

Patrick Henry: First Among Patriots

By Thomas S. Kidd

Basic Books, New York, NY, 2011. 306 pages, \$28.00.

REVIEWED BY CHARLES S. DOSKOW

Patrick Henry is remembered today primarily for his declaration, “Give me liberty or give me death,” from an address at the Virginia Convention at St. John’s Church in Richmond in 1775. Ten years earlier, however, shortly after his initial election to the Virginia House of Burgesses, he took the floor to denounce the Stamp Act and rained pejoratives on King George III of England. He reportedly declaimed that Caesar had his Brutus, Charles had his Cromwell, and he, Henry, “did not doubt that some good American would stand up, in favour of his country.” Thomas Kidd writes, “Patrick Henry was implying that the king should be assassinated.”

The speaker of the House declared that Henry’s words were treason, and Henry supposedly responded with his second most famous utterance: “If this be treason, make the most of it!” But Kidd states that this story is almost certainly apocryphal, and that, in fact, Henry immediately recanted his call to kill the king, although “he did not shirk from his central assertion—the need to defend liberty.”

Perhaps it is these quotations, but something about Patrick Henry continues to intrigue biographers. Thomas Kidd’s excellent and readable biography, *Patrick Henry: First Among Patriots*, appears a scant year after Harlow Giles Unger’s biography of Henry, *Lion of Liberty*, which I reviewed in November/December 2010 issue of *The Federal Lawyer*. Kidd’s book is not simply about Henry’s life, but is also a history of his times: the movement for independence, the Revolutionary War, the period before the adoption of the Constitution, and the bitter aftermath of ratification. Henry is far more important in American history than the sound bites with which he is associated. He was the Southern leader of the movement for

independence, his role corresponding with John Adams’ role in the North.

Born in 1736 in the hill country of Piedmont, Va., and not born to the purple, Henry struggled in his early manhood, trying his hand unsuccessfully at storekeeping. He was working as a part-time bartender when he met Thomas Jefferson. Henry eventually became a lawyer and found success and fame in the “Parson’s Cause,” in which he represented a group of poor farmers against the Anglican Church. Throughout his life, he combined farming and law to support himself, his first and second wives, and his 17 children.

First elected to the House of Burgesses in 1765, Patrick Henry’s public career in Virginia included service in the Continental Congress in 1774, acting briefly as commander in chief of Virginia’s military, and as Virginia’s first governor, beginning in 1776 and serving five one-year terms.

Kidd conveys an image of Henry as a champion of liberty, seeking from 1765 until the Revolutionary War to free Virginia from under the heel of Parliament and King George III. During that period, Henry’s was the most consistent Southern voice calling for independence and refusing to countenance compromise. But the liberty he advocated did not extend to his slaves. Although he expressed revulsion with the institution, he could not envision setting the slaves free. “[A]s much as I deplore slavery, I see that prudence forbids its abolition.” He derived part of his living from his plantations, which depended on slave labor. Nor did he free his slaves upon his death, as his friend George Washington did; the fact that Henry knew that he would leave a widow with young children may have influenced that decision.

Patrick Henry was faced with the classic Virginia dilemma: “American Slavery, American Freedom,” to quote the title of a book by Edmund S. Morgan. Today, we can no longer discuss the founding fathers without considering their involvement with the peculiar institution, and they have varying reputations in this respect: George Washington, the considerate slaveholder, who manumitted his slaves at his death; Thomas Jefferson,

whose involvement with slavery had an entirely different aspect; Alexander Hamilton, a member of the New York Manumission Society; and Patrick Henry, who deplored slavery but lived off it.

