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BY BILL LUSTER, THE COURIER-JOURNAL

Leonard "Bud" Lomell, father of a Louisville woman, was among the U.S. Army Rangers who scaled a 100-foot cliff under enemy fire and went on to help seize a foothold in Nazi-occupied France.

Ex-Ranger, daughter pay homage to D-Day heroics

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Heroic actions

NBC news anchor Tom Brokaw chronicled Lomell's feats among others in "The Greatest Generation," a 1998 best-seller about World War II heroes. The late Stephen Ambrose also told his story in his 1994 book, "D-Day." Lomell said he got to know Ambrose well enough to return the favor, delivering a eulogy at the renowned historian's memorial service in 2002.

Lomell, a sergeant, and his fellow Rangers were assigned one of the most important missions on one of the most important days of the war.

On June 6, 1944, Allied soldiers launched a massive assault on the coast of Normandy in France to open a Western front against the Germans, who still occupied much of Europe.

Lomell and other Rangers approached the Normandy coast on a landing boat that was so flooded by stormy seawater, he said, that they had to bail it out with their helmets to stay afloat.

Their objective: to disable a battery of German artillery guns atop a cliff at Pointe-du-Hoc, which could have ravaged two of the beaches where Allied soldiers were landing at Normandy.

Defending Germans greeted Lomell with a bullet to the abdomen as he landed, but it missed his vital organs, and he and his colleagues charged inland. They pulled themselves up the cliff while dodging enemy machine-gun fire.

But the shooting "didn't seem to bother the guys," who were so preoccupied with carrying out their missions "that we didn't have that much time to think about whether we are going to live or die," Lomell said. "We never thought we'd die in the first place."

When the Rangers reached the top of the cliff, they found no artillery guns — according to World War II magazine, intelligence officers reading aerial photos of the cliff mistook telephone poles for guns.

So the Rangers began searching inland for the guns.

Lomell and another sergeant, Jack Kuhn, eventually found five artillery guns heavily camouflaged in an apple orchard. A group of Germans stood about 100 yards away.

Lomell said he and Kuhn snuck up to the guns. While Kuhn stood watch, Lomell used two incendiary grenades — silent devices that release scorching heat upon opening — to melt down the moving parts of the guns, rendering them inoperable.

Lomell smashed the sights on a third gun, and then the pair returned to a group of Rangers, got more incendiary grenades and returned to the scene to finish off the last three guns.

It was just 8:30 in the morning.

"Luck played a big role here," Lomell said. "... We did what any intelligent combat man would do. We saw our break. I said, 'Jack, cover me. I'm going in to get them.'"

Historians say the Germans were keeping their distance because they didn't suspect any Americans were so close, and because they feared a stray shell from an American battleship could have set off a devastating explosion of the ammunition.

But the Germans could have put the guns into action, wreaking further carnage on the already-bloodied invasion force, Ambrose wrote, disputing the account of some writers that the Rangers' effort had been wasted because the guns were not where the Allies had expected.

"Those guns were in working condition before Sergeant Lomell got to them," Ambrose wrote. "They had an abundance of ammunition. They were in range ... of the biggest targets in the world, the 5,000-plus ships in the (English) Channel and the thousands of troops and equipment on Utah and Omaha beaches."

Lomell said he remains haunted by the memory of Rangers who died that day.

"When a man goes down, you ... do the best you can for them and say, 'I'll get a medic over here as quick as possible,' because you've got to go ahead and carry out the objective of the patrol," he said.

"So that's what we would do," he said. "But there were occasions when you'd hold a guy in your arms and say, 'Don't worry, Joe, it's going to be all right, they'll get you back to the hospital, and maybe it's good sign, you'll be going home.' All the time you know he's going to die in the next 20 minutes. That bothers your conscience."

After the war

For Lomell, the war was far from over, and he was wounded twice more as the Army fought through to Germany, including a desperate battle in the Hurtgen Forest in Germany.

After the war, Lomell looked up a woman he had dated before going to war. He and Charlotte Ewart were married on June 6, 1946 — two years to the day of the Normandy invasion. "I did it so I'd never forget my wedding anniversary," he said. "I never have forgotten it."

