March 15, 2023

Patricia S. Connor, Clerk

United States Court of Appeals for the Fourth Circuit, 1100 E. Main Street, Suite 501

Richmond, Virginia 23219-3517

Case No: 23-1049 / Re: Cathy A. Harris' Senate Committee on Homeland Security testimony, LGBTQIA2S+ people, and 28 U.S. Code § 455

"Corruption is a problem in our own government, but it is also a global problem. I support the rights of <u>#whistleblowers</u> everywhere in their efforts to bring <u>#sunshine</u> to <u>#corruption</u> and aid people in their rightful quest to govern themselves."

— Senator Chuck Grassley, in a speech in the Congressional Record marking #SunshineWeek

Dear Ms. Connor,

On <u>03/13/2023</u> the <u>Petitioner asked that the Court</u> direct its attention to the 09/22/2021 testimony of ACTING Chair of the Merit Systems Protection Board (MSPB) Ms. Cathy A. Harris before the U.S. Senate Committee on Homeland Security and Government Affairs where, faced with questions about her character, she stated under questioning, "I do regret not having been more respectful and nuanced in my own Tweets and in my poor judgment of retweeting others." (Italics added.) This despite in the same prepared statement Ms. Harris went on to claim that she had, "developed a balanced view of the issues facing the civil service." The

03/13/2023 filing was due to Petitioner's irrefutable claim that false, misleading and/or disparaging information about the Petitioner peppered the 11/17/2022 "Nonprecedential ... Final Order" (NFO) by Ms. Harris, et. al -- with its myriad harmful errors & prejudice ( $\S1201.4(r)$ ) in which critical whistleblower disclosures were treated with only nominal consideration.

In addressing the Senate committee Ms. Harris offered that *Douglas Factors* are important in arriving at judgments: "Are there mitigating or aggravating factors that require the penalty to be imposed or the penalty to be mitigated?"

The Petitioner now asks the Court to consider Ms. Harris' opening statement in the Committee Hearing, in light of her supposed promotion of Douglas Factors. She begins her second paragraph with, "I want to introduce my family who are with me here today: my wife, Cheryl, my daughter Rosie, and my father, Jack. I am very grateful for their support throughout this process."

The Petitioner then asks the Court to compare Ms. Harris' understandable gratitude to her wife for her support throughout the nomination process, to how the MSPB *NFO* by Ms. Harris et. al addressed the Petitioner's persistent whistleblowing against repugnant and systemic bias against LGBTQIA2S+ people at the National Defense University / Defense Security Cooperation Agency (NDU/DSCA), efforts which helped cost his own family much heartache and many missed opportunities.

The homophobia in particular got so bad that NDU/DSCA Col. (ret.) Richard D.

Downie actually prohibited the Petitioner, both an assistant professor as well as a

chief for strategic communications, from using light red (ie: pink) in any

promotional material.

If only that was an outlier. Nowhere does the NDU/DSCA and MSPB

renditions on the Petitioner's telling truth to power include an email, "Morale at

CHDS/John Thompson," sent on Tuesday, February 06, 2007 1:37 PM to

NDU/DSCA serial wrongdoer Ken LaPlante. In it, the Petitioner reported about the

grossly homophobic behavior of far-right Gen. (ret.) John Thompson, the person

Col. (ret.) Downie put in charge to respond to any of the Petitioner's 2011 public

disclosures and a constant purveyor of hate speech:

From: Martin E. Andersen < martinedwinandersen@gmail.com >

Date: Tue, Jul 19, 2011 at 6:54 PM

Subject: Tom, here is the 2nd Annex, also edited by \_\_\_\_... Thanks

To: Tom Devine < Tom D@ whistleblower.org >

Cc:

Annex No. 2

On the "Right" Side ...: General John Thompson

Per our conversation earlier this morning, this

is to confirm to you that in my conversation

late Friday with the director (Downie), I let

him know of the serious morale problem here at the center that needs to be addressed by him, including an atmosphere that has allowed certain senior staff to make comments about other staff and senior DoD degrading and/or personnel that are libelous. I urged him to address this situation, the extent of which I believe he did not know about, as soon as possible because this is affecting whether strong CHDS performers plan to stay with the Center or to seek employment elsewhere. ... Thompson, who has several times when speaking about (CHDS PROFESSOR) Michael Gold-Biss used a falsetto voice and limp wristed hand gestures when Michael is not around.

