



THE MURDER OF OFFICER JACK RAINIER AND THE ELECTION OF JOHN PALMORE

BY JUDGE ROB WIEDERSTEIN

Ms. Rainier could not find any “thanks” on Thanksgiving Day, 1955, and the free turkey from the Chief of Police was a poor substitute for the killing of her husband, the father of her only child. Her husband was working the late shift, as new officers do, when he asked the wrong person for a license and it cost him his life. Officer Jack Rainier would not be coming home for Thanksgiving Day or any other day. He had died in service to his community.

If he were just another citizen, the community would have responded with concern and anxiety. Because he was a police officer and tasked with the public’s safety, the community responded with outrage and fear. His death reminded Henderson how vulnerable the community was and how quickly life can be taken from the powerful, well-trained and vigilant. Jack Rainier’s death exposed Henderson County’s civic character, gained notoriety for the career of the future Chief Justice of the Kentucky Supreme Court, and resulted in a legal error being committed.

THE MURDER

On Nov. 21, 1955, Henderson police officer, Jack Rainier, was killed while on duty. The initial newspaper reports were that he was shot three times at arms’ length out of a pickup truck. The murder scene was Willet’s Used Cars, known locally as “Dynamite’s” after the proprietor’s nickname. The suspect was Ben Charles Sitton, age 19, described as pale, slight and blond.

Sitton and his partner, Joe Pearman, were in Henderson on the lam. The two were fleeing from Indiana where they had stolen a vehicle in an effort to return to their native Arkansas. Needing a different and more reliable vehicle, Pearman scouted Dynamite’s car lot for a new car leaving Sitton in the truck. Being late at night, the two caught the attention of Officers Sherman Hill and Jack Rainier of the Henderson Police Department.

Rainier, a 24-year-old father and Korean War veteran, exited his cruiser to ask the driver for his license. Sitton picked up a gun on the seat beside him and fired at Rainier as he inspected his license. Rainier made it back to the police car where his partner transported him to the hospital. Sitton’s bloody license was recovered from Rainier’s hand, Pearman took off running, and Sitton then fled the scene leaving his license and partner behind. Rainier died at Methodist Hospital at 5:50 a.m. on Nov. 21, 1955.¹

RAINIER’S FUNERAL

On Nov. 23, 1955, Officer Rainier’s funeral was held. The Gleaner’s opening lines to the story read: “Jack William Rainier, the policeman who died for his city, was buried by his own yesterday. It was a gripping spectacle of agony and sorrow.”² Every police officer was able to attend because the Owensboro Police Department agreed to stand in for local security. At the conclusion of “Taps,” his widow Lorine “shrieked in grief” when the American flag was presented to her and cried for her “Darling” not to be taken from her.³

On the same day of Rainier’s funeral, Sitton was returned by the police from Arkansas. When Sitton arrived at police headquarters, he “broke and ran into a bannister and fell to the floor. It was an apparent attempt, an officer said, to injure himself and blame the officers with it.”⁴

Just before Rainier’s death, the circuit judge for the 5th District died. Judge Marlin L. Blackwell had served for 27 years when he died on Sept. 30, 1955, and his accomplishments were memorialized by a resolution of the Henderson County Bar Association.⁵ On Oct. 12, 1955, John S. Palmore took the oath of office for the Commonwealth Attorney after producing his commission of the governor.⁶ Two days later on Oct. 14, 1955, Faust Y. Simpson, formerly the Commonwealth Attorney, took the oath of office for Circuit Judge.⁷



John Palmore's
Picture circa 1959.
Source: Henderson County
Public Library

Concerned with Palmore's lack of experience, the Fraternal Order of Police wanted to hire Odie Duncan to prosecute the case—a unusual idea given that the Commonwealth Attorney is ultimately elected by the public. Palmore refused to allow him to participate but told the FOP that he could sit at counsel's table during the trial.⁸ "Before the ink was dry on [his] commission", newly appointed Commonwealth Attorney, John S. Palmore, was responsible for the prosecution of one of the most significant cases in Henderson's history.⁹

SITTON'S TRIAL

On Jan. 3, 1956, a true bill (Indictment No. 8688) was returned from the Grand Jury indicting Sitton and Pearman for the willful murder of Rainier. No bond was set. On the same day, the defendants were brought into court and entered "Not Guilty" pleas. Upon learning of Sitton's indigence, the Court appointed as his lawyers George S. Clay and M.S. Mahurin, who was later replaced by William Branaman

Pearman was granted a separate trial. On Jan. 26, 1956, the Sitton trial began. The case against the defendant was overwhelming: the defendant's bloody license was recovered from Rainier's hand, Officer Sherman Hill witnessed the shooting and the defendant and Pearman both confessed to their role in the events.