But that also means that their anniversaries double as Army Ranger reunions.

"We always have lots of company on our anniversary," Charlotte Lomell said.

She doesn't mind: "They're wonderful people. They've always been brothers, friends."

The Lomells raised three daughters of their own and also took in a teenaged niece and nephew.

Lomell used the G.I. Bill to earn a law degree and went into criminal law, often doing pro bono work for the poor, Buckwalter said.

After Lomell suffered a heart attack, a doctor advised him to seek a less stressful field, so he switched to labor law, which proved no less taxing. He later went into divorce law and became a "fierce advocate for women in trouble," Buckwalter said.

Buckwalter said her parents encouraged her and her sisters to achieve whatever goals they set for themselves, and they paid for her seminary education as she prepared for the Episcopal priesthood.

"Even though he's an old-fashioned guy and saw himself as a protector and defender of women, he also was the first feminist I ever knew, because he always would ... say, 'You can do and be anything you want to be.'"

When he visits Louisville, Lomell visits not only his daughter but several veterans he has maintained ties with over the years.

One of them, Larry Raskin, has made two trips to Normandy, partly out of fascination with Lomell's exploits.

Raskin said he was astounded when he looked up the cliff at Pointe-du-Hoc.

"How those guys ever got up there, how those guys ever got across Omaha Beach, I'll never know," he said.

BY SAM ABRAMOVITCH, SPECIAL TO THE C-J

The contributions of the Army Rangers, and in some cases those of Lomell, were portrayed in a collection of magazines and books.

ON THE WEB

Go online to www.courier-journal.com for interactive maps, a timeline and photos of the Normandy invasion.

Louisville attorney sues Vatican in sex-abuse cases

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Western District of Kentucky — McMurry is seeking for unspecified monetary damages from the Vatican. He also is requesting injunctions requiring the Vatican to "cease its violations of the internationally recognized human rights of children" and "to report all allegations of childhood sexual abuse" in the United States.

And he is asking a federal judge to supervise the Vatican's conduct for 10 years. The suit was assigned to Judge John G. Heyburn II.

Legal scholars say McMurry will face towering obstacles in what they say is the first class-action suit against the Vatican regarding sexual abuse, and the first sexual-abuse lawsuit to name the Vatican as the sole defendant.

Other lawyers have named the Vatican as a co-defendant with dioceses and religious orders in sexual abuse lawsuits. Those cases either have been dismissed or are pending.

Even if a court finds that McMurry's clients have a legal standing to sue, it will be hard to prove that the Vatican knew about abuse and failed to act on it, said Boston lawyer Roderick MacLeish Jr., who has represented more than 400 plaintiffs in priest abuse cases.

"I have reviewed thousands of pages of documents surrendered by the Archdiocese of Boston but haven't seen a scintilla of evidence showing the Vatican knew what was going on," he said.

The Vatican, known legally as the Holy See, occupies a 109-acre enclave of Rome, and it is recognized as a sovereign state with many legal protections.

Suing the Vatican "always makes a good press release, but it's bad law," said the Rev. Thomas Reese, editor of America, a national Catholic magazine. "Nobody has successfully sued the Vatican in any of these cases, and I doubt that this case will get any farther."

Louis Giovino, director of communications for the Catholic League for Religious and Civil Rights, said McMurry is "grandstanding" and "looking to exploit this issue."

"If he's so worried about children, how come he's not investigating (abuse in) schools and other religions ... as opposed to just smashing the Catholic Church?" Giovino said, comparing the suit to blaming "all the Islamic organizations for Sept. 11."

McMurry, who has been studying international law for the past eight months, said foreign nations can be sued in federal court if either their actions or their "commercial" activities in the United States cause injury here. He alleges that church fund-raising constitutes a commercial activity.

In the lawsuit, McMurry said that the Vatican sought "to maintain its aura of infallibility and thereby ensure that its parishioners, followers and financial contributors will not lose faith and fail to contribute money and property" to the church.

But lawyers and legal scholars yesterday predicted that McMurry will have a difficult time making his case in court, or even keeping it there.

"The plaintiffs are basically saying that if the Vatican had told about the abuse instead of covering it up, it would have impeded their ability to raise funds," said Josh Marcus, a Miami lawyer who is chairman of the American Bar Association's international law section. "But that doesn't sound like commercial activity to me."

