Justice S. Kriegler: This is the interview of Presiding Justice Roger W. Boren. He sits on the Second Appellate District, Division Two. He's also the Administrative Presiding Justice of the Second Appellate District. The interview is for the purpose of the court's historical legacy program.

Roger Boren is nearing the end of his career, a distinguished career, as a justice on the California Court of Appeal.

Justice R. Boren: We ought to mention that you and I have known each other for over 30 years.

Justice S. Kriegler: I think it's over 40 years probably.

Justice R. Boren: It's probably over 40.

Justice S. Kriegler: Pretty close anyway, we go way back. I really appreciate you asking me to do this interview. It means a lot to me.

So, let's begin by talking about your history, where you grew up, your family situation, how you ended up here at the Court of Appeal.

Justice R. Boren: Well, I was born in Utah in a place that no longer exists. It was a copper mining town. My dad worked in a store. That's where I was born. I have no recollection of that because we spent my early years -- that is early three, four years in Idaho. And then World War II blossomed in full bloom and eventually we moved to California for a short while while my dad was in the Navy. And then we moved back to Idaho and my dad farmed for maybe another year after the war and then he went into the car business in Burley, Idaho. That's where I went to grade school for all six years before we moved to California when I was 12.

Justice S. Kriegler: In what part of California did you grow up in?

Justice R. Boren: I lived in Hayward basically. I mean we didn't live there at first but after the first year after we moved to California, we stayed in Hayward. My parents lived there until the end of their lives.

So, I went to Hayward High School and spent all my teenage years there except in the summers, I'd go back and work on my uncle's farm in Idaho because it was kind of a good place to go hunting and fishing and have a good time.

Justice S. Kriegler: And after Hayward High School, did you go right into college?

Justice R. Boren: Yes, I did. I went to Claremont for two years and I was out of school for three years while I was in Europe. And then I'd finished at Berkeley on my last two years.

Justice S. Kriegler: My recollection is you played some basketball.

Justice R. Boren: At Claremont I did. That was one of the things that attracted me there because I wasn't a very good basketball player.

Justice S. Kriegler: My recollection is that once you got to the Attorney General's Office, a couple of your classmates at Claremont were actually in the offices.

Justice R. Boren: One in particular is Jack Carey. He was my roommate at Claremont for two years. We'd sort of incidentally followed each other around. He visited me in Austria in -- it would've been 1963, and we rode off and on just intermittently, not a lot. And the last I heard from him, he was an insurance adjuster. He'd graduated from Claremont. And then I didn't hear from him for a while.

The Vietnam War was building up and I went into the Army Security Agency, Second Lieutenant, went to the school in Massachusetts. I thought I was going to Germany, that's my original orders were to send me to Germany. I thought, "Well, this is good. I could speak German now and this'll be a good thing." The last minute, I got notified I better go downstairs to the head shed because I had a change of orders. I went down there and they changed me to -- I thought I was going directly to Vietnam. I went downstairs and they told me I was stationed at Helemano, which I thought must be hell on earth somewhere. I found out it's in the middle of Oahu in Hawaii.

After the war was over and I was out of the -- well, it wasn't over but I was out of active duty, I went to law school. But I'd lost track of Jack. And about the beginning of my third year law school, I happen to see a Daily Journal article with a photograph on the front page showing two recent graduates who were looking at the bar results and were happy to find that they had passed. One of them was Jack Carey. I didn't even know he'd gone to law school.

So when I finished law school the next year and I came to work at the Attorney General's Office, I walked into Bill Pounders' office. He'd been assigned as my supervisor. And there was Jack Carey standing. He was working there. He was working also with Bill Pounders. And I found out he'd been in the Army Security Agency. And instead of going to Hawaii, he went to Panama.

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Justice S. Kriegler: Now, during the time you were in the army, were you already married or did you get married afterwards?

Justice R. Boren: No, I got married before I went in the army and before I graduated college.

Justice S. Kriegler: And you were in military intelligence as I recall?

Justice R. Boren: Yeah. There were two parts of it and that was the Army Security Agency that did work under NSA. That was what Jack was assigned to too.

Justice S. Kriegler: Where did you go to law school?

Justice R. Boren: I went to Law School at UCLA. That was after I graduated from UC Berkeley and after the Vietnam War business.

Justice S. Kriegler: Then you went directly to the Attorney General's Office?

Justice R. Boren: Yes.

Justice S. Kriegler: How did you end up getting hired at the Attorney General's Office? What drew you to that office?

Justice R. Boren: Probably because that was one of the few really good offers I had. I liked the idea of being able to do both appeals and trials. I'd been in a clinic program at UCLA and so I was kind of attracted that you could do both and I'd been in the Moot Court Program so I'd done appeals too and it kind of was a nice match.

Justice S. Kriegler: The person you mentioned as your first supervisor, Bill Pounders, who later was my supervisor went on to have quite a distinguished career of his own. He tried literally hundreds of murder cases on the Ninth Floor of the criminal courts building.

Justice R. Boren: Yeah. I figured he was the guru down there. He was certainly a guru in our office.

