

September 26, 2006

BROKEN BENCH

Small-Town Justice, With Trial and ErrorBy [WILLIAM GLABERSON](#)

DUANE, N.Y. — Gary Betters thought he understood the law as well as any average American. A school psychologist, he wanted \$1,588.60 he said the nearby village of Malone owed him for helping run a summer recreation program. When he brought a small claim in Duane Town Court, he expected that the judge would listen to both sides, then rule.

Like many others who go to court across [New York State](#), he got a crash course in the strange ways of small-town justice.

Although no one showed up to defend the village, Justice William J. Gori started the trial anyway. Although the judge had Mr. Betters testify at length, he neglected to have him swear to tell the truth. And although Justice Gori told Mr. Betters he had another week to submit more evidence, the judge went ahead and decided the case anyway.

Mr. Betters received the news in a letter from the court: his case had been dismissed. No reason was given. "I cannot understand how a defendant can win when they don't even show up," he said in an interview.

The State Commission on Judicial Conduct figured out how. Justice Gori, it seems, had gone to the village offices in Malone before the trial, interviewed the village's chief witness, then informed the village lawyer that he had decided to throw out the case.

Justice Gori told the commission that he had never heard of the elementary legal rule that bars a judge, except in the most extraordinary circumstances, from secret contact with one side of a case. "It's not even explained in my manual," he said.

An unfamiliarity with basic legal principles is remarkably common in what are known as the justice courts, legacies of the Colonial era that survive in more than 1,000 New York towns and villages.

For generations, justices have hailed them as "poor man's courts," where ordinary people can get simple justice with little formality or expense. But there are few more vivid spots to view their shortcomings than here in one of New York's poorest corners: Franklin County, a place of rugged beauty on the Canadian border where only one of the 32 local justices is a lawyer.

The county's justices have repeatedly drawn the attention of state judicial conduct officials, with 15 publicly disciplined since the late 1970's, some twice. Justice Gori's errors pale in comparison with those of some others: One justice freed a rape suspect on bail as a favor to a friend. Another sentenced a welfare recipient to 89 days in jail after she failed to pay a \$1.50 cab fare. Franklin County justices have presided drunk, fixed cases and denied lawyers to defendants. One failed to appoint a lawyer for a 19-year-old mentally retarded alcoholic.

Here in Duane, a speck of a town in the center of the county, Justice Gori is in many ways a typical small-town New York justice.

A bricklayer and a former dog trainer with a high school education, he is an approachable man of 59, in jeans hitched up with suspenders. On Thursday nights he ambles down to the volunteer firehouse to hold court, such as it is. His grasp of the law is somewhat shaky. His temper sometimes gets the better of him.

He has no judge's bench, few law books and no court clerk. He is something of an accidental judge, occupying the position for nearly a decade largely because no one else wants it, people here say. Although state officials have reprimanded him twice for fundamental lapses in the conduct of his job, few Duane voters seemed to know or care. "Nobody's ever asked a question about it," Justice Gori said.

He seems well-intentioned enough. Like many justices, he describes his job as public service, and he says he studies the law for several hours every week.

But there is evidence that that may not be enough. When the judicial conduct commission called Justice Gori to account for his handling of Mr. Better's case, his defense was startling, a transcript of the hearing shows. His own lawyer blamed the state for running the justice courts as it does: Judges, he said, with so little training — six days of classes, and a 12-hour refresher course once a year — could not possibly know the basic rules for handling a lawsuit.

The county's district attorney, Derek P. Champagne, says that when he took office five years ago, he had to drop hundreds of criminal cases because justices had failed to take any action for so long. Mr. Champagne says his staff of four full-time prosecutors is too small even to regularly visit the justice courts, which are separated by great distances.

Franklin County is bigger than Rhode Island. But it has only one higher court judge, in the county court in Malone. So the part-time town and village justices — plumbers, meat cutters and school bus drivers — are often the last word on the law here, with the power to issue search warrants, conduct trials, put some people in jail and let friends go free.

"The reality is, you basically have to have no qualifications other than be a voter to put someone in jail, and that's a very alarming situation," Mr. Champagne said. "To throw a layperson — some of whom don't have a high school degree — in that position is just a recipe for disaster."

A Night in Court

"Town of Duane Justice Court is now in session," Justice Gori announced.