The most recent example was in a meeting in the Directors' Conference Room two weeks ago on the Bolivia project, I believe the same day Michael was informed that he had been pulled off the CHDS delegation to La Paz. Mr. Thompson mentioned to me in an aside that he wanted press guidance because he did not want someone--he specifically mentioned Michael—'screwing up.' He used a high-pitched voice and limp hand gestures when

he mentioned Michael's name. I will be clear. Not only do I believe that Michael is a very intelligent, hardworking member of the Center faculty. I have known him for more than 15 years and consider him a good friend. Mr. Thompson has made these kinds of comments about Michael in the past and has generally demonstrated a disrespectful attitude towards others here at the Center, including lodging patently false characterizations about CHDS staff to people outside the Center.

As I mentioned before, in Nicaragua, I had occasion to travel with the director and Mr. Thompson in a cab that had picked us up in front of the Defense Ministerial conference center. The subject turned to the CHDS trifold, which you will recall, was published in Spanish in red ink, some of which had a pinkish tint. When the director reiterated that he did not want any 'pink' handouts produced in the future, Mr. Thompson used the occasion to insinuate that current and former DoD leadership (\_\_\_ and \_\_\_) owed their positions to a 'gay mafia,' and made comments about their alleged sexual

orientation. I was very uncomfortable in the situation and tried to make a joke about how I 'got it' that we were not to use pink in the future.

Not only were Mr. Thompson's comments highly inappropriate, I had to wonder--as I think I mentioned before--about operational security issues, as we did not know the taxicab driver and we were in a country where a good part of the population votes for political leadership that is hostile to the United States.

As I know you will agree, rumor mongering and uncharitable parodies of CHDS staff and department senior leadership by colleagues put the Center's mission at risk, are against DoD rules and regulations, and make an uncomfortable work environment. I also have shared the most recent incident and the others with Michael as they occurred. I hope you will have an opportunity to speak with him about what is going on here."

Please note that the Petitioner's disclosures, ignored up the NDU/DSCA chain of command for more than five years, then made public in 2011, focused not only against torturers, clandestine murderers and military coup mongers, but also on vicious anti-LGBTQIA2S+ behavior and virulent and pernicious racism and sexism. (The latter also committed entirely by senior staff promoters and protectors of vice ADM (ret.) Ann E. Rondeau, who was apparently willing to look the other way even on "misconduct" [and the physical assault of other NDU/DSCA employees] as long as they did not affect her [failed] efforts to become the first woman Commander of U.S. Southern Command.)

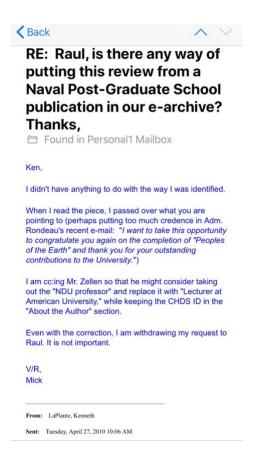
Ms. Harris et. al's NFO mentions of anti-LGBTQIA2S+ behavior, racism, and sexism?

Nothing, nada, absolutely ZILCH ... nothing on who engaged in it (NDU/DSCA senior staff) and who (the Petitioner) fought against it using peaceful, mostly chain of command disclosures.

It is true that DSCA/NDU legal ground feeder Robert Andrew Schafer, whose work regarding the Petitioner's alleged "conspiratorial, derogatory, and offensive" disclosures Ms. Harris et. al endorse in their *NFO* used on Pages 19-22 of his "Response to Agency Response to Order to Show Cause - Jurisdiction (Settlement Agreement) dated 3/6/2019" a 05/27/201 email that the Petitioner sent to serial

wrongdoer Col. (ret.) Kenneth LaPlante and NDU President Rondeau (the latter who, as the Petitioner will show in a subsequent Pleading, was one of serial wrongdoer Craig Deare's biggest boosters) and others in which he stated:

You started off the conversation in an argumentative tone, first asking why I did not attend the awards ceremony on Monday in which the highly unethical Craig Deare (guilty of egregious if not illegal conduct) was a feature awardee. ... How someone who cheated on his wife while sleeping with a contractor under his supervision could be so honored can only be explained by the director's comment on Monday that he was here in this managerial position due to Craig Deare. Furthermore, Deare used masturbatory hand signals at staff meetings with people he did not like; he made racist comments, he called unsuspecting colleagues "Faggots" in front of non-CHDS senior DoD officials, etc. Also, his contract-lover sent fear into the hearts of other CHDS contractors with her unwarranted personal power based on her illicit relationship with him. That conduct rates right up there with an assistant dean who badmouths CHDS at the Officers' Club and whose wife sends around e-mails to our people portraying First Lady Michelle Obama as a chimpanzee. Or the Operations manager (title?) who claims he knows friends of CHDS are Cuban agents, citing classified information that, if true, should not be mentioned before people without security clearances. Or how you advocated the "Argentine solution"--torture, disappearance and death--to the problems of Mexico. And the band plays on ... (Italics added.)



