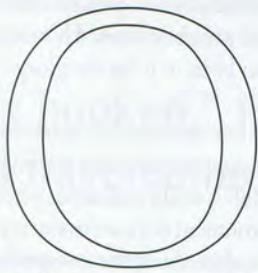


How Does This Man Sleep at Night?

A long-held distrust for authority and the government has led David Rudolf to defend those who might seem indefensible. But for him, popularity isn't as important as improving the system, one case at a time. BY LORI JOHNSTON



ON A STEAMY, OVERCAST AFTERNOON in South End, David Rudolf opens the door to his law office. Like the defense attorney, the office defies tradition. Colorful, contemporary artwork and etchings, sleek chairs, natural wood tables and desks, tiny track lighting suspended on silver rods—this is no traditional Southern law office. There's no mallard duck wallpaper here. The picture windows look out on the tracks for the trolley and a light rail line that will soon cart thousands of passengers from Pineville to downtown. Rudolf has positioned himself among plans for Charlotte's future.

It's no surprise. For nearly a decade, Rudolf has had an increased presence in Charlotte's legal arena, particularly with criminal and white-collar cases, Rudolf's forte. Former Carolina Panthers player Rae Carruth, charged with first-degree murder in the shooting death of Cherica Adams, who was eight months pregnant with his son, hired Rudolf to keep him off death row. When Matthews businessman Carl Mosack rang up \$30 million in gambling debts and was accused by the government of fraud, he came to Rudolf. After allegedly beating his wife to death with a baseball bat then burning her body behind their Carmel Road estate, John Hayes

When he started law school, a visit to a notorious New York prison started Rudolf down his career path. "I remember being just really taken by how desperate these people seemed. . . . And it got me interested in criminal law," he says.

used Rudolf, who ended up saving his life. After being charged in the slaying of his estranged wife, prominent physician Dr. Ed Friedland called Rudolf from a pay phone, wanting his help.

With that kind of client list, some people want to know how he can sleep at night. Others—typically those who won't talk on the record—make unflattering remarks about his Jekyll and Hyde courtroom style and his efforts to manipulate the media. Co-workers, former jurors, and attorneys who have worked with him and faced him admire Rudolf for his strong will, intense work ethic, and dedication to his clients.

"Nobody has a lukewarm response to him," says Chris Fialko, who has worked closely with Rudolf since early 1999, when the Chapel Hill-based law firm of Rudolf, Maher, Widenhouse and Fialko opened an office in Charlotte. "People love him or..." he says, pondering the best way to finish his sentence, "people don't love him."

Rudolf's first major foray in Charlotte came in 1994, when Friedland called Rudolf at his Chapel Hill office. Friedland had been charged with the 1990 murder of his wife, Kim Thomas, in their Cotswold home, and Rudolf had been recommended to him.

"He had just interviewed another lawyer, who he really didn't care for, and sort of panicked," Rudolf recalls, inserting dramatic pauses as if he's talking to a jury. "He was calling me from a phone booth, and he wanted to see me that day. He was willing to drive up to Chapel Hill that day."

A LOOK AT SOME OF RUDOLF'S NOTEWORTHY CLIENTS:

Rae Carruth

Carolina Panthers wide receiver charged with the murder of pregnant ex-girlfriend Cherica Adams. Carruth, facing the death penalty, was instead found guilty of conspiracy to commit murder this year and sentenced to eighteen years. Appeal is pending.

Mark Crotts

Alamance County man charged with the 1990 murder of two elderly neighbors. Well-known attorney F. Lee Bailey tried the case to a hung jury. Acquitted when Rudolf and Raleigh lawyer Joe Cheshire represented Crotts in a third trial.

Dr. Ed Friedland

Prominent Charlotte doctor charged in the 1990 murder of his wife, Kim Thomas, in their home. Capital murder charges were dismissed. A wrongful death suit against handyman Marion Gales resulted in a 1997 jury verdict of \$8.6 million. Part of a lawsuit against four Charlotte-Mecklenburg police officers is pending.

Jim Hastings

Chairman of North Carolina Republican Party charged with failing to file income tax returns from 1988 to 1991. Charges were dismissed by the district court, citing selective prosecution. The decision was reversed by a circuit court. Hastings pleaded guilty and received probation.

