A woman with short reddish-brown hair, wearing a purple western-style button-down shirt and light blue jeans, is riding a dark brown horse. The horse has a white blaze on its face and white markings on its lower legs. They are in a grassy field with large evergreen trees in the background. The text is overlaid in the lower-middle part of the image.

The Honorable Brooke C. Wells
1946 - 2025



Memories and Tributes

Eulogy by Lynne Hardin at the Celebration of Life, April 26, 2025

It is hard to believe I am standing here today speaking about my dear friend Brooke Cotter Wells in the past tense.

We met when we were just four years old. Two little girls, living across the street from each other. We would grow up into women with a lifetime of memories between us.

To say that we were close doesn't begin to cover it. Brooke wasn't just my friend, she was my chosen sister, my coconspirator. Our first conspiracy was when my birthdate placed me a year behind Brooke in school. Well, my mom just said my birthday was the same as Brooke's and off to class together we went. I believe those were gentler times. She was my lifetime companion through the twists and turns of life. We grew up, side by side and oh did we stay busy. Not necessarily by choice. Our mothers were determined to keep us occupied. We always joked that our moms signed us up for every activity they could find. Not necessarily to turn us into debutantes but to keep us from getting into too much trouble.

Of course, that never did quite work.

Mondays after school was speech and elocution. We were coached on how to speak properly, though I'm not sure it ever curbed our giggles. But Brooke often said that Mary Grey's speech and elocution sessions were the reason she could PROJECT in the courtroom.

Tuesdays we were Bluebirds, and one year we were recognized for selling the most Camp Fire Girl candy... we achieved this by entering the local bar (the Linger Lounge) to peddle our candy, which was short lived.

On Wednesdays, Brooke would come with me to my ballet class just so we could go to choir practice together. We were not good at choir, a bit tone deaf, and far more interested in sneaking across the street to the candy store than in singing. We were always placed in the back row, and rightfully so.

Thursday was cotillion. Picture us in our little white gloves, our little white anklets, dancing the box step over and over again, sipping tea and nibbling cookies, all while trying not to step on anyone's toes.

And then it was Friday. Fridays were reserved for fun. Sleepovers, slumber parties, ringing doorbells and running away, tickling each other's arms until we fell asleep, and sneaking out on the roof to stargaze on warm summer nights. It was childhood magic: innocent, mischievous, and full of joy.

Saturdays brought all day at the movies or trail rides at Boots and Saddles Stables, or fencing lessons, or yo-yo competitions. Yes, fencing and yo-yos. However, Brooke, even as a young girl, was already competing in the English Pleasure division at horse shows on her beautiful horse Cadet. She carried herself with poise. Graceful but strong, gentle but driven.

Sundays we were in church, singing in the choir and sneaking across the street. Brooke also traveled with my family to Florida where we spent 3 months of summer vacation together.

However, it was one of those Friday nights in 1957 that Brooke's father, Everett E. Cotter, a handsome and talented attorney, lost his life at 45. That Friday night, my parents were called to pick us up from her house and take us to my house. None of us knew the weight of what had just happened. Not yet.

The next morning, the heartbreaking news had to be delivered, and it was quite a twist of fate.

It was my mother who cradled Brooke and told her of her Father's death. What none of us could have foreseen was how uniquely equipped and qualified my mom was for that moment. She, too, had lost her father at almost the exact same age, and under eerily similar circumstances.

The pain was familiar to her. Not just in theory, but in her very soul. It was serendipitous in the gentlest sense of the word, that someone who had walked that same path could be the one to stand beside my friend Brooke as she took her steps into that grief. My mom's presence was more than just comforting, it was a bridge between two girls across time, tethered by a shared sorrow and the quiet strength that always follows. My mother and Brooke always had a very special unspoken bond.

One of my most cherished memories of Brooke was remembering her with her Dad. Her Dad, like every little girl and their Dad, was quite an inspiration in Brooke's life. I can still see him sitting in his big reclining chair, Brooke curled up on his lap, his arms wrapped around her as he held his guitar, singing "It was a dirty little coward that shot Mr. Howard and put Jesse James in his grave". Those moments, that image of comfort and love and music, always touches my heart strings and is burned into my memory. I truly believe her father's presence and his example planted the seed that grew into Brooke's incredible career in the law. And what a path she carved. She carried with her the integrity of her father, the discipline of her upbringing, and the spark of that curious, mischievous, spirited girl that I'd grown up with. But while her accomplishments were many, Brooke never lost her warmth. That sense of play, that deep loyalty to the people she loved, especially her son Jason. She remained

grounded, thoughtful, and always, always, always present.

She was someone who showed up, in the courtroom, in her friendships. Including with her Northwest Classen High School girl clique, that was dubbed "The Mafia" early on, because there were so many of us. Over 14 suspects. I guess it can now be known that Brooke was a member of the mafia. She showed up most recently for our Wordling group, and she showed up in life.

As I look back on our nearly lifelong friendship, I'm struck by how rare and precious it is to have someone like Brooke in your life. Someone who knew you when your front teeth were missing, who saw you through heartbreaking triumphs, who stood beside you in all seasons. Her laugh, her wisdom, her fierce sense of justice, and her absolute devotion to those she cared about. These are the gifts that she gave us. And while today we mourn, I also feel an overwhelming sense of gratitude. Grateful for the sleepovers and the singing, for Cadet and cotillion, for rooftop giggles, yo-yos, and fencing foils. For the lifetime friend who never stopped being the girl I met when I was four.

And Brooke, this is for you, from me, inspired by the Poet Rumi.

You are not gone..... You are nearer now than breath, than thought... than the soundless hush between heartbeats.

When you walked this world in grace. You stood beside us... Now ... unbound by time or form... you move through us... And in us... in the quiet strength we carry... in the fire of justice...in the peace that follows your purpose.

We do not look for you in the distance.

We close our eyes.

And there you are... more present... more vast... more alive... than this world could contain.

You are the whisper in the stillness...

The shimmer behind the veil...

The love that does not leave...

I will miss you forever, but I will carry you with me... in my heart.... always.

Judge Tena Campbell, Celebration of Life, April 26, 2025

I never called Brooke “Judge Wells.” I never called her “Brooke” either. I called her Brooks, Brooks with an “s.” My mother-in-law, Mona, was awful with names. She would have called this building the “Orson G. Thatch Courthouse,” and she called Brooke “Brooks.” Always and from the beginning: Brooks. I asked Brooks if she wanted me to tell Mona that she, Brooks, was actually a singular. She just smiled at me, gave me one of her really beautiful smiles, and said “No,” that she was honored that Mona had given her name an extra letter.

I met Brooks over thirty years ago. I knew of her before I actually knew her. She was well known in the legal community even then, as she was throughout her career. As a defender, an assistant U.S. attorney, as a magistrate judge, Brooks was always deeply respected for her legal mind and command of a courtroom.

And her style. Not as important as her status as a jurist, but when I did meet Brooks, I understood why people called her “The Clairol Lady.” Her hair wasn’t just red—it was magenta. And a little purple. Brooks never let her style go. Carly Christenson told me that when she and her husband and Brooks went on a white-water rafting vacation with friends, Brooks’s suitcase had to ride in the friends’s car because there wasn’t room for it in Carly’s. Brooks also did her makeup every day before she got into the raft – even the “white-water” portion of the event wouldn’t dissuade her. Standards, after all.

She was a distinguished jurist, an all-terrain fashionista, and a deeply ethical person. It was Brooks who created Utah’s first Drug and Mental Health Courts. For anyone who doesn’t know, RISE courts treats inmates for addiction and mental illness. Brooks created the program, and she ran it for years.

Brooks was ethical and she was empathetic and she was kind. Brooks took care of so many of the people in her life. Her family, her friends, her son, Jason. She and Jason were devoted to each other. Each took care of the other. Brooks was kind to Mona, too. When Mona hit her 90s, almost all of her friends were gone. So Brooks and Lisa Remal befriended her. That’s how Brooks became Brooks. She was such a good friend to Mona, and Mona always called her Brooks. From the very beginning.

Brooks was a true friend to me, too. I’ve spent so much time thinking about that since she died. How she was the type of friend you held onto. The sort of person who, if you were lucky enough to become her friend, you were never going to let go. I suspect that many of you feel like that. I suspect that that’s why so many of you are here, talking about Brooks, preserving our memories of her, trying to make sure that we hold onto her memory.

Jane Marquardt, Celebration of Life, April 26, 2025

Good afternoon. I'm Jane Marquardt. I met Brooke in August 1974; we were both incoming first-year students at the University of Utah's law school.

Reflecting on Brooke's life, and listening to the other speakers, it strikes me that one of the main threads of Brooke's life is that she gave us all permission to be real. In addition to all of her professional achievements, and community contributions, and wall (walls) of awards, she had this very genuine quality of being wildly interested in you as a person, which in turn made you want to be around her as much as you could.

The way Brooke gave her friends permission to be real is that she was so open and authentic and vulnerable herself. The first time I remember experiencing those qualities is the SpaghettiOs story. (she told it when she was sworn in as a magistrate, when she received various awards from the bar association, when she gave the commencement speech to a graduating class at the law school). Today I want to bear witness to the fact that her story was true. Her story went something like this – she entered law school as a struggling single mom. She did not have a bit of extra money. As she told it, she needed food stamps in order to provide meals for herself and her son. So against that reality, she invited me and a couple of other classmates to her apartment one evening during the fall of our first year to study. I was the first to arrive. It was perhaps the first time I met Jason – he was about five years old. Brooke told Jason she would fix his dinner soon. And in a very clear, but wistful voice, Jason said, “OK. But MOM, tonight could we HEAT the SpaghettiOs?”

