



H. Lee Sarokin Gavel of Honor Award

Created by A Just Cause, Advocacy Group

This award will recognize individuals who possess the qualities of the good Samaritan, crying out against injustice and abuse wherever found, and making extraordinary personal sacrifices to advance the cause of justice for their fellow man and humanity, as a whole.

Appropriately, the first H. Lee Sarokin Gavel of Honor recipient is its namesake, the Honorable H. Lee Sarokin, federal judge, good Samaritan, fierce protector of constitutional rights and hero.

ABOUT JUDGE SAROKIN

H. Lee Sarokin was born in Perth Amboy, NJ on November 25, 1928 and raised in Maplewood, NJ, attended Dartmouth College followed by Harvard Law School where he graduated in 1953. In 1954, Sarokin returned to Essex County, NJ where he joined a law firm that would become the law firm of Lasser, Lasser, Sarokin, & Hochman. Sarokin's private practice lasted until 1979 when he was nominated by President Jimmy Carter and confirmed by the Senate to serve as a federal judge in the U.S. District Court of New Jersey. In 1994, Sarokin was nominated by President Bill Clinton to the 3rd U.S. Circuit Court of Appeals until he retired from the bench in 1996.

During his 17 years as a federal judge, Sarokin displayed great compassion and an uncompromising commitment to advance the cause of justice for the wrongly

convicted, racial injustice and those who suffered abuse at the hands of government and large corporations. Sarokin's deep and habitual concern about the conviction of innocent people being wrongly convicted and confined and his willingness to forcefully and publicly address those issues is what distinguished him from his peers. Sarokin considers the wrongful conviction and imprisonment of the innocent as a society's greatest transgression and says a judge's greatest responsibility is protect the constitutional rights of the accused and convicted.

"We live in a Nation in which liberty is cherished second only to life itself. Society commits no greater wrong than to convict and confine (or execute) one who may be innocent of the crimes with which he or she has been charged," Sarokin wrote in a 1989 opinion. "No greater responsibility is reposed of the federal judiciary than the review of convictions based upon alleged constitutional violations," Sarokin added.

Sarokin's vigilance and unwavering commitment to protect the constitutional rights of the accused and convicted was seen by some Republicans at the time of his retirement in the mid-1990's as being "soft-on-crime."

"I've always been resentful of the fact that judges who protect the constitutional rights of persons accused or even convicted of crime are labeled as being soft on crime," Sarokin said in 2011. "It's just to me utter nonsense. Judges are against crime as much as anyone," added Sarokin. "But their job is to protect the rights of those who are accused of a crime and those who are convicted," exclaimed Sarokin.

Sarokin always had the courage to stand alone against criticism by his peers, powerful government bureaucracy and public opinion. In 1985, New York Times discussed the difficulty Sarokin faced from conflicting courts and judges in overturning of the racially motivated, 19-year-old, triple-murder conviction of famous middleweight boxer, Rubin "Hurricane" Carter. The Times described how defending the rights of criminal defendants is something that was considered "unfashionable." Sarokin's was no crony. He took his oath to uphold the Constitution seriously and wouldn't leave Carter in prison or surrender his constitutional rights for the "tough-on-crime" mantra that would be ultimately responsible for America's mass incarceration crisis, disproportionate targeting of African-Americans in the criminal justice system and the future abridgement of

citizens' rights related to mass surveillance for terrorism investigations. Sarokin's opinion in the 1985 Carter case was nothing less than prophetic.

"There is a substantial danger that our society, concerned about the growth of crime, will retreat from the safeguards and rights accorded to the accused by the Constitution," Sarokin said in overturning Carter's conviction. "The need to combat crime should never be utilized to justify an erosion of our fundamental guarantees," added Sarokin. "Indeed, the growing volume of criminal cases would make us even more vigilant; the greater the quantity -- the greater the risk to the quality of justice," Sarokin professed.

