
The Historical Committee Presents: *I Remember Judge Daniel A. MacPherson, Jr. — and the Twenty-Five Dollar Black Eye*

by Stan Sager

Albuquerque – April, 1960. The summons came by phone. “Judge MacPherson would like to see you for a few minutes,” said the woman’s voice.

“Sure. What day and time works for the judge?” I said.

“How about—right now?”

I leaned back, looked at the pile of *New Mexico Reports* covering my desk, checked the scribbled sheets of a pair of yellow legal pads, and sighed. “Be right there,” I said. I hung up the receiver. In five minutes I’d left the back door of the McAtee firm’s offices where City Hall now stands, crossed the crushed limestone parking lot behind the courthouse and walked into the judge’s reception room.

Judge MacPherson was One of Five District Judges

In 1960, Daniel A. MacPherson, Jr., was one of five district judges sitting in the Second Judicial District. The others were John B. McManus, Robert Reidy, Paul Tackett and Edwin L. Swope. Law clerks, as I’d been while waiting out the six-month residency required for admission to the bar at that time, and tenderfoot lawyers working for busy law firms, had ample opportunity to meet each and every one of them. As often as not they handled their own settings, found time to talk to those who came bearing orders for signature, and were likely to be grateful for an

afternoon interruption of a schedule slowed down to near-siesta levels after the usual morning rush.

By the time I first met Danny MacPherson in 1960, he had served on the district bench for five years following his appointment by Gov. John F. Simms in 1955. He had been probate judge prior to World War II, and in 1940 he was elected district attorney for the Second Judicial District.

The Judge Took a Personal Interest in the Lawyers

The judge heard me greet his secretary. “Come in, Stan,” he called through the open door. I complied.

“Take a chair. Make yourself comfortable,” he said from behind his desk. Its top bore a couple of dozen files in orderly stacks.

When I’d dropped into one of his side chairs, he cocked his balding head to the right, pushed up in his swivel chair to appear a little taller, leaned forward. “How’s the family, Stan? How’re the wife and kids?” He was smiling, his eyes were crinkled behind his horn-rimmed glasses, his hands clasped over the desktop.

I gave him a good report, not sure how he’d guessed I might have a wife and kids, though I’d learned over coffee with my peers that Judge MacPherson took a personal interest in the lawyers that appeared before him.



District Judge Daniel A. MacPherson, Jr.
Photo courtesy of Angus MacPherson

“And Pete. . . Jim . . . and Billy? Those guys at the law firm treating you okay? Hard drivers, every one of them. Good lawyers.” The smile stayed in place, and though he leaned back in his chair and leveled his head, he soon returned to his former stance, leaning forward over the desk, positioned like an uncle counseling his favorite nephew on matters of great importance to them both.

“All treating me just fine. They’re good teachers.”

“Good, good. Stan, I hear you were in the Navy? Were you JAG?”

“No. I was a line officer. Went to law school after they retired me for this disability.” I pointed to the crutches I’d needed since suffering a Navy-incurred case of polio, wondering what store of information he had tapped. “And you?”

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“Well. I was a JAG officer. My family seemed to be oriented toward the Navy. Maybe it has something to do with coming from the desert. No reason for you to know it, but I’m a native of Albuquerque. And I always like to talk to another ex-Navy man.”

MacPherson was Planning a Picnic When the Bombers Came

Shortly after his election as district attorney in 1940, MacPherson was uprooted from his career path when he was called up from the Naval Reserve. His first active duty station was at Pearl Harbor. Picnic plans he and his wife, Jeannette, were making on the morning of Sunday, December 7, 1940, were interrupted by the Japanese bombers that dropped their loads on the warships in the harbor a few miles away.

Danny served two years of the war at Pearl Harbor and was then transferred to Washington, D.C. At the War’s end he was separated from the Navy as a lieutenant commander. His brother, Robert, he told me, reached the rank of rear admiral.

After the war and before going on the district bench, Danny MacPherson served the community as a member of the Albuquerque school board, succeeding his father, Dan MacPherson. Highland High School was organized during the judge’s school board tenure. He is credited with giving the school its name in an unmistakable reference to his Scottish ancestry.

Judge MacPherson also served as president of the Albuquerque Host Lions, president of the Downtown Toastmasters, and was active in various Masonic and Shrine bodies. His membership in the State Bar of New Mexico extended over more than 50 years.