Kidd is a professor of history at Baylor University, and his scholarly interests focus on religious history. He describes Henry as greatly influenced by the evangelical preachers of the Great Awakening and “through life a warm friend of the Christian religion.” Kidd assures us that Henry was not a deist or skeptic like Jefferson, but remained an Anglican, although “he became convinced that religion could be used as a political tool to oppress not only Presbyterians, but all Virginians.” Kidd concludes: “Henry and most of the revolutionary generation believed that a republic needed religion to preserve virtue, honesty, and independence lest it trespass into amoral individualism and degenerate complacency. An ethically directionless people would eventually succumb to the enticements of a tyrant, Henry feared.” Kidd nonetheless comments that Henry’s business ethics often did not meet the ethical standards he demanded of government.

The final years of Henry’s life disappoint, as he cut himself off from the infant government that was being nourished by his talented contemporaries. Henry feared what establishing a strong national government would mean for Virginia if northeastern interests retained their dominant power. He was especially concerned when, in 1786, John Jay, the secretary of foreign affairs, recommended that the United States give up the use of the Mississippi to Spain for 25 to 30 years, in exchange for trade privileges that would primarily benefit the Northern states. The Continental Congress approved Jay’s request, to the outrage of Southerners. The incident left Henry permanently embittered and hostile to any central power that would curtail Virginia’s sovereignty. In 1787, Henry declined appointment as a delegate to the Constitutional Convention, saying that he “smelt a rat.”

In 1788, Henry was the driving force among the opponents of the

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Constitution at the Virginia ratification convention. Influencing his opposition, in addition to his concern for Virginia's sovereignty, was a distrust of James Madison, "but ultimately [his opposition] arose from a deep political conviction that the new government did not honor the spirit of the Revolution." Although Henry could not prevent ratification of the Constitution, he, with others, was successful in persuading Madison to introduce the Bill of Rights in the first Congress.

Washington rekindled his friendship with Henry after the Constitution was ratified in spite of Henry's lack of enthusiasm for the new government. But Henry, true to himself, never served the new government, despite being offered a Senate seat in 1794, then the position of ambassador to Spain, and then secretary of state. He even turned down Washington's offer to make him chief justice of the Supreme Court after John Jay resigned from the position.

In the 1790s, Henry's unwillingness to take part in government enhanced his popularity. "Just as [the people] admired Washington for his resignation from military service in 1783, Americans loved Henry's willingness to give up power to pursue the private life." Actually, Henry's concern for his finances also played a role in this decision.

Patrick Henry has become an icon to some Christian conservatives. Michael Farris, a conservative committed to the concept of home schooling, established the evangelical Patrick Henry College in Purcellville, Va., which has become a bastion of conservative religion and politics. Kidd's concluding comments make Henry sound something like a member of the contemporary tea party, his values "grounded in virtue, religious faith, and responsive local government." Those terms may be accurate, but they do not recognize the leadership he embodied in his state and the nation or his role as the greatest orator of the American Revolution.

Henry died on June 6, 1799, at Red Hill near Brookneal, Va., the last of the many plantations he owned and worked in his lifetime. It is now the site of the Red Hill Patrick Henry National Memorial. **TFL**

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Quest for Justice: Defending the Damned

By Richard S. Jaffe

New Horizon Press, Far Hills, NJ, 2012. 322 pages, \$24.95.

REVIEWED BY ELIZABETH KELLEY

Quest for Justice, by Richard S. Jaffe, is certain to join the ranks of recent criminal defense nonfiction classics, such as *Dead Man Walking*, by Sister Helen Prejean; *An Innocent Man* by John Grisham; and *Actual Innocence*, by Peter Neufeld, Barry Scheck, and Jim Dwyer. *Quest for Justice* belongs in this company because it is every bit as well written and powerful as these three books, and because Jaffe is a giant in the field of death penalty litigation.

Quest for Justice describes some of the death penalty cases that Jaffe has handled in the state of Alabama. Jaffe has worked on more than 60 death penalty cases, in addition to countless other major felonies. Two of his clients were profiled in the Broadway play, "The Exonerated," and Jaffe also represented Eric Rudolph, who was charged with bombing several abortion clinics in the South, as well as with the deaths in the Olympic Park bombings during the 1996 Olympic Games in Atlanta.

