Remembering Ronald R. Butters
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After fighting the disease for several years, Ron Butters lost his battle to cancer at age 81. Ron is best known to many readers for his work in forensic linguistics as writer, editor, and consultant, and from 2009 to 2011 as president of the International Association of Forensic Linguists. While he was equally well known in the field of American English and served as president of the American Dialect Society, in this remembrance I focus on his forensic linguistics work and offer some personal thoughts and reminiscences in that arena.

Ron spent his entire career on the faculty of Duke University, where he started as an assistant professor in 1967 after completing his Ph.D. in English (with a concentration in linguistics) at the University of Iowa. He became Professor Emeritus of Linguistics and Cultural Anthropology in 2007. In those four decades his natural gifts for leadership saw him chairing Duke's distinguished English Department on several occasions and the Linguistics Program for more than a dozen years over several terms. As well, for eight years he co-chaired the North Carolina State University-Duke University Doctoral Program in English Sociolinguistics. Those were but three of many significant roles he played as a Duke faculty member and administrator. He also taught as a visitor at the University of Bamberg, Cadi Ayyad University, Universitat Pompeu Fabra, and the International Summer School in Forensic Linguistics. In editorial capacities he served in a dozen ways, including as editor of *American Speech* (the American Dialect Society's venerable journal) from 1996 to 2007 and then as co-editor of *The International Journal of Speech, Language and the Law* (IJSLL) from 2007 to 2010.

After publishing dozens of articles principally on American English, Ron developed an interest in forensic linguistics around 1990 and was retained as an expert in various kinds of litigation. Soon, though, his principal focus turned to trademark, where his insights and discipline shone. In *AutoNation v. Acme Commercial Corporation d/b/a CarMax the Auto Superstore* – his first trademark case, I believe – he was retained on behalf of AutoNation, while CarMax retained Roger Shuy. Both experts filed reports and were deposed but did not get to testify at trial. The jury found for AutoNation, and Shuy later devoted a chapter to the case in his 2002 book *Linguistic Battles in Trademark*

Disputes. "AutoNation USA clearly had the better evidence," he wrote, "and Butters brilliantly developed and brought it out" (143). "Brilliant" is also how I'd characterize Ron's case reports, ones I've read when he and I were retained on opposing sides, others when we were asked to address different aspects of a case by a single litigant, and still others publicly available. Ron's focus on trademark is highlighted by the fact that he secured for himself the domain name TrademarkLinguistics.com and mounted a website that brought him many engagements as an expert.

Among the better-known trademark disputes for which Ron provided expert testimony was one involving the name of the Washington Redskins football team. Attorneys for Native American opposers to the trademark had retained a linguistics expert to document the character of the term, and Pro-Football retained Ron and a respected lexicographer for their expertise in the matter. Ron's specialized knowledge of American English led him to opine that, during the second half of the twentieth century, the word "redskins" had taken on "'an important, powerfully positive new meaning' identifying the . . . football team; that 'redskin(s)' primarily refers to the football team in contemporary American English; and that the connection between the contemporary meaning of 'redskin(s)' as a football team with the original meaning as a Native American is greatly attenuated." So reported the U.S. Patent and Trademark Office's Trademark Trial and Appeal Board in its 1999 denial to renew the trademark as disparaging and thus in violation of trademark law. Pro-Football appealed, and a federal court reversed the TTAB's decision, in part owing to Ron's initial testimony.

Another well-known case involved Microsoft's opposition to Apple's USPTO application to register the term "app store" as a trademark. Microsoft contended that "app store" was a generic term and thus unprotectable, and Ron's declaration in rebuttal to Apple's expert report was filed with the TTAB in 2011 (as he was completing his term as IAFL president). An occasional attorney who'd previously retained Ron has pointed me to that report as a model of what they'd like for a case.[1]

Perhaps the most controversial matters Ron tackled involve authorship analysis. Given his negative view of the scientific status especially of stylistic analysis as a tool in authorship analysis, he was retained generally in rebuttal to other experts. In *People v. Coleman*, Christopher Coleman was accused of murdering his wife and children in 2009, and part of the case against him relied on the authorship of text messages and writing on the wall at the murder scene. Coleman objected when the State of Illinois sought to proffer testimony about the authorship of documents he denied writing, but the court admitted the expert's testimony with some limitations. As Coleman's authorship expert at trial, Ron rebutted the State's expert's methods, calling his four categories of linguistic similarities "useless" and opining that the similarities noted in the known and unknown documents were "linguistically meaningless." Besides the conflicting testimony about authorship, jurors heard abundant evidence of other kinds in the course of the trial and ultimately found Coleman guilty. Ron, of course, made no assumptions about the guilt or innocence of the accused, which he respected as the responsibility of the jury, with its much broader picture of the facts than a linguistics expert would possess.

