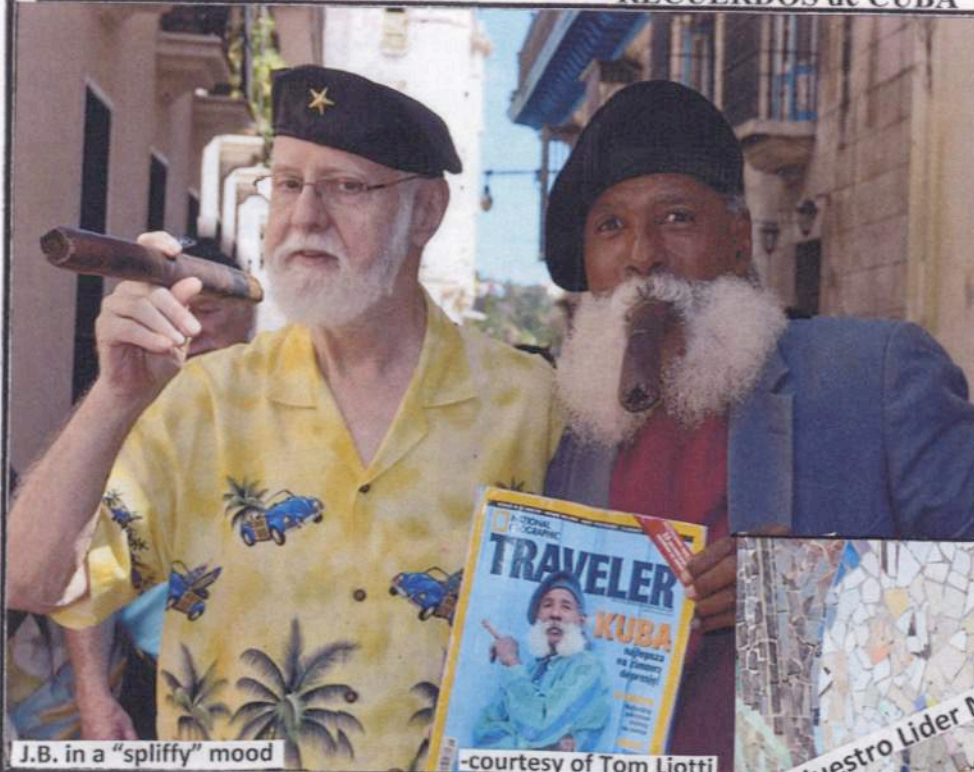


# American Board of Criminal Lawyers THE ROUNDTABLE

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RECUERDOS de CUBA

Verano 2016



J.B. in a "spliffy" mood

-courtesy of Tom Liotti



El Comandante  
(Ret.)



"A person always doing his or her best becomes a natural leader, just by example."

- Joe DiMaggio



U.S. Customs and  
Border Protection



What a great photo of Che' Goldstein and Fidel DeGuerin reliving moments from their revolutionary lives!!!!

-Courtesy of D. Chesnoff

-courtesy of Tom Liotti



## Unlikely Attorney Finds Rhythm in Repping Rappers

Sitting in a suit and tie with an American flag folk art display behind him, Atlanta attorney **Drew Findling** doesn't look like he'd be a go-to adviser for rap musicians and hip-hop reality television stars in trouble with the law. But, as the rapper Drake might put it, he's on a roll like Cottonelle.

At the moment, Findling is attorney of record for rapper Gucci Mane, rapper Waka Flocka Flame, and rap comedian Katt Williams.

"We're as mystified by it as you are," said Findling of how he became the go-to guy for rappers and hip-hop stars. The criminal defense lawyer talked while sitting in his high-rise office with an associate and a law clerk, who chimed in occasionally to supply the name of a song or a story line from VH1's "Love & Hip Hop," the reality show that stars Waka Flocka Flame and his wife.

The 56-year-old Findling admits he doesn't listen to rap or watch reality TV. "Not one minute," he said.

Findling's practice grew through client referrals and a reputation for telling clients what they need to hear rather than flattering them. Over time, he's developed a few rules for handling their high-profile cases—such as never use a performer's stage name in court.

"When a client gets in trouble, especially in the South, Drew is the person I call," said William Briggs II, a Los Angeles litigator with Venable who specializes in intellectual property law for the film, television, music and sports industry.