Unlike many books by trial lawyers, *Quest for Justice* is not mostly about the lawyer; rather, it is about the clients—Jaffe's ego is absent. His book gives us only the basic biographical details and quickly launches into the stories of his death penalty cases.

Jaffe is a warrior without being self-righteous. He is against the death penalty, not only because he believes that it is immoral, but because it does not work—it never has and never will deter murder—and Jaffe makes a cogent case for this view.

If, like me, you read many books about the flaws in our criminal justice

system, then, after a time, you think you've read it all—stories about jailhouse snitches; faulty eyewitness identifications; prosecutors who withhold evidence; defense attorneys who are ineffective because they are inexperienced, unmotivated, or overwhelmed; a death penalty lottery in which a disproportionately high number of African-Americans lose; mentally ill defendants who are mistreated or undertreated by the system—the list goes on. What makes *Quest for Justice* stand out, and makes it more than a catalogue of the deficiencies in the criminal justice system or a collection of war stories, is that the author provides a good deal of explanation and analysis of how the criminal justice system works—or doesn't work. And Jaffe's explanations and analyses are neither tedious nor patronizing.

Moreover, the characters in *Quest for Justice* come alive. For me, the most colorful—and frightening—character in the book is Alabama Judge Jack Montgomery. He is an old-school judge who figured in many of Jaffe's cases. Judge Montgomery demeaned both defendants and their attorneys, and he made no effort to hide his prejudices. As the years went by, it became apparent to the courthouse regulars that he was not merely offensive, but unbalanced and crooked. The judge even pulled a gun on Jaffe in open court and had to be wrestled to the ground by his staff. Montgomery was finally convicted of soliciting and taking bribes, but he committed suicide before he was sentenced.

If you do not have time to read the entire book (although well written, it is not a light read), read the chapter on Jaffe's representation of Eric Rudolph. There you get a glimpse of Jaffe's commitment to his client as well as insights into the mind and motivation of someone accused of the most hideous of crimes. Jaffe spent countless hours talking with Rudolph and learning of such things as the death of Rudolph's father, the suicide of Rudolph's former girlfriend, his experiences in the Army, and his mother's religious influence on him. Jaffe's diligence in doing this research was vital to representing Rudolph effectively. Ultimately, Rudolph pled guilty

and was sentenced to life in prison without the possibility of parole. Jaffe's spadework saved Rudolph from the death penalty. As Jaffe notes,

But the fact that I could and did rationally engage in ... conversation with Eric, who could be quite volatile on occasion, resulted from the quality of the relationship which we had built together in just nine months. By then, Eric and I had broken some barriers. A mutual trust and respect now existed between us. That only happens when a lawyer keeps his word and spends enough time with his client so the client knows that the lawyer cares about not only the case but also about the client as a person.

Criminal defense lawyers are constantly asked, "How can you defend those people?" Jaffe's comment about Eric Rudolph's case provides the perfect answer:

Eric Rudolph embodied one of the reasons why I do what I do. Representing the most unpopular and despised of our society is, in my opinion, the hallmark of a true criminal defense lawyer. John Adams did this when he defended the British soldiers who shot their weapons openly into the crowd during the Boston Massacre. When advocating for someone this unpopular we are also representing our profession, which is committed to safeguarding the rights of the least among us and the constitutional protections that everyone has, no matter what he is charged with or what his beliefs are.

Quest for Justice can be read and enjoyed by lawyers and nonlawyers alike. But, more importantly, it should be read by everyone who cares about the criminal justice system. **TFL**

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dio on BlogTalkRadio. She also serves on the board of the National Association of Criminal Defense Lawyers (as does Richard S. Jaffe) and is chair of its Mental Health Committee and former chair of its Corrections Committee. She can be contacted at ZealousAdvocacy@aol.com.

