

# Standing naked: judges in Dylan's lyrics, pt. 1

**Timothy B. Taylor** has served on the San Diego County Superior Court since January 2005. See [www.judgetaylor.sandiego.com](http://www.judgetaylor.sandiego.com). The views expressed in this article are very definitely his own and not those of the Court. The author thanks Hon. Richard Fruin of the Los Angeles County Superior Court for his thoughtful comments on an earlier version of this article.



Part One in a Two-Part Series

According to the biographical sketch on one popular music site, Bob Dylan's influence on popular music has been "incalculable." He wrote the lyrics of what are generally viewed as the two greatest rock songs of all time. A recent search of his name on a well-known virtual bookstore yielded 626 "hits." He has recorded 35 studio albums plus numerous other bootleg collections and live

recordings, in a career now exceeding half a century. He continues to tour with his band. He has been proposed by no less an arbiter than the New York Times as a legitimate candidate for a Nobel Prize in literature. He has received the Presidential Medal of Freedom and the French Legion of Honor.

It seems unlikely that any other songwriter has ever been the authority relied upon by a Court of Appeal as the basis for the exposition of a rule of law:

"The correct rule on the necessity of expert testimony has been summarized by Bob Dylan: 'You don't need a weatherman to know which way the wind blows.'"

*Jorgensen v. Beach 'N' Bay Realty Inc.*, 125 Cal. App. 3d 155, 163 (1981) (citing "Subterranean Homesick Blues" from "Bringing It All Back Home"). According to Westlaw, Justice Don Work's use of this classic 1965 song has been cited many times, including being adopted by the California Supreme Court (*Flowers v. Torrance Memorial Hospital Medical Center*, 8 Cal. 4th 992, 1001 (1994)), and confirmed (and placed in context) as recently as two years ago (*Carson v. Mercury Ins. Co.*, 210 Cal. App. 4th 409, 422 (2012)).

---

## We know how Bob Dylan's poetry has fared in the eyes (and maybe the ears) of lawyers and jurists. But what about the reciprocal view?

---

And this phenomenon is not limited to California. Dylan's song titles or lyrics have found their way into published opinions in Massachusetts (*Commonwealth v. Dube*, 796 NE 2d 859 (2003)), Indiana (*Kirk v. Kirk*, 770 NE 2d 304 (2002)), Maryland (*Miller v. State*, 207 Md. App. 453 (2012)), West Virginia (*State v. Middleton*, 640 SE 2d 152 (2006)), Utah (*State v. McNeil*, 302 P. 3d 844 (2013)), Florida (*Robertson v. State*, 780 So. 2d 94 (2000)), Montana (*State v. Stoner*, 365 Mont. 465 (2012)), Wisconsin (*In re Jerrell*, 283 Wis. 2d 145 (2005)), and New York (*Midland Funding v. Tagliaferro*, 935 NYS 2d 249 (2011)), among others.

Several commentators from academia confirm what might be gleaned from this string of citations: Bob Dylan's lyrics are used more than any other writer's in legal opinions and briefs. Lucas K. Hori, "Bons Mots, Buffoonery, and the Bench: The Role of Humor in Judicial Opinions," 60 UCLA L. Rev. Discourse 16, 37 (2012), citing Alex B. Long, "[Insert Song Lyrics Here]: The Uses and Misuses of Popular Music Lyrics in Legal Writing," 64 Wash. & Lee L. Rev. 531, 540 (2007).

Even the chief justice of the United States has gotten into the act: "The absence of any right to the substantive recovery means that respondents cannot benefit from the

judgment they seek and thus lack Article III standing. 'When you [ain't] got nothing, you got nothing to lose.' Bob Dylan, Like A Rolling Stone, on *Highway 61 Revisited* (Columbia Records 1965)." *Sprint Communications Co. L.P. v. APCC Servs. Inc.*, 554 U.S. 269, 301 (2008) (Roberts, CJ, dissenting).

From all of this, we know how Bob Dylan's poetry has fared in the eyes (and maybe the ears) of lawyers and jurists. But what about the reciprocal view? How have judges fared through the prism of Bob Dylan's keen insights and often biting commentary? The short answer is: not very well.

Perhaps the most famous example is the 1976 screenplay-like story of "Hurricane," the protest ballad Dylan co-wrote about the middleweight boxer Ruben Carter. In the song, Carter has the misfortune of being in the wrong part of Paterson, N.J., in the wake of a triple murder in a bar. He is questioned and released, but is later arrested and tried and convicted for the crime.

"The judge made Ruben's witnesses drunkards from the slums/ To the white folks who watched he was a revolutionary bum."

The trial itself was "a pig circus," and in the aftermath Dylan "Couldn't help but ... feel ashamed to live in a land/ Where justice is a game."

Not exactly what any judge would want said about proceedings he or she presided over. Ultimately, Dylan and Carter ended up on the right side of history. The conviction was set aside by the New Jersey appellate courts, but Carter was tried and convicted again; however, a subsequent federal habeas corpus petition was granted and Carter was released. *Carter v. Rafferty*, 621 F. Supp. 533 (D. NJ 1985), *aff'd* 826 F. 2d 1299 (3d Cir. 1987), *cert. denied* 484 U.S. 1011 (1988). Carter later moved to Canada. Denzel Washington played him in a film.

Another Dylan protest song, from the early part of his career (before he famously "went electric"), is along the same lines. "The Lonesome Death of Hattie Carroll" (1964) tells the story of a black kitchen maid in Jim Crow Maryland who was beaten to death with a cane by tobacco farmer "William Zanzinger." (Dylan took slight liberties with William's surname, which was actually Zantzinger; Zantzinger later bemoaned the fact that he hadn't sued Dylan for defamation.) In Dylan's version of the trial:

"In the courtroom of honor, the judge pounded his gavel/ To show that all's equal and that the courts are on the level/ And that the strings in the books ain't pulled and persuaded .../ And that the ladder of law has no top and no bottom/ Stared at the person who killed for no reason/ Who just happened to be feelin' that way without warnin'/ And he spoke through his cloak, most deep and distinguished/ And handed out strongly, for penalty and repentance/ William Zanzinger with a six-month sentence/"

Sentencing was a theme Dylan returned to in "Joey," which, like "Hurricane," appeared on the "Desire" album. It is the idealized story of New York gangster Joe Gallo, whose misdeeds ultimately catch up to him:

"'What time is it,' said the judge to Joey when they met/ 'Five to ten,' said Joey. The Judge says, 'That's exactly what you get.'"

Gallo actually did significant time in Attica and other prisons, testified before Robert F. Kennedy's Senate committee on organized crime, and was ultimately gunned down in a Manhattan clam bar by members of a rival crime family.

But unlike these well-known examples, many of Dylan's judicial references are more benign or obscure. We will explore those Friday in the conclusion of this series.