



## Summer Readin'

Tales from a Pueblo County Court Judge

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**M**y wish for you is that you're having a productive summer, with some downtime to relax and enjoy the season. So here's what I hope will be a little light and fun end-of-summer reading—a series of thoughts and vignettes from my years on the bench. You'll not find any deep legal thinking here!

### **First Day Jitters**

My first day as a Pueblo County Court judge was December 18, 1995. I was in my chambers, robe on, and ready to enter the courtroom for the first time. It was almost time for the busy

8:30 a.m. docket, so my courtroom was full of people. I confess I was a bit nervous. Just as I was about to go on the bench, the fire alarm sounded and everyone had to evacuate the building. My courtroom was on the third floor. Off came my robe and down the stairwell I went with well over 100 people. I hurried out the door and across the street onto the sidewalk with my colleagues, coworkers, and the general public to await directions on what to do next. This presented a welcome opportunity to have a quick visit with several friends. We weren't outside long when the all clear was given and we were told to go back into the building. The

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reason for the fire alarm that day? Someone had burned a piece of toast, and the smoke from the burnt toast had set off the fire alarm. Fortuitously, this incident helped quiet my nerves. I got on the bench and handled the docket more calmly, I am sure, than if there'd been no building evacuation. This was the first of what would be many building evacuations over the years. What an auspicious start to my judicial career!

### **Courtroom Decorum**

I once went out on the bench to find that the deputy district attorney assigned to my courtroom had a happy face balloon tied to a chair at his table. Once again, the courtroom was full, as it was the 8:30 a.m. docket. I quickly called the deputy DA to the bench and asked him to join me in chambers. Then I calmly took a recess, and the two of us had a quick discussion about courtroom decorum. He walked out and removed the balloon, I returned to the bench, and we continued on as if this had never happened.

### **What's in a Name?**

When I first became a judge, I asked the State Court Administrator's Office (SCAO) about changing my last name to Croshal. I was reluctant to change it, as I had been practicing under Hearn for about 14 years, and I wanted former clients to be able to find me. I had already changed my name once early in my career before I had much of a clientele. (Hearn is not my maiden name.) Anyhow, I have always been



impressed with the State's ability to juggle my two last names. All judge material came to me as Hearn, and all payroll and benefits came to me under Croshal. There never was a glitch.

### **Hours of Operation**

People may not know that judges work all hours of the day (and night), because they need to be available for warrants, custody emergencies, and so on. Of course, in a judicial district, judges and magistrates rotate who is on call for warrants and emergencies; but in reality it's not unusual to get a call even when you are not the on-call judge (proximity to the officer needing a warrant being one reason). During my time on the bench, I met with officers and issued warrants from church, the food court, and even the Pueblo Mall while Christmas shopping.

On a related note, it was hazardous to be this judge's neighbor. I live at 1 Mockingbird Court, and I have a neighbor just across the street at 1 Mockingbird Drive (not our real addresses). Although I would always warn officers about the address issue before they came to my house, it didn't stop my neighbor, the retired Methodist minister, from being awakened in the middle of the night numerous times to find a police officer at the door looking for a warrant. The first time this happened, the neighbor was in shock; eventually he got used to it. Thankfully warrants are now done electronically.

### **Dress Code**

Right after I was sworn in, my mother-in-law said to me, "you know you could be completely nude under your robe and no one would ever know it." I was pretty startled this had crossed her mind—she was 66 at the time, and frankly this thought had never crossed my mind in the 16 years I had been practicing law. Of course, I was never foolhardy enough to take my mother-in-law's suggestion (especially considering what happened on my first day!), but I have to admit the robe does give a certain amount of freedom in what you wear to work. Business suits are definitely not comfortable under a robe.

### **The Right to Remain Silent**

One of my favorite stories from a fellow judge in the 10th Judicial District involves an encounter

with police. This judge, new to the district court, was working very late one night trying to get up to speed as a judge on several cases (judges have a learning curve just like everyone else). After calling it a night, she got in her car, made a U-turn in front of the judicial building, and was promptly pulled over. As she sat in her car, all she could think about was the all-important ethics rule that had been duly emphasized in the SCAO's school for new judges: **DO NOT IN ANY WAY TAKE ADVANTAGE OF YOUR POSITION AS A JUDGE**. Here's how she very elegantly handled the situation, in her own words:

I stopped immediately, handed the officer my license and insurance (he had his weapon pulled and aimed at me). Then he asked me, "Do you know why I stopped you?" and I said no because I didn't want to tell him I made a U-turn in front of the judicial building, because I thought he would ask me what I was doing parked in front of the judicial building. When I said no, he said a car matching my car's description was used in a robbery that evening. I immediately blurted out that I was Judge X and had been working in the Judicial Building all evening and he needed to go inside the building with me and talk to the night watchman who could verify my "alibi." He started apologizing for stopping me and then I realized I had violated the ethics rule, so I pleaded with him to arrest me. Around this time a backup cruiser arrived and a veteran cop who knew me started laughing, then dispatch told the rookie I was Judge X.

