



JACK B. SWERLING

Photo/Ginger Pinson

THEY
CALL
HIM

'Mr. Murder'

By JEFF FEELEY

quoted in The National Law Journal

COLUMBIA, S.C. — The 6-foot 5-inch, 250-pound man in the double-breasted, dark blue suit looks like a well-dressed defensive tackle or a professional wrestler — anything but "Mr. Murder."

But Jack B. Swerling of Swerling & Harpootlian here, has earned that sobriquet from his courtroom colleagues and opponents for having had a hand in nearly all the state's big murder cases in the last decade.

"He's one of the top criminal attorneys in the state. If there is a big murder here, he's going to get the call. He has a reputation around the state for taking the murders no one else will touch," said Richland County prosecutor James C. Anders, who has faced Mr. Swerling in court many times.

Mr. Swerling has gotten plenty of opportunity to ply his trade, being called on to represent mass murderers and serial killers as well as some run-of-the-mill, single-murder homicidal types.

In his 15-year career as a defense attorney, Mr. Swerling estimates he's defended 150 murderers across this state. That equals almost a murder trial a month.

"Once you try a homicide case, every other case pales next to it. Murder is the ultimate human drama. These cases involve a lot of emotion and I get emotional about them," said the 40-year-old attorney.

"I've tried so many of them by now that I feel comfortable with them. They are second nature. I guess I've made them my speciality," he said.

The case that really propelled Mr. Swerling to prominence in South Carolina legal circles was his court appointment in 1982 to defend Donald "Peewee" Gaskins, a convicted murderer charged with carrying out the contract killing of a fellow death-row inmate in prison.

Mr. Swerling spent eight weeks trying to convince a Richland County jury that Mr. Gaskins was not hired by a South Carolina family to send a booby-trapped radio to Rudolf Tyner in revenge for Mr. Tyner's killing of an elderly couple.

The radio killed Mr. Tyner instantly when he turned it on in his cell at a Columbia prison.

Although Mr. Gaskins — who already was serving multiple life sentences for killing nine people — ultimately was sentenced to death, Mr. Swerling's name was in the newspapers throughout the trial and the case later was turned into a TV movie.

"That case established me as a criminal attorney. People knew that if I would take Peewee's case, I would take their armed robbery," Mr. Swerling said. *State v. Gaskins*, 242 S.E.2d 220 (S.C. 1985).

If Gaskins brought him fame, what solidified Mr.

Swerling's reputation as "Mr. Murder" was when he was hired to defend Larry Gene Bell, an electrician accused of kidnapping and killing two girls in 1985.

Mr. Bell, a sexual sadist with a history of assaulting women, kidnapped the two girls — two weeks apart — from their homes. After sexually assaulting and suffocating them, he called the family of one victim to taunt them with details about the girls' deaths.

In two separate trials held in different parts of South Carolina, Mr. Swerling conceded that Mr. Bell killed the two girls, but argued he was mentally ill at the time. Neither jury brought it, and Mr. Bell twice was sentenced to death. *State v. Bell*, GS-41-114 (NLJ, 3/10/86).

Mr. Swerling took a lot of heat for agreeing to defend Mr. Bell, and a sheriff's deputies had to keep a 24-hour watch on his Columbia home because of death threats.

"Being a defense attorney is like being a cowboy. You are the only one on your side of the barroom that gives a damn about your client and you have to face down the whole town to make sure he gets a fair shake," Mr. Swerling said.

"Representing someone like Larry Gene Bell keeps the system honest. Making sure Mr. Bell receives all his rights protects all of our rights," the attorney said.

Some of Mr. Swerling's adversaries joke about his record in capital cases, saying he's put more people in the electric chair than any prosecutor in the state.

"We kid him, but he really does a great job. He takes the worst cases and does an exemplary job. He's very smooth in court and gives a great jury argument," said his courtroom adversary Mr. Anders. Mr. Swerling said he doesn't base his success in murder cases on whether he wins an acquittal.

"If a guy goes in with murder charges against him and comes out convicted of manslaughter, that's a win," the attorney said.

