

### Judge Bradford, cont.

He is Chair of the Indiana Pro Bono Commission; a member of the Indiana Bar Foundation and McKinney School of Law Alumni Association Boards; a Senior Distinguished Fellow of the Indianapolis Bar Association; and teaches at various seminars on a variety of legal topics. From 2005 to 2007, Judge Bradford hosted "Off the Bench with Judge Cale Bradford," a legal commentary program on Marion County's government access network. He also served on the Judicial Technology and Automation Committee (JTAC), helping to draft the state judiciary's policies on technology and electronic case management. Judge Bradford currently serves as an adjunct instructor in forensic science and the law at Indiana University Purdue University Indianapolis.

Judge Bradford is a former director of Indianapolis's John P. Craine House, a residential alternative to incarceration for women offenders with pre-school-aged children. Judge Bradford regularly attends St. Luke's United Methodist Church. He and his wife, a full-day kindergarten teacher, have five children.

### Judge Vaidik, cont.

Award.

Judge Vaidik was appointed to the Court of Appeals in February 2000 by Governor Frank O'Bannon and was retained by election in 2002 and 2012. Because Judge Vaidik sees the Court of Appeals at the intersection of theoretical and practical law, she believes the Court should embody the highest degree of fairness and impartiality.

This view informs her passion for teaching, as she feels that Hoosiers, and all litigants, deserve the finest possible legal advocates on their behalf. Judge Vaidik also believes that legal writing must be distinguished by logical construction and clear, explanatory prose.

She is an adjunct professor at the Indiana University Mauren School of Law and won its 2011 Adjunct Professor of the Year Award. She has served as a visiting professor at the College of Law of England and Wales and taught as an adjunct professor at Valparaiso University Law School. She has taught at many law schools and for a number of organizations including the Indiana State Bar Association, the Indiana Legal Education Forum, and the Indiana Judicial Center.

Judge Vaidik has trained lawyers involved in prosecuting Rwandan war crimes, Mexican lawyers prosecuting drug lords, and solicitor advocates seeking the rights of audience in the High Courts in Belfast, Northern Ireland. She is particularly proud of her long association with the National Institute of Trial Advocacy, which honored her with its 2007 Robert Keeton Faculty Award.

Despite her Court of Appeals case-load and her teaching, Judge Vaidik is also actively involved in a wide variety of community, legal, and judicial organizations. She served on the State of Indiana Children's Peak Performance Commission and has held many posts with the Indiana Judges Association and Indiana Judicial Center. She has been chairperson of the Judicial Education and Community Relations Committees of the Indiana Judicial Center and is a member of the American Bar Association, Indiana State Bar Association, and Sagamore Inns of Court.

She has received many other awards and honors including the 2004 Indiana State Bar Association's Women in Law Achievement Award, the 2007 Indiana Lawyer Distinguished Barrister Award, the 2003 Paragon of Justice Award from Valparaiso University Law School, and the Sagamore of the Wabash Award from two Indiana governors.

Judge Vaidik and her husband are the proud parents of twin daughters, one a medical doctor and one a lawyer, and they have two grandsons, who can choose either profession.

### Judge Barnes, cont.

Program from the Indiana Family & Social Services Administration.

While Prosecutor, Judge Barnes was elected President of the National District Attorneys Association (1995-1996), Chairman of the Board, Indiana Prosecuting Attorneys Council (1982-1983, 1992-1993), President of the St. Joseph County Bar Association (1992-1993), National Board of Trial Advocacy (1995-1996), National Advisory Council on Violence Against Women (1997), Chairman of the Board of Regents, National College of District Attorneys (1997-1998), American Prosecutor's Research Institute (1997-1998), and Pvarious other professional and civic organizations.

The Indiana Victim Assistance Network honored him with its Special Advocate Award in 1989, and in 1998 he received the Eugene "Shine" Feller Award from the Indiana Prosecuting Attorneys Council.

Judge Barnes supports a wide range of community organizations, especially those that serve vulnerable populations. He is a longtime supporter of the LOGAN Center's annual Nose-On campaign and in 1986 received its Joseph J. Newman Award for Com-mitted and Outstanding Advocacy on Behalf of Developmentally Disabled Individuals.

He also has served on the boards of the St. Joseph County Chapter of the American Cancer Society and the Alcoholism Council of St. Joseph County.

