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Morison Buck

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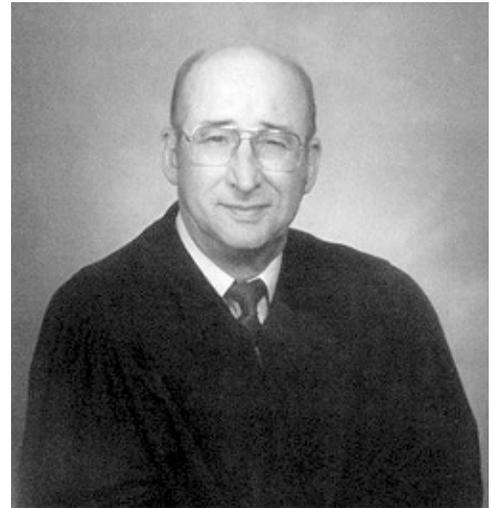
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M. WILLIAM GRAYBILL: METICULOUS MASTER  
OF DETAIL (1928-2002)



This story begins in early 1983 with a competition among friends for a Hillsborough County Circuit judgeship to fill a vacancy created by the retirement of Judge Neil C. McMullen of Tampa. In the beginning there were three; then there was one, when Governor Bob Graham chose Bill Graybill on May 19, 1983. The other contenders, both top-drawer lawyers, were Peter J.T. Taylor (who received an appointment to the Court later that year), and Tom Meyers, whose years of defending indigents in major felony trials was rewarded by promotion to Chief Assistant Public Defender, under Judge C. Luckey. The backgrounds of all three potential appointees were not dissimilar: all were graduates from Plant High School - Taylor in 1944, Graybill in 1946 and Meyers in 1948. The latter earned his law degree at Stetson University; the other two at the University of Florida.

Born in Deland, Florida on October 28, 1928, only son of Malcolm R. Graybill and Lady Lois Graybill, the future judge spent most of his growing-up years in Tampa. His father was a graduate lawyer, receiving his LLB from Stetson in Deland in 1927. The senior Graybill met his wife, Lady Lois: nicknamed “Topsy” and native of Pulaski, Tennessee, in Deland. While he was studying law, she was training to become a Latin teacher at Deland High School. For reasons we are not privileged to know, Malcolm brought the family to Tampa in 1928 or thereabouts, where he became an

associate of the old law firm then called Shackelford, Ivy, Farrior and Shannon, 7th Floor, Tampa Theater Building. Local directories list Malcolm Graybill as a lawyer at that location in 1928 and 1929. Tampa Theater Building opened in 1926 and is on the National Register of Historic Places.

Famous American philosopher, Yogi Berra, is credited with saying, “When you come to a fork in the road, take it.” Malcolm Graybill did just that, when he decided to leave the Shackelford firm in 1931 to become an insurance claims adjuster (the very first in Tampa, according to his granddaughter, Karen Agostinis (Bill's daughter). Malcolm started individually then formed a firm with Harold Seitz, known as Graybill & Seitz. A few years later he became lead partner in Graybill and Neblett, adjusters, and that affiliation with Joe Neblett continued for the remainder of Malcolm's working life. He died in Tampa in 1967.

Somewhat less than 5’10” in height and of slight build, looking less like an athlete than a serious student, Billy (as he was known as in high school) had nevertheless grit and determination to excel in any endeavor undertaken. He lettered in football, basketball and baseball at Plant. The “Panther” annual for 1946, year of his graduation, lists his noteworthy achievements: Homeroom President for 1944, 45 and 46; member Student Council, 1943, Member: Key Club, Letterman's Club. Beneath his photograph appears the tantalizing legend: “He’s the Best if Love’s any Test.” The next phase of his pre-legal education finds him at the University of Florida where, in 1951, he was awarded a degree in Business Administration.