Justice S. Kriegler: What was the office like back then? Right now there are over a hundred lawyers in the criminal law section. What was it like back then?

Justice R. Boren: I have no idea that it's any different but I suspect it is looking at the amount of case load they carry and the variety of it. But the thing about it then was it seemed like it was small enough that we knew everybody who was in the Criminal Law Division and we knew quite a few other people in the other divisions. But the camaraderie was really good. Everybody felt comfortable with most of the members of the Criminal Law Division and admired them. The only thing was it was a time when not many people in the Attorney General's Office got advanced into anything else. It wasn't until there was this change of attorney generals that that opportunity came.

Justice S. Kriegler: It really was a different job back then than it is now. If you look at how we do our legal research on computers and how we can correct errors with a punch of a button, we've drawn everything else by hand, right?

Justice R. Boren: You had to walk to the library to do your research.

Justice S. Kriegler: There were no computers. There were no word processors. And as a result, I think our briefs were probably a lot shorter than what we see now.

Justice R. Boren: Yeah, you couldn't recycle any quicker than you could talk. You could dictate them again but it still meant somebody had to type them up. You couldn't cut and paste.

Justice S. Kriegler: So, the attorney general traditionally handles all of the felony appeals but there's also a trial component to the job. Did you get involved in trial work right away?

Justice R. Boren: Almost immediately but it seems like it in retrospect because I'd been in that clinic program at UCLA, I knew my way around the courtroom a little better than some of the other new persons in the office.

So somewhere within the first two years, I got to do a week-long trial up in Santa Maria, involved a lawyer that had been suspended and then as a consequence of this trial, he got disbarred. That experience of doing a criminal case of a very prominent person in that town was rather interesting and it taught me a lot about my way around a courtroom than I wouldn't have learned just from reading transcripts.

Justice S. Kriegler: How about California Supreme Court arguments, did you argue in the Supreme Court?

Justice R. Boren: I did not very well. I never was that great in oral argument. But your presiding justice here argued a case against me and I against him, People v. Sewell, in the Supreme Court back then. It was a guy who killed four of his friends for the money they had gotten from a pawnshop for selling musical instruments that they drove here from Maryland. He killed his four buddies at night so he could keep all of the proceeds and then he flew back to Baltimore. And in sentencing, the judge was so outraged that he sentenced him to consecutive life terms.

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Sewell became the case from that time on, at least with respect to indeterminate sentence, life sentences, that you only have one life to give for your crime or crimes -- plural -- and so they all merged into one life term.

Justice S. Kriegler: I recall watching that argument between you and my current Presiding Justice Paul Turner, and I think you're being self-deprecating. There wasn't much you could do. When you're an appellate lawyer, you play the hand you're dealt and the Court

of Appeal didn't really give you too much to work with on that one.

Justice R. Boren: It was fun. It was fun!

Justice S. Kriegler: I don't think you can take the fall on that case.

What about the Special Prosecutions Unit, would you explain what that was and how you got involved with it?

Justice R. Boren: I have to tell you that I was just really exhilarated with the opportunity to do that. There'd been previously in the office a -- I think they called it trial and investigations unit. People like Dick Huffman had run that thing. My brother was a lawyer out in Riverside DA's Office. And before I graduated from law school, I'd seen the attorney general's representative, Dick Huffman, and my brother putting on a no body prosecution and that kind of interested me. And I thought that was one of the reasons that I figured it was a good thing maybe to go to the Attorney General's Office because you got a mixture of things you could do. You had a lot of opportunities.

So having known that, I got to the Attorney General's Office and found out that had gone way, way, way -- the only trials that were being done were conflict cases or invitation cases where -- there was a time when Mike Nash for instance took over all the misdemeanor cases in San Luis Obispo County because they had so many felonies especially murders going on at that time that they were shorthanded. We did that for a while and it was a great experience because we didn't see many misdemeanors in the Attorney General's Office, didn't know much about them in fact.

The same thing happened when I became a judge, I didn't know what a misdemeanor was worth as far as any kind of plea bargaining or settlement of cases goes.

But in any event, suddenly when Deukmejian became the attorney general, he said he was going to have a special prosecutions unit that would try organized crime cases and including organized crime where prison gangs and things like where they were committing major crimes. And the thought was, especially where the slopped over county lines all over California would be maybe a well-spent resource to have the Attorney General's Office participate or instigate those criminal prosecutions. And so we did. Luckily, I got picked for that and luckily you succeeded me.

Justice S. Kriegler: So you worked full-time with one or more investigators that were signed just to work with you as a team as I recall.

Justice R. Boren: The team would have two investigators and a secretary, and that was basically the team. But the team also benefitted from

the statewide organization, SPU as it was called, because you had other resources you could call on -- some of the Sacramento portions of the Department of Justice and other people to take care of some of the things you needed done and you could get extra investigative help that way.

Justice S. Kriegler: As I recall, you were in the Special Prosecutions Unit for just a couple of years to get things started.

Justice R. Boren: I never did get to do a trial, I don't think. I did some preliminary hearings but never got to do any trials.