Judge Barnes is a member of the Indiana Bar Foundation, the St. Joseph County Bar Association, the Indiana State Bar Association, and the Illinois State Bar Association.

Judge Barnes is married to Alberta Barnes, a retired educator. They are the parents of two sons, Tim and John. Tim is an attorney in Washington, D.C. John is a TV producer at NBC Sports. John and his wife, Bess, are the parents of the world's most perfect granddaughter, Addison Emily. He lives in South Bend and is an avid baseball fan and reader.



## SYNOPSIS

**A**ppellant-Defendant Deante Dalton challenges the sufficiency of the evidence to sustain his conviction for felony murder.

In September of 2014, Brenda Marsh lived in a home in Elkhart with her husband, Lewis; her four daughters, Daosha, Laqwela, ZaCarra, and Zameshia; her son, Dramar; Laqwela's boyfriend, Norman Gray, and their infant son, Landon; Daosha's young son, Julian; and Brenda's brother, Joe. The family knew Freddie Rhodes, who was a cousin of two of Brenda's daughters on their father's side of the family. The family also knew Dalton, whose mother was related to Brenda's cousin and who was a year ahead of ZaCarra in school. Both Rhodes and Dalton, who were friends, had previously been to the family's home. The family also knew who Dretarrius Rodgers was, as he had lived in their neighborhood when he was younger.

At approximately 10:30 p.m. on the evening of September 14, 2015, Brenda left the family's residence to drive her mother home. While Brenda was gone, Dalton, Rhodes, and Rodgers arrived together at the family's home in Rhodes's silver Chrysler 300. Dalton, Rhodes, and Rodgers went to the family's home "fit'n on trying to rob someone."

Upon entering the family's residence, Dalton was wearing a ski mask. Rhodes and Rodgers wore bandanas over their faces. Rodgers also wore a glove on his left hand. All three men were armed with firearms. Dalton remained on the main level of the family's home while Rhodes and Rodgers went downstairs to the lower level.

After going downstairs, Rhodes and Rodgers kicked in the door to the bedroom Laqwela and Norman shared with their infant son. Rhodes and Rodgers pointed their firearms at Laqwela who was holding her son, and Norman, asking "where is the stuff". Laqwela attempted to flee upstairs to safety with her son, but remained downstairs after she saw Dalton standing at the top of the stairs pointing his firearm down at her.

In an effort to protect Laqwela and their son, Norman told Rhodes and - continued on p. 2

## Court of Appeals of Indiana

*Hearing oral argument at  
Hoosier Boys State-Trine University  
Thursday, June 16, 2016 @ 1 p.m.*



*Dalton v. State of Indiana*

*20A05-1508-CR-01098*

*On Appeal from Elkhart Circuit Court  
The Honorable Terry C. Shewmaker, Judge*

**Indiana Bicentennial 1816-2016**

## Synopsis, cont.

Rodgers that the stuff was in the laundry room under the dryer. Rhodes and Rodgers proceeded to the laundry room. While Rhodes and Rodgers attempted to overturn the dryer, Norman turned off the lights, grabbed Rodgers, and began tussling and wrestling with him.

The tussle between Norman and Rodgers carried them out of the laundry room, into ZaCarra's downstairs bedroom, and into a downstairs family room. ZaCarra, who was hiding in her closet, and Laqwela both heard two sets of gunshots, with one set sounding louder than the other set. At some point during the tussle, Norman was shot four times in the chest, hip, hand, and shoulder. Rogers was also shot in the neck, wrist, hip, and buttock. Meanwhile, Brenda had returned home and recognized Rhodes's vehicle. After entering through her front door, Brenda was confronted by Dalton, who pointed his firearm at her and told her to "sit the f[\*\*\*] down." Brenda, recognizing Dalton by his eyes, initially responded, "little boy, this is not Halloween, you know, stop playing." However, when Dalton repeated his command for her to "sit the f[\*\*\*] down[,] " Brenda realized that Dalton was serious and complied with his order. Dalton, who was holding the family's blue laptop computer under his arm, asked Brenda if anyone else was with her. Brenda responded in the negative. As Dalton was holding her at gunpoint, Brenda could hear a scuffle and loud noises coming from downstairs. She then heard four to five loud gunshots fired in rapid succession, followed by the sound of two or three softer gunshots and the sound of footsteps coming up the stairs.

