Timothy Buckley: My name is Tim Buckley. I was an Associate Justice for the Court of Appeal, Fifth Appellate District.

Steve Vartabedian: All right, and we are ready to go, to just to speak.

Timothy Buckley: Just to speak.

Steve Vartabedian: I am delighted today to be talking with retired Associate Justice Timothy S. Buckley of the Court of Appeal, Fifth Appellate District. My name is Steve Vartabedian, and I am an Associate Justice of that same court in Fresno.

Timothy Buckley: My buddy. *[laughing]*

Steve Vartabedian: As a part of the Centennial process—and this is the Centennial of the Court of Appeal—we have the Appellate Court Legacy Project Committee creating an oral history of our appellate courts and their justices. So that's part of the process that we are going through today. And you and I just happen to be buddies. But anyway, I say hello to my buddy.

Timothy Buckley: That's why it's hard to keep a straight face, talking to each other. But that's okay; we'll get over that.

Steve Vartabedian: Good. Good morning, Tim, and thank you for your participation in this process we're having. You know, you served at the courts for I guess—you know better than I—27 years, almost 15 of those years with the Court of Appeal. And then you retired in September 2005, only to become one of the most popular assigned retired judges in the state. *[Justice Buckley laughing]* I knew that would get a laugh from you, but it's true; you're too modest. But before we talk about all of that, let's go back to your earlier years. What influences have affected your distinguished career? Let me start by saying you were born in Hanford, California, on September 26, 1945, the son of two schoolteachers. As a young boy, what was it like having both of your parents in education?

Timothy Buckley: Actually, it was good and bad. I actually had my father for class, chemistry and physics for two years, which was very tough. I actually got my worst grades in his class, for a number of reasons. Number one, I wasn't the best student in science and certainly in math; and also it made it tough to cut up and do some things that I was doing in other classrooms, whatever those were.

Steve Vartabedian: Did your mom have an impact on you?

Timothy Buckley: She did, actually. Actually my mother was an English teacher; and even though I do use the King's English sometimes . . . actually I do pride myself on trying to speak correct English when it's appropriate.

Steve Vartabedian: So that's where you got all of the talent that you had when you would correct my opinions with proper English.

Timothy Buckley: No, I gave it to one of my research attorneys and I said, "I have no clue what's going on with this opinion; you tell me." So that's what I did.

Steve Vartabedian: Could you tell us a little bit more about your parents and your siblings, other things like that?

Timothy Buckley: Yes. My parents, my father graduated from Berkeley in '28 and was actually a chemist with Shell Oil but wanted to teach, and so he went into teaching in the early '30s. And then my mother . . . They were both from Humboldt County and my ancestors are from a small town called Blue Lake, on the other side of Arcata. So they're both from that area. They ended up in Lemoore, of all places, just because a job opening came up for a high school science teacher and my dad took it. My mother, of course, came with him, and then she took a hiatus from teaching for a while to have the children, and then she resumed teaching. And I have two sisters and one brother, all older than me, which partially explains my behavior at times, because I'm the youngest child.

Steve Vartabedian: Did anyone in your earlier years have a particular influence on you? Someone you looked up to—it might have been a teacher, it might have been a family member—anyone of that sort in your past?

Timothy Buckley: Well, actually, I looked up to a lot of people—no one person in particular beyond my parents. I was really thinking about who in my earlier years had a significant impact on me, and I would have to say it was an amalgam of a lot of people, friends—people of all different so-called walks of life. And they helped, for good or bad, to shape me to be the person I am.

Steve Vartabedian: What were some of your favorite activities through high school in your early education?

Timothy Buckley: Well, let's see; apart from the fact in high school I had essentially no life, I just enjoyed sports. I wasn't very good at it, but I enjoyed doing, playing, the different sports. And I enjoyed reading.

(00:05:08)

I was an incessant reader at an early age, and of course I read . . . I didn't read the classics. I read *Tarzan* and the books that I thought were fun reading. All the other kids who were incessant readers were far deeper than I was. I always and still do read what I enjoy. Not necessarily *Tarzan*, but I read for fun.

Steve Vartabedian: As you mentioned, you grew up in Lemoore, which is in Kings County and not far from Fresno, and you went to Lemoore High School. Now, I understand there were several outstanding athletes that came out of Lemoore High School—in fact, nationally and worldly renowned. How have any of those people affected your lives and those acquaintances you might have had, over the years?

Timothy Buckley: Well, yeah, actually Lemoore High School had probably one of the best small-track programs in the country. Our most famous alumnus in the athletic area is Tommie Smith, and Tommie and I were in the same class together. And Tommie went on to own or share 11 world records. The reason he owned so many was because he ran the meters and yards. I became a real track nut. In fact, I later competed in masters track as an adult.

Steve Vartabedian: I think you threw the javelin, didn't you?

Timothy Buckley: I threw the javelin and the shot. I wasn't very good at those either, but I had fun. No, no, no, I really wasn't very good. But it was fun; it was fun going out there and competing against world-record holders. And in fact I have an interesting story about that. I think it was at Cal State Bakersfield or Cal State Sacramento and the former world-record holder, former Olympic champion, only beat me by 10 feet in the javelin, which made me feel good, of course; what I don't normally mention is that he was a former Olympic champion in the 1948 Helsinki Olympics. So he was older than dirt and I was a fairly young guy. But I figured once he got up in his age I'd kick his butt; but unfortunately, he probably died. So I didn't see him after that.

But anyway, no, I enjoyed that. And Tommie was a remarkable person, is a remarkable person. We're good friends; actually we're closer now than when we were in school. In school, he was a deity, and when Tommie was there he was all everything. He was at one time known as the world's fastest human when he was at San Jose State. And when he did the so-called—even though it's not truly a black power salute—but when he did the raised glove fist in Mexico City, some of the people in Lemoore really took offense at it.

Steve Vartabedian: We might have some younger listeners; that was the 1968 Olympics.

Timothy Buckley: The 1968 Olympics. And he was driven out of the Olympics in disgrace. He was kicked out of the Olympic Village and sent home, and it was very tough for Tommie to find a job for a while. And he persevered and is now widely regarded as one of the most influential people in the civil rights movement.

Steve Vartabedian: When you graduated from high school did you have any particular career path in mind?

Timothy Buckley: No, I was like everyone else, or most people. I had really thought of the law, and the only reason I thought about the law . . . And I don't mean to always make a point of being so self-denigrating, but it's true, I have no talent, I have no skills, I have no mechanical ability; I had no clue as to what I wanted to do. I knew I didn't want to be a teacher, and so I figured the law was a possibility. But when I went to college I was really, really a big goof-off and didn't distinguish myself in college. And there was an event or two after that that did point me toward the right path. I guess we'll get into that later.

Steve Vartabedian: So from high school you headed to relatively nearby Coalinga College, which is now West Hills. Is that correct?

Timothy Buckley: Right.

Steve Vartabedian: And from there you then headed to a little different place, to the California coast at UC Santa Barbara, which is a respected school, but still a wonderful beach environment. How did you like the change of scenery over at UC Santa Barbara?

(00:10:05)

Tim Buckley: Well, it's funny. When I went to Coalinga, I hated it. I think one of the reasons I hated it, was . . . well, there were two reasons. First of all, the girl-guy ratio was at least five to one; I mean there just were no girls over there. And I rode a bus every day, five hours a day. It was two and a half hours over, two and a half hours back. We had to go through all the small towns in between: Stratford, Huron, Riverdale—you know, I took it in Lemoore. And so it was a very unpleasant experience. And it's strange I say that, because now Coalinga, which is now West Hills, has become and it truly is one of the leading community colleges in the state. And that's largely due to some progressive leadership now. But then, it was a pretty small school, and so I when I went to Santa Barbara, it was truly night and day in all respects. It was a big school. It was beautiful. It was the girl-guy ratio was actually more girls than guys, and it was on the beach—and what's not to like about being on the beach?

Steve Vartabedian: That's pretty hard to beat.

Tim Buckley: Of course, the down side of that is your grades really suffer. My grades suffered—not that I was doing well in Coalinga. I had other reasons why I wasn't doing well there; number one, I was unhappy riding a bus.

Steve Vartabedian: Well you must have been doing something right, because it did lead you to bigger and better things. What did you study at UCSB? Other than surfing and—

Tim Buckley: Actually I did try surfing, but I wasn't good enough to do that regularly. I was able to get up and that was about it. In fact, one of my dubious claims to fame is that one of my fraternity brothers—in fact, I think he was my little brother in my fraternity—was the last remaining SLA member caught in South Africa in 1995 or so. But that was—

Steve Vartabedian: That was the Symbionese Liberation Army, again for our younger listeners.

