

HOLDING COURT

Judge Chris Cottle retires after a career of amazing cases



Shmuel Thaler/Sentinel photos

Judge Chris Cottle dons his robe prior to entering the Sixth Court of Appeal courtroom for one of his last cases.

Courts
By PEGGY TOWNSEND
Sentinel staff writer

It's the murder trial of a 27-year-old housewife that haunts Chris Cottle the most. It's not the trial of Herbert Mullin, the quiet hometown boy whom Cottle prosecuted for methodically murdering 10 people in an attempt, Mullin claimed, to stop earthquakes from destroying California.

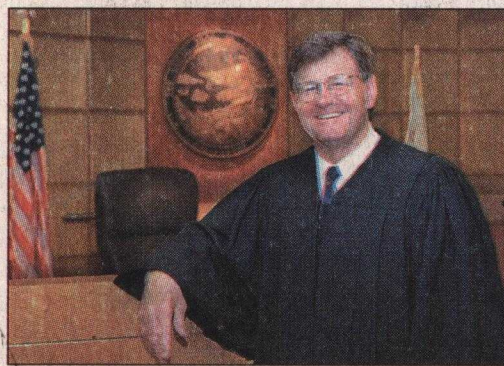
It's not John Linley Frazier, whom Cottle helped send to prison for slaughtering a family in the Soquel hills because the drifter thought their house was destroying the environment.

Those cases are what the public remembers most about Cottle, as he became the county's District Attorney and then a Superior Court judge, and what gave Santa Cruz the dubious title of "Murder Capital of the World" in the '70s.

But neither of those cases struck Cottle as much as the rape and murder of the housewife, Joyce Coulter.

On the eve of his retirement as presiding judge for the Sixth District Court of Appeal, Coulter's case is the one Cottle can't forget.

"No other case," Cottle said, "affected me as much as that one."



A woman alone

Joyce Coulter was 27, with long blond hair and wide-set eyes — the kind of woman people noticed when she walked into a room.

Late on an April night in 1975, she was noticed by two men as she sat in an all-night restaurant having a cup of coffee.

One was Vincent Regan, a man who would later confess to Coulter's murder in a handwritten note a cellmate persuaded him to write.

The other was a man named Orrin "Buzz" Carr, who said he began to hear the voice of the

devil after an auto accident that decapitated his mother and severed his brother's arm, but left Carr alive.

When Coulter walked out of the restaurant, the two men slipped out behind her.

They broke into her house and took turns raping her, then stabbed her with a knife.

When they saw she was still alive, they strangled her with a bedsheet.

"I went with an insanity defense," said Public Defender Larry Biggam, who defended Carr.

"He had medicated his pain with alcohol and drugs, and he was hearing voices and eventually talking back to those voices, and he was a mess."

It was a solid case, but Biggam knew jurors had a hard time finding someone innocent by reason of insanity.

"Cottle honed in on that. He was very meticulous, very methodical and very thorough," Biggam said. "I knew he wouldn't miss a thing."

"He was a far nicer guy outside of a courtroom than inside the courtroom during a murder jury trial."

Biggam brought in a psychiatrist, who said Carr was insane. Even though Carr and Regan

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had stalked the woman and parked their car so it would be hidden from view, the psychiatrist testified, Carr was unable to distinguish between right and wrong when the killing happened.

Cottle shot up from his chair. "And what does the word 'premeditate' mean, doctor?" he asked.

"He just shredded my shrink on the stand," Biggam said.

"He was prepared and relentless and, therefore, effective."

"To this day, I can't forget it (the case)," Cottle said, sitting in a Santa Cruz coffee shop, sipping a latte before he headed over to his San Jose office.

"I go by the house and I remember all the details."

It was the random way the men had spotted a woman alone and followed her home. The way they stalked her. The sheer violence and brutality of the killing.

"I couldn't understand," Cottle said, "how anyone could do such a thing."

Monster cases

It was football, not an interest in law, that set Cottle on his path to appellate court judge.

Growing up in Southern California, he was a big kid, a guy who hit his full size by the time he was 15.

Coaches saw Cottle's size, figured out he was smart and made him an end and a line-backer — a thinking man's position.

By his senior year, Cottle was recruited to play football by colleges across the country.

He picked Stanford.

"I was pretty overwhelmed," Cottle said of the day he walked onto the campus. "It was the first time I realized I wasn't as smart as I thought I was."

He played under legendary coach "Cactus Jack" Curtice and declared pre-med as his major. But partway through, he decided to switch to law — not because he loved it, but because he was sick of doing lab work and thought no matter what he did, law school would be a good foundation.

