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CRUCIBLE OF JUSTICE

BY JEFFREY CAMINSKY

He sat in the back of the courtroom, as he did for all the proceedings. He didn't want to interfere, and it would be presumptuous to sit up front. The first shall be last and the last shall be first, he remembered. He felt more comfortable back there, anyway. Besides, the prosecutor lady knew her job. She'd been very kind to him this whole time. She didn't need him sitting up front, making her nervous.

Soon the clerk rushed into court, and the uniformed deputy banged a wooden gavel.

"All rise," said the deputy.

And so he rose.

Hearing the foyer door slam, John Ellis looked up from his book just as his daughter, April, entered the living room. Tears stained her cheeks, and her eyes were red and puffy. He felt his heart melting, and wanted nothing so much as to see her happy again. He hated seeing his baby sad, and she'd been moping around the house for the last two weeks. He suspected that now, as before, it was because of a boy. April's taste in young men left a lot to be desired, he thought. And her latest boyfriend was hardly the best of the whole sorry bunch. Rising from his easy chair, he took her into his arms and held her as she sobbed. As always, he tried not to let anger get the best of him. He could deal with what's-his-name some other time.

"What's wrong, baby girl?"

"Oh, Daddy..." she began, only to dissolve into tears.

"Shhhh," he whispered. "Everything will be all right."

"I told Roddy that it was over..."

John rocked her gently, patting her hair and wrapping his strong arms around his little girl. Little girl, he smiled. She was almost 20 years old, but she'd always be his little girl. He looked toward the polished oak mantle over the fireplace to see her second-grade picture. She was such a bright, cheerful girl, he remembered, and the picture was one of his favorites. He couldn't wait until she was all done being a teenager. For the time being, it would be nice if she could limit her roller-coaster of a life to one crisis a day.

"That's all for the best, baby," he soothed.

"He was no good for you."

"But he was so angry," she sobbed.

"It'll be all right."

"Oh, Daddy..."

"Hush, baby. It'll be all right."

"John?" called a voice from upstairs. It was Yvonne, his wife of 25 years. As usual, she'd gone up to bed early, leaving him alone with his books. But when one of the kids was out of the house, she never actually got to sleep any earlier than he did. She might just as well stay downstairs to keep him company, John chuckled to himself.

"April's home," he answered, gazing into his daughter's soft brown eyes. "I'll be up in a minute."

"Daddy..."

"Unless you want me to stay and keep you company?" He smiled gently, and gave her a warm hug.

"No...I guess I'll be all right."

He stroked her cheek with a rough, calloused hand and nodded. "Good girl," he grinned, turning to go up the stairs. "You'll see. Things always look brighter in the morning."

People were shuffling all around, the lawyers all fiddling with their papers and things. And then the back door opened, and in walked the deputies. And someone else, too. Someone he didn't want to see. Though he could bear the chains jiggling, he stared

straight ahead. Much as he wanted, he couldn't bring himself to look at the defense table. Not yet. He was afraid he'd lose his head, and controlling his temper was something he'd always been proud of. He looked instead at the oak-paneled walls, filled with portraits of important-looking men, and his eyes searched out the one familiar face in the room. Smiling, he nodded at the lady bending over the prosecutor's table. Her name was Cindy, he thought. She was a bright girl, and young to have such a big job. But she was nice, real nice. And she always seemed to have time to talk.

But today was different, he noticed. Usually she smiled to see him. Today, she looked all intense, going over and over things she'd written down on a pad of long-sized, yellow paper. And she hadn't even noticed when he entered the room.

They could talk later, he sighed to himself. He could see that she was too busy to talk right now.



...but "Daddy!" said a voice from inside the lake that was crystal clear and smooth as glass, and so he smiled and waved at his wife and kids on the shore where they sat on stools by the tent and they smiled and waved back, but the smell from the campfire was pungent and wrong though the sun was shining so very brightly through a sky dark as night, and so they started screaming at him, but the fish were biting and he really didn't want to wade ashore....

"Daddy!!!"

Floating on the water, he found himself unable to move and starting to sink. He came to rest on the bottom of the lake, and laughed to find that he could breathe under the surface. He was surprised to notice that the water had a dark, smoky taste that made him cough. The lake was warm on his skin, and he could feel the waves flow gently over his body. He tried to stand up, but found that he could only crawl over the rocks toward the shore. The fish all stared at him, their gills flapping comically as a rising whirlpool carried them to the surface, and he felt the warm sun beating down through the water. Too groggy to think, he was smiling as they floated past him when he heard his daughter scream.