My eyes were wide. I mean, I'm not much of a cook. But Jason, even I knew that fundamental fairness

required that SpaghettiOs be heated.

My next illustration of Brooke being real, and willing to be vulnerable, involves camping. As most of you know, Brooke was quite the river runner. I was lucky to share many of those adventures with her. But today I want to talk about two earlier camping trips - during law school spring breaks. Pam Merrell and I convinced Brooke to go camping with us. Having grown up in Utah, let's just say we had more experience. Brooke routinely told stories for many years after that about the various ways we tried to kill her (steep trails, not enough water, searing sun). The worst was on the first trip, to Canyonlands, when we left her in her sleeping bag at the campsite, suffering from a wicked sunburn, while we trotted off to hear the evening ranger talk.

And yet, when we got home, she still wanted to be friends with us. Amazing. She even went with us again the next spring break, where we took her backpacking in Zion National Park and found the steepest possible trail to hike up. As it turned out, it was too steep for Brooke. Did she complain? No – she just got us to carry her backpack for her. Someone else might have walked away in a huff. Not Brooke – she gave herself permission to be real – to laugh at the situation – and she never held it against us that were pretty bad planners.

Finally, the most impactful, to me, example of Brooke giving others permission to be real, – happened a few years after we graduated from law school. I was in the midst of something of a personal crisis. After several years of being married to a man, I had started to realize something was just not quite right. The reason was that I finally realized I was gay. This being married to a man was not going to work. Brooke was one of the first people I discussed this with. I asked her what to do. She gave me some very simple advice: **Follow Your Heart.**

She then promptly volunteered to go out to a gay bar with me, which we did, a couple of Saturday nights in a row. I was very tentative; Brooke just walked in and insisted we dance. Now, Brooke was never one bit gay – she was trying to help me come out of my shell. And after we did that, the SLC police (some of whom Brooke had undoubtedly dated) started circulating rumors about Brooke being gay. She just laughed it off, was secure in herself, and never wavered in her support for me.

That story illustrates why Brooke had so many friends from so many walks of life. She loved getting to know people. And because she was willing to be open, and vulnerable, she gave her friends permission to do the same. Brooke was a safe place to admit your stupidest mistakes. She would just laugh and make you feel good about yourself. Brooke had a way of making it magical to share the stories of your life. The crazier, the more dysfunctional, all the better. I will miss sharing my stories with her.

Lastly, looking around this room, you can tell much about Brooke's life. I see in you all a reflection of Brooke's qualities – she was charming, witty, generous, loyal, vulnerable, intuitive, intelligent, always up for the next adventure, stubborn, and at times, a pain in the ass. You all are a mosaic of Brooke's qualities, her character, her spirit. I feel very lucky to be one of you.

Aurora Sanchez, Celebration of Life, April 26, 2025

March 25th came too soon for me. I met Brooke in 1978 when she arrived in San Antonio. She was a force of nature. Beautiful, smart, kind, and broke. We all were because we worked at Legal Aid. We bought each other lunches when money ran out before the month did. Back then she was sometimes known as "Broke" Wells. She had a strong sense of right and wrong; had great compassion and was fierce in her defense of truth, justice, and the American way.

I realized early on in our friendship that I would also have to be fearless, determined, and have priorities. Many of you already know that she and I shared many adventures - some could more accurately be categorized as mis-adventures. Brooke always dared me to do things that would take me out of my comfort zone because she never accepted the reality that I was raised by a fatalist. When my siblings and I were growing up, anything we wanted to do met with opposition and the caution that we would end up dead. "Mom, can we go swimming - No because you'll get a cramp, drown, and you'll be dead. Mom, can we go hiking? No because a bear will come out of the woods, eat you, and you'll be dead. Mom, can we go horseback riding? No, because the horse will throw you off, step on your head, and you'll be dead. That one almost came true because I said "yes" to riding Charley Horse who indeed threw me off but did not step on my head.

Brooke once liquidated all her possessions and moved to Portugal. She had priorities – a case of Lady Clairol #27 hair dye and a supply of her signature lipstick Revlon Bamboo Beige.

Brooke's biggest gift was that she taught me how to have a friend and how to be a friend. I learned to be

a real friend when Brooke came home after being in a coma for 54 days and she asked me to shave her toes. That is when I knew we would be friends forever.

Over the years we had lots of early morning talks about our sons and our jobs. We talked about adapting to the changing world and the need for tools and friends.

Brooke had great loves and passions. Jason, Kayle, her friends, her dog, her horse, the law, and its necessity to the well-being of others and to society.

She taught me two very important concepts: Never and Always.

Never buy one of something if you can buy more like shoes, clothes, and throw pillows. Never abandon your friends. Never pass up an opportunity to be generous with your time and advice. Never give in to pain and never complain. Never say never.

Always buy sheets that have a 300 or higher thread count. Her rationale was that people spend at least 8 hours or more in bed so the sheets better be good. Always be kind. Always find good in people. Most importantly, always be brave.

I miss my dear friend. I will always carry her in my heart as I know many of us will.

We Hispanics have a custom of honoring our friends and families who have passed. On the day after Halloween we gather pictures and memorabilia, share stories and memories. At the end of the sharing, we repeat our loved one's name followed by the word Presente. For me, Brooke Wells will always be Presente!

Lesley Manley, Celebration of Life, April 26, 2025

My relationship with Brooke began with a simple email sent almost 15 years ago to this very date.

On April 28, 2010. I sent the following email:

Judge Wells,

Greg and Rebecca Skordas recommended that I contact you regarding a possible mentor opportunity with you. I was Greg's campaign manager in his run for SL County DA and recently sat for the February Utah Bar and passed. I am currently seeking both a mentor and possible employment. Rebecca said that you would be an excellent mentor. I didn't go to law school in Utah, so I'm hoping that by seeking a mentor other than Greg and Rebecca I can meet other attorneys in the Salt Lake Valley. Would you possibly consider mentoring me? I have attached my resume to this email so you can get a better sense of my background. I am also available to meet with you at your convenience. If you do not wish to mentor me, perhaps you could recommend other attorneys that might be interested?

Thanks for your consideration,

Sincerely,

Lesley Manley

I didn't know it then but that email would change my life in many, many positive ways. With that email, I gained not only a formal mentor for a year under the Utah State Bar's New Lawyer Training Program, a future boss (as I was lucky enough to serve as a law

clerk for Brooke for four years), but mostly importantly, I gained a champion and friend.

Over the course of our 15-year friendship, I have so many positive memories of Brooke. She threw me a wedding shower, a baby shower, and married my husband Dane and me. We shared countless meals, glasses of wine, and experiences.

I learned countless things from Brooke—too many to include in this speech but I thought I would share five lessons that I carry with me and that I refer to daily in my life and legal career.

1. Be a professional.

Besides Brooke's hair, nails, clothing, glasses, jewelry, and shoes always being stylish and something to be envied, she was a true legal professional.

She kept a laminated copy of the Utah Rules of Professionalism at the Bench. And if you came into Brooke's Courtroom, you better follow those rules.

I can't tell you how many times in my own legal career I have referred to those Rules, cited those rules, and shared those rules because of Brooke's example.

Aside from that, she treated people—especially those in her drug and behavioral health court—with such dignity. She literally gave them her clothing! Every year, Brooke would go through what she called “closet reclamation” and then bring her *slightly* used wares to the courthouse where she would invite the women participants in her programs back to chambers to see if there was anything that fit their liking. I was always so impressed by that and really wished I wore a size 7 shoe.

2. If it doesn't feel right in your gut, you shouldn't do it.

Early on, as many young lawyers do, I faced some ethical issues that I had deal with in my practice. When consulting with Brooke, she always would tell me, “If it doesn't feel right in your gut, you shouldn't do it.” I keep that sentiment and it has guided me well.

3. “You're always the girl that can't say ‘No.’”

Brooke would say this to me often—in a particular voice, as I signed up to be on another committee or do something that was asked of me that added to my already full plate. I think what she was really getting to here was that I needed to have work/life balance as best as I could and protect time for myself. I always admired Brooke's sense of adventure and how she (and sometimes this lady named Tarzana) would go on vacations and river trips all around the globe and truly check out and recharge. Also, Brooke's love for horses can't be ignored and the comfort “Tuff” brought to Brooke is something that went beyond a hobby.

4. Bob and weave but don't overthink!

Brooke used to say “Bob & Weave, Bob & Weave” all the time and I finally got to talk to her about it in an interview I did with her a few years back for the Tenth Circuit Historical Society. Brooke said you have to be prepared for anything and everything that could happen. She truly embodied this. Brooke tirelessly read everything that came into her chambers and in fact, when I hear from lawyers all over the country that judges don't read briefs, etc. I always counter with “Well, the judge I clerked for, **READ EVERYTHING.**” She was always prepared and appreciated those lawyers who did the same.

Yet, she coached me constantly to not overthink things. Whenever I catch myself “overthinking” a problem or an issue, I take a deep breath and think of Brooke saying to me: “Lesley, I think you are overthinking this.”

5. Get back up on that horse.

In her later years, Brooke and I used to say this to each other quite frequently. Whenever she had had a health setback or something in my life didn't go the way I thought it would, we would always say, “Well, gotta get back on that horse.” The practice of law and life and can be challenging, there are many highs and many lows but “you just gotta get back up on that horse!”