The single most important decision in his life was his marriage to Frances Sammeck of Tampa. They met at an ATO/Delta Gamma dinner in Gainesville, and, as

the French poet Alfred de Musset put it: “They will go two by two ‘til the world’s end; step by step, and side by side.” Just a few days after their meeting, Frances’ father died; Billy drove her home, and sent her a dozen red roses as an expression of his solicitude and love. In one of his masterpieces of light, social comedy, *Adventures With Sally*, P.G. Wodehouse gave his heroine some advice about picking a husband. “Chumps always make the best husbands,” he wrote. “When you marry, Sally, grab a chump! Tap his forehead first and if it rings solid, don’t hesitate. What good are brains to a man? They only unsettle him.” It is probable that Frances never read that story and it's just as well, for the man she chose had a full allotment of brains. Billy and Frances exchanged vows on Dec. 18, 1951 and their lives were inextricably linked until her unexpected death in 1997. With Frances death, Bill's *joie de vivre* also left, and it was the beginning of the end for him.

Graybill was pressed into service in the United States Army in July 1952 during the Korean entanglement. Commissioned a First Lieutenant, Field Artillery, he was one of two OCS graduates assigned to Germany rather than Korea or elsewhere in the Pacific. At the time of his discharge, he was a battery officer, and awarded Army of Occupation and National Defense Service medals.

Bill Graybill’s mind turned as naturally to law as a vicar’s daughter does to sex (to appropriate a salty phrase from Horace Rumpole, the delightful barrister created by England’s John Mortimer). So as soon as feasible after concluding his military obligation, he entered University of Florida College of Law.

While attending law school, he became a member of Phi Delta Phi fraternity, and he authored two articles for the Law Review: Eminent Domain: Violation of Restrictive

Covenants without Compensation to Dominant tenant. 9 U. of Fla. L.R. 95; Torts: Range of Vision, a waning rule of law. 9 U. of Fla. L.R. 234.

Returning to Tampa and home clutching his priceless “skin of the sheep”, Graybill became associated with the prestigious firm of Macfarlane, Ferguson, Allison & Kelly. For the next 27 years, he was a mainstay of the firm's team of insurance defense trial lawyers. Several in that cluster became his valued friends. One of them, Charles W. Pittman, was especially close, and he relates:

I came to Macfarlane, Ferguson in May, 1963 straight out of law school. Bill had been there about 5 or 6 years and was an established trial lawyer in the firm. He had trained under Arthur (Jack) Simpson who was masterful in trying jury cases. I was assigned to the trial dept. and over the next twenty years, until he went on the bench in 1983, he became my closest friend; we were law partners, fishing buddies, boat partners, and bridge partners.

Bill's practice was devoted primarily to defense of personal injury and wrongful death claims. He tried harder to settle cases than any lawyer I have ever known. We referred to him affectionately as “Settling Bill.” But if he could not settle the case, he would defend and enforce his client's rights in the courtroom with great energy and effort but always ethically. Another sobriquet for him was “Total Recall”, and when he told you about an event he would do so with great enthusiasm and he would not leave out anything. I think the trial that gave Bill the most satisfaction was a case where he defended the manufacturer in an allegedly defective rifle lawsuit that involved serious personal injuries. The trial judge, who was known to oft times select one of the lawyers to give a bad time, targeted Bill in this case. It was a hard fought trial with considerable demonstrative evidence and expert testimony. Bill had to endure two adversaries, the Plaintiff and the judge. In the end, the jury gave Bill a defense verdict. Bill felt vindicated; he said, “Wonder what the judge has to say about me now.” Bill never lost his temper and was never out of control.

Bill had a cabin on Lake Tsala Apopka, where his family would take holidays and Bill would fish for bass. Bill, Ted Manry and I bought a 26-foot Stamas and we were partners in the boat for a number of years. Bill was an excellent duplicate bridge player. We did well in the local tournaments and won several area tournaments, but we seldom played after he went on the bench. Bill was the most honest and open person I have ever known. There was no guilt whatsoever in his nature. We who knew him will miss him.

It was a giant leap: From journeyman lawyer to United States District Judge, but William Terrell (Terry) Hodges took it in stride. It was a path less traveled other than by a group small in number. An alumnus of the Macfarlane Ferguson firm (often called MAC/FAC), Terry Hodges had done exemplary work over the years. Then he had the good fortune in 1971 to receive the lifetime appointment coveted by many but attained by so few. During their association with the same law firm, Terry and Bill formed an

enduring friendship. When asked by this scribe for a slice of that history, Judge Hodges responded:

You were correctly informed that Bill was one of my closest friends (as was his wife Frances to my wife Peggy). I remember one event from the days of his insurance/defense practice. He had spent many hours on a small case and had achieved a favorable result, but due to the relative insignificance of the matter from a financial standpoint, he simply prepared and mailed to the client a one line statement: "For professional services rendered - \$600.00." To his justified annoyance, the claims manager for the insurance company client returned the statement and requested an itemized bill. Graybill then dictated an itemized account, which would have supported a much larger fee, and included as the last line item "Preparing this fee statement. \$100.00." The bill was paid without objection!

