney General's Office for two years after law school. He then served as Rawling county attorney from 1967-1971. Brooks had a specialty in criminal cases and Fairbanks had served as Wallace County attorney for eight years. Still, this was a daunting task for many reasons. For starters, it was the first murder trial in Thomas County in more than 30 years. It was also the first Kansas trial to be televised live, gavel to gavel, and garnered nationwide publicity. The Detroit Free Press, in its June 17, 1985, edition reported from Colby



Hon. Robert J. Lewis Jr.
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that the "daily broadcasts emptied the streets of shoppers to the point where the Franklin Street merchants could tell recesses by the sudden and short-lived flurry of customers."

Another newspaper reported, "Police said they had received numerous death threats at the rural jail where the trio was being held, and early this morning, moved the three to undisclosed jails elsewhere." "Authorities had feared vigilante reprisal ever since news of the killings rocked rural northwest Kansas . . ." Efforts to change the venue in May 1985 were unsuccessful. "There was no question the community felt threatened; but the citizens recognized we as counsel had a job to do and never once did I have a disrespectful thing said to me by the people in Colby," said Jerry Fairbanks.

The Trial

Ben Albright, who survived multiple shots, was a key witness against Hunter. He testified that he believed the man who fired shots at him had, according to, the Kansas Supreme Court's opinion, "shoulder-length brown hair and a full beard." That description matched Hunter. There were two guns used in the crimes, a .22 and a .38 caliber. Dunn and Hunter testified that

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Remeta used the .38 and never parted with it. He told anyone who would listen that “it was ‘his baby.’” Albright was shot with that gun.

The events at the Levant elevator also implicated Hunter. As described in the Kansas Supreme Court opinion: “The testimony concerning Hunter’s activities at the Levant elevator conflicted greatly. [Elevator manager Maurice] Christie testified that he observed ‘a bearded man,’ later identified as Hunter, holding a gun in the face of Rick Schroeder and forcing him into a pickup truck. [Assistant Manager Fred] Sager testified that he saw a bearded man with a gun in his hand and that Rick Schroeder got into the pickup by himself. [Grain elevator employee] Dennis Tubbs testified that Hunter held Schroeder’s arm and told him to get into the pickup.”

Hunter insisted Remeta committed the crimes and forced them to tag along, leaving them unable to get away without being shot. Hunter testified Remeta had bragged about having killed 12 people, including a hitchhiker, and made it clear he didn’t leave witnesses. Dunn likewise testified she had been raped and beaten by Remeta, who clearly was the ringleader. Remeta testified in the Colby trial and did not dispute these characterizations.

At the close of evidence, Lewis requested an instruction for compulsion; Judge Willoughby denied it, because at that time, compulsion was not recognized as a defense to felony murder. After 12 and a half hours of deliberation, jurors found Hunter and Dunn guilty on all counts. Both received four life-prison terms.

The Appeal

On July 17, 1987, the Kansas Supreme Court unanimously reversed the verdict against Hunter, saying the trial judge was wrong when he refused to allow jury members to consider whether Hunter was acting under “compulsion.” But this determination required a lengthy analysis by the Court. It noted: “[w]hether the defense of compulsion is available to a criminal defendant charged with felony murder under K.S.A. 21-3401 is an issue of first impression.” The opinion analyzed the issue and concluded: “The better view, consistently adhered to by commentators, is that any limitation to the defense of duress be confined to crimes of intentional killing and not to killings done by another during the commission of some lesser felony.”

Remeta never went to trial. In May 1985, he pleaded guilty to three murders, two kidnappings, and two other shootings. In July 1985, Remeta was sentenced to five life-prison terms. He was executed in Florida for crimes in that state on March 31, 1998.

The Retrial

Hunter was tried again in January 1988 at Hays. Co-counsel Scott Beims described how this trial was different. “The original KBI investigator — the one who took the initial statements — was replaced after several days by investigators from Topeka. His early investigation was much more favorable to Hunter than the later witness interviews. In the retrial, we called him in our case in chief. It made a big difference. The implication was that Hunter became a focus of the second group of investigators, and with the passage of additional time, the witness statements became less favorable. We still

had a lot of obstacles. Albright was pretty emphatic the person who shot him had a beard. But we demonstrated that Hunter was in the back seat of the car and he may have been the last person he saw before being shot. Plus the fact that Remeta never let anyone else use his gun.”

