



short-story contest winner

1st place  
MICHIGAN Bar Journal

# THE WORD OF THE DAY IS “TRUST”

BY MICHAEL KITCHEN

I rushed through the hall on the second floor of the circuit court building, weaving between lawyers and lay persons, with Jennifer Clarke’s file under my arm. It was 15 minutes before the hearing when I entered the courtroom.

Most of the people in the room were seated, chatting softly with each other. Neither the panel nor the judge had taken their places yet. I scanned the room and saw a familiar face. How could I miss her? She wore a tight v-neck white blouse beneath a form-fitting cherry red jacket and a short black skirt with nylons to match. She sat in the first row, putting her as close to the center of the courtroom as one could get. When she saw me, she rose, drawing the lustful stare of every male in the room.

But why the hell was she there? She had been to my office on a number of occasions, letting me know that she was not thrilled with my handling of Jennifer's case. It was unnecessary for her to show up in the courtroom to annoy me further.

"Martin," she said softly. Her aromatic perfume engulfed me. "What's going to happen?"

"I don't know, Kristin," I said, meeting her tawny eyes. "I have to go in the back and talk to her."

"Marty, I really didn't think..."

"Later," I said. "I have to go."

I left the courtroom through a door opposite the one I entered. It led to a narrow hallway, with offices along one side. The prosecutor, Gerald Gunner, walked toward me and stopped.

"I don't know, Marty," he said, shaking his bald head. "Most of the panel is not pleased with your client. I don't know if she can stay in the program after this."

"I know," I said. "Let me talk to her."

I continued down the hall. Within one of the offices sat a county sheriff. He quickly rose and his voice commanded me to stop.

"Can I help you, sir?" His sandy hair was trimmed perfectly, as was his similarly hued mustache. His brown uniform was spotless and wrinkle-free on his trim, solid body.

"I represent Jennifer Clarke. She's in the lock-up."

He sized me up, paying particular attention to my hair. I let it grow longer than the conservative norm of this profession, which often draws suspicion, even when I wear a navy pinstripe suit as flawless as the sheriff's deputy's uniform. "Okay. Go ahead."

I went to the door that led to the lock-up. Behind the door would be two dimly lit cells filled to standing-room capacity. It always took a moment of mental preparation before I could open it. When I did, all the talking and moving stopped as several pairs of eyes looked at me.

"Martin!" Jennifer said, excited to see me. She was a cute diminutive blonde with straight shoulder-length hair and hazel, doe-like eyes. A couple of women moved aside and allowed her to approach the bars. Even in the dimmed light, I could see her reddened eyes. And without her makeup, she looked her age of 29. With makeup, she'd definitely get carded buying alcohol.

"How did I let you talk me into this?" she said with an edge to her voice. Her hands held the bars. The handcuffs secured to her wrists clinked.

"You asked me how I could keep you out of jail so that you could clean up your life, remember? You agreed that it was the best option for both you and Katie. My question is, do you want to remain in that outfit and jewelry or are you going to follow through with the program?" She looked at me as if my words stung her. "Because if you decide to back out now, you'll be spending a long time in jail, with the habit you're trying to quit and without your daughter."

She sighed. "No." Tangled strands of hair fell before her eye and I reached through the bar and pushed them to the side. "I have been doing good, haven't I?"

I nodded. Eight weeks into the program and she had relapsed. Jennifer had been arrested when she was pulled over the night before on her way home from the contract work she received from Kristen. The police confiscated contraband that was located in her purse. That's how a defense attorney would explain it. To put it more bluntly, Jennifer was returning home from a "date" Kristen had set up for her at the Notell Motel on Main Street when the officer pulled her over for speeding and saw two grams of cocaine on the passenger seat.

"I was making the meetings and hadn't used at all," she said. "It hasn't been easy."

No it hasn't. It wasn't designed to be easy. The drug court program required four stages that would take one year to complete. It involved random drug testing, biweekly status review hearings, and attendance in treatment sessions as ordered by the court. Graduating from the program would expunge the guilty plea from the participant's record. It was a difficult program, but worth it to the drug or alcohol addicts who wanted to end their addiction and remove the conviction from their record.

She motioned for me to step closer to the bars. In a hushed voice she said, "But I need the work Kristin can get me, Marty. That waitress job doesn't pay my bills. I'm going to lose my apartment."

