

## Interview Report: Judge Paul Heffernan

**Date:** 11/29/16

**Time:** 10:30am

**Present:** Charlotte Whitmore, Morgan Sellers, Brooke Hartley

Judge Heffernan recalled that based on the evidence, there was probable cause to believe that Eddie was guilty. The only question in Heffernan's mind was, and is currently, whether or not Eddie should have been tried as an adult. According to Heffernan, there were significant political pressures involved in this case from the very beginning. Despite the fact that Heffernan believes any jury would have likely convicted Eddie based on the evidence presented, outside pressures that should not have affected the case at all played a role in trying and convicting Eddie as an adult. According to Heffernan, "nothing was going to save this kid," whether he was guilty or innocent.

Heffernan chose Dr. Barnum to examine Eddie because he believed Dr. Barnum was an excellent, insightful behavioral scientist. Heffernan said that he trusted Barnum to give an unbiased opinion. At the time, Heffernan realized this was asking a lot of Dr. Barnum, since it was such a high profile case, however, Barnum took the case gladly despite these pressures. According to Judge Heffernan, Eddie did not answer Barnum's questions at first, because Eddie's counsel had advised him to remain silent. This put Eddie in a tough spot since he did not admit or deny the allegations against him. When asked about Barnum's addendum to his report that may have been partly responsible for the SJC's reversal of Heffernan's opinion and the second transfer hearing ruling, Heffernan said that he liked Barnum but apparently the prosecution did too.

After Judge Heffernan made his decision that Eddie should remain in the juvenile system, he recalled that "all hell broke loose." According to Heffernan, his decision forced a change in the law in order to get Eddie tried as an adult. Heffernan stated that his decision to try Eddie as a juvenile was perfectly sound. His reasoning at the time was that the nature of the crime cannot be the sole determining factor as to whether or not Eddie is tried as an adult. According to Heffernan, even if Eddie was guilty, he should have been tried in the juvenile system. From his extensive experience dealing with troubled youth and his own personal experience, Heffernan noted that is possible, especially for a male, to have an episode like Eddie's that is not psychosis and will not occur again. Furthermore, the punishment Eddie would have received in the juvenile system was "not exactly a slap on the wrist." It was a serious punishment that would have put him behind bars for at least 20 years. Heffernan stated that Eddie's size made him a "tailor made bad guy" and easy to demonize. Judge Heffernan said that his ruling was enough to "memorialize" him.

According to Heffernan, it was clear from the beginning that there was a political movement going on. District Attorney Reilly showed up and said he was going to try this case, which was strange since the DA never tried cases. In this case, Reilly did try the case and would hold press conferences about it almost everyday. When Eddie's case came along most institutions that help rehabilitate juvenile offenders no longer existed. According to Heffernan these institutions never should have been closed but they were. Heffernan said that there was push to reopen some of these institutions but the worry was that they would be filled with African Americans from specific intercity areas. Heffernan

suggested that to appease these civil right concerns, there were political pressures to convict Eddie, a white kid from Somerville.

The day after Judge Heffernan ruled that Eddie should remain in the juvenile system, Heffernan received a call from a friend who was also a Trial Court judge, congratulating him on making the right decision in a very tough case. Not long after this, Heffernan received a call from the same person, this time the judge told him that he had information that the high ups were upset with Heffernan's ruling and wanted him to change his decision. Heffernan emphasized that the judge who called him was his friend and was just playing the role of messenger, and trying to help Heffernan save face. Heffernan said he told his this judge that he did not care about saving face and he wasn't going to change his decision. Heffernan said he doesn't know who the original message came from, but it must have come from an appellate court. The Judge who played "messenger" was the Chief Judge of the District Court, who is now dead.

When Heffernan was taken off the case, he knew why but he didn't have the power to ask a lot of questions. Heffernan knew that he was being taken off the case because he wouldn't change his opinion. He would not change his opinion regardless of the political pressures or the orders coming from high up. Heffernan realized then that nothing was going to save Eddie from going to state prison. Heffernan never discussed the case with Gailey, the new judge assigned after Heffernan was taken off the case. Heffernan referred to Gailey as "guilty Gailey," an apparent reference to his past rulings. However, when asked if he thinks Judge Gailey was chosen specifically for this reason, Heffernan said he did not know.

Heffernan also confirmed the "we could have done that better, Paul" story from Margo's book.

Judge Heffernan believes that Margo Nash is a "marvelous person." He appointed Margo guardian ad litem to Eddie because Tom Reilly had put Ed Sr. on the list for a prosecution witness. Heffernan said a guardian ad litem is often appointed when the child does not have parents or guardians willing or able to provide the necessary support. Heffernan appointed Margo because she had a good reputation and Heffernan believes she has proven this true by continuing to advocate for Eddie. Heffernan stated that he had started reading Margo's book and it is well written but he has not gotten very far along.

We asked Heffernan about Barnum's addendum and he said we should "take that up with Barnum." Heffernan believed that Barnum was also pressured, but he has no real knowledge of this.