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Symposium: Death Penalty Stories: Article: Joel in the Wormhole

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SUMMARY:

... The dead boy was Joel's age, a more-loved and less attractive image, perhaps, swimming up to Joel's eyes from behind the counter, through the sugary teenage drinks the two of them knocked back before they drove to McDonald's. ... There were two assistant District Attorneys, Jim Williams and Ronnie Bodenheimer: Jim Williams, famous for misconduct even in New Orleans, is now a defense lawyer who says he is reformed. ... And it said that teenage white boys shouldn't kill each other in the suburbs on a Saturday night, that good-looking kids with blond hair and the fear of death upon them shouldn't be sitting in the defendant's seat in a capital trial, knee bouncing from nerves. ... Clive did it so well, that line of questions, he would make a self-deprecating and truly funny remark about his British accent, and then cock his head and ask them could they hate Brits and not hate his client? ... So Joel screamed through his first few years and then started talking and started school, and by then Joel's father stopped whatever he was doing that left no marks on the boy's body. ... Never a clear moment had passed between them, though Rudy liked and looked up to Joel, and Joel felt grudging pity and shame around Rudy. ... And how it was inverted by the anarchic pagan spirit of the celebration, until Katy said: Tell me more about Joel's doctor. ... Joel entered the wormhole that day in that courtroom, and he never came out the other end - not really, not during trial or later in prison. ... We fight over how long they have to deliberate, over whether the judge should be allowed to "dynamite" the stuck jurors with additional words about deliberating further, but if you've done your job in selection and argument, the juror who says: "enough, I vote for life" knows that he or she cannot be made to change, and that the death penalty is no longer an option. ... Clive could talk about the murder but not his father, although it was Clive that Arnie confessed to, and Clive never did trust the jurors to see what Mame had done - Mame who was disappointed in her man and her boys and no doubt in herself as well.

TEXT:

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He was nineteen but looked younger: slim, blond, pale, watchful. Sometimes I would see a man in him, then the child would reappear. I grew to know the man, eventually, although of course I could not know that he was not to be an adult for long.

His confession to the murder was taped by the police; hard to make out the words through the unchecked sobbing of a boy in terrible trouble. I heard the remorse and the bewilderment too, but there weren't many who did.

Often capital defendants are publically loathed, reviled, and he was. But the measure of the fury directed at him seemed to be inversely calibrated. The murder was mighty sad, aren't they all, but not shockingly so: no planning, no rape, no torture, no time at all to fire one bullet one time and take a life. He and the co-defendant, a Filipino kid who sold a little pot, they robbed a McDonald's one night and when the other kid said "do it," Joel fired.

The dead boy was Joel's age, a more-loved and less attractive image, perhaps, swimming up to Joel's eyes from behind the counter, through the sugary teenage drinks the two of them knocked back before they drove to McDonald's. The booze and the pills and the pot clouded Joel's sight, just as he probably wanted. I don't know whether the moment he fired the deadly shot was a rare moment of clarity or one lost in the haze forever.

The victim - that's how they end up, that becomes their new name, The Victim - was an unathletic spotty youth. A boy whose dream was becoming a McDonald's manager, who had spent his vacation with his mother, at McDonald's headquarters in Illinois, and returned with the goal of having his own franchise. That became part of every news story, written by people who privately thought it was a laughable dream, or a pitiable one. Local television reporters would add that to the court news, shoulders rigid. "He wanted only a McDonald's franchise" said with indignation and condemnation, as if Joel shot him for that reason.

It was never so simple as that.

The police searched hard for a connection the Victim had to Joel, looked for a cause for murderous hatred or envy but there was none. They had never met. The sweet lumpy kid worked there, he worked there the night that Joel and the co-D drank too much but not enough to pass out, went into that McDonald's and pulled out a gun and asked for money and got it. And then fired. Once.

People said, outraged, "They had the money, and still killed him!" as if such a thing were the product of a plan, susceptible to rational analysis. I used to be scornful of what I thought to be shallowness, a silly mulish insistence that things should add up in some sort of made-for-TV-movie fashion. But I have learned to appreciate our human ability to impose meaning. I learned it from my own losses. No murderers I have met could tell you exactly what went wrong. That becomes our job.

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The story of Joel's case is a story about me, about doing that job, mitigating murder. I would apologize for that but I can't help it. This project of trying to save the accused and the condemned has been my work for twenty years now, and my life is laid out along with theirs, my fears and the times I could get past those fears are braided into their stories. I never had a case that didn't send me into panic, into the recognition that I am not up to this. The years have made a difference, of course: now I know that no one is. I also know that I have to find a place where the fear doesn't rule, because if the interior voices get too loud, the fear too overwhelming, I just can't hear the lower, slower voices of the story.

And it's a story, always a story, that opens the path to a place that says "no" to the death penalty. That's been true whether it is a judge or a jury I am trying to convince: you'd better give the judge a good story, along with your law, if you want to win.

I was assigned Joel's case by the Chief of the Public Defenders' office almost immediately after losing another trial. A woman whose baby starved to death. I failed to explain to the jury why the mother's own impairments made it impossible for her to seek help for herself or her baby. She was convicted, but she had been charged with manslaughter, and was not eligible for death. "Won that one in the grand jury" we used to say of cases like that, an inside joke of sorts, because defense lawyers don't go to grand juries and don't win anything there. If a grand jury looks at any homicide and doesn't seek death it's almost always because the prosecutor didn't ask for it.

That sort of tempered judgment was never going to come from the prosecutors in Joel's case. There were two assistant District Attorneys, Jim Williams and Ronnie Bodenheimer: Jim Williams, famous for misconduct even in New Orleans, is now a defense lawyer who says he is reformed. His mate, his sidekick, Ronnie Bodenheimer, went on to get elected judge and in short order get convicted by the feds for planting Oxycontin on a rival and for fixing trials, including the divorce of Al Copeland, the Popeye's Fried Chicken magnate. I am not making this up.

Both of them loved the death penalty. Williams had a famous picture of himself holding a toy electric chair with pictures of all the men he had prosecuted who got death. Six black faces, just the heads, pasted to a chair with tiny little toy restraints. But he told the author Ivan Solotaroff, that it was Bodenheimer who was really "cheated" when the state

switched from the electric chair to lethal injection, because he could no longer sidle up to condemned prisoners and make sounds of electrical buzzing. n1

The two of them settled on a new way to celebrate victory when they got a death sentence. They presented each other with a mounted syringe called "The Big Prick Award," a plaque with their names and the defendant's name and the date the jury came back their way. They hung them on their walls. Bodenheimer [*1061] had his in his chambers for the short time he was a judge, before his disgrace and conviction. But that was yet to come. In the early 90's the two of them ruled the roost at the D.A.'s office. They seemed to like each other, and had worked together on a dozen or more cases. They walked into the courtroom the day of the arraignment, confident in their case and the outcome.