Justice S. Kriegler: Why don't you just kind of give us an idea of what kind of cases you got started that you then handed off to your successor?

Justice R. Boren: Well, I guess the main ones I remember were -- first of all, we call them the "meat cases." It was two fellows called Ciccarello and Howard. It turned out they had some pretty heavy contacts, the mafia, the Italian Mafia was really in the middle of them. But Joe Bonanno who at one time was considered the big godfather in the United States was in business with them with one of their meat plants here in Los Angeles. They were busting out corporations essentially taking over, let's say undercapitalized, underfunded, not doing well corporations and then getting the assets out without getting anything any stockholders that might exist and basically destroying any value that was left in the corporations.

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Justice S. Kriegler: Including burning one of them down?

Justice R. Boren: And then they tried to burn one down in Long Beach, which happened to be where the attorney general lived which then got really hitting towards home -- worrying about his own home. Not in a literal sense but in the sense of it being close to home.

The guy that they hired to do the arson job, inside job, ended up dying and that made the case more interesting. You had a dying declaration on audio tape and it was a pretty interesting case.

A lot of things happened. I got to travel to Red Bluff, Tehama County which is sort of a cowboy county. It was an interesting time.

Justice S. Kriegler: You also filed another case --

Justice S. Kriegler: Right -- involving a hit by the Mexican Mafia.

Justice R. Boren: And that was really an oddball case that we even got into that. Apparently, the DA started to do it and didn't like the way things were going and basically they let it down. They used as one of the excuses for not following through on the case that there was a missing witness. Riverside -- not Riverside. Pasadena Police came over to talk to us, the detectives, talked to me and Paul Tilleners, one of the detectives. They explained that they knew where the witness was. The witness never left town and was there all the time.

It was a shame that this case was… because it was a righteous hit murder that was instigated by a doctor, a medical doctor, who wanted to kill his best friend who owed him a lot of money apparently but threatened to expose certain skeletons in his closet. And I think he had a lot of skeletons. They hired a guy from the Mexican Mafia that just got out of a federal prison or something in Wisconsin and he agreed to do it. They killed the guy walking with his lawyer on Colorado Boulevard about nine o'clock at night. He was walking to his Rolls-Royce.

Justice S. Kriegler: That case actually ended up having a lot of ramifications because after the case you're describing was over several high-ranking members of the Aryan Brotherhood decided to leave that prison gang and cooperate with the attorney general and I think that led to --

Justice R. Boren: Well most of that came after you took over the case.

Justice S. Kriegler: Well, I was already gone actually by the time most of that happened.

Justice R. Boren: There was a lot of interesting that's happened. One of the things that happened was that Buenrostro, the shooter -- I was in Department 100 for something, I don't know what, and I was told that Buenrostro was in the lockup talking to Leslie Abramson, who wasn't his lawyer. Apparently she -- either he called her or she called him but anyway, she became his lawyer. Things got essentially much rougher on being the attorney in that case and you had to put up with that.

Justice S. Kriegler: That was a challenge.

Now, let's talk about why you left the Special Prosecutions Unit. What was that all about?

Justice R. Boren: Here's the way it happened. I mean like everybody else, I heard what was going on with the Hillside Strangler here in L.A. I read the papers, heard the news.

I took my family up to the Sierras. We went up to Sequoia National Park. And right around that time, either coming or going, I heard that there was possibly a district attorney's

motion to dismiss the case against Buono that was being done with the help of using Bianchi as a witness.

Justice S. Kriegler: And they were the Hillside Stranglers.

Justice R. Boren: They were the Hillside Stranglers.

Justice S. Kriegler: Kenneth Bianchi and Angelo Buono, right?

Justice R. Boren: Yes. And when I came back I was thinking, "I wonder what's going to happen." And then I immediately heard on the news that Ron George was not going to grant the motion to dismiss, that rather he was going to ask the attorney general -- and he being a former attorney general knew how that worked. He was going to ask the attorney general to see if they would take over the case. I thought, "Oh, it'll go the Criminal Law Division." I walk in the front door of the building there in Wilshire, and I'm walking to the elevator and Bob Philibosian came by and said, "I want to see you in my office upstairs."

Justice S. Kriegler: He was the Chief Assistant Attorney General.

Justice R. Boren: And he was the head of all criminal statewide under Deukmejian. He called me in and said he wanted me to do this case and I could pick somebody else to be in it with me.

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Justice S. Kriegler: So you and Mike Nash?

Justice R. Boren: That's how I got Mike Nash to be my colorful assistant.

Justice S. Kriegler: Originally, you thought the case might take up to a year or so to get put together and try and everything. But how long did it actually take from start to finish once you got involved?

Justice R. Boren: I should tell you how we put it together. We had two weeks to decide whether to prosecute it or not and then I don't know what Attorney General Deukmejian would have done if we just said, "No, it's a bad case." But we really looked at only two things. We looked at the 18 pages that Judge George wrote about denying the motion. It was about 18 pages long and we read all of the transcript of what Ken Bianchi had testified to.

Justice S. Kriegler: Just so people understand, we're talking about --

Justice R. Boren: After the prelim. He'd already testified at the prelim.

