



Court Historical Society NEWSLETTER *Eastern District of Tennessee*



September 2020

ELECTED OFFICIAL SHOOTS NEWS REPORTER; FEDERAL COURT TRIAL RESULTS

By Don K. Ferguson

This article is about an elected government official shooting a news reporter on a public road to stop him from reporting on a crime. And it happened while law enforcement officers looked on.

It's familiar sounding today, with all the violence taking place on the streets of cities across America, but this shooting took place 45 years ago in a small, rural Tennessee town.



Judge Neese

A federal court civil lawsuit was filed by the reporter, and the case was tried by the late **U.S. District Judge Charles G. Neese**, sitting in Winchester.

The reporter was **David Pace**, then 26 and a reporter for the Winchester Herald-Chronicle. The assailant was the late **Squire Herschel A. Schultz**, then 61, a politically powerful, longtime member of the

Franklin County Court, a large landowner, a prominent poultry farmer, and a church elder.

The lawyer who represented Pace in the federal court case was **Robert S. Peters**, who today serves as the Court Historical Society's Vice President for the Winchester Division. He said recently that he well remembers the two-day trial. "The courtroom was packed," he said. Schultz was represented by attorney **John McCord**, now deceased.

Pace, now retired after a 39-year career with the Associated Press, lives in Alexandria, Virginia. He said the story of this incident is one that people never tire of asking him about. It happened on a rural road in Huntland, Tennessee, near the Tennessee-Alabama line.

It was the "biggest and most dramatic story of my Tennessee tenure," Pace said.

We learned of the June 1975 encounter when Pace, who is writing his memoirs, recently asked court personnel to help him obtain a copy of the case file. **Court Clerk John Medearis**, a



Pace



Peters

member of the Court Historical Society, alertly suggested that we pursue a story about the incident for the society's newsletter. He said, "A reporter winning a jury trial against a local official in Winchester in 1976! Sounds like it might be an interesting case."

It all started when reporter Pace tried to make a photograph of a bloodhound that law enforcement officers had brought to the chicken farm to sniff out the scent of any potential arsonist in what was the sixth poultry barn fire on Schultz' property in less than three years. Damages had already topped \$300,000.

Schultz had earlier warned Pace and his editors not to report on the fire, because he was afraid the publicity would cause him to lose his insurance, Pace said, "No newspaper worth its salt would let an outsider dictate its coverage decisions. I may have been green, but that much I knew."

"Schultz was at the scene of the fire when I drove up," Pace said. One of the barns was still smouldering in the distance. "He started walking toward me as soon as he saw me."

"David, you aren't going on my property," he said.

"I don't intend to go on your property, Mr. Schultz. I plan to stay right here on this public road and watch what happens," I replied.

"You aren't going to take any pictures either," he said.

"I don't think you can stop me from taking pictures as long as I remain on this public road," I replied. "I'm just trying to do my job. I was sent out here to take pictures and that's what I intend to do."

"Well, we'll see about that," he said. "I told y'all not to come out here."

"I decided to take a couple of quick pictures and get out of there. As I raised the camera to my eye, I heard a gunshot ringing through the air. I lowered my camera and turned

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quickly toward Schultz.

“He was standing with one foot in front of the other, pointing a pistol directly at me. My immediate assessment, since I hadn’t been hit by the first shot, was that he was firing blanks to scare me off. I foolishly raised my camera again. There were two loud cracks, sounds like a cherry bomb exploding. I felt a sudden twinge in my back, reached behind me and saw the bright red blood running down my fingers. As I slowly backed away, Schultz’ brother ran toward me, grabbed my arm, and ushered me towards my car.”

Franklin County sheriff’s deputies placed Schultz under arrest, and he was released under \$1,000 bond.

Pace was treated at Harton Hospital in Tullahoma and released.

Pace said “to my everlasting good fortune,” Schultz wasn’t very accurate with a handgun. He fired three shots at Pace from 8 to 10 feet, missed completely with two and nicked him with the other one. “The bullet entered just below my right arm pit and exited my back, drawing blood but hitting no vital organs. I was lucky,” Pace said.

Three months later, criminal charges were taken up by a Franklin County grand jury, made up of Franklin County residents, but, attesting to Schultz’ political power, it declined to indict him, despite the fact that a half dozen state and local law enforcement officers had witnessed the shooting. A second grand jury four months later also declined to indict Schultz.

Pace eventually decided that if he moved to another state, his chances of getting justice would increase dramatically, because, as a resident of a different state, he could file a civil lawsuit for damages in U.S. District Court, where jurors would be drawn from an eight-county area.

In October of that year, Pace moved to Jacksonville, Florida, where he had gotten a job with the Jacksonville Journal. In early November, attorney Peters filed a lawsuit on behalf of Pace against Schultz in Judge Neese’s court, asking for \$75,000 in damages. A jury panel of four men and two women was selected, none of them from Franklin County.

During the trial, “Schultz did not deny that he shot me, but he said he could not remember why he shot or what happened immediately afterwards,” Pace said. “He said he told me repeatedly that he didn’t want any publicity about the fire because he was afraid his insurance would be canceled. His insurance agent testified that Schultz filed a claim three days after the fire and collected \$7,000 in damages. His insurance was not canceled,” Pace said.



Herald-Chronicle, July 3, 1975

“If there’s a hero in this tale,” Pace said, “it most certainly was Judge Neese, who once worked as a reporter for the New Orleans Times-Picayune. His instructions to the jury placed the United States Constitution squarely in my corner.”

Pace quoted the judge:

The Constitution of the United States guarantees that we will have freedom of the press. This guarantee permits newspaper reporters to gather and publish the news, including news in the form of photographs. Thus, Mr. Pace had the right to inquire into the facts of the fire on Mr. Schultz’ property, and he, as well as anyone else, had the right to be on the public road in front of the Schultz property.

“The judge said Schultz lost his ‘ordinary right to privacy and seclusion when he became, unwillingly, a central character in an occurrence of general public interest,’” Pace said.

“After the first day of the trial, Schultz offered us a deal: Drop the lawsuit before it goes to the jury the next day and he would pay me \$3,000 in damages,” Pace said. “It was the first and only time since he shot me a year ago that he acknowledged any culpability for his actions. And that made it tempting. But I knew that if I took the deal I would be second guessing myself for the rest of my life, regardless of what the jury decided.”

The jury deliberated three hours before reaching a verdict:

“We find for the plaintiff in the amount of \$1,000 in compensatory damages and \$4,000 in punitive damages.”

In Memoriam
Chief Judge Pamela L. Reeves
 1954 - 2020
 Honorary Chairperson, Court Historical Society

THE HISTORICAL SOCIETY
 OF THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF TENNESSEE, INC.

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