(It should be noted in passing that Mr. Schafer, writing in 2019, heralded the work of "a premier whistleblower attorney, Mr. Tom Devine" in the 2011 contract of adhesion, this expression of admiration by the NDUY/DSCA attorney coming several years after Mr. Devine became an attorney for National Security Agency leaker Edward Snowden, now a citizen of Vladimir Putin's international terrorist state, and even after the Government Accountability Project lawyer gave <u>fulsome</u> praise to the criminal coward in Moscow's state media. And, as noted in the Petitioner's 03/13/2023 Pleading before the Court noted, "Mr. Devine and the ... GAP ... were particularly prominent in their <u>"hail(ing)" Ms. Harris' MSPB confirmation</u> by the Senate.)



The Petitioner wants it to be crystal clear. Throughout his career and even before, the Petitioner has been a frontline advocate of equal rights and public respect for diverse peoples both here and abroad. Close friends, mentors, and people who he most admirers come from the gay and lesbian community, as does the former head of the U.S. Office of Special Counsel who made the Petitioner the first national security whistleblower to receive the OSC's "Public Service Award."

https://www.nytimes.com/2002/02/10/business/personal-business-blowing-the-whistle-not-for-the-fainthearted.html

When Mr. Andersen gives speeches, he often begins with the line, "Hi, my name is Martin Andersen. and I'm a whistle-blower," a play on the introduction made famous by Alcoholics Anonymous. He says it captures the stigma attached to the word. If the halo effect surrounding Ms. Watkins endures after the Enron case, perhaps he can change his introduction.

The Office of Special Counsel said Mr. Andersen settled his case with the Justice Department for a package of relief including a lump-sum payment of \$87,500. He has since left the agency and joined the Government Accountability Project as media director. The Justice Department declined to comment on his case.

In July 2001, Mr. Andersen was given a public service award by the Office of Special Counsel for his whistle-blowing disclosures. For all the recognition, though, he said, his three-year battle exhausted him. "I have two daughters for whom all of this was a distraction of my attention because the only way you can win is to become totally absorbed in your own vindication," he said.

Before coming on at the NDU/DSCA the Petitioner served as an expert witness for gay people in Latin America seeking asylum in the United States. At Freedom House, where for almost a decade he served as an expert on Latin America and the Caribbean, the Petitioner was instrumental in getting gay and lesbian rights, together with those of indigenous peoples, to be a regular part of its annual country studies. Since 1993 the State Department is required by a law written by the Petitioner to include as a section in and of itself indigenous peoples in each of its annual human rights country reports. A book he wrote on indigenous peoples in "Latin" America was not only forwarded by President Jimmy Carter's top White House aide on the region, but also received a glowing review from someone who was a frequent CIA contractor on international peoples' (indigenous) rights.

In an effort to spare the Court additional reading, the Petitioner (below) offers

a damning sample of contemporaneous documentation to highlight his own fight

against anti- LGBTQIA2S+ people bigotry, racism and sexism at NDU/DSCA - a

story conveniently left out of the MSPB narrative but key in showing the values,

morals and interests of those who are part of this case. He respectfully asks that,

should the Court have any questions about the circumstances herein described or any

other issue raised by this filing, that it share them with the parties (MSPB, DoD,

himself) involved forthwith.

Very Respectfully.

Martin Edwin Andersen

Cc: Cheryl Harris

Jack Harris

Date: Thu, Jun 16, 2011 at 5:21 PM Subject: Fwd: Complaint about Center for Hemispheric Defense Studies

(CHDS)

To: glenn.olarte@hq.southcom.mil

This begins my formal complaint against gross lack of ethics, leadership, arms-length dealings in finances, racial and ethnic discrimination and other important questions at the Center for Hemispheric Defense Studies (CHDS), which is located at National Defense University but whose director is rated by senior SOUTHCOM officials.

