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In Memoriam: Michael Morchower

John W. Luxton

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IN MEMORIAM

MICHAEL MORCHOWER

*John W. Luxton **

October of 1974 brought an offer of employment to work for Michael Morchower as his first legal associate. We met in my last semester of law school when I did an internship with Robert W. Duling¹ of the Richmond Commonwealth's Attorney Office. Contested cases I observed between the two were spirited. When the case was over, however, the two future legends of the Richmond legal community would congratulate one another in a sincere and thoughtful manner.

Michael took me to the Richmond General District Court on one of my first days of employment. We were late leaving the office as he attended to a variety of matters. We rode in his white two-seater Mercedes-Benz with a license plate MAGIC M. He had a car phone which rang frequently. As we arrived near the Courthouse, parking was scarce. He pulled into a no-parking zone, turned on his emergency flashers, and exited the vehicle.

We took an escalator to reach the building's lower level where the courtrooms were located. A variety of individuals traveling in the opposite direction greeted him, calling him "Mike" and wishing him well in the day's cases. As we got to an area outside the courtroom, police officers and detectives acknowledged his presence with a quick "Hey Mike" or a friendly hand signal.

* J.D., 1974, University of Richmond School of Law; B.A., 1971, Hampden-Sydney College.

1. Robert Duling later became revered in the legal community for his service as a Circuit Court Judge.

Judge Harold Maurice's courtroom was always crowded. When Judge Maurice saw my new boss enter the courtroom, he announced for all to hear, "Well if it isn't Magic Mike Morchower." The announcement was a regular part of Michael's appearance in that particular courtroom.

Michael was as magical as any criminal defense attorney could ethically be. I was with him for over thirty-five years. I cannot imagine there will ever be another Richmond criminal defense attorney who will match his courtroom achievements or secure such a loyal base of clientele.

He came to Richmond in 1958 from Bayonne, New Jersey, to play basketball at the University of Richmond. He completed Richmond's law school, and in 1965 he joined the F.B.I. as an agent. The sixties experienced great social and cultural changes, including the civil rights movement. Michael had a fondness for the disadvantaged and oppressed.

Michael saw a different world when he was assigned to live and work as an agent in Louisville, Kentucky, and New Orleans, Louisiana. He observed local law enforcement were sometimes weak in their investigations and would, on occasion, supplement their work with flavored testimony. His experience helped him hone his instincts at trial to attack testimony he felt suspect.

Two years of being an agent was enough. He joined the United States Attorney's office in Richmond and learned more of the actual mechanics of trial work. After a couple of years, United States District Court Judge Robert R. Merhige, Jr., recruited him to become the first United States Magistrate in the Eastern District of Virginia. When Michael began his private practice, he had seen the best and worst of investigations, prosecutions, and attorneys trying cases in front of him as a magistrate. He was also armed with a variety of new United States Supreme Court cases defining the Fourth and Fifth Amendment rights of those accused of criminal activity.²

The "Magic" legend began when a case would be dismissed despite drugs found in a client's home and he admitted he was a drug dealer. The magic of the Fourth Amendment protections used at

2. Terry v. Ohio, 392 U.S. 1 (1968); Katz v. United States, 389 U.S. 347 (1967); Miranda v. Arizona, 384 U.S. 436 (1966); Aguilar v. Texas, 378 U.S. 108 (1964).

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trial got the public's interest and befuddled the police and prosecutors. Police procedures were slow to change, affording the growth of a legend.

He was not only excellent with constitutional defenses, but he was tremendous with juries. Deceased Circuit Court Judge D.W. Murphy of Chesterfield County remarked in an 1983 interview that Morchowder would give the appearance of complete frankness before a jury and that he understood the importance of theatrics—and appropriate humor in a trial. Current Richmond Circuit Court Judge Gregory L. Rupe, in 1983, attributed Michael's success to his preparation, his knowledge of the law, his "seat of the pants trial ability" and having "been wired" to the Courthouse. Michael made jurors comfortable in returning a non-guilty verdict if the evidence was not sufficient.