Justice S. Kriegler: But this is a prosecution that involved the murder of 10 women whose bodies were dumped at various locations next to the road often which is -- up the hills which is why they called -- how they got the name Hillside Strangler. And it really, as I recall, had gripped the community in fear at the time because it

seemed like every day or two another young woman was being found dead by the road.

Justice R. Boren: I think it was the first time in L.A. where people were really afraid because it was a serial killing type thing. And by the time that really they discovered that serial killings were being conducted in L.A., it didn't involve just people of a low caste, like prostitutes, it involved college girls and things like that and so people became more generally afraid.

Justice S. Kriegler: And the district attorney then John Van de Kamp asked to dismiss the case and Ron George was the trial judge and he went on of course to the Court of Appeal and then be Chief Justice of California and he denied the motion to dismiss and referred it to the attorney general. Looking back on Judge George's decision, do you think that was a huge risk for him to take personally? Suppose the case hadn't turned out as it did, ultimately, you got convictions on nine counts of first degree murder, I think.

Justice R. Boren: I don't think it was that great a risk. If he had granted it, they would have laid it off on the DA, the DA might, however, have said that it was Ron George's fault that they had to be dismissed because there'd been a motion to sever in the non-murder counts from the murder counts that Ron George had granted. And at that time, the law in California was such that you had to pretty much do that. And so he granted the motion. I think he had to grant the motion. And they might have later … But I think most people would have forgotten it. He just felt it was wrong I think to dismiss it. I think your gut reaction would tell you "You can't just let this guy walk when you have a sufficient case." And that 18-page order he wrote did detail why it was a viable case.

Justice S. Kriegler: After the two weeks where you've looked at it, you made your recommendations, how long did it take to try the case and get verdicts and sentencing and everything?

Justice R. Boren: Okay. We had that two weeks and he told us that the trial date would be either the 14th or the 16th of November and those two weeks ended about the middle of August. So we basically had almost three months to prepare. We had them bring everything the DA had over to our building and that took a truck. I mean the reports and all the exhibits that were in the hands of the DA's, it took a whole truck. We had to set aside a whole large room bigger than an office room and put some desks and file cabinets and TVs in there because there was video and all kinds of evidence.

Mike and I basically worked until October, in other words, a month and a half trying to organize all the witnesses. The files were a mess. They were just helter-skelter kind of thing because maybe the other people hadn't worked too hard and I

don't know but they were not organized in a way that you can really decide what to do anything with. So we had to reorganize them. We did cards on all the witnesses. We tried to figure out a plan for how we would do the trial in what order. And then October, we split. We decided Mike would handle with Elizabeth Barron who later became a Court of Appeal Justice would handle hypnosis because there was a problem.

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The problem was this. The California Supreme Court had issued a case and it was called People V. Shirley. I don't remember the citation that basically said if you hypnotized a witness before you put him on the witness stand and you didn't videotape it, and you didn't take certain precautions, it might be unfair to put that witness on in front of the jury to talk about reconstructed memory you might say. So during the month of October, Ron George conducted this almost month-long hearing using all the psychiatrists that had examined Bianchi and all the police and the witnesses who had been hypnotized and decided who had been hypnotized and who wasn't. We kind of worried about, well, Ken Bianchi was hypnotized too not by the police but by his own psychiatrist. And Ron George found he'd been faking, in other words, so he wasn't hypnotized.

While Mike and Elizabeth were doing those hearings, I took care of the scientific stuff. So I took a trip up to Bellingham first of all because that's where Ken Bianchi had killed two more girls after he'd left L.A. without Buono. And then I went back east to Delaware to DuPont and then down to North Carolina to Monsanto because they had electron microscopes and there were a lot of nylon and other type of fibers involved in the case that really hadn't been -- some of it had been put on at the prelim but the DA hadn't been paying much attention to them because there were other things that were more critical at the time.

Getting that together was a real problem. In Monsanto, that actually ended up being probably the biggest single piece of evidence in the case, was the fibers from Buono's house that were found on one of the victims. And it was through the Monsanto, they had this huge electron microscope computer type of materials and they were also experts in nylon and it turned out that these fibers, there were only like 16 of these nylon fibers on this girl's hand. It was left from the residue of tape that been put on her hands by Bianchi.

If you take a carpet, even this carpet right here, if you took a tuft of carpet at least at that time, one single tuft would have about 200 fibers in it. And she only had 16 nylon fibers on her wrist. But one of those fibers was an unusual Japanese fiber and I won't describe it here. I don't have the things to show you but it was an unusual shape. And he says the reason that

there are different kinds of nylon fibers in carpets, for example, is that they're automotive carpets where they put nylon sweepings, they call them floor sweepings into making those carpets. They're cheaper carpets and this had all kinds of nylon and there are different types.

But it had this Japanese carpet that Bianchi had said the women had been killed on. Any tuft would show about two of these Japanese -- among the 200, two out of the 200 would be Japanese fibers; that was the average. Out of 16, you got one. We were very, very lucky to find that one. And that was very convincing I think to the jurors. And that was late in the case that we put that on. Saved that for a good point to pin it all together and that was -- between that and Bianchi's stuff and a few other things we had, that was what really made the case.

