



BLACK ISN'T BLUE



Roy Black Is Miami's Clarence Darrow. Laurie Brookins Finds Out Why.

Oversized gold letters announce that you're entering the Miami offices of Black & Furci, P.A., home of wunderkind attorney Roy Black. Framed newspaper pages line the walls—emblazoned with headlines like “NOT GUILTY” and “Lozano wins second trial”—while the outer reception area contains volumes of *The Greatest Lawyers in America*.

Roy Black's name is listed in all of them.

Black is the man widely credited with freeing Miami police officer William Lozano, who won an acquittal in June after the most celebrated trial since, well, William Kennedy Smith, another Black client. Prior to that, Black also defended Luis Alvarez, a police officer charged with manslaughter, and won an acquittal amid an atmosphere of heated debate, civil unrest and immense public pressure for a conviction.

So controversy isn't new to Roy Black, even when it focuses on him and not his client. Not long after Lozano's acquittal, we sat down with Black, who talked about everything from the Kennedys to mercenaries in Miami to his recent, albeit slightly tarnished, court victory.

I thought you might kick back a little after Lozano, but your calendar seems to be pretty full.

Yeah, I'm trying to get back into the practice of law. There's always a period of decompression after cases like Lozano. It's like being in a war. You get so wrapped up in what you're doing, and that's all you do for 24 hours a day. And particularly in [Lozano's] case, which I've been involved in for four-and-a-half years, it was a real crusade, I suppose.

Were you surprised at the media's and various legal experts' reaction to your decision not to present a defense in the Lozano case?

In trial strategy, the lawyer involved is the one who really understands what's available and what to do. It's hard to second-guess; outside lawyers and experts don't know the evidence that's available. They don't know the pitfalls, the pluses and minuses, so it's tough. People ask me all the time to comment on an ongoing case, but it's difficult to do that because it's hard to know what material the lawyer had to work with; only he or she interviewed the witnesses and knows the good and bad points in what's going on.

During the Lozano trial, every day I had to reassess what I was going to do: how I would cross-examine witnesses, what kind of evidence to use, what kind of evidence to put on. And finally, at the end of the case, we had made the preliminary determination very early in the morning of the last day not to put on a case. However, they had one more important witness, Dr. Fogerty. But when they called Fogerty, they only had him testify to part of the things he could have testified to. That's when I decided we'd be better off not putting on a defense, which would exclude them the right to come back in any kind of rebuttal case. I also thought we were ahead a little bit at the end of the state's case.

Now, in strategy like this, if you win, you look like a genius; if

you lose, you look like an idiot. Fortunately, I won, so everybody thinks it was a brilliant stroke of strategy. However, I laid awake for two nights after I made the decision hoping that it was the right one.

I'd like to get into the situation that followed the conclusion of the Lozano trial. Can you give me a rundown of what was said to whom about borrowing Cherokee Paul McDonald's poem?

As I got to that part of the summation, the state objected, and we had a conference with the judge, who asked what their objection was. Their objection was that I was reading a statement that they claimed came from William Lozano, and since he didn't testify, they didn't want me reading a statement that they claimed came from him. And I said no, that this was written by another police officer, and I wanted to read it to the jury. The judge said to just make it clear that it comes from some other police officer and not William Lozano. So I got up there in the summation and said that this comes from a police officer, and I read it.

After the verdict, people were looking for anything to criticize the defense because they were angry and frustrated over what happened. And the first accusation made was that I had written this myself and misled the judge into thinking that I was quoting someone else. I said that wasn't the case, and I explained what happened: that I had taken this part from his book, and I had edited out various parts of it, turned it into blank verse, keeping words I liked best, added an introduction to it, and added an ending, which was really the ending of my summation.

I gave that same explanation to *The Miami Herald*. And the *Herald* reporter, for some reason, wrote that I said I made it up. What I told him is that I took this writing and turned it around into the way I wanted it, but that I did not write those words. I wrote part of them—the beginning and the ending—but the middle part came from McDonald. I didn't give him McDonald's name; I just said a police officer.