Making Our Democracy Work: A Judge's View

By Stephen Breyer

Vintage Books, New York, NY 2010. 270 pages, \$26.95 (cloth), \$16.00 (paper).

REVIEWED BY GEORGE W. GOWEN

The operative word in the title of this commendable book is "Our." Justice Stephen Breyer's thesis is that *our* democracy is based on *our* Constitution, on *our* Supreme Court, and, most important, on *our* understanding and acceptance of how *our* government works. He quotes Benjamin Franklin's comment that the Constitutional Convention had created "a republic, Madam, if you can keep it." In *Making Our Democracy Work*, Breyer, looking at both long-past and recent Supreme Court decisions, explores how we have kept it and how we might continue to keep our republic. Breyer's book is no turgid rehash, for he injects little-known facts into his retelling and his enthusiasm infects the book.

Breyer discusses the Cherokee cases of the 1830s. The Cherokees, by treaty with the United States, owned a swath of Georgia where they farmed, developed an alphabet, established a printing press, built a capital called New Echota, and adopted a constitution. When gold was discovered on the Cherokees' land, white Georgians moved in and President Andrew Jackson refused to provide federal troops to protect the Cherokees. In *Worcester v. Georgia* (1832), the Supreme Court ruled 5-1 in favor of the Cherokees' right to their land. But Georgia ignored the decision, and President Andrew Jackson, as Breyer writes, "sent federal troops to Georgia, not to enforce the Court's decision, but to evict the Indians," sending them on the Trail of Tears to Oklahoma. Breyer asks whether, today, "the president, the Congress, the states, and the public [would] enforce, support, and follow a truly unpopular Court

decision?" The *Worcester* case suggests, Breyer answers, "a strong likelihood that they would not."

Breyer recognizes, however, that times have changed and that *Brown v. Board of Education*, for example, was enforced despite its unpopularity in some circles. For most Americans today, opposition to the decision is ancient history, and few realize how the Court, the states, the President, and the public were tested. At Little Rock Central High School and elsewhere, despite court orders, black students were prevented from entering schools. Although the South had not seen invading federal troops since the Civil War, President Eisenhower dispatched 101st Airborne paratroopers to Little Rock, and the Supreme Court's decision was given forceful meaning. Breyer comments:

Today, only a mile away from Central High, one can find the grave of the wife of the Cherokee chief Ross. That grave marks the spot where she died on the Trail of Tears on her way to Oklahoma. ... Although the distance between the grave and the school is small, the nation had come a long way in the time between the two decisions that they symbolize. It was moving in the right direction.

How the nation has continued to go in the right direction is reflected even by the reaction to *Bush v. Gore*, in which Breyer cast a dissenting vote. Breyer writes that, even though he and millions of other Americans "thought the decision was very wrong,"

Gore, the losing candidate, told his followers not to attack the legitimacy of the Court's decision. And despite the great importance of the decision, the strong disagreement about its merits, and the strong feelings about the Court's intervention, the public, Democrats as well as Republicans, followed the decision. They did so peacefully, with no need for troops as in Little Rock, without rocks hurled in the street, without violent massive protest. The leader of the U.S. Senate,

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Harry Reid, a Democrat, later said that the public's willingness to follow the law as enunciated by the Court constitutes a little-remarked, but the most remarkable, feature of the case. I agree.

Even though Justice Breyer is a member of the liberal wing of the Court

and as such is a skeptic of "originalist" interpretations of the Constitution, his measured tone and thoughtful analysis in this book may convert many to his more pragmatic approach, which emphasizes the need to maintain the public's confidence in the legitimacy of the Court's interpretive role.