On the other hand, our team was assembled just for Joel's case, and we barely knew each other when we started. Clive Stafford Smith, an Englishman with law licenses in several Southern states had recently moved to New Orleans. I met him on Death Row, literally, when both of us were visiting clients there at Angola. He had a reputation for novel strategies and brilliant showmanship in trial, and I asked him to be co-counsel, to take charge primarily of the guilt-innocence portion of the case. He said yes, but only if we could get experts and time. I said I would get that, and did. It was the early 90's, and there was practically no money for indigent defense in Jefferson Parish. We sued the parish, on the theory that if they wanted their capital trial, they should pay for it. We won a grudging victory, one that imposed a limit on counsel hours that was too low. We both knew we'd work the hours that were needed, not just the ones they would pay.

I begged for a mitigation specialist, someone to help us put the picture of Joel's life together, someone with a specialized knowledge of mental health issues. I got my wish, with a caveat: there was only enough money for the specialist to come in toward the end of the case, which meant we had to do the investigative work ourselves.

Clive had smart young people working with him, dedicated students who sought him out, and the investigation of the witnesses, forensics, and co-defendant was handled by them, for no money. With our precious resources, we got Lee, one of the best mitigation specialists in the country, to come in when we got closer to trial to help us put it together. For almost no money I got Katy, a smart whole-hearted investigator to help me with the family. I met her through an old friend, one who knew me in the days I tended bar on Bourbon Street, listened to rhythm and blues all night, and never once thought about getting a law degree so I could fight the death penalty.

The team talked about the weird level of publicity, how every motion we filed got press coverage, every routine setting made the paper.

"What the hell is it about this case?" a Midwestern intern asked, exasperated by the volume of the news stories. "McDonald's?"

"That McDonald's is in the heart of Metairie" I said. "They sent David Duke to the state legislature. What else do you need to know? It's a shrine to white flight. It's supposed to be safe."

Of course that was all true. Also true was that the resentment that was fed by Joel's homicidal deed lived without his help, pre-existed his entry into the world by a good many years, and lives on now that his short life is over - now that he is buried at Angola prison in an unmarked grave, as his girlfriend believes, or perhaps scattered to the winds as he'd wished. That resentment said that we should all be safe, who can argue with that? And it said that teenage white boys shouldn't kill each other in the suburbs on a Saturday night, that [*1062] good-looking kids with blond hair and the fear of death upon them shouldn't be sitting in the defendant's seat in a capital trial, knee bouncing from nerves.

But sat there he did.

We tried for two years to get the prosecution to take death off the table. Joel was willing to plead guilty and take a life sentence, but the prosecutors wouldn't hear of it. He was a bad seed, they said, he was pitiless and ruined at nineteen. They learned from his high school friends that he had stolen cars and set off pipe bombs. They justified seeking his death with such tales.

Those kids he went to school with, they talked to the police, to the prosecutors, and eventually to the jury. They were teenagers from this middle-class New Orleans suburb, who never seemed aware for even a moment that they were providing evidence against Joel in his capital murder trial. The day two giggly girls testified about some dumb braggadocious letters Joel had written from prison, I whispered to Clive: "Why? Why would they do this?" He just pointed to the girl on the stand at the time, looking around the courtroom with a thrilled self-consciousness. All her clothes were new, fresh from the mall where she and Joel and a dozen of their friends had spent their Saturdays the week before the

killing. Later, outside the courthouse at the end of one of the long days of trial, I heard her recounting the moment to a circle of girls. "And then they asked me . . ." They squealed at the sight of a local TV announcer, though later they looked blank when their parents pointed out Mike Wallace.

I have come to believe that what happens in a courtroom when the prosecutor asks the jury for death is so extreme, so wrong, so hard to take in, that these young people were only reflecting a naive version of the adults' delusions. We all have a stake in minimizing what's really going on. It should be solemn and terrifying but human beings can't live there. We at the defense table, if we really thought that our skills, and work, and thought, were all that stood between a client we care for and death on the gurney, we couldn't keep doing our job. It's a business, after all: the business of seeking or fighting death by law.

Once in another case, a young woman was helping me with trial preparation. She had come from England to do a year's internship with my office because she wanted to fight the death penalty. She worked many hours before the case began, and she knew exactly what we were facing. Yet when the prosecutor told the jury, "I will ask you to vote for the death of John Booker," she gasped so loudly the whole courtroom turned to look at her.

I'm sure I glared. Later, apologizing, she said, "It wasn't till I heard it. I couldn't really imagine that I would ever hear those words in a court of law. It's been so long, in Europe - before I was born."

The wormhole, I call it. Dropped into the wormhole, where the banal surroundings of the courtroom and the office fall away, and where we are face-to-face with the reality of the death penalty. The gurney, the chair, the rifles, the rope. The midnight hour at the end of the road to Angola Prison, or Parchman, or San Quentin. The death house.

Falling through the wormhole happens in a moment: the curtain blows aside and for a second all I see is the grinning skull, the pointed teeth, the desire for another's death. Alone among civilized nations, my country uses the majesty of [*1063] its laws and the practical machinery of its courts to kill people: to tie a young man to a table and put a fatal poison in his veins, to strap a woman to a chair and boil her brain with electricity, to walk Gary Gilmore to Point of the Mountain, Utah, and listen for the crack of the rifles that took his life, with the law.

Reading a legal decision that tidies up the facts or contorts the meaning of the law, all to get to death - that can drop me through the wormhole. It's an awareness the system is set up to hide. It's supposed to look like precedent, law, and legal reasoning make a difference, but they don't. Prosecutors who want death will lie and cheat, judges will ignore the law and pretend they had no choice. Defense lawyers who drank straight through the trial or slept with the lead detective tell you later, "there was nothing I could do, I did everything for him." Judges who praise, oh god, the minute that starts I am hurtling through the wormhole. Once we were in federal court two nights before the execution, when the judge leaned down from the bench and smiled at me, said my name caressingly, said how good I was, how much the court appreciated the effort, the pleadings, the last-minute witnesses. As soon as he said my name that way I heard his triumphant hatred, knew he was lying, knew my client was a dead man.

I can't help it if you don't believe this. It happens in every capital case, it happened in Joel's, no worse in his case than in many.

My sister was a mitigation specialist, the indispensable sort of private investigator we need in all capital cases. Mitigation specialists develop an individual's history through documents and interviews, learn the circumstances of the client's life and family and case, and provide the context for the explanation of the client and the homicide that we seek to give the jury. Marie was one of the finest in the country, and although she didn't do Joel's case with me, we usually worked together. She told me many times, "If we can mitigate the murderer in our client, we can mitigate the killer in the prosecutor's heart," and I knew that she was right. Once we watched the assistant district attorney, a young woman I went to law school with, put her head down and weep when the jury came back with a hung verdict, which meant life.

"It isn't going to happen for me" said the young prosecutor that night, and Marie said: "We could mitigate her."

