

Kevin Kaplin Interview

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Interview Transcript

Kevin Kaplin: Good afternoon, Judge. How are you?

Judge Gerald B. Tjoflat: I'm doing very well. Let me introduce to somebody listening to this interview that you are Kevin Kaplin, and you clerked for me in 1989 and 90 from August '89 to August '90. We're going to talk about Judge Vance's assassination, which took place on December 16, 1989. That was about halfway through your session.

Kevin Kaplin: Yes. It was quite an event. And I know from our time to prepare for this session that a tremendous amount happened that we as clerks weren't involved in. So, it'll be interesting to me to hear the details today as well. Can you just sort of go over with us how you first learned of what had happened?

Judge Gerald B. Tjoflat: Yes. This was a Saturday, the 16th of December, in the middle of the holidays. And my wife and I were preparing to go to a dinner party. It was around six o'clock. And I got a telephone call from Sam Pointer, who was the Chief Judge of the Northern District of Alabama. And he said that Judge Vance had just been killed a couple hours beforehand with a pipe bomb delivered to his residence. And that Helen Vance, his wife, was in surgery in the hospital. And that's about all he could tell me, that it was a pipe bomb. I think he did tell me that Helen Vance had been injured but was able to run down the street to the next-door neighbor and explained what was happening. The pipe bomb was in a shoebox with a brown paper around it and tied this way.

And it had a pipe that was soldered — or placed — on both ends of the pipe and full of red dot powder. What we found out later was that the pipe bomb package was loaded with 10 penny finishing nails and when the bomb exploded in the kitchen of the Vance residence and Helen Vance was in the doorway of the kitchen, she took a 10-penny finishing nail about three and a half inches in length. It passed through her liver and lodged in a muscle in her back. And so, she was in surgery. But any rate, that's what had happened. I immediately called the U.S. Marshal Service in Jacksonville, and I got a lady on the telephone. It turns out that she and her husband were proprietors in a mom-and-pop answering service for the Marshal Service.

When I told her who I was, it didn't make much sense to her, and I was obviously distraught. And so, I told her to have the deputy marshal call me at home and I gave her my number, and then I hung up the phone and called the FBI office in Jacksonville and got an agent on duty and told him what had

happened. The FBI office in Jacksonville knew nothing about the episode. Then a few minutes later, Ralph Carr, who was a deputy marshal in Jacksonville, called me and I told him what I knew, and he also said that as far as he knew, the Marshal Service in Jacksonville had no inkling of what happened.

Kevin Kaplin: And you were chief judge at the time?

Judge Gerald B. Tjoflat: Yes.

Kevin Kaplin: Was there any sort of protocol or procedure for how to handle this kind of thing?

Judge Gerald B. Tjoflat: No protocol for that. Fortunately, on a bedside table in the bedroom of our condominium, I had a directory of all the judges in the circuit and all their numbers, their residential numbers, as well as their office numbers. And I started calling judges. And the first one I called was Frank Johnston in Montgomery. He knew nothing also. And I asked him to call a couple of people. Then I think I got Judge Jim Hill in Atlanta at home, and nobody else was at home. Of course, this was a Saturday evening during the holidays, and they were out at functions probably. And then I called Bill Cohan, who was in the administrative office of US Courts, who had been the Director of the Probation Division when I was the Chairman of the Judicial Conference Committee on Probation System.

But at any rate, I knew Cohan and he was now in security in the administrative office. And I called him and told him what had happened. And I continued calling for judges. Now say an hour has passed, and Cohan called me and told me that Ralph Zurita, who was about the number three person in the Marshal's Service in Washington, had been trying to reach me. So I got a hold of Ralph Zurita, and I asked him what the Marshal Service was doing, and he said, we're telexing all 94 districts. And I said to myself, they're going to telex 94 districts; they're going to see the telex on Monday morning, and we've got judges all over the place. They have to be found. Meanwhile, when the special agent in charge of the FBI office of Jacksonville had got to my condominium, and they were in the process of tapping my telephone with a tap and while all this was going on, and while they were doing that, but before the tap was in place, I received a telephone call from a man and a male voice said, "May I speak to Judge Vance?" And obviously I was taken aback. And I said, "Judge Vance isn't here." The person hung up.

Kevin Kaplin: And so, wow. That was a call to your condominium in Jacksonville?

Judge Gerald B. Tjoflat: In Jacksonville. Yes. And, and so that was it. That was basically the evening up to that point. And then I did call, when it was obvious that the Marshal Service had basically malfunctioned as it were, the Marshals had a man by the name of Mickey Doll in Atlanta, and he was the go-between between all of the Marshals in the circuit and the administrative office, or the Marshal Service of Washington. And Mickey Doll had fled to Birmingham. And somewhere around eight o'clock or so at night, while I'm still trying to reach judges, I got a call from him, and he told me what had happened. I said, "I already knew what had happened from Judge Pointer." And I told him that he needed to get to the hospital where Mrs. Vance was under surgery because she was the only eyewitness to this entire affair. And so he went to the hospital. Then I called Bill Sessions, who was the director of the FBI, because we had to reach these judges and the Marshal Service was not responding. And of course, you have the jurisdictional problem, the FBI doesn't have jurisdiction over judge safety as it were. And I told him we had to find these judges, and he said he termed it "Agent Blue." And by about two o'clock in the morning, all the judges on the court had been found.

Kevin Kaplin: Did you know Bill Sessions before?

Judge Gerald B. Tjoflat: Yes. Bill Sessions had been a District Judge in the Western District of Texas in El Paso. And I'd known him for some time before he became the Director of the FBI. I think he was appointed Director of the FBI around 1980, 81, somewhere like that.

Kevin Kaplin: It was fairly quickly thereafter that all of the security steps were implemented at the courthouse and in Atlanta, wasn't it?

Judge Gerald B. Tjoflat: Well, the first thing by the midday on Sunday. So one of the problems was, one of the concerns was that Judge Vance was not the sole victim. The first inference we drew was that he was one of three judges. He was assassinated because he participated in a three-judge appellate case and who the other two judges might be was anybody's guess. So the next thing we did on Monday morning, actually on Sunday, we had in place Monday, an x-ray machine at the courthouse in Atlanta.

Kevin Kaplin: Hey, you told us a story. I remember this from when I clerked, about one of the bomb sniffing dogs. It's not funny, but it was a little funny.

