



MILITARY VETERANS: A LESSON IN LOYALTY

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Arthur "Ed" Marriott was distraught. Ed was a retired wholesale tire salesman from the Midwest. His life-long friend "Mo" had just died and Ed felt that he had let him down. Ed met Mo in the Navy during World War Two. Mo was not his real name, but a nickname (short for slow motion) given to him by his shipmates, a teasing reference to Mo's less than stellar mental acuity.

Mo had moved to Georgia to live near Ed after Mo's wife died. Mo had enjoyed a long marriage to a brilliant woman who had physical disabilities. She was his brain; he was her arms and legs. She handled everything for him. When he lost her, he was lost. Mo had no children and no relatives to help him. Ed and his wife offered to look after Mo and to help him manage his money. Mo did not have a lot of money, but had enough to get by if handled well. Mo accepted Ed's offer gratefully.

Ed took Mo to a local community bank and opened an account to hold Mo's life savings. Ed set up the account to require two signatures, both his and Mo's. Ed knew that Mo could be easily misled and he wanted to make sure Mo did not lose his savings.

Why, I asked, would Mo give you control over his life savings? Ed said that he and Mo had landed on Omaha Beach at six minutes after H-hour, the official time for the start of the invasion of Normandy. They were part of a Naval unit whose job was to manage beach traffic for all the tanks and other vehicles being unloaded. Very little went as planned at Omaha Beach. Their landing unit came under heavy fire. He and Mo were among the few who survived. Ed choked up, and changed the subject.

Ed said that since moving to Georgia, Mo liked to hang out at the local Kroger. He was lonely. He would talk to the ladies that came through the check out line. He liked to talk like he had a lot of money. Ed worried about this, but did not know what to do about it. Ed thought Mo's money would be safe.

When Ed and his wife returned from a brief vacation, Ed checked on Mo's savings account and found that it was empty. Mo said that he had loaned the money to a lovely young woman from Iran, who needed it to complete her education. She would pay it back, he said. Ed tried to find the woman. She was gone. He learned that she shopped at the Kroger and that is where Mo met her. All he had was her name on the check Mo had written to her. Ed followed leads on the woman for months. He wrote the State Department. She was not to be found. "Why did the bank not honor the two-signature requirement?" Ed asked.

We sued the bank on Ed's behalf. Ed was the representative of Mo's estate and the sole beneficiary of his will. The bank responded by pointing out that the money in the account was Mo's money, and Mo could do what he wanted with his own money. The bank's lawyers said Ed was being greedy and they were sure a local jury would see it that way. It was the hometown bank.

The trial was held in early November. During voir dire, I commented that Veterans Day was coming up, and I asked the jury panel if any of them had ever served in the military. The judge interrupted me. "You can't ask that," he said. "You know that you are not supposed to ask that," he admonished. I suppose the judge thought I was trying to prejudice the jury unfairly. I was perplexed but of course complied. We feared that we would have an uphill battle in this judge's court because he was the only judge in the circuit who did not sit on the board of the bank we were suing, and the bank's lawyers were local as well.

We continued to the individual questioning of the jurors. The judge asked the jurors to stand and to state their occupation and marital status. The judge said nothing about military service. "I am a retired Navy pilot," the first juror said. Suddenly, I was encouraged.

The other jurors followed the Navy pilot's example, each

stating in turn what military service he or she had. Those that had not served also said so, but several volunteered that they had a father, a son or a cousin who had served. The Navy pilot turned out to be the foreperson. Because I had not asked the forbidden question, there was nothing for the judge to do.

During closing argument, I wrote the amount of actual damages, punitive damages and attorneys' fees we wanted on the courtroom chalkboard. The jury returned a verdict that matched the numbers on the board to the penny.

In my fiduciary litigation practice, I often find that people do not know or understand what the term fiduciary means. I sometimes tell them that it means loyal, and that is why Abraham Lincoln named his dog "Fido." The best explanation of the concept of utmost good faith and loyalty, however, may come from the Marines' motto, Semper Fideles, or Semper Fi, meaning always faithful, always loyal.

Those who have demonstrated their loyalty to this county by serving in our military understand what this concept means. They know what it means to be loyal and faithful, even under

enemy fire. There is a bond formed among brothers and sisters in arms that is as strong as any in human experience. Ed and Mo understood it. The jurors in Ed's case against the bank understood it. They knew that everything Ed had done for his friend Mo was out of loyalty, a loyalty born of service to this country and courage in the deadly chaos of battle.

When I hear of the many failures of our country in caring for our veterans, it causes me great concern. We hope that this Veterans Day, you will honor those who have served or who are serving in the military. The Atlanta Bar Association salutes our members who are veterans and wants to remind our community that we have a duty to be faithful and loyal to those who have been faithful and loyal to us.

All of the details of Ed Marriott's case are taken directly from my memory, and they are either true...or not.



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