So, looking down the years, somewhere I stopped blaming the giggly star-struck teenagers who saw the Victim's death and Joel's potential execution as the latest drama of high school life. They were only doing what we all did: pretending that the system of legalized killing is working, that deciding the death of a kid was a thing people could do with a vote. The Emperor is fully dressed.

It's not as if Joel was unpopular, one of those "he was always a loner" kids who snapped and sprayed bullets down a hall of the hated high school. He was a different high school type, the cute fast boy; the girls wanted to date him, the boys wanted to be him or be his friend. So what had happened?

"What happened?" is always a question for the defense team, and we started as we often do, with our client's family. I remember the first time I knocked on Joel's family's door, in a cheesy gated complex, in Metairie, the suburb where he [*1064] lived his whole young life and where the Victim died behind the counter at McDonald's.

For years as a capital defender I struggled to learn the lives of people who lived in trailers in the rural South, or who were raised black and poor in dreadful urban housing projects. I learned, I missed things, I saw the gulf that separates and the ties that bind. I stood before juries and hoped I could walk them through lives that were alien to us all.

In one case the child had eaten chicken feed, literally. His sister learned from the man who lived next door how to cook it into a mush for herself and her brothers, when she was eight and they were younger. He wouldn't give them an egg, couldn't spare one.

A colleague's client had been found, crying from hunger, wearing only a filthy diaper. Three years old. His older sister took them into abandoned apartments where she scraped the gas rings on top of the stoves to get crumbs, burnt flecks of food or insects or worse, so they would have something to eat.

I learned about rural hunger too, children who grew up with scars from barbed wire, running from shotguns in the dark, more afraid of coming home without the squash or the tomatoes than of getting shot. Stories that sounded like Rwanda, wartime Cambodia, but had happened in modern America. That's what I was used to.

Then Joel. Mother a schoolteacher, first in her family to go to college. Like my own mother. Middle class white people in a garden apartment with three small bedrooms and a dining ell and a neat common lawn. After the murder and Joel's arrest, about midway into the year before trial, they moved into a two bedroom, maybe knowing they would never need his room again, that he was never coming back.

Joel's father was not there for that first visit, but his mother and older brother were. The older brother, Rudy, was clearly mentally retarded, face slack or sly by turns, hair greasy, fingernails black and broken. Later, in court, he was seated next to my boyfriend, the fireman. It was a time when my love for this work was separating us, turning him into his anger, and me into my distance. It was not long after this trial that the river between us widened, and we separated for good. I seldom saw him until Katrina, when he returned to the drowned lightless city because coming back fed the part of him that was the adrenaline junkie, the hero. He actually broke into my sister's flooded home and carried me out over his shoulder when I was trapped by swollen doors and my frantic misery, overwhelmed by the smell and panic and loss.

But Katrina and the flood were years away when Peter slipped into the courtroom in Jefferson Parish, and sat next to Rudy, and reacted to his body odor and his dirty shoes and clothes.

I wondered as I watched Joel's mother that afternoon. She was pleasant and remote, but not as distant from me as she appeared to be from her son. She didn't turn to look at him when he spoke, although she didn't interrupt him. She just waited, face blank, and then went on as if he hadn't spoken. She began the story of Joel's childhood that day, a story that changed and then changed again, with time and with the teller.

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The first story was all about Joel as a normal kid, a little wild as a teenager maybe, a little too much partying. The story was about a normal family, Mom, Dad, middle class, can't have kids so they adopt. Two boys, they can be such a handful.

Joel's mother, Mame, was careful about her appearance. She was overweight, but her clothes fit, she still had a waist narrower than her wide hips, and precisely curled dark hair. To the television reporters she had made an odd statement:

"If he committed this murder as they are saying then I believe in the death penalty. But if he is injured in any way in mind or body, why that's different."

"In any way?" sniffed Marie, my sister. "You mean if he had a sprained ankle, he shouldn't get a death sentence? What do you think she's trying to tell us?" When Clive joined the team I showed him the clip. He was horrified. "We can't let this be shown to the jury. His own mother thinks he should get death? They'll think he's a monster." Or she is, said Marie. "Either way, they'd be wrong."

Mame was proud of being a middle school teacher, she said she was a good teacher and that her students liked her, and I found that easy to believe. Her shoulders lifted and her face cleared when she talked of her classes.

"Special ed?" I asked, thoughtlessly, not looking over at Rudy.

"No" she said, sharply. "In fact, quite the opposite. I have been asked to teach Gifted English classes for the last ten years or more." The quick sideways look at her son was superior. I thought it was odd: as if she were competing with this ungainly retarded boy.

"We don't teach our own children, of course, so Joel wasn't in my class but he could have been. He's very smart."

I asked for photographs, documents, beginning the process of constructing a family history. Mame was cordial, seemed eager to help, and was not as anxious or defensive as other mothers of accused murderers I had interviewed. Mothers of murderers. Perhaps she had not fully realized she was now a member of that small and awful club, one she joined one night in her sleep when the Victim fell dead behind the counter, in McDonald's, where he loved working.

"All we know about Joel's birth is that his parents were Tulane students, didn't want to get married - we adopted him when he was only a few weeks old."

Mame made a point of saying that Joel was adopted and Rudy was a foster child. The distinction seemed important to her.

Rudy said very little, asking about his lunch and the whereabouts of his father. Mame answered him in a reasonable tone, but I cannot remember her looking at him. Not that day or the next time I came to visit either. Now, all these years later, I only remember her looking at him one time, just after the story came out, and it was not a maternal gaze.

There were grim facts behind the schoolteacher Mom's distance, behind Rudy's untended appearance, but that first day, in a clean living room in a small cheap middle class apartment, I just wondered. I had been taught to cultivate the space between observation and judgment, to prolong the moment of noticing, to wait. The work requires the ability to sit with anxiety, the horrible fear that grips me at some point in every case. "He will die" says a voice that speaks to me, [*1066] about me, "And you can't save him." But learning to wait until the story unfolded, to let it wash over me - that was my discipline. A monasticism I'd accepted, somehow, and which I could not quite relinquish yet.

Mame did ask about Joel, how he was and how he looked. By then I'd seen him a few times. People often think you ask the defendant what happened, you try to get the story from them but they don't often have the story, and Joel, especially, how was he supposed to know what had happened to him?

The first time I went he was polite, very scared but trying not to show it. I just listened to his questions and tried to answer them. He asked very few. I never asked him a lot - didn't have to. He would talk for a while and then we would be quiet together. I could ask one or two things, and he would tell me what I asked, if it was possible for him. If he knew.

I never asked him why he killed, why a kid with a middle-class allowance robbed a McDonald's. I didn't have to hear him say, "I don't know." He asked for the police reports, and I brought them. We worked through what the witnesses would say, what Clive would argue, how the case might sound to the judge and the jury. Once when I was about to leave the visiting shed he looked down at the papers, at the words that told of the body of the boy he had killed, where the bullet went, where the blood was, in the language of the police.