Judge Gerald B. Tjoflat: Well, it was about, about nine o'clock in the morning, the mail was coming into the courthouse in Atlanta, and there was a box that came into the X-ray machine, in the view box, a mail bomb. You could just see that. You could see the pipe. And Norman Zoller, the circuit executive called me immediately, and they emptied the courthouse, got the bomb squads, the FBI, the ATF, and the local police there. There's a lot of humor throughout this investigation that lasted well over a year. But one of the humorous things was that when all these law enforcement people were there, they had bomb dogs and a German Shepherd put his foot on the pedal that operated the conveyor belt going into the X-ray machine. But the operator of the machine, when he saw the bomb, had put it in reverse, but he didn't back the bomb out. Actually, I guess he moved the bomb out, but it was still on the conveyor. And the dog put his foot on the pedal and the bomb went to the floor. It is told that about 10 or 15 men who were there all but fled. I mean, they just leaped to get out of the way, but the bomb didn't go off.

Kevin Kaplin: Oh my. So what other kinds of safety precautions were implemented to protect the court?

Judge Gerald B. Tjoflat: Well, the first thing we did was talked to Michael Moore, who now is the Chief Judge of the South District of Florida in Miami. He was then the Director of the Marshal Service in Washington. And so, Mike told me that they would have Marshals brought in from all over the place and put Marshals with all of the judges and their spouses and any children they had living at home. So starting on Monday, Marshals were descending upon the residences of all the judges. All the judges now are at home, not downtown at the courthouse. And so, everybody's sort of put in protective custody, as I might say. Well now let me move to Tuesday because there's another unusual event that occurred. Tuesday morning I'm sitting in my chambers with an FBI agent who stayed with me in chambers for purposes of picking up information for about a month or two.

Anyhow, I'm sitting there and speaking to the Circuit Executive, and then comes Ralph Carr, the Deputy Marshal that I've been talking to, who called me after the incident on Saturday. And Ralph Carr said that the Chief of the Federal Protective Service in Atlanta had called his counterpart in Jacksonville and reported there was a bomb in the Russell Building, and that the bomb had been found in the X-ray machine in the Russell Building, and that the bomb had an address for Judge O'Kelley, who was the Chief Judge of the Court. And that was devastating. This had just happened, supposedly. So I called the director of the FBI Bill Sessions and I said, "Bill, I'm afraid we have some more bad news. There was a bomb in the Russell Building."

About an hour later, Ralph Carr came to my chambers, and he told me that the story of the Russell Building bomb was a hoax. And I asked him to find out who it was in Atlanta, the head of the Federal Protective Service, who had communicated that story to his counterpart in Jacksonville. And I called the man and I said, "Did you call Jacksonville about an hour ago and report a bomb in the Russell Building?" He said, "yes." And I said, "was it a false story?" He said, "yes." And I said, "why did you do that?" And he just said, "well, everybody was all upset." He had been at our courthouse in Atlanta after the bomb was discovered, and in the hoax, he had told his counterpart of Jacksonville that the bomb had been addressed to William C. O'Kelley, Chief Judge of the District Court in Atlanta. And that the return address was the same return address that was on the bomb that came to the courthouse, which was an address of a lawyer in Atlanta. And I asked him, "You even used those things for the hoax?" and he said "yes." Well, anyway, that was fairly earth shaking, as you might think.

Kevin Kaplin: I can imagine. Where else were bombs sent?

Judge Gerald B. Tjoflat: That night, this was Monday night, we are backing up now. A bomb was sent to Savannah, Georgia, to the office of the lawyer by the name of Robinson, who was a Black lawyer and had been Associate Counsel in the Savannah school case, and a bomb had been sent to him, reportedly a shoebox bomb, by a lawyer somewhere around Warner Robins, Georgia. And he opened the bomb at about 5:30 in the evening, and it blew his arms off. And he died shortly after that. That was also on Monday. The second thing on Monday, a bomb was sent to the NAACP office in Jacksonville. A woman named Willye Dennis happened to be on duty. She was the only one in the office. And at around five o'clock, she started untying the bomb, the string around the bomb, but quit when the phone rang. She had an emergency, and so she didn't come back that day, but of course the news was all over the place that night. The next morning, she called the FBI, and the FBI was able to obtain that bomb without it detonating. So it was intact. And so, they now knew what this bomb looked like, everything about it. And in the bomb were Xeroxed copies of letters written to all of the judges of the court by an outfit called the Americans for a Competent Federal Judicial System.

There were two letters that were in bomb, the NAACP bomb. And it so happened that that same day, that the next day, the 19th, it was a Tuesday, those letters were mailed to all of the judges in the circuit on the Court of Appeals, the active and senior judges. We started receiving those letters the next day and the day after, for the next four or five, six days. And these letters, I got my letter probably on Thursday or Friday, but I'm going to back up again with another event that happened on Tuesday. After the hoax was uncovered and solved, done away with, I had a conversation with Chief Judge O'Kelley. The Head of the Postal Service was complaining because the U.S. Marshals that morning before the post office in the Russell Building had opened, they had gone in there with bomb sniffing dogs. And the Postmaster was very upset that the Marshal Service entered the post office without their knowledge with these bomb sniffing dogs. So that brings us to the end of Tuesday.

Marcia Tjoflat: Well Judge—

Judge Gerald B. Tjoflat: Yeah—

Marcia Tjoflat: It's Marcia. Before we get too far on the chronology, I don't recall hearing the return address and the description of the bomb that killed Judge Vance. And I think you skipped over what happened to the bomb that they found in Atlanta.

Judge Gerald B. Tjoflat: Oh, okay.

Marcia Tjoflat: So those two issues.

Judge Gerald B. Tjoflat: Alright. The bomb to Judge Vance had been mailed from Newnan, Georgia on Friday, the 15th of December. And the return address was Lewis R. Morgan in Newnan, Georgia, a colleague on the court. And when Helen Vance received the bomb Saturday afternoon from the post man who came to the house with the bomb, she saw the return address and said to Bob Vance, "here's another package from Pete Morgan." Pete Morgan raised claim horses. And Bob Vance was a show dog expert. And Morgan would send him dog stuff, and he would send Morgan horse stuff, magazines and things of that sort. And so when Helen Vince put the box on the kitchen table, she said to him, "There's something else from Pete Morgan. Probably some more of those dog magazines and articles and what." So anyhow, the bomb that was recovered on Monday at our courthouse was detonated. They tried to disarm the bomb, but they couldn't so it was detonated. And of course, the bomb that went to Savannah, it was also detonated.

