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## Wily "Court Jester" a Frequent Case Winner

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MIAMI—Attorney: I'm here on a mission of mercy for this poor innocent child, your honor.

Judge: How old is this 'poor child'?

Attorney: He's 23 years old, your honor . . . a babe in the woods.

Judge: If I recall, once you reach 18, you're not a child anymore.

Attorney: I have suits that are older, your honor.

Judge: You have speeches that are older. I've heard them all Mr. Gaer. Motion denied.

Ladies and gentleman, Sy Gaer, a little old man who is something of a giant in courthouse circles. Here is a lawyer who turns routine hearings into comedy theater, but also regularly wins trials, even though he refuses to prepare.

His lines are legendary in the Justice Building.

To Gaer, every case is a potential "miscarriage of justice," all prosecutors are "persecutors" and every client a "poor innocent child" no matter how old, or how heinous the alleged crime.

He's been known to comment that a certain prosecutor had "his diaper wrapped too tightly." Gaer, 75, even has a favorite line for judges: "Just once before I die, I'd like to hear the word 'granted' in this courtroom."

"He's a throwback, almost a caricature. He practices law as it was practiced four decades ago," said Circuit Judge Stanford Blake.

All humor aside, young prosecutors quickly learn not to underestimate the Korean War veteran from Queens.

"They see this bumbling Barney Fife

type guy, and then he does a brilliant cross examination and they're shocked because they thought he was just a court jester," said Circuit Judge Diane Ward.

For all his bombast in the courtroom, Gaer is humble in the hallway.

"I'm just a crippled, bent-over old man who can barely catch his breath," Gaer said on a recent day.

He has the breathlessness of emphysema, the slow shuffle of a herniated disk and the paper-thin, liver-spotted skin of a man who has lived a long time. His suits hang crookedly on his thin, stooped frame.

Last year, he fought off colon cancer. But while he may be slowing down, Gaer shows no signs of giving up.

He'll do 15 hearings in a morning - a dozen more than most lawyers handling major crimes would ever schedule in one day. Gaer calls it "volume business." He charges less than most and handles more cases.

Gaer says he can do it because he doesn't prepare for trial like other lawyers do.

### DIFFERENT APPROACH

"I don't take depositions. I don't visit them in the jails. I don't take collect calls."

Instead, he goes to court armed only with a little black book, where he scribbles his case information in tiny, left-handed script.

"If he takes depositions, he has to tell us his angle," explained veteran prosecutor Susan Dannelly. "What better way to spring a witness on us. Of course, not everybody can pull that off."

"Trial by ambush," says Circuit

Judge Leonard Glick. "He will find a little hole and expand it a little larger, then find another one and expand that one and before you know it, the entire thread of the case has come unraveled."

Prosecutors Tama Koss and Carolina Corona were ambushed by Sy this month. The charge was attempted murder of an 83-year-old man. Gaer's client was arrested driving the man's car hours after the beating.

Gaer entangled the lead detective in his own department policies, asking him why he didn't tape the victim picking his client out of a photo lineup. The cop said that's not normal procedure. Gaer had him get the police department policy. It says photo lineups should be recorded.

"Here we are in the year 2006 when things are so technologically advanced and you don't have a tape recorder or a video recorder?" Gaer asked.

"No sir," Det. Magdiel Armenteros responded.

"Wouldn't it be fair to document those sorts of things?" Gaer continued.

"It is documented in my supplemental report," the officer responded.

"But isn't it true that a police officer can put anything he wants in a report, that he can get cute with the facts if he wants and no one will know?" Gaer asked.

"No sir, there's nothing cute about my job," the officer replied petulantly.

After questioning why there was no DNA or fingerprint evidence, Gaer had given the jury reasonable doubt.

His client was acquitted of attempted murder and convicted only of auto theft. He was facing 30 years in prison but got just 10.

“What can I say? Sy’s a hero,” Circuit Judge Julio Jimenez said after trial. “I thought this case was a slam dunk.”

Jimenez worked in Gaer’s office in the early 1980s, a time he recalls as exhausting.

#### ‘HE’S SEEN IT ALL’

“Sy’s like a professional gambler,” he said. “He knows all the possible combinations that might come up. He’s seen it all before.”

So why keep doing it?

“I find it mildly amusing,” Gaer said one day, sitting in his office a few blocks from the courthouse. He’s been there for years. He redecorated in 1977 and hasn’t seen a need to change the orange-and-cream shag carpeting on the wall.

Though he’s had several high profile cases over the years, he tends to shun the media. He adamantly refuses to discuss any but the barest details of his personal life.

Born and raised in Queens, where his father was a taxi driver, he went to school on the GI Bill - first Queens College, then the University of Miami Law School.

He’s been married but won’t say how many times. Circuit Judge Scott Silverman was briefly his stepson, back when Silverman was 4.

“Every judge who’s in that building now, the day they walked in, Sy Gaer had already been there 10 years,” Silverman said. “He came with the building.”

Gaer was overwhelmed and a bit embarrassed by all the attention he got on his birthday. Three different judges interrupted court to sing Happy Birthday.

The Miami-Dade criminal defense bar put on a party that night at Tobacco Road that drew a few hundred Justice Building regulars.

“I can’t believe this turnout,” Gaer said. “It’s not like I’m Mother Teresa or something. I just made a good living.”

Lawyers and judges traded Sy

stories. Like the one about the young prosecutor who carts a box of files into the courtroom, ready for trial. Gaer walks in without even a briefcase. He asks the prosecutor if he can borrow a couple of pieces of paper.

Gaer won.

“After that I used to bring in extra pads for Sy,” Assistant State Attorney Philip Maniatty recalled.

State Attorney Katherine Fernandez Rundle arrived with a big bear hug for Gaer: “He was one of my first teachers. I used to watch him talk to jurors. It was impressive what he could do with them.”

Circuit Judge Reemberto Diaz said Gaer “understands the psychology of a jury.”

“People think he wings it. He doesn’t. He knows the law better than anyone in the building probably,” said defense attorney Phil Reizenstein.

Gaer is the first to point out he doesn’t win anywhere near all of his cases. Asked why he didn’t seem to have any enemies in a building built on confrontation, he said: “I had one once, but he’s dead now. I guess I’ve outlived all my enemies.”

#### WHAT COLLEAGUES SAY ABOUT SY GAER

- Assistant State Attorney Philip Maniatty: “He will go through an entire trial and refer to his client by the wrong name and the jury will acquit anyway.”
- Defense Attorney Richard Sharpstein: “He kicked my a- as a young prosecutor a couple of times. I thought, ‘this guy hasn’t taken a single deposition.’”
- Circuit Judge Julio Jimenez, who once worked with Gaer: “There are people who can’t afford Roy Black, but they want to hire their own attorney. He’s told me before, ‘People are proud. There’s no better feeling for some of these guys than to be able to pay for their own lawyer.’”

- Assistant State Attorney Bill Kostrzewski: “There’s so many curmudgeons out there that are real curmudgeons and nasty people, but Sy’s a really nice guy.”

- Circuit Judge Diane Ward: “He represents people who no one has ever fought for before. When Sy is fighting for somebody, the whole courtroom is listening. That’s a nice thing for somebody who’s scared.”

- Assistant State Attorney Kionne McGhee: “I saw him beat down a colleague of mine. I mean, beat down into the ground.” \* Circuit Judge Norman Gerstein: “We used to joke at one time that he had as many cases as the Public Defender’s Office.”