"If this was all you knew" he said, smacking the page with the back of his hand "you'd say this was messed up."

But it isn't all I know, Joel.

I went back to that family again and again, to that neat, bleak apartment that looked like a Southern version of the Staten Island garden apartment where I had lived with my mother and sister during my own high school years. It was cheaply built but freshly painted, and I would smell instant coffee or room freshener while I looked at the speckled beige wall-to-wall and speckled brown countertops in the kitchen, while I watched Mame not look at her son, while I tried to read the looks she gave her husband.

Bit by bit, Mame told us more of Joel's story, the family story, and we pieced together the parts she would never tell. Bit by bit, we started to see the shape of it, the only way we could: outlines, shadows, silhouettes. We found what was there by looking for what was missing.

On the second or third visit, Joel's father, Arnie, was there. He was more belligerent and more anguished than his wife, and clearly more afraid. At that first meeting, I thought he was afraid for Joel. He sat between his wife and Rudy,

sometimes touching the vacant boy. In fact, as I think of it, Rudy and his father Arnie were the only two people in the family that I ever saw touch each other.

It was on that visit that Mame told us she had been hospitalized for addiction to prescription pain medication. That is exactly how she said it, every time she talked about it. She would use the words of the twelve step program she attended for a while, talk about herself as an addict, but every time she would conclude, there would be a pause, wait for it, and she would say "addiction to prescription pain medication." It was important to her that we knew it was not a street drug, not alcohol, that doctors had given her those pills.

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She needed the pills, she told us, for her back, shoulder, neck. Knees. She had real pain, I have no doubt. She found herself taking an extra pill to help her sleep, and another if a twinge got through and another if she felt worried, or sad. About Joel, she said, I was worried about him. "We knew there was something wrong."

The first time Mame talked about her pills and the treatment she left out the intervention at work that forced her to choose between rehab or unemployment. She told us - a neat contained package of a story, that she'd gone to rehab, twenty eight days in-patient and that it was "a very challenging yet wonderful opportunity for me." She gained insight; she learned to forgive. "Forgiving yourself, that's the big lesson" she said, but she was gazing at Arnie when she said it, and I would not have said that the look on her face had much to do with forgiveness.

Arnie was a small man, narrow-faced, colorless. His education was good enough for a fireman, not for a school-teacher. Mame's grammar was perfect, her diction soft, barely Southern. Arnie was "country" in his looks, his double negatives and casual racism, and his accent. He'd been raised in foster homes, told us he was an orphan, and never told us more about anything that happened to him before he was in his twenties. I have a pretty good guess, though.

Arnie talked a little about his fireman job, just a job to him, with retirement at twenty years. He smelled of beer, not on his breath but coming through his pores, yesterday's beer. He agreed with his wife, said she does all the talking more than once, and nodded. Yes, we tried to get pregnant but it wasn't to be. And then, me being an orphan, we wanted to adopt. The first baby, we couldn't keep him. He was so sick, we didn't know how to take care of him. The second baby, a boy also, he was never going to be ours to keep, we were foster parents is all. Then we got Joel, we filled out all the papers- that was a happy day.

He said it wistfully.

Later I asked, "When did you think there was something going on with Joel?" keeping my words as neutral as my face and voice.

No blame, no conclusions, we learn that. Non-judgmental listening, the only way people will tell you anything.

We can mitigate the mothers and fathers too, said Marie to me, says the Marie still in my head.

"And the abusers?" I asked and "of course" she replied, "you know the answer to that."

"You could mitigate anyone" I said, admiring.

"Yes," she said. "We can".

"When did you think there was something going on with Joel?" was not a question Arnie wanted to hear, and he didn't answer the first few times I asked it, but one day he surprised me with tears in his eyes. "When he cut himself. When he ran away. When he stopped talking even to his mother. The boy loves his mother."

Because there was so little money for the defense team, we did much of the mitigation investigation ourselves. I read all the documents we got - school reports, medical records. On those early trips to Mame's and Arnie's, I asked for [*1068] photo albums, report cards, baby books. Documenting a life: an odd number of hospitalizations for a young man with no chronic illness, with a healthy body. More problems in school than just a reckless teenager.

Then interviews, and more time with the family. I went back, and back again. Perplexing terrors and rages as a baby, as a toddler. Schoolteachers who sent him home for behavior problems, despite the fact that his mother was a teacher and sending another teacher's child home violated something of a code.

"I was worried about him," one teacher told Katy. "He was just so sad."

When he was twelve he was involuntarily committed to a hospital that specialized in treating adolescents. The reasons were unclear; the provisional diagnosis was "situational depression" and "possible conduct disorder." That told us nothing. What was the situation? And conduct disorder is not a diagnosis, it's a description. I mean, okay, that's an opinion, and yes, you can find "conduct disorder" in psychiatric literature and forensic psychologists will tell you it's the precursor to psychopathy, but really, it's just a set of observations and negative judgments.

"Destroys property for no reason."

"Inappropriate anger."

"Tells lies."

"Runs away from home."

"Truant."

"Drug and alcohol abuse."

"Low self-esteem."

Words of an adult, looking at the outside of a kid.

I asked Joel if he liked anyone he met in those doctors' offices and clinics and counseling centers, and at first he shrugged and said "No. They were stupid. I knew I didn't have to be there. I just let them talk." Later he told me about being strapped down to a table, and how it felt, and how he would have done anything, anything at all, to get away from the panic and rage and helplessness.

We discovered that the involuntary commitment had been triggered by a remark to another student at his junior high and repeated to a teacher: "I wish I was dead. I am going to kill myself."

"Did you want to die?" Clive asked him directly, sympathetically, and "no," said Joel, "it was a stupid joke, they got it all wrong." He never looked younger, literally turning his head away from us in the tiny holding cell so we couldn't see the lie, the way little children do. I tried to give him a way to talk about it but he never did, maybe to Clive but not to me, just repeated that he was joking, the teacher was stupid, shouldn't have made such a big deal of it.

He was in the hospital for the twenty-eight days his mother's insurance paid. While he was there, he cut himself. He wrote tiny little words on his arms, chest, abdomen, with a broken-off piece of a plastic razor.

"I hated that place. I hated my parents for putting me there. They tied me down and left me" which I thought could not be true, but it was.

There was so much publicity about the case, so much public condemnation of Joel, that we actually got a change of venue, accomplished by moving the lawyers and court personnel 125 miles to the west, to the city of Lafayette. The [*1069] judge ordered that the jury be chosen there, rather than in Jefferson Parish, where the case was notorious. But he refused to have the trial in Lafayette, wanting, I suspected, the comforts of his chambers and home base.

"Kidnapping the jury," I grumbled. "Asking a bunch of people what they think of the death penalty, then picking twelve and putting them up in some motel in Jefferson Parish. Can't even drive down a familiar street in the van with the deputies on their way to court in the morning. Better hope they hate the prosecution and the defense equally, for putting them through this."

