



Historic Bakersfield & Kern County, California

“If That’s The Way He Practices Law, This Is The Way I Practice Medicine”

By Gilbert P. Gia

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Dr. Berni aimed at Oscar Catalano and ordered him to submit to a mutilating operation, but instead of using the razor he fired a gun. Berni spent 16 months at San Quentin, and Catalano spent the rest of his life in a wheelchair. The Bakersfield Californian withheld salient facts from the public and during the trial cast Daniel Berni as a betrayed, pitiable husband unable to restrain his brooding anger. Twelve jurors agreed with that.

Daniel Lee Berni, MD, arrived in Bakersfield on July 5, 1945 as a new intern in the Maternal and Child Health Department of Kern General Hospital.¹ He brought with him an impressive list of accomplishments: A degree with honors from Harvard Medical School (and two bantamweight boxing championships there),² a stint in the US Army Transport Service,³ and medical training at Wayne State and Ohio State University.^{4 5}

Other facts emerged. He was born and raised in Youngstown, Mahoning County, Ohio, and in 1934, when he was 22 he graduated pre-med from Harvard.⁶ He worked as a teacher but about 1940 enrolled at University of Michigan medical

¹ Now Kern Medical Center

² Bakersfield Californian Jan 6, 1947

³ At peak-force the ATS had 168 ships under its command, 23 of which were hospital ships. Its workforce was almost exclusively made up of civilians. In 1942 the US Army Transport Service became part of the US Army Transportation Corps.
www.usmm.org/atshistory.html

⁴ Bakersfield Californian Apr 23, 1945

⁵ Bakersfield Californian Jan 3, 1947, p 7

⁶ North Texas News Apr 28, 1974

school.⁷ His program was interrupted by war, but after about 1942 he attended three medical schools, Harvard, University of Chicago, and in 1944 received his MD from Kansas City University of Physicians and Surgeons.^{8 9} Berni interned at St. Peter's Hospital at Albany, New York¹⁰ and was licensed to practice medicine in Massachusetts. In 1945 when he arrived at Bakersfield he did not have a California license to practice medicine.¹¹

At an outing on Greenhorn Mountain that summer Berni met a 27 year-old school teacher named Jean Baum.¹² They married on December 24, 1945 at Santa Monica¹³ and honeymooned in San Francisco. A week later Dr. Berni was back at Kern General Hospital coordinating well-baby clinics.¹⁴

Mrs. Jean Berni quit teaching school and instead taught piano at the Berni's residence two blocks south of Kern General Hospital.¹⁵ The Californian wrote, "Blond and attractive Mrs. Bernie [*sic*],¹⁶ a former teacher of Music in the Kern and Detroit schools, is an alumna of Michigan State College and University of Michigan."¹⁷ In October, Jean Berni provided musical entertainment at a tea sponsored by the Kern County League of Women Voters that was attended by prominent Bakersfield women, including Mrs. H.R. Fike,¹⁸ Mrs. Jerry Sullivan,¹⁹ and Mrs. Walter Stiern.²⁰

⁷ The 1940 US Census shows Daniel Berni as a student with five years of college as a guest at the Majestic Hotel in Detroit, Michigan. His census entry shows his father's place of birth as "Rumania" and mother's as New York City.

⁸ Montana (Butte-Anaconda) Standard June 18, 1957

⁹ North Texas News Apr 28, 1974

¹⁰ Ibid.

¹¹ Montana (Butte-Anaconda) Standard June 18, 1957. Why Daniel Berni left Massachusetts was not discovered.

¹² Jean Baum taught at Sunset School. Bakersfield Californian Jan 10, 1946

¹³ Bakersfield Californian Jan 6, 1947. Bakersfield Californian Jan 3, 1947, p 7

¹⁴ Bakersfield Californian, Jan 11, 1946. Bakersfield Californian Jan 10, 1946: "Wed in Santa Monica. Dr. and Mrs. D.L. Bernie have returned from a wedding trip to San Francisco and vicinity, following their marriage December 24 at 10:00 AM in Santa Monica. The couple stood before Judge C. Rhodes."