Breyer also emphasizes the need for

public knowledge and acceptance of our democratic processes. He laments that only 29 states require public schools to teach civics or government, and that, although two-thirds of Americans can name a judge on television's "American Idol," only one-third can name the three branches of the federal government. Breyer doesn't say so explicitly, but his

Another View of Justice Breyer's Book

by Louis Fisher

George Gowen's review of *Making Our Democracy Work*, by Justice Stephen Breyer, in this issue of *The Federal Lawyer*, is generally complimentary, including of Breyer's core argument that the justices should follow a "more pragmatic approach" to maintain public confidence in the Court's interpretive role. But that theme is often at cross-purposes. According to Breyer, the Court "must help maintain the public's trust in the Court, the public's confidence in the Constitution, and the public's commitment to the rule of law" (p. xiii). Federal judges are "insulated from the direct impact of public opinion" (p. 4), yet clearly he endorses an approach calculated to influence public opinion.

There should be little dispute that the judiciary as one branch of government must protect its relationship with Congress and the public. Otherwise it will damage itself with self-inflicted injuries, which it has done a number of times. Still, what is a litigant to think about a judicial ruling that is based not on the law and the facts but rather on what might best maintain public confidence? On repeated occasions Breyer refers to the need for judges to take a "pragmatic" approach to their work, but also cautions: "I do not argue that judges should decide all legal cases pragmatically" (p. xiv). Which is it? This kind of "weighing" and "flexibility" can produce understandable criticism and distrust of the judiciary.

Breyer devotes a chapter to *Marbury v. Madison* (1803), which he calls a "judicial tour de force," "brilliant," and something "worthy of the Great Houdini" (pp. 12, 16). Whatever it was, William Marbury did not get his judicial commission, to which the Court said he had a "legal right" (p. 17). Obviously, it was wise for Chief Justice Marshall not to go head-to-head against President Jefferson—a confrontation Marshall would lose. The decision was essentially political, designed to protect the Court's independence and survival. It does not stand for the judiciary having the last word on constitutionality, as Breyer correctly notes in a later chapter (p. 62).

Breyer is not consistent when he talks about the finality of judicial decisions. He says the Court's "power to give binding effect to a constitutional interpretation is virtually ironclad" and claims that the "Constitution's framers and history itself have made the Court the ultimate arbiter of the Constitution's meaning" (p. ix). As "between court and legislature, it is the court that must have the last word" (p. 9). But he also hedges, referring to the "final or near-final" authority to make decisions

(p. 4). The Court and the public "must work together in a partnership of sorts" (p. 2). Does that concede that some decisions may be reconsidered and reversed by the elected branches? Surely that has been the record.

Justice Breyer poses this issue: "We may still ask why the framers wrote a document that gave the Court the last word as to the constitutionality of virtually any congressional statute" (p. 6). There is little in the book that appreciates the type of constitutional dialogue that better describes the American experience. In *Goldman v. Weinberger* (1986), the Court held that the Air Force had authority to prohibit Captain Simcha Goldman from wearing his yarmulke indoors while on duty as a psychologist. His constitutional freedom of religion had to be subordinated to military needs. In an appendix, Breyer states, "Congress cannot set aside a Court interpretation of the Constitution simply by passing an ordinary law" (p. 230). That is not correct.

Within one year, Congress reversed the Court's decision and directed the military services to change their regulations to permit the military to wear religious apparel provided it does not interfere with military duties. 101 Stat. 1086–1087, § 508 (1987). How could the elected branches overturn the Court's decision? The answer is that Article I, Section 8, of the Constitution gives to Congress, not the judiciary, the authority to "make Rules for the Government and Regulation of the land and naval Forces."

The Court will frequently sidestep a constitutional issue and let it be decided by the elected branches. In *United States v. Richardson* (1974), the Court was asked to rule that the Statement and Account Clause requires publication of the CIA budget. The Court preferred to hold that the individual bringing the case lacked standing, pushing the constitutional issue to the elected branches to resolve. They eventually did so, under the prodding of the 9/11 Commission. Constitutional issues are frequently left to the elected branches, not to the courts. **TFL**

Louis Fisher is scholar in residence at The Constitution Project. From 1970–2010, he served at the Library of Congress as a senior specialist in separation of powers at the Congressional Research Service and as a specialist in constitutional law at the Law Library. He is the author of 20 books, including Defending Congress and the Constitution (University Press of Kansas, 2011).

words suggest that pro bono service by the bar should include going out to the grammar and high schools and speaking of how our system of government works. He exhorts his readers to read the Constitution—"an admirably concise document"—in order to understand the basics of the framework of our democratic government. **TFL**

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Poisoned Love

By Caitlin Rother

Kensington Publishing Corp., New York, NY, 2011. 494 pages, \$6.99.