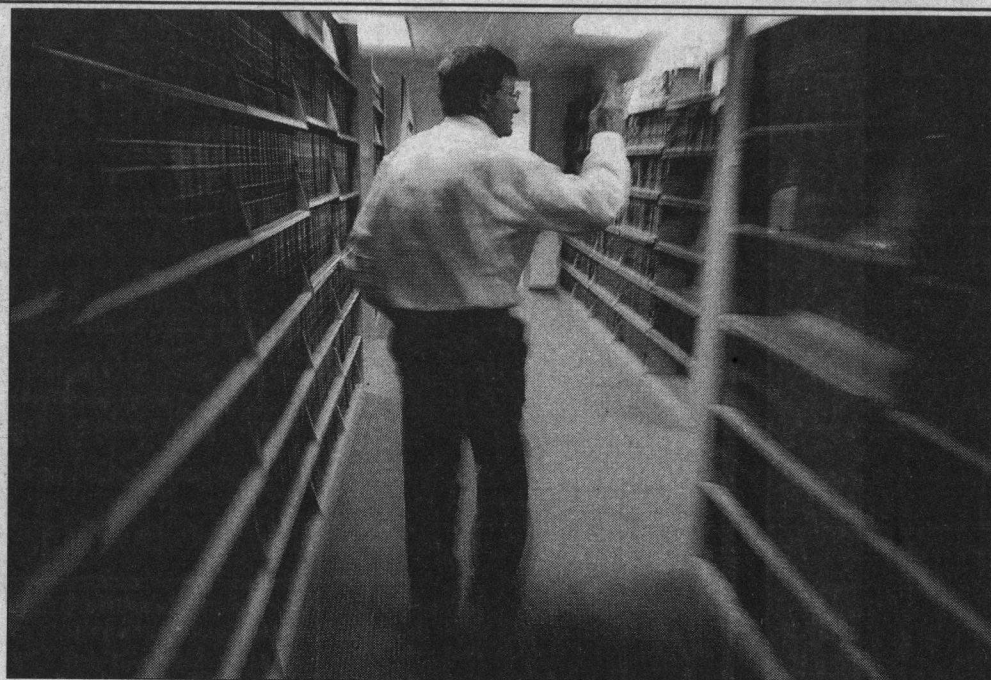
He put himself through law school by working as a janitor and a counselor for the probation department.

"I hired him largely, at first, because he was an outstanding football player at Stanford," said Peter Chang, then district attorney for Santa Cruz County.

"But he became one of the brightest attorneys I have ever worked with."

In 1971 Chang picked Cottle to help him prosecute John Linley Frazier, a long-haired drifter arrested for the murder of a prominent eye doctor and his family in the Soquel hills.

"The case was a circumstantial monster,"



Shmuel Thaler/Sentinel

Judge Chris Cottle makes his way through the Sixth Court of Appeal law library.

Chang said. There were more than 100 separate pieces of evidence that fit into a whole picture of guilt.

"Cottle was absolutely essential to putting that case together and getting a guilty verdict on all five counts," Chang said. "The jury found him (Frazier) sane and sentenced him to death, and we did it side by side."

It was such attention to detail that led Chang to appoint Cottle to prosecute mass murderer Herbert Mullin when Chang got appendicitis and peritonitis just as the trial got under way.

"His closing remarks in that case were just brilliant," Chang said.

Linked to the killings of 10 people — including a mother and her two sons and four teen-age campers — by ballistics, Mullin's attorney called his client "stark raving mad" and said voices had driven Mullin to kill.

"The problem was, Mullin was medically insane, but not legally insane," Chang said.

Cottle had to make sure the jury saw the difference.

Focusing on a statement Mullin had made that voices had once told him to kill himself, Cottle stood before the jury in his closing arguments and took them through the logic.

"If he was the victim of irresistible voices," Cottle said, "then he would have had to kill himself."

Chang praised Cottle as "highly organized, highly efficient and has a tremendous memory."

Cottle just shrugs his shoulders.

"My style is really preparation," he said.

Investigators remembered how Cottle prepared for a case, filling his office with so much evidence, transcripts and notes that the corner space looked like it belonged to a bag lady.

"There would be search parties of secretaries sent in to look for things," said Watsonville Police Chief Terry Medina, who worked as a detective on the Coulter and Richard Sommerhalder murder cases with Cottle. "Sometimes, they would have to send in an investigator to help if they were in a big hurry."