Tim Buckley: Yes, yes. And that was a pretty bad deal. He was convicted for doing the Carmichael bank robbery and the murder.

Steve Vartabedian: But in your major, though, I mean eventually—

Tim Buckley: My major was history, and I've always been interested in history. I didn't apply myself like I should have. I really was not a good student. I was pretty lazy and irresponsible, and it's amazing that I did get where I am. Not that I'm anywhere, but it is surprising.

Steve Vartabedian: Did the thought of studying law ever enter into your mind?

Tim Buckley: Oh, yeah. No, I had that in the back of my mind. But I knew that when I got graduated from college I was going to be drafted. That was a foregone conclusion, and then soon after that I was.

Steve Vartabedian: As you say, you were drafted. Can you tell us a little bit about your time in the Army—where you were located and some of the details you were involved in?

Tim Buckley: Actually the Army was the best two years of my life. And it sounds strange to say that; I was drafted during Vietnam War in 1968, and the fear was that if you got drafted, you'd be sent over to infantry and then killed. Nobody wanted—at least most people didn't want—to die. I sure didn't. Of course, being in the Army was inimical to my previous lifestyle, which was carefree, irresponsible youth. So when I was in basic, with all the discipline, it was a different world; but I actually kind of liked that. I forged some really good friendships in basic. And it was funny when they came by in the middle of the basic to ask for your military outpatient specialty, what you wanted to do. They would come by and say, "How many want to be dog trainers?" or "How many want to be in the infantry?" And they said, "How many want to be a chaplain's assistant?" So, to a person, all 200 in our company said, "What's a chaplain's assistant?" The person who was coming by said, "Well, rather than tell you what it is, let me just tell you, no one's being killed over there in Vietnam who's a chaplain's assistant." So 50 of us raised our hand.

Steve Vartabedian: Certainly a motivating factor to do that.

Tim Buckley: Can we take a break just for a second?

Steve Vartabedian: Certainly.

(00:15:04)

Tim Buckley: So when he said that, 50 of us raised our hand. And they interviewed us and two of us . . . I was one of the two who got picked for it, I think because I had already learned something about myself—and that is that I'm a consummate bullshitter. So I got into that specialty. And so I went to advanced training in Fort Hamilton, New York, which was great; it was right near Manhattan. And so I spent the time there and I got orders for Germany. Since I was going to Germany, I called my fiancée, Connie, and said, "Let's get married before I go to Germany so we can spend the time over there." And we did. We got married on my leave and then spent a year and a half in Germany, and it was almost a two-year honeymoon. It was great. I was in a headquarters company; I didn't have to go out in the field. I worked in the largest building in Frankfurt, the IG Farben Building, and it was wonderful.

Steve Vartabedian: So you got married in Germany?

Tim Buckley: I got married in California, but then went to Germany.

Steve Vartabedian: The two of you went to Germany? Let's backtrack a little. How did you and Connie meet?

Tim Buckley: Well, we met at Santa Barbara. It was a blind date. One of my fraternity brothers was going out with her roommate, and so she told Connie about me, said there's this guy I would like you to meet. So it was a blind date. I went over there to meet her and I took a look at Connie and I said—well, I won't tell you exactly what I said—but to myself, I said, holy blank, blank. I've never gone out with anybody this good-looking. And so then I figured, geez, I better stick with her; I'll never do any better. And so I did.

Steve Vartabedian: So of course you're now married to Connie, you finished up your military service. How is it that you ended up at Santa Clara University Law School?

Tim Buckley: Well, I took the LSAT while I was in Germany and applied to Santa Clara, was accepted there. And that was kind of a natural there, because Connie is from that area, the Bay Area. She is from a little town up below San Francisco. So we settled in Santa Clara. I worked there prior to going there and then I worked my way through law school; and anyway, so that's how I got to Santa Clara.

Steve Vartabedian: So that would have been in the fall of 1970? Is that correct?

Tim Buckley: Fall of 1970.

Steve Vartabedian: Was it very difficult dealing with the academic rigors of law school after having spent two years away from formal education?

Tim Buckley: Actually, not at all. When I said there was a pivotal moment, the pivotal moment was going in the Army—because I really grew up, I think partly being married to Connie and being in the Army and getting a little bit older. I was not as irresponsible as I once was, and so consequently, when I went to Santa Clara, I focused. And one of the things I did was I worked 30 hours a week while I was going full-time days; and instead of being bad for me and hurting me, I think it really helped me, because that way I didn't have an abundance of time to mess around. And then we had a baby, Allison, when I was in the beginning of my second year. And all of the time that it took to take care of responsibilities—work and so forth—really meant that when I studied, I focused. And I did okay.

Steve Vartabedian: As you read your case books, did it ever creep into your mind that you would one day be authoring those types of opinions as an appellate justice?

Tim Buckley: No, because one of the things that I didn't like about law school was the case-study method. One of the criticisms I had with law school, and still have, is that they don't teach you enough of the practical side of the practice of law; and they simply have you read opinions and of course study the law abstractly. And I'm a big supporter of clinics, of internships, and real preparation for the practice of law. So no, it didn't dawn on me at all.

Steve Vartabedian: In fact, I followed you to Santa Clara Law School by about two years, although I didn't have the pleasure of knowing you then.

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I do remember that in your class there were a number of interesting characters and a lot of crazy goings-on. Would you share any recollections of any classmates or other experiences in law school?

Tim Buckley: I had an awesome class; I really had an awesome class. And of course by far the most well-known, notorious, infamous, and famous person was Brian B. T. Collins. In fact, B. T. gave Allison, my daughter, her first baby present. Because in fact I also remember when he stood up in the middle of Evidence and I'd just had a baby. . . . No, when he just found out that Connie was pregnant, he said, "I just want everybody to know that Tim is not shooting blanks." It just was so perfectly B. T. And of course, B. T. went on to become legislative liaison, chief of staff

for Jerry Brown at different times; head of the CYA, head of the CCC, and then a legislator. And truly one of the two or three most remarkable people I've ever known.

Steve Vartabedian: So you come to 1973; you now graduate and you have your J.D. degree and bar membership in hand, after passing the bar. And you had a resume that included a law review associate editorship. You decided then to head back to Kings County rather than explore the inner halls of the Bay Area legal establishment. Why?

Tim Buckley: Well, I knew that some of my friends were staying in San Jose, and to me it didn't make sense to stay in San Jose, because I didn't have any clientele. I didn't really know anybody, and actually I had no thought of going back to Kings County either. Even though I had focused and I was somewhat more responsible, the path I took to getting to Kings County started out irresponsibly. I figured, well, I want to live somewhere where the weather is nice and I'll be happy. So Connie and I talked about different areas and we said, well, we like Placerville, we like Redding, we like Grass Valley—Connie used to have horses there. And for some reason I applied to Eureka, and I don't know why; I think it's because it was my family home. But we would have been miserable there; the weather in Eureka is not the best.

So I sent a cold letter—didn't know anybody in any of the places—sent a cold letter applying for a job in very small firms, because none of the towns were big. And I got no response. So I was shut out by the four places I applied to. And then by serendipity, my brother-in-law was good friends with and had an office right next to a lawyer there, who offered me a job in Hanford. So I went, ended up going to Hanford, even though I had sworn I would never go back to Kings County; and I did, and I haven't regretted it since. I love Kings County; I love the small-town atmosphere. When I talk to young lawyers, I encourage them to go into small towns and point out that there is far more opportunity in small towns than there is in big cities, because you're not a non-entity in a small town. And of course—I have to tell them—I said, "Of course if you're a loser, then of course that's tougher, because then they know you're a loser."

Steve Vartabedian: Everyone knows you, anyway?

Tim Buckley: That's right.

Steve Vartabedian: One way or the other.

Tim Buckley: Warts and all.

Steve Vartabedian: Tell us about your law practice—the kind of cases you handled and things of that sort.

Tim Buckley: I did a little bit of everything. In a small town, especially starting out, you can't specialize—you'll go broke. And I was in business for myself. I was working as an associate in an office with Bill Dunn. Bill is, as hard as it may be to believe, Bill was a wilder B. T. Collins. The guy was a wild man, absolutely a wild man. I remember going through his files the first day I got, first week I got there, and there were six files of *People v. Bill Dunn*. He used to go into the bars and fight. He'd get drunk and fight as a lawyer and then they'd arrest him. They'd charge him with disturbing the peace or battery and then he'd go to trial. And he was a fantastic criminal trial lawyer, defense lawyer, which was what he was.

