

# TOM DURKIN

## Toiling To Keep the Criminal Justice System Honest

by John Flynn Rooney

Defending white supremacist Matthew Hale against murder solicitation charges in 2005 changed the course of his law practice, says Thomas Anthony Durkin, a prominent Chicago criminal defense attorney.

Since that time, Durkin has represented, among others, the Global Relief Foundation (GRF), one of three Islamic charities whose assets were frozen while federal authorities investigated their activities, several detainees at Guantanamo Bay, and Robert Sorich, a former patronage chief for Mayor Richard M. Daley's administration.

"Trying the Matt Hale case was a real turning point for me," says Durkin, a principal of **Durkin & Roberts** along with his wife, Janis D. Roberts. "Representing him and the Islamic charity GRF after Sept. 11 when their assets were frozen really changed the course of our practice. Those two cases led indirectly to our involvement in (Guantanamo Bay), which has totally changed the focus of our practice."

The firm now finds itself more in demand on a national and international basis. For example, Durkin represented Bobby DeLaughter, a Mississippi judge and former civil rights prosecutor who pleaded guilty in July to a federal obstruction charge after all public corruption charges were dismissed in return for a recommended 18-month prison sentence. Durkin also continues his involvement in representing Guantanamo detainees.

"I still get a tremendous amount of satisfaction about being able to help someone out who comes through the door with a real serious problem," says Durkin, 63.

Rick Halprin, a veteran Chicago criminal defense lawyer, says his long-time friend Durkin "has undertaken some challenges that some of us don't under take for other reasons, like Matt Hale," whom Halprin would not have represented because he is Jewish.

Hale was convicted on charges that he solicited the murder of U.S. District Court Judge Joan H. Lefkow for her handling of a trademark case. Hale is serving a 40-year sentence in federal prison.

Durkin says he represents defendants like Hale and the Guantanamo detainees because,

"I feel strongly that what criminal defense lawyers do is noble. It's a very important role to keep the system honest."

Durkin's small practice allows him more freedom to accept unpopular clients than his counterparts at large law firms.

### US Steel Provides a Strong Foundation

Durkin was born on Chicago's South Side. He was the only child of Jim Durkin, 89, and the late Julia Durkin. Jim Durkin, who worked for 36 years at U.S. Steel, remarried at age 82. Tom Durkin now has six stepsiblings, all South Siders.

The younger Durkin attended Leo High School and played on the football team there. From there, he went on to the University of Notre Dame University in South Bend, Ind. He played varsity and semi-professional baseball until his junior year at Notre Dame.

Along the way, Jim Durkin made his son work at U.S. Steel in the summer.

"I learned more at (U.S. Steel's) South Works (plant) than I learned at Notre Dame," Durkin says.

His first job at the South Works plant involved being part of a team of workers who held a long, heavy metal rod used to knock slag off of hot glowing steel.

"It was the most frightening job I had in my life," Durkin recalls. "But it made college look real good."

Jim Durkin took his son to a Notre Dame football game when Tom was 10. Paul Hornung played quarterback for Notre Dame at that time. The younger Durkin was mesmerized and never wanted to attend another university. His two youngest children are currently students at Notre Dame, and a third graduated from there in 2003.

Durkin credits the Notre Dame experience with exposing him to new perspectives.

"It really broadened my horizons coming from a fairly insular neighborhood and upbringing," Durkin says.

While attending Notre Dame and majoring in the Great Books Program, Durkin decided he wanted to attend law school. He was accepted at the University of San Francisco Law School.

During his final year of law school, Durkin worked as a student advisor to the school's Criminal Law Clinic at the Marin County, Calif., public defender's office.

"By the time of my senior year, I was conducting two- to three-day full-blown felony hearings in Marin County court," Durkin says. "It was just a tremendous experience."

Trying cases with the guidance of a licensed supervising professor "caused me never to look back on the choice of criminal law," Durkin says.

Durkin graduated from the law school in 1973, then returned to Illinois and passed the bar exam here the following year.

### "You're A Lawyer, Not a Driver"

In 1973, Durkin also received what he terms "the break of a lifetime."

A friend told Durkin that then-U.S. District Judge James B. Parsons was seeking a driver. When Durkin spoke to Parsons about the position, Parsons told Durkin, "Young man, you're a lawyer, not a driver," Durkin recalls.

So, Durkin became Parsons' second law clerk.

"I'd like to tell you it was because of my great academic background," Durkin says. "The fact is I got to be a law clerk because Parsons wouldn't let me be his driver."

