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The Campbell Lawyer

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"As honest as a Campbell Lawyer...."
U.S. Senator Robert Morgan, *Convocation*, August 1976

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Don Marcari, Class of '85, Goes Hollywood



Don Marcari

Is truth stranger than fiction? Just ask Don Marcari, Class of '85, whose real life exploits as a green Navy lawyer have been recreated, Hollywood style, in the movie "A Few Good Men."

In the movie Tom Cruise plays Don during one of Don's first, and perhaps most celebrated, trials.

"They made a lot of changes-- Hollywood-style," Don says. One of the changes was Don's alma mater. "They had Tom Cruise coming from Harvard Law School. That, of course, was for the movie. But it was true that it was the third trial of my career, and my first big case."

Down in Guantanamo Bay, Willie Alvarado, a marine who desperately wanted out, had contacted the Navy Investigative Services and reported on some fellow marines for harassing him. Alvarado also said that there had been a weapon discharged over the fence into Cuba: Potentially an international incident.

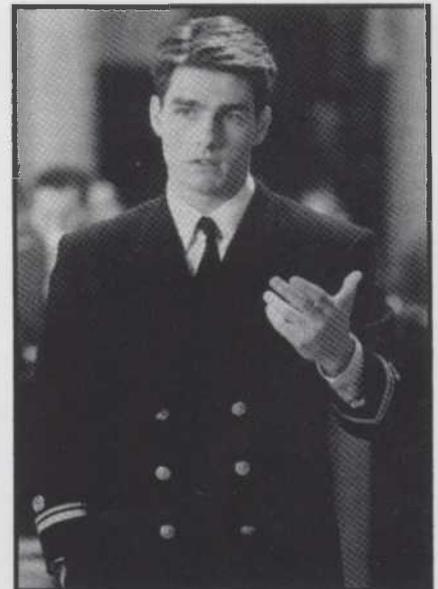
When word got out that a snitch was among the troops, things got heated. It was common practice, although publicly discouraged, to "discipline your own" by doing what was called a Code Red. The Captain got nervous that some of the men intended a Code Red to discipline Alvarado. He went to the Colonel, asking that Alvarado be transferred. The Captain's recollection was that the Colonel wanted Alvarado to "sweat it out over the weekend."

That weekend, a number of soldiers went to perform a Code Red. Ten marines pulled Alvarado off his bunk and stuffed a rag down his throat. They intended to shave his hair, but before they could, Alvarado had passed out and become comatose. Unlike in the movie, Alvarado did not die. All ten marines were charged with attempted murder.

The navy offered to give them an other-than-honorable discharge but Don's Marine, Lance Cpl. David Cox, said no way. "The whole Code Red concept of 'disciplining your own' was accepted practice, condoned by higher-ups," Don explains. "It had been going on forever. They say they don't have Code Reds anymore, but the mentality is still there. These kids are 18 and 19 years old. This situation could happen again tomorrow. The only way to stop it was to put the system on trial."

And although it wasn't quite like it was in the movie, that's just what Don did. "Oh, it was glamorized for the movie," Don says. "None of my witnesses committed suicide, and the movie failed to show all the pretrial motions I argued."

Don requested a change of venue. Request denied. He asked for an all-marine jury. Request denied. In all there were 104 motions filed in the case, a detail that Hollywood must have considered dull.



Tom Cruise plays Don Marcari

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Don Marcari

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"I put the Captain on and he testified to his side, David's side, of the story. It was tense. He was flatly contradicting the testimony of the base commander, whose character," Don adds, "was played perfectly by Jack Nicholson. The commander did not like me, that's for sure."

David was found guilty of simple assault and given time served. Two years later, he was honorably discharged.

"David was really just a young kid who wanted to be a marine. He'd add 'sir' to every sentence. You had to be very careful when you asked him a question, because he would answer literally. David really grew up during that time. He changed. He did what he thought a good marine should do and followed the people he respected. But he learned from it. He learned that when it comes down to right and wrong, you have to follow your heart. There comes a time when you have to question things."

Don notes that he probably wouldn't have tried that case like he did had he not been a Campbell grad. "Dean Hetrick and all that property law notwithstanding, I learned how to handle a courtroom from trial and my trial professors," Don says.

Don himself was honorably discharged in 1988. He practices law in Virginia Beach, Virginia, where, it's rumored, he's been approached to run for the office of Commonwealth's Attorney. Although Don wouldn't comment on the rumor, it just doesn't appear to be in Don's nature to refuse a challenge.

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The submission of articles, information or comments is most welcome. They may be sent to: The Norman Adrian Wiggins School of Law, Alumni Office, P. O. Box 158, Buies Creek, NC 27506.

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