¹⁵ 1828-B Quincy St

¹⁶ Bakersfield Californian Jan 3, 1947, p 7. Bakersfield Californian Apr 23, 1947

¹⁷ Bakersfield Californian Sep 11, 1946

¹⁸ Mr. Fike was a grocery store owner and president of a grocery owners association.

¹⁹ Mr. Jerry Sullivan was an attorney and member of the Kern County Democratic Party Central Committee.

²⁰ Bakersfield Californian Oct 7, 1946. By 1946, Mr. Walter Stiern had returned from military service and reestablished in his veterinary practice. Stiern was elected to the California State Senate in 1957.



Jean Berni
Bakersfield Californian J January 3, 1947

Dr. Berni's parents were Mr. and Mrs. B. H. Bernstein of Youngstown, Ohio. They had moved to Bakersfield and resided at 1728 Quincy Street near the hospital.²¹ Mrs. Bernstein was an active clubwoman in Ohio²² and probably felt entitled to show Jean Berni how to be the wife of a successful doctor. The women clashed, and so too did Daniel and Jean Berni,²³ however the disharmony did not seem to affect Dr. Berni's professional work, which at that time included bringing the county's immunization clinic to East Bakersfield High School.²⁴

Sometime in Winter 1947 Jean Berni injured her wrist in a trolley accident, and that led the Bernis to attorney Oscar Catalano, whom they retained to get compensation from the Bakersfield and Kern Electric-Railway Company.²⁵

Oscar F. Catalano got a law degree from Boston University College of Law in 1933 and in 1934 was admitted to the Connecticut bar. He worked as an assistant claims manager for the Aetna Casualty Insurance Company for a few years before the New York company transferred him to California. He soon returned East to take a

²¹ Bakersfield Californian Jan 10, 1946. During Berni's trial, the transcript stated "he would rather not answer a question on where he had ever used another name." Bakersfield Californian Apr 28, 1947. Berni also refused to state, on the record, his father's last name. Bakersfield Californian Apr 28, 1947. Kern County Criminal file 5173

²² Youngstown (Ohio) Section of Council of Jewish Women. *The Jewish Criterion*, Congregation Rodef Sholem, v.32, 1927, (http://pjn.library.cmu.edu/books/CALL1/CRI_1927_070_004_06031927/vol0/part0/copy0/ocr/txt/0032.txt)

²³ Bakersfield Californian Apr 23, 1947

²⁴ Bakersfield Californian Oct 11, 1946

²⁵ Bakersfield Californian Jan 3, 1947, p 7. Bakersfield Californian Apr 23, 1947

job with Sun Indemnity of New York, but about 1940 he moved back to California and went to work in San Francisco for another insurance company. In 1941 he was admitted to the California bar,²⁶ and in 1943 the County of Kern hired him as deputy district attorney. At the time he met the Bernis he was in private practice with a Henry E. Schmidt, Esq.²⁷

Catalano and the Bernis became friends, and they told him about the hassle that had arisen between Jean Berni and her husband's mother. Catalano advised his clients to take a marital vacation.²⁸ That did not help. In October 1946 Jean Berni asked Catalano to help her file for an interlocutory decree of divorce based on spousal cruelty.²⁹

Catalano's secretary was Mrs. Nellie Broome, and she prepared the paperwork. A few days before the document went on to the courthouse, Mrs. Berni showed up at Mr. Catalano's office, and she had been crying. Jean confided to Mrs. Broome that she did not want the divorce, but her husband had insisted on it.³⁰

On September 27, 1946 Dr. Berni met Mr. Catalano to sign the divorce papers, but three days later he asked his wife to call it off.³¹ Jean demurred, and on October 4, Judge Warren Stockton signed the decree. Dr. Berni later testified that Catalano had given him rotten advice. "Because I couldn't stand my wife sitting around the apartment crying, more important because I really loved her, I came back, asked her to call the whole thing off. She did not give me an answer one way or the other, but was friendly. Later in the week she went to see Mr. Catalano, and they got the divorce.³² I was busy and did not attend the court hearing. We continued to see each other, and I planned on taking the necessary steps, and Jean was in accord, to nullify the legal proceedings, which we understood did not become final for a year and a day. I was led to understand that if we continued to live together that the initial decree was not worth the paper it was written on."³³

