1994

Funeral Oration in Honor of United States v. Burton

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Repository Citation
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Criminal Law Notes

Funeral Oration in Honor of United States v. Burton

With apologies to William Shakespeare and in appreciation of the good humor of the judges of the United States Court of Military Appeals before whom this was delivered as part of the Court's 1994 judicial conference.

Friends, honorable judges, countrymen and women, lend me your ears; I come to bury United States v. Burton, not to praise it. The evil that bright line rules do lives after them; the good is oft interred with their textual bones; So let it be with Burton.

The honorable Judge Cox Hath told you that Burton was "something of a crude stopgap" If it were so, it was a grievous fault; and grievously hath Burton answered for it. Here, under leave of Judges Cox, Crawford, and Gierke, for they are all honorable judges, Come I to speak at Burton's funeral.

Burton was my friend, a bastion of our treatise But Judge Cox says the landscape of speedy trial has changed dramatically since Burton and Driver and Judge Cox is an eminent and learned judge Many cases did Burton overturn at first

26 S.T. Research Corp., ASBCA No. 39600, 92-2 BCA ¶ 24,838.
27 See Lanzen Fabricating, Inc., ASBCA No. 40328, 93-3 BCA ¶ 26,079. The contracting officer may establish a new completion date by either (1) reaching agreement with the contractor, or (2) notifying the contractor of a reasonable completion date.
29 As subsequently modified, United States v. Burton, 44 C.M.R. 166 (C.M.A. 1971), announced the 90-day speedy trial rule requiring dismissal of charges if the accused has been in pretrial confinement for more than 90 days after subtracting defense delays. Burton was overruled in United States v. Kossman, 38 MJ. 258, 261 (C.M.A. 1993).
30 Chancellor Professor of Law Designate, Marshall-Wythe School of Law, College of William & Mary in Virginia; Colonel, JA (USAR).