



LINCOLN

BAR ASSOCIATION

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Being Sam Van Pelt

by Milissa Johnson-Wiles, LBA President



Lincoln Bar Association annual meeting, Cornhusker Hotel Renaissance Room, April 14, 2016. There I sit, having presided over my last LBA meeting, listening to Sam Van Pelt. Sam addresses the group to share some stories and thoughts about his history with the Association.

Many of you know Sam Van Pelt. A longtime member of the Association, he was one of the founding members of the Historical Committee and an invaluable member of the Board of Trustees. He was a frequent contributor to our annual Barristers show, and would be the first to tell you that “back

in the day” our Barristers shows were not at all politically correct, much less kind—but certainly intended to be fun. He would also be the first to tell you that his membership in the LBA has been a truly rewarding experience. For at this annual meeting on April 14, 2016, Sam thanks the Association for the opportunity to be a part of the organization for 55 years.

As I sit and listen to Sam, I reflect on all of the things I value about my membership in the Lincoln Bar Association. When I became a member in 1996, I had many reasons for joining the Association. The collegial aspect was one reason, but as a new member, the professional contacts, networking, and continuing education provided by our legal clinics were more important. Over the years, when other

commitments took precious time from the day, or when I didn’t necessarily need the CLE, attendance at the monthly meetings fell off. So I was fortunate when I had the opportunity to serve on the Board of Trustees, and be reminded that the relationships that I had made along the way were, indeed, the most valuable aspect of my membership in the Association.

Thanks to all for the opportunity to serve as your President! I hope that, like Sam, we can all experience friendships, new and old, for many years to come. ■

*Author’s note: This article is part of a series of articles beginning with “Being Rod Cathcart” in the September 2015 newsletter.

Lincoln Bar Association Memorial Service

MAY 27, 2016 10:00 A.M. — DISTRICT COURTROOM #30 — 575 SOUTH 10TH STREET

Please join us for the LBA’s annual memorial service honoring the following members of the Lincoln Bar who have passed away since May 22, 2015:

Judge Bernard J. “Bernie” McGinn
Norman F. “Norm” Langemach
Merritt Elmo James, II
Brigadier General Edwin F. Dosek

Adrian R. Fiala, Jr.
Roy Earl Mehmken
Stephen Lee Speicher
Jane Schoenike Takemoto

Sincerely,
Jim Gordon, Memorial Committee Chair, and Milissa Johnson-Wiles, Past President, Lincoln Bar Association



LBA March Clinic: “The World Under LB 605”

by Sarah Newell

On March 10, 2016, the Lincoln Bar Association hosted Christopher “Spike” Eickholt, of the Brennan and Nielsen law firm, who presented, “The World Under LB 605.” The presentation addressed major legislative changes to the Nebraska criminal code that were implemented during the 2015 legislative session; he also discussed the proposed changes contained in this year’s LB 1094—the 2016 “clean-up” bill for LB 605—which sought to rectify minor oversights in the initial legislation.

As a former Judiciary Committee Legal Counsel and Lancaster County Public Defender, Spike brought a pragmatic and humorous approach to understanding this sweeping and significant legislation. Moreover, as a registered lobbyist for the American Civil Liberties Union and the Nebraska Criminal Defense Attorneys Association, he was involved in the Council for State

Governments (CSG) Advisory Committee that drafted LB 605. This allowed him a rare glimpse into how the LB 605 sausage was made.

He explained that LB 605 was the product of a multi-disciplinary “think-tank” aimed at prison reform and addressing overcrowding issues by reviewing actuarial data. In short, CSG analyzed incarceration data by offense and determined that long sentences imposed on low level, non-violent felonies were the most obvious cause of prison overcrowding in recent years. Particularly, when these inmates were given sentences that left little to no time for parole eligibility—i.e., 5 to 5 year sentences wherein an inmate is parole eligible simultaneous with his/her mandatory release date. CSG also noted that the absence of parole supervision contributed to greater recidivism rates.

To address these problems while still

maintaining public safety, CSG recommended restructuring sentencing schemes for most low level felonies (generally Class 3s and below). This meant requiring post-release supervision and creating a presumption of probation, depending on the class of felony involved. As Spike explained, LB 605 is too sweeping and intricate to be truly understood without reading the bill itself. And, some practical details, particularly those relating to post-release supervision implementation will remain a work-in-progress, much to the chagrin of many district court judges. Nonetheless, the Judiciary Committee and the Nebraska Legislature more generally seem committed to seeing these changes through. As Spike explained, understanding the policies and aims of the legislation will help LBA members advise their clients and abide the new law of the land. ■

2016 Law Day

by Kelsey L. Helget, Law Day Chair

First, I would like to say a big THANK YOU to all of our Law Day volunteer presenters this year. This year, we had our largest request for the Law Day program—eight different schools wanted to participate with more classrooms than usual. Between Lincoln High, Lincoln North Star, Lincoln East, Lincoln Northeast, Lincoln Southeast, Lincoln Southwest, Bryan Community, and Lincoln Arts and Humanities Focus Program, more than 60 lawyers, professors, and judges gave presentations to nearly 1,500 students. It was an extremely successful program and we could not have done it without your help.

