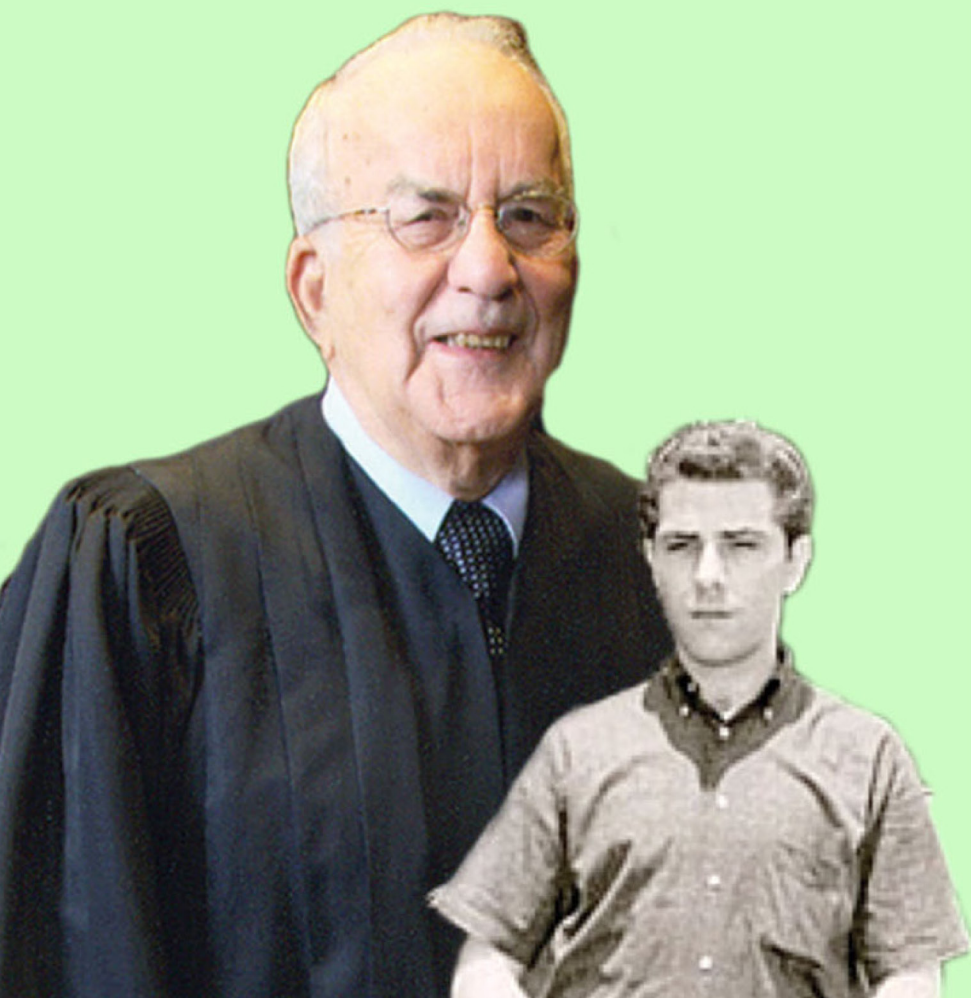


# THE CASE OF JAMES DEAN WALKER

A presentation by  
Eighth Circuit Judge  
Myron H. Bright  
examining the trials  
and appeals of  
James Dean Walker,  
who was wrongfully  
convicted of murder.





# NORTH DAKOTA LAW

## **UND Trial Advocacy**

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Aerospace Legal Research**

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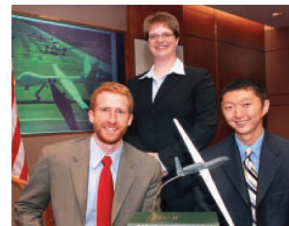
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# The Case of James Dean Walker

*By Dave Haberman*

*In the Fall of 2006, as part of the Law School Speaker Series, the Honorable Myron H. Bright presented to the UND Law School "The Case of James Dean Walker." Walker was convicted of the 1963 death of an Arkansas police officer and received the death penalty. Important facts, inconsistencies and rulings in the subsequent trial and later appeals were not completely addressed until the case landed on Judge Bright's desk at the Eighth Circuit Court of Appeals in 1981. Judge Bright's attention to the facts and merits of this case, and his dedication to furthering of the interests of justice, led to James Dean Walker's release from prison over 23 years later. But there is more to this story than legal process through the years. There is a personal side and a North Dakota connection in this case.*

## **An Interview With James Dean Walker**

After Judge Bright's presentation, an interview was scheduled with James Dean Walker. In discussing his life, Walker said it started with a childhood that was not very good. His parents were divorced when he was young. He lived with his mother at times, with his father at other times, and sometimes in foster homes. In 1961, he enlisted in the Army. After his release, he started running with a bad crowd, traveling cross-country, stopping in Little Rock, Arkansas. He ended up in a nightclub where a fight broke out. He and another man left the club and while they were on their way out of town, were stopped by the police.