Jury selection is studied and quantified and the subject of great social science. Jury selection is a dance, a dream, a place where mystics reign. You learn everything you can and make a plan and study, and then hope that the fear and the confusion don't stop you from hearing, from divining, who needs to go, who needs to stay. All good trial lawyers like talking to jurors. I love it, and fear it.

Joel's jury selection took a week, and it was hard on him. By then his knee bounced up and down under counsel table, a rapid soft unconscious bouncing, the expression of a young man's nerves. How he must have wanted to flee. In another case I did years later, the defendant, also quite young, got up during the third or fourth day of the questioning and headed for the door. Not toward the outside door, he knew better than that, the door back to his jail cell. He just couldn't stand to hear one more person say that it would be okay with them if he was put to death.

Two moments I believe I will always remember from Joel's jury selection. The second day we got a juror who said he could not consider a capital verdict and so he could not sit on our jury. A tough-looking man in his early 50s, sitting

forward on his chair in the jury box, he did not seem the type. He looked like he had spent his time outdoors, a rangy fellow, who bit off his words talking to all of us, the judge, the prosecutors and me.

"I will not vote to impose a death sentence" he said, and the prosecutor stopped, knew he didn't have to make that any better. I got up to attempt rehabilitation, as we called it, to try to get him to say he could consider the penalty so we wouldn't lose him. Halfway across the front of the courtroom, I was stopped by the look he gave me.

"Don't even bother, lady. Don't you say one word to me. I was in Vietnam. I've seen all the death I want to. Not you or that judge nor anyone on earth can make me be a part of it again." I could not bear his gaze, but I could look at the other jurors, hoping this unlikely messenger would speak to them. I turned, and sat back down, and from that moment to this have known exactly what is meant by the "thousand yard stare."

The second moment I precipitated by telling a joke. It was meant to be a way into a line of questions, ones about the juror's ability to separate the lawyer's personality or decisions from the client.

"If you don't like the lawyers, will you hold it against him?" That sort of thing. Clive did it so well, that line of questions, he would make a self-deprecating and truly funny remark about his British accent, and then cock his head and ask them could they hate Brits and not hate his client?

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So I told a joke and it was stupid and inauthentic. It was a "lawyer joke." I couldn't remember it the next day let alone now, but I remember how ashamed I felt the minute I said it, that hot flush of mortification that meant I was still thinking about myself and not my client. It was a joke that was making the rounds, and one of the prosecutors jumped in with the punch line. One or two of the potential jurors laughed, but one woman, Spring Something, looked furious.

Telling that joke was one of two things I did at the start of that trial that were completely uncharacteristic. The first came on the very morning we were moving to Lafayette, loading my little car with boxes and books and taking off for the motel where we would stay for the days it took to get twelve death-qualified jurors and two alternates. I was driving with Katy because I wanted her hopeful company, and it was Katy's request I granted, I still do not know why.

"There is a priest, a friend of mine, he's a lawyer too," she began. "He is talking care of Dominican kids and teaching at the law clinic and he's really wonderful."

I was half listening to her, mostly absorbed by my fear, the terrible anxiety that had overtaken me: "He will die, and you can't stop it" over and over. Other things, other shames. Demons of old. I try to let it wash over me, through me, so I can show up for this work.

"He wants to help and I think we should take him with us" Katy said in a rush, and "Okay" said I.

I couldn't believe assent came out of my mouth, but I felt so beholden to Katy, and I didn't know how to take it back. So only an hour later, I was at the wheel of my Plymouth hatchback headed to Lafayette to pick Joel's jury with Katy and Father Christopher Lockard, a Jesuit in training. I said little to him for the first hour, trying to understand what I was doing with a priest in my car. I was a defiantly lapsed Catholic, who found connection to my former Church only in the presence of the Catholic left, and even then only some of the time. But Chris, as I came to call him, was calm, and he told me months later:

"I so badly wanted to be at this trial, so grateful that you agreed to take me on."

"Lucky I agreed. It was a true miracle, my friend" and we could laugh, but by then we knew some things. And I didn't ever ask what Katy had told him, why he was burning so to be there. How he knew he would be needed.

By this time there were two distinct sets of defenders: me, Lee and Katy on one side, Clive and a throng of young lawyers, interns, and investigators from his office on the other. We did not agree on many things, and I felt I was battling on two fronts some of the time. But I think the divisions between us were hidden from Joel, and I have come to believe that it didn't hurt him.

Of course, I want to believe that.

I called Clive from the road, and got one of his friends.

"We're about an hour from the motel. We have to stop at Grand Coteau to drop off Father Lockard, a lawyer who has volunteered to help us." Asked what was Grand Coteau, I said, "a monastery, a retreat house." The first Jesuit seminary in the South. They were putting Chris and Katy up during jury selection.

[*1071]

To the room behind him, I heard "She's dropping off some priest she's picked up" and a clipped "What!?" There was no need, apparently to identify the "she" nor a desire to disguise the tone in both voices.

I can't help that, I thought, as I pulled the car into Grand Coteau. For the few minutes it took to find Chris's little satchel in the pile of books and boxes, I felt physically squeezed by my anxiety, giant hands on my chest and back, pressing down on my shoulders. By then the critical voices in my head were unceasing, shrill.

"Stupid. Stupid to say yes to this priest, stupid to waste one precious moment here. You have hours and hours of preparation yet. You should have done it yesterday. You should be ready by now."

Joel trusts you, but you know better. He will die, and you won't be able to stop it.

Chris said, "come inside for just a minute," and I got tears in my eyes, I felt so frantic, but I did not know how to refuse.

I had driven up to the doors of the 160-year-old building without looking at anything but the gravel road. Stepping out of the car I saw the groves of old oaks, with the draped Spanish moss moving in what breeze there was. You could not avoid the sense of place, the history of old spirits there. The Father Superior was directing Chris toward a stairway and, presumably, his room, when Chris said, compassion in his voice:

"She can't stay."

The Father Superior turned back to me, took my hands, and said placidly:

"Today and tonight and for the rest of the week, we will all pray for the life of this young man, for an end to the death penalty, and we will pray for you."

The voices hushed and the pressure stopped, I stepped back into my body and when I reached Clive and his team, I said "Father Chris is a lawyer, a good one. He will be in charge of the note-taking during jury selection."

The men in the room looked at me like I was nuts, and the women, all but Katy, looked at Clive. But that's what happened, and Chris was great. He had a readable handwriting and got virtually every word, so when the decision was on us - how do I make the challenge, what exactly did she say? - we had precise words for the record. Even more important, when we had lost or won all the skirmishes and were down to picking our actual jurors, I had Father Chris's clear-eyed judgment as a counter to my own. I knew to trust it, and him, I couldn't tell you how. And I appreciated that he never acted as if he was the lawyer in the case, just supported us and did what I asked, unflinchingly. He had no lawyer's ego to get in his way. He made observations but no conclusions, no arguments. Or rather, only one.

