

Once in a Blue Moon

By Jill Koney Daly

Sleeping in was not an option. It was a Monday—not only a workday, but Mental Health Day. Not the kind of “mental health day” slackers assert as they head to the beach; it was the day we heard mental health commitment cases at the probate court, and it was my job to make sure the docket ran smoothly.

I peeked through my blinds to see a new layer of potentially slick snow. Although my hard-working staff would not be going to the beach today, they might be late. The frosted evergreens cast strong shadows on the bluish snow, reminding me that there was a full moon lingering this morning. This did not bode well—Monday, Mental Health Day, snow, and a full moon. Those of us who make a living serving the public know that full moons mean crazy days.

I showered, yanked on what we used to call foundations, squeezed into my tweed suit, hitched up my black tights, and engaged my invisible boss armor. I shoved my pumps into my briefcase without briefs, booted my feet, slipped into my lined trench coat, and poured the Jamaican Blue Mountain coffee my husband had left me into my Bruegger’s travel mug. Fairly certain that I had remembered to make myself up, comb my hair, and brush my teeth after my Cheerios, I urged my teenager into the car, dropped her off at school after a surreptitious kiss to the back of her fleeing head, then cruised on up to the county courthouse.

I quickly checked in with the mental health unit. Since 12 patients had already been discharged over the weekend, my overwhelmed, budget-depleted staff would get a slight break. The 16 remaining cases were ready except for two forensic matters. File numbers? Patients transported from Ypsi? Proofs of service filed? Where were the ATRs? Clinical certs

all timely? The last thing I needed was for a respondent to be released because of our clerical error. After 30 minutes of frenzied choreography, the files were delivered to the duty judge and a calm came over the counter. I snaked my way through the office, overhearing random snippets of conversations as the staff caught up on their weekends.

“... My temperature was 97.9, but my husband’s was 99.6, so we thought, why not?”

“... That was the last time I was going to chase that bugger out from under my deck, so I grabbed my rifle and went hunting out back ...”

“... Are you kidding me? At third and 10? What was that nimrod thinking?”

Finally, I witnessed one of my staff members, a perpetually frenzied mom, returning her phone angrily to its grateful resting place after having screamed to someone (who I hoped was not a customer), “WHEN did I tell you that you could leave the CLOSET???”

Back in my relatively quiet, regulation-white office (I had picked *nocturnal blue* for my single allotted non-white wall), I caught my breath for three seconds before I felt drawn to the parade of today’s patients. I can get so caught up in file numbers, docket numbers, caseload numbers, and the utter commotion of running this operation that sometimes only this procession puts my work in perspective. Every file represents a real human being and in our probate world, the only ones still coming to court are either dying, incapacitated, or mentally ill. I hoped they would just move along without incident because we have not been so lucky recently.

Due process is a big deal to me. Professor Norris instilled it in me and so many others who went to the old DCL. Folks like these respondents had rights that we “foot soldiers of the Constitution” needed to guard and respect. (Far less time was spent on the rights of the general public or victims, I’m afraid.) We became whizzes at quoting case law; the people were only case names to us. Once we were on the outside, we found real people to be somewhat messier propositions, like when they said, “hey cutie” to the staff, or took

attorneys' fur coats off the rack and insisted on wearing them into court, or wailed in court like hungry babies in church.

When our respondents walk by, my default approach is usually to look away. Should I smile kindly instead? Look serious? Compassionate? Give that half-smile/half-concerned look that projects "I care about you, but I can't help you so please don't yell at me?"

At this point, I was taken by one of the shuffling patient/respondents who looked vaguely familiar. I have reached an age where just about everyone looks like someone else, but this seemed different. I tried to conjure up a name or place. Nothing.

Luckily, I could resort to the day's docket to try to assuage this brewing angst that threatened to haunt my Monday and beyond. I breezed past the file numbers and found the name that rang the bell next to file no. 1977-555,123 MI. The number revealed the year the case was started, and that's where I was transported.

It was my second day at a summer job with a title company. "File stripper"—not to be confused with just plain "stripper"—was one of those jobs you endure on your way up the legal ladder. The goal? Earn some money while jazzing up the job duties for future résumés. A new kid showed up and opened our first conversation.

"Hey. Wanna go to Cedar Point this weekend?"

"No."

"Maybe next?"

"No. I don't even know you. And you don't know me either."

Lenny Lobstein looked crushed. This made no sense to him. It made no sense to me. He must not have had a grip on how he presented himself. High-waisted, pale gray polyester pants, flapping belt, slicked-down hair parted way left, thick Buddy Holly glasses, cotton shirt buttoned to the top—he was no looker and his personality did not make up for it.

His relentless advances and my consistent refusals continued. Weeks later, having decided that his physique was the only issue, he tried to block my egress from the dimly lit file room with an odd demand.