Kevin Kaplin: Right, but the bomb that went to Jacksonville was not detonated.

Judge Gerald B. Tjoflat: No, it was not detonated. And that one was recovered and it had, as it turned out, one of the letters that were in the bomb rolled up. One of The Xeroxed letters had a fingerprint on it, a thumbprint. But we'll get to that in a little bit. That became very key.

Kevin Kaplin: When was Judge Vance's funeral?

Judge Gerald B. Tjoflat: The funeral was on Wednesday, the 20th. And because of the things that had happened on Monday, for example, the hoax about the Russell Building bomb and the Marshal Service problems and the post office problems with the bomb sniffing dogs, I arranged a meeting after the funeral with the representatives of all those services, and told them what had happened, and that we had to have better service from the Marshal Service. And also, we couldn't have the interference from the Post Office Department when the Marshals wanted to search for bombs with their dogs, of course, we didn't know where in the world in the circuit more bombs might be sent, which was of utmost concern. So anyhow, by the end of the week, we had these letters, and the letters are written, addressed on the envelope to the late Judge Gerald Bard Tjoflat Jacksonville, Florida, no zip code, no address other than Jacksonville, Florida.

And each letter that judges received was addressed to the judge, like R. Lanier Anderson III, Macon, Georgia. And the first thing that came to mind was that a lawyer, somebody with knowledge of the law had something to do with these letters, because the addresses were exactly like they appear in the federal reporter. When you look at any federal reporter on the inside, there's a list of all the circuit judges from the various circuits, and the district judges, including the senior judges. And so, all of the letters were addressed exactly as the names and addresses appear in the federal reporter. And it turned out that the man who was convicted, Leroy Moody, had frequently come to our clerk's office to read slip opinions. Some of the people in the clerk's office later, after it was all over, recalled that. And he also had been to a night law school in Atlanta, I think the Jones Law School for a year or so. So he knew how to read appellate decisions and one thing or another.

Kevin Kaplin: So how did the investigation you know, first get to Moody as a potential suspect?

Judge Gerald B. Tjoflat: Well, we started with the letters to the judges. And the mailing stickers on the bombs were typed with an Underwood upright typewriter, which had a crooked L. The L had evidently

been broken off of the typewriter and soldered back on again, so it was at an angle. And the first thing that we did was we had the clerk of the court look at all *pro se* filings in the Eleventh Circuit, starting with the most current, and go backwards in time to see if they could find anything that was typed with that typewriter, which had that crooked L. So that's the first. And then we also had all cases in which Judge Vance had been involved back in time. So all of those were pulled out of the computer system, as it were. And we also had pre-sentence investigation reports of people in criminal cases, whose convictions had been reviewed by a panel with Judge Vance on it. So that was a massive amount of information. And now we're talking about the last week in December and going into January. So that's the way things began in January, in terms of the investigative efforts. Now, one thing that happened in January right away, was that we had a panel sitting in Atlanta on the 8th of January.

The same person who wrote the letters that were contained in the bombs and were sent to the judges, wrote a letter to a woman who was a TV anchor in Atlanta, who was a Black woman. And he was complaining about — and it was racially oriented — it was also from the Americans for a Competent Federal Judicial System. And so, the stage was sort of set that this was a racially motivated killing, although a white judge been involved. And we knew by this time that he'd been involved in the Jacksonville School Case, which was decided in October, which probably is why it was Judge Vance that was picked out. The Jacksonville School Desegregation Case, which I handled in 1970, had been dismissed in 1989 on a finding of a unitary system. But the dismissal order was perfunctory. So, a panel with Judge Vance and two other judges reversed and vacated that order and sent it back. And he was the writing judge. And that was also a racially oriented situation because it dealt with race.

Kevin Kaplin: And that was October of '89?

Judge Gerald B. Tjoflat: October of '89. So, we're going to sit in Atlanta on the 8th of January '90, and on the 6th of January, the KKK is having a big rally in Atlanta, and they'd had a permit from the city. And they were going to be joined in with a bunch of white separatists from elsewhere, in this rally. Going to be huge rally. And so all of that, plus the letters to the anchor in Atlanta, which was racially oriented, drove the focus of this assassination in that general direction.

Kevin Kaplin: And were all of the court sittings limited to Atlanta moving forward?

Judge Gerald B. Tjoflat: Yes, we decided not to sit anywhere except Atlanta. And what we did in Atlanta was that we took over one floor in the Ritz Carlton Hotel. The Marshals had two rooms permanently as lookouts, and the judges stayed in these rooms on that floor, and you and the other clerks were scattered amongst the hotel otherwise. But by this time, everybody was in the Marshal's custody. They'd taken our automobiles and were driving us. And you'll remember driving to Atlanta.

Kevin Kaplin: Right.

Judge Gerald B. Tjoflat: Now, the first break of an identity of who might have done this occurred when the clerk's office discovered a pleading, *pro se* pleading, in a case called *O'Ferrell vs. Gulf Life Insurance Company*. O'Ferrell, William Wayne O'Ferrell, who was from Enterprise, Alabama, had sued Gulf Life and had appealed the loss at the District Court. And he had fired his lawyers, and he typed some *pro se* motions or pleadings, maybe his briefs, with the typewriter that had the L with the same problem.

And that became known widely. And by this time, the thought that this was a racially motivated killing was widespread. The NAACP, Benjamin Hooks, who was then the Chairman of the NAACP, was actively involved in all of the civil rights groups, and they were putting pressure on President Bush to do

something about this problem and big pressure on the FBI. So, the following things occurred. Around the 18th or so of January, it was a Saturday, if I'm not mistaken, a special agent in charge of the FBI came, picked me up, and took me to the Jacksonville office to listen in to the reports of FBI agents descending on Enterprise, Alabama. This is where O'Ferrell was from. And there must've been somewhere between 60 and 80 FBI agents that descended on Enterprise, as if they'd been dropped out of the sky as paratroopers.

