

Ronald Reagan Presidential Library Digital Library Collections

This is a PDF of a folder from our textual collections.

Collection: Roberts, John G.: Files
Folder Title: JGR/U. S. Attorney Merkle
Box: 56

To see more digitized collections visit:
<https://reaganlibrary.gov/archives/digital-library>

To see all Ronald Reagan Presidential Library inventories visit:
<https://reaganlibrary.gov/document-collection>

Contact a reference archivist at: reagan.library@nara.gov

Citation Guidelines: <https://reaganlibrary.gov/citing>

National Archives Catalogue: <https://catalog.archives.gov/>

Merkle's flap with Salcines has echoes of earlier case

By MARY JO MELONE
St. Petersburg Times Staff Writer

RICHMOND, Va. — In 1976, a federal prosecutor here accused a top Justice Department lawyer and his assistant Bob Merkle of abuse of power in a grand jury investigation.

In 1984, E. J. Salcines, one of Tampa's most influential politicians and its chief state prosecutor, accused Bob Merkle, now U.S. attorney, with abuse of power in a grand jury investigation.

Merkle has heard the allegations for years. He's been called overzealous and single-minded. He's been accused of conducting a witch hunt. He's been accused of making trial witnesses feel like criminals. Just last week, a Pinellas judge labeled his attack on her court testimony in a murder trial "slandorous" and "malicious." But Merkle says he is doing his job — bringing the guilty to justice.

Bill McBride, the president of the Hillsborough County Bar Association, says Merkle's methods are hurting public confidence in him as well as in Salcines.

Dave Hopkins, another federal prosecutor who once worked with Merkle, says that although Merkle is a superb lawyer, he sometimes acts like "he is the only person with a good idea." But Hopkins thinks Merkle would never "consciously do anything unethical."

There are some similarities between what is going on now in Tampa and what happened in Richmond nearly a decade ago.

As in Tampa, the Richmond case included an investigation by a grand jury — a panel of citizens that, under the direction of a prosecutor, has the authority to meet in secret, hear evidence and formally charge people with crimes. As in Tampa, the Richmond grand jury was investigating allegations that local law enforcement officials had failed to properly prosecute wrongdoing. And as in Tampa, a Richmond law enforcement official who found himself under fire fought back with the charge that the man who quizzed him in the grand jury was out to get him.

But while a state prosecutor is making the charge in Tampa, it came from a federal prosecutor in Richmond.

The prosecutor, G. Rodney Sager, was suspected of compromising an investigation

into whether some FBI agents had covered up an illegal Richmond police wiretap.

The agents and Sager were never charged with crimes. But before the investigation was over, Sager filed a formal complaint with the Justice Department, charging Merkle and his boss with "gross professional misconduct and misfeasance." The Justice Department investigated Sager's complaint and concluded it was unfounded.

IN TAMPA, the spotlight is on E. J. Salcines, Hillsborough state attorney. He runs the office that prosecutes people who are charged with state crimes in Hillsborough County.

Salcines' former chief assistant is under federal indictment for racketeering and case-fixing in connection with a drug ring. Salcines has admitted he took the Fifth Amendment before a federal grand jury, but he has said that Merkle's federal investigation is politically motivated.

Bob Merkle went directly out of law school to the Justice Department in Washington. He had been a prosecutor there for four years when he and his boss were dispatched to Richmond in the summer of 1975. By all accounts, Merkle played a secondary role in the Richmond case, assisting his boss, Guy L. Goodwin.

Goodwin failed to return phone calls placed by the St. Petersburg Times in the preparation of this story.

Goodwin went to Richmond with a controversial reputation. In the days of Vietnam and Watergate, civil liberties activists frequently accused him of being a reckless prosecutor.

Civil liberties groups and political protesters were also making accusations against the FBI of using illegal methods to investigate dissidents. Those charges helped make the Richmond case a sensitive one. Several local FBI agents were accused of covering up an illegal wiretap that a Richmond police officer had allegedly placed on the phone of a Palestinian immigrant.