“Punch my stomach!”

“Are you kidding me, Lenny? No way!”

“Go ahead. Punch me. Abs like steel. I’ve been working out. Will you go out with me now?”

“No Lenny. Not now. Not ever.”

Just because sexual harassment was not yet a hot-button legal issue doesn’t mean it didn’t exist. This kind of stuff was simply tolerated and could even cause great amusement and a welcomed distraction for our co-workers (two other “normal” college students, Melinda and Drew). The daily spectacle continued until one oppressively humid day in early August when Rhoda, our supervisor, prowled her air-conditioned domain searching for a late-from-lunch Lenny. Sensing a conspiracy of some sort, she questioned me.

“I have no idea where he is. I never go to lunch with that guy.”

“What? I thought you two were an item?”

“NO!”

“He told me you had a nice time in Cedar Point.”

“NO,NO,NO, Rhoda! Not me!”

“Oh, well, do you know where he is?”

“Again, NO!”

Around the corner came our answer. Something had happened at lunchtime, apparently at the mall. Lenny wore low-slung jeans and a shiny disco shirt unbuttoned to within inches of his hips. A chunky gold necklace adorned his pale, hairless chest. He sported mirrored aviator sunglasses. His hair was a puffy, blow-dried helmet. A boom box

blaring “In-A-Gadda-Da-Vida” was balanced on his shoulder. Rhoda came close to fainting. Then she called her manager. Drew and Melinda stared. I felt somehow responsible. The song went on for 17 minutes.

Lenny lasted another day. Iron Butterfly did not. I finished the summer and dated the “normal guy” in the office for many more.

An older Lenny, in his pre-”In-A-Gadda-Da-Vida” get-up, was now shuffling to his latest commitment hearing in my court. I sipped the rest of my normal guy’s coffee and did a quick assessment of where I was, where I had been, and where I could have been. As a spirited self-determination-versus-destiny debate swirled around my head, the judge was committing Lenny to 30 days inpatient treatment. I wondered if Lenny would recognize my name stamped on the bottom of the order as the official keeper of the records. The order looked a lot like the legal records we used to peruse as we stripped together 31 years ago.

As a lawyer, I find that most days follow a certain predictable pattern of conflict (always) and resolution (usually). Some days defy that pattern and launch you somewhere else. Due to my unsettling Lenny encounter, I slogged through the remainder of my workday. Having studied psychology during my days at Michigan State and now running the mental health department, I felt I had a decent understanding of the field, but until now, it was all just theory to me—nothing personal. Lenny’s diagnoses (“bipolar” and “schizophrenia”) provided a sobering explanation for someone I had previously pegged as simply bizarre, eccentric, or at best, amusing. It all made sense now. I still felt bad.

Being one of those rare women who have no need to utilize Facebook or their cell phone to report every breathing moment or feeling as it happens, I saved my day’s story for family dinnertime.

“You’ll never guess who I saw in court today!” I blurted to Drew.

He guessed with far less clues (two) than I would have thought necessary. Clue one was “Mental Health Day.” Clue two was “used to work with us.” This really just speaks to the clearness of Lenny’s condition rather than Drew’s excellent sleuthing skills, if you ask me.

Later that evening, after suffering through another hour of *Cardio Fat Blasting!* at the community center, we settled into watching “The Daily Show.” desperately needing to catch up on some laughs. Our daughter, Margo, was in the den studying, watching TV, surfing the Internet, and texting simultaneously. Somehow, she tuned out our blaring land line, which Drew picked up after three intrusive rings. I heard only his half of the increasingly ominous conversation.

“NO!”

“NO WAY!”

“WHEN?”

“HOW?”

“They haven’t caught anyone?”

“That’s all you know?”

“Where is Cindy now? Is she OK?”

“OK. I’ll wait for your call.”

“OK, I guess. Thanks for letting me know.”

We are accustomed to fielding calls from relatives, neighbors, and friends at every hour with every type of legal need. I’m only a probate lawyer, but that does not register with free legal-advice seekers. They regularly disbelieve me when I insist that I know nothing about (1) drunk driving, (2) landlord-tenant disputes, and (3) divorce (these are just the top three), even after I try to explain the current legal landscape of specialization. I try to at least take a stab at their problem, then do a bit of legal and emotional handholding to give them

some immediate satisfaction before I refer them to a lawyer who knows what she is talking about.

I could sense that this call was off the charts from the usual. Drew paled. Not an easy conversationalist anyway, he seemed particularly at a loss when it came to starting the necessary dialog with me.

“WHAT IS IT?????” I finally screamed, unable to wait any longer for him to gain his composure.

“That was by brother calling. It’s about Larry.”