Oh wait, 6 things... Brooke also showed me that Kraft microwave macaroni and cheese is delicious no matter what age you are and is truly *the Breakfast of Champions* as she would refer to it.

Kidding aside, it's really hard for me to put into words all that Brooke brought to my life. Her impact simply can't be measured. My legal career was shaped in Brooke's image and I can only hope that I can live up to her example and be half the lawyer and person she was as I continue on with my career. But it isn't just me that is the recipient of Brooke's impact. She truly was a trailblazer for women and led the charge in helping to tear down the barriers and stigma attached to those suffering from mental illness and those who found themselves caught within the justice system.

So in celebration of Brooke, I urge all of you to answer the random email from a recent law student, mentor someone, be a champion for someone, but most importantly have compassion for those that are less fortunate. You never know, but you might just change the trajectory of someone else's life.

Richard Sanders

I never had the fortune of litigating directly in her court, but I always wanted to. Though it was always unlikely due to the kind of work I typically do, I cannot help but speak up just to say: Her appointment is historic and speaks well of our legal community. But, of course, all the true honors are hers due to her professionalism and merit. I'm certain her appointment had nothing to do with her sex, except perhaps to encourage her to work harder and stand out more to break through that extra glass, but because she did, she inspires and we get to bask in the shadow of the dignity and pride that comes from being so close to history as it was made. I for one wish her great fortune in her next endeavors.

Leonard Burningham

I met Brooke when she was a young lawyer working at the Salt Lake Legal Defender Association, and I was very pleased to see that she was appointed a United States Magistrate Judge for the District of Utah in 2005, and especially, that she was the first woman to serve in that capacity in the State of Utah. Brooke was always congenial and had a delightful personality; and she was tough when she needed to be; I always respected her abilities as a lawyer and her commitment to her clients, many of whom could not afford legal counsel. She will be missed for all of those qualities and many others, I am certain!

Mike Mower

Judge Brooke Wells was my Trial Advocacy Professor at the S. J. Quinney College of Law at the University of Utah. She was such a great instructor. I learned so much from her on appearing in a courtroom. I was so impressed that after a busy day working downtown, she would take the time to come and teach a room full of First Year Law Students. I've enjoyed meeting her at different events in Utah. She is always so friendly and is such a great person who does so much for our state.

Peter Webster

I first met Judge Brooke Cotter Wells in the '80s when I was a news photographer with KUTV. Brooke was a Public Defender, and I had the opportunity to witness her compassionate approach to defending her clients, and her skill in guiding them through the court system to achieve the best possible outcome in the circumstances of their case. Subsequently, I reconnected with her when I was in law school where Brooke taught Trial Advocacy. I was struck by her astute, straightforward, unpretentious approach to the legal profession and the role of lawyers within it. Later, when she was appointed Magistrate Judge, I felt a sense of assurance that the District Court had gained a wise judge.

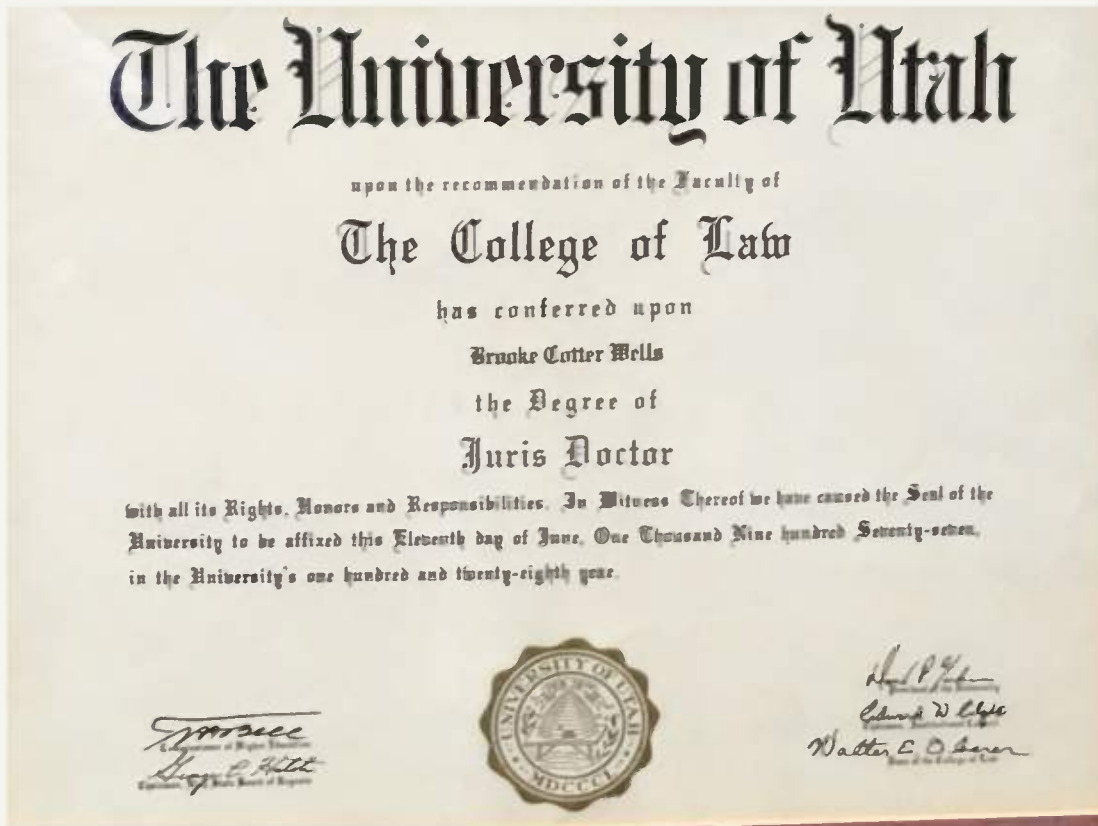


You are cordially invited to attend the investiture of

*The Honorable Brooke Cotter Wells
United States Magistrate Judge
United States District Court
for the District of Utah
on August 22, 2003, at 12:15 p.m.
Courtroom 246, Second Floor
Frank E. Moss United States Courthouse
350 South Main Street
Salt Lake City, Utah*



Photos and Articles





UTAH HOLIDAY FEBRUARY 1984
\$1.75

**The Painted Bird / Chasing Chocolate
Uptight About Footloose
New Looks in Buildings and Interiors**



HARD CASES

**Controversial Women Who
Shake the Justice System**



Defender Will Go Distance Standing Up for Underdog

By Cathy Free
Tribune Staff Writer

It wasn't the kind of case most attorneys would care to take, but Brooke Wells has always felt more comfortable fighting for the underdog.

Her client had been charged with two counts of aggravated robbery for allegedly driving two gay men up a canyon on separate occasions, robbing them at knife point and taking their clothes, then leaving the men to find their own way home in the buff.

The stories about what happened on those two nights were rather seedy, the few people observing the trial blushed at the in-depth details. When the jury came back with a verdict of guilty on both counts after only an hour of deliberation, nobody seemed particularly surprised except the defendant.

He'd hoped he wouldn't have to get used to eating dinner in jail.

Brooke Wells hates to lose, but as a public defender with the Salt Lake Legal Defender Association, the odds aren't always on her side. For more than 11 years, she has represented alleged murderers and child



abusers, armed robbers and rapists — people who can't afford an attorney and are often seen as evil by the public and those who line courtroom benches on the prosecutor's side.

But Ms. Wells sees the "human side" of the man accused of abusing his daughter or the woman charged with shooting her husband, then stuffing his body inside a car trunk.

"Because some of these people are charged with awful and brutal things, there is an assumption that they are all somehow monsters," she says, "and you find that's not true. As their lawyer, you are the trusted advocate and you see the other side, the kind side. Assuming that the person may have committed the crime, I

See B-2, Column 5



Public Defender Brooke Wells hates to lose. But the odds aren't always on her side,

defending people who have been charged with serious and sometimes violent crimes.

...Tribune Staff Photo by Tim Kelly



Salt Lake Legal Defender colleagues Jo Carol Nessel-Sale and Brooke Wells.

Defender Named Top Woman Lawyer of Year

Brooke C. Wells, a criminal defense lawyer with the Salt Lake Legal Defender Association, has been selected Woman Lawyer of the Year by Women Lawyers of Utah.

Ms. Wells graduated from the University of Utah College of Law in 1977 and was admitted to the Utah State Bar the same year. She also is a member of the Texas State Bar.

She has been staff attorney with Bexas County Legal Services, San Antonio. Since 1980, she has been with the Salt Lake Legal Defender Association, and in its capital homicide division since 1983.

Ms. Wells has served on the Utah State Bar Examiner Review Committee, the Courts and Judges Committee, and the Salt Lake County Bar Executive Committee. She has taught criminal procedure classes to law enforcement agencies statewide. The Utah Supreme Court recently appointed her to its Advisory Committee on Criminal Procedure.

Summer 1988

Women Lawyer Of The Year

BROOKE C. WELLS, a criminal defense lawyer with the Salt Lake Legal Defender Association, has been selected Woman Lawyer of the Year for 1988 by Women Lawyers of Utah. The recipient of the award each year is a woman member of the Utah State Bar who is professionally active in government, education, the judiciary, or private or corporate practice. Under the guidelines established by the Board of WLU, the Woman Lawyer of the Year should have (1) demonstrated professional excellence and integrity; (2) through her work and activities, displayed an awareness of the needs and concerns of women; and (3) helped to advance the position of women generally or in the legal profession.

