



Justice 26 miles across the sea

SANTA CATALINA'S "ISLAND JUDGE" OF 31 YEARS IS NOT AN ISLANDER. HE PRESIDES OVER LA COUNTY'S LAST "JUSTICE COURT": FISH AND GAME VIOLATIONS, DUIS, SMALL CLAIMS — YOU NAME IT

To the residents of Santa Catalina Island, it's neither "the mainland" nor "L.A." that lies 26 miles across the sea — it's "overtown." The island's roughly 4,500 residents call themselves "Islanders," and they're just fine with using a handful of labels to distinguish themselves and their community from overtown (with its too many people, cars, gangs smog, etc.).

Even after 31 years as the Island judge, I'm not an Islander. For the citizens of Avalon (the two-square-mile town that is home to roughly 95% of Catalina's full-time residents), that's just fine. When I first ran for the Island judgeship back in 1988, many of the 1,852 prospective voters let me know that they didn't want an Islander for a judge because of the constant if understandable temptation to give favorable treatment to friends in a community where everyone knows everyone.

Winning that election conferred a special distinction upon me — I became Los Angeles County's last justice court judge. Justice courts served towns with populations of less than 40,000, and as of 1988 there were less than 60 left in the state. First established during the Gold Rush shortly after California attained statehood in 1850, they were presided over by black-robed justices of the peace.

Until 1974, neither law degree nor legal experience was required to serve as a justice of the peace. The only prerequisites, according to judicial historians, were wisdom, fairness and common sense. A 1974 Supreme Court decision involving due process rights for criminal defendants, *Gordon v. Justice Court for Yuba Judicial District of Sutter County* (1974) 12 Cal.3d 323, changed all that, and mandated that a law degree would be required henceforth to run for a justice court judgeship. The official title of the person behind the bench was changed from "justice of the peace" to "justice court judge."

The Catalina Branch Court lies within the City of Avalon, the two-square-mile

community on Catalina Island. It is part of the South District of the 4,084 square miles over which the Superior Court in Los Angeles County has jurisdiction. By 1994, Proposition 191 was enacted, which merged the Island court with the 88-court Los Angeles Judicial District. Further statewide court unification occurred in 2000, at which time the court's jurisdiction was expanded and I became one of some 580 permanently assigned bench officers within our county.

In 1988 I was sworn into office by my court clerk, Fern Whelan, who was 71 years old and the backbone of the operation. Justice courts ran on their own budget, and it showed. Fern still used a black manual Underwood typewriter and carbon paper. The court had no copier, computer, air conditioning or jury deliberation room.

What it did have were old forms long-since revised, an outdated set of California statutes and a leaky roof. When I took the bench and called my first case, the caster dropped out of my bench chair. My constable called a quick recess during which Fern yanked out a hammer from under the bench, flipped the chair over and gave the caster a couple whacks to drive it back in place. I learned that the easiest way to fix something, whether a blown light bulb, broken door hinge or leaky roof, was to do it myself (unless Fern got to it first).

The first thing one notices on entering the courtroom is the 48-by-40-inch oil painting mounted on the wall above the jury box. It's a portrait of an elderly gentleman with an enigmatic smile, sitting behind the judge's bench, gavel in hand.

Islanders immediately recognize the man as Ernest Windle, a former student from Oxford University who came to the Island as a bookkeeper for the Bannings, the family that owned the Island. Windle ran for justice of the peace in 1917, four years after Avalon was incorporated as a

city. The ballot count was 108 votes for Windle and 97 for his opponents.

Well-regarded for his integrity, fairness and capacity for making just decisions, Windle served as Avalon's justice of the peace for 51 years. He couldn't have known that the small margin of votes that gave him his office in 1917 would grow to a landslide in the 1964 election when he received an unprecedented ballot count of 608 of 612 votes cast. Judge Windle also started the town's first newspaper. His son, John, served as both his bailiff and the town's constable. Well into his 90s, John would often stop by when my court was in session and observe proceedings from the back row. After a sentencing hearing, with cane in hand, he'd slowly ambulate from the courtroom, but not before unobtrusively flashing a "thumbs up" or "thumbs down" depending on his outlook on my judicial calls.