Two months after the Coleman trial, Ron addressed a packed auditorium at Aston University on "ethics, best practices, and standards" – a central concern throughout his career. That concern was expressed, among other ways, by his organizing a symposium on "Ethical Issues in Forensic Linguistics Consulting" at the 2009 annual meeting of the

Linguistic Society of America, whose papers were published that same year in IJSLL. In addition, not long before the 2011 IAFL meeting at Aston, Ron had chaired an LSA subcommittee charged with formulating a code of practice for the Society's members. When in 2011 Maite Turrell succeeded Ron as IAFL president, she appointed him to chair a committee to draw up a code of practice for the Association. It is not surprising, then, given his commitment, that in his IAFL presidential address at Aston Ron focused on two points spelled out on the Association's website: research into the practice, improvement, and ethics of expert testimony and drawing up a code of practice on matters such as giving evidence in court and writing official reports.

To make his larger points tangible in the address to IAFL delegates, Ron focused on "comparative analysis of disputed texts" and exemplified with specific analyses by linguists he named. He homed in on what he regarded as inadequately tested authorship attribution claims, particularly those generally described as "forensic stylistics." With no punches pulled, he conveyed a powerful impression.

Certain details in Ron's oral address evade me now and aren't apparent in the published version. It is noteworthy, though, that in the Proceedings Ron's address is followed by a paper that was not presented at the conference. In the preface to the Proceedings, the editors graciously report that, "[t]o commemorate Butters' term as the President of the IAFL, Larry Solan kindly accepted an invitation to write a response to the plenary address, which we include in these pages as a way to stimulate discussion in an area close to Ron's heart." That's a characterization one wishes to conjure oneself on those occasions when subtlety, kindness, and generosity are needed to help keep an organization running peaceably and to nurture harmony among its members. It is no surprise that Solan's essay shines with his characteristic good sense and even-handedness. "With insight and candor," he writes in his opening sentence, "Ronald Butters . . . reminds us that forensic linguists, like practitioners in most areas of forensic science, have done more to advance their field substantively, than they have to advance it ethically," and he goes on to "applaud Butters for raising these important issues in such a public and salient context." The essay is a masterly bookend to the Proceedings.

Especially since he retired from Duke, Ron consulted and testified in scores of cases. Never did a meeting or email exchange with him fail to reveal that he was working on a report – or a couple of them. Over the past decade or so, Ron and I were both retained in perhaps half a dozen of the same cases, sometimes by opposing counsel, sometimes by counsel on the same side of a dispute but for distinct aspects of the litigation. While we met often at professional meetings and consistently enjoyed a lunch or dinner together on those occasions, we never brought up substantive matters about our common cases. The only thing either of us knew about the other's views was what appeared in our reports or depositions. Each of us has occasionally been put on the spot by an attorney asking in deposition just what we thought of the other professionally; needless to say, it was an honor always to express my view that I held Ron in the highest esteem. Over the course of decades, he and I became ever closer friends, and any difference of views about a forensic linguistics analysis we were both engaged in remained compartmentalized. It was natural to acknowledge our mutual involvement in cases, of course, and one or the other of us occasionally remarked that it would be interesting once a case had finished to revisit it, but we seldom, if ever, did. When, a couple of years ago, Ron grew frail from illness and treatment, he referred cases he was asked to take on to Phillip Carter

or me and perhaps to others. Throughout his illness, he remained active and engaged until his final weeks. His chapter on "Trademark linguistics," published in *The Routledge Handbook of Forensic Linguistics* (2nd ed.) in 2021, is among the richest in the book.

Besides his colleagues at Duke and in the American Dialect Society and the International Association of Forensic Linguists, Ron leaves behind his two daughters, Rachel Willis and Catherine Blum, and his grandchildren and great-grandchildren. He also leaves behind his beloved husband Stewart Campbell Aycock, his partner for many years before they were able legally to marry.

Notes

[1]The report can be read at https://ttabvue.uspto.gov/ttabvue/v?pno=91195582&pty=OPP&eno=27.