Justice S. Kriegler: As I recall, at that time your brother had the record for the longest trial in California.

Justice R. Boren: Yes, he did. You're trying to get to the length. But the exact length of trial and we're talking about from picking a jury to getting the verdicts, not to sentencing, was two years and two days.

Justice S. Kriegler: And your brother had tried a case --?

Justice R. Boren: Sixteen months. We're slow. It runs in the family.

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Justice S. Kriegler: Ultimately, the jury came back with guilty verdicts on nine of the 10 counts, as I recall. Is that right?

Justice R. Boren: Yes. One was found not guilty. That was Yolanda Washington and even that's sort of interesting because the jury found Buono not guilty for exactly the right reasons. The scenario was Bianchi told the police that they picked her up, handcuffed her in the car, but they picked her up by a huge market somewhere. I think it was a huge market which is a really away from where she was. She was a prostitute working in Sunset Boulevard and this was a few blocks away from there. And he said that they were driving along and Buono gave him a sign, nothing in words but gave him the sign and so he killed her which didn't sound -- if you knew Bianchi, it was the exact kind of thing he would do which is, "It wasn't me really. It was him that started this."

And the interesting thing was there was -- after Bianchi was arrested and before Buono was ever in the news, there was an attorney. Later on, he actually appeared in front of me as a criminal law attorney in downtown in the Criminal Court building. His name was Ron LeMieux and supposedly, I never checked on this part, but he said one time he played at least for

not necessarily in a game but he was on the Green Bay Packers.

Justice S. Kriegler: That is true. I did have him in my court and he was on the Green Bay Packers.

Justice R. Boren: He was a very nice guy. But at the time of the Hillside Strangler murders, he owned -- I don't if he was the sole owner, he may not have been, of an organ store on Sunset Boulevard in Hollywood and when I say organ store, I mean it sold musical organs, maybe pianos too. And he said when he saw Bianchi's picture in the paper in late January or early February of 1979, he recognized the guy, which you know, didn't sound -- could have been, could have not. There were a lot of people that suddenly popped up as soon as there was publicity.

But what he told the police was that he was working like late one night about nine o'clock. He was trying to count the funds or something like that, doing a little auditing of the records in the store. And he looked out the window, the store fronted on Sunset but it was on the corner of Sunset and Detroit, on the north side of Sunset. And he looked out the window and he saw what looked like an ordinary vice arrest that you would have of prostitutes along there. There was a guy in plain clothes putting handcuffs on this girl and putting her in the backseat, and he said, "That was Yolanda Washington." And the cop, that he thought was a cop but wasn't, was Bianchi, and he said he didn't get to see the guy in the driver seat. He couldn't see him. It would have been nice to have that evidence in the trial. Ron Lemieux never testified at the trial because during the hypnosis hearing, the judge found that he'd been hypnotized, and so he excluded Ron Lemieux from the trial.

We had a witness in the trial named Artie Ford who was an actor in Hollywood sometimes, not very often. But he was an actor and he'd lived with Buono for a while and he talked about some of the things that he did with Buono and some things he had to say were pretty incriminating. But he was talking about how Buono would drive in his Cadillac down Sunset Boulevard, this was years before the Hillside Strangler murders and he would flash -- he'd pull over and start talking to a prostitute and then he'd flash a badge and basically cause a lot of trouble and consternation to them. He wouldn't arrest anybody of course but he would cause a lot trouble.

The police reports talked about this happening on Sunset Boulevard. When I had Artie on the stand, I sometimes would do this even though I knew in a way it's risky to ask a question to which you do not know the answer, where I said, "Where on the Sunset Boulevard did this occur?" And he said, "Oh, Sunset Detroit." And I looked at George and he's looking around,

because the jurors didn't get the significance of that at all, because we never had Ron LeMieux testify.

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Justice S. Kriegler: The jury comes back with all these convictions. You do death penalty phase and they come back with verdict for penalty.

Justice R. Boren: LWOP, Life Without Possibility of Parole.

Justice S. Kriegler: And did you get an explanation from the jurors as --

Justice R. Boren: We always figured we would never get a death penalty. We didn't really care. All we wanted was one guilty verdict and we got nine. And the reason -- I can tell you, they didn't tell me that but I think I know the reason. The reason was they couldn't tell who was -- they knew that Bianchi sort of was subservient to Buono but they also knew that Bianchi was a loose cannon. Not only that, he went on to Bellingham, Washington and killed two more girls and he got straight life. I don't think they wanted to give the partner anything more. They did. They gave him LWOP but not that it really makes any difference probably in the long run.

Justice S. Kriegler: There was an awkward side to this case as well as on the administrative end.

Justice R. Boren: Yes.

Justice S. Kriegler: As I recall, correct me if I'm wrong, but George Deukmejian was attorney general and Bob Philibosian was the chief assistant attorney general when the case was referred to the office. And essentially, Mr. Philibosian and Attorney General Deukmejian made the decision --

Justice R. Boren: That was 1981.