That marked Durkin's introduction to the federal courts, where he has since spent much of his career.

Parsons also figured into Durkin meeting a mentor, Frank Oliver, a flamboyant criminal defense lawyer. Parsons told Durkin he should be in court to watch Oliver and his protégé, Halprin.

In a chapter of the book *Your Witness*, published by the Law Bulletin Publishing Co., Durkin recounts that he learned the ins and outs of conducting cross-examinations from Oliver. Durkin observed him in court and joined him for drinks at Binyon's, a former Loop watering hole.

In concluding the chapter, Durkin wrote, "[I] also got very lost in martinis. Eventually, but not from Frank, I learned that you can try cases without martinis and without places like Binyon's. But that's a story for another day."

Durkin declined to elaborate other than to say that he is "forever grateful to the Lawyers Assistance Program," which assists lawyers battling addiction problems.

After clerking for Parsons for a year, Durkin worked in private practice for the next four years, ending in 1978 handling appointments to defend clients in federal criminal cases.

In April 1978, Durkin became an assistant U.S. attorney in Chicago, intending to bolster his experience in handling criminal cases.

Thomas P. Sullivan, who was the U.S.

Durkin says, referring to his work as a federal prosecutor. "The lawyers I worked with there were the finest group of lawyers one could ever ask for."

### Professional and Life Partners

In 1984, Durkin left the U.S. attorney's office and set up shop with Roberts. They got to know one another while Roberts was an assistant federal defender and they were on opposite sides of a case.

"I saw him as an incredibly bright, aggressive

"I could never have achieved close to what we have achieved without Janis," Durkin says. "In effect, I've had a very effective second chair, who was far smarter than I was."

Roberts says, "I do think we complement one another with the strengths we bring to the practice."

Durkin's strengths include being a creative thinker, Roberts says.

Durkin also has "an incredible instinct for getting business" and he "can instinctively see the issues and any real holes in the evidence in a case," Roberts says.

And, he is "incredibly ethical," Roberts adds. "It has made our practice enjoyable because I can trust him completely that his instincts, and his actions are always the right ones."

The couple's professional and personal lives merged in early 1987 when they married. Each has two children from previous marriages. The couple also has two children together, a son and daughter.

Over the years, all six children have worked at the law firm, Durkin says. His son, James P. Durkin, is an associate at McDermott, Will & Emery.

William F. Conlon, a Sidley, Austin LLP partner, has known Durkin for nearly 50 years, dating back to their days as fellow Leo High School students.

Conlon also was a federal prosecutor in a case in which Durkin represented a defendant charged as part of a Medicaid fraud case.

"Tom Durkin has only one speed, and that's kind of open throttle," Conlon says. "He gives it his all."

Another case Durkin handled as a defense attorney involved representing a member of the Gangster Disciples street gang on drug conspiracy allegations and other charges.

Fellow criminal defense attorney Halprin recalls that during the 1997 trial, a Gangster Disciples member who cooperated with prosecutors testified that he had lost all of his friends from childhood.