The defense strategy was to acknowledge that Sitton was guilty of shooting Rainier but it was not premeditated; thus, negating the mental state required for murder. The defense's only witness was Sitton who sobbed through parts of his testimony as he relayed his family background and how he came to find himself in Henderson. The defendant testified that "[t]he motor was running and I was scared. I felt the gun on my leg and let the clutch out and started pulling away. When I took off, my hand hit the pistol and I started shooting without thinking I never looked back. I don't know if I hit anything."¹⁰

Closing arguments were given first by George Clay for the defendant and then by John Palmore for the Commonwealth. George Clay proceeded with his closing argument attempting to generate some sympathy for his client. Clay talked about how Sitton's father was in the penitentiary and that his mother was unable to be at the trial because she was attending to her other children. Clay referenced the young age of his client and noted that 10 months earlier the case would have been disposed of in juvenile court. Since turning 18, Clay stated that his client had become a drifter and fallen in with the wrong crowd.

In the Commonwealth's closing, Palmore said that local citizens treated the stealing of livestock the same as the taking of human life. He said, "[h]uman life has been called the cheapest thing on Courthouse Hill. I want to stop this killing in Henderson County."¹¹ Palmore's final plea was for the jury to take comfort in their God because He would not allow for them to return an unjust verdict.¹²

THE VERDICT

On Jan. 27, 1956, a jury returned a verdict in the case and recommended a sentence of death. The following day, the newspaper's headline read "Sitton Gets the Chair! Jury Out Three Hours, Five Minutes."¹³ As the defendant was led from the courtroom, Mrs. Rainier stood alone and stared at the defendant. She then left quietly with her relatives who sat with her throughout the trial. With the return of the jury's verdict in late January of 1956, Sitton's fate for the killing of Rainier appeared certain: He was to die in the electric chair in the Eddyville Penitentiary.

While many Hendersonians were relieved that the case was over, defense attorneys would soon file motions to set the judgment aside for error and potentially a new trial. Judge Faust played a decisive role in the case, and Palmore was in a contest to keep the Commonwealth's Attorney's job. Far from over, the Sitton trial was just entering its second stage.

VERDICT CHALLENGED

Shortly after the verdict, a small group of people began to gather at the county jail to sing hymns in protest of the verdict.¹⁴ On Jan. 31, 1956, defense attorneys filed a motion for new trial. One of the grounds in the motion was that the trial judge failed to instruct the bailiffs not to allow anyone to discuss the case with the jurors over lunch on the first day of trial. This instruction is one given to bailiffs prior to a recess and the jury being released to deliberate on the case.¹⁵

On Feb. 20, 1956, the Defendant's motion for a new trial was "held in Chambers...not by agreement of parties but on order of court. Commonwealth object[ed] to filing of motion and grounds for new trial...."¹⁶ In his memoir, published 50 years later, Palmore relates that Judge Simpson conceded that one day before lunch, he had forgotten to properly admonish the jury not to discuss the case with anyone until the Court had given it to them.¹⁷

Exhibit: Corrected Trial Order. Caption: Judge Simpson originally signed the order for the day, but added "not" after the motions for new trial. The failure of Judge Simpson to swear the bailiffs ultimately spared Sitton his life.

The local newspaper published Judge Simpson's entire opinion, beginning on the front page.¹⁸ Simpson was careful not to blame others for his mistake, noting that there was no evidence that either the bailiffs or the jurors had actually engaged in any improper communication. In granting the defense's motion, Simpson relied on the case of *Commonwealth v. Shields*.¹⁹ There, the court found that to prevent the undue influence of jurors, strict compliance with the criminal rules was required for felony cases. Palmore did not comment on the ruling.²⁰

as by law required, and on Court's motion the Jury was pla
Gish, Deputy Sheriff, and was ^{not} sworn according to law, and c
5, O'Clock, P. M.
, O'Clock, P. M. not having completed the case, it is ord
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With the death sentence vacated, the parties quickly scheduled a new trial. It was for May 9, 1956, a few weeks before the next election. Palmore and the defense attorneys eventually agreed to postpone the trial until after May elections for June 18, 1956.

