

ARGUMENT TO THE REALLY SUPREME COURT

IN RE PETITION OF ST. PETER
CONCERNING STATUS OF BAILEY ALDRICH,
LUCIFER BEELZEBUB, INTERVENOR

THE COURT: Gentlemen, are we ready to proceed?
THE DEVIL: Your honors, I am Lucifer Beelzebub ... I will spare you my curriculum vitae; I assume that any colleague of Bailey Aldrich's is well acquainted with the devil. I rise to make a motion.

THE COURT: State your motion and your grounds.
THE DEVIL: We have labored for years to develop the bargaining unit which we have today in the nether regions. In terms of good and evil, my conferees and I view young Bailey as something of a management scab. And -- fire and brimstone or not -- we, too, have our standards. Since we have an interest in assuring Aldrich's admission to heaven, so that he will not be foisted upon us below, we move to intervene.

THE COURT: Is there objection to the motion?
ST. PETER: I object. Having an opponent -- even one as disreputable as Lucifer Beelzebub -- prejudices my case. I have trouble enough with Aldrich storming the pearly gates, without having to twist the devil's tail, too.

THE COURT: The motion is granted. We will give the devil his due. Is there any additional evidence to come before the court?

THE CLERK: Your honor, Stephen G. Breyer, a fugitive from the U.S. Sentencing Commission, has asked to testify amicus curius.

THE COURT: We will dispense with the oath; he would ignore it anyway. Judge Breyer, come forward please.
JUDGE BREYER TESTIFIES.

THE COURT: That's enough! That's too much, in fact! Evidence, evidence -- all they want us to do is look at evidence. NO MORE EVIDENCE. I will take judicial notice of the ill-starred record of this octogenarian scalawag. I will now hear from the parties. St. Peter, your argument please.

ST. PETER: Your honor, we have noted the fact that the earthling, Bailey Aldrich, is just now celebrating his 80th birthday. We therefore deem it timely to raise the question of his ultimate residence: up here . . . or down there?
We feel we have ample reasons to ask for a permanent injunction against any heavenly status. It is impossible to conceive of Bailey Aldrich fraternizing with our community of saints, angels, and archangels without acknowledging the certainty of irreparable harm. By the same token, we view his assignment to the lower region as not involving any appreciable harm to a place already beyond salvage.
Let me begin by noting Judge Aldrich's long feud with the very forces created to save human life and limb in the coastal waters of his country, the Coast Guard. Simply because he has acquired some skill in handling small boats, he takes fiendish glee in pointing out their all too

human errors. Let me quote from United States v. Sandra & Dennis, 372 F.2d 189: "We refuse to take the government's view, and be party to adding to the honored motto, 'Semper Paratus,' the words 'Interdum Prudens.'" Not only was this a snide comment, but he even translated the Latin in a footnote: "Always Ready, Sometimes Careful" -- as if the Coast Guard couldn't read Latin.

BEELZEBUB: Oh, I'm not as sure. I was almost ready to accept your point as a good argument for letting him in here, until I thought of how, just recently, he shamelessly saved the Coast Guard's bacon in Brown v. United States, 790 F.2d 199, where he said they couldn't be held liable for not providing accurate weather forecasts. Listen to what he wrote: "A weather forecast is a classic example of a prediction of indeterminate reliability . . . a particularly unfortunate area in which to establish a duty of judicially reviewable due care." Who is he to say?

Look at what he did in the Tamano case, 564 F.2d 964 -- let the Coast Guard off the hook and nailed the pilot . . . and replotted the whole of Casco Bay!

ST. PETER: It's not just the Coast Guard. He's been tough on other parts of government. Look how he treated the House Unamerican Activities Committee in the Watkins case. And he was only a district judge then.

BEELZEBUB: Only a district judge? You mean before he stepped down to become a circuit judge. No you don't gain any points by Watkins. The House Unamerican Activities Committee are all my people.

ST. PETER: But he goes to the very foundation of government and says in United States v. O'Brien that Congress had no business in making draft card destruction a crime.

BEEZLEBUB: You should complain. He was just recognizing a higher power -- your own Boss as a matter of fact. Anyhow the Supreme Court reversed him on that. But, following up on your point, he was willing to find there could be a criminal conspiracy to burn draft cards, involving Dr. Spock and Reverend Coffin.

ST. PETER: Oh, that's only part of the story. Remember that he outlawed Judge Ford's special questions, this being a criminal case. The government soon gave up its prosecution.

Wholly apart from Judge Aldrich's impoliteness to government, most of our people have been scandalized by his attitude toward, well, toward . . . what I can only refer to as the portrayal of the human animal in its more bestial activities. Listen to what he wrote in United States v. Guarino, 729 F.2d 864, "Sexually explicit, whatever it may mean to a lay person, does not mean obscene." Well, now! Then there was the case where he dealt with a magazine article where some sort of person -- incestuous son he once referred to him -- was up against a wall.

BEELZEBUB: You're not going to send him down here on that pretext. We've followed him daily on this kind of case. He's not only tricky; he's subversive. You want to know what lies behind this? Here's a sucker who really believes in free speech. That's the last thing we need down here. Can you imagine

what I'd be doing if everybody had the right to complain? No, sir. The only way we can survive is to keep a lid on such talk.

Your honor, let me address the concerns of my constituents. I can't begin to count the convicted criminals here who have not been helped at all by this judge. I also have a sizeable number of investment fund advisors and so-called independent directors who owe nothing to him. And labor unions, such as the one in the Billen Shoe case, and many employers have felt his lash. And this is only the beginning.

ST. PETER:

Oh, you've got nothing to complain about. Judge Aldrich delights in making it tough for the police. In Niro v. United States, 388 F.2d 535, he had the effrontery to insist that they get a search warrant if there is time to do so. Just think -- all that unnecessary paperwork.

And he's been hard on prosecutors. He thinks it's bad if a prosecutor has a quiet little tete-a-tete with the judge without defense counsel present. Haller v. Robbins, 409 F.2d 857.

And he blows his top if a prosecutor goes on TV lambasting the trial judge just before the case is given to the jury. United States v. Coast of Maine Lobster, 538 F.2d 899.

And he takes offense at a prosecutor's closing argument which only indirectly, mind you, insinuates that the defendant has not taken the witness stand. United States v. Flannery, 451 F.2d 880.

BEELZEBUB:

I admit I have some sympathy for your position. But you see only the trees, not the forest. What you're complaining about is fairness. This joker really believes in that, too. Even for my worst customers. And fairness is something I really can't deal with. When I made my deal with Faust, the last thing I was thinking of was a fair contract. No, this man Aldrich would be anathema to my domain.

There's one special final group among my constituents who couldn't abide having Judge Aldrich join them. In fact, they are the only really happy group here, simply because they're out from under his overwatchful eye. These are the lawyers. They spend day after day swapping stories about how they were chewed out by the judge. And they vie for popularity, based on the amount of counsel fees they personally were assessed by the judge. But the last thing they foresaw was only that they would be consigned to hell. What they couldn't foresee was double costs and attorneys' fees after they got here. So, your honor, please. No Judge Aldrich.