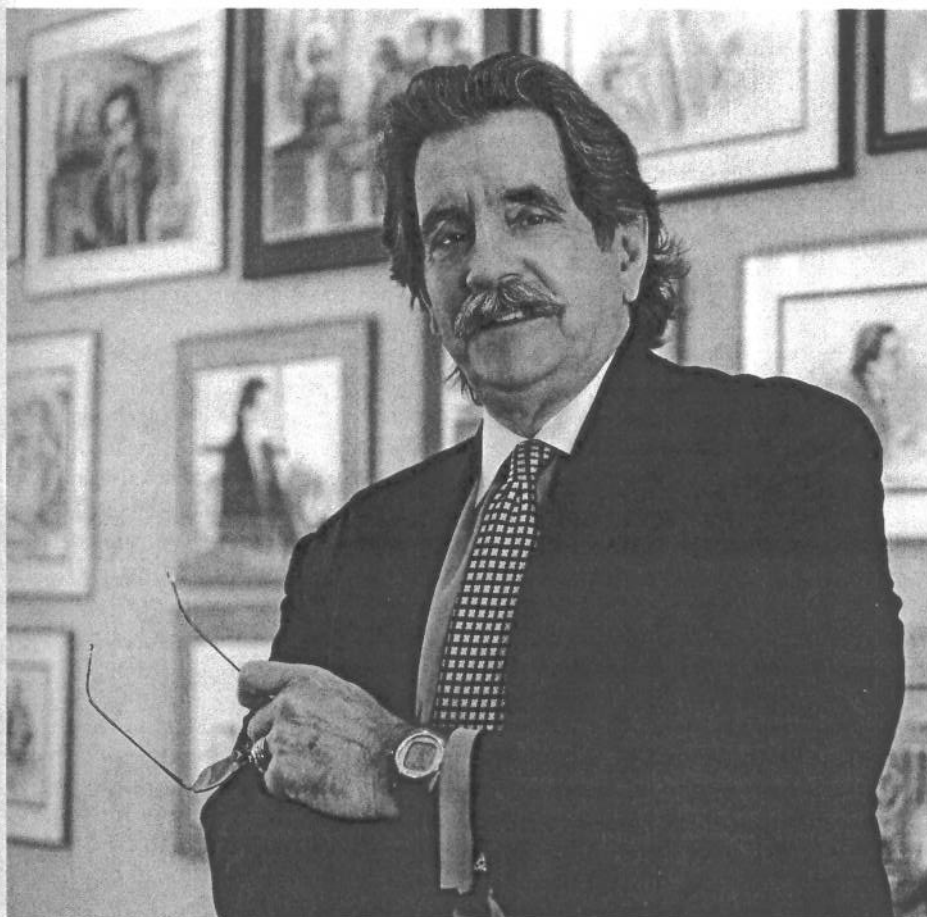
But Durkin flipped that statement around by placing his hand on the prosecution table and saying, "your new friends are right here," Halprin says.

"Everybody got the message, including the judge," Halprin says. "It was just a much more graphic way of demonstrating you can't trust a cooperating witness."

Ronald S. Safer led the investigation and prosecution of the Gangster Disciples as an assistant U.S. attorney.

Safer says Durkin is a creative and resourceful lawyer who will deliver an argument "with tremendous passion."

Safer, now managing partner of Schiff, Hardin LLP in Chicago, says of Durkin, "I think he's really a first-class lawyer and a first-



attorney for the Northern District of Illinois in 1978, was looking to attract lawyers to the office such as Durkin, who had experience practicing law.

"I've always regarded him as a dogged advocate," says Sullivan, now a Jenner & Block LLP partner.

Sullivan says Durkin is honorable and respectful.

"I think to this day, he calls me 'boss,'" Sullivan says.

For the next six years, Durkin prosecuted white-collar fraud and political corruption cases. He also prosecuted the first criminal civil rights open housing case in Chicago, stemming from a racially motivated bombing in south suburban Burnham.

"It was the best legal job I've ever had,"

and dynamic lawyer," Roberts says.

They both wanted to practice law together and establish a small criminal defense boutique, Roberts says.

"And 25 years later," she says, "it's worked out very well."

The firm now includes Augustus F. Moss as counsel.

For more than 20 years, Durkin & Roberts had Loop offices. In the summer of 2008, the firm relocated to a greystone in Lincoln Park, near the couple's home.

Durkin operates from a conference table overlooking Clark Street. A phone, small laptop computer, and smart phone stand nearby at the ready.

Durkin credits Roberts with helping him become successful.

class person.”

Durkin estimates he has tried about 50 jury trials, including several trials before U. S. District Judge Milton I. Shadur, who calls Durkin imaginative and forthright.

“Whether I agree with him or not, I always enjoy having him in front of me,” Shadur says.

### A Knack for Winning

During his lengthy career as a criminal defense attorney, Durkin has racked up a string of victories.

Among those cases was a 2008 acquittal on all counts for Michael J. Mahoney, former executive director of the John Howard Association, a prison watchdog group, on bribery charges relating to health care contracts with the Illinois Department of Corrections.

In 2002, Durkin gained an acquittal for Joseph DeChicco, former town of Cicero treasurer, on all counts in a public corruption trial that led to the conviction of Betty Loren-Maltese, Cicero's former mayor.

Durkin represented Frank Ballard, a Gary City Council member who was charged with bribery and extortion related to a federal investigation of the Gary Sanitary District. Ballard was acquitted of the charges in 1997.

In 1990, Durkin earned a not guilty verdict on all charges against William Stoecker, who was accused of federal bankruptcy fraud stemming from the widely publicized bankruptcy of Grabill Corp.

Five years earlier, Durkin won the only acquittal in the federal corruption probe into the Lake County, Ind., court system. Durkin successfully defended lawyer Thomas Mullins, who was charged with bribery and mail fraud.