²⁶ Bakersfield Californian Mar 23, 1944

²⁷ Bakersfield Californian Mar 17, 1971

²⁸ Bakersfield Californian Apr 23, 1947

²⁹ Bakersfield Californian Apr 22, 1947. An interlocutory decree of divorce is a judicial decree pronouncing the divorce of parties provisionally but not terminating the marriage until the expiration of a certain period of time. (Wikipedia)

³⁰ Bakersfield Californian Apr 22, 1947

³¹ Dr. Berni "had insisted upon the divorce action which his wife brought against him." (Los Angeles Times Apr 23, 1947. Bakersfield Californian Jan 3, 1947, p 7)

³² That paperwork was sent on to Judge Stockton.

³³ Kern County Criminal File 5173

Dr. Berni was also having problems at work, and his mother had fallen ill. He left for Ohio to visit her,³⁴ and upon his return he mailed a letter of protest to the Kern County Board of Supervisors about unacceptable lab conditions at the hospital.³⁵

Their suit against the trolley company was working its way through court, and Catalano continued his work for the Bernis. In fall 1946 he informed them they could expect compensation, and on October 3 the Bernis drove together to a Bakersfield railroad station to meet him. That day Jean probably accompanied Catalano to Fresno.³⁶

Three weeks later Dr. Berni berated Jean about her rude behavior toward his mother when she snapped and said, "I've done worse than that!" Suspecting Catalano, Dr. Berni barked, "Have you been intimate with Catalano?" Jean: "Yes, I have," and she added that Catalano had offered her \$50 a day to induce an unmarried man to disrobe to be secretly photographed.^{37 38}

Dr. Berni testified, "I forgave my wife, but I could not forgive Catalano. Nor could I forget the incident."³⁹ The Bernis reunited, but the marital peace probably did not run deep. Jean must have felt something ominous coming.

In late December 1946 Dr. Berni resigned his position,⁴⁰ and on New Year's Day 1947 he and Jean packed for Mexico where Berni planned to earn experience for a California medical license.⁴¹ While packing, Dr. Berni located his .22 target pistol, but not its cylinder. Where was it? Jean said she had hidden it, and she returned it to him.⁴²

Mrs. Berni needed more time to pack, and Dr. Berni said the delay would allow him to go to LA to visit his parents, but there was another reason to wait. The

³⁴ Bakersfield Californian Jan 3, 1947, p 7

³⁵ Ibid.

³⁶ Bakersfield Californian Apr 23, 1947. Reference to a subpoena in Kern County Criminal file 5173 indicates that Jean Berni accompanied Oscar Catalano to Fresno, and both of them stayed there overnight.

³⁷ Bakersfield Californian Apr 23, 1947

³⁸ Berni testified that his wife told him that the intimacies occurred at a Fresno hotel. Bakersfield Californian Apr 23, 1947

³⁹ Ibid.

⁴⁰ Bakersfield Californian Jan 6, 1947

⁴¹ Bakersfield Californian Jan 3, 1947. Berni practiced medicine under supervision of hospital physicians.

⁴² Bakersfield Californian Apr 23, 1947

Bernis had received a letter from Catalano asking them to meet him on January 2 at his office to go over the trolley case.⁴³

Dr. Berni had not confronted Catalano with Jean's confession, and his wife's words were eating away at him.⁴⁴ In a statement Dr. Berni made days after his arrest he said that after he learned of the affair, he could not think of anything else, and, moreover, he did not know what to do about it. He reflected, "I just felt like I was losing my mind."⁴⁵