Some of them had gear on so they could walk in the bottom of lakes around Enterprise looking for this typewriter with metal detectors. They went to O'Ferrell's residence. O'Ferrell had one of those metal Butler buildings, sort of a flea market arrangement where he sold used things and he wasn't at home, but his wife was. And the agents told her why they were there and that they were looking for a typewriter. And she took the agents to this building where they sold all kinds of things. And there were two or three rows of Underwood upright typewriters.

Kevin Kaplin: Oh my.

Judge Gerald B. Tjoflat: They purchased them as surplus from Fort Rucker, Alabama. And so, the agents stayed there for five days. They worked over the fingerprints of 500 people that the Sheriff's Office had in that county and interviewed O'Ferrell and asked you know, "Who'd you sell this typewriter to?" And one story was that Mrs. O'Ferrell pointed up to a shelf, and there was a space between two typewriters. She said, "I sold the typewriter that was right there to a woman." That was just one of the things that was said. So, but at any rate, that's what happened through about the 26th of January.

Kevin Kaplin: Who was leading the investigation at that point? Was it the FBI?

Judge Gerald B. Tjoflat: What?

Kevin Kaplin: Who was leading the investigation at that point?

Judge Gerald B. Tjoflat: No, there was a problem about that. We were in Atlanta. So the U.S. attorney from the Northern District of Georgia was somewhat involved, but we also had death threat letters to judges and crimes being committed in all nine districts of the circuit. So, we had nine U.S. attorneys focused in on this investigation in a way. You had the state prosecutor in Savannah because he now has a murder case. Mr. Robinson was killed. We have a murder case in Birmingham because Judge Vance was killed, and the Attorney General of Alabama and the Attorney General of Georgia, and we had about five investigative agencies involved. We had the FBI, Alcohol, Tobacco, and Firearm, the Secret Service, and the Postal Inspection Service. And because of the racial overtones of this assassination, the Civil Rights Division of the Department of Justice had a hand in the case. And so, it was kind of like a shark feeding frenzy, and a bunch of minnow fish and it was pretty bad. There were a lot of leaks going on.

Kevin Kaplin: So was the U.S. Attorney General involved?

Judge Gerald B. Tjoflat: No. What happened was that ultimately, it took about a month, Larry Potts, who was a senior FBI agent in Washington, finally came to Atlanta to take over the investigation, about the same time that they were putting their whole investigation together. They had 125 FBI agents in Alabama alone assigned to this case. They were taking polygraph examinations of O'Ferrell. And he failed most of them. He failed all of them, some just outright deceptive. And that's basically what it was.

At one point, to give you an idea of how this was, I was in San Francisco with two Marshals. I was making a speech to a gathering of Ninth Circuit judges at a program. And it was 11 o'clock at night, San Francisco time and the phone rang in the hotel, and it was the special agent in charge of the ATF office in Atlanta, and he wanted to go to Macon. And he wanted me to get the clerk out of bed basically, and to go down in the basement of the courthouse and see if he could go through the file of a prosecution against Roy Moody, which occurred in 1972. What had happened was—

Marcia Tjoflat: Now, wait a minute. You never concluded what happened to O'Ferrell.

Judge Gerald B. Tjoflat: I'm going to conclude with O'Ferrell.

Marcia Tjoflat: Okay.

Kevin Kaplin: We'll get back to O'Ferrell.

Marcia Tjoflat: I'm afraid he's going to skip over too many things.

Kevin Kaplin: But was this the sort of key moment when Moody's name first came up?

Judge Gerald B. Tjoflat: What happened was that an inspector in the ATF lab in Washington, I think he was retired or about to retire, happened to see this bomb. He had worked on the case in 1972 involving Moody and a bomb. And he said, "I think I know who made this bomb" because it had some interesting things about it. What happened in 1972 is that Leroy Moody was convicted of possessing an explosive device, and it was a bomb, a shoebox bomb, exactly like the bomb that killed Judge Vance, almost exactly. He had intended to send the bomb to a used car dealer in Atlanta who sold him a lemon. And he put the bomb in a room next to the kitchen in his house in South Atlanta, and his wife went in and for some reason, opened the box and blew one of her hands off, seriously injured her, and he was prosecuted and convicted in 1972. Judge Bootle tried the case in Macon, and sentenced him to five years in prison. And so, it was the ATF lab technician who had worked on that bomb, on that case, well the remnants of the bomb, who said, "I think that's the same man that made this bomb, which took Judge Vance." And so that's why I'm getting a call at 11 o'clock at night by the ATF agent in charge, to go down to Macon, to see the file to see if he can find the remnants, anything left in the basement, any evidence that had been retained. And about 10 minutes later, Bill Hinshaw, who was in charge of the FBI in Atlanta, called me with the same request. And I said, "Why don't you and your colleague with the ATF share a car and drive down there, and I'll wake up the clerk and get him to let you in the courthouse." So now Moody, because of this bomb design, is in the mix along with O'Ferrell and some other people also.

There was a fellow named Henderson, who was in prison with Moody in the Atlanta penitentiary at the same time in the '70s, who was a white supremacist — supposedly a leader. So that's how they were sort of putting all these things together. And one last thing that happened with Henderson, and I don't recall exactly when this was in the spring of '90, but they were, by this time following, the Bureau was, following Moody from his residence, and therefore, following Susan Moody. And I am told that Louis Freeh, who ultimately handled the case, told me that the FBI had a plane at about 7,500 feet, something like that, between 5,000 and 7,500 feet at night, with a device that could determine whether an automobile engine is turned on. And they were flying over an airstrip in Georgia. Somewhere outside of Atlanta, there was a regular air strip. Evidently there was a plane there in Atlanta and a car drove up, and supposedly this was Susan Moody in the car, and met this fellow Henderson. And they could make

all that determination from the air putting this together. So that sort of enlarged the list of suspects. I'll put it that way.

Kevin Kaplin: So what, what happened with O'Ferrell?

Judge Gerald B. Tjoflat: Well, what happened with O'Ferrell is that they kept taking polygraph tests, and he kept failing the polygraph tests. And as time went on they said, "We'll go and then we'll come back again." As time went on, he finally said, "I'll take a test," or "I'll let you hypnotize me and I'll tell you who I sold the typewriter to." And that never came to pass that he was questioned under hypnosis, but the Department of Justice ultimately sent him notice in November of '90, that he was no longer a target of the investigation. What happens now is that we have to go back to 1986.