"A conviction which rests upon racial stereotypes, fears and prejudices violates rights too fundamental to permit deference to stand in the way of relief sought." "It would be naive not to recognize that some prejudice, bias and fear lurks in all of us," Sarokin added. "But to permit a conviction to be urged based upon such factors or to permit a conviction to stand having utilized such factors diminishes our fundamental constitutional rights," Sarokin continued.

"Furthermore, the prosecution has resources unavailable to the average criminal defendant. Therefore, it is imperative that information which is essential to the defense in the hands of the prosecution be made available to the accused," explained Sarokin. If trials are indeed searches for the truth rather than efforts to conceal it, full and fair disclosure is necessary to protect and preserve the rights of the accused against the awesome power of the accuser," Sarokin warned.

Sarokin was an exceptionally brilliant jurist and an immensely talented writer whose acerbic and truthful commentary about injustice, corporate malfeasance, government bureaucracy and prosecutorial misconduct sometimes caused politicians and peers to criticize him.

In a 1984 case related to a Vietnam veteran who had been denied disability benefits, Sarokin called the federal government's Department of Health and Human Services, "a heartless and indifferent bureaucratic monster destroying the lives of disabled citizens." In a 1983 case Sarokin challenged the humanity of the Small Business Administration's effort to collect a \$300,000 debt from a penniless widow. Sarokin said the SBA's action caused him "to wonder whether our governmental agencies are being run by machines rather than humans." "Better

to have no government at all than a government devoid of compassion and basic human decency," chided Sarokin.

One of the seminal moments in Sarokin's judicial career was when he showed compassion and concern for the health and well-being of consumers. In a 1992 opinion, he appropriately and strongly criticized tobacco companies and other large corporations for failing to disclose the dangerous health risks associated with their products.

"In light of the current controversy surrounding breast implants, one wonders when all industries will recognize their obligation to voluntarily disclose risks from the use of their products. All too often in the choice between the physical health of consumers and financial well-being of business, concealment is chosen over disclosure, sales over safety, and money over morality. Who are these persons who knowingly and secretly decide to put the buying public at risk solely for the purpose of making profits and who believe illness and death of consumers is an appropriate cost of their own prosperity!"

"As the following facts disclose," said Sarokin, "despite some rising pretenders, the tobacco industry may be the king of concealment and disinformation." "In 1954, the tobacco industry promised to disseminate the results of the industry-sponsored, independent scientific research for the purpose of answering the question: "Does cigarette smoking cause illness?" added Sarokin. Decades later, one searches in vain for a "Frank Statement to Cigarette Smokers" from the tobacco industry which purports to answer that question," mused Sarokin.

Although the evidence fully supported the truthfulness of Sarokin's statements, the 3rd Circuit Court of Appeals folded under pressure from the powerful tobacco industry and reassigned the case to another judge after the tobacco company complained that Sarokin's comments suggested he was biased against them.

Sarokin respectfully and gracefully discussed the matter in a related proceeding.

"I sincerely believe that all of the rulings that I have made in these cases involving the tobacco industry have been based upon the evidence presented to me over a decade, and not upon any predisposition or bias regarding any of the parties... It is difficult for me to understand how a finding based upon the evidence can have the appearance of partiality merely because it is expressed in strong terms..."

Despite my ten-year involvement in these cases, I am confident that any one of my colleagues can preside over these matters with equal or superior dedication and competence. However, I fear for the independence of the judiciary if a powerful litigant can cause removal of a judge for speaking the truth based upon the evidence in forceful language that addresses the precise issues presented for determination."

Although federal judges take an oath to uphold the Constitution and do justice, the vast majority of judges don't have the courage to defend the rights of the wrongly convicted because it tarnishes the justice system and casts aspersions on prosecutors and judges. But Judge Sarokin has never been the average judge or human being. He is committed to his oath and is driven by a deep-rooted fidelity to do what is right to protect those who suffer injustice. Judge Sarokin has the courage to break ranks with a federal justice system where active and retired federal judges remain silent or minimize prosecutorial and judicial misconduct that lead to wrongful convictions and imprisonment of Americans. In 2014, at the age of 85, Judge Sarokin was the only federal judge to decry the wrongful conviction and imprisonment of six information technology executives (the "IRP6") that occurred in the federal courts where he once proudly served.