Not being a fan is actually an asset in this line of work, according to Briggs. Being star-struck could get in the way of being professional and effective.

Findling said he makes a point of being stern, lecturing and downright parental in an effort to help his clients avoid future troubles with the law.

He's currently fighting a weapons charge against Waka Flocka Flame for showing up at an airport security checkpoint with a gun in his bag; preparing for trial in an aggravated assault case against Williams; and celebrating the early release last month of Gucci Mane from federal prison where he'd served more than two years for possessing a weapon while on probation.

Findling tweeted the news. Gucci rapped about it in "First Day Out Tha Feds," released the next day—sequel to "First Day Out," inspired by his previous incarceration for charges related to a concealed weapon, marijuana possession and disorderly conduct.

As Findling sees it, the real draw for his celebrity clients is the noncelebrity practice he's built since he left his job as a Fulton County public defender and hung out a shingle 30 years ago. "The fact that we're so busy with other cases helps us," he said.

## One-armed defense attorney nabs serial burglar attempting to burglarize law office

CLEVELAND, Ohio -- A man arrested and charged in a series of Cleveland office burglaries made a critical mistake earlier this year when he was caught and subdued by a one-armed defense attorney. Edward R. Jackson, 59, was already well known in the Cleveland-area law enforcement community. He has been arrested and convicted in at least seven incidents since 1979, when he was first charged with breaking and entering.

But after Cleveland defense attorney **Ian Friedman** had finished moving into new offices in January, things mysteriously started disappearing from the front desk. Receptionist Danielle Lucas' purse, along with an Android phone and \$180 in cash, went missing, and there was no camera footage to offer clues about the disappearances. Two weeks later, Lucas was in the office kitchen when she heard a rummaging noise coming from the lobby. She stepped out to see Jackson seated at her desk with her purse in his lap. She called to the back of the office where Friedman, in a three-piece suit and bow tie, was on a conference call with a client. Friedman, who lost use of his left arm in a 2011 motorcycle accident, hustled to the front of the office. "As I got down the hall I saw some guy with his back to me, and it appeared to me he was attacking Danielle," Friedman said.

Friedman chased the man out into the lobby. Grabbing him by the cuff of his jacket, Friedman managed to keep hold of the trespasser as he tried to escape through an elevator. Friedman slammed his back up against the door to keep him from leaving, and managed to wrestle the man to the ground. The struggle continued as two onlooker, who Lucas described as "muscle men," watched passively from the side entrance to the lobby. "It's probably a good thing I don't know who they were," Friedman joked in his office, months later. Eventually the intruder dragged Friedman into the stairwell, pulled free of his coat and fell down half a flight of stairs. But he left the attorney with a very valuable memento. "I realize I had his coat in my hands and said, 'Get the hell out of here,'" Friedman said.

Inside the coat Friedman found wallet, driver's license, and a stack of parole documents and court paperwork belonging to Edward R. Jackson. They proved to be the key police needed to prosecute him on burglary charge. "I got a call from a friend of mine, a Cleveland police detective, he says, 'You didn't get into it with this guy, did you. What were you thinking?'" Friedman said. "He said, 'Let me send you a picture real quick.'" The officer told Friedman that the man in the picture was wanted in several burglaries in downtown Cleveland.

Amid the items in the jacket the man left behind was a business card from a defense attorney whose office is located across the hall from Friedman & Nemeck law firm. Friedman thinks he was likely visiting his lawyer and couldn't resist the prospect of another heist. Jackson has since been indicted in the theft of Lucas' belongings, as well as a December theft from a doctor's office at the Louis Stokes Cleveland VA Medical Center. He pleaded not guilty in both cases. Friedman and Lucas are now among witnesses scheduled to testify at Jackson's burglary trial, which began Monday in David T. Matia's courtroom. "This is usually the safe place. This is where you go when you're already in trouble," Friedman said. "Not for this guy."



## CAUSES FOR CELEBRATION

Due to space restrictions, our expanding membership, and the ever-increasing number of tales of legal legerdemain, the Editor regrets to advise our publication's inability to include full-scale versions of each such courtroom victory in this issue. Rather than ignore reporting our victors' entitlement to celebrate altogether, we decided to include the headlines and the names of those entitled to enjoy this "victory lap," leaving to our loyal readers the challenge to connect the attorney with his or her victory.