Veteran Chicago criminal defense attorney Allan A. Ackerman calls Durkin, creative, honorable, hard working, and fair.

Durkin says 12-hour days are the norm. He and Roberts also toil away on weekends.

In more recent years, Durkin has tried to steer clear of trials during the summer months.

“I used to say the fun outweighed the work,” Durkin says. “But the work outweighs the fun pretty much these days.”

Due to the constraints of federal sentencing guidelines, the stakes are much higher for defendants, Durkin says.

“It’s a lot harder to go to trial now,” Durkin says. “The risks are far greater than they used to be.”

Conlon calls his longtime friend “a very generous and open guy.”

Conlon had worked with Nancy A. Temple at Sidley & Austin. He later introduced Temple to Durkin.

After Temple left Sidley & Austin, she joined Arthur Andersen’s in-house legal department in 2000. Temple later became entangled in the

fallout from Arthur Andersen LLP’s involvement with Enron Corp., a large energy trading company that collapsed in 2001.

Federal prosecutors later charged Andersen with obstruction of justice for destroying documents related to its audit work for Enron.

Following her difficulties at Andersen, Temple found it hard to get legal work.

But in November 2002, Temple met Durkin and Roberts. The couple hired Temple to assist them with some ongoing cases.

“Tom did give me a chance when no one else would at the time,” says Temple, now a Katten & Temple LLP partner.



Durkin with his law and life partner, Janis D. Roberts. “I could never have achieved close to what we have achieved without Janis,” he says.

Durkin, Temple says, has “a ton of integrity. He taught me how important your word is as a lawyer.”

Temple currently works on a civil rights case with Durkin.

“I always feel pretty grounded when I’m working with Tom that we’re doing the right thing,” Temple says.

### Angst about Sorich

In 2006, Durkin represented Robert Sorich, former patronage chief in Mayor Daley’s Office of Intergovernmental Affairs. Sorich was convicted of two counts of mail fraud and acquitted on two other counts. He is serving a 46-month prison sentence stemming from his involvement in a corrupt hiring scheme.

“I still haven’t gotten over the Robert Sorich case,” Durkin says. “That case and that sentence bother me more than any other 10 cases.”

“To this day, I don’t know what Robert Sorich did (that) was a federal crime other than go to work every day,” Durkin says.

The Guantanamo Bay matters also weigh

heavily on Durkin. Those cases led to intense discussions between Durkin and his wife, she says.

At the time Durkin wanted to get involved in the Guantanamo Bay matters several years ago, she was skeptical about their ability to sustain their private practice while involved in those cases.

But the law and life partners talked through the issue and decided to represent detainees, Roberts says.

“I supported his decision that was the right thing to do,” Roberts says. “In retrospect, it was the right thing to do.”

“He will do things because...he absolutely believes it’s the right thing to do even if it’s not the most wise decision economically,” Roberts says.

Durkin has gone to the Guantanamo prison in Cuba eight times to visit clients and participate in the Military Commission’s trial of one of the most highly publicized cases in recent years, the 9/11 conspiracy case for the attacks on the Twin Towers and Pentagon.

His client is Ramzi Bin al-Shibh, a Yemenese national and Hamburg roommate of Mohammed Atta, accused along with Khalid Sheik Mohammed as one of the top Al Qaeda planners of the 2001 attacks. Durkin was asked to join this defense team as part of the John Adams Project, a joint effort of the American Civil Liberties Union and the National Association of Criminal Defense Attorneys to provide civilian lawyers to assist detailed military lawyers in the commissions’ trial.

“Guantanamo was the most amazing experience I’ve had as a lawyer,” Durkin says. “I’m dumbfounded by what I saw and never felt more proud to be a lawyer.”

Durkin, along with the Center for Constitutional Rights in New York City, also represented two Guantanamo detainees who have been released. Those men are Walid Ali from the Sudan and Abdul Raham Houari from Algeria. For this work, Durkin was among a group of Chicago-based lawyers who received the Bill of Rights in Action award in 2008 from the Constitutional Rights Foundation of Chicago.

Durkin, his law firm, and all other counsel representing Guantanamo Bay detainees also received the Frederick Douglass Human Rights Award from the Southern Center for Human Rights.

In his limited free time, Durkin enjoys reading and spending time at Notre Dame, including participating in a Great Books seminar held on campus each summer.

“I’ve promised myself that I will play the piano and speak French,” Durkin says. “But I’ll need my father’s genes to accomplish” those talents. ■