Good writers borrow from each other all the time....

[Sifting through his briefcase] I was thinking of writing a response to the *Herald*, and there's a great quote that fits that idea very well. It's from Dale Carnegie: “The ideas I stand for are not mine. I borrowed them from Socrates, I swiped them from Chesterfield, and I stole them from Jesus, and I put them in a book. If you don't like their rules, whose would you use?” I think there's a lot to that. Why do we read? Reading is really a conversation with some of the greatest minds in the history of mankind. By reading, you develop their ideas—your own ideas. We all work like that.

Do you feel that you've ever had the opportunity to explain yourself, or do you think the end result left your credibility in doubt?

I haven't really had a chance. I've drafted a response to the *Herald*. But what am I going to do? I don't have...



Surrounded by friends: "When there's no way out but to fight the battle, that's when they come to see me."

to publish, and I'm sort of at their mercy when it comes to that. That's the *Herald's* viewpoint of it, and there's not a lot I can do about that.

Do you worry, though, that because of this incident, the public—especially potential clients or potential jurors—will question your credibility regarding what you get up there and say?

When you're a criminal lawyer, and you handle controversial cases, you're always going to get potshots for various things. Nobody is happy with criminal lawyers or lawyers in

general. Unfortunately, it's part of the practice of law.

You have a reputation for becoming consumed by your cases, yet very little is known about your personal life.

I don't find in my profession that it's really advantageous to discuss your personal life, so I don't like discussing family or where I live or things like that. There's no sense in making things more difficult than they are. The kinds of cases I handle are usually controversial, and there are always a lot of unhappy people in the end. That's the way it works.

Have you ever received death threats?

Oh, sure, a lot of that kind of stuff. It depends on the particular cases. I don't think anyone threatened to kill me after William Kennedy Smith. But in the Lozano case, there were a lot of hard feelings, frustration, anger, outrage, and people who don't understand how the criminal justice system operates.

And a case like Lozano takes on a life of its own. It's no longer just William Lozano—it has become an issue in the community, and there are people who have an investment in a particular verdict. There are people in this community who are saying that, unless this guy is convicted, that means there is no fairness for black people, or that the criminal justice system is ignoring blacks, or that they're being oppressed.

What happens is that people lose sight that this is one man on trial for one case, and this is not some panacea for Miami. There are people who think, 'If we can convict this one cop, all our racial problems will be over.' And a lot of people say that because he didn't get convicted, they're being mistreated.

The problem we have in Miami is that the government is not willing, or can't afford, to confront our real problems. Apparently, they can't do anything about the racial problems—poverty, crime, equal employment, housing, decent wages, and giving people a lifestyle that's worth having. Government apparently can't provide that, and people get frustrated. But convicting William Lozano was not going to make things better for people. Only government and private industry can do that.

So you did experience animosity from the black community during the Lozano trial?

Sure, and I've had it before, during the Alvarez case. Actually, a lot more took place during Alvarez. We had a lot of bomb threats to the office. We had bomb-sniffing dogs go over the cars in the morning, and the S.W.A.T. team was here at the end of the case. And during the first Lozano case, we had a lot of security; we went to the courthouse surrounded by armored vehicles, we had snipers on the roof, things like that. In Orlando we didn't have a lot of security. There were some things that were perceived as somewhat threatening, but nothing compared to what it was like down here.

Roughly a year after all has been said and done in the William Kennedy Smith trial, can you share your impressions?

I thought it was an extraordinary experience. I enjoyed representing Will Smith. I got to meet almost all the members of the Kennedy family, which I think is an extraordinary group of people. I have some memories of talking to them and getting to know them that I'll never forget.

I thought he was innocent all along. I feel very good about the work we did on the case. It was extremely stressful, with a great amount of work involved, but in the end I think

outrageous articles written about the family and Will Smith, particularly in the tabloid press and a couple of TV shows. Extraordinary things went on: We had television shows paying off witnesses for interviews, and people would change their stories to make them more salable to the press.