(Signed), Martin Edwin Andersen The report, obtained by CPI under the Freedom of Information Act, depicted a sort of frat-house attemphere at the Center. It stated that staff had exchanged "racially charged emails" including one directed at President Barack Obama; used offensive language such as "faggot," buttop" and "homo"; and that "women employees feel that they are treated inappropriately. Even serior leaders used "inappropriated and gestures," it said, and mentioned simulations of masturbation.

trifold, which you will recall, was published in Spanish in red ink, some of which had a pinkish tint. When the director reiterated that he did not want any "pink" handouts produced in the future, Mr. Thompson used the occasion to insinuate that currrent and former DoD leadership (RM and PR) owed their positions to a "gay mafia," and made comments about their alleged sexual orientation.

I was very uncomfortable in the situation and tried to make a joke about how I "got it" that we were not to use pink in the future. Not only were Mr. Thompson's comments highly inappropriate, I had to wonder--as I think I mentioned before--about operational security issues, as we did not know the taxi cab driver and we were in a country where a good part of the population votes for political leadership that is hostile to the United States.

As I know you will agree, rumor mongering and uncharitable parodies of CHDS staff and department senior leadership by colleagues put the Center's mission at risk, are against DoD rules and regulations, and make an uncomfortable work environment. I also have

# Selected New Books from the NMAI Library

Here are some new titles that cam in last month to the <u>National Museum of the American Indian Library</u>.

Peoples of the earth: ethnonationalism, democracy, and the indigenous challenge in "Latin" America, Martin Edwin Andersen; foreword by Robert A. Pastor. GN564.L29 A53. 2010. Imprint: Lanham, Md.: Lexington Books, c2010.

"Scholars in the field of comparative ethnic nationalism have long been frustrated by the nearly total absence of information concerning the indigenous peoples of Latin America. They have been treated as outside of the sociopolitical realm, slighted by their governments and intellectuals, as well as by writers from outside Latin America. Political mobilization in recent decades among the indigenes of the Andean Cordillera from Mexico to Bolivia has belatedly forced their governments and the outside world to acknowledge them as a consequential force, but insightful, comparative analysis of these movements and their likely outcomes is needed. Martin Edwin Andersen's manuscript is a giant step in meeting that need."—Walker Connor, author of Ethnonationalism: The Quest for Understanding

In 2015 the Center for Public Integrity, in an article focusing on alleged gross violations of human rights by senior Center staff, quoted an internal Southern Command document that reported that CHDS "staff had exchanged 'racially charged emails' - including one directed at President Barack Obama; used offensive language such as 'faggot,' 'buttboy' and 'homo'; and that 'women employees feel that they are treated inappropriately.' Even senior leaders used 'inappropriate hand gestures,' it said, and mentioned simulations of masturbation." [18]

January 17, 2022 Jennifer Everling Acting Clerk of the Board U.S. Merit Systems Protection Board 1615 M Street, NW Washington, D.C. 20419-0002 Re: 5 C.F.R. § 1201.114(a)(5) 5 C.F.R. § 1201.114(a)(5), (k) Neo-Nazi and other hate groups in the Department of Defense / National Defense University "The ultimate measure of a man is not where he stands in moments of comfort and convenienc but where he stands at times of challenge and controvery," — Dr. Martin Lather King, Jr.

Dear Ms. Everling,

Thank you very much for your 4 January 2022 decision to acknowledge my communication the day before in which I requested leave to file an additional pleading. My appreciation for your decision comes with full appreciation of the fact that, since 8 January 2022 the Merit System Protection Board (MSPB) has lacked a quorum for five years; a situation beyond your control surely, but one in which my case, like those of thousands of other federal employees, remains essentially in limbo.

I am filing this revised and amplified request today, a day of remembrance of the life and legacy of Dr. Martin Luther King, Jr., concerning additional evidence not readily available before the record closed in my case. [5 Lattner Nag, Jr., concerning adultonate evidence not reasily availables before the record crisical in my case, CFLR § 1201-11(6)(6), 60). Please note that his information is both new and essential, as among the many federal false statements Department of Defense Opposing Cosmod (Frus Kars Greetherg, Frus Mollie A. Murphy and Herr Robert Andrew Skafer) has made before the Cosm; it has elaimed that an already decorated national security and human rights whishelshower (mystell) hald promoted "damaging compitational theories of wrongdoing by the agency."