Moody had been convicted in 1972 of possession of this pipe bomb. In 1986, he files a petition for a writ of *coram nobis* in the Middle District of Georgia before Judge Bootler. And I don't know whether Judge Bootle handled it or not, but at any rate, he was challenging the evidence of his trial in 1972, that he possessed the bomb was wrong, because there was a man named Wallace, and he had testified to that effect at his trial that a man named Wallace put the package in his house, that he was not around. So in the hearing on his petition for a writ of *coram nobis*, he presented the testimony of two women whom he'd paid to testify that they saw this person put the bomb in Moody's house.

The matter was tried, and the judge denied relief, denied the writ. This was in 1989, and this was before the Vance murder. And he files a notice of appeal in the summer, around June of '89. This is six months before the Vance Killing. And so, he and Susan Moody are indicted. Well, I take that back. After the *coram nobis* is denied, he and Susan Moody are indicted for committing subordination of perjury. And I assigned the case to Judge Tony Alaimo of the Southern District of Georgia for the trial. And so Tony Alaimo tried that case in 1989. I've got to back up. This is 1990. This is while the investigation is underway. Let us take a break for a second.

Kevin Kaplin: Sure.

Judge Gerald B. Tjoflat: Yeah. We'll just take a break for a second.

Kevin Kaplin: Yeah. We've been going at a good clip.

Judge Gerald B. Tjoflat: I've got to back up to the spring of 1990.

Kevin Kaplin: Wait, so what was the theory about why Moody filed that writ of *coram nobis*?

Judge Gerald B. Tjoflat: He filed the *coram nobis* petition in order to avoid that possibility that if he were prosecuted for another bomb killing with the same kind of bomb, you couldn't use the evidence from the 1972 bombing to show that he made the bomb. As a matter of fact, they discovered late in the prosecution of Moody, that he had trial transcripts of the 1972 case where he made all kinds of markings. He was going to be sure that there was no physical evidence in the Vance situation so he could be tied to what happened in 1972.

Kevin Kaplin: And so, then Moody got indicted for, what was it obstruction?

Judge Gerald B. Tjoflat: What happened after Larry Potts came down from Washington to take over the case around the 1st of April. Shortly after that, because there were still too many agencies involved, and

too many difficulties, for example, one day, Larry Potts showed me an application for a search warrant of O' Ferrell's property for his personal belongings. And he asked me if I thought that the application was okay. And I said, "Looks good by me." He said, "Well, the Civil Rights Division of the Department of Justice, a lawyer up there thinks it's not adequate" or something. And they were having an awful hard time that way because there were too many agencies involved. And so, I finally called Richard Thornburgh, who was the Attorney General with whom I was acquainted, and I said, "We've got to have the best prosecutor in the federal system come to Atlanta and take over the Vance investigation lock, stock, and barrel."

And about a day or two later, I got a call from Robert Mueller, who was Deputy Attorney General, from an airplane, and he said that they were sending Louis Freeh down from the Southern District of New York. Louis Freeh was famous for his trial of the pizza connection, which lasted a year and a half sometime earlier. And so, he was very able and he did shut down all the leaking and brought this investigation together. Now, one thing he did was he went back and reviewed the trial of the *coram nobis* proceeding and realized that Walter Moody and Susan Moody had suborned perjury of the witnesses who testified and had paid them. So, in July 1990, Susan and Moody were indicted on multiple counts of obstruction of justice, subornation of perjury, and some other thing. And that case was presided over by Tony Alaimo.

And he was convicted, Moody was, of those crimes in the fall of 1990. One thing that was interesting in the case was that Louis Freeh tried to get introduced into evidence the similarities between the 1972 bomb and the Jacksonville bomb, the bombs that were involved in the Vance case, and the court denied the motion to show the linkage between '72 and now. So that brings us up to the fall of 1990. And now Moody's appealing the conviction of this *coram nobis* aftermath.

By the way, when he and Susan Moody were indicted on that case, he was denied bail. And that separated him and Susan Moody. He had a "Midas Touch" over Susan Moody. They were married in a common law wedding, as it were, shortly before Judge Vance was killed. And it's obvious that the purpose of the marriage was so that he could invoke the marital privilege about any communications he had with Susan Moody. After they were separated, Susan Moody started cooperating in bits and pieces about all of this. And at one point in time, the conversation between her and the FBI agents turned on who copied, who Xeroxed the death threat letters that were sent to the judges and were put in the bomb boxes. And she said that she had, well, her credibility because she was an accomplice, was very shaky, so they needed to corroborate her testimony.

So she said she thought she could take them the place where she copied the letter. And it was in Kentucky. So they got in the car and drove up I-75 to Fort Thomas, Kentucky. When they got to Fort Thomas, Kentucky, Susan Moody said, "Turn this way, turn that way." And they wound up at a little letter shop, a mom-and-pop operation that sold cards and letters and things and had copy machines. And so, when they went in there, the agents with Susan Moody, the lady, who was the proprietor told the agents that she recalled a woman coming in there months and months earlier and copying things, wearing gloves. And so, at any rate, they took fingerprints of everybody around the mom-and-pop shop, three or four people to see if they would match the thumbprint on the letter that was in the Jacksonville bomb. And there was no match. But before they left, a gentleman entered the shop. He was a retarded gentleman who had been hired to do odd jobs in the shop. And one of his jobs was to load the Xerox machine.

And so they printed him, and his thumbprint was on the print in the Jacksonville bomb. And what had probably happened was that he loaded the Xerox machine with a ream of paper with his thumb on the top. And so when Susan Moody just happened to come in to run some copies, she picked up the top

page from the ream and it wound up in the Jacksonville bomb. So that corroborated Susan Moody's testimony.

Kevin Kaplin: Was the typewriter ever found?

Judge Gerald B. Tjoflat: No, they never found the typewriter. They looked for the typewriter in Lake Lanier, Georgia, with FBI agents in the bottom of the lake and scuba gear or whatever, and a metal detector, they looked for the typewriter in Savannah and around Savannah and Tybee Island, the places there, because he'd been there. And one of the reasons why they went to so many places when he was denied bail in the *coram nobis* prosecution, I'll call it, and the obstruction of justice prosecution, he was at the Atlanta penitentiary. They were listening in on his cell, and he did a lot of talking to himself. And he talked a lot about the typewriter. He talked a lot about letters and things of that sort. And he said something about having been in Tybee Island, which is outside of Savannah. And so that's where they looked, at all these places, but never did find the typewriter.