What about the prosecutor, Moira Lasch?

Moira Lasch got a very bad deal after the case. That's what happens when you lose: You're subjected to an inordinate amount of criticism in a case like that. I wasn't particularly friendly with her; she's not the most personable prosecutor I ever dealt with. But I thought she was extremely hard-working, very tough, and I think she's gotten a very bad image that's undeserved as a result of the case.

What was it like staying in the Kennedy mansion?

Well, the Kennedy mansion is one of those places that has a great aura about it, but it'll never make it into *Architectural Digest*. The Kennedys treat it as sort of a big beach house.

They're only there for a few months out of the year, during the winter months, and there are parts of it that are not all that nice. The kitchens are old and run-down. It has a wonderful location; the property is fantastic. The back lawn, the pool, the beachfront—all of that is beautiful. But the house itself is large, rambling, totally inconvenient. It would cost a fortune to really put it in shape.

But they have pictures in that house that you'd die for—photographs that ought to be in a museum. They've got pictures of the whole family with King George when Joe Kennedy was the ambassador to the court of St. James. They have these beautiful color photographs that are treated like they're nothing; Rose with

the children, Rose with Teddy, JFK with Caroline and her horse, the kids learning to swim. Typical family photographs, but of course this is the Kennedys we're talking about.

Are you planning the obligatory book?

Yeah, I am in the midst of writing a book.

Really? What about?

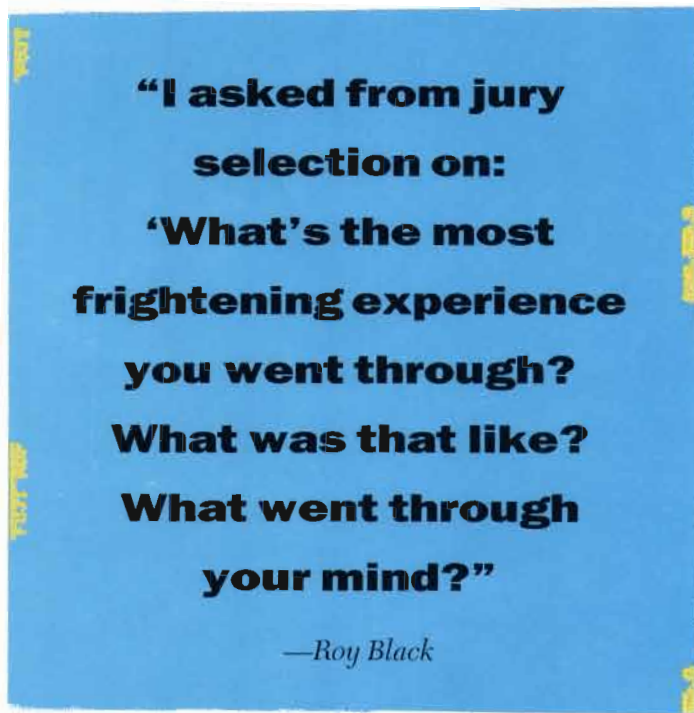
Cases that I've handled.

One case? Several cases?

It's going to be about a few of my cases in which I describe the entire case—strategies involved, what happened, legal aspects—to give people an idea of what actually happens during a trial.

Obviously, these will be some of your more celebrated cases.

Yeah, hopefully—well, not necessarily. What I'm trying to do is select cases that work best in describing the principles involved, the techniques of cross-examination, summation, legal arguments, legal strategy. I'm picking cases that are going to best describe that, because it's much easier to understand



in the book?

I'd rather not get into that.

A journalism professor once told me, 'It's great to be a writer in South Florida, because it's the Casablanca of the United States.'

