

TERRY

EVANS

GREATEST

HITS

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Eastern District
of Wisconsin
Bar Association

Eighth Annual Meeting
April 29, 2010

Hon. Terence T. Evans
Judge Myron L. Gordon
Lifetime Achievement Award

Central Mfg., Inc. v. Brett, 492 F.3d 876, 877-878 (7th Cir. 2007)

EVANS, *Circuit Judge*.

The Pine Tar Incident

It's undisputed: George Brett was a great baseball player. The statistics from his 21 years in The Show, all with the Kansas City Royals, seal the deal: 3,154 hits, 317 home runs, and a career batting average of .305. Only three other players -- Stan Musial, Hank Aaron, and Willie Mays -- ended their careers with more than 3,000 hits and 300 home runs, while still maintaining a lifetime batting average over .300. Brett's selection to the Hall of Fame, on the first ballot in 1999, was richly deserved. Yet for all his accomplishments, many who love baseball will always think of the "Pine Tar Incident" as the capstone of his career. It is a joy to recall.

United States v. Murphy, 406 F.3d 857, 859 (7th Cir. 2005)

. . . Murphy, Sr., who had sold drugs to Hayden several years earlier, showed up later that night. He was friendly at first, but he soon called Hayden a "snitch bitch hoe"¹ and hit her in the head with the back of his hand.

¹ The trial transcript quotes Ms. Hayden as saying Murphy called her a snitch bitch "hoe." A "hoe," of course, is a tool used for weeding and gardening. We think the court reporter, unfamiliar with rap music (perhaps thankfully so), misunderstood Hayden's response. We have taken the liberty of changing "hoe" to "ho," a staple of rap music vernacular as, for example, when Ludacris raps "You doin' ho activities with ho tendencies."

United States v. Traeger, 289 F.3d 461, 465-466 (7th Cir. 2002)

EVANS, *Circuit Judge*. It's not a good idea to rob banks. It's particularly not a good idea to rob banks when you have distinctive physical characteristics -- like being bigger than the average offensive tackle in the National Football League.

Crawford v. Marion County Election Board, 472 F.3d 949, 954 (7th Cir. 2007), *aff'd*, 533 U.S. 181 (2008)

EVANS, *Circuit Judge, dissenting*. Let's not beat around the bush: The Indiana voter photo ID law is a not-too-thinly-veiled attempt to discourage election-day turnout by certain folks believed to skew Democratic.

United States v. Bullock, 454 F.3d 637, 639 (7th Cir. 2006)

EVANS, *Circuit Judge*. After receiving what can best be described as a whopper of a sentence – 1,200 months in a federal prison – Karl Bullock filed this appeal claiming it was unreasonable. . . . Bullock pleaded guilty to five counts of distributing heroin. . . . The district court imposed the maximum sentence for each of the counts, stringing them together for a total sentence of 100 years. One hundred years is a long time – one year longer, in fact, than the standard lyrical shorthand for an unimaginably long sentence.¹

¹ See, e.g., Bruce Springsteen, “Johnny 99” (“Well the evidence is clear, gonna let the sentence, son, fit the crime / Prison for 98 and a year and we'll call it even, Johnny 99.”); Bob Dylan, “Percy's Song” (“It may be true he's got a sentence to serve / But ninety-nine years, he just don't deserve.”); Johnny Cash, “Cocaine Blues” (“The judge he smiled as he picked up his pen / Ninety-nine years in the Folsom pen / Ninety-nine years underneath that ground / I can't forget the day I shot that bad bitch down.”); Ed Bruce, “Ninety-Seven More To Go” (“Ninety-nine years go so slow / When you still got ninety-seven more to go.”); Bill Anderson, “Ninety-Nine” (“The picture's still in front of my eyes, the echo in my ears / When the jury said he's guilty and the judge said ninety-nine years.”); Chloe Bain, “Ninety-Nine Years” (“The sentence was sharp, folks, it cut like a knife / For ninety-nine years, folks, is almost for life.”); Guy Mitchell, “Ninety-Nine Years” (“Ninety-nine years in the penitentiary, baby, baby, wait for me, around twenty-fifty-five we'll get together dead or alive.”).

United States v. Mantas, 274 F.3d 1127, 1128-1129 (7th Cir. 2001)

EVANS, *Circuit Judge*. According to a 2001 Gallup poll, only 6 percent of American adults are vegetarians. We think that percentage would jump dramatically if the other 94 percent read the record in this case [in which the defendant was convicted of improperly storing adulterated poultry and meat products held for sale]. This panel has read the record and will be recommending that more broccoli, rutabagas, asparagus, cauliflower, kohlrabi, and tofu burgers be served at future court dinners.

U.S. v. Navistar Intern. Transp. Corp., 152 F.3d 702, 714-715 (7th Cir. 1998)(footnote omitted)

EVANS, *Circuit Judge, dissenting*. This is another case where Dinah Washington's sage advice – “What a diff'rence a day makes . . . twenty-four little hours” – should be recalled.

