

A VOICE FOR THE DEFENSE

Washington Lawyer Takes On International Cases

Written by DAVID LOMBINO • Photographed by AUTUMN PINETTE

Deyan Ranko Brashich has always been a defense lawyer, a role portrayed in literature and in movies by characters who are devilish enough to unflinchingly separate questions of morality from their desire to succeed. When pressed on their moral ambivalence, the slick, black-suited attorneys defer to some higher, overarching principle of justice: innocent until proven guilty. They ask, suppose the prosecution is wrong?

Mr. Brashich certainly has a personality suited to drama, and he has credentials, too. He has represented a client in front of the U.S. Supreme Court, and twice defended clients in front of the International Criminal Tribunal in The Hague, the Netherlands. From 1966 to 1985 he was senior partner of the Madison Avenue law firm, Brashich and Finley, which specialized in litigation. As an adjunct professor, he taught trial practice and procedure at Pace University School of Law in New York. Since 1985 he has operated a private practice. His client list includes the king of Yugoslavia, the former Yugoslav embassy and mission to the United Nations, and a host of international banks, manufacturers and private clients.

Tall, lean and dressed in a half-zipped red wool sweater with an upturned collar, and new leather hiking boots, Mr. Brashich, 63, sat cross-legged during a recent interview at his home in Washington, chain-smoking Marlboro Reds and recounting stories culled from years of litigious warfare. He pointed repeatedly for emphasis, and stood intermittently to pace the room, his voice undulating for emphasis. "I smoke and I drink. After all, I'm a Serb," he said.

Although Mr. Brashich grew up in New York City, attended Trinity College in Hartford, and had a self-proclaimed affinity for Connecticut for more than 40 years, he had no idea where Washington was when his wife, Patricia Tunsy, suggested that they buy a weekend place on Nichols Hill Road in 1981.

They moved recently to a cabin on more than 30 acres off a windy switchback driveway on Nettleton Hollow Road. The property is named "Hajduk" after the Serbian mountain dwellers—both bandits and defenders of advances of the Ottoman Empire into their homeland. "Somebody's freedom fighter is someone else's terrorist," the attorney said matter-of-factly, and he is happy to share his opinions.

"Foothills News" was a bi-weekly Op-Ed page, with articles on foreign affairs and "anything else I fancied," that Mr. Brashich, wrote (often under pseudonyms), published and distributed to about 40 or 50 outlets in Litchfield County from 1984 to 1995. The concept came from "Dan's Papers," the free Hamptons tabloid that earned its publisher Dan Rattiner millions of dollars on Long Island's East End. Although Mr. Brashich never turned a profit, the newspaper supported itself and he enjoyed, "venting my spleen on a number of subjects."

His political journey began as a registered Republican, then a Democrat, and now as a self-proclaimed anarchist. "I find the political process in the United States and in the world hopeless," he explained. "Lurching from one disaster to the next, we never seem to learn the lessons of history."

The opinion comes from someone who hasn't always led a life surrounded by the comforts democracy seeks to ensure. "I was for almost 10 years without a country," said Mr. Brashich, who was born in Belgrade, Yugoslavia just before the Nazis invaded in 1941. He boasts about being one of the few to have been bombed by both the U.S. and Germany in World War II, as the country fought off both German occupation and a communist threat. A German bomb fell unexploded in his neighbor's townhouse. The U.S. bombed on Easter Sunday 1943, trying to dislodge the Nazis.

His father, Ranko Brashich, was a legal and financial adviser to Draza Mihailovich and the Yugoslav royalists who fought both the Germans and the Communists. In 1946, when the throne fell to the Communist dictator Tito, Mr. Brashich's father was condemned to death. He and his family escaped from their Belgrade home in July 1946, hours before the executioners arrived, and fled to Austria where they sought refuge for three years, before arriving in the U.S. in 1949. As a boy, he taught himself English from listening to the radio, and no trace of an accent remains. From 1946 until 1993, Mr. Brashich never returned to his native land.

Mr. Brashich reconnected to his place of birth through a Yugoslavian client he met in

1992. Fluent in both French and Serbo-Croatian, and possessing a Serbian pedigree that includes his father, and grandfather, who was a World War I hero, Mr. Brashich found himself in the favor of Serbian companies.

Protection of the cornerstone of the legal system, "innocent until proven guilty," is something Mr. Brashich vehemently defends. He points to the recent string of criminal exonerations instigated by late-surfacing DNA evidence, and questions prosecutors' unwillingness to accept scientific data that proves someone's innocence. He is openly disenchanted with the law profession that he once considered "fun."

"How would you like to be sitting in that [position], facing 15-years to life, and knowing your attorney has only 15 minutes to pick a jury? I can't believe people are not bothered by this," he said. "[The argument is that] it is impossible to have perfection in any human endeavor. Therefore, if that is not possible, anything that is reasonable should be accepted—I cannot accept that [idea]."

That philosophy has been put into practice at the highest levels of the law. From 1998 to 2000, he defended the Bosnian Serb Stevan Todorovic, the former chief of police of Bosanski Samac, who faced up to 27 counts of crimes against humanity, war crimes and breaches of the Geneva Convention in front of the International War Crimes Tribunal.

Mr. Brashich freely admits that some "pretty awful things" took place in the isolated rural town in the northwest corner of Bosnia, pinned against the Croatian border. Mr. Todorovic was charged for his alleged involvement in committing, planning, instigating, ordering or otherwise aiding and abetting a campaign of persecutions and "ethnic cleansing" against the 15,000 Bosnian Croats, Bosnian Muslims and other non-Serb civilians once residing in the town.

