

Get Me Ellis Rubin!

By Ellis Rubin and Dary Matera

Introduction

When I was thirteen years old, growing up in Binghamton, New York, I summoned up the courage to go on a camping trip with my Boy Scout troop. I wasn't afraid of being out in the woods at night. It was the thought of being with a group of people that terrified me. I had a severe stammering problem, and kids sometimes made fun of me. I decided to go on this outing because I knew there'd be at least one person I could spend time with. He was my best friend and had never been put off by my handicap. His father owned a meat market a block away from where my father operated an Army/Navy store. We were about the same age and had been friends for years.

My friend was unusual in his own way. He had a strange and wonderful imagination. As we sat apart from the other campers, in the dark of the woods, alert to the spooky night sounds, my friend began telling stories. He spoke of life on other planets and had some delightful views on the types of beings he imagined would be found there. He talked about traveling to these worlds, time travel, ghosts, and the possibility of freezing time. He told me about extra-sensory perception, the meaning of dreams, reincarnation, and being able to read minds. My friend had an endless string of "what if" stories to tell, and I was spellbound.

He wanted to be a writer, and I was certain he would

succeed.

My best friend's name was Rod Serling. He became the writer he dreamed of being, and more. As the creator of the television show, "The Twilight Zone," Rod became one of the most influential mystery and science fiction minds in history. I can't describe how it felt, and how it still feels, to turn on a television and see one of Rod's engrossing campfire stories come to life.

Back then, I was so certain that Rod would attain his dream that I was almost too embarrassed to tell him mine. I wanted to be a defense attorney like Clarence Darrow and Sam Leibowitz. I read everything I could get my hands on about them, including transcripts from their trials. I spent hundreds of hours alone at the library, imagining myself as a golden-tongued attorney pleading sensational cases before juries. But I was a stammerer. I could never be like Clarence Darrow and Sam Leibowitz until I overcame my speech impediment.

"You'll make it," Rod would say, never once laughing with the others or discouraging me. "Don't worry. The stammering will go away. You'll be a great lawyer one day."

When I was down over my inability to speak, Rod would cheer me up with a tale about an attorney defending a three-eyed creature from another planet. I'd laugh and feel better. His confidence gave me a boost.

Incredible as it sometimes seems, I did attain my dream of becoming a trial lawyer. It wasn't easy. I labored

to overcome my stammering and stuttering and made great strides, but I still had the problem when I graduated law school. It was preposterous to think a stammerer could perform in a courtroom. I conceded as much and intended to return home, help my father run the Army/Navy store, and then branch into legal research or another area where I could hide behind a desk and silently make a living.

I was thoroughly depressed when I sank into my chair at the 1951 University of Miami Law School commencement. I had come so far, but ultimately had lost. When I looked up, I couldn't believe my eyes. There at the podium stood Sam Leibowitz! He was the keynote speaker. Leibowitz was the famous New York attorney who went to Alabama to save the lives of nine black men falsely accused of raping two white women in the classic "Scottsboro Boys" case. I knew the transcript by heart.

Leibowitz gave an unforgettable speech that afternoon. Full of conviction, he told us that defense attorneys were the key to keeping America free. He said the protective ideals of the U.S. Constitution and the Bill of Rights were constantly under attack. The "authorities" were chipping away at the right to a fair trial, presumption of innocence until proven guilty, unreasonable search and seizure, and proof beyond a reasonable doubt. He warned us that the old guardians like himself were dying out, and without a new generation to take up the fight, America would succumb to a re-emergence of robber barons and torture chamber

confessions. The average man and woman would be stripped of their dignity and liberty, and would be legally and economically enslaved. Leibowitz challenged us to take the torch he was passing, become defense attorneys and protect America.

It was as if he was speaking directly to me. I wanted to leap out of my seat, grab the flaming torch I imagined him holding, and charge into the first courtroom I could find.

Because of Leibowitz's speech, I decided to remain in Miami and become a defense attorney -- stammering or no stammering.

Shortly afterward, I got my first case. A black man named Henry Larkin had shot and killed a man in the hallway of his apartment building. He was charged with murder. Larkin said the man had come after him with a knife. In those days, there were no public defenders. Everyone was on their own. Groups of young attorneys used to mill around in court, laugh at all the judge's jokes, volunteer for cases and hope to be appointed. I was hanging around the courthouse when someone told me about Larkin. I went to the jail. He nearly cried when I offered to represent him.

The day before the trial, my first trial, I read in The Miami Herald that Leibowitz, then a New York judge, was back in town for another speech. I found out where he was staying and went to his hotel.

"Mr. Leibowitz," I stammered, standing paralyzed at

his door, case file in hand. "I was in the audience when you gave the ca, ca, commencement address here. I became a defense attorney because of what you said. Now I'm facing mm, mm, my first case tomorrow. Can you give me some help?"

It was an incredible intrusion, and I must have been one pathetic sight. Leibowitz just smiled and invited me in. He then proceeded to outline my entire defense. He raised his eyebrows everytime I tripped over a word, but never said a thing about my speech impediment.

The next day, I stood before twelve people in a court of law. The life of Henry Larkin was in my hands, or more precisely, in my misfiring mouth. Only instead of fear, something strange came over me. I felt taller and stronger, and for the first time in my life, I was confident. My own troubles vanished and were replaced by the far greater problems of Henry Larkin. He was a good, honest man who had never broken the law in his life. It was up to me to convince a jury that he had acted in self-defense and shouldn't be sent to the electric chair.

I talked for hours that day, remembering everything Sam Leibowitz taught me and pleading in every sense of the word for the man's life. I was raw and unskilled, but enthusiastic and determined.

The jury was out three minutes. When they returned, the judge joked, "What took you so long?"

The foreman, a local newspaper columnist name Jack Bell, joked back, "We had to take a cigarette break to make

it look good."

The verdict was not guilty.

Henry Larkin hugged me and broke down in tears. A newspaper reporter was in the courtroom and wrote a story the next day about the green young attorney saving the black man's life.

But there was one thing the story didn't mention. I hadn't stammered once during my entire argument.

I hardly ever did again.

I tried to call Sam Leibowitz, but he had left town.

Needing to share my multifaceted victory with someone, I called Rod and told him about "the miracle" of my untangled tongue. He was elated. Then he grew serious.

"Ellis, it's a sign!," he proclaimed. "You've found your place in time. You were destined to speak for the innocent and oppressed. Never forget that!"

Rod was quick to see some unexplained universal phenomenon in practically everything. In his eyes, what happened to me could only have happened in "The Twilight Zone." Actually, stammerers and stutterers have been known to lose their handicap in similar situations. Country singer Mel Tillis is but one example. Still, who can say? Some of us like to live in a world where everything has a clear-cut explanation. Others, the more romantic among us, prefer Rod Serling's landscape where anything is possible. As an attorney dealing with facts, figures and provable documentation, I should be steadfastly entrenched in the

physical world. In reality, I often wander into that other, more interesting place.

For whatever reason, Rod's words have stayed with me throughout my life.

During the past thirty-eight-years, I've been in more than two thousand trials, including two hundred-seventy-five first degree murders. New cases come in every week. And I've discovered that truth can sometimes be stranger than even Rod Serling's fiction.

I've also tried to do my best to defend the "poor and defenseless" that Sam Leibowitz said was my primary function. Some people, including my wife, feel I've overdone it. I spend a great deal of time on what is known as "pro bono" cases. That's legalese, meaning "for free." A state prosecutor once stood in court and described my clients another way -- "Rubin's Riffraff."

Actually, I've had my share of wealthy clients, including celebrities, rich businessmen, doctors and a billionaire Arab oil sheik. The "riffraff" waiting in my office don't seem to frighten them away. Some people say the problem is that I can't say no. That's part of it. Each time someone in deep trouble walks through my door, anguished, often crying, and always desperate, it's hard to turn them away.

Payment can come in many forms. A handshake. A hug. A baby's smile. A holiday card. A birthday cake. A home-cooked

meal. A friendly face in court. A picketer carrying a sign outside a jail.

Henry Larkin, my first client, came by every Friday for the rest of his life and handed me an envelope with a five dollar bill in it. Never missed a week. Even when I told him to stop, he kept coming.

What my critics, and even my clients don't realize is how much these people have given back to me. Over the years, I've been fortunate enough to be a part of some major court proceedings. Precedents were set, lives were dramatically altered, and in a small way, history was changed.

It's been exciting. In the following pages, I'll take you from the back of the courtroom to a seat beside me at the defense table. You'll experience the strategy sessions, the involvement of the media, and the mental combat of the trial. In a few cases, we'll even pierce the sanctity of the judge's chambers and the jury room. Sometimes, we'll go even farther. We'll accompany the accused through the day or evening of the crime, trace the arrest, and visit them in jail.

As for the part I played in all these cases, I'd like to think that I've made my campfire buddy Rod Serling, and my mentor Sam Leibowitz, proud.

Chapter 1

Five Nickels

PART I

Charles Wesley Johnson had two great weaknesses -- red wine and older women. He combined the two to lead a life of luxury and debauchery. Charlie was faithful to the wine, and unfaithful to the women. That was his downfall.

But what a sensational fall it was. On Thursday, April 17, 1952, Charles Wesley Johnson pulled off one of the most memorable crimes in Florida history. The newspapers called it the work of a crack gang of criminal geniuses who had planned and carried out their scheme with split-second precision.

It was nothing of the sort. It was merely Charlie Johnson, five nickels, a bottle of wine, a public telephone, and a streak of blind luck.

I first saw Charlie standing in a line of prisoners at the twenty-five-story Dade County Courthouse. At the time, the courthouse was the tallest building south of Jacksonville, a city four hundred miles away. Charlie's cell was on the top floor, up where a family of turkey buzzards from Hinckley, Ohio had ominously taken up winter residence

upon the gray stone building's stepped, pointed roof. (To this day, their descendants arrive from Hinckley each fall.)

Charlie was the only white man in the group that morning. Judge Ben Willard took special notice. Everyone took special notice of Charlie. He was thirty-three, six-feet tall, about 145 pounds, deeply tanned, movie-star handsome, meticulously dressed, and had perfect manners. His hazel eyes and light-brown, sun-streaked hair were set against a dignified patch of gray at his temples. Charlie also proved to be well-read and articulate. He spoke with a peculiar accent similar to that of Cary Grant. Like Grant, he appeared to be an aristocratic foreigner from a land far more romantic and sophisticated than America.

Charlie had ended up in such an undignified place because he had grown tired of his latest romantic interest and wheeled out of her life in the woman's black Rolls Royce. He didn't wander far. He went joy riding around unhurried Miami, hitting all his favorite seaside bars, sipping wine under the thatched, sabal palm roofs and running up big tabs which he couldn't pay, but could always talk his way around. He gave practically everyone in town a ride in the Rolls, shuttling groups back and forth from the inland bars clustered downtown, over a causeway lined with banyan trees and royal poincianas blooming fiery orange, to the beaches, which were then covered in waves of tall, sea oat grass instead of wall-to-wall hotels and condominiums. The fun lasted a week or so until the Miami police caught up

with him. They confiscated the car and gave Charlie a room with a great view and a chance to study the big, black scavenger birds up close.

"What brings you here?" Judge Willard asked.

"I stole a car," Charlie answered.

"How do you plead?"

"Guilty, I guess," Charlie said.

By now, Judge Willard was starting to take a shine to Charlie.

"Now wait a minute, Mr. Johnson," the judge lectured. "This is a serious crime. You could get ten years. Are you sure you want to plead guilty?"

"Okay, not guilty," Charlie said.

Judge Willard laughed. He then asked Charlie if he wanted to be tried by judge or jury.

"Your honor," Charlie said, dripping with respect. "You appear to be a man of the utmost honesty. I would be happy to have you hear my case."

Judge Willard looked over at the gaggle of young attorneys hanging around the court trying to get cases.

"Anybody want this one?"

I immediately stepped forward.

"Okay, lawyer," the judge said. "You go upstairs and talk with your client. The trial will begin at 1:30."

Talk about speedy trials. It was a little after ten, and I would have to be in court trying the case in less than four hours. But that's the way it was in those days. Miami

was somewhat of a sleepy tourist town then, and hard as it may be to imagine today, there wasn't much crime.

Charlie and I talked in the jail's unventilated visiting area. He told me he was a radio engineer, and had been a radio operator in the merchant marine for five years during World War II. I was a Naval reserve officer, so we had something in common. Charlie had wanted to join the Navy, but he was color blind and had been rejected -- a handicap that I noticed didn't hinder the selection of his beautifully matched slacks, shirt and sport jacket. He was born in Spokane, Washington, attended Jesuit Gonzaga University -- Bing Crosby's alma mater -- and had been the First Cellist with the Spokane Symphony Orchestra. He had married and divorced twice, and had three children living with his second wife. Charlie's father was a wealthy dentist, and Charlie had attended medical school in Mexico where he learned to speak Spanish fluently. A wanderer by nature, Charlie spent a year exploring Indochina, Burma, Malay, and India before joining the merchant marine.

Charlie said he hadn't worked in years. He explained that his considerable needs had been provided through "the kindness of lonely widows." His territory was the aptly named Gold Coast of Florida, the real estate-rich coastal area that extends down U.S. 1 from Palm Beach to Key West. Then, as today, the Gold Coast was teeming with rich widows left with the fortunes their husbands worked themselves to death to acquire. For Charlie, it was paradise.

Almost. After a few years, he found that his tolerance for older women was waning, and the life of idle tropical luxury had grown boring. Thus, he had jumped into his latest keeper's chariot and set a course for wine and adventure.

"Call the car's owner," he told me, outlining his defense. "Tell her I'm sorry. Tell her I'll go back to her if she drops the charges."

He winked at me and said, "Be sure to tell her that I love her."

I called. A woman with a soft voice answered. I relayed what Charlie had said. I told her that he loved her. She was very happy. She didn't want Charlie to go to jail.

"I love Charles very much," she confessed. "Is he all right?"

"He is at the moment, but jail is a terrible place. Especially for a man like Charles," I said.

"Oh no! I'll be right down," she said.

She arrived within the hour. She was a lovely woman in her mid-fifties draped in a flowing, ivory linen day dress topped by a blue, wide-brimmed hat that matched the silk sash around her waist. Her hair was dyed blonde with not a dark root in sight. Her skin was kept as smooth as humanly possible by the best creams and facials money could buy. As she entered the musty jail, a wave of \$50-an-ounce perfume cut through the air and freshened the entire room.

Charlie had asked me to warn him when she arrived so he could return to his cell. As always, he knew what he was

doing. The woman cried when she saw her poor Charles trapped behind the rows of black bars. She demanded his release into a conference room with an authority that jerked the jailer into action.

They had an emotional reunion.

We entered the court at 1:30 sharp. The woman informed Judge Willard she was dropping all charges. The judge asked her if she knew what she was doing. She responded with a look that frosted the judge's eyebrows. End of discussion.

I watched Charlie and his lady walk hand-in-hand out of the courtroom. They left in the black Rolls. Charlie was driving. He waved to me as he drove off.

All seemed right with the world.

The next time I saw Charlie Johnson was a few weeks later. I didn't exactly see him. I saw his picture. It was on the front page of The Miami Herald under a headline of the size and blackness I hadn't seen since World War II ended. The story described Charlie as the leader of a gang of kidnapers, who, in a masterful plot, had taken the son of one of Miami's richest and most well-known families, then released him for a sizable ransom. The state attorney was on record promising that Charlie and his cerebral cohorts would be caught and sent as quickly as possible to the electric chair.

I was stunned. Good Time Charlie was the leader of a gang of cutthroats?

The ink had barely dried on the newspaper when I heard

on the radio that Charlie had been apprehended in Cuba by the Cuban secret police. There were more headlines. When Charlie arrived at the Miami International Airport nine days later, Channel Four, the only television station in Florida, sent its brand-new news crew out to capture the historic event. Fresh-faced reporter Ralph Renick was there with a crew carrying one of those bulky old cameras and a portable tape recorder. I didn't own a television set so I rushed over to a department store, fought off the salesman and waited for the news.

Sure enough, there was Charlie. Despite being handcuffed and surrounded by burly police officers, he looked as dapper and nonplused as ever. Clad in a yellow shirt with big blue flowers, a light tan sport jacket, mustard-colored slacks, brown and white oxfords and dark sunglasses, and with his tousled hair blowing in the light breeze, he photographed like a Hollywood star. Renick, who would later gain a few pounds and become the white-maned dean of Florida broadcasters, pushed his way in as close as he could get. Charlie walked over, looked into the camera, leaned toward the microphone, and said in his best Cary Grant voice:

"Get me Ellis Rubin!"

I nearly fell over. Here was Public Enemy Number One calling out my name for all the world to hear. I rushed to the courthouse and was immediately ushered in to see my client. The place was packed with police officers,

prosecutors, FBI agents and reporters. Charlie was under heavy guard. Everyone was tense. The guards no doubt expected that any second the rest of Charlie's gang was going to burst through the brass doors in a blaze of machine gun fire.

Like the guards, I too was nervous. Only instead of a rescue squad, I feared that a lynch mob might be forming.

"Good to see you, Ellis," Charlie said, eyes twinkling brightly. "I see you got my message. I'm in a bit of a spot here."

I was amazed. Here he was, a few months away from a possible date with the electric chair, and he was as cool as ever. I escorted him into an interrogation room. Two guards tried to follow us inside but I screamed out some legalese and shut the door on them.

"Charlie, what did you do?"

"I made a couple of phone calls."

"Where's your gang?"

He threw back his head and laughed.

"There's no gang, Ellis. The newspapermen exaggerate. It was just me."

"You? That's impossible."

"Quite possible, Ellis. Quite possible."

He proceeded to tell me his story.

When Charlie was in jail on the auto theft charge, he and his three cellmates killed time by talking about what they each considered would be the "perfect crime." Charlie

never said if the eventual plan was his, a cellmate's, or a composite, but he left the jail that time with more than just his freedom. His mind was spinning with wild and dangerous thoughts. After a few weeks of wine and roses, he grew bored and once again escaped from his lover's palatial ocean-front estate.

As was his style, Charlie wandered the tropical town befriending bartenders, charming the ladies, and running up tabs. He was also putting together his plan. It didn't take much. A week or so later, he was ready.

On a humid, Florida afternoon, Charlie Johnson entered a Greyhound bus station near Flagler Street in the heart of downtown Miami. He walked to the pay phones and surveyed the surroundings. To his right was a wall of lockers. To his left, the ticket counter. Directly across from the phones was a candy and newspaper stand. Charlie entered the middle phone booth, closed the door and spread out the tools that would enable him to commit "the perfect crime."

They were five nickels, a small piece of paper, and a bottle of wine. He stacked the nickels to the left of the phone. The bottle of his favorite vintage ros'e was placed on the counter to the right. The paper, which contained four phone numbers, was set to the left of the wine.

Plunk. He dropped the first nickel into the slot and dialed the number at the top of the list -- a cab company on Miami Beach. Although Charlie was quite drunk, he sobered up when he spoke. He asked for the on-duty manager of the cab

depot.

"Hello, this Dr. Henderson at Doctors' Hospital in Coral Gables," Charlie said. "Mrs. Dan Richter has just had a serious accident and was brought here in critical condition. She may not survive. She has repeatedly asked to see her son, Ricky. Will you please send your most trustworthy driver to the Coburn School on Normandy Isle, pick him up, and bring him immediately to the hospital. The school will be expecting your arrival. I will pay the transportation costs when the taxi arrives at the hospital."

"Yes sir, Dr. Henderson," the cab manager said. "Don't worry about the bill. We'll get on it right away."

The cab manager was so quick to respond because he knew the Richters well. They were one of Miami's wealthiest families. The Richter clan was headed by jeweler Joseph Richter and his sons Alvin and Dan. The men had built the plush Robert Richter Hotel on Miami Beach to honor a third brother who died during World War II. Ricky was Dan Richter's six-year-old son and heir apparent to the Richter fortune.

The cab depot manager assigned his most trusted driver, a stout, twenty-four-year-old New York transplant named Bert Walowitz. Bert rushed to the school to perform his duty.

Plunk. Nickel number two. Charlie consulted his sheet of paper and dialed the second number, the office phone of the Coburn School, the exclusive, private academy Ricky

Richter attended. Using all the correct terminology, Charlie continued his scheme.

"Hello, this is Dr. Henderson at Doctors Hospital. May I speak to the head mistress?"

A few seconds later, the head mistress, a Miss Simmons, was on the line. Charlie repeated the story of the accident, explained that a cab was already on the way, and instructed Miss Simmons to have young Mr. Richter waiting at the curb. Miss Simmons promised that she would personally assure that Ricky entered the cab.

Charlie took a few swigs from his bottle of courage, then spotted a pretty girl at the candy counter. He left the phone booth and chatted with her for about ten minutes. He excused himself and returned to his station.

Plunk. Nickel number three. Charlie dialed the third number on the list, Richter's Jewelry Store on Flagler Street, about two blocks from where he stood.

"Hello."

"Is this Mr. Daniel Richter?" Charlie asked.

"Yes."

Shifting from Dr. Henderson to the unknown kidnapper, Charlie spoke firmly and to the point.

"Mr. Richter, we have your son, Ricky. He has been abducted from his school. If you wish him to remain alive, you must do exactly as we instruct. The first thing I would like you to do is call the Coburn School and confirm that Ricky is gone. I will call you back in one minute."

Dan Richter called the school. They informed him that Ricky had left in a cab five minutes earlier. Richter immediately called the police. The chief of police was notified and took personal charge of the situation. He dispatched three detectives to the jewelry store.

Plunk. Nickel number four.

As the phone rang, Dan Richter motioned for his father and brother to pick up the extensions. His father answered.

"Who's calling?"

"He knows who's calling," Charlie said.

Dan Richter picked up the phone.

"Mr. Richter, you are by now aware of what has happened?"

"Yes. Please don't hurt my son."

"Just follow my instructions and everything will be fine," Charlie explained. "Members of my organization are watching your home and your store. They are also stationed along the route you will be instructed to follow. Please don't try to do anything foolish. The life of your son is in the balance. Here's what I want you to do. Take \$50,000 worth of your finest diamonds and \$5,000 in cash from your safe. Acquire a copy of today's Miami Herald. Roll the money and jewelry into the newspaper. Then, if you will, please walk out of your store, down Flagler Street and enter the Ponce de Leon Hotel. It's only a block away. I assume you know the location?"

"Yes."

"Good. You will receive further instructions there."

Before Charlie could hang up, Dan Richter pleaded that he could only come up with about \$20,000 in jewels and \$200 in cash. Rounding up more would take time and attract attention.

Charlie, ever the easy sort, agreed.

"Okay, but what I want are good, blue stones," Charlie said. "We are diamond experts and we know paste, zircons and titanium."

Dan Richter followed the instructions to the letter. He opened his safe, took out the \$200, and quickly scooped up the jewelry -- which included three diamond rings, a three-looped diamond necklace and a diamond brooch containing nine large diamonds and 659 small ones. After Richter left for the hotel, Miami police detectives Joel McNeill, Marshall Wiggins and Earl Taunton arrived and set out after him.

Plunk. Nickel number five. Charlie consulted the last number on his list and dialed the front desk of the Ponce de Leon Hotel. A clerk answered, looked around the lobby and spotted a man who fit the description given by the caller. He sent a bell boy to bring him over. Confirming that the man was Dan Richter, the clerk handed him the phone.

"Mr. Richter, I want you to go to the Greyhound station down the block," Charlie instructed. "Once you are inside, I would like you to walk to the candy counter and purchase a pack of gum. Take out two sticks and place them

in your mouth and begin chewing. You will see a bank of lockers against the opposite wall. Please go to the lockers, choose one that is not in use, insert the rolled newspaper, place the correct change into the slot and remove the key.

"By now you should have chewed the gum into a malleable condition. To your left you will see three telephone booths adjacent to one another. Choose the first one, walk inside and close the door. Remove the gum from your mouth, mold it around the key, then adhere the key to the underside of the telephone counter. You are then to walk out of the bus station without looking back and return to your store. Let me reiterate that we have people watching the entire route, so don't do anything irrational.

"You have seven minutes to complete your task. The stopwatch starts right now."

Click.

Charlie took a long swig of his wine, sat in the phone booth and waited.

Dan Richter met the Miami police detectives as he exited the hotel lobby. Detective McNeill decided to station detectives Wiggins and Taunton in front of the bus depot, and he would personally monitor the drop from inside. He rushed over and took his position.

A minute later, Dan Richter walked into the Greyhound station, bought the gum, chewed two sticks, placed the rolled newspaper containing the ransom into the locker, and attempted to enter the phone booth to his left. It had

recently been painted and was locked. The booth in the center was occupied -- by Charlie! -- so he chose the one on the right, put the gum on the key and stuck the key to the underside of the counter. Richter exited the phone booth and walked out of the bus station. Charlie staggered out of his booth and into the other, took the key, walked to the locker, retrieved the newspaper, walked out of the bus station -- and walked right into Friendly's Bar a half a block away.

He sat at the bar, and in clear view, spread open the newspaper. Inside was \$200 cash and a mountain of glittering jewels.

"Drinks are on me, everybody!" he announced.

A crowd quickly gathered.

"What the hell you got there, Charlie?" the bartender said, eyes bugging out.

"My aunt died and left me this," Charlie explained. The bar crowd consoled Charlie on his aunt's misfortune and complimented him on his good fortune. They toasted his aunt a half dozen times and had a rousing party in her memory. Charlie paid his old tab and then handed the friendly bartender a small chunk of diamonds.

"Here, my good man, secure this as collateral against my future bar tabs."

Meanwhile, Detective Joel McNeill was catching hell from his superiors. Despite the simplicity of the drop, he had missed it! His eyes had been open too wide. Detective

McNeill had visited his ophthalmologist that morning as part of an annual police physical. The doctor dropped in a solution that made his pupils dilate so that they could be checked for specific eye problems. Detective McNeill was told to wear sunglasses for the next twelve hours until the solution wore off and his pupils could properly function to protect against excessive light.

If there's one thing that Florida has, it's excessive light.

As Detective McNeill walked to the bus station, the bright Florida sunshine, which can be blinding to normal eyes, cut through his sunglasses and temporarily blinded him. While he was waiting for his eyes to adjust, Dan Richter made the drop and placed the key in the opposite booth. Charlie recovered it. When his eyes cleared, Detective McNeill focused them on the wrong booth. He either missed the pickup or ignored it. Without McNeill's identification, Charlie was able to stroll right past the detectives stationed outside.*1

The eerie luck that shielded Charles Johnson that afternoon had struck again.

While Charlie was hoisting the first of his celebratory drinks, Bert Walowitz was dutifully driving down South Dixie Highway to Doctors' Hospital in Coral Gables. The trip took less than hour. Walowitz did his best to keep young Ricky calm, assuring him that everything was going to be fine. Actually, Ricky had not been told about his

mother's "accident" and was delighted to get out of school early. Walowitz played tour guide and pointed out all the interesting sights along the way. Ricky was enjoying the adventure.

Waiting at Doctors Hospital were FBI agents and virtually the entire Coral Gables police force -- armed and ready for some serious kidnapper butt kicking. Walowitz pulled up, saw the officers, and figured something had happened. He never once imagined he might part of it. When the officers saw the cab, then spotted Ricky, they pounced upon Walowitz like starving Dobermans on a piece of raw meat. Walowitz was yanked out of the car, slapped around, thrown on the hot hood, frisked, handcuffed and heaved into a patrol car with bars separating the driver and the passenger.

"How could you do such a thing, Walowitz?" the detectives growled.

"Do what?" the absolutely mystified cabbie answered.

"Do what?"

Ricky, excited by the police cars and all the action, continued to have a ball. He never knew, nor was he ever told until years later, that he had been "kidnapped."

Walowitz was taken to the police station to be interrogated. Outside, his family was crying, the cab company officials were crying, everyone was crying at the terrible plight of Bert Walowitz.

Everybody except Charles Wesley Johnson. He was having

the time of his life. Charlie left the bar after about an hour, ambled down the block and promptly ducked into Stone's Tavern. He repeated the previous scene, spreading out the catch on the counter, buying drinks for the house, paying off his tab and leaving the bartender with a precious gem as security against future tabs.

He duplicated his celebration at two more bars, sharing his good fortune with his faithful friends and friendly bartenders. After partying at the fourth bar, he stumbled into his room at the flea-bag Peerless Hotel, also on Flagler Street. Two unidentified friends put him to bed. The Peerless Hotel owner, Aurelien Roberge, checked up on Charlie and found his wallet sitting on the night table. Roberge rifled through it, counted \$160 in twenties, one ten, and a few scattered ones and brought it into the office for safekeeping.

Charlie awoke the next morning around nine. Sobriety and the stark surroundings combined to flash a brief moment of sanity into his brain. It occurred to him that someone out there might be looking for him. If not the police, then any one of a dozen unsavory characters who saw him display his bounty at the four bars.

"I think it is imperative that I make a hasty retreat from this country," he explained to the fuzzy image in the tarnished mirror.

The "hasty" part of his escape soon gave way to the more powerful draw of the beautiful tropical morning and the

ample supply of wine waiting in the nearby bars. No need to rush. He was only the most wanted person in Florida, and the object of a massive manhunt. Charlie hit Friendly's again, and Stone's, and the Backstage Bar. At 11:10 p.m., he checked into the nearby Royalton Hotel. He checked out thirty-five minutes later, and checked into the Fort Knox Hotel another block or so away.

Charlie instructed the hotel clerk to call the airport and make a plane reservation for the next flight to Havana, Cuba. He also told the clerk to coordinate the flight departure time with a cab ride from the hotel to the airport. The clerk was asked to make the reservations in the name of "Kingsley Elliott" a radio handle Charlie had used while working as a disc jockey. The clerk made the arrangements and earned a nice tip. At 2:45 p.m., Charlie left for the airport. At 3:45 p.m., he was aboard Cubana Airlines flight 495 to Havana. He arrived around 4:30 p.m. and settled in at the Hotel Bellamar on Cuba's unspoiled Marianao Beach.

While Charlie slept, all hell was breaking loose in Miami. Special editions of the newspapers screamed the latest information on the brilliant gang of kidnapers. There was little else being broadcast on the radio as up-to-the-minute reports filled the airwaves. The attention was so widespread that it even penetrated the secluded world of Charlie's favorite Bohemian saloons. Soon the bartenders and bar patrons were wringing their hands over what to do.

"Could it be Charlie? It has to be Charlie," they speculated. "No, it can't be Charlie. Should we call the police? But what if it is Charlie? He's such a great guy! What should we do?"

The patrons debated and drank and drank and debated. Phones were picked up and slammed down. Arguments ensued. Little by little, the calls trickled in to the Miami police. From this bar and that bar, a pattern emerged. A call even came from one of Charlie's former cellmates from the car theft arrest. The man, Antonio Feliz, told the police about the daydream session, and remarked how Charlie Johnson's version of "the perfect crime" was similar to what he had been reading about in the newspapers. In record time, the police had Charlie identified and had released pictures of him from his prior arrest.

The police, FBI, and state attorney's investigators fanned out across downtown Miami following Charlie's wine-soaked trail. They tracked him through the bars and hotels, eventually climbing all over the poor clerk at the Fort Knox Hotel, snatching his tip, and learning that Charlie had left for Cuba.

They wired a full description, an arrest warrant and a pick-up order to the Cuban police.

The information never arrived.

Charlie Johnson would probably have spent the next few years wooing Havana señoritas and improving his tan had it not been for The Miami Herald. Hot on the story, a reporter

called the Cuban police the following day for an update on the search. When informed that the Cubans knew nothing about the dashing criminal in their midst, The Herald decided to relay the information. It was enough to send the Cuban secret police out searching the tropical island for one Kingsley Elliott, a.k.a. Charles Wesley Johnson.

The Cuban secret police mirrored the search of their Miami counterparts. They picked up Charlie's bilingual trail and traced him from bar to bar, hotel to hotel until they found him the next day sleeping peacefully at Havana's flagship inn, the Hotel Nacional. They roused him from his siesta and searched his room but found nothing. They told him he would be extradited unless he led them to the jewels, which they promised to split. Charlie, always willing to share with new friends, led the officers to Marianao Beach where he had stashed the diamonds under a mattress in the Hotel Bellamar. The secret police confiscated the jewels and threw Charlie in jail. The Cuban police then called The Miami Herald and gloated that they had captured the dangerous felon. The Herald promptly ran a big story boasting how the newspaper had helped capture the kidnapper. Somewhere, amid all the gloating and boasting, the official lines of communication between the Cuban and Miami law enforcement agencies were magically unsnarled. Detectives were dispatched from Miami. Nine days later, Cuban President Fulgencio Batista ceremoniously signed a warrant ordering Charlie Johnson's return to the United States.

And that's when things really got crazy.

Footnote

1. Dan Richter recalls a different version of what happened to the detectives that day. He says that after leaving the Ponce de Leon Hotel, his father Joseph became confused and told one detective that his son had been instructed to go to the jewelry store first, then to the bus station. That detective walked back to the store. Dan Richter says a second detective passed in front of him as he entered the bus station, so he felt everything was under control. However, according to Richter's version, the second detective was on the phone with the FBI when the drop and pick-up went down. Richter said the detectives regrouped at the bus station and watched the locker for fifteen minutes -- but the pickup had already been made and Charlie was gone. The detectives were watching an empty locker.

Chapter 2

Five Nickels

PART II -- THE TRIALS

Charlie showed up at his arraignment smartly dressed in a sparkling white T-shirt, a chocolate-colored sport jacket, tan pants and the ever present brown and white oxfords. Thirty-years later, actor Don Johnson, who resembles Charlie, would sport a similar style on the television show "Miami Vice" and create an international fashion sensation.

The judge, unimpressed with Charlie's wardrobe, wanted to set the trial for June, a little more than a month away. I had Naval Reserve duty that month and had to go to sea. The judge moved the trial to July, giving me additional time to prepare.

During the days immediately following Charlie's arrest, the police and FBI applied intense pressure for leads on the rest of Charlie's gang. They refused to believe, or accept, that Charlie had acted alone. The state prosecutor remained intent upon keeping his promise to execute the conspirators side by side in a barber's row of electric chairs.

Only there wasn't any gang -- unless you count Bert Walowitz. And Charlie steadfastly refused to implicate the cab driver. The prosecutors offered to waive the death penalty in return for Walowitz's hide, but Charlie and I would have none of it.

"What, pray tell, is a Walowitz?" Charlie kept asking.

The cops, who suspected that poor Walowitz wasn't involved, had already let the cabbie go.

If there had been a gang, we'd have been better off. I could have at least traded some information in return for a waiver on the death penalty. Charlie could have saved his skin by fingering somebody, but there was no one to finger. I finally convinced everyone of that and things quieted down.

Charlie had another, potentially more troublesome dilemma facing him. Me. This was a major kidnapping trial and I was less than a year out of law school. And worse, Sam Leibowitz wasn't around. (Believe me, I looked.) I was way out of my league, but I wasn't about to let go of the case. My resolve was quickly put to the test. I had recently been hired by a prestigious corporate law firm headed by Abe Aronovitz, who would later become mayor of Miami. Mr. Aronovitz informed me that his firm didn't handle criminal law.

"Besides, the Richters are close friends of mine," Aronovitz said. "You'll have to sit this one out, Ellis."

I had about five dollars to my name and was living in

a single room at a boarding house. The law firm offered a a bright future and financial security.

I quit. I had little choice. Criminal law was my calling.

I set up a one-room office right down the hall from Aronovitz's law firm, then rushed over to the University of Miami Law School and had a talk with Dean Russell Rasco. I asked for some advice on how to defend Charlie, then suggested that we establish a "Criminal Aid Bureau" that would allow students to gain experience by assisting attorneys in actual trials. I unselfishly volunteered to kick off the program with the Charles Johnson trial. Dean Rasco saw through the desperation that clouded by motives and realized that it was a good opportunity for the students. He gave me carte blanche to form the organization. I immediately recruited three of the brainiest students in the school and we went right to work trying to find some way to keep Charlie alive.

Charlie had done a bad thing, no question, but I didn't think he deserved to die for it. He had too much to drink and pulled off a stunt that in his wildest dreams he never expected would work. Had he been unable to reach one person in his chain of calls the whole scheme would have blown apart. Had Ricky been home sick that day. Had the cab company or school questioned his authority. Had Mr. Richter been away purchasing jewelry. Had he gotten just one busy signal. The odds of him succeeding the way he did must have

been astronomical.

Charlie Johnson had winged the "crime of the century."

In his mind, it was a lark. A serious, and maybe even a cruel lark, but a lark nevertheless. Charlie was surprised when he was informed that kidnapping carried the death penalty. He figured that as long as he didn't hurt anybody, it couldn't be much worse than stealing a car.

The students and I searched the law books for something, anything to save Charlie's neck. It looked bleak. The "it was a just a joke, ha, ha" defense wasn't going to fly. A couple of days before the trial, one of the students pointed out something in the state kidnapping statutes. I couldn't believe it. There it was, a loophole the size of Tallahassee! The answer had been staring us in the face all along. But could it possibly work?

It was all we had.

Judge Fritz Gordon's fourth-floor courtroom was jammed wall-to-wall for the trial. You couldn't wedge another person in with a crowbar. The reporters were everywhere. Many had come from out of town. There was no air-conditioning then, and July in Miami is searing. Hand fans waved about and handkerchiefs frequently appeared to mop the sweaty brows of everyone from the judge to the jurors. The open windows merely let in more hot summer air. Everybody in the courtroom was wilting -- everyone except Charlie. He was cool as ever and made for a great villain. He sat at the defense table in a stylish red-checked sport

jacket, hair perfectly coiffured, and occasionally flashed a toothy grin so white it dazzled. Women began writing him in jail. But even if a few ladies wanted his body, the majority of the public wanted his head.

The prosecution took three days to put on its case. It was considerable. There was the hard evidence of the money and jewelry found under his Hotel Bellamar bed, along with the bartenders and their "security" jewelry. The witnesses included Walowitz, the bartenders, their patrons, and various hotel clerks, most of whom had to be dragged in to testify. They liked Charlie, but the police pressure was intense.

"I'm sorry, Charlie," one young lady said in tears after identifying him as the big spender with the cash and jewels.

"It's okay, love," Charlie said and meant it.

I was popping up and down from the defense table like a jack-in-the-box, objecting to everything, counterpunching, zealously trying to keep out the evidence by charging that the Cubans had acted unlawfully in searching, arresting and deceiving Charlie. None of it was working. I was taking an old-fashioned, behind-the-shed whipping from veteran prosecutors Arthur Carlson and S. O. "Kit" Carson. It was so bad that when Judge Gordon finally sustained one of my objections, the whole courtroom broke out laughing, including the judge, the jury, the prosecutors, and even me. When the prosecution rested its case, there wasn't a shred

of doubt in anyone's mind that Charles Johnson was guilty.

It was now the defense's turn. I stood in court and gave one of the shortest speeches of my entire career.

"Your honor, I move for a dismissal. According to State Statute 805.02, a kidnapper must intend to have actual custody of the kidnapped person before a crime is committed. Charles Johnson never had custody of Ricky Richter. Therefore, under state law, there was no kidnapping."

There was a low buzz in the courtroom, but nothing out of the ordinary. Defense attorneys invariably open their case with dismissal requests. Only there was a loud buzz in the judge's head, and that's what counted. He immediately called a recess for lunch and said the court would reconvene in two hours.

When everyone returned, the judge sat down and quietly said, "Mr. Rubin's motion is granted. Case dismissed." He slammed the gavel down so hard it rang out like a shot, stunning everyone in the courtroom.

Then he stood and walked out.

For a few seconds, the courtroom was silent. No one could grasp what had happened. When it sunk in, no one could believe it. The sound began to build. There was a gasp, a scream, followed by a slow rumble, building and building into a frenzy of activity. The reporters sprang from their seats, out the door and fought over the nearby phones to call in the news.

"What happened?" Charlie asked me.

"You're free," I said.

"How?" he said.

"Don't ask. Let's just get the hell out of here."

I escorted Charlie up to the jail to collect his things. I was pushing him to move as quickly as possible.

"Why the hurry?" he inquired.

"I don't want the judge to change his mind," I said.

We exited the courthouse, took one step out into the sunshine and were surrounded by police officers. They slapped handcuffs around Charlie's tanned wrists, read him his rights, and ushered him back into the building. An officer handed me a warrant.

Charlie was charged with extortion.

I later learned that during the recess the judge had summoned Michael Zarowny, the assistant county solicitor, to his chambers.

"That son-of-a-bitch Rubin has got us on this," the judge said. "I have to let the bastard go. But you file extortion charges immediately. I don't want Johnson to set foot outside."

Charlie was brought back to jail. His new arraignment was scheduled for the following morning in another courtroom. The change was a break because Judge Gordon was in no mood to have mercy on Charlie or me. Actually, he didn't have a choice. Kidnapping is a capital offense, meaning it involved the death penalty. Extortion is a violation of a lesser felony law. We not only had to switch

courtooms, we transferred into a different court system.

The following day, the whole circus was moved up two floors. Same people, same faces, but a new room and new judge -- and the new judge was our old friend from the car theft trial, Judge Ben Willard.

Charlie and I had come full circle.

"Hello Mr. Rubin. Hello Charlie," Judge Willard greeted us over the rhythmic sound of the paddle fans that hung in rows from the sixth-floor courtroom ceiling. "You two have been creating quite a fuss. That was a swifty you pulled, Ellis. My compliments. Now let's get down to business. How do you plead?"

"Before I do that your honor, I'd like to argue a motion to dismiss," I said.

There was audible laughter from the gallery. Even Judge Willard was taken aback, but he was not amused.

"Let's get on with the proceedings," he said.

"No, hear me out, judge," I said. It was the first time I had ever talked back to a judge. Surprisingly, he let me.

"Okay, I'll listen, but you better be prepared to go to trial. There's no way you'll get a dismissal here."

"Your honor," I said, pulling out a Florida case book. "In the precedent-setting cases, it was found that in the event of an acquittal on a kidnapping charge, the defendant is acquitted of all the lesser included offenses. Your honor, extortion is a lesser included offense in every

kidnapping."

The courtroom was silent. Judge Willard furrowed his brow, twisted his face and then exploded.

"Request denied."

He set the trial for August 12, about three weeks away.

It never happened. Judge Willard's denial had merely been a face-saving tactic. He called in the state prosecutors and they dropped the extortion charge, and instantly replaced it with another one -- grand larceny. That too was a "lesser included offense" and wouldn't stand, but it was a bit murkier and would keep Charlie in jail until they could find something that would stick.

The FBI came to the state's rescue. On July 30, Charlie was indicted by a federal grand jury on the charge of transporting stolen jewelry out of the country. The grand larceny charge melted away and Judge Willard publicly washed his hands of us in the newspapers. Charlie and I were shuffled off to yet another courtroom, another judge, and this time, another building. At least we had finally escaped the buzzards at the Dade County Courthouse, both literally and figuratively.

But they had us with the federal charge. That wasn't an included offense of the kidnapping. Taking the jewels to Cuba had nothing to do with the kidnapping. I couldn't see any way of getting out of that.

As with everything, Charlie took it in stride.

"Hey, stolen jewelry, I can live with that," he said. "Remember, they were going to sit me down in that unpleasant electrical chair. The way I figure it, we've come out way ahead!"

The federal trial was put off until January 1953. The eight months in jail had faded Charlie's tan. He didn't look quite so dapper anymore. Federal Judge Charles Wyche, a colorful character in his own right, traveled from Spartanburg, South Carolina to preside over the trial.

During the jury selection, I used my ten allotted challenges to excuse all the teetotalers. I wanted people who knew what it was like to tie one on, and more importantly, what alcohol can make you do. I reasoned that they might relate to Charlie's state of mind when he made his calls. This logic would have worked much better had I been able to seat a jury of blind drunks, but all I could get were people who said they were "unopposed" to alcohol.

There were little fireworks at Charlie's final trial. I considered arguing that the jewelry wasn't actually stolen, more of a gift, but that was really stretching. I argued again that what the Cuban secret police had done to Charlie -- an unlawful, unreasonable search based upon information supplied not by the police, but by a newspaper reporter, and then arresting him without a warrant -- violated the search and seizure laws in the United States Constitution. It was a great point -- until the prosecutor reminded the jurors that the United States Constitution

doesn't apply to Cuba.

If Charlie had only taken the jewels to Key West...

I also argued that the use of the stolen jewelry in evidence "infringed on Charlie's right of compulsory self-incrimination." That sounded good but the judge didn't buy it. I scratched and clawed and objected to everything. I berated the Cuban secret police goons when they took the stand, but in the end the jury wasn't swayed an inch. They found Charlie guilty.

Judge Wyche sentenced Charlie to a stiff nine years in the Atlanta penitentiary. It seemed reasonable. Charlie wouldn't be executed. He wouldn't do life. But he would be punished for his irresponsible action, and would probably be paroled after two or three years if he behaved himself.

During the sentencing, the judge complimented Charlie on his "cultured mind, adeptness and splendid personality." Then he and Charlie had a peculiar conversation.

"Your case has interested me a great deal..." the judge said. "How many languages do you speak?"

"Two," Charlie replied.

"That's wonderful," Judge Wyche gushed. "I've always believed that's one of the finest things anyone can do. I've been trying to convince my daughter to take up languages. How much education do you have?"

"I've been to college, sir," Charlie answered. "At Gonzaga University in Washington and a medical school in Mexico."

"I think your system is a shrewd one," the judge continued. "But I'm astounded at how reckless you were after you obtained the jewels. We probably would have had a hard time catching you as smart as you are if you hadn't displayed the jewels the way you did...I feel confident that you can rehabilitate yourself. I'm going to keep up with your case. I'm very much interested and I want you to write me. I want to wish you good luck!"

Charlie's reaction to this conversation was typical.

"The judge sure talked nice, but I wish he hadn't been so free with my time."

Charlie wrote me a few times over the next couple of years. He said he had started a prison newspaper and was editor-in-chief. I suspected he had a wine press hidden in the kitchen. After those few letters though, I never heard from him again.

I've had more than 5,000 clients since Charlie. The faces are a blur. But I'll never forget Charles Wesley Johnson's.

Little Ricky Richter grew up and became, of all things, an attorney. He now practices law in New Orleans.

Epilogue

When Charlie Johnson peered into a television camera in 1951 and said "Get me Ellis Rubin," it changed my life. The subsequent coverage of his trials by the new visual

medium instantly elevated me into the major leagues of criminal law. Cases began pouring in. Few knew it then, but the power of television was awesome.

Twenty-six years later, the circle would complete. By then, television was dominating society to an increasingly disquieting degree. In 1977, the flickering images would change my life again.

But this time, we were bitter adversaries.

Chapter 3

Programmed To Kill

PART I

"When I said get up, she didn't want to get up...And then I got scared and I said, 'A gun, a bullet, oh no!' So then I pictured the little scene in my mind of her getting up sayin' 'Get out of here!' And I'd just voom, out of the house." -- Ronny Zamora, under the truth serum, sodium amytal.

On Saturday evening, June 4, 1977, my youngest child, Kim, was attending a confirmation party along with fifty other teenagers at Temple Emanu-El on Miami Beach. After dinner and the traditional Jewish "coming of age" ceremonies, the adults evaporated into the humid night and the kids scurried up to the reception hall for a dance. Packs of additional fourteen, fifteen and sixteen-year-olds arrived to join their newly-confirmed friends. Among the late arrivals was a dark-haired, fifteen-year-old Costa Rican named Ronny Zamora.

Ronny was a friend of Kim's. In her teenaged eyes, he was a "very cute, very cool guy," who was "exceedingly well mannered." All of which made him a "sweetheart of a guy." His looks and charm won his acceptance in the junior high's harshly restrictive "in" clique despite being "socially out of his league." Most of this particular junior high jet set consisted of upper middle class to wealthy students with fat allowances. Ronny was from a first-generation immigrant family with five children. Kim said Ronny frequently borrowed fashionable clothes from his friends to keep up.

Ronny, Kim and most of the party-goers were classmates at Nautilus Junior High on Miami Beach. The rest of the teenagers attended area Catholic or Hebrew schools. Kim remembers the five-foot, three-inch Ronny being in high spirits that evening. He flashed a wad of money and said he and four of his buddies were on their way to Disney World. He invited Kim and her prettiest girlfriends to go along -- his treat. Kim declined, as did the other young ladies.

"He said he was leaving right then and wanted us to go," Kim, now twenty-seven, says today. "We had just gotten confirmed and were all dressed up. I said 'Ronny you're nuts.' If he'd have given us some advanced notice, we would have gone."

Or so Kim thinks. My wife Irene would never have allowed it. (She used to make the children leave phone numbers and sign in and out whenever they left the house.)

On the way to Disney World, Ronny and crew were pulled

over by a Florida Highway Patrol Trooper for speeding. Paul Toledo, seventeen, was driving the 1972 Buick Electra because he was the only one among the group who had a valid driver's license. Ronny had provided the car, alternately telling his friends it belonged to his father or his aunt. Considering who the car really belonged to, and the fact that there was a pistol in the trunk that Ronny had proudly showed his friends, the encounter should have doomed their adventure right there. But the trooper took a sympathetic view of the fresh-faced youngsters going to Disney World and didn't bother to search the car. When he asked for the car registration, Ronny took a chance and reached into the glove compartment. He found a gas station credit card slip and handed it over. The bill was addressed to Elinor Haggart, eighty-two, Ronny's next-door neighbor. Ronny told the trooper she was Paul's aunt. The officer believed him and waved them on with a ticket and a simple warning to slow down.

The youths' spirits were buoyed higher by the narrow escape. They arrived in Orlando and spent the first night at a Ramada Inn where they had a rousing pillow fight before falling asleep. The boys spent the next morning racing colorful motor boats and splashing down slides at River Country, Disney World's popular water resort. After drying off, they went to the main area of the theme park, took a trip down Space Mountain, then checked into a luxury suite at the ritzy Contemporary Resort Hotel on the Disney World

grounds. Tanned and looking for action, they wandered around the lobby and were drawn into the video room by the beeps, booms and rat-a-tats emanating from the multicolored machines. Flashing Ronny's money like big timers, they shot pool, played pinball, and fed quarters into the machines being used by pretty girls. Two young ladies were impressed enough to accept an invitation to party with the good-looking boys in their rooms. Aided by an ample amount of alcohol, the impromptu festivities turned into an all-night love fest.

The Miami Beach teenagers continued their weekend of sex, booze and Mickey Mouse on Monday morning by hanging around the hotel, going back to Disney World, having lunch, and bird dogging every chick who wasn't attached to her parents. They left for Miami Monday afternoon, June 6.

Back in Miami Beach, Toledo dropped off his friends and headed home. Ronny told him to keep the car for a while because his aunt was out of town.

The following day, Ronny smelled a bad odor coming from the home of his neighbor, Elinor Haggart. He sometimes helped the woman carry in groceries and assisted her with other chores, so he was concerned about her safety. He went to a back window, tried to open it but broke the glass. He abandoned his efforts and returned home.

The next morning, Miami Beach police officers Zell Hall and Robert Gibbs responded to a call about the broken window and Mrs. Haggart's absence from her daily routines.

Ronny's mother, Yolanda, met the officers when they arrived and told them that Mrs. Haggart hadn't been seen since Saturday. Approaching the house, which was shaded by a large aqua awning, Officer Hall smelled the odor he's come to recognize as that of a decomposing human body. Hall used a knife to pick the lock of the front door. Inside, the smell was staggering. Hall and Gibbs split up to search the home. Both immediately noticed that it had been ransacked by burglars. Hall found Haggart's body on the living room floor. She was fully dressed and had a sheer, turquoise gown covering her face. Beside her was a bottle of Old Forester bourbon and an empty, tipped over glass. Three photographs, one of her son, her mother, and her deceased husband, were scattered around her body. Mrs. Haggart had been shot once in the stomach. The .32 calibre, brown-nosed lead bullet traveled upward through her torso and lodged itself between her back and her bra strap. On the front side of her bra, the medical examiner found two diamond rings the elderly woman had hidden from her killers.

As she lay dying, Elinor Haggart's blood spilled out upon the photograph of her mother.

When Yolanda Zamora's son came home from school that afternoon, she told him what had happened next door.

"Ronny, did you have anything to do with that?" she asked.

Ronny said he didn't.

Yolanda had reason to question her son. She knew he

had gone to Disney World and was suspicious of how he financed the trip. Ronny answered that he and his friends hit it big at the dog track. Mrs. Zamora found that hard to believe.

There was something else that disturbed Mrs. Zamora. Just a few weeks before, she had received a phone call from an administrator at Nautilus Junior High. Ronny and a friend had been caught smoking marijuana in the school restroom and were suspended from regular classes for a week. In addition, Ronny was flunking because he was skipping school to stay home and watch television. When he did show up, he slept during class, was undisciplined and caused trouble. The administrator warned her that Ronny's new friend, Darrell Agrella, fourteen, had a police record and suggested that Mrs. Zamora separate the pair. Mrs. Zamora considered transferring her son to a Catholic school and sent him to a psychological counselor provided by Catholic Services. The counselor, Dr. Jack Jacobs, performed a battery of psychological tests and concluded that although Ronny was of average intelligence, he was confused, depressed, and "interprets his world in a hostile manner." Dr. Jacobs recommended that both Ronny and his family be involved in psychotherapy.

Mrs. Zamora was shocked by the finding. Although Ronny had always been a poor student, he had never before been in serious trouble.

These thoughts raced through Mrs. Zamora's mind as an

ambulance and a swarm of police cars gathered around Mrs. Haggart's house. Neighbors had crowded around the yellow tape boundaries marking off the residence. In the midst of the sirens, spinning blue and red lights, and television news cameras, Paul Toledo, Timothy Cahill and some other friends drove by in Mrs. Haggart's blue Buick. Like everyone else, the boys slowed down to see what was happening.

No one noticed them.

They parked the car down the block and walked back to join the crowd. They inquired as to the commotion, and were told by a neighborhood youngster that Elinor Haggart had been murdered.

The name rang a bell. It was the same name on the gas slip in the glove compartment.

"We just freaked out," Cahill recalled.