Ms. Wells graduated from the University of Utah College of Law in 1977 and was admitted to the Utah State Bar the same year. She is also a member of the Texas State Bar. Prior to returning to Utah in 1980, she was a staff attorney with Bexar County Legal Services, San Antonio, Texas. She has been with the Salt Lake Legal Defender Association since 1980 and in its capital homicide division since 1983.

(continued on p.6)

Brooke Wells, Woman Lawyer of the Year

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Continued on page 12



Continued from page 9

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Ms. Wells was a panelist at the Tenth Annual National Conference on Women and the Law, a panelist at the National Corrections Association Conference, a mentor in the mentoring program of the University of Utah College of Law, a member of the board of trustees of the Legal Aid Society and a bar-

rist in the Sutherland Inns of Court II.

Ms. Wells has served on numerous state and local bar committees, among them the Utah State Bar Examiner Review Committee, the Courts and Judges Committee, and the Salt Lake County Bar Executive Committee. She has taught criminal procedure classes to law enforcement agencies statewide. The Utah Supreme Court recently appointed her to its Advisory Committee on Criminal Procedure.

The organization of Women Lawyers of Utah was founded to encourage women in their professional growth and development, to assist in establishing professional contacts, to provide a support and communication network, and to generally promote the professional endeavors of women lawyers in Utah. The Woman Lawyer of the Year was first awarded in 1986 to Justice Christine M. Durham of the Utah Supreme Court and again in 1987 to Janet C. Graham, a shareholder with the law firm of Jones, Waldo, Holbrook and McDonough.

UTAH PEOPLE



Prominent defense attorney says changing sides to prosecution isn't a big leap: She's still advocate

For 15 years, defense attorney **Brooke Wells** argued for innocence, and, when that argument failed, compassion.

Then she became a switch hitter. Now federal prosecutor Brooke Wells points a finger at the guilty and pushes for punishment. "I believe that people who commit certain offenses have to be prosecuted and punished," she said.

Rare words from the woman who urged leniency for even the most vile crimes.

Wells gave up her career as one of the state's most prominent defense attorneys to join the U.S. attorney's office last winter. "Many people assume I could not make the philosophical leap," she said.

But she finds it less of a leap than many thought, she said. "I'm trained to be an advocate. I still see myself as an advocate."

She's on a team that prosecutes violent crimes. But her federal brand of violent criminals is nothing like the ones she defended most of her career. In the federal game, a violent criminal is a bank robber who points a gun at a teller and demands money.

As a defense attorney in the state courts, Wells' violent clients included a man who blew up a truck, killing the 11-year-old boy inside; a man who bludgeoned two women to death; and a man who raped and murdered a gas station cashier, bragging about the thrill of slashing her throat afterward.

As a defense attorney in the state courts, Wells' violent clients included a man who blew up a truck, killing the 11-year-old boy inside; a man who bludgeoned two women to death; and a man who raped and murdered a gas station cashier, bragging about the thrill of slashing her throat afterward.

She saw past all that, she said. "A defendant's family, friends and lawyer are probably among the few who ever see the good side of someone who has committed criminal offenses. I found that in almost all cases, I was able to find good in the people I represented. It didn't make it easy, but it certainly made it less difficult to deal with their crimes."

Today, she doesn't have to worry about looking for the good in the accused. Or even looking for the accused in the Salt Lake County Jail. The jail visits were the worst part of being a defense attorney, she said. "I don't miss that jail."

Ensnared behind security doors, surrounded by U.S. marshals and a prosecutor's prestige, she's distanced herself from the people she passionately defended. Instead of taking calls from the jail, she pores over federal code books, deciding exactly what crimes the accused should be accused of.

"I've learned that the charging

decision may be the most important decision made," she said. Each crime carries very specific sentences and, because of federal sentencing guidelines, neither the prosecutor nor the judge have much wiggle room.

"There's less room for plea bargaining as I knew it," she said. Federal sentences are also tougher than state sentences for similar crimes. "My toes are just beginning to touch down with regard to making those decisions."

Wells hadn't thought about becoming a federal prosecutor until U.S. Attorney Scott Matheson offered her the job, she said.

"Many people in the state criminal system aspire to work with this U.S. attorney's office. I was fortunate enough to be given a spot."

Despite the many changes, the basics stay the same. Wells loves the pace and the drama of the courtroom, whether it's a federal court or a state court. She relishes the demands a criminal trial makes on her mind as well as the chance to, well, do a little acting. The daughter of an actress and an attorney, she draws on gifts from both parents when she's in court, she said.

The only real difference: Instead of reacting to charges someone else files, she's filing the charges. It's a nice feeling, she said.

By Marianne Funk, Deseret News staff writer.



Brooke Wells

Wells to Be Named Fed Magistrate

Brooke Wells — who has defended and prosecuted criminals during her 25 years as a lawyer — has been tentatively named as Utah's newest federal magistrate, *The Salt Lake Tribune* confirmed Thursday.

Wells, chief of the violent-crimes section for the U.S. Attorney's Office, was selected by Utah's federal judges from a list of five nominees. She still must pass an FBI background check, which could take several months, before her appointment is confirmed.

"She'll do a great job," said U.S. District Judge Dale Kimball, one of the judges who picked Wells. "She's very, very talented."

Wells' appointment will fill the vacancy left by Magistrate Judge Ronald Boyce, who died last year. She will also become the third woman on Utah's federal bench, joining District Judge Tena Campbell and bankruptcy court Judge Judith Bouden.

Kimball said Wells' "obvious" legal qualifications were the most important consideration.

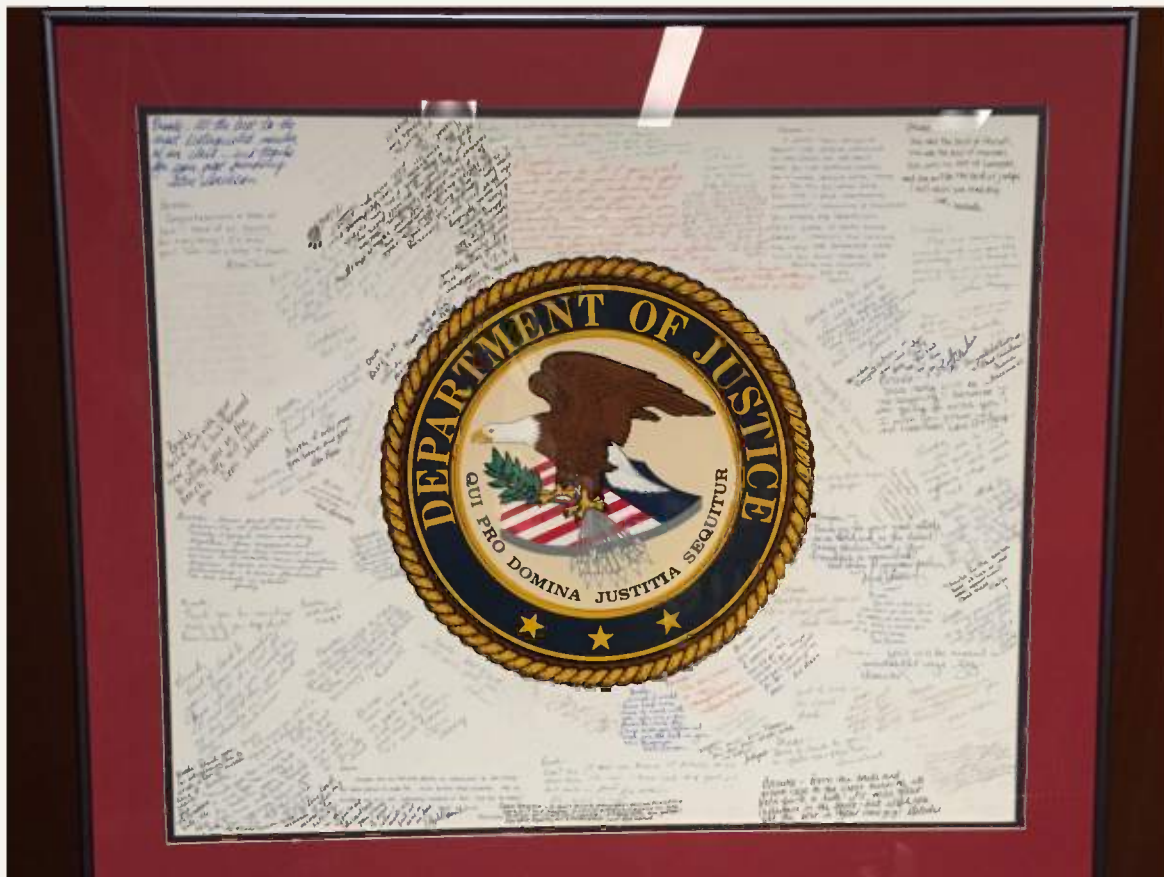
"What I know about her is all positive," said Magistrate Judge David Nuffer. "She's very personable, quite approachable and has a great reputation as an attorney."

A graduate of the University of Utah's law school, Wells spent 14 years with the Salt Lake Legal Defender Association. She joined the U.S. Attorney's Office in 1994.

In 1992, Wells became the first Utah woman inducted into the American Board of Criminal Lawyers, and in 1993 became the first Utah woman to join the American College of Trial Lawyers.