John Hayes

Charlotte businessman charged with beating his younger wife to death with a baseball bat in 1994 and

burning the body. First time the "battered husband" defense was used in North Carolina. Hayes acquitted of first-degree murder, convicted of second-degree murder with life in prison.

Wilbur Hobby

Head of AFL-CIO accused of misusing federal job-training funds awarded by then-Gov. Jim Hunt. Convicted, but a post-conviction motion in 1983 resulted in a sentence reduction and the elimination of a \$40,000 fine.

Robert F. Kelly Jr.

Convicted in 1992 on 99 counts of molesting children who attended his Little Rascals daycare center in Edenton, N. C.

Carl Mosack

Former president and chief operating officer of Conbraco Industries accused of fraud and filing false financial statements to obtain a \$10 million bank loan to help pay off more than \$30 million in gambling debts. Deal cut this year with federal prosecutors sent him to prison for two years.

PHE Incorporated

Hillsborough, North Carolina, company investigated by the government for several years for selling sexually explicit material through the mail. Never convicted by U. S. Justice Department on obscenity charges.

John William Rook

Accused and convicted in the gruesome 1980 kidnapping, rape, and murder of Raleigh nurse Ann Marie Roche. Executed in 1986.

First-degree murder charges against Friedland were dropped when, upon Rudolf's motion, the judge barred a pathologist's crucial testimony, leaving the prosecution short on evidence. But Rudolf's representation of Friedland didn't end there. The tenacious lawyer represented Friedland in a wrongful-death suit filed against handyman Marion Gales, who Rudolf claimed killed Thomas. A 1997 jury agreed, awarding Friedland \$8.6 million in damages. On Friedland's behalf, Rudolf then went after the Charlotte-Mecklenburg Police Department, filing a suit that claimed four officers maliciously prosecuted Friedland and later tried to cover up their wrongdoing. The malicious prosecution claims were dismissed, but Rudolf remains confident he and Friedland will succeed in the remainder of the suit. "There are a number of times when police officers are not properly trained in terms of what we call exculpatory evidence, evidence that points away from the suspect they're investigating," he says.

"What I'm hoping is that we'll get a decision from a federal judge that says the Charlotte police do need to do more training. . . . So what I'm hoping is that I can sort of change the culture a little bit, change the mindset, and change the requirements. And make the system work better."

Injustices in the justice system—that's what fires up Rudolf, a New York native with an intense work ethic, a love for intellectual debate, a desire to make a significant impact on society regardless of what it does to his popularity, and a passion to experience once-in-a-lifetime events and meet unique people.

"For him, he's always been more interested, I think, in doing interesting work and representing interesting clients than in being a celebrity," says Don Beskind, Rudolf's first partner in Chapel Hill. "There are two things you can say about him: He's never been in it for the money and he's never been in it for the glory."

GRAY FILLS RUDOLF'S NEATLY TRIMMED BEARD AND MUSTACHE and is just beginning to creep into his full head of jet-black hair. Rudolf is easily animated, whether he's in the sterile environment of a courtroom trying to persuade a jury or describing the excitement of rock climbing with his oldest son. Five-foot-eight with a muscular build, his facial features and dark eyes are expressive, as well as his body language. His strong baritone voice has lost its New York accent but hasn't yet picked up a Southern drawl. In his South End office, he's dressed professionally, but not stiffly, in black dress pants, a long sleeve bluish-gray shirt, and tie. His Pepsi One sits on a table that features a glass and metal lamp shaped like a UFO, which Rudolf talked a store owner into selling. He sits back, devoting his energy to discussing his professional and some of his personal life, but the yellow legal pads and calendar that accompany him represent people's lives that are in his hands.