Four bare fluorescent bulbs provided the only light in the roughly finished meeting room that becomes a court every few weeks. There was a portable bar against one wall, and a glimpse of the firehouse kitchen, with its jumble of old soda bottles and coffeepots. The American flag tacked to the wall had to be pulled back to allow the judge to get at the thermostat on this icy winter night.

At two pushed-together folding tables sat a nervous teenager, in court to answer speeding tickets, next to his clench-jawed father. A state trooper, there as chief witness against the teenager, doubled as the court security officer.

And behind a battered wooden desk was Justice Gori. Fleshy, with eyes that water at sentimental moments, he was wearing an open brown shirt, his T-shirt visible at the neck.

The court computer that he bought with his own money was at home; it took him two months to figure out how to turn the thing on, he said. He had no judge's robe. They are too expensive, he said. His judicial salary is \$3,750 a year.

"There are certain things that are lacking," he said.

He moved to Duane, population 159, from Saratoga County in his 40's after a divorce, enticed by the chance to hunt with his dogs.

“Maybe it’s the solitude,” said Justice Gori, who has since remarried. “You get up here at night, when the highway quiets down, you don’t hear anything.”

Yet people cross paths in Franklin County in unlikely and sometimes volatile ways: Mohawk Indians, the owners of lavish new vacation homes, Adirondack tourists and fishermen, and others who cross the border on less savory business. Drugs and domestic violence seem to be on the rise, and state prisons are big employers.

When Justice Gori moved here about 20 years ago, the prison construction boom offered jobs. After years as a dog trainer, “I picked up my tools and went back to the bricklaying, mason trade,” he said.

Like a lot of newcomers to small towns, he wanted to get involved. But he didn’t like the sight of blood, so that ruled out volunteer firefighting. He was attracted instead to the court in the weathered firehouse. “Law has always been kind of an interesting thing to me,” he said.

That interest, however, does not include a fascination with the technicalities that occupy lawyers. “If you look at the laws, it’s all common sense,” he said.

Most of his work, since his first election in 1997, has been traffic cases. If there were many serious crimes in Duane, he said, they may have gone unnoticed out in the vast Adirondack nights. “Either we’re a nice, quiet town or two people duked it out and one won and one lost, they got up and shook hands and nobody knows about it,” he said.

There have been a handful of serious cases, the first phases of some felony prosecutions. Once, state troopers tracked him down on a bricklaying job. They said a local man was growing marijuana, and wanted a warrant to search his property. In the dust and cement, it fell to William Gori, dog trainer and mason, to put aside his tools and measure the rights guaranteed under the Constitution. “I sat down,” he said. “Read everything. Looked at all the pictures.” The troopers got their warrant.

In the makeshift courtroom on this winter night, he was warmly sympathetic to a woman who had forgotten to put the registration sticker on her windshield. Case dismissed.

But the teenager with the speeding tickets saw the stern Justice Gori. The boy had tickets in a half-dozen Franklin County towns, and his lawyer proposed combining the cases in another court.

No way. “What happens in the town of Duane,” Justice Gori declared, “stays in the town of Duane.”

That is not always true. The other case that drew the attention of the Commission on Judicial Conduct involved Lucille K. Millett, a Mohawk woman from the reservation that straddles the county’s border with Canada. She was outside the Duane court one night in 2004 waiting for her sister, whom she had driven there for a traffic case. Justice Gori summoned Ms. Millett inside, asked for her driver’s license and called the state police to run it through their computer.

In an interview, Ms. Millett said she was frightened and embarrassed; no one else was asked for a license. The only sense the sisters could make of it, she said, was that they were the only American Indians in court.

She filed a complaint with the commission, which ruled last year that Justice Gori had no right to demand anything of someone outside his court who faced no charges.

Asked about the case, Justice Gori denied that he harbored any prejudice. He said he thought he was acting within his authority.

“You learn by mistakes,” he said. “They say this is improper, I don’t do it again.”

It is a measure of his isolation that his disciplinary hearings have been among the few times he has had a chance to rub shoulders with the larger legal world. He attends the refresher course each year. But he said the town could not afford to send him to the annual state magistrates’ convention, held last year in Niagara Falls, nor could he pay for the trip himself.

Still, he is convinced that he and the other justices across New York are honest people trying to do right. “Economicswise,” he added, “you couldn’t get the job done any cheaper.”

A County at the Edges

The troubles of Mr. Gori and his fellow justices are nothing new. In 1973, the State Commission of Investigation arrived in the Franklin County village of Saranac Lake to examine the work of one justice, a maintenance worker and vacuum-cleaner salesman, whose “inept and mangled handling,” it said, had bungled a felony grand larceny case.