In this early part of the trial, the prosecutors owned the courtroom. Clive's skill, his way with words and with a jury, my own efforts, seemed to get beached while the prosecutors rode the waves of assurance and inevitability. Every morning they strode into court, smiling hard smiles, well-fed confident men with a good close shave and right on their side. They pushed the judge around. They defeated our arguments, even about race: we ended up with a jury that was all-white. Lafayette has a sizable African-American population, but most of them [*1072] who showed up in court for jury selection were opposed to the death penalty, and unwilling to consider service on a capital jury. We objected, we were overruled.

Bodenheimer and Williams seemed honestly mystified by this fight. After all, Joel and his Victim were both white, so what did it matter? We knew that diverse groups of people make decisions differently, that African-Americans were less inclined to accept the government's word and more likely to consider tyrannies as mitigating. And we knew Caroline, our expert, was African-American.

Clive was at his brilliant best making this case, making a record in case we lost. I thought of the last time he and I had heard Bryan Stevenson lecture on race and the death penalty. Bryan is a divinely gifted orator; he could sing the birds out of the trees. He's also a great capital defense lawyer, who won a MacArthur genius grant for his creative persuasive advocacy in the benighted state of Alabama, fighting racism and injustice. He said that the closest he'd ever

been to despair was not at an execution, or in some backwoods courtroom when an Alabama judge overruled a jury vote for life and sentenced a client to death.

"It was reading McCleskey. n2 The United States Supreme Court said that racial disparities in the criminal justice system were "inevitable."

"Inevitable. What if they'd said racism in education was 'inevitable' "? No Brown v Board of Education. What if racism in the exercise of voting rights was 'inevitable'? People like me would still be taking a poll test in Latin."

Inevitable. Nothing you can do about it, lawyer. We will kill more black people, we will kill more killers of whites, and that's how it is.

Bryan, in the wormhole.

The moment after I told the foolish joke, the moment that Spring looked at me with disgust and a flash of anger, I said to her:

"You didn't like that? You don't think I should be telling jokes?"

"No I do not," she said emphatically. "This is serious business. A young man is dead."

She spoke only of the victim, but I swear at that moment I felt something - something that had been engaged in her - move past me, and go to Joel, sitting at the table furthest from the jury, his knee bouncing up and down.

When I got back after finishing the panel, Clive began to talk to me in earnest, cajoling tones about Spring.

"Now I know what she said about you, how she looked at you," he began, pleadingly, and began to list the reasons we should take Spring as our juror.

She's a mother. She's got a daughter Joel's age. Her name is Spring,, she must have had hippie parents. She wasn't bad on the law.

"Bodenheimer and Williams know she can't stand you, and they'll take her for that reason."

I know my face must have been blank with surprise.

For the first time, Father Chris spoke with authority.

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"Of course she wants Spring on the jury" he said. "We accept her, of course." He had known, as I had, from the moment of Spring's anger, that she cared about Joel too.

One night after court, sitting on the bed in the Lafayette motel, papers everywhere, I called my friend Sister Helen Prejean, who wrote *Dead Man Walking* and would understand; called her just for the moment of comfort.

"You've got the whole of Grand Coteau praying for you?" she said.

"Big mojo."

Joel's father, Arnie, was a fireman. So was my lover at the time, Peter, a long-limbed elegant man who grew increasingly resentful of the amount of me that murderers got. He came to Joel's trial after months in which we had separated, made love, separated, fought and made love in tears. I was already gone, we just didn't know it then. We had a bargain - don't most couples? He could decide it all: where we lived, vacationed, our friends, the art on the walls and the placement of furniture in our French Quarter home, but I had my work - that was untouchable. And partly because he loved me and partly because that was a fool's bargain for us both, it began to fall apart. He went back to an old lover and lied. I took a new lover and fell silent.

But he came to the trial for me, by far the handsomest man there. He sat next to Rudy, Joel's foster brother, curled his nose at the smell and the look of the boy, at his greasy hair and food-spotted clothing. "The breath of a rat," said my lover, offended. A refined man who would have been a dandy except that he went into burning buildings to rescue people. He could fix anything at all, he would climb under the house or get up on the roof, and then would sit for an hour in a tub, in scalding water till he was clean and manicured again. He understood how things worked, but not why I would choose to leave our wonderful apartment and go to Rudy, sit with Joel's mother, why I would get up in the middle of the night to write down parts of the story that had come to me, questions I wanted answered.

Peter had never met Joel's father in the time they overlapped at the New Orleans Fire Department. But thanks to life with Peter, I knew intimately the rhythm of the job, 24 hours on, 48 off, a rotating inflexible schedule that came with a little plastic calendar every year, showing the days your fireman worked in red, the first day off in blue, the second in green so that you knew, you could look a year ahead and say: "You'll be working on my birthday but off on yours. Let's go away the weekend of the 15th, that's one of your full weekends."

Full weekends came every three weeks. Every work week, he was off three days or four days.

It wasn't that long into the case before I began to figure out what had happened in those fireman days off when Joel was a baby, what had happened in that ordinary house during school hours, why when Mame got home Joel would be screaming and screaming and they took him to doctors and there was never anything wrong with him.

"When he was three we went to this new doctor who said he was hyperactive, that he had A.D.D." she told me. "He prescribed Ritalin. I gave it to him for two days, it was awful. He could not stop moving, could not sit down, [*1074] did not sleep at all. That was that. It just got better by itself when he started school."

Ritalin is speed, it has a paradoxical effect on truly A.D.H.D. kids, slows them down, focuses them. That's the theory, anyway, and it clearly works for some, whether or not the diagnosis is over-used.

But Joel wasn't hyperactive. Something else was wrong with him. It was worse on the days Arnie was home alone, I can bet, but of course I could never prove that, and Arnie denied it to his death.

So Joel screamed through his first few years and then started talking and started school, and by then Joel's father stopped whatever he was doing that left no marks on the boy's body.

Then one day he brought home Rudy.

Rudy hung around the firehouse because those guys were always cooking and Rudy was always hungry. The other firefighters felt sorry for him, tolerated him, felt a little guilty, maybe, the ones who got blow jobs from his mother for a few bucks, if she was his mother. Joel's father was nicer to him. Joel's father talked to him, bought him a new shirt once which soon looked as dirty as his old ones. This went on for two years, Rudy looking forward to Arnie's days at the firehouse, Arnie looking forward to work. Until Arnie brought him home, presented him to his wife and to Joel as part of the family, an ungainly, barely socialized, retarded teenager.

Rudy was four years older than Joel but almost illiterate. Joel, reading before kindergarten like the son of a teacher, like my sister and I had done, could not have been more startled by this failure, which was never explained to him. In fact, nothing about Rudy, about Rudy and Arnie, was ever discussed with him. After ten years of being an only child he was told one day: "Meet your new brother."