Re: Employment Status at the William Perry Center for Hemispheric Defense Studies (CHDS)



Martin Andersen vandersenwordworks@pmail.com>
Jun 23, 2017, 10.25 PM 🙀 🔸 🚦
to Martin, bor: Mark, bor: Dennis, bor: James, bor: Raul, bor: Raul, bor: Georgina ×

In the case of LaPlante this conduct also included introducing me to another Department of Defense center's director as his "butt hoy." and emotionally-disturbed conduct such as harshly criticizing me in a loud voice and then praising me a few minutes later, to raise his voice again a few minutes after that. The cycle could continue up to eight times in one working day. For example, on February 19, 2010, at 9:05 A.M., I sent an e-mail message to example. on February 19, 2010. at 9:05 A.M., I sent an e-mail message to Center chief of contractors Frank McGurk with just the following on the subject line. "The pendulum just swung back again ... Yelling at me in the hallway." Three minutes later, McGurk responded: "That was QUICKI Keep score to see how many times he switches today." ("WA peril 0, 2008 e-mail to myself. "Butt boy": e-mail sent to several senior DoD officials. ...).

From: Martin E. Andersen <martinedwinandersen@gmail.com> Date: Fri, Dec 16, 2011 at 11:34 AM Subject: Re:
To: Tom Devine <tomd@whistleblower.org>
Co:

This is fine. Please just add the request for a personal meeting with President Rondeau to explain what really happening and how they are using her.

You might want to link this:

Leon Panetta Sued Over Ape In Noose At Federal Agency

Department of Defense Inspector General's Office Regarding case 125147

Dear David Lloyd,

Dear David Lloyd,

Juvite this letter of support for Martin Itdovin 'Mick' Addresses, who was my supervisor during my internship at the Center for Hemispheric Defense Stadles (CUBS) at the National Defenses, the Stadles and CuBS at the National Defenses, the Stadles and Defense Stadles for CuBS at the National Defenses studies focusing on Latin American matched me with Mick as my supervisor, who at the time was the leading expert on indigenous politics in Latin American. Under his supervision, I learned a great deal on politics, international relations and how indigenous deserties are constructed and deconstructed during coups, warfare, and within resistance movements. Unfortunately, the working environment at CIIDS date on meath my learning experience. I Unfortunately, the working environment at CIIDS date or meath my learning experience. I Unfortunately, the working environment at CIIDS date or meath my learning experience. I work the contraction of the Company of

Daisy Ocampo Native American Student Programs University of California, Riverside Riverside, CA 92501

1) The wife of a senior member of the Academic teas set an e-mail, which I saw, to a OES colleague in which a pitture of First Lady Michallo Cheas was placed side-by-side a chiegosum in a recit proofs, although a recompage the presents to easily the serior of the collection of the collection of the collection of the said he would not, saying such an action would not result in any action being taken anyway.

J. A falled job applicant visited ODS to complain that the faculty team chesing J. A falled job applicant visited CDS to complain that the faculty team chesing enclose around attonation-seemingly well-founded-that one of the faculty judging Ahs application was repulsized applicant his became personal incession scrizing for judging the property of the control o

3) A forcer director of the State State

4) A new faculty member with extensive political contacts around official stabiligation has been the subject of harassent by a senior faculty member, who she says has even followed ber woused the office to clearly on what has it is doing, if position without having a Ph.D, a factor which is used against other faculty and





### **Ethnic Politics,** Defense, and Security in "Latin" America

By MARTIN EDWIN ANDERSEN



Martin Ed... Author 3mon (edited) ···
Narrative Strategist, Writer, Historian,...

Rondeau put in charge of the reprisals for my #whistleblowing someone who advocated death squads in private and who, in response to my insistent flagging of an email sent around National Defense University that compared First Lady #michelleobama to an orangutan, said that it might have been a "cultural" thing; that his own mother didn't like backs either, and used the "n" word, but that didn't make her a #racist.