What investigators found alarmed them. Money was missing. Records were sloppy. A pile of cash from fines sat in an unlocked drawer. The justice’s relationship with the police seemed far too close, and one of his law books was 44 years old.

Astonished, the investigators widened their inquiry to include all the justice courts in the county and then expanded it across New York. Calling for statewide reform, they concluded that “such deficiencies and ineptitude” in the justice courts “simply must not be tolerated.”

But little seems to have changed in Franklin County’s justice courts since then.

Last November, one longtime village justice, Roy H. Kristoffersen, a salesman, resigned after officials began investigating charges, which he denied, that he “rendered favorable dispositions” for the son of the other village justice — in Saranac Lake, the same place that touched off the investigation 33 years ago.

Another justice, Marie A. Cook, a school-bus driver who is still on the town bench in Chateaugay, not only fixed a speeding ticket at the request of a fellow justice, but she was so oblivious to ethical rules, the commission said last fall, that she made an official record of the fix: “Reduced in the interest of Justice Danny LaClair.”

Yet another, the town justice who released a rape suspect on bail as a favor to a friend, tried to explain things to the commission: “Maybe you are not familiar with what goes on in the North Country, but we are all more or less friends up there.”

Such cases may only hint at the dimensions of the problem in Franklin’s courts. A review for this article of rarely seen appeals files in Franklin County Court showed a disturbing trail of legal blunders and judicial ignorance over the last five years.

One justice seemed not to fully understand that criminal charges must be proved beyond a reasonable doubt, wrote the county court judge, Robert G. Main Jr. Another justice skipped over the matter of the constitutional guarantee of a lawyer. Immediately after a woman charged with fraud said she could not afford an attorney, Judge Main said, the village justice took her guilty plea instead of appointing a lawyer.

Such problems are hardly news to many lawyers who make the rounds of Franklin County’s justice courts. Some say they avoid the courts because the justices often have trouble following their arguments.

In a place as poor and remote as Franklin County, the failings of modest courts can loom large. Cases too minor to draw much interest from the rest of the legal system — evictions, misdemeanor charges, disputes between neighbors, driving infractions and applications for bail — come with real consequences for small-town residents who may have little money or access to a lawyer.

Alexander Lesyk, the Franklin County public defender for 15 years until a few months ago, said that while he had some successes for poor clients before local justices, “I don’t believe any of them has enough training to handle a trial, to handle constitutional issues, to stand up to and control an attorney on either side when they need to.”

But challenging a justice can be bad for business, some lawyers said.

The district attorney, Mr. Champagne, said that when his office hears about justices who stray from the law, it has to be careful. “We’re not going to get into a confrontation with a judge we may have to go in front of next week on a very serious preliminary hearing in a murder case,” he said.

A Case of Confusion

When Gary Betters got the letter from Justice Gori in March 1999 saying that his claim for back pay had been dismissed, he was very confused. The message was a single paragraph, and garbled at that. Even the date on it was wrong.

But that was only the start of his troubles.

He wrote to Justice Gori, asking for a mistrial. The justice never replied.

Mr. Betters decided to appeal in county court. But he could not persuade any lawyer to take the case; several, he said, told him it would not be in their interest to take on a town justice.

On his own, Mr. Betters filed a complaint with the Commission on Judicial Conduct, and the truth emerged: The commission’s investigators discovered that Justice Gori had gone to the Malone village offices before the trial and interviewed the defense’s chief witness, the village treasurer, who told him that Mr. Betters was owed nothing.

Justice Gori told the village attorney that he need not show up for the trial because he had already decided to dismiss the case. The attorney was amazed. “A lot of bells and whistles went off,” he told the commission.

But when Justice Gori explained himself to the commission in a closed hearing, he said he had never heard of the rule against contacting one side of a case to discuss the evidence. Further, the commission’s lawyer argued, a legal motion filed by the village had completely bewildered Justice Gori, even after he made several calls to the state’s help line for town justices.

“The whole concept I didn’t understand,” Justice Gori testified.

It was a damaging admission, but nothing compared with the case made by his own lawyer, John A. Piasecki. He said his client’s error-riddled handling of Mr. Betters’s suit was an indictment of the system, which put laymen on the bench, gave them little training and left them to interpret the law.