Joel never spoke of Rudy simply. Never a clear moment had passed between them, though Rudy liked and looked up to Joel, and Joel felt grudging pity and shame around Rudy. It bothered him. He thought he should be a better brother - not mind that Rudy was so impaired, strange. He would ask me anxiously if I thought he was a terrible person, because he couldn't remember loving Rudy until he was in jail.

"What's the deal?" he said one time when I was visiting with Caroline, the expert social worker. But even with her gentle questioning, he could not bring up what it was he wanted to say.

I wasn't surprised.

By then I knew it was a story he couldn't remember, just as much as a story he couldn't forget.

Lee, our mitigation specialist, brought me along to interview the psychiatrist who had seen Joel in the hospital, when the school had him committed because of the suicide remarks. The doctor was an eminent man, the head of the adolescent clinic, and was very well thought-of locally. We went thinking he might be a witness at penalty phase, but it was clear to us, minutes into the interview, that he would say anything to keep himself off the stand. We were never sure why, what he was hiding: funny business with money or [*1075] malpractice or maybe too many kids who went into his clinic sick and came out even sicker. If we had half the resources we were entitled to, we would have investigated, and we would have found out. And maybe we would have helped the next poor kid who landed in his hospital.

The psychiatrist looked to be a vain man, well-tended; his office was filled with expensive beautiful objects. He had a mustache like Vincent Price and a little patronizing smile like that too. In fact he really looked like him. It made me think of that scene in Peter Bogdanovich's "Targets" when Boris Karloff scares himself in the mirror. Most of the kids

this psychiatrist saw were too young to know who Vincent Price was but the guy probably creeped them out anyway. And instead of Price's deep wonderful actors voice, this shrink had a high-pitched reedy voice, with a few affectations I recognized as old-money New Orleans.

I was venting about the interview in the car on the way to Lafayette, with Christopher, the priest I'd just met and Katy.

"He's probably got a King of Rex in the family so he thinks it's okay to high-hat me and my client and my client's fucked up family. Sorry, Father." I had warned the priest that my language was not the best and was likely to get worse as we got into trial, and he had assured me it was okay, he didn't see it as disrespect.

"I told you not to apologize, I don't care about your expressions. I care that the state is trying to kill a teenage boy in my name. What's a King of Rex?" So as we drove west to Lafayette, Katy and I talked about Mardi Gras and civil rights, about the Carnival class system based on fake royalty, with Kings and Queens and courtiers for a day. And how it was inverted by the anarchic pagan spirit of the celebration, until Katy said: Tell me more about Joel's doctor.

The man began with an astonishing lie.

"The data is very good of course, very robust. The methods we used with Joel would have worked, if he had been at all willing to cooperate with therapy."

This from a man who put children in four-point restraints. As I sat with him I heard Joel's voice, talking, telling me about the hospital. How he hated it, and some of the reasons why: strapped down, left alone in a room with his hands and feet tied to a table, back flat, pain in his young body from the immobility, voices in his young head telling unbearable tales.

"I would try not to cry, but I couldn't help myself." Furious, terrified, and unable to understand why.

Lee and I were careful at first not to show our revulsion at the creepy psychiatrist and his self-protective ways. I had been so lucky in other cases, working with wonderful mental health experts who taught me and the judge and the jury why trauma matters, what happens to kids who have been hurt beyond limits. But when we suggested that Joel showed symptoms of trauma, that there was evidence of sexual abuse in the family, he dismissed it.

"Sexual abuse is over-emphasized" he said haughtily, and returned to his anger at Joel, who had given his clinic a bad name by killing someone.

But hadn't he treated children with Post Traumatic Stress Disorder, the effects of molestations? Children with memories they could not escape, children who woke screaming, drenched in sweat, reliving the fear and the pain over and over? Children numbed out, dull-eyed, children always on guard, always vigilant? Yes, he acknowledged, but that wasn't Joel. Joel was to blame, he should have obeyed, he shouldn't have run away from the clinic, stolen a razor, told the head psych nurse to go fuck herself, lied to me.

Joel, he said, was just bad.

I couldn't wait to get out of his office, with its Chinese screen and Turkish rug and framed awards.

"It was all about him" I said to Lee. "All about how he, the great savior, was rejected by Joel. Who was twelve."

I thought I was angry but suddenly I was crying, driving and crying while Lee patted my hand comfortingly. This time it was not about my fears, my demons. It was Joel, twelve-year-old Joel, that both women mourned as we drove to the next interview.

Rudy moved in with Arnie and Mame and Joel, and Arnie started having sex with him right away. Maybe it had already begun in the firehouse, on quiet nights when nothing burned. We never found out.

Arnie would wait until Mame was asleep, that got easier when she started taking so many pills. What came first, the chicken or the eggs? And which were you, Rudy?

Baby Joel too, of course, was almost certainly being sexually used by his father in some way that left no marks for a doctor to see. His father stopped when Joel got old enough to tell on him, old enough to remember and speak about what he never was able to forget. What he spoke about, tragically, one night in a suburban McDonald's.

When we finally came to Joel with the story, when he saw that we knew, he gave us the rest, or at least what he could remember. I often heard them, he told us, "I heard them at night." Arnie moving down the hall, Rudy sometimes

crying. "He never touched me, he was afraid of my mother." Mame loved Joel, or so they both would have said. She just wouldn't talk to him, not about this, not ever.

Arnie took both boys on trips. Camping, fishing. Joel had one tent, his father and Rudy another. They went to Orlando once, and stayed in a motel. Another time, Pensacola. Joel came in dripping from the beach and found them on the sandy floor.

"What did you do?"

"That time I started yelling and crying. And I called my mother. We went home a day early." But his mother never spoke of it, not to him and not to us. I tried. I told her what we knew, asked her what she had known as if there could be a real question, in a small apartment with cheap walls.

"Did you talk to Arnie?" she said, and we said "yes," but she would not ask or answer anything else. When Rudy came home later that afternoon she picked up my coffee cup to let me know I was to leave. She looked at him with loathing, but his back was turned.

When Rudy was nineteen or so, he made Arnie stop. Simple as that, really, "he just got too big, I guess" said Joel. But he never left home, never wanted to; [*1077] it was Joel who kept running away. "Rudy still loved him," said Joel, voice thick with pity and contempt and yearning.

That part was true enough, I'd seen it, seen their heads bent over a game on the dining room table, a game for an eight-year-old, played by the twenty-year-old Rudy and his sodden, sorry father. Arnie and Rudy, both usually wearing Arnie's New Orleans Fire Department hats and T-shirts, Arnie getting ready to drive Rudy to his part-time job running errands for a construction crew. Arnie made Rudy his lunch and dinner, and asked every day what Rudy had made himself for breakfast. Cereal, Dad. Good job, son.

Mame didn't even pretend to make dinner for Rudy anymore, and once Joel was gone I suspect she didn't feed Arnie either. He got skinnier, with that hard little belly that is really the drunk's petrified liver pushing the gut forward.

