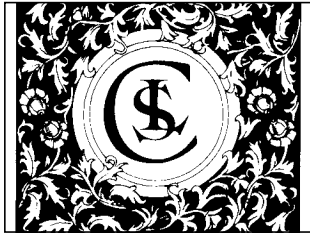


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# Bulletin





# Bulletin

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- 32      Recent Contributors

**Front Cover:** The “Boy Aviator” Art Smith with his hero, Buffalo Bill Cody at the 1915 Panama Pacific International Exposition, San Francisco.

**Back Cover:** Defendant Caryl Chessman was photographed studiously reading a book in what is likely a courtroom setting. See the lead article starting on page 2.

**Illustrations / Photos:** Pages 2-9 California History Section; pages 10-11, courtesy of the Edward Bates family; page 12, courtesy of Shahera Hyatt; pages 14-27, California History Section; pages 28-29 Angelica Illueca, Sutro Library.

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# The Caryl Chessman/ Rosalie Asher Collection

by Mike Dolgushkin

{ He was never charged with killing anyone.



This is Caryl Chessman at a very early age, riding on his father Serl's shoulders in Glendale, California. No one could have possibly known what lay in store for the happy youngster.

Caryl Chessman was a household name when he died in San Quentin's gas chamber on May 2, 1960 after having lived on Death Row for twelve years. His case served as a lightning rod for a worldwide anti-death penalty movement. He became an acclaimed author for writing four books while behind bars, the text of some of which had to be smuggled out of prison. He became something of a legal expert by representing himself during the course of his original trial and subsequent appeals, and helped his fellow inmates in the preparation of their cases. However, many considered Chessman an arrogant sociopathic deviant who gamed the system to avoid what he so richly deserved. But the fact remains that he was convicted of, and executed for, charges that had nothing to do with killing anyone.

And few people remember him today.

Even though Chessman basically acted as his own attorney, several lawyers advised him during his original trial and subsequent appeal attempts. Among them was Rosalie S. Asher, a Sacramento native, who was the first woman to graduate from the McGeorge School of Law. Asher became involved in Chessman's legal issues in August of 1948, at which time she was the

Sacramento County Law Librarian as well as a practicing attorney. She and Chessman became close friends during their twelve year association, and he named her executor of his estate. She received all of his possessions after his execution, which she donated to the California State Library in 1996. This voluminous collection of materials has been formally processed and cataloged, and is now available to researchers wishing to determine the facts and meaning behind one of the most emotionally charged and downright confusing legal cases of the twentieth century.

Carol Whittier Chessman (he changed the spelling of his first name while in grade school) was born in St. Joseph, Michigan, on May 27, 1921. An only child, he and his parents moved to Southern California when Carol was barely a year old. In about 1937, Chessman, while still a teenager, turned to a life of crime. After a stint in reform school, he assembled a group of his fellow graduates and began robbing bordellos and bookies. At that time, the Los Angeles Police Department (LAPD) was notoriously corrupt, and some of its members received payoffs from many of the operations Chessman and his cronies targeted. He entered San Quentin for the first time in 1941.

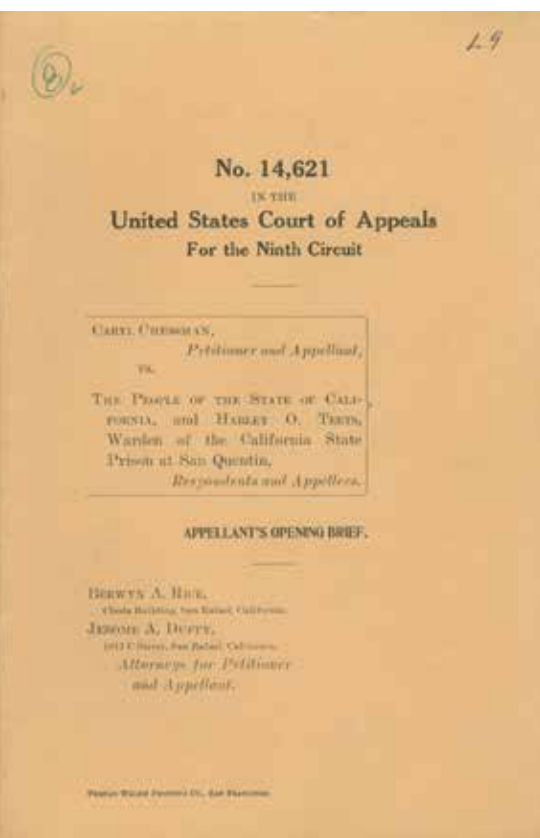
Paroled in December 1947, Chessman returned to Los Angeles and resumed his previous ways, which local law enforcement took note of having not forgotten