COMMONWEALTH ATTORNEY ELECTION

By 1955, the Kentucky Democratic Party was split between two factions: one led by Earl C. Clements and the other led by A.B. “Happy” Chandler.²¹ Both were former governors of the Commonwealth and hailed from the adjacent counties of Henderson and Union in western Kentucky. Clements was the son of a popular Union County Judge Executive and coached football at Union County High School. These counties, plus the less populous Webster County, comprised the 5th Judicial District where Palmore was running for Commonwealth Attorney. Palmore was a “Clements” man, his opponent Carl Melton was a “Chandler” man.

The Democratic primary for the Governor’s race in May, 1955, revealed how popular Happy Chandler was in Henderson. (This election was the year before Palmore’s). Happy was running against Clements’ surrogate Bert Combs who resigned from the Court of Appeals to enter the race. Chandler’s Henderson roots carried the day by walloping Combs in the May primary 5,257 to 2,639. Palmore and his partner were two of the only Henderson lawyers that supported Combs.²² When Kentucky’s Governor was looking for a candidate for the Commonwealth Attorney’s appointment, Palmore was the only candidate aligned with the Clements’ faction.

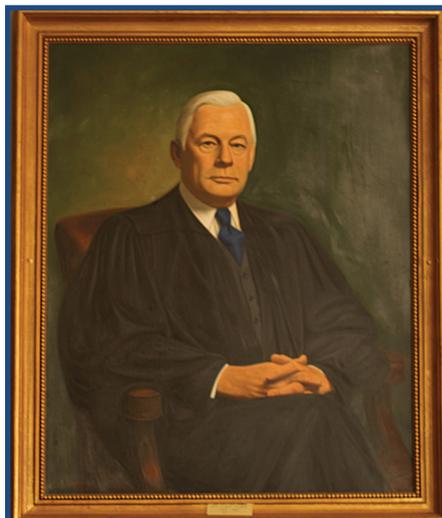
Palmore’s appointment to the Commonwealth Attorney’s position was likely due to his support of Combs in the Democratic primary of 1955. Palmore’s chance of winning was remote. With the largest county of Henderson squarely within the “Chandler” camp and the next largest county, Union, within the “Clements” camp, the energetic state Representative Carl Melton seemed like a shoo-in. In his last race for state representative, Melton drubbed his Republican opponent 6,824 to 1,213.²³ Melton could combine his native Webster County with Happy’s allies in Henderson to trounce Palmore. Lack of Henderson roots, a loyal Chandler constituency in the largest county and a strong opponent were the likely precursors to a primary defeat in May. That is, until Jack Rainier was killed and John S. Palmore had successfully prosecuted his murderer.

On May 30, 1956, John S. Palmore defeated Carl D. Melton by 626 votes for the Commonwealth Attorney’s position in what the local paper referred to as a “hot” election. Melton won Webster County nearly 2-1 but then lost the larger counties of Henderson and Union. Palmore credited the victory to Earl C. Clements’ allies in Union County and to his vigorous prosecution of the Sitton case in Henderson County.²⁴

THE SECOND TRIAL

The second Sitton trial began on June 18, 1956, after Palmore’s

reelection to the Commonwealth Attorney’s position. Seating the jury was problematic given the pretrial publicity. Of note, the trial was the first in Henderson where “Negroes and women” were examined as a part of the jury panel. One African-American was seated on the jury, but “none of the women survived the questioning.”²⁵ After an hour and twenty minutes on the following day, the jury returned a verdict of “Guilty” and set his punishment as “confinement in the penitentiary for and during his natural life.” Two differences from the previous trial were that the defense did not call Sitton to the stand and Sitton’s mother and sister attended the second trial.



*Chief Justice Palmore Portrait,
Source: Henderson County Judicial Center*

The last issue to be resolved was the fate of Sitton’s accomplice Pearman. Pearman was looking for a new car for their return trip to Arkansas when Sitton killed Rainier. On June 29, 1956, the clerk’s entry reflects the following action: “On motion [of the] Commonwealth’s Attorney, case dismissed as to Joe Pearman for insufficient evidence to convict... Jailer directed to release Pearman to Indiana authorities on their demand.”²⁶

CONCLUSION

Rainier’s murder was a torturous affair for his family, colleagues and community. Whether the event occurs today or 60 years ago, its consequences last for decades. Sixty years after Rainier’s death, his memory remains a testa-

ment to a young father and husband trying to create a better life in the community he loved. The simple act of asking a motorist for a license—a request that an officer makes dozens of times a day—ended his life.