(00:25:03)

And he'd win; he won every case. And he was larger than life in so many respects. One respect was he was huge—he was 350 pounds—and had a Fu Manchu moustache, shaved head, and carried a gun.

Steven Vartabedian: Like someone out of the Old West.

Tim Buckley: He was out of the Old West. And he was ferociously supportive of his friends. He was irresponsible in the fact that he didn't take as good a care of his clients as he should have at times. But he was just a phenomenal experience—although I knew I had to get out of his office, because it was not a good place to stay for a while. But I loved Bill.

Steven Vartabedian: Within just five years of starting your practice, the opportunity to become a judge arose. Tell us about that, and whether you had any regrets about leaving the role of being an advocate as a private practitioner.

Tim Buckley: No, no. Actually, I didn't like being a lawyer. I didn't like being a lawyer for several reasons, number one of which, I hated billing my time. At the time the going rate was 90 to 100 in a small town, and I said to myself, "I can't bill this guy $100 an hour, I'm just bullshitting with the guy. I mean, how can I charge him for that?" And so I wouldn't bill like I should. I never cared about money; I never had money, so I didn't really worry about accumulating a lot of it. But I really didn't like billing my time.

And also, strange as it may seem, given my earlier upbringing, at least the way I was—well, not the way I was raised, I was raised very well, but the way I conducted myself—I actually was pretty conscientious as a lawyer. And I would take my clients' problems home with me. I would work weekends, work nights, couldn't go away on vacation—because I would be too worried about something, passing by a statute running or whatever.

And I was starting already to burn out, because in a small town if you're friendly with the people—and one thing I am, I know, is friendly to people—you tend to get people coming in your office. And they may not have the biggest cases, but they're all important cases to them, and you want to help them. And so it was just, it was not a good thing. When the position came open, I was encouraged to apply for it, and I did.

I always jokingly tell people the truth; and that is, well, it's not as if I didn't have a leg up. One of the supervisors was my . . . was appointed by the board of supervisors in the justice court. Kings County had no municipal court, so it was all justice court, and I was the only . . . Hanford was the only full-time justice court position in the county, and that was the position I was openly appointed to—or to which I was openly appointed, to be correct.

Steven Vartabedian: English training.

Tim Buckley: Yes, the English training is coming in, although it is correct now to end a sentence with a preposition.

Steven Vartabedian: They say that it's okay now, it's true.

Tim Buckley: Yeah. I don't like it though. But anyway, one of the board members was the father of my law partner, because I had gone in with a different law firm, Sharp, Maroot, Behrens & Buckley. And then another law partner was the father of the girl I'd taken to the senior prom and a client, and then another board member was the guy who did the mechanic work on my mother's car. My father passed away, unfortunately, just right then. So I'd like to think I would have gotten it anyway, but who knows.

Steven Vartabedian: As would happen in a small town, as I recall, wasn't it Bill Dunn that . . . did he have a position on the court?

Tim Buckley: Bill Dunn had been my predecessor judge.

Steven Vartabedian: He was the predecessor judge as well?

Tim Buckley: Uh huh. And Bill had passed away. And so when his position came open . . . And of course you and I go back a long way, because you were a young judge on the Sanger Justice Court, helping me out, because you were part time and I was full time. You would come over occasionally and help out, and that's when we first met.

Steven Vartabedian: If I may interject this . . . Whenever I'd come over to your court—I traveled around among justice courts—was the most pleasant time I spent in any court. I think that's because of the way you treated your staff; the people were just wonderful.

Tim Buckley: I love my staff.

Steven Vartabedian: And I think that's one of the true indicators of your success—is the way you treat people that you work with. And that's something that I certainly have seen over the years.

(00:30:03)

Justice courts no longer exist in California, and again we've got some listeners who are going to be wondering, what's a justice court? Could you describe the work that you did in the justice court?

Tim Buckley: Well, maybe I'll first describe the justice court, as I described it to a fellow graduate from the Santa Clara Law School who was dumber than a brick and who asked me, almost in an attempt to be insulting, he said, "Well Tim, what's, where, is the justice court located?" So I said, "Well . . ." I won't say his first name. "Well, Blankety-blank, San Jose doesn't have one. But actually if San Jose had one, go down to below the basement in the San Jose Municipal Court, and you will see a row of chairs and benches, and then you will see like, almost like a big crate, and what's where the justice court judge, he sits behind the big crate and he arraigns dog license violations and parking tickets. And that's the justice court."

The guy looks at me and he goes, "Really?" And he was serious. He said, "I'm going to go down and look." And I said, "Yeah, go down and look for it." But the justice court really was in all respects a muni court; the only difference at that time was it was not a quote "court of record," which really as far as I'm concerned is a distinction without . . . Even then it was a distinction without a difference, because in a justice court we do all of the same misdemeanor cases, preliminary hearings, and so forth that a muni court did. The only difference being that not all proceedings were required to be reported in a justice court; and one of the beauties of that is—and it could be a vice if you were a rude, vindictive judge, and it was good though if you really tried to do justice—and that is that you could really formulate dispositions and sentences to really help people.

Steven Vartabedian: Yet another opportunity was presented to you in 1984; an open superior court judgeship in your county went on the ballot. How did that come about, and did you face any opposition? What were the mechanics of your becoming a superior court judge?

Tim Buckley: Well, you probably remember that situation. *[laughing]* What happened was, in 1982—was it '82? Yeah, I guess it was 1982. I had nine years on the bench as a lawyer; I mean, nine years as a lawyer. And when the superior court position came up . . .

I had always hoped to move on to the superior court, and that obviously was my goal.

But I wasn't eligible because I didn't have 10 years in, and so Governor Brown appointed an out-of-county lawyer to come into Kings County and become the superior court judge. His name was Dennis Beck, and this didn't set well with certainly the bar—initially the bar—within Kings County. And Dennis initially was seen as an interloper. And as it turned out and in retrospect, he did an exceptionally good job there in Kings County.

Steven Vartabedian: He's had a distinguished career on the federal courts as well.

Tim Buckley: He has, he has; he really was a fantastic judge in Kings County and is a good one now, an excellent one now. But at the time the perceptions were different. And of course, he actually is a year younger than me. With my hiatus in the Army, I was a little behind in the logical—in the chronological—appointment sequence or whatever you'd call it.

And so I saw him as a young judge—good-looking, articulate guy, bright, and I said, "I'm stuck here forever." So when he came over to see me, I told him that I would do anything I could to help him, but I couldn't become his friend. I said, "I have nothing against you, but I'm going to run against you in two years."

And he was taken aback, and I don't blame him, and I don't blame him if he was very upset with me; although to his credit, he was a gentleman at all times. And I just explained, I said, "Look, if I become your friend, and I . . . It's hard for me not to become a friend of people. I would feel like I was stabbing you in the back if I ran against you, and I wouldn't do that. So I have to do it this way, otherwise I'd feel bad."

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So he said, 'Well, I guess we know where we stand." And I said, "No, I don't mean to offend you, but it's just the way I have to do it; I cannot be a double-dealer with you." And ironically we're good friends now, and I have the highest respect for him.

Steve Vartabedian: In fact, he didn't run for the—

Timothy S. Buckley: He didn't run. Well, I did have some friends in the area in Kings County since I was born and raised there, and what I did was, I did signatures in lieu of the filing fee. And I think I got like 9,000 signatures, which was about half the voters in the county, to sign my petition. And that was probably an indicator that at least I had some support.

Steve Vartabedian: So you reached the superior court in 1984. How did the types of cases change? I mean, what did you see as the difference between the justice or municipal court type of work as it was, and the superior court work? And did you have any preferences, pros and cons, as it affected you personally?

Timothy S. Buckley: Well, one of the things about . . . Most judges aspired to be a superior court judge if they were in the then-muni court. Of course now with consolidation they're all superior court. But I have always felt that the justice-muni court was in many respects the most important court of all of the court systems. And I'm digressing from your question, but I'll get to it in a minute. And that is because that really is the court with which 80 percent or 90 percent of the people have their only contact. You take out the jury process, which really is a skewed perception of the court, because you're only dealing with felony trials and only one aspect. But if you deal with people, if you talk about people who are involved and being charged or witnesses or whatever, you're really talking about their only real exposure being in a justice court. And that's why it's—or a muni court—and that's why to me it was always important to put on your best appearance, to show people that you cared about them, to treat them with respect.

