CRIMINAL CASES

State v. Michael Williams, Dade County case: Daniel Aaronson represented Michael Williams who along with five others was charged with the crime of first degree murder. Mr. Williams was found **not guilty** of all charges and was released from custody from the courtroom. All of the five other defendants were found guilty of various offenses including some that were found guilty of first degree murder and received life in prison. Mr. Williams was facing the death penalty if convicted.

State v. Giroux, Case No. 91-10444: Daniel Aaronson represented Carl Giroux who was charged with first degree murder of his stepfather in Palm Beach County, Florida. After a lengthy jury trial where evidence was presented as to motive and that Mr. Giroux was the last person to have seen and been with the victim, the 12 person jury acquitted Mr. Giroux finding Mr. Giroux **not guilty** as charged. Mr. Giroux was facing, if convicted, the electric chair.

U.S.A. v. Viera, Case No. 91-5211-CR-Zloch: In this Federal case James Benjamin's client was charged with possession with intent to distribute heroin (a drug trafficking offense). After a several day jury trial before United States District Court Judge William Zloch, prosecuted by then Assistant U.S. Attorney, Ilona Holmes, now a sitting Broward County Circuit Court Judge, the jury came back with a **not guilty** verdict acquitting Benjamin's client of all charges dealing with the possession and intent to distribute heroin.

U.S.A. v. Charles Allen, Case No. 01-6170-CR-Roettger: In this case, one of the last trials before the late United States District Court Judge Norman Roettger, James Benjamin successfully defended Mr. Allen in a serious federal gun charge involving a sawed off shotgun. A group of individuals including the defendant were accused of attempting to commit an armed robbery with the possession of the sawed off shotgun. Although the defendant gave a long confession and was caught in the vehicle with the sawed off shotgun, the jury found Allen **not guilty** and acquitted him of all charges. The defendant continued in his career as a member of the United States Air Force and continues in the USAF to this very day.

State v. Keno ,Case number 97-9955CF10A: In this highly political and publicized case, Daniel Aaronson and James Benjamin represented Fort Lauderdale City Commissioner Cary Cass Keno who was charged with extortion. It was alleged that he tried to prevent another from running for the City Commission. Mr. Keno was found **not guilty** by a jury of all charges after a lengthy trial. The witnesses at trial were a virtual whose who in Fort Lauderdale city politics.

U.S.A. v. Michael Pomeroy, Case No. 89-8080-CR-Paine: In the United States District Court in West Palm Beach, Florida, Michael Pomeroy was among dozens of ramp luggage workers at the Palm Beach County Airport who were accused of participating in a conspiracy to defraud people by stealing valuable possessions out of their luggage. After a lengthy jury trial although other co-defendants were all convicted, Benjamin's client, Mr. Pomeroy was found **not guilty** and acquitted of all charges even though one of the ringleaders of the group testified against Mr. Pomeroy.

State v. Sower, Case number 97-7904CF10A: Daniel Aaronson represented David Sower who was charged with trafficking in over 400 grams of cocaine. Although the case involved Mr. Sower and others purchasing the cocaine from undercover police, Mr. Aaronson was successful in having Mr. Sower found **not guilty**. Mr. Sower was facing 30 years in prison on the charges, with a 15 year minimum mandatory.

State v. Clifford Daryl Cox, Case No. F90-00050: Daniel Aaronson represent ed Daryl Cox who was charged with multiple counts of sexual battery on his girlfriend's mother. Although Mr. Cox gave a 17 page confession and was identified by the victim, Daniel Aaronson was successful in having him found **not guilty**. Mr. Cox was facing over 400 years in prison for the charges.

State v. Bernie Jackson. Case No. 86-3936CF10B: In the early 90′s Jackson along with three co-defendants were accused of trafficking in multi-kilogram quantities of cocaine in Broward County, Florida. After a trial that lasted almost six weeks, Benjamin obtained a **not guilty** verdict and Mr. Jackson was acquitted of all charges including fifteen year minimum mandatory drug trafficking charges. It was argued that Jackson and his three co-defendants were entrapped by law enforcement into doing these acts which they had no pre-disposition to do. The Jury agreed with this defense.

State v. Hare, Case No. 05-004871CFA02: Daniel Aaronson represented Mr. Hare, an assistant scout master for a Boy Scout Troop in Palm Beach County. Mr. Hare was accused of inappropriate touching of juveniles and charged with the crime of lewdness. Mr. Hare was facing 30 years in prison on these charges but was found **not guilty** as charged and walked out of the courtroom.

State v. Ackerman, 785 S.2d 1229 (4 DCA 2001): Mr. Ackerman was facing 20 years in prison with a minimum mandatory sentence. Daniel Aaronson was successful at the trial court level in having Mr. Ackerman sentenced for trafficking in cocaine to a period of probation with a withhold of adjudication. The State appealed the Court's decision which was affirmed by the Fourth District Court of Appeal. Mr. Ackerman although convicted of trafficking in cocaine never spent a day in jail.