REVIEWED BY JOANN BACA

Poisoned Love is about a real crime, so perhaps it is fitting that this review starts with a confession, although not to a crime. Readers are no doubt aware that the Federal Bar Association's 2012 Annual Meeting and Convention will be held in San Diego in September. This reviewer hereby confesses that, as a San Diego native, she wished to review a book set in San Diego in order to do her small part to promote the FBA's upcoming gathering in her hometown. This was not difficult. San Diego may not have eight million stories and may not be "the naked city," but it is not without its share of crimes and trials that have caught the nation's attention—nor books written about them.

Poisoned Love contains all the elements one would expect in a true crime story. Through the eyes of his family, friends, and co-workers, we get to know murder victim, Greg de Villers, a fun-loving, hardworking young man who adores his wife. The police investigation of the murder, which occurred in 2000, and the development of the case against the murderer are laid out with

satisfying detail, as is the work done by the defense attorneys. The events of the trial, which attracted national publicity, are recounted as only someone who had been in the courtroom throughout the proceedings could have done. Aspects of the convicted murderer's time in prison are revealed, and information about the appeals is briefly provided. Caitlin Rother's research included interviews with many (though not all) of the major players in this complex story, attendance at every day of the trial, and review of every piece of the prosecution's evidence. She knows the record, and her book reflects that knowledge. However, Rother saves most of her ink for a comprehensive look at the life and motivations of de Villers' murderer: his wife, Kristin Rossum. For, although the murder of de Villers provides the context for *Poisoned Love*, it is Rossum who is its true subject.

Rother is obviously fascinated by Rossum, the bright, beautiful blonde woman with a history of drug problems who was attractive to, and attracted by, many men besides her husband. The sensational aspects of the case no doubt deepened Rother's captivation; she termed it "one of the sexiest and most fascinating news stories to hit San Diego, a drug-addled love triangle that ended in death."

Rother did not interview Rossum, so, based on her interviews with others, Rossum's journals, and other evidence collected during the police investigation, as well as Rother's observations of Rossum at the trial, the author engages in what might be termed informed speculation regarding Rossum's character and thought processes. This speculation is especially relevant because the case against Rossum rested largely on circumstantial evidence. The scenario developed by the prosecution, despite the lack of direct evidence, was compelling enough to convince the jury of Rossum's guilt, and it is clear that Rother approved of the jury's decision.

Based on Rother's observations and interviews, it appears that the prosecution did a stellar job during the trial. However, whether Rother did a good enough job of convincing the reader of Rossum's guilt is up to each reader to decide. Perhaps a problem arises when an author must condense mountains of

information into less than 500 pages. Perhaps the reader does not garner the full effect of witness appearances from written descriptions of their actions and reactions in the courtroom. Perhaps, because of the nature of the case, lingering questions in the reader's mind lead to uncertainty about Rossum's guilt. Whatever the reasons, Rother's book may not leave the reader as overwhelmingly convinced of Rossum's guilt as the prosecution's case left the jury.

To understand how Rossum was convicted without clear evidence of her role in the death of her husband, it is necessary to know about her background. At the time of her husband's death, Rossum was a toxicologist in the San Diego County Medical Examiner's Office. It was an odd place for her to have found work, considering that in her high school years she had become addicted to crystal methamphetamine and had had a run-in with the police. But she had not revealed these matters when she applied for her job, and her employer did not find out about them until the murder charge against Rossum became common knowledge.