"FIRE!!!"

In a heartbeat, John was wide awake and gasping for air, his nostrils clogged with soot. The whole house was shuddering, and he could feel the fire crackling inside his brain. Smoke was everywhere, rising on waves of heat. Roughly shaking his wife to wake her, he leaped from his bed and opened the door. April was crying and screaming and running about, pounding on doors and trying to wake her brothers. As his baby girl wailed, and nearly collapsed in tears on the floor, he saw flames shooting up the stairs.

He didn't understand much about court, and so he sat back down when everybody else did, just like always. And like the other

times, even if there was nothing for him to do, he just wanted to be there to listen.

"People versus Rodney Darnell Washington," said the clerk. "Here today for argument on defendant's motion to suppress his statement."

"Good morning, your Honor. Cynthia Henderson for the People."

"Allen Schofield for the defendant."

"Your motion, Mr. Schofield."

"Thank you, your Honor...."

"Daddy—!!" April whimpered.

"We'll be okay," John said firmly. "You just stay calm."

But it wasn't okay; he could see that at once. Flames snapped and billowed up the stairway, trapping them on the second floor.

John kicked open a door and burst into the boys' room. Roughly hauling his teenaged sons out of bed, he pushed them, groggy and in their pajamas, out into the hallway. He had to think, but was running out of time. They'd all have to jump, he decided, and tried to think of the softest place for them to land.

"Damn," he muttered to himself, trying to ignore the panic and howls around him. Heat flowed up from down the stairs, and the raging fire blocked their escape route. John fought the urge to kick himself for being too dumb to keep a rope on the second floor. He needed a clear head; everyone needed a clear head. Blaming himself could wait until later, until they were out of danger.

"The defense does not dispute the arson. The fire marshal's testimony clearly indicated that the source of the fire was the Molotov Cocktail thrown through the front window at approximately three o'clock in the morning, and the suspicious nature of the fire was known to the police from the outset."

"But aside from the suspicious nature of the fire, at the time that they arrested my client, they had no more than suspicion that the defendant was involved. Aside from his confession, he cannot be placed at the scene until after the fire had started—when he appeared, along with the fire trucks and half the neighborhood, to render whatever assistance they could. Even taking into account the hearsay testimony from friends of the victim, the mere fact that he and April Ellis had a romantic falling out, and that he had expressed to her his hurt and frustration at the break-up, does not amount to probable cause to justify the arrest...."

"John!" Yvonne shrieked. He looked into her soft brown eyes; he'd fallen in love with her eyes, he always told her. Their gentleness and warmth had drawn him into her soul, and the laughter in her heart had always echoed in her eyes. Now, all the playfulness was gone. Nothing was left but terror.

"Everybody—into the back bedroom," he commanded,



pushing them into the large master bedroom at the end of the hall. He closed the door behind them and moved quickly to the side window overlooking the lawn between their house and the Anderson's, next door.

"We're all gonna have to jump," he bellowed, trying to make himself heard over the screams of his family. Tugging with all his strength, he pulled the dresser away from the window. Searching the room for something to break the glass, he grabbed the wooden chair he sat on to tie his shoes every morning. Heaving it against the window, he broke a jagged hole through the window, then threw the chair through the window beside it, clearing two spaces for them to jump. The chair smashed and splintered as it hit the ground.

"It's too high!" cried April. "I can't..."

"Yes, you can, girl. We all can." He looked down: it was at least 12 feet, maybe higher. They'd probably get hurt; they might even break a leg. But they had no other choice.

"John—!"

He looked at his two young sons.

"All right now. Craig, Steven—you two jump with your mama. April—you come with me."

"The People note that the defendant doesn't deny that his confession was completely voluntary. The testimony of the interrogating officer at the station house...."

"It's too high!" screamed his wife.

The stairwell was acting like a chimney, drawing heat and smoke to the second floor. The wooden floors and window sills cracked and snapped as the fire grew larger. John was surprised by all the noise.

"All right—everyone together, on the count of three...."

"Daddy—!" screamed his daughter.

"One..."

"The defense is not claiming that the confession was involuntary, Miss Henderson. This is a Fourth Amendment motion, not a Fifth Amendment motion, is it not?"

"Yes, your Honor."

"The only remaining challenge to the State's ability to use the defendant's confession at trial is the claim that the police had no legal basis to arrest him—and that his confession was the product of an unlawful arrest."