Rick Kirgis, who teaches international law at Washington & Lee University in Lexington, Va., called McMurry's contention that Vatican fund-raising constitutes a commercial activity "a pretty big stretch."

McMurry also alleged that the Vatican violated at least two international conventions — the Universal Declaration of Human Rights and the Convention on the Rights of the Child — by tolerating sexual abuse.

And he called the Holy See's sovereign status "a joke," noting that it lacks voting rights in the United Nations.

McMurry is basing a large part of his claim on a secret 1962 Vatican document, approved by then-Pope John XXIII, calling for strict secrecy in handling priests accused of soliciting sex in the confessional.

McMurry called the document — leaked to the public last year — a "smoking gun" that also requires Catholic church leaders to keep secret other allegations of sexual misconduct.

Some experts in church law have downplayed the significance of the document, titled "Crimen Sollicitationis" or "Crime of Solicitation." They say it only required secrecy in the church disciplinary process and did not prevent a bishop from reporting crimes to police.

"To say this document is the linchpin of an international conspiracy is ludicrous," Chesbro said. "It is a big lie."

The Rev. Tom Doyle of North Carolina, a canon lawyer whom McMurry has consulted, said the 1962 document is not a "smoking gun," but he said it is evidence of the Catholic Church's "obsession with secrecy."

"The pattern and the practice of cover-up and denial is so similar throughout the United States and in other countries," said Doyle, contending that the bishops "must be getting their orders from somewhere."

In 2002, when the sexual-abuse crisis peaked, American Catholic bishops approved policies on preventing abuse and barring abusive priests from ministry.

McMurry and Doyle, however, contend the Vatican is still not addressing the role of the hierarchy in the abuse scandal.

"Hopefully, this lawsuit will get somebody's attention over there," said Doyle, who has testified on behalf of victims.

McMurry wants the court to certify two classes of abuse victims — those who have received payments from dioceses and those who have not.

One of the three plaintiffs filing yesterday is Michael Turner of Louisville, who also filed the first in a wave of roughly 250 lawsuits against the Archdiocese of Louisville between 2002 and 2003.

The litigation culminated in a $25.7 million settlement with most of the plaintiffs a year ago this month. McMurry and his legal team received 40 percent of most plaintiffs' payments.

Turner was molested by the now-imprisoned Rev. Louis E. Miller in the 1970s, when Turner attended St. Aloysius Church in Pewee Valley. Turner, 46, said he joined the suit to complete unfinished business — finding out who was responsible for tolerating abuse.

"The most wonderful thing about filing a lawsuit like this is you get to fight, and most sexually abused children and adults never get to fight," he said.

The other two plaintiffs, James H. O'Bryan and Donald E. Poppe, have not settled with any diocese, McMurry said.

Both men live in California and say they were abused by priests while growing up in Louisville.

O'Bryan, 83, of Albion, Calif., said in a March 3 letter to McMurry that he was molested by a "Father Lawrence" at St. Cecilia Church in western Louisville in 1938. O'Bryan said he was volunteering in the school library when the priest approached him from behind, put his hand in the boy's pocket and fondled his genitals.

He said he told his mother, who believed him and confronted the priest's supervisor, but the priest and most of O'Bryan's other relatives doubted him.

According to Cecelia Price, spokeswoman for the Archdiocese of Louisville, a Rev. Lawrence Kuntz worked at St. Cecelia from 1928 to 1935 and died in 1932. Kuntz belonged to the Resurrectionist religious order, which also operated the parish at that time, Price said.

O'Bryan said in a telephone interview yesterday that he joined in the lawsuit after learning in February about a report by the John Jay College of Criminal Justice, which said 10,667 people alleged abuse by 4,392 priests between 1950 and 2002.

"I just feel squelched at things that are going on," O'Bryan said "... I would just like to see the Catholic Church changed."

O'Bryan said he didn't know his legal recourse until talking with McMurry earlier this year and decided to join in the pending suit against the Vatican.

"I'm Irish. I don't mind a little fight," O'Bryan said.