In the very early morning hours of December 29 while Dr. Berni was returning by train from LA, he shared his anguish with a Los Angeles attorney named Lynn who was sitting next to him. Berni's revulsion at Catalano occupied several levels. Wasn't he, an intelligent, well-respected Bakersfield lawyer? Wasn't he obligated to preserve his professional distance from Jean Berni? "He knew my wife was upset at the time; therefore, I feel that it was his responsibility to use some will power to restrain his lust. I mean they allow plenty of houses of prostitution to operate in Kern County -- I happen to know because I ran the venereal disease clinic for six months -- and if he wished to satisfy his desires, there are plenty of prostitutes, without taking advantage of my wife while her mind was disordered."⁴⁶ Berni was also angry with Catalano for advising him that the interlocutory decree would have no legal weight if the Bernis lived together.

The train conversation was pivotal. Berni recalled, "I had told him how upset I was, and he said, 'I would castrate him,' and suddenly that seemed to be the solution. After that I was able to sleep alright."⁴⁷

Shortly after 12 noon on Thursday January 2, 1947, Dr. and Mrs. Berni entered Catalano's law office at the same time as the secretaries were leaving for lunch, and Mrs. Broome told them her boss was out.⁴⁸ About 1:15 the Bernis met him on the sidewalk in front of the Hopkins building, and together they went up to

⁴³ 1916 Chester Avenue

⁴⁴ Dr. Berni later said, "She told me that she and Oscar, at his persuasion, procured a hotel room and had had sexual intercourse. I have been grieving about this for the past three months." On Oct 3 and 4, 1946, Oscar Catalano and Jean Berni occupied rooms 408 and 412 at Hotel Californian at Fresno under the names Oscar Catalano and Frances Wilson or Frances Williams. A representative of the hotel was subpoenaed and testified at the trial. Kern County Criminal File 5173

⁴⁵ Kern County Criminal File 5173. Kern County Court House, Felony Records

⁴⁶ Ibid.

⁴⁷ Ibid.

⁴⁸ Bakersfield Californian Jan 3, 1947, p 7. Kern County Criminal File 5173

Catalano's second-floor office.⁴⁹ In later testimony, Dr. Berni said his wife had no idea what he planned to do.⁵⁰

When the secretaries returned at 1:30 they found both doors to Catalano's private office closed, and they heard angry voices from inside.⁵¹ They did not hear Dr. Berni accuse Mr. Catalano of having sex with Mrs. Berni, nor hear Berni block the doors with chairs, nor hear him threaten Catalano with the gun or order him to lie down on the desk,⁵² but Mrs. Broome distinctly heard Catalano cry out "Dan, cut that out!" followed by two shots.⁵³

Mrs. Broome forced open a door and saw Catalano on his back with his head resting against a filing cabinet and Dr. Berni seated at Catalano's desk holding a gun. Mrs. Berni was in a corner crying hysterically. Catalano cried out to Mrs. Broome, "Call a priest. I'm a goner."⁵⁴ She rushed to the telephone.⁵⁵

Attorney Schmidt was working in the next-door office when he heard the shots. He rushed into Catalano's office to find him on the floor and Dr. Berni seated at the desk, but this time Dr. Berni was pointing the gun at Schmidt. He ordered Berni to drop it. He didn't, and Schmidt retreated. Seconds later when he glanced back, he saw the gun on the desk and Dr. Berni holding the cylinder.⁵⁶ Catalano groaned, "Get my wife and children over here. I'm dying."⁵⁷

Dr. Frank . Gundry had an office in the building, and when he arrived he Rev. Father James A. Murphy was kneeling next to Catalano. Dr. Gundry was administering first aid when an ambulance arrived and transported Catalano to Mercy Hospital. Mrs. Broome comforted the terrified Jean Berni while she sobbed that she'd pleaded with her husband not to meet with Catalano.

⁴⁹ Kern County Criminal File 5173

⁵⁰ Ibid.

⁵¹ The other secretary was Miss Mary Joe Fahrendorg. Bakersfield Californian Jan 3, 1947, p 7. Bakersfield Californian Jan 17, 1947, testimony of Mrs. Broome

⁵² Bakersfield Californian Feb 7, 1947. Daniel Berni: "Today I went with her [Jean Berni] to Mr. Catalano's office, armed to perform a penetomy, p-e-n-e-t-o-m-y, on Mr. Catalano."