Justice S. Kriegler: So they decided to prosecute the case. The District Attorney John Van de Kamp who had moved to dismiss the case became attorney general by the time the case was tried.

Justice R. Boren: Yeah, 1982 was an election year.

Justice S. Kriegler: And Robert Philibosian who had been in the attorney general's office was appointed district attorney at the time the case was tried.

Justice R. Boren: Van de Kamp became my boss.

Justice S. Kriegler: So the lawyer who moved to dismiss the case became the boss of the successful prosecutor and the former boss --

Justice R. Boren: My former boss became the governor.

Justice S. Kriegler: And George Deukmejian became the governor which leads us to the next step in your career. As I recall you never really came back to the office after the trial. George Deukmejian had been --

Justice R. Boren: Mostly didn't. I was counting on getting some time off, rest and relaxation because I hadn't -- I'd had little vacations during the trial. We didn't go 24/7 and we got Christmas off and usually two weeks off in the summer but I was burned out pretty much in the end, plus I really wanted out of the office because things were not the way I would like them with my boss still being my boss at the end of the trial. So basically my paperwork went in I think even before the sentencing of Buono and Bianchi somewhere in July to become a judge. So somewhere near the end of January, they were sentenced somewhere around the 20th, I can't remember. It's like a date of January 1984. And before the end of January I knew I was going to be appointed a judge. So I didn't have really much interest in going to the office other than to clear stuff out.

Justice S. Kriegler: So you went to the municipal court first?

Justice R. Boren: Right. I was given my choice. I could go to L.A. Muni Court or I could go to judicial district -- municipal court which is where I lived and I took the latter and being a big frog in a very small pond, it was good.

Justice S. Kriegler: You weren't there too long.

Justice R. Boren: So I could go home for lunch for about a year.

Justice S. Kriegler: You were elevated pretty quickly to Superior Court, right?

Justice R. Boren: Yeah.

Justice S. Kriegler: And that was, again, by Governor Deukmejian.

Justice R. Boren: Yeah.

Justice S. Kriegler: What assignments did you have on Superior Court?

Justice R. Boren: Well on Superior Court I became a vagabond judge mostly for the first year. That was -- they didn't have a courtroom for me over in the criminal but I'd come in an emergency to take over for a judge that had been injured and I took over a death penalty case in the middle of the trail because both sides stipulated that I could do it. So as soon as that trial was over, they just would keep putting me in the chambers of a judge that had gone on vacation. I was probably in five more chambers throughout that year of 1985. And it was a really good thing because it gave me the chance to work with different combinations of people, different styles and to learn

how to be a Superior Court judge in an effective manner. Each chambers had a different set of clerks, different DAs and public defenders, different court reporters and none of that was my own.

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I was there temporarily and I can see what was good and what was bad. When I finally got my own chambers it was kind of a nice thing to know how you wanted to do work. Plus I've had two years sitting in front of Ron George, how could it get any better than that? I mean that guy, he was the master of a courtroom.

Justice S. Kriegler: Right. That's a great way to get an education.

Justice R. Boren: Yeah.

Justice S. Kriegler: Just watching somebody like him. So you had a couple of very high publicity cases that you handled on Superior Court. Let's just talk about it, two of them.

Justice R. Boren: Okay.

Justice S. Kriegler: The Twilight Zone Case. What was that about?

Justice R. Boren: Well, the alleged place of the crime was near my house. It was out in Santa Clarita Valley. There was an area owned by the Newhall Land & Farming that was called Indian Dunes and the Santa Clarita River ran down to Ventura through there and there were some areas where there was a lot of foliage and cliffs and things. And they were filming a movie called the Twilight Zone the Movie. And it was a three-segment movie. One segment was to be directed by John Landis who was the chief defendant in the case and another was by Steven Spielberg and I can't remember who the third director was. But they each took a segment to present one of the stories that have been presented on the TV Twilight Zone and present it in movie form. And the one that John Landis was doing was about bias and prejudice.

So they had one guy who was portrayed by -- his name is escaping me. Vic Morrow and he would find himself in different situations. First, he would be a French Jewish person who is captured by the Gestapo or in danger of being captured by them. I can't remember who the other place -- Southern, he would be a black person in Southern United States at a time when there was a lot of prejudice and there were lynching's and things like that.

And the third segment, a part of his segment, was he was a Vietnamese person who is carrying Vietnamese children in this particular portion of the movie across a river while Americans

are shooting machine guns from helicopters. I don't know how it was done in the days and it was done on television. That was the way it was done for this showing. And what happened was the tail rotor came apart of the helicopter and the helicopter crashed on Vic Morrow and the two little -- when I say little kids, they're about 12, 13 and 14 years old range.

Vic Morrow and one of the kids were decapitated and the other kid was just simply crushed to death but they were all killed. So there are three persons that met death and after investigation the sheriff's homicide people decided it should be an involuntary manslaughter case because of what they considered gross negligence on the part of Landis and his other defendants, and in part because they violated the law of hiring children to shoot a movie at night and were not in accordance with any of the rules and regulations included in the state laws on child actors.