Mr. Piasecki asked whether the state had ever checked Justice Gori’s reading comprehension. (It had not.) He even tried to cross-examine the Malone village attorney to show what he argued was the obvious difference between Justice Gori and someone who actually understood the law.

Mr. Piasecki, a Franklin County lawyer himself, urged a “long-overdue correction” for the justice court system, which he said “undermines confidence in the integrity of the judiciary.”

The commission was not moved. Justice Gori, it said, had a duty to learn the law. “Town justices wield enormous power in civil and criminal cases,” the commission said, “and it is not unreasonable to expect them to know and follow basic statutory procedures.”

Yet Justice Gori received the lightest public penalty the commission can issue, an admonition.

As for Mr. Betters, he never found a lawyer to take his appeal. Today, he still feels that his education in Franklin County law cost him a lot more than \$1,588.60.

“It broke down my belief in the justice system,” he said.

Business as Usual

The judicial career of William Gori began humbly enough.

“Nobody was jumping out of the woodwork wanting this job,” said Justice Gori, who raised his hand for the position in 1997 after the sitting justice announced his retirement.

With no opposition, he won the endorsement of the [Republicans](#) and then the [Democrats](#) in Duane. The Republican chairwoman, Pamela M. LeMieux, said he impressed party leaders as responsible and “very strict.”

In the general election, his only opponent was Gary Anderson, a former accountant who ran as the candidate of what he named the Pine Tree Party. “Nobody wants the job,” Mr. Anderson said.

Even the campaign was not especially interesting, Justice Gori recalled. “All I said was: ‘I’m Bill Gori. I’m running for town justice and I’m only interested in doing a good job for the town.’” He won, 64 to 39.

If the process was not a model of meticulous judicial selection, that fact may carry an extra punch in Duane. The town, as it happens, was named for its founders, descendants of the first federal judge in New York.

When President George Washington selected the judge, James Duane, a prominent lawyer, for the post in 1789, he used the nomination to lay out his aspirations for selecting judges in a democracy. The choice of who would sit on a nation’s courts was a matter of “the first magnitude,” Washington wrote, and the judiciary was “the pillar on which our political fabric must rest.”

Today, that fabric is a little frayed in Franklin County.

Thomas Catillaz, a former mayor of Saranac Lake, said that when political parties there find a nominee, “It’s usually, ‘Thank God somebody’s running,’” he said. “And if you’re in there, you’re in there for 20 years.”

When justices are publicly disciplined, that is often the end of the matter. As Justice Gori recalls it, when he received his second admonition last year, the local newspaper in Malone “put it way in the back.”

He faced an election after each ruling, but no opponent. Gary Cring, a retired schoolteacher who has lived in Duane for six years, said he had not heard that Justice Gori had been disciplined. Had that been better known, he said, voters might have been less enthusiastic about re-electing him. “People figure he must be doing a good job,” Mr. Cring said.

But Mrs. LeMieux, the Republican chairwoman, said it was not the town's job to police its justice. "If he did something that was that serious, I figure the court system wouldn't have allowed him to remain a justice," she said. "If they didn't throw him out, then who are we to judge?"

And so Justice Gori is working his way through a third four-year term, learning the job as he goes. He does not appear to share his lawyer's disdain for how the justice courts are run.

"I really feel the justice courts are the courts closest to the people," he said, and being a lawyer might interfere with that. "At times, lawyers get hung up in certain things, so that maybe you wouldn't get true justice in certain cases."

But a state police report from last year suggested that in Duane, true justice — and empathy for the people — might be works in progress.

It seems that Brandon L. Lucas, a scrawny 19-year-old from the next county, was trying to pay a ticket he had received in Duane for fishing with the wrong kind of bait. Since the firehouse court was empty, as it often is, Mr. Lucas went down the road to Justice Gori's house.

Soon, Mr. Lucas was in the back of a state trooper's car in handcuffs, and in tears. An angry Justice Gori had berated him and called the police, the young man recalled when a reporter tracked him down. He had evidently not seen the sign on the judge's garage: "If you proceed past this point, you are subject to various trespass rules and regulations."

The district attorney decided not to prosecute. And Mr. Lucas made his own decision about wandering into the jurisdiction of Duane Town Court: Don't.

"I'll never go fishing up there again," he said.

[Copyright 2006 The New York Times Company](#)

[Privacy Policy](#) | [Search](#) | [Corrections](#) | [RSS](#) | [First Look](#) | [Help](#) | [Contact Us](#) | [Work for Us](#) | [Site Map](#)