## EDITOR'S NOTE

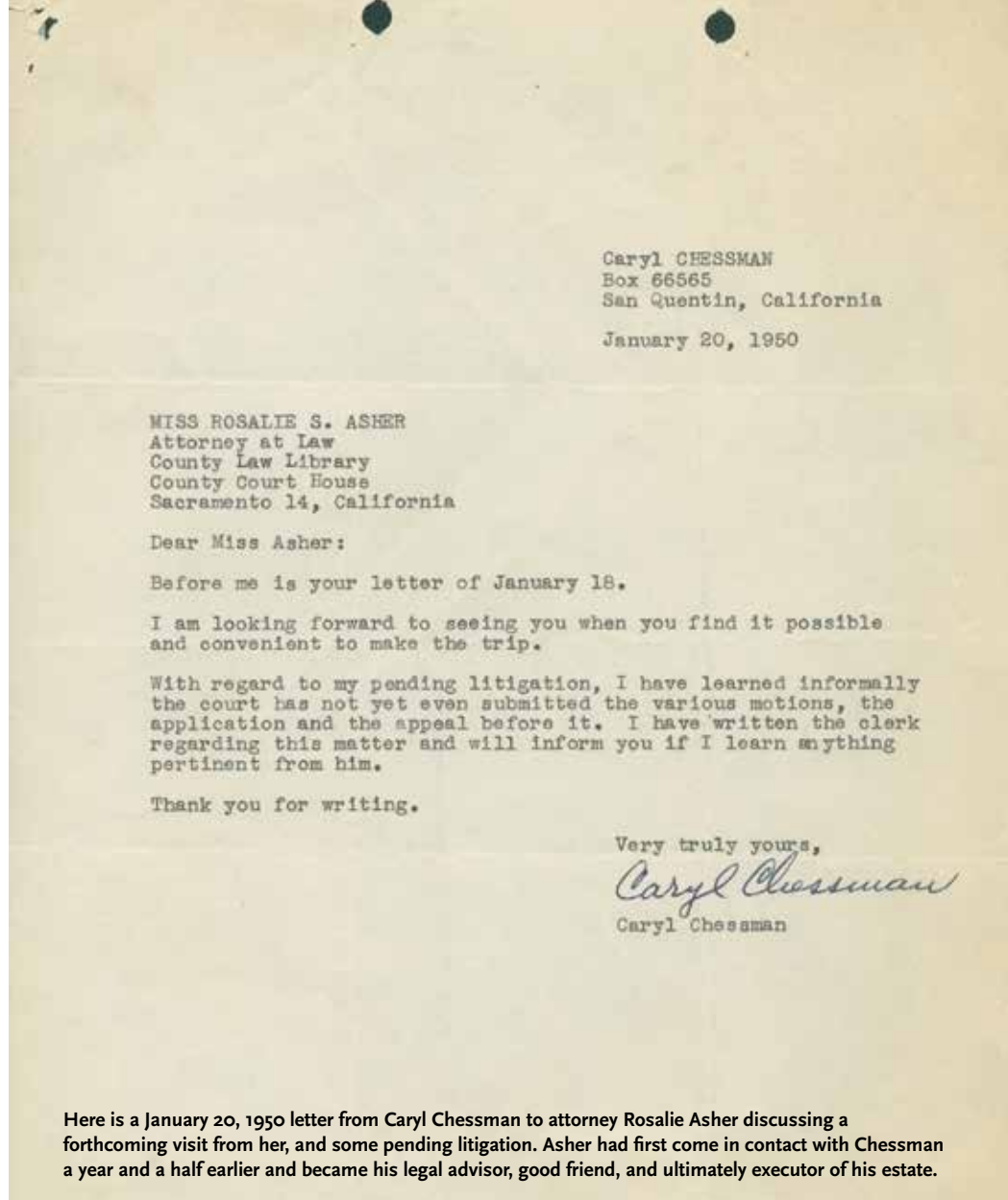
Michael Dolgushkin is curator of manuscripts in the California History Section of the State Library. He is a frequent contributor to the *Bulletin* and an expert on the history of San Francisco.





As part of the Chessman-Asher collections voluminous amount of legal documents, we see the cover of the Appellant's Opening Brief for *Caryl Chessman vs The People of the State of California, and Harley O. Teets, Warden of the California State Prison at San Quentin*, one of Chessman's numerous attempts at securing a new trial. Dated January 20, 1955, this brief summarizes in detail why the appellant should not have been denied his Petition for a Writ of Habeas Corpus.

his attacks on their sources of income. At the time, a number of sex-related crimes plagued the Los Angeles area, among them several attributed to "The Red Light Bandit," who pulled over or approached individuals with a red light attached to his car, hence masquerading as a police officer. In two of these instances attempted rape occurred. Whether these "red light" crimes were all the work of the same individual is still a matter of speculation, but on January 23, 1948, Chessman and one of his accomplices were arrested after a high-speed car chase. The police held him on the "red light" crimes after the two attempted rape victims identified him as their assailant. Once again, the reliability of these identifications is still the subject



Here is a January 20, 1950 letter from Caryl Chessman to attorney Rosalie Asher discussing a forthcoming visit from her, and some pending litigation. Asher had first come in contact with Chessman a year and a half earlier and became his legal advisor, good friend, and ultimately executor of his estate.

of debate, and at least one crime fitting the "red light" modus operandi occurred after Chessman's arrest. But, as one theory goes, the LAPD needed someone to pin a number of unsolved crimes on, and Caryl Chessman was their man.