⁵³ Bakersfield Californian Apr 22, 1947. Kern County Criminal File 5173 notes that Dr. Berni fired four shots.

⁵⁴ Dr. Berni told police that his wife pushed the gun away from him before he fired. Kern County Criminal File 5173

⁵⁵ Bakersfield Californian Apr 22, 1947

⁵⁶ A removable cylinder was not uncommon in .22 revolvers.

⁵⁷ Bakersfield Californian Apr 22, 1947. At the time Mr. Catalano was shot, his wife was pregnant with their third child. Bakersfield Californian Jan 6, 1947

Dr. Berni accepted the fatality of what he had done. When police came into the room, Berni announced, "Here I am. I'm the man that did it."⁵⁸ Attorney Schmidt overheard Dr. Berni tell police detective Frank X. Berens, "If that's the way he practices law, this is the way I practice medicine." A medical bag containing surgical supplies, including anesthetic, was next to the chair where Dr. Berni had been seated.⁵⁹ Detective Harry Coughlin arrested Berni and charged him with attempted murder,⁶⁰ but Mrs. Berni was released.

The next day a jailer told a reporter that Dr. Berni was taking his confinement quietly, appeared to be in good spirits, and had mentioned that his IQ was 145.⁶¹ Dr. Berni had good reason to be confident; Morris B. Chain, Esq, a prominent, local criminal attorney, was defending him.

The next day's newspapers reported that Chain was debating whether or not Berni would waive his right to the preliminary hearing set for January 17.⁶² Mrs. Berni distanced herself from the press,⁶³ but when newspapermen visited Dr. Berni at jail, he talked.

Two days after the shooting, physicians operated for the bullet that entered Oscar Catalano's back and struck his spinal cord.⁶⁴

At the preliminary hearing moved up to January 6, Detective Harry Coughlin read testimony taken from Dr. Berni at the time of his arrest. The transcription showed that Berni had intended to conduct a mutilating operation on Mr. Catalano but had decided not to after firing the shots. Surgical instruments were presented into evidence, and Detective Berens identified them as those found in the bag next to Catalano's chair.⁶⁵ Dr. John Cowley, Catalano's family physician, testified that his patient would probably never walk again. Mrs. Berni was sitting next to her husband when he was formally charged with assault with a deadly weapon and assault with intent to commit mayhem⁶⁶ and was bound over to Superior Court.⁶⁷

⁵⁸ Bakersfield Californian Jan 3, 1947, p 7

⁵⁹ Bakersfield Californian Jan 3, 1947, p 7

⁶⁰ Ibid.

⁶¹ Bakersfield Californian Jan 6, 1947

⁶² Bakersfield Californian Jan 7, 1947

⁶³ Bakersfield Californian Jan 4, 1947

⁶⁴ Berni shot Catalano in the back.

⁶⁵ One was a box containing a medical device and labeled *Gomco Bloodless Circumcision Clamp*.

⁶⁶ Bakersfield Californian Jan 6, 1947

On January 21 Superior Judge William L. Bradshaw denied Mr. Chain's request for reduction of bail,⁶⁸ and three days later the paralyzed Oscar Catalano was sent home from hospital.⁶⁹ On the 27th Dr. Berni posted \$20,000 bail and reunited with his wife.⁷⁰



BAILED *Bakersfield Californian* Jan 25, 1947. 49-year-old former county health officer, front left, who shot and seriously injured Attorney Oscar Catalano January 2, leaves Kern County Jail

Left to right, Daniel Berni, Morris Chain, Jean Berni

Dr. Berni's parents hired attorney Wiley C. Dorris, and he joined Chain in the early-February 1947 court proceedings, where Chain showed top form.⁷¹ He did not contest the fact that Dr. Berni had brought a medical bag into Mr. Catalano's office, but the attorney did request Judge Bradshaw to set aside the charge of intent to commit mayhem. Chain based it on grounds that the state had not established reasonable or probable cause during the preliminary hearing and pointed out that Dr. Berni had not taken steps toward committing the overt act of mayhem. Challenging Chain, Assistant District Attorney Norman F. Main insisted that the initial testimony taken from Dr. Berni was in itself sufficient evidence to prove intent to commit mayhem. Judge Bradshaw took the point under consideration but did not change the