Even in the middle of the case we had Jackie Cooper, a very famous actor that have been in the Little Rascals movies. He'd been the chief in Superman movies, the editor of Superman's newspaper. He'd done a lot of things. He directed a lot of movies the last part of his life. He's deceased now but he was a well-known and well-liked director. And he appeared basically as an expert witness about a director's responsibility, about an actor's responsibility, about being a child actor, how things were changed about rules and regulations and he sat on the stand. He was kind of a neutral person about all of the things, an interesting person. But that was why they were being charged. They'd been offered I think a plea bargain of where they would just plead to a misdemeanor violation of child endangerment of some kind. I don't know exactly what but in light of violating those state and county rules and they didn't accept that. They wanted to go for the involuntary manslaughter.

Justice S. Kriegler: And the verdict was?

Justice R. Boren: The verdict came back not guilty but it sort of surprised me and my staff. This is the first time I really realized that celebrity has a certain cache to it that might lead to a different viewing of the thing because the juries were all very happy to schmooze with the defendants afterwards, and Landis thought he was going to be convicted.

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The day or two before the verdicts came in, he asked the bailer to show him the inside of the lockup so he knew what to expect.

Justice S. Kriegler: Wow. Speaking of celebrity, the other case I want to talk to you about had some element of celebrity but on the other side.

That's the Tiequon Cox murder which involved the family of a well-known UCLA and NFL football player's family.

Justice R. Boren: Kermit Alexander.

Justice S. Kriegler: Right.

Justice R. Boren: Kermit became -- it's interesting because it sort of get -- it came around again this year in the sense that Kermit Alexander was listed on the ballot this year as the prime supporter of one of the ballot majors on this year's election, state election. It was the major that was passed that supposedly speeded up the process of trying of having appeals in habeas corpus in death penalty cases. The reason was that his mother, his sister and two, I think, nephews, were killed by Tiequon Cox. That was the trial I did, People versus Tiequon Cox.

It was a bizarre case in the sense that he was a hired killer. It was apparently a payback for a drug thing and he got the address wrong, whether he was handed the wrong address or he wrote it down wrong, I don't know, but he went to the wrong house with an M1 carbine, automatic rifle, not semi-automatic, and went in. He was told to kill everybody in the house. He didn't kill the person who hid in the closet, but he killed the mother and sister in the kitchen and killed the two little boys sleeping in a bed in the afternoon and walked out of the house. When he got back in the van that was waiting for him, he told the getaway driver, "I blew the bitch's head off," and he left. He got $3,000 and he bought a Cadillac, used the Cadillac that next day.

Justice S. Kriegler: And he's still on death row?

Justice R. Boren: He's on death row. They say he's the -- I don't know if this true, but they say he's the number one Crips shot-caller for Los Angeles stuff on the highest level down here. While he was on death row, he stabbed Tookie Williams, another death penalty convict that I had come into contact with, stabbed him in the back. It didn't hurt him bad but Tookie has been since executed. He was the one that wrote a book on -- a children's book on anti-gang participation and got, I guess, a Nobel Prize or some kind. I think it was a Nobel Prize.

Justice S. Kriegler: I think it was nominated. I'm not sure --

Justice R. Boren: It might have been that.

Justice S. Kriegler: So, you went from superior court in Los Angeles to the Court of Appeals in what year?

Justice R. Boren: 1987.

Justice S. Kriegler: You came here to Division Five?

Justice R. Boren: Yeah, but it was on Wilshire then.

Justice S. Kriegler: Yeah. You were an associate justice for how many years?

Justice R. Boren: In your division, Division Five, I was here maybe '93.

Justice S. Kriegler: And then what happened in '93?

Justice R. Boren: In '93, Justice Roth, who was the presiding justice of Division Two, retired and I put in my papers to Governor Wilson and got selected by him to be the presiding justice of that division and I've been there since to this day.

Justice S. Kriegler: And then you're also the district's administrative presiding justice. When did that happen?

Justice R. Boren: I think it was about 1994.

Justice S. Kriegler: Okay. Talk just a little bit about few of your cases. I mean obviously you've written hundreds, if not thousands of cases.

Justice R. Boren: So many that some of them -- I look at the thing and I don't remember anything about them at all. I don't even remember the name of some of them.

Justice S. Kriegler: Well, I picked out three that range from the very, very important to the oddball to the petty. Let's start with the petty. You had a case involving a couple of neighbors.

Justice R. Boren: Both lawyers.

Justice S. Kriegler: Both lawyers who had a dispute about a backyard basketball court?

Justice R. Boren: Yeah. Apparently, the plaintiff lawyer, his wife was pregnant. She was spending a lot of time resting.

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The boy next door, who is a son of the lawyer, the defendant lawyer, played basketball during the afternoon in his backyard on his basket. The plaintiff lawyer said he was making too much noise and his wife sleep and I don't know what the argument was but he ended going to court and the plaintiff lawyer talked to a judge and given an junction that prohibited basketball except between a short window around I think five o'clock or something like that, afternoon to six o'clock. He couldn't go out in the backyard even if it's bright daylight in the evening and play basketball. I just thought that was unreasonable. I mean if we could do that I think as justices, the law is being silly now to regulate that kind of thing.