### **ALIAS**

I had a similar though much less dramatic experience when I was relatively new to the bench. I was very nearly home (and driving just a little too fast) when I saw the police lights come on behind me. The logical thing to do was simply pull into my driveway. Sitting there in front of my house, I wondered whether the officer would recognize my name as that of the new county court judge, and, if so, whether that would influence his decision to write me a ticket—and *would that be an ethical violation?* Then I realized I had an alias! My driver's license (and registration, insurance, etc.) listed me as



Kathleen Croshal, but I was Judge Kathleen Hearn. Whew, I was safe! The officer never knew I was a county court judge, and I still managed to get off with just a warning.

Incidentally, I always found it a bit humorous when prosecuting attorneys made a big deal about a criminal defendant having an alias. They often argued that having an alias was reason enough to enhance bail requirements. Since I had an alias, this argument, without more, never went very far with me.

### “I’m Batman”

It was just another county court jury trial. The jury had been selected and we were back from lunch recess. I was doing preliminary jury instructions when I first heard the scratching noise. At first I didn’t think too much about it, but when it persisted, I tried to figure out where the noise was coming from. I realized it was coming from the ceiling and looked up and saw a crack between ceiling tiles. Just then, a bat swooped down from the ceiling, fairly near me. My judicial assistant immediately tried to get maintenance, security, and administration on the phone, but no one answered. I tried to remain calm, as I didn’t think the situation warranted hitting the panic button, but it wasn’t easy, because I was a bit frightened by the bat! I told the jurors that my assistant and I were leaving the courtroom to try to get some assistance. I said they could leave the courtroom and wait in the hall, but asked them be careful when opening the doors to try to keep

the bat in the courtroom. I also instructed them not to discuss anything about the case. Fairly quickly, maintenance and security arrived, but it was a courageous juror who saved the day. He caught the bat in his baseball cap! The bat was then taken outside and released—only to be swooped up by a hawk while everyone watched in disbelief. The jurors nicknamed their fellow juror “Batman.”

### Family Ties

Pueblo isn’t that small population-wise. In 2018, the population of the county was 167,529. So what are the odds that both my husband and my son would be assigned to jury duty in my courtroom—and both would make it all the way to the jury box for voir dire?

I have to say it’s pretty nerve-racking to preside over a close family member’s voir dire. One lawyer asked my husband, “What do you and your wife talk about at home as it relates to your work as a lawyer and her work as a judge, and do you talk about cases?” (A compound question, no less!) He responded, “Well, she comes home and says, “Those *lawyers* they—!” and I come home and say, “Those *judges* they—!” (implying, “I can’t believe a lawyer did this!” and “I can’t believe a judge did that!”) The crowded courtroom of prospective jurors burst into laughter. Ultimately, neither my husband nor my son made the juries in their respective cases, but a fellow Pueblo judge did have her husband selected as a juror in her court. She

spent the rest of the trial at a local hotel at the State’s expense so she and her husband wouldn’t be tempted to talk about it. It was the case of the sequestered judge.

As a legal aside, the rules on challenges for cause don’t prohibit anyone “related within the third degree, by blood, adoption, or marriage to the judge” from being a juror. Of course, we judges wonder why an attorney would ever want one of our spouses or children serving as a juror in our courtroom.

### Moonlighting

I once ran into a probation officer who said he saw me on a commercial for Cinemax: “You were just standing there looking adoringly at your husband.” That’s when I realized that Jim’s “man on the street” interview had been put into a commercial. We were vacationing in Boston with our teenaged daughter and niece when we ran into the setup for the interviews, which were being conducted to promote movies. The girls begged us to participate, and Jim is a real movie buff, so we read the information, signed the release, and were ushered into a tent to watch a series of short selections from several movies. After we had completed the viewings, we were asked a couple of questions about the clips. When the girls were interviewed, all they could do was gush about Leonardo DiCaprio and the movie *Titanic* (which wasn’t even one of the movies to be promoted). The interviewer wasn’t too happy, and it looked like the interview was over. But then he turned to Jim and asked him if he had a favorite movie from the movie clips. Jim said yes and quoted a line from *Courage Under Fire*, and this was the clip that made it into the national commercial. Ironically, the girls were cut out of the clip completely, their dreams of instant stardom dashed.

### Summer Livin’

“Summertime, and the livin’ is easy”—well, probably not if you’re practicing law. It’s a wonderful profession—a profession where you can do so much good. But it also involves routinely dealing with serious and difficult life issues. It’s important to see and appreciate the humorous things that happen; it makes the practice of law a little easier. 