⁶⁷ *Bakersfield Californian* Jan 17, 1947

⁶⁸ *Bakersfield Californian* Jan 22, 1947

⁶⁹ *Bakersfield Californian* Jan 24, 1947

⁷⁰ *Bakersfield Californian* Jan 27, 1947. Equivalent bail in 2012 would be about \$300,000.

⁷¹ Mr. and Mrs. B.H. Bernstein probably also retained Morris Chain and posted their son's bail as well.

charges.⁷² On February 7 Berni pleaded not guilty to attempted murder and attempted mayhem.⁷³

Roderick A. Ogden, MD, wrote to the court on April 18th, "It is my opinion that Mr. Oscar Catalano, who is a patient of mine, would be affected detrimentally by an appearance in court. He has a complete paralysis from the lower thoracic region down and is unable to stand at all, can sit for only short periods of time, and must be moved at intervals of fifteen to thirty minutes while lying in bed. He has complete urinary incontinence... He has spasticity of many large groups of muscles which cause great distress in the chest and abdomen and also cause his legs to jerk."⁷⁴



First day of trial

The prosecution did not take a deposition from Mr. Catalano or from Mrs. Jean Berni, and neither of them was called to testify at the trial that opened in Judge Robert B. Lambert's court on Monday April 19, 1947. "A crowd of curious spectators

⁷² Bakersfield Californian Feb 5, 1947

⁷³ Bakersfield Californian Feb 7, 1947

⁷⁴ Kern County Criminal File 5173

is expected to jam the courtroom eager to hear the story of Dr. Berni who assertedly shot the attorney because he believed him a rival for the love of his wife."⁷⁵

The following review of the case in *Statement of the Judge* was not mentioned in the Bakersfield Californian: "The Defendant and the attorney continued to be friendly, and the evidence tends to show and probably is a fact, that the Defendant's recently divorced wife and the attorney Oscar Catalano had sexual intercourse in a hotel in Fresno..."⁷⁶

Dr. Berni remained quiet and unemotional during jury selection, but later in the day his face turned red when Mr. Chain stated that some evidence to be offered by the defense would reveal intimacies between the doctor's wife and Mr. Catalano. Dr. Berni removed his dark glasses and wiped his eyes with a handkerchief.⁷⁷

Chain announced he would call two character witnesses, but that did not happen.⁷⁸ On February 23, Dr. Berni testified, contrary to the statements he made at the time of his arrest, "I never intended to harm Catalano physically. As God is my judge, I didn't. I did not intend to kill Catalano; I did not intend to perform a mutilating operation on him. I did not intend to have my wife help me. I only wanted to make Catalano afraid-- to show he was weak. He was ruining our lives. I intended to make him beg for mercy and let him off after proving him to be a coward."⁷⁹

Berni testified that his wife tried to grab the gun away from him, but he pushed her away and then told Catalano that he was going to operate on him. Catalano refused to lie down and moved toward the doctor saying, "I won't do it! You're a fool. Think of you mother." Berni recalled what went on in his mind at that