So I enjoy that part of it. I love people; I truly love people. And most of the defendants, I like the defendants. And so when I went to superior court, that part of it was a loss for me, because in superior court you have that extra layer. You have cases that really you only see with counsel. You can't talk to the people; it's much more formal. It's all on the record, and of course the complexity is more so. Parts of the complexity I liked. I'm not saying I'm the deepest person around, but we do like to be challenged once in a while—and, you know, there is that challenge.

Steve Vartabedian: Tell us about some of your work in the trial court—any particular experiences you wish to share.

Timothy S. Buckley: Well, ironically, I've retired from the Court of Appeal and I sit on assignment. And as I tell people, and I've told you previously, I'm having more fun now than I've ever had in my life—Court of Appeal, trial court, because . . . And I think it's in part because I've grown or grown up or whatever, and I see things in a little bit different light. I always felt relaxed around the court setting. I unfortunately . . . and it is unfortunate at times; I have no governor on what I say at times, it's almost stream of consciousness. And that's stood me in good stead most of the time. I've made some gaffes at different times, but never maliciously or at least intentionally maliciously. And now I've digressed from the question. What was the question again?

Steve Vartabedian: The question was whether you had any trial court experiences that you wanted to relate.

Timothy S. Buckley: Oh, experiences? Well, that's where I was going. There are lots of anecdotes I could give, anecdotally. I had a ball, you know; good times with people.

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I try to make court a pleasant experience for everybody, and in doing so I tend to be a little—even less than—informal. In fact I'm extremely informal, and of course that leads to some interesting moments. I don't mean to go into scatological humor, but there is one incident that is interesting. In fact it was revisited in Fresno Superior Court last year when I sat there. But there was a case I had where we were about to start a jury trial and the defendant and his attorney were there, the venire was there. And I tended to be . . . In a small town especially, you definitely want to make sure your juries are well taken care of. If you're late, if you plea bargain at the last minute and send them home without an explanation, if you just . . . you know, they tend to stop showing up. So you really—and I think all judges are smart enough to do that—and we all baby the jurors.

And so consequently the DA wasn't there, and so consequently the jury was waiting. And after about five minutes, I'd called over to the DA's office, which is only 100 yards away in a complex. And I won't mention the attorney's name, but I was told he had left five minutes ago, and I figured he had stopped to talk to someone, which didn't please me. So finally I said, 'Well, we're just going to go out in the courtroom and wait." So we sat and we waited and we just . . . I said, "We're waiting." And I didn't make any comment about the DA, but it was obvious that that chair was empty. And so finally he comes in, and he was almost 20 minutes late. And I said, "Mr. Blank-blank, why are you late?" And he said, "Could I approach the bench, Your Honor?" I said, "No, venire has the right to know why you're late." And he said, "Do I have to?" And I said, "Yes, you do. Explain why you were late." So he said, "I had diarrhea." And there was a collective "Eww!" And I felt terrible. I said, "Oh my god, I'm sorry; I didn't know that." He said, 'Well, I tried." I said, "I know, I'm sorry." Well, as it turned out he won his case, I think in part because the jury felt so sorry for him.

Well, as it turned out, when I was doing a trial here in Fresno . . . and I tend to be very informal with jurors, and we get along great, and they're relaxed and so forth. And so there was one prospective juror who was always a little bit late from recess, and so they wanted me to hold him in contempt. Half-seriously, they said, "You know, you ought to have him cited for contempt." And he wasn't there and I said, "Well, I can't do that, I don't do that anymore." So I told them the story, and so the very next recess, when I came out, I think I was like 30

seconds late. I had come out and they were there and I came out and one of the jurors from the back yelled out, "Hey, Judge, do you have diarrhea?" And I thought, you know, we are getting way, way too informal. But I laughed and I said "No."

Steve Vartabedian: In a *Daily Journal* article that was done on you a few years ago you're quoted as saying, "In sentencing people, you have someone's fate in your hand. You want to make sure. You want to make the right decision for society and for them." That's the end of the quotation. Has it been your practice to convey this sense of responsibility to the parties, and have you ever gotten any feedback that you did or didn't make the right decision?

Timothy S. Buckley: Well, the sentencing is certainly the most important part of a trial court as far as I'm concerned, because society collectively always says "Hang them," you know, "Hang this person." And of course interestingly the same society, or individuals of the society, depending on whose ox is being gored, wants you to go easy on their brother and mother and whoever else. But be that as it may, what society doesn't realize is that a lot of defendants, especially . . . And now there are some defendants who are just evil, vicious people, and you treat everybody with respect, but it's pretty hard to get really overly compassionate for the evil wrongdoer.

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Unfortunately, I think now it's gone up a little bit; there are a few more evil people out there than there used to be. I always used to say that there were 5 percent, 10 percent who are really bad people; and most of the rest—in fact, the rest of the people, the other 90 percent or so—are people who basically made a mistake and got caught. The determining thing is that they got caught.

So consequently I never looked down on the people I sentenced. And I tried to every sentence I gave—especially those who were people who were a victim of circumstances, drug offenders, and so forth—I tried to sentence them, and I would give harsh sentences. I do practice tough love, but I tried to give it with the sense that you're being punished for something you did, not for being a bad person.

That's a big deal, because if you can leave a sentenced defendant his or her self-respect, then number one, it bodes well for that person's feelings about the system; it bodes well for that person's rehabilitation, if there is to be rehabilitation. And he doesn't feel that he or she got hurt just because . . . that he was worthless, he or she was worthless. So I would always make a point of talking about the family and giving them a carrot or two, such as "You've got great children, they'll be waiting for you. You need to make an effort to be an inspiration for them when you get out," et cetera, et cetera.

I seldom had any problems with people. In fact, in a small county you know everybody. I remember one time, particularly, it was interesting, when I was in the . . . I work out in a gym regularly. And at one time I'd counted, I think there were six or seven people I had sent to prison and who were out on parole or on felony probation who were spotting me, and I was spotting them, with the weights; and with one exception we got along great. I would talk to them and they had no animosity.

Steven Vartabedian: At what point in your tenure on the superior court did you sense you should put in your name for the appellate court?

Timothy Buckley: I know some people have a destiny; I don't have a destiny. My life has always been one of—and I used the word before, but—serendipity. I wasn't even thinking of applying for the appellate court. Steve Barnes, a friend of mine who is a lawyer, suggested I apply to the Court of Appeal. I said to him, I said, "Look, I don't have any clout, I don't know anybody, I don't have . . . I'm absolutely inactive in politics, and I always have been. I wouldn't have a prayer; why would I do that?" He said, "No, you really should do it." So he urged me to and I did. I said okay.

So he was really the primary reason I applied. I had no illusions or ambition, I just . . . it was available, there was an appointment to be made. I said, "Well, okay, I'll apply." So through that and through my life's experiences, I had always, I had developed a feeling about how to do that type of thing. It was kind of interesting about my political life because I have . . . I'm probably in some ways the least political person you know and in other ways the most political. In other words, I'm friendly with people, so in that sense I'm political, because we all want to be liked and obviously I liked to be liked.

I don't know a stranger. I always liked people and would talk to people, but I never went to meetings; I never got involved in politics. I really don't like the two-party system, to be honest. I think there should be a third party called the Moderate Party, where you don't have to be polarized and go to one extreme or the other.

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Ironically—and this is kind of interesting—ironically I was raised a Democrat. In fact, I'm probably talking a little out of school here—but do I care? I was a young lawyer in Kings County and Jerry Brown's people asked me to be his campaign chairman, in Kings and Tulare County, back in the '70s. I remember the phone call vividly. I said no. I said, "It will take too much time." "No, it won't take any time. We'll do this now; all you have to do is lend your name, because you were born and raised in the

area and you're an attorney." I said, "No, I really—I wouldn't be a good person." I said, "Sometimes I don't even vote." I said, "I'm just, I just don't . . . I'm not a political person." "Oh, it's okay." And finally, after about the third or fourth reassurance, I said, and I quote—and I'm going to elaborate on it, because it needs to be said—I said, "F***, I can't stand the son of a bitch."

"Oh, well, if you feel that way about it." Well, as it turned out—and actually, and this is what the rest of the story is. There have been several situations where I have, both in friendships and where I have proved myself, been proved wrong. The main reason I didn't like Jerry Brown was because of some of the appointments he'd made to court. At that time even though I was a Democrat I'd fancied myself as being somewhat conservative in law and order.