Drug addiction was a lifelong struggle for Rossum. In fact, she admitted that she had been using drugs during the period when she met de Villers on a day trip to Mexico. At the time, she was 18, the daughter of over-achieving parents, and running away from her family, school, and boyfriend; de Villers was 21 and in Mexico on a night out drinking with his brothers and a friend.

Rossum and de Villers became a couple literally overnight: the day after they met, they left Mexico and she moved in with him. Greg de Villers fell hard for her, and Rossum returned his affection, although apparently not with the same intensity. For instance, Rossum once told a friend of de Villers that "she felt she was meant to be with him, not Greg." Nevertheless, she stayed with de Villers, kicked her drug habit, and turned her life around. Soon she was attending college, where she majored in chemistry, and graduated with honors. The chair of the chemistry department, who had taught her in several classes, told Rother that Rossum had excelled at everything she did. A

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secretary in the department during that period remembered that Rossum “was so magnetic, especially to men.”

Rossum and de Villers continued to live together as both finished school and entered the workforce. Although there is evidence that Rossum had difficulty with fidelity, when de Villers proposed, Rossum accepted. But, after they had made their wedding plans, Rossum confided her doubts about the marriage to her mother. Rother writes that Rossum “couldn’t decide whether Greg was the right man for her. He’d helped her so much ... she felt obligated to him,” and, despite her doubts, she married him. Two years later, when Rossum was having an affair with her boss, de Villers was found dead in their apartment of a drug overdose.

Rossum initially was not suspected of the crime, but questions began arising as information about de Villers’ last days came to light and as Rossum’s own activities became known. Although, months before she was charged, the police became convinced that she had murdered de Villers, they wanted to build a case first because of the lack of direct evidence at the scene. Rother recounts the police’s efforts in detail and also describes Rossum’s family’s efforts to conduct a public relations campaign to support her. In part because of their outreach to the media, the case that was intriguing San Diego was soon drawing national attention. Because de Villers’ body was found with rose petals sprinkled around it, “the case had been nicknamed the ‘American Beauty Murder’ on national television shows such as *48 Hours*, *Inside Edition*, and *Good Morning America*.”

Problems with the case plagued the prosecution. For instance, because the apartment in which de Villers and Rossum lived was in off-campus housing owned by the University of California, San Diego, campus police conducted the initial investigation of the crime scene. It was not a thorough investigation; trash cans that might have contained evidence were not examined, because the campus police initially thought that de Villers’ death was a suicide. Another problem for the prosecution was that an important factor linking

Rossum to the murder of her husband was her easy access, via her position at the Medical Examiner’s Office, to the drugs that killed him. However, it was discovered that the San Diego County Medical Examiner’s Office had such lax security that no audit had been conducted of their drug inventory in its 35-year history. Although drugs such as those that had caused de Villers’ death were missing, so were other drugs, and none of the drugs had been secured, so there was no way to know when specific drugs went missing or who took them. But Rother shows how, despite the problems with the evidence, the prosecutors skillfully assembled and prosecuted the case against Rossum. In 2002, Rossum, at age 26, was convicted and began serving a life sentence.

As someone who immersed herself in the case from its beginning, Rother is well qualified to write a book detailing what is known about the case and the people involved. Her knowledge of the many aspects of the story is impressive. This is the strength of the book. However, Rother’s writing is not as masterful as her command of the information about the case.