Yeah, we've used that metaphor as well in the legal field. What I like about South Florida is that virtually anything can occur here—and usually does. If somebody wanted to get together a mercenary army to invade some small country somewhere, they'd probably start in Miami. You can buy unlimited amounts of armaments, you can hire mercenaries, you can do anything you want. It's the drug capital of the world; there's a lot of white-collar crime.

Even when I was a public defender—the reason you get so many unusual cases is because Miami is like New York and Los Angeles: It's not only a metropolis, but also a resort area, and you're going to get unusual people who are attracted to places like Miami. It's inevitable that you're going to get a lot of soldiers of fortune, entrepreneurs—you get an incredible mix of people. I think it's a great place to practice law.

Whom do you admire?

Locally, there are lawyers like Jay Hogan and also Phil Hubbard, for whom I worked for many years and is one of the best lawyers I've ever met. Clarence Darrow was probably the most eloquent lawyer of all time: His speeches and summations rank at the top of eloquence among anyone.

Winston Churchill is probably my favorite person in history. I admire Martin Luther King. I admire people who took on a cause and had the perseverance to see it through.

Those three men—Darrow, Churchill and King—were all known for their spirit and eloquence.

Eloquence is difficult to define. It doesn't mean that you're the best-read or the most literate person. Virtually anyone has the power to be eloquent: You can take a man off the street, and if you ask him to tell you about something he really believed in, he would be eloquent.

Lawyers are eloquent when they believe in what they're saying and doing. That's why Clarence Darrow was eloquent. Look at his words—he wasn't a William Buckley type. Darrow believed in what he was doing. He was fighting for union members, fighting against capitalism, against the large factories and the political system of the time. And he was a fervent believer in what he was arguing.

Much was made in the Lozano trial of how you moved people in the summation. How the jury, the audience, even a cameraman, were moved to tears ...

Emotions are important in a case like that, because human beings tend to make emotional decisions and then back them up with facts that fit our emotions. In many criminal cases, I don't

sick of it: 'You can't judge this man sitting in this air-conditioned courtroom where there's no stress involved.' That's why I kept talking about fear so much and talked about the emotions so much, because I wanted people to experience fear. I asked from jury selection on: 'What's the most frightening experience you went through? What was that like? What went through your mind?'

I had to change the issue in the case; the state tries to set the issue as, 'Today we're going to decide if William Lozano acted rightly or wrongly when he shot his gun.' But that's not the issue. The issue in self-defense is not whether or not I could look back today and say we could have waited half a second, could have jumped, could have had another alternative—that's not the issue. The issue is that this person genuinely thought his life was in danger and therefore had to use deadly force to protect himself, which is an entirely different idea. That's why I had to get them away from the clinical idea of using calipers and rulers to decide when you should make a decision.

They had to put themselves in [Lozano's] shoes and walk out into the street and know what Overtown is like. One of the big criticisms I get is that I didn't follow the chamber of commerce line of argument and say it's all wonderful. But how many people want to go out to Third Avenue at 6 p.m. in a blue uniform and be a target? What's that like? That's the only way you can judge this man, is to get out there in his shoes and see what's going to happen in this set of circumstances. Once the jurors got emotionally involved, then they were able to understand.

How would you define your public image?

I don't really know the answer to that. Other lawyers are usually deferential—what they say behind my back, I don't know. In public, you're as good as your last case.

Your dedication to research seems to be one of the things people credit most as the reason for your success.

I like to do a lot of research. I like to work in the realm of ideas and use them in my cases; there's a lot of material that can be used. The great thing about being a trial lawyer is that you're a dilettante: I get to learn something about a lot of different things. Whether it's DNA, fingerprints, blood spatters, ballistics or accident reconstruction, it's always interesting.

What's next for you?

There are a number of different cases I'm working on; I have a lot of unusual clients who have gotten themselves into various difficulties. ...

Difficulties—that's an interesting choice of words.

Unfortunately, people get themselves in trouble. One thing I've done is that I've priced myself out of handling the overwhelming majority of criminal cases. In order to be successful in these tough cases, you have to build up a staff and an