Toledo then heard a news report that said the police were looking for Mrs. Haggart's 1972, blue Buick sedan. He wrote down the license number and went back to double check the Buick. To his horror, the numbers and letters, 1WW 122, matched. So did the bumper sticker -- "Warning: I Brake for Animals." Petrified, he rounded up his friends again. They confronted Darrell Agrella outside a Burger King not far from the famous Fontainebleau Hilton Hotel. Agrella, who had not gone to Disney World, confirmed that the car had been stolen and advised them to "ditch it." The gang drove the Buick down Royal Palm Avenue and left it at 37th Street, eight blocks from Elinor Haggart's home. Darrell further

advised them to wipe down the inside of the car to obliterate their fingerprints. They complied, then walked back to Ronny's house to interrogate him. Standing in the doorway and speaking in a whisper, Ronny admitted that he and Darrell had stolen the car and robbed Mrs. Haggart, but denied shooting the woman. He shooed his friends away, saying he didn't want his father to hear.

After leaving Ronny's house, Toledo had an alarming thought. The traffic ticket! The police had him nailed. Another emergency meeting was called. The Disney World Four decided that before the police came and carried them all away in cuffs, they had to finger Ronny and Darrell. They arrived in a pack at the Miami Beach police station shortly after 9 p.m.

While his friends were singing to the police, Ronny was feeling the heat at home. Mrs. Zamora continued to hound her son about the money. Ronny came unglued. He was crying, trembling, and chewing his fingernails down to the flesh. The stranger he acted, the more emotional Mrs. Zamora became. Ronny admitted that he had been in Mrs. Haggart's car that weekend, a revelation that caused his mother to become hysterical. She called her husband at the office. He came home and shook his son violently by the shoulders, demanding to know the details and threatening to give him the beating of his life. Ronny refused to say anything more. Mrs. Zamora phoned Sergeant James Harkins, a Miami Beach police officer who was a family friend. Harkins arrived

within minutes and found the whole family in an emotional upheaval. The other children were crying. Mrs. Zamora was crying. Ronny was crying and Mr. Zamora was screaming. Everyone was talking at once. The veteran police sergeant tried to calm them down, then asked to speak with Ronny privately. He escorted Ronny into the bathroom and shut the door. Ronny began to open up. His first story was that two men had driven up with Mrs. Haggart, spotted Ronny in his yard and forced him inside with her. The men, Ronny said, ordered him to shoot her. When Harkins said he couldn't believe that, Ronny changed the story, admitting that he and Darrell were responsible.

Sergeant Harkins convinced the Zamoras that they should all go to the police station and allow Ronny to turn himself in. He advised them to request a lawyer before allowing their son to say anything. The family arrived at the police station at 9:45 p.m., less than an hour after Ronny's friends. Inside, they encountered the mothers of two of the boys pacing nervously in the police waiting room. When the women spotted Mrs. Zamora, they lashed out at her, nearly striking her in the face. The mothers blamed Ronny and his immigrant family for getting their sons involved in a murder. Mrs. Zamora was too shattered to argue and retreated into another room.

After being read his rights, Ronny requested an attorney. The police attempted to contact a public defender, but said they couldn't locate one because of the late hour.

They had no trouble, however, locating a prosecutor, Assistant State Attorney Thomas Headley. Headley rushed over to advise the detectives how to handle the sudden development. When Headley arrived, the Zamoras thought he was their public defender. Headley had to brush the emotional Zamoras off, explaining that he was on the other side.

Ronny was taken into an office by a pair of detectives. He grew impatient waiting for an attorney and began talking. The teenager confessed two more times that evening, and numerous additional times the following day. He told the detectives that Darrell had come over the previous Saturday and said they needed money for a party. While they were discussing ways to obtain the money, he heard one of Mrs. Haggart's cats screaming next door and thought someone might be trying to break in. Ronny decided to be "Kojak" and investigate a "B&E" -- pseudo police/television parlance for "breaking and entering." At some point in their investigation, Ronny and Darrell decided to transform themselves from good-guy cops to bad-guy robbers. Elinor Haggart arrived home and caught them in the act. Since she knew Ronny, she viewed him as a naughty boy and said she would have to tell his parents. What happened next, and how Elinor Haggart ended up being gut shot with her own gun, took months and many doctors to determine. But as each new revelation was discovered, it all fit the same bizarre psychological pattern -- a rare psychosis that was almost

impossible to believe, but seemed an inevitable result of our high-tech society.

Ronald Zamora was arrested on June 8, 1977 and charged with first-degree murder. Darrell Agrella, a handsome, blue-eyed ladies man who already had a police record for larceny, was arrested on the same charge shortly afterward. Unlike Ronny, he invoked his right to remain silent. The police searched Agrella's home and found Mrs. Haggart's jewelry, checkbook, silverware, keys, and her mantel-sized grandfather clock. In the living room, they discovered Elinor Haggart's \$600 Zenith television set sitting on top of the family television. The officers also found a box in the Agrella garage inscribed with the name tag "Col. A.L. Haggart, U.S. Army," Elinor Haggart's late husband. Darrell's mother said her son explained that a friend was moving up north and needed a place to keep his stuff.

Elinor Haggart's two-carat diamond ring was located on the finger of Darrell's fourteen-year-old girlfriend. The young lady vowed to keep it and had to be persuaded by some grim-faced detectives to change her mind.

The details of Ronny's confession appeared on the front page of the next morning's Miami Herald. Although it was unethical of the police, it wasn't unexpected. Edna Buchanan, The Miami Herald's Pulitzer Prize-winning police reporter, had for the upteenth time weaved her magic spell over some cop and acquired the information. In a

crime-riddled society like South Florida, the media can't play up every murder. Instead, they pick those with especially heinous or interesting elements to flesh out, thus using the one case to symbolize the overall alarm of the many. In the summer of 1977, Ronny Zamora and Darrell Agrella became that one case. Buchanan's description of the two teenagers robbing and shooting the elderly woman, then Ronny taking her car and money and celebrating by partying at Disney World, gave The Herald's readers the creeps. He was viewed as a cold-blooded murderer of the worst sort, a teenaged Charles Manson. The press coverage subjected the Zamora family to a barrage of cruel crank calls.

The girl in hysterics on the end of the telephone was my daughter Kim. She was at a payphone in front of Nautilus Junior High. The news of Ronny and Darrell's arrest was rocking the school like a summer thunderstorm.

"I don't see how Ronny could have done such a thing," she said, sobbing. "I was just talking to him last night. He didn't say a word about it. Not a word. You've got to do something, daddy. You've got to get him out of jail. He'll be hurt in there."

Being my daughter, Kim had spent all of her life on the fringes of murder. But this was the first time it involved someone she knew. I told her to stay put and I'd pick her up. At home, Kim continued to sob and begged me to get Ronny out of jail.

I explained to her that there was nothing I could do. I couldn't solicit a client. That was against the law. I was nearly disbarred once for coming to the aid of a fellow serviceman who had been wrongly accused of murder.*1 Although the laws and ethics have since changed with the advent of lawyers advertising, back then they were unbending. Before I could help Ronny, his parents would have to ask me. Kim didn't understand, as most people wouldn't, and continued to cry and beg. Showing remarkable insight for a teenager, Kim said Ronny was driven to theft by peer pressure. He needed the money to keep up with his "in crowd" friends.

A few days later, Mrs. Zamora called. She wanted me to represent her son. I suspected my daughter's involvement, but didn't mention it, tightropeing the ethical question. Mrs. Zamora said she had little money. I told her not to worry about paying me. I would represent Ronny as a favor to my daughter. I told Mrs. Zamora that what money she had should be used to pay doctors to evaluate and treat her son.

After visiting Ronny's mother and stepfather, I went to the Dade County Youth Hall to visit this "despicable sub-human" who had shocked crime-hardened Miami. Instead of a savage beast, I was surprised to find nothing more than a little boy. He looked more American than Latin, and appeared to have no conception of what he had done and what lay ahead of him. I'll never forget his first words.

"Mr. Rubin, when am I going to get out of here and go

back to school? I'm missing all my homework."

I made arrangements to have Ronny analyzed by several top psychiatrists and psychologists. The doctors' reports were startlingly similar.

Ronny Zamora, born May 7, 1962, was Yolanda's illegitimate son. He was a "blue baby," which is a child born with respiratory problems that can cause brain damage or death. The baby survived apparently intact. Because of his bastard birth, Yolanda, seventeen, was disowned by her father. She lived with various relatives for three years, then moved to New York to work as a maid. She left Ronny with friends in Costa Rica for two years before sending for him. In New York, Yolanda met and married Frank Zamora, a man she knew from Costa Rica. Life was tough on the young couple. She initially couldn't afford a babysitter, but had to work to survive. She also enrolled in beauty school to better herself by becoming a beautician. (She later became a nurse.) Her solution to the child care dilemma was to purchase a television set, sit young Ronny down in front of it, and pray that it captured his attention enough to keep him safe while she was working and attending school. It did. Ronny was mesmerized by the images on the screen. Later, when the Zamoras were able to afford a babysitter, the woman they hired noted Ronny's fascination and continued to allow him to sit glued in front of the set eight hours a day, even feeding him while he watched. Television became not only his babysitter, but his teacher, his pastor, his mother, father

and school. He learned English from television. He learned his sense of right and wrong. He learned television's idea of morality. He learned the facts of life.

At age five, he read and memorized the listings in the TV Guide despite the fact that he couldn't write a word.

Like "Chance, the gardener" in the Peter Seller's movie "Being There," every aspect of Ronny Zamora was shaped by what he had seen on television. And if the figures given by numerous social organizations, including the PTA, are correct, what Ronny Zamora had seen on television by the time he was fifteen was 20,000 murders.

The doctors described Ronny as a "true television addict" whose every activity "was controlled by what he had seen on television."

Included among the examiners was Michael Gilbert, a double doctor with an M.D. in psychiatry and a Ph.D. in psychology. Also included was Dr. Jorge Lievano, a child psychiatrist who had trained and worked at the world-famous Menninger Foundation in Topeka, Kansas, and had been commissioned by the President of the United States to serve in Korea as a Chief of Psychiatry and Neurology for the Second Infantry Division of the U.S. Army.

Both felt Ronny was mentally unstable and that television had been a major factor. Dr. Gilbert was especially strong in making the connection, stating that Ronny's reaction to television was so overwhelming it caused him to lapse into periods of legal insanity.

"...the boy had reacted more or less as an automaton at the time of the shooting," Dr. Gilbert explained.

"...at that very moment he was not in contact with reality...he was not even aware that he was pulling the trigger," Dr. Lievano added.

During one of his meetings with Ronny, Dr. Lievano witnessed Ronny warp out right in the middle of their session. Dr. Lievano explained it in a deposition:

"...and Ronny looks at me...he had the fantasy and he projected his fantasy onto me. And then he says, apparently he was thinking of a movie that he had seen on television, and he says 'you look like Dracula.' And I say 'Why do I look like Dracula, my fangs or my eyes or what?' And he looks kind of puzzled at me and says, 'Well, no, you are really Dr. Lievano,' like he went back to reality for a little while right there, and he did not have a very good reality at all..."

Dr. Gilbert suggested that in order to cut through Ronny's fantasy world and find out what really happened in Elinor Haggart's house that afternoon, he needed to inject him with sodium amytal, a truth serum.*2 The result, which has never been publicly revealed, proved that Ronny's television-related psychosis was embedded in his mental core.

Under the influence of the hypnotic medication, Ronny

said Darrell egged him on to enter the house after they checked out the cat noise. He finally relented and Darrell followed. The way Ronny told it, he sat around dumbfounded while the more experienced Darrell did all the work searching for money and jewelry. Shortly after they entered, Mrs. Haggart pulled up in her blue Buick. Ronny had enough time to leave, but couldn't get Darrell out of a back bedroom.

" `Darrell, come on Darrell, will you come on, you're going to get caught...'

"By the time we reached the door, Mrs. Haggart was walking up and she...noticed me first and she goes, `What are you doing here?' And I go, `I'm not doing nothin'. Please let me leave. Please. Please. Please. Let me leave. Please.' And she goes, `Do you know what you are doing?' And I go `No, I'm leavin'.' And she goes `No, you're robbing my house.'

"Who me?"

"...She then started telling me... boy, how young robbers get these days...So, you know, she was smilin', so I wasn't worried too much...So she said `Well, I'm sorry, I'm going to go call the police.'

"...Darrell, he either pushed the door or he kicked it open, and from there she realized she was in trouble! He said, `All right lady, you're on to us...sit down, shut up, don't make no noise and you won't get hurt.'

So she sat on the floor. She sat down...sorta mindin' her own business. And me, I was just watchin'. I mean, sometimes, you know, I feel like a bully, I say, 'Oh yeah,' I'm gonna tell this lady, 'Old lady, get out of my way'...but I ain't got the heart to do it.

"...She said, 'Can you please...go inside the that closet down there and get me a bottle of somethin' burgundy (bourbon), whiskey, rum...So I went and got the thing and brought it back...She said 'Will you please go and get me a glass of water?...So I must have gone forth about ten times satisfying her needs..."

Ronny said he was calling Darrell "Tom," and Darrell was calling him "Bill," to disguise themselves. Mrs. Haggart was playing along. Sometimes she called him "Ronny," then corrected herself and said "Bill." After getting the water and whiskey, Mrs. Haggart then asked "Bill" to go into her bedroom and find some pictures she kept in a drawer. The pictures included a photograph of her deceased husband. Ever polite, even as a robber, Ronny complied.

"I showed her the pictures. The first picture was just a lake and a mountain, I think, and she just said, 'This is lake such and such.' And she goes, 'This is my husband...and she saw another, the lady was identified as her mother. So I just sat down and just lookin' at her enjoyin' herself. And then I started

thinkin'...what was I gonna do? I'm sure the lady had identified me. I was gonna get in trouble for robbing Mrs. Haggart's house and that was that. And I was going to get the daylight's beaten out of me...

"Then Darrell, uh, while scramblin' through some kinds of crates, or some boxes of jewelry, he found the gun. A very old, black gun...So I took the gun and I went, you know, to the coffee table and I started playing around. I could even have killed myself. I should've. And I was pointing the gun to my head, to my stomach, my legs, to my arms, oh, I put it in my mouth, some other stuff, stupid stuff. I pointed it at Mrs. Haggart with no intention. I pointed at the ceiling, I pointed at the piano. I pointed at the door, anything that looked big enough to hit.

"...So Darrell was ready to start packing...he said, 'All right Ronny, let's get it over with.' I said, what do you mean 'let's get it over with?' I said, 'You, you get it over with...' So he went over to another room. He brought out a pillow and it smelled kind of clean...I was wonderin' 'What is this kid crazy or somethin?' So then he took (the pillow) half way and he folded the other half and he said, 'You're going to have to muffle the sound.' And I was just playing along with him, didn't want to seem stupid. I said 'Yeah, yeah, yeah.' And he went around the house searchin', closing windows, shades, lamps, whatever. And I said

`Well, I'm not going to do it. I'm not going to kill nobody!' He goes `Somebody gotta do it.' I said, `Not me. You get into trouble killing somebody.'

"He said `I robbed the house. I got all the valuables. I found the \$450. I found the gun which can bring us about \$50. I found just about everything. How are you going to do me like that?'

"I don't give a damn how I do you."

"And he goes to me, `You gonna kill her.'

"`No I ain't,'" I said. "`If you say that again I'm going to bust you in the mouth.'

"So he went over and he started playing with his jewelry like kings run through their gold...I started playing with the gun some more...And what really got to me was, not once, NOT ONCE did Mrs. Haggart say, `Watch out you might hurt somebody...'

"...She said...`If you leave and don't take nothin', and you leave right now, I won't call the police...Darrell heard her when he was comin' in and he said, `No way, no deal, you'd testify against us...'

"So I said `Oh no, this lady's determined. What am I gonna do? Mom will, oh boy, robbin' a lady's house, that's too much...and that's when the gun went off...I was just holdin' it tight. I don't know why. I was scared and before I knew it, I mean, it happened so fast...I covered my ears...

"...I stayed sittin' on top of the coffee table. I was

still thinking what I was going to tell my mother for robbing the lady's house. I had a feeling she was going to go over and tell my mother...When I said, 'Get up,' she didn't want to get up. And then I got scared and I said, 'A gun, a bullet, oh no.' So then I pictured the little scene in my mind of her getting up sayin' 'Get out of here,' and I'd just vroom, out of that house.

"...I saw a scene. I saw, not looking directly at her, I saw Mrs. Haggart rise up. I did not see no blood on her dress. She did not seem to be hit by the bullet. She came up to me, grabbed the gun, told me to leave, and I ran...In that movie that I saw in my dream, the boy lived. So I said, 'Oh, it happened like in the dream.' And I left."

It was the most bizarre confession I had ever heard. I didn't know if Ronny was a heartless killer or mischievous little boy. What I did know was that Ronny Zamora "re-edited" a scene out of reality like he was acting in a television show. After the gun went off, he didn't like the result. So he yelled "Cut," rewrote the script and "re-shot" the scene. In his new ending, he missed Mrs. Haggart and she got up, took the gun from him, and chased the foolish child away.

Dr. Gilbert was equally moved.

"This was, I felt, a very involved situation. I must confess in the well over twenty-five years that I have been

involved in forensic psychiatry, I think this is the most involved situation I have ever been in. I felt it required considerable study, considerable concern, and considerable retrospection in order to arrive at an opinion that was consistent with what had occurred."

The scene from the movie where "the boy lived" turned out to be a dream sequence from Ronny's favorite television show, "Kojak."

With his new, "Kojak"-inspired scene replacing the shock of reality, Ronny Zamora submerged himself into an even bigger fantasy land -- Disney World. He never gave the shooting a second thought. He fully expected Elinor Haggart to be alive and well and out puttering in her yard when he returned.

Once the type and extent of Ronny's sickness was known, the doctors and I began to further investigate the cause.

Eighteen months before the shooting, Ronny suffered a psychologically-scarring experience. While attending the eighth grade in Staten Island, New York, he and thirteen friends were playing on a frozen reservoir. One of his classmates, Scott Sefedinoski, fell through the ice. Ronny courageously dived into the frigid water to rescue his friend. He grabbed the boy's arm, but lost his grip in the struggle. Scott drowned.

That night, Ronny dreamed that he had pulled Scott out. The vision was so real he woke up feeling that's what

happened. He went to school and asked everyone where Scott was. He was ridiculed by his classmates or avoided by those who felt he had snapped.

When the truth of Scott's death finally penetrated his fantasy, Ronny was devastated. He blamed himself. Mrs. Zamora said he sat alone in his room for months, mentally replaying the scene in his mind. He began to drink and came home drunk on a number of occasions. He told psychiatrist William Corwin that he often heard Scott's clear voice calling his name and the name of the reservoir.

In her examination, Dr. Helen Ackerman uncovered the seeds of Ronny's guilt regarding the ill-fated rescue attempt:

"...as he saw this youngster go down, the youngster's hands stuck up. He saw the hand of Dracula, and it was like at one level, he wished to save him, to make the extra effort. But that hand of Dracula so frightened him that he was repulsed by it."

That forced Ronny to live with this question -- Did Scott slip through his grip, or did his hand jerk back in a reflex reaction to the frightening television image his mind conjured up?

"He's a sick youngster," Dr. Ackerman concluded. "It's tragic he was not seen ten years ago. That's the unfortunate thing."

The family moved to Florida that summer after Mr. Zamora received a job offer to become an agent for a

shipping company. Part of the reason for the move was to shake Ronny loose from the relentless nightmares. Despite the new surroundings, he remained haunted by the drowning and the voices. His only escape was to regress deeper into television.

Mrs. Zamora described how her son would pretend to go to sleep each night at 9 p.m., then would sneak out of his room and turn the television set back on. He would watch until the small hours of the morning, frequently falling asleep on the couch or on the rug in front of the set. He did this, she said, "every night."

"...whatever he sees or he saw on the TV, it was so real to him that he believed it," Mrs. Zamora said.

What was Ronny watching and believing? He was drawn to the violent police and private detective dramas of the late 1970s: "Kojak," "Baretta," "Police Story," "Police Woman," "S.W.A.T.," and "Barnaby Jones."

Ronny's taste in music was also notable. Instead of following the current hits, his favorites were all lyrically complex songs with confounding messages. He mentioned three Beatles songs from their so-called "LSD" period in the late 1960s -- "Strawberry Fields Forever," "Eleanor Rigby" and "Helter Skelter," the latter being one of the songs that was said to have inspired Charles Manson's murderous family. Ronny also liked the Led Zeppelin classic, "Stairway to Heaven," another tune with complicated lyrics.

But it was the visual stimulus of television, not

music, that was Ronny's narcotic. And Ronny viewed television in his own special way.

"He can experience being in the TV," wrote Dr. Ackerman after an extensive examination of Ronny. "Everything seems so real to him. He related that he actually stands amidst all the action, hearing and seeing what is going on as if he were actually there. Ronny's sense of the boundaries of reality are distorted..."

There was absolutely no doubt that the boy had deep psychological problems, and that those problems were either created by television, or more likely, exacerbated by the tens of thousands of hours of television violence he had witnessed. Because of television, he had a blurred vision of right and wrong. Because of the twisted inner workings of his mind, combined with the shock of a real-life drowning death, he couldn't distinguish television fantasy from reality, and therefore didn't know the consequences of his acts. Those factors fit the legal definition of an insanity defense.

Other children, tens of millions of other children, had seen the same programs as Ronny and had not been driven to murder. That was undisputed.

It was also inconsequential.

Those tens of millions of other children had watched Superman. They didn't tie a towel around their necks and try to jump out of a four-story window.

Ronny Zamora did.

The other children didn't see -- not imagine -- but see witches, ghosts and shadow monsters in their backyards. Ronny did. According to Dr. Lievano, he threw rocks at them, chased after them and ran from them.

These "hallucinations" as Dr. Lievano termed them, did not end with his childhood. Even as a teenager, Ronny said he heard voices calling him, people talking to one another, and saw "shadow figures staring at me." He once saw a "hairy monster" and a "bald monster" in his window. As recent as a month before his arrest, he had thrown rocks at a mysterious figure on his patio.

"When I went to the Zamora home I asked to see the picture of St. Martin in his bedroom," Dr. Ackerman wrote in her report and expounded upon in a deposition. "And there is this picture of a saint with whitish kind of eyes...Ronny had related to me how the Saint spoke to him with moving lips and eyes telling him what a bad boy he had been..."*3

Along with these psychological problems, Ronny's relationship with his stepfather was deteriorating. Frank Zamora was a decent man and good provider, but he was also a no-nonsense disciplinarian who believed in a hands-on approach to punishment. Ronny, growing more troublesome with each year, was the usual target.

"The punishment is very severe in this family," said Dr. Ackerman. "The stepfather hits the youngster around the face, head and upper part of the body sufficient to draw blood from the mouth area."

Prior to the shooting, Ronny asked his mother if she could find him another family to live with. He also asked her if he could be treated by a psychiatrist.

"I need help," he said.

His own reasons can be seen in the results of the psychological test given by the Catholic Services doctors, a test given two weeks before the shooting. The standard test asks the patient to complete a series of forty questions. Some of Ronny's answers were normal:

1. I LIKE -- "girls."
6. AT BEDTIME -- "I brush my teeth."
8. THE BEST -- "baseball player is Pete Rose."

Other answers were quite disturbing:

12. I FEEL -- "messed up."
23. MY MIND -- "is all screwed up."
39. MY GREATEST WORRY -- "is me."

In 1977, Florida criminal procedures required that whenever an attorney filed a preliminary plea of "not guilty by reason of insanity," the paperwork must contain a "statement of particulars" explaining the nature of the insanity and listing the medical experts. My statement of particulars included this phrase heard around the world -- "prolonged, intense, involuntary, subliminal television intoxication."

I filed the notice late in the afternoon to avoid having it picked up in the media. I knew the defense would

be explosive, but unlike many of my other cases, it was the kind of defense that might be hindered by press coverage. It was too complicated to explain in a newspaper story or television broadcast, and the media was certain to react in a smirky "television made me do it" fashion.

Despite my attempts at concealment, our court system operates "in the sunshine." That means in public. The Zamora case was big news. Jim Buchanan of The Miami Herald dug the pleading out of the courthouse files almost before the ink had dried.

"Ellis, what's this 'not guilty by television' stuff?" he asked over the phone.

I explained it. The next day there was a story in the local section. I breathed a sigh of relief, figuring it would die there. Unfortunately, the Associated Press picked it up and sent out an edited version over the wires. The day after that, I was bombarded with calls from reporters around the world. Within the next few weeks, there were television crews in my office from Australia, West Germany, England, France, Brazil, and Mexico, along with ABC, CBS and NBC. Reporters came from The New York Times, Newsweek, Time, People, TV Guide and dozens of other publications, both domestic and foreign.

Once the cat was out of the bag, the best course was to accommodate the reporters in order to shape the coverage to the advantage of the client. Hide from the press, and they eat you and your client alive.

Most of the early coverage was favorable. There was widespread fear, especially among the foreign reporters, that violence on television was having a damaging effect upon children. They were particularly concerned about proliferation of violent American programs like "Starsky and Hutch" that were being dubbed and aired in their countries. Among the critical stories, lost was the fact that Ronny's defense wasn't a wild concept an attorney dreamed up. It was the conclusion of four doctors. I didn't invent the medical diagnoses that is the crux of the television intoxication defense. I merely applied an innovative psychiatric diagnosis to the law. In that capacity, I gave a name to the legal application of a medical finding.

With that being true, one may wonder why was I first to use that defense?

Weaving a legal defense around any new and unusual psychological prognosis is a tremendous risk. Attorneys who do so subject themselves to professional ridicule, career-threatening public embarrassment, and almost certain charges of "ineffective assistance of counsel" from cannibalistic colleagues. Few attorneys choose to face such intense criticism, inside the profession and out. Sadly, the majority of lawyers would have ignored the doctors' diagnoses in favor of self-preservation.

I couldn't do that. Ronny Zamora was created by television. Win or lose, society was going to have to face it.

Footnotes (Author's note -- these are optional)

1. The case involved an airman, Joseph Shea, from Homestead Air Force Base who was accused in the early 1950s of raping and butchering a woman he supposedly abducted at Miami International Airport. A cousin of mine, working temporarily in my office, called his parents and offered my services. When I found out, I scolded my cousin, but made the mistake of deciding to help the airman. Some of my political enemies found out, and I was cited for solicitation. The ex-governor of Florida, Fuller Warren, volunteered to represent me before the Florida Supreme Court. I was exonerated. Shea, defended by a new attorney, was convicted of first-degree murder. Miami Herald reporter Gene Miller stayed on the case, wrote numerous stories about Shea's innocence, and eventually won Shea a new trial. Shea was then acquitted and Miller won a Pulitzer Prize in journalism.

2. Dr. Gilbert described sodium amytal this way in a deposition: "Sodium amytal is a barbiturate. The generic

name is sodium amobarbital, which is a short-acting hypnotic...It has very interesting properties when you give it intravenously, in that it produces a so-called dissociative state or equivalent of so-called hypnotic state. One might say it chemically produces hypnosis, and it removes inhibitions, and presumably, narcotizes the inhibitory cortex, which has to do, of course, with control....When a person is under the influence of sodium amytal...he has no recollection of what he talked about. He has no conscious volitional inhibition of his speech or the material that comes out in his speech; and presumably, because of the elimination of many of his inhibitory thinkings, there should be an increasing ability in associational natural recall, because there are no associational materials that come up which inhibit the recall of the material. So, many memories will come out which have been relegated at deeper levels of unconsciousness."

3. St. Martin de Porres (A.D. 1639) was a Peruvian mulatto born to an unwed black woman and a Spanish knight. He was a Dominican lay-brother who established orphanages and a hospital for foundlings.

Chapter 4

Programmed to Kill

PART II -- TRIAL ON TELEVISION: TELEVISION ON TRIAL

"...It has been demonstrated that the average child watches thousands of killings on TV. Now, a child like Ronny Zamora, maybe sees five or ten times that many killings. When one has seen that many killings, the death of a human being in that type of situation is no more significant than swatting a fly." -- Michael Gilbert, M.D., Ph.D.

Ronny's defense forced me to confront a personal dilemma. I don't like "insanity" defenses. They are overused and abused by unscrupulous attorneys. Most of the 275 accused murderers I've defended have been "insane" to some extent. I believe you have to be insane to willfully take another person's life. But every one of those 275, even the most wild-eyed, probably knew right from wrong. That's where the insanity issue gets muddy.

The federal courts and many state courts have backed away from the long used "M'Naghten Rule" that holds defendants legally responsible for their acts if they know right from wrong. I believe a better test is: Did the

defendants suffer from a disease or mental defect that rendered them unable to refrain from criminal acts, or stripped them of the ability to conform to the standards of normal behavior?

I would also prefer a bifurcated trial in first-degree murder cases where insanity is an issue. That means you split the trial in half. In the first half, a jury would judge pure guilt or innocence -- Did the person on trial do it? If found guilty, then the second half would kick in. In that part, the judge and the same jury would hear arguments and expert testimony pertaining to all the various insanity diagnoses. They would then determine whether the person knew the consequences of his acts and could or could not conform them to the law -- or even if the person recalled the crime at all. The judge and jury would decide if a person was sane and belonged in prison, or was mentally ill and belonged in a hospital.

Unfortunately, Florida and most other states don't present this opportunity. Therefore the robbery, the murder, Ronny's "cold-hearted" trip to Disney World, and his unprecedented reaction to television had to be stirred together into one dizzying stew.

Another problem I faced was that I was unable to present proof that Ronny was insane without basing it upon the controversial television angle. And from a statutory standpoint, many of the doctors had not found Ronny "legally" insane. For the most part, they felt he knew right

from wrong. In addition, all the doctors felt he was fit to stand trial, meaning he understood the consequences of the proceedings and was able to recall details to help me with his defense. These determinations again hark back to television. In its stereotypical world, television has strong images of right and wrong when it comes to murder. Although virtually everyone kills on the action dramas, it's usually good guys killing bad guys.

But underlying this is the fact that television makes everyone a star, even the bad guys. Often television glamorizes the bad guys. Thus, the role models blur.

"Sometimes I would be the cop and the hero," Ronny told psychiatrist Charles Mutter. "Other times I'd be the bad guy and would get mad if the guy got caught."

The problem with Ronny was that instead of a clear-cut diagnosis of knowing or not knowing right from wrong, his television intoxication caused him to meld the two. He was like actors Michael Gross and Gerald McRaney. In their hit television series, "Family Ties" and "Simon & Simon," the two men play good guys. But both actors took time out from their series to give convincing performances as psychotic killers in television movies that aired in the same week as their television show. From a thespian standpoint, they put on impressive displays of versatile acting. But what effect did it have upon their young fans? Unable to distinguish the characters as easily as adults, a child is suddenly faced with Steven Keaton (Gross) of

"Family Ties" killing FBI agents, and Rick Simon (McRaney) of "Simon and Simon" raping and murdering a string of young women.

Such identity confusion is common.

As "Baretta," Robert Blake was one of Ronny's heroes. In the movie "In Cold Blood," which frequently plays on television, Robert Blake kills an entire family with a knife and a shotgun.

As "Kojak," Telly Savalas was Ronny's biggest hero. In the movie, "The Dirty Dozen," he's a psychopath named "Maggot" who is so vile his evilness stood out among twelve convicts.

David Soul is Detective "Hutchinson" in "Starsky and Hutch" reruns. He's also the sinister killer who murdered FBI agents with Michael J. Fox's TV dad (Gross) in the NBC movie "In the Line of Duty: The FBI Murders."

But that's television and actors, everyone knows that.

Or do they?

Every actor or actress who has ever played a doctor on television can tell harrowing tales of meeting adults who believe the entertainers really are the physicians they portray. A frightening number of adults. Comedian Howie Mandel, who played a doctor on the series "St. Elsewhere," incorporated these reactions into his stand-up routine. The wacky Mandel says that he "cures" these people and claims to be treating thirty regular patients.

Such mistakes aren't limited to actor/doctors. When

comic actor John Ritter played a television evangelist in a 1982 made-for-TV movie "Pray TV," a fake 800 telephone number was displayed on the screen to simulate how the real televangelists solicit donations. The program made headlines the following day when the phone company announced that it received thousands of calls from people, almost exclusively adults, trying to donate money to Ritter's fantasy character. This response is even more disturbing when one considers that Ritter was widely known for playing the character "Jack Tripper" in the long-running comedy hit "Three's Company." How many of those callers were really donating money to Jack Tripper, the bumbling buffoon with the pretty roommates?

These examples may seem comical in their absurdity, but take it a step further. A young fan killed herself after comedian Freddie Prinze shot himself in 1977. Was the girl reacting to the suicide of Prinze, an emotionally unstable cocaine addict who was often mean-spirited? Or was she reacting to the death of a character on her television set, the lovable "Chico" from "Chico and the Man?" This extraordinary reaction to television happened just months before Ronny Zamora shot Elinor Haggart.

The point here is certainly not to blame actors and actresses for playing diverse roles. Nor is it to blame producers and the television networks for casting against type. But society must face the fact that there are legions of people sitting in front of their television sets who

think what they're seeing is real. And because of this, if an unusually suggestive child becomes so confused he does something bad, instead of putting the child into the electric chair, or tossing him into the lion's den of an adult prison, we should get him help.

From a sociological standpoint, the Zamora case had immense ramifications. Dr. Gilbert put it best.

"...here's a child who commits an act of violence like this on the next-door neighbor. It's got to be explained. It's got to be understood."

For Ronny, it went beyond the conflicting images of his television heroes. He took the phrase "all the world's a stage" literally. After viewing 15,000 hours of television, he became mentally unable to comprehend that when you shoot someone a half dozen times in real life, they don't get up, dust themselves off, and order a beer like the stuntman does in a popular beer commercial. And Ronny was mentally unable to understand that when something terrible happens, you can't close your eyes, envision a new scene, and change it.

Those with clear minds and well-adjusted children may find this melding impossible to accept. That's what I faced with a jury, and I've been able to explain it much better here than I was permitted to in court. Even so, it was never my intention to have a jury excuse Ronny Zamora for what he did because he watched too much television. I wanted to get a disturbed young boy the medical help he needed to understand what he did and come to grips with living in the

real world.

Without a bifurcated trial, the only way I could accomplish this was through a "not guilty" verdict. Under these guidelines, the defense with which I was left was the one I dislike -- "not guilty by reason of insanity." And "television intoxication" was what brought on Ronny's bizarre form of insanity.

I believed it then. I believe it today.

If the television intoxication defense wasn't unusual enough, the trial of Ronny Zamora was fated to have an additional landmark element -- television itself. Radio and still photography had been banned from courtrooms in 1937 following the circus atmosphere of the Bruno Hauptmann/Lindbergh baby kidnapping trial. Television was added to the ban in 1952. Twenty-five years later, lawyers for the Post-Newsweek media conglomerate argued that the technology of television and photography had improved to such an extent that the equipment was no longer as obtrusive as it had been in the past. Additionally, the journalists of the 1970s were said to be more sophisticated and less rowdy than their forefathers from the "Front Page" era.

Twenty-seven days after Elinor Haggart's death, the Florida Supreme Court agreed to allow trials to be televised for a year on an experimental basis. At the end of the year, the televised trials would be analyzed to determine the positive and negative effects.

The Public Broadcasting station in Miami, WPBT, and other stations throughout Florida, began monitoring the courts to find the right case to begin the experiment. Since even public television is television, it had to be something that would capture an audience's attention. The Zamora trial became that case. From their standpoint, they couldn't have written a better script themselves. The first completely televised trial would be a murder where television itself was on trial. It would also be a double precedent -- a precedent-setting defense in a precedent-setting situation.

Unfortunately, into this unprecedented case, with unprecedented live coverage and unprecedented worldwide media attention, there was one law that outshone all the others -- Murphy's. From my standpoint, everything that could go wrong, did.

The first disaster struck during the depositions, the pre-trial sworn statements of potential witnesses. I had decided that Dr. Gilbert was going to be my star witness. His diagnosis of Ronny's condition was the most captivating. I had been greatly influenced by him when I decided to go with the television intoxication defense. We discussed his testimony for months. I provided him with every respected study about television violence and children that I could get my hands on. Surprisingly, there were 2,300 to choose from and many were quite alarming. Dr. Gilbert assured me he was going to tell the jury that Ronny had a diminished sense of right and wrong from watching television and could not

separate television fantasy from reality.

The day before Dr. Gilbert's deposition with Assistant State Attorneys Thomas Headley and Richard Katz, I played the part of the state attorney and took him through a practice deposition. Dr. Gilbert was strong in his convictions and gave answers that were sure to impress the most cynical juror.

The next day, Thomas Headley began questioning Dr. Gilbert. He asked him if Ronny knew right from wrong before the day of the shooting. Dr. Gilbert said "yes." I sat up in my chair. Headley asked if Ronny knew right from wrong when he entered the house, was given the gun and when he was holding Mrs. Haggart at bay. Dr. Gilbert said "yes" to them all.

I was dying. Dr. Gilbert appeared to be flip-flopping on what he had told me for the past three months.

Headley continued. He asked the doctor if at any point Ronny didn't know right from wrong. Finally, Dr. Gilbert gave the right "yes" answer. He said that during the two or three seconds when Ronny squeezed the trigger, he momentarily lost his sense of right and wrong.

Then came another parade of answers regarding Ronny's sense of right and wrong. According to Dr. Gilbert's new theory, Ronny was back to normal following the shooting.

I sat there in total shock. Headley looked at me and smiled. He knew the "television intoxication" defense had been mortally wounded. The "three seconds of insanity"

defense might work with a husband coming home and finding his wife in bed with his best friend, but I felt it was ridiculous in this case.

I drove Dr. Gilbert to his office. Although I was ready to explode, I forced myself to stay calm.

"Mike, when did you come up with this new 'three second theory'," I asked.

"I thought about it last night. I think it's the best way to handle it."

"Why didn't you tell me? You realize that you'll have to repeat this at the trial and you'll be the laughing stock of the entire medical and legal community all over the world? The prosecutors are going to turn you into an ass. How could you do this? You killed the case for this kid. And you knew the truth better than anyone."

I didn't talk to Dr. Gilbert for weeks after that. As I cooled down and studied deeper, I began to understand his thought process. With television as his teacher, Ronny did know right from wrong most of the time. Strange as the "three second theory" was, Dr. Lievano separately came to virtually the same conclusion. He said Ronny could fade out of reality for brief periods, and had done so during the shooting. Dr. Lievano said the sensory overload of Darrell ordering Ronny to shoot Mrs. Haggart, Mrs. Haggart threatening to tell the police, and the fear that he was going to be punished for the robbery all worked to snap Ronny's fragile grip on reality.

But how could I make a jury understand that? In the narrow legal arena, such concepts would be ridiculed.

I felt, as Dr. Gilbert had originally stated to me, that Ronny's illness was an ongoing, and increasing, mental dysfunction that had been in the making since he was five years old. And I believed that from the moment Ronnie entered Elinor Haggart's house, to the moment he confessed four days later, he had submerged himself into a television cops-and-robbers episode, one that had Mrs. Haggart alive and well following the robbery. The post-shooting period was especially critical. While Dr. Gilbert felt Ronny regained his sanity, with some "impairment," following the shooting, I don't think any sane teenager could have gone to Disney World with a pocketfull of blood money hours after robbing and killing his neighbor.

I called Dr. Gilbert shortly before trial and asked if he was ready to face the music. He told me he had another idea that might save the case. This was to go to the jail, inject Ronny with the truth serum, and get him to reenact the day of the murder. I protested, afraid of what Ronny might say. Dr. Gilbert insisted it was necessary for his evaluation, and I eventually consented. It was a stroke of brilliance on Dr. Gilbert's part. Under the serum, which relaxes the subject and inhibits deceptive thought, Ronny's description of that day, as recorded in the prior chapter, was the best evidence yet of his television intoxication. Unfortunately, when I read the transcripts, I realized I

couldn't use it. There were too many things that the prosecution would jump upon to hang Ronny, not the least of which was the emotional image of Mrs. Haggart showing Ronny her family photographs just before he killed her. That scene brought tears to my eyes, and those tears would have translated into juror rage.

Murphy's Law had gotten us again and it was worse than we imagined. When the prosecutors heard what Dr. Gilbert and I had done, we were charged with smuggling drugs into the prison! We had unknowingly violated a state statute and a jail rule that an outside doctor cannot administer medications to a prisoner without either the permission of jail authorities or an order from a judge. The judge summoned us to court to "show cause" for our unlawful drug smuggling. I pleaded a variation of Steve Martin's "I forgot" defense. On one of his comedy albums, the famous comedian does a routine in which he is arrested for murder and pleads his case before a judge.

"Your honor," Martin says, "I forgot that murder was against the law."

My defense, which was the absolute truth, was:

"Your honor, I didn't know."

Nobody but jailers and a few prosecutors know that obscure law. The judge decided there was "no intent" to break a law and let it slide.

Murphy's Law was relentless in its continuing assaults. Another disaster arrived by mail. Ronny wrote my

daughter Kim a letter from jail. In it was a confession! That, combined with inviting her to Disney World hours after the murder, and his phone calls to her after he came back, had turned Kim into a potential star prosecution witness. One might think that having lived my life in court, having relied upon my wife as an invaluable aid for thirty-plus years, having my oldest daughter Peri as my office manager, and having two sons become lawyers, it would be routine for a Rubin to be a "star witness" in a murder trial.

No way. No way in hell was I going to let my fifteen-year-old daughter go through the ordeal of being a witness against one of her friends and her father's client. And how was I going to cross examine my youngest child? Would I be expected to do a Perry Mason number on my own kid and crack her like an egg on the stand? Kim was already so emotionally devastated by the shooting and the controversy surrounding the trial that she began having difficulty concentrating in school. Her grades plummeted.

Fortunately, prosecutors Headley and Katz were decent about it and agreed not to call her if I submitted the letter into evidence. Since I wasn't contesting the other confessions or the circumstances of the shooting, one more confession was meaningless.

That was about the only break we got. I had cringed when I learned which judge had been assigned the case. Circuit Court Judge Paul Baker and I had a long history of being at odds. It started decades before when he was an

assistant state attorney. I took a case against the prosecutors' office for a man who claimed the State had wrongfully convicted him of grand larceny by knowingly using the false testimony of a witness. The man, Charles Horner, went from lawyer to lawyer trying to get someone to fight the powerful state attorney's office. No defense attorney was crazy enough to risk committing professional suicide by taking his case. So of course, when Horner came to me, I accepted. I exposed the perjury in the pre-trial depositions and was preparing to nail the guilty parties in court. On the morning of the trial, the attorney for the State told the judge they "admitted error" and were dropping all charges against Horner, including the grand larceny conviction. That swept everything nice and neatly under a judicial rug.

Judge Baker and I continued to cross paths under the most volatile circumstances, including one messy, front-page political battle that pitted me and Governor Claude Kirk against Baker and the State Attorney.

Suffice it to say Baker's hatred of me grew with each encounter.

So naturally, of all the judges in Dade County, Murphy's Law decreed that the biggest case of my life would fall before Judge Paul Baker. Normally, when there is a history of bad blood between a lawyer and a judge, the attorney can file a motion to remove the judge from the proceeding. But Murphy's Law had that covered. The Zamora

trial came at a time when I had been led to believe that Judge Baker had long buried the hatchet. For the previous eight years, he had been fair during my trials before him, had been cordial during social gatherings, and even called me periodically to ask if I would like to be appointed to this or that case. There was no reason to believe he wouldn't be fair during the Zamora trial. Filing a motion to remove him would not only have been legally questionable, it would have been personally insulting. Because the Zamora case was so highly publicized, dredging up the past and excising Judge Baker from the trial might have held him up to public embarrassment.

On September 26, 1977, with the live eye of the television camera watching, and more than sixty reporters from around the world packing the gallery, something not to be confused with a fair trial began in Room 4-1 of the Dade County Hall of Justice. The day before, Ronny had been provided with a new suit to wear in court. He said the jailers took it from his locker and ground it into the dirty floor with their shoes, rendering it unwearable. One jailer went to his cell and taunted him by saying the electric company had offered to provide the electricity for his "death chair" for free. (The power company never made such a remark.)

I entered the courtroom under heavy scrutiny -- and had both hands figuratively tied behind my back. In a series

of pre-trial hearings, Judge Baker proceeded to insure that Ronny, me and my defense went down in flames by throwing out virtually all of my medical and social science experts.

Included among these experts was Dr. Margaret Hanratty Thomas, assistant dean of Academic Affairs at Florida Technological University in Orlando (later renamed the University of Central Florida). Dr. Thomas is a preeminent psychologist and nationally-respected expert in the field of the effects of television violence on young children and adolescents. She had published fifteen papers and was planning to enlighten the jurors, and the world, on some startling findings. The judge asked her if she had ever seen or heard of a murder directly caused by television. As Baker knew, most psychiatrists and psychologists would never answer such a question because their science is much broader in its consideration of factors.*1 When Dr. Thomas tried to explain this to the judge, he unceremoniously tossed her and her expertise out of the witness box.

For a doctor or other expert, such an encounter with the legal system can be both humiliating and infuriating. These scholars dedicate their lives to a particular subject, become authorities in the field, and then are called in to testify in a big murder case. After decades of meticulous research, all in relative obscurity, the chance to share their findings in a precedent-setting trial with worldwide media coverage can be the crowning moment of their careers. They take the stand, then boom, some close-minded judge

decides that they don't know squat and publicly bounces them right out of the courtroom.

That's exactly what Judge Baker was doing to my expert witnesses. I brought them in and he tossed them out, tales between their legs. He refused to consider their studies or hear their testimony concerning the damaging effects of television violence on children. Judge Baker's rationale was that the expert testimony had to be restricted to Ronny, and not children in general. Such a decree would make most respected researchers of any topic insist that Judge Baker was legally insane. Imagine trying to prove that cigarettes cause cancer, and being restricted to one single smoker?

Similarly, the judge also refused to allow me to submit seventy-eight scientific studies and published stories on television violence and children. Many were authored by prominent doctors and researchers from around the world. Judge Baker's illogic here was even more outrageous. He said I could only submit studies taken specifically on Ronny Zamora, a ridiculous and impossible restriction.

I felt like putting this reminder over the judge's bench -- "The mind is a terrible thing to waste."

Incredibly, immediately after tossing out Dr. Thomas, Judge Baker came face-to-face with the power of television. The jurors had been sequestered in a local hotel and were prevented from watching the television coverage of the trial. They weren't pleased.

"Let me say that I have received the request of the jury that they be allowed to watch themselves on television with the sound turned off, just to see what you look like," Baker said amid courtroom laughter. "I can't permit that during the course of the trial, but I will arrange for it after the trial. You will all get to see yourselves on television."

Once Headley and Katz realized that the judge was sticking it to me and would sustain their objections, they went wild. Each time I tried to slip in a television-related question, the prosecutors shot out of their chairs like a rabid rat had taken a bite out of their ankles. Headley was particularly annoying, objecting to everything and anything even beyond the scope of television. He started his onslaught during the jury selection process and kept it up the whole trial. The following courtroom exchange, regarding a police officer's testimony, was typical.

Headley: All right, your Honor, may I have a continuing objection at this point, and the court can rule?

Baker: You may. I really can't make an intelligent ruling until I hear the response.

Rubin: Your Honor, I'll stipulate that he has a continuing objection since the opening day of the trial.

Headley: Very cute.

Baker: All right, gentlemen.

When it was his turn, Katz was in such an objection frenzy he even objected to a question asked by Judge Baker, a legal no-no. He also objected to a question, had his objection overruled, then objected again after the question was read back to the witness by the court reporter. While I was trying to question child psychology specialist Dr. Helen Ackerman, Katz objected forty-seven times over the course of about a half hour. And Judge Baker sustained most of the objections, meaning Dr. Ackerman was all but totally gagged. Some of the banished questions went right to the heart of Ronny's defense:

Rubin: Was there anything in the test material that showed an effect of television watching on his (Ronny's) character and his person as you see it now and as it existed on June 4th, 1977?

Katz: Objection.

Baker: Sustained as to that.

Rubin: What kind of shows did he watch?

Katz: Objection.

Baker: Sustained as irrelevant.

Rubin: Did you ascertain that he watched any particular programs which he then copied in his everyday behavior?

Katz: Objection.

Baker: Again sustained.

Rubin: No further questions.

In essence, what little chance Ronny had left after Dr. Gilbert sprung his "three second theory" was squashed by an unbending judge and a pair of magpie prosecutors disrupting my defense at every turn.

If they didn't believe the television intoxication defense, if it was just one of "Ellis Rubin's crazy gimmicks," then why were they all so terrified of it?

Actually, all of this erasing and gagging of the experts wasn't that bad. Judge Baker was smothering Ronny's defense to such an extent that I knew if we lost, I had a solid chance of having the verdict overturned on appeal. Truthfully, I suspected that even with a supportive judge it was a 100-1 shot to win the jury trial. I fully expected to continue to fight the "television intoxication" battle through the State appellate process.

But I had to get through the initial trial. Without the doctors, and without a defense, the only thing I had left was some razzle dazzle. I had read that actor Telly Savalas had given a speech at Columbia University decrying television violence because it caused children to commit "copycat" crimes, a well-known phenomena. Savalas also said he pushed to have the writers and producers tone down the violence on "Kojak." I subpoenaed him to testify. The bald-headed, Greek actor fought the subpoena, claiming he

didn't know anything about the case. His attorney filed a motion to quash his appearance. Judge Baker held a meeting in chambers to discuss it. He wanted to know the relevancy of Savalas' testimony. I explained that Ronny had conjured up a "Kojak" episode to mentally erase the shooting. Additionally, as "Kojak," Savalas was Ronny's biggest hero. If Ronny's biggest hero felt television caused children to commit crimes, that was vital. Judge Baker said he would order Savalas to appear, but that he would question him to determine the relevancy of his testimony.

"What right or authority do you have to question my witness during a deposition?" I screamed.

He replied that he was the judge and thus had the right to do anything he wanted. I countered that he could do anything except take the testimony of potential witnesses. He could lawfully attend the deposition, but all he was empowered to do was screen objections. He brushed off the legalities, insisting that he alone was going to question the television star. I felt Judge Baker himself was becoming intoxicated by the live PBS television coverage of the trial. Bitten by the TV bug, he wanted to up the stakes and get his face on national television by questioning the ultimate "star witness." I walked out and immediately cancelled the subpoena. If the judge blew Savalas out, which he was going to, the headlines would have destroyed the case in mid stream.

At this point, my defense had been narrowed down to

the width of a cocktail straw.

Meanwhile, Headley was encountering a few problems of his own. Linda Agrella, Darrell's mother, refused to respond to his subpoena to testify. The judge had to order a Writ of Attachment and have her brought in. When she arrived, her lawyer said she was psychologically unable to take the stand. He produced psychiatrist Bryan Weiss who took the stand in her place. Dr. Weiss testified that Linda Agrella was "in a psychotic condition and cannot differentiate reality from her fantasies...at the present time, she is not capable of differentiating right from wrong."

Headley and Judge Baker promptly accepted the one doctor diagnosis of Mrs. Agrella's mental state, excused her, and waived the charge of disobeying a court order. The prosecutor and judge then went back to virulently attacking my doctors' diagnoses of Ronny's insanity.

Despite the suffocating restrictions placed upon me, I fought on and managed to win a few rounds. I begged the judge to allow me to use the tape of the truth serum test. That was my Brer Rabbit, "please don't throw me into the briar patch" strategy. Headley correctly argued that the Florida Supreme Court had ruled that truth serum tests weren't admissible without both attorneys agreeing. Since Judge Baker thought I wanted it in so badly, he naturally refused to allow it. That kept Elinor Haggart's emotional family photo album scene out of the hands of the prosecutors and the minds of the jurors.

There were other minor victories. Mrs. Zamora held up under the strain considerably better than Mrs. Agrella had. She took the stand and emotionally and effectively detailed television's effect upon her son and his mental disintegration after his friend drowned:

"The way he learned English (at age five) was watching TV from the time he got up in the morning until he went to sleep...I had to go out and work. My husband had to go out and work...Ronny was very active and I was afraid he would run away or something, you know, open the door and let anybody in the apartment. So I thought of watching TV, and for him watching TV was the greatest thing in the world..."

Even as a teenager, Ronny's devotion to television remained unwaivering.

"...He would stay home and watch TV...He didn't want to do his homework. He didn't want to read. He just, he would just watch TV.

"...A lot of times when my husband was not home Ronny asked me many, many times, he actually begged me to convince my husband to have his (Mr. Zamora's) head shaved like Kojak...My husband was going to do it, but then one day he was mad and he said forget about it...Ronny was very upset because we almost had him

convinced that he was going to shave his head like Kojak."

Then Ronny's friend Scott drowned, the boy's life literally slipping through Ronny's fingers.

"...I was worried because Ronny had changed completely. He was not the same person I knew...He was losing his mind or something."

When it came time for Dr. Gilbert to testify, it took me fifteen minutes just to list his credentials, including his double doctorate and his stint at St. Elizabeth's Hospital in Washington, D.C., a 7,000-bed mental hospital. A brilliant man, Dr. Gilbert had been admitted in court as an expert more than a thousand times -- for both defense attorneys and prosecutors.

Headley objected to his admission as an expert.

In fact, Headley put up a fierce objection, arguing that the doctor had formed his opinions based upon the illegal sodium amytal test. Dr. Gilbert insisted that he hadn't, explaining that the truth serum merely confirmed his earlier diagnosis. Legally, Headley was splitting hairs on a microscopic level.

Miraculously, Judge Baker didn't pounce upon this to bounce Dr. Gilbert. Apparently, he realized that he had to leave me with at least a skeleton of my defense or the

appellate courts would have his head.

"I'm not about to sit here and rob a fifteen-year-old boy of a defense. I'm just not going to do it," Baker said.

Because Dr. Gilbert had personally analyzed Ronny and was the defense "psychiatrist of record," Judge Baker had no right to gag his testimony or limit his diagnosis as severely as he had with the other doctors. That crack in the door was all that I needed. Despite painting himself into a corner with his "three-second theory," Dr. Gilbert gave a sweeping display of mental prowess. At one point, he testified in French, German and Spanish to make a point. He was especially captivating regarding Ronny's television intoxication.

Dr. Gilbert: ...It has been demonstrated that the average child watches thousands of killings on TV. Now, a child like Ronny Zamora, maybe sees five or ten times that many killings. When one has seen that many killings, the death of a human being in that type of situation is no more significant than swatting a fly. This develops a concept, an attitude, a distortion of reality, if you will, that the shooting of a person is of no greater consequence, let us say, than the swatting of a fly.

Now, the reason is, you see, if a shooting in television were accompanied by the physical agony of the person who's shot, the bleeding and suffering, and

we're also shown the funeral, and also shown the suffering of this person's family, his children or his parents or what have you, all as a consequence of this shooting, as contrasted with 'bang, bang,' and the scene goes on. They don't look (on television) to see if the person is alive or dead or still bleeding or he can be saved or whatever. And then he gets a distorted concept of what television death is, what death by shooting is, whereas if he saw all these other things which are reality, then he has a realistic concept of what death is. But (television), then, gives him an unrealistic concept of what death by shooting is. It's not real. It's distorted. And this is what happens in the case of an adolescent in Ronny Zamora's situation.