Kevin Kaplin: And so when was Moody indicted?

Judge Gerald B. Tjoflat: Moody was indicted in November or December of 1990, and reindicted in '91. And then the case had been put together, by and large, with a lot the evidence we were talking about. They had the comparison of bombs between 1972 and these bombs, they had Susan Moody copying all the articles, and they had other kinds of evidence. Well, there were two other things. At some point in time, in the spring of 1990, the FBI got a telephone call and this was a message. It was from a gentleman who worked at a sporting goods shop outside of Atlanta. He recalled that he had seen Moody's picture in the paper. At some point in time, Moody had been photographed on the steps of the Russell Building Courthouse. At any rate, here was the tale he told: a man came in, who looked like the man in the photograph, and wanted a keg of red dot powder.

And the customer had been sent there from the proprietor at another sporting good shop where Moody did his business. Moody had gone into that shop and said, "I need a keg of Red Dot powder." And the proprietor said, "We're out of red dot powder, don't have that much anyway." And he suggested that he go to this shop where this man is making a telephone call. So, he says, this gentleman came in there and he wanted a whole keg. I tried to talk him out of it because it would spoil. It'd get moist, but he insisted it was 4.1 pounds in the keg. And that was the amount of red dot powder that was needed for the four bombs. The man later picked Moody up out of a lineup, identified boots. And so—

Kevin Kaplin: What about Banks and Sproles?

Judge Gerald B. Tjoflat: Banks? In his travels, Moody would spend a lot of time in Vero Beach, Florida. And there was a guy named Sproles and a fellow named Banks, who was Sproles' father-in-law. And Banks had a criminal record and so did Sproles and Banks had a machine shop. And Moody had him cut three of the pipes that were used in the bombs. And then he had him cut out metal and weld it to the ends of the pipes. So the bombs would have resistance, the explosion. And he did that. Banks did that, and Banks probably knew that Moody was up to no good. And the FBI ran checks on Banks. They interviewed Banks. Banks had been convicted before, and so he was a felon, and he violated the federal law because he possessed firearms. And so, they indicted Banks on three counts of felon in possession of firearms and two counts of lying to the FBI. And he pled guilty, and Sproles also pled guilty. So that added to the evidence that the Bureau had, that he had done three of the pipe bombs.

Kevin Kaplin: So, when was the trial?

Marcia Tjoflat: Judge—

Judge Gerald B. Tjoflat: Yeah.

Marcia Tjoflat: One of the side stories about Moody and trying to get him into custody has to do with his wigs that he wore, his disguises. I think that's worth noting.

Kevin Kaplin: I never heard about that. Tell, do tell.

Judge Gerald B. Tjoflat: Moody liked to wear wigs, and he liked to wear different kinds of glasses, eyeglasses, very odd glasses, I'll put it that way. And the man who called, who sold him in the Red Dot powder had seen his photograph, but Moody had a wig on, he just thought it was Moody. He wasn't sure. He thought it was Moody. And when they did the lineup, of course the wig was off. And he didn't have the wig on when he came in to buy the powder. But he did have on a pair of odd glasses when he did that. And during one of the searches of Moody's property, there were several search warrants, they found some glasses that this guy identified, so he not only picked him out of the lineup, but he also identified the glasses.

Marcia Tjoflat: And then there was a motorcycle chase.

Judge Gerald B. Tjoflat: The motorcycle.

Marcia Tjoflat: Motorcycle pursuit.

Judge Gerald B. Tjoflat: While they were surveilling Moody and Susan Moody, and this is in April of 1990. They're still after O'Ferrell, but they're also following Moody. And so they had a listening device and they learned that Moody and Susan, not yet his wife, were going to Lakeland, Florida on the 10th of April to an air show that Moody went to always, every year. And they were going on motorcycles. So they left Macon on motorcycles. In the meantime, the FBI had some agents dressed up appropriately for riding motorcycles. They flew them down from New York. And so they had FBI agents following Moody and Susan on motorcycles, but in a discreet way. They stayed down there in Macon the whole time that Moody and Susan were there. And then they followed them when they left Macon and took I-75 North when they got to I-10 in North Florida, they turned left, Susan and Moody.

And of course, that was on the way to Enterprise, Alabama. That was another supposedly incriminating thing. But at any rate, so here they go, in their motorcycles west, and they go to Apalachicola, Florida, down on the Gulf. And FBI agents follow them, and Susan and Moody go into a restaurant in Apalachicola and the agents follow them, and they're sitting at another table. Of course, Moody knows who they are. So he tells Susan Moody to go next door to a camera store that happened to be there and buy a camera. And so she did, she bought the camera, and then he told her to take the pictures of the FBI agents. So she filmed the FBI agents, and one of the agents grabbed the camera and tore the film out or whatever. And so Moody went to the Sheriff, called the Sheriff. They sent a deputy. At that point, the FBI agents identified themselves, and so nothing was done, but Susan Moody swore out a criminal complaint against the lead agent, the one who'd taken film out of the camera. When Larry Potts from Atlanta told me this story, I said, "Well, they'll regret that because in Florida there is, in criminal cases,

there's wide-open discovery. So if they want to pursue this criminal complaint, they'll take Moody in your deposition, Susan's deposition." So nothing came of it, but that was another interesting episode.

Kevin Kaplin: So where was the case tried?

Judge Gerald B. Tjoflat: The case was tried in St. Paul, Minnesota. Edward J. Devitt, Senior Judge, Former Chief Judge of the District of Minnesota, tried the case. And he tried it in June. About four or five months before that, Louis Freeh had been nominated as Judge of the District Court in the Southern District of New York, and he was confirmed about the time the trial began. And a verdict of guilty on all 70 counts was returned. Of course, there were the murder counts, and then there were the death threat counts and the letters and all sorts of criminal offenses that were committed when you involve all the judges on the Court of Appeals. So that's how it got to be 70. And so, he was convicted and sentenced. He was sentenced, by the way, in the *coram nobis* trial that Judge Alaimo conducted to 120 months in prison, concurrent sentences of 120. And of course, he had the Judge Devitt life sentence.