Justice S. Kriegler: It came across silly in the press. The press picked up on this case, got a lot of ink at the time.

Justice R. Boren: I remember it was easy to write a funny little line like they took their case from the basketball court to the superior court.

Justice S. Kriegler: That takes me to another case involving the court and this is Aisenson versus American Broadcasting Company.

Justice R. Boren: I felt real sorry for Judge Aisenson. He was a Superior Court judge and it just happened. They don't do this all the time but they did at that time. ABC Channel 7 did a thing -- I think it was ABC, do you remember?

Justice S. Kriegler: ABC, yeah Channel 7.

Justice R. Boren: They did a local story for the evening news in which they took a pole of all the -- any of the criminal lawyers that wanted to participate in raiding the judges who did criminal law downtown and several judges who didn't do well and several who did really well, and two that did really not well were -- the reason I say two is I kind of compare the way they went about their business. Aisenson was one of them. He got real bad grades. The other person was Eric Younger who is the son of a former attorney general, Evelle Younger that I'd worked for.

The way Eric responded, he let the television cameras come into his chambers. He talked to them about same old thing Ron George would have. He said, "Well, you know every case you make one temporary friend and one permanent enemy. You call them the way you see them and you're going to make everybody happy. You might not make either one of them happy." He looked really good on television. Aisenson wouldn't let him even come in his courtroom. They were showed pictures through his window to his courtroom and couldn't see very much. Then, they waited for him outside his house and they got -- he did a perp walk. He walked from his front door to his car with his briefcase in his hand, never looked directly at the camera, went right to the car, got in it and drove away.

Now, they did not show his license number. They didn't show the number of the house. They didn't identify the street he lived on or anything like that, but they did show Judge Aisenson, what he looked like. He never would talk to them and so they put this thing on. They showed the perp walk and so people knew what Judge Aisenson look like and that was about it, other than to say, "You got bad grades." So, he sued them for invasion of privacy and that case basically holds -- that wasn't an invasion of privacy, he being a public figure and all of that and there was nothing libelous about them. They didn't divulge any non-public information about his life or where he lived or a car he drove or any of that stuff.

Justice S. Kriegler: That brings me to the last case we'll talk about and that's when it also got a great day of publicity and it was very important and that was the Vergara versus State of California.

Justice R. Boren: That was this year, I think.

Justice S. Kriegler: Very recent, tell us about that.

Justice R. Boren: Well, we tried to write it the other way, an affirmance rather than reversing in part because the trial judge really did a good job of trying to analyze this case. But really it wouldn't write to where anybody felt satisfied. I didn't feel satisfied. My attorney didn't feel satisfied. I talked to the other two judges and they didn't feel satisfied that that was going to be the right result.

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The reason was this is technical but the reason was that the plaintiffs, they alleged that the Statutes of California regarding teacher tenure, hiring and firing essentially lead to a bias, discrimination against students in certain poor districts. Because of those statutes, they received an inferior education. I think it's true and so did the judge certainly felt this way and all the justices on this felt this way that it is absolutely true on the facts that we're showing in this case that the poor students in those poor districts did receive an inferior education. That was related to the distribution of the teachers that some of the poor teachers sometimes would be sent to these areas whereas the better teachers would be in the nicer areas.

But if you start to analyze this fully, we came to the conclusion that it wasn't really right because they explicitly made only a facial -- what's called a facial challenge. They were challenging that the discrimination was the result of the statues whereas there was plenty of evidence in the case that it was really the application of the distribution of the teachers by the administrators that was causing that problem. The statutes didn't compel the administrators to do any of that. They were just doing that and so that's why we ended up reversing that and sending it on -- it went on a petition for review to Supreme Court and the Supreme Court I think eventually denied review.

I think there probably will be around two in this case in which they'll try to show and they probably can show. It's just going to take a lot more work that there is discrimination and it's caused not by facial application of the statutes but by the combination of administration and the statutes.

Justice S. Kriegler: Those are all interesting cases for different reasons. Next month is going to be your final month on the court, 43 years or so in the legal system. Any thoughts on what you've seen, what you've accomplished? Now that you look back on it, I'm

sure in retrospect things went much more quicker than you ever could have imagined.

Justice R. Boren: It definitely went more quickly. I feel like it's extremely fortunate to have been around the people that I've been around. I mean more than anything else, it just seems like I got to the attorney general's office at the right time. It seems that whether it was Attorney friends in my office like you, you got an office, right, near me. I had Bill Pounders for a supervisor that I had the attorneys that I had here on the Court of Appeal. They're just exceptionally caliber people who were also really nice people, good people, people of high integrity. That means a lot, maybe more than anything else.

Justice S. Kriegler: Well, we thank you. I can tell you from my perspective it's been great working with you. I've always -- along with everybody else who admired you for your even keel, your common sense, your down-to-earth approach to problems as well as your legal acumen. You've really been a terrific public servant and it's been an honor working with you and thank you for this interview.

Justice R. Boren: Thank you. I appreciate it.

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