Rubin: Did it have anything to do with the shooting of Elinor Haggart?

Dr. Gilbert: It certainly did.

Rubin: Can you explain that, please?

Dr. Gilbert: ...At the time he first gets the gun, this to him is not a weapon. It's a play toy, because he describes he opened the barrel, he spun it around, he waved it here, he pointed it there...put the barrel in his mouth...aimed it at the ceiling, aimed it at various things. He was playing a game with a toy.

Now then, Mrs. Haggart makes a statement to the boys. She says she knows he's the next-door neighbor and she is going to tell the police. It is at that point that

Ronny told me the gun went off accidentally...Now then, if this child has been exposed to thousands and thousands of situations where he has seen, when you are threatened, bang, you shoot. You take this emotionally disturbed child in a situation which is foreign to him -- he's never been a robber before. He's never held a gun in his hand before -- but he has been conditioned that the proper thing or the thing to do is to shoot. He has no conscious awareness, intention, volition, if you will, of what he is doing. But the trigger finger reflexly contracts over the trigger and the gun goes off.

...Up to that time he knew the difference between right and wrong. At the time of the shooting, he did not know what he was doing. Therefore, he could not know the nature and consequence of his act, since he did not know what he was doing. And therefore, he can't, couldn't judge that what he was doing was wrong.

If I could have gotten Dr. Gilbert off the stand at that point we've have had a slim chance. Unfortunately, he had to be cross-examined. Dr. Gilbert, for all his double doctorates, had a tendency to appear smug and pompous. Knowing this, I could suppress the characteristic by playing to his intellectual ego. However, when challenged by an enemy, these negative traits surface. During the depositions, Dr. Gilbert had been condescending of Headley

and Katz and showed an obvious disdain for their inability to quickly grasp and accept his innovative concepts. He even went as far as correcting Katz's English, and followed up by correcting Headley's English in open court on live television! Obviously, this didn't sit well with the two prosecutors. I could see Headley practically salivating as he left the prosecutors' table. He took Dr. Gilbert through Ronny's sanity as before, and was told that Ronny was sane up to and after the shooting.

Headley: Now, when it comes right to the moment that the gun is shot, it is your opinion that the defendant went from sane to insane and back to sane in a matter of two or three seconds?

Dr. Gilbert: That is correct.

Headley: Now, the exact time -- which we can't reconstruct -- but would the time period be from when the trigger was pulled until he heard the noise and this brought him back to his senses?

Dr. Gilbert: More or less.

Headley: This then could be no more than a second.

Dr. Gilbert: Second or seconds. I think by the time the noise subsides and one gets his faculties back where he can look around and see what happens. Probably, let us say a few seconds, but I think we're really pulling at hairs here. A second, a few seconds or ten seconds. I don't think it's of any great

consequence.

But the jury did. Adios Ronny. See you in twenty-five years.

In defense of Dr. Gilbert, when psychiatrists talk about the inner workings of the human mind, time can be meaningless. Scientists have long had a different view of the abstract of time. They see it as being relative. Ten seconds in a courtroom is a blink of an eye. Ten seconds with one's foot in a fire is an eternity.

But three seconds of insanity from watching television? A jury couldn't comprehend that. And just in case some of the jury members were swayed by Dr. Gilbert's oration, the prosecutors had their own experts to dismantle his diagnosis.

Dr. William Corwin: It is completely unlikely that in the space of a brief period, like one to two or three or four or five seconds, the time in which it would take to pull a trigger, which in itself, required some effort and conscious volition, it is completely unlikely that he would be, at that moment, legally insane.

While the television intoxication defense was being skewered in court, the other precedent-setting aspect of the Zamora trial was meeting with far greater success. The

cameras-in-the-courtroom experiment, at least from the viewers' standpoint, was a rousing success. Miami's PBS station edited each day's trial footage into two or three-hour segments which were aired the same evening at 11:30. During the course of the nine-day trial, it was the highest-rated program in its time period, a rarity for PBS. In fact, the Zamora trial was crushing the time period's previously indomitable leader -- Johnny Carson's "Tonight Show."

But the boffo Nielsens weren't helping me one iota in court. By the closing arguments, I was ready to be carried out on my shield. The prosecutors naturally invoked their right to make opening and closing summations, sandwiching me in between. Headley gave Katz the opening half and saved the critical last word for himself. He was brutally effective:

"...My God, where have we gotten when someone can come into a court of law and, with a straight face, ask you to excuse the death of a human being because the killer watched television? The defense in this case could have just as easily have been too much violence from reading the Bible, too much violence from reading history books, too much violence from reading the papers. Unfortunately, we do have violence in this world and we're exposed to it. But exposure to that violence does not make you legally insane, or we're going to have free license to do whatever. And what did the defense

do to establish their defense?..."

What indeed? It was Headley who pleaded with Judge Baker to gag my experts and thus sabotage my defense. But that's the breaks, and in the summations -- especially the final, uncontradicted summation the prosecutors are gifted with -- no prisoners are taken.

Dr. Gilbert, the grammarian, also felt the sting of Headley's tongue.

"The whole case depends on Dr. Gilbert. You heard his testimony. I didn't understand too much of it, to be honest with you...I suggest that the testimony offered by Dr. Gilbert is something that if you were at a friend's house, you would listen to politely for a few minutes and then throw up your hands and say, 'Nonsense. Nonsense.' "

Which basically sums up the reaction of the jury. They were out two hours, an unusually short time for deliberations in a murder trial. It wasn't surprising though. Judge Baker spared them the effort of having to glance at any of the seventy-eight articles on television violence I was prevented from submitting. But hey, it was only a boy's life.

On October 6, 1977, Ronny Zamora was found guilty of murder, burglary, armed robbery and possession of a weapon.

On November 7, Judge Baker sentenced Ronny to life in prison with no chance of parole for twenty-five years. (During his opening argument, Headley announced he wasn't asking for the death penalty.) Ronny was also given two other twenty-five year sentences on the burglary and armed robbery charges, and three years for possession of a weapon.

Prior to the sentencing, Judge Baker commented on all the advice he had been getting:

"In the weeks since this trial, I have received phone calls, letters, and petitions even from Dr. Karl Menninger himself, telling me what to do. And it is not their business. It's unfortunately mine."

Dr. Menninger is the renowned Nobel Prize-winning psychiatrist who created the respected Menninger Foundation. He had recommended that Zamora receive medical treatment. Regarding Judge Baker's comments, Dr. Menninger recently responded: "The judge is right; it is his business; but he is not right that it is none of ours. It is some of our business to be sure that the judge is acting in a way that a modern and intelligent judge should."

A member of the jury explained the verdict in this quizzical way to PBS:

"I endorse any and all television. It's police shows, it's -- what it is doing is bringing the every day violence that occurs out on the street into your home and you're getting more educated."

The television-happy juror was equally elated about

televised trials.

"I think it's really one of the greatest achievements in a long time, the television. The public gets a chance to view and also be the jurors."

Judge Baker himself termed televised trials a success. He explained his reasons to PBS narrator Richard Reeves, the syndicated newspaper columnist and national editor of Esquire magazine.

"I define 'success' as not having an impact on the witnesses to the extent that they were given to overstatement or that they were intimidated. I define it as having little or no impact on the jurors' ability to consider the testimony...I think as an educational tool and as news, it was successful, since it gave the public an opportunity to see what goes on in a courtroom. And most of them have not had that experience."

However, Dr. George Gerbner, professor of communications and dean of the Annenberg School of Communications at the University of Pennsylvania, offered PBS some words of caution. Dr. Gerbner, a noted television researcher and authority, expressed concern that television has a tendency to change and overwhelm whatever it touches, and reminded everyone that many judges are elected officials. He felt the constitutional separation of powers that is the heart of the legal system might be compromised by "centralized" and "organically programmed" television.

"There are hundreds of trials going on everyday," Dr.

Gerbner said. "Who is going to...decide what will be selected out for either regional or national television? The medium itself? On what basis will it select? On the same basis on which it selects everything else -- the basis of sales, the basis of ratings, the basis of entertainment."

Following the verdict, my plan was to exhaust all state and federal the appeals. Beside the judge's actions, Headley had made a serious mistake. After the verdict, I was told by the father of one of the witnesses that during the trial, Headley and his investigators had a prosecution witness call a defense witness to try and find out where the jewelry and gun were. The parties involved were the junior high kids. Apparently, rumors about the missing gun and the remaining pieces of unrecovered jewelry were running rampant at the school. One of the Disney World boys was summoned to the state attorney's office and was instructed to call a girl who supposedly knew who had the evidence. (The girl, of course, was one of my daughter Kim's friends. I still give thanks to God it wasn't Kim.) The boy called her twice. Sure enough, she made a series of incriminating statements that could have sent the little valley-talking fourteen-year-old away for a long stretch. During the call, she repeatedly refused to come forward and vowed to lie in court if asked. Both calls were taped, and the tape was played in front of two additional state witnesses. Since all the witnesses had been ordered not to talk about the case to each other, such

a call, and the playing of the tape, was in gross violation of the judge's strict witness sequestration order.

When I called the teenage girl to the stand to testify, I was totally in the dark about the clandestine kiddie wiretapping operation. Headley jumped up and informed the judge there had been a violation of the separation order because of a telephone call. Sure he knew. He caused it! Headley, of course, didn't mention that. He skirted serious judicial punishment by graciously saying that although he should object to her testimony on the grounds of the call, and because she admitted watching some of the trial on television, he wasn't going to. Even so, four prosecution witnesses had been compromised, and a fifth was later told about the taped calls and was subsequently tainted. All five should have been eliminated from the trial, not only for violating the sequestration rule, but because of the fearsome tactics used by the State. The wiretap operation no doubt scared the life out of the impressionable teenagers who heard the tape, and may have caused them to alter their testimony. Plus, it could be viewed as an underhanded tactic to get rid of a defense witness and deprive Zamora of a fair trial.*2

Besides the teenage girl, the "tainted five" included all four of the boys who had gone to Disney World with Ronny. Without their critical testimony, which Ronny said was full of lies, it would have been a whole different case.

I informed Judge Baker. He was upset about what had

transpired, but ruled it had no bearing on the outcome of the trial.

In the initial appeals, I protested both my inability to present my case and the problem of the tainted witnesses. While the appellate judges also condemned the prosecutors' actions regarding the witnesses, they refused to order a new trial. The next step of the appeals process was federal court. That's where I felt we had our best chance. I was confident that a federal court would never tolerate the judicial abuses that occurred during the Zamora case. But before I could appeal, Frank and Yolanda Zamora decided on a different tack. They switched attorneys and attacked me for "ineffective assistance of counsel."

Ronny's new attorneys went from court to court trying to get somebody to rule that I had been ineffective. They were shot down at every turn, including the Florida's Third District Court of Appeals, U.S. District Court, and as recently as 1988, the U.S. Eleventh Circuit Court of Appeals in Atlanta.

The Third District Court of Appeals stated:

"...defense counsel cannot be faulted for selecting a tack which, by allowing for the presentation of evidence as to the defendant's unfortunate background, may have at least evoked the sympathy of the the jury and a consequent jury pardon...whether viewed in its individual segments, in different series, or as one entire picture (the defense) does not project an image of ineffectiveness."

In 1986, U.S. District Court Judge Eugene Spellman wrote:

"This court sees this situation as a rather bleak, but not uncommon one -- a lawyer faced with the task of representing a `client with no defense.' "

The Atlanta court concluded:

"The evidence suggest that counsel was prepared and that he attempted to develop a defense in a weak case."

I was happy to be vindicated, but I disagree that Ronny Zamora was a client with "no defense" or a "weak case."

Although the accusations of incompetency hung over my head like a sword for more than a decade, I can't blame the attorneys for attacking me. I knew the risk when I offered the defense. The media makes a big deal about "ineffective assistance of counsel" charges, but actually, they're a routine appeal tactic. Defense attorneys get slapped with thousands of such charges every year. However, I felt the logic behind the motion was disturbing. Instead of pursuing the errors made by the judge and prosecutors, Ronny's new lawyers kept hammering away at the ineffective counsel charge. Even if the courts had found that I was ineffective and ordered a new trial, a rare occurrence, Ronny simply would have been convicted again. What was the point? At least my way, we had a remote chance of winning the case, and a solid chance of winning an appeal and getting Ronny the medical help he needed.

But I wasn't the victim. While I was being professionally attacked, Ronny Zamora was growing up in prison. If he was so impressionable that television distorted his mind, I'm almost afraid to consider the effect of twenty-five years in prison.

(see Epilogue)

Chapter 5

THE SHEIK -- Lifestyles of the Incredibly Rich
and Obnoxious

PART I

"Money makes people rot." -- Sheika Dena al-Fassi

In late 1980, all of South Florida was atwitter with the news that Prince Turki bin Abdul-Aziz and his vast entourage had alighted in Miami. Prince Turki, zillionaire brother of trillionaire Saudi Arabian King Fahd, had taken up residence on the top floors of the Cricket Club, an exclusive Miami condominium and hotel complex on the shores of Biscayne Bay.

The Cricket Club was then owned by one of Miami's more colorful residents, attorney-turned-real-estate-baron Alvin Malnik. On April 25, 1982, the Miami Herald published a rather voluminous splash of journalism recounting "twenty years of accusations" that Malnick was a close associate of the late mob boss Meyer Lansky, and had business dealing with some other mobster types. Malnik once again denied the

charges, as he had for the previous two decades. The Herald quoted a state gambling regulator claiming otherwise. As is frequently the case with such stories, absolutely nothing came of it. Malnick has never been convicted of any crime.

Among Malnik's possessions is the nationally-famous Forge Restaurant, an exclusive dining and dancing spot on Miami Beach's Arthur Godfrey Road. The Forge is the place where Lansky's stepson, Richard Schwartz, got into a squabble with another man with Mafia bloodlines, Craig Teriaca, the twenty-nine-year-old son of alleged underworld honcho Vincent Teriaca. In October 1977, Teriaca and Schwartz, forty-eight, were arguing over which Mafia prince owned a \$10 bill laying on the bar. Schwartz pulled a gun in the crowded nightclub and shot Teriaca dead. Revenge was swift. Four months later, while out on bond awaiting trial, Schwartz was gunned down coming out of his restaurant on Bay Harbor Island. He died on the pavement beside his blue Cadillac.

For once though, it was a guest, and not the owner of the Cricket Club, who was making all the news. And for once, it was positive. Except for a few isolated pockets of resistance from Jews on Miami Beach, the Arab prince and his zillions were welcomed to Miami's melting pot.

The wealthy residents of the Cricket Club and the adjacent Jockey Club, where bayfront condominiums can cost as much as \$1 million, were made to feel like paupers compared to the Arab. The Prince rented an entire traveling

circus to perform at a birthday party for his three-year-old daughter and two-year-old son. The mini-prince showed up wearing shoes sprinkled with two-carat diamonds. The tennis courts were covered with a tent, which proved to be no match for the strong bay winds and blew off, much to the delight of many of the condo owners.

Something occurred during this awesome display of wealth that is more revealing. The private circus performance was staged on Halloween, a coincidence based upon the Prince's daughter's birthday. The Cricket Club's vivacious social director, Bobbi Starr, joined the costume parade as a mermaid princess. On her head was a sparkling tiara. Her Highness, Princess Hend Turki, caught sight of the beautiful Starr and boiled with jealousy. She demanded that Starr hand over the tiara on the spot to the true princess. Starr complied. Princess Turki placed it upon her head and wore it proudly.

"I don't know what all the fuss was about," Starr said. "I bought the damn thing at Woolworth's for \$1.98."

While one might snicker at the Princess' foolish pride, the incident was a foreshadowing. Had Starr's tiara been a valuable family heirloom, the Princess still might have taken possession. Her menacing security force would have seen to it. On the other hand, had Starr held out and offered to sell her cheap party crown, she may have received upwards of \$100,000 or more. The "Beverly Hillbilly" Arabs were a paradox of arrogant demands and immense gullibility.

They could take, or be taken, and the sums either way were often vast.

The Prince's honeymoon in South Florida didn't last long. Soon a dark and troubling story emerged. One of the Prince's servants escaped and went directly to the Metro-Dade police department. The servant told detectives a tale of slavery, beatings, and abuse. Chief abuser, the servant said, was Princess Hend. The servant begged the detectives to free her companions from their life of misery.

The Metro detectives didn't take the servant's story lightly. They began investigating and uncovered enough supporting information to get a warrant to check out what was going on. When a team of eight detectives and officers arrived, they found that His Highness was surrounded by an elite force of international bodyguards who felt no obligation to obey American law. Even if they had, Princess Turki wasn't about to let the officers inside her suite. She screamed orders for her men to impede the actions of the police anyway they could. The bodyguards, a grizzled band of mercenaries and karate experts, stomped the cops. The Princess was said to have joined in, spitting, biting, scratching and yanking on the hair of a female officer named Connie Kubik. Many of the officers were badly injured, including Kubik. She was lifted off the ground like a hapless professional wrestler and body slammed into a wall.

Suffice it to say, the officers were unable to locate any servants held against their will.

Following the incident, some of the battered officers came to my office. They wanted to sue the Turkis for causing their injuries. They were in rough shape, especially Kubik, and it ticked me off.

We sued.

The State Attorney was also upset about the incident and was planning to prosecute the royals.

Down from the north came a representative from the U.S. State Department.*1 Some strings had been pulled and Prince and Princess Turki were retroactively awarded a sweeping blanket of diplomatic immunity. The immunity included the Prince's staff, bodyguards, and I presume, any slaves.

That meant no prosecution. No arrests. No trial. No human rights investigation. And no civil lawsuits on behalf of the injured officers. There wasn't a damn thing we could do about it. When Uncle Sam throws his red, white and blue blanket over a foreigner like that, the foreigner can do anything short of raping the President's wife and get away with it.

"That's the government for you," said officer Michael Fisten. "We're only a bunch of peon cops. It's all right for us to get our asses kicked."

I really felt sorry for the police. They were asked to do their job, did it, risked their lives, and were injured, only to have some guy and his crass wife laugh at them from their perch high above the city.

Fortunately, the public sentiment turned against the Prince, and he soon bid Miami farewell. But that wasn't the last Miami heard of the obstinate Arabs. Princess Turki left behind her wayward little brother, one Sheik Mohammed al-Fassi.

And that's when things really went haywire.

Mohammed al-Fassi is a five-foot, four-inch, one hundred-twenty-five-pound, wiry little dude with thinning black hair, a thick black mustache, a perpetual five-o'clock shadow, crooked teeth, and a fortune estimated at \$6 billion. He first touched down in Los Angeles in 1975 where he attended college and tried to buy his way into the Hollywood scene by throwing lavish parties. In 1978, he paid \$2.4 million in cash to purchase one of Beverly Hills' most famous mansions, a thirty-eight-room palace known as the "White House." That nickname was the first thing to go. The Sheik painted the house pea green, then made international headlines when he had an artist highlight the genitalia and add pubic hair to statues surrounding the home. The neighbors were aghast. (The home can be seen in the movie "The Jerk." It was used in the comedy to demonstrate Steve Martin's exaggerated concept of the good life.)

The Hollywood and Beverly Hills set quickly tired of the Sheik and his vulgar ways. Miffed, he packed up his sixty-five servants, four kids, two wives, and five hundred suitcases, hooked up with Prince Turki and Princess Hend,

and wandered around the world for a few years. While they were gone, one of Mohammed's ex-chauffeurs torched the Beverly Hills mansion to cover up the theft of valuable paintings. Neighbors were reported to have gathered around the flaming structure chanting "burn baby, burn."

In 1981, the Sheik and his contingent landed in South Florida -- reportedly by mistake. They thought they were going to Disney World, but overshot Orlando by about 250 miles. No matter. They decided to stay anyway.

The Sheik was twenty-six when he arrived. In family tradition, he set up shop on the forty-fifth and forty-first floors of Irving Cowan's beautiful beachfront Diplomat Resort Hotel, located, ironically, in Hollywood, Florida. The Sheik booked about seventy luxury rooms, along with two convention halls and two meeting rooms to store his goods. Among the seventy, \$175-a-night hotel rooms, four were used solely to accommodate the Sheik's wardrobe. That included one room for his shoes, which were layed out in colorful rows upon the two king-size beds and on the floor. Not to be outdone, his two wives also had a room each for their shoes, similarly lined up on the beds and floor. They had enough shoes to make Imelda Marcos fly into a jealous fit! The Sheikas also had separate rooms for their purses.

The tab for the hotel, figuring in the restaurant bill and other incidentals, totaled about \$25,000 a day. That came to \$750,000 a month -- not including tips. And that doesn't reflect the massive security force Mohammed hired.

At one point, more than one-hundred off-duty Hollywood police officers were on the Sheik's payroll at \$11 an hour. This home-team protection was further bolstered by dozens of off duty officers from surrounding communities.

Instantly forgetting the bad experience with his brother-in-law, Miami was soon atwitter again. The Sheik wooed local politicians and scattered money to the winds. He and his clan bought \$17-million worth of local property. He made generous donations totaling \$240,000 to city governments, local charities, children in hospitals, and adults with sob stories. He made many an area merchant richer.

He tantalized the society set with his fabulous parties. When his son turned four, the Sheik decided to throw a birthday party. He had the police round up twenty children, dubbed "rent-a-kids" by the local newspapers. Mohammed leased an eighty-five-foot boat and filled it with puppeteers, magicians, clowns, and musicians. For the adults, there were five hundred shrimp, two-hundred-fifty lamb chops, two hundred filet mignons and twenty-four pounds of succulent roast beef. The party cost \$150,000. Reporters and photographers who came to cover the event were offered \$100 tips for their troubles.

A similar party was staged for selected residents of Golden Beach, a ritzy community of waterfront homes where al-Fassi's younger brother, Tarek, had chosen to live. This bash included a thirty-yard buffet table decked with lobster

and filet mignon and set against the intercoastal waterway in the backyard of Tarek's \$750,000 house. Describing the festivities reminds one of the classic song "The Twelve Days of Christmas." The young Sheik gave his Golden Beach "true loves" thirty-one waiters, an eighteen-piece orchestra, six strolling violinists, three ice sculptures and a \$60,000 rose display. If he would have thought of it, I'm sure he would have included a partridge in a pear tree.

Tarek, by the way, had once given a local drugstore manager \$10,000 in cash for a giant display bottle of Paco Rabanne cologne. The plastic bottle was filled with colored water.

All of which paled in comparison to the palace Mohammed was building on Star Island, a secluded neighborhood of million-dollar homes just off the picturesque, tropical causeway that links Miami and Miami Beach. The Sheik spent \$1.5 million to buy two adjacent mansions, which he promptly demolished, and made arrangements to purchase a third. The rebuilding costs were budgeted at \$15 to \$25 million. The complex was designed to include two new houses, a \$125,000-domed mosque, two bowling alleys, a theater in the round, a beauty salon, five waterfalls, three fountains, a glass-bottomed swimming pool perched over the living room, a one-hundred-forty-five-foot waterslide, motorized closets the size of a two-car garage, a clock that spoke three languages, front doors that would open when the Sheik clapped, a racquetball court, an ice

skating rink, a shooting gallery, Jacuzzi rooms equipped with a light show controlled by a tub-side switch panel, a sauna, and a monorail encircling the compound. Inside, there were fifteen-by-fifteen-inch Italian marble tiles, silk-upholstered walls and a black ceiling dotted with tiny disco lights. The bathrooms were purple onyx and turquoise, with the requisite gold fixtures.

Mohammed shared his wealth with seemingly everyone -- everyone except Diplomat president Irving Cowan. After paying his massive hotel bill diligently for eight months, enriching the Diplomat by about \$14 million, the Sheik began to lapse.

As spring burned into summer, the hotel tab soared past \$500,000, past \$750,000, past \$1 million and was closing in on \$1.5 million. Rumors circulated that the Sheik had a spat with the departed Prince Turki and had his allowance cut off. Cowan and his employees were getting nervous. There were reports that the Sheik was planning to sneak away, beating the hotel for the bill. Everytime they asked the Sheik or his advisors to pay up, the Diplomat officials were told not to worry, they'd be paid, but the Sheik couldn't be bothered with such trifling sums right then.

A trifle to Mohammed was one million-five to Irving. When the Diplomat finally got a check, it bounced. In fact, thirty-six of the Sheik's previous checks were being "held" by his Swiss bankers until the account could be replenished.

In short, they all bounced.

On a hot July afternoon, a group of grim-faced Diplomat officials, backed by a squad of on-duty Hollywood cops, forcefully evicted the Sheik and his seventy-five-man entourage. They impounded \$40 million worth of jewels, antique furniture, cars, prayer rugs, linens, clothing and shoes. They charged the Sheik with "defrauding an innkeeper," a third-degree felony in Florida. He was forced to cool his heels at the Hollywood police station for six hours waiting for a bondsman to post a \$1,000 bond. For some reason, the Sheik could never wrangle the diplomatic immunity his brother-in-law had acquired.

Royally peeved, Mohammed and his band retreated to his father's \$3.2 million Miami Beach mansion. Those of his retinue who couldn't fit into the limited space of the mansion were ensconced at the Everglades Hotel in downtown Miami, or at the Moulin Rouge Hotel on Miami Beach. The new innkeepers gladly welcomed the business.

It was then that I received a call from one Ali Jamel, the Sheik's right-hand man. As he talked, I noticed that Jamel had a Brooklyn accent, complete with an abundance of "dis," "dats" and "doses." I would later learn that Ali Jamel, chief advisor and business manager to Arab Sheik Mohammed al-Fassi, was actually Eli Gamel, a nice Jewish boy from Brooklyn. Gamel met al-Fassi in London, where Gamel owned several businesses. The two hit it off, went into some successful business ventures together, and Gamel was invited

aboard full time. He accepted, switching a couple of consonants and transforming himself into Ali Jamel.

Ali/Eli explained that the Sheik was having some problems with a local hotel. He wanted to retain me to take care of that and some other legal problems the young man was encountering. I agreed to meet him at his home the next day. At that point, what little I knew about the Sheik was positive. He had been praised in the media for his generosity and benevolence, and appeared from a distance to be a decent fellow. Like everyone else in Miami, I was curious to see what went on inside his inner circle and get a taste of what it would be like to have limitless wealth. As for the Arab/Jewish aspect, it was never a consideration. That's a battle fought in another world. I prefer to view people the same way the law views them, as individuals. Besides, it's virtually impossible to live in Miami very long and still harbor ill feelings toward any racial or religious group. There's not enough hate in the worst bigot to cover the variety of people one encounters in a single Miami day -- or in my office lobby.

Visiting the Sheik proved to be a tedious process that consisted being stopped at the guard house at the gate, getting permission to enter the compound, stopping again at the door, getting permission to enter the home, and finally being escorted into a waiting room. The only interesting part of the ordeal was the compound. That's where the Sheik had his cars. The Sheik had every kind and color of sports

and luxury car you could imagine. There were six Cadillac stretch limousines -- dark blue, light blue, burgundy, black, and a pair of white ones. Each was equipped with a television set and a full bar, even though the Sheik didn't drink. Surrounding the limousines were a Masserati, a white Excalibre convertible, a Ferrari Mondial 9, a cherry-red Mercedes 500-SL convertible, a Rolls Royce, a Jaguar, a gold-plated Stutz Blackhawk, a Lamborghini Countach, and a few other makes I've forgotten. Every car was clean and waxed to a high gloss.

In the waiting room, one would wait, and wait, and wait, anywhere from an hour to forever. During the times I visited, I encountered doctors, dentists, jewelers, politicians, journalists, fellow attorneys, and businessmen of every stripe waiting in the "lobby" of the house. Once, I found boxer Muhammad Ali sitting in a daze, waiting patiently to see the Sheik. Another time, actor Omar Shariff was waiting.

Everybody waited. Everybody but Ellis Rubin. It didn't take long to figure out the Sheik's game. He loved keeping people waiting. The more important they were, the longer they waited. After about forty-five minutes, I got up to leave. Jamel quickly rushed over and escorted me into a huge living room bathed in white -- white rugs, white furniture, white drapes, white everything. The Sheik came downstairs and greeted me. He seemed nice enough at first, but was shorter, skinnier and balder than I expected. His eyes gave

him away. The Sheik had treacherous eyes. We agreed on my retainer, and I told him not to worry about the Diplomat problem.

After a week of legal scuffling, I managed to move the Sheik/Diplomat conflict from the criminal courts to the civil courts. That was critical victory. No one would be coming to arrest the Sheik again, at least not on these charges. I then scheduled an emergency hearing to deal with the impounded property.

I felt the Diplomat had grossly overreacted. Sure, if someone runs up a \$1.5 million bill, that might make you sweat. But if you're holding \$40 million worth of that person's property, including \$15 million in furniture and jewelry, what's the big deal over \$1.5 million? What's \$1.5 million between friends? All they had to do was grab a handful of diamonds, as the Sheik suggested, and erase the bill. Of course, the Diplomat didn't see it that way. Being tossed a diamond the size of a golf-ball isn't the kind of payment your basic hotel treasurer knows how to handle.

As weak as the Diplomat's case was, it blew totally apart when the hotel's attorneys made a huge blunder during the hearing. I had brought the Sheik's top aides into the courtroom to testify. After my first witness told his story, the Diplomat's attorneys invoked a rule that all upcoming witnesses must wait outside. This prevents them from hearing each other's testimony and synchronizing their stories.

While the Diplomat's treasurer was testifying, in

walked the hotel's general manager. He was their star witness. He sat through virtually all of the treasurer's testimony. I couldn't believe it. He was then called to take the stand.

I objected.

After a half-hour or so of arguments, the judge ruled, repeatedly, that since the Diplomat's attorneys had invoked the "witnesses-out" sanction, they would have to live by it. Adios to the the Diplomat's star witness. Not only that, they had no one else ready to take his place and had to rest their stillborn case.

Unfortunately, they had another, better witness they didn't even know about. It was a dead poet who resided in Judge Joe Price's head. When he reached the critical point in a long speech rendering his judgment, the judge quoted Wordsworth:

And the night shall be filled with music,
And the cares that infest the day,
Shall fold their tents like the Arabs,
And as silently steal away.

Wonderful. Although I had thumped the Diplomat's attorneys like a dish rag, I was beaten by a literary allusion to thievery from a poet who died one-hundred-thirty years ago. The judge refused to grant my motion to dissolve the writ locking out the Sheik from his property.

Actually, it was only a minor defeat. After six hours of bickering in court, we came up with the brilliant solution that if the Sheik paid his bill, the Diplomat would release his property.

Shrewd.

I handed the Diplomat's attorney three cashier's checks totaling \$1.56 million, and a few days later, the Sheik carted out his belongings.

At the same time I was handing over that check, a parade of twenty-five other creditors, everyone from a painter to a shoe repairman, began showing up at the door of one of the Sheik's financial law firms, Thomas and Thomas. The merchants demanded and received payment for a score of other rubber checks.

The Sheik, still seething, demanded action against the Diplomat. Six weeks later, we struck back. I filed a suit in Broward County Circuit Court against the hotel and its owners. The suit stated that al-Fassi had "suffered humiliation and embarrassment, nervous shock to his mind and body, defamation, libel, slander of his good name and reputation throughout the world, false arrest and false imprisonment, and damage to his credit." The Diplomat was additionally accused of "wrongfully terminating services and overcharging, inflating and inventing said costs and charges."

We asked for \$1 billion in damages -- \$300 million in compensatory damages and \$700 million in punitive damages.

And that didn't include interests, costs and attorneys fees. As the expression goes, "When you fly with eagles..."

Mohammed's problems with the Diplomat, reported around the country, spurred an interesting phenomenon. Hotels began vying for his business. The Holiday Inn in Miramar, a city close to Hollywood, goaded its rich, big brother Diplomat by awarding the Sheik a key to the motel and making him an honorary innkeeper. A group of businessmen threw him a picnic and begged him not to leave town. Two children, moved by his financial problems, broke open their piggy banks and mailed the Sheik \$1.09 and 50 cents. That moved him the most.

"For a child, \$1.09 is a lot of money," he said. "Americans have good hearts."

Nowhere were the "good hearts" more evident than in St. Louis. A disc jockey named Bob Wilke started a campaign to entice the Sheik to move his operation there. Although it began as a joke, the Sheik responded and St. Louis got serious. The Sheik was given a personal invitation by the mayor to come for a grand visit. Al-Fassi sent me and Jamel instead. We were treated so royally that after the first couple of hours, I phoned my two sons, Mark and Guy, and quoting a favorite movie of mine, said, "Meet Me in St. Louis!" We had a great time and met some good people, including baseball great Stan Musial and the Busch family. They even flashed "Welcome to St. Louis, Ellis Rubin and party" on the scoreboard at Busch Memorial Stadium during a

St. Louis Cardinals baseball game. I reported back to the Sheik, and that was the last I heard of St. Louis.

Back in Miami, the Sheik's peace was about to be shattered in a manner that would make the Diplomat Hotel battle look like nickels and dimes. The prior January, wife number one, Sheika Dena, had flown the coop. The Italian beauty had been unhappy for years, starting with the addition of wife number two, American actress Victoria Sosa. Sosa lasted only a year, but the damage was done. In Miami, the Sheik added wife number three, a raven-haired Saudi named Aptisam. Sheika Dena was exiled to the east wing of the Diplomat while her husband cuddled with Aptisam in the forty-fifth floor master suite. Dena told me during a deposition that the Sheik's staffers supplied her with cocaine and tricked her into taking quaaludes by saying they were aspirin. Once, while she was zonked out the non-aspirin quaaludes, she said she was sexually assaulted by the husband of one of her maidservants.

Escaping this nightmare, she returned to the West Coast, where she fell into the waiting arms of a member of rock singer Rod Stewart's band, identified in the deposition as lead guitarist Jim Cregan. They had met earlier in Miami, had a brief affair, met again in New York, then got reacquainted in San Francisco and Los Angeles.

But Dena would be back -- with a vengeance.

Sheika Dena al-Fassi returned to Miami in August 1982 with celebrity divorce lawyer Marvin Mitchelson in tow. They

were coming to get what they felt was theirs. And what they felt was theirs were four children and \$3 billion.

THREE BILLION DOLLARS.

It would be Marvin Mitchelson vs. Ellis Rubin, one on one, for the highest stakes in a child custody suit in the history of the planet Earth.

Footnotes

1. According to The Miami Herald, the representative turned out to be former U.S. ambassador to Saudi Arabia John West. West, a former governor of South Carolina, was a member of the board of directors of the Whittaker Corporation, a California-based company that made millions doing business with the al-Fassi family.

Chapter 6

THE SHEIK -- Lifestyles of the Incredibly Rich and Obnoxious

PART II -- THE BILLION-DOLLAR BABIES

I've probably given more than five-hundred press conferences in my life. I've spoken into five-thousand microphones, looked into a couple thousand news cameras, and fielded more than ten-thousand questions from reporters.

Yet, for sheer variety, I've never experienced a media circus the likes of which surrounded the al-Fassi custody battle. Never before had I seen a National Enquirer reporter bumping shoulders with a New York Times reporter. Never had I seen a Wall Street Journal correspondent shouting down a People magazine scribe. Never had my secretary handed me a message that U.S. News and World Report called, and under it was a message to call The Midnight Globe. And trying to determine who the mob of foreign reporters were, or even what countries they represented, was futile.

Love, money, sex, drugs, and fame. The world never tires of it.

The Mohammed al-Fassi, Diane (Dena) Bilanelli romance

had been the stuff of television miniseries. They met in a London clothing shop in 1975. He was nineteen. She was fifteen. He was soon to be a billionaire. She was a shop girl with a billion-dollar face. The young Dena was Sophia Loren and Gina Lollobrigida rolled into one, a dark-haired, creamy-skinned Italian beauty with the biggest, most alluring eyes God ever set in one of his creations. The teenaged Arab was smitten the instant he saw her. They married less than a year later.

At the time, al-Fassi was a well-off foreign student, but nothing out of the ordinary. His sister, Hend, was the companion of Prince Turki and that gave al-Fassi what leverage he had. Actually, the al-Fassi clan was nothing more than a band of Morracan nomads who settled in Saudi Arabia looking for a better life. Mohammed's father, Shamsuddin Abdullah al-Fassi, operated a small trading company and a tobacco shop and was later jailed for speaking out against the Saudi government.

Mohammed and Dena moved to Los Angeles where they settled into a \$200-a-month apartment. He bought a Buick. She cooked for him and washed the clothes. They both remember this as their happiest time together.

Then things changed dramatically. Hend al-Fassi, a secretary for a foreign company, upgraded from Prince Turki's consort to his wife. That made her a Princess of considerable clout. Prince Turki is one of the forty-plus sons of former Saudi King Abdul Aziz. When not fathering

children, King Aziz was known as the founder of modern Saudi Arabia. Thanks to Hend, the entire al-Fassi family was swept into the oil-soaked Saudi royal family.*1 Their fortunes rocketed. Papa al-Fassi, the one-time anti-government rebel, was not only dubbed a Sheik, he picked up an honorary doctorate from a Korean University as well. His stature leaped from convict to the double titled Dr. Sheik. His trading company was awarded lucrative government contracts, including the medical supplies concession in Saudi Arabia. That gave Dr. Sheik the wealth to back up his titles. Hend's four little brothers also became Sheiks and instant millionaires.

Mohammed al-Fassi ushered his Italian bride into a life of unimaginable wealth. Paris, Rome, New York, Los Angeles, Miami, London, the world was their playground. In Saudi Arabia, they had five-hundred servants. When they traveled, at least fifty servants went with them. Wherever she wanted to live, they lived. Whatever she wanted was hers. Jewels. Furs. Cars. Clothes.

They had two children and adopted two more.

But Mohammed's money and Dena's beauty couldn't shield them from the same problems that affect so many couples, especially those who marry as teenagers. They simply grew apart. Coming to America didn't help. Dena matured and wanted more out of life than being one of the Sheik's four allotted wives. She found that the stringent rules and cultural limitations expected of her as a Saudi Sheika

conflicted tremendously with free, equal and downright radical English and American women she had come to know in London and Los Angeles. In Saudi Arabia, few women are allowed to work or even drive, and it's preferred that they cover their faces with veils.

Dena liked America. She started changing, growing, becoming Americanized. She liked to visit discos and dance the night away. She liked wearing flashy clothes, the latest hairstyles, and shopping on Rodeo Drive and in Bal Harbour.

Al-Fassi, for all his worldliness, wanted his domestic life to be guided by Arab tradition and the Moslem religion. The woman's place was in the home. She was to be the veiled mother, the nurturer, the keeper of the household. He preferred his wives in traditional Arabian robes. He didn't want them at Regine's at five a.m.

A teenage marriage combined with the changing role of women in American society. Those conflicts have torn apart a million American couples. Imagine the schism it created between an Arab Sheik and his Italian bride?

Dena blamed the money.

"L'argent pourrit les gens," she says in a lovely French. Translation -- "Money makes people rot."

Dena had also grown weary of globe trotting and being imprisoned in hotel rooms. She wanted to settle down in one place where her children could lead a normal life. Mohammed wanted to keep wandering the world, invading hotels like Howard Hughes, shaking things up, then moving on.

They argued. Al-Fassi couldn't understand the new Dena. Things escalated.

"We had fights, fist fights, arguments," Dena told me in a deposition. "I tried to defend myself. He pulled my hair in front of everyone."

Of all the bright and new American traditions Dena enjoyed, she particularly liked California's fifty/fifty community property law. Mitchelson had filed the divorce suit there to take advantage of the generous statutes. California Superior Court Judge Harry T. Shafer ruled that his court had jurisdiction to decide the \$3-billion divorce case, but decreed that a Florida judge had to decide the custody battle and the visitation guidelines. Mitchelson had to come to Miami to get the kids -- Hessha and Turkei, both five, and Rahad and Abdulaziz, both three. He also needed cash for Dena's upkeep pending the court decision. In truth, regardless of which judge claimed jurisdiction, and how hard they shook their legal fists in California, Mitchelson would have to come to Florida to collect anything he won.

Thus, the bloodiest battles were destined to be fought in Miami.

One of the smartest things Mitchelson did before he arrived was hiring Miami matrimonial attorney Melvyn Frumkes to assist him. Frumkes is sharp. He's also one dogged and determined SOB -- attributes that make him one of the best divorce lawyers in the country. If you want a peaceful settlement, hire a good divorce lawyer. If you want to puree

your spouse into a puddle of protoplasm, hire Frumkes.

From a legal standpoint, Frumkes is admired for being able to ferret out all the money and goods a wealthy spouse has hidden from their partner. Whether someone has their money in a Swiss bank account, the Cayman Islands, a dummy corporation, their mistress' apartment, or buried in a hole in the back yard, Frumkes will find it.

Frumkes is also known for papering his adversaries to death with motions, pleading and requests -- a trait that makes opposing lawyers and the targeted spouses want to stick his head in a shredder.

Together, Mitchelson and Frumkes were a force. They went right for al-Fassi's jugular with their opening maneuver. The two attorneys did an end-run around the judge handling the case and obtained an emergency Writ of Ne Exeat from a weekend duty judge. A "Ne Exeat" is a holdover law from the Dark Ages. It is one of the most unfair laws in the entire legal system. What it means is if someone can convince a judge that their husband or wife is about to skip town with disputed property or children, the judge can have that person arrested and tossed into jail. No trial, no hearing, no due process, right to the slammer. It's the "Monopoly rule," as in "go directly to jail, do not pass go, do not collect \$200."

The Florida Supreme Court, aware of the severe consequences of the Ne Exeat, handed down this caution in 1932:

"In view of the fact that this writ tends to abridge the liberty of someone, it should be granted with caution...Excessive and unreasonable bail should never be required; as the writ is purely a civil writ, it should not be allowed to be used oppressively."

Many attorneys aren't even aware of the "Ne Exeat." I was because I used it once. The son of the Prime Minister of Iceland grabbed his children from his wife, and was on a jet ready to fly them home. I obtained a "Ne Exeat" and had some deputy sheriffs yank the man and the kids off the plane. But even then, I waived jailing the guy.

A jet taxiing down the runway is one thing. A Sheik tanning himself by his pool is quite another.

I was rocked out of a nap that Saturday afternoon in August 1982 by a call from a frantic member of the Sheik's entourage. He said there were cops trying to arrest the Sheik. I quickly dressed and drove to Dr. Sheik's mansion. Outside the gate were five carloads of sheriff's deputies and Miami Beach police officers. They were being held at bay by the Sheik's regiment of bodyguards. It was about 90 degrees and the sun was frying everyone's nerves. Remembering the Prince Turki incident, I feared a blood bath was in the making.

"What's going on here?" I shouted to the officers. Before they could answer, I spotted Melvyn Frumkes standing among them. He had a grin on his face the size of a crescent moon. I demanded to see "the papers." They obliged. The Ne

Exeat order not only sentenced the Sheik to jail, it stated that he had to post a \$1-million-cash bond to regain his freedom. One million! So much for the Florida Supreme Court's decree against "excessive and unreasonable bail." It's virtually impossible to get a million in cash on a Saturday, which Frumkes knew. Even the Sheik didn't have that much laying around the house.

"This is just like you Melvyn, to pull this on a Saturday," I said. "How the hell did you get a judge to sign this without telling me? You know I'm the Sheik's lawyer."

"We got word he was going to leave," Frumkes said, still grinning. He was having a great time. He knew he had my ass in a ringer.

"The Sheik isn't going anywhere until I talk to the judge," I told the police lieutenant in charge. It was a bluff. I didn't have the power to stop the police. But I've learned if you speak with authority, it works. The police agreed to hold off until I could reach the judge.

I was ushered inside and taken straight to the Sheik. There was no waiting this time. I'd never seen him so scared.

"Please Mr. Rubin, I don't care what it takes or how much it costs. If I go to jail I'll be beheaded," he wailed.

The Sheik had told me before that under the laws of his country, if he ever set foot in jail, in Saudi Arabia or anywhere else, he would have his head chopped off. I don't know if this is true, but he appeared frightened enough to

believe it. I told him to calm down and stop worrying, that he wasn't going to be jailed.

Actually, the Sheik was in grave danger of doing some time and getting his noggin' lopped off. But I wasn't about to let it happen without a fight. What I needed was to locate Judge George Orr and find out how he could have signed such an order without notifying me. I called for nearly an hour before I got him.

"Judge, how's it going to look that you signed this order without being shown any proof he was leaving?" I reasoned. "You've ordered a member of the Saudi royal family to be jailed without a hearing or due process? How's that going to look around the world? Do you understand the consequences of what you are doing? He'll have his head cut off in his home country! How did this case get before you anyway?"

"I'm the duty judge," Orr explained.

"Isn't it obvious the original judge should rule on this?" I continued. "Mitchelson and Frumkes specifically waited for the weekend to get you to give a blind order!"

Judge Orr asked to speak to Frumkes. We sent someone for him, and courageously, he waltzed into the enemy camp. I was afraid the Sheik was going to impale him on a gatepost the moment he got inside. Frumkes argued with the judge to keep the original order and continued to claim that the Sheik was planning to flee. I argued that he wasn't going anywhere. The judge decided to hold off until Monday

morning, and throw the issue back into Judge Jack Turner's court. Turner was handling the custody case and should have ruled on it in the first place. Frumkes was not pleased.

"Nice try, Melvyn," I said as he left. "I'll see you Monday morning, you son-of-a-bitch."

As Frumkes and the police departed, cheers rang out all over the mansion. The Sheik was so elated he took me outside and presented me with a brand new, fire-red, Mercedes 500-SL convertible -- a \$60,000 chunk of German machinery. I drove it home. That night, the Sheik threw my wife and I a grand feast the likes of which I've never experienced. There were a dozen or so courses, with dates, figs, grapes, nuts, chicken, lamb, vegetables, soup, rice and taboolie -- buckwheat soaked in water, mixed with chopped parsley, chopped tomatoes, cucumbers and sesame seeds spread over a bed of lettuce.

As we ate, the Skeik's resident Holy Man wandered around the table showering me with elaborate blessings. He was dressed in a blue robe, a matching turban, and had a long beard. He looked like the Ayatollah Khomeini.

On Monday morning at 8:30, we appeared before Judge Turner. As I expected, the judge wasn't happy with the Marvin and Melvyn show, and wanted to know why they didn't make the "Ne Exeat" request on Thursday or Friday when he could have handled it. M&M said they got word of the Sheik's supposed departure too late. Judge Turner canceled the "Ne Exeat" writ. On top of that, I argued and won the right for

the Sheik to take the children with him on trips outside Florida, a major victory.

The Sheika, meanwhile, was hardly waiting tables. The Sheik had put her up in a suite of rooms at the Everglades Hotel in downtown Miami. He gave her \$200 a day in cash, unlimited charging privileges, provided her with thirteen servants, and allowed her to keep the children for days on end. And each child had its own personal nanny.

Frumkes complained that the Sheik had also provided twenty bodyguards, which he claimed were spies. Frumkes said the bodyguards presented "no opportunity for a free flow of love" between mother and her brood.

"This woman can't take the children to the restaurant downstairs without permission," Frumkes argued. "All the children see are bodyguards watching their mother."

I countered that the Sheika was being treated like a queen and had no cause for complaint.

After those fireworks, it was time to deal with the big battle, the custody case. I scheduled the Sheika for a deposition, and Mitchelson and Frumkes howled. They scheduled the Sheik for a deposition, and I howled. Mitchelson tried to ban the media from the depositions, and they howled. The media called their attorneys, and they howled.

Things were getting out of hand.

After a week or so of haggling, we finally gathered for the formal deposition of the Sheika. Mitchelson opened

by again asking the reporters to leave. I said that under Florida law, they could stay. Al Messerschmidt, a reporter for The Miami Herald, piped up and began speaking better legalese than Mitchelson, Frumkes and myself combined. He cited cases and quoted judges, the whole works. We were all stunned and sat quietly as Messerschmidt lectured us on media law. It was the only calm moment of the deposition.

We ended up calling Judge Turner and he said the reporters could stay. We moved on, but before I could get anywhere, things bogged down. Aside from Mitchelson and Frumkes, Frumkes had brought a third lawyer, Cynthia Greene. They were all objecting and interjecting and it was getting ridiculous. I demanded that one person represent the Sheika and the other two shut up.

Rubin: If we can't agree, then it's no holds barred and dog eat dog and bury your dead. Is that what you want to do?

Mitchelson: No, nobody wants to bury any dogs. We want to conduct this in an orderly fashion.

My point exactly. Surprisingly, Mitchelson agreed and said Frumkes would do the objecting.

That worked for about thirty seconds. We continued to argue over what I could ask. I wanted to talk sex, drugs and rock and roll. Mitchelson and Frumkes obviously didn't, especially with Messerschmidt there. Frumkes kept objecting

over everything, even simple questions concerning the Sheika's background, how the Sheik supported himself and the source of his money. I couldn't get a word in, so I called a recess and walked out. That meant they wouldn't be able to speak to the Sheik at all, since his deposition was not to be taken until the conclusion of the Sheika's. As I left, I heard Frumkes fuming after me about holding "Sheik Mohammed al-Fassi in contempt for his flagrant violation of the court order in not appearing!"

We tried again a week later. This time we had a referee, Special Master Mallory Horton. The former District Court of Appeals judge would rule on all our squabbles much as he would if we were in court. For example:

Mr. Frumkes: Now he is trying to intimidate her.

Dena: He doesn't.

Mr. Frumkes: He intimidates me.

Mr. Rubin: I intimidated you the day I was born.

Horton: Let's go ahead (boys).

That helped. Things went a little better.

As I questioned Dena about cocaine, quaaludes and adultery, Mitchelson objected and asked to make a statement for the record. He then proceeded to give a tear-jerker of a speech on male chauvinism and women's rights. He concluded by heartfully proposing a brave new era of jurisprudence where these kind of prying questions won't be asked of

people. What a wonderful world that would be, especially for Mitchelson's legion of adulterous clients who are trying to squeeze the life out of their rich, old Hollywood husbands. As I reached for a tissue to dab my eyes, I remembered all the lurid celebrity cases that earned Mitchelson his national reputation. Fortunately, the special master ignored him.*2 Finally, thanks to Horton, we got through the depositions. The hearing was set for the following week.

Before we could get to court, the Sheik managed to embroil himself in another headline-grabbing controversy. Three weeks earlier, the Sheik had given the Yellow Thunder Indian tribe in Rapid City, South Dakota, a \$10,000 donation for the care and education of Indian children. Then, without warning, American Indian movement leader Russell Means surfaced in Davie, Florida, held a news conference, blasted Mohammed and announced he was returning the Sheik's check -- or at least \$8,592.34 of it. Means' beef was that he claimed the Sheik made the donation as a bribe to meet actor Marlon Brando, a long-time supporter of Indian causes.

"He wanted me here, really, to bring Brando to him for his own infantile ego," Means told the reporters, adding that Brando was "insulted and infuriated" by the donation. Means explained that the refund was short \$1,407.66 to cover expenses involved in the Sheik's visit to the tribe. The reporters gleefully splashed Means' insults in their newspapers. The Sheik was incensed and threatened a libel suit, screaming once again that he was being humiliated

around the world. He countered that Means had tried to squeeze him for \$2 million to build a housing project, and was upset by the "paltry" \$10,000 donation.

The next day I called a press conference and merrily jumped into the fray.

"Heap big Indian speaks with forked tongue," I told the reporters, giving the incident the dignity it deserved. I also demanded that Brando surface from his island, or where ever the hell he resides, and "confirm or deny the accusation of the Indian."

Brando stayed secluded and the flap quickly died.

The Billion-Dollar Babies hearing finally got underway on Friday, September 10, 1982. The Sheika looked ravishing. The Sheik looked short and skinny. The media looked eager. They weren't disappointed. There were enough stories of cocaine, quaaludes and Rod Stewart and the boys to keep them all happy. The Sheika had an almost child-like attitude about her sins. I asked her what the cocaine did for her.

"Nothing special," she said. "They just tell me the name, cocaine. I never knew what it was. It was a bottle they had with them."

Mitchelson, whom the reporters came to see, had to take a back seat to Frumkes in the hearing. Florida and California laws differ, and Mitchelson didn't appear to be a man who enjoyed the boring intricacies of the law anyway. Frumkes, the paperman, loves it.

The Sheik, with his claims of strict Moslem abstention from alcohol, cigarettes or drugs, looked like a monk compared to the Sheika's world of cocaine and rock stars. Not surprisingly, after I gave my word that Mohammed wouldn't take the children out of Dade County without permission, Judge Turner awarded custody to the Sheik. The judge gave Dena generous visitation privileges.

At that point, I had thumped Mitchelson and Frumkes in virtually every battle. Mitchelson decided to go back to California and push his divorce case back on his home turf.

Despite my victories, I was growing weary of the Sheik. I had only represented him for six weeks, but it seemed like forever. At his house, he abused and humiliated his servants so badly it was embarrassing. He would throw garbage or food right on the floor just to watch them run over and clean it up. He chomped on Indian nuts all the time, and did so by breaking the shells with his crooked front teeth and then blowing them out on the floor. This combined with his incessant habits of spitting and cursing. My wife thought he suffered from Tourette Syndrome, a neural disorder that causes inappropriate reactions, including cursing, spitting and barking like a dog. (She heard about it on "Donahue.")

I just figured the Sheik was an uncouth little worm.

To accommodate his filthy habits, he had the entire mansion dotted with Kleenex boxes. My wife counted eighteen in one room. He had tissues in every color of the rainbow.

He'd spit into a Kleenex, wad it up and throw it on the floor. Sometimes he wouldn't let the servants clean them up until he left the room. During some of our meetings, the revolting pile would reach mountainous proportions.

Sheika Aptisam was normally reserved, but she too had her idiosyncrasies. She'd be chatting quietly in the living room, then, without warning, let out a ear-shattering banshee wail for her servant. The maid would humbly bring the Sheika her French Evian water. Aptisam would continue her conversation for a while, then let out another piercing yelp that would all but knock us off the sofa. The maid would come and take the bottled water away. The Sheika would talk some more, then wham, another blood curdling shriek. The maid would bring the bottle back. It would go on like that, back and forth, for hours. One afternoon, I was afraid my wife Irene was going to leap off the sofa and strangle the life out of Aptisam if she screeched one more time.