### HEADLINE:

1. Perfume Indictment Dismissed
2. "Chumlee" of *Pawn Stars* won't see jail on guns, drugs charges
3. Autistic Man's Porn Charges to be Dropped
4. TCDLA Inducts Houston Attorney into the Hall of Fame
5. A Champion for Social Justice
6. 2016 Joe Frazier Brown, Sr. Award of Excellence
7. One-Armed Defense Attorney Nabs Serial Burglar
8. Unlikely Attorney Finds Rhythm in Repping Rappers
9. Recipient of the Roderick Beddow Award
10. Minnesota Priest Found Not Guilty in Sexual Abuse Case

### ABCL MEMBER

- A. Gerry Goldstein
- B. Drew Findling
- C. Ian Friedman
- D. David Gerger
- E. Peter Wold
- F. Dave Chesnoff
- G. Tommy Spina
- H. Ed Mallett
- I. Joel Hirschhorn
- J. Gerry Goldstein

# Supreme

"It's not what you achieve, it's what you overcome. That's what defines your career."

— Carlton Fisk



Before

After



## **Autistic man's porn charges to be dropped**

A federal prosecutor said he will drop internet child-pornography charges against an autistic Miami man with an IQ of 73 after a court-appointed psychologist found he was mentally "incompetent" to stand trial.

"We will be seeking dismissal of this case," Assistant U.S. Attorney Jonathan Kobrinski told U.S. District Judge Ursula Ungaro on Friday.

Ungaro appointed the psychologist, Vanessa Archer, with input from prosecutors and the defense after expressing a lack of confidence in a federal prison psychologist's finding that Alberto "Tony" Rodriguez was competent to assist in his case. Whichever way Archer came down, both sides were obligated to accept her decision, the judge noted.

Rodriguez, who was charged in late 2014, has been embroiled in a legal odyssey over his mental capacity to stand trial. Rodriguez, who was granted a \$50,000 bond and is living with his parents, faced up to 20 years in prison on charges of downloading child-porn images over the internet.

But while the 25-year-old Rodriguez will now be spared prosecution in the federal system, the judge continued to express frustration because both sides have been unable to find proper mental health treatment for him.

They have to return to her court on June 3 with a plan to ensure Rodriguez would no longer download unlawful pornographic images and would not pose a possible danger to himself or the public.

Rodriguez's defense attorney, **Joel Hirschhorn**, who has worked on the case pro bono, said a possible scenario would be for Miami-Dade prosecutors to charge his client anew and then work out a pretrial diversion program so he could take advantage of mental health therapy in the state system.

In the digital age, federal prosecutions of defendants accused of downloading, possessing and sharing internet images of minors having sex with adults are common. But Rodriguez's case has been highly unusual because of his personal profile. Two South Florida psychologists hired by the defense found that Rodriguez is a high-functioning autistic, emotionally immature and incapable of reasoning.

In December, Ungaro threw out a magistrate judge's decision that the competency of Rodriguez — who had initially been deemed incompetent by a Miami psychologist — was restored after he completed a legal course and testing by a psychologist with the U.S. Bureau of Prisons.

Ungaro found the prison psychologist's expertise in evaluating defendants with autism "quite limited" and ordered that a "neutral expert" with this specialty analyze him.

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### **Welcome New Members:**

- **Betty Layne Des Portes**, P.O. Box 2464, Richmond, VA 23218 (804-788-4444)
- **James Bannister**, 401 Pettigru Street, P.O. Box 10007, Greenville, SC 29603 (864-298-0084)
- **R. Kent Westberry**, 220 West Main Street, Suite 1900, Louisville, KY 40202 (502-589-7616)
- **Barry Winston**, 312 W. Franklin Street, Chapel Hill, NC 27516 (919-929-1043)

## **Minnesota priest found not guilty in sexual abuse case**

**HIBBING** — Catholic Priest Brian Lederer was found not guilty Monday of all six charges against him of inappropriately touching young girls. A jury of six men and six women deliberated less than two hours before returning the verdict in State District Court after a four-day trial.