Insolia v. Philip Morris Inc., 216 F.3d 596, 598 (7th Cir. 2000)

EVANS, *Circuit Judge*. If there were such a thing as moral estoppel, the outcome of this appeal would be plain. For decades tobacco companies have assured the public that there is nothing to fear from cigarettes, yet they now slough off lawsuits like this one by professing that everybody knew all along that smoking was risky. . . . Judicial estoppel, however, applies only to inconsistent positions adopted in litigation, and punishing hypocrisy is something left to a court of another realm. The only issue for us is whether this case was properly snuffed out on summary judgment.

Crue v. Aiken, 370 F.3d 668, 670-671 (7th Cir. 2004)(footnotes omitted)

TERENCE T. EVANS, *Circuit Judge*. This case, raising First Amendment issues involving the University of Illinois, concerns “Chief Illiniwek,” who, depending on one’s point of view, is either a mascot or a symbol of the university. More on this distinction later but first, before getting to the issue at hand, we detour for a brief look at college nicknames and their embodiment as mascots.

In the Seventh Circuit, some large schools – Wisconsin (Badgers), Purdue (Boilermakers), Indiana (Hoosiers), Notre Dame (The Fighting Irish), DePaul (the Blue Demons), the University of Evansville (Purple Aces), and Southern Illinois (Salukis) – have nicknames that would make any list of ones that are pretty cool. And small schools in this circuit are no slouches in the cool nickname department. One would have a hard time beating the Hustlin’ Quakers of Earlham College (Richmond, Indiana), the Little Giants of Wabash College (Crawfordsville, Indiana), the Mastodons of Indiana University-Purdue University-Fort Wayne (Fort Wayne, Indiana), and the Scarlet Hawks of the Illinois Institute of Technology.

But most schools have mundane nicknames. How can one feel unique when your school's nickname is Tigers (43 different colleges or universities), Bulldogs (40 schools), Wildcats (33), Lions (32), Pioneers (31), Panthers or Cougars (30 each), Crusaders (28), or Knights (25)? Or how about Eagles (56 schools)? The mascots for these schools, who we assume do their best to fire up the home crowd, are pretty generic-and pretty boring.

Some schools adorn their nicknames with adjectives-like “Golden,” for instance. Thus, we see Golden Bears, Golden Bobcats, Golden Buffaloes, Golden Bulls, Golden Eagles (15 of them alone!), Golden Flashes, Golden Flyers, Golden Gophers, Golden Griffins, Golden Grizzlies, Golden Gusties, Golden Hurricanes, Golden Knights, Golden Lions, Golden Panthers, Golden Rams, Golden Seals, Golden Suns, Golden Tigers, and Golden Tornados cheering on their teams.

All this makes it quite obvious that, when considering college nicknames, one must kiss a lot of frogs to get a prince. But there are a few princes. For major universities, one would be hard pressed to beat gems like The Crimson Tide (Alabama), Razorbacks (Arkansas), Billikens (St. Louis), Horned Frogs (TCU), and Tarheels (North Carolina). But as we see it, some small schools take the cake when it comes to nickname ingenuity. Can anyone top the Anteaters of the University of California-Irvine; the Hardrockers of the South Dakota School of Mines and Technology in Rapid City; the Humpback Whales of the University of Alaska-Southeast; the Judges (we are particularly partial to this one) of Brandeis University; the Poets of Whittier College; the Stormy Petrels of Oglethorpe University in Atlanta; the Zips of the University of Akron; or the Vixens (will this nickname be changed if the school goes coed?) of Sweet Briar College in Virginia? As wonderful as all these are, however, we give the best college nickname nod to the University of California-Santa Cruz. Imagine the fear in the hearts of opponents who travel there to face the imaginatively named "Banana Slugs"?

Jackson v. Frank, 509 F.3d 389, 390 (7th Cir. 2007)

EVANS, *Circuit Judge*. Jennifer Aniston: television ("Friends") star; actress in several forgettable ("Rumor Has It" and "Along Came Polly") recent films; former wife of Brad Pitt; and anointed as a hottie by "FHM Magazine" - # 35 on its list of the "100 Sexiest Women in the World in 2007" (she also made "People" magazine's "50 Most Beautiful People" list in 2002) - has legions of fans. Jevon Jackson, the plaintiff in this case, is one of them. And Jackson would like to display a photograph of Aniston in his room. His "room," however, is actually a prison cell . . .

Janky v. Lake County Convention & Visitors Bureau, 576 F.3d 356, 359 (7th Cir. 2009)

Janky and Farag were members of "Stormy Weather," an Indiana-based doo-wop group.²

² Doo-wop is characterized by vocal 2 harmonies. It became popular in the 1950s and 1960s with the arrival of groups like The Five Satins ("In the Still of the Night"), The Platters ("My Prayer"), The Skyliners ("Since I Don't Have You"), The Turbans ("When You Dance"), The Penguins ("Earth Angel"), The Crystals ("Da Doo Ron Ron"), Frankie Lymon and the Teenagers ("Why Do Fools Fall in Love?"), and the incomparable Drifters ("There Goes My Baby," "This Magic Moment," "Save the Last Dance for Me," "Under the Boardwalk," and "Up on the Roof").