Rother’s background as a crime reporter is evident in her writing style; the book reads more like a series of articles written for successive issues of a newspaper than as a cohesive story. Virtually devoid of a novelist’s touch, there is no attempt to build tension and minimal effort to dramatize events; nor does Rother endeavor to provide more than the slimmest of descriptions. Some of her descriptions have the feel of bare-bones research conducted on the Internet. For instance, at one time, the Rossum family lived in Claremont, Calif., which Rother describes as follows: “The fourteen-square-mile city is located about thirty miles east of downtown Los Angeles. In 2000 it had a population of 34,000 and a median income of about \$70,000.” Rother’s research also shows odd gaps. For instance, when describing the wedding of de Villers and Rossum, one wishes that Rother had interviewed someone who had attended the wedding, rather than writing, “she carried a bouquet of flowers that, from the photos, look

like roses.” Once the story moves to the trial, however, Rother paints better pictures for her readers. For example, Rother describes Rossum’s demeanor as she stood for the reading of the verdict: “Shaky and unsteady on her feet, she rested her hands on the table to support her weight.”

In fairness, Rother may be hamstrung by what she has to work with. Despite the sensational aspects of the case, neither the murder victim nor the convicted murderer is particularly colorful or interesting. Press reports at the time appear to have focused on the sex and drugs; one San Diego newspaper described Rossum as a “[c]onvicted killer-tweaker-hottie.” Rother, however, struggles to convince the reader that Rossum was much more than just another cheating wife with a drug habit; after all, even the fact that Rossum was convicted of killing her husband doesn’t separate her from a long list of similar individuals about whom books are not written. Similarly, although Rother works hard to convey the enormity of the tragedy in the loss of Greg de Villers, she could come to know him only in retrospect and only through the eyes of others, whose comments (apart from his family’s recollections) reveal little of substance about him. One colleague described him as “an extremely nice young man,” and another said, “This was a very well-thought-out, well-balanced, got-it-together type of a fellow.” Unfortunately, Rother does not make de Villers’ life as interesting as his death.

Rother indicates that this book is an update of the first edition of *Poisoned Love*, which was published in 2005. The updates include, among other things, information about a wrongful death suit filed by the de Villers family and about the San Diego County Medical Examiner’s Office’s response to the revelations of lax security at the facility. Rother also mentions that the story has fascinated her since she began reporting on the unfolding trial for the *San Diego Union-Tribune*. What she perhaps should have revealed earlier, but does not mention until near the end of the book, is that Rother had an agenda in writing it,

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Anthony T. Lathrop
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Paul M. Lavelle
Timothy J. Le Duc
Malcolm L. Leatherman
Kenjiro D. LeCroix
Michael B. Lee
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one that belies her claim of objectivity—an objectivity that, in any case, is often absent. Near the end, she finally reveals what might be perceived as an underlying thread of personal antagonism to Rossum: “I was married to an alcoholic ... who, again like Kristin, seemed to have a bright future ahead of him. ... But his lies and his addiction ... cost him ... his own life.” Rother admits about her own husband that “I was scared of him ... and I didn’t want to become one of those murder-suicide statistics.” Rother indicates that she wrote the book in part “as a cautionary tale about how drugs can destroy not just one life, but many others in the process.”

Although it may be understandable for

a writer to choose a subject with which he or she has a strong emotional connection, Rother’s identification with de Villers’ and Rossum’s relationship interfered with her objectivity. In fact, Rother seems to have cast Rossum in the worst possible light, even given the fact that Rossum is a convicted murderer. Throughout the book, Rother seems to assume the worst of Rossum in almost every situation, and creates a subtle undertone suggesting that Rossum’s personality and beauty—and not just her abilities—were factors in her success in college and at work. One sentence that illustrates Rother’s bias is a reference to Rossum’s female character witnesses: “Not all of Kristin’s loyal followers were men.”

Perhaps some writers can accomplish the feat of separating personal prejudices from the stories they tell, but Rother is not one. Still, once one understands Rother’s agenda and views her writing through that prism, one can appreciate *Poisoned Love* as a solidly written, well-researched, and in-depth true crime story—one that you might enjoy on the plane trip to the FBA’s Annual Meeting and Convention in San Diego in September. **TFL**

JoAnn Baca is retired from a career with the Federal Maritime Commission. Her husband, Lawrence Baca, is a past president of the Federal Bar Association.