Lederer, 30, the former priest at Blessed Sacrament Parish and Assumption Catholic School in Hibbing, was charged in May, 2015 with four counts of second-degree criminal sexual conduct and two counts of fourth-degree criminal sexual conduct. The charges stem from allegations by four girls, age 11-13 at the time, that Lederer touched them inappropriately. The most serious charges against Lederer carried a potential penalty of up to 25 years in prison. Lederer had been on administrative leave by the Roman Catholic Diocese of Duluth pending the outcome of the legal process. In closing arguments Monday morning before the jury deliberated, St. Louis County prosecutor. Jeff Vlatkovich portrayed Lederer as a conniving pedophile who was grooming young girls to be his victims of sexual abuse all while befriending their families as their parish priest.

But defense attorney **Peter Wold** painted Lederer as a caring, giving pastor who helped kids with their schoolwork but who became the victim of pre-teen girls' imaginations and of fabricated stories. Wold said the jury made the logical choice. Wold painted a picture of several girls vying for the attention of a beloved priest who helped them do their homework, accompanied them on field trips and even came into their homes for meals and games. At some point, for some reason, the girls turned against him. "When children talk about their stories amongst themselves they become similar... and often competitive," Wold told the jury. "There is a reason that their stories don't match up. It's tough to keep a story straight when the truth isn't in it."

Wold said there were no other witnesses to the alleged incidents even though all occurred in public places or homes with other people in the same room. He also said investigators found no evidence of Lederer stalking the four girls when they searched his home, phones and computers. Authorities also charged Lederer with possession of child pornography after recovering images of suspected child pornography from his computer, but Ackerson granted a motion to sever that count from the case, finding that it was not part of the "single behavioral incident." Wold said Lederer could "potentially" still be prosecuted on that pornography charge.

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Kudos to brother **Chesnoff** who represented Pawn Stars star "Chumlee" in serious sexual assault investigation in Las Vegas. Thorough investigation turned up exculpatory evidence and assault charges dismissed. He received probation on gun and drug charges. Felony avoided. Career saved. Nice story on TMZ. Excellent work David. **-Michael Pancer**

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**Tommy Spina** tonight received the Roderick Beddow Award for lifetime contributions in the field of criminal law from the Alabama Criminal Defense Lawyers Association. It is the highest award presented by that organization. Congratulations Tommy. **- Joel Sogol**



## Gerry Goldstein: A Champion for Social Justice

It was with great pleasure that NORML presented the first annual Michael J. Kennedy Social Justice Award this past week to criminal defense attorney **Gerald H. Goldstein**, a long-time NORML activist and senior partner with the firm of Goldstein, Goldstein and Hilley in San Antonio, TX.

The award, named after the late Michael J. Kennedy, the legendary civil rights and criminal defense attorney (and general counsel for High Times magazine from its inception in 1974 until his death in early 2016), was established, with the blessing of the Kennedy family, to honor those individuals who, like Michael Kennedy, dedicate their lives to advancing the cause of social justice in America. Eleanor Kennedy, Michael's widow, and their daughter Anna Safir, spoke at the ceremony, reminding us of Michael's 40-year support for NORML and our mission to legalize marijuana, and suggesting he would be thrilled that his colleague Goldstein would be the first recipient of this annual award.

The inscription on the award reads as follows:

"To Gerald H. Goldstein, in recognition of your lifetime commitment to achieving social justice for all people, including especially those without the resources or social standing to achieve justice on their own. Your willingness to speak for the underdog, the disenfranchised and the unpopular, like Michael Kennedy himself, has defined your exemplary personal and professional life."

## The Texas Criminal Defense Lawyers Association Inducts Houston Attorney into TCDLA Hall of Fame at the 29th Annual Rusty Duncan Advanced Criminal Law Course

June 17, 2016 (San Antonio, TX)—The 29th Annual Rusty Duncan Advanced Criminal Law Course, named for the late Judge M. P. "Rusty" Duncan of the Texas Court of Criminal Appeals, is being held June 16–18 at the Henry B. Gonzalez Convention Center in San Antonio, Texas. On Friday, June 17, 2016, **Edward A. Mallett** is being inducted into the Texas Criminal Defense Lawyers Association's Hall of Fame.