Fern, my former clerk, started her court career with Judge Windle. She was paid \$1.15 an hour and subsequently worked through the judgeships of four more Island jurists before I was elected. She was 82 years old when she retired in 1996 after 46 years of service.

In the early days, a typical case involving a Fish and Game violation would begin with a 5:30 a.m. wake-up call or knock on Fern's door from a warden. There were no freezers in which to store the evidence, so the judge had to make a quick decision about what to do with the catch before it "ripened." Fern would walk over to Judge Windle's house and wake him up. By 7:30 a.m., the case would likely have concluded — arraignment, court trial, sentencing and disposition of the catch. Indeed, justice was speedy.

Today, the one-room courthouse remains small in size but handles roughly 30 cases on alternate Fridays. (During the remainder of the week, I preside over assigned jury trials at the Long Beach Courthouse). These include misdemeanors,

See Mirich, Next Page

traffic citations, limited jurisdiction civil filings, unlawful detainers, small claims, domestic violence restraining order cases, low-grade juvenile matters, and an assortment of other filings. There are typically 35 or 40 cases calendared for Friday court sessions.

The courthouse has been the collection site for ballots cast during government elections. Avalon City Council and the city's Planning Commission utilized the courtroom to conduct meetings and business when their city hall was being constructed.

The Island court is one of the last true rural courts, which sets it apart from the specialized courts in metropolitan areas. This requires familiarity with the myriad of cases over which a California Superior Court has jurisdiction.

No, I don't have a boat or my own mooring. I travel to and from the Island by either the commuter boat or the commuter helicopter service, usually with other court personnel and a few attorneys.

After several years of working together, our court reporter, bailiff, and prosecutor are familiar faces to many Islanders. When in session, the courtroom is often "standing room only" with Islanders interested in watching attorneys battling it out and observing the judicial process unfold.

Mode of transportation often depends on the weather. If it's foggy, the helicopter service cancels flights, and I'm on the 6:15 a.m. boat that leaves from Long Beach. On a stormy day, if the channel shows signs of high swells, the commuter boat service cancels, and I try to snag an available seat on the helicopter. And for those times when I'm caught on the Island with both transport services shut down, I keep a sleeping bag in chambers.

During the week, you'll find my court judicial assistant at the Governor Deukemejian Long Beach Courthouse preparing the Catalina court files. A court day doesn't go by without her "scrambling" to help our deputy district attorney, court reporter, defense attorneys and myself schedule and reschedule last-minute boat or helicopter trips to

and from the island, or locating "impossible to find" accommodations for court personnel who get trapped on the Island during inclement weather episodes.

Juvenile infractions are handled during lunch hours so local students don't have to miss school. My judicial assistant also functions as the court public relations officer. Every lawyer and judge, and scores of others who visit the Island, stop by the courthouse to ask about the types of cases that we handle and legal issues like jurisdiction and venue.

The courthouse is always busy, especially during summers. Visitors and locals alike often drop by to observe the turning of the wheels of justice. Whether one finds himself or herself as a witness, an accused, or a victim in need of protection, it is important to have a local forum where justice is accessible. In an era when community courts, once the cornerstones of the American justice system, have nailed their doors shut and merged into large superior court judicial districts, the Island forum for justice remains open as a satellite court of the South Judicial District. It's an example that cornerstones can remain strong and solid.

The bulk of our court's calendar consists of Fish and Game Code violations and tourist-related crimes. Visitors come to the Island to enjoy themselves and some "party hearty." This gives rise to an assortment of bar room brawls, vandalisms, and DUI cases on marine vessels, golf carts, mopeds and bicycles.