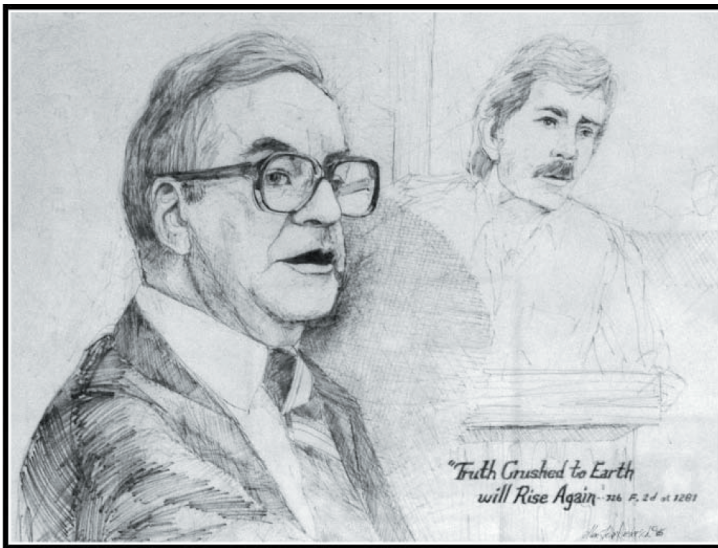
Walker spoke of the night of the incident, April 16, 1963. "I was a young, dumb kid. Got in a barroom fight. It started out a guy, for some reason did not like my looks or whatever - threw a glass of whiskey in my face. I had a pistol and I hit him with it and a woman called the cops. We left the nightclub and went over to the motel. We were going to check out." Walker was with a man named Russell Kumpe. They left the motel and were on their way out of town when Officers Barentine and Vaughan stopped them. Officer Barentine went to the driver's side of the car and ordered

Kumpe out of the car and began to search him. Officer Vaughan went to the passenger's side of the car.

"The officer ordered me out of the car," Walker continued, "and I just stepped out of the car, raised my hands. I had the pistol in my hand. I don't blame them." Then the shooting started. "I felt something hot hit me right in the groin. I was shot twice in the groin, once in the top of the thigh. It spun me around and hit me behind my spine, it hit the 11th rib and came out. Then twice in the forearm."

Officer Vaughan suffered a single, fatal gunshot wound to his heart. The gun in Walker's right hand was not fired during the incident. There was another gun on the ground near Walker, later determined to be the gun from which the fatal shot was fired. Walker was charged with first-degree murder. The state's theory in the first trial was that Walker shot Vaughan with the gun found near him, then Barentine shot Walker.

The jury was out 12 minutes before coming back with a guilty verdict, and a death sentence. Walker was on death row. But with less than a week before the scheduled execution, the Arkansas Supreme Court granted a stay and a new trial, based on the judge in the



*Judge Myron H. Bright, served as the Law School's Distinguished Jurist-In-Residence in March 2008. His visit was highlighted by the celebration of his 40 years on the Federal bench.*

**Illustration:** This drawing of Bright and Walker by Ellen Jean Diederich, of Fargo, N.D. hangs in Bright's office today.

case allowing irrelevant and prejudicial testimony.

Prior to the second trial, defense counsel asked for a change of judge, which was denied. They argued the judge was prejudiced against Walker. One of the issues presented related to a request by Walker. Prior to the first trial, Walker had a religious conversion, and asked to be transported to a nearby church to be baptized. The judge granted the request, but told the officer transporting Walker that if he attempted to escape to "shoot him down... because [the judge] intended to burn the S.O.B. anyway." Also, defense counsel received ballistic evidence showing that Officer Vaughan had shot Walker, contradicting the state's theory in the first trial. The state changed the theory of the case in the second trial, saying Walker fired first, and Vaughan, before dying, fired back, accurately, at Walker five times.

Walker was convicted again, this time receiving life without parole. After the second trial, Walker's attorneys filed their first writ of habeas corpus, based on the prejudice of the judge, and additionally on the state's suppression of exculpatory evidence of two eyewitnesses. This writ was denied.

