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Telling the story

Nolan Barton & Olmos attorneys work as a team to explain their client's life to the jury.

By Tyler Piolet

Daily Journal Staff Writer

Thomas J. Nolan still reflects on the case that molded his future law firm's character.

It was 1980 — four years after the death penalty was reinstated in California and not long after he graduated from UC Davis School of Law and started what's now known as Nolan Barton & Olmos LLP.

He was appointed to represent Robert Anthony Nelson in a death penalty case in San Mateo.

Nelson, a small-time drug dealer, was facing first-degree murder charges with a firearm enhancement for two execution-style killings. *People v. Nelson*, SC00947A (San Mateo Sup. Ct., Filed June 27, 1980).

Nolan's primary challenge: There wasn't a pattern of how to best represent defendants facing the death penalty. That would change with Nelson's case.

Nolan read "The Executioner's Song" by Norman Mailer, the story of Gary Gilmore, the first Utah prisoner executed by firing squad, shortly before taking the case. He remembers how the author portrayed a sympathetic image of a wicked criminal by detailing his life story.

Nolan recalls thinking, "If



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From left, Thomas J. Nolan, Camden Vilkin, Dan Barton, Daniel Olmos, Charlie Dickson, Trisha Luciano of Nolan Barton & Olmos LLP

you can take a case like that and make people at least human in terms of your storytelling, why don't we get someone who can

So he hired the now-late journalist Lacey Fosburgh to investigate Nelson's upbringing.

him life, or do we give him death?"

Along with the investigative help of a few other lawyers, Nolan presented to the jury a sympathetic "screenplay" of Nelson's life in the context of the criminal trial, and it worked. The San Mateo County Superior Court jury spared his life.

Nolan was crafting what he now calls the "buddy system," which his firm abides by today. "This idea of humanizing your client is something that's really permeated our office since I've been here," said partner Daniel Olmos, who, after graduating from Harvard Law School, joined the firm in 2007.

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— Dan Barton, partner, Nolan Barton & Olmos LLP

investigate this case — who has a journalistic background and not a gumshoe detective — a person that can put together a screenplay?"

Nolan said he knew the evidence was clear that Nelson committed the murders. So the question he tried to have the jury answer was, "Do we give

The firm hires law clerks and recent college graduates — often with journalism backgrounds — whose primary job is to spend several hours with their clients to investigate their social histories.

The seven-attorney Palo Alto firm then collaborates on every case, often discussing them over lunch. Partner Dan Barton calls their team a “community.” Each person has something to add.

“I think the life of the lone wolf criminal defense attorney is a really hard life. And one of the things that’s allowed all of us to do this for so long and I think so well is that there’s a community of people that we come back to and support each other,” Barton said.

In 2017, the firm filed a writ in Santa Clara County Superior Court seeking review of San Quentin prisoner Arnulfo Garcia’s case based on newly discovered evidence of rehabilitation. That evidence was portrayed in a detailed portrait of a man who dedicated his life behind bars to serving others. *People v. Arnulfo Garcia*, CC11357 (Santa Clara Sup. Ct. Filed May 29, 2001).

The firm asked District Attorney Jeff Rosen to visit their client, and after doing so, Rosen saw evidence of Garcia’s rehabilitation first hand. That

visit led to Rosen not only agreeing to support the writ for their client’s release, but Rosen’s became the first DA’s office in the state to require prosecutors to visit jail and prison inmates.

“To fully understand that when we stand up in court and we ask a judge to send someone to prison, we have full appreciation of the magnitude of that argument,” explained Jay Boyarsky, chief assistant district attorney for Santa Clara County. “Dan [Barton] was instrumental in that.”

Much of Nolan Barton & Olmos LLP’s work deals with criminal matters. But the firm is noted in the Bay Area for its handling of high-profile, white-collar cases. It’s that versatility, Boyarsky said, that makes them “preeminent.”

“They get trade secret cases in part because they’ve handled high-profile murder cases,” Boyarsky said. “When an executive feels like their livelihood is on the line, they want someone who’s litigated high-profile cases.”

U.S. Magistrate Judge Laurel Beeler, who has known the firm since 1995, put it this way: “They get really good results. ... They are very good in the courtroom — very at ease.”

In 2008, the firm successful-

ly defended a client in the first economic espionage case in the United States to go to a jury trial. *U.S. v. Lan Lee* (CR 06-0424-JW).

Federal charges were brought against their client under the 1996 Economic Espionage Act alleging he and a co-defendant stole high-tech trade secrets from NetLogic Microsystems and Taiwan Semiconductor to start their own company in China.

At trial, the firm presented evidence showing one of the alleged trade secrets — a software code — was non-confidential. A professor at UC Berkeley wrote it in his PhD thesis. That revelation resulted in an acquittal on the economic espionage charges.

Even in complex, white-collar cases, the firm is all hands on deck, using Nolan’s buddy system in some fashion.

“You take a case where there’s a theft of trade secrets and you say, ‘Well, how did this person end up in this situation, and what’s the motivation? What are the complex factors that produce the outcome?’” said Barton. “And it’s really easy to say, ‘OK, this is all about money, so it’s motivated by greed.’ And that’s not a very sympathetic or explanatory answer.”

Olmos added, “There are usually 100 reasons why our clients, whoever they are, got into the situation they are in. If I can convince a judge or a jury that all of those life experiences my client had are just as important as life experiences that some other, maybe on paper more sympathetic person has, then I’ve done my job.”

Nolan called the firm a “tribe” of people who understand and believe in people’s rights.

Associate Trisha Luciano put it this way: “We’re all storytellers. ... We’re all like-minded, and I think this office does an amazing job at getting to know our clients and trying to figure out what it is that got them here.”

The firm — comprised of partners Nolan, Barton, Olmos and associates Luciano, Charlie Dickson, Camden Vilkin and Evan Greenberg — doesn’t have any plans to expand.

There are no former prosecutors in their office.

“We have a diversity of expertise, and I think the lawyers and the staff that we have in our office right now, it’s hard for me to imagine it can get any better than this,” Olmos said.

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