

ILLUSTRATING JUSTICE: A VIEW OF THE US DISTRICT COURT FOR THE SDNY FROM THE GALLERY

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To say that the U.S. District Court for the Southern District of New York (SDNY) “is the pre-eminent trial court in the land”¹ is a bit of an understatement. As one of the original 13 courts established by the Judiciary Act of 1789² on Sept. 24, 1789, no one disputes its historical significance. But, in its almost 230 years, the court has also laid the groundwork for some of the most important precedents in the federal judicial system. Its service as a venue for such cases as the injury and loss of life claims from the sinking of the Titanic, the espionage trial of Julius and Ethel Rosenberg, the perjury trial of Alger Hiss, and the financial fraud cases against Bernie Madoff and Michael Milken have earned the court its status as the premier federal district court in the country. The SDNY can also boast that it is the home of many of the most brilliant legal minds this country has ever seen—veritable “rockstars” in the judicial realm. Its bench counts Judge Learned Hand and Justice Sonia Sotomayor among its many honored members.

As attorneys, we frequently see courthouses as the place where the law happens—the law is emitted from judicial opinions and gets deposited into our Westlaw and Lexis accounts. It has a sharply defined silhouette. From a different vantage point, however, as seen through the eyes of the courtroom artist, the law can be brought to life with a vibrancy that traditional legal media cannot record. For more than 30 years, courtroom artists Elizabeth Williams and Aggie Whelan Kenny have been there to capture moments of human drama—the instances that have not only historical significance but also legal import.

Williams started as a courtroom artist in 1980 in Los Angeles and has been drawing at the SDNY and its neighboring jurisdictions covering high-profile cases since the mid-1980s. A renowned artist and one of the leading illustrators in her field, she works primarily using brush pens, colored pencils, oil pastel, and oil paint sticks. But courtroom art was not her intended career. It started as a way to supplement financially the work she'd been doing as a fashion illustrator for costume designers in Los Angeles. And just like that, with an offhand

suggestion by a postgraduate professor who noted “she had a knack for getting a likeness” of people and scenes, a career was born.

After a year of practice and persistence, William said she eventually got a break and started working for what is now KNBC News. Her first assignments had her drawing the infamous Hillside Stranglers trial and, soon thereafter, the antitrust trial of Al Davis, owner of the Los Angeles Raiders football team. In the years that followed, Williams's prowess as a pre-eminent courtroom artist would garner some of the highest-in-demand courtroom illustrations in the country—works that are now hanging on walls in federal courthouses and museums and are often on the front pages of major newspapers such as *The New York Times*, *The Wall Street Journal*, and *USA Today*.

Whelan Kenny, another high-profile courtroom artist, is one of Williams's colleagues and sometimes collaborator. Whelan Kenny's road into the profession was slightly more traditional and started in Trenton, N.J., when she was sent to cover the 1970 conspiracy and extortion trial of the two-termed mayor of Newark Hugh J. Addonizio on behalf of WCBS. In the years that followed, Whelan Kenny

covered the trials of, among other infamous criminals, James Earl Ray and the Son of Sam. She won an Emmy award for her work in the Mitchell-Stans criminal trial for perjury and obstruction of justice surrounding the Watergate break-in.

Williams said the job of a courtroom artist still excites her after 38 years in the field because she finds the drama and emotion of the courtroom very compelling. "There is a great satisfaction in doing a good drawing that reflects the courtroom scene," she said.

By the very nature of their courtroom presence as artists and archivists, both courtroom artists have borne witness to moments of major historical significance. When pressed, Williams considers the most important scene she has ever captured is a relatively quick drawing she did of Bernie Madoff, former stock broker and confessed operator of the largest Ponzi scheme in world history, as he was being led to a jail cell from the courtroom after pleading guilty to all his crimes.

"It was a stunning moment," she remembered. "One I will never forget." Similarly, she said that one surprising and astounding courtroom moment was when actor James Caan walked into the trial of Carmine "the Snake" Persico, head of the Colombo crime family, "hugged the defendants, and sat through part of the proceedings" shortly after the release of the widely acclaimed motion picture *The Godfather*. Since those early days, she has gone on to draw the courtroom dramas of many household names, including John Gotti, El Chapo, Martin Shkreli, Tom Brady, and Martha Stewart. She recalls that once a man who looked mildly familiar came over and inquired about her work. She moved on to the task at hand, only to later learn from an excited court reporter that the inquiry had come from none other than the famous musical artist Sting.

But she's also seen a fair share of trials for heinous crimes, including the cases of Jerry Sandusky, Joel Steinberg (who killed his daughter Lisa and brutalized his partner Hedda Nussbaum), and the sentencing hearing of Al Qaeda defendant Mahmoud Salim. In the Salim sentencing, Williams remembers that a Manhattan corrections officer who had been brutalized, maimed, and paralyzed by Salim was "apoplectic and enraged that his life had been destroyed." During the brutal beating against the officer, he had been stabbed in



Watergate trial of Mitchell and Stans. (Aggie Whelan Kenny)

the eye from which he suffered, among other ailments, major brain damage. It was intensely emotional, recalled Williams, and the officer eventually had to be removed from the courtroom.

And at the prosecution of Raymond Donovan, former labor secretary under President Ronald Reagan, she recounted an instance toward the end of trial in which a juror lost control of herself in the jury room and began writhing and chanting the Lord's Prayer. "The judge brought her into the courtroom escorted by court officers," she said. "It was one of the more bizarre courtroom experiences I have seen." That eight-month trial ended in an acquittal.