He was a member of the California Bar as well.

For a period of time after he retired from the bench, Judge MacPherson was something of a local guru on growing tomatoes hydroponically. It was an avocation that fit well with his love of growing things. He frequently lectured various local groups on the subject, relating his experiences about growing the fruit in vermiculite with fertilizer carried in the irrigation water. He often carried samples. He ran his greenhouse operation from the roof of his home, where his beloved plants could get the full benefit of the Albuquerque sun. His tomatoes, he said, were either very, very good, or the plants shriveled and died, victims of some disease, leaving him to start all over again.

Rookie Lawyers Drew Freebie Assignments

“Here’s what I wanted to talk to you about, Stan,” the judge said after half an hour of conversation. He picked up a sheet of paper from his desktop and handed it to me.

“I signed this order yesterday requiring a young man named Henry¹ to be picked up and held in BCMC (Bernalillo County Medical Center) in the locked ward until he could have a psychiatric evaluation. Of course, he has to have an attorney. Have you done this lately? I like to spread these things around so no one gets overworked with these freebies. It’s something we call on the young lawyers to do.”

I shook my head, unable to plea that after taking the oath earlier in the month I’d been swamped with this kind of request. In the ’60s, a newly admitted lawyer could build a substantial case load through appointed criminal and competency defenses that generally paid the lawyers only through the experience they gained. Now and

then, when courthouse budgets permitted, a small fee could be earned in the criminal cases, but competency matters were always free, as a surcharge for the privilege of practicing law.

“The family swore he was dangerous to have around. Said he threatened to beat up his dad and brothers; said he’d stab them all.” The judge was smiling again. “You know how folks tend to exaggerate these things.” He shook his head and grimaced.

I nodded, not wanting to disappoint the judge with a confession that I knew nothing at all about how folks tend to exaggerate these things.

“So, here’s the order—and a second one appointing you his lawyer. You’ll need to visit the guy at BCMC, talk to the psychiatrist, then write a response. It can be informal. Do whatever you think is necessary to protect this fellow’s rights.”

“Glad to, Judge.” I took the proffered orders and tucked them in my briefcase, thanked him and shook hands.

“And Stan. I’m sorry, but as you know, there won’t be any fee for this. No county or state budget, I’m afraid. And the family doesn’t have the means to pay anything.” He shook his head sorrowfully. “But it’s a chance to make a contribution to the community.”

I left, hoping I’d find agreement from my boss, Peter McAtee, to the entry of a few dozen non-billable hours on my time sheet.

A Religious and Scouting Leader

Judge MacPherson was a strong community supporter. He helped found Albuquerque Community Chest, predecessor of today’s United Way. In addition to his civic activities he was a scouting and religious leader.

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The Albuquerquean was a life-long member of St. John's Episcopal Cathedral, where he was an elected member of the vestry, the body that attends to the temporal affairs of the parish. At the time of his death he was assistant chancellor of the Episcopal Diocese of the Rio Grande, serving as the legal advisor to the bishop.

While he was still a student at the University of New Mexico, young Danny MacPherson headed a Boy Scout troop. Many of the boys and young men in his troop went on to become Albuquerque civic leaders who years later still looked to their former troop leader as a mentor, though he was only five or six years older than they. He earned scouting's highest award, the "Silver Beaver," for his years of service and activities.

A Visit to BCMC

Early the following afternoon I found my way to the BCMC locked ward. In the interim I'd pored over the statutes, skimmed a couple of cases, and phoned the ward to clear my visit. I'd also managed to connect with Henry's psychiatrist by phone and to receive assurances that the fellow seemed docile enough and that families tend to exaggerate the kind of threats attributed to Henry.

When I displayed Judge MacPherson's order to the head ward nurse, she shooed me toward a small conference room with a large window looking out into the arena where the inmates were seated before a blaring black and white TV set. "Primo, the attendant over there," she motioned, "will bring Henry to you. You can talk to him in that room."

I took a chair facing the door, and Primo followed, shepherding a well-built young man with slumping shoulders, shuffling feet, and eyes that were locked on the

floor. He sat across the table opposite me with his forehead nearly touching the tabletop.

My first conference with a mental patient being held against his will began.