"There was craziness going on in Bosanski Samac, the likes of which we have never seen ... it was total chaos," Mr. Brashich said, describing a combustible mix of stress, alcohol and the absence of the rule of law. "Some dregs of humanity saw this as an opportunity to get even, and to do things which would be, in a civilized society, prohibited."

Mr. Todorovic was arrested by SFOR, the forces fighting in the area under the command of NATO, and was transferred to The Hague in September 1998, where he pleaded not guilty. As his defense counsel, Mr. Brashich questioned the legality of Mr. Todorovic's transfer from his home in Zlatidor, Serbia to an Air Force base in Tuzla, Bosnia-Herzegovina and the lawfulness of that detention.

Mr. Brashich claimed his client was illegally kidnapped, and sold for ransom across the border. The court ordered SFOR, and the 33 participating NATO countries to disclose relevant documents

relating to Mr. Todorovic's arrest and detention. The court also subpoenaed Eric Shinseki, an American General and SFOR commander at the time of the arrest.

Mr. Brashich conducted negotiations with the office of the prosecutor, and reached a plea bargain: Mr. Todorovic pleaded guilty to one count, dropped the challenge of the illegal arrest and the requests for documents and subpoenas, and the prosecution withdrew the other 26 counts. Later that month, Mr. Todorovic was found guilty of one count of persecution on political, racial and religious grounds as a crime against humanity. He was sentenced to 10 years in a Spanish prison, where he currently awaits his release, scheduled for next year. "There is no question that crimes were committed. I made a deal—a plea bargain for my client," explained Mr. Brashich.

Mr. Todorovic still dutifully calls his attorney once a month. "He is a nice guy," said Mr. Brashich. "For all the craziness he did ... Steven Todorovic, as I told the court, really should be given a second chance. He's savable. A lot of them are. They just got caught up in a tragic event. ... You go into a rage."

The attorney has received the Serbian decorations of the star of Karadjorge and star of St. Sava for bravery. In 1979, after his client, Nikola Kavaja, was freed from charges of attempting to bomb Yugoslav consulates in the U.S., he hijacked an American Airlines Boeing 707 with more than 120 passengers on board. Strapped with dynamite, Kavaja threatened to crash the plane into Communist party headquarters in Belgrade. Mr. Brashich boarded the plane, convinced the hijacker to free the hostages, and flew with him, and the dynamite, to Ireland in an attempt to avoid extradition back the U.S. to face hijacking charges. Mr. Kavaja was extradited and served more than 20 years in a U.S. prison.

When Mr. Brashich became a U.S. citizen in 1954, like many new immigrants he was dizzy with optimism over the American promise of freedom and fairness under the law. "I really believed in the Constitution, and this glorious idea that was, or should have been, the United States," he said.

His disillusionment began in the 1960s with the Vietnam War. He joined the Selective Service Board #6, the authority responsible for drafting soldiers from most of the island of Manhattan. But he found that the battleground was not even for all. "Everyone in there was able to give deferments to friends," he said.

He eventually became chairman of that board, and recalls the case of a 21-year old Cuban man who registered late with the Selective Service, and whose case came before the committee. His father was dead, his mother worked in a beauty salon and he helped support his family. When the board waived

his case and let him walk free, he remembers receiving a phone call from a colonel who berated the board. It held another hearing and again deferred the draftee, again soliciting anger from the Pentagon. Three years later that colonel was convicted of selling deferments on Long Island. Mr. Brashich later received the selective service medal from Richard Nixon.

"That's where it really started, my disillusionment with the American system, as it is now, but not as it should be," he said, noting that he has not voted in 30 years. "It is because I am an American, and I've had dreams of what this country should be like. ... In the last 10 or 15 years we're regressing, and it's very disheartening."

Mr. Brashich calls the International Criminal Tribunal a good and noble idea, but he finds the reality a compromised version, laden with double standards. He argues that it violates basic principles of Anglo-Saxon jurisprudence, including one that says hearsay is not permissible in criminal and civil trials. "Double and triple hearsay will be admissible in court," including newspaper reports and documentaries made during the conflict in the former Yugoslavia, according to Mr. Brashich. "Judges are willing to accept a newspaper article written by a Muslim for a Muslim newspaper to be used against Croats and Serbs."

Indeed, Mr. Brashich's interactions with a colorful class of characters seem eerily repetitive, but he insists he does not seek them out. He met Mr. Todorovich through Bosko Radonjic, a Serb with alleged Mafia connections, in his Belgrade nightclub, Lotus Bar. "I thought it would be interesting to be a part of the new wave of international law. Perhaps I could shape it to some extent," he explained. "I'm not drawn to [these characters]. It is just happenstance. I didn't court them. I like them. I presume they like me."

For the next six months Mr. Brashich is on a leave of absence from the practice of law due to what he termed regulatory constraints, but he fully expects to resume the practice of law thereafter.

Mr. Brashich says he is considering writing a "pot-boiler" called "Milosevic's Money," embellishing history into something more dramatic and revealing his belief that the former Yugoslav president misappropriated millions of his countrymen's dollars. After a lifetime of what he considers close calls with death, he is admittedly more appreciative of the free time he has, and less motivated to work the seven-day weeks that delivered him this far.

Absent still, though, is the explanation, the moral caveat about why and how he is able to defend such seemingly reprehensible clients. "I rub some people the wrong way," he admitted. "I don't try to get anybody to like me, including judges. I make my opinions very loud and very clear. I'm not part of the establishment."



Deyan Ranko Brashich at home in Washington.