Second, for those of you who did not participate this year or have not heard of Law Day, here are a few facts on the subject. Law Day was established in 1958 by President Dwight Eisenhower to celebrate the role of law and its importance in our society. Each year the American Bar Association establishes a theme for Law Day, and this year’s theme was “Miranda: More Than Words.” The ABA chose the theme because this year is the 50th anniversary of the monumental United States Supreme Court case, *Miranda v. Arizona*. All over the country different bar associations and groups decide how to celebrate Law Day in their area. For the

past 17 years, the Lincoln Bar Association has celebrated by developing high school classroom presentations, given by local judges and attorneys, to highlight the year’s Law Day theme.

If you would like to learn more about Law Day or if you would like to help plan the event next year, send me a message at khelget@krbkllaw.com or give me a call at (402) 434-9051. Make sure to mark your calendars for next year’s Law Day, Tuesday, May 2, 2017! ■



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Lincoln Bar Association - Annual Meeting, April 14, 2016

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- Vice President: Andrea Snowden
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- Treasurer: Greg Walklin
- Immediate Past President: Milissa Johnson-Wiles

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- Elizabeth Elliott
- Kelsey Helget
- Adam Little
- Jesse Krause
- Sarah Newell
- Abby Osborn
- Tara Tesmer Paulson
- Hon. Timothy Phillips
- Corey Wasserburger



LBA Trivia Night winners (front row) Corey Wasserburger, Kelsey Helget, Hon. Riko Bishop, and Adam Little being photobombed by (back row) Milissa Johnson-Wiles, Sarah Newell and Liz Elliott.



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CONTESTED CASES

Honorable Steven D. Burns

Term of alimony: 10 years

Total alimony: \$4,500/month for 120 months = \$540,000

Term of alimony as a percentage of length of marriage: 42%

Husband's age: Unknown; Wife's age: Unknown; Length of marriage: 24 years

Husband's income: \$240,000, imputed; Wife's income: \$25,000/year, imputed

Recipient's income as a percentage of payor's income: 10%

Three minor children, ages 15, 13 and 7

Judge's reason for alimony award:

- Cited Becker v. Becker, 20 Neb. App. 922, 834 N.W.2d (2013) and NEB. REV. STAT. § 42-365.

Unusual circumstances:

- Based upon a stipulation filed by the parties, Court appointed a referee to make factual findings and conclusions of law concerning the issues in the case;
- Court found that the veracity of the parties colored every aspect of its findings and conclusions;
- Court found Husband's testimony to be untruthful and unreliable as it related to his businesses;
- Husband filed an appeal with the Court of Appeals.

Honorable Andrew R. Jacobsen

Term of alimony: None

Husband's age: Unknown; Wife's age: Unknown; Length of marriage: 4 years

Husband's income: \$128,000; Wife's income: \$45,000

No minor children

Judge's reasons for non-award:

- Short-term marriage with no children;
- Wife testified that the parties had other periods of separations during the marriage totaling at least six (6) months;
- Husband had paid Wife alimony of \$1,500 per month for over a year;
- No further alimony should be payable by one party to the other;
- Temporary order requiring Husband to pay Wife alimony was terminated effective at the end of the month following the entry of the Decree.

Unusual circumstance:

- Husband was ordered to pay Wife the sum of \$28,126 within 30 days to equalize the division of property and debts.

Honorable Jodi L. Nelson

Term of alimony: 3 years

Total alimony: \$400/month for 36 months = \$14,400

Term of alimony as a percentage of length of marriage: 17%

Husband's age: 48; Wife's age: 49; Length of marriage: 18 years

Husband's income: \$40,000; Wife's income: \$16,632/year, imputed at \$8/hour

Recipient's income as a percentage of payor's income: 42%

One minor child, age 18

Judge's reasons for alimony award: None given

Unusual circumstances as reported by counsel (one counsel reporting):

- During the marriage Husband was laid off;
- As part of a severance package, Husband went back to school and the cost of school was paid by severance from Husband's former employer;
- Wife did not work while Husband was unemployed and in school;
- Wife's separate assets were used to maintain the parties' standard of living while neither party worked;
- Wife's assets were still substantial when the parties divorced;
- Wife had substantial separate property and frankly had no need for alimony;
- Wife had no house payment as the house was a gift from Wife's mother;
- Wife had several hundred thousand dollars of investment assets in addition to the house.



Lincoln Bar Association Newsletter

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