Whelan Kenny has her own equally dramatic career highlights, which include being assigned to cover the Larry Layton trial in Guyana in connection with the Jonestown cult massacre. As to whether there is anything that could surprise her after all of her years doing courtroom art, she answers that in 1993 she was asked something that has stuck with her. At his arraignment, Mohammed Salameh, a member of the militant Muslim group responsible for the bombing of the World Trade Center, requested that he be drawn like a human being, not like a terrorist.

Throughout all of the dramas that have unfolded within courtroom walls, Williams remarks that the judges with whom she has had the privilege of working have remained poised and tactful. She is struck by their resilience and the number of factors—human and legal—that they must consider in striking the right balance in each case.

As to sentencing, she commented, "I think this must be a very difficult thing to do. Judges put a lot into this process and I think it takes a great deal of empathy, and understanding of human pathos, to determine an appropriate sentence because they must also consider the community and respect for the law. It is a balancing act and I think must be difficult at times."

To be sure, judges have the task of being both compassionate and fair, while keeping in mind the limitations and impact their decisions could have on the individual defendant. They must also consider the suffering of the victims and their loved ones, the maintenance of order, and the message they intend to send that will both deter crime



Bernie Madoff being led to a jail cell after pleading guilty to all of his crimes. (Elizabeth Williams)



Chevron v. Donziger trial with musician Sting and an Amazonian tribal leader in the audience. (Elizabeth Williams)



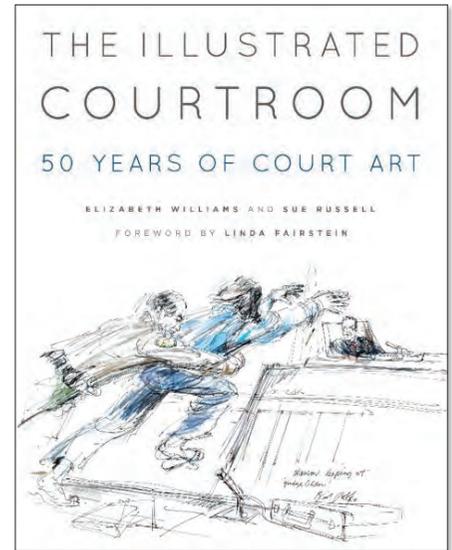
Sentencing of Mahmoud Salim. (Elizabeth Williams)

and foster reconciliation. She said that despite the nature of the job as necessarily replete with stories of misery and broken lives, “the courts try to bring order to a chaotic world of crime.”

Williams recognizes that the world of courtroom art, like every other industry, has been subject to change through the advent of technology. With ever shorter deadlines, she finds herself challenged to force the creative process into increasingly hyper-fast news cycles. “Now the deadline is how fast you can turn in a drawing—or drawings—after the hearing or key witness is off the stand. The need is almost immediate.”

As busy as she is, Williams has carved out time to develop commissioned projects. One of the highlights of her career, she said, was to have the book she co-authored on courtroom art acknowledged as a book of the year by the *Times Literary Supplement* and *Kirkus Reviews*. “These were not expected and are quite an honor,” she said. The book, *The Illustrated Courtroom: 50 Years of Courtroom Art* (available on CUNY Journalism Press’ site), went on to win 10 more awards and accolades. The Library of Congress has acquired the majority of the artwork featured in the book.

Courtroom artists, like anyone else, need advocates so that their work stays relevant. Williams credits Thomas Girardi, of *Erin Brockovich* fame, for his dedication to “preserving the legacy and a significant body of courtroom art in this country.” She said that Girardi is a “driving force behind the Library of Congress’ extensive courtroom art collection” and was similarly significant in developing the library’s 2017 exhibit of courtroom art entitled “Drawing Justice.”



The Illustrated Courtroom cover. (Elizabeth Williams)

“For courtroom artists, he is our patron saint,” she said.

She said she is proud of her position as one of the few the courtroom artists in the “city that never sleeps,” and that she never tires of the view from the courtrooms at 500 Pearl St. with the Empire State Building and the Manhattan Bridge in the backdrop. Once, she said, in the ’80s, during a Chinese New Year celebration, a judge had to terminate proceedings because celebrations from the street below were so loud that they were disrupting the courtroom.

Both Williams and Whalen Kenny will participate in the FBA’s Annual Convention on Sept. 12, 2018, where they will put their medium on full display by doing live illustrations of the Special Session of the Court of Appeals for the Armed Forces. The Special Session will be held in the Ceremonial Courtroom, 500 Pearl St., Ninth Floor, North, at 3 p.m., followed by a reception in Room 850. The artists have generously agreed to donate their work from this session to the FBA to be auctioned off as part of the convention. Come by and place your bid. ☺



Hon. Mimi Tsankov serves as an immigration judge with the U.S. Department of Justice. The comments she makes here are in her personal capacity and do not necessarily reflect the views of the U.S. Department of

Justice. Lindsey Rubinstein is a 3L at the Benjamin N. Cardozo School of Law in New York. She serves as the student chairperson of the FBA Civil Rights Law Section. Rubinstein also serves as articles editor for the Cardozo Journal of Conflict Resolution and is involved with the Public Interest Scholars and the Public Service Students club at Cardozo.

Endnotes

¹See Robert M. Morgenthau, Forward to James D. Zirin, *The Mother Court* (2014).

²Judiciary Act of 1789, 1 Stat. 73 (1789).