Last year, she was named one of 10 "Remarkable Utah Women" by the Governor's Commission for Women and Families.

— *Stephen Hunt*



Farewell Plaque from DOJ

Salt Lake County Bar Association's Bench Book

by Robert O. Rice, circa 2003

It may be some time before a story about newly-appointed federal magistrate Judge Brooke Wells does not begin with a story about her predecessor, the late Judge Ronald Boyce. After all, Judge Wells is widely regarded as having taken Judge Boyce's place—his robe even hangs in her chambers, a gift from Judge Boyce's widow, Darlene Boyce. Judge Boyce also left a deep impression on Judge Wells: "He was such a unique person," she recalled, describing his years on the bench as a "time in life when everything was right" and concluding that "we were blessed with him under those circumstances."

But with Judge Boyce now gone, Judge Wells is the first to admit that she is replacing the irreplaceable. "While the robe fits, the shoes never will," she said, pointing to Judge Boyce's old garment hanging on a hook in her chambers. "Fortunately for me, it's quite a legacy to have inherited his position, but there is no expectation that anyone, much less me, would ever completely fill his position."

Still, if there ever could be an understudy to Judge Boyce, Judge Wells may have the resume for it. He taught her at the S. J. Quinney School of Law at the University of Utah, where Judge Wells graduated in 1977. After nearly 14 years practicing in the Utah Legal Defenders Office, Judge Wells became Assistant U.S. Attorney in 1994, where she spent countless hours in Judge Boyce's courtroom. In that capacity, and to her surprise, she became something of a Boyce protege. "He, for reasons unclear to me, allowed me during the past seven or eight years into his circle of humor and he enjoyed bantering with me," she said.


In one story, Judge Wells, then a U.S. Attorney, walked into Judge Boyce's chambers and he fired a question at her: "What country in the world grows the most wheat?" he asked. "Several answers raced

through my head," Judge Wells said, "and I blurted out, China!" It was an educated guess on Judge Wells' part, but a correct one. "That pleased him to no end, but he would have liked it if I had been wrong, too, because of course, he could have told me why I was wrong."

The back-and-forth between the Judge and the U.S. Attorney went on for years, with Judge Boyce quizzing Judge Wells on legal minutia and trivia about her native Oklahoma and historical facts. But Judge Wells enjoyed no special treatment from Judge Boyce once court was in session. "I was lucky because he enjoyed doing that with me. But never, even though I was allowed within that circle of wit, never once was an inch of slack cut. He once told me to register my case with the AKC (the American Kennel Club) because it was a dog."

But back to the story about Judge Wells. A trip west, to Lake Tahoe to be specific, lured her from the plains of Oklahoma to the mountains of the west and eventually to Salt Lake City. She obtained her undergraduate degree in political science from the University of Utah and stayed at the U for her 1977 juris doctor. She then took the Utah bar exam, but immediately moved to San Antonio, Texas, "under the theory that often times you have to leave someplace to find out how much you liked it and how much you want to return." In Texas, Judge Wells practiced as a legal services lawyer, providing civil legal assistance to indigent clients for two and a half years.

Texas, however, soon proved correct Judge Wells' hypothesis about missing the place one left behind. She returned directly to Salt Lake City and the Legal Defenders Office, representing criminal defendants. Judge Wells stayed put at the Legal Defenders Office for nearly 15 years, maintaining a vigorous trial



practice. She then moved to the U.S. Attorneys' Office in 1994, where she was Chief of the Violent Crimes Section until she was selected for the federal bench in early 2003.

The transition from the defense side of the bar to the prosecution presented its challenges, requiring that she familiarize herself with federal sentencing guidelines and getting acquainted with subtle differences in procedure. Jumping the fence to the prosecution side also turned some heads in the legal community. "But I have believed in due process for all those years. . . . When I made the switch, I mentally prepared myself to do the best job that I could. I knew that there would be some criticism among those who were in the defense bar, but I consciously made the decision that I would continue to ensure that due process was done."

Her success as a criminal defense lawyer won her numerous accolades. In 1992, Judge Wells became the first Utah woman inducted into the American Board of Criminal Lawyers. In 1993, she became the first Utah woman to join the American College of Trial Lawyers. In 1992, she was named one of ten "Remarkable Utah Women" by Governor Mike Leavitt's Commission for Women and Families.

Now that she has been on the Bench for a short while, Judge Wells offers a few observations. First, she commends the Utah bar for its high level of courtroom practice. She also applauds lawyers for their civil conduct in her courtroom. There is, however, one area that has surprised her. "On the limited number of civil matters that I have had hearings on, I have been astounded at the sheer volume of paper which, when reduced to its principal elements, is much less in terms of what really is relevant to the topic." Her advice,

particularly to civil litigators, is to "cut to the chase" in motion practice. For lessons on trial practice, look to the criminal bar. "There really are some wonderful trial lawyers out there that, in the broader legal community, are not well known. And that's really too bad because I've always thought watching was the very best way to learn. People should stop in and watch some criminal lawyers at work—it's really a good way to learn."

With the advent of a third magistrate in the Federal District Court, there will be some small administrative changes, most particularly relating to the magistrates' criminal calendars. Judge Samuel Alba will hold his criminal calendar between 8:00 and 10:00 a.m.; Judge David Nuffer's criminal calendar is from 10:00 to 12:00 and Judge Wells will hold her criminal calendar from 1:30 p.m. to 3:30 p.m.

Judge Wells has a warm and active family life off the bench. There is her only child, Jason, now a young professional in business management in Florida. He is her honor's "pride and joy," not to mention a former All Big West football player during his college days at Cal State Fullerton. Regarding her husband, Kayle Hardy, a case manager with Criminal Justice Services for the Utah Third District Court, he is "the single most kindest, gentlest man in the world." The Judge and Mr. Hardy "gallop through life together. I say gallop because we are horse people." She and her husband keep horses in south Salt Lake County and, in the winter, Sanpete County. On weekends, look for the family riding trails, tending to barn duties, and playing with the family's two Springer Spaniels.

FBA Newsletter Profile

By Jonathan O. Hafen, May 2004

Judge Brooke Wells was raised in Oklahoma. Her life's path led her to Salt Lake City, where she worked as a secretary for Randy Dryer when Mr. Dryer was the University of Utah's Student Body President at the tender age of nineteen. Judge Wells had always wanted to attend law school but believed that door was not open to her. At that time, she did not have an undergraduate degree or the money to attend law school.

With Mr. Dryer's strong encouragement, she completed her undergraduate degree by attending classes part time. Again, with Mr. Dryer's encouragement, she applied to law school. Because of her financial situation, she only applied to the University of Utah.

She was put on the University of Utah's wait list, but received a very thin envelope rejecting her application. Undaunted by this setback, Mr. Dryer physically took her to the law school admissions office and told her she needed to go in and tell the director to keep her on the wait list until the day before school started just in case a spot opened up. Just before classes started, she received a significantly fatter envelope admitting her to law school.

Following graduation, she spent three years as a legal services lawyer in San Antonio, Texas. She then returned to Utah and worked with the Salt Lake Legal Defenders Office for fifteen years. Scott Matheson hired her as an Assistant United States Attorney, where she worked for eight and a half years. Eventually, she became Chief of the Violent Crimes Division. Changing from a defense lawyer in the state courts to a prosecutor in the federal court system required Judge Wells to conquer a significant learning curve.

On June 4, 2003, Judge Wells faced yet another

learning curve that of becoming a federal magistrate judge.

Prior to becoming a judge, Judge Wells had not fully understood the magnitude of personal responsibility in making decisions which significantly affect litigants' lives. She takes this responsibility very seriously.

Judge Wells hears civil matters in the morning and criminal matters in the afternoon. This process works well, because approximately 50% of her cases are criminal and 50% civil. About half of the time she spends on civil matters is discovery-related.

Regarding discovery, Judge Wells believes that litigants often bring to court disagreements which they should be able to resolve themselves. Nevertheless, when presented with a discovery dispute, Judge Wells tries very hard to understand the nature of the case and the positions of the parties prior to issuing a ruling.

Judge Wells has been amazed at the numerous requests for leave to file overlength briefs. She believes that litigants spend too much time repeating identical arguments and using up too much paper in the process. She also prefers that exhibits be referenced if they have been attached to previous pleadings, rather than attaching the same exhibits over and over again.

Overall, she believes that litigants should place a greater emphasis on clarity and brevity in their pleadings and in their arguments rather than trying to win on sheer volume.

She counsels litigants appearing in front of her to never make a misrepresentation to the court, because personal integrity is at stake.

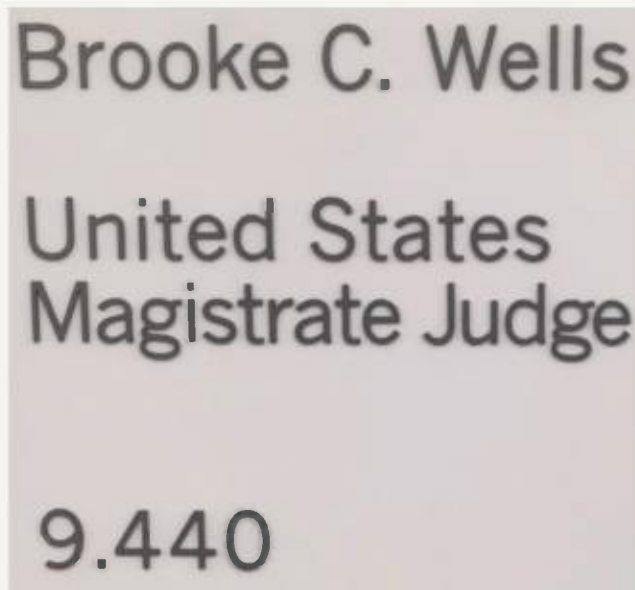
She also counsels litigants appearing before her to never negatively characterize someone else's behavior or positions. Judge Wells starts with the assumption of good faith by counsel and parties and allows the facts to prove otherwise rather than strained interpretations of conduct.

