

# Maverick lawyer goes to bat for clients

## Midanik's passion belies stereotype

BY DONN DOWNEY  
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TORONTO — David Midanik, former tennis professional, religious studies major and part-time taxi driver, does not look like a lawyer. But he has represented part of the Criminal Code and the men responsible for the release of one of the men charged in the Just Deserts murder case.

Emile Mack Jones, one of four men originally charged in the Just Deserts slaying and robbery, is a free man today in large measure because of Mr. Midanik.

It is by no means his only victory. A recent list includes a 1990 ruling that struck down a weapons section of the Criminal Code as unconstitutional. Again in 1986, a robbery charge against a young offender was stayed because he was held in an adult institution after being charged. In 1981, Mr. Midanik successfully defended a man charged in a Caribou shooting that year.

He is abrasive and, by his own admission, hard to work with, which probably guarantees there will be no mentorship in a well-heeled Bay Street law firm in his future.

His passion and appearance are not unusual in his strait-laced profession, which generally values conformity.

His hair falls well below his shoulders, projecting the image of a 1970s hippie. And a few minutes of conversation establishes that there are similarities. He is left wing and caring and sees his principles in his shoes — much so that when he talks about how he makes his living.

"I strongly defend my clients' interests and, on occasion, have been accused of not showing proper deference to the court," he said.

His principles must have been hurting someone somewhere when he decided to protest against the U.S. embargo in Cambodia outside the Republican convention in Miami in 1972. He was in the crowd that was pelted and maced by police.

Since then, he has never felt quite



Lawyer David Midanik, who acknowledges he can be hard to work with, is unapologetic when he says he strongly defends his clients' interests.

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the same about police and authorities in general and says the experience shaped his practice of law.

Mr. Midanik returned to Toronto and graduated from Osgoode Hall Law School in 1978. He was admitted to the Ontario bar, but decided to move to Alberta with his wife by cash in on the oil boom.

One day he was sitting in an Alberta courtroom waiting for his client to appear when another accused pleaded guilty to robbery. The judge quickly sentenced him to four years in the jail before the man spoke to a lawyer.

At that point, Mr. Midanik had no reputation, good or bad, but he was quick to acquire one.

He rose to his feet and suggested to the court that the man was entitled to

legal advice before the plea was accepted and sentences imposed. The discussion was brief, the man was sentenced without talking to counsel and Mr. Midanik stormed from the courtroom.

Once outside, an older lawyer sent by the judge suggested that in Alberta "you catch more bees with honey than with vinegar."

Mr. Midanik replied, "Please tell his honour I'm not a beekeeper."

Mr. Midanik appeared before the same judge later and said that the judge did not hold a grudge. However, he did not address him by his correct name.

He returned to Toronto to be with his two children, Joseph and Naomi, who had moved there with their mother. The couple are divorced.

Since his return, he has practiced criminal and constitutional law, but the Just Deserts case has consumed the past five years of his working life.

"When I first took on the Just Deserts case, I was concerned that my clients might not get a fair trial because of the adverse publicity," he said. "The public should keep an open mind when it comes to the remaining accused."

In a summary of his judgment, Mr. Justice Brian Trott of the Ontario Court's General Division states that he found evidence of police misconduct and "prosecutorial error" by the Crown in its case against Mr. Jones.

Mr. Jones was released on bail last October and in January of this year the Attorney General stayed proceedings against him.