During their stay at the Cricket Club, residents and employees bitterly complained that the Turki and al-Fassi clan routinely urinated in the elevators, hallways, or anywhere else they felt the urge. By the time they vacated the place, the stench was said to be unbearable.

The Sheik was also setting a poor example for his children. One of his sons was a spoiled brat of Guinness Book of World Records dimensions. He would spit on the floor just to see the servants wipe it up. He'd throw his food on the rug and carry on like a little demon. Once, while they

were staying at the Diplomat, the children were given a litter of kittens as a present. They took them down to the swimming pool where at least one child began tossing them into the water, clapping and laughing while the animals struggled to stay alive. A number of the tough, burly bodyguards, who were never allowed to interfere with anything the children did, broke precedent and rescued the terrified kittens. They confided to me that the kitten incident was the most heartbreaking thing they had ever witnessed.

During the custody hearing, a child psychiatrist was ordered to evaluate the Sheik's bratty son. The report said he was "unmanageable" and had a "foul mouth."

Then there was the Sheik's trip to Midland, Pennsylvania. Al-Fassi dangled a \$3 million offer in front of the noses of depressed steelworkers in the financially-strapped town of 4,300. The catch? They would all have to sign a waiver promising not to vote for Ronald Reagan in the 1984 elections. Most of the people were eager to accept, especially when it was discovered they were almost all Democrats anyway. The State Department made noises about the offer violating federal "vote-buying" statutes and threatened the Sheik with a two-year prison sentence. The Sheik publicly thumbed his nose at the State Department, but privately backed off.

The whole scene was beginning to repulse me. I had taken the case out of curiosity to see what it's like being

a billionaire. In this case, it was disgusting. The Sheik was the biggest horse's ass I had ever known, and I've represented hundreds of accused murderers. And he was starting to play his money games again. Once, when I asked him for a payment, he spit on the rug next to my foot and walked out of the room. I was going to quit right then, but every time I tried, Ali Jamel or one of the other aides would beg me to stay. The Sheik's father even called from London or Saudi Arabia twice asking me to stay. Apparently, I was faring better than his other lawyers had in winning legal battles and keeping him out of trouble.

I agreed to remain because I had a feeling it wouldn't be much longer. The Sheik was itching to leave Miami, and I could sense it. I had given my word that he would stay and not take the children, but it was apparent that he cared nothing for my word, and less for American law. Fortunately, there were so many people in his own camp who hated him that every time he coughed, Dena would be notified. A week or so later, he tried to slip away to Orlando and someone in his camp contacted Dena and the police. The State Attorney ordered a "Sheik Watch" at Miami International Airport, and a judge called an emergency hearing. In fitting fashion, it was scheduled for midnight at the judge's home.

The judge was Richard Feder. He's probably the only judge in America who makes the attorneys who practice in his court don black robes, a practice I wholeheartedly support. It lends dignity to the proceedings.

I rendezvoused with the Sheik at 79th Street and Biscayne Boulevard. Although that junction sits between two major arteries connecting Miami Beach with the mainland, our meeting point was a section of town overflowing with crack dealers and hookers. The Sheik arrived with Aptisam, the four children and their four nannies. I brought my wife, Irene, along. We went caravan style to Judge Feder's house. On the way, the Sheik and I argued about his attempt to violate the court order.

"Fuck the court order," he said.

"Well then, you're going to jail," I countered. "Say goodbye to your head."

That shut him up. I also took the opportunity to make him pay the \$20,000 he promised for my services. He gave me a check.

When we arrived at the judge's house, the street was lined with police and federal agents. Waiting inside were Judge Feder, an assistant state attorney, Dena's attorneys, a court reporter and nationally-famous attorney Henry Rothblatt. Without my knowledge, Rothblatt had been added to the Sheik's team and had come to silently observe. We sat in a circle in the living room with the babies crying and had a bizarre hearing that my wife refers to as "the seance." All we needed was a medium and a crystal ball. After the arguments, the judge ruled that the Sheik could take his children on the grand tour of America that he had planned. There was one catch. Mohammed had to bring me along

to keep him in line. The Sheik, surprisingly meek, agreed, and told the judge he was going to dole out \$2 million in donations to various city governments, hospitals, and local charities.

The next day, the Sheik spit at my feet and said he was going without me. That afternoon, his \$20,000 check bounced. That was it. I went to court, obtained an emergency hearing, and "fired" the Sheik as my client. Rothblatt, famous for handling the Mai Lai massacre, Watergate, happy hooker Xavier Hollander and unhappy political wife Martha Mitchell, was now the Sheik's new mouthpiece. Feder issued a temporary order freezing the Sheik's bank accounts until Judge Turner, who was out of town, could return. Rothblatt was beside himself and raised such a ruckus Judge Feder had to twice order him to cool it.

The following morning, there was a big story in the newspaper about my "firing" the Sheik. The Associated Press picked it up and sent it worldwide. Apparently, that caused Mohammed even more "shame and humiliation all over the world." A few nights later, he called my home at 1:19 a.m. Irene answered. The Sheik forced an embarrassed aide to read a list of twelve threats and demands. The demands said that I was to continue as his attorney, and continue to handle the custody case for a specific fee and a new wardrobe. If I refused, he would hold a press conference and say I had asked him for money to bribe Judge Turner and Turner's secretary. He also threatened to charge me with stealing the

red Mercedes. I wasn't about to cow to that, but Irene was nervous and said she would take the car back. She drove over the following evening, and had our daughter, Kim, follow in a separate car to bring her back.

When she arrived, Ali Jamel met them at the door and tried to smooth things over. He invited them in for coffee. What happened next is best told by Irene. She had to give a sworn statement about it to a Dade County assistant state attorney.

"Ali was shmoozing up to us the way he always did, trying to be nice but actually being a jerk. He looked at Kim, then twenty-one, and asked, 'Could I have permission to make love to her?' I told him I'd kill him if he tried.

"About five minutes after we sat down in the living room, we saw the Sheik come in and sit on a sofa across the room. He was facing away. He was wearing his white pantaloons, white T-shirt and was barefoot. Then this good-looking blond man came into the house wearing jeans and a colored T-shirt. He greeted the Sheik with hugs and kisses, and was presented some folded linens by a servant. He left the room. Ali Jamel excused himself. A few minutes later, the young man came back wearing the same white outfit as the Sheik. He sat beside the Sheik on the couch. The two began kissing on the mouth, teasing each other, and grabbing each other's genitals.

"`Mom, I know that man,' " Kim said. "`That's..."

Kim identified the visitor as the son of a prominent

Miamian.

"Well, he and the Sheik began to really get it on and Kim and I were getting disgusted," Irene continues. "Jamel returned and I said, 'Do you see that?'"

"And he said, 'Yeah, so what? They do that every Sunday.'"

"'Where's Aptisam?'" I demanded.

"'She's upstairs praying,'" he said.

"I told him I wasn't sitting still for that and Kim and I left!"

That was an interesting development. The "Arabs invade Miami" story had come full circle. It started with a bitchy Princess battling the cops in Alvin Malnik's Cricket Club, and was ending with a romp between the Princess' weaselly brother and a young heir.

Ending, but not quite ended.

The Sheik's final act in America presented me with a major legal dilemma. A short time after the midnight hearing, I received a call from someone inside the Sheik's camp that he was leaving for good. The bags were packed, reservations set, everything was in order. And unlike the previous times where he was just traveling out of state to tour other cities, this time he was picking up and going back to Saudi Arabia. Leaving the country would violate numerous Florida and California laws and court orders. He would become a wanted man.

That meant he would probably never come back to

America.

When he had tried to flee before, someone always alerted the police directly or called Dena. This time, no one knew but me.

My dilemma -- violate the attorney/client privilege and rat out my own former client, or maintain the privilege and let him escape? The fact that he was a former client didn't overrule attorney/client privilege, and was clouded even further by the Sheik's insistence that I was still his attorney.

I considered the law. The attorney/client privilege is a shield against past crimes. It is not a sword to use to commit new crimes.

In the end, it was not only a clear-cut legal and moral question, but a human one as well. If the Sheik left the country, chances are that Dena would never see her children again. I couldn't do that to anybody, attorney/client privilege or not.

I called Judge Turner and alerted him to what was in progress. He ordered a "Sheik freeze" at the airport. Unfortunately, the Sheik anticipated it and slipped out of Miami. He chartered a private 707 in Norfolk, Virginia, flew to the Bahamas, then caught a jet to Saudi Arabia.

And that was the last anyone heard of Sheik Mohammed al-Fassi in America.

Epilogue

After the Sheik's sudden departure, it was discovered that that he had ripped people off for staggering sums. He left his multi-million-dollar Star Island mansion in mid-completion, and hadn't paid the contractors in months. He owed them millions. They ended up cannibalizing the opulent palace, turning it into mildew infested eyesore.

Area merchants called my office wondering if, or how, they would be paid. We received more than one-hundred-fifty calls. A startling pattern emerged. People had given the Sheik tens of thousands of dollars in goods on "consignment." Jewelers would bring him suitcases full of valuable gems and leave them behind without getting a cent in return. Many of the gleaming cars in front of the Sheik's house had been leased, or brought over with little concern given as to when the Sheik would actually pay for them.

Everyone had fallen over themselves giving the Sheik their valuables. Everyone figured the Sheik was so rich, he'd pay for it eventually. Not to worry.

And most were too ashamed to complain. The proverbial Miami Beach shopkeeper wasn't about to let everyone know that in his greed, he went whoring after an Arab. And in his stupidity, got ripped off to boot. What would they say at Temple?

Gone with the Sheik was the billion-dollar lawsuit against the Diplomat Hotel. Gone was the trillion-dollar lawsuit another lawyer filed against the Hollywood, Florida

police department. And gone were hundreds of thousands of dollars worth of goods from local merchants.

Gone also was Dena's \$3-billion California divorce action, which she won in the Sheik's absence. The judgment was eventually knocked down to a "paltry" \$84 million when Mitchelson could document only \$168 million worth of the Sheik's holdings. Mitchelson has been combing the world the last seven years trying to collect Dena's \$84 million, and appears to have had some luck. As of 1989, the California attorney says he's rounded up about \$20 million worth of cash and property.

"And I'm still looking," he vowed.

Mitchelson added that Dena has seen her children a few times, but would not elaborate how this was accomplished or where the meetings took place.

Alvin Malnik moved to Saudi Arabia to become an adviser to Prince Turki. The newspapers said he grew a long beard and converted to Islam. He later returned to Miami. His son Mark also moved to Saudi Arabia, ditched his wife, and married Hoda al-Fassi, one of the al-Fassi sisters.

As for everyone else, hopefully, we all learned a lesson.

Over the years, there have been occasional reports of the Sheik popping up here and there in other countries. In 1984, he swarmed into the Hyatt-Regency in Casablanca as a guest of King Hassan of Morocco. There were also reports

that he had spent time in Tunisia. Aides say he desperately longs to come back to America, but remains unable to get the diplomatic immunity that would wipe out all the crimes he committed while here. As it stands, he could get up to twenty-five years for his various acts of uncivil disobedience.

A year or so after he left, Irene was on a commercial airliner and ended up sitting next to a dignified Saudi gentleman. They began talking about al-Fassi. After going on about what a terrible embarrassment he was to his people, the Arab gentleman related that al-Fassi had continued his obstinance at home and was publicly flogged. A number of other people would relate the same good news, and the story was published in some newspapers.

We tried to confirm it, but no one inside Saudi Arabia would acknowledge the punishment. Those traditions, we were told, are not to be shared with the world.

One likes to believe it happened.

Footnotes

1. Many people both inside and out of the Prince's entourage swear that Hend al-Fassi had some sort of "black magic" hold

over Prince Turki that enabled her to lure him into the marriage and control him afterward.

2. In 1988, Mitchelson was accused of sexual misconduct with his clients, a charge that aired on "60 Minutes."

Chapter 7

Inherit The Wind Revisited -- The Adam and Eve Hearings

"The night that we signed him into the hospital, his eyes were like cinders in his head. It was like his spirit had just burned away and nothing was left but ashes." -- Martha Caputo, quoted in The Miami News, June 8, 1985

On July 10, 1925, twenty days after I was born, one of the most famous trials in history began in Dayton, Tennessee. A school teacher named John T. Scopes was charged with teaching Darwin's Theory of Evolution, a scientific belief that conflicted with the Biblical account of Adam and Eve. The great attorney Clarence Seward Darrow defended Scopes. William Jennings Bryan, a two-time Presidential candidate, was the specially-appointed prosecutor.

The press dubbed it the "Scopes Monkey Trial" after Charles Darwin's theory that human beings descended from apes. As sensational as the trial was, the issue was forever burned into the world's consciousness by the subsequent movie classic "Inherit the Wind." Spencer Tracy played Darrow. Frederic March portrayed Bryan. Gene Kelly played the renowned journalist H.L. Mencken.

Darrow and Scopes lost, in reality and in the movie, but Darrow/Tracy and Mencken/Kelly managed to ridicule the Christian creation belief to such an extent that the American school system was never the same.

Having spent my last day in a classroom at the University of Miami Law School in 1951, I had no conception of just how far things had eroded from a religious standpoint. In 1984, I was given a crash course. It began with a series of reports in the local newspapers about a growing brouhaha in the Florida Keys involving a high school principal named Edward Caputo.

Miami has changed so rapidly in the past decade that those who left in the early 1980s would hardly recognize the city. In contrast, fifty miles to the south, Key Largo has "progressed" at a far slower pace.

Key Largo is the first and largest of the beautiful, crescent-shaped chain of islands known as the Florida Keys. As with the other hot spots in the Keys -- Islamorada, Marathon, and Key West -- Key Largo swells with tourists during the winter, then returns to a quiet fishing village with a core of 5,000 hardy residents during the blistering heat of summer. The stretch along U.S. 1 has been blighted by the usual shopping malls and fast food joints, but hook a right or left off the Overseas Highway and go a block or so and one is pretty much back to the Key Largo of the Humphrey Bogart, Lauren Bacall days.

For decades, preservationists have fought to keep the tropical flora from being leveled by the bulldozers of

developers. The fiercely independent residents, known as "Conchs" after a spiral-shelled marine mollusk, support the efforts to keep the Keys unspoiled. However, the Conchs had the good sense to realize that not all aspects of Key Largo should remain rooted in the past. From an educational perspective, a symbolic bulldozer was needed.

In 1971, Dr. Edward Caputo was hired to bring the brand new Key Largo Elementary School into the future. The Conchs had their bulldozer.

Edward Caputo was born into a close-knit, Roman Catholic family on June 20, 1937. (Caputo and I share the same birthday.) His father was an Italian immigrant who worked as a butcher. His mother was an upright New Englander of Irish and English descent. They lived in Worcester, Massachusetts until 1952 when the family abandoned the harsh winters and moved to Miami. Caputo attended Archbishop Curley High School, a no-nonsense Catholic boys academy operated by the Brothers of the Holy Cross. He enlisted in the Marine Corps after graduating and spent the next four years in the Third Marine Division, Striking Ninth Regiment. The Marines sent the handsome young private to post-World World II Okinawa, Japan, and the Philippine Islands. After being honorably discharged, Caputo pursued his goal of becoming a teacher. He studied education at Palm Beach Junior College, Florida State, and Florida Atlantic universities, then returned to Florida State and earned his doctorate in 1971. Seven years later, he was back at Florida State again, using his sabbatical to add a year of post-doctoral instruction to his curriculum vitae.

It all worked to mold a man who was Marine tough and Ph.D. smart.

For thirteen years, Dr. Edward Caputo served as the gung-ho principal of the 500-student Key Largo Elementary School. He was a "hands-on" administrator who disdained red tape and pushed new ideas into quick action. He discovered that the less he told his superiors, the faster he could get things accomplished. That trait was grudgingly tolerated because Dr. Caputo was successful and the parents loved him.

A third factor played an even bigger part in giving Dr. Caputo the autonomy he desired. The Monroe County school administration offices are in Key West. That's 105 miles, 882 islands, and forty-four ocean bridges from Key Largo. The unique geographical distance suited Dr. Caputo just fine. For the most part, the Monroe County administrators felt likewise. Although they were wary of Dr. Caputo's hard-charging style, they couldn't argue with his success.

By 1984, the forty-seven-year-old Caputo had earned a national reputation in elementary education. Educators from universities and school systems around the country traveled to Key Largo to research his programs. His school was awarded the Florida Elementary School Principals Association's "Little Red School House Award" for its dramatic improvement in student mathematics levels on the Standard Achievement Test. He was invited to testify before the Florida State Legislature on educational issues, and twice served as a guest speaker for the National Elementary School Principals Association.

Part of his talent was his ability to draw the parents into the school. Dr. Caputo encouraged an active Parent-Teachers Association and recruited a 130-member volunteer organization that built athletic fields and nature trails, painted and redecorated the interior of the school and routinely lobbied the school board for various educational improvements.

Under Dr. Caputo's dynamic leadership, Key Largo Elementary transcended a neighborhood school. Parent Maurice Karam described it as "...an information center, a museum, a city, a playhouse. It's everything that's the focal center of everything."

In July 1984, the National Association for School Public Relations gave Dr. Caputo its prestigious "Gold Medallion Award" for his efforts in turning Key Largo Elementary into a major focus of its community.

It would be Dr. Caputo's last award.

Dr. Edward Caputo was also a born-again Christian. The father of five had been converted from a backslidden Catholic seven years before by his devoutly religious second wife, Martha, the daughter of a Methodist minister.

While "born-again" encompass many Protestant faiths, they are most often associated with Southern Baptists who believe in a literal interpretation of the Bible. The foundation of the belief is best capsulized by John 3:16 -- the same bible verse notation one often sees displayed in the stands at professional football, baseball and basketball games:

"For God so loved the world, that He gave His only begotten

Son, that whosoever believeth on Him, should not perish, but have everlasting life."

To translate from the prose of the King James version and elaborate a bit, this means that born-again Christians believe that all one has to do to have their names written into the "Book of Life" and assure themselves a place in heaven is to say a specific prayer. The prayer involves three parts. You must confess that you are a sinner. You must believe that Jesus Christ died on the cross for your sins. And you must ask God to save you.

Once that prayer is honestly said, the person is reborn into a new life of following the ways of Jesus and spreading the good news to others. The "born-again" phrase comes from Jesus' conversation with the Jewish leader Nicodemus in John 3:7.

A further explanation of this belief, complete with numerous Biblical references, can be acquired by visiting virtually any Baptist church and locating the rack of free literature. One of the rack's nooks will contain a 3x5 1/2 inch, four-page tract entitled "God's Simple Plan of Salvation."

Many politicians, if pressed, will claim to be "born-again." That's because there are tens of millions of politically active Christians along with powerful, organized voting blocs such as Jerry Falwell's Moral Majority. Former President Jimmy Carter volunteered that he was "born-again," and is probably one of the few public servants who really meant it.

There are also millions of school teachers, assistant principals, principals and other educators who are closet

"born-again." They are in the closet because the post-Scopes trial American educational system, aided by a progression of secular humanistic laws, takes a harsh view of any religious activity in public schools. This places the born-again educators in a no-win situation. The very foundation of their belief instructs them to literally shout the good news of salvation at every opportunity, especially when molding the lives of children. Yet the law and educational system warn them that to do so puts their careers in jeopardy.

As a result, the majority remain silent. From the standpoint of their own beliefs, they stand on the edge of being hypocrites.

Dr. Caputo was tormented by this dilemma. After viewing the alarming 1984 ABC-network television documentary, "Save Our Schools, Save Our Children," he could take it no longer. The moral decay depicted in the program hit home. Even in his idyllic island community, drug abuse, sexual abuse, and broken homes were on the rise. He decided that the laws of his God far outweighed the risks of his earthly profession. He felt it was time he did something to "Save Our Children."

Coincidentally, a new congressional bill gave him what he felt was a legal peg to hang a bold new program upon. In September 1984, Congress passed the controversial Equal Access Act, a law that enabled student groups to use public school facilities to hold after-school meetings on anything from chess to Marxism to religion. Dr. Caputo figured this allowed him to pencil in religious classes as additional alternatives in the

once-a-week "enrichment" slot that had been instituted to broaden the students' cultural scope. Such elective classes as drama, typing, nature, crocheting and computers were already being taught under the enrichment umbrella. (The classes are more commonly referred to as "extended-day" programs.)

Dr. Caputo proposed offering classes in Judaism and Catholicism as well as Protestantism. Attendance would be strictly on a volunteer basis with signed letters of consent from the students' parents.

Although it wasn't overtly publicized, one of the themes of these classes would be the teaching of creationism, the Biblical belief that mankind descended from Adam and Eve, fully formed human beings created in the likeness of God.

To take a bite out of that forbidden fruit in today's public school system is to invite a similar cataclysmic result. In virtually any other educational district, such a volatile proposal would never have been allowed off the drawing board.

Key Largo was decidedly not any other district.

In the beginning, there was wide support for Dr. Caputo's latest innovation. He called a PTA meeting on the subject, and the resolution passed 84-1. Five parents were approved as volunteer instructors. Forty-seven students signed up to attend.

Despite the overwhelming PTA vote, not everyone was happy. A Jewish teacher fought the move and was still steaming. Someone had the wherewithal to inform The Miami News, a staunchly liberal newspaper. Reporter Heather Dewar rang up Monroe County School

Superintendent Armando Joseph "Bookie" Henriquez the evening before the classes were scheduled to begin. Dewar asked Bookie what he planned to do about the religious classes.

"What religious classes?" Henriquez responded.

Dewar answered that question with a front-page story published the next day, September 19, 1984. That afternoon, television crews from the local Miami stations, and the big boys from ABC News and CNN, showed up for the classes along with the forty-seven students.

In the Protestant class, Judy Cockrum and Peggy Townsend had the students bake a cake from scratch to symbolize how God created the Earth. Only in this case, the delighted students got to eat their creation at the end.

In the Judaism class, parent Beth Sobel brought in a beautiful "menorah," a candelabrum used in Jewish worship particularly during the Hanukkah celebration.

The Catholic parent-instructor, Maurice Karam, wasn't quite as successful as his counterparts. He spent a good part of his time searching for chairs to seat his rambunctious band of mini-Catholics. The remainder of the time was spent trying to organize for the future.

Reaction to the highly publicized classes was swift. By the next morning, all hell had broken loose. Calls rained in from the "usual suspects." Dr. Caputo's efforts were attacked by the American Jewish Congress, the Anti-Defamation League of B'Nai B'Rith, the American Civil Liberties Union, civil libertarians, liberals and others of their ilk. The American Jewish Conference

had its attorneys call Henriquez and assert that Dr. Caputo had made unlawful leaps in applying the Equal Access Act to his school. (Strangely enough, the Jewish groups are so fervent in their belief of separation of church and state that they are against the non-secular teaching of their own religion in public schools.)

Pressure was applied to Henriquez, a practicing Catholic. He consulted school board attorney Hilary Albury for a ruling. Albury discovered that the classes did not technically adhere to all the stringent guidelines of the Equal Access Act. The congressional bill, which allows student religious groups to use school facilities to meet after school, stated that the students had to request the classes themselves, not the principal and PTA, and that they could not be offered during the regular school day -- even in a special "enrichment" hour. Further, Albury explained, they couldn't be taught by parents, and the wording of the Equal Access Act referred to secondary schools and didn't mention elementaries. Henriquez called Dr. Caputo and told him the classes were on shaky legal footing.

Dr. Caputo was not a man to fret over technicalities. He countered that since his school had a sixth grade, it could be considered a secondary school. The argument being that some junior highs start with the sixth grade. The after-school question also contained a loophole. Although the extra "enrichment hour" had been folded into the regular school day, the teachers who taught these classes were paid separately under union regulations. Therefore, regardless of what the school

administration believed, the teachers' union decreed the enrichment hour as an "after-school" activity.

Henriquez rejected those arguments. Dr. Caputo rejected Henriquez's rejection.

On Friday morning, The Miami Herald reared its liberal head and wrote a near-hysterical editorial under the "objective" headline:

"Stop This Outrage"

The hyperventilating Herald editors demanded that Florida Governor Bob Graham personally intervene in the situation at the little Key schoolhouse.

"...unless this outrageous infraction is stopped immediately, it surely will infect public education throughout Florida," The Herald ranted.

The pressure upon the superintendent was intensifying -- from both sides. In contrast to the meddling newspapers and activist groups, Henriquez began receiving cards, letters and telegrams from around the nation supporting Dr. Caputo and his classes.

On Friday afternoon, the superintendent met with the principal and his wife Martha at Mac's Bar-B-Que in Key Largo. Also in attendance was Glynn Archer, assistant superintendent for administration and operations, and Janet Padron, the school system's director of public information.

Dr. Caputo was exhilarated, pumped up by the success of the classes and the widespread television news coverage. Henriquez sent him crashing down to earth. He told the principal that his

pet classes were unlawful and had to go. Dr. Caputo countered that they were lawful and he wasn't going to pull the plug. When tempers began to flare at the crowded barbeque pit, the meeting was moved to Dr. Caputo's office at Key Largo Elementary. Henriquez demanded that the principal deep-six the classes. But that wasn't all. Dr. Caputo was informed that he would have to publicly admit that he had misrepresented the law, offer an apology, and promise to never again let his religion interfere with his duty as principal.

Even the born-again teachers hiding in their school-room closets would have trouble obeying that last order. Like the Apostle Peter, Dr. Caputo was being asked to deny Christ three times before the cock crows. And unlike St. Peter, Dr. Caputo would have to do it before the awaiting national media.

Dr. Caputo ran his hand through his brown hair, squinted his eyes like Clint Eastwood and informed the administrators that they were going to stop the classes over his dead body.

As for admitting he was wrong and denying his beliefs, they didn't have a prayer.

"I could not promise him that my faith would never interfere in the operation of the school since it governs everything I do all day, everyday. He knew that," Dr. Caputo said.

Henriquez, a decent man who respected Dr. Caputo, realized that the principal was painting himself into a career-threatening corner. The superintendent suggested several alternatives. One was to put the classes on a temporary hiatus while Dr. Caputo and

his supporters tested their legality in the courts. Another suggestion was to move the classes to local churches.

The born-again ex-Marine rejected both options.

Henriquez explained why in a deposition:

Henriquez: During the conversations, Ed indicated to me that he felt that this situation was one where he had been chosen and had been selected to do what he was doing.

Rubin: By whom?

Henriquez: The inference there was that it was from a Supreme Being.

Rubin: Divine intervention?

Henriquez: That's correct. He felt that he had to do what he was doing and he felt that God was going to provide and that God was going to be there and assist him and champion his cause.

Henriquez was left with no choice but to suspend the principal. The faculty, the parents, and practically the entire island community was stunned.

That Sunday, The Miami Herald struck again. Herald Editor Jim Hampton lashed out at both Dr. Caputo and Congress for passing the Equal Access Act:

"...So a respected and able principal's career is in deep jeopardy. His faculty is heartbroken. His students' parents are divided against one another. Indeed, his whole community is in turmoil. All because a principal-cum-religious zealot thought that an unwise new law permitted him to intrude religion where the Constitution forbids it."

The Monroe County School Board descended upon Marathon High School the following day -- Monday, September 24 -- to hold a regularly-scheduled board meeting highlighted by an emergency public hearing on the messy "Caputo problem." The afternoon of the hearing, the skies grew dark, thunder cracked, and the winds of an off-shore hurricane sent frothy waves crashing against the shore. Inside, one section of the Marathon High cafeteria was packed with more than 100 Christians, Jews, Catholics and other supportive Conchs as angry as the wind outside. Opposite them was a smaller, but equally determined group of secular humanists and separation of state and religion advocates.

The pro-religion supporters presented the board with a petition signed by 914 parents calling for Dr. Caputo's reinstatement as principal. That number was nearly twice the student population and one-fifth the island's residents. Twenty-four members of the group paraded to the microphone and spoke out on Dr. Caputo's behalf. When Dr. Caputo arrived, he was given a rousing standing ovation.

Dr. Caputo refused to denounce his way of life. He was found guilty of gross insubordination, misconduct in office, and willful neglect of duty. He not only had his suspension upheld, but the process was started for his termination. As the thunder rumbled outside, the pro-Caputo forces nearly rioted. They lashed out at Henriquez with such venom the superintendent was brought to tears. Dr. Caputo stood up and defended Henriquez and begged the audience to stop fighting among themselves. His quick thinking cooled everyone down.

But Dr. Caputo himself was not so cool. He grabbed the microphone, abandoned his prepared speech, and began shouting "In God We Trust! In God We Trust! In God We Trust!" By the third repetition, his voice trailed off into a unnerving whisper.

The audience was shocked into silence. The windswept rain could be heard pounding on the schoolhouse roof. Muffled sobs began piercing the cafeteria as one parent after another broke down. Even a number of the board members began dabbing their eyes.

In five days, Dr. Edward Caputo's nineteen-year career had been destroyed. Gone too was the financial security it provided his young family. Now it appeared he might be losing his mind as well.

Dr. Caputo drove to his ocean-front home as the rains eased up and the hot tropical sun temporarily broke through the clouds. The sun steamed up the succession of small, richly-vegetated islands the troubled educator crossed on the 60-mile trek back to Key Largo. When he arrived at his expansive coral rock home, he silently climbed aboard his bicycle and pedaled around the island.

The next day, Dr. Caputo went to the school to gather up his things, advise his successor, and help batten down the building for the possible hurricane. He found the place nearly empty. The mood was as sullen as the darkening sky. Fifty-seven percent of Key Largo Elementary's 500 students had stayed home to protest his ouster.

After finishing his tasks, he was escorted back to his car

by administration officials with stern faces. His knees suddenly buckled and he nearly collapsed. The officials rushed to steady him.

"God knows how much I loved this school and the people in it," he cried.

"He immediately went into shock and grief and wasn't able to discuss the events leading up to that day...", Martha Caputo wrote in a letter to Dr. Henriquez. "...the shock of the dismissal...caused Ed to begin to unravel emotionally. The physical and emotional exhaustion, when punctuated by that shock, and what it meant for him to be severed so fast from that school that was his flesh and blood, was too much for him to handle."

Dr. Caputo's mental and emotional stability was indeed crumbling fast. Four days after the board meeting, a friend volunteered to drive him to Coral Springs, Florida to see a psychiatrist. Stopping at a gas station, Dr. Caputo bolted from the car, grabbed an American flag from a new housing project, and ran out into the street. He began waving the flag, directing traffic and singing "God Bless America." He told anyone who would listen that he had been crucified and that America was no longer the land of the free. This behavior led to an inevitable confrontation with police. From the responding officers' perspective, it was a strange sight. They encountered a man acting like a deranged street person, but he was wearing a \$400 Saks Fifth Avenue suit, a silk tie, and rainbow-colored suspenders. Dr. Caputo refused to tell the officers anything beyond his name, rank and serial number. The cops cuffed his

hands behind his back and threw him in jail. He continued to protest and was roughed up by an officer or guard and had three of his ribs fractured.

Nine days after the implementation of his first and last Wednesday afternoon religion classes, Dr. Edward Caputo lay battered and broken in a small-town jail cell.

He had hit rock bottom.

Martha Caputo quickly rescued her husband and had him transferred from the jail to the psychiatric unit of a Hollywood, Florida hospital. The doctors' diagnosis was "severe acute psychosis" marked by contrasting episodes of depression and elation.

As a testament to his intellect and strong willpower, combined with the unwaivering support of his devoted wife, Dr. Caputo's "psychosis" disappeared as quickly as it began. By the following day he was almost back to normal. A week later he was allowed to escape the South Florida media and receive further treatment in Kentucky. The doctors in Kentucky prescribed Lithium, a medication that acts to smooth over the emotional peaks and valleys. By the end of the month, Dr. Caputo had fully recovered and was given a clean bill of health.

His matter-of-fact description of his ordeal is poignant.

"I got sick. I got well."

While Dr. Caputo was recovering, news of his beating, jailing and hospitalization swept the island like a summer squall. His outraged supporters applied their own brand of

pressure upon Henriquez. The superintendent, upset himself over what had happened to his friend, appealed to the school board to place Dr. Caputo on medical leave and delay the action to dismiss him. Henriquez wanted to make sure Dr. Caputo's medical expenses were covered by the school system's insurance. The board agreed.

The return into the financial womb of the educational system helped. Dr. Caputo continued the healing process by traveling to Fort Lauderdale and receiving counseling from Dr. D. James Kennedy, a well-known Presbyterian pastor whose television ministry is seen in 20,000 cities and twenty-two countries.

In November, Dr. Caputo finally realized he needed an attorney. It was a decision that should have been made two months earlier, the day The Miami News story hit the stands. Christians, however, tend to believe God is their attorney and enter the boardrooms and courtrooms like lambs before lions.

Either Dr. Kennedy, or a friend of Dr. Caputo's, recommended that he call me. He and his wife came to my office and outlined their tragic story. He remained in physical pain from his encounter with the law, but his mind was clear and sharp. Martha Caputo was supportive but deeply concerned. They said they were financially drained. I told them not to worry. I'd take the case for free.

We held a press conference and announced that we were going to fight to get Dr. Caputo reinstated as principal.

Shortly afterward, Henriquez let it be known that he was willing to quietly accept Dr. Caputo back into the fold. The superintendent, Dr. Caputo and Martha Caputo met at the Key Largo

Howard Johnson's. They drank apple juice and talked for two hours. Henriquez advised Dr. Caputo to take his time and rest. Then, when he was fully recovered, Dr. Caputo would be given the administrative desk job of assistant director for exceptional child care. The position paid \$10,000 less than he had been making as principal.

Dr. Caputo promised to consider the offer.

After the holidays, the Caputos came back to my office. They had to decide whether to accept Henriquez's offer or reject it and continue the fight. I advised them the best I could, but explained that they had to make the decision.

They agonized in my office, struggling over what to do. Could Dr. Caputo symbolically deny God by accepting the lower position, a choice that might help him reestablish his life? Or should he keep beating his head against the wall of powerful anti-religion forces and risk another mental breakdown? He looked at his wife. She looked at him. They held hands. They read the Bible. The indications were clear.

They said they had no choice but to fight.

I told them they wouldn't be alone this time.

Dr. Caputo used up his six-month accrued sick leave and let most of the school year play out. He spent the time fishing and traveling with his family, which included three children under the age of seven. In late April 1985, the school board voted to reinstitute the dismissal procedures. We requested an appeal before a hearing examiner. It was granted and scheduled for October 1, 1985.

I prepared my defense by writing church groups and religious organizations around the country asking for suggestions. While all offered their support, and the Christian Legal Society sent reams of case studies, nothing hopeful stood out. Dr. Kennedy expressed a willingness to be a character witness, and I quickly jumped at the chance to enlist the famous preacher.

The appeal was scheduled before a hearing officer in Key West, a tropical sin city known for its large community of defiant homosexuals. (They elected a homosexual mayor.) I felt like I was going to Sodom to defend Lot against the townsmen who were trying to break down his door and sodomize the angels he was sheltering. (Genesis 19).

Figuratively, it was nearly that bad. Dr. Caputo had everything going against him. His inability to compromise on his religious beliefs made my task impossible. I'd have had a better chance had he stood accused of raping a cheerleader than I did trying to defend him for the crime of being a Christian.

The public hearing was in Key West City Hall. Although the island is full of old buildings with interesting designs and architecture, including the former home of Ernest Hemmingway, the City Hall is a modern facility with minimal cultural value. The auditorium is large and sterile.

After the morning session, Dr. Kennedy took the stand. Like all the witnesses, he swore to God to tell the truth -- the same God that was not allowed in Dr. Caputo's school building. Dr. Kennedy then proceeded to offer a disturbing picture of America's

public school system:

"...a survey of the schools forty years ago and today reveals that forty years ago the principle problems in our schools were throwing spitballs, talking in class, running in the halls, tardiness and other similar items. Whereas today some of the problems are rampant alcoholism, drug abuse, teenage pregnancies, an epidemic of suicide, muggings, rapes...

"...We're trying to completely rid, from the public's sphere, all aspects of religious belief, and, yet we suppose that somehow we're going to stay up here in the air with no foundation and have some sort of moral views. I believe that is an impossibility...

"...It is very clear from the Old and New Testaments of the Scriptures that children are a gift from God unto the parents, and that they belong to the parents and the parents are responsible to God for the rearing and upbringing of those children...this view is being endangered. It seems that the state is more and more assuming and demanding that the children belong to the state...We know that Hitler, in 1934, declared that the children belonged to him...and he then, of course, removed all religious instruction from the schools. In fact, he demanded that all teachers leave religious organizations. This brought about some very unpleasant consequences which we all know about...

"I think that this is the danger today...I think that this portends some ominous things for the future..."

When it was his turn, Dr. Caputo spoke concisely and intelligently. There was no trace of any lingering psychiatric imbalance. He deftly handled the school board attorney's probing questions, explained his beliefs and position, and followed my lead perfectly.

I argued that the Equal Access Bill, at the very least, gave Dr. Caputo the impression that he had the right to institute the afternoon classes. I explained, rather passionately, that Dr. Caputo had been given an order that was impossible to obey -- the denouncement of his faith. I stressed that the devastation of a beloved and highly decorated educator's career far exceeded the "crime" he was charged with committing. I pleaded with the hearing examiner to show mercy and not to throw Dr. Caputo to the lions.

Dr. Caputo sat with his head bowed and hands clasped together as I spoke. Tears streamed from the tough Marine's eyes.

If we had faced a jury and not an lone arbitrator, we've have had a chance. Without a jury, what Dr. Kennedy said and what I said didn't count. It appeared that everything again boiled down to The Question. It came up again and again.

Caputo: He (Henriquez) said, "You have to promise me, give me your assurances that in the future you will not allow your faith to interfere with the policies of governing and administering of this school."

School board attorney: What was the problem with your saying okay to that?

Caputo: Everything, absolutely everything. A man is what he

thinks. A man is what's in his heart. You don't separate the way you think and believe when you walk into the school building as a school principal.

Right before Dr. Caputo left the witness stand, hearing examiner William Kendrick personally asked him if he could keep his religious beliefs from "interfering with the administration of the school."

This was it. The moment of truth. To regain his job, to regain everything he loved, it was apparent that Dr. Caputo would have to publicly deny the impact of Christianity in his life.

St. Peter denied Christ three times in the darkness of an early morning. Dr. Caputo couldn't do it once, anytime, anywhere.

On December 31, 1985, Kendrick upheld the earlier findings that the principal had disobeyed the orders of his superior and was guilty of "gross insubordination." Kendrick recommended that Dr. Caputo be "terminated."

Happy New Year, Edward Caputo and family, best wishes from the Monroe County school administration.

The last appeal was a return engagement before the school board. It was scheduled for January 24, 1986 -- sixteen months after the ill-fated religion classes began and ended. Three weeks before the upcoming meeting, The Miami Herald hammered a few more nails into Dr. Caputo's coffin:

"...The school board promptly should accept the recommendation and terminate the once-outstanding educator. Perhaps Mr. Caputo, who underwent psychiatric treatment last year, will have the grace to forgo an appeal to the

courts..."

Aside from the cheap shot of reminding everyone of his past "psychiatric treatment," The Herald's suggestion that Dr. Caputo "forego" his unalienable right as an American to seek justice in court was grossly out of line.

Dr. Caputo's last stand was held in a gloomy, school board meeting room near the Key West shrimp docks. The crowd was sparse. Missing were both the Christian soldiers and the secular humanists. Not even the militant Gay Power faction could muster the energy to leave the beach and cast stones at the Christian. No one wanted to attend Dr. Caputo's professional funeral.

I again argued law and pleaded for mercy. The school board ignored it, banishing Dr. Edward Caputo forever from their midst.

The school board meeting had officially opened with a prayer.

We appealed the dismissal to the Third District Court of Appeals. The appellate judges found that the school board had the authority to fire Dr. Caputo. I considered pushing the case further into the legal arena by filing a discrimination case in federal court. I had visions of inviting Christians from around the nation to join hands, form a huge circle around the courthouse and pray as the trial proceeded. I planned to call in everyone from Billy Graham, Robert Schuler, Pat Robertson and even the post-scandalized television superstars Jim Bakker and Jimmy Swaggart. We could have rocked the nation.

It wasn't to be.

I began getting a strong premonition that forcing Dr. Caputo to go through the intense pressure and public scrutiny of a media-campaign trial could have pushed him too far. It appeared that God wanted to test Edward Caputo to the limit by making him pay the ultimate professional price for his beliefs.

Such seemingly harsh divine decisions are not without precedent. Daniel came out of the lion's den, but Stephen was stoned to death. Shadrach, Meshach, and Abednego were thrown into the fiery furnace and came out with not a single hair singed. Jesus himself was whipped, stabbed, and nailed to a cross.

In the religious arena, there's no such thing as winning and losing as we know it.

Epilogue

As one might have guessed, I have strong feelings about what happened to Edward Caputo. One might also be curious as to why a Jewish lawyer would feel this way. For starters, I respect Dr. Caputo for standing up for his beliefs. Among the millions of born-again educators who share those beliefs, few have the courage of their convictions.

I also feel what the school system asked him to do was a disgrace. No one should be required to publicly denounce their religion. No one has the right to demand that of anyone. Freedom of religion is one of the cornerstones of America.

My feelings go beyond this. As the father of four children, I've long been disturbed over the current state of our public

school system. Education levels have plunged. Discipline appears to be a thing of the past. Violence in inner-city schools is spreading like a disease. Teachers are being assaulted by students, some even killed. Their cars are vandalized in the parking lots. Drugs infest our schools to such a degree that parents are thrilled when their children are merely stoned on marijuana.

Former Education Secretary William Bennett pinpointed the Chicago public school system the "worst in the nation" and "close to educational meltdown." Students at some Chicago high schools are frisked for weapons by security guards before entering class. That occurs in New York and Los Angeles as well.

What happened?

When God was expelled from our public schools, a darkness fell over the American educational system. Anti-discrimination laws were promoted to allow homosexuals, lesbians, atheists, adulterers, and ex-cons to teach our children.

A Christian, however, is deemed repugnant.

I don't think this is what John Scopes or Clarence Darrow were fighting for.

In their anti-religion fervor, liberal activists focused upon the religions themselves and lost sight of what came with it. The Judaic/Christian tradition teaches basic moral values. Good and Evil. Right and Wrong. Kindness to others. Sharing. Putting the needs of others before one's own selfish desires.

Secular humanists argue that they can teach these values for their own sake, but we've seen the result of that hollow

argument. Without the personal threat of punishment and the promise of reward, moral values become just another useless subject for students to ignore.

George Washington, in his farewell address, warned: "We should not be so foolish as to try to separate religion from morality...we should not be so foolish to expect we can maintain morality if we lose the foundation of religion..."

Our schools have created a new breed of American youth that have no economic motivation for their criminal or immoral acts. When caught and confronted, they appear baffled. I've seen their blank expressions a hundred times. Their parents march them into my office after they've committed some serious crime. I look into their eyes and see a child devoid of any moral values whatsoever. It's a frightening thing to witness.

These are the same children who have never said prayer in school. Many never turned a single page of the Bible. They were never taught anything about God. Any god.

Something's wrong.

I'm well aware of the other side's arguments against religion in schools. Every one of them applies directly to me. I'm Jewish. I went to public schools where they prayed to Jesus. It didn't shake my Jewish faith at all.

The Navy sent me to Trinity College in Hartford, Connecticut, an Episcopalian school. The Navy didn't care how I felt about it, they gave me an order. My fellow students worshipped Jesus every day in chapel, which was mandatory. Even for a Jewish sailor.

That didn't shake my Jewish beliefs either.

The Navy then transferred me to Holy Cross College, a Catholic school taught by Jesuit priests. The Navy didn't ask for my approval. Virtually every class at Holy Cross was infused with the presence of Jesus, the saints, and the Virgin Mary.

It didn't destroy my personal religious beliefs.

I learned a great deal from the priests at Holy Cross, not only book knowledge, but about becoming a decent human being.

I'm a better man today for all these experiences, and I thank God for giving me the opportunity to have them.

The Adam and Eve hearings left me with an unquenched desire to fight this case again in the legal arena. If anyone wants to give it a shot, I'm in the Miami phone book.

The hearings were also an uncanny personal forewarning. A few months after Ed Caputo was forced to risk so much in taking his stand, I found myself in a similar situation. And the consequences that faced me were even more extreme.

Chapter 8

The Death of a Debutante

PART I

"It's the ethical nightmare dreaded most by criminal-defense attorneys... -- Time magazine, July 21, 1986

It was Passover, 1984. Only the blood was on the bed inside the Abramson's large, luxurious home, not on the door. And the Abramson's firstborn, Erinn, was gone. Her body was discovered the next day lying in an empty field across from a garbage dump. She had been slaughtered beyond anything ever done to a sacrificial lamb.

Erinn Abramson, eighteen, was found wrapped in a light yellow blanket and a light orange bedspread -- even Miami's murders come in pastel hues. Over the next three years, her death would be shrouded in a darker blanket of mystery. When it was over, not only would the convicted killer be in jail, so would I. And although my jailing received more attention than the murder itself, the critical

elements that compelled me to make my controversial stand have never been revealed.

Until now.

The brown, cardboard box sitting on my office doorstep startled me. With my clientele, and those I've gone up against, it could have contained anything from a Sandinista bomb to a mutilated chicken from a Haitian voodoo curse. I stepped around it, but couldn't fight the urge to peek inside. The box contained oranges, cucumbers and tomatoes. They were dusty, and some had the stems still attached. They appeared as if they had just been picked from one of the steamy farm fields that still surround Miami. I was relieved, but curious.

Entering the building, I asked my office manager, my daughter Peri, about the box. She said some ragged looking lady had brought it for me.

"Her name was Holly. Holly something," Peri said.

"Sanborn," I said. "Holly Sanborn."

That explained it. Mrs. Sanborn's son Russell had been arrested a month after Erinn Abramson's death and was charged with the murder. A year had passed, and his trial was coming up. Mrs. Sanborn had written me a few times and then called for the first time the day before. She begged me to take her son's case. She had somehow become convinced that I was the only person who could save him.

She called again. I thanked her for the gift and told

her the same thing I had said before. Changing attorneys at this late stage was not in her son's best interest. Russell's court appointed attorney, Bill Surowiec, was an excellent trial lawyer from a well-known Miami law firm. He and his associates had prepared for months to represent her son. As for me, I was swamped with cases of my own, and I hadn't even read the Abramson story in the newspaper. I assured her again that her son was in good hands -- much better hands than mine would be.

The next morning there were two boxes on my doorstep. It startled me again. I didn't connect them with Mrs. Sanborn until I saw the red tomatoes. She called and said she had gotten up at dawn and picked them herself. I invited her to come to my office. She said she didn't have a car, so I sent someone to pick her up. I was somewhat surprised when I saw her. She sounded intelligent and educated on the phone, but in person she was ragged and soiled like my daughter had described. She was heavy, had a round face, light hair, and was wearing a ratty sweater and a gray skirt. She looked like Shelly Winters dragged through a potato field.

She pleaded with me anew to take her son's case, repeating that I was the only person who could save him. She cried. I was weakening, but it still wasn't the best move for her son. I explained that I wasn't the magician she had come to believe. The stories she had read about me in the newspapers, and the talk around the jailhouse, were probably

exaggerations. I had won some big cases, but I'd lost my share too.

The following morning, there they were, the boxes of cucumbers, tomatoes and oranges. Only now, Holly Sanborn was sitting next to them. The tears were streaming down her face.

"Please, Mr. Rubin, please. He's my baby boy."

She touched me on the arm and looked up into my eyes. I could see the dirt under her fingernails and the dust in the crinkles lining her face.

We went inside. She sat down and handed me a letter she had written. It was more of the same, pleas to take her son's case and charges that he had been framed, but there was something else, something that caught my attention. She promised to sign over her \$600 monthly disability check for the rest of her life if I'd defend Russell. It was her sole income aside from the few dollars she made picking vegetables and selling them at a stand near her home. The check was the only thing that kept her alive.

Whatever button I have, her tremendous sacrifice pushed it. I would take the case, and she could keep her checks.

I visited Russell at the Dade County Jail. He greeted me with a great sense of relief. He shared his mother's conviction that I was his emancipator. He told me passionately that he was innocent.

I had decided against all logic to represent him. It

was a decision that came from my heart -- and not my head.

There had been a number of versions of what happened to Erinn Abramson that night, and more importantly, who was responsible. From the police reports and trial testimony, a strange story finally emerged.

Erinn and Russell were an unusual pair. She was a beautiful, auburn-haired college freshman pampered by her wealthy parents. Life was a swirl of shopping for the latest fashions, going to the beach and cruising the malls. At night she'd dress up in expensive outfits, drive around in her parents' \$40,000 Mercedes sports car, date nice Jewish boys from equally wealthy families, and hit the exclusive private clubs like Turnberry Isle where Gary Hart and Donna Rice hooked up. Her father, Herbert Abramson, was not only a prominent criminal defense attorney, he was a charitable man who gave both his time and money to help establish a local branch of "Here's Help," a drug rehabilitation center. Erinn had jetted in for the holidays from Santa Monica Junior College in California. Her father had set her up out there in an \$850-a-month apartment in exclusive Marina del Rey. She had talked of becoming a doctor, but had dropped two of her four classes that semester. A bit homesick, she called her mother nearly every night.

Russell "Rusty" Sanborn, twenty-six, was a crude, prison-hardened veteran of four stays in Florida penal institutions. He was a muscular man about five-ten with long

red hair combed straight back and a smattering of freckles dotting his pale complexion. A high school drop out, he was the son of a long-gone father and Holly, a farm field worker. An itinerant plumber by trade, his resume included convictions for robbery, forgery, petty larceny, and possession of marijuana. He remained on probation for grand theft, marijuana possession, and barbiturate possession.

Rusty and Erinn had made love the last night of Erinn's life, but love had nothing to do with it. The pair were linked by something more powerful than love or sex.

Cocaine.

He had it. She wanted it. The drug is the great equalizer. It knows no class distinction. It's blind to social status, race, color or creed. Erinn had met Rusty years before at the beach. He gave her a quaalude. Although they were from different worlds, they became friends of a fashion. Erinn knew Rusty was always "holding," meaning he could be counted on to have drugs.

Erinn gave her money, then her body to get those drugs. But even that wasn't enough to satisfy her craving. When her credit ran out, and Rusty lost interest in her body, she became desperate. Erinn devised a plan. She recruited a friend to disguise himself, come over to her house and rob her rich parents of their money and jewelry. In return, she would score another day or two supply of cocaine.

The friend agreed.

On April 16, 1984, a car containing two people pulled to the side of the road outside the spacious North Miami home of Herbert Abramson. It was about 4:30 a.m.

"I'll be out in a few minutes," the passenger said. "Wait here."

The man fished in his pocket for two keys. One disarmed the Abramson's elaborate burglar alarm. The other opened the front door. Inside, the intruder walked through the familiar surroundings and entered Erinn's room. She smiled and said hello. Erinn had given him the keys earlier that evening. It had all been arranged.

After chatting with Erinn in her bedroom for a few minutes, the intruder slipped a nylon stocking over his head and entered the master bedroom. Herbert and Barbara Abramson were awakened around 4:45 a.m and were forced to live out the harrowing nightmare feared by virtually everyone. A masked man, waving a knife and barking commands, had invaded their home. The terror of such an event, in which you are shaken from a dead sleep to confront a scene out of a horror movie, is something a person never forgets.

In a rough, gravelly voice, and using language Barbara Abramson would later describe as "tough, prison talk," the intruder threatened to kill them if they didn't keep quiet.

"I have already killed four people," he said. "It doesn't make much difference."

He demanded their money and jewelry, then grabbed Barbara. When Herbert tried to protect his wife, the

intruder slashed the attorney's ear with the knife. A stream of warm blood dripped down Herbert's neck and shoulder. Though terrified, the Abramsons began to notice that the intruder was acting strangely. He appeared to be confused about what to do. He didn't have a flashlight and asked Barbara Abramson if she had a small light. She suggested that he turn on the closet light, and he did. He had nothing to tie them up with, and had to improvise by using the cut cords from a clock radio and their cable television. After ordering them to lie face down on the bed, he bound their hands and legs and put a pillow over their heads. As the intruder searched the room, he carried on a running conversation with the Abramsons. He said he knew that they had a "big son," sleeping in a nearby bedroom, and said if the son woke up he would have to kill him. Scott Abramson, sixteen, slept through the entire incident.

The intruder seemed in no great hurry. He began to pick through Barbara Abramson's jewelry box like a child looking for the best marbles. Angered that the contents appeared to be mostly inexpensive costume jewelry, he started grousing and making threats. Barbara Abramson began describing from memory, as she lay on the bed, which pieces were the most valuable. Herbert Abramson, trying to add a measure of sanity to the burglary, suggested that the intruder take the whole box. The masked man told him to shut up or he'd kill him, then went back to searching through the contents.

The intruder kept leaving the room and coming back. The Abramson's could detect his movements from the squeaking sound of the bedroom door. Each time he would return with what appeared to be new instructions on what to look for. He was also growing angrier and more frustrated, as if he had expected much more. It wasn't until his third visit that he thought of, or was told, to take the chain from around Herbert's neck.

After filling a sock with a meager \$2,000 worth of jewelry and \$140 in cash, the angry intruder left the master bedroom for the last time.

Erinn's friend had been inside the house nearly an hour, keeping the driver waiting nervously outside. When he finally emerged, he was carrying a large object over his shoulder. The driver would later describe it as looking like a rolled rug. The intruder opened the door of the Abramson's brown Mercedes 450 SL convertible, heaved the object into the passenger seat, got behind the wheel, and drove away. The driver, curious over the change in plans, followed him for a while, lost him, then drove to Russell Sanborn's apartment to see if he ended up there. Sure enough, the brown Mercedes was gleaming in the parking lot, already covered with a coat of water from South Florida's staggering humidity. The driver drove away.

More than an hour later, the Abramsons struggled free from their binds and called the police. In Erinn's room, they discovered a large, circular blood stain on her mused

bed. Scott, who had returned that evening from an exhausting weekend fishing trip, was still sleeping soundly in his room. The Abramsons told police officer Richard Conover that their daughter had mentioned that she was expecting someone named "Rusty" to visit her late that night.

"Don't worry, he'll only stay ten minutes. I'll push him right out," she had promised her mother.

Sometime around 10 a.m. Erinn's body was discovered in the lot about six blocks from Russell Sanborn's apartment. When the yellow bedspread and orange blanket were removed, the officers found the stiff figure of a young woman lying face up. She was wearing jeans and a dark T-shirt, was barefoot, and her left arm was crossed over her eyes as if to shade them from the bright Florida sun. A closer inspection revealed that she had been stabbed fourteen times, including four times in her chest, six in triangle patterns on her back, a number of huge gashes in her arms, and one in each of her wrists. The medical examiner said the locations and time sequence of each wound -- the non-fatal ones occurring first -- indicated that Erinn had been savagely tortured before she was killed.