Rudolf didn't always aspire to defend accused killers. Born on July 2, 1949 in Manhattan, he was raised in Queens in an upper-middle-class family. His father, Morris, ran the family packaging and printing business, Arkay Packaging, along with his uncle. His mother, Florence, was a homemaker. With no interest in going into the family business, Rudolf attended Rutgers University, majoring in political science with a stint his junior year at the London School of Economics. Straight from graduation in 1971, he enrolled in the New York University School of Law. "When I went to law school, I didn't go with any particular vision in my mind," Rudolf says. "It was more a question of that'll keep my options open. I can still hear my parents telling me, 'You can do anything you want with a law degree.'" Like many of his friends, Rudolf

was shaped by the Vietnam War and other government actions, such as the shootings at Kent State, that caused him to distrust authority and the government.

During orientation to law school, he visited the house of detention for men in Manhattan, commonly referred to as "The Tombs."

"It was a sort of old-style, Jimmy Cagney sort of jail, with multiple tiers and people locked in their cells," Rudolf recalls. "The noise was deafening, people were yelling and screaming and banging on bars. It didn't seem like a place for humans. It was surreal." Known as one of New York's vilest prisons, the courts temporarily closed it down a few years later. "I remember being just really taken by how desperate these people seemed. . . . And it got me interested in criminal law."

Rudolf and his fellow law students devoted hours of discussion to the best way to effect change—institutionally or individually. Rudolf's distrust of authority and particularly of the government steered him to criminal defense law, where he could "stand between the individual citizen and the authority and power of the state or federal government and force the government to play by the rules and prove what they claim."

During law school, Rudolf began working with clients on a one-to-one basis, "understanding that they may not have done what they were charged with, or if they did do it, there may have been circumstances that existed that there but for the grace of God, go I." As a nervous, aspiring attorney in his first jury trial, Rudolf represented a man charged with misdemeanor assault. Twenty-seven years later, the details are vague to him, but the outcome isn't. The man was acquitted. "It was sort of like taking drugs or something. I was hooked. Maybe if they would have come back guilty, I would be a banking lawyer," Rudolf says, grinning.

"I was hooked," Rudolf says of his first trial. "Maybe if they would have come back guilty, I would be a banking lawyer."

After finishing law school in 1974, Rudolf surprised family and friends by turning down a federal clerkship under rising U. S. District Judge Herbert J. Stern, opting to take a job with the Federal Defender Unit of the Legal Aid Society. He shared a fifteen-by-twenty-foot office in the south Bronx and one phone with six other attorneys, including Barry Scheck, who became known for his role as a DNA expert on O. J. Simpson's defense team. He handled enormous caseloads, sometimes picking up twelve new cases in just one shift of night court.

In 1977, the twenty-seven-year-old Rudolf was assigned to represent Julienne Busic, a Croatian nationalist accused in an airplane hijacking and the murder of a New York City police officer. The officer died when the bomb Busic and two others left in Grand Central Station exploded while being handled by the bomb squad. It was Rudolf's first high-profile case, with front-page coverage in *The New York Times*, *New York Post*, and other papers around the world. Busic's family wanted Rudolf to focus solely on her case, and paid his yearly salary of \$16,000 so he could quit the Legal Aid Society. Rudolf and attorney Michael Tigar, who later represented Terry Nichols in the Oklahoma City bombing case, represented Busic, who was found guilty but sentenced to only ten years in prison.

A year later, Rudolf moved to North Carolina. As director of the clinical program in criminal law at the UNC School of Law, his dynamic lectures were impressive and exciting, former students say. At that time, Rudolf and Don Beskind, head of the clinical practice at Duke University School of Law, formed a law firm, which later added partners and eventually came to be known as Rudolf, Maher, Widenhouse and Fialko.

Since then, Rudolf has emerged as one of the state's top defense attorneys, specializing in federal and state white-collar and criminal cases.

Not all of Rudolf's clients have been accused of gruesome crimes. He spent years defending Phil Harvey, the owner of a North Carolina mail-order company that distributes sexually explicit material, in his fight against the government. Current clients include the head of the North Carolina Israel Partnership, who has been indicted on charges of illegally using federal funds, and a mother in eastern North Carolina accused of involuntary manslaughter in the drowning death and near-drowning death of her twin sons. Gregory Caplinger, who fled the country and now is back in the United States on charges of posing as a doctor (he's licensed as a doctor in the Dominican Republic) and defrauding investors out of more than \$2 million, also has retained Rudolf. Rudolf typically charges \$300 an hour, depending on the case, and has brought in from \$25,000 up to \$1 million per case, although he makes it clear the latter fee was a onetime deal for a four-year case.