#GeorgeFloyd #GeorgeFloydProtests #Pentagon #whistleblowers #beware #riotcontrol #racism #SuicideAwareness #seniormisconduct Coming soon: #whistleblower #rondeaued fighting #bigots @NDU\_EDU ... @NPS\_Monterey





#### Cancel

#### **Butt Boy**



From: Andersen, Martin Edwin

Sent: Wednesday, April 09, 2008 11:33

AM To:

'martinedwinandersen@yahoo.com'

Cc: Andersen, Martin Edwin

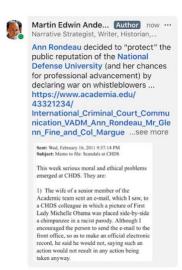
Subject: Butt Boy

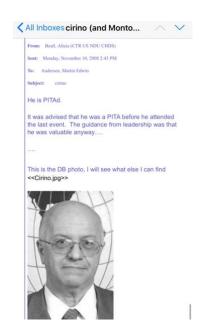
On April 4, I was in Ken LaPlante's office when Mr. David Lamm of NESA, our

sister agency, walked in. Although I had met Mr. Lamb on various occasions, Ken introduced me to him as "Mick Andersen, my Butt Boy." I was both

and hurt by this description, but kept my temper and was able to say, "No Ken, I'm not." After Lamm left his office, I returned to tell Ken that I thought his description was both demeaning and inappropriate, that he could

call me his "wing man," "assistant," or whatever, but not that. Ken claimed he was just kidding and I let the matter drop.





Los norteamericanos saben que, si el martes le dan el voto al negro, será el inicio de una tragedia histórica.

Julio Cirino,

programa "Defrente" (canal Telemax), 30 de octubre de 2008.



From: Martin Edwin Andersen [mailto:martinedwinandersen@yahoo.com]
Sent: Tuesday, June 13, 2017 7:51 PM To: Tom Devine < TomD@whistleblower.org>; johnrcrane@me.com Subject: Fwd: Laplante (Confidential)

Sent from my iPhone

Begin forwarded message:

From: "James L. Zackrison" <jameszackrison@hotmail.com> Date: June 13, 2017 at 7:02:32 PM EDT To: Martin Edwin Andersen <martinedwinandersen@yahoo.com> Subject: Laplante

David stated as known fact that LaPlante called "various places" advising them to not hire you. Did you know that? (That's not for attribution, btw). David will talk to IG or congressmen, will tell honestly what went on at chds.

Sent from my iPhone





#### Mark Feierstein

Political strategist, commercial diplomat

October 9, 2011
Whether as a foreign or homeland security reporter, an NGO advocate and organizer, a senior Congressional advisor, or government official, Mick Andersen has relentlessly pursued ethics, inclusiveness, empowerment, lawfulness and democratic development, making use of his strong strategic and analytical stills, as well as first-rate abilities in oral and written communications. He remembers those working in the back room, as well as the ones occupying the front.



#### 13 Years Ago See your memories >





## Martin Edwin Andersen

Feb 17, 2010 · 24

is listening to the live whistleblower symposium in NYC, with Juan Williams ... FBI heroine Coleen Rowley said it best when she said that fidelity--loyality to employers--is important, but integrity is even more important ...

Reengineering Past and Present Lessons for the Opening Battles of a New Cold War

Martin Edwin Andersen Former senior adviser for policy planning, Criminal Division of the U.S. Department of Justice

Service in a Time of Suspicion: Experiences of Muslims Serving in the U.S. Military Past-9/11. By Michelle Sandhoff. Iowa City: University of Iowa Press, 2017. Pp 176. \$25.00 (paperback and e-book).

Equal Opportunity Peacekeeping: Women, Peace, and Security in Poir-Conflict States. By Sabrina Karim and Kyle Beardsley. New York: Oxford University Press, 2017. Pp. 296. \$79.00 (hardcover).

Gender, Sexuality, and the Cold War: A Global Perspective. By Philip E. Muchlenbeck. Nashville, TN: Vanderbilt Universi-ty Press, 2017. Pp. 320. \$69.95 (hardcover); \$34.95 (paper-back); \$9.99 (e-book.)

When growing up in the 1970s in a small industrial city in America's heartdand, this reviewer was told a story—sworn by its teller to be true—that speaks to problems facing Americans at home and abroad, then and today. Tom Kennedy's family was part of the small Jewish community in violence-wasted Northern Ireland. When visiting his family in Belfast, Kennedy said a gang of street roughs accorated him along the local sectarian divide. "Are you a Catholic, or are you a Protestant?" sput their leader, seemingly ready to fight. "I'm neither," Kennedy responded. "I'm Jewish." After a split-second stony stare seemingly meant to aize him up pre-eternity, the tough reptiled evenly. "Are you a Catholic Jew, or a Protestant Jew?" The belief and identity of a stranger—in this case