

Harville Law Offices, PLLC
2527 Nelson Miller Pkwy, Suite 102
Louisville, KY 40223
(502) 245-2333
harvillelaw.com



The Louisville Accident Lawyer Journal

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OVER 30 YEARS EXPERIENCE

We gladly accept
and appreciate
your referrals

- We are counselors, not just attorneys
- We meet with our clients personally - not caseworkers
- We want you to understand how the legal system works as it applies to your case
- We will keep you informed and guide you every step of the way

Why a Newsletter?

You are receiving this newsletter because you are an existing or past client of our firm, or have contacted us about representation. For this reason, this newsletter is not an "advertisement" under Ky. Supreme Court Rule 3.130-7.02(1)(h). It is our way of staying in touch with people who have had a relationship with our firm. We care about the people we have helped and want you to know your relationship is valuable to us, even after your case is over. We hope you find it entertaining and informative, and would love to hear from you if you enjoy it! Our best,
Brad Harville
Dana Skaggs

Troubled Times

In August, 2016, the first year I did this newsletter, my cover article was a comparison of the criminal justice system vs. the civil justice system. The story that prompted that article was the death of Freddie Gray in Baltimore, who was arrested for possession of a switchblade (which was legal), was loaded into a Baltimore PD transport van, and 45 minutes later was found unconscious and not breathing, his spinal cord nearly severed.

Six Baltimore police officers - 3 of them black - faced murder charges as a result of Gray's death, but none of them were convicted. In the outrage that followed, 5 Dallas police officers, all of them white, were killed by a black gunman, and 3 Baton Rouge police officers, 2 white and 1 black, were also killed by a black gunman.

I hope and pray this doesn't happen again.

As my 2016 article pointed out, it's tough to obtain a conviction against a police officer. My exact words were: "[A] prosecutor must prove the charges against the police officer beyond a reasonable doubt. It is an extremely difficult proposition to persuade a jury of 12 people to conclude beyond a reasonable doubt that an officer's actions were criminal, particularly since police officers face dangers on the job every day and in general are respected members of the community."

The point of the article, however, was to point out that apart from



Breonna Taylor

whatever happens in the criminal case, the civil justice system provides for the families of the victims to recover for the wrongful death of their loved one. Believe me, that is going to happen with the cases of both George Floyd and Breonna Taylor.

Now, let me be clear that no amount of money can justify what happened to Floyd and Taylor. As I said in that article, civil justice is not equivalent to criminal justice. Still, the civil justice system provides some measure of justice, apart from the outcome of the criminal proceedings. Freddie Gray's wrongful death lawsuit settled for \$6.2 million. Two similar cases - Tamir Rice in Cleveland, and Walter Scott in Charleston, SC - settled that same year for \$6 million and \$6.5 million, respectively.

I would expect that Floyd and Taylor's cases will settle for at least as much. Again, that doesn't justify what happened to them, but the local governments in Minneapolis and Louisville are going to pay a heavy cost for what happened to those two victims at the hands of their police officers.

This is what the civil justice system is supposed to do. Criminal justice is designed to punish the wrongdoer by depriving him of his liberty, whereas civil justice is designed to punish the wrongdoer - and his employer - economically. Look at it this way: Even if the police officers involved are found guilty and sent to prison, how does that incentivize local governments to make necessary changes to make sure this sort of thing doesn't happen again? But if they take a huge economic hit - which is going to happen - you can bet changes are going to be made. Nothing hits them harder than hitting them in their pocketbook. As I also wrote in that 2016 article, the unnamed losers in these societal tragedies are the innocent victims who suffer loss for which there is no justice or financial accountability available. In 2016, it was the families of the slain police officers. Today, it is the innocent business owners whose property was shamelessly looted and destroyed by so-called protesters who really didn't care about what happened to Floyd or Taylor, and were just taking advantage of the situation to engage in lowlife criminal activity. They will get away scot-free, while their victims, already struggling to get back on their feet from COVID-19, must overcome yet another setback. And that, as with what happened to Floyd and Taylor, is just a damn shame; except no one seems to care about them. They are just collateral damage.