⁷⁵ Bakersfield Californian Apr 19, 1947

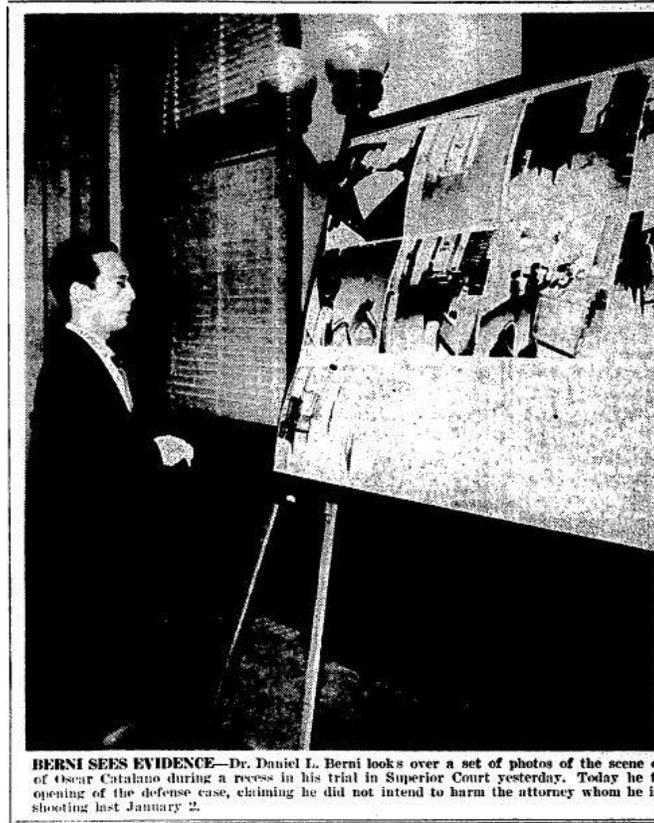
⁷⁶ Kern County Criminal File 5173. That purportedly happened during the 12 month period of the interlocutory divorce decree.

⁷⁷ Bakersfield Californian Apr 22, 1947

⁷⁸ Bakersfield Californian Apr 22, 1947

⁷⁹ Bakersfield Californian Apr 22, 1947

moment: "As he advanced I thought he would kill me. ⁸⁰ I was afraid and fired at his wrist."⁸¹ He whirled, fell to the floor and cried, "I'm a goner. Get me a priest." Berni phoned for an ambulance, disassembled the gun, and told Catalano's law partner to call the police."⁸²



Bakersfield Californian April 23, 1947

Jean Berni was absent on the fourth and last day of the trial, and she missed Mr. Dorris's impassioned, 90-minute explanation about how Mr. Catalano had not only broken up the Berni home but had also broken up his own, too. ⁸³ Dorris justified Dr. Berni's actions by the "unwritten law," as he called it, which allowed a man the right to kill in order to defend his wife. Dorris urged the jury to free Dr.

⁸⁰ Bakersfield Californian Apr 22, 1947

⁸¹ Catalano was also shot in the wrist. Berni mentioned firing only the first shot.

⁸² Bakersfield Californian Apr 22, 1947

⁸³ Ibid. The newspaper did not explain the statement.

Berni and "serve notice to everyone that Kern County believes in defending its homes."⁸⁴

Mr. Chain's conclusion focused on the three months prior to the shooting. Dr. Berni had suffered "the tortures of the damned,"⁸⁵ said Chain, and had been under intense emotional strain "not to be confused with insanity."⁸⁶ Mr. Chain depicted Dr. Berni as an idealist, a knight in a modern period, and a man whose ideals were so high that he did not belong in "our kind of life."⁸⁷ Chain declared, "Dr. Berni went up to Catalano's office to fight for the love of his woman and had to regain the love and respect of his wife."⁸⁸ The attorney entreated the jury to return Dr. Berni to his child-care work.



WEIGH BERNI EVIDENCE—The case of Dr. Daniel L. Berni, accused of attempted murder and mayhem in the shooting of Oscar Catalano, today went to the jury of eight men and four women picture. They are (left to right, front row) Thomas Ross, F. W. Munzer Handell, Edgar Odell, Jr., Mrs. Mary Priest, Mrs. Mae G. Paynter, Miss Dorothy M. Bitner; back row, Vernon L. Stafford, Mrs. Margaret L. Lowell, William S. Hunt, Hollis B. Roberts, Charles V. Anderson and Edmund Parsons.