Sarokin took interest in the IRP6 case in 2014 after learning about the bizarre facts and circumstances surrounding the disappearance of a court transcript related to allegations that the trial judge violated the pro se defendants' 5th Amendment rights by coercing them to testify under threat of terminating their defense. Sarokin, a highly experienced federal trial and appeals judge for 17 years and expert in court reporting operations in federal criminal trials, knew that portions of trial transcripts just don't vanish, especially with the recording and backup technologies of the digital age. Intrigued with the missing transcript, Sarokin immersed himself into the facts and evidence in the case and was shocked to determine that even without the missing transcript, the trial record showed the trial judge had not only violated the defendants' 5th Amendment rights but also that the IRP6 were actually innocent and the case was mishandled by the prosecution and courts. Sarokin concluded that the IRP6 had been prosecuted and imprisoned for "failing to pay corporate debts."

Sarokin began blogging about the facts surrounding the missing transcript, constitutional violations and the government's "ludicrous" response to the missing transcript in the Huffington Post in a 5-part series titled "The Case of the Missing Transcript." Sarokin expected his peers in the 10th Circuit would certainly reverse the conviction. But, shockingly, the 10th Circuit affirmed the wrongful conviction and left the innocent IRP6 languishing in prison. Sarokin continued decrying the injustice in a July 2016 Washington Post interview and took another selfless, unprecedented act of compassion by a federal judge--contacting a President of the United States to personally ask that the IRP6 be granted clemency. To create public awareness about the IRP6 injustice, Judge Sarokin, who became a playwright in his retirement, wrote and produced a short, heart wrenching play where professional actors portrayed the men discussing facts of case and the horrible injustice that befell them. Judge Sarokin released the play on the Internet via YouTube to reach a broader audience.

Although many judges and federal justice officials are aware of the IRP6's innocence and the incontrovertible evidence of prosecutorial and judicial misconduct led to their wrongful conviction and imprisonment, Sarokin was the ONLY federal judge who had the courage to speak out and the compassion to take such extraordinary action to free the IRP6. Judge Sarokin is that rare judge who embodies the maxim of law "that it is better that 99 offenders...should escape than that one innocent man should be condemned." From early in Judge Sarokin's career, his opinions and writings show that he has always been intensely troubled by the failure of the prosecutors, judges and the American justice system's overall lack of urgency in freeing the wrongly convicted.

In 1977, an innocent man named Vincent Landano was convicted and sentenced to life in prison for the murder of a police officer in Newark, New Jersey. When police misconduct was exposed after the government's key witness recanted his testimony and said police had coerced him into identifying Landano from a photo line-up, the state judge and prosecutor showed no interest in reversing the conviction and instead chose to demonize the witness and attempt to discredit his recantation. If not for Judge Sarokin's extraordinary intervention, the innocent Landano would have certainly died in prison. Judge Sarokin's opinions in the Landano case showed his extraordinary level of concern and compassion for

the wrongly imprisoned and his persistent drive to do justice and right a wrong committed by the justice system.

"The murder of a police officer is a tragic event," said Sarokin in his 1987 Landano opinion, "not only for the loss sustained by the officer's family, but because it is the ultimate symbol of lawlessness. That tragedy is compounded however, if there is a risk that an innocent person has been convicted of such a despicable crime," opined Sarokin.

Although the law constrained Sarokin from initially granting relief to Landano in 1987, he ultimately stayed the course to obtain justice for Landano. Judge Sarokin made it clear in his opinion that he would do everything in his power to free Landano and encouraged the 3rd U.S. Circuit Court of Appeals to reverse his unfortunate decision.