Sociologically I have a lot of agreement with what Jerry was doing. But it was just that thing that was clouding my view, and I said that. So they dropped it. So we fast-forward to 1982 when Dennis Beck was being appointed. And I had a couple of good friends in Brown's department, and it wasn't B. T. Collins. Apparently to his credit, I'm told that Jerry Brown was not unfriendly to the idea of appointing me, if I had the 10 years in. Well, anyway, when I ran against Beck, or ran for the open seat and Dennis didn't run . . . But there was a person in Hanford who—no, Lemoore—whose daughter I had gone to school with and who was a good friend of a good friend of mine. And he was a seven-time chief of staff or advisor to Gordon Duffy, who is like an eight-term legislator, a very powerful legislator from Hanford.

So he called me and said, "Tim, would you want me to run your campaign?" And I, of course said, wow, okay, because I didn't know how to run a campaign. So he started doing everything. And then we had a talk, and we talked about politics. He knew my views. He said, "Why don't you just register as a Republican?" I said, "Look, I'll register as Republican if . . . After the election I'll register, because then no one can accuse me of being political and doing it for aggrandizement and for future . . ." Because in 1984 I had no dream whatsoever of going to the Court of Appeal. So I did change to Republican; and then in 1990 when the opening came up, and it was fortuitous that I was then a Republican.

Steven Vartabedian: Who was the Governor at that time?

Timothy Buckley: Deukmejian, great Governor. In fact, it was kind of a humorous . . . well, you know me; and of course my wife, if she ever watches this, which I will discourage her from doing, would die if she knew that I said this. But when I was appointed by Governor Deukmejian, the *Fresno Bee* called me and said, "Well, why do you think the Governor appointed you?" And of

course, since I'm seldom serious about the small things, I said, "Hell, I don't know; obviously, he doesn't have a clue." And he said, "Can I quote you on that?" And all of a sudden my life went right before my . . . and my whole life passed before me. And I said, "Oh my god, don't; he would withdraw the appointment." I said, "Don't do that; my wife would kill me." So then we kept on talking and pretty soon I said something else that was somewhat irreverent. So I said, "I'm just going to hang up now, okay." Bam. So, anyway.

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Steven Vartabedian: And part of that process, of course, is that the Governor will submit for evaluation the appointment of names that he would be handing down for the Court of Appeal. The Judicial Nominations Evaluations Commission meets and, in fact, does interviews with people. That's the JNE Commission. Although you had served two judgeships, you had never gone through that process before, because you were appointed by the board of supervisors and elected to the superior court. What was that experience like, the process of being interviewed, and what were your reactions to it?

Timothy Buckley: Well, you're a cagey guy; I know where you're going. It was really, it was nice. Actually it was kind of funny, because I was a midnight appointment of Governor Deukmejian. He was terming out, so they really didn't have time to do an in-depth one. In fact, I was told by the interviewer at a confirmation hearing, he said, "You know, we really didn't uncover any negative on you." I said, "Well, you only had two weeks," and he did. So anyway, at the JNE interview, I remember a person, I won't mention the name . . . you're supposed to submit 10 of your quote "big" cases.

Well, how do I know what a big case is? In Hanford or any county, a big case to one is a small case for another, and I was really offended by the question. I said . . . She said, "You know, you really haven't done any important cases." That's what the person said: "You haven't done any important cases." It bothered me. I said, "Well, they were all important to the litigants; isn't that the whole purpose?" I'm not out to make any impact. Anyway, so yes, that part, I thought that was . . . I didn't like the question.

Steven Vartabedian: Though it wasn't easy, as you might have felt, you evidently came through with flying colors; and as you say, you received what you called a midnight appointment and took office December 27, 1990 . . .

Timothy Buckley: Yeah.

Steven Vartabedian: . . . to serve on the Court of Appeal. You've alluded to this a little bit, and I know it's an overused phrase, but I think it fits you, that you're a people person well suited for the amount of public contact that one has in the trial court. The Court of Appeal is often referred to as a cloistered environment. Did you find that to be the case? And if you did, how did you adapt, being the type of person that you are?

Timothy Buckley: Well, I have . . . and I was told beforehand, oh, you just won't like the Court of Appeal; that's an ivory tower mentality and this and that. In fact Jim Ardaiz, when he said, when I asked him about the workings, he says, "Well, just picture yourself writing a term paper for the rest of your life." And I said "oh." But I got here. It is cloistered in one respect, but it's not cloistered in all the other respects—that is, that the people who work here are people.

Even though I'm perceived to be a people person who needs a lot of people around . . . but I really don't function well in large groups. I feel very uncomfortable in a large . . . like at a cocktail party. I just hate those things because, you know, they're boring. But one on one, in a small group, or even being an emcee—and I'm an emcee for a lot of things—it doesn't bother me. But here, I came here, and we had then about 70 people; and quickly, as far as I'm concerned, they all became my friends. So when people would ask me, "Well, how do you . . . isn't it lonely up there?" I said, "Lonely? I've got 70 friends when I get bored or whatever I can go out and talk to." And I did. I would go into the different chambers. I'd go down to the clerk's office. I'd go talk to the attorneys and found out about the kids and all this stuff.

One of the things that is true, though—and it's a regrettable reality of the appellate court, at least here in the Fifth District—is that there's not as much interaction about the cases prior to it being argued and prior to the pre-oral meetings and so forth. There is some interaction as far as on a particular case if there's a real question, but as far as two or three people really brainstorming an issue, it doesn't happen as much as I had thought it would.

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We tended . . . I kind of fell into it. We tend to become a little insular in what we do in our chambers.

Steven Vartabedian: What do you like most about appellate work?

Timothy Buckley: I like the fact that . . . well, let me digress; I really have to digress, just for those who don't how the system works in the Court of Appeal. Unless it's a routine disposition case, a case of low complexity and no publishable issues, et cetera—and that isn't very common even—a judge rarely does new work on a

case. In other words, what happens is the case is worked up by the research attorney and the judge is an editor and edits, can make changes; can accept in toto the opinion; he can brutalize it, tear it apart, and whatever.

But it really is first worked up by the staff attorney. I actually had somewhat of a background in writing: English background, I was an English minor. I used to write—I actually wrote, it was published—some poetry when I was a kid. Of course in a small town; I mean, not exactly a big deal. But anyway, so I enjoyed that part of it, and what I found happening was—and I will speak only for myself, because there are other judges here who are not the way I was—but I found myself getting a little lazy. I tended to rely on my staff attorneys; and of course, one of the problems with that, one of the realities was, I had, I think, two of the five or six best staff attorneys in the court, and I know the other judges feel the same about theirs that I did about mine. And Lesa Dodd and Bob Lindsay were exceptional attorneys. So the work they gave me was great work. So I found their work being so good that I found less need to do original work, just to do original work.

I always had the view if you . . . if what they were saying was right, why did I need to put my stamp on it and maybe change what really is a good opinion—just so that I can say, "Hey, that's me"? So I liked being an editor, and I found myself being very comfortable, becoming very comfortable as an editor; but it did mean that I didn't do as much original work as when I first started. Because when I first started, I had a couple of attorneys here who were brand new to the court. In the first year I think I wrote probably half the opinions, either in large part or in whole. At that time I thought I was never going to survive; and then I was fortunate to hire—I say hire, to have come onto the staff, Lisa first, who is beyond exceptional, and then later Bob. And of course, Sharon Refuerzo was a great lawyer with me, but she was only part time.

Steven Vartabedian: How would you describe your judicial philosophy?

Timothy Buckley: I don't . . . that's actually one of the questions I did think about. I really didn't try to prepare too much for today, partly because I'm lazy and partly because I didn't want it to come across as pat answers and then worry about saying what I had planned. But I did think about that question. I don't think I'm deep enough to have a philosophy. I tend to . . . in oral argument one attorney once said, "Well, I've read your opinions and I've read about you and I know you're a strict constructionist." Yeah, I guess I am a little bit of that. In other words, if a statute says something, it's our job to interpret the statute within the constraints of the language of the statute, unless it makes no sense or unless there is some clear evidence that the wording isn't intended as it may sound. Of course, that belies or goes against the strict constructionist mindset.

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But generally I probably tend to look at things in that regard strictly. Although I have been very willing to . . . well, going back, one of my mentors on the court—actually that's another story, that's a story worth telling, so I'll tell that in a different context, maybe in a few minutes—but he always told me to do justice, do right. So we're not at liberty, if there's a statute right on point, to refuse to apply the statute; so we do. But that doesn't prevent us railing against the statute and its effects, and urging the Legislature to change it. But no, we don't have the right to simply say, "Well, it may say this, but I'm not going to follow it."