The Arkansas prisons were pretty rough in the 60's and 70's. One of the Judges who later found the entire Arkansas prison system unconstitutional as a violation of the prohibition against "cruel and unusual punishment" called it "a dark and evil world." The inmates were put on work details in the hot weather. "It was like the scenes in "Cool Hand Luke," said Walker. While serving his sentence, Walker became more active with the church. He was involved in getting the first chapel built within the prison system. For good behavior, he was granted meritorious leaves to speak to regional churches, civic groups and school assemblies. He spoke to them about making better decisions, and how easy it was for a young person's life to get out of balance. During these furloughs, he spoke to over 70,000 people.

There were also many changes in prison administration during this time, some better, some worse. After a new

warden was installed, he called Walker a "cop killing S.O.B" also that he would "bury him in the prison yard," telling guards that if he acted up, "bring him back to me in a sack." Walker felt threatened. He requested additional furloughs for speaking, and was denied twice. Finally granted a furlough, Walker made the appearance, and while waiting for the return bus decided to skip the state. He left the bus stop and hitchhiked to California where he had friends.

Several years later, he was picked-up by police officers in Lake Tahoe. When a check was run, his Arkansas escape was discovered and he was held for extradition. This was during the time the movie "Brubaker" came out. The movie was based on the harsh Arkansas prison system. Walker as a high profile prisoner, argued his life was at risk if he was returned there, and appealed the extradition to the U.S. Supreme Court. The Court determined that the case could only be addressed in Arkansas and denied the appeal. Walker was returned to Arkansas.

## **An Appeal to the Eighth Circuit**

It was after this time that Walker's attorneys filed a second habeas corpus petition. In denying the petition, the district court found four of the seven claims had been argued and denied earlier, and the other three claims without merit. In 1981, it was appealed to the Eighth Circuit where a three-judge panel heard oral arguments and assigned Judge Bright to write the opinion for the panel.

Patricia Maher was Judge Bright's clerk at the time and was given the file to review. She said, "Judge Bright explained to me that the panel had voted to affirm the district court's denial of a writ of habeas corpus, but said that before they could state in the opinion that their decision had been reached based on a careful review of the record, someone had to make a careful review of the record, and that was me." She received the transcripts of the habeas proceedings and the two state trials and began her review.



“It was a somewhat tedious process and I was not experienced in reviewing trial records. But I began to be troubled by what became clear as I reviewed the record. First, that the gun that was in James Dean Walker’s hand was fully loaded, that no ballistics examination had been performed on the bullet that killed officer Vaughn, and that there was an eyewitness to the incident who had not been called at either trial. So I told Judge Bright about my concerns, and he decided he should take a look at the record, because the inescapable conclusion was that Walker had been framed.”

Judge Bright moved into the conference room, and used every free moment during the following several weeks to review each document. Then he read them again.

Maher continued, “After some time, he became convinced that there had been a miscarriage of justice, and he asked me to focus on the legal standards for a successive application for a writ of habeas corpus.” She found that a successive writ required a determination by the court that the ends of justice would be served by reaching the merits of the new writ.

## A North Dakota Connection

Walker was in solitary confinement in Arkansas during this time. “I remember looking in the federal digest one time when my case was being appealed, looking up the judges from the 8th circuit who were on my case, and where they were from, and saw Judge Bright from North Dakota. Well as a kid, I had lived in Riverdale, North Dakota, where my father worked on Garrison Ranch Dam, back in the late 40’s, early 50’s, and I remembered North Dakota people. I thought these are good, down-to-earth, salt-of-the-earth people. And I kind of hung my hopes on Judge Bright.” He paused, “I know that sounds kind of simple, but I did not have much else. They let me out of solitary three times a week to go out and walk around the exercise yard and come back in. That was my quiet time, my prayer time, and I would kind of pray for Judge Bright because I thought he might be my guardian angel. I didn’t even know this gentleman, but it turned out he became my guardian angel.”

Judge Bright was convinced that Walker had received an unfair trial, and continued to work hard on the case. Votes on the appeals court changed through retirement, and new appointments to the bench. During this time additional new evidence in the case was also revealed. A diary entry written in 1968 by Kumpe indicated