Chessman's trial, to his misfortune, took place in the courtroom of Charles C. Fricke, a notorious "hanging judge" who had sent more people to San Quentin's gas chamber than any other justice. Chessman's insistence on representing himself did not sit well with Fricke, and only bolstered the defendant's reputation for arrogance. Not surprisingly, he was ultimately convicted on seventeen counts of robbery, kidnapping, and rape. Under Section 209 of the California Penal Code, known as the

"Little Lindbergh Law," the transportation of the two women from one car to another for the purpose of rape qualified as "kidnapping for the purpose of harm," a capital offense, and on May 21, 1948, the jury returned with a death sentence on those counts (as recommended by Fricke).

The Chessman-Asher collection contains the legal papers of the original trial and subsequent appeal attempts. Chessman, who readily admitted being a thief but claimed innocence of the "red light" crimes to his dying day, did not base his appeal attempts on his innocence but rather on improper trial procedure. Not only did he not receive a daily transcript of the proceedings (as decided by Fricke), but the trial's court reporter, Ernest R. Perry, died before com-

To Cayle Chessman  
 who I think may  
 enjoy parts of  
 this book, particularly  
 pages 337-358 —  
 I wish you luck  
 Norman Mailer  
 March 1960

(Above) Numerous celebrities and world-renowned figures rallied to Chessman's defense. Among them was author Norman Mailer, who made a personal gift to Chessman of his book *Advertisements for Myself* and inscribed it as seen here. The page numbers he refers to are for the chapter titled "The White Negro: Superficial Reflections on the Hipster." While Chessman would not have described himself as a "hipster," those in the flourishing Beat and other bohemian scenes could certainly identify with his status as an outsider.

(Right) The Chessman Asher collection contains numerous examples of Chessman's handwritten notes during the preparation of his appeals. This one made sure that everything was worded and spelled correctly, and discussed the motives of prosecutor J. Miller Leavy.

see pp. 111-112 (the governor doesn't want me, disagree with other matters)  
 original to call for appeal  
 in D file a 1B-1-2 + 3 in West case 124-125-114 original of the papers  
 exhibit Walker 136  
 P-1+0-2

Pre-hearing

P 21	£ 16	typo "retently" should be "reently"
P 25	£ 22	"if" <sup>omitted</sup> "between" and "and the"
P 29	£ 1	last word should be "prospective" not "respective"
P 39	£ 11	word same "should be" safe
P 50	£ 24	word "so" should be "and"
P 64	£ 6	typo "gaged" should be "ganged"
P 90	£ 18	delete last "he"
P 122	£ 10	"Houston" should be "Houston"
P 122	£ 11	"Controversial" should be "Controversial"
P 142	£ 1	"you" should be "you"
P 172	£ 12	"is" should be "it"
P 180	£ 26	"I" should be "it"
P 207	£ 15	typo - "deligently" should be "deligently"

by cross-examining Leavy  
 Leavy says he doesn't want to tell me who his court-appointed expert is 149-150  
 but he admits see 151  
 Leavy said he wanted to be present when reporters appeared 157

pleting the full transcript. A man named Stanley Fraser was hired to finish the task. Not only was Fraser the undisclosed uncle by marriage of prosecutor J. Miller Leavy but was also a chronic alcoholic who had been arrested numerous times since 1940, which called his ability to transcribe Perry's shorthand notes into question. Chessman thus based his motions for a new trial on the absence of an adequate record of his first trial, which was seen by many as his gaming the system by taking advantage of loopholes in the law. After all, if Chessman was innocent as he claimed, then why was

he basing his appeal on procedural matters rather than the facts of the case? Ultimately, the courts ruled that an adequate record had been made of Chessman's original trial, despite some testimony to the contrary. His conviction was therefore allowed to stand. Another aspect of Chessman's incarceration that attracted worldwide attention was his authoring of four books while on Death Row: the autobiographical *Cell 2455*, *Death Row* (1954) followed by *Trial by Ordeal* (1955), *The Face of Justice* (1957) and *The Kid Was A Killer* (1960). The last named book, a novel, had been confiscated

by San Quentin warden Harley O. Teets in 1954 on the basis of its being "prison labor," but was returned to Chessman three years later. Indeed, during his writing ban, Chessman and his fellow prisoners developed some ingenious methods of smuggling his texts out of prison. But most importantly, these books revealed Chessman as an intelligent man, unlike the popular conception of a Death Row inmate, and their subject matter dealt seriously with the topics of incarceration, rehabilitation, and prison reform. These books presented proof to many that here



In this photo Caryl Chessman is seen walking handcuffed down a hallway in a San Francisco courthouse on February 2, 1960 during one of his numerous hearings. One wonders if the man standing by the wall realized who was passing him.



2-2-60