• BDH

CHRISTIANITY AND CIVIL DISOBEDIENCE

In chapter 13:1-7 of his letter to the Romans, the Apostle Paul writes these words:

Let everyone be subject to the governing authorities, for there is no authority except that which God has established. The authorities that exist have been established by God. 2 Consequently, whoever rebels against the authority is rebelling against what God has instituted, and those who do so will bring judgment on themselves. 3 For rulers hold no terror for those who do right, but for those who do wrong. Do you want to be free from fear of the one in authority? Then do what is right and you will be commended. 4 For the one in authority is God's servant for your good. But if you do wrong, be afraid, for rulers do not bear the sword for no reason. They are God's servants, agents of wrath to bring punishment on the wrongdoer. 5 Therefore, it is necessary to submit to the authorities, not only because of possible punishment but also as a matter of conscience. 6 This is also why you pay taxes, for the authorities are God's servants, who give their full time to governing. 7 Give to everyone what you owe them: If you owe taxes, pay taxes; if revenue, then revenue; if respect, then respect; if honor, then honor.

Paul wrote these words at a time when Christians were being persecuted by the Romans. Paul himself was beheaded by Nero.

On the other hand, in Acts 5:29, when St. Peter was dragged before the Jewish authorities for preaching in the name of Jesus, he told them: "We must obey God rather than human beings."

So where do you draw the line between obeying authority and civil disobedience? Paul was telling the early Christians to be good citizens and not engage in destructive conduct, unlike the Jewish zealots of his day who rioted against their Roman oppressors.

America's champion of non-violent protests, Dr. Martin Luther King, Jr., put it this way in his April 1963 letter to the local white clergymen while he sat in the Birmingham jail:

A just law is a man made code that squares with the moral law or the law of God. An unjust law is a code that is out of harmony with the moral law. To put it in the terms of St. Thomas Aquinas: An unjust law is a human law that is not rooted in eternal law and natural law. Any law that uplifts human personality is just. Any law that degrades human personality is unjust. All segregation statutes are unjust because segregation distorts the soul and damages the personality. It gives the segregator a false sense of superiority and the segregated a false sense of inferiority ... Thus it is that I can urge men to obey the 1954 decision of the Supreme Court, for it is morally right; and I can urge them to disobey segregation ordinances, for they are morally wrong.

And let me tell you, Dr. King and his colleagues were very smart people. In his book, *David and Goliath*, Malcolm Gladwell tells the story of King and Wyatt Walker, King's right-hand man in Birmingham. They baited the city's public safety commissioner, Eugene "Bull" Connor, into turning the city's fire hoses on children, and one of his K-9 German Shepherds lunged at a young man which

was captured by a newspaper photographer. The next day, that photo ran on the front page of every newspaper around the country. The result was a huge win in the court of public opinion, which led to the passage of the Civil Rights Act the following year.



The famous photo

It's a shame Dr. King isn't around today. Like the Apostle Paul, he knew that engaging in destructive behavior of any kind would undermine and destroy the cause he was fighting for. You give up the moral high ground. It's just stupid.

There has never been a time in our history where the stakes for our country were higher than at the outbreak of the Civil War. The Union garrison at Fort Sumter was running out of supplies, and Confederate forces took the position that any attempt to resupply it would be regarded as an act of aggression. Lincoln ordered three unarmed ships to attempt to resupply the fort, which prompted the Confederates to open fire. The fact that the South fired the first shots of the war cast it as the aggressor and emboldened the resolve of the Northern people.

Is this starting to make sense? If not, consider the words of Tony Dungy, the former NFL coach and devout Christian, as far as what he has to say about the current crisis:

America is in a very sad place today. We have seen a man die senselessly, at the hands of the very people who are supposed to be protecting our citizens. We have seen people protest this death by destroying property and dreams of people in their own community, the very people they are protesting for. We have many people pointing fingers of blame, painting the opposite side with a broad brush. We have anger and bitterness winning out over logic and reason. We have distrust and prejudice winning out over love and respect.

What happened to George Floyd was inexcusable and it should never happen. Justice needs to be served, but in seeking justice we can't fall into the trap of prejudging every police officer we see. What started out as peaceful protests have devolved into arson and looting and that should never happen, either. Yes there should be protest. But we do not have license to perform criminal acts because we're angry.

Today we are a divided country. We're divided racially, politically, and socio-economically. And Satan is laughing at us because that is exactly what he wants. Dysfunction, mistrust, and hatred help this kingdom flourish.