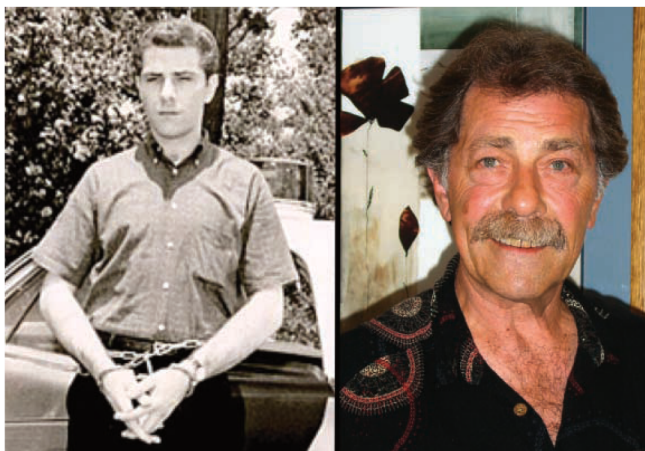
that he, not Walker, had fired his gun when Vaughan was shot. The entry was proof Kumpe had admitted to his former wife that he had shot the officer. Finally, a transcript of a conversation between Kumpe and his sister, containing exculpatory evidence, had been withheld from the defense by the government for over 20 years. In it Kumpe told his sister that “I did shoot at that policeman” and “If they place the gun in my hand . . . I had things on me that would have got me a hundred years.”

## Walker Released After 23 Years

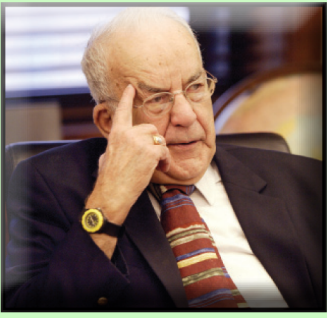
This new evidence was finally enough to tip the scales. In 1985, the court voted 5-4 to grant the writ of habeas corpus and order a new trial. Judge Bright wrote the majority opinion. *Walker v. Lockhart*, 763 F.2d 942. Arkansas’ appeal to the U.S. Supreme Court was denied. Rather than re-trying the case, Walker and the state reached an agreement where he would be released for time served based on a plea to a lesser charge.

Walker said that Judge Bright “gave me my freedom, my life back to me. I can’t say enough good about this gentleman. There’s not a day goes by that I don’t think about some aspect of my life in that prison, or in some courthouse, or with the lawyers, and this judge who did that for me.”

The law school is producing a DVD of Judge Bright’s presentation with additional materials, to be sent as a teaching tool to other law schools and to the Innocence Project. For additional information see *Selected Cases of Myron H. Bright: Thirty Years of His Jurisprudence*, 83 Minn. Law Rev. 239.■



**Photo:** James Dean Walker in 1967 and today. Walker currently resides in his home state of Idaho.



## The Honorable Myron H. Bright

Myron H. Bright, appointed by Lyndon B. Johnson in 1968 to the United States Court of Appeals for the Eighth Circuit, has considered more than 6,000 cases. As a visiting judge he also has heard cases in the Second, Third, Fifth, Sixth, Seventh, Ninth, Tenth and Eleventh Circuits and has presided over federal district court trials in Minnesota, North Dakota, Arkansas, Massachusetts and Missouri. Judge Bright became a senior judge in 1985.

For many years, he has served the cause of legal education by sharing his judicial and legal experiences with lawyers and law students throughout the country. He has presented jurists-in-residence programs, lectured at law schools on evidence, trial and appellate advocacy, and civility in the profession to lawyers and judges in several states, and has appeared on legal education programs at several ABA meetings. Judge Bright has written extensively on those subjects in bar journals and legal publications and appears in video and audio-taped presentations. Judge Bright along with Professors Ronald L. Carlson and Ed Imwinkelreid have authored the book *Objections at Trial*, now in its fifth edition.

Honors awarded to Judge Bright include the Frances Rawle Award for outstanding achievement in post-admission legal education from the ALI-ABA Committee on Continuing Professional Education, the Herbert Harley Award for effective administration of justice from the American Judicature Society, and the Minnesota Law Review Distinguished Alumni Award from the University of Minnesota Law School. In 1998, the UND Law School honored Judge Bright with its Lifetime Achievement Award, and in 2007 he was awarded the North Dakota State Bar Association Liberty Bell Award.

After military service in World War II, Judge Bright graduated from the University of Minnesota Law School in 1947 with a J.D. degree and practiced law with the firm of Wattam, Vogel, Vogel, Bright and Peterson in Fargo, North Dakota for 21 years, principally as a trial lawyer. Additionally, he served as Distinguished Professor of Law at St. Louis University School of Law teaching principally in the areas of trial and appellate advocacy from 1985-1995. He also has served on the Federal Advisory Committee on Appellate Rules and the American Bar Association's Committee on Appellate Practice. He served on the U.S. Judicial Conference Committee on International Judicial Relations from 1996-2003.

For additional information on the Case of James Dean Walker, see *Walker v. Lockhart*, 726 F.2d 1238 (8th Cir. 1984), *Walker v. Lockhart*, 763 F.2d 942 (8th Cir. 1985), and *Selected Cases of Myron H. Bright: Thirty Years of His Jurisprudence*, 83 Minn. L. Rev. 240 (1998).