"If you go to jail, you'll lose your apartment, too."

"And I'll lose Katie," she said. "God, I don't want my mom raising her."

In feeling sorry for her, I also had hope. The arrest that had landed her in drug court to begin with was when a cop followed her as she left an appointment at a reputable hotel. She was pulled over for a burned out taillight. The officer questioned her about her business at the hotel. Then he saw the plastic sandwich bag of pot in the glove compartment when she opened it to retrieve her vehicle registration. This occurred a couple months after Katie was born.

"What happens now?" she asked.

"That will depend on the panel, the judge, and you. You know what they will be expecting," I said.

"Yes, I know. Honesty."



"I'll see you in the courtroom," I said. She lowered her head and shuffled her way toward the middle of the cell. I closed the door.

I returned to the courtroom. Judge Block was on the bench, and the panel was seated. One of the participants was before the judge, defining the "word of the day's" meaning to him. This was a regular part of the program in which Judge Block selects a word, writes it on a dry-erase board, and all the participants have to explain what the word means to them. I didn't hear the participant's response, as I was taking my seat next to Kristin. The sheriff's deputy then escorted three women into the jury box. All were cuffed at the wrists and ankles. All in prison-issue blue. Jennifer was in the middle.

"Jesus, that poor kid," Kristin whispered. "How is she?"

The young man stepped away from the lectern. Judge Block called out the next name. An African-American woman in the jury box stood.

"It depends on how this goes," I whispered. "Why are you here?"

"Because I care about her."

"You have a funny way of showing you care."

"Look, I didn't call her. She begged for some work."

"Shh! And I told you that no matter what, don't give her any. You and she have to trust the process. It's the only way she's going to make it through the program and beat her addiction." Then I looked straight at her. "Unless you don't want her to."

We remained silent and listened to the African-American woman's fall from grace. She had failed an alcohol screening test in her second week in the program and was also arrested for drunk driving.

"Look," I heard Kristin whisper. "I'm sorry, okay? If I had known that she had taken drugs sometimes as payment and then sold them to a dealer to pay my commission, I would never have arranged for her to work. She's a good kid. I knew she was hurting financially after being out of commission for a few months because of the baby. I thought I was helping. I'm sure this will all work out. They all look like nice men up there."

The nice men she spoke of were Judge Block and the drug court panel. The panel consisted of Gerald Gunner, the prosecutor; Jacob Stockton, the social worker; and Doug Jenkins, the defense counsel. Though Jennifer was my client, I had no authority in the drug court process. Jenkins was there to ensure that all the participants' rights were being adhered to, from a defense perspective. Even though I had no role in the proceedings, it was part of the bargain I had made with Jennifer. If she participated in the program, I would take the time out of my schedule to attend the biweekly hearings.

Jennifer's name was called. Kristin and I both looked at her. She stood in the jury box with the heavy manacles weighing on her skinny wrists. Kristin put her hand on my thigh. Using the thumb and forefinger of my right hand to hold each side of her wrist, I moved her hand back to her own lap.

"Your Honor, Jennifer had a relapse yesterday," said Gunner.

The judge, looking over the top of his black-rimmed glasses, read from a report. "You were arrested for possession of two grams of cocaine." His eyes shifted to Jennifer, and in his deep, gravelly voice, he asked, "How long have you been in the program?"

"Eight weeks, your Honor."

"And you have been making excellent progress. What happened?"

"I needed money, your Honor. The job I got at the restaurant isn't paying me enough. I'm starting to get behind on my bills."

"But you had to have known that being caught with any contraband would be a serious violation of the program. Am I correct?"

"Yes, your Honor."

"But you chose to do it anyway? How were you able to obtain it, Ms. Clarke?"

"The drugs?" she asked. I took a quick glance at Kristin. I didn't know how Jennifer was going to answer that. But Kristin revealed no emotion.

"Before getting into this program, I used to do odd jobs for people. Some jobs paid better than others. I talked to someone who would have me deliver things for them."

The judge shook his head. Gunner said, "We charged her with possession with intent to sell. I haven't had a chance to talk to her lawyer, but we may be willing to include the charge with her previous charge. This way, pleading guilty will be instituted as a part of this program. Of course, I'm going to want something in return."

"What did you have in mind?" the judge said. Before Gunner could answer, the judge continued. "This doesn't sit well with me. She intentionally violated the program."