"That's true, your Honor, but..."

"Let's address the pertinent issues, then, shall we? Tell me about the arrest. Specifically, tell me about any probable cause that allowed the police to take him to the station house for questioning."

"Sorry, your Honor."

The flames were spreading quickly, lapping against the walls outside the bedroom. The heat

made John sweat like pork on a spit, and he felt the hair prickling on his arms. Smoke was everywhere, making it hard to breathe. Everyone was coughing, their eyes stinging with the fumes.

“Two...”

“From the testimony of her friends, we know that April Ellis had just broken up with the defendant. And we know he was distraught over the break-up. Shortly before the firebombing, she confided to LaKeisha Hendricks that the defendant had told her, ‘If I can’t have you, ain’t nobody can have you.’ Given his appearance on the scene, shortly after the fire started....”

“Excuse me, Counsel—but didn’t April’s conversation with Miss Hendricks take place three days before the fire?”

“Yes, your Honor, but...”

“And how many other neighbors were on the scene when the police arrived?”

“There were many people gathering from around the neighborhood....”

Sirens from the fire trucks were sounding in the distance. John could see neighbors starting to gather under the street lights. Help was coming, he thought; it was already on its way. They were going to be all right. John grabbed his daughter’s arm.

“Three!!!”

“...and so in this court’s judgment, the police had ample grounds to believe that the fire was the result of arson, and that a crime had, indeed, been committed.

“But turning to the basis for arresting the defendant....”

Terrified of falling, April jerked her arm away as John hurled himself through the window and toward the ground. Broken glass scratched against his cheek, and he felt the ground rise up to knock him senseless. As he stirred back to life, he felt a searing pain in his right arm. Neighbors were rushing to his side, trying to help him to his feet. As his head cleared, he looked to see nobody on the ground beside him.

“Aside from his presence on the scene—which was no different than the reaction of many other people in the neighborhood—and the fact of his recently terminated romance with one of the victims, the only reason the police can give to justify arresting him was Sgt. Davison’s impression that the defendant seemed indifferent to what had happened. ‘Almost smug,’ as I recall the testimony....”

Lifting his eyes, he saw them, all four of them, just before the rising smoke hid their faces from view. Angry, red flames had already reached the roof. Through the crack and snapping of the flames he could recognize every terrified voice pouring out of the broken window, each scream cutting his heart like a dagger.

“Jump!!!” he cried, running toward the house.



“The police did, in this court’s opinion, have ample grounds to suspect that the defendant had some involvement in the firebombing. Subjective suspicions, however, do not constitute evidence, and they do not meet the Fourth Amendment threshold for probable cause to make an arrest. And since the confession came about as a direct result of the arrest....”

The fire trucks were racing down the street. Their sirens wailed a deafening, frightening pulse. His heart pounded wildly in his chest, and John hated himself for leaving the others behind. He should never have tried to lead them out, his mind shrieked at him. He should have pushed all of them through the window before he jumped. Just like the captain on a ship. A real man would have made sure everyone

was out safely before even thinking about jumping to safety himself. Any fool with half a brain would have known that.

Racing to the side of the house, John got his garden hose and felt around on the ground for the nozzle. Unable to hold the hose with his right hand, it kept dropping to the ground. Holding it with his teeth, he took off the sprinkler with his left hand, and cross-threaded the nozzle, racing against the growing flames. Unable to wait any longer, he opened the spigot and ran toward the front door, desperate to get upstairs. He was tackled by two burley firemen. Struggling to get past them, the two were joined by a third, and the three men wrestled John away from the door. Within seconds, firefighters were inside and flooding the house with water. Screaming wildly, fighting to get inside his home, the last thing John remembered was the choking scent of damp smoke filling his lungs.

“It is therefore the order of this Court that the motion to suppress is granted. And as the People have represented that they cannot proceed to trial in the absence of the confession, the charges of first-degree felony murder in this matter, murder by means of arson, being counts one through four, are hereby dismissed.”

The judge banged his gavel, and soon the room was empty. ■



Jeffrey Caminsky lives in Livonia with his wife and family. A veteran appellate prosecutor, he retired from full-time service with the Wayne County Prosecutor’s Office in 2009, and now does consulting work on a part-time basis. He enjoys a variety of interests, including sports, camping, photography, and reading. (He used to enjoy politics and current events, until they started to depress him; now, he finds both to be a lot like following the Lions.)