A few weeks before the trial, Katy, redheaded daughter of Ireland, lay on the floor of my office and colored our big chart with the concentration of a five-year-old.

We constructed a family tree to show the jury. Mitigation specialists call it a "genogram," and there are recognized conventions for expressing family relationships in a two-dimensional colored chart. Names in rectangles are men, women are in circles. Lines connecting men and women not related by blood mean marriage; a slanted line through it means divorce. Children dangle down, squares and circles hanging from a short vertical line from their parents. And there are colors: squares and circles outlined or partially filled in colors, striped colors, colors with colored polka dots and left or right slanted stripes, all of them coded to the particulars of the case.

Blue for depression, how obvious. Red for physical abuse, green for sexual molestation, red stripes on a green background for alcoholism. You get the idea. Lee exhorted us to make it "a color riot of pathology" which required no invention in this nice normal-looking family, only care taken in the listing of factors, for example not lumping together his mother's prescription pill addictions with his father's drinking, though both are "substance abuse." They got different colors, different angled lines. They were different, and they hurt him, differently.

His mother's pills made her muzzy, warm, and distant. She'd leave for school every day alert, mind already on the day, her students. Trying not to look glad to be leaving. By dinner time she was into her second valium, washed down with one glass of wine. She watched television she didn't remember, smiled vaguely, half-listened, drifted away from life thirty years before she died. She adored Joel she said, but Joel didn't live under the blanket of her Valium and he couldn't get her attention. He tried and gave up, I used to think, until he got it with a murder. Of course, Mame couldn't risk paying too much attention to Joel: What if he asked her a hard question?

His father's drinking had nothing to do with the conviviality of the neighborhood bar. It was minimalist drinking, purposeful swallowing of beer after beer, starting in the mid-morning of his days off, progressing until he was slurring the few words he spoke. Joel's disgust and rage at Arnie included the [*1078] teenager's shame at a father who wasn't good enough, and the guilt that follows. Complicated, his feelings toward his father

Lee mused about it one time, when we were close to trial and I knew that the story of Arnie and Rudy and the booze and the pills was the story we were going to have to tell the jury. And that we would have to tell it without the

psychiatrist who blamed twelve-year-old boys for wanting to die. That we were never going to get proof or acknowledgment that Arnie molested Joel.

"Survivor guilt," I said, doubtfully. "We go with that? It's bad?"

"It is," said Lee, "but it's so much more than that."

"What's a boy in Joel's spot to think? What does he think about his father?"

"I hate you. I don't want to be like you. If being a man means being like you, I don't want to be a man, I don't want to grow up at all."

What does he think about Rudy?

"I hate you - you started all this. You're retarded, you're dirty, you make me sick. I am sorry for you, I hate listening to it every night. Daddy, don't. I wish I could help you. I should be able to help you. What happens to me if you go away, if you die? Will he do it to me?"

And still, the love and yearning, the child's love for a parent no matter what.

He's my brother.

You're my father.

Why do you love him more?

Why do you treat me like this?

What's wrong with me?

We tried to put all that in colors, in shaded squares and striped circles. I looked at Katy's careful work, at the angles and lines, the divorces and deaths and marriages represented by a code we would show the jury when Caroline, our expert social worker, was testifying.

"What does this mean?" I asked Lee, of the odd-looking lines connecting Joel's parents to the first two children, the sick baby and the foster child.

"Oh that" she said, beaming. "I made that one up. That represents babies they gave back."

Joel never said his father touched him, and even after Arnie confessed about Rudy to Clive, he was insistent. Never Joel, never.

But by the time Joel was ten, eleven, twelve-years-old, Mame and Arnie were in the principal's or the school counselor's or in yet another psychologist's office, trying to figure out what's wrong with him. "Doctor, we'll do anything to help him. He's so angry, won't talk, talks too much, runs away, says he wants to die. Is it a phase? Something all kids go through, right?"

Twice before trial I really worried about Joel, with his history of suicide threats and cutting. Clive dismissed the fears, said he wasn't going to do anything to hurt himself, and I don't think we'll ever know who was right. I fretted, wondering if we should say something. It's a terrible price the client pays if you do speak up. Suicide watch in most prisons is awful: they take away all your clothes, give you a paper gown, and stare at you all the time. No lights [*1079] out, not a moment you are even able to pretend you are alone, that you have a corner of a cell, a bunk, a box of papers, that is yours. But suicide watch is better than losing a despairing client to a noose or a shank, and I worried, twice, that he would do it.

The second time, just for a moment, we were in the middle of penalty phase, when it became clear that his mother wasn't coming. Clive and I were arguing, intense staccato whispers past Joel, who sat still for once. We disagreed about the right thing to do, whether or not to play an audiotape I had made of her. We were absorbed in strategy and out-guessing and battle, and for a moment, I turned away from Clive, pissed, and saw Joel's face. He was a motherless child, and I knew that's why the bluesmen sing of that fate.

The first time, months earlier, was not triggered by the pain of his family, or the teenage friends who would giggle and testify against him. It happened the day he offered to plead guilty.

Getting the client to plead to life is, as one colleague puts it, "the sure way to avoid the death sentence" in every case. It is always a goal, to get a plea, to avoid facing a death-qualified jury because you always know there's a good chance that your mitigation, your persuasion, might not find enough traction in one heart to win. After all, in Louisiana as in most states, life in prison is the "win" in a death case, so you always want to get there without a trial if you can.

There are always at least two barriers: the state and the client. Getting life on the table from the state is an art and a skill that we study, work at, get better at. I have failed and I have succeeded, and I am not always sure why or how. Getting the client to agree can be even harder. "Free me or fry me," they say, but we have two advantages, the deep understanding we come to have of our clients as we learn their lives, and the sweetness of life itself, the hope that life, even life in prison, is better in its unpredictable glories and miseries than an early death.

Some are too damaged to find that hope: Gary Gilmore, for example, the first execution in the "modern era" of state-sanctioned killing, whose brother Mikal wrote so eloquently of the longing for death that rode Gary, and the family where that longing was nurtured. Still, even some who believe that death is their desire rebel against the state's dirty hands on the trigger. They'll say, I may want to die - but I'm not going to let them take me out. Our clients seldom start out life as abolitionists but they usually get themselves there - for some, it is learning to care for another condemned inmate on Death Row that teaches them. That becomes their first trip down the wormhole, when the man in the next cell gets an execution date.

We already had tried the negotiation and we knew that the state was adamant in seeking death. But Clive wanted to put on the record that this slender boy was willing to spend the rest of his life in prison. "El-wop," that's how we pronounce the acronym: life in prison without parole. In some other states they say, more poetically, "life without." It is the automatic sentence for both second and first-degree murder in Louisiana, unless that is, the jury votes unanimously for death.

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So one morning at the end of a pretrial hearing, we asked Joel to