I never thought I'd be quoting Tony Dungy along with the Apostle Paul, St. Peter, and Dr. King, but I don't think anyone could have summed up the current situation any better.

Current Trends in Personal Injury Law

By Order entered May 29, 2020, the Kentucky Supreme Court outlined its plan for reopening the court system effective June 1.

Basically, the Order directs the courts to resume hearing civil and criminal matters using available telephonic and video technology to conduct all proceedings remotely. Remote proceedings shall be scheduled through the judge's office.

If a judge determines in his or her discretion that a matter requires in-person attendance, then certain guidelines, consistent with the CDC guidelines, must be followed. Staffing is limited to having no

more than 50% of employees physically present. Masks must be worn, except that judges are not required to wear a mask if necessary to make a clear record and everyone maintains at least a 10-foot radius away from the bench. The courtrooms must be cleaned and disinfected at all times.

The Order says nothing about what the courts are supposed to do in order to conduct a jury trial. It also says nothing about District Court proceedings, such as traffic court, where you can have 200 to 300 cases on the docket. How is that going to work? You can't schedule hearings with 200 to 300 people. Heck, you

couldn't reach most of them even if you tried.

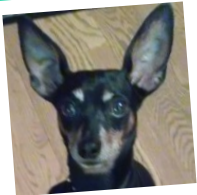
I don't have a clue as to how any of this is supposed to work out. Like everything else we've been through up to now, it's going to be a matter of figuring it out as we go along. That's fine as far as motion practice goes; in federal court, you never have any hearings, anyway. But at some point, if you can't settle your case, we still have no other alternative but to put 12 people in the jury box, present the evidence in the case, and let them render a verdict.

I don't know how we're supposed to do that under these guidelines. I don't think the courts do, either.

BRADLEY D. HARVILLE LAW OFFICES PLLC

20 Questions about Kentucky No-Fault

The key to understanding how the legal and medical system works in personal injury cases resulting from motor vehicle accidents in Kentucky.



Casey's Ky. Trivia Question:
What was the name of the only horse ever to defeat Man O' War?

- A. Sham
- B. Upset
- C. Onion
- D. Alydar

Be the first person to answer correctly by sending an e-mail to bdh@harvillelaw.com and we'll mail you a \$5 Starbucks gift card!

Stupid-Easy Recipe of the Month

Asparagus and Mushroom Rice

This has become "go-to" side dish on Sunday nights. It cleans out leftover veggies and rice and it's tasty, too!

Ingredients:

- 6-8 asparagus spears, chopped
- 1 cup sliced mushrooms, chopped
- 2 cups cooked rice (white, brown, whatever)
- 1 tbsp. minced garlic
- 2 tbsps. olive oil
- Salt

Directions:

Sauté minced garlic in olive oil over medium heat for ~ 1 minute. Add chopped asparagus and mushrooms and stir-fry for 3-5 minutes. Add rice and continue to stir-fry for another 8-10 minutes. Salt to taste.



A side dish that goes with anything!

Favorite Pet of the Month

Stewart is a 5 year old beagle. He is good with dogs and kids, but enjoys being the alpha male! Stewart needs a fenced-in area to run and explore. He always has his nose to the ground, like most beagles and hounds!

Want to make Stewart your best buddy? Visit www.barktownrescue.org to fill out an application!

Dana serves on the Board of Directors at Barktown Rescue.

Brad and his family love pets, too!

If you want to tell us about your pet(s), send an e-mail to bdh@harvillelaw.com with a photo and we'll try to put this in a future issue!



Stewart



Anchorage Office Plaza
2527 Nelson Miller Parkway
Suite 102
Louisville, KY 40223

Phone: 502-245-2333
Fax: 502-245-2399

To be removed from our mailing list,
please call (502) 245-2333

We want to help you secure the best possible outcome out of a difficult situation that you wish had never happened. If you have been injured, our goal is to obtain maximum recovery in the shortest amount of time it takes to get your case resolved.



E-mail: bdh@harvillelaw.com dts@harvillelaw.com

visit us at harvillelaw.com

INSIDE THIS ISSUE:

Troubled Times	1
Christianity and Civil Disobedience	2
Current Trends	3
Casey's Ky. Trivia Question	3
Stupid Easy Recipe	3
Favorite Pet	3