McMurry said Poppe was molested by the late Rev. Arthur Wood, who died in 1983 and was named as an abuser by 39 plaintiffs who settled with the archdiocese last year.

While McMurry said he began planning the lawsuit after learning of the 1962 document, he became more motivated, he said, after winning the Vatican lawsuit and being denied entrance to St. Peter's Basilica because he was wearing shorts.

McMurry said he was offended at being inspected by "clothes police" concerned that "too much skin may be seen" in church.

"It's so offensive that an organization can publicly be so righteous, and in truth and fact, destroy the utter foundations of our society by allowing children to be abused," he said. "That disparity is nauseating."

McMurry's co-counsel in the case is Marci Hamilton, a professor at Cardozo School of Law in New York and a specialist on law related to religion.

Reach the reporters at pamitts@courier-journal.com and awolfson@courier-journal.com

SUING THE VATICAN

Several lawsuits have named the Vatican as a defendant:

■ **John V. Doe v. Holy See**

Filed: April 2002, U.S. District Court, Portland, Ore.

Complaint: Unnamed plaintiff alleged that the Vatican, the local archdiocese and other church entities conspired to protect a priest who sexually abused him by moving the priest from parish to parish, including across international boundaries, despite knowing his history of pedophilia. Two years later, the plaintiff's lawyers still haven't been able to serve the Vatican.

Status: Pending.

■ **Rick Gomez v. Holy See**

Filed: April 2002, Pinellas County Circuit Court, St. Petersburg, Fla.

Complaint: Rick Gomez, a 28-year-old computer-software consultant, alleged he was abused by a Catholic brother at a Tampa, Fla., boarding school, and that the abuse was reported to police but covered up by the Vatican and local church officials in a global conspiracy.

Status: Dismissed on statute-of-limitations grounds.

■ **Alperin v. Vatican Bank**

Filed: November 1999, U.S. District Court, San Francisco.

Complaint: Alleged that the Vatican bank laundered hundreds of millions of dollars in gold and other assets looted by Croatian fascists from concentration camp victims, Serbs, Jews and others between 1941-1945.

Status: Dismissed on separation-of-powers grounds — that foreign policy is the province of the president and Congress, not the courts.

■ **Insurance commissioners of Mississippi, Tennessee, Arkansas, Missouri and Oklahoma v. Holy See**

Filed: May 2002, U.S. District Court, Jackson, Miss.

Allegation Alleged that the Vatican provided cover for an insurance scam by Martin Frankel, the Connecticut businessman accused of looting $215 million from seven insurance companies. The racketeering suit alleges Frankel donated $55 million to the Vatican for a charitable foundation and let the Vatican keep $5 million, while he retained control over the remaining $50 million.

Status: Pending.

ON THE WEB

To see the complete lawsuit and more coverage on allegations of priest abuse, go to www.courier-journal.com

"Nobody has successfully sued the Vatican in any of these cases, and I doubt that this case will get any farther."

— The Rev. Thomas Reese, Catholic magazine editor

Racing world awaits Smarty Jones' try at Triple Crown glory

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root for him and his entire story and scenario as much as you root for yourself; I know how strange that sounds, but it's true.

"It's an amazing story, fantastic for racing, and this time I think it's going to have a happy ending," said Arthur Hancock, president of Stone Farm in Paris, Ky. "I don't know who can beat him."

Eight horses will try, led by Purge, the 5-1 second choice in the morning line, Preakness runner-up Rock Hard Ten and Zito's Birdstone. That is one more opponent than any of the 11 Triple Crown winners had to defeat in the Belmont. It's a strange development considering that Smarty Jones has won all eight of his races and that his combined winning margin in the Derby and Preakness (more than 14 lengths) is greater than the combined margin of any Triple Crown winner in his first two legs.

Despite the likely arrival of rain this afternoon before the 6:38 post time, New York Racing Association officials are predicting a crowd of more than 120,000. That would be a bump of 20,000 over last year when Funny Cide failed to deliver a Triple Crown. It would also be more than triple what this race attracted when only 37,171 watched Thunder Gulch win in 1995.

"It's Smarty Jones mania," said Shug McGaughey, a transplanted Kentuckian who trains in New York. "Everywhere I go, restaurants, grocery stores, everybody asks me about Smarty Jones. Everybody loves his story. I don't blame them. I love his story, too."