*To those who knew him,
Daniel A. MacPherson, Jr.,
was a genuinely decent
individual who loved his wife
and four children, the
outdoors, his community, his
church and the law.*

Judge MacPherson Gets the Report

The next morning I walked into the judge's reception room bearing the report I'd written late the night before. His secretary took a look at the rookie lawyer before her, did a double take, said nothing, probably guessing I'd been in a barroom brawl the night before. Handing her the report, I asked her to give it to the judge. She skimmed it, rechecked the condition of my blackened eyes, swollen nose and cut lips, and leaped to her feet.

"Jeez," she said. "Better show this to the judge. Now." She flung open his closed door, and in a moment she was followed into the reception room by the shirt-sleeved judge.

"Come in, come in," he cried. He ushered me inside, where I took my former seat.

"Stan, I feel terrible about this," he said, wringing his hands, standing at my side. "Terrible." He stopped long enough to sit in the chair beside me and read through the report. Raising his head, he peered through the bottom of his bifocals at the carnage Henry had inflicted on my face before the attendant, Primo, could leap to my rescue, grimaced, and shook his

head.

"Well," he said, raising one hand to his forehead and rubbing it as though he had the granddaddy of all headaches. "Talk about trial by fire. You were beaten up pretty badly. Wow. I've never had anything like this happen before."

"Me neither, to tell you the truth. But Judge, about that report. I wasn't real objective. Maybe Henry needs a new lawyer."

"I feel so bad about this." The judge rose and paced in circles around my chair, raising one hand to his chin. The action seemed to help. In a few moments he found his way back behind his desk and sat. By now, his usual smile was back, though he was kneading his hands as though he had suddenly contracted frostbite.

He leaned back in his swivel chair, ready to make a judicial decision. "I'll tell you what I think. I think Henry has his lawyer. You're it, Stan." His chin was firm, telling me it was a vote of confidence, though I had failed to make the grade as a wrestler.

"But there is one thing I can do for you. I'm going to enter an order requiring this guy's family to pay you twenty-five dollars. I don't have the authority to do it, but I'm going to do it anyway. Got to take care of our lawyers." He nodded his head in satisfaction, his hands stilled and the visible rigidity left his shoulders.

Three weeks later I received a letter from the district court clerk. A check for \$25 was enclosed with a voucher identifying Henry's father as the source.

It was payable to the boss.

Judge MacPherson was Active in Retirement

In the years that followed I tried a number of jury and non-jury civil cases before Judge MacPherson. He was always kind and courteous to the lawyers, even

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in the midst of the stresses of a hot trial. When he overruled an objection to evidence, he displayed a frown of regret because he'd had to disappoint the lawyer, taking no joy from the fact that in ruling against one advocate he'd cheered up the opposition.

The judge was dogged in his pursuit of facts. In one matter I tried, Judge MacPherson crawled on hands and knees through the bowels of an office building's ventilation system to resolve the truth of conflicting expert testimony. Half an hour after he entered, the waiting lawyers watched as the yellowing beam of his flashlight approached through the blackness of the hole he had disappeared into. He emerged coughing and sneezing, beating the grit and grime from his clothes. He said he had confirmed my client's contention that sand was spewing

out of the air vents and onto the vinyl records played by the disk jockeys his radio station hired, scratching up the records and justifying a claim of constructive eviction.

After Judge MacPherson retired from the bench in 1971, he continued to serve the community he had lived in most of his life. He chaired a city-county consolidation committee that developed a plan to consolidate the governments of the city of Albuquerque and Bernalillo County. The proposal was submitted to a vote by the people, but was defeated. Similar proposals have popped up regularly since that time.

Subsequently, he was asked to write amendments to the charter of the city of Albuquerque. The work product established the office of a full-time paid mayor and nine city councilors, the system that prevails some 30 years later as an enduring legacy.

To those who knew him, Daniel A. MacPherson, Jr., was a genuinely decent individual who loved his wife and four children, the outdoors, his community, his church and the law. He died in 1979 following multiple heart attacks.

Stan Sager is a retired Albuquerque lawyer who is currently "of counsel" to the Offices of Deborah Rupp Goncalves. He acknowledges with thanks the kind assistance of Angus MacPherson, Albuquerque artist and writer and Judge MacPherson's son, who provided information on which this article is based and who supplied the photograph.

ENDNOTES:

1 Names have been changed in this article to protect privacy and confidentiality.

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