

Steven L Rinehart

05 January 2005

Judge David Winder
U.S. Federal Courthouse
District of Utah

RE: Your Representation of Richard Floyd McCoy in 1972

Dear Judge Winder:

I spoke with you before Christmas about the radio program we are planning on Richard Floyd McCoy. As we discussed, I host a talk radio program on K-TALK, AM 630, on Saturdays that explores historical, political, religious and cultural topics related to Utah. We plan on doing two consecutive shows on Richard Floyd McCoy (with some discussion of D.B. Cooper) later this month or next.

We would be very grateful for an interview with you about your perspective on the McCoy case, which we would like to play on the air, and which will be posted on an Internet website which will archive information for future visitors, a portion of which will have interviews, links and documentation about McCoy.

The McCoy case is interesting for a lot of reasons in retrospect. From the sheer audacity of its execution, to its similarities with the D.B. Cooper case, to McCoy's death after his conviction, it's a tale likely to endure in Utah history. McCoy seems to have been an honorable, devoted man before the skyjacking, and the whole story is covered in a shade of tragedy.

You represented McCoy from 1972 - 1974. As a law graduate myself, I understand that your attorney-client relationship endures to this day, and that there may be other sensitive issues arising from your judgeship. I respectfully submit the attached questions for your consideration. If any make you uncomfortable, we'll certainly forgo them. If you agree to the interview, which we will record digitally, I will provide you with a CD of the interview afterwards for review if you would like it, and I will delete any responses as you instruct. The remainder will be played on the air, condensed for time restraints, and posted in its entirety on the Internet.

Respectfully Yours,

/steven rinehart/

Steven Rinehart

- PROPOSED QUESTIONS -

GENERAL QUESTIONS

Following Introductions

1. Why were you the defender assigned to represent Richard Floyd McCoy?
2. What were your initial impressions of the skyjacking before being assigned to the case?
3. What was the public response to the McCoy and the skyjacking at the time?
4. Was it hard to find jurors who didn't already have an opinion of the case during jury selection?
5. Would you agree the most serious evidence against McCoy was the money found in his closet? You tried to have this evidence, plus the gun, grenade and parachute used in the skyjacking, suppressed because of irregularities with the search warrant used to seize them, including the wrong person signing a supporting affidavit for probable cause. Ritter acknowledged some merit to your motion, but denied it anyway. Would the outcome of the case have been different if Ritter granted your motion?
6. Would a plea bargain have been offered if the motion were granted? Was it? Did you expect the Tenth Circuit Court of Appeals to remand the case? Did you expect the Supreme Court to grant cert?
7. Three decades later, in your current capacity as a District Court Judge, would you grant or deny that same motion you filed in 1972 if you were presiding in the McCoy case?
8. Was his 45 year sentence, the maximum, to McCoy fair? Why or why not?
9. Why didn't Ritter grant your Rule 35 motion to reduce McCoy's sentence to 20 years? Sentencing guidelines didn't exist at the time, and federal prisoners could still be paroled. How much time would McCoy have served if his sentence were reduced?
10. What is Judge Ritter's reputation around the Federal Courthouse? Is it better or worse than his reputation in the legal community was outside the courthouse?
11. Several prominent politicians tried to have Judge Ritter removed from the bench – not because he lacked the legal intellect or ability, but because he may have harbored strong prejudices against Utah and its culture that interfered with his judgment in many cases? Is there any truth to this in your opinion? Should he have been removed? Would the case have been different with another judge?
12. Did you hope the psychiatrists you put on the stand, Hubbard and McDonald, would have a stronger effect on the jury?

13. The morning you made your closing arguments, the Supreme Court ruled the death penalty unconstitutional, sparing McCoy execution. Would McCoy have gotten death? Would the jury have recommended it?
14. In your opinion, what reasons might McCoy have had to hijack flight 305? Was he under pressures to do so?
15. *We'd like to ask you some questions about McCoy's wife and family, if possible. It's a sensitive subject because Karen sued the University of Utah Press and Bernie Rhodes for libel after they suggested she was responsible for turning McCoy in for the hijacking and after his prison escape, stealing \$20,000 of his loot, and having an affair with one of the FBI agents.*
To your knowledge, did Denise, and/or Karen McCoy, become romantically involved with any of the authorities prosecuting or investigating McCoy? Did they share criminal culpability for anything that happened from the hijacking to McCoy's death? Was McCoy being pressured by them in ways that encouraged him to seek criminal solutions to his family's financial problems?
16. Who was most responsible for turning Richard in? Was it his UHP friend? Denise? Karen? Did Denise want to collect the \$50,000 reward for turning McCoy in?
17. Can you share any thoughts on Karen, Denise, their family or McCoy's family?
18. Did you maintain contact with McCoy after his sentencing?
19. To the extent you can discuss it, do you believe McCoy was responsible for the D.B. Cooper skyjacking in 1971? Bernie Rhodes and Russell Calame wrote a book, *D.B. Cooper: The Real McCoy*, that tells the McCoy story and which list numerous facts that compel that conclusion he was Cooper.
20. Your cousin, also named Dave Winder, attended Stanford with a disreputable Army Lieutenant named D.B. Cooper? McCoy was in the Army. Did this man have anything to do with McCoy, or did McCoy know of him?
21. Has your impression of McCoy changed over the decades, or stayed the same over the years?
22. Are there any other interesting details of the case that have never been released, or are not widely known, that you can share or comment on?
23. What other similar cases have you seen in your career in the judiciary? Have you ever been involved with any other cases, as a defender or judge, in which the defendant acted as audaciously as McCoy?

We received this response:

Dear Mr. Rinehart:

I attempted to reach you by telephone, but was unsuccessful. I wanted to get this message to you as soon as possible so you can make alternate plans for your program.

After considering your request for an interview concerning Richard Floyd McCoy, I have determined that, for health reasons and a rather demanding court calendar over the next few weeks, I must decline to participate.

As you know, these events occurred well over thirty years ago, and I simply do not have the time and resources to make adequate research and refresh my memory.

Your suggested interview questions are certainly insightful. I hope you will be able to find the information you need to present the program as you would like to do.

Thank you for your courtesies. I apologize that I am unable to participate.

DAVID K. WINDER