As a lawyer, Graybill had a blinding light that was largely obscured by a basket throughout his career - his acute legal acumen. He had a way of always taking any proffered argument or legal proposition and testing it by mentally constructing hypotheticals at the extremes of the factual scenarios to which the argument or legal principle might apply in order to determine whether the result in those circumstances comported with common sense. If so, he would make (or accept) the argument; if not, he could quickly and persuasively explain why the argument was wrong or the principle should not be applied. It was a technique that is easily described (and one I have always tried to use), but with over 30 years experience as a judge I have never seen another lawyer, or another judge for that matter, who even approached Bill Graybill's skill in that way." Judge Hodges also related a story about Bill Graybill's fascination with boats and fishing. "I have always suffered acute sea sickness standing on the dock," he says, but on one occasion when a storm came up and there were five foot swells, Graybill got just as sick (for the first time in his life) as did Hodges.

Judge Hodges is currently toiling as a Senior Judge at the United States Courthouse on N.W. 2d Street in Ocala, Fla.

During his tenure with MAC/FAC, when he was known simply as "Dan", but who gets more respect now that he is Senior Judge Daniel E. Gallagher, Hillsborough County Circuit Court (Ret.), Gallagher became well acquainted with Bill Graybill. When asked what he remembered most about Graybill, he responded as follows:

"Bill Graybill's attention to detail was legendary at the Macfarlane Ferguson firm. He wanted and demanded that every "i" was dotted and every "t" crossed. He would argue at the drop of a hat and it was almost a given that When Graybill said What the law was, you Gouuld take it to the bank. I was a spectator in one of Bill's pro bono criminal defense assignments before the Public Defender system was initiated. He was appointed to defend an alleged rapist. The prosecution was handled by Tom Hanlon and the judge was Carl Durrance. Graybill had the victim on the stand - a fairly attractive woman, who, as was the usual trial strategy, was dressed like Mother Teresa without the nun's habit. Graybill went for the jugular:

Q. What was the color of your undergarments on the night in question?

A. White. I think.

Q. You think. You don't know?

A. It's been a long time.

Q. You were wearing underwear?

A. Of course. I always wear underwear.

Q. Do you have a specific recollection of wearing underwear on the night of this alleged rape?

A. Of course.

Q. Of course what?

A. Of course I had underwear on.

Q. How come you don't remember the color?

A. I have different colors.

Q. As of this moment how many pairs of underwear are in your drawer at home?

A. How should I know. I didn't count them.

Q. How many colors of underwear do you have and I assume we are talking about what are called panties. Do you have any other types other than panties?

A. I call them briefs. I have white, pink, and black, depending on what dress I'm wearing. I don't recall what I was wearing the night I was raped.

Q. On the night in question, do you know the specific brand of panties you wore?

A. Of course not. I have no idea of the make of my undergarments.

Q. Now you call them undergarments instead of briefs?

A. What difference does it make?

Q. It makes a great deal of difference, Miss. You are accusing my client of rape, but you don't know the "bare" essentials of what you were wearing at this time?

At this point, Tom Hanlon got very agitated and objected as follows:

Hanlon: Your Honor, this has gone far enough. Mr. Graybill has gone well beyond all elements of cross examination. He is not only intimidating my witness with irrelevant matters, but he is tilting at windmills in the vain hope of confusing my witness with his inane questions.

Judge Durrance: This is cross and I'll let him continue but Mr. Graybill, you need to move on to specifics as to the rape, not minutiae.

Graybill: I'll just be a little while longer, but I'm trying to establish her lack of memory of what I feel are important matters as to the ability of the witness to recall or reconstruct the incident.

Q. Do you know whether the panties or briefs as you prefer, had elastic bands or were there buttons of some type?

A. Elastic. I've never heard of briefs having buttons.

Q. Well, I don't pretend to be an expert on women's underwear.

Mr. Hanlon: That's obvious. Judge, can we move on to a different topic?