Steve Vartabedian: Two of the colleagues who both you and I served with, Hollis Best—Holly Best—and Bill Stone, unfortunately passed away within the past couple of years; and certainly we're not going to be able to get interviews with them for this particular project. Would you be able to share some of your thoughts about them, your service with them, anything that you'd like to tell us about those two individuals, who were definitely two fine members of our court?

Tim Buckley: Well, there are those two—actually I have three. There's George Brown who I really want to mention also.

Steve Vartabedian: That's right; he was a pro tem here while you were—

Tim Buckley: Right. He did serve with us quite a bit actually; he was a pro tem. Those were George and Hollis, Holly Best. George Brown and Hollis Best were the two people in the law who I most looked up to, at least who I knew personally. First in time was George Brown; of course he was the longtime presiding judge. I had an interesting first meeting with him, and it's worth sharing because I loved the guy. He had been a long time retired, at least four or five years before I came on here, and he's quite older, but just a giant in reputation. And I don't need to recount and embellish his reputation; it's as good as it gets. He was on the short list for the Chief Justice. In fact, he would have gotten it, but for Don Wright.

But anyway, he was sitting pro tem and there was an opinion I wrote, and in the opinion I had, as I do, I had gone a little whimsical. And I had cited Nick Dibiaso and I had made a fictitious reference to his . . . I think I entitled it, in the opinion I . . . and it was not an opinion that was going out, it was one that was going to be in-house, and I was going to delete it, which I did. I think I entitled it "Ruminations of a Water Closet Intellectual," Nicholas J. Dibiaso, San Joaquin College Law Review—and they didn't have one at the time. I made this fictitious date and issue number and whatever. So I go into the pre-oral and Tom Harris had looked at it and he says, "Where's

this law review? I haven't read this law review." He thought it was real. And I said . . . and then Ardaiz came in and he hadn't read it either, but he looked and says, "Oh, that's just made up; that's Buckley."

So anyway, we were all going to lunch that noon, as we used to do, at the farmer's market, and George was going with us. And they were talking about that incident and George looks at me real disapprovingly. He didn't know me—I was a brand-new judge—and he says, "Well, I guess some people don't take the law seriously." And rather than be rebuked, I looked at George and I said, "George, I don't take anything seriously." And he looked at me and he started laughing. And so we would talk, and I was honored, because I was the guy . . . I mean, he would tell me, he said, "You're the guy I want to go to lunch . . ." So we'd go to lunch a lot, and we became very good friends. The guy was the kindest, sweetest man I knew. And then of course Holly Best, who was truly my mentor—and of course, he's like B. T. Collins.

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Everybody who knew Holly and everybody who knew B. T. always felt that he or she was Holly's best friend, best mentoree, protégé, so to speak, and was the best friend of Holly and the best friend of B. T. And Holly had that gift of having everyone believing that he or she was special because they were to Holly. And so Holly was one . . . in fact, a little aside, we have our own hours here at the Court of Appeal. And I traveled from Hanford, so it was a long trip—well, not that long, it was 35 miles, but I would never . . . When Holly was PJ, I would never leave here before Holly. He left at 4:30; I would leave at 4:31. I could have left at 4:00. But I would stay out of respect to Holly, because I didn't want to have Holly think less of me. I would stay till 4:31; then I would leave, just because of how much I liked and respected Holly.

And Bill Stone was a contemporary of ours, and I was blessed to be asked to give the eulogy at his funeral and then a memorial in the county, the memorial process. Bill was probably the dearest, sweetest person I've ever known; I mean, he just was absolutely . . . I'm going to tear up if I talk about it too much more, but he was just awesome.

Steve Vartabedian: You've got me tearing up too.

Tim Buckley: I know. He was just incredible. He was the most Christian man I knew, and I don't say that with a big "C," even though it is with a big "C"; I say that with a small "c" too. He just lived his life. He was the most gentle, sweet man I knew.

Steve Vartabedian: Moving on to a little different subject, although this court hires and retains chambers attorneys as permanent staff, for a few years we . . . at this court, the Court of Appeal, Fifth District,

had a pilot project where third attorneys worked in chambers and they would serve for one or two years. Although it wasn't exactly a clerkship program, you might analogize it to that. I just wondered, what are your thoughts on having career research attorneys as we do, versus annual or semiannual clerks?

Tim Buckley: Well, I'm firmly on the side of career attorneys. With the volume we have, or we had, I think it's counterproductive to have a two-year turnover or even a three-year turnover, because there is a learning curve with research attorneys. It takes them at least six months to a year—and I'm just generalizing—but to really, to know the ropes, to know the boilerplate things you can put in there, that you have to put in to support an opinion, rather than reinvent the wheel each time you're doing a case, until you have a backlog of and a reservoir of knowledge. I don't think the most important part is learning how to write for the judge; I don't value that much. I think an attorney needs to write the way it should be with an eye toward what the judge wants, but should first be true to him or herself. And I think to a large degree, that's what they are here. But I think that if you were to scuttle or abandon the career attorney program, you'd be doing a disservice for the taxpayers. Basically then what you're saying is, is that you're giving job opportunities to all the graduates so that they can go on to, quote, "bigger and better things." And that makes no point to me; that has no purpose, I think.

Steve Vartabedian: Let me go back to that interview that I quoted you from earlier, and that was a 1996 interview with the *Daily Journal*. You cited the case of *Huggins v. Longs Drug* as your favorite case, a case which you published in a 1992 opinion, but it was reversed by the California Supreme Court in 1993. As you look back, is it still one of your favorite opinions? And tell us why if it is.

Tim Buckley: It's still my favorite opinion. And interestingly it was a matter of pure law, because in reality—at least from what we knew from the record, and the record really didn't indicate how much the child suffered, if at all—but as a point, what happened in the *Huggins* case was, a doctor had written a prescription for a child who was suffering from some upper respiratory infection.

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And the pharmacist misread the note and prescribed a dosage that was 5 or 10 times the amount needed. The child became, not comatose—that would be the wrong word, because that's more of a medical definition—but became lethargic at the point of being in danger.

So the parents were administering the medicine to their child, baby, and were unaware that the dosage they were giving was potentially lethal. And so when they took it back in for renewal,

the pharmacist said, "Oh my god, this is the wrong dosage." And then the baby came around, at least as far as we know, and the parents ended up suing on a *Dillon v. Legg* theory—negligent bystander, direct-victim theory. And the Court of Appeal, I mean the trial court, granted a summary judgment, and so it came up to us. And it was one of those where the research attorney had really written it to affirm. And I disagreed and I rewrote it myself, which is probably my first big mistake, and because I strongly felt that it was the other way. And so I concluded that under the direct-victim theory . . . and I think some of the wording I used was, "How can you fail to consider the rights of a mother or father who may be administering a potentially lethal dose?"

In other words, what if the baby had died or became, suffered from, severe palsy or was comatose for life or whatever? Are we going to say that there is no direct victim where the parent is administering the lethal dose to the child? No, of course there's a direct-victim theory. Well, and that didn't carry the day in the Supreme Court. And as I think I mentioned before, I really am not criticizing the Supreme Court; they're right as a matter of law. They're the last word. But I felt then I was right, and I still feel that I wrote the right opinion. Now, as to whether not that's the right legal opinion? Obviously it's not.

Steve Vartabedian: I wasn't on the opinions panel, but I know when I read your opinion I thought it was well reasoned in terms of this direct-victim notion. And certainly it was a measured step—not a big leap, but a measured step.

Timothy S. Buckley: No.

Steve Vartabedian: In expanding this notion of duty on those kinds of cases, the notion—

Timothy S. Buckley: Well, one of the . . . I think the thing that there was in the opinion, the author of the opinion wrote that there was no legal authority supporting my view, and that wasn't right. There was legal opinion, and in fact I cited several cases that did support it—not directly, because it was a case of first impression. But I did think that was wrong, as to whether or not as a policy issue it should have been reversed? Certainly it had some policy implications; I mean, it was potentially a huge case. I mean, if it had gone the way I had written it . . . and I can understand a policy, and we can't do policy in the Court of Appeal; that's for the Supreme Court. I can understand as a policy reason why it wouldn't be, because the potential interpretation could be enormous.

Steve Vartabedian: Of course, once the Supreme Court took the case, even if the majority had agreed with you and the panel that you served with, your published case would have vanished from the books. Do you have any thoughts about this de-publication effect, both

in cases granted review and also in those cases that are just straight de-publications?