Police reports are peppered with colorfully identified locations such as Two-Harbors, Hogsback, 3-Palms, Frog Rock, Hermit's Gulch, Shark Harbor and Casino Point.

Now and then I'll interrupt a proceeding to perform a marriage ceremony for a couple who decide to tie the knot on the "island of romance." One ceremony in particular stands out. After "sealing the deal" in court, the couple went out for a night on the town. The groom drank too much, was arrested for public intoxication, and spent his honeymoon in a jail cell. We next met at his arraignment, where he entered a no contest plea and apologized profusely. I suspended sentence. It was clear that the sting of his

embarrassment had already outweighed any remedial effect that the standard "\$300 or 3 days" might have.

With my first trial, I quickly learned that 11 of 12 prospective jurors might raise their hands during the *voir dire* jury selection process when asked if they know any of the parties or witnesses. With a jury pool of Islanders, it was not unusual to have two members from the same family selected for the same case. This results in an interesting and unique juror admonishment: "Now you understand, Mr. and Mrs. X, that during the trial you will not be able to go home and discuss the case with each other." Right.

Since unification with the superior court, jury trials have been transferred to the Long Beach Courthouse. However, I presided over at least 50 during my tenure on the Island. There's no jury deliberation room, so we set up a dozen chairs around the counsel table where jurors engaged in their time-honored function. I remained in my chambers while the parties and attorneys waited it out in a local coffee shop (or watering hole). If attorneys and parties were from overtown, and if everyone (including jurors) unanimously agreed, more often than not we'd take a quick dinner break and return until a decision was reached later in the evening. Occasionally, a verdict was taken after 9:00 p.m..

In Avalon, news travels to Lolo's Barbershop, in the center of town, within minutes. For \$16, an attorney can acquire more information about a case during 20 minutes of "haircut chat" than a private investigator can ferret out in a day. It's common to face prospective jurors who have heard something through the grapevine about the case for which they've been summonsed, which results in another admonishment, something like, "Will you be able to set aside what you've heard in Lolo's barbershop about Captain Jack's fishing boat?"

One recent domestic violence trial involved a "free-for-all" between a couple, both inebriated, on the deck of their boat which was moored in the harbor. The first potential juror called to the box revealed that he may have witnessed the

See Mirich, Next Page

commotion during one of his evening beachfront strolls. He was “thanked and excused” and predictably testified as the defense star witness.

All in all, it has been a great assignment. Islanders know me as “Judge,” and I have a drop-by-anytime relationship with the mayor, city council members, school principal and the Avalon Sheriff’s Department station commander. The Island presents multiple opportunities for court-community outreach activities, and we’ve had several moot court exercises involving students from Avalon School and local overtown colleges.

After court unification, the Superior Court of Los Angeles County took on the

goal of becoming the largest neighborhood court in the world. It’s sometimes hard to manage that when budget cuts have necessitated the closure of courthouses. Yet, Islanders see their court as a community justice center – one that is easily accessible and a place to turn to where rights are protected and justice is obtained.

The 1988 Catalina judgeship election set a state record for the number of filers for a judicial contest. Drawing 19 candidates, Islanders were perplexed with all of the campaign literature. In an age when in excess of a quarter of a million dollars can be expended on a judicial election, Judge Mirich refused

contributions and simply campaigned door-to-door: Only on Catalina Island! Judge Mirich is a Summa Cum Laude and Phi Beta Kappa graduate of UCLA. He graduated first in academic rank in the Department of Public Service/Urban and Community Development and was a high school chemistry teacher before he attended Loyola Law School. As a former Los Angeles County Lifeguard, he enjoys long-distance open water swimming and has had made several cross-channel crossings to Catalina Island on his 16-foot paddleboard.

First published in GAVEL to GAVEL, Los Angeles Superior Court Judicial Magazine, Spring 2007. Updated for Advocate.