Judge Wells has one full-time law clerk, Matthew Willey. She has high praise for Mr. Willey, not only for his ability to assist her with her case load, but also for his skills with technology. Judy Drew is Judge Wells' judicial assistant, and her case manager is Amy Pehrson. If counsel wishes to contact Judge Wells, the best way to do so is to contact Judy Drew.

Judge Wells is the Federal Court liaison to the Utah State Supreme Court Advisory Committee on Professionalism. Judge Wells feels that lawyers practicing in federal court should adopt the same standards of professionalism advocated by that advisory committee.

As a couple of final practice pointers, Judge Wells advises that practitioners not request an emergency hearing unless it is really an emergency. Given her crowded schedule, it is very difficult for Judge Wells to accommodate emergency requests, particularly where there is no real urgency.

Finally, Judge Wells advises practitioners that gum in her courtroom is taboo. She views it as unprofessional. In addition to looking ridiculous (can you picture a judge chewing gum on the bench?), it is hard for Judge Wells to understand what practitioners are telling her while chewing on a wad of gum.





Hon. Brooke C. Wells

Find Your Passion; Follow Your Heart

By Jackson Williams

In 1974, when Judge Brooke C. Wells applied to law school, she was 27, newly divorced and the single parent of a 4-year old son, Jason. As a native Oklahoman, she didn't have any family in Utah where she was residing. She applied to the University of Utah College of Law – the only law school she could afford. She desperately wanted to be a lawyer like her father who died when she was only 11 years old. The doors for women had just started to open. Knowing it would be hard, she knew that if she was given the chance she could be a good lawyer, a good trial lawyer.

In July 1974, Wells received the dreaded “thin” envelope of rejection. Her mentor and friend Randy Dryer encouraged her to talk to the dean of admissions and let him know that if there was a last minute opening she wanted to be reconsidered. Two weeks before classes began she received the “fat” acceptance letter. During law school, Wells fell in love with criminal law. Although she admits she “just didn’t get property.”

She never interviewed with a firm or for a judicial clerkship. She was afraid of knowing her class standing, so she never inquired. She was “pretty certain” she wasn’t in the top 20 percent or even the top 50 percent.

Wells survived financially with the help of friends, food stamps, loans, part-time jobs and an occasional scholarship from the Utah Legal Secretaries Association. “One afternoon my law school friend, Jane Marquardt was at our house,” Wells recounted, “when Jason came in the room and asked, ‘Mom, can we heat the spaghettiOs tonight?’” It is stories like that that summarize her law school years.

She and Jason “graduated” with the great class of 1977. Soon after law school, Wells was diagnosed with multiple sclerosis. She has lived and worked with it successfully for over 35 years. Despite her diagnosis, she persevered and passed both the Texas and Utah bar examinations and began her public service law career and the pursuit of her passion for criminal law with Bexar County Legal Aid in San Antonio, Texas.

Three years later, she returned to Utah. "Oftentimes you have to leave a place to find out how much you love it and how much you want to return," Wells said.

Thereafter, for almost 15 years she worked for the Salt Lake Legal Defender Association under the mentorship of F. John Hill and Lynn R. Brown where she tried well over 100 felony jury trials and quickly rose to become among the chief capital-qualified defense attorneys in the state. In 1992, she was the first Utah woman inducted into the American College of Trial Lawyers, the first Utah woman to become a fellow of the American Board of Criminal Lawyers and the first woman president of the Sutherland Inn of Court II.

After joining the U.S. attorney's office in 1994, Wells served as violent crimes section chief and continued to hone her craft as a trial attorney prosecuting violent crime, civil rights and drug cases. As both a defense attorney and prosecutor, she was dedicated to the protection of due process rights and gained additional insight into the challenges facing those legally and socially disadvantaged – whether as victims, offenders, poor, or physically or mentally challenged.

Appointed the first female magistrate judge in the District of Utah, she continues to do what she loves. In addition to other duties, she presides over two specialized federal court programs, the RISE (Reentry Independence through Sustainable Efforts) mental health court and the RISE drug court. Both courts are re-entry courts for high risk returnees from federal imprisonment. The RISE mental health court is the first of its kind, pioneering federal effort. Recognizing the need for employment opportunities for returnees, she also chaired the advisory board of Utah Defender/Offender Workforce Development, a collaboration of state, federal and local agencies dedicated to identifying and eliminated barriers to employment. For these efforts the Utah Federal Bar honored her with its first Pro Bono Service award.

Presently, Wells co-chairs the District of Utah Evidence-Based Practice initiative designed to assist federal returnees and those facing prosecution in order to reduce recidivism by removing barriers to successful rehabilitation opportunities, creating new pathways for success including community support programs. The result would not only enhance the lives of participants, but would increase community safety through a sustainable model. This collaborative effort of the U.S. District Court, U.S. Probation, Utah Federal Defenders, Bureau of Prisons and Dixie State University is off to a great start. This new initiative created a standing committee and also several subcommittees staffed by representatives from each participating institution. Although each organization involved in this project has been faced with various budget and resource burdens, the initiative is off to a great start and hopes in the future to communicate opportunities to members of the bar to share their talents and get involved.

Throughout her life and legal career, Wells has faced and overcome her own challenges. She encourages all lawyers to work hard, "find your passion; follow your heart," and not let life's difficulties stand in the way. As she told the U of U law school graduating class in 2006, "Don't compromise; make things happen for yourself, you have already proved you can!"





Judge Wells with Justice Sandra Day O'Connor



Judge Wells with Justice Sonia Sotomayor



Judge Wells and her staff with Justice Sonia Sotomayor



Judge Wells and her staff observing the solar eclipse in 2017



In 1956, at age 18, Burnt Murphy (yes, that is the correct spelling) was released from the Utah State Training School, Utah's institution for "mentally retarded" youth. At age 19, Murphy was charged with the rape of a 5-year-old girl and subsequently the homicide of a young woman who had been a co-resident at the state training school. In 1957, a state district court judge found Murphy incompetent to stand trial and committed him to the Utah State Hospital, the state's mental institution, until such time as he became competent. Notably, no judicial findings were made as to the nature or type of insanity or mental illness Murphy suffered from when the alleged crimes were committed.

In fact, Murphy had mild mental retardation, but for the next 15 years he was confined to the state mental hospital and received a regimen of medications, including anti-psychotics. Eventually he developed the serious side effect of tardive dyskinesia.¹

Such drugs were never indicated for his condition. It is significant that Murphy had never been diagnosed with a mental illness, only with mild mental retardation. The next judicial hearing wasn't until 1972. The '72 hearing was prompted by a letter from the hospital's superintendent and a staff psychiatrist indicating Murphy was "no longer psychotic or insane" and was competent to stand trial. After a bench trial on the rape charge held in late 1972, Murphy was found not guilty by reason of insanity and again committed to the Utah State Hospital, consistent with Utah's statutory scheme at the time, without any release date. Again, no findings were made as to the type of Murphy's "insanity" other than mental retardation. He was never tried for the alleged homicide. Review of previous court records reveal Murphy was represented by counsel, although the extent and adequacy of that representation are certainly questionable.

In 1983, I was a reasonably new state public defender when Murphy's case was assigned to me. Referral of the case came at the specific request of the newly assigned trial judge, Hon. David Dee, who had received a letter from Murphy asking for help. Murphy had now been in custody for 27 years. At the time, I had no direct experience with individuals with either mental retardation or mental illness. I quickly learned how inadequate our judicial and mental health systems were in handling criminal defendants with mental illnesses or disabilities and how these affected by either suffered at the hands of these incompetent systems.

Utah's Disability Law Center assisted me in the representation. Following a five-day hearing in 1984, the trial judge found that Murphy suffered from mild mental retardation and an acquired adult adjustment disorder, which is not surprising after 27 years in a mental hospital. The court further found the medications had made Murphy quiet and docile and that it was only after the medications were stopped because of the side effects that Murphy cried out for help. Yet Judge Dee also found that the state mental health system had no means to care for Murphy outside of an institutional setting. He reluctantly recommitted Murphy to the state hospital and invited appeal of his decision to the Utah Supreme Court. In 1988, the Utah Supreme Court, in a 14-page opinion, ordered the state of Utah to create a plan for the graduated release of Murphy to the community.² The supreme court found it untenable that Murphy had been institutionalized in the mental hospital for many more years than he would have served in the state prison.

Released in 1989 to a community group-home setting (although he was the only resident), Murphy lived quietly until his death five years later from natural causes.

During my experience, I had grown to care deeply about Murphy and the plight of those like him who faced challenges due to mental illness or being developmentally disabled. My journey and interest in the well-being of the mentally ill began with this case, and that deep-rooted interest remains to this day.