"I feel success even in a loss when I know my client

got the best shot under the law he could get. When I work hard and do my best, it's a win," he said.

Hard work isn't exactly a stranger to Mr. Swerling. Born in New Jersey, he graduated from Clemson University in 1968, then worked as an insurance adjuster until 1970, when he entered the University of South Carolina School of Law.

After graduating in 1973, he worked in the Columbia general practice firm of Lourie Curlee Barrett & Popowski handling real estate, litigation and minor criminal cases.

"Anytime I got into criminal court, it was exhilarating. I was fascinated with people who kill others. What makes them do it? That's when I knew criminal law was where I was going to be," he said.

Then in 1982 Mr. Swerling broke away and formed his own boutique criminal firm, Richard A. Harpootlian — who attended college and law school with Mr. Swerling — joined the firm a year later just after he prosecuted the Gaskins case.

"I'd just spent eight weeks beating my brains out and having him beat mine out in court. We decided to go into practice together to save our brains," Mr. Harpootlian said before a 1986 post-conviction appeal hearing in the Gaskins case.

The fact that Mr. Harpootlian — the main prosecutor against Mr. Gaskins — went into business with Mr. Swerling prompted Mr. Gaskins to file an appeal claiming Mr. Swerling was too chummy with his soon-to-be law partner during his trial.

A judge later dismissed the convicted killer's claim saying "There is no logic in the idea that Mr. Swerling would do less than his best work against Mr. Harpootlian if he wanted to show Mr. Harpootlian that joining a partnership would be a career advantage."

Trying to make friendships with prosecutors is not one of the techniques Mr. Swerling uses in murder cases. But the attorney said he has tried almost everything else.

For example, he has hired an interpreter to sit by a Chinese man accused of murder to help him understand prosecutors' questions and respond.

Some Columbia attorneys say the defendant, who had been in the United States for several years, understood English perfectly and the interpreter only was employed to make cross-examination tougher.

"It's almost impossible to cross-examine someone through an interpreter, but I didn't bring her in for that purpose. Our man didn't understand the nuances of the language," Mr. Swerling said, trying to suppress a smile. *County v. Sen Ping Huang*, No. 85 GS 40 2773 (Richland Cty.).

Mr. Swerling also has called county sheriffs and convicted murderers as character witnesses for his defendants, has had alibi witnesses arrested in court, has carried clients out of the courtroom who have fainted — and has done "one-handed" closing arguments.

"One time during a summation, I was punching one hand into the other when I missed and hit my Rolex watch. The watch flew off into the jury box and my hand started bleeding," Mr. Swerling recalled.

"So I stuck my hand in my pocket and went on. The blood started splattering my pants and by the end you could see the stains on them. Obviously, it was not my best [closing argument]," the attorney said.

Because of his size (Mr. Swerling recently pared 80 pounds off his once 320-pound frame), he has been compared with a bear lumbering around the courtroom, waving his arms and pounding on the jury box.

Mr. Bell embellished that characterization when he called Mr. Swerling his "professional teddy bear" during Mr. Bell's first death penalty trial.

Because of his courtroom reputation and knowledge of South Carolina criminal law, Mr. Swerling has been named to the staff of the University of South Carolina law school to teach criminal trial practice.

Mr. Swerling, who has been named one of the nation's most accomplished in criminal defense work by the National Association of Criminal Defense Attorneys, also serves as a South Carolina Bar examiner on the criminal law section.

But for all his notoriety as a defense attorney, Mr. Swerling also is famous for his strong resemblance to Andre the Giant, a famous professional wrestler.

"He was in an airport one time and he went up to a stand to buy flowers for his wife," Mr. Harpootlian recalled. "The woman asked him if he was Andre the Giant. Mr. Swerling patiently explained he was a criminal defense attorney, but the woman wouldn't buy it. She thought he didn't want to give her his autograph."

While he may look like a giant, Mr. Swerling said that he doesn't think he's any Goliath in the South Carolina legal community.

"I do my job to the best of my ability. I prepare my cases and leave no stone unturned to represent my clients. That's what an attorney is sworn to do," he said.

EXHIBIT
A
ALMOST A TRIAL A WEEK