The FBI agents reported to Rodney Sager, a seven-year veteran of the Richmond U.S. attorney's office. Sager says the FBI agents failed to tell him about the Richmond officer's role in the tap, for the sake of keeping up good relations with the local police department. When he learned what the agents did, says Sager, he reported the information to his boss. Together, they began an investigation.

Two months later, Sager and his boss asked Justice Department higher-ups to take over. That's when Goodwin and Merkle arrived in Richmond.

What followed was a stormy 10-month investigation, often tinged with personal bitterness.

"Goodwin walked around like everybody was a suspect," Sager recalled recently in an interview. "Merkle walked behind Goodwin."

Merkle says he and his boss were subjected to "verbal abuse."

A PHYSICAL FIGHT nearly erupted once. Sager charged in a letter, which he later turned over to a congressional subcommittee, that Merkle "threatened (to) assault" Sager's boss.

Merkle denies it and says Sager's boss grabbed him by the lapels of his suit coat and began to shout at him.

Goodwin and Merkle informally interviewed Sager for

(17)

cont'd.

several hours. Then, they put him before the federal grand jury. In both cases, Goodwin did most of the questioning.

Sager charged that he was put before the grand jury because he had earlier complained of Goodwin's "harassing" tactics in asking questions. "After I became critical of Goodwin's actions . . . he became critical of me," Sager says.

Merkle disputes that. Sager was put before the grand jury because his "testimony was very damaging," Merkle says.

In front of the grand jury, Goodwin tried to force him to take the Fifth Amendment. Sager later told a congressional subcommittee. Sager also charged Goodwin asked him "broad, oversweeping questions . . . (that were) just impossible to answer."

The questions, Sager charged, were designed to prove he was part of a conspiracy. Sager, who remains adamant to this day that he did nothing wrong, appeared before the grand jury without an attorney.

Sager went to the congressional panel in October 1977, more than a year after he resigned from his federal prosecutor's job in Richmond. He resigned, he said, "disillusioned and frustrated" over the way he had been treated by Goodwin and Merkle and by their Washington superiors.

He charged that the Justice Department whitewashed an official complaint he filed against Goodwin and Merkle.

GOODWIN HAD mounted a "vicious attack" on his integrity, Sager said. He cited Merkle for his "acquiescence" to Goodwin's actions. But the Justice Department concluded Sager's complaint was "absolutely without merit." Goodwin and Merkle had conducted themselves properly, their Washington superiors said.

Justice officials said Sager resigned in the face of possible disciplinary action for his role in the wiretap case. In a letter aimed at refuting his congressional testimony, they charged he had admitted discussing with the FBI agents ways to change the evidence against them, but then denied it.

According to the *Richmond Times-Dispatch*, a federal grand jury Goodwin and Merkle supervised met 21 times and called 66 witnesses. No one, including the police officer who allegedly placed the illegal wiretap, was indicted.

Five FBI agents were disciplined by their superiors for their actions in the wiretap case. The agents were not indicted, according to the Justice Department, because Sager's testimony was so contradictory it could not be used against them. The Justice Department never publicly stated why Sager was not indicted.

Sager says he has never been permitted to see the notes of the interviews or grand jury testimony he gave. He says his name has never been cleared. Sager now practices law in Richmond and has run unsuccessfully for public office there. He says "innuendoes" have followed him wherever he goes.

In May 1982, Bob Merkle became U.S. attorney in Tampa. His office prosecutes federal crimes from Jacksonville to St. Petersburg to Fort Myers.

Merkle's predecessors had clashed several times with Hillsborough State Attorney E. J. Salcines for the way he handled cases in Tampa.

In April 1983, federal authorities asked Salcines to refrain from indicting members of a big drug ring based in Tampa. There were allegations that his chief assistant, Norman S. Cannella, was involved in the ring. Salcines ignored the federal request, indicted the drug ring's members, and negotiated guilty pleas with most of them.

Salcines has said in court he investigated the charges against Cannella, found no basis to them, and thus went ahead with the indictments. Other authorities have said they know of no such investigation.