In his closing argument, Lewis underscored the only defense he had — compulsion — “I don’t know that I have ever talked to or heard the testimony of a more cold-blooded murderer than Daniel Remeta,” Lewis said. “Killing people, to Daniel Remeta, is about like swatting flies to you and me.”

Once the jury was given the case, the court discharged one alternate juror, Beims remembered: “It was a lady, and she approached us and started to cry. We didn’t know what she was about to say. And she said ‘I know he

isn’t guilty and I’m not going to get the chance to tell anyone that.’ It left quite an impression on us. We obviously wished she was deliberating the case.”

The Ellis County jury acquitted Hunter on all seven charges. “It was bittersweet obviously because he came to appreciate that Hunter was no killer. But we also came to know and like the family of Rick Schroeder. He was shot in cold blood. It was a tragedy at so many levels,” Beims said.

Dunn’s conviction in state court was affirmed. But in 1992 a federal court of appeals ordered Dunn to receive a new trial because her defense team didn’t receive money to hire expert witnesses to develop a defense based on the battered-woman syndrome. Dunn’s new trial took place in Topeka. In September 1992, a jury found her “not guilty” on all seven counts.

In 1964, the American College of Trial Lawyers established the Lawyers Award for Courageous Advocacy. In 44 years, there have been only 13 recipients. All but five were members of the American College. Bob Lewis, not a member, was so honored in 1991.

Mike Corn, a reporter for the Hays Daily News, covered the retrial in Hays:

For three years, through two jury trials and a successful appeal that forced the second trial, Lewis nearly lived the life of a defense attorney for Hunter. All the while, he remained low-key and ever humble. Rather than



James C. Hunter Jr. during jury selection in his 1985 trial.

being boastful of anything, Lewis instead credited the system for Hunter's acquittal on the murder charges.

While the murders gained worldwide publicity, the kindness of some victims made publicity of a much different kind. The day after the Thomas County guilty verdict, this was the headline in the June 16, 1985, *Seattle Times*:

Friendship blooms in small crime-scarred Kansas town.

An extraordinary affection, like a flower thriving in the rubble left by war, has grown out of the horror and tragedy that rode into this placid community. William and Jean Dunn have been given solace, support, and no small measure of love by Thomas County Undersheriff Ben Albright, one of the men their daughter was convicted yesterday of trying to kill. 'We're just trying to get through a bad situation the best way we know how,' said Albright.

Albright and his wife, Pat, and the Dunsns often sat together in the tiny Thomas County courtroom where Lisa Dunn, 18, and co-defendant James Hunter, 33, were convicted on charges of murder and kidnapping. The article continued: "I came out here to help Ben, and he wound up helping me," said Dunn.

And even Remeta – who admitted his crimes – found peace with at least one family. Wesley Moore, son of Glenn Moore, one of the victims taken from the grain elevator, was quoted in the newspaper that, while at one time he wished Remeta would be put to death, he no longer believed that killing Remeta

would do any good. He wrote a letter to Remeta, which was described in a news article – "I told him that I forgave him," Moore said, "and I asked him for forgiveness for myself, because at one time when this first happened, I bore grudges against him and I had hatred in my heart against him."

And on the day of Remeta's execution, he released this statement: "I would give a thousand lifetimes to undo past deeds." Lisa Dunn returned home to Michigan, where she lives today. And Hunter? Four days after his acquittal he died of a heart attack at the age of 36. The *Wichita Eagle's* story said Bob Lewis "called his client's death 'devastating' ... He was just getting on with the rest of his life, which he didn't think he had."

Bob Lewis' three-year odyssey as a criminal defense lawyer in the Hunter case not only made a profound difference in the life of his client, but it also changed Kansas criminal law forever. But his leap of faith was a journey shared with the other Kansas attorneys who were assigned the defense of this case – Jake Brooks, Jerry Fairbanks, and Scott Beims. Making a mark on the profession that's worth revisiting 23 years later. ■

About the Author



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