There is much to love. This horse based at Philadelphia Park has gone from unknown to unforgettable in less than five sizzling weeks. Smarty Jones wasn't even the morning-line favorite for the Kentucky Derby. It is a story that is as appealing to folks who have never bought a mutuel ticket as it is to subscribers of The Daily Racing Form.

Pick a face — any face — from the winners' circle photos snapped at the Derby or Preakness. The story is part Damon Runyan, part Elmore Leonard and 100 percent captivating in a way Seabiscuit could appreciate.

Start with the owners, Roy and Patricia Chapman. Nothing blueblood in their pedigrees. They're just your basic pair of retirees whose biggest thrill at the track had always been winning the feature race at Philadelphia Park. Roy Chapman carries an oxygen tank to win his battle with emphysema. He rides a wheelchair. Patricia Chapman persuaded her husband to name the horse after her mother, whose nickname was Smarty Jones.

Horses from the Chapmans' Someday Farm had always run for trainer Bobby Camac. He suggested the breeding of Elusive Quality to the Smile mare I'll Get Along. But on Dec. 6, 2001, about 10 months after Smarty Jones was foaled in Pennsylvania, Camac was murdered by his stepson.

The Chapmans downsized their racing stable. One horse they kept was Smarty Jones, sending him to Servis. Last January, after the horse won three races in eight weeks on the East Coast by a combined margin of more than 27 lengths, Servis nominated Smarty Jones as his first Triple Crown horse. He ignored tradition by bypassing Florida, California, Kentucky and New York to prepare Smarty Jones in Arkansas, winning three prep races at Oaklawn Park.

If there was anybody more unknown that Servis, it was the colt's jockey, Stewart Elliott. He scared the bejeebies is that guys who lack Triple Crown experience lose their best mounts to riders such as Jerry Bailey or Pat Day before the Kentucky Derby.

Servis stuck with Elliott — despite his inexperience in prime-time races and the knowledge that stories about the jockey's recovery from alcoholism and a violent past would surface as soon as Smarty Jones crossed the finish line at Churchill Downs. Now Elliott is less than 20 minutes from achieving something Bailey, Day, Bill Shoemaker and hundreds of other jockeys did not achieve.

Winning the Triple Crown "wasn't even in the game plan," Servis said. "Our goal was simply to get to the Kentucky Derby."

The entire team has not only survived the scrutiny, it has thrived under it, a refreshing contrast to the sour face trainer Barclay Tagg carried with Funny Cide last year.

Now comes the part that can melt your heart — the final mile-and-a-half today. Strange things happen in the Belmont. Great horses such as Sunday Silence (1989), Spectacular Bid (1979), Northern Dancer (1964) and Tim Tam (1958) have been denied their Triple Crown in this race. Derby and Preakness winners are only 11 for 28 in this test.

Smarty Jones is stabled in Barn 5 at Belmont. His next-door neighbor in Barn 6 is Funny Cide. He's easy to find because the "Good Luck Funny Cide In Your Quest For the Vista Triple Crown," sign is still hanging outside his stall. Vista has never awarded its $5 million bonus to the owners of a horse that wins all three races.

"I think he'll win, but it's no cinch," McGaughey said. "It's a horse race. A lot of great horses have been beaten."

Sometimes the demands of the spring racing schedule leave a horse flat in the Belmont. Sometimes a fresh challenger delivers a stronger performance. Sometimes jockeys misjudge the pace or distance on Belmont's distinctive 1½-mile oval and then mistime their critical move.

If there is one curious element about Smarty Jones' chances in the Belmont, it is the decision by Elliott to ride seven races yesterday at Monmouth Park in New Jersey and then not hustle a mount before today's race.

"(Smarty) has the bull's-eye on his back," Servis said. "When he trains, he's been like a machine. I'm not concerned about that."

The no-worries attitude has served this team well all spring. One more race and Servis, the Chapmans, Elliott and Smarty Jones can party. The racing world is primed to join them.

You can reach Rick Bozich at (502) 582-4630 or rbozich@courier-journal.com. Submit questions at courier-journal.com/bozich.

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