Another interesting story about that: afterwards Judge Devitt and I went to Judge Freeh, Louis Freeh's investiture in the Southern District of New York — Foley Square — in July. I sat on the bench with the other judges of the Southern District. We had a good time, and several years later his portrait was presented to the judges of the Southern District of New York. And I appeared and sat on the bench with the judges and told about Louis Freeh's service to the 11th Circuit in this case. It was very warm for sure.

Kevin Kaplin: Wow. Well it's interesting to hear all of this detail. You did an amazing job while I was clerking for you, handling all of this without involving our time. So a lot of the detail is new to me as well. Must have been quite a challenge for you to spend the time you did with this investigation while also fulfilling all of your responsibilities as Chief Judge of the Eleventh Circuit. How did you do it?

Judge Gerald B. Tjoflat: I don't know. Just that's another time. And a little bit younger at that time, what I did for about the first four months, because we were collecting all pre-sentence investigation reports of all kinds of people who had been convicted in their sentences or convictions have been renewed by Judge Vance because we don't know how many people are involved and all other kinds of cases. So, and all this information would keep running through the chambers, some from the clerk's office. So I had an FBI agent sitting in my chamber for about four months, and every time the phone would ring or something would happen I would tell him about it and I'd write it down on a yellow pad. So I probably filled three or four of the lined yellow tablets with notes with times and everything else about all of these things.

Kevin Kaplin: Yeah, well it was quite a year. Well, thank you for letting me spend some time with you today to go through it again. I really appreciate it.

Judge Gerald B. Tjoflat: Well, it's been a good chat. I'll see you soon.

Bolch Judicial Institute: Are we good?

Kevin Kaplin: I think so. Anything that you think we left out, Judge?

Judge Gerald B. Tjoflat: Oh, let me look at these notes.

[Bolch Judicial Institute: I think this would make a fantastic movie myself.]

Kevin Kaplin: I think we've covered most of it.

[Bolch Judicial Institute: I think it would.]

Marcia Tjoflat: What effect do you think it had on the other members of the court?

Judge Gerald B. Tjoflat: Oh yeah, can we plug some of that in?

Kevin Kaplin: Sure.

[Bolch Judicial Institute: Yep, go ahead.]

Judge Gerald B. Tjoflat: Kevin you still there?

Kevin Kaplin: Yeah. Judge, how long had you known Judge Vance?

Judge Gerald B. Tjoflat: I'd known Judge Vance since he came on the court in 78. And he was sort of one of these characters you'd never forget, most unforgettable character. He was full of energy. I would stay at his house once or twice in Birmingham. He was there alone, and I happened to be in Birmingham. He'd get up at four o'clock in the morning.

Kevin Kaplin: Oh, my.

Judge Gerald B. Tjoflat: Start working on stuff. He just had enormous energy. As a matter of fact, the day before the assassination on Friday the 15th of December, we had a court meeting in Atlanta. So that was the last time I saw him, which was about five o'clock Friday afternoon. And he was gone on Saturday. But one of the things about the judges, throughout all this investigation period until Moody was indicted — after Moody was indicted — the Marshal Service gave our cars back and stopped giving us protection. But during that whole time, it was very trying, especially on the spouses of the judges, because wherever they went, they've got two Marshals and the Marshals stay at home with them at night. And everywhere I went, like the trip to San Francisco, I had two Marshals all the time, and my wife had the same. And there was one little episode.

And so we didn't know how many people were involved because how big was this conspiracy? One of the things that that shook everybody up, it was in April of 90, this is about five months later. Judge Edmondson lived in Lawrenceville, Georgia. And the Marshals would drive from Lawrenceville into Atlanta, and one day the Marshals were stopped. He was in the back seat at a stop sign and a woman behind their car noticed there was a bullet hole or what looked like a bullet hole in the rear window of the car. So they pulled over and there was a hole, looked exactly like a bullet hole with like the rays going out, you know?

Kevin Kaplin: Yeah, like a cobweb.

Judge Gerald B. Tjoflat: Yeah, like a cobweb. And the only glass that was missing was what was it in the hole. And so, I was driving to Montgomery, Alabama when I got word of that. And that was very

unnerving because the Marshals and the FBI spent a lot of time in the general neighborhood and that area questioning all kinds of people for four or five days, and the rear window was sent to the FBI lab and they concluded that it was not a bullet. They couldn't find anything inside the car and concluded that it was just a freakish kind of a thing. Sometime later, there was a theory that what happened was, and this is again just a theory, that the trunk of the Marshal's car had an antenna.

And if you open the trunk lid, the antenna pointed about where the bullet hole was. And so there was some who thought maybe at some point the trunk had popped open and hit it. But the hole wasn't in there when Judge Edmondson got in the car that morning. I mean, that was just another thing that added to the overall tension, the uncertainty, especially when off-and-on for months O' Ferrell's polygraph exams all came out as deceptive and his lawyer kept talking about he needed immunity and this, that and the other thing, trying to make a deal. And which ultimately, he was willing to be questioned under hypnosis.

Marcia Tjoflat: And Judge Kravitz moved from Savannah to Atlanta.

Judge Gerald B. Tjoflat: And Judge Kravitz was living in Savannah and her father and she to some extent had been involved in Civil Rights matters. And she was very concerned about the Klan's involvement. And so that caused her to move to Atlanta. She just sold her house in Savannah and moved to Atlanta. And there was also, Judge Hatchett was in Tallahassee and he had a child or two at home. And he was also very concerned, especially about the racial overtones of this episode. So it was a very trying time on the judicial family, we'll put it that way, but more so on family members because judges are very busy and they were affected everywhere they went. Family members were also.

Marcia Tjoflat: Judge, do you think that Moody was motivated by race?

Judge Gerald B. Tjoflat: Moody was a genius. No question about that. Moody had gone to Mercer and then majored in physics or something like that for about two years and had, well, there's one last story we could splice it in somehow. This is another story. Moody invented a contraption that operated on outboard motorboats. And he and three of his employees, you might say, were in the Gulf of Mexico, outside of Key West, and the three of them were in the water trying to film what it was that was not functioning properly in this motorboat.