"I understand, your Honor," Gunner said. "My recommendation would be that she starts the program over. Eliminate the eight weeks she has earned thus far."

"It's anticipated that those in the program will slip up," Jacob, the social worker on the panel said. Stocky, with a face full of cheeks, Jacob had a remarkable resemblance to the late actor, John Candy. "She has shown over the last eight weeks that she has stopped using. I wouldn't be opposed to Mr. Gunner's recommendation."

"Suppose that instead of removing you from the program and sending you back to the circuit court for sentencing, I follow Mr. Gunner's recommendation," the judge said addressing Jennifer. "How can I be convinced that this won't happen again?"



"It won't, your Honor," Jennifer said. "I want to do this. When I had the drugs in my hand and in the car, it wasn't the same. Maybe it's because of what I've been through these eight weeks. I looked at it and thought, I don't need that shit any more." She paused and put her hand to her mouth, rattling the chain and cuffs. "Oops. Sorry about that, your Honor."

"That's okay," he said with a grin. "Continue."

"I realized that I was different. I needed money, but I didn't need that stuff. I had no craving for it. I think this program will work for me. It has been working for me."

"On the board is the word of the day," the judge said. "What is it and what does it mean to you?"

"The word is trust, your Honor," she said. "Trust is something that is earned and is precious. The court trusted me to be in this program, and I let it down. I was making progress and was earning the trust of the panel and of my peers. And of my attorney who has been here every time I appeared in this court. But I've let you all down. And I didn't trust myself. I knew I should never have made that call. I should trust that all will be okay if I stick with the program, even if it means financially losing my apartment and my stuff. I would have, anyway, if I had gone to jail in the first place."

The courtroom was uncomfortably silent. The judge looked down at the report once more.

"I'm going to take Mr. Gunner's recommendation," the judge finally said. "Mr. Gunner, you and Ms. Clarke's attorney work out the details."

"Thank you, your Honor," Jennifer said, beaming a smile at him.

"Just be careful, Ms. Clarke. This is a major mistake and breach of trust. But you developed a strong record over the last eight weeks to earn you this second chance. There may not be a third." The judge closed the folder and addressed the courtroom. "I'm going to call a recess now. We'll resume in 15 minutes."

I gathered Jennifer's file and stood along with most everyone else. I turned to Kristin. "I have to stay and wait until they come back and go through the remaining participants before talking with Gunner. You don't need to stay if you don't want to."

"Can I see her?" she asked.

"No. She's being taken to lock-up right now, and only officers of the court are allowed back there."

"Walk me to the elevator, then?" she said. I didn't really want to, but I knew I could go back to lock-up and check with Jennifer during the remainder of drug court. We made our way to the door exiting the courtroom. The sun illumined the hallway through the tall and wide windows as we walked to the elevator.

"She looked very strong and courageous," Kristin said as she pulled her cell phone out of her purse. She used her thumb to push its buttons and looked at its small screen. "I think that's quite cool."

"Does that mean you're on our side now?"

She smiled. It was natural and made her look prettier than when she faked it. "I wasn't against you," she said. "I thought I was helping."

"Well, don't provide that kind of help again, okay?" She stopped looking at her phone and met my stare. "She can do this, and



everyone will be better off when she succeeds."

"So I'm not forgiven," she said. "Even after everything I've done to help this situation."

"Help? How did you help?"

"My dear," she said in a condescending tone. "What was the word of the day?"

"Trust? But how does that relate?"

"Simple, darling. I put my trust not in your legal system, but rather, in human nature."

"I still don't..."

"Let's just say that my presence in the courtroom may have had some influence on the panel."

She used her thumb to push the button on the elevator. Damn her, I thought. I started to feel my heart beat in my temples.

"Who?"

She giggled. "Come now, Martin. I have a confidential relationship with my clients, too. What's wrong, Martin? You look a little stressed. You know, I know someone who just might be available to relieve some of it for you."

"I think you'd better go," I said. The elevator doors opened and she stepped into the empty compartment. As the doors closed, she winked. ■



*Michael Kitchen, a 2004 graduate of the University of Detroit Mercy School of Law, practices criminal defense law in Macomb County, handling mostly court-appointed work. He co-authored Down Through the Years, the memoirs of former Detroit City Council President Erma Henderson, and is currently working on a novel.*