Rhodes, who was still holding a firearm, ran upstairs, tapped Dalton on the shoulder, and said "let's go, let's go, let's go." Dalton then ran from the family's home, taking the family's laptop with him. Brenda immediately called 911. Upon retreating from the family's home, Rhodes got into the driver's seat of his vehicle and Dalton got into the front passenger seat. As Rhodes drove away, Dalton fired multiple gunshots toward the home, one of which went through the door frame and several others of which went through the front windows.

Norman, who was bleeding heavily, was able to make it up the stairs before collapsing at the front door. He subsequently recovered from his

injuries.

Rodgers, on the other hand, collapsed at the bottom of the stairs and died. Rodgers's cause of death was later determined to be multiple gunshot wounds, one of which completely transected the jugular vein before cutting through the esophagus and the right lung.

Later that evening, police located Rhodes's vehicle. The family's blue laptop computer was recovered from inside the vehicle. Police also recovered more gloves similar to the one that Rodgers wore during the incident as well as a backpack containing Rhodes's identification from the trunk of Rhodes's vehicle. Dalton subsequently admitted to police that he had gone to the Marsh family's home with Rhodes and Rodgers to perpetrate a robbery, he had been inside the home while the attempted robbery took place, and he knew Rogers was armed during the commission of the attempted robbery.

On September 17, 2014, the State charged Dalton with felony murder. Following trial, which was conducted over the course of a number of days between June 15 and June 22, 2015, the jury found Dalton guilty as charged. The trial court subsequently sentenced Dalton to a term of fifty-five years. The parties will present arguments pertaining to whether the evidence is sufficient to prove that Dalton actions caused or contributed to Rodgers's death or set in motion a series of events that could reasonably be expected and did, in fact, result in Rodgers's death.

## On the Road with the Court

Appeals on Wheels shines a light on the real-world legal issues that Appeals Court judges must decide. Audiences also get to observe skilled legal arguments and advocacy by some of Indiana's best lawyers, against a backdrop of case-specific facts and statutory and constitutional law.

The Court has conducted hundreds of Appeals on Wheels oral arguments since its 2000-2001 centennial. Today's argument is the 21st such event this year.

## Attorneys for the Parties

### For the Appellant

**Ross Graham Thomas** is a criminal defense lawyer in private practice in Indianapolis, Indiana. He received his bachelor's degree in Political Economy from Tulane University in New Orleans, Louisiana in 1992 and his law degree from the Indiana University School of Law-Indianapolis in 1994. He was admitted to the Indiana bar in 1995. He is also admitted to practice in the United States District Courts for the Northern and Southern Districts of Indiana, as well as the United States Court of Appeals for the Seventh Circuit. His practice is focused on major felony criminal defense in state and federal courts at both the trial and appellate levels.

### For the Appellee

**Ellen H. Meilaender** is a Deputy Attorney General for the State of Indiana and has served in the Indiana Attorney General's Office since 2000. She is a supervising attorney in the Criminal Appeals Section of the Appeals Division. Ms. Meilaender has written over 1250 appellate briefs and has presented oral argument before the Indiana Supreme Court and Indiana Court of Appeals over 70 times. She has also co-authored briefs filed in the Supreme Court of the United States, including an amicus brief relied upon by the majority opinion in the Court's 2009 *Oregon v. Ice* decision. Ms. Meilaender received her B.A. with a major in political science and a minor in history from Wittenberg University in 1997, and her J.D. from the Maurer School of Law at Indiana University – Bloomington in 2000, where she served as an Articles Editor on the *Indiana Law Journal*.

### Court of Appeals Mission Statement

To Serve All People  
by Providing Equal Justice  
Under Law



The Honorable  
Cale J. Bradford

Marion County

Cale J. Bradford was appointed to the Court of Appeals by Governor Mitch Daniels and took his seat on August 1, 2007.

Prior to his elevation to the Court of Appeals, Judge Bradford served for more than 10 years as Judge of the Marion Superior Court, seven years in the criminal division and three in the civil division. He was twice elected presiding judge by his colleagues.

During this tenure, Judge Bradford chaired the Marion County Criminal Justice Planning Council, a group of local elected and appointed officials who recommended ways to improve the county's response to criminal justice problems, including jail overcrowding, staffing, and budget issues. His efforts led to the end of 30 years of federal oversight of the Marion County Jail and to security improvements at the county's Juvenile Detention Center.