When Cottle was preparing for the Coulter murder case, his office got so unruly that his chief investigator rented two rooms at the Holiday Inn nearby and detectives carted everything for the case over there.

A passerby could see lights burning in those rooms late into the night and early in the morning as Cottle got ready.

"I tried to be prepared for whatever happened," Cottle said.

Former Appellate Court judge Harry Brauer remembered how Cottle prosecuted a doctor who killed a woman during an abortion by hooking up the suction machine incorrectly.

"It was, in effect, a medical malpractice case," Brauer said, "and he tried it as well as if he had been an experienced civil medical malpractice attorney."

But Cottle was never known as a man who bragged about his accomplishments.

"Cottle wasn't a guy who waited for people to come up and slap him on the back," said Ray Belgard, former Watsonville Police

Chief and a chief investigator for Cottle.

"He wasn't a headline-seeker. He was just a good, solid, methodical guy."

A '60-minute man'

There was a cartoon that was drawn when Cottle was made a Superior Court judge by Gov. Jerry Brown in 1977.

It shows Cottle as a Charlie Atlas kind of guy carrying the world on his shoulder.

The world is labeled "Santa Cruz Superior Court."

It happened when Cottle was first named to the bench and two judges went on medical disability within a few weeks of each other.

Cottle and one other judge carried the burden of the entire Superior Court for a year.

"He was a 60-minute man," said Belgard, his former chief investigator. "He was just an all-around guy."

Which may have been why he was one of the few judges to be appointed both by a Democratic governor and a Republican one.

Cottle looks down at the floor and shrugs. He never was good at the black and white of politics, he said.

"I was probably destined to be a judge," he said. "I can sit in a room with a bunch of people talking and flip-flop from one to the other."

He laughed, but when it came to talk about the law, Cottle was serious.

The law is like a chess game, he said, where people try to out-manuever, out-guess one another.

"But at the same time there are overriding principles," he said, "not the least of which is fairness."

It's what he's lived by, ever since he took his first step onto a football field.

It's probably why his friends and colleagues have a hard time coming up with anything bad to say about him. The worst thing they could remember was that once, as a young lawyer, he sneaked out of work with two other attorneys in the District Attorney's office to go fishing.

Ask Cottle about his hardest decision as a judge: Was it a landmark 1995 appellate court decision that judges could still throw out one of the strikes in the three-strikes case? Or a case where someone went free on a technicality?

Neither. Instead, he picked a case in Santa Cruz County where a girl sued because she was refused membership in the male-only Boys' Club.

To Cottle, the law was clear: The club would have to admit girls.

But it was the effect his decision would have on the community that kept him up at night.

There was serious talk that the club would lose most of its funding and have to close if girls were admitted.

"That troubled me, the effect on the community," Cottle said. "I felt it was the right decision, but I remember I struggled a great deal."

It was hard, too, as he sat in the faintly art-deco courtroom of the Sixth District Court of Appeal in 1999 and listened to arguments over whether a San Jose law which required the city to seek out minority- and women-run firms for its contracts violated the so-called anti-Affirmative Action initiative, Prop. 209.

The court found that the language of the initiative made it clear San Jose's law violated the law.

"There was an example of a tough legal case where you know the consequences, one way or another, are enormous and you have to focus on what the law is," Cottle said over the noise of an espresso machine.

For him, there was no other choice but to follow the letter of the law — made even more important because it was an initiative, the voice of the people.

"I think probably 85-90 percent of the decisions judges make are relatively easy, because either the law is clear or the facts are clear," said Cottle.

A criminal getting off on a technicality, for example, would be an easy decision because a jurist would be following the law — as he is supposed to.

It is the other 10-15 percent, said Cottle, "where judges pay the price emotionally."

Where they stay up late at night, where they wonder if they made the right decision. Where the case follows them home and then back to work the next morning.

That's the tough part of the job.

Time for himself

Cottle has been on the bench 24 years now, and presiding judge of the Sixth District Court of Appeal for eight.

It's a heady spot to be, a job that brings clerks, a hushed law library and an 11th-floor office that looks out over the sprawl of San Jose.

Still, it is the simple things that Cottle loves best and the reason, at 60, he decided to retire.

He wants more time to spend with his family — he has a 31-year-old son and an 11-year-old son. He wants more time to ski, play golf and maybe write a book.

He'll do some legal work — mediation and filling in for vacationing judges — but, finally, he's going to take some time for himself.

"There's never been a day when I haven't wanted to go to work," he said.

He got up from the table and headed out to his car to drive over Highway 17 for another day on the job.

"I feel," he said, "privileged to be able to do the work I have done."

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