Out of this tragedy, a newly elected prosecutor named John Palmore parlayed the prosecution of the case into a remarkable judicial career culminating in his election as Chief Justice. But for the Sitton prosecution, he surely would’ve lost the Commonwealth Attorney’s race in 1956.

From the first floor of the Henderson County Judicial Center, Rainier’s name can be seen on the FOP monument as having “fallen in service.” On the wall behind is the portrait of John S. Palmore, Chief Justice of the Commonwealth of Kentucky, whose success was a result of his service. One died protecting his community, one succeeded prosecuting his killer.

ABOUT THE AUTHOR

Judge Rob Wiederstein is in his fifth term as Henderson County District Judge after having previously worked as an assistant county attorney. He received a Bachelor of Arts degree from Hanover College in 1990 and a Juris Doctorate degree from Indiana University in 1993 where he served on the *Indiana International and Comparative Law Review*.



ENDNOTES

1. Hugh Edward Sandefur, *Jack Ranier Dies on Duty*, Henderson Gleaner & Journal, Nov. 22, 1955 at A1.
2. Don Armstrong, *Bury Ranier; Killer in Court Friday*, Henderson Gleaner & Journal, Nov. 24, 1955 at A1.
3. Gleaner Staff, *Grief Wells Up as Final Rites Are Said for Him*, Henderson Gleaner & Journal, Nov. 24, 1955, at A1.
4. Gleaner Staff, *Sitton Hearing Tomorrow; Slept All the Way Back*, Henderson Gleaner & Journal, Nov. 24, 1955, at A1.
5. Resolutions of the Henderson County Bar Assoc., WW Commonwealth Order Book 623 (Oct. 12, 1955).
6. In the matter of John S. Palmore, Commonwealth's Attorney, WW Commonwealth Order Book 626 (Oct. 12, 1955).
7. In the matter of Faust Y. Simpson, Circuit Judge, WW Commonwealth Order Book 630 (Oct. 14, 1955).
8. John Palmore, *From the Panama Canal to Elkhorn Creek: A Chronicle of Life in the 20th Century by an Old Kentucky Lawyer* 153 (2006).
9. *Id.* at 152.
10. Don Armstrong, *Boy Silent at Verdict*, Henderson Gleaner & Journal, Jan. 28, 1956 at A6.
11. *Id.* at A5-6.
12. *Id.*
13. *Id.* at A1.
14. In his autobiography, Palmore referred to them as "sob-sisters" and believed that Sitton's youthful age generated public sympathy. PALMORE, *supra* note 8, at 154.
15. The current version can be found in RCr 9.68. It reads that "[w]hen the jury is kept together in charge of officers, the officers must be sworn to keep the jurors together, and to suffer no person to speak to, or communicate with, them on any subject connected with the trial, and not to do so themselves." Currently, the failure to swear in the bailiffs must be accompanied with an improper communication. *Sevier v. Com.*, 434 S.W.3d 443 (2014).
16. Court Entry, Sitton Indictment (Feb. 20, 1956).
17. Palmore, *supra* note 8, at 154.
18. Edwin Greenwald, *Simpson Grants Sitton New Trial: Cites As Basis Lack of Oaths for Deputies*, Henderson Gleaner and Journal, Feb. 25, 1956 at A1.
19. 2 Bush 81 (1867) *aff'd* by *Mason v. Com.*, 463 S.W.2d 930, 931 (1971) (holding failure to swear is error and must affect the substantial rights of the party to be reversible).
20. Edwin Greenwald, *Simpson Grants Sitton New Trial: Cites As Basis Lack of Oaths for Deputies*, Henderson Gleaner and Journal A1 (Feb. 25, 1956).
21. Albert B. Chandler, *Heroes, Plain Folks, and Skunks* 247-48 (1989); Palmore, *supra* note 8, at 152.
22. Palmore, *supra* note 8, at 152.
23. Henderson County Clerk, County Elections Book 58 (Nov. 1, 1955).
24. Palmore acknowledged the improbability of his victory. *Id.* at 155.
25. Don Armstrong, *Sitton Trial Testimony Set Today: State Seeking Death Penalty Negro Seated*, Henderson Gleaner and Journal, June 19, 1956, at A1.
26. The Clerk's entry contradicts Palmore's recollection. Palmore, *supra* note 8, at 153.