"The obligation of this court to defer to the factual findings of the state court makes it impossible to grant the relief sought," Sarokin wrote. However, "the court candidly admits an exhaustive search for grounds to grant the writ but could find none without violating the court's oath to follow existing precedent," added Sarokin. "In upholding the law, the court fears a great injustice has occurred and respectfully invites reversal of its decision," Sarokin said.

Sarokin then addressed misplaced desires and attempts by the state judge and prosecutor to preserve Landano's wrongful conviction instead of searching for the truth.

"The court can well understand the state's interest in preserving a conviction once obtained, however, that interest must be tempered by a respect for the rights and dignity of an impartial, law abiding individual who has come forward with evidence as a good citizen," Sarokin expressed. "In reading the transcript one could reasonably conclude that the witness had become the criminal. The examination was not a search for the truth but rather an exercise in harassment and intimidation in an effort to dissuade the witness from any recantation," Sarokin said. "The court respectfully suggests that the prosecutor's role, though continuing to be an advocate, should demonstrate as much interest in obtaining exculpatory as well as incriminating information in this type of post-trial proceeding," added Sarokin.

Two years later Landano filed a new motion with Judge Sarokin to reopen his habeas proceeding because the state prosecutor had committed fraud by suppressing evidence and requested to review state documents. Sarokin granted Landano's request to review the documents. Thereafter, Landano presented documentary evidence of suppression to Sarokin. Sarokin concluded that state prosecutors had "systematically" withheld information that could have proved Landano was innocent. Sarokin, deeply concerned about Landano's loss of liberty for more than a decade, granted his petition and directed the State of New Jersey to release him from prison unless he is afforded a new trial to commence within 90 days. In his opinion, Sarokin showed deep concern for the Landano's plight and discussed the role of compassion and humanity in the justice system.

"Concerns of compassion and humanity may not be appropriate in determining whether or not the court has the obligation to defer to the state court and require the petitioner to submit his claims to the court in the first instance," said Sarokin in his 1989 opinion. "However, petitioners' incarceration for more than a decade, coupled with the distinct possibility that he, indeed, may be innocent of the charges for which he was convicted, are additional considerations supporting the relief granted herein," added Sarokin. "Requiring him to return to the state courts and start the process of review again would be unduly cruel and insensitive," Sarokin explained.

"The court in this opinion has walked the path of existing authority and visited the historical precedents, which, it respectfully submits, allow the action which it now takes, and which permit it to conclude that petitioner is entitled to immediate, not eventual, relief from the constitutional wrongs committed against him," said Sarokin. "Compassion may have no role in interpreting the law in our system of justice, but there can be no justice without it," said Sarokin.

Once again, the State of New Jersey would disregard evidence of police misconduct and Landano's innocence by appealing Sarokin's decision to grant relief to Landano. With no concern about Landano's innocence of his decade long imprisonment, the 3rd U.S. Circuit Court of Appeals reversed Sarokin's decision, citing that Sarokin had an obligation to give the State the opportunity to complete its review of Landano's new claim.

Landano next went to the FBI in 1990 seeking more exculpatory information from their related investigation into the murder that could exonerate him. But the FBI and U.S. Attorney's office didn't want to help and, citing privacy concerns, refused to turn over documents from their investigation. Landano once again sought help from Sarokin to gain access to the documents. Although Sarokin didn't find wrongdoing in the FBI defending the privacy and integrity of their files, he took issue with them belittling Landano and questioned their priorities in putting privacy above Landano's liberty interests.

"The court is concerned at the strident position taken by the United States Attorney...gratuitously disparaging the plaintiff's protestations of innocence...However, if there is evidence existing...which proves or tends to prove innocence...the government should be volunteering it rather than resisting its disclosure. Law enforcement agencies have as much a duty to protect, and if necessary, free the innocent, as they do to convict and punish the guilty. The resistance to disclosure is not a testament to a system intent on seeking the truth and dispensing justice."