The Mental Health Working Group

In 2003, after working as a prosecutor for the U.S. Attorney's Office, I was appointed as a magistrate judge. Shortly after taking the bench, I immediately and repeatedly encountered procedural issues unique to federal mentally ill defendants. Some were in pretrial custody and some on supervised release. Most instances involved severely and persistently mentally ill persons. Problems ranged from delay in transport to decompensation while in transport or in district custody, inadequate release plans, lack of treatment records, as well as medication and medical problems. Reports of forensic examinations were routinely late in arriving and often were inadequate. There was little communication between agencies. As a result, treatment and community support were lacking, individuals suffered, costs climbed, and cases dragged on.

Two particularly difficult situations come to mind that required court action and illustrate the dilemma faced by the mentally ill within the federal criminal justice system. Charged with a serious felony, Mr. B.³ had a long history of schizophrenia and had many visible and prominent facial and body tumors. A forensic evaluation was ordered at a Bureau of Prisons (BOP) facility.⁴ Several months later, he was returned after a psychiatric determination of competency. Unfortunately, he died in custody within a few months from the cancer not addressed while he underwent forensic evaluation.

Mr. C., a severely and persistently mentally ill man and a repeat bank robber, was returned to Utah after serving his BOP sentence. He was released at the airport with no transportation, and the community corrections center where he was to reside denied him entry because he arrived two days early. As a result, he spent the night on the street and the next morning went to the same bank he last robbed, robbed it again, and then sat on a curb waiting for the police.

Although still finding my way in the federal judicial arena, albeit with some newfound authority and a bit of naiveté as to the complexities of federal mental health processes, in 2004 I called together a Mental Health Working Group of agency representatives tasked with identifying and eliminating barriers encountered by mentally ill defendants such as Mr. B. and Mr. C. The BOP, the U.S. Marshal's Service (USMS), U.S. Probation, and the Utah Federal Defenders participated. While still respecting the individual mission and independence of each agency, the group members worked diligently to identify barriers faced by the mentally ill and implemented positive procedural changes, many of which are still practiced within the district.

The Mental Health Working Group was a good start but an imperfect solution to an even larger set of problems. The unintended consequence of the group's work was identification of additional and sometimes seemingly insurmountable barriers faced by mentally ill defendants reentering the community. Barriers to successful reentry included homelessness or lack of affordable housing, lack of the ability to apply for and manage benefits even if awarded, lack of community and individual support systems, lack of transportation, isolation, lack of employment possibilities for those who could hold jobs, and serious untreated medical and dental issues. The result, as illustrat-

ed by the case of Mr. C., was suffering, recidivism, and additional costs to the public of re-incarceration.

Many of those in the Mental Health Working Group knew that the state of Utah had 10 years earlier begun effective pretrial mental health courts where the criminal cases of successful graduates were dismissed. They asked why the federal district court could not adopt and adapt a similar model for returning supervisees and others.⁵ The answer was simple: because such an approach had yet to be tried.

The RISE Mental Health Court

What to do? Once again, those interested in the plight of the mentally ill (many from the original working group) began exploring the idea of a mental health court within the District of Utah.⁶ The group decided to have a mental health court distinct from a drug court, recognizing that the severely and persistently mentally ill, even with co-occurring disorders including secondary substance abuse problems, could not likely succeed in a traditional drug court setting. Because the original Mental Health Working Group had success, I proposed to then-Chief Judge Tena Campbell the creation of both a mental health court and a drug court for consideration as pilot projects. Without hesitation, she agreed, a position consistent with our district court's view both then and now that the court should

literature, picked the brains of the originators of our state model, consulted with forensic mental health experts, and attended national trainings. After doing so, we created the most feasible model possible for the court we envisioned. For the sake of brevity, if you would like a copy of the plan, please contact my chambers.⁸

While it is understood that mental illness and/or developmental disability is not curable, it is our position that recovery is possible. We strive to provide the necessary resources, including community and medical relationships, so that participants are sufficiently stable and given the best chance of success upon termination of supervision.

We have modified the original plan over the years as the program has evolved. I will highlight a few of the modifications here. A representative from the National Alliance for Mental Illness (NAMI) has joined our professional team, giving us additional professional insight and client-based advice. Unfortunately, the BOP and USMS, for reasons relating to resources, have not been weekly members of the professional team, but there is hope for renewed participation.

In 2014, the name of our court was changed to the RISE (Reentry Independence through Sustainable Efforts) Behavioral Health Court so as not to further stigmatize participants. We try to no longer refer to our participants as "defendants," "offenders," or "inmates" for the same reason. We have included in RISE those on conditional release who potentially face a lifetime of reporting to U.S. Probation.

The eligibility requirements for program participation were also expanded to include those with traumatic brain injuries. Those convicted of sex offenses with mental illness now, when appropriate, do also participate in RISE with the intent that our court can provide the closest supervision and accountability.

Because supervisory, diversionary, and probationary periods, as well as conditional release provisions, vary greatly, we have modified our program to require an approved individual plan, created with the participant's direct involvement, to reach a set of goals. A plan is likely to include stable housing, medication compliance, treatment compliance, employment or receipt of legal-

ly authorized benefits, lack of recidivism, and positive community support and involvement. Upon achievement of an individual's goals, a recommendation may be made to terminate supervision early.

Successes, Failures, and the In Between

Allan Rice, Ph.D., our "earth father" and representative of our treatment provider, Valley Mental Health, has often taught but reemphasizes that as a court and as court professionals, we must define success differently in a mental health court setting than in a traditional court. Six months or a year of stability without re-incarceration or hospitalization can be a success story for one who has been jailed repeatedly. There are many more examples of large and small successes.

Our court of 10 participants is small due to resource restrictions. To date, it has been cost-prohibitive to have an analytical study conducted on such a small group. However, we don't judge success sole-

“ While it is understood that mental illness and/or developmental disability is not curable, it is our position that recovery is possible. We strive to provide the necessary resources, including community and medical relationships, so that participants are sufficiently stable and given the best chance of success upon termination of supervision.”

play a part in reducing recidivism, enhancing community safety, and improving the lot of those returning from federal prison.

It became necessary to invent something new because, according to our research, there were no other federal mental health courts. None, to our knowledge, were being considered, although other districts such as the District of Oregon, the Eastern District of Missouri, the District of Massachusetts, and the Eastern District of Pennsylvania were getting the message that reentry courts that were incorporating evidence-based practices (EBPs) were working to improve the plight of those returning to society, particularly those who were drug addicted.

All state mental health court models, including those in Utah, were exclusively pretrial courts.⁷ The decision was made that ours would be a mix of returnees, those on diversion, and some on probation. State court staffing and hearings were visited; we consulted with our respective state counterparts, reviewed the relevant

ly on graduation rates. Yet, our court is deemed successful by our staff, our judges, and, I believe, our participants to be an effective alternative to incarceration, which enhances the dignity of the vulnerable mentally ill population.

The following stories are illustrative of the people, problems encountered, and work done in our behavioral health court.

A.D., a previous collegiate actor and Vietnam vet, suffered from schizophrenia and had no teeth. Although on supervised release, he remained chronically homeless, was not affiliated with the U.S. Department of Veterans Affairs (VA), and was not taking previously prescribed medications. Upon entering RISE through the joint referral of his attorney and supervising probation officer, a relationship with the court and the VA ensued. In the end, A.D. graduated from our program, was stable on medications, had a Hollywood smile, and was one of the first two vets in Utah to be placed in a newly created Veteran's Foster Home. It was there that he later peacefully died from a chronic illness.

A.W. was a young man in his early 20s when he returned to Utah on supervised release. As a child, infection from undiagnosed appendicitis resulted in the amputation of one leg above the knee. As a teen, he received an accidental gunshot wound to the head resulting in severe mental and judgment impairments. Convicted of a federal felony, he entered BOP custody, during which time he continued to grow physically. He was not fitted with a new prosthetic for his leg. He hopped or crawled wherever he went. After release and once again in trouble, A.W. was referred to the RISE Behavioral Health Court. For more than a year the team tried valiantly to secure a new leg for A.W. For reasons not remembered, he was ineligible for vocational rehabilitation or Medicaid services. Ultimately, the effort failed. But for two years, he was a full participant in RISE and made lasting improvements.

About 12 years ago, J.G. was deemed incompetent to proceed on his charges of threatening a federal official. After months of hospitalization and civil commitment to a BOP facility after a finding of incompetence to proceed, he was given a conditional release, which required supervision by U.S. Probation—for up to life. J.G., like A.D., had become chronically homeless; he began using methamphetamine but had not been charged with any criminal offenses during his release period. While in RISE, housing was located for J.G. He participated in treatment and took medications as prescribed. After two years in RISE and after almost 10 years on conditional release, his conditional release was finally terminated. He still drops in for picnics and pizza with the group from time to time. Before his schizophrenia manifested, J.G. had been a promising winter Olympian.

R.L. was on supervised release after a BOP sentence. He suffered from a severe depressive disorder and chronic alcoholism. He was referred to RISE as an alternative to revocation and a return to custody. Although young, R.L. had a wife and four very young children. For months, they lived in a single room in a run-down motel. The baby slept in a dresser drawer. To deal with the inherent stresses of such a situation, R.L. would engage in further drinking—even while on anti-drinking medication. RISE assisted R.L. and his family by finding alternative housing, helped R.L. enter and complete an in-

patient alcohol program, and referred the family to community services and counseling. To this day, R.L., his wife, and his kids still drop by to say hello. R.L. has also avoided a return to custody.