In jury trials, he earned high profile acquittals for two Richmond attorneys; a Richmond Judge; a Richmond police officer; a Hanover deputy sheriff; a minister; a Virginia State Police dispatcher; a dentist; an ear, nose, and throat doctor; and a member of a County Board of Supervisors. There were countless regular citizens who were also acquitted of wrongdoing. When I first began working with Michael, I watched him try three jury trials in three consecutive days. Juries related to him and he worked hard for his clients.

Michael was probably most proud of three cases in his jury trial career. He represented Richmond City Council member Chuck Richardson, a Vietnam War Veteran, who had periodic addiction issues. The police had executed a search warrant at Richardson's house. Richardson led the police to some syringes that had traces of heroin. Despite the evidence, the jury acquitted Chuck.

Michael represented O'Neil Henry in United States District Court in Roanoke. O'Neil was a truck driver with a ton of marijuana in his trailer. A law enforcement officer testified O'Neil admitted knowing the trailer had marijuana in it. O'Neil denied the statement and the jury acquitted.

Michael and I tried what became known as the "Hanover Pot Plane" Case. Two very nice young men from Arizona landed a DC-4 plane containing three tons of marijuana at a tiny rural airport in Hanover County. Hanover was a tough place to try such a case. It took some years, but Michael finally got a Federal Judge to rule the jury selection process had been flawed and the comments by

the prosecutor during closing argument were prejudicial. The sentences were substantially reduced and our clients returned home.

Michael loved having his cases covered by the media. When he began private practice, the Rules of Professional Responsibility prohibited lawyer advertising. There was no internet, mass mailing, or television spots. The local newspaper and local television stations covered the courthouses in the Richmond area. He knew the reward of a good news story about his cases. He notified reporters of his trials and offered his position on certain matters in the legal community. Michael was way ahead of most attorneys in realizing how this symbiotic relationship worked. He courted the press with a story and was often given the coverage he wanted to grow his practice and feed his ego.

When his client was absolutely guilty, Michael moved on to the anticipated sentencing event. He regularly had family, employers, psychologists, and drug rehabilitation counselors come forward to give a balanced picture of his clients. When I began working, a courtroom deputy told me Michael would fight harder in a sentencing than any of the other criminal defense lawyers.

Michael often had six or seven cases a day spread over a five hour period in three or four different jurisdictions. He was often late, but rarely drew the wrath of a court. They generally recognized he was not being disrespectful, but was simply doing his job. Most enjoyed his appearance in court as he generally lightened the courtroom mood by his humor.

Michael was restless and competitive. He was ambitious and generally fearless. He was a self promoter and put together a brochure documenting his biggest victories. The book was given to potential clients. The book is amazing to read.

He was kind and generous. Those in need had a friend. People knew they could give a sad story and Michael would assist. He was not worried that some obviously abused his generosity. Some lawyers did not like him because he was outside the lawyer mainstream and did not follow the lawyer norms. A few of the lawyers who may have looked down at Magic, the criminal lawyer, brought their children or friends to the office seeking his help.

Many young lawyers followed my path and began their careers as Michael's associate. After we graduated from associate status, most of us remained in his office building and developing our own

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practices. In my thirty-five years, there was never an argument among the attorneys. No one departed in anger, although some did depart to set up their own shop. There is an unusual bond among most of us which includes many staff members who worked with Michael over the years. We enjoy being with each other. Michael would be delighted to know two of his favorites, Lauren Caudill and Sharon Jacobs, were recently sworn in as judges in Henrico County.

Michael loved to talk about the past, including his cases and fun times we had experienced. In the 1980s he was the host of an event for a number of years which will never happen again. He loved to rehash renting Katy O'Leary's on Staples Mill Road for an annual Christmas party. It was a word of mouth event. Judges, court reporters, clerks, detectives, federal agents, prosecutors from state and federal court, secretaries, and defense attorneys would attend along with a variety of our former clients. It was so unusual but so refreshing for so many polar opposites to gather together and have fun.

Magic Mike was programmed by his experiences to be successful. He fought hard but left his fight in the courtroom. He was innovative, daring, and loved his occupation. Although he retired over seven years ago and recently died, we still get calls from potential clients who want to hire Magic Mike. Now that is a legacy.