By 1992, the state continued denying Landano relief, prompting him again to seek help from Judge Sarokin. In his 1992 opinion, Judge Sarokin questioned the justice officials' indifference and apathy about Landano's innocence and the overall lack of concern and urgency in America about freeing those wrongly imprisoned.

"This case is a testament to the principle 'Justice Delayed is Justice Denied,'" said Sarokin. "We must ask ourselves why the current clamor and rush to carry out death sentences, but no similar urgency in freeing one who might be wrongly convicted and confined," added Sarokin.

"Vincent James Landano has been up and down the judicial ladder enough times to exhaust anyone and destroy their spirit. Nonetheless, he has been ordered to resume the journey once again on grounds that his current claims upon which the court granted him habeas corpus relief must receive further review by the state courts."

"The futility and delay engendered by that process are self-evident. Either the state court will grant the relief which this court previously granted or, failing same, this court will do so when the matter is returned to it--the same facts and

law being presented. Thus, the petitioner, some one or two years hence, will be in the same position he was in on July 27, 1989, the day this court granted his petition. Then most certainly the appeals on the merits will commence."

"Here is a man who has served over twelve years in prison and almost as many fighting for his freedom in our justice system. If one's liberty, once unconstitutionally taken, can only be restored after so many years of confinement and confoundment, the Great Writ will be rendered worthless. Rather than crying out for speedy executions for those who have been convicted of capital crimes, we should be crying out for the prompt release of those who may have been wrongly convicted and confined--cries of freedom rather than death."

The H. Lee Sarokin Gavel of Honor is awarded to those individuals like Judge Sarokin who possess the qualities of the good Samaritan and make extraordinary personal sacrifices to help advance the cause of justice for their fellow man and the wrongly convicted. For those who are unfamiliar with the parable of the good Samaritan, it is a biblical passage where Jesus told a lawyer how he should treat his fellow man/neighbor (See King James bible, St. Luke, Chapter 10, verses 30-37).

30 - A certain man went down from Jerusalem to Jericho, and fell among thieves, which stripped him of his raiment, and wounded him, and departed, leaving him half dead.

31 - And by chance there came down a certain priest that way: and when he saw him, he passed by on the other side.

32 - And likewise a Levite, when he was at the place, came and looked on him, and passed by on the other side.

33 - But a certain Samaritan, as he journeyed, came where he was: and when he saw him, he had compassion on him.

34 - And went to him, and bound up his wounds, pouring in oil and wine, and set him on his own beast, and brought him to an inn, and took care of him.

35 - And on the morrow, when he departed, he took out two pence and gave it to the host, and said unto him, take care of him; and whatsoever thou shalt spend more, when I come again, I will repay thee.

36 - Which now of these three, thinkest thou was neighbor unto him that fell among thieves?

37 - And he said, He that shewed mercy on him. Then Jesus said unto him, Go and do thou likewise.

Six men (the IRP6) were stripped of their constitutional rights and wrongly convicted and imprisoned. Many judges, prosecutors, politicians and others saw the IRP6 injustice, wrongful imprisonment and suffering of their families, only to look the other way. But a certain man and former federal judge named H. Lee Sarokin came by, seeing them wrongly imprisoned and their constitutional rights lying in the street, had compassion on them. Like the good Samaritan, Judge Sarokin spent himself to help achieve justice for these six men.

Judge H. Lee Sarokin is a humble, gracious kindhearted human being whose compassion for the wrongly imprisoned and fierce defense of the constitutional rights of the accused and convicted transcended that of his peers in the federal judiciary during his era. Judge Sarokin's exhibition of compassion and tireless efforts towards achieving justice for the IRP6 and many others over his lifetime is worthy of emulation and is the standard of excellence by which all other jurists should be measured.

A Just Cause thanks him for his lifetime of public service and dedication to justice and hereby honors him as the first recipient of the H. Lee Sarokin Gavel of Honor Award. Should you have any questions about the H. Lee Sarokin Award please contact me at the contact information listed below.

Sincerely,

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