

Obituary of public figure J McGettigan

1. Abstract.

This obituary describes a few events we all know about late in McGettigan's life: his ethical conduct as the Sandusky prosecutor, his refusal to simplify or repair a contradictory case, and his shared understanding which respects both sides of justice.

2. Context: America's history and its future.

We do want to make sense of Trump's "Make America Great Again."

American politics got divided, but both sides have a legitimate point. Harper Lee's wonderful book, "To Kill a Mockingbird," is about a lawyer who is a good guy because he is the defense lawyer.

Something not well-known in America online is that there weren't only situations like this: criminal trials, people becoming irrational, dragging the convicted defendant outdoors, or worries about a disorganized lynch mob. The KKK did not only burn crosses to cause fear; what actually happened is more troubling.

When a big celebration was approaching, people knew that there would be a bonfire, and sometimes a live person thrown on, for everyone to see. Families attended. The person thrown on the fire could be from the historic slave population, or simply someone unwanted or indebted; the reason was not important.

The great and ideal vision of a defense lawyer as the good guy in ‘To Kill a Mockingbird,’ the notion that what happens in a courtroom determines justice, these are good but simplified notions of how America had been, or could have been great.

To scholars, even in those days, a more fair and real notion of greatness has to do with checks and balances, with the constitution. And it includes the prosecutor.

An adversarial trial is allowed to involve not one, but two larger-than-life characters, huge, but still wonderful like the big balloons in a Macy’s Day Parade. One is like Santa Claus, the other is like the Grinch.

Unlike how simple things are in ‘To Kill a Mockingbird,’ a losing prosecutor is a wonderful dream: a huge wonderful Macy’s Day Grinch, making sure the jury hears all the terrible accusations fully and fairly, and then—like a huge scary Godzilla—rattling the bars, escaping the cage, roaring from the top of the Empire State Building. If a case is weak, an ethical prosecutor becomes like that.

3. The background of McGettigan's Sandusky involvement.

Eschbach hoped to be appointed prosecutor when Corbett became Governor and Kelly was appointed AG. She had told Rich Lee of the New York Daily Record,

“We tried to find other victims,” Eshbach said. She said a number of suspected victims she questioned could not look her in the eye, “hanging their heads and mumbling as they denied they were molested by Sandusky.”

Even as a prosecutor, Eshbach is ethical and transparent with the press about how witnesses said there is no abuse.

Rich Lee continues,

Eschbach said that she would have liked to continue as lead prosecutor, but conceded that McGettigan came up with something “positively brilliant.” “We got pictures of every victim at the age they were molested,” Eshbach said. “It’s one thing to hear a young man testify that he was molested and another thing for him to [instead] point at a picture and say, ‘That was me then.’ ”

Because the jury has already ruled, Eshbach does what we are required to do: to accept the ruling as true, and she says “were molested” instead of something like, “at the age they had been told they had been when they had probably been molested and just don’t remember it

anymore.”

But writing earlier in the presentment, Eshbach was clear and precise and did not assume guilt. During the trial, although his role was to be the Grinch, McGettigan in every way—fully and emotionally, subject to the constraints of his role—expressed anything that was ridiculous or contradictory in the testimony.

4. The appeal.

Parlato writes correctly and accurately about a contradiction McGettigan created:

McGettigan heard both stories. He put both on the record. He never asked either witness how the other could also have been there. He never told the jury there was a conflict. He never corrected it. The defense did not cross-examine on this point at trial.

Online obituaries quote McGettigan in his summing up,

“He knows he did it, and you know he did it. Find him guilty of everything.”

Where there were contradictions in the evidence, where it did not make sense, McGettigan was totally fair, honest, insightful, and intelligent in presenting those contradictions to the jury. Think about this: he could have deleted either one of the two witnesses.

Crucially for my understanding of it, he did not tell the jury that maybe some of the contradictory evidence needs to be deleted and the jury could convict on the rest. The whole picture—the whole prosecution case—was presented as all or nothing.

5. Who was the hero? What is the future?

The defense lawyers, Amendola and Rominger, were overwhelmed by how everything was contradictory. They applied for a continuation. When it was denied they applied to resign as defense lawyers. When their resignation was denied, they continued showing up and the jury did convict. Rominger left the profession. Not long afterwards McGettigan left the profession. His comments to the press in his role as former prosecutor always retained the same absolute, grinch-like, almost deliberately ridiculous posture.

After the case was over, large civil settlements followed. Some money was collected indirectly by McGettigan's partner. I do not believe this negates or explains his conduct in court, which remains, to me, careful, ethical, and unusually disciplined.

It is sad that everyone has to make money, that the whole system is corrupt.

On any realistic standard of how corrupt the rest of us are, McGettigan is not perfect, but he stands well ahead of anyone else I can think of in being a good, intelligent, and principled person.

Yes, he was faithful to the role of a huge Macy's Day Parade balloon of an angry Christmas Grinch.

As human cognition everywhere is slipping down rabbit holes of AI, as nature is being built over, as poor people are seen as meaningless, as their woods and lands treated as indecent unless cleared and owned, this generation is witnessing the final loss of true, meaningful intelligence in symbiosis with the natural world.

A consolation, and the only thing that can give us some hope for the future, is that there still were people like Joe McGettigan, and there might again be in the future, who, for the few decades they lived their lives, knew that it actually is possible to make America great.