Fricke v. State, 561 S.2d 597 (3 DCA 1990): Daniel Aaronson was part of an appellate team that had Mr. Fricke's conviction for sexual battery upon a child under the age of 11 overturned. This case established and held that absent specific findings of necessity a child victim of a sexual battery should not be allowed to testify via a closed circuit television as it violated the confrontation clause of the Sixth Amendment to the United States Constitution and that child hearsay statements are not admissible absent a finding of reliability by the Court.

State v. Kessler, 626 S.2d 251 (4 DCA 1993) Daniel Aaronson and James Benjamin were successful at the Circuit Court level in having the Court determine that lewdness could not be used as a predicate crime for the charge of racketeering. The State appealed the Circuit Court ruling to the Fourth District Court of Appeal. The Court agreed with Benjamin & Aaronson and therefore the Circuit Court's decision that in fact lewdness could not be used as a predicate crime for racketeering. This decision effectively ended a three year endeavor by the Broward County State Attorney's Office to close down all of the adult book and video stores in Broward County.

Bordo, Inc. v. State, 627 S.2d 561 (4 DCA 1993): The Broward County State Attorneys Office in conjunction with various law enforcement agencies in Broward County in a concerted effort tried to shut down all of the adult book and video stores in Broward County. In virtual midnight raids they seized from each and every adult book and video store in Broward County all of the videos within those stores. Benjamin & Aaronson attacked the validity of the Search Warrants that were used to make the seizures claiming that in addition to various constitutional grounds, that the videos may be evidence of a crime but were not instrumentalities of a crime and therefore could not be seized for the crime of lewdness as lewdness is a misdemeanor. The Fourth District Court of Appeal agreed with Benjamin & Aaronson's arguments in concluding that the crime of lewdness is not committed by simply exhibiting sexually explicit materials which have the effect of exciting readers or viewers, thus such materials may be evidence of a crime but they are not instrumentalities of a crime and therefore cannot be seized since lewdness is a misdemeanor.

State vs. Wells, Case No. 05-35262TC10A; Fourth District Court of Appeal Case No. 4D06-3425: Jamie Wells was charged with racing on a highway. This law on the books for several years in the State of Florida would result in a mandatory license revocation for anybody who pled guilty or was convicted of it. The definition was poorly drafted. James Benjamin represented Jamie Wells who was charged with the offense. Benjamin convinced Judge Robert Zack that the Statute was unconstitutionally vague. The State appealed the ruling to the Fourth District Court of Appeal. A long

opinion was rendered by the Fourth District Court of Appeal in which they upheld the unconstitutionality of the Statute and the dismissal of the charges against Wells. Thereafter, the prosecution of every racing case in the State of Florida was in jeopardy. Most of those cases were dismissed by Courts and all of the appeals pending followed the Wells decision

State v. Williams, Case No. 91-49569(D): Mr. Williams and three co-defendants were accused of armed robbery of a Winn Dixie store in suburban Miami-Dade County, Florida. James Benjamin represented Mr. Williams in a trial that lasted numerous weeks. Mr. Benjamin's client, Mr. Williams, was the only one of the four defendants that was acquitted when the jury returned a verdict of **not guilty** for him.

FIRST AMENDMENT CASES

Bordo, Inc. v. State, 627 S.2d 561 (4 DCA 1993): The Broward Count y State Attorneys Office in conjunction with various law enforcement agencies in Broward County in a concerted effort tried to shut down all of the adult book and video stores in Broward County. In virtual midnight raids they seized from each and every adult book and video store in Broward County all of the videos within those stores. Benjamin & Aaronson attacked the validity of the Search Warrants that were used to make the seizures claiming that in addition to various constitutional grounds, that the videos may be evidence of a crime but were not instrumentalities of a crime and therefore could not be seized for the crime of lewdness as lewdness is a misdemeanor. The Fourth District Court of Appeal agreed with Benjamin & Aaronson's arguments in concluding that the crime of lewdness is not committed by simply exhibiting sexually explicit materials which have the effect of exciting readers or viewers, thus such materials may be evidence of a crime but they are not instrumentalities of a crime and therefore cannot be seized since lewdness is a misdemeanor.

V.C. Lauderdale, Inc. d/b/a VEGAS CABARET v. City of Lauderhill, Florida, Case No. 96-7100-CIV-GRAHAM: Daniel Aaronson on behalf of Vegas Cabaret, sued the City of Lauderhill claiming that their licensing procedures for adult stores and adult cabarets were unconstitutional. After a trial on the merits, Federal Magistrate Dube ruled in favor of V.C. Lauderdale d/b/a Vegas Cabaret allowing Vegas Cabaret to be licensed and to continue operating to the present day. V.C. Lauderdale also received attorneys' fees from the City.