Judge: Yes, by all means.

Although not under oath, Judge Gallagher vows that his recall of the cross-examination is correct.

John R. Bush, Esquire, senior partner in the Tampa firm of Bush Ross Gardner Warren & Rudy, P.A. but for some years associated with Macfarlane Ferguson has this to say about Bill Graybill:

Of all the lawyers in the Macfarlane firm, Bill was one of the the brightest (Larry O'Neill was the other). His first passion was research, and there was never a case that was not fully briefed. Bill settled just about every case he handled, probably because his opponent in each case was aware of his preparation, but also because Bill always did a good job convincing both his client and opposing counsel that settlement is the best policy. Bill Graybill was one of the best lawyers and friends I have enjoyed the privilege of knowing. He taught me much about the law, particularly when I first went to the firm in 1962. One aspect of Bill's life not widely known was that, when he was a tank lieutenant in the Army, he lost his spleen, so was awarded a disability. Such is the

reason for the less than robust coloring that he had, and I believe he labored from time to time because of that misfortune. Nevertheless, he was always cheerful and ready to assist any lawyer in efforts to understand the law and how the judicial system operated.

A Judge's judicial assistant (JA) is almost surely the most reliable source of knowledge about the boss's work habits, temperament, and personality. Linda Davis, a well-known, no-nonsense JA with experience both in the main courthouse and the Annex, worked with Judge Graybill after his appointment. For a number of years, she was the lady in the “front office” for Judge Neil McMullen, and now is the assistant to Judge Robert J. Simms in General Civil Division. Her perspective on Judge Bill Graybill is as follows:

Judge Graybill loved to try cases. The first year of the Trial Division, he tried 108 cases. He tried a lot of high-profile cases, such as Oscar Ray Bolin, Lobster Boy, Richard Anderson, Hector Irrizarry (and many more too numerous to remember), which brings me to the feud he had with the Supreme Court of Florida. After the jury returned a recommendation of life in the Irrizarry case, which was a rather cruel murder since the man had cut his ex-wife's head off with a machete and tried to kill her boyfriend (who survived), Judge Graybill overrode the jury and sentenced him to death. Several months later, the Supreme Court reversed the death sentence and commuted Irrizarry's sentence to life. This made Judge Graybill so angry that he fired off a three page letter to the Supreme Court practically telling them they were a bunch of idiots. He felt the law was specific in that it gave the judge the power to override a jury if he found aggravating circumstances outweighed mitigating circumstances. The Supreme Court then wrote him back spanking him for writing them. This went on for about three times with all of them exchanging letters.

Judge Graybill also loved to teach young assistant state attorneys and public defenders the law. During arguments on points of law, he would tell them to find him a “cow case.” Most of them would look at him and ask what a “cow case” was. He would tell them it meant a case “on all fours.

Graybill was an individualist with his own style of presiding over the courtroom. If his own trial docket was completed, he would make the rounds of the other felony court judges and offer to try any cases they would not be able to reach during a given week. In trials, he would take frequent breaks because of his heavy cigarette smoking habit. His preference for lunch was a hot dog and soft drink at the small stand-up luncheonette in the Courthouse Annex.

Tom Wicker, North Carolina born-and-bred journalist and author once used a phrase borrowed from Conrad's novel, Lord Jim, when he described Richard Nixon as

“one of us.” No one knowing Bill Graybill would fault his inclusion in that not-so-common class of down-to-earth men.

Graybill was survived by his daughter Karen, and two sons, Allen and Robert, and four grandchildren.

St. Francis of Assisi was hoeing his garden when someone asked what he would do if he were suddenly to learn that he would die before sunset that very day. “I would finish hoeing my garden, he replied.

Had Judge Bill Graybill been asked the same question, chances are he would have said, “I can’t leave just now. There's one more case to be tried.”

Morison Buck

#### AFTERWORD:

What one lives for may be uncertain. How one lives is not. Man should live nobly though he does not see any practical reason for it, simply because in the mysterious, inexplicable mixture of beauty and ugliness, virtue and baseness in which he finds himself, he must want to be on the side of the virtuous and the beautiful. – Author unknown.