Bakersfield Californian April 24, 1947

Assistant District Attorney Main concluded that Catalano had not broken up a "happy home" because "the Berni home had already been broken by divorce action."⁸⁹ Mr. Main advised the jury that they must vote guilty because "you couldn't permit a little man to run around with a gun shooting people in order to assert himself."⁹⁰

Judge Lambert condensed the case: "As the evidence shows he conceived the idea that Catalano should suffer for what he had done to his wife, not only as to

⁸⁴ Bakersfield Californian Apr 22, 1947. Kern County Criminal File 5173 contains references to case law which show that Dorris's interpretation was wrong.

⁸⁵ Bakersfield Californian Apr 22, 1947

⁸⁶ Bakersfield Californian Apr 19, 1947

⁸⁷ Bakersfield Californian Apr 22, 1947

⁸⁸ Bakersfield Californian Apr 22, 1947. (Exact quote)

⁸⁹ Ibid.

⁹⁰ Ibid.

the sexual affair, but also that he had not given him good advice about the divorce proposition, and according to his original confession, a copy of which is attached hereto – at the trial he testified that his confession which he gave not only to the police department, but to several newspaper reporters, was a fabrication and that he had in fact not intended to either castrate him or perform a penectomy, and all he want to do was make him beg for mercy, and he had his wife with him at the time, because as he said he was a small man and he figured he could not make any impression without a gun.”⁹¹

He instructed the jury that they could find Berni innocent, or they could find him guilty of one of the two charges against him: Assault with a deadly weapon with intent to commit murder, or assault with a deadly weapon and assault with intent to commit mayhem.⁹²



Left to right, Dorris, Berni, Chain
Bakersfield Californian April 25, 1947

⁹¹ Kern County Criminal File 5173

⁹² Bakersfield Californian Apr 22, 1947

At 4:45, after 2-½ hours of deliberation, the jury filed back into a tense courtroom. Court Clerk Ray Vercammen opened the envelope, and Dr. Berni “flushed deeply” when he was found guilty of assault with a deadly weapon but absolved of the charge of mayhem. Judge Lambert addressed the jury, “I think you decided the case exactly right.” Dr. Berni said to the Judge, “I think I have had a fair trial, your honor.” He was handcuffed and removed from the court, and on Monday, Judge Lambert remanded Daniel Lee Berni to San Quentin Prison for an indeterminate sentence of one to ten years.⁹³

Oscar Catalano was confined to a wheelchair for the rest of his life, but he continued to practice law and support the Bakersfield community.⁹⁴ He sponsored activities for Employ Physically Handicapped Week, and in 1954 while he was chairman of the Kern County Committee for the Physically Handicapped, Governor Goodwin Knight nominated him for the Dwight Eisenhower award that recognized those who advocated for the physically challenged.⁹⁵ In 1966 the Kern County Bar Association honored Oscar Catalano at its Annual Law Day Dinner,⁹⁶ and that year he moved to Santa Barbara where he continued to lawyer on a part time basis.⁹⁷ In 1971, 61 year-old Oscar F. Catalano died of heart failure at his Santa Barbara home.⁹⁸

While Daniel Berni was in prison his wife divorced him, and Massachusetts revoked his medical license.⁹⁹ In August 1948 Berni was released from San Quentin to parole. He found work as a paramedic in LA and in 1952 was released from parole.

Here ends the Kern County story of the People vs. Daniel Lee Berni. His personal and professional life continued tumultuous for many more years, but he eventually found peace and a lasting, professional position.

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⁹³ Bakersfield Californian Apr 25, 1947. His sentence was set at seven years. He served 16 months as prisoner A-6184 at San Quentin and was paroled in Aug 1948 and served 2-1/2 years on parole. Kern County Criminal File 5173, Adult Authority letter dated Aug 10, 1948. Berni’s license to practice medicine in Massachusetts was revoked Nov 13, 1947. Miami Post News Feb 5, 1956

⁹⁴ Bakersfield Californian Mar 17, 1971

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Ibid.

⁹⁸ b. May 12, 1909, d. Mar 17, 1971

⁹⁹ Montana (Butte-Anaconda) Standard Jun 18, 1957. The article suggests that Berni fled to California in 1945 to avoid prosecution in Massachusetts.