The next day, the brown Mercedes was spotted in a parking lot a few blocks from the dump. Among the items found in the car was a single white "Jox" gym sock, stained with blood. It was the kind of designer sock a rich young teenager would wear with her Reebok sports shoes.

Late that afternoon, the police received a call from

Alvin Lindner, the owner of J&L Coin Shop in the Diplomat Shopping Mall in Hallandale, a retirement community halfway between Miami and Fort Lauderdale. The morning of the murder, Lindner had purchased a gold Rolex watch and a pear-shaped diamond ring for \$1,300 from a muscular red-haired man. The man had identified himself as Peter Martin Bean, and offered Lindner a crumpled birth certificate as the identification required by Florida law to pawn jewelry. After the transaction, the red-haired man spoke of having more jewelry to sell. Lindner, growing a bit suspicious, told the man he would need a driver's license or some other form of picture identification. The man returned about ten minutes later with a ragged woman in tow, identifying her as his mother. The pair had an assortment of jewelry, including a gold initial ring with the letters "ESA," a man's gold bracelet with the name "Herb," and a gold charm formed in the letter "B." As they spoke, Lindner noticed that the woman called her son "Rusty." Lindner offered them \$600 for the batch, and the man presented his mother's driver's license to secure the deal. The next day, Lindner was showing some of the jewelry to a customer. The customer looked at the name on the bracelet and initials on the other pieces and said, "This looks like the stuff from the Abramson murder!" Startled, Lindner called the police. Metro Dade County Homicide Detective Roosevelt Turner responded. Lindner showed him the two sales registrations. The second one was signed "Holly Sanborn."

All the jewelry was later identified by Herbert Abramson as his, his wife's or his daughter's.

Turner, a veteran detective who had investigated more than 400 murders, visited Mrs. Sanborn at her home. She explained that her son had asked her to drive him to the mall to sell the jewelry. She said he told her a friend had given it to him as payment for a previous debt. She added that her son had moved to Miami Beach, she didn't know exactly where, and had used some of the jewelry money to buy a 1978 silver AMC Concord. The purchase order showed that Rusty had made a downpayment of \$560 and listed the telephone number of a woman named Mary Jo Mercado. Mercado, a former girlfriend, told the police where Rusty had previously lived in North Miami, and added that she had sold him a sofa bed with a yellow blanket and orange bedspread. She later identified them as the blanket and bedspread wrapped around Erinn Abramson's body.

Turner put out a "BOLO" on Russell Sanborn. That's police terminology for "be on the lookout." He was wanted for questioning in the murder of Erinn Abramson. A few days later, the detectives had a warrant to search Rusty's North Miami apartment. Despite the lapse in time, the search proved fruitful. In fact, there was no indication that Rusty had moved out. They found large blood stains on the living room rug, smaller stains on the sofa and windowsill, and a copy of "Cheri" magazine with Erinn's name and telephone number written in the margin of the table of contents page.

In the bathroom, they found a gold and diamond lightning-bolt wrapped in toilet paper and tucked inside a toilet brush holder. The charm was identified by Barbara Abramson as Erinn's favorite piece of jewelry.

Although blood was found on Erinn's bed, the amount found in Rusty's apartment indicated to the detectives and laboratory experts that most of the wounds, and probably the fatal ones, occurred there.

Outside, in a vacant lot next to the apartment, the police investigators found the keys to the Mercedes, a bloody T-shirt, a pair of expensive ladies high-top tennis shoes, and a white "Jox" gym sock stained with blood. The sock matched the one found in the Mercedes.

Meanwhile, Rusty had gotten wind that the cops were on his trail. He dyed his hair brown and booked himself into a cheap Miami Beach motel. He alleviated some of the boredom of hiding out by befriending a young Latin girl named Ana Ortiz who he met on the beach. They hit it off so well that two days later he moved into her small room at the Paradise Motel. He told Ana, a beauty school student, he was laying low because some Cubans were looking for him to "collect their share." He let her use his newly-purchased car to attend class.

During this time, Rusty decided to write an impassioned letter to Detective Turner, plucking Turner's name from a newspaper story about the murder. Rusty pleaded his innocence and fingered a friend and fellow convict named

Ron Chica. Rusty said he left Chica and Erinn together in his apartment from midnight to 4 a.m.. When he came home, Erinn was gone and his buddy had some jewelry to sell. Rusty bought the jewelry for an ounce of cocaine and quickly moved it at the pawn shop for cash.

That last action completed the typical Miami food chain -- cash-to-drugs-to-gems-back-to-cash -- the drug culture cycle of life.

When he saw the news of Erinn's death on television, Rusty wrote that he panicked and went into hiding. He was on the run, he explained, because he didn't want to go back to jail for buying and receiving stolen property. He added that his mother knew nothing about the jewelry being stolen, and that he would be long gone by the time the letter made it to the detective

Detective Turner wasn't impressed, nor did he believe Rusty had skipped town. He intensified efforts to find him. Teams of officers combed the parking lots from one end of Miami Beach to another, looking for the silver AMC Concord. They found it on May 9 in a parking lot across the street from the Paradise Motel. They swarmed into the room where they were told the car's owner lived, only instead of Rusty, they found the terrified Ana Ortiz. She told the detectives that she and Rusty had a spat -- she caught him naked on the beach in the arms of another woman -- and she kicked him out. He moved somewhere nearby in the surrounding maze of small art deco motels. While the detectives were in her

room, Rusty called. She told him the police were looking for him, and asked what he had done. He told her he had sold some hot jewelry involved in a "bad" crime. He didn't say where he was. The police notified the phone company to trace all calls coming in to Ana's line. They waited for Rusty to call again. He did. By the next day, they knew exactly where Rusty was hiding. They picked him up without resistance that evening.

Meanwhile, Detective Turner had put out a search for Ron Chica, a small-time criminal known to him. Chica was proving to be more elusive. Still, it was Sanborn they wanted, and they had him.

After downing a Burger King Whopper and large fries in the interrogation room, Rusty repeated his story to the homicide detectives, again fingering Chica. Turner was skeptical. When the laboratory report came in, his skepticism intensified and his efforts to locate Chica diminished. Russell's red pubic hair chemically matched the hair found on Erinn's body. His blood type matched the semen they discovered in her vulva. The blood found on his living room carpet matched Erinn's. Russell's fingerprint was found on the seat adjuster knob of the Mercedes. Combined with the socks, keys, blanket, bedspread, and jewelry, Rusty had provided the police with enough hard evidence to convict ten murderers. He was charged with first-degree murder and hauled off to jail. The police felt the case was air-tight. They had every reason to.

Rusty stood by his story. He didn't do it, he insisted. It was his friend, Ron Chica. Feeling railroaded, he again put pen to paper. A cellmate was being represented by Herbert Abramson. The prisoner suggested that Rusty take his case directly to Erinn's father. Rusty thought it was a swell idea. The letter, written in a combination of prison and drug dealer language, began to unravel the mystery of why things went bad that evening.

Rusty wrote that Erinn came by early that Monday morning, sometime just before or after midnight. They did some coke, "then we got a little intamet, what a man and woman do when their alone and like each other." According to Rusty, Chica arrived around 2 a.m. By then, Rusty said he and Erinn had snorted four grams of cocaine, a considerable amount. Chica was holding "4 Ds," slang for Dilaudid, a powerful narcotic. Chica swallowed the Ds and became "totally wasted." Rusty borrowed Erinn's car and drove to a nearby store. That's why, he said, his fingerprint was on the seat adjuster. When he returned, Ron and Erinn had concocted a plan to rob Erinn's parents and score more cocaine. Rusty agreed to supply the cocaine if they came back with anything worthwhile. He even fronted Chica an eight of an ounce.

Rusty told Erinn's father that he went to a nightclub and hung out from 3 to 6 a.m. while Ron did his thing. When Rusty returned to the apartment, only Ron was there. They bickered over the economics of the jewelry-for-cocaine

transaction, with Rusty finally agreeing to trade two ounces for everything Ron had.

Rusty didn't stop there. In his letter, he speculated how the deal went sour. According to Rusty: Chica left Erinn at Rusty's apartment and went to rob her parents. While he was gone, Erinn's high began wearing off. The terrible scheme against her own parents didn't seem so cool anymore. When Ron returned, still flying on the four Ds, he was in no mood, or position, to alter the plan. The deed had been done. He "freaked out" thinking Erinn would rat on him and killed her.

Rusty ended the strange letter by saying that Erinn was a beautiful girl. "I loved her and still do, we are all sure she is in heaven, there is no other place for her..."

Incredibly, Rusty thought such a letter would gain him sympathy. In reality, it painted a picture of Erinn's lifestyle that did nothing to endear him to her parents.

The letter did contain one subtle clue that supported his mother's belief of his innocence. Rusty's "theory" of what happened that night failed to consider a critical point. If Erinn waited at Rusty's apartment while the robbery took place, then whose blood was on her bed? If Rusty was unaware that she had been home that night during the robbery, and that she had apparently been stabbed there, then he didn't do it.

Unfortunately for Rusty, his proclivity for letter writing would backfire. Before he was arrested, he wrote an

unmailed letter to a buddy back in prison. Detective Turner found it on top of Rusty's television set when they searched his apartment. In it, he said he was dodging the police because he had committed a burglary, then added "I got this bitch, fine to death." The jumbled wording of the line was a mystery.

In a medium-sized city, or even some of the bigger cities with a less-frightening crime rate, the story of Rusty and Erinn would have been big news. The media would have leaped upon every revelation. In Miami, it was just another drug-related murder. Erinn was rich enough, and came from a good enough family to merit the initial burst of stories. But Miami is awash in violence, so the case was quickly forgotten. It would have stayed that way if it weren't for two things. Russell Sanborn's inability to get along with his lawyers, and Holly Sanborn's relentless determination to have me represent her son.

Rusty began going through attorneys like George Steinbrenner goes through managers. He rejected the first, public defender Richard Houlihan, claiming the man wasn't paying enough attention to his case. It's a common charge made by criminals against the overburdened public defenders, and is no reflection upon Houlihan's abilities. Privately, Houlihan was no doubt happy to be dismissed. No one, even harried public defenders, likes to be saddled with what looked like a guaranteed loser.

Circuit Court Judge Sidney Shapiro then appointed Rene

Sotorrio, a private attorney, to be Russell's new champion. After perusing the files, Sotorrio quickly argued that he didn't have the time to handle the massive workload of a first-degree murder case. Shapiro accepted Sotorrio's explanation and this time appointed a law firm headed by Paul Pollock, a well-known Miami defense attorney. Pollock assigned the case to William Surowiec. Surowiec, a bright defender, did the best he could, gathering evidence and preparing to go to court.

That's when Holly Sanborn began her fruit and vegetable campaign for me. After I agreed, I told her to have Russell ask the judge to let me be his court-appointed attorney. Judge Shapiro refused and expressed anger over the last-minute switch. What that meant was he would not authorize the court to pay a minimal fee for my services, as he had for Russell's previous attorneys. Holly offered her disability check again, but I said it was unnecessary.

A few days after my first conversation with Rusty at the Dade County Jail, he appeared before Judge Shapiro. As Shapiro would later relate, Rusty practically got down on his hands and knees and begged him to allow me to represent him. Shapiro relented, but again refused to have the court pay for my services.

Surowiec was overly friendly as he handed me his materials. I sensed that he was trying hard to suppress his delight. That was disturbing. When an attorney breaks his back working on a case, and some new guy comes in at the

last minute to steal all the glory, the reaction is often rage. But when an attorney breaks his back, then gleefully hands you the materials, he is transmitting an unmistakable message -- "Thank you for removing this defeat from my record."

When I looked over the prosecution's case, I could see why. Rusty looked guilty as sin. The physical evidence was brutal. There was also a little surprise in the packet. Public Defender Houlihan had arranged to have Rusty take a polygraph examination, or as it's commonly known, a lie detector test. The finding was "inconclusive," which is often a nice way of telling an attorney that his client failed.

Despite all this, I began working on his case with intense dedication. Holly Sanborn continued to insist that her son was innocent, and I continued to give her the benefit of the doubt. A closer inspection of the evidence revealed that almost all of it could be explained by Rusty's relationship with Erinn. He had made love to her that night, so the hair, blood and semen samples were immaterial. Lie detector tests are far from being infallible. And I had once handled a similar case in which all the physical evidence had been fabricated by the police.

The strange wording in the letter to his cellmate, "I got this bitch, fine to death" was too ambiguous to be allowed in court. That could simply be prison slang for "I've got a fine looking woman." And the letter itself said

the police were after him for a burglary, not a murder. That might have been any burglary. If he was confessing to his old prison buddy about the Abramson case, why not confess to the murder as well?

There remained a doubt in my mind whether Rusty had killed her. It didn't make sense. Why? They were friends. It actually was more logical that a mutual friend, in a drug-induced frenzy, murdered Erinn in Rusty's apartment while Rusty was out.

Judge Sidney Shapiro grudgingly granted a trial delay, giving me forty-five days to prepare a defense. I put my staff attorneys on it, my secretaries on it, and gave it my full attention for the month and a half. That was \$75,000 worth of fees down the drain, plus another \$75,000 we could have made working for a paying client. But Holly Sanborn's sacrifice kept me going. I couldn't give her anything less than my best. The fees are just money. The cases are people's lives.

We went down the list of prosecution witnesses and took depositions from them. Things grew bleak. Then I noticed that the man who lived near the junk yard, the one who had reported seeing the brown Mercedes that morning, had never been interviewed, either by the police or the prosecution. That can sometimes be a good sign. Maybe he knew something they didn't want anyone to know? Maybe he saw Ron Chica, the man Rusty kept saying was the real murderer.

I had my son and law partner, Mark, take his

deposition. The man said he not only saw the car, he saw it roll in. He observed a medium-sized, muscular, red-haired man get out of the car, pull something from the seat covered in a orange bedspread, dump it on the ground, then drive away.

He was a sensational witness -- for the prosecution!

Still, it supported my theory of what could have happened. Rusty returned to his apartment and found Erinn dead on his living room rug. His natural inclination would be to dump the body. He was too involved to call the police. The problem was that it definitely made Rusty an accessory to murder, and getting a jury to believe that he hadn't actually killed Erinn would be tough.

I drove to the Dade County Jail and had a serious discussion with my client. He was intent upon testifying, and I felt that was sure suicide. Unless he admitted the accessory charge, his story would have more holes than Bonnie and Clyde.

"Mr. Rubin, if I don't testify, I'm a dead duck."

"If you do and try to tell them you had absolutely nothing to do with it, you're going straight to the electric chair. I can't allow you to testify."

He frowned, then brightened.

"You come back tomorrow and I'll tell you what I'm gonna do."

The next day I brought another attorney from my office, Matt Fuqua. I wanted a witness.

"Mr. Rubin, I'm going to testify. And here's what I'm going to say."

Rusty then proceeded to change some crucial elements of his story. He still maintained his innocence, but the new version veered from what he had previously said and written. He now claimed to have spent the night weeping at the bedside, the hospital bedside, of a sick ex-girlfriend. On top of that, he said he had two witnesses who would back him up, including the woman. Smiling brightly, he gave me the phone numbers of the pair, insisting they would corroborate his new story and give him an iron-clad alibi.

"It's all set," he said. "In the bag."

"Rusty, your story doesn't sound true to me, but I'll call your witnesses," I promised.

I had Matt call them later that afternoon. The girl backed Rusty's story -- for about an hour. Then she called Matt back, frightened and crying, and said she had been paid to testify for Rusty. She asked Matt what she should do. Matt didn't hesitate.

"You don't go anywhere near that courtroom," he said. "That's a felony. You want to go to jail with him?"

The other witness, a fellow drug dealer, refused to back Rusty from the outset.

"You think I'm crazy," he said. "Rusty's history." Not only was Rusty lying, but he couldn't even deliver his phony alibi witnesses.

And worst, my belief in his innocence had been

shattered. As Rusty explained his plan, I had seen something frightening in his eyes, something that made a chill run up my spine.

The mysterious Mr. Chica eluded police for over a year. He was finally located in a jail in Ohio. He heatedly denied robbing the Abramsons or killing Erinn and took a lie detector test to prove it. He gave detectives blood and hair samples, and neither matched any of the evidence found at the crime scene or on Erinn's body. He was never arrested.

Rusty remained intent on going with his new, highly original "sick friend" defense. He was convinced that when push came to shove, the witnesses would back him once they were forced up on the stand.

I was in a bind, and the biggest bomb was yet to drop.

Sir

I left Ron in my apartment with Erinn from 12 p.m. to 4 a.m. and when I returned she was gone and he had some gold for sale. I knew it was hot and bought it for one

ounce of cocaine. If I would have knew what happened, do you think I would have soled it to a legal business knowing you would be there in the morning (police). I knew he stoled it. But how and where he got it I didn't know until I seen the news. He did it, Ron Chica. I bought the gold but knew nothing of what he did until I seen the news. The reason I am running is because I just got out of prison and I am not going back for Buying and receiving stolent property. Not Yet any ways. I wrote this a week ago but had someone hold it for 7 days so I can get out of town. With my record you guys are sure I was an assery or something. I bought stolened property and that's all I did.

Russell Sanborn.

4/25/84

I Told holly sanborn I bought the gold from a kid. I told her his father died and left it to him. She knew nothing.

...Erinn came over monday moring or late Sunday night... Well we sat around for awhile talking and getting high on cocaine. Then we got a little intamet,

what a man and woman do when their alone and like each other. By the time Ron got there it was 2:00 AM and we were pretty high, we had consumed 4 gram and if it were up to her we would have done twice that much. As I said Ron arrived at 2:00 AM. He had 4 Ds "Diludid" a heroin drug. He asked if I would mind if he did it there and I said no I would'nt mind. Well Five minutes later he was totally wasted...

...I then asked Erinn to use her car to drive to the store two blocks away, thats why my finger print is on the seat adjuster. When I returned Ron met me at the door and said he talked Erinn into giving him the key to your house so he could creep in while you were sleep and still some jewlery so they could both get an oz. of cocaine. He asked me if I would buy it and I said it depended on what he got. He then asked for an 1/8 again and said he would pay me in the morning or give me first crake at the jewlery and I agreed. I will do some things wrong but I would never do anything like what he did. I have never hurt anyone in my life...Anyways, I told him to tell Erinn that I knew nothing of what was going on and wanted nothing to do with it. But I did tell Ron I would buy the jewlery if he got any thing nice. I then took his car and left and went to Crown Royal on 441. I got there at about 3: AM. I returned at 6:00 AM and Ron was there alone. I asked where Erinn was and he said she went home to play it off. He then

pulled out a sack of Jewlery and showed it to me. I offered an ounce for it, and he refused. He said he wanted two and could get it. so I gave him one minus the 1/8 he got on credit and told him to come back the next night for the other. He agreed and left. I then took a cab to my moms and had her drive me to Hallendale to sell it...

This is what I figured happend. Ron left Erinn at my apt while he robbed your house. When he returned Erinn probably straighten up a bit and had a change of heart. She probably could'nt go through with it. And Ron having already robbed you freak out and got scared she would tell you what happened and who did it. So he did what he did...

Erinn was and will always be a beautiful girl. I loved her and still do, we are all sure she is in heaven, their is no other place for her...

Chapter 9

The Death of a Debutante

PART II -- THE DRIVER

Attorneys are not allowed to deceive a jury by presenting testimony they know to be phony. There are dozen state statutes, rules of conduct, ethical codes, and even legal precedents that make this clear. Attorneys have been disbarred for doing what Russell Sanborn wanted me to do.

Still, it's done all the time. So often in fact, that the statutes and codes of professional conduct decrying such tactics are widely ignored in favor of a defendant's right to defend himself.

Yet incredibly, in my thirty-eight years as a lawyer, I've never had a client work out a fabricated story beforehand and ask me to help him present it. I've had clients whom I suspected might be lying, but I couldn't be sure and therefore was able to do my job and defend them. If Rusty had kept to his original story, one I believed had a possibility of being true, I could have gone on. If there was any doubt whether it was Rusty or Ron Chica who killed Erinn, then the law says Rusty deserved to be free. But to go into court with a blatant, preconceived plan to deceive a

jury, that was something else. Even before the possibility fully hit my brain, it began churning in my stomach. My body was telling me that to do this would be a terrible betrayal of my profession, and even more, of myself.

While I contemplated how to handle this, I decided I owed it to Holly Sanborn to tell her what was happening. Maybe she could help convince Rusty to stay off the witness stand. I sent someone to bring her to my office the following day. It was Saturday, and the trial would begin Monday.

Time, as the cliché goes, was running out.

Mrs. Sanborn arrived in my office looking as unkempt as ever. I told her, as gently as I could, that all the evidence, including the eyewitness, pointed to her son as being the murderer. I explained what Rusty wanted me to do, and that I wasn't going to be able to do it. Instead of breaking down in tears, she sighed and said she wasn't surprised.

What she told me next nearly knocked me out of my chair. I've heard a lot of surprise confessions in my life, and I've learned never to be shocked by anything, but this one hit me like a Mike Tyson uppercut.

Holly Sanborn proceeded to tell me that she was the person who drove "the intruder" to Erinn's house that night. She waited diligently while her son was inside, and watched him carry the "rolled carpet" to the Mercedes. She followed him, lost him, then saw the Mercedes at his apartment. Then

she went home. A few hours later, Rusty showed up at her house with the jewelry. She helped pawn it for him, signing the papers. Holly Sanborn claimed to be oblivious to what had actually happened, but I found that difficult to believe. Especially since the robbery was reported to have happened between four and five a.m.

On top of this, when Matt called Russell's ex-girlfriend, the supposed "sick friend" alibi witness, guess who paid her the bribe to back Russell's new story in court? Yep, Holly Sanborn. And what was the bribe? Cocaine. At the time, I wrote it off as a desperate mother's love.

Some mother! My sweet fruit and vegetable lady, the one who seduced me with her crying eyes and so protectively offered her disability checks, was building quite a rap sheet. At the very least, she was an unknowing accessory to her son's burglary. At most, she may have been an accomplice in a burglary that resulted in a murder. Under recently tightened laws, that made her susceptible to a murder charge. She had additionally lied to the police, bribed a possible witness, trafficked in cocaine, and was planning to commit criminal perjury in court.

After she left, I sat stunned in my empty office. I'd been snookered bigtime. When the shock wore off, I began to reconsider my harsh indictment of Mrs. Sanborn. Rusty had not broken into Erinn's house that night. He walked through the front door. Erinn was his friend. The whole thing had been planned. Mrs. Sanborn probably didn't have a clue as to

what was going on. And what mother could honestly believe her son could be so savage a murderer?

I couldn't even be upset about her deceptions. Client lies are something you learn to live with. Over the years I've been lied to by clients so often it rarely fazes me. In fact, there hasn't been a single case I've tried, and I've tried 2,000, where some surprise revelation didn't come out during the trial. Usually, it's some damning fact my client "overlooked." Even the innocent clients lie, believing some skeleton in their past will make them appear guilty. One of the secrets of winning court cases is to survive these booby-traps, recover, and go on.

You can't get angry with the client (or their families). It's their neck on the line, not yours. They come to you in a state of panic, sometimes even shock, and are as desperate as a human being can be. They, or a loved one, are facing death, or what may be worse, incarceration in a violent prison. It's hard for them to place their trust in anyone under those circumstances. The clients invariably feel that if they tell you the truth, you won't take the case, or you won't defend them with the same vigor. You can explain the need for them to tell you the truth until you're blue in the face, and in virtually every instance, the client will do everything but.

And any lawyer, policeman or psychiatrist who claims to be able to determine if a person is lying is either naive, or fibbing themselves. Some people are such great

liars they could convince you they were orbiting Venus at the time of the crime. Others are pathological liars, and are thus so convinced of their version of events that they truly believe it themselves. These people can even pass lie detector tests. I try not to delve into psychology, nor do I judge people. I leave those tasks to others. I just defend them to the best of my ability. It's better if they tell me the truth, but I've learned to accept that it's a rare client who does.

However, that doesn't mean I have to go into court and participate in what I know is a planned deception of the jury. I can't, and I won't. A lawyer is sworn to uphold the law. There is no loophole to that decree. Presenting known perjured testimony to a judge or jury is breaking the law. Plain and simple. It must never be done under any circumstance.

In a case like Russell Sanborn's, the best you can do is to try and keep him off the witness stand so he can't lie or hang himself with his own thin fabrication. Then you do your damnest to make sure the prosecution legally and lawfully presents its case against him. If they mess up, which they usually do in some area, then you can attack there. You make them do their job in proving your client's guilt beyond a reasonable doubt. If they don't, you explain it to the jury.

In the face of overwhelming evidence against your client, this is just one of the many acceptable tactics a

defense lawyer can use. Additional techniques include pleading insanity, arguing intoxication from drug or alcohol use, self-defense, other mitigating circumstances, or uncovering doubt as to who the murderer really was. But you don't lie. You don't create a fabricated story, nor do you allow the client to use his friends, relatives, girlfriends, or debtors, to back his phony story by perjuring themselves on the witness stand.

Unfortunately, the law itself has some glaring imperfections. It was one of these imperfections that tied my bind tighter -- this time around my own neck. Despite all the rah-rah codes of pristine judicial ethics, Florida law, like the laws in nearly every state, is murky on the issue of what exactly should be done in a case of premeditated perjury. The law states that an attorney, faced with a client intending to commit perjury, is supposed to first attempt to talk the client out of it. If the client remains insistent, the attorney is to file a motion to withdraw from the case. However, to protect the client, the details behind the request are not disclosed. The attorney can only note that the problem relates to the professional code of ethics. (Mentioning the code of ethics, along with additional legal wording in the motion, is usually enough to give the judge a hint that the conflict involves perjury.)

At this point, the guidelines become even more tangled. The individual judge is allowed to rule on the matter as he sees fit.

In the case of Judge Sidney Shapiro, he saw fit to deny my motion to withdraw. He ordered me to go back into the courtroom and allow Russell Sanborn to get up on the stand, swear to God to tell the whole truth and nothing but the truth, then tell one whopper after another. And I, as Sanborn's attorney, was supposed to help him deceive the jury by calling him as a witness and allowing him to lie. Admittedly, Judge Shapiro was also in a bind. I was Sanborn's fourth attorney. The case had been delayed a number of times because of the switches. The judge and prosecutor felt that Sanborn might have been purposely sabotaging his trial with eleventh-hour attorney switches. That enabled him to avoid a conviction and remain in the less horrid Dade County Jail instead of going to the chair or doing hard time in the hell of Raiford Prison.

In addition, the attorney/client privilege prevented me from telling the judge exactly what Sanborn was planning to say, and how much of it I knew to be false. On top of that, I couldn't mention Mrs. Sanborn's involvement. That was privileged information that would convict my client.

Still, knowing what I knew, there was no way I could go on with the trial. The depth of the deception was staggering, and I knew far too much. Besides, it would have turned the court into a farce. The parade of fools I'd have had to march up to the stand to back Rusty's story, including two shaky alibi witnesses who had already copped out, would have been a travesty.

I protested anew. Judge Shapiro consulted some precedents and worked out a plan. He said I was to put Russell Sanborn on the stand and let him tell his story without any questions from me. Then, I was not to use any of his false testimony in my opening argument or summation. Shapiro knew that while the law states that a defendant decides how to plea and whether or not to testify, it's the defense attorney who controls all the other witnesses. It was understood that I just wouldn't call any supporting witness who also planned to lie. That meant Rusty would have to fly solo with his "sick friend" defense. I asked Judge Shapiro if his decision could be appealed. He agreed. The trial was delayed a few months to enable the appellate judges to rule. They backed Judge Shapiro's compromise.

Even with the judicial blessing, it remained a terrible solution. Sitting back silently while your client commits criminal perjury is no less an offense than participating. In addition, my sudden muteness was sure to alert the jury that something was wrong. You may as well walk up to the jury and say "hey, my guy's lying his head off because he's guilty. Let's save some time here and convict him." If the jury didn't catch on, then allowing Rusty to flap in the wind on the witness stand, without the aid of a trained attorney to guide him through his critical testimony, was certain to assure him a cell on death row. That also would turn the courtroom proceedings into a circus. If by some miracle Rusty managed to get his story

out in some coherent fashion, my leaving the seemingly vital testimony out of my summation would further confuse the jury.

And once on the stand, Rusty was sure to blurt out, "And I have witnesses to prove it but my attorney won't call them!"

That could have caused a mistrial.

On the other hand, disobeying a judge's order is a serious offense. By standing up for my principles, I would be facing a jail term and the possibility of a disbarment proceeding. The latter could result in a professional "death sentence" stripping me of my license to practice law.

I called a meeting with the other attorneys in my law firm, including my son Mark. They advised me to protect myself, my career, and the firm by doing as the judge ordered. In their view, the ethical problem had been lifted from my shoulders and placed upon those of Judge Shapiro and the appellate judges. I disagreed. The ultimate responsibility was mine.

As I maintained my stance of defiance, I could see the anxiety in my associates' eyes and feel the tension in the room. They kept reminding me of the ramifications of my decision. Was it worth it to risk everything to accomplish so little? Would my refusal of Judge Shapiro's order do anything to stop the epidemic of perjury in the courts?

I had to admit that it probably wouldn't.

My son, Mark was particularly apprehensive. He knew I

wasn't going to back down. I had preached ethics and integrity to my family since they were babies. Mark could already visualize me being thrown in jail. The thought terrified him.

That evening, something occurred to me that further solidified my position. One of the questions I ask potential jurors to determine their character is: "What's the most important thing that you teach your children?"

I've asked that hundreds of times to hundreds of people. Invariably, the answer is the same.

"I teach them to be honest and truthful."

Honesty and truthfulness. That's what it was all about. The average American citizen walks into a court of law and sees a judge in a black robe sitting upon an elevated bench. The judge is surrounded by the flag and federal, state or county seals. The citizen usually knows little about the intricacies of the law, but believes that justice can be found in the simple ideals of truth and honesty that are taught to a child.

Could I betray this public trust by presenting a defense that was constructed around bribes and lies?

Despite my colleagues' views on the futility of my stand, I was also concerned with the legal precedent that was being set. If I obeyed the judge, then criminals across the country would be free to blackmail their lawyers into presenting, or allowing them to present, elaborate fabrications before a jury. All they would have to say is

"The Rubin case says you have to let me lie." Further, does the acceptance of false testimony open the door for the submission of false documents to support that testimony? It would appear so. Say a criminal plans to commit a crime on a certain date. All he has to do is mail one of his bank cards to a friend in another state, give them the secret code number, and have them make a withdrawal from a twenty-four-hour banking machine in Wyoming or somewhere. The receipt is dated to the exact minute of the transaction. Voila, instant, iron-clad, documented alibi placing the accused far away from the crime scene. And I, as that man's lawyer, am charged with submitting this, or other false documents to the court to back his planned deception, even though I know it's a sham.

Let's take the "silent treatment" solution farther. Say I followed Judge Shapiro's order and sat reading a Spiderman comic book while Rusty floundered through his testimony. Then I put on some headphones and listened to Michael Jackson's greatest hits while Assistant State Attorney David Waksman ripped out Rusty's jugular in the cross examination. Then I followed that by not re-directing testimony of my client to seal up some of his spurting arteries. I followed this demonstration of legal brilliance by not mentioning the heart of Rusty's defense in my summation.

Rusty is convicted, and his new attorneys slap me, or any attorney in a similar bind, with an incompetence charge

of unprecedented proportions. Even if I had notified the court in advance, they could argue that I had no right to judge my client guilty and not help him with his testimony, call his witnesses, and highlight it in my summation.

Rusty could get a new trial.

And I'd be up the creek.

Worse, whether the defense attorney mentions the phony alibi or not, after the client loses, what stops the convicted person from saying it was the defense attorney who dreamed up the perjured testimony, and the scam cost him a guilty verdict? The client could get a new trial, and the defense attorney goes up for disbarment amid glaring newspaper headlines sullyng his or her reputation regardless of the final ruling.

Considering all this, it's no wonder the American Bar Association and the Supreme Court rejects the "silent treatment" as the solution to client perjury. But their recommendations aren't legally binding, and the ruling of Judge Shapiro and the appellate court was. I was ordered to proceed. I told Judge Shapiro I couldn't do it. Judge Shapiro was just as adamant about getting this long-delayed trial over with as I was about sticking to my principles. By killing an attorney's daughter, Sanborn had stuck a dagger into the heart of the judicial fraternity. In the same way police departments hunt cop killers with a greater intensity, courts are equally driven to seek justice when someone murders one of their own. While I can sympathize

with Judge Shapiro, what he did next was excessive. Sentencing me to thirty days in jail was overkill. Forty-eight hours, maybe. But thirty days?

When the producers of the television series "L.A. Law" jumped on my predicament and jailing, the television judge jailed conscience-stricken attorney Michael Kuzak (played by Harry Hamlin) for a weekend only. That made sense. As I watched Kuzak stand before his client's mother, attempt to solicit perjured testimony, then completely freeze up as his conscience screamed at him, I was happy that they had humanized the feelings that were running through me. But as the old saying goes, "truth is stranger than fiction." The bizarre web of deceit involved in my case far exceeded anything the "L.A. Law" writers could dream up.

I appealed both the decision and my subsequent contempt conviction. Over and over, all the way to the Florida and U.S. Supreme Court. Both courts ducked the sticky problem by deciding not to hear the case. To the lower court judges who did render decisions, and to many attorneys and prosecutors, it remained a simple matter of legal discipline. Attorneys are to do as the court orders. You obey, you don't make your own rules. The judges were also mindful of the dilemma of criminals telling their attorneys they were planning to lie, over and over and bouncing out one after the other, never going to trial.

That was a possibility, but one that could be remedied by allowing the accused four changes of attorney. Fire the

fourth, and you defend yourself. That actually happened in a case once, and it appears to be a good solution.

Meanwhile, while I was fighting to stay out of jail, Russell Sanborn was given his fifth attorney, had his trial, and was allowed to testify. Prosecutors David Waksman and Kevin DiGregory ate him alive, and the jury promptly convicted Rusty of murder and a whole host of other crimes. Judge Shapiro gave him one of those sentences comedians always joke about -- life in prison plus six concurrent 134-year terms for burglary, armed robbery, three counts of kidnapping, and armed aggravated battery.

What isn't so funny is that the case was appealed at an additional cost to taxpayers of thousands of dollars. I'm all for appeals. I've filed a few hundred myself. But in the Sanborn case, his sixth attorney appealed the three kidnapping charges. He won. Now Sanborn has life and only three 134-year sentences. That makes a world of difference.

It's interesting to note what Judge Shapiro said to Rusty during the sentencing.

"It is this court's desire that you never see the light of day again as a free man. You have shown by your animalistic actions that you cannot function in our society. It is my hope you're never given the opportunity again."

Shapiro added that he would have given Rusty the chair, but the jury had recommended life by a 9-3 vote.

This was the guy Judge Shapiro wanted me to waltz up on the stand, knowing he was going to deceive the jury? Just

because that final jury saw through him, it doesn't mean mine wouldn't have swallowed his story. Holly Sanborn fooled the hell out of me. I'm sure she'd have had the jury crying big, wet tears. And what if I'd have given an effective summation? Combined with Rusty's and Holly's stirring testimony, and that of the sick girlfriend in the hospital, they might have let him walk.

I have two daughters about the same age as Erinn.

Defense attorney Herbert Abramson once had one.

Footnote.

1. Because of the contempt charges leveled against Mr. Rubin, the lawyer/client confidentiality was legally superseded by the need to defend himself. He never mentioned the specifics of Russell and Holly Sanborn's deception during his early appeals, but was legally allowed to in subsequent hearings.

Chapter 10

The Jailing -- Part I

Due to the intricacies of the law, the unsanitary conditions of the jail, and the fits and starts of the appeal process, I was jailed three times on the contempt charge. The first was July 11, 1986. The worst part of this nine-hour jailing was having to stand silently before Judge Shapiro and listen without recourse as he distorted the facts and ripped me apart in public.

"Mr. Rubin, you are free to disagree and maintain your personal view of what the law is or ought to be," Shapiro sternly lectured. "But as the appellate court stated, the decision of mere mortal judges...must be obeyed..."

"In every case, one side proves to be right, the other wrong. The 'wrong' side is certainly entitled to representation, and his counsel is not unethical for championing his causes. You would like this community to believe that you would never represent a client if you believed him guilty or suspected his version of the facts was tainted."

That wasn't the case at all and he knew it. Lawyers, me included, frequently represent clients they perceive to be guilty. The issue was: Can an ethical attorney willfully

present perjured testimony in a court of law?

But when an almighty judge looks down upon the muted condemned, his honor can say anything he wants.

Fortunately, the newspapers came to my rescue. An editorial in The Fort Lauderdale News/Sun Sentinel, under the headline "Highest obligation is to truth," stated in part:

"The Rubin case raises serious issues about legal ethics, the role of a defense attorney, the right of a guilty person to lie to protect himself and the nature of the attorney-client relationship...

"Does every defendant deserve representation by an attorney? Of course.

"Should an attorney be forced by a judge to represent a client against his will? Of course not.

"Is it ethical for an attorney to represent a client he suspects is guilty? Of course.

"But must that attorney knowingly allow his client to lie on the witness stand? No way.

"...Rubin had a duty to his client, but he had a higher duty, as an officer of the court, not to suborn perjury. Rubin's point is well taken. He shouldn't have to go to jail to prove it."*1

Lawyers around the nation began taking their own stand, either at the request of local reporters, by writing law review articles and letters to the editor, or by arguing among themselves at the corner bar. Anne Spitzer, a

University of Florida law professor, responding in The Orlando Sentinel, voiced the most popular view among my peers.

"Florida rules (of professional conduct) tell you if your client is going to commit a crime -- and perjury is a crime -- you're obligated not to assist him in doing it and to inform the authorities to keep it from being done. But he (the attorney) must, under our rules, obey the court's order even though he believed it to be wrong."

That is the easy way out. Pass the buck. The world learned at the Nuremberg trials, and continues to learn in subsequent trials of other Nazi Germany war criminals, that the defense of "I was only following orders of superiors" has no legal foundation and is morally reprehensible.

Although the majority of attorneys condemned my stand in going against the court order, there were a few who did support me. Robert Dempsey, at the time the Commissioner of the Florida Department of Law Enforcement, was the most notable. He wrote me these encouraging words:

"As a law enforcement officer for thirty-five years and a member of the Bar both in New York and Florida over the past twenty-five years, I have strongly objected to the concept that an attorney must do anything in the interest of his client including subornation of perjury. I have consistently been sickened by the actions of attorneys in civil as well

as criminal cases who turn a deaf ear to confessions, admissions against interests, etc., and not only conceal such information but actively concoct lies, half truths, and misstatements on behalf of their clients all under the guise of their duty to their client which is the paramount interest...I for one certainly appreciated your going public and exposing this terrible hypocrisy that exists among members of the Bar including those on the bench...Your cause is right and ultimately you will prevail."

What was especially encouraging was the reaction of the public. I received letters from people around the country. One in particular bolstered my spirits. It was written by a man named Kenny Shaver, Minister to Youth at the Duncanville Church of Christ, Duncanville, Texas.

"A couple of evenings ago, I saw a report on CBS Evening News about your plight with the court system in Miami. My heart went out to you and I was also proud of your stand for the truth. In our day and age, we need more people who will stand up for their convictions -- especially when they have to do with truth and integrity. I applaud your stand. I wish I could do more for you.

"I am currently teaching a class that around 800 teenagers will attend. The theme of my class is

integrity. When I saw the report about you, I knew that I had to use it as an illustration of standing for the truth no matter what the consequences. Teens today do not get that kind of role model very often. I am glad they have one in you..."

The letter was signed by Shaver and dozens of teenagers in his classes. I took that letter and others like it into jail with me all three times and reread them whenever I became depressed. And I did become depressed. Standing up for a principle is one thing, but actually seeing those bars slam in front of you is quite another.

"Ellis, I'm sorry I have to handcuff you," one of the corrections officers said that first day.

"You don't have to do that," I said. "I'm not going to escape."

The officer told me to put my hands behind my back and pretend I was handcuffed. I complied. The police and corrections officers treated me well. I've represented the individual policeman many times, and I had represented separate groups of black corrections officers and Hispanic corrections officers in various labor disputes. Most of them acted embarrassed when they saw me.

"What are you doing here? You don't belong here," one said, expressing the prevailing view.

They supported my stand in court. Surprisingly, even the prisoners didn't feel I should represent a liar. That

was unexpected, but as I would learn during my later incarcerations, there exists considerable honor among the men and women behind bars.

I didn't encounter my fellow stockade inmates on this visit. What I did experience were four hours in the prisoner booking area. As I sat, waiting to be processed, I was given a view of humanity one rarely experiences. The doors kept opening, each time bringing in new denizens of the underbelly of society. One woman was dragged in by the hair. That's about all the officer had to hold onto because she was naked. The others were in various states of disarray. There were drug addicts crashing, drug addicts soaring, drug addicts passed out, silk-suited drug dealers, white-collar criminals in three-piece suits, derelicts, robbers, murderers and rapists. Some came passively. Others fought like they were demon possessed. Corrections officers have to be the most underpaid and unappreciated people in the world.

The holding cell was a junction where all these fine citizens gathered together. It was a room of unmentionable filth punctuated by a staggering stench. There were things on the floor that do not warrant mention.

For me, it was just a brief introduction. A Florida Supreme Court Justice, acting on my son Mark's writ of habeas corpus, called and ordered me set free pending their decision to hear the appeal. I walked out a few minutes after 11 p.m. and did several live interviews on the late news. Many people, noting my image as the "Electronic

Lawyer," accused me of planning it that way, but it was merely a coincidence.

I shed my prison uniform and climbed back into my pin-striped suit -- just in time to take one of the strangest cases of my career.

But they saved a cell for me. And I would be back.

Footnotes

1. Reprinted with permission from The Fort Lauderdale News/Sun-Sentinel.

Chapter 11

The Death of a Fisherman

PART I

"There was something smoldering in the middle of the floor. I think it was my father." -- Jennifer Evers, 1986

"Mr. Rubin," my secretary buzzed over the intercom, "Micki Dahne is here to see you."

A shudder ran down my spine, the feeling you get when confronting a person who supposedly can peer into your past and future. Every time I see Micki, a nationally-known psychic, I expect her to clutch her chest, gasp, then proclaim that she just had a vision of me being shot by a client or going down on a commercial airliner.

As psychics go, Micki is regarded as one of the best. Or at least, one of the most famous. She occasionally uses her powers to assist the police and private detectives in their efforts to track down suspects or clues. The police don't like to publicize it, but I know they use her because

they call my office to arrange it. Personally, I've seen her do some uncanny things. A few days after Erinn Abramson was murdered, Micki called, identified the murderer as a "red-haired man" and pleaded with me not to get involved with the case.

"It's going to cause you nothing but trouble," she said.

I didn't think anything of it because it was a year before I would get involved. By that time, I had forgotten Micki's warning.

Micki has gained much of her fame through her long association with The National Enquirer. For years, she was the popular tabloid's lead seer, something she did mostly for fun and profit. She also provides a daily horoscope available over the telephone, and has hosted various radio shows.

I had represented Micki in various earthly disputes over the years. She came to my office that afternoon to discuss some details of her participation in a television special. While we were talking, I received a call from Betty Evers, another client. Evers, fifty-five, was accused of shooting her wealthy husband, burning the body, then dismembering it. The crime occurred nearly twenty years before, and the circumstances remained mysterious. I was handling Evers' case without fee, and was facing her second trial in two months. After I hung up, Micki said:

"Was that Betty Evers?"

"Yes."

"She's innocent."

By the end of that afternoon, the seeds would be planted for one of the most novel courtroom experiences in my career.

Miami was relatively calm in the turbulent year of 1967. While the flower children were dropping out all over the country, and the protests against the Vietnam war were heating up, the students at the University of Miami in Coral Gables and South Florida's other colleges were rather sedate. The endless summer and inviting beaches proved to be too much competition for student leaders looking to organize an effective protest.

Instead of Vietnam, Miamians that year were more horrified (or tantalized, depending upon one's perspective) by something that happened in their own backyard. An unidentified man had been shot eight times, burned, then hacked into pieces. The parts were subsequently dropped off a Key Biscayne bridge a few miles from what would soon be President Richard Nixon's "Southern White House."

A fisherman scooped up the first section drifting in the waters a mile and a half from the bridge. It was the upper torso, and gave the case a headline-grabbing label -- The Torso Murder. The discovery set the police and curious boaters on a scavenger hunt. Newspaper readers were greeted over breakfast with headlines that updated the search. One

said:

Head, Legs Found in Bay;

Search Still on For Hands.

The detectives and the medical examiner were seeking to reconstruct the body, and more importantly, provide shocked citizens with an identification. Florida Governor Claude Kirk, reacting to wild rumors of a gangland war, assigned twenty-four special agents to investigate. People called from as far away as New York and Chicago saying they thought the parts belonged to a friend or ex-husband. New York police detectives called and said it might be a Mafia hit man they were searching for. The Miami Herald, ever helpful, published a picture of the man's dental plate, thinking a reader might call and say, "That looks like Uncle Harry's teeth!" They later printed an "artist's rendition" of the head.

When the lower torso was found, investigators noted that particular attention had been paid to burning the man's penis.

After nearly two months, the parts remained unidentified. Although the police had found everything but the left hand, that missing appendage prevented them from having the complete set of fingerprints needed for a match.

"We had just hit a blank wall. There was just no where else we could go," recalled Dade County police Lieutenant Julian Huff, who was then a sergeant.

The body may never have been identified had Betty

Evers not waltzed into the Dade County police department in late July to say that maybe it was her missing husband, Matt. She said he was a fishing boat captain and had been fingerprinted by the Coast Guard. The investigators located his records and matched them with the five fingers on the recovered right hand. Matt's dentist matched the teeth. That identification would prove to be the only success the army of investigators would ever have. After the victim was identified as the wealthy and eccentric Mr. Evers, fifty-nine, the facts surrounding his murder swirled into the ozone.

They remain maddeningly blurred to this day.

Henry Marriotte Evers, known simply as Matt, was the son of a former Rhode Island state senator who owned a tool and die company in Providence. Matt was an extrovert and something of a renegade. The stocky, blue-eyed outdoorsman retired early from the family business and moved to the Florida Keys where he operated a charter fishing boat. He maintained two homes in Rhode Island, including one in Snug Harbor, plus a spacious, split-level home just south of Miami. He also owned and rented eight to ten comfortable trailers on Cricket Island, a clump of coral rock and mangroves he had purchased in the Keys. Incredibly, he eschewed all these dwellings and preferred to spend his time in a one-room shack on his tiny island located near Marathon. Marathon Key, about halfway between Key Largo and

Key West, is a fishing village in the Hemingway tradition. Bordered to the south by the world-famous Seven Mile Bridge, it is also home to a Voice of America transmitter that later doubled as a Radio Marti transmitter.

Matt told relatives he kept anywhere from \$10,000 to \$100,000 in cash stashed in various nooks and crannies of his little shack. Jennifer Evers, his adopted daughter, described Matt as a "kind man," "fun" but noted that he "smelled like fish."

Betty Ruth Crow was a high-living brunette with a sharp mind and a shady past. Coquettish and quick to laugh, she had two young children when she met Matt and was reported to have had four to seven others scattered about. Jennifer said she never knew who her father was, who her brother Steve's was, if they shared the same father, or if her mother had ever been married. Betty was coy about her background. In subsequent interviews with investigators, and in some of her letters, Betty mentioned that she had been married three times before marrying Matt, twice to the same man -- a Marine sergeant -- and once to a rich Texan.

"My brother and I grew up in foster homes because she was in jail most of the time," Jennifer recalled in a deposition.

That wasn't as harsh as it sounds. In her younger days, Betty was a free spirit reminiscent of the character Madonna played in the movie "Desperately Seeking Susan." She was a street-smart, articulate, con artist who was not above

writing a bad check or lifting someone else's automobile. A former suitor once went to the police and accused Betty of "taking money for the false pretenses of marriage."

It seems Betty could steal a man's heart and wallet with equal aplomb.

When her defenses were down, Betty sometimes related a story about having fallen in love with a young man from a wealthy family. She was nineteen and from the wrong side of town. The man's mother forbid them to marry. Betty became pregnant and had the child -- Jennifer. Jennifer always felt that the experience had a deep affect upon her mother.

"I don't think time heals something like that," Jennifer said.

At other times, however, Betty would insist that Jennifer was the child of the Marine sergeant.

Betty met Matt Evers when she was in her early thirties and he was fifty-four. She was working as a cook in in a Marathon nursing home. Matt hired her in 1962 to care for his first wife, Roberta, who was dying from a long illness. They married a few months later, in May -- on the day of Roberta Evers' funeral.

It was an inglorious start to what would be a tempestuous, five-year marriage.

The newlyweds had similar personalities that leaned toward erratic and frequently violent behavior. They each were prone to sudden mood swings, and were said to be abusive to their children. Arguments often involved flying

fists, furniture, paintings and anything else they could get their hands on.

Matt was a wife beater and Betty was an instigator. Relatives would later testify that Betty regularly threatened to kill her husband. Matt put his niece on the phone during one of Betty's rages and the woman remembered Betty screaming:

"I'm going to kill you. I'm going to stomp your head off. I'm going to cut you up."

When she wasn't vowing to kill her husband, Betty was threatening to kill herself. Sometimes she included her children as well. Once, in Las Vegas, she went as far as waving a loaded revolver and promising to do one or the other. Her children learned to pay her little heed.

Fueling this unstable existence was an undeniable force that drew Matt and Betty together -- lust. Matt would amuse his fishing buddies with tales of Betty's voracious sexual appetite, including the variations his wife enticed him into performing. Whenever they split up, they couldn't stay apart for long. They divorced May 1, 1965, remarried eleven days later, filed for divorce again five months later, then called it off. Betty filed for alimony unconnected with divorce two months after that. Evers' will, dated November 20, 1964, put his feelings for his wife this way:

"My failure to make provisions for my wife is intentional and not occasioned by accident or mistake."

But still, they clung to one another. They created a beautiful daughter, Susan, that they both doted upon.

Matt and Betty had married, divorced, remarried, separated, lived together, and lived apart at such a dizzying rate that Jennifer was unable to describe what the current status was between her mother and adoptive father on the day of his death. Jennifer awakened that last morning to find him sitting at the breakfast table in his pajamas. Her reaction was merely to say hello, give him a casual kiss, and sit down and enjoy the blueberry muffins, scrambled eggs, and freshly-squeezed orange juice her mother had prepared.

Whatever the geographical or personal relationship between the ill-fated lovers, the sexual attraction still burned hot. Matt and Betty made love that morning, and Betty became pregnant. Exactly nine-months from the day of Matt's death, she gave birth to a son.

"Matt had wanted a blue-eyed baby boy ever since we got married," she cooed to reporters. "We tried to make one, and we did."

Betty Evers, then thirty-eight, and her fourteen-year-old daughter Jennifer, both admitted to being present when Matt was shot on June 2, 1967. That is virtually the only thing that has remained consistent over the past twenty years. It is the whys, hows and whos that keep changing.

Shortly after the body was identified, Betty and Jennifer fingered Betty's young lover, a twenty-one-year-old University of Miami drama student named David Katz. The story was that Matt and Betty had been fighting in the dining room and David came to the rescue, toting Steven Evers' antique .22 calibre rifle. Matt charged David, and David was forced to shoot.

When arrested, Katz adamantly protested his innocence. A slender, pale, dark-haired man with thin, tapered hands, he eventually convinced the police, and a grand jury, that he wasn't a murderer. His case was bolstered by the fact that the police wired him, sent him to confront Betty, and heard her admit to the frame up.

"Never be cruel to a woman," she told him, explaining why she put him through the harrowing experience of being jailed and accused in the media of a sensational murder. Katz retaliated by suing the police, claiming false arrest and malicious prosecution. The case was thrown out after the police maintained that they still believed he was involved in the murder. Katz survived the ordeal well enough to show up later as a contestant on "The Dating Game," giving one pause to question the screening process practiced by the show's producers.

After Katz was cleared, the police turned their attention to Betty. When she allegedly sold the same pieces of Matt's furniture to different buyers, the detectives took the opportunity to jail her for six months on a grand

larceny charge. This gave them time to search for the evidence needed to charge her with her husband's murder.

Betty continued to offer the detectives help. She said her husband had been killed by Mafia hit men who wanted counterfeit money plates Matt supposedly possessed. When that didn't fly, she later said a strange Canadian woman and her boyfriend murdered her husband for some unexplained reason. One of the furniture buyers, Archie Rutledge, surfaced and gave a sworn statement to police that Betty told him Matt caught Jennifer in bed with "this twenty-one-year-old boy," and things escalated to where the boy had to shoot Matt. Rutledge quoted Betty as saying, "I laughed out loud just watching him (Matt) until he drew his last breath." Rutledge added that Betty made a pass at him by grabbing him in one of the bedrooms while he was scouting the furniture.

Betty Evers was driven by some psychological compulsion to dance on the edge of disaster. As the police investigation bogged down, she started a peculiar dialogue with The Miami Herald's storied reporter, Gene Miller. Miller, an investigative journalist without peer, has twice won journalism's highest honor, the Pulitzer Prize. (One of his awards involved a client of mine falsely convicted of murder.) Betty phoned Miller periodically to make self-incriminating statements.

"...If I said I did it, I'd destroy my children. I'd ruin their lives," she volunteered in November 1968. "What

would they think of me if I told the truth? People would tell little Susan that your mother shot your daddy. She would never, never forgive me."

Then later, in 1968 and 1969, more isolated statements to Miller:

"...I've never told the truth. Half the world are liars...I could tell one little thing and clear this all up."

"...One time he (Matt) came into our furniture store in Homestead and locked the door and pulled down the blinds and raped me. Then he took a knife to all the furniture. He ruined \$10,000."

Miller wrote that Betty related the above with "shrieks of laughter."

"...I am incapable of killing. I loved Matt. I never lose my temper."

"...It was self-defense! I'm not guilty."

Miller suggested that Betty take a lie detector test. She readily agreed and visited the offices of Warren Holmes, a nationally-repected polygraph examiner. According to Holmes' secret report, Betty failed virtually every question -- including her denial that she had poisoned Matt's first wife Roberta to hasten her death.

Despite this, despite her curious behavior and the damning quotes appearing in the morning Herald, the police were unable to build a case against her. She was never charged.