Before joining the bench, Judge Bradford served in the Marion County Prosecutor's Office for two years, overseeing a staff of more than 100 attorneys. For five years, he was an Assistant United States Attorney for the Southern District of Indiana, prosecuting major felony drug trafficking cases. He engaged in the private practice of law from 1986 to 1991, and served as both a deputy prosecutor and public defender during his career.

A native of Indianapolis, Judge Bradford received a B.A. in labor relations and personnel management from Indiana University-Bloomington in 1982 and his J.D. from the McKinney School of Law-Indianapolis in 1986. He is the Court of Appeals' liaison to the Indiana Judges Criminal Instructions Committee, which provides guidance to judges on jury instructions in criminal cases, and a former member of both the Indiana Judges Criminal Policy Committee and the Board of Directors of the Indiana State Judicial Conference.

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## Today's Panel of Judges



The Honorable  
Nancy H. Vaidik.

Porter County

Nancy H. Vaidik is a judge and a teacher with broad experience in both trial and appellate courts and in legal classrooms. She has an expertise in trial advocacy and appellate advocacy, with a strong background in the rules of evidence and legal mediation.

Judge Vaidik was selected by her colleagues as chief judge of the Court of Appeals for a three-year term beginning Jan. 1, 2014.

Judge Vaidik grew up in Portage, Indiana, and is a sixth-generation Hoosier who retains strong ties to her home town. She graduated with high distinction from Valparaiso University in 1977, with a double major in political science and psychology, and then studied at Valparaiso University Law School, where she earned her Juris Doctor in 1980.

Her early years as deputy and then chief deputy Porter County prosecutor provided the grounding for her judicial career. As an attorney, she tried over seventy-five jury trials and founded the Porter County Victims Assistance Unit, the Porter County Sexual Assault Recovery Project, the Domestic Violence Service, and the Valparaiso University Law School Mediation Clinic. She also served on the Porter County Community Corrections Board and led a countywide task force that spearheaded the eventual construction of a new county jail. After serving as a prosecutor, she went into private practice and specialized in domestic relations, probate, municipal law, and general litigation. She represented Caring Place, Inc., a shelter for battered women in Valparaiso.

From 1992 to 2000, she served as the judge of the Porter Superior Court. During her tenure on the trial court, Judge Vaidik was awarded a wide range of honors including the 1996 Indiana Domestic Violence Coalition Judge of the Year and the 1997 Indiana Judges Association Special Merit

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The Honorable  
Michael P. Barnes

St. Joseph County

Michael P. Barnes was appointed to the Court of Appeals of Indiana in May 2000 after long service as the St. Joseph County Prosecuting Attorney. He was retained on the Court by election in 2002 and 2012 and served as Presiding Judge of the 3rd District from 2009 through 2011.

In 2012 he wrote 144 majority opinions for the Court of Appeals.

Judge Barnes was born and raised in rural Illinois. He earned a B.A. in History at St. Ambrose College in Davenport, IA in 1970 and received his J.D. in 1973 from the University of Notre Dame Law School.

He practiced law from 1973-78 at the South Bend law firm of Voor, Jackson, McMichael and Allen, while also serving as Deputy Prosecuting Attorney. Voters chose him in 1978 to be the St. Joseph County Prosecuting Attorney, an office he held for 20 years over five elections.

While prosecutor, he oversaw a staff of 65 and spearheaded development of the CASIE Center for child victims of physical and/or sexual abuse, which continues to serve the community. Judge Barnes also created a domestic and family violence unit in the Prosecutor's office and launched a pretrial diversion program for nonviolent misdemeanor offenders that served as a model for successful state legislation. The domestic and family violence unit focused solely on crimes against women and children, including abuse and neglect.

Judge Barnes personally tried more than 25 murder and other major felony cases while overseeing a staff of 12 to 15 deputy prosecutors.

His efforts to collect delinquent child support payments garnered more than \$100 million for children in St. Joseph County. For those efforts, he received the Regional Director's Citation in 1989 and 1998 for innovative and effective child support enforcement from the U.S. Department of Health and Human Services, and in 1995 received the State Director's Award for Outstanding Child Support

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