D.S. had a low IQ and went to prison on a six-year sentence as a very young man. He returned to Utah having had a schizophrenic break while in prison and with a significantly reduced IQ after receiving head injuries during prison assaults. D.S. had loving, supportive parents but remained housebound due to anxiety. Since joining

“ ARC is a districtwide initiative to further the goals of reducing recidivism, increasing public safety, reducing costs, and enriching the lives of those so vulnerable in even more and differing ways. ”

RISE, D.S. now enjoys associating with our group and walking his dog. He has visited an independent living center and is working toward participation in its activities. In short, his quality of life has risen dramatically. These are but a few of the successful individuals helped by the RISE program.

Conclusion

Although the RISE courts were approved as single-year pilot projects, the issue of sustaining them has never been revisited. Rather, the District of Utah, with full support of its judiciary, U.S. Probation, the U.S. Attorney, and the Utah Federal Defender, has initiated another pioneering effort called Assisted Re-entry to the Community (ARC). ARC is a districtwide initiative to further the goals of reducing recidivism, increasing public safety, reducing costs, and enriching the lives of those so vulnerable in even more and differing ways.

Presiding over the RISE Behavior Health Court has been the most rewarding aspect of my tenure as a magistrate judge. I feel judges have the responsibility to apply the law on the front end to effect justice, but we have an equal moral and ethical obligation to use our power on the back end to benefit our citizens and our communities.

A behavioral health court is doable—in your district. I urge you to consider it. ☺



Judge Brooke C. Wells was appointed as a U.S. magistrate judge in 2008. In addition to her regular criminal and civil dockets, she presides over two specialized courts, the RISE Behavioral Health and Drug Courts. She can be reached by email at ut-decf_wells@utd.uscourts.gov. She is grateful for those who have assisted in the creation of the Mental Health Court. Among those professionals deserving of recognition for their vision and work are David Christensen, (chief, USP), Kevin McKenna (USP), Karan Pace (USP), John Warner (USP), Meriska Holt (USP), Bob Steele (AUPD), Georgette Leventis (UFD investigator), and Allan Rice, Ph.D. (Valley

Mental Health). The author would like to thank Judge Nanette A. Baker, who presides over a mental health court in the Eastern District of Missouri, for suggesting the submission of this article.

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Endnotes

¹Tardive dyskinesia is characterized as "involuntary, choreiform, athetoid, or rhythmic movements (lasting at least a few weeks) of the tongue, jaw, or extremities developing in association with the use of neuroleptic medication for at least a few months." AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, 736 (4th ed., 2000).

²*State v. Murphy*, 760 P.2d 280, 281 (Utah 1988).

³For the interests of privacy, all participant names have been abbreviated.

⁴As there are no BOP facilities in the district of Utah, forensic evaluations are generally conducted out of district.

⁵According to our treatment providers, persons with persistent

and severe mental illness have a life span of 10 years less than those without such mental illness.

⁶At about the same time in 2004, other interested federal professionals from the same agencies began to talk about a drug court model for the district. We knew of Judge Anne Aiken's Oregon federal drug court program and of Utah state court models. Also in 2004, through the initiative of Anrico Del Ray (USP), the Utah federal district court became a partner in a federal-state collaboration eventually known as UDOWD (Utah Defendant/Offender Work Force Development). The resulting task force and advisory board consisted of state, federal, and local law enforcement members including the Utah Department of Corrections, and state agency representatives (Department of Vocational Rehabilitation, Department of Work Force Services, and Division of Child Support Recovery Services), as well as community representatives from the LDS Church and Catholic Community Charities. This mission of UDOWD was to identify and remove barriers to employment faced by state and federal prison returnees.

⁷In 2004, the Thornburg Memo still advised the actions of the U.S. Department of Justice and local U.S. attorneys as to resolution of federal criminal cases. Federal prosecutors, including those in the District of Utah, were required to accept pleas of guilty only to the highest provable offense in a specific case, thus eliminating diversions except in extraordinary circumstances.

⁸Feel free to contact us at utdefc_wells@utd.uscourts.gov.



Farewell Plaque from RISE Court



RISE Court and graduates social



RISE Court and graduates social

you are cordially invited
to attend a special reception

HONORING
the
DISTINGUISHED CAREER
of

Brooke C. Wells
U.S. Magistrate Judge

May 29, 2019

reception from 2:00 - 3:30 PM
presentation at 2:30 PM

united states district court
jury assembly room
351 south west temple
salt lake city, utah

light refreshments served



Kayle Hardy, Judge Wells, Vernice Trease, Isaac Trease, Jory Trease, and Lisa Remal

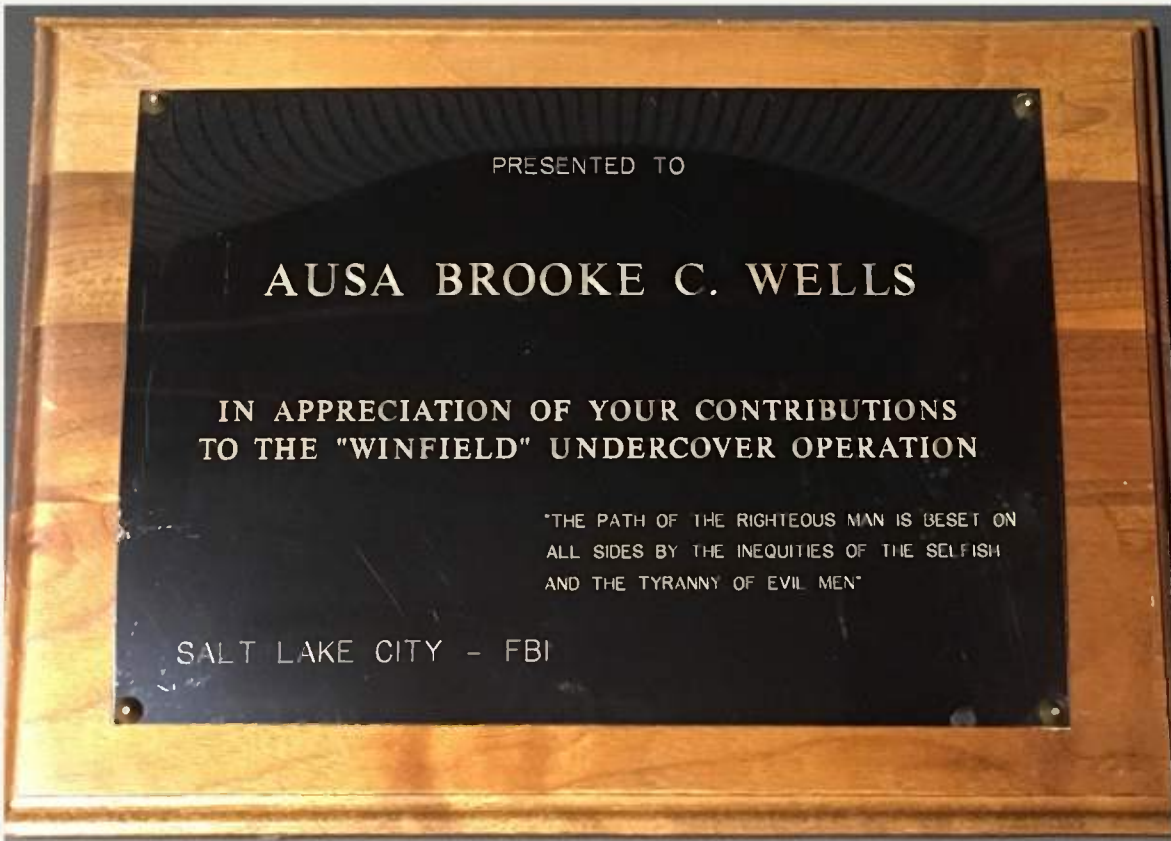


Judge Wells and her brother, Phil Cotter

Judge Wells and Tuff









American College of Trial Lawyers



By virtue of the authority in them vested, the Regents
of the American College of Trial Lawyers hereby
certify to the admission of

Brooke Cotter Wells

as a Fellow of the College, these Letters being their
testimonial that she possesses the necessary experience,
skill and integrity to qualify for this Fellowship.

Dated this 21st day of September 1998

John Hopt
President

Magistrate Judge Brooke C. Wells

*In Appreciation for Your Extraordinary Service
As
Chief Magistrate Judge
for the United States District Court
District of Utah*

2012 - 2016

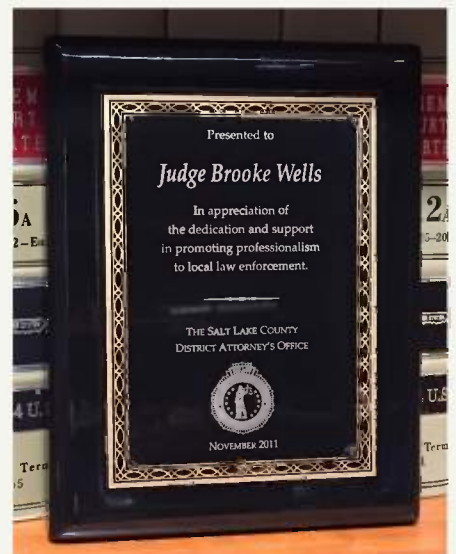
HONOREE OF THE YEAR
2015

**Judge
Brooke C. Wells**

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Acknowledgments:

This tribute to the fierce and compassionate Judge Wells was made possible by one of Judge Wells' former clerks, Lesley Manley, as well as Anneliese Booher, and the Utah Chapter of the Tenth Circuit Historical Society.



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