Timothy S. Buckley: Actually, I know a lot of the justices don't like de-publication, and there have been cases de-published of mine with which I've disagreed. But I don't like—I would hate to see everything published. I think there is a right, I think there is a need, for de-publication of some cases; because as I sit back . . . and I'm very cognizant of it, sitting back in the trial court and realize that if every case were published, a trial judge really could find anything he wanted to support his or her decision. Because unfortunately with . . . and maybe we can go into writing style too, a little later.

(01:20:05)

But unfortunately there's so much dicta in Supreme Court cases, appellate court cases, that there are improvident, there is improvident, language in many opinions; and some of which doesn't necessarily support the underlying result in that given opinion. So yeah, if every one were published, you could pick and choose from any variety of cases and then find support.

Steve Vartabedian: You anticipated my next question, because right now as you know there is a movement to publish everything. Few people—

Timothy S. Buckley: I think that would be a disaster. I think that would be a disaster, just because not every case is worthy of being published, not every case. And I think not that it's not worthy of being published—maybe that's the wrong word. I think the real vice is that you could have, as a trial judge then—depending on which way you wanted to go, you could find a case to support you anywhere you wanted. All you have to do is just check all the . . . and go through LexisNexis, find the right words, and by golly, there's a case. And that's one of the good things about published cases now, is that we as judges determine that it's—"well, this is really important." And significantly—and I'll only speak for myself—I know when I wrote a published case, when I published a case, there was extra care and consideration given, for the obvious reason that if that was a case that was going out there that would influence trial courts . . . And so you wanted to be extra careful. And ideally we should be as careful in every case we do, but that's not reality.

Steve Vartabedian: Is there anything else you want to tell us about your experience on the Court of Appeal, including matters of writing style or other cases you might have authored or any other experiences that you might have had?

Timothy S. Buckley: Well, I think I would be pretentious if I went into the cases I have authored. Let me say firstly, whenever I would get comments from people—attorneys or other people—"Gee, that

was a great case you wrote." My stock response, which was a valid response, was, "Well, gee, don't thank me. Thank Lisa or thank Bob or thank someone else who wrote it. I mean, they did most of the work on it." So I don't have any illusions about me being involved in momentous cases. I mean, eventually they'll be changed, most of them, and they'll be overturned or modified. And I haven't had any that I'm aware of, seminal cases on an issue where . . . And there may be, maybe there is one or two, I don't know—but I've never cared about that either. As far as writing style, yeah, I have very strong ideas on writing styles. I think briefer is better. I think the old KISS, the acronym KISS, makes sense in every way of life, especially in the appellate court: "Keep It Simple, Stupid." I believe that the Supreme Court opinions are way too long; I think many of the appellate court opinions are way too long.

The way I looked at it . . . and I looked at it probably because I'm lazy. I figured if I'm going to look stupid and be wrong, I'd just as soon be stupid and be wrong on 3 pages than do it in 20; and the longer your opinion is, the more opportunity you have to be criticized. Because I think it's inevitable; the longer the opinion is the more likely there is to be some loose language that could be misinterpreted. And there is way too much dicta in the opinions. Heck, all you have to do is look at the Cal.2d's and Cal.3d's and now Cal.4th's, and just count the pages in the Supreme Court, for example. In the Cal.2d's there was good law written there, and you will see an opinion that may go 5 pages on the average. In Cal.3d you may see it go 10 or 15. Cal.4th it's probably 15 to 25 and up. I mean, what's the point? So yeah, I have very strong feelings about that.

Steve Vartabedian: Is there anything in particular that you miss about the job since your retirement in September 2004?

Timothy S. Buckley: I miss the people. I don't miss the appellate work; I don't miss the Court of Appeal at all. I love being in the trial court. I miss my friends here, and I count everybody here as my friend. So I miss my friends here at the court, and that's the only thing I miss.

(01:25:02)

I love the people; I love the experience I had. But when the other . . . And I know this is anathema to other appellate justices, and of course they'd never watch my interview anyway; they wouldn't care. But I would always get these comments: "Gee, you must be working hard in the Court Of Appeal." And I would say, "What? I'm not doing any work there; I mean this is easy." I said, "I've got bright lawyers, I've got bright people with whom I work, they're doing all the work. It's the trial judges who are really working hard and have the pressure." And it's true. I mean, we have 90 days to get an opinion out once it's submitted, so we have a lot more time

than that beforehand to, at our leisure—and I don't mean to use the word "leisure" in a pejorative way—but we have the time to really construct a reasoned opinion as to what should have happened, whereas the trial court has to make a split-second decision and risk getting it wrong, because there is no luxury of time. And that's a big deal.

Steven Vartabedian: And you've talked about the fact that you have gone back and you are now working in the trial court in the assigned retired judges program. Was it very difficult to make this transition back to the trial court, after being away from it for about 15 years?

Tim Buckley: Well, yes and no. I thought it would be very difficult for me, but I slipped right back to it more easily than I thought; the difficult part is, is that I just got handed my first reversal—Et tu, Brute—and on one of the first cases I handled. But in fact when I got it, I laughed, because I said, "Well, I've always known how it felt and now I'm reminded." But it's all part of the process. Now it's actually become much easier than I thought.

Steven Vartabedian: Have you noticed any changes in the trial courts over the past 15 years, now that you're back in the trial court?

Tim Buckley: I think there is a little more, even more than it was, of looking over your shoulder. I think the problem is, some of the trial judges probably worry too much about what people think of them instead of simply doing what's right and not worrying about it. And that's no indictment, that's reality. I mean, it's become such a competitive process, such a hotly contested process at elections, that there's a tendency to worry about your security and this and that.

Steven Vartabedian: You for one seem to be enjoying your present work.

Tim Buckley: Oh, I'm having a ball.

Steven Vartabedian: And I have it on good authority that the people in the trial courts really like you too. To what do you attribute this success that you've had with it? Is it just something that you've been able to draw on from your past experiences, knowing you enjoy the work with people, or is it something else?

Tim Buckley: Well, I don't know if I've had success. I do have . . . I sit in some of the different counties, and I've dealt with all types of different lawyers. And I've always felt, found, that if you treat people with respect, lawyers . . . In other words, I tease the lawyers a lot, and I'm very informal in this and that, and hopefully they know it's teasing. But I would never purposely humiliate a lawyer. I would never degrade or humiliate a defendant. I really do . . . heck, I'll go out there in the Raymond court and say, "I love you people," you know; and they look at me like "What?" And you know, but if you take the

time to listen to the problem . . . and then I'll tell them, I said, "I love you, but it could be tough love." And if you have to put some guy away, or some woman away, it's not . . . you don't like it, but you have to do it, because you have to enforce the law and get their attention.

But no, the people have been just great to me. I think they realize I'm old and they take some pity on me. I think that's what it is.

Steven Vartabedian: I don't think that's it; I don't think the age is a factor at all. Now when you're not serving an assignment, how do you spend your time? Maybe you should tell us about some of your hobbies. And I know you're quite the collector; if you can tell us—

Tim Buckley: Well, I am a collector; in fact, at one time I was thinking when I retired from here, I would be an estate . . . handle estates, buy and sell estates, appraise, and so forth. And then I realized that would be stupid, because then I'd probably go broke and then I'd have to hire people and payroll and all that stuff.

(01:30:03)

So I just basically like to collect; and I like to do a little of this and that. I like to travel around to the different courts. I tend to stay busy, but I don't really, I don't have any . . . Connie, my wife, trains in Hunters & Jumpers, and she actually is a horse-show judge; so we go around, sometimes we go around to the different states and she'll judge. She's not doing that as much yet, but she will.

Steven Vartabedian: And of course you've told us about Connie. You have two children; the one that you mentioned, Allison—

Tim Buckley: Two children, Allison and Steven; Allison is . . . I won't mention her age, but well, she started—

Steven Vartabedian: We know she was born in your second year of law school. *[laughing]* That's a good way.

Tim Buckley: Yeah, she's 35 and Steven is 30, and they are the two people of whom I am especially proud. They are just awesome people. And my wife is a sweetheart—I mean, I know I'm not the easiest person with whom to live, because I'm kind of squirrelly; but she has been very patient with me. And it's been a great life. I don't have any regrets about anything—certainly in what I have done.

Steven Vartabedian: One of the things I neglected to ask about early, and I'll ask about it now—this would include both community service you are now involved in and any community service over all the

years. Could you tell us about any of the activities you have in the community at large?

Tim Buckley: Well, I've been on various committees, local committees, cancer societies and YMCA and so forth. But I tend to get asked a lot for advice, and of course I really can't give legal advice, so you have to do it and couch it in such a way that it's basically you are just talking as a friend and not about the legal.