Larry was the husband of Drew’s sister, Cindy, and the other Polish in-law in the family besides me. They had no children, but they were gentle and generous with our kids and adored their pet dog, Muffy. Larry had retired from the Big Three many years ago to fight a rare form a cancer. A recent minor breakthrough in treatment raised his spirits and endurance to the point that he was anxiously planning his first vegetable garden in years.

“He’s been murdered.”

“WHAT???”

“Someone killed him this afternoon. The police just found his bludgeoned body behind the pole barn.”

“Who did it?”

“They haven’t caught anyone yet.”

“My God! How’s Cindy?”

“OK, I guess. Mary Ellen is with her. Cindy’s going to her house after the police release her.”

The story appeared to be that Cindy found Larry missing when she came home from work. The car was gone, but his wallet and cell phone were still on the dresser and Muffy was agitated. The front door was ajar, but nothing in the house appeared to be missing. It

was not like Larry to just take off without his wallet or cell phone. Cindy looked around the house and property, called a few people who might know where he was, and came up blank.

She called the local police with a missing person report. The officer who arrived at the house asked, “When was your last argument?” She replied honestly, “Well, I guess we had at least a little argument just about every day,” to which the cop replied, “Normal married couple then!” He proceeded with the search that led him to a bloody trail around the back of the pole barn, where he found a badly bludgeoned and obviously dead Larry.

Being in their house the next day to support Cindy and help her prepare for Larry’s funeral was an exercise in nerve control. We had no idea who or where the killer was. It pained us greatly when we stumbled upon a local blog that was convinced it was an inside job—a domestic issue or a lousy acquaintance—anything but random senseless violence in their small town! We were shaken as we went through the motions death requires. I was assigned to answering the door to deflect the media. Drew’s brother sorted through piles of financial and legal papers, trying to assess Cindy’s uncertain future. Drew tidied the house and sorted Larry’s belongings, hoping to relieve Cindy from some future pain. Cousin Mary Ellen prepared the famous family chili, and Margo gave Cindy back rubs as needed.

At the funeral a full five days later (because of the autopsy), there was still no suspect identified. The casket was closed; Larry’s brave and distraught brother took a look and advised Cindy to do so. We remembered Larry for his spirit, loyalty, love, and simple pleasures. Through all the eulogies and tributes, the only hint of the horror of his death came when we prayed loudly for an end to violence in this world and peace for Larry in the next.

The day after the funeral with the State Police newly in the picture, Cindy was told that they had their man. The stolen car had been located at a psychiatric facility out of state where the suspect had admitted two things on the night of the murder—himself and his guilt. His clothes had been laundered but not well enough; there was enough of Larry’s

DNA remaining to be able to seal this case and put the monster away for life, or so we thought.

Over the next year, Cindy's faith in the justice system faltered as she was swept up in the drama of a mental health system that seems to favor the rights of the technically "not guilty" over those of the victims. It took months for the suspect to be found competent to stand trial. The forensic psychiatrist then testified that he was clearly "insane" and Cindy sat by helplessly as the judge accepted the NGRI plea. The prosecutor lambasted the system outside of court to atone for his lack of efficacy in court.

Evidence admitted at trial filled in our information gaps. On Larry's last day on this earth, the murderer had a heated argument with his wife. She called the police, hoping they would transport him to their community mental health pre-screening unit, but the police did not personally observe enough "acting out" to justify protective custody. Instead, they had a little "chat" with him, then left him at home with his frightened family. Further inflamed, he took off angrily in their family car. When his car ran out of gas an hour away, he proceeded on foot down the snowy country road where Cindy and Larry lived. Randomly finding their car with the keys in the ignition, he was about to help himself when he was confronted by a surprised Larry. I'd rather not recall or retell what happened next.

As required, the prosecutor filed a commitment proceeding at their probate court within 60 days of the NGRI finding. At the hearing, Cindy sat in attention as the judge ordered 60 days inpatient treatment. The petition for a second treatment order came six weeks later. Cindy was in court again when the judge granted 90 more days. Many weeks later, a petition for continuing treatment was filed; Cindy insisted on returning to court, where she witnessed the judge issuing the latest one-year inpatient treatment order. Hopefully these one-year orders will continue year after year after year. I know that many of our NGRI cases go on for 20-30 years, especially when there is a murder involved.

Nothing I know consoles Cindy. At the last hearing, the forensic psychiatrist testified that “it is possible” that, with treatment, the murderer could function in society again; Cindy unravels at the thought of the murderer “getting away with murder.”

“There is no justice for Larry” she bellows.

This is all I can do. Although I am responsible for many units at the probate court, I now concentrate a disproportionate amount of my time on our mental health docket to make sure there are no procedural defects. I still watch the parades. I still respect our respondents’ rights. But now I find the time to sit in the courtroom and focus my attention on the anonymous victims, and when I get home from work, I tend my vegetable garden, which is thriving for the first time in years.