Stanley Keoski et al. v. Board of County Commissioners, Martin County, Florida, Case No. 98-14141-CIV-GRAHAM/LYNCH: The Stanley Keoski Adult Bookstore was built in an industrial park after it received permission from Martin County to do so. The Martin County officials determined that the bookstore was a sufficient distance away from any school, church or playground. After the bookstore was physically constructed and just prior to its opening, the county changed its mind claiming that the adult bookstore needed to be 1000 feet away from a school, church or informal gymnastics academy. The measurement showed that the bookstore was approximately 980 feet away. Daniel Aaronson along with the Law Offices of Mitchell Beers filed suit in United States District Court for the Southern District of Florida claiming that various parts of the Martin County Code were unconstitutional and that based upon county approval for the project to go forward, that the bookstore deserved to be licensed. The United States District Court Magistrate ruled against the Stanley Keoski Adult Bookstore on all grounds. Daniel Aaronson along with the Law Offices of Mitchell Beers filed their objections with United States District Court Judge Davis who after reviewing the transcripts of the hearing and the pleadings reversed the United States Magistrate in granting the relief that the Stanley Keoski Adult Bookstore was looking for. The store shortly thereafter opened for business.

Studio X, Inc. d/b/a Curves Cabaret v. City of West Palm Beach, Florida, Case No. 05- 80736-CIV-HURLEY: The City of West Palm Beach determined that Studio X had lost its grandfather status to operate as an adult cabaret with beer and wine. The West Palm Beach Police Department ordered the closure of the club due to this determination by the City. Studio X represented by Daniel Aaronson and

James Benjamin filed suit against the City of West Palm Beach on behalf of Studio X in United States District Court for the Southern District of Florida. After a preliminary injunction hearing, the United States Magistrate ruled in favor of Studio X on seven out of eight grounds and holding various parts of the City of West Palm Beach's Code unconstitutional. The case settled shortly thereafter with Studio X being grandfathered in as a legal non-conforming use allowing it to present nude entertainment with beer and wine.

Booby Trap II v. City of South Miami, Case No. 03-22263-CIV-GOLD: Daniel Aaronson and James Benjamin represented Booby Trap II against the City of South Miami. The City of South Miami had declined to give Booby Trap II an occupational license stating that it was 1,996 feet away from a school when under the Florida Statute it needed to be 2000 feet away. Benjamin & Aaronson brought suit in the United States District Court for the Southern District of Florida against the City of South Miami claiming among other issues that the Florida State Statute that required the 2000 foot separation between an adult establishment and a school was unconstitutional. Based upon the pleadings submitted by Benjamin & Aaronson along with the Memorandum of Law detailing Booby Trap II's position, the City of South Miami decided to settle the case. The settlement allowed Booby Trap II to remain in operation at its present location and it is doing business as a fully nude alcohol establishment as we speak.

Daytona Grand, Inc. v. City of Daytona Beach, Florida, Case No. 6:02-cv-1469-Orl-31 KRS.: Daniel Aaronson, along with Brett Hartley were successful after a six day trial in having United States District Court Judge John Antoon, III declare the Daytona Beach Anti-Nudity and Anti-Alcohol and Nudity Ordinances unconstitutional. It is believed that this was the first case in the country in which after a trial on the merits, the adult entertainment industry won in proving to the court that the adult establishment did not cause adverse secondary effects. Unfortunately, the Eleventh Circuit Court of Appeals reversed the decision enunciating a new standard of law that had yet to be heard of in the Eleventh Circuit. The case presently is in front of the United States Supreme Court on a Writ of Certiorari.

University Video Books and Video, Inc. d/b/a University Books, et al vs. Metropolitan Dade County, 33 F.Supp 2d 1364 (S.D. Fla. 1999): Daniel Aaronson and James Benjamin along with various First Amendment attorneys from around the country were successful in getting the United States District Court for the Southern District of Florida to grant a preliminary injunction enjoining the enforcement of the county's zoning ordinance which regulated adult entertainment.

Rolling v. State, et el. Butterworth, 630 S.2d 635: convicted mass murderer Danny Rolling desired to disseminate his artwork, music and life story. The State of Florida enjoined the disbursement of any assets from these sales to Mr. Rolling by going to the State Circuit Court. Daniel Aaronson and Richard Rosenbaum on behalf of Mr. Rolling appealed the injunction to the First District Court of Appeal in Tallahassee, Florida. Mr. Aaronson argued the case before the First District Court of Appeal. The Court held that the State Statute did not allow for an injunction prohibiting disbursement of the money and indicated that the State Statute might be unconstitutional in and of itself. Although this was a victory for Danny Rolling, it was a greater victory for First Amendment freedoms. . .