And all of a sudden, the motorboat went off and Moody left them to die out there in the Gulf to drown. And they were picked up and Moody was indicted in Monroe County, Florida, which is Key West, for attempted murder having to do with these three individuals. And there was a hung jury. And Moody turned around and sued the prosecutor and the sheriff and somebody else for a violation of civil rights because they conspired with kind of like a malicious prosecution case. And District Judge James Lawrence King, who was presiding in Key West at the time, dismissed the case — *sua sponte* --- the complaint. And it was appealed to our court. And the appeal was heard on August 29th, 1989, a few months before Bob Vance was killed, and he was on the panel, Vance was on the panel of this case. And a quorum of the panel, I think it was Judge Cox and Judge Edenfield decided the case in Moody's favor, after Moody was indicted sometime in early 1990. And Judge Vance's court did rule. So the opinion showed that he had heard argument, but could not, because of his death, participate, and Moody was the beneficiary of Judge Vance's ruling.

Kevin Kaplin: Oh my.

Judge Gerald B. Tjoflat: There's so many little things about this Vance case that you could sit here for a month and talk about it.

Marcia Tjoflat: Well, Judge, I don't think you mentioned that Moody did get the death penalty in Alabama.

Judge Gerald B. Tjoflat: Oh, yeah. He was sentenced to death in Alabama.

Kevin Kaplin: and executed—

Marcia Tjoflat: Yeah, I think that's kind of, a little important.

Speaker: Yeah, I can back out if you want to add that in there. We'll edit out the middle. Okay.

Kevin Kaplin: Judge what happened to Moody?

Judge Gerald B. Tjoflat: Well, finally, the Attorney General of Alabama had him indicted for murder, and he was convicted. It took years before the collateral proceedings, *habeas corpus* proceedings in Alabama ran their course. And they were denied. His relief was denied. And of course, then he brought a federal petition for *writ of habeas corpus*. And by that time, there were very few of the judges on our court who were still alive and active going way back then. So three of the fairly newly appointed judges sat on the panel and denied section 2255 relief. And then Moody was ultimately executed after that.

Marcia Tjoflat: Was there any action taken against him for the death of the lawyer in Savannah?

Judge Gerald B. Tjoflat: I don't know about that.

Marcia Tjoflat: Okay.

Judge Gerald B. Tjoflat: I don't even know if he was convicted—

Marcia Tjoflat: It seems like an interesting point. I mean, he really was smart. It seems an interesting point that his three victims, well the two victims and the anticipated victim, Willye Dennis, were one in each of the states of the Eleventh Circuit. I mean, that's a pretty sophisticated point to make.

Kevin Kaplin: Yeah. He was smart, but maybe almost too smart, because if he hadn't messed around with the *coram nobis* proceeding, he might not have ended up being caught.

Marcia Tjoflat: Yeah, and all the bombs were supposed to explode on the same day. Isn't that right?

Judge Gerald B. Tjoflat: Yeah.

Marcia Tjoflat: But what was the reason why Judge Vance was killed first?

Judge Gerald B. Tjoflat: Because he was the senior judge.

Marcia Tjoflat: No, because the bomb got sent early.

Judge Gerald B. Tjoflat: Oh. The reason that he was, it's a freakish thing that the bomb is mailed in Newnan. It goes to post office in Atlanta, and you can just visualize the Christmas rush with the mail.

Here's another package for Birmingham, and somebody threw it in the truck to Birmingham since they're not delivering to our courthouse on Saturday or Sunday, we get it on Monday. And Jacksonville gets it Monday and Savannah gets it Monday. And that's the only reason Vance got it. And really, the fact of the matter is that if Bob Vance had not been killed on Saturday, because Kevin, you'll remember our clerk's office had all kinds of fabric partitions between the workers. That would've gone into the mail room and would've probably killed 10 or 15 people or injured them anyway. When I went to the FBI lab in February or March when I happened to be in Washington, I went to the FBI lab, they showed me the photographs of the Vance kitchen, and it looked like a hundred porcupines had shed their things. Those 10 penny finishing nails were stuck everywhere in the kitchen, the ceiling, the walls, the floor. There was no way Helen Vance could be missed.

So that would've happened in the mail room, which was part of the clerk's office, in with everything else. So that would've happened on Monday. We wouldn't have talked.

Marcia Tjoflat: Do you think he really intended to kill all the judges on the court?

Judge Gerald B. Tjoflat: Oh, yes. He anticipated getting everybody. There were telephone calls made. There was a telephone call made on the 23rd of January, this is about a month later, to the Circuit Executive's office. And I have the typed message from the person, Ali Stevenson, I think it was, who answered the telephone. And the message was from the person, "There is going to be a bunch of letters mailed to the judges and sent to your office. And even though they're just to the judges, we suggest that you open and read them."

And they were sent there because a lot of the judge mail went to the Atlanta courthouse. The judges in Atlanta, the postmaster just sent those straight to the clerk's office. Mine came to me at my residence, or no it didn't, it came to the courthouse. So, but at any rate, that was a fellow, there was a telephone call made shortly after the murder, to the Sheriff's Office of Jacksonville. And that was about the time of the NAACP bomb. And there were several calls that were made to court or law enforcement type entities supposedly from the Citizens for a Competent Federal Judicial System. I don't have any doubt that they were probably from Susan Moody. She probably made some of them as well as Moody.

Marcia Tjoflat: Did she face any criminal liability?

Judge Gerald B. Tjoflat: Huh?

Marcia Tjoflat: Did Susan Moody face any criminal sanctions?

Judge Gerald B. Tjoflat: No.

Kevin Kaplin: Did she testify against Moody at trial?

Judge Gerald B. Tjoflat: I'm sure she testified against Moody and Helen Vance did. For a while, Helen Vance said she didn't want Marshals following her around, but that lasted about a day or two.

Kevin Kaplin: Right.

Judge Gerald B. Tjoflat: I think we might have a couple seconds. The phone calls were pretty good. I'll never forget that one. I think Dot probably got a call too.

Kevin Kaplin: Yeah, well, that's how I found out, I think.

Judge Gerald B. Tjoflat: Yeah, who called you?

Kevin Kaplin: Dot had left a message for me on my answering machine. We still had answering machines then. So I'll never forget Dot Bradley's voice saying that she was sure we had heard about Judge Vance and not to go into chambers.

Marcia Tjoflat: For the record, you probably need to say who Dot Bradley is.

Kevin Kaplin: Everybody knows who Dot Bradley is, don't we? Judge. How long was she your secretary?

Judge Gerald B. Tjoflat: About '76 to '93. A gem. She died here, Kevin, about four years ago. I met her sister and some others. Well, I guess we'll call it quits for the day.

Kevin Kaplin: Well, thank you.