SITTING UNDERNEATH A FRAMED CERTIFICATE FROM THE *Best Lawyers in America*, Rudolf describes how being a lawyer requires creativity, although he's quick to clarify that that doesn't mean making things up. "I mean creative in terms of coming up with different ways and situations to see if there's a solution that may not be obvious at first."

Beskind, his first partner, says Rudolf has always been a quick, analytical thinker. "His processing of information and ideas is just amazing to watch," he says. Defense lawyer Jim Cooney, who faced Rudolf while representing the officers in the malicious prosecution portion of the Friedland lawsuit, says that when Rudolf takes on a

case, he turns it into a cause. "That's what makes going up against him so challenging," he says.

Friend Gary Gilbert, now a TV writer and producer in Los Angeles, knew Rudolf had the power of persuasion to be a successful attorney back at Rutgers, when they were rooming together in the Alpha Epsilon Pi house and various apartments. Before the beginning of his senior year, Rudolf and another roommate spent a June night at their off-campus apartment. They left the air conditioning running. Two months later, Gilbert arrived to find a power bill for hundreds of dollars. After a "small negotiation," Gilbert says, "somehow he convinced me that I was responsible for one-third of the air-conditioning bill."

Rudolf's personality often is as memorable as his notorious clients. He's vigilant, relentless, and aggressive. He acts out a range of emotions in a courtroom—from yelling to crying to laughing and acting happy-go-lucky. He's sometimes sarcastic and belligerent in cross-examinations, as many saw when he defended Carruth. "Rae says he's innocent and he says you're a liar," Rudolf interrupted during the testimony of co-defendant Michael Kennedy, whose credibility Rudolf viciously attacked.

In another round of questioning, Rudolf asked Kennedy whether the gun used to shoot Adams was bought in a store or on the street.

"That's where people like you buy guns, isn't it?" Rudolf asked.

"What do you mean, people like me?"

"People who sell drugs and shoot people," Rudolf quickly responded.

Kennedy's attorney, James Exum, laughs while trying to find the words to describe Rudolf. "In the heat of battle, I couldn't stand him and

“Rae says he’s innocent, and he says you’re a liar,” Rudolf told co-defendant Michael Kennedy during the Carruth trial.

he couldn’t stand me,” says Exum. During the trial, Rudolf tried to get Exum disqualified as Kennedy’s lawyer. But Exum attributes their public bickering to just courtroom antics. And in the end, he is complimentary of the attorney, saying that Rudolf taught him to be a better lawyer.

“He certainly fights very hard for his client. That’s a key thing. It’s not about being popular, it’s about being vigilant. David’s certainly vigilant,” Exum says. “I think in this particular case, he may have lost track of the fact that I was also vigilant about my client. We just happened to have different and competing interests in this particular case.”

Attorney Sharon Jumper, who has faced Rudolf a few times, most notably as Gales’ attorney, says Rudolf is “very aggressive. He’s very assertive. He’s not nice, warm, and fuzzy, but most lawyers aren’t.” After she was no longer involved in the Gales case, Jumper complained about Rudolf’s actions in an editorial in *The Charlotte Observer*, saying she was “offended by many tactics and statements of Rudolf before, during and after the trial.” His outburst about justice and truth versus technicalities and escape hatches was the “epitome of hypocrisy,” she wrote, finding it ironic that Rudolf used the same type of technicality and escape hatch to get a judge to exclude the pathologist’s testimony in Friedland’s trial.

Erich Hambacher, a local businessman who was a juror in the Friedland-Gales case, originally saw Rudolf as an “abrasive pain in the butt.” But he was later impressed by Rudolf’s fervency, persuasive powers, and ability to get angry and yell and then break down and cry. “I found David to be extremely arrogant and abrasive to begin with, but I came to appreciate what he was doing. I came to realize how hard he was working for his client,” says Hambacher, adding that if he ever needs a lawyer, “the first phone call I’m going to make is to David Rudolf.”

