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Tribute to Professor Paul Giannelli

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Michael Benza[†]

TRIBUTE TO PAUL GIANNELLI
OR
LE MORTE D’PETITE MORT

When I was approached to write a piece about Paul, I was honored beyond words. I had the opportunity to witness Paul’s greatness as a 1L randomly assigned to his Criminal Law section, as a 2L and 3L working through the rules of evidence and the nuances of scientific evidence, as a graduate drawing on his always freely given advice, thoughts, and theories as I worked through my capital cases, and finally as a colleague on the very same faculty—still eagerly seeking his advice and guidance both as a practitioner and a teacher. As I continue to work to find my own voice as a professor and refine my skills as a teacher, I draw on the lessons I learned from my own role models. From Paul I learned that a good teacher helps students find their way. A great teacher, however, makes the lessons come alive and stay with the students forever. Each great teacher will find his own method to reach the students. Some use humor, some use fear, and some create the most fantastic and fantastical characters. Paul is one of those rare great teachers who brings all three together in one magical character: Little Mort.

Before my tribute, some background. As near as I can tell, Little Mort has been a fixture at the law school since Paul’s earliest days. Little Mort had the luck (good or bad?) of living next to Paul, and like Dennis the Menace to Mr. Wilson, seemed to exist solely to torture Paul. We never learned what Little Mort did to incur the wrath of Giannelli, but incur it he did.

Little Mort was not the woebegone and perennial defendant committing every manner of homicide, rape, burglary, and any other crime we studied. Rather, Little Mort was the proverbial punching bag of criminal law, suffering all manners of indignities at the hands of the various soon to be defendants. You see, Little Mort was of indiscriminate age, varying on the circumstances, from around eight or so to early teens. If he actually exists, Little Mort today is probably somewhere between forty-five and fifty-five years old, developing a bit of a paunch, and not nearly the terror of the neighborhood he was as a child. But to those of us who had the pleasure of learning and exploring with Paul, Little Mort will always be just that, Little Mort. And Little Mort gave so willingly, or at least Paul visited terror so willingly on Little Mort, that the concepts of *mens rea*, accessory, and the host of legal theory sprang from the pages of our textbooks in the shape of a

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diminutive eight-year-old. It was not long before the class began to refer to Little Mort in the students' own questions and examples: "You mean, if I shoot Little Mort but do not want him to die, that is not purpose to kill, even if I am happy he died?" Through Little Mort we learned the difference between bad moral actor: drawing out a cooler of beer and lawn chair to watch and enjoy Little Mort getting a beating—NOT a crime—and criminal actor: drawing out a cooler of beer and lawn chair to watch and enjoy Little Mort getting a beating and yelling directions like "hit him harder" or "use the folding chair"—a crime.

Paul's, and Little Mort's, greatness is revealed in the fact that all these many years later, I not only remember the stories of Little Mort's anguish, but also the legal concepts attached to that anguish. And on occasion, Little Mort arrives in the early morning hours of my own criminal law class eager to accept whatever new indignity awaits him. And for those lessons in law, in teaching, and in life, I am truly grateful to Paul.

And so, an ode to Little Mort:

Oh dear sweet Little Mort
we really did not know you.
Through you we scions of court
learned lessons of law so true.
And though you died tragically
with purpose, knowledge, reckless or negligence.
T'was not in vain abstractly
for love of learning gave your death relevance.
And so to you Little Mort,
and your creator and tormentor,
we thank you for such good sport
but were you really an assenter?
We will never know if you got to court.
T'is true that abused you were.
Certainly some harm to you was a tort
but maybe t'was a blur.
For us, your faithful observers,
our class had so much style.
We never took your life preserver
like *State versus Carlisle*.
To you adieu we bid
and extend to you a glove.
Too bad you never hid,
to be sure it really was love.