I knew Betty casually then. My wife, Irene, had an antique furniture shop. Betty's mother, Sarah Amour, was an upholsterer who worked out of her Miami Beach home. Irene visited Sarah frequently that summer, and often ran into Betty, Jennifer and the rest of the clan.

"I remember Jennifer always wore a tiny bikini," Irene recalls. "Even just to hang around the house, which I felt was strange. But Jennifer did have one incredible body for a fourteen-year-old."

After Matt's body was identified, Sarah asked Irene if I could help Betty. Irene agreed to set up a meeting. Betty came to my home three times. Jennifer showed up with her once wearing a see-through blouse. She was indeed a knock-out, an extraordinarily beautiful child-woman. Betty said she wanted to discharge her current lawyer, Harvey St. Jean, and hire me. I took taped statements from her during the three visits, and each story contradicted the previous one. I didn't think she was lying. She simply appeared to have a psychological inability to tell the truth. That meant she would do something and say she didn't, or she would do nothing and say she did. Thus, it was impossible to judge her guilt or innocence by her own statements. My wife pleaded with me not to get involved, but the issue became moot when Betty decided to remain with St. Jean.

Betty did come back to my office a few years later complaining bitterly that St. Jean had ripped her off for \$400,000 in insurance money and proceeds from Matt's estate.

She wanted me to sue. I declined, and that too became moot when St. Jean was found shot to death on a Saturday morning in 1974. The body of the well-known attorney was discovered in his car at the Lincoln Road Mall parking lot of a Burdines Department Store.

The mall is about ten blocks from Betty's mother's house. St. Jean's death remains unsolved.

Betty eventually left Miami and went to Alabama, where trouble continued to follow her. She was convicted of violating her probation from a past charge of bouncing seven checks. She was sentenced to five years in jail. She served less than a year, then wandered through Tennessee, Nevada and Arkansas before settling in San Diego in 1980.

On June 28, 1985, a heavy, gray-haired woman with a round face and rosy cheeks walked into a police station in Hollywood, California and asked to see a detective. When one was rounded up, Detective Butch Harris, she confessed numerous times to having killed her husband. Although the overweight, aging woman didn't come close to resembling the sexual dynamo from the past, it was indeed Betty Evers.

At first, Harris thought she was a crackpot, a species of "confessor" well-known to him on his beat in one of America's flakiest cities. But Betty insisted, and the Hollywood detective made a few calls to Miami. After some initial confusion between the two police agencies, Metro-Dade County Detective James Ratcliff, head of the

department's "Cold Case Squad," found case file number 50877-k. The "file" turned out to be two big boxes full of dusty, yellowing material. On July 2, Sergeant Ratcliff and Detective Harris connected. Ratcliff briefed Harris on some of the details, and asked to fly out and hear Betty's confession in person. Harris agreed and Ratcliff arrived in Hollywood the next day. Ratcliff described Betty as being very happy to see him.

"I feel I should pay for what I did," Betty told the two detectives. "I want to get straight with God...I don't want a trial. Electric chair, jail, I don't care. Whatever the court sees fit to do."

Betty added that she had promised God that if he let her raise her children into adulthood, she would then confess and take her punishment.

While everyone figured that a guilt-stricken Betty was finally going to tell the long-sought truth, her new story was a doozy. Betty repeated to both detectives that she had been fighting with her husband and he threatened to take her children and leave. She grabbed her son's gun to scare him, tripped over a chair, and the gun accidentally went off -- eight times.

"I asked him to leave the house and he started coming at me and I stepped back and tripped and it went off and just kept going off," she explained. "I had no idea I was gonna shoot the man...I had no idea he was going to die..."

Then, according to her new story, she put his body in

the garage, drove 200 miles South, down U.S. 1, and tossed the gun off the Seven Mile Bridge. She scouted Cricket Island for the feasibility of sneaking Matt's body into the shack or one of the trailers to pretend it happened there. On the way back, she said she picked up two young hitchhikers, explained her predicament, and offered them \$1,000 in crisp, hundred-dollar bills to dispose of her husband's body. They agreed.

"They were desperate," Betty explained. "They needed money bad."

She lent the helpful hitchhikers her convertible, and they dutifully drove off with Matt's body, apparently to dismember and dump it into Biscayne Bay. Honest sorts, the pair returned the car later that evening.

Betty said she never got their names, but believed they were from Pennsylvania.

Detectives Harris and Radcliff had difficulty swallowing that. Betty urged them to check with Jennifer. They agreed to see if she too wanted to "come clean" after eighteen years.

She did. But it was not the story Betty told. Jennifer's would be the most incredible yet.

In the ensuing years, the stunning Jennifer had done quite well for herself. At seventeen, she married Del Bryant, a well-to-do young man whose family owned a publishing business in Nashville. The couple moved to his

home town and Bryant became a successful manager of country music groups. After four years and two children, they divorced and Jennifer moved to Los Angeles. There she met and married Chris Conroy, a self-made millionaire who owned and operated a chain of sixty flower shops in California, Texas and New Mexico. The annual gross was reported to be \$30 million. Conroy, forty-one, was the "official supplier" of flowers for the 1984 Los Angeles Olympics, which was his last hurrah. He died from a brain tumor shortly after the Games. His will named his young wife trustee of an estate valued at \$3.5 million. She quickly sold the company for \$3 million. Six months later, in April 1985, Jennifer married Morgan Cody, alias James Joseph Boyle, in Palm Springs. Cody, a professed actor, was also a con man and drug dealer with a criminal record "as long as your arm," according to Jennifer's attorneys. The newlyweds lived in a luxurious penthouse suite in the exclusive ocean-front community of Marina Del Rey. The marriage was later annulled.

When I took a deposition from Jennifer in November 1985, neither she nor Cody were working. Jennifer, at thirty-three, was more beautiful than ever. She showed up for the deposition in a black silk dress and black hat, the picture of elegance and wealth.

Jennifer's tape-recorded interview with Detective Harris, taken on July 12, 1985, sent shock waves all the way to Miami. She had given an altogether new version of what happened to her father, a story that exceeded in its sheer

horror anything that had been said, or even imagined, before.

Jennifer told Detective Harris that she and her three-year-old sister Susan were outside on the patio that morning and could see into the house through a sliding glass door. She saw her father get up from the dining room table and walk toward the patio door.

"At that point, I heard a shot, and I then saw a gush of blood, and I saw him...kind of turning like he was stumbling, and then, as far as I know, he fell."

Jennifer said she took Susie farther out into the backyard and heard more shots.

"I started crying, and, I mean, I knew something was wrong, and I didn't know what to do...My mother came out, and she put her arms around me and said, 'Everything is okay. Don't worry,' and we walked back inside...I remember as I walked through, I saw my dad lying down on his back in the dining room...I didn't see bullet holes... I could see the blood on the, the, the window on the sliding glass door and ah, I could see the, the blood on him...on his face."

Jennifer said she went to her room and stayed there for most of the day. Her mother checked on her periodically, and left the house a few times.

"...I remember...sometime during the daytime when I was, you know, walking through the house or through the kitchen her saying not to, not to go into the garage...why I did, I don't know...I remember going into the garage...I

remember seeing a pile of clothes, and I could see my dad's foot with a sock on it. And that's, you know, it scared me, and I ran, you know, ran back in and closed the door, and I didn't go back out there again until she asked me to come out there...

"I do remember seeing an ax. I know she went to get one...I know that she tried to burn him. I don't know whether she tried to use gasoline or what, but I do remember smoke coming out. I remember the smell coming through the house. I remember her spray-painting the windows. I don't remember if I was outside with Susie walking her and I saw this happening because you could see the garage door windows...I remember the garage door opening and the smoke coming out of it. What she said exactly, I mean something about, you know, that that wasn't going to work as far as trying to burn him so that there would be nothing but ashes...It was like the fire couldn't get hot enough.*1

"...I could hear noises like there was an ax hitting cement in the garage. And the other noise that I could hear was, I mean, I think I knew what it was. I didn't see it, but, you know, like, like an ax hitting a, something that was, I mean I know what it was and to try to describe that sound is only to say that it was hitting something that was like a body...I did see her rinsing her hands in the kitchen sink and then I could see blood all over her hands.

"I also remember after this was over washing down the garage, and I remember seeing all the little pieces of skin

and blood and what not...I could see everything floating...the particles or pieces were floating out into the (flower) beds...

"And at some point I went to bed...Anyway, the next thing I remember is sometime in the middle of the night. It was around one o'clock...she told me she needed some help, and that she didn't want to ask me, she hated to ask me, but there was, she didn't, she had no other way of doing this, and I just, she just wanted me to help her lift the trash can into the trunk of the car, and that was at that point when I saw the arms. I was lifting the trash can into the car...one of the tops, it was not on it all the way, it was like there was something sticking and holding it up a little bit...I could see what, what looked like an arm...and then she asked me to go with her because she was going to need help to get this one trash can out. I don't remember how many trash cans there were. I think there were two or three...silver metal trash cans...Anyway, I remember driving out in the car, and I do remember shaking because I was scared if anyone stopped us and saw this...I remember going through a toll bridge, and why we went through a bridge with a toll on it, I don't know. With all the bridges there in Miami, but this is something that I thought, you know, about years later. I remember this toll bridge thing. It was almost as though she wanted someone to see her...

"I remember driving onto the bridge and making a U-turn on the bridge and pulling alongside and her asking me

to help her. She opened the trunk, and, actually I didn't even know that the trunk was closed. I think I remember it being tied with a rope because you couldn't close the trunk, and I remember pouring the trash cans over (the bridge)...when it hit the water, I mean, you could hear pieces..and one of the trash cans fell all the way down...one fell over accidentally. I don't know if she meant the trash cans to go over...As that happened, there was a little boat with a couple of fishermen. It was dark but they had a little light, and we could see their shadows driving by...Anyway, we got back in the car... We went home I think."

Detective Harris asked her what she felt when she saw her father lying on the floor dead, and Jennifer said she couldn't remember. Harris asked her specifically, "Do you remember being angry at your mother for this?"

"No," Jennifer replied.

Jennifer went on to describe how her mother threw the gun into a nearby canal, then took up the rugs from the house and threw them out into the woods. She also said she never actually saw her mother fire the gun because her view was blocked, and added that her mother was having an affair with David Katz and with another man named Roger Oltz. Oltz apparently was in love and wanted to marry Betty. Katz, Jennifer said, was more interested in her mother's money and was blackmailing her.

"He was going to tell my dad that they were having an

affair unless she gave him money."

Detective Harris seemed to think that might have been the reason that Betty tried to frame Katz, but Jennifer said she didn't know.

As Harris fished for a motive for the shooting, Jennifer said she recalled her mother saying that she shot Matt because he was threatening to take "Steve and me and Susie away...to another country, and he was going to put her away...whether it was a nut house, or in a prison, or what it was, just put her away where she'd never have any contact with us again."

Jennifer had given the police everything, a chilling description of the murder, the dismemberment and disposal, and even the motive. And she was prepared to testify.

There was one problem. Betty said her daughter was lying. I believed Betty. As I would tell the jury in the opening arguments, what Jennifer claims to have done to help her mother "doesn't fit any pattern of human behavior."

Eighteen years later, the Betty and Jennifer Evers show was about to give an encore performance in Miami -- and there was no indication they were any closer to telling the truth than the last time.

Footnotes

1. The only controlled method of reducing the human body to ashes is in a crematorium which burns at 1,800 to 2,500 degrees Fahrenheit.

Chapter 12

The Death of a Fisherman

PART II -- TRIAL I

"These are vicious people." -- Juror Manuel Barrientos describing his fellow jurors

When the news of Jennifer's sworn statement hit the press, everyone in Miami was ready to cast a "guilty" verdict against Betty Evers. But what were they judging her on? The merits of the case? Jennifer's questionable testimony? Or was it something else? Were they judging her on her past? Her criminal record? Her pattern of aberrant behavior? Her sexual immorality? Her ever-changing stories?

Jurors think like that also.

Which is precisely why, over the course of the past 300 years, the American judicial system has been refining and retooling the way we try defendants. And we've come to accept that most of the factors presented above -- lifestyle, unconventional behavior, criminal records, moral attitudes -- along with a person's race, color, creed, religion, sexual preference, family history, and a host of

other damning factors, are, for the most part, not to be presented to a jury holding that person's life in their hands. (Unless it's advantageous for the defense to do so.)

This is not something defense attorneys dreamed up to help get crooks off. These laws and guidelines were instituted by the other side, the judges, prosecutors, legislators, state Supreme Courts and ultimately, our federal Supreme Court. It's fair. It's the way it should be in a free society.

The Betty Evers case is a perfect example of why. Viewing it from this narrowed perspective, and considering some new factors, the picture changes considerably.

Betty phoned me from the Dade County Women's Detention Center. I had read about her confession in the newspapers, and was half-expecting her to call. She said she was dead broke and needed help. I agreed to take the case without fee. I knew her from the past, knew the case, and figured it would be interesting. My wife, as usual, threatened to leave me for the thousandth time.

One of the first things I needed to know was what had destroyed the mother/daughter bond between Betty and Jennifer Evers. This bond was once so strong that they both swore to God to tell the truth, then told a series of lies that might have sent an innocent man to the electric chair. Jennifer was now set to testify against her mother -- testimony that could send her mother to that same electric

chair.

What happened?

As Betty's fortunes declined, and Jennifer's grew, their relationship began to fray. When Jennifer left Nashville in November 1973, she not only left her husband, but her three-year-old son and one-year-old daughter as well. She ran away, she told me, to get away from her mother. Betty had followed her to Nashville and according to Jennifer, began having affairs with her husband's brother and friends, not to mention assorted neighborhood boys. (A Nashville teenager gave a sworn statement to the police that Betty paid him \$10 for his services. A second teenager said Betty tried to seduce him.) Her mother's presence haunted Jennifer and she sought psychiatric care. She said the psychiatrists advised her to sever all ties with Betty -- to go as far as hanging up when her mother phoned -- and to not feel guilty about it. Jennifer took that advice a step farther and escaped to Hollywood. Her husband charged her with "cruel and inhuman treatment," and with abandoning him and the small children to live with another man. He was granted an uncontested divorce and given custody of the children in May 1974.

Jennifer traveled between Hollywood, Los Angeles and Nashville, eventually settling on the West Coast. Her fortunes rose again when she met the wealthy Mr. Conroy and married him in October 1981. But the good life was interrupted when Betty tracked her down that same year.

Betty tried to re-establish a relationship with her daughter, calling frequently, but Jennifer said she couldn't bear to hear her mother's voice. From 1979 to 1985, they rarely spoke. Jennifer testified that her mother wrote letters and sent telegrams, repeatedly asking for money. When her mother called, Jennifer continued to hang up as her psychiatrist advised. The last time Jennifer saw her mother, prior to the trial, was in November 1984. Betty was outside her daughter's door, asking for money. Jennifer would not let her in.

"Hell hath no fury like a woman scorned." That adage is felt more keenly in the courtroom than anywhere else in society. Although it's usually applied to lovers, it's never been limited by sex, or by the relationships of the parties involved. Substitute the word "woman" with "mother," "businessman," "brother," "sister," "rival," "teammate" or any number of variations, and you discover the motivation for most of the perjured testimony that strangles our legal system today.

The question that faced me, that faces all attorneys, is the same question that police detectives confront the moment a body turns up -- motive. Amid all the sordid details of the previous chapter, there was no feasible motive for Matt Evers' death. Eighteen years later, there were now two motives to consider -- the motive behind Matt's murder, and more importantly, the motive behind Betty's belated confession.

When a woman kills her rich husband, or vice versa, the motive is almost always money and sex. They want the husband's money, and they want more accessible sex with their lover. In Betty's case, she had enough of both while her husband was alive to render that motive inconsequential. Matt's erratic behavior, frequent absences, his generosity toward his daughter Susan, and his penchant to live in the Keys and chase bonefish and marlin, all left Betty with the time and money to enjoy a leisurely life that included an assortment of virile young lovers. Jennifer testified that her father appeared regularly to write checks and pay the bills. And by all accounts, whenever her husband did show up in Miami, he was welcomed with open arms, or more specifically, erotic embraces. The two fought like cats and dogs at times, but like so many couples, that probably did little but fuel their passion. Matt's alleged threat to take the children, Betty's included, out of the country and assume their care, conflicted with his responsibility-free, Bohemian lifestyle, and thus can be dismissed.

Searching for a motive had been the impenetrable wall that stymied police investigators nearly two decades before.

But this time, there was a second, more revealing angle to ponder: What motivated Betty Evers to walk into the Hollywood police department in 1985 and tell her story? And specifically, what motivated her to flush her daughter out of her blissful life of luxury and force her to openly confront a nightmare from the past?

What indeed.

A defense attorney, and a prosecutor, must narrow their focus to the charges presented in court. In the Evers case it was this -- did Betty Evers murder her husband in cold blood? The prosecutor wanted to cloud the issue by expanding the charges, but I wanted to keep it simple. Because the shooting happened eighteen years before, the statute of limitations had expired on everything except the one homicide charge that has no time limit -- first-degree murder. It is defined as the premeditated taking of another's life. During the pre-trial maneuvering, Assistant State Attorneys Michael Cornely and Gary Rosenberg offered to drop the charges to second-degree murder in return for a guilty plea. The statute of limitations could be overruled by Betty's acceptance of the lesser charge.

The high-rollers that inhabit places like Las Vegas know nothing of the life or death gambles lawyers deal with. Presented such an offer, here's what a defense lawyer must consider: If I insist upon a first-degree murder trial, my client has a chance of winning her freedom. But if I gamble and lose, the client could get executed or life in prison. On the other hand, if I agree to plead out to second-degree murder, my client might get ten to twenty years with a chance of parole after three years.

It's a squeeze play prosecutors lay on suspects and their attorneys, and it can be a mind grinder.

The offer was smart on Cornely's part. His case for first-degree murder was weak. No major witness had, or would, testify to premeditation. No one mentioned a credible plot to do away with Matt for financial reasons. Betty's confession didn't admit that, and neither did the statements of Jennifer, Betty's lovers or anyone else. This was either a crime of passion -- a bitter argument turned murderous -- which is second-degree murder, or an accident. Accidents are legally hazy. They can be ruled no crime at all, or if caused by neglect -- say a drunken driver killing a school kid -- it is manslaughter.

Running into a room with a gun to scare someone during an argument, and having the gun go off, makes a good case for manslaughter. But the statute of limitations for manslaughter had long run out.

Betty decided to keep it first-degree murder. I concurred. It was our best chance.

The second "trade" Cornely offered us was to swap the death penalty for six jurors. Sounds like a baseball transaction, but again, it's a mind grinder. What that means is Cornely offered to waive the death penalty if Betty and I would agree to try the case before a six-member jury instead of twelve. The logic being the prosecutor needs a unanimous decision, and it's easier to get six people to agree than twelve.

Betty's life for six jurors. Many young lawyers would have grabbed it. But what was Cornely really trading? No

woman has been executed in Florida history. Betty Evers confessing to an eighteen-year-old "accidental shooting" wasn't about to be the first. And in my prior 275 murder trials, I hadn't had a single client executed. It was far more important to have those six additional jurors. All I needed to sway was one to get a hung jury.

Betty agreed. It would be winner take all to the highest degree. A free life or a date with the electric chair. The ultimate stakes.

The first "Torso Murder" trial was a reporter's dream. There were dramatic witnesses and colorful exhibits, including two massive slabs of concrete lifted from the garage floor, and a photo of Matt Evers as a young man holding the gun that would eventually cause his death. The concrete slabs were supposed to show the ax marks that the police and prosecutors saw but I didn't.

Warren Holmes was one of the first witnesses. The polygraph examiner had given a spate of polygraph tests to the whole "cast of characters" back in 1967 and 1968. Holmes testified in the baffling manner in which the law deals with members of his profession. Polygraph tests, which I'm against, aren't admissible in court without both sides agreeing. That rarely happens since the results generally convict or clear a suspect, making one lawyer a believer and the other a cynic.

The polygraph examiners are, however, allowed to

testify without mentioning their tests or their profession. Under this blanket, they can comment upon what they were told and whether they "believed" it. Normally, that would be hearsay and would be thrown out, but polygraph examiners have been allowed to float aimlessly in this legal Milky Way while the courts determine their credibility. The courts have been trying for a half century or so, and thus the examiners have been tethered for decades.

Consider the affect upon a jury. While all other experts are precisely identified and their testimony is tightly limited to their area of expertise, here comes this mystery person who not only doesn't identify his (or her) profession, he doesn't even explain his connection to the case. He nevertheless has had all these critical conversations with the major characters, and is allowed to offer his opinion as to their truthfulness in an all-encompassing manner that no other witness is afforded. Then this omnipotent creature wanders off.

"Who was that unmasked man?" the jurors invariably think. Actually, they probably think he's a police detective, which can be good or bad, depending upon whether his testimony helps or hurts you.

Holmes, one of the best polygraph examiners there is, had a lot of interesting things to say. He had determined that Betty was lying about David Katz killing Matt, but wasn't allowed to comment further about her test. He also testified that prior to Katz's polygraph test, the young

actor admitted that he was trying to blackmail his older lover. Seems Katz wanted Betty to give him \$10,000 to start a restaurant. In his statements, Katz insisted that Betty had freely offered the \$10,000.

Whether that shed any light on the murder, it was a familiar form of poetic justice that frequently turns up in the courtroom. A young, beautiful woman marries rich older man for his money, grows older herself, longs for the young lover she never had, finds him, then discovers he's interested only in the money she gets from the rich, older man.

Holmes also tested Roger Oltz, Betty's other lover. Oltz, then forty-five, was a married Lutheran deacon with six children. His father had invented the Dairy Queen soft ice cream machines and had made a fortune. Oltz said Betty was blackmailing him. Betty, he said, was threatening to tell his wife and everybody else about their affair. According to another witness who gave a sworn statement to the police, Betty had pictures of she and Oltz performing "unnatural acts." The pictures were said to include shots of Oltz with fourteen-year-old Jennifer as well. Both Oltz and Jennifer denied this, but Oltz did acknowledge his affair with Betty and told Holmes he paid her \$5,000 for her silence. Betty would later write Oltz that the pictures were taken by an employee of the motel they frequently used and she wasn't part of the blackmail scheme. She denied taking his money for that reason, calling it a loan.

Both of Betty's lovers, Katz and Oltz, admitted that they dropped by her house on June 2, 1967. Katz said he came around 10:30 a.m. Oltz said he arrived about a half-hour later. That was interesting, since the shooting was said to have happened at 11 a.m. Katz said he came in search of money. Oltz, a real estate agent, said he came to get Betty and Matt's signatures on a listing to sell their large house. Neither man said they saw anything suspicious.

According to Holmes' unmentioned polygraph wires and needles, Katz said he tried to "shake down" Betty for the promised \$10,000 in late June. Katz told Holmes that Betty just laughed when he threatened to go to her husband and reveal their affair. Matt, of course, was already dead.

Oltz, the church deacon, had given a previous statement in 1970 that during the murder investigation, he met Matt's married niece, Connie Harrison, when they were both giving testimony to the Grand Jury. They struck up a conversation that turned into an affair. The police got wind of it and became suspicious. A police sergeant hid in the closet of a Howard Johnson's motel while the two made love. The officer was attempting to overhear pillow talk from Oltz regarding his involvement in Evers' homicide.

Eighteen years after the original interviews, investigators and state attorneys would remember Oltz, the Dairy Queen heir, for another reason. In my deposition of Judge Alfonso Sepe, then the assistant state attorney

working the original investigation, his honor had forgotten virtually all the details of the case. But he perked right up when I mentioned Oltz.

"He used to bring us up ice cream and milkshakes!" Sepe said.

These sweet and sour subplots didn't shed much light on the murder, but they certainly were fascinating. Actually, the trial was beginning to break down into a parody of what is probably the most classic murder mystery story. Someone is murdered at a dinner party and the detective -- Sam Spade, Charlie Chan, Hercule Poirot, Columbo, etc. -- arrives and seals everyone inside. The famous detective then determines that everybody present either had a motive for committing the murder or a motive to frame someone else.

From a defense lawyer's standpoint, such a breakdown is good. The more suspects you can throw into the stew, the less chance a jury can be sure, beyond a reasonable doubt, that your client is any more guilty than anyone else.

What the trial boiled down to though, was the testimony of Jennifer Evers. For Betty to have any chance of walking out of that courtroom, I would have to destroy Jennifer's story. As with all witnesses, this would have to be done carefully. When I took her statement during the deposition, I asked why she had lied about Katz in 1967. She said she was afraid of her mother. I asked her why she

feared her mother.

"She had killed my father and then dismembered him."

That's not the kind of answer a defense attorney wants to solicit in open court. That's why I asked it in the deposition first to see what the answer would be. I always advise young attorneys that the mistake lawyers most often make is asking one question too many in front of the jury. That, and these other words of legal wisdom -- "Never ask a question if you don't already know the answer."

I almost felt sorry for Cornely when he called Jennifer to the stand. She made so many conflicting statements when I took her deposition, I doubted whether Cornely could get through the questioning of his own witness without exposing further contradictions. Betty was the defendant, and by law, she didn't have to testify. There was no way I was going to let her. But Jennifer was Cornely's star witness. He had to put her on.

For a while, things went well. Cornely expertly took Jennifer through her story, which was less explicit than the one she told Detective Harris. She added that she threw the rifle over a Miami bridge, which conflicted with her previous statements and her mother's story of driving to the Keys and tossing it off the Seven Mile Bridge. That was interesting, but minor.

Then boom. It happened.

"Do you remember working around the house the next day, the garage area, the driveway?" Cornely asked.

"I remember washing down the garage, not so much the garage, as the driveway. I remember sweeping water from the end of the driveway that used to collect," Jennifer answered.

"Did you see anything peculiar about the water or what was being swept along by the water?"

"No," Jennifer answered.

When something like that happens to an attorney in court, it hits you like a sledgehammer. You learn to hide the shock, stay calm, and try again to make the point.

"Did you see any blood, flesh or anything like that?" Cornely said calmly.

"No," Jennifer answered.

By now the palms are sweating, the mind reels, and you're mentally scrambling over what to do. When your star witness bungles some critical testimony, you end up standing there naked, flapping in the wind. An inexperienced prosecutor would have persisted, reminded Jennifer of her previous statements, and tried desperately to jar her memory. A good defense attorney would then have gleefully leaped out of his or her seat and accused the prosecutor of badgering, or attempting to impeach his own witness.

Had Cornely jumped on Jennifer, it also may have looked to the jury like she had been coached and had forgotten the false story the prosecutor wanted her to tell. That wasn't the case here at all. Who knows what had happened? Apparently, the Hitchcockian tale of a

blood-tinged river of shredded flesh flowing into the flower beds that Jennifer described to Detective Harris had vanished into the recesses of her mind/imagination.

Cornely played it perfectly. He coolly asked a few meaningless questions to regain his thoughts, then moved on. That was sharp. Cornely had passed the toughest test of a trial lawyer -- the ability to think quickly on his feet.

After that, he led her through the rest of her story with only a few more minor contradictions, then handed her over to me for cross examination.

At that point, Jennifer Evers had given more than 600 pages of sworn statements, depositions, Grand Jury testimony and court testimony regarding her father's death. This included her statements in 1967 and 1968. The actual number of pages was probably closer to 1,000, which amounts to twice the size of the book you are holding. When I stood to question her, one would figure she had said everything there was to say.

Not so. Jennifer had another bomb to drop.

There were two things I wanted to accomplish in the cross examination of Jennifer. I needed to punch holes in her story, and I wanted to expose her zombie-like emotional state. I felt it was impossible for her to have done what she confessed, and not have had stronger feelings about it. And if she did carry out her mother's orders with a Vulcan-like lack of emotion, then she was capable of doing

anything -- including committing the murder herself.

I started with her ability to lie so many times in the past under oath, pointing out that she swore to God to tell the truth, the whole truth, and nothing but the truth, then time after time lied. It wasn't so much that she did it. She was only fifteen. It was her mental state in doing it that was so troubling.

"Did you realize what you were saying could possibly put another human being in the electric chair?" I asked.

"I don't believe I realized that then, no," she answered. Then later..."I don't remember what I was feeling or thinking back then."

We discussed her divorce, and her giving up her two children. That was a bit of a cheap shot, but it was important to understand her mentality. She explained that since she had never graduated high school, and her husband's family was wealthy, the children were better off with him. She also said she made an attempt to get them back, but her son and daughter begged her not to put them through the ordeal of going to court, and she relented.

Regarding the morning of her father's death, Jennifer started right off with a contradiction. I asked her how he was dressed that morning.

"He wasn't in pajamas or anything like that. I do remember that."

In a sworn 1967 deposition, the same question was asked.

"He was dressed in pajamas," Jennifer answered.

Onward through my questioning, Jennifer admitted that her mother never gave any indication that she planned to murder Matt, and that she knew of no plot to kill him for his money or any other reason. In fact, Jennifer said her mother had asked her to stay home from school that morning -- hardly the action of someone conspiring to murder. This testimony was the least dramatic -- and most important. The state's star witness had denied any possibility of premeditation.

Further testimony made me, and no doubt others, cringe at the actions of the Evers' clan. They had a pet dog that was brought from Rhode Island. The dog got pregnant and had nine puppies. Jennifer testified that this transgression earned the new mother and her babies a one-way trip to the pound -- and possibly the gas chamber. Jennifer did not say that she protested their departure or felt any grief.

This same detachment was displayed toward her father. After Jennifer described seeing him collapse to the floor with blood "gushing from his mouth," I asked:

"So you rushed right in to see what was wrong with your father, right?"

"No, I didn't."

"In fact, you went the other way, did you not?"

"Yes."

The coldness of Jennifer's words contrasted with her emotions on the witness stand. She cried often during her

testimony, and once stood up and angrily pointed a finger at me. Still, her words continued to be disturbing.

Jennifer curiously said that she didn't remember if David Katz had come to the house that day, a fact that had long been established and that she had testified to previously. She did remember Roger Oltz being there, and Oltz had stated he saw Jennifer and Katz sitting on the couch together.

I asked her about seeing her father's foot in the garage under the dirty clothes.

"And did you say, 'Mom, I just went into the garage and I saw a foot, whose is that?' "

"No," she answered.

Exploring her "close" relationship with her brother Steve, then twelve, I determined that despite the events of the day, she claimed to have said nothing to Steve when he came home from school that afternoon.

And then it came. Eighteen years and 600-plus pages of sworn statements, and Jennifer dropped the bomb.

Rubin: Did you then think the smoke coming out of the garage was your father burning?

Jennifer: I knew it was because I saw him.

Rubin: You saw him burning?

Jennifer: Yes.

I stole a glance at Cornely. He appeared as stunned as everyone else.

Rubin: Have you ever told me that before?

Jennifer: No, you never asked me.

Rubin: Where were you when you saw him burning?

Jennifer: When I was out in front of the house, I saw the smoke coming out. I walked around to the side of the garage and the door was open and my mother was standing out and I could see him on the floor in the middle."

Rubin: So what did you do?

Jennifer: I don't remember what I did. I didn't go in.

Rubin: Of course not, but what did you do?

Jennifer: I didn't do anything.

Rubin: You didn't call anybody or anything?

Jennifer: No.

Unlike what happened to Cornely when Jennifer tripped him up, I could express my surprise. Any sudden new revelation by Jennifer would look curious to the jury, and would diminish her credibility. Admittedly though, I was fascinated. And just like Cornely, I needed time to regroup before dealing with this twist. With Jennifer, this "regrouping" process was difficult, because even the simplest questions would unearth new contradictions.

In past testimony, Jennifer said she and her mother discussed the problem of Matt's body refusing to burn. In another statement, she said they never talked about it. Now she was back to saying they had.

"I know there are a lot of things I tried to forget and there are a lot of things I haven't wanted to say," she

explained.

After gathering my thoughts with these questions, I returned to the "burning body in the garage."

Rubin: When did you decide you were going to tell us this?

Jennifer: You just asked me the question.

Rubin: He (Detective Harris) never asked the question?

Jennifer: No.

Rubin: I never asked the question?

Jennifer: No...It was just something I was glad I didn't have to say.

As with her other statements, I wanted to explore Jennifer's emotions as she witnessed the burning of her father.

Rubin:...you didn't say anything to your mother?

Jennifer: I don't remember.

Rubin:...were you angry at her when you saw your father?

Jennifer: I don't remember.

Rubin:...do you think a normal person would have run away or told somebody?

Cornely objected, and rightly so. You're not supposed to ask a witness a damning question like that. But the jury was sure as hell thinking it, so I asked and let the prosecutor object and the judge sustain the objection. By asking, I expressed to the jury my astonishment with the testimony, which reinforced their own feeling of disbelief.

If the jury wanted to hear the answer, and the prosecutor stopped them, I knew they would turn against the prosecutor and mentally align themselves with me. And that's the key to every trial. Control the courtroom, and become part of the jury.

Meanwhile, my son Mark, sitting at the defense table, signaled me to come over. He had located the statement from Jennifer's deposition regarding the smoke coming from the garage. I read it to her in court:

Rubin: "Question: Did you know what was going on or what was causing that smoke."

"Answer: 'I do now.'

"Question: 'Did you at the time?'

"Answer: 'At the time, I don't remember if I was aware of what was going on or not.' "

Rubin: Do you recall that?

Jennifer: Yes.

Rubin: Isn't that me asking you what caused the smoke?

Jennifer: Yes.

Rubin: And what did you say?

Jennifer: I don't remember.

Rubin: Well, I just read it to you.

Jennifer: I understand.

Rubin: Is it still your testimony that I never asked you about the smoke. You didn't tell me the truth, did you?

Jennifer: About the smoke, no, I didn't.

Amazing. After eighteen years, Jennifer's ability to lie under oath in a court of law, right under the nose of a judge, remained unchanged.

Jennifer then offered that some of her memory, particularly whether she saw a receipt for an ax, may have been confused with dreams. That was enlightening.

Rubin: Then you don't know that what you are saying may have been a dream of yours? Is that true?

Jennifer: As far as the receipt for the ax, yes.

Rubin: Have you ever had nightmares about the whole thing?

Jennifer: Yes.

Rubin: Do you remember what is true and what is a nightmare?

Jennifer: Yes, I do.

But of course, she had just said she didn't regarding the ax.

I asked for a recess. Jennifer's testimony was beginning to scramble everyone's brains, mine included. When we reconvened, I asked Jennifer why, according to her testimony, Betty asked her to help carry the heavy garbage cans, and had not asked her stronger, twelve-year-old brother, Steve. Jennifer didn't know.

Jennifer continued to insist that she and her mother placed three, three-feet by two-and-one-half feet, metal garbage cans side-by-side in the trunk of a Ford LTD. That would have taken up a space nearly eight-feet wide.

"It is a big trunk," Jennifer explained.

Not nearly that big, a Ford Motor Company representative would later tell me.

Jennifer stated in the past she had seen thirty, three-inch ax marks on the garage floor. We rolled out the the cement floor slabs that had been removed in 1967 and asked her to show the jury where the large marks were. She couldn't.

Jennifer and I discussed her statements that she saw her mother coming in and out of the garage to wash her bloody hands in the kitchen sink. I pointed out that she told me in her deposition that there was a sink in the garage, which seemingly would have made such trips unnecessary. I tried to ask Jennifer why her mother needed to travel to the kitchen sink, but Cornely objected and the judge sustained the objection. They were right. It was speculation on Jennifer's part, and that's generally not allowed. This kind of procedure often infuriates jurors. They need to understand such things in order to make a life-or-death decision. Generally though, our court system has learned that it's best not to allow speculative testimony.

Jennifer contradicted her testimony a few more times, notably in an earlier statement that the body was disposed of a few days after the shooting, and not that night.

After my cross examination, I was more convinced than ever than Jennifer's story belonged in a Stephen King novel instead of being presented as truth in a court of law. The whole concept of burning a body in a garage was ridiculous. The Evers house was in a neighborhood where the lots are

rectangular and the homes close together. The houses across the single-laned, suburban street were only fifty yards or so away. Someone across the street looking into the garage could easily make-out a burning body. They probably could identify it.

I was confident that I had shredded Jennifer's testimony, but I didn't think it would be enough. After that, I sparred with the medical examiner on whether the shots could have been accidental, and pointed out that the rifle had been altered from a single-shot to an automatic by filing down a part. I argued that such a bastardization would have given the gun a hair-trigger, one that could fire repeatedly in the hand of a novice. In fact, Jennifer testified that it had gone off accidentally once and shot a hole in the ceiling.

My summation focused upon the holes in Jennifer's story; the lack of evidence of premeditation; the fact that Betty's two, taped confessions, like all her stories, differed greatly, rendering them useless; and the hair-trigger automatic weapon. Cornely's summation focused upon Betty's confessions; Jennifer's valiant testimony, and the unlikelihood of accidentally shooting someone eight times, all direct hits, with one going in the victim's back.

When the jury went out, I felt we had won the case -- and we didn't have a chance in hell. We won because the prosecution had failed to prove premeditated first-degree murder. We didn't have a chance because jurors rarely follow

the law. The judge, defense attorneys and prosecutors break their backs explaining the laws, abiding by the law during the trial, and trying the case under the limitations of the law. Most of it then goes right over the jurors' heads. They just hear a confession, see a daughter testifying, hear horror stories of dismembered bodies, and figure somebody has to pay.

That somebody was Betty Evers. And she would have paid if it wasn't for a retired World War II veteran named Manuel Barrientos. In a scene reminiscent of the classic movie "Twelve Angry Men," Barrientos battened down the hatches of his will and held out for a not guilty verdict against the eleven other members of the jury. But unlike Henry Fonda, he didn't convince anyone to join him. He faced the angry mob alone in a small room for three days. It takes a special kind of human being to do that, and Manuel Barrientos was up to it.

"These are vicious people," Barrientos told Al Messerschmidt of The Miami Herald following the hung jury verdict. He wasn't describing Betty or Jennifer, but his fellow jurors.

"I stood a lot of abuse....There was no stubbornness on my part. It was mob psychology...Everybody was venting his wrath at me. I don't know who else could withstand the pressure, badgering, the hammering."

Barrientos miraculously realized that the state had not proven murder in the first degree. He said he would have

convicted Betty of manslaughter, but he didn't have that option. He also said he didn't believe Jennifer.

"She was mixing fantasy and reality."

Then he said something that restored my faith in my jury selection abilities. Normally, I would have excluded a military man from the jury. They are used to obeying authority and generally vote for the state. But in this case, I wanted a man who knew something about guns. Barrientos said he had fired automatic and semi-automatic rifles while in the army, and knew that both could jam and fire repeatedly.

I don't usually speak with jurors after a trial, but when I come across an extraordinary one, it piques my curiosity. Barrientos, a tough Cuban, told me that he was a member of the tank corps in the army, and was used to small rooms and high pressure.

"They weren't going to break me," he said.

All of which sounds like a nice ending, but a hung jury is not the end. It's a nightmare. A hung jury is like building a house, and on the day of completion, tearing it down and being told to rebuild it. It's a mind-numbing rehash of the same witnesses and same testimony.

But something would happen to make the second Betty Evers trial even more interesting than the first -- Micki Dahne.

Chapter 13

PART III -- The Death of a Fisherman

TRIAL II -- THE PSYCHIC

I had given the first Betty Evers trial everything I had. I accomplished what I set out to do. I diffused Jennifer's testimony. I proved that it wasn't premeditated murder. I controlled the courtroom. I even presented solid evidence that it could have been an accident.

It didn't matter. Eleven of the twelve jurors were ready to hang Betty from the nearest tree. There was no way I could expect any better in a second trial. A juror like Manuel Barrientos comes along once in a lifetime.

What I needed was a diversion.

"She's innocent," Micki Dahne repeated in my office that afternoon. "Betty and I have a lot in common. We are sisters under the skin. She needs comfort and a friend. Can I visit her?"

"Sure," I said. "Let's go right now."

We immediately drove over to the women's jail. I had requested Betty's release pending a new trial, but the

judge, my "old friend" Sidney Shapiro, refused to let her go. We waited for Betty inside the jail. When she appeared, she took one look and screamed "Micki Dahne!" Micki stood up and the two women ran toward each other like lovers in those old shampoo commercials. They hugged and kissed and both started crying. It was like two sisters who hadn't seen each other in thirty years. I stood there, taking it in. Then it came to me. My hung-jury hangover evaporated. We had a chance. I decided to have Micki join the defense team and help pick the jury. If one juror recognized her, and knew she was helping Betty, they might feel that Micki Dahne, with her extra sensory powers, would not help a woman guilty of so brutal a crime.

I asked Betty if Micki could come to the trial. She squealed her delight. I asked Micki if she would assist me. She said she would consider it a "privilege and an honor."

As I began to plan my strategy, I realized there were actually other benefits in having Micki at the trial. She calmed Betty and provided considerable comfort. She could divert attention from the dismemberment. She did possess an unusual, if unfocused power. And like all psychics, Micki was a student of human psychology. She could offer fresh insights into the critical jury selection process.

But best of all, maybe Micki Dahne could rattle Michael Cornely. The young prosecutor had been cool and effective, and was proving himself to be a tough opponent. I wanted to see how cool he really was. The only problem with

my plan was the judge, Sidney Shapiro, the man who tossed me in jail. Shapiro was stoic and humorless. But we got a break. Shapiro was unavailable for the retrial and the case was sent to Judge Norman Gerstein. Gerstein was perfect! A scholarly type, Gerstein had a great sense of humor, and more importantly, a burning curiosity. I suspected he would be fascinated by Micki Dahne's participation.

The jury selection process is long and tedious for courtroom observers, but it's actually one of the most important parts of the trial. Different states have different laws governing how jurors are selected, but the best is the way we do it in Florida. The lawyers are allowed to directly question each juror in order to weed out the ones they feel are prejudiced, close-minded or any of a thousand variables depending upon the case. In general, defense attorneys are looking for unconventional people, rebels, free spirits and non-conformists. They are known in the trade as "non-authoritarians." They are most likely to rule against the "system." The prosecutors are looking for the opposite. They like religious, law and order types who obey authority, or are intimidated by authority. These people see the judge and prosecutors as extensions of the great U.S.A. They are most likely to convict.

The prospective jurors are marched into the courtroom in packs of thirty or so, and the weeding out begins. In Florida, each attorney, both prosecutor and defense, is allowed ten preemptory challenges in a capital case (a crime

punishable by death). That simply means we are allowed to dismiss ten jurors we don't like for any reason we see fit other than race. Ten is usually sufficient to seat a fair and impartial jury.

Although she's gained a few pounds in recent years, Micki Dahne came into the courtroom looking magnificent. She wore a black dress, pearls, and her long, blonde hair was perfectly coiffeured. No one could miss her. I had her sit right behind me and did everything I could to draw the jurors' attention. When Cornely questioned a prospective juror, I advised Micki to lean over, whisper to me, and slip me notes. It wasn't long before he noticed. He protested the distraction, and I believe he either directly asked, or had the judge ask me to identify "the woman in black."

"Your honor," I said. "This is a member of my staff, Ms. Micki Dahne. She is assisting the defense in the jury selection process."

There was a buzz throughout the courtroom. I hadn't identified Micki Dahne as a psychic, and obviously didn't need to. Miami Herald reporter Jay Ducassi, no doubt dozing through what he expected to be a boring jury selection process, suddenly grabbed his pen. Judge Gerstein smiled and ordered Cornely to proceed.

Michael Cornely and Gary Rosenberg faced a dilemma -- what to do about Micki Dahne? Do they ignore her and risk seating twelve of her biggest fans? Or twelve astrology freaks (like Nancy Reagan and her husband)? Or twelve

impressionable jurors scared out of their wits that the famous psychic would be giving them the proverbial "evil eye?" Miami is a multi-ethnic community unlike any other city in the nation, but the "evil eye" transcends all cultures. In fact, many Bahamians, Haitians, Central and South Americans live in mortal fear of the unknown forces.

Cornely also had to consider the reverse. If he faced her presence head on, and tried to weed out jurors he felt would be affected by her, that led to a second dilemma. Wouldn't his questions reinforce their beliefs, or plant seeds in the minds of those jurors who never thought of it before? Put in Cornely's shoes, I would have smiled and ignored Micki. First off, no potential juror is going to admit, in a court of law, that they live and die by the stars. People are too embarrassed, no matter how hooked they are. Secondly, would a juror really rule on a murder case based upon a psychic's shmoozing with the defendant? I didn't think so.

Surprisingly, Cornely must have. From that point on, his line of questioning focused upon Micki and the psychic arts. He asked the potential jurors if they recognized her, if they believed in astrology, if they believed in psychics, and if they felt her presence in court would influence them. It was beautiful. He was doing all the work for me.

And I poured it on, but much more subtly. I questioned the jurors about their birthdates and where they were born. As they gave their answers, Micki scribbled away behind me.

When they answered, virtually every juror looked at Micki. I think some were eagerly anticipating that she would give them a reading. Even Judge Gerstein got into the act and offered his birthdate. Micki shocked him by announcing that his real name was actually Nathan, not Norman.

As the selection process continued, I began saying, loud enough for everyone in the courtroom to hear, "Micki, please come here." At the bench I would say, "Your honor, I need to confer with my associate," and Micki would come scurrying up to the defense table. Each time I mentioned her, the jurors' eyes would be glued to the blonde psychic.

When I got down to my last two challenges, I shouted across the room, "Micki, let me see your chart."

It was actually just a seating chart, but everyone in the courtroom figured it as an astrology chart.

Micki and I worked out a rating system. An asterisk next to a juror's name meant they were very good. A plus was good. A minus was bad, and a double minus was extremely bad. The jury we selected included five asterisks, six pluses and one minus. I kept the minus over Micki's protest. Actually, I had selected the entire jury. It was all mostly an act, but it went over big. And who knows what she saw in her "asterisked five."

The next day, The Miami Herald's headline read: "Lawyer Uses ESP To Pick Jurors." Ducassi's opening paragraph is worth repeating:

"The Miami lawyer who invented the television

intoxication defense, and who once took his shoe off in court so a doctor could show he was sane, introduced a new technique to Florida jurisprudence Monday: Jury selection by ESP."

Gerstein was quoted in the story as saying, "She already likes my birthday," noting that his was November 29 and Micki's was November 27. Cornely wouldn't comment to Ducassi, but later told South Florida Magazine writer Charles Flowers, "We figured she had little dolls that looked like us and she was sticking pins in them."

In the entire article, there was only half a sentence mentioning the murder and dismemberment. My diversion strategy was apparently working.

Unfortunately, after the jury was seated, the fun ended and the trial began. Micki sat in the gallery through the entire trial, but her non-psychic input from that point on was minimal.

The second trial went pretty much as the first. Crazy subplots, blackmailers here and there, conflicting confessions by Betty, the filed down rifle, spats with the medical examiner and Jennifer's contradictions, old and new. Jennifer started crying during my cross examination again, Betty cried with her again, but this time Betty stood up and shouted "no more, no more." I quieted her down and proceeded. There was testimony that Matt built lobster traps in the garage, and used a hatchet to chop the wood. I

suggested through cross examination that the small marks on the floor of the garage probably came from Matt's little hatchet instead of Betty's big ax.

It wasn't until the prosecution rested that things got interesting. The end of the trial became a legal chess game of rare intrigue. I decided not to present a defense, and thus called no witnesses. That's not as risky as it sounds because the prosecutor usually calls most of the witnesses the defense would have called, and the defense gets to make its points during the cross examination. But what this "no defense" strategy did was give me a tremendous advantage during the summations. Normally, the prosecutor speaks first, the defense next, then the prosecutor returns, getting in the critical last word or "rebuttal." I suspect tens of thousands of cases have been won throughout history because the prosecutors are allowed this last word. They can ridicule everything the defense attorney just said, and the defense can do nothing about it.

However, if a defense attorney chooses not to call any witnesses, or only puts the defendant on, the process is reversed. The defense gets the rebuttal.

I stood confidently, knowing for one of the few times in my career, I would get in the last word. My opening summation centered around the possibility that it was just as likely that Jennifer had killed Matt. I wondered aloud how any daughter could tell such an unbelievable story against her mother -- unless she was hiding something. Who

could hate their mother enough to put them into an electric chair? Who was ratting on whom, and who was protecting whom? I speculated that maybe Betty had come forward with her confession because Jennifer was ignoring her, and Betty was forcing Jennifer to confess. And if Jennifer had done it, Betty's confession provided the perfect opportunity for Jennifer to once and for all get rid of her mother. She could follow her psychiatrist's advice and sever herself from the past. By fingering her mother, Jennifer could free herself from the haunting shadow of June 2, 1967. If "Mom wants to confess, I'll help her along," I speculatively quoted Jennifer.

"If that scenario fits as well as the state's scenarios, then there is reasonable doubt," I said.

Cornely stood up for his turn.

"Your honor," he said, "the State rests its case on all the evidence presented."

What a shocker! Cornely had waived the most critical part of a trial. It was a strategic ambush aimed at blowing up my final summation on the launching pad. By not summing up, a strategy used once in every 1,000 trials, Cornely legally quashed my closing summation. There was nothing to rebut! That was his trump card. The trial was suddenly over. Everything I was saving was wiped out.

Fortunately, I hadn't saved anything important. I'd shot my wad with the opening summation and planned to spontaneously respond to whatever Cornely hit us with. But

he certainly caught me off guard. I never dreamed he would call that play. In retrospect, it's understandable. Cornely is a gutsy, savvy prosecutor with great pride. I knew Micki Dahne had thrown him off. What better way for him to fight back than slam the door on my closing argument? Tit for tat. The jury went out a few minutes after 1 p.m. Micki Dahne leaned over to me and whispered, "They'll be back with a 'not guilty' verdict shortly after 5 p.m." Then she told Betty, "You'll walk out of here at 5:30."

The jury came back at 5:12. They handed their verdict to the clerk.

"We the jury," the clerk said, "find the defendant, Betty Evers, not guilty."

Incredible. Betty and Micki jumped up simultaneously and hugged. I was truly surprised. This wasn't one I was supposed to win.

The jurors would later express that the state hadn't proven premeditated murder and that they didn't believe Jennifer's testimony. Micki said five or six of them, "all the Latins," came up to her afterward.

"They told me they didn't believe Betty was guilty because I was there with her and I would have known," Micki recalls.

Jack Kassewitz Jr., a private detective and writer who monitored the trial and had once planned to write a book about the case, had a firm opinion on what swayed the jury.

"It was Micki Dahne. No question about it. I think the

jury was afraid of her."

Epilogue

So who shot Matt Evers? Betty? Jennifer? Roger Oltz? David Katz? One of Betty's other lovers? One of Jennifer's? Somebody else?

Following the trial, Kassewitz said Betty told him that Jennifer had shot her father because he was sexually abusing her. Oltz, in a sworn statement taken in 1970, also said Betty claimed Jennifer shot Matt, but for a different reason. Oltz's version was that Matt and Betty were fighting, and Jennifer shot Matt to protect her mother. That was similar to the "David Katz did it" version, only making Jennifer the "trigger woman." Still another sworn statement had Jennifer bringing in the gun during the fight, and Betty grabbing it and doing the shooting. Betty never told me any of these stories and Jennifer denies them all. If one believes Jennifer's testimony, however, these versions making her the culprit might explain why she was so willing to help her mother dispose of the body, and why Betty re-opened the case after being shunned by her daughter. The sexual abuse angle might also explain why Matt's penis had been charred.

However, even if Betty did say that, it is only one of many, many versions she has told over the years. And two of Jennifer's former or current attorneys, Robert Ehrlich and

Connolly Oyler, both of Los Angeles, said they each had candid conversations with Jennifer regarding this. The two lawyers, who appeared as curious as everyone else regarding the mystery, said Jennifer always denied the allegations. Both Ehrlich and Oyler say they honestly believe her.

The sexual abuse possibility may have provided the motive, but not the executioner. In one of her rambling statements to Gene Miller of The Miami Herald in 1968-69, Betty volunteered this:

"...If I caught Matt raping my sixteen-year-old daughter, I would have killed the sonofabitch."

"Would have," but probably didn't. I don't believe Betty Evers killed her husband. I don't even believe she shot him accidentally.

While we're tossing solutions into the pot, one may recall the sworn statement of Mr. Rutledge, the duped furniture buyer and Betty's unwilling potential paramour. He said Betty told him that Matt had caught Jennifer and a young man in bed that morning, and the unidentified young man shot Matt.

The possibilities appear endless. Those insisting upon a solution might want to harken back to the plot of Agatha Christie's classic "Murder on the Orient Express." That victim was stabbed twelve times -- once each by twelve different people. Matt Evers was shot eight times...

Following the trial, Betty talked me into lending her

one of my credit cards so she could stay at the Holiday Inn for a night. She stayed, then used my card to rent a car for a week and leave town.

I got stuck with both bills.

Chapter 14

Prentice Rasheed and the Tutti-Frutti Defense

PART I

"I didn't kill Odell Hicks. The system killed Odell Hicks. There's many more Odell Hickses out there that are already dead. They just haven't fell over yet." --
Prentice Rasheed on "60 Minutes"

"My name is Dr. Earl Wells," said the man on the phone. "I'm president of the Liberty City Merchants Association. Have you heard about what happened to Prentice Rasheed?"

I certainly had. The news about Rasheed was everywhere. The Vietnam veteran's clothing and sundries store had been burglarized seven times the previous months. The thieves were driving him out of business. To stop them, he rigged an electric grate under the hole the robbers had chopped in his ceiling. On September 30, 1986, burglar number eight broke into the store through the attic, somehow climbed down the grate unharmed, and began carting out

goods, pushing them through the steel bars protecting the back entrance. When the burglar climbed back up the grate to escape, he was electrocuted. Now the state was trying to convict Prentice Rasheed of manslaughter.

I also knew Liberty City, a Miami neighborhood that isn't featured in the tourist guides. It's the area of town that was set aflame during one of America's worst race riots of the 1980s.

"We would like you to meet with Mr. Rasheed," Wells continued. "He needs help."

The Greater Miami Yellow Pages devotes eighty-five pages to attorneys. According to the Dade County Bar, there are more than 9,000. Yet, despite a probability of sizable proportions, I wasn't surprised by the call.

* * * *

When I was a youngster in Binghamton, New York, my father owned and operated "Larry's Army/Navy Store." He sold work clothes and a few scattered military items, and barely kept the family afloat.

In 1942, a few months after Pearl Harbor was bombed and America entered World War II, the army stationed a battalion of about 1,000 black military police officers and soldiers outside Binghamton. There was some whispered concern among the mostly white Binghamton residents, but it was wartime, so even the most fervent racists couldn't protest too loudly.