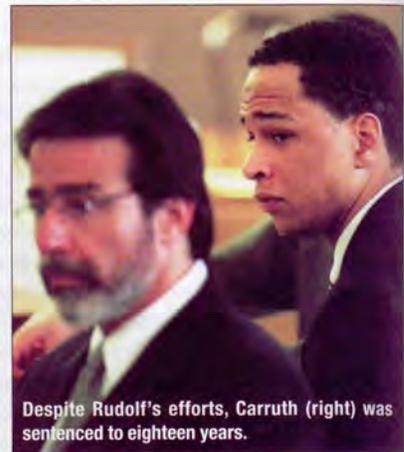
Rudolf defends his aggressiveness and his demonstrative display of emotions, saying that it shows jurors he cares about and believes in his client. He’s a workaholic who pushes himself—and other attorneys in return—to be overprepared. That intensity sometimes scares friends and co-workers, who wish the fifty-two-year-old Rudolf could keep a resolution he made after his 1997 heart attack to be less intense about how he approaches things. Soon after Rudolf was released from the hospital, a friend, Steve Lerner, threw a barbecue for Rudolf and his family. Rudolf couldn’t stay long because he had to drive back to Charlotte to prepare for the Gales case, which went to trial four weeks after the heart attack. “As a friend, I wish [the heart attack] had changed him more,” Lerner says.

Partner Tom Maher says Rudolf’s personality has become more laid-back and less high-strung, although people meeting him for the first time or seeing him from a jury box wouldn’t notice.

“He used to be very difficult to deal with if things weren’t going his way, or his case’s way,” Maher says. “He had a temper you really don’t see anymore.”

Rudolf works hard and plays hard. With another home in Park City, Utah, he enjoys skiing and has devoted energy to getting

pretty good, or at least really fast, he says. Despite a fear of heights, he is fascinated with the mental aspects of rock climbing, a sport he’s tried with his oldest son.



Despite Rudolf’s efforts, Carruth (right) was sentenced to eighteen years.

RUDOLF CAN’T TAKE THINGS SLOW WHEN HE HAS PEOPLE’S liberty in his hands. His clients depend on him to keep their freedom. It’s an enormous amount of pressure, which makes Rudolf extremely compulsive. He takes time to listen to people, a quality that friends say makes him such a great friend. He thinks through every decision, asking advice of his co-counsel and other experts. “I’ve got to put my head down on the pillow at night, even if you’re in prison, and be able to live with myself,” he says.

Private investigator Ron Guerrette, who has worked with Rudolf for nearly eight years, expects to hear from Rudolf as early as six in the morning and as late as midnight when they work a case together. Fialko says Rudolf’s unshaking belief in his clients, his talent, and his work ethic are what make him successful.

“You can be a good lawyer if you’re kind of born talented. You can be a good lawyer if you’re not born talented, but if you work hard. To be a great lawyer, you’ve got to be both,” Fialko says. “David’s really talented; in addition to that, he outworks everybody. There are a number of lawyers who are really talented and don’t work their asses off, but he does.”

He’s made an impression in Charlotte courtrooms. Now, Rudolf is a part-time resident, too, spending half of his time in Charlotte, with his office and a loft in South End. Already known for being cozy with the local media, he plans to become more involved in the community. Rudolf also has hired a public relations firm, although he’s still unwilling to speak openly about his home life. He declines to talk about his wife and three sons, ages thirteen to twenty-two, or even say their names. One of the few personal mementos in his South End office are the framed lyrics to Bob Dylan’s “Chimes of Freedom,” with a note from a client and attorney in Wilmington saying the song reminds him of Rudolf.

When Rudolf moved to Chapel Hill in 1978, Charlotte held no appeal to him. But with the amount of white-collar and criminal cases in Charlotte, cases that he calls interesting (although the public may use other words, like shocking or sickening), Charlotte is where Rudolf says his future lies. It’s a career that Rudolf relates to being in an emergency room. “But in an emergency room, everyone’s trying to help you save the patient, and in a courtroom,” he says, laughing, “everyone else is trying to kill the patient.”

Lori Johnston investigated school safety for the August issue of this magazine.