But in the past I've done a lot of weddings, and I used to enjoy doing them; now I don't enjoy them quite as much because it just took so much time. I've probably done, as I estimate, both in the court and out, as many as six to eight hundred weddings. And I don't charge for weddings; I do it for friends. And after a while I tended to try to discourage that because it just . . . you have to do the rehearsal and the wedding day, and so you're tying up a weekend there; and then you have to interview them before, because I tried to customize the wedding to make it personal. And it just got to be so much that I really kind of cut back on that. But basically, part of me wants to do public service work—you know, at a soup kitchen or whatever, but . . . And I say that with the reality that I'm somewhat lazy; and so only because the opportunity hasn't provided itself and I'm too lazy to search it out, I haven't gone there yet. But maybe someday I'll do that too—I mean just because we've got one life, and then we're dead.

Steven Vartabedian: Any words of advice that you'd give to new lawyers?

Tim Buckley: Yeah. Actually, I think it's pretentious for me to give advice to anybody, but there was a talk I gave to the new admittees—you were on the panel at the time, you know we'd do that when new attorneys were sworn in. Jim Ardaiz afterwards said, "Wow, that was a great love speech," and I laughed, because it kind of was.

But it came across, if you looked at it one way, it was almost superficial and flip, but actually it represented what I feel about how life is. I think people take themselves way too seriously. So I think if I'm trying to . . . and I don't recall exactly, but I had a bunch of little homilies. One homily was, and in no particular order, but: "If you don't take yourself, if you don't think you're so important, you don't have as much to live up to." And then, you know, and then I said, "Love people." Then "Don't worry about what others are thinking of you, because they're not; they're too worried about what others are thinking of them," which actually is very true. People live their lives worried about what others think, when truth be known, they're not thinking about Steve Vartabedian or Tim Buckley; they're too worried about their own lives.

(01:35:01)

And then I would say, "Love people." And I had a bunch of other things that at the time I said and then each one was, "Love people." You know, if you love people and you treat people with respect, it comes back to you tenfold. And I'll say some things in teasing that are said only because I care about the person. In fact, the joke I've made to people or as a comment I've made to people is "If I don't like you I wouldn't tease you." And that's true; I only tease my friends.

Steven Vartabedian: You must like me a lot, because I've been the subject of a lot of teasing.

Tim Buckley: You have been—and we won't go there, will we? I would love to though. But anyway . . . and the other thing is, one last comment about judges, you know the "robe-itis"; let's talk about robe-itis for a second, if we could; I don't know how we are on time.

Steven Vartabedian: We are fine, actually; and so this'll be an extension, perhaps advice you would give to new judges as well.

Tim Buckley: Yeah, actually, I would to new judges. When you become a new judge everybody treats you differently. You go from being a lawyer to a judge and everybody—not everybody, but some people—become sycophants. You know, they suck up to you. They'll say things. I mean, everything you say is funny; gee, everything you say is profound. And if you aren't aware of it, you start to buy into it. I know my epiphany was when . . . I was a young judge, you know; I was appointed when I was 32. And I remember standing in line at a movie theater and the thought went through my head—I had only been a judge like six months—"Why am I standing in line? I should be at the front, or I should be inside." And no sooner had I thought that then I said, "Son of a you-know-what!" And I've remembered that thought "Why am I standing in line?" forever, and that has always been a wake-up call to me, because there is a tendency to think that you're this super person, and we're not. And whether I've been grounded or not, I'll leave it to others; but I think I have. And I've never felt comfortable being a judge, never, ever, ever felt comfortable being a judge with the title. In fact—and I know you're like this too—outside of the courtroom I don't like to be called "Judge"; in fact, nobody in Hanford calls me "Judge."

In fact there's kind of a cute story. I had this kid in the gym, I had . . . he was 18, and I was in superior court and I had put him on probation, felony probation, for possession for sale of drugs. And he was a nice kid, it was a small amount, and I gave him a year in jail and a condition of probation, felony probation. So he gets out of jail and he comes back to the gym and he sees me and he says, "Timmy!" And I thought, is this okay? I have him on probation; he's calling me "Timmy." And I said, "Yeah, that's cool. I could send him to prison if I had to, if

he violates." And I said, "Ernie!" So we were always Ernie and Timmy and it was okay. You know, it didn't bother me, and obviously it didn't bother him. And as it turned out he didn't get into trouble anymore; of course I didn't think he would.

Steven Vartabedian: Yeah, I think a little humility is good for all of us.

Tim Buckley: Yeah, exactly. I mean, and that's another thing with the so-called tough-judge syndrome. And I see it—and I don't watch the TV programs, but you can't miss *Judge Judy* or some of the other drivel that comes out—and that is that these people are idolized because they're tough, they're insulting. And it's a lot tougher to be compassionate and show compassion as a judge than it is to be tough. And I came to that realization a long time ago, but I don't think I really appreciated before; I was thinking, well, gee, we've got to be tough and this and that. But you can be tough, but you don't want to come across as a jerk.

Steven Vartabedian: As refreshingly humble as you are, I hesitate to ask my next question, but I'm going to ask it anyway.

(01:39:58)

Tim Buckley: I'm not that humble. Bill Stone . . . I've got to say this. One time I went to Bill and I said, "Bill, you know, one of the major differences between you and me is that you're not falsely modest like I am." And he said, "Oh, well, thanks." Then he realized that by saying "thanks" he was accepting that he was modest, and then he got all flummoxed and didn't know what to say. But anyway, go ahead.

Steven Vartabedian: My question is, what would you most like the legal community and the community at large to remember about you?

Tim Buckley: That would be just nice, to be remembered. But you know, I tell defendants . . . you know, when I say about, "Hey, you need to do something right," I said, "'You've got one life and then you're dead." I mean, I don't have any illusions about myself or what I have done that, beyond my immediate family and close friends who will then die, that I'll be remembered. And that's not a bad thing. It's just that, I don't know, maybe as a person who tried. And that's about it; I don't know. I guess it would be just nice to be remembered for at least a few years. Heck, since Brad got here, he's taken over; I don't think anybody even knows my name here.

Steven Vartabedian: You're referring to the person that took over—

Tim Buckley: Yeah, Brad Hill. I always . . . "Brad," I said, "God, after three . . . looking at what you've done after three months, they won't even know my name."

Steven Vartabedian: Well, I must tell you it really has been a pleasure talking with you. And I just want to thank you, both personally and on the part of the committee that I serve. Thank you for your very candid and revealing remarks that you have given; your recollections; and also thank you for your many years of judicial service. Thank you, Tim.

Tim Buckley: Thank you, Steve. And actually I'll just say this, that I really was under wraps today—because as I said before, I didn't want Connie, my wife, to be upset with me. So I behaved, I think.

Steven Vartabedian: Well, we'll see if she's upset with you.

Tim Buckley: No, she won't ever look—because I won't tell her it's on.

Steven Vartabedian: Thanks again, Tim.

Tim Buckley: All right, thank you.

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Steven Vartabedian: Do you have any particular heroes in the law?

Tim Buckley: You know, there's one jurist who, similar to my comments about Governor Brown, who I have kind of changed as far as my feelings. When I first started as a judge, I really was upset with the Supreme Court. I felt they were way too liberal and at that time I really . . . I still do think they went overboard, but one of the jurists I kind of blamed was Stanley Mosk. But then as I got a little older, I was reading more and more of the opinions and reading about him. I realized how wrong I was—that actually as far as I'm concerned, he was one of the most principled people on any of the courts. He was not an ideologue. And one of the problems with jurists is, sometimes they become ideologues, so everything they write is basically written in such a way as to further their own agenda or feelings on the way the law should be.

And I realized that Mosk, who was very much against the death penalty—and whether you're for or against doesn't matter, except as to make the point that when . . . But he accepted the fact that that is the law, or was the law, of the State of California, and he would implement it. He didn't like it, but he would do it. And he would do things because he knew the law required him to do it, and he was fulfilling his job. And I grew to admire him for that. In fact, when I was . . . I had the good fortune of sitting on the Supreme Court through my alphabetical rotation. He was on the panel, and I made a special point of going to Stanley and saying, "Stanley, this was the highlight of my legal career," which it was. I was sitting on the Supreme Court with Stanley Mosk.

So yeah, he's kind of a hero, even though he started out as—not an enemy, but someone I didn't respect as much. And no, I changed 100 percent. I realized that there is so much—there are so many things on which I've been wrong, and that was one of them.

Steven Vartabedian: Thank you.

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