My father decided to make the most of this influx of

soldiers by going to New York and ordering regulation uniforms, buttons, belt buckles, boots and dozens of other army items. The U.S. Army issues a uniform and other essentials, but the quality is average and the fit can be terrible. Soldiers are allowed, at their own expense, to purchase tailored uniforms made from better fabrics.

My father's store was soon overflowing with black soldiers buying uniforms, brass buttons, leather boots and anything else that caught their fancy. The atmosphere at the store changed from sleepy to bustling. My mother used to handle the money and make change. I remember how happy she was with all the excitement. My father's income increased considerably. He went from struggling to solvent.

I was in high school and worked at the store after class. The soldiers I waited on were only a few years older, so we got along. I joked with them, picked up their colloquialisms and culture, and got to know many of them personally. While other teenagers were growing up in a world of racial separation, my Pavlovian response to blacks is something entirely different. I have memories of my mother's laughter as she shared stories with the men, of the prosperity brought to my father, and of good times and good friends.

One can imagine the shock of encountering the other, more prevalent view, in a Southern court. My very first case was defending Henry Larkin, a black man accused of murder. On top of it being my first case, I still had a stammering

problem. I'd gotten through my opening statement without stumbling over a word, and was just beginning to feel confident. I started to cross-examine the first witness of my career, a black man named Clarence Williams.

"Now Mr. Williams..." I started.

"Bailiff, take the jury out!" bellowed Judge Ben Willard, drowning out the rest of my sentence. I was petrified. What had I done? How did he know I stammered? Was he going to banish me from court, killing my dream of being a trial attorney?

"Lawyer," Willard said. "Where are you from?"

"Upstate New York, your honor," I gulped.

"Well, I don't care what you do in upstate New York, but we don't call nigras 'mister' in Miamaaa. If you want to practice in this court, you'll address colored people by their first name."

Judge Willard turned to the witness.

"What's your name, boy?" he said.

"Clarence," the man replied.

"See," Judge Willard said. "It's Clarence. That's what you call this boy, ya hear."

I remember feeling sick inside. My mother's smiling face flashed before me, as did the faces of many of the soldiers who came into the store. They were proud men who told me stories about their homes, their parents, their girlfriends, and shared their dreams and aspirations. I turned around and walked to the bench, fighting tears. It

was the first dilemma I would face in a long career of facing, and spitting into the face of, legal wrongs. But this was my first case. I was a stammerer. Could I disobey a judge and ground my career before it even took off?

To hell with Judge Willard, I thought. I would start my question the same way, "Mr. Williams..." and take my chances. Then I saw one more face, Henry Larkin's. He knew what I was going through. He knew my feelings. The look in his eyes said "don't do it. Not here. Not now." And he was right. My first obligation was to keep Henry Larkin out of the electric chair. I could fight racism later.

So I called Clarence by his first name. I was too angry to think about stammering, and I didn't. I also won the case. A few years later, I set up a law office in the Sir John Hotel in the heart of the black section of Miami. That first year, I represented more than 200 blacks for free. I was fueled by pure indignation. If I couldn't call a black man "sir" or "mister," I sure as hell could fight to keep some innocent black men and women out of jail. And every chance I got, I'd "slip" and call a "nigra" by a respectful title. (The famous "Fight Doctor," Ferdie Pacheco, was similarly motivated and started a medical practice in an adjacent black neighborhood. Dr. Pacheco later became Muhammad Ali's physician and is now an NBC fight analyst.)

I went broke, but I was chosen one of Florida's five Outstanding Young Men of the Year in 1954, and was nominated

for the national award in 1955.

It took me more than twenty years to strike back on a higher level. As I became more experienced, I waited for the right case to come walking into my succession of offices. In 1973, it came. Johnny Brown, a city bus driver, was ordered to send his children across town to integrate a white school. Brown didn't want his two young daughters bused so far away, so he tried to register them in the nearby Dade Christian School. When he brought the girls to the office, he was handed a card that stated, "We do not practice integration in this school."

The irony gets a bit confusing here. School busing was designed to help minorities by equalizing educational opportunity. Yet Johnny Brown was against busing. When he tried to get around it the same way the whites did by turning to private and religious schools, he had the door slammed in his face -- again! It was a strange beginning to what would be a landmark racial discrimination case, but most of my big cases seem to be anchored in paradox.

On behalf of Johnny Brown, I fought the case for the next five years all the way to the Supreme Court. It was a tough battle. On the plus side, there was a national court order to integrate public schools, and a Supreme Court decision outlawing discrimination in private schools. But there existed no precedent for religious schools. They were the last stronghold because in order to defeat their policies, a lawyer had to confront the ironclad separation

of church and state laws. The Dade Christian School's attorneys argued that separation of the races was an integral part of that school's religious foundation, and the almighty First Amendment guaranteed them freedom of religion.

As a Jew who was sent to Holy Cross College by the Navy, I've had a well-rounded religious education. I couldn't recall anything in the Bible, Old Testament or New, that ordered the separation of the races. I was curious how a "Christian" school could embrace that policy. Sure enough, during the deposition of the school's principal, I discovered that far from being a long-standing religious tenet, the Dade Christian School's administration, faculty and parent groups had merely voted on integrating and decided against it.

I also determined that they had altered regular textbooks by removing all photographs that portrayed blacks and whites together and replaced them with photographs of whites only.

Because of these discoveries, I won in federal court. The school appealed its way to the U.S. Fifth Circuit Court of Appeals in New Orleans. At that level, a lawyer presents his case before thirteen sitting judges -- an experience that's the ultimate test of advocacy. Their honors sit in two tiers and rain questions down upon the lone attorney. The attorney must battle not only the collective wit of thirteen esteemed judges, he or she must fight the feeling

of being overwhelmed by the splendor of the arena.

I presented my case and fought off the probes. It boiled down to a question of superiority, not of blacks and whites, but of law. Which law was superior: the free exercise of religion or the civil rights laws.*1

The judges favored the civil rights laws -- just barely. They voted 7-6 in June 1977 to allow Johnny Brown's children to attend the Dade Christian School. The school appealed to the U.S. Supreme Court. The Supreme Court upheld the decision in February 1978, effectively ending discrimination in private religious schools in the United States of America.

As is often the case with precedent-setting rulings, Johnny Brown's daughters would not benefit from the long battle. They had grown into teenagers, assimilated into their current schools, and had no interest in being unwanted pioneers at an all-white Christian school that had fought so hard to keep them out. (They've since graduated college and graduate school.)

But that was okay. I had fought the battle for Mr. Clarence Williams.

* * * *

I visited Prentice Rasheed at his Liberty City store.

"Mr. Rubin, you're the right man for this!" he said.

"I'm in a lot of trouble."

I told him not to worry. That's one of the main functions a lawyer can perform. Calm the client, show them

you're in charge and assure them that they're in good hands. Rasheed explained what he had done and why, and then pleaded poverty. I found him to be a gentle man, a devout Muslim who was intelligent and articulate in his own colorful way. I liked him from the start. He was forty-three and had a lovely wife and two daughters. Rasheed's father had been a sharecropper on a peanut farm near Dublin, Georgia, and Rasheed, formerly Prentice Edwards, grew up picking cotton in the hot Georgia fields. After combat duty in Vietnam, he returned to America and worked hard to better himself. He became a watch repairman, converted to Islam, and opened a series of small businesses.

Every Friday, Rasheed and his employees would close the store, kneel, and pray. They faced East toward a nearby Winn Dixie grocery store on Dr. Martin Luther King Boulevard.

I offered to represent him without charge. He couldn't believe it. In return for my services, I made him promise to follow my advice. I make all my clients promise this, but I presented my standard edict to Rasheed as if it were a trade off. That enabled him to keep his dignity, which is vital when someone is facing a trying ordeal. The agreement was that no matter what anybody else told him, and what he felt we should do, he had to do it my way. Unfortunately, he would forget this promise later.

From my standpoint, Rasheed's story was perfect. He had tried every way humanly possible to get protection for

his store. He called the police and begged them to increase their patrols in the Liberty City neighborhood surrounding his business. The police weren't keen on responding. The riots in 1980 were touched off by the acquittal of five white police officers charged with beating a black insurance agent to death following a traffic violation. After that, the bad blood between the police and the Liberty City residents intensified. Frustrated blacks would gather at the slightest police provocation and toss cement blocks through the windshields of cars and throw bottles at the heads of the officers. Even if the police arrived to arrest a neighborhood felon, a mini-riot would develop. For everyone involved, it was best to keep the two parties as separate as possible. This led to something of an "Escape from New York" situation in Liberty City where the thieves and drug dealers ran wild. As time passed, the emotions subsided, but the memories and crime lingered.

Into this uneasy history entered Prentice Rasheed with his demands for a higher police profile in his neighborhood. He even appeared before the Dade County Commission and pleaded with the commissioners to give him and his fellow Liberty City merchants the same police protection that was afforded to the richer, white merchants who owned stores in Coconut Grove, a trendy area on the southeast side of Miami. Without such protection, Rasheed warned he would be forced to act on his own.

"You might turn me into a criminal," he told the

commissioners. "I'm not a criminal. But eventually, if a man's got to survive, he's gonna do what a man's got to do."

Rasheed's pleas fell upon deaf ears. He couldn't afford a burglar alarm, and insurance was too expensive in his neighborhood. Realizing he was on his own, he traced the burglars' path through the roof and into his store and dotted the trail with nails. It didn't work. The thieves learned to negotiate the nails and continued to plunder the store. The hole in Rasheed's roof widened. He was losing his ability to provide the simple necessities of life, like food for his children. Rasheed's solution was to take a couple of steel-mesh grates, the kind that cover store windows in rough neighborhoods, and set them in an inverted pyramid under the hole. He was told by a friend that the upside-down teepee configuration was necessary to allow an electric current to flow through. He then took a simple electrical cord, cut one end to expose the wire, hooked the exposed wire to the grid, and plugged it in.

Rasheed thought, like most people probably would, that the 110-115-volt electric current coming from a wall socket was not enough to kill. People take full hits around their homes all the time. The injuries range from nothing to slight burns. Rarely does someone die from the standard household current. Rasheed figured the burglars would touch the grid, get shocked, and go away.

It only took two weeks before the device was tested. Actually, it's not known how many times it worked as Rasheed

thought it would, or how many burglars it chased away. What is known is that on the morning of September 30, Rasheed's assistant manager, John El-Amin, opened the store and immediately saw a body in the grid. The man was carrying a large portable radio that was still blaring disco music. El-Amin thought it was a careless burglar who had fallen asleep, and poked him a few times to rouse him. When the man didn't budge, El-Amin called his boss and told him the trap had killed someone. Rasheed told his employee to call the police.

Detectives John Spear and Steve Vinson arrived and demanded that Rasheed come to the store. He refused, knowing full well that they intended to arrest him for something. They eventually located the frightened shopkeeper and charged him with manslaughter. Wells and the Liberty City Merchants Association came to Rasheed's aid, taking up a collection to post his \$6,500 bond. He was free, but he was in serious trouble. Florida law prohibits the use of deadly force to protect one's property unless a life is in danger. You can't place the value of material goods over the life of a human being -- even a lowlife human being. The American Civil Liberties Union, and the local criminal law experts at the area colleges and universities, quickly condemned the "vigilante" mentality and were calling for Rasheed's hide.

In a court of law, I was sunk.

I decided to try the Prentice Rasheed case in a higher court. The court of public opinion.

Footnotes

1. The law I used here was the same one used in *Runyon v. McCrary*, the Virginia showdown over discrimination in private schools. It is 42 U.S. Code 1981, an obscure, post-Civil War act passed in 1856 that gave black men equal standing in contracts. It is based upon the Thirteenth Amendment, which along with outlawing slavery, gave Congress the power to pass laws that would bolster the anti-slavery act.

Chapter 15

Prentice Rasheed and the Tutti-Frutti Defense

PART II -- THE NOT SO GRAND JURY

Bringing Prentice Rasheed's case before the public was easy. The media kept calling requesting interviews. The story grew bigger with each new report. Rasheed eventually appeared on such national programs as "60 Minutes," "The Today Show," "Larry King Live," "Nightline" and even "Oprah." He handled himself well and needed only minimal coaching. My son, Mark, and I decided that he should continue to wear his baseball cap during every appearance. The television producers kept asking him to remove it, but I insisted that it remain. The hat established an identity, a "Famous Amos" look that photographed well.

Along each stop of the campaign trail, the support for Mr. Rasheed was overwhelming. The Miami Herald conducted a poll and found that three out of five responding readers believed people should be allowed to use deadly force to protect their property. That was a radical departure from the laws that exist in virtually every state prohibiting the taking of life to protect property.*1 I can understand such

a reaction in Miami, where crime is a problem, but when we left the big cities and ventured into the rural areas, the feeling was even stronger.

Prentice Rasheed had touched a nerve. Most people felt they had the right to protect what's theirs any way they saw fit. They were sick of robbers and burglars stealing their possessions, and were quite angry about what the state was trying to do to Rasheed for fighting back. We received letters of support from across the country. Many contained checks for Rasheed's defense fund. The contributions, which we had never requested, ranged from \$1 sent by a woman in Hawaii, to \$1,000 from an oil company president in Kansas.

This is not to say we didn't face opposition. Criminologists and liberals were quick to condemn Rasheed's actions from an intellectual standpoint. The liberal Miami News and Miami Herald wrote editorials calling for his prosecution. (The Wall Street Journal editorialized against charging Rasheed.) The best opposing view, however, was expressed by Detective Spear, one of the first officers on the scene at Rasheed's store.

"We can't have everyone setting traps in their homes and stores," Spear warned. "What happens if a police officer has to break in? They could be seriously hurt or killed. My brother is a fireman and I'd hate to see him go into a building to put out a fire and get killed by someone's trap."

Good point.

When both sides offer solid arguments, the debate tends to rage on. Rasheed was big news, and there were more supporters than detractors. The Herald's poll found that 73 percent of its readers felt he shouldn't be prosecuted.

Actually, what was saving Rasheed's hide was a big dose of blind luck. I'm reminded of the classic comment rich businessmen from blue-blood families make when asked how they achieved their wealth:

"I chose my parents well."

Similarly, Prentice Rasheed "chose" his victim well. The man who fell into the trap had the proverbial "rap sheet a mile long." Odell Hicks was one bad dude. He had a history of burglary and robbery arrests, and had been convicted of a brutal rape. That last offense won over the female vote right out of the gate. Everybody in the area surrounding Rasheed's store knew Hicks. They described the twenty-six-year-old drug addict as an arrogant SOB who often boasted about the stores he had ripped off and the women he had sexually assaulted.

Circuit Court Judge Ellen Morphonios also knew Hicks. She thought she had sent him away for good in 1977 when she handed down a life sentence plus thirty years.

"He wanted the world to know he was the friendly, neighborhood rapist," Morphonios told The Los Angeles Times. "He bragged that he had raped 75 or 100 women...He went to a wash house and he got one woman's laundry and he spread it out like you'd spread out bread crumbs for a duck. The woman

went along picking it up. When she got to a bushy area, he grabbed her."

Hick's sentence was appealed by his public defenders and was later slashed to eight years.

Carl Hiaasen, a columnist for The Miami Herald, summed up Hicks' death in a single line.

"His contributions to society will not be missed."

What also helped Rasheed's case was the medical examiner's findings that Hicks had been drinking and smoking crack cocaine the night of the burglary. The cocaine in his system may have combined with the minor electric shock to give Hicks his final high.

The confusion over how Hicks entered the store without being shocked, and then couldn't repeat the trick on the way out, had a simple explanation -- greed. On the morning of Mr. Hicks' demise, police found piles of freshly stolen clothing, jewelry, watches and shoes in the alley behind Rasheed's store. The property was just outside the security bars protecting the back door. Hicks apparently didn't put the portable stereo out there with the other booty because he couldn't fit it through the bars, or he was afraid another crook would come along and steal it while he was escaping through the roof. Maneuvering the large, stolen radio through the grate may have activated the deadly electric current that his rubber tennis shoes negated when he entered.

He was also doomed by his own stupidity. Once safely

inside the store, Hicks could have simply unplugged the trap. The booze and cocaine were probably factors in that fatal oversight.

While Rasheed and Mark were hitting the talk show circuit, the pressure was building on State Attorney Janet Reno to decide whether to file the manslaughter charge or drop it. I called her a few times, expressing my concern, but saying only; "This is a tough call. I hope you do the right thing." As I expected, Reno did what all prosecutors do when faced with a hot potato. She tossed it to a grand jury. Usually, this is nothing more than a shell game designed to shield the prosecutor's office from an unpopular decision. It's an effective technique because 99 times out of a 100, the grand jury does exactly what the prosecutor wants.

Grand juries are probably the most misunderstood body in our legal system. When a "grand jury" indictment is handed down in a big case, the media jumps on it and spreads the news far and wide that an important decision has been made. The impression the public receives is that this super-duper jury has found someone guilty. That's not the case at all, and such misleading pronouncements can prejudice future jurors. Far from being a superior entity, a grand jury is actually less important than a regular jury. It's the regular jury that decides guilt or innocence, life or death, jail or freedom. Grand juries actually do little more than

look over the police's shoulder and tell them whether they made a good arrest.

Consider the facts: A grand jury consists of eighteen to twenty-three average citizens who meet in a room in the local courthouse to decide whether there is enough evidence or "probable cause" to indict someone for a crime. In a grand jury hearing, there are no defense attorneys, no defense witnesses, and no defense evidence. All of which adds up to no defense. The state attorneys bring in the evidence supporting their side, call their witnesses and their experts, and present their case in secret without opposition before the citizen jurors. Faced with this one-sided presentation, the panel invariably rubber-stamps what the state attorney asks. (In Florida, as in most states, the state attorney is "the legal advisor to the grand jury.")

An English professor concerned with proper syntax or an innovative newspaper editor wanting to better inform the public should start a drive to clarify the misconception about grand juries. They can start by giving this not so "grand" jury a more descriptive name like "sub-jury," or "minor jury." I like "rubber-stamp jury" myself.

Along with the advantage of profiting from being able to present a one-sided case before a supportive jury, state attorneys have another technique they use in the grand jury process. Sometimes the state sends the accused a letter "inviting" them to testify. Those who feel they are innocent

usually leap at this opportunity to set the record straight. Even the guilty often jump at the chance to defend themselves.

Guilty or not, the accused often leaps right into their own grave.

The prosecutor's invitation almost always includes the killer clause, "you will be required to waive immunity and testify truthfully under penalty of perjury." The translation -- "Our skilled prosecutors are going to hand you a long rope made from the finest hemp. Then, as if by magic, they will get you to hang yourself without you knowing it."

Prentice Rasheed was eager to testify. He was innocent, so why not tell everyone. Hell, it was working in the media. It worked on "Nightline." It worked on "The Today Show." Surely it would work before the grand jury, Rasheed reasoned. He consulted the attorney who did his business finances and was advised that he should indeed testify. He was told that it was a dangerous mistake not to testify. Passing up this opportunity would make it appear that he was guilty.

I told him to forget it. He was naturally upset.

So was I. The prosecutors had a rope knotted and bowed like a Christmas package waiting for Mr. Rasheed.

"Mr. Rasheed," they would ask, "Did you test your contraption before using it?"

"No," he would say.

"Are you a skilled electrician?"

"No," he would say.

"Did you study the effect of electricity on the human body before plugging in your device?"

"No," he would say.

"Did you post any warning signs around your deathtrap to scare off little children, curious young boys playing on the roof, or even a burglar?"

"No," he would say.

"Did you ask the police to inspect it? Did you have an electrician check it out? Are you aware of the Florida statute that prohibits the use of booby traps?"

"No, no, and no," he would say.

They'd slice and dice him with a dozen or so additional questions and build a textbook case for "the negligent taking of human life." That's the definition of manslaughter. It would be all she wrote for one Prentice Rasheed. His Warholian fifteen minutes of fame would be followed by fifteen years of obscurity behind bars.

Rasheed, aided by the stellar advice of his bookkeeper/attorney, was determined to walk into this trap. I reminded him of his promise to follow my orders, but he waived. I detailed the above scenario, explaining that the only way they could prove negligence was getting it out of his own mouth. I also told him the stories of Dorothy Wright and Alger Hiss. Wright was a young woman who was forced at gunpoint to shoot someone. She walked into a grand jury

expecting to be cleared, and came out with a murder indictment. Hiss has the most famous grand jury case. He was a State Department official who wrote the United Nations Charter and was with Franklin D. Roosevelt at Yalta. His world came crashing down when Whittaker Chambers, an avowed communist, accused him of being one too. Hiss was "invited" to respond before Richard Nixon's House Un-American Activities Committee. Despite being advised not to go, and despite being a brilliant, Harvard-educated lawyer himself, Hiss bent to public sentiment and chose to "clear his name" by testifying. He did and denied the charge. A federal grand jury took notice and invited Hiss to testify. He again accepted. But the federal grand jury also invited Chambers. Hiss was not only a communist, Chambers sang, but they were comrades from the same communist "cell."

Two men. Two stories. One of them committed perjury before a federal grand jury. The federal grand jury concluded it was Hiss. A regular jury agreed and Hiss was thrown into prison for five years.

The moral here is that Hiss was not jailed for being a communist, he was jailed for committing perjury. It's not against the law to be a communist. America is crawling with communists. It is against the law to lie to a federal grand jury or to a congressional committee. Had he kept his mouth shut, the charges would have blown over. By responding to the invitations, Hiss hung himself, big time.

After these lessons in American history, Rasheed

finally got the message.

With that settled, I could then deal with Rasheed's well-founded concern over how his refusal would look. After all, we were trying his case in the court of public opinion, and ducking a grand jury invitation wasn't going to look good on the street. But I had that covered. I told Rasheed to tell everyone he would be happy to testify, but it was his lawyers who were the "bad guys" and wouldn't let him. We would then show up the morning of the hearing and I'd take the heat.

We arrived early, giving ourselves enough time to accommodate the mob of media. Rasheed looked sharp in his sports jacket, slacks and maroon baseball cap. When it came time for him to testify, he was handed "The Letter." He promptly gave it to me as I had instructed. I glanced at it, saw the words "waive" and "immunity" and handed it back to Janet Reno.

"I can't let him testify without immunity," I said.

"I thought so," she answered, then convened a meeting with her assistants. They met for an hour or so, apparently discussing whether to grant Rasheed immunity. They decided not to and rescheduled their party without the guest of honor.

The media mob tried to interrogate Rasheed about not testifying. Mark and I shielded him.

"He wanted to, but I refused to allow it," I explained.

Naturally, the mob turned on me. I don't know what it is about me, but the nastier the reporters get, the more I enjoy it. There was no sense in trying to educate them about the grand jury system. I've been trying to do that without success for years.

"You write your stories, I'll practice law," I said to the sea of pens, pads, cameras, lights, wires and disembodied voices.

The hearing was delayed another week. Then we all gathered again at the same place.

While Mark and I jostled with the media mob outside, things were going our way in the grand jury room. Behind the walls, the crucial testimony was coming from two experts. The first was Agustin A. Recio, professor of electrical engineering at the University of Miami. The second was Dr. Joe Davis, Miami's nationally-respected medical examiner. Not surprisingly, the two men contradicted each other on the dangers of electricity. Dr. Recio, a man who has worked with electricity most of his life, downplayed the danger. Dr. Davis, a man who has worked with dead people most of his life, warned of its danger. Such contradictions are typical of expert testimony. You talk about what you know, and if what you know are thousands of electricians who have been shocked by high voltages and survived, you downplay it. But if what you know are hundreds of people who were shocked by sometimes low voltages and ended up on your autopsy slab, you take a more cautious view.

Typical of Dr. Recio's view was this exchange with Assistant State Attorney Leonard Glick:

Glick: If this (cord) were to be attached in the wall right now, could I tell by looking at it which wire, which end of the wire has the...current flowing through it?

Recio: No.

Glick: How would I be able to find that out?

Recio: Touching it.

That was a rather interesting directive, especially when considering that Dr. Davis testified that one small pop of electricity can instantly stop the heart and kill you on the spot.

Fortunately, I think Dr. Recio had the most effective, and certainly the most colorful, testimony. After melting everyone's minds with the technical aspects of electricity, he told some "war" stories.

Dr. Recio: I grabbed the two wires, and it was 480 volts, and I knew exactly what was happening. I guess I danced the strangest dance in my life because I was, my hand clasped, you know, fist clenched, really into the two conductors...I couldn't command my muscles to open. I couldn't. I was kind of dancing...the only way I had was to bend myself and place a foot on top of one of the conductors and pull away, disconnect myself from that conductor...the individuals who were watching me

at a distance thought I was monkeying around, playing around. In reality, I was being electrocuted by 480 volts!...My hands were slightly burned, very slightly burned, and I recuperated without assistance from anybody.

Even more dramatic, and heartrending, was Dr. Recio's "Tutti-Frutti" story.

Dr. Recio: ...we have a ferret, Tutti-Frutti. It's a beloved animal of my family...One night we were watching TV and...we heard a noise in our room...A minute later, seconds later, the noise is a little faster pace and like little legs...I said to my wife, 'Hey wait a moment.' I rushed. She (Tutti-Frutti) had bitten the...extension that was connecting the fan...her fangs had pierced the thermoplastic material of this insulator. She made contact through her teeth with 115 volts, and apparently she could not open her mouth because of the contractions and because of her jumping. She got tangled in the wire...there was no way she could free herself! I pulled the plug and removed her from the cord. The animal was scared to death...but she survived! A little animal like that.

The point being that the 115 volts that little Tutti-Frutti took square in her mouth for "a full minute,"

was the same voltage Prentice Rasheed had hooked to his grid. If it couldn't kill a glorified rat, how could Rasheed have guessed it would kill Odell Hicks?

Dr. Joe Davis explained how. He said it had something to do with "ventricular fibrillation" and "dysrhythmias." In English, he translated that the heart has its own tiny electrical system, and any foreign electrical intrusion can interfere with the natural order and cause it to shut down. It's not so much the voltage as how it travels through the body. If it goes in your finger and out your elbow, you're okay. If it hits you in a way that it routes through your chest, you could be history.

Dr. Davis: I don't think that the average person has any real concept of the dangers of electricity, how little it takes really, in just the right phase of the cardiac cycle, to kill. I don't think people realize that because most people have had shocks. They survive, and you can go down to Home Depot right now and you can buy, for minimal dollars, electric fence attachments. Now, the average person, what do they know about amperes, about voltage, so forth?

Dr. Davis had his own "war stories" to relate.

Dr. Davis: We've run into these cases of sexual aberrations attaching electrodes to the genitals and

you find them (dead) in unusual positions, so these things have happened...Those who get a fatal shock have up to ten seconds to do things. We have a collection of famous last words by these people such as, he's standing in front of a mirror, gets a shock, and says to a fellow worker, 'look, I'm turning blue!' or 'I'm all right,' or 'get me out of here...' that ten seconds of consciousness that you have...is residual oxygen...in the brain to keep you going.

Dr. Davis added that although the "crack" cocaine in Hicks' system could have been fatal in its own right -- it was for University of Maryland basketball star Len Bias -- he didn't feel it played a part in the burglar's death.

Despite Dr. Davis' harsher view of the dangers of electricity, I don't think his testimony was damaging. His warnings about electricity caught everyone by surprise, and he himself acknowledged the public's ignorance on the subject. Both factors worked in Rasheed's favor.

In all, the grand jury met twice and heard thirteen hours of testimony. Even Rasheed's neighbors were called to the stand. But "Tutti-Frutti" and the two doctors had made the biggest impression. When the testimony ended, the decision was placed into the hands of the grand jurors.

That's where our strategy of trying the case in the court of public opinion took hold. Normally, they would have followed the prosecution's lead and ruled to indict, but the

prosecutors had been unusually balanced in this investigation. Because of this, and because the case had received so much publicity, I felt the grand jurors might, for once, act on their own. Grand jurors are regular citizens taken from all walks of life. Most of them probably knew Rasheed's story before they entered the courtroom. Their husbands, wives, children and grandchildren no doubt had opinions on such a hotly-debated case, and no doubt expressed their opinions to the family member sitting on the grand jury. Family members do things like that. They're not supposed to, but try and stop them.

At the close of each day, the judge admonishes the jurors, grand or regular, not to "talk to anyone about this case, or read any newspaper stories or watch television reports." Despite that judicial edict, it's a rare human being who can shoulder the burden of deciding the most sensational case in town without succumbing to the temptation of peeking at the paper, glancing at the television coverage, and/or running the facts by a best friend or trusted relative.

The Rasheed jurors deliberated for two days -- giving them a full night to go home and let Aunt Zelma and the gang throw in their two cents.

For Rasheed, Mark and myself, there was nothing to do but wait. Waiting is the toughest part. For a good man like Prentice Rasheed, a man with no criminal record and no criminal intent, the pain of waiting is intensified. The

body practically goes numb with fear. Would the nightmare be over or just beginning? Would Rasheed's decision to fight back against criminals result in his being considered one? The mind spins. You wait. You think. You fear. And the tension eats at you.

On October 28, 1986, two days short of a month after Odell Hicks' death, the Dade County Grand Jury reached a decision. Rasheed, Mark and the media horde were all packed in my office. As the judge read the verdict in court, a television news producer radioed it to his reporter holding a walkie-talkie in my office. We heard the producer say that the grand jury had found there was "no true bill," meaning there would be no manslaughter indictment against Prentice Rasheed. He practically leaped to the ceiling when we explained that announcement cleared him. Hell, I almost did too.

"I'd like to say to the American people, Allah akbar, God is the greatest," Rasheed told the reporters. "I also want to say that I am very, very sorry, deeply sorry, that the life was taken of young Mr. Odell Hicks."

Did our strategy of trying the case in the court of public opinion make a difference?

"The only reason he got off was the public sentiment," declared Detective Spear.

The wording of the grand jury's decision reveals how close a call it was:

"Prentice Rasheed used deadly force...he was not justified in doing so. However, we find no evidence that Prentice Rasheed intended to use deadly force to protect his property. We find no evidence that he intended to kill or cause great bodily harm...The deceased was electrocuted by a current of 115 volts. That is the current in our homes. Each of us has been shocked by such a current. None of us were seriously hurt by such shocks. The experts agreed that the majority of citizens would expect a shock from the device arranged by Prentice Rasheed, but would not expect it to cause death or great bodily harm. As average citizens, we agree with this finding...this grand jury feels very strongly that intentional killing solely to protect property...should never be tolerated. Deadly force is permitted and should only be tolerated when it is necessary to protect one's self or others from death or great bodily harm.

"We caution citizens who would protect either their persons or property with electrical devices such as rigged by Mr. Rasheed. We have learned just how dangerous a household current can be. Everyone is on notice that electrical devices designed to jolt you can kill you and laws against such devices should be reviewed and enforced.

"We understand and share Mr. Rasheed's frustration with crime in our community. But the answer does not

lie in taking the laws into our own hands. The answer lies in improving the capability of the criminal justice system to prevent crime and to take forceful action against crime."

All of which sounds noble and fair, but as I mentioned earlier, the only thing that saved Prentice Rasheed was the criminal record of the man he trapped and possibly the color of Odell Hicks' black skin. Had Rasheed trapped Detective Spear's brother, a white fireman, you can bet he would have been indicted. And he may have been convicted of manslaughter or possibly second-degree murder in the subsequent trial. Therein lies the problem with blind traps and similar efforts by the public to fight back. The next Prentice Rasheed isn't going to have it so easy.

The grand jury's decision does tell us something good about our legal system. Under the law, the criminal background of Odell Hicks was not to be considered. Under the law, Prentice Rasheed's guilt or innocence should have been judged no differently had he trapped Charles Manson or Billy Graham. But the citizens of the jury were able to see through the "blind justice" and render their decision based upon exactly what happened.

Although courtrooms are filled with eloquent lawyers and wise judges, the most important cases continue to be decided by the average citizen.

Epilogue

Prentice Rasheed's celebrity continued for an unusually long time following the grand jury verdict. Many of the television appearances, such as "60 Minutes" and "Oprah" came after the decision. He was awarded the honor of serving as the Grand Marshal of the King Mango Strut parade in Coconut Grove, and ran unsuccessfully for the Metro-Dade County Commission. Someone even wrote a rap song about him. As long as he wears his hat, he's widely recognized around South Florida. His store has become something of a landmark and business has picked up. Rasheed, ever the businessman, has decided to capitalize on his small measure of fame by designing and marketing a burglar prevention device.

He was burglarized again shortly after the verdict -- someone shattered the storefront window -- but as of 1989, hasn't been seriously robbed since.

Ironically, a few months after the grand jury rendered its decision on his case, a less favorable decision was reached on mine.

Rasheed was free, but I was going back to jail.

Footnotes

1. As of 1989, only Colorado and Louisiana have enacted so called "Make my day" laws that allow home and store owners to shoot burglars.

Chapter 16

The Jailing -- Part II

"There is an extremely difficult ethical problem here. We did the best we could." -- Judge Phillip Hubbart, Third District Court of Appeals, Florida

Unlike Prentice Rasheed, any attempt to plead my ongoing contempt case in the court of public opinion would have been fruitless. There wasn't a single area of the entire appeal process where I would face a jury, grand or otherwise. The Miami Herald could have taken a poll and discovered that 100 per cent of its readers believed that I shouldn't be prosecuted in the Sanborn case, and it wouldn't have mattered. Judges were deciding my fate, and I had disobeyed the orders of a member of their fraternity.

And judges usually don't care what their Aunt Zelma thinks.

On December 27, 1986, two days after Christmas, the Florida Supreme Court decided not to hear my contempt case at all. That enabled them to avoid the whole issue of attorneys presenting false testimony, and they were able to do so without comment. When a state supreme court, or even the U.S. Supreme Court, decides not to hear a case, they're

not obligated to explain why.

A month later, I was back in the booking room watching the flotsam and jetsam of society parade before me. Studying my fellow lawbreakers closer revealed that many were more dead than alive. Unlike last time, when it was all new and horrifying, I began to feel compassion. Those of us who were blessed with caring parents and opportunity know nothing of what it's like to grow up without either.

One of the first problems I encountered, aside from the visual splendor before me, was that no one knew if my crime was a misdemeanor or a felony. Contempt of court is hazy. The corrections officer called Judge Shapiro. He told them to book me as a felon. That meant I would be sent in with the murderers and rapists and other fun types. Shapiro was getting burned in the press once again for his insistence upon jailing me, and apparently was going to make me pay for it. If he could have found a way, I'm sure he would have ordered me to spend my thirty days on death row in a cell with mass murderer Ted Bundy.*1

I was given another blue prison uniform and handed a toiletry kit provided by the Salvation Army. That's the most valuable possession a prisoner has. The kit contains soap, a plastic razor, a toothbrush, toothpaste, talcum powder, shaving cream and after shave lotion. I wouldn't need the razor and shaving cream. I decided to let my beard grow as a protest against a legal system that jailed an attorney for refusing to permit perjury.

I wasn't the only one protesting. Outside the Dade County Courthouse, Prentice Rasheed, Watergate burglar Frank Sturgis and a young man named Angel Jorge had organized a rally. About forty people showed up, many waving signs saying "Free Ellis Rubin," and "30 Days for Honesty?" A second group picketed the jail. Overhead, an airplane circled the courthouse trailing the streamer "Let Our Lawyer Go."

What was interesting was the makeup of the picket lines. There were blacks, whites, Latins, Italians, Jews, and Haitians standing together, forming a rare blend of Miami's cultural variety. The chanting protesters made great video for the television news shows, but it didn't help me much. Judge Shapiro was determined that I was going to do every second of thirty days. Even a personal appeal from my rabbi, nationally-known Jewish leader Dr. Irving Lehrman, failed to elicit any mercy from the judge.

Shapiro was not without his own supporters, especially in judicial circles.

"Rubin's personal view that the decision...is erroneous quite obviously cannot excuse his disobedience," agreed Judge Daniel Pearson of Florida's Third District Court of Appeals.

When it became apparent that this would be a real jail sentence, and not a in-and-out cup of coffee like last time, the reaction in the media intensified.

"It is the most bizarre episode yet in a stormy legal

career spanning thirty-five years," wrote Charles Whited, The Miami Herald's respected columnist. "...And I, as part of the jail house press crowd, wondered at the necessity of clapping a veteran lawyer behind bars on rather flimsy cloth."

The next day, The Herald wrote a lead editorial under the headline "No Good Cause To Jail Mr. Rubin."

"...to see the Miami lawyer behind bars as a prisoner of conscience surely gives most folks in South Florida an image of justice gone awry...

"...It may be legal for a lawyer knowingly to assist in perjury, but it's not right. It's asinine...there is no good cause -- none -- for ordering a lawyer to suborn perjury.

"Something is dead wrong when blind obedience is called upon to govern the conduct of a lawyer over any other consideration -- including principle. At a time when felons are often sentenced to house arrest or given light probation, locking up a lawyer for refusing to suborn perjury certainly sends the wrong signal to society."

The Fort Lauderdale News/Sun Sentinel, which had written a supportive editorial the first time I was jailed, echoed similar sentiments in a second editorial published the same day as The Herald's:

"...a Miami judge has inexplicably found room to imprison an attorney whose only crime was to recognize that his duty to represent his client was outweighed by his duty to uphold the state's and his own code of ethics...Rubin does not belong behind bars; his presence there mocks justice."

I was ordered to mock justice in a barracks at the Dade County Stockade. My new home had about forty bunks. On one end was a bathroom with showers, plus an area for watching television. On the other end was the guard and another television set. One TV broadcasted in English while the other was frozen on the Spanish station. The television sets blasted about twenty hours a day. The lights were on twenty-four hours a day. The only way anyone could sleep was to get a Sony Walkman-type radio and play soft music through those spongy earphones. That, and wrap a towel around your eyes to keep out the light. Anybody walking through the prison at night and seeing cell upon cell of prisoners with earphones and towels wrapped around their heads would get the impression that some kind of laboratory experiment was going on. Actually, it was an experiment. An experiment in survival.

While there were methods to combat the noise and light, there was nothing to do about the smoke. Virtually everyone in the jail smoked. The thick haze hung in the air

like Dante's Inferno.

On the positive side, my fellow inmates treated me well. In fact, they were overprotective. From the first day I was there, the toughest black prisoner, and the toughest Cuban prisoner each took bunks to my left and right. When I showered, they stood guard and didn't allow anyone else inside. They never said why they did this, and I never asked them. I suspect that my history of championing both black and Cuban causes in Miami for nearly four decades must not have gone unnoticed, even among the prisoners.

The food was plentiful and wasn't that bad. It was the hours that were the killer. We ate breakfast at 3:30 a.m., lunch at 10 a.m., and dinner at 4 p.m. They gave you ten minutes to eat, no more, no less, and made you eat everything with a plastic spoon, including spaghetti. A fork or a knife could be used as a weapon.

I got into a brief scuffle with a prisoner over the use of the telephone. He went over his allotted ten minutes and I was getting pretty testy. The other prisoners broke it up before any damage was done. That was fortunate. A sixty-two-year-old attorney has no business taking on a prison-hardened man half his age.

I was taken out of the prison a few times to attend hearings on my ongoing cases. Like everything else, that too was a lousy experience. The corrections officers put me on a bus where I roasted for hours in the hot sun before it filled up and was allowed to leave. At the courthouse, I was

put into a "hold" cell while my colleagues wandered by to visit their clients. Many were startled to see me in the little monkey cage. The majority of my fellow attorneys wouldn't even look at me. Apparently, seeing me behind bars exposed their own shame for putting clients on the stand they knew were lying.

I was in court one morning for a pre-trial conference regarding the Yahwehs, an 8,000-member black religious group who wear white robes and consider themselves to be the true Semites. They believe their leader, Yahweh Ben Yahweh, is the son of God and the long-awaited Jewish Messiah. The local Jews, of course, are appalled by this big, blue-eyed black man who claims to be their Messiah. Actually, Yahweh Ben Yahweh is a personable man with firm convictions. He's taken in people with no hope, and no self-esteem and given them a purpose. Whatever one feels about Yahweh Ben's claims, he and his followers have done wonders in the area of urban renewal. They've purchased acres of run-down ghetto property, chased out the drug dealers and muggers, rebuilt and refurbished the areas, and created profitable enterprises. The vandalism and burglary that blights other depressed zone businesses, a la Prentice Rasheed, doesn't affect the Yahwehs. That's because everyone is scared to death of them. A former Yahweh member was convicted of murdering some people who refused to see the light during one of their restoration projects. The man then turned around and accused the Yahweds of chopping off the heads of

their enemies, adding to their menacing image.

I appeared that morning before Judge Ellen Morphonios. She's a tough law-and-order type who was featured on "60 Minutes" for handing down long sentences.

Appropriately, I stood in front of her wearing handcuffs. Instead of applauding my condition, she took one look and ordered my keeper to immediately "take those damn things off of Ellis!" She toughened up again when I asked for a delay in the upcoming trial because of my circumstances. She refused to grant it and ordered me to interview witnesses at the jail. That wasn't a pleasant thought. The poor Yahwehs had a bad enough public image without having to truck down to the Dade County Jail to confer with their felonious attorney.

I was also escorted before Judge Ted Mastos for another hearing regarding the Yahwehs. Judge Mastos was more sympathetic.

"How much longer is Sidney going to keep you there?" Mastos wondered. "He's made his point. This is uncalled for."

Back at the stockade, my first job assignment was to reorganize the prison law library. I took to that with a passion. Inactivity is the worst enemy of prisoners, and most take to their jobs with interest and dedication. My task was to sort through the partial sets of Florida law books that had been donated to the jail. I was given some

assistants and together we alphabetized and stacked the books. After that, they assigned me to teach history, English and reading. Many of the prisoners couldn't read, which was no doubt one of the major reasons they were there to begin with. I enjoyed the teaching and my classes were well attended. So many of the men longed to make it on the outside without having to resort to crime. It was sad.

In contrast with the rest of world, prisoners dread the weekends. During the week we had our assigned jobs to keep us busy. On the weekends, we were locked down and forced into the dreaded inactivity. The weekends dragged on, and I began to long for Monday so I could get back to work. What a contrast to the Monday-morning blues on the outside.

During our exercise periods in the yard, some of the prisoners played volleyball. The "Violators" were pitted against the "Perpetrators." I was the referee. In the middle of one game, a prisoner sidled up to me. He spoke out of the side of his mouth to avoid detection.

"You the lawyer?"

"That's me," I answered in a similar, side-of-the-mouth fashion.

"Do you defend murderers?"

"Sometimes."

"Will you defend me?" he asked.

"Did you kill someone?" I inquired.

"No, but when I get out, I'm gonna jack up two people."

"Get outta my face," I said, using the proper prison lingo.

Next to the surreal horror of the prisoner booking area, the most "interesting" place in the stockade was the visitors room. That's where the prisoners and their visitors attempted and perfected every creative form of undetected public sex they could get away with. Bending down to pick up a dropped pen would reveal some startling pornographic sights under the tables. The soulful kissing also served another purpose. Women would transfer packs of cocaine from their mouths to the mouths of their beaus. Two were arrested for that while I was there.

After receiving my first visitors, I realized why the prisoners were so intent on getting the most they could out of the visits. The penalty for having a visitor was severe. Following every visit, the corrections officers would force us through an extensive strip search. They poked and probed every orifice in our bodies. It was terribly degrading. After the first time, I called my family and said there would be no more visits. I'd rather be alone for a month than go through that again. Fortunately, I was able to have my wife added to the defense team. That enabled me to see her without subjecting me to the post-visit rape. Irene took advantage of the situation by hiding Hershey bars and apples in her bra and smuggling them into me.

We never tried the kissing method.

With all the smoke, coughing, strange hours, dangerous

inmates and what not that could have placed me in peril, it was something as simple as air conditioning that eventually did me in. The prison was freezing. People have different tolerances for temperature. What's comfortable for one person is deadly for another. This lesson in physiology explains why control of the thermostat is one of the most fiercely protected domains of inmate society. In the Darwinism of the prisons, the cold-weather forces have evolved into the winners. I'm a hot-weather person, so the relentless frigid air blowing upon my body began taking its toll. By the second week, I was getting sicker and sicker. I called my doctor, Jay Levine, described my symptoms and he became alarmed. He said I probably had pneumonia. He called the prison officials and told them I needed treatment. They said they would take me to Ward D, the prison unit at Jackson Memorial Hospital, the county's huge public medical facility. Ward D makes the booking room look like Club Med. The only thing worse than going to Ward D was going to the electric chair, and that's debatable because the electric chair is quicker. I refused and they called Judge Shapiro. At first, he said it was Ward D or no where. Then, apprised of my critical condition, he finally relented and allowed me to go to the Miami Heart Institute at my expense -- and on my own time. That meant the clock stopped while I was in the hospital. When I was better, I would have to resume my full sentence with no time credited for the hospital stay. I was in the hospital a week, thus increasing my thirty-day

sentence to thirty-seven days.

When I was ready to resume my sentence, they sent me to the North Dade Detention Facility to keep me from infecting the general prison population. There I had a choice of rooming with the trustees or going into an isolation cell. The trustee cell contained six men, was filthy, and was about forty degrees. I figured I'd last one night in there. I chose the isolation cell. I could use the peace and quiet, I thought.

I was brought to a dismal room about ten feet long and nine feet wide, with a cot, a sink, a chrome toilet, and a steel mirror. When the door slammed behind me, it was pitch black. The only thing I could see was a sliver of light coming through the food tray slit in the door.

In a black cell, you have nothing to do but let your mind wander. It gave me an opportunity to think over my life and career and many of my past cases. It gave me a chance to try and determine who I was, what made me the way I was. As I sat in the dark, I remembered things that I hadn't thought of in years. But one thing that really came back was being alone.

This wasn't the first time I was ordered into isolation. There was a small boy, more than a half century before, who suffered the same fate. And his only crime was being imperfect.

Footnotes

1. Which probably wouldn't have been that dangerous, since Bundy once asked me to represent him.

Chapter 17

Lockjaw

One of my earliest childhood memories is of peering out a hospital window in Syracuse, New York watching Dr. Harry Kallet drive up in a black Model A sedan with tall, white tires. I was four years old, so it must have been sometime in 1929. It was snowing that afternoon and the roads were icy. Dr. Kallet was always in a mad rush. Not surprisingly, his car entered the hospital grounds at a greater speed than the other cars. As I stood at the window, I saw the doctor's car slide across the road and careen off the shoulder, crashing into a sycamore tree. Dr. Kallet jumped out, grabbed his black bag, and walked briskly toward the hospital.

Dr. Kallet was our family doctor. He had come to the hospital to see me, and was standing in my room in a matter of minutes. As he examined me, I watched with fascination as bright red streaks of blood dripped from his bald head, rolled down his forehead, over his nose and into a bushy brown mustache that was slowly turning crimson. Although the doctor occasionally dabbed at the cut on his head with a white handkerchief, it was obvious that he paid little heed to the injury and the accident. He was far too busy to

trifle with any interruption of his tight schedule.

I had been in the hospital for nearly a week suffering from scarlet fever. The fever finally had broken and Dr. Kallet hurried over to say that I could go home. He snapped his bag shut, turned and dashed off, still bleeding from his bald head.

When I returned home, I couldn't talk right. In fact, I couldn't talk much at all. I'm not sure if I had the problem before I went to the hospital, but for some reason, the two events are associated in my mind.

I couldn't talk because I had a severe case of stammering, a disability often confused with stuttering. Stammerers frequently become stutterers, but in its purest form, stammering is by far the worst of the two. A stutterer repeats sounds machine-gun style before the word comes out. For example, "house" becomes "hou, hou, hou, house." A stammerer can't even make the "hou" sound. When the stammerer comes to the example word "house" in a sentence, the face contorts, the mouth moves and nothing, not a sound, emerges. It's a total block that stops speech dead.

For a stammerer, learning to stutter to get through a sentence is a step up.

Among the words I blocked, "Ellis" was the most frequent -- and most frustrating. For virtually my entire pre-teen life, I was unable to say my own name.

My condition was a shame to my parents. They didn't understand what was wrong and kept bringing me to Dr.

Kallet, a general practitioner. In the early 1930s, there were few speech therapists. Most parents took their stammering or stuttering children to medical doctors whose understanding of the handicap was limited. (Even today, medical science has trouble pinning down the cause or cure.) Dr. Kallet did his best to help, but his attempts at finding a cure now appear barbaric.

The worst of which was to convince my parents to send me off to a farm where I would be isolated from my family and forced to live like a monk in a world of silence. The theory was that I needed to rest my throat and facial muscles and escape the environment that was supposedly causing the problem.

My parents dutifully located a middle-aged farm couple who lived out in the frozen boondocks of upstate New York. They were complete strangers and had advertised for help, or boarders, in the Syracuse newspaper. These strangers were to be my new "parents" for a year. My mother packed my little blue suitcase, bundled me up in corduroy knickers, black ear muffs and dark red mittens, and led me to our Buick.

I felt like an unwanted dog being taken to the pound.

We drove three hours in the snow to reach the farm. I was bewildered by it all, but was too ashamed by my inability to talk to stammer out a protest. After arriving at our destination, my parents chatted awhile, handed over my things and got back into the car to drive away. I ran out to them, clutching my mother's leg in a death grip and

screaming hysterically. My mother, fighting her own tears, picked me up and handed me to the farmer. She climbed into the car and drove away. Although my parents explained that I was only going away for a "long visit," I knew something was wrong and suspected that I would never see my father and mother again.

That night, I was placed into a gray room that contained little more than a small bed. I cried myself to sleep.

All that's left in my memory regarding the farm couple are a few fleeting images of a husky man in a red-checkered shirt and an equally sturdy woman in a white apron. I rarely said anything to them, and they didn't talk much to me. In fact, they didn't talk much to each other. I can't remember if they were mean or nice, just that they were quiet. I was the only child on the farm, and I don't remember any visitors ever coming by. The atmosphere was bleak and isolated.

Life on the farm consisted of getting up at dawn, collecting chicken eggs, milking cows, shoveling out the barn, chopping down trees, gathering firewood and remaining silent. Each day seemed to last a hundred years. I was only five, so I don't know how big a tree I could have chopped, or how much help I was, but I remember working sun up to sun down.

The animals were my only friends, but I quickly learned not to become too attached. I was horrified when one

of my friends, be it a chicken, pig or turkey, was slaughtered for dinner.

I didn't attend school, and although my mother wrote letters, I didn't speak to my parents the whole year. I don't know if the couple had a phone or not, but it didn't matter. I was afraid of telephones and was unable to say one word into the receiver.

Despite the slowness of the days, the seasons eventually changed and the cycle was about to repeat. In late fall, just as the maple trees were becoming bare, my parents drove up. I was thrilled to see them and was overjoyed when they said they were taking me home.

When I returned to Syracuse, my parents were crushed to discover that I still couldn't talk. In fact, I was worse than before! The year in isolation had accomplished nothing. That night, fearing a return to the farm, I gathered up my things in a small wooden wagon and ran away. I made it to the fire station where a beefy fireman with a big smile figured out what I was up to and called me over. I couldn't talk to him, but somehow he learned my name and address and took me home. My grandfather gave me a spanking.

I was so angry I set fire to an empty field of tall, dry grass near my house. The fire grew into a sweeping blaze that required two firetrucks to extinguish. I was quickly fingered as the suspect and my grandfather beat me again. After the firetrucks left, I grabbed a broom and went out into the field to beat out the smouldering chunks of grass.

That only fanned the flames and started the fire again. Back came the firetrucks, sirens blaring. My grandfather spanked me for the third time that day and locked me in the garage where I was forced to spend the night on the floor.

Life was going from bad to worse, and it was all because I couldn't talk right.

My parents continued to seek Dr. Kallet's advice. I went through a series of cures, all of which will bring back nightmares to anyone who suffered a similar speech impediment. I was told to think before I spoke, to think out every word, every sentence. That merely increased the fear and the stammer. I was told to take a deep breath and talk only as I exhaled. That was silly.

I was instructed to tap my toe as I spoke, to get some kind of rhythm. It didn't help.

My parents were instructed to purchase a metronome and I was supposed to speak in time with the ticking.

That may have helped Liberace learn to play the piano, but it did nothing for me.

My family eventually moved from Syracuse to Binghamton, and I escaped Dr. Kallet and his cures.

As I grew older, my mind began to develop its own solution. Stammerers develop a "tic" or "starter." That's a word or sound used as a crutch to get us through a sentence. These are the common words "you know," "really," "right," "know what I mean," and "uh" that infests many peoples' language, even those without diagnosed speech impediments.

Stammerers also develop a keen vocabulary. When the tongue freezes, the mouth says, "uh" while the mind searches its memory bank for a synonym to replace the blocked word. After a while, a stammerer can get very good at hiding the problem.

For example, if someone asked my name, my answer would be: "My name is, El, uh, uh, Rubin. And my first name is, El, Ellis."

I also began to go to the library and read everything I could about stammering and stuttering. To my dismay, I learned that the doctors of the time believed there were four main causes:

1. Scarlet fever burning out some of the nerve connections.

2. Left-handed children being forced to change into right handers, as was the practice in those days. The rationale for the stammering being that screwing up the brain/arm connection also screwed up the brain/tongue pathways.

3. Being a forceps baby and suffering nerve damage.

4. Suffering a head injury.

Besides the bout with scarlet fever, I was a left-handed forceps baby who suffered a head injury from falling out of a moving automobile. And I had been forced to learn to write with my right hand.

This discovery made me believe I was physically a mess and further increased the fear.

Yet, as I continued to grow, I began to notice some strange aspects of my handicap. When I was ten, I realized I could speak clearly and without hesitation into a telephone -- as long as I held the hook down with my hand. The second I released the hook and heard a human voice, my mind froze and my tongue scrambled. Put the hook back down, and I was as glib as President Roosevelt.

I could also speak when alone, and to my mirror image, but couldn't talk to people. Reading aloud to others was impossible.

My relationship with schoolmates and neighborhood children was naturally strained. Stammerers and stutterers probably face more abuse than those with any other handicap. If a child is blind or crippled, there's a natural sympathy. If a child talks like Porky Pig or Roger Rabbit, it's open season. To escape the taunts, I buried myself in sports and literature. I was drawn to books about great lawyers and politicians, people who were outstanding orators. I envisioned myself in their place, giving rousing speeches to cheering throngs.

Unfortunately, I couldn't spend all my time playing ball and hiding inside my imagination. I had to face the outside world. This led to the inevitable humiliation that burns into the memories of all stammerers and stutterers. Describing these painful moments never captures the embarrassment one feels. One incident stands out in my mind.

