

Avery's attorneys view their job as a special calling

Strang, Buting comfortable with their role in high-profile homicide case

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By Andy Nelesen

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CHILTON--Dean Strang and Jerome Buting take a certain comfort knowing many people in the room think they're trying to keep a murderer out of prison.

They're criminal defense lawyers. It comes with the job.

And their job now -- defending Steven Avery on charges of homicide, false imprisonment and mutilation of a corpse -- comes with some attacks, personal as well as professional.

"You're either a defense lawyer or you're not," said Strang, 46. "If you're a defense lawyer, you're somebody who instinctively and as a matter of principle and real belief says 'I'm on the side of the guy everybody's after. I'm on the side of the guy who's on the outs. I'm on the side of the guy people hate. I'm just on his side as a matter of instinct.'"

Both men sat down after proceedings last week and granted an extended interview to Gannett Wisconsin Newspapers before making a trip to the jail to see their client.

Each has left his home -- Strang in Milwaukee and Buting in Brookfield -- and moved into apartments in the Appleton area for the six weeks of Avery's trial.

"I think we knew exactly what we were getting into and we talked about it going in," Strang said. "This would be just a tough, hard-fought, emotionally draining case. This isn't one -- and Jerry (Buting) and I just don't practice law this way anyway -- where some defense lawyers would get together with the prosecutors and say 'Let's work this out.'"

"This isn't a case where you cozy up and figure out how to split the loaf."

Both men practice criminal defense work exclusively.

Buting, 50, says he's fine with not being popular in polite society. Hate mail doesn't faze him.

"I think it's to be expected if you take on an unpopular cause for the right reasons," Buting said. "You're going to be ... I don't know if hated is the right word. I hope we're not ultimately going to be hated ... but I hope people are going to see another side of this case no matter what happens, so that the public has a different view of what happened beyond what (special prosecutor Ken) Kratz says happened.

"Oftentimes I feel I must be doing the right thing if I'm in that role because too much of society is

sound bites and a very narrow view of very complicated issues. People sort of make snap judgements without knowing what's going on."

Steven Avery is accused of killing Teresa Halbach on Halloween 2005 and burning her body to conceal the crime. Halbach's death came two years after Avery's release from prison after he served 18 years for a rape that DNA tests later proved he didn't commit.

Embroided in the case is controversy about the 2004 lawsuit Avery filed against Manitowoc County and officials there, claiming \$36 million in damages for the 1985 wrongful conviction.

The lawsuit provides the motive for defense allegations that blood evidence was planted in Halbach's vehicle using a sample of Avery's blood housed in files of the Manitowoc County Clerk of Courts. DNA testing revealed last week during the trial suggests the blood in Halbach's Rav-4 sport utility vehicle could not have come from the blood vial drawn in January 1996 but not uncovered until July 2006.

Avery's nephew, Brendan Dassey, 17, has implicated himself in Halbach's death with a statement outlining a brutal attack on the 25-year-old freelance photographer. He is set to go to trial April 16.

The case arguably is one of the most high-profile and legally thorny homicide cases in modern Wisconsin history.

"Why did we take the case? There's all kinds of reasons that have to do with Mr. Avery himself and what we believe is his innocence and the whole story behind his background," Buting said. "How he's wrongfully convicted once and now is back being wrongly accused again."

"If you step back and look at what criminal defense attorneys do ... why we do it ... this case is exactly the kind of case people should do."

"This is a 'whodunit?' They have nothing more than a circumstantial case that's weak," Buting said. "It's been a fascinating case to work on and I don't regret getting involved one bit, despite the huge commitment of time and financial resources to it. You need to do that."

Their work on Avery's behalf no longer includes a paycheck.

Avery's retainer of \$240,000 -- the proceeds of his \$400,000 settlement from the wrongful conviction suit -- was exhausted a while ago, the lawyers said.

They now say they are working for peanuts -- and the dark chocolate squares each regularly pilfers from media room candy stashes. Both men are affable and cordial and likeable. Strang holds the charm card between the two; Buting's personality has harder edges, some razor sharp.

"In a case like this -- unless its O.J. Simpson or (Tyco CEO) Dennis Kozlowski or Martha Stewart -- you're just going to lose money on it," Strang said. "You say 'Am I getting enough so I can take the loss and what will it do to the rest of my practice?' "

"There is a certain professional kind of issue too, in the sense that if you want people to hire you and you want other lawyers to see you as being near the top of the criminal defense bar, you have

to step up and take tough cases where you're going to be in the glare of the media and where there's going to be a lot of public antipathy against the client and where the stakes are huge.

"You have to do that if you want people to see you as being a very good lawyer, better than the next guy," Strang said.

Strang's firm has 13 lawyers, eight of whom do civil litigation, the bread and butter of most law firms.

Buting's firm has two other lawyers, one of whom is Buting's wife. That's made taking six weeks out to try the Avery case a much bigger hit.

"You have to balance other business responsibilities," Buting said. "You've got rent to pay, you've got employees that need to be paid and you've (got) existing clients who have to be serviced. You can't just ignore them. It takes a fair amount of scheduling and structuring to be able to get your caseload in a way that you can disappear for six weeks on one thing. That's pretty tricky."

Buting said he was intimately aware of the complexities of defending Steven Avery.

Buting sat on the Avery Commission, a group assembled after Avery's 2003 release from prison to evaluate how the wrongful conviction happened and recommend measures to ensure it couldn't happen again.

Strang and Buting were meeting in Strang's office to hammer out details of their temporary partnership when news surfaced of Dassey's arrest. The suggestion arose that Dassey might need a good lawyer, too.

"I don't know if we said it, but we looked at each other sort of like 'Are we pregnant already? Are we in too far with Steven Avery to take on Brendan?'" Strang said. The Avery and Dassey cases were never legally joined, and ultimately Strang and Buting did not take on the case.

Both men feel that special prosecutor Kratz's televised press conference in March 2006 -- detailing Dassey' statements in vivid and disturbing detail -- was foul play.

"Immediately, your blood starts to boil," Buting recalled.

"I was thinking This is not fair. This is just not fair," Strang said. "A large part of it doesn't make sense, but at the same time, it's gripping. It's a closing argument before the kid has even made a court appearance. And it's a closing argument against Steven Avery.

"I was angry about it. I thought it wasn't fair. It wasn't the right thing to do, to be perfectly blunt about it."

"We would have liked to call a press conference ourselves," Buting said.

The men said they have a working relationship with the prosecution and have found a way to communicate "without having to draw swords over everything," Strang said.

"In the end, in a case like this, you realize that the other side is going to come at you and stick as

many knives as they can in your chest," Strang said. "You're just hoping they're not sticking them in your back, too."

Strang said that working cases like Avery's is a calling.

"If you really have the heart and the soul of a criminal defense lawyer, this is where you want to be and you feel like you got privileged because you've been chosen to do it."

"If we're the least popular people in northeastern Wisconsin after our client, that's where I belong."