Edward Mallett is a partner in the law firm of Mallett | Saper | Berg, LLP, in Houston. He is a past president of the National Association of Criminal Defense Lawyers, the Texas Criminal Defense Lawyers Association, and the Harris County Criminal Lawyers Association. Ed, a member of the American Board of Criminal Lawyers, also serves on the faculty of the National Criminal Defense College. In addition, he is a Life Member of the Texas Bar Foundation and the NORML Legal Committee. He is a co-author of O'Connor's Federal Criminal Rules and Codes, 2012-2016.

Ed was an adjunct professor at the University of Houston Law School for 10 years, teaching a seminar on criminal trials. His wins include acquittals for defendants charged with murder, drug offenses, and white-collar crimes. He has won more than 25 reversals in federal and state appeals. Ed has represented all the 8,000 Muslim inmates in Texas prisons for 39 years, and twice won federal class action cases protecting their religious liberties. Ed was on a team of criminal defense and civil trial lawyers that successfully prosecuted a qui tam "whistleblower" suit against a major corporation, which ended in a multimillion-dollar settlement for the plaintiffs.

## Perfume Indictment Dismissed!

We recently litigated the following question that has been on all your minds: what happens if the DOJ files a "criminal information" within the statute of limitations but the "indictment" after limitations expires. Incredibly, the Seventh Circuit has upheld such a move. Read on to hear about a district judge in Houston who knows better and, this week, dismissed our client's money laundering indictment.

On February 16, 2009, our client received a large amount of cash in exchange for a truckload of ... perfume. Yes ... Laredo, Texas -- former capital of the Republic of the Rio Grande; ceded to Texas in the Treaty of Guadalupe Hidalgo, immortalized by the hit western "Streets of Laredo" -- is also a large warehousing center for Mexican and Central American perfumeries to buy their Chanel and Prada. But some other buyers with large amounts of cash -- sometimes posing as perfume dealers -- might also buy a truckload, for cash, to resell in Mexico. Our client thought he was selling to a legitimate businessman and not a drug dealer, but the government thought differently.

On February 9, 2014, *seven days before* the 5 year statute of limitations expired on February 16, the DOJ filed a criminal information under seal alleging money laundering. Then, *a few days after February 16*, the DOJ filed its indictment, also under seal. We moved to dismiss, but remember that the only Circuit to address the situation supported the government. This week, Judge Kenneth Hoyt sided with the Constitution and against the Seventh Circuit and dismissed the Indictment. Judge Hoyt noted that our Information was different because it was filed under seal (for no good reason), whereas the Seventh Circuit's was not ... and that the Seventh Circuit was also just wrong.

Happy weekend, and thank God for an independent judge.

Best, **David Gerger**

## 2016 Joe Frazier Brown, Sr. Award of Excellence

Recognizes a lawyer who exemplifies all that is good about the legal profession



**GERRY GOLDSTEIN**

*"Law is the primary vehicle for social change."*

Gerry Goldstein began his legal career 48 years ago as an associate in his father's firm representing corporate clients. Famed attorney and activist Maury Maverick, Jr. asked Gerry for assistance defending conscientious objectors. Gerry developed a reputation as an exceptional trial attorney who also had a deeply intellectual and scholarly appreciation for constitutional law.

His leadership within his profession included service as president of the National Association of Criminal Defense Lawyers and the Texas Criminal Defense Lawyers. His tireless advocacy for the rights of the accused and the protection of civil liberties includes testifying before the United States Congress and the Texas Legislature.

Gerry was an Adjunct Professor at his *alma mater*, the University of Texas School of Law, for 11 years and currently teaches Advance Criminal Law each fall at St. Mary's University School of Law. Famously approachable and engaging, Gerry's reputation as a mentor is unsurpassed. "He is a titan in the San Antonio and national legal community," noted retired Justice Phyllis Speedlin, "and yet Gerry never fails to educate and mentor young attorneys in both the civil and criminal bar."



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### The RoundTable

Steve LaCheen, Editor

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### Future Meetings

October 7 - 9, 2016: Austin, Texas

February 17-19, 2017: Palm Island, FL

June 23-25, 2017: Montreal, Quebec

October 6-9, 2017: Greenbrier, WV

*The RoundTable*

*Steve LaCheen*

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*Philadelphia, PA 19102*