When I was ten, my father gave me a Flexible Flyer

snow sled. He sold them at his Army/Navy store, so he brought one of the expensive toys home. The Flexible Flyer was the Cadillac of sleds. Most sleds were made from rigid steel and went straight. The Flexible Flyer had joints and rivets that allowed it to be steered. Not only that, it would fly like you wouldn't believe! I ran out to the big hill where all the kids used their sleds and zipped down a few times, weaving in and out and feeling like a million. Then a dark cloud named Shibley Hyder appeared. I remember his name to this day. He was an Armenian brute who was the neighborhood bully. We were about the same age, but Shibley was twice as big. He and his gang of mini-thugs knocked me down and took my sled.

"Don't worry about Ru, Ru, Ru, Rubin," he said. "He can't even te, te, te tell anybody who ta, ta, ta, took it!"

Everyone laughed. I ran home crying, as much from the humiliation as from losing the sled. I told my father what happened, and he drove over to the Hyder home that evening and retrieved the Flexible Flyer.

I had my sled, but I couldn't go to the hill anymore. Shibley vowed to dismember me for telling on him.

In junior high, there were two kids who constantly taunted me. Their names are also burned into my memory -- Billy Aykroyd and Robert Pierpont. Aside from ridiculing my speech impediment by calling me "lockjaw" and the standby, "Ru, Ru, Ru, Rubin," they called me a "dirty Jew" and "Christ killer."

I had only two close friends. As I mentioned in the Introduction, one was Rodman Serling. He would grow up to become a great author, screenwriter, and the producer/creator of the classic television series "The Twilight Zone." My other friend was another boy who lived nearby, a big Polish kid named Steve Skomskie. Steve had the bright idea to have me challenge Billy Aykroyd to a boxing match. I did, and Steve set the date for a month away. Steve had two pair of boxing gloves, a heavy bag and a speed bag in his basement, so he became my trainer. His training consisted of beating me senseless every afternoon after school. Rod also took an interest in the fight and would stop by to offer eloquent words of encouragement. Rod additionally took it upon himself to spread exaggerated tales of my boxing prowess around school, a strategy aimed at sowing fear into the mind of Billy Aykroyd.

When the day came for the fight, I was petrified. I wouldn't get out of bed and Steve and Rod had to come get me. They practically dragged me to Steve's house.

"If you don't show up, you'll be worse off than before," Rod exclaimed. "Everyone will think you're a coward. You have enough problems already not to have to deal with that too!"

Thanks Rod.

When I arrived at Steve's house, I discovered that he had built a ring and had surrounded it with chairs. Seated in the chairs were twenty kids. Steve was charging five

cents a head for ringside seats, a nice piece of change for a child in 1937.

We waited and waited, but Billy Aykroyd never showed. I was thrilled. Steve and I put on an exhibition, but without the element of hate, the audience screamed for their nickels back. Steve refused and things got ugly. Rod and I slipped away before the riot.

The next day at school I was a hero and Billy Aykroyd was taunted for being a coward. For a few days, I could even talk some. It was the damnest thing. Unfortunately, as the memory of the non-victory faded, the fears returned and my tongue twisted up.

Back to the library I went, reading about lawyers and stammerers. I read somewhere that the great Athenian orator, Demosthenes, had been a stammerer or a stutterer and cured his problem by putting pebbles in his mouth, going to the Mediterranean Sea shore, and shouting speeches over the crashing sound of the waves. I began putting marbles in my mouth and speaking to my mirror image. I practiced that way and actually made progress.

Then came high school. That proverbial rite of passage has rocked the self-esteem of millions of teenagers. Whether it's an ill-timed plague of acne, a nose grown huge overnight, weight problems, an inability to deal with puberty and the opposite sex, paralyzing shyness, physical or emotional immaturity, or any of a hundred other reasons, high school can be brutal. With me, these typical hurdles

combined to tangle up my tongue as never before. High school became a nightmare of dodging teachers' orders to read out loud, skipping classes when I was supposed to give speeches, and burying myself in the library. Sports continued to provide a physical escape and boosted my sagging confidence. I was especially good at baseball and track. But even still, high school for a stammerer was the pits.

When I was a senior, I had another humiliating experience. I was working in my father's Army/Navy store, and wasn't paying attention one day when my father suddenly appeared with some family friends. Stammerers and stutterers spend their lives anticipating situations either to avoid them or prepare a set speech to handle it. This time I was caught off guard with an unexpected introduction.

"And what's your name, young man?" the stranger said.

"Uh, uh, uh, uh," I completely froze up. I couldn't say "Ellis." Seventeen years old and I couldn't say my name. I panicked and began to sweat. I ran to the restroom, sobbing. My father was terribly embarrassed. I decided I was going to leave Binghamton forever the day I graduated.

Within a week, I inadvertently found the way out. My old boxing coach, Steve Skomskie, decided to catch a train to New York City to take the qualification exams to become a navy fighter pilot. He asked me to accompany him on the trip. When we arrived at the recruiting post at 90 Church Street, Steve said, "You might as well take the tests with me, Ellis." I did and found that all those years hiding in

the library paid off. I scored high and was accepted. Ironically, Steve was found to have sugar in his urine and failed.*1

When I returned home, my father couldn't believe it. It was 1943. America was in the middle of World War II. There was much concern in the Rubin family about how America was faring if the navy was so desperate that they accepted me into officers candidate school.

"How can you give orders?" my father asked. "You can't even talk. What if you have to radio for help?"

After I graduated high school, the navy sent me to Trinity College, an Episcopalian school in Hartford, Connecticut. At Trinity, an amazing transformation occurred. When I put on the crisp white navy uniform, most of my stammering vanished. The uniform and the authority that came with it was the ultimate "tic." I could memorize orders and shout commands without missing a beat. I still had to duck out of general curriculum classes that involved oral readings or speeches, but when placed in a position of command, I could communicate.

Halfway through the term, the navy found itself overstocked with pilots. The 800 men in training at Trinity would be given a test. The top ten percent would remain in college, while the rest, 720 men, would be immediately shipped out to the fleet. It was 1944 and the war was raging. When the test results were posted, 800 men crowded around the bulletin board. I could smell the nervous sweat

in the air.

Once again those years hiding in the library paid off. I finished seventy-eighth, just squeezing under the eighty-man limit.

The navy transferred me to Holy Cross, a Catholic college in Worcester, Massachusetts. Aside from getting a general education and a military education, the navy was giving me a well-rounded religious education as well.

The pressure to succeed at Holy Cross remained intense. Each Friday the officer candidates were given tests on the information dispensed that week. Fail one test and out you went to the fleet. No consideration was given to a stammerer ducking classes to save himself from embarrassment. I was forced to learn a new trick. I discovered if I memorized pages in the text books, I could repeat them back from memory without blocking up. For some reason, the route from the memory banks to the tongue bypassed whatever my problem was. It was a tremendous amount of work, but I memorized and survived.

In fact, I began to memorize my entire life like an actor playing a movie. Dates, social activities, sports, everything I did was planned. When I told a date, "I love the way your eyes sparkle in the moonlight," it came from the script. When I said, "nice shot, Chuck," to a guy on the basketball court, it was play acting. It was a bizarre way to live, but it beat the alternative.

I graduated Holy Cross on June 20, 1946. It was my

twenty-first birthday. I became a college graduate, an ensign in the navy, and earned the right to vote all on the same day.

By that time, the war was over and America was paring its armed forces. Pilots were no longer needed, so I was never sent through the rigorous training depicted in the movie "An Officer and A Gentleman." I served on the USS LST 861 -- the "LST" standing for Landing Ship for Tanks.

My plan was to remain in the navy for life, forever hiding my handicap behind the stripes on my shoulders and memorized commands. It wasn't to be. There were simply too many soldiers with no war to fight. This time I couldn't beat the cut by taking a test. The post-war navy had the luxury of weeding out everyone but Annapolis-trained officers. I was assigned to the reserves and shipped home to Binghamton.

No longer able to hide behind a uniform, and back at the scene of my worst memories, the stammering demon once again possessed me. The naval officer in the smart white duds was a memory. In his place was the stammering boy everyone made fun of.

After moping around for a month or so, I decided to escape Binghamton and use the GI education bill to pursue my lifelong dream of becoming an attorney. I had licked the stammering problem before by focusing my mind on a greater purpose. Maybe I could do it again.

I chose the University of Miami law school for a

number of reasons. It was new, class attendance was secondary to passing tests, and graduates weren't required to pass the state Bar exam. The class attendance waiver was crucial. That enabled me to do my dodge again, ducking out of public speaking classes and hiding my handicap. I located a speech therapist on the campus and began secretly taking classes. However, by then, it was apparent that my problem was psychological. It was a blush that publicly exposed my feelings of shyness and low self-esteem.

I survived law school and graduated in 1951. As I mentioned in the Introduction, the great New York attorney Sam Leibowitz gave a stirring speech at my commencement, inspiring me to ignore my handicap and go after my dream of becoming a trial lawyer. Miraculously, the stammering and stuttering all but vanished when I stood before my first jury.

It has never returned.

It's difficult to accurately analyze the factors that sculpt one's own life, especially when that life was molded by struggling with a handicap. That's a job for psychiatrists and psychologists. Still, as I lay in the darkness of the jail isolation cell, I tried to determine what affect my early life had upon me.

My navy training had a direct correlation as to why I was in jail. The navy had instilled in me an unwaivering sense of right and wrong, an attribute that even before my

jailing had forced me to be at odds with the often crooked world of American law. My multifaceted religious training was also a factor. Whenever I faced a routine ethical or moral problem, I recalled Holy Cross' simple code:

"I will not lie, cheat or steal, nor will I tolerate anyone who does."

One can't begin to imagine how difficult it's been for a lawyer to hold on to that credo.

The lingering effects of my long battle with a speech dysfunction run even deeper. The two things a stutterer or stammerer fears most are public speaking and confrontations. The ultimate fear would be a public confrontation. As an outspoken defense attorney, I've spent the last thirty-eight years speaking publicly and being involved in heated confrontations. And I've taken it far beyond the courtroom. I've been grilled under the hot camera lights by investigative journalists from such television programs as "60 Minutes," "Nightline," "West 57th" and "CBS Morning News." I've been involved in heated debates on virtually every major television talk show, including "Oprah," "Donahue," "Larry King Live," and "The Morton Downey, Jr. Show."

For some reason, I find that I now relish the opportunity to do the exact thing that terrified me as a child and young adult.

My wife feels I'm compelled to continually test myself under intense pressure to make sure that the stammer isn't

lingering inside waiting for an opening to return. Perhaps. But I'm reminded of the great athlete Glenn Cunningham. Cunningham burned his legs in a schoolhouse fire as a child and was bedridden for nearly two years. He came close to losing the ability to walk. After willing himself out of bed, he not only began to walk, but run. He ran and ran until he could run a mile faster than any human ever had.

I'm sure that Glenn Cunningham was fueled by the memory of a sick little boy with withered legs laying helplessly in bed.

Just as I can never forget a lonely little boy on an unfamiliar farm collecting chicken eggs on a freezing New York morning.

As much as the stammering problem and the navy experience affected me, they only formed the foundation of my life. The structure was built by the subsequent years battling in court, and the endless string of bizarre cases fate tossed my way.

Continuing my forced introspection in the jail isolation cell, I turned the dial of my small radio and picked up the broadcast of a National Basketball Association game on a distant station. I heard the announcer mention something about the game being blacked out on local television.

Sports blackouts. Now that was a memory.

Footnotes

1. My friend Steve Skomskie cured his medical problem, went to the U.S. Naval Academy at Annapolis, and achieved his dream of becoming a fighter pilot. The dream backfired. In the late 1960s, Steve took a test flight from the Key West Naval Air Station. He flew into a cloud over the Devil's Triangle and was never seen again. Not surprisingly, Rod Serling based many of his television programs and written stories on pilots disappearing into clouds. He also repeatedly used boxing as a theme.

Chapter 18

Busting the Blackouts -- "Don Quixote and King Alvin I"

PART I

On a quiet Saturday afternoon in April 1970, I received a call from a local newspaper reporter.

"Ellis, the Orange Bowl Committee just voted to lift the blackout of next year's game."

I sat up in my chair.

"They claim you had nothing to do with it," the reporter continued, laughing. "Can you believe that?"

That evening on the news, the chairman of the committee, W. Keith Phillips, looked into the camera and said, "In the overall picture, Rubin's action had no effect whatsoever in the decision."

I couldn't help but laugh myself. For the previous three years, I had hounded the Orange Bowl Committee to lift the local television blackout of the annual college football game. I filed unsuccessful lawsuits. I organized fan groups and card and letter campaigns. I spoke before a half-dozen area city commissions and persuaded them to pass anti-blackout resolutions.

For three years, the committee stood firm. The Miami taxpayers who paid for the Orange Bowl Stadium, and their counterparts all over South Florida, remained the only football fans in the nation who couldn't watch the sold-out New Year's Day game on television.

Then suddenly, the committee had a change of heart -- one day before I was scheduled to debate the issue with them on television.

Feeling victorious, I was ready to retire my anti-blackout activities on a high note. But when I told my family the news, my thirteen-year-old son Mark was not impressed.

"Daddy, you've got to lift the Super Bowl blackout next."

Coincidentally, the 1971 National Football League championship game, Super Bowl V, was set to be contested in Miami's Orange Bowl Stadium.

That promised a confusing scenario.

On January 1, millions of South Floridians would be able to turn on their televisions and watch in blackout-lifted glee as the University of Nebraska attempted to overpower Louisiana State University in the 1971 Orange Bowl Classic.

Sixteen days later, when the Dallas Cowboys and Baltimore Colts took the field for Super Bowl V, the televisions were once again slated to go black.

Same stadium. Same sport. Same oblong-shaped leather

and lace ball.

Different TV rules.

From the fans' perspective, it didn't add up.

The Orange Bowl Committee members were choir boys compared to the exclusive fraternity of twenty-six arrogant multi-millionaires who owned National Football League teams and ran the professional league. Aside from their wealth and business acumen, this coterie of macho men had the good sense to hire a man who is widely accepted as being the best sports commissioner ever -- Alvin Ray "Pete" Rozelle. Tanned, silky smooth, and always impeccably dressed, Rozelle is a public relations genius. He is given much of the credit for the tremendous growth in power, wealth, and popularity of the violent sport. Sportcaster Howard Cosell, in his book "I Never Played the Game," offered this observation about the recently retired NFL chief:

"Never in my lifetime in sports has anyone commanded and controlled the media like Pete Rozelle."

The NFL owners wanted their precious blackouts in place and media darling Pete Rozelle was their champion to keep them. A quick perusal of the law books revealed that lawsuits dating back to the early 1950s had been filed in various cities trying to lift the NFL blackouts. All had failed. The courts ruled that the NFL was considered a private enterprise that had the right to operate as it saw fit. The NFL's argument was that the live, paying crowd at

the stadium would diminish if the local team's home games were shown on television for free. Even if the stadium was sold out, the NFL felt lifting the blackout would cause fans to stop buying tickets to future games and instead gamble that it would be a sellout and end up being televised.

My argument was the same one I offered concerning the Orange Bowl. The Super Bowl had become an event of such magnitude it transcended the sport. The game would forever be a sellout. The NFL's great success with its championship game had outdated the need to shut out the local fans to protect the live gate.

The NFL didn't see it that way.

Realizing that I could expect little help from the courts, the only hope I had was to attack Pete Rozelle in his area of greatest strength -- public opinion. And this time, it was going to take more than a handful of resolutions from South Florida city commissioners.

I was on Naval Reserve active duty in Charleston, South Carolina when the game plan developed. Meandering through a sporting goods store, I ran across the most beautiful pair of white-leather track shoes I'd ever seen. I tried them on and they felt terrific.

An idea lit up my brain like the proverbial light bulb.

Returning to Miami, I took out a map and charted a course from the Orange Bowl, east to U.S. 1, and north seventy-five miles up the "Gold Coast" of Florida. My

calculations took me near Riviera Beach, a small community north of Palm Beach. The seventy-five miles was the radius of the television blackout.

I was forty-five then, but thanks to the Naval Reserve training, I was in good shape. I began running every morning and afternoon until I could do five miles without stopping.

In the mid-summer, I announced my plan to jog from North Palm Beach to the Orange Bowl to gain support for lifting the Super Bowl blackout. Volunteers, including my four children and my ever-present wife, Irene, would fan out over every city and community along the way and ask people to sign petitions. The plan quickly fell into place. Three North Miami Beach high school football players, Ronald Book, Jeff Mell and Steve Kortvese, offered to run with me. People called from Jupiter, Lake Park, Palm Beach, Lake Worth, Lantana, Boca Raton, Delray Beach, Fort Lauderdale, Hollywood, North Miami on down to assist with the petitions.

On the morning of the kickoff, the media was out in force. Miami's CBS affiliate assigned reporter Ike Seamans and a camera crew to follow me part of the way. (Seamans won an Associated Press award for conducting his interview while running beside me. He later became an NBC correspondent.) Local reporters and camera crews met me at almost every stop.

Although I limited my running to five miles each morning, and another five each evening, the pace was killing me. The Florida summer heat, even in the off hours, was

blistering. During my training, I didn't anticipate the effects of running on concrete or that the crowds and interviews would sap my strength. Plus, I couldn't ease up because the cameras were often pointed at me.

I nearly collapsed, but refused to give up. The support along the way was encouraging. Cars honked, people cheered, everybody wanted to see the Super Bowl. Finally, a week after starting, I made it to the Orange Bowl clutching the petitions. A crowd was waiting and the police opened the locked gates to allow me to jog in. Once inside, I looked around, half-dead from exhaustion, and realized there was no one to present the petitions to! None of the city commissioners, and certainly no one from the NFL, was fool enough to be there waiting to receive them. I ended up presenting the petitions at the next city commission meeting. The jog, along with simultaneous mail-in campaign, resulted in close to 75,000 signatures.

The NFL hung tough. Miami Dolphins owner Joe Robbie was particularly vehement in his pro-blackout comments. The consensus was that I could jog straight to hell for all the NFL cared, they weren't going to lift the blackout. What they failed to understand was that it wasn't Ellis Rubin they were fighting. The "Ban the Blackout" movement was mushrooming and included the NFL's most vital support group -- the "couch potato" television sports fans.

When it was convenient for the NFL, even Pete Rozelle publicly admitted the importance of the television fans. In

a 1982 letter to Cosell, reprinted in the sportscaster's book, Rozelle defended the New York Giants' move from New York City to New Jersey by stating, in part:

"...ninety percent or more of the Giants fans continued to follow their team in the same manner as before -- on television. This is true of all our other NFL suburban moves."

What Rozelle didn't say was that these television fans put billions of dollars in the NFL owners' pockets by enabling the commissioner to negotiate huge contracts with NBC, ABC, and CBS. Yet, when it came time to return the favor by lifting the local blackouts of sold out Super Bowl games, Rozelle turned his back on these very same fans.

It didn't make sense, from a business or public relations standpoint.

I continued to receive calls and letters encouraging me to keep fighting. The most touching came from people in hospitals, shut ins and sailors stationed on ships, including the crew of the U.S.S. Calcaterra at Key West. I instructed everyone to send letters to Pete Rozelle at league headquarters, 410 Park Avenue, New York, and to write the owners of every NFL team.

As the game approached, I devised a compromise. I promised Rozelle that in return for lifting the blackout, South Florida television viewers would contribute \$1 to a fund to buy any unsold Super Bowl tickets. If the game was a sellout, which it would be, the money would be donated to

Variety Children's Hospital and the NFL Players Pension Fund.

Sick children and battered NFL veterans. Rozelle couldn't turn his back on them.

He did. The hospital and pension plan donations were rejected.

I then began to ask questions. I wanted a precise breakdown of who actually were offered tickets to the NFL's premier game. Some sportswriters followed up and investigated. It turned out that a huge batch went to the owners, and similar blocks were offered to politicians ranging from city commissioners to the governor and senators. Most of the remaining tickets went to corporate fat cats. It turned out that the good 'ole American blue-collar sports fan who supported the teams during exhibition games and the regular season were booted from their seats and left to peer through a knothole in the fence when it came to the Super Bowl.

This revelation didn't sit well with the bread-and-butter fans. When the news of who was filling the seats at the Super Bowl was released, the "Ban the Blackout" movement reached new heights.

There were other sticky questions to consider. Why did the NFL have an anti-trust exemption? How much did the television networks pay the NFL? Even the players wanted to know the answer to that. I was pounding away, making the NFL executives hot under the collar.

But still, they refused to budge.

As the game neared, I filed two lawsuits based upon the Sherman Anti-Trust Act. The courts, federal and state, ruled that I wasn't a proper Sherman Anti-Trust plaintiff because I couldn't show any monetary damages from being prevented from watching the Super Bowl on television. Such legal rulings are virtual step-by-step directions on how to refile a suit. I explained my plight to the media, and sure enough, a motel owner from Fort Lauderdale called and asked to be the plaintiff. He said that because of the blackout, his customers deserted his lodging for motels outside the seventy-five-mile blackout zone.

Bingo. He could show monetary damages directly relating to the blackout.

I filed suit on behalf of the motel owner, naming Pete Rozelle and the television networks as defendants. The case fell before Arthur Franza, a State Circuit Court judge who had just been appointed. It was Franza's first case. The emergency hearing was set for the Saturday morning prior to the Sunday game.

Despite gaining a hearing date, I still had a big hurdle to overcome. Rozelle had to be served with papers to appear. That wouldn't be easy. The commissioner spent the early part of Super Bowl week in New York. When he arrived in Miami, he was advised of my desire to serve him and made himself scarce. I knew that every Friday before the Super Bowl, Rozelle gave a "State of the NFL" press conference. He

would have to surface.

Deputy Constables Joe Reitmeyer and Al Carballosa were in charge of serving the subpoena. They tried to crash the press conference at the Americana Hotel, but were prevented from entering by two huge ex-NFL players guarding the door. When the event ended, the NFL guards momentarily retreated and Carballosa darted inside. He made a bee line for Rozelle. The guards spotted him, as did a third behemoth protecting Rozelle.

"These three monsters came charging after me," recalls Carballosa, now a Dade County police detective. "I jumped over one table and up on another to get away from them. I mean, I'm a big guy, six-two, 200 pounds, but those goons were each about six-feet-five, 280 pounds. Their necks were the size of my thigh. I'm hopping tables and the crowd is scattering, people are screaming, pens and pads are flying and reporters are being knocked down. I tell you, it was something! I kept one eye on the gorillas' and another on Rozelle. The commissioner was trying to duck out a back door. I was determined to get to him before he made it. I did, and handed him the summons.

"Afterwards, I was pretty pissed," Carballosa continues, voice rising. "I was a law enforcement officer, an officer of the court. They were obstructing justice. Who is Pete Rozelle? He doesn't have any special power over the law. That was what, eighteen years ago? Well, I'm still pissed!"

Rozelle wasn't too happy either.

An extremely annoyed Alvin Rozelle appeared in court the next morning. So did the Super Bowl media horde. Accompanying Rozelle was a choir of attorneys. He had NFL attorneys, network television attorneys, assistant attorneys. It was like a Bar convention. When the judge arrived, he asked to see us in his chambers. We packed into the room, Rozelle and his army of legal muscle on one side, and me on the other.

Judge Franza appealed to Rozelle's generosity. He pointed out that the game was sold out and the Super Bowl had become such a big event it would always be sold out. He asked Rozelle to voluntarily lift the blackout.

The commissioner huddled with his legion of lawyers. He emerged looking grim. Rozelle explained to the judge that he had no option but to uphold the desire of the owners, and the owners were adamantly against lifting the blackout. He said his job would be in jeopardy if he went against their wishes. The judge would have to rule.

Judge Franza offered alternative solutions, asking Rozelle if he could show the game on a delayed basis, starting the televised version one to four hours after the game started. Rozelle said he couldn't do it.

We must have stayed in the judge's chambers for two or three hours trying to work out a compromise. Rozelle stood firm. South Floridians were going to see the Super Bowl over Pete Rozelle's dead body.

Judge Franza gave up and ordered us back into the courtroom. We proceeded to argue law, none of which seemed to apply either way. Our forefather's certainly didn't consider television when they wrote the Constitution, nor did they anticipate a new national holiday called "Super Sunday." Even so, I was sure Franza was going to rule in my favor. He could have been the biggest hero in Florida and could have carved out a place in judicial history by making a monumental ruling in his very first case. To my dismay, he ruled that although the blackout violated the Sherman Anti-Trust Act, he didn't have jurisdiction to rule on a federal issue. There were audible groans in the gallery.

Round I went to the NFL. The Colts beat the Cowboys 16-13 on a last-minute field goal that 2.5 million television viewers in South Florida didn't see. Channel Seven in Miami showed its audience a forgettable cowboy movie called "The Outriders," instead.

All wasn't lost. Dave Anderson, the talented New York Times sports columnist (and a fellow Holy Cross graduate), wrote a sympathetic article on my efforts under the headline "Don Quixote and King Alvin I." The amusing image he created of me waving my sword at the windmills of Alvin Rozelle's NFL fortress was appropriate.

Round II was fought in New Orleans. I was invited by a hotel owner named Johnny Campo to fight the blackout of the 1972 Super Bowl in his city. I resurrected my jogging

campaign and charted out a seventy-five-mile course from Baton Rouge down the banks of the Mississippi to New Orleans. I figured that had to be better than U.S. 1. I was wrong. Louisiana is probably the only place where one runs through mud and still gets dust in the eyes. But Louisiana is prime football country and the support along the way was enthusiastic. The anti-blackout fervor was especially hot in Baton Rouge. That football-crazy city is the home of Louisiana State University, a college football power. They were hellbent on seeing the Super Bowl and applied heavy pressure on the NFL. The LSU fans pounded the first chink into the NFL armor and gave me my first victory. A new measurement was taken and someone discovered that Baton Rouge was actually eighty miles from Tulane Stadium, the site of Super Bowl VI. That fired up the locals like never before and damn if the NFL didn't decide they were out of the blanket of darkness. The blackout was lifted in Baton Rouge.

The NFL forces retreated and stood their ground in New Orleans. The local courts tossed out my lawsuits and the game stayed off the New Orleans tube.

Round II was a draw. At Tulane Stadium, the Dallas Cowboys crushed the Miami Dolphins 24-3 as happy Baton Rouge fans watched in the privacy of their homes.

Round III was the NFL's Super Bowl Waterloo. The 1973 Super Bowl VII shifted to Los Angeles, the nation's number

two television market. The Los Angeles Coliseum blackout radius encompassed a huge potential audience of ten million viewers, comprising a mega source of advertising revenue for the local and network TV stations. Blacking out such a colossal market actually hurt the NFL. The blockbuster ratings of the Super Bowl, increasing every year, would be hamstrung by throwing a blanket over the nation's second largest television audience.

Even the television networks were beginning to chew on the Super Bowl blackout bit.

"A ban on blackouts will be a great relief to guys like me," CBS sports director Bill MacPhail told TV Guide. "The Super Bowl always is an awful headache because no other game is played that day and eighty-eight phone operators can't handle all the screaming complaints from local fans."

I was invited by a group of Los Angeles attorneys to try and relieve the network executives' headaches by leading the fight in L.A. I made a preliminary trip in April 1972 and found that they had a smooth operation ready to blast off. Television interviews and radio talk shows were already scheduled as were meetings with volunteer fan groups. They even had my jogging route charted.

This time, I came up with a new wrinkle. NBC was televising the game that year. We wrote the peacock network and followed up with calls, reminding the network executives that the NFL wanted to black out the nation's number two audience market. We then contacted the companies that had

purchased advertising at \$210,000 a minute, at the time the highest rate ever charged on television. We informed these companies that despite their unprecedented payments, their messages would go unseen by ten million Southern California consumers.

I didn't jog a step that year. After our contacts with the Super Bowl sponsors, a message came down from Mount NFL in New York that the Super Bowl blackout in Los Angeles would be lifted on a one-year, experimental basis.

No Super Bowl game has been blacked out since.

Round III went to the couch potatoes.

But before that historic moment, there would be a series of sensational skirmishes on the opposite coast involving the playoff games leading up to the 1973 Super Bowl.

Chapter 19

Busting the Blackouts -- "Don Quixote and King Alvin I"

PART II -- TRICKY DICK AND THE REDSKINS

"The next time that Florida dude opens his mouth about lifting the blackout, I'm going to sue him." -- Louisiana Sports Inc. president Don Hubbard in Sports Illustrated, September 4, 1978

After years of football futility, the 1972 Washington Redskins had been built into a contender under the guidance of their eccentric but inspirational coach George Allen. With the Redskins' improvement came renewed fan interest. Robert F. Kennedy Stadium is a small park by NFL standards, seating a cozy 53,000. The entire stadium was sold out years in advance to season ticket holders.

Senator John Pastore of Rhode Island, chairman of the U.S. Senate communications subcommittee, was unhappy to discover that the majority of Redskin fans were not only unable to attend the games, they couldn't watch the team on television because of the blackout. These fans were totally

shut out from all Redskin home games. Pastore decided something was amiss, wrote an anti-blackout bill, and called a congressional hearing on the issue in early October. (Senator William Proxmire of Wisconsin tried to pass a similar anti-blackout bill after my 1971 campaign in Miami but was unsuccessful.) I was invited as one of the first speakers and was scheduled to appear right after Pete Rozelle. On October 4, Rozelle and I argued our positions.

The senators appeared receptive, or at the least, they were cognizant of the vast body of blacked-out voters I represented. Even so, the congressional anti-blackout forces were beaten by the clock. The 92nd Congress adjourned the following month without ruling on Pastore's bill. The inaction killed it.

Round IV went to the NFL.

But the fight was far from over. Like General MacArthur, I would return.

That December, the revamped Redskins won their first divisional title in twenty-seven years, earning them a spot in the playoff hunt for the Super Bowl in Los Angeles. The team consisted of a grizzled collection of mercenaries known fondly as the "Over-the-Hill-Gang." Coach Allen had taken a sad-sack group of perennial losers and quickly developed a winner by trading paper -- future draft choices of untested college players -- for experienced veterans. Allen's catchy slogan was "The Future is Now."

The nation's capital responded to Allen's handiwork by going berserk over the colorful team.

Despite the Super Bowl anti-blackout victory, the preliminary matches leading up to the big game remained banished from the local television airwaves, pursuant to NFL rules. That didn't sit well with the frenzied Washington fans. They ached to see their beloved Redskins' two playoff games on local television, especially the contest against the despised Dallas Cowboys.

I was invited to lead the charge by Robin Ficker, a Silver Spring, Maryland attorney who was president of the Redskins Fan Club. Ficker was so involved in battling the blackout that he quit his job as assistant general counsel for the National Soft Drink Council. When I arrived in Washington, the district was in the throes of football fever. Everywhere I went people recognized me. From the minute I stepped off the plane I was greeted with cheers, hugs and handshakes. The whole Maryland, Virginia and D.C. beltway area was of one mind -- the damn blackout had to go.

The tactic in Washington was to fight strictly in the courts. No gimmicks in the land of the lawmakers. The first lawsuit was filed in U.S. District Court for the District of Columbia. The plaintiffs were Ficker, a fan named Connie Stevens (no relation to the actress), and Stevens' daughter, Delores Henheghan, a cheerleader at Federal City College. Our new angle was that the game was being televised by a station in Baltimore only forty miles away. That enabled

some, but not the majority of the Washington, Maryland, and Virginia-area fans surrounding the capital to see it. In our opinion, that was roughshod discrimination that clearly violated the Federal Communications Commission's rule banning censorship of an indiscriminate portion of the viewing public. The rich folks with big antennas could see the game. The poor folks with rabbit ears were out of luck.

The hearing was scheduled before Judge Joseph Waddy on the Thursday before the Sunday game.

The day before the hearing, December 20, 1972, we received an unprecedented boost. President Richard Nixon made a direct appeal to Pete Rozelle to lift the blackout! Seems Nixon's Pennsylvania Avenue residence fell inside the blackout zone.*1 In addition, Nixon, a pigskin devotee known as "the nation's number 1 football fan," was planning to spend the Christmas weekend at his Southern White House in Key Biscayne, Florida. Aside from the Redskins/Green Bay Packers match, he also wanted to see the Miami Dolphins/Cleveland Browns playoff, which was blacked out in South Florida.

Nixon dispatched the nation's top law enforcement officer, Attorney General Richard Kliendienst, to go eyeball-to-eyeball with Rozelle on the President's behalf.

I figured that was it. Forget the lawsuit. This was a request from the single most powerful man on the planet Earth.

Pete Rozelle didn't blink. He turned the President

down flat.

The embarrassing rebuff made front-page news around the country. Reporters flocked to Washington to determine if Nixon was going to nuke the NFL headquarters in New York. Suddenly, the attention increased ten-fold and became focused upon my hearing. Not only were the hopes of the Redskins fans riding upon my shoulders, but it seemed as if the honor of the Presidency was at stake as well.

And all I was being asked to do was accomplish something that had stymied the President of the United States.

That evening, the mayor of Pittsburgh, an attorney named Pete Flaherty, flew in and offered to join us at the counsel table. The Pittsburgh Steelers were also in the playoffs that Sunday and would be facing their most bitter rivals, a rowdy band of black and silver demons known as the Oakland Raiders. Mayor Flaherty's constituents were climbing the walls with anticipation.

We paraded into court the next morning. At the opposite table were Pete Rozelle's henchmen, an even larger corps of high-priced legal talent than before. Missing was Rozelle himself, who claimed other commitments. That was a heady move. I don't think King Alvin I would have made it through the Washington airport alive.

In the gallery behind Rozelle's crew sat an ominous figure, the late Edward Bennett Williams. Williams, another fellow Holy Cross grad, was arguably one of the greatest

lawyers of all time. He was unquestionably a man I deeply respected. He also happened to own the Washington Redskins and was therefore in favor of the blackout.

So much for respect. I subpoenaed Williams to appear.

Surrounding Williams was a noisy group of colorfully-attired Redskins fans who fought with the media for seats.

The legal fireworks never got off the ground. Judge Waddy dismissed the suit on a technicality. I had listed the CBS Washington affiliate, WTOP, as one of the defendants instead of the CBS network itself. Since WTOP was the only CBS station in the country blacking out the game, it seemed logical. Waddy ruled that CBS had to be listed. Normally, such a minor point can be taken care of at the bench with a few strokes of a pen. Waddy ruled the whole suit would have to be refiled.

Ficker, Flaherty and I went to work and had the new suit ready by that afternoon. Waddy rescheduled the hearing for the next morning.

We gathered again, same faces, same positions, same colorfully-attired fans interspersed with the reporters.

Both sides offered our familiar arguments. Waddy threw out the suit again. This time he decreed that Ficker, Stevens and Henheghan showed no "irreparable injury" resulting from the blackout.

I wondered if President Nixon's dignity counted, but he wasn't a defendant, so I held my tongue.

The Circuit Court of Appeals, District of Columbia, was upstairs in the same building. That is the second highest court in the land. Anticipating the negative ruling, we had already typed the appeal. We rushed upstairs and found staff members of the appeals court waiting to help us out. They obviously didn't have tickets to the game. The Court set a hearing for the next day, Saturday. That was a miracle. An appeal on that level can take years. And what judges on any level would agree to a hearing on a Saturday two days before Christmas?

U.S. Court of Appeals Judges George E. Mackinnon, Carl McGowan and Malcolm R. Wilkey did just that.

The local radio and television stations were airing blackout bulletins almost every hour, updating the community on each new legal maneuver. The following morning, the same cast of characters regrouped before the three smiling appellate judges. After both sides offered arguments, I was confident that public sentiment would carry me to victory this time. How could I lose? Why would the judges have scheduled an emergency, Christmas-weekend hearing just to shoot me down?

They fired a bazooka. The law simply wasn't in our favor. The judges ruled that the blackouts could only be lifted by an act of Congress.

One could almost hear the collective wails and renting of clothes of Redskins fans over the one-district, two-state area. Congress was not in session. The President had been

rendered powerless. But we had one last card up our sleeves. Ficker dialed the Supreme Court and asked to have the clerk call him. It was Saturday, and the clerk, attorney Michael Rodak, was unavailable. No one knew where he was. Ficker appealed to the media. The radio and television stations put out an S.O.S. By chance, Rodak heard the report on a Baltimore television station while attending a Christmas party in Maryland. He called. Ficker asked if there was any way to expedite an appeal. It was a bold request upon our nation's highest court. Rodak didn't bat an eye. He explained the procedure, gave Ficker his home number, and advised the young attorney to notify him the moment the papers were ready.

Rodak, a big Redskin fan, didn't have a ticket to the game.

As Ficker began readying the appeal, we received another unexpected boost. Ed Garvey, executive director of the NFL Players Association, had taken a vote of player representatives and determined that the players themselves were in favor of lifting the blackout.

"The Washington, San Francisco, Miami and Pittsburgh fans deserve the opportunity to see their teams perform in these championship games," Garvey announced.

Ficker worked most of the night preparing the complicated Supreme Court papers. He type them on a manual typewriter. By 3 a.m., he was wrung out. He drove to the Supreme Court and gave the hastily prepared briefs to a

night security guard. Chief Justice Warren Burger sent a chauffeured stretch limousine to pick them up.

The chauffeur was rooting for us. His television had rabbit ears.

For the rest of the morning, practically everybody in Virginia, Maryland and Washington, D.C. stayed glued to their televisions and radios waiting for Burger's decision. How could we lose? Burger had sent his own limo in the wee hours of the morning to fetch the papers. The thought of the sleek limousine pulling away with the appeal pumped us full of adrenaline. We were so wound up anticipating the thrill of victory we could hardly sleep.

Burger read the papers over breakfast.

When the decision was reached, the clerk called.

"I'm sorry," he said, genuinely saddened. "The writ has been denied."

There was no further explanation. Apparently, the long line of precedents from previous courts were simply overwhelming. The Redskins fans had lost out.

Round V was an overwhelming victory for the NFL. We were left dazed and bloody, hanging onto the ropes -- but still standing.

That afternoon, in the agonizing television darkness, the Redskins crushed the Packers 16-3 before 53,140 cheering fans, the largest crowd in Robert F. Kennedy Stadium history. Henry Kissinger, Maine Senator Edmund Muskie, and baseball great Joe DiMaggio watched from Edward Bennett

Williams' private box.

I wasn't invited.

In Pittsburgh, with five seconds left in the game and the Steelers losing 7-6, Steeler quarterback Terry Bradshaw launched a desperation pass toward running back Frenchy Fuqua. The pass apparently bounced off Oakland defender Jack Tatum, waffled back ten yards, and mysteriously ended up in the hands of Steeler fullback Franco Harris. Franco sprinted sixty yards for the winning touchdown as time expired. Franco's "immaculate reception" remains the most dramatic finish of a playoff game in NFL history.

"A miracle sent from heaven," said Bradshaw.

The Pittsburgh fans in the stadium were the only ones who shared in the heavenly event.

In Miami, the Dolphins stayed unbeaten by grinding down Cleveland 20-14. No one on Key Biscayne, including President Nixon, saw a single play.

In San Francisco, Dallas Cowboys quarterback Roger Staubach threw two touchdown passes in the last eighty seconds to lead the Cowboys to a thrilling come-from-behind victory over the 49ers. Due to the blackout, only San Francisco fans with tickets were forced to suffer through Staubach's heroics.

The following week, the Dolphins beat the Steelers and the Redskins stomped the hated Cowboys. Everybody saw the games on television except the exasperated fans in Washington and Miami.

Then like magic, out of the darkness came the cathode ray light. In sunny L.A., the results of our earlier victory in Round III went into effect. Ten million Southern California sports fans curled up in front of their television sets and watched as the undefeated Dolphins beat the Redskins 14-7 in the nearby Coliseum. The highlight of the game was a comedy of errors ignited by the littlest fellow on the field, a bald-headed, Cypriot named Garo Yepremian. The Dolphins' jovial foreign-born placekicker attempted a pass-to-nowhere when a field goal attempt went awry. Yepremian's classic "pass," which was more of a Super fumble, was intercepted by Redskins cornerback Mike Bass who scurried down the field for the team's only touchdown.

Yepremian became an instant national celebrity.

As is sometimes the case in all aspects of life, a shattering courtroom loss can pave the way to eventual victory. Washington wasn't about to forget what happened with the Redskins in 1972, nor would President Nixon forget King Alvin Rozelle I.

I didn't forget either, and I wasn't content to wait for Congress to act. Back in Miami, I continued to fight the blackout of both sold out playoff and regular season games. I again targeted the corporate advertisers, organizing pickets at the local branch businesses. The "Ban the Blackout" forces picketed Firestone Tire outlets, Ford, Chrysler and General Motors dealerships, high tech

companies, beer distributorships, anyone who advertised during NFL games. The pickets spread to other parts of the country. The companies weren't pleased. After spending millions to advertise during NFL games, they found themselves being cast as Great Satans keeping the NFL, and their own advertisements, from the fans.

I also advised "Ban-the-Blackout" club members in New York, Chicago, Cleveland, Green Bay, Los Angeles and New Orleans, and unorganized fans around the country, to keep the pressure on their congressmen and senators.

On Thursday, September, 13, 1973, just as the new football season was about to kick off, both the House and the Senate passed a bill calling for an immediate end of the blackouts of all NFL games sold out seventy-two hours in advance. Nixon signed the bill the next day.

Under the banner headline, "Congress Gives Home Fans Free Pass," the Washington Post wrote:

"The House of Representatives and Senate found seats for millions of ticketless pro football fans yesterday by passing a bill to end home television blackouts of sold out National Football League games."

The vote in Congress was 336-37. The Senate took a voice vote.

In a concession to the NFL, the bills were designated as a three-year experiment.

Three days later, eight NFL games were televised to the home fans.

Miami almost remained black that Sunday. In the 80,000-seat Orange Bowl, Dolphins fans fell 818 tickets short of a sellout before the seventy-two hour deadline. Robbie relented and allowed the game to be televised.

At the end of the three-year test period, and for years afterward, the NFL owners made rumbles about reinstating the blackouts. They never have.

Round VI, and the come-from-behind knockout victory to the couch potatoes -- with a big assist from Richard Nixon, Senator Pastore, Senator Proxmire, Richard Kliendienst, Robin Ficker, Mayor Pete Flaherty, Congress, and sports fans around the nation.

The blackout battles actually owe much of their success to simple tenacity. I lost every single court case, eleven in all, and we still managed to win the war. If there is anything that epitomizes the cliché "if at first you don't succeed, try, try again," this has to be it.

The long fight also symbolizes what a single, determined individual can accomplish. My hopeless, "Don Quixote" campaign against the titans of the Orange Bowl and the NFL has had a direct effect upon the lives of hundreds of millions of people. In some cities like Washington, Denver and New York, all the games are sold out before the season begins so the television fans never miss a play anymore.

Ironically, with the exception of a few big games a season, the Miami Dolphins rarely sell out. The

seventy-two-hour rule probably did less for my hometown fans than in any other NFL city.

After the blackouts were lifted, I continued to butt heads with Dolphins owner Joe Robbie. I had little choice. Everytime the fans became upset with the obstinate Dolphins dictator, my phone would ring continuously until the problem was solved or the fans were satiated.

The next confrontation came in 1974 when Robbie, like many NFL owners, decided to force season ticket holders to purchase tickets to the lousy pre-season exhibition games. The fans howled and began dialing my number in droves. We sued based upon an illegal tie-in and lost. The courts ruled, in essence, that if Joe Robbie wanted to, he could force season ticket holders to purchase tickets to sit and watch the paint peel on the stadium girders during the off season.

After that episode, Robbie decided I wasn't welcome to see his games anymore -- pre-season, regular or playoffs. He refused to renew the five season tickets I had faithfully purchased since the team's inception in 1966.

"He doesn't have to force his money on me any longer," Robbie told the press.

I can't really blame him, but it wasn't fair to punish my family for "the sins of the father." I sued on the grounds that I was being discriminated against. The precedent for that kind of suit was not favorable. After

trashing a number of plays, New York Times drama critic Alexander Wollcott was denied access to the Shubert Theater. Even when he had a ticket, they refused to let him in. The Times sued, won, but had the decision reversed by a higher court. The appellate court ruled that a ticket is not a contract but a license that can be revoked at the will of the seller. In English, that means the Shubert Theater had the right to ban anyone it pleased, including a venomous critic, as long as it didn't ban entire races, religions or sexes. Similarly, the Florida courts ruled that Joe Robbie could prevent anyone he wanted from seeing his team, which amounted to one person -- me.

This time my children, taking a page out of their old man's book, mounted their own media campaign. Mark, seventeen, wrote an impassioned letter to Pete Rozelle saying he and his brother and sisters were being unfairly punished. Mark promised that he and his siblings would work to earn the money to pay for the tickets if Robbie "doesn't want my father's money." The letter was published in The Miami Herald. Mark, Peri, sixteen, Guy, fourteen, and Kim, twelve, then picketed the Dolphins ticket office, holding signs saying "Don't Nix our Tix" and "Robbie Unfair to Kids." The story ran on the national news wires and made the pages of The New York Times.

Robbie relented, agreeing to sell my allotment of tickets to Mark. It ended up being much ado over nothing. Mark, by the way, went to Stetson law school, passed the

Bar, and has continued the Rubin tradition of suing the Dolphins on behalf of the fans. (Guy joined the firm in 1988.)

In 1975, the Orange Bowl's artificial turf was a mess. The players hated it and complained bitterly that it was like playing on concrete. They claimed it ruined their knees and shortened their careers. At the same time, studies were being published that backed up the players' contentions. It was proven that there were considerably more injuries on artificial turf than on natural grass.

The fans could understand the need for phony grass inside domed stadiums, but in an open-air stadium in sunny, rain-soaked Miami? That was absurd. As a taxpayer and ticket holder, I sued the city and the turf manufacturer, claiming that the injuries to the players were depriving me of full return for my tax dollars and ticket price. It was a giant leap of legal logic, but shortly after the suit was filed, the horrid artificial turf was ripped up from the Orange Bowl gridiron and replaced with something called Prescription Athletic Turf, which is a fancy way of saying natural grass with water pipes running underneath. (I was interviewed during this crusade by a fledgling local sports reporter named Roy Firestone -- now an award-winning ESPN broadcaster.)

In 1978, I was invited back to Louisiana to fight the four-state, 200-mile blackout of the Muhammad Ali-Leon Spinks heavyweight championship rematch in the Louisiana

Superdome. That was the blackest of the blackouts. The promoters somehow convinced ABC to shut down all of Louisiana and parts of Mississippi, Alabama, and Florida. By then, my reputation as a blackout buster must have been formidable. The promoters had fits from the moment I arrived. Louisiana Governor Edwin Edwards publicly told me to go home. Don Hubbard, president of Louisiana Sports Inc., was moved to utter his line about suing "that Florida dude." I had to call off a planned protest rally at the Superdome after we received threatening calls promising to break the legs of the protesters.

The threats were unnecessary. The courts "broke the legs" of my lawsuit, throwing it out.

Ali had better luck. He sent poor Leon on a literal one-way ticket to palookaville and regained his title for a record-setting third time.

Meanwhile, the Miami Dolphins have been as successful on the field as they have been in court. They've played in five Super Bowls, won a pair, and remain the only team in NFL history to finish undefeated when they went 17-0 in 1972. With Don Shula as coach and Dan Marino at quarterback, the team should continue to be successful well into the 1990s. (The Redskins have had similar success, reaching four Super Bowls and winning a pair.)

That's all I ever wanted. A competitive, healthy team, respect shown toward the loyal fans who pack the stadium and pay the freight, and if the arena is sold out,

fun and excitement for the television viewers at home.

Epilogue

In 1987, Joe Robbie opened a new football stadium to house his business. (He modestly named it "Joe Robbie Stadium.") The friendly but aging Orange Bowl Stadium didn't have the giant video scoreboards, luxury sky boxes or other perks offered by today's modern sports complexes.

When long-time Dolphins season ticket holders were reassigned seats in this magnificent new sports palace, many were dismayed to learn that their locations had been downgraded, meaning they weren't as close to the action as before. They raised a fuss. As with most stadiums, seating priorities are based upon longevity. Those who renew their season tickets year after year work their way into the best seats.

The fans who felt slighted accused the Dolphins owner of giving their hard-earned, primo seats to his friends, business associates and high rollers. In return, the diehard fans who supported the team for twenty-two years felt they were given the shaft.

The Dolphins' publicity folks insisted that no favoritism was shown and explained that the configuration of the new stadium was such that there weren't as many seats between the forty-yard lines as in the Orange Bowl. Plus, they explained, because of the much-improved sight lines in

the new stadium, the fans' "downgraded" seats were actually just as good or even better than their old Orange Bowl positions! Although this logic raised a few eyebrows, it was, for the most part, accepted.

Then Joe Robbie made a mistake. A few days later, The Miami Herald ran a story noting that Robbie had moved my family's seats from the forty-yard line into the dreaded end zone. Miami sports fans had a good belly laugh. All over town people were saying things like, "I got bounced to the twenty, but hey, at least I ain't in the end zone with Ellis Rubin!" When the laughter died, everyone began looking at their own tickets again. The anger returned hotter than before. The feeling was, if Robbie had willfully banished Ellis Rubin to the abyss of the end zone, as everyone suspected, then the line about non-favoritism and stadium configuration was a bunch of baloney.

The next day, my office was flooded with calls from fans wanting to sue Robbie for playing a shell game with their tickets. It may seem petty, but such issues are life or death with rabid sports fans. Since I was pretty peeved myself, I gathered their names and made noises about filing suit. The Dolphins relented and nearly everyone who had contacted my office, including the Rubin family, gained better seats. (We ended up on the 48-yard-line, primo seats.)

The irony is if Robbie hadn't tried to banish me into the end zone, the fans probably would have accepted the

Dolphins' explanation. But Joe Robbie couldn't pass up another opportunity to stick it to Ellis Rubin.

As I remembered the football duels, I began pacing in the small prison isolation cell. It occurred to me that no one in Miami could be more happy with my incarceration than Joe Robbie. He no doubt felt I belonged right where I was -- permanently.

Footnote

1. President Nixon had his own way of beating the blackout. He had Redskins games piped directly into his White House television set. His concern in 1972 was for his fellow D.C. fans.

Epilogue

Shortly after the Zamora trial, Judge Baker threw out the indictment against Darrell Agrella on the grounds that there were no Latins on the grand jury, thus depriving Agrella with a jury made up of a "cross-section of the community." The youth bonded out and went home. He was indicted again by a second grand jury and pleaded no contest in April 1978. On June 6, 1978, a year and two days after Elinor Haggart's death, Judge Baker sentenced Agrella to three life terms in prison. He served eight years and was paroled on November 5, 1985.

The televising of the Zamora trial, a true acid test, was judged by the higher courts to have had no negative effect upon the fair dispensation of justice. Cameras have been allowed in Florida courtrooms ever since. As of 1989, more than forty states have followed suit. Federal courts, however, have remained in the dark.

Of the multitude of bizarre cases I've tried in my thirty-eight years as a defense attorney, none have haunted me like the Ronny Zamora case. Regardless of what I do the rest of my life, the headline of my obituary will no doubt read, "Ellis Rubin, Television Intoxication Defense." It's shadowed me in everything I do. To this day, I still can't determine if the overall effect has been positive or negative. It made me famous and it caused me ridicule. I was

deemed innovative and was accused of making a mockery of the law. In the past twelve years, hardly a week has gone by without someone calling about the case -- be it a journalist, university professor, college student, doctor, or high school student.

A major part of this legal immortality has to do with the Public Broadcasting System. PBS edited the trial down into an award-winning, two-hour special that has been aired around the world. The reviews, like the ratings, were overwhelming. WPBT collected some of them:

"It's the most important WPBT production to be fed over the PBS network, an instant historical document that illustrates perfectly the capabilities -- and limitations -- of opening trials to the electronic media." -- Variety

"...perhaps the most significant program this year...if I could fly a Goodyear blimp over this column to call attention to it, I would." -- Kay Gardella, The New York News

"It made 'Perry Mason' look like the 'Katzenjammer Kids'." -- Daily Variety

"One of the most unique and fascinating programs in recent years..." -- Jim O'Brien, Philadelphia Daily News

"A fascinating documentary..." -- TV Guide "...just when you're considering donating your set to Goodwill,

a program lights up your brain as well as your screen."

-- Mike Drew, Milwaukee Journal

One newspaper wrote that more people have seen Ellis Rubin try a case than all the other defense attorneys in the history of the world put together -- times 100 million. That put my head in the clouds for about a second, until I realized that more people have seen Ellis Rubin lose a case than all the other attorneys in history.

Looking back, my only regret is I was never able to present the case I wanted. Thus, I was unable to adequately explore the question of television violence and the danger it may present to young minds. And by losing the case, I probably set back the cause of those who diligently warn of the possible dangers.

As for the future, the next watershed case involving television may have nothing to do with the unanswered questions about violence. Broadcast television used to have strong moral images of right and wrong. That has eroded with the advent of bed-hopping soap operas like "Dallas," and "Dynasty." While entertaining, these sex-soaked programs and others like them glorify adultery and a cornucopia of other forms of what used to be known as "sexual immorality." That may be okay for adults, but do our children really need to see J.R. Ewing's wife, Sue Ellen, jump from bed to bed in one drunken stupor after another?

Probably not. But since televised immorality and its

effect upon rampant teenage sex is a social problem instead of a criminal violation, the effects of televised bed-hopping -- including X-rated movies on cable television -- may never have a landmark court case.

Or maybe it will. Ironically, the same day this epilogue was written, there was a story in The Miami Herald about a trio of Miami Beach elementary school students who seduced, and sometimes forced, their classmates into committing a series of homosexual acts in the school restroom. The sexual bullies were ages twelve, eleven, and ten, and they had preyed upon at least six willing and unwilling victims. The abuse had gone on for three months.

Among the things the police said the three boys forced their victims to do was perform oral sodomy.

One of the arrested youths told the police he had been influenced by watching oral sex on late-night cable television.

Footnotes

1. Psychiatrists, psychologists and medical doctors

almost always speak in terms of "could haves" and "mays" instead of the more firm "dids" and "wills." Such hedging drives attorneys to drink.

2. The attorney for the State argued during the appeal that the wiretap information was being gathered for the upcoming trial of Darrell Agrella. However, there was no mention of Agrella on the tape, and four of the five witnesses were scheduled to testify in the Zamora trial within a few days of the call. The two teenagers discussed the trip to Disney World, which had no bearing in Agrella's case because he didn't go. Further, the missing gun was critical in the Zamora trial because Ronny was the triggerman.