Last February, nearly a year after the federal investigators warned Salcines and after Cannella went into private law practice, Cannella was indicted on federal racketeering charges for allegedly helping the drug dealers while he was in the Hillsborough state attorney's office.

Salcines had already testified twice before a federal grand jury investigating alleged corruption in county government when he was called again, on the day Cannella was indicted.

A few days later, word was leaked to a television reporter that Salcines had taken the Fifth Amendment when he was asked to testify. Salcines acknowledged he had remained silent on the advice of his lawyer. Salcines said that just 24 hours before he was called to testify, Merkle had labeled him the target "of an unspecified federal charge." Merkle called that "baloney."

THEN EARLIER this month came the perjury trial of two men accused of lying about an attempt to bribe Salcines to fix a drug case. Salcines was a witness in the case, and he was peppered so heavily with questions from prosecution and defense attorneys that he appeared to become a defendant himself.

Salcines admitted he had never prosecuted the bribe attempt. One of Merkle's deputies, who argued the case, said in court that a federal grand jury wanted to know why Salcines had taken no action.

When the verdict in the perjury trial came in, the two men were convicted for denying they had talked to the man whose case was to be fixed. But the man who Salcines said offered him the bribe was cleared of charges in connection with the bribe attempt.

Merkle said he was elated with the verdict, even though his prosecutors had lost nearly half the case.

Salcines soon found himself under scrutiny from another direction. Gov. Bob Graham appointed a special prosecutor to examine other allegations against Salcines.

The special prosecutor, Richard T. Earle Jr. of St. Petersburg, is investigating whether Salcines lied to state authorities to gain release of a convicted drug dealer who had been sentenced to 45 years in prison.

Salcines said he would cooperate with the special state

prosecutor. But he said he wasn't going back to Bob Merkle's federal grand jury.

Bob Merkle calls the federal grand jury "one of the few uncorrupted institutions in the country" and "a most effective law enforcement tool." But when Rodney Sager complained to Congress about how he was treated in Richmond, he said the grand jury system gives prosecutors "virtually unbridled power."

He was testifying before a subcommittee considering a bill to reform the federal grand jury system. The subcommittee's legal adviser was Martin H. Belsky, now an associate law professor at the University of Florida in Gainesville.

The Richmond case came down to "two different interpretations of the same set of facts," Belsky says. Did Sager act in a less than "ideal" fashion because he believed the word of FBI agents with whom he had a long working relationship? Or did Sager "intentionally sidetrack" the wiretap investigation?

18

cont'd

Belsky takes the first view. He thinks Goodwin and Merkle were wrong when they appeared to treat Sager as though he were a criminal suspect. But that is the way career prosecutors sometimes behave, says Belsky.

Career prosecutors know the criminal law better than anyone else, but they can lose their humanity along the way, Belsky says. That's because career prosecutors spend their working lives trying to match their gut instincts — their belief that a defendant is guilty — with the requirements of the law.

Often, that's not easy. Says Belsky: "After a while, the prosecutor forgets the rules."

Bob Merkle, a staunch defender of his own integrity, says in reply that he is *very* human. "Talk to some of the victims of the crimes I have prosecuted," he says.

Merkle says the Richmond case taught him some lessons. Among them: "If you're going to do your job right, you have to have a tough skin."

MERKLE SAYS he cannot respond to a lot of what his critics say. The law keeps grand jury proceedings secret, Merkle says. His critics "are relying on my ethical conduct to prevent me from rebutting their charges," he says. "And that's something I have to swallow."

Merkle says the allegations made against him and his boss in Richmond were so sharp they considered withdrawing from the case. But they were not the worst allegations ever made against him: "Salcines is doing a pretty good job," Merkle says.

Merkle is firm when asked if the Richmond case was handled properly. His boss' actions, as well as his own, were reviewed by Justice Department officials in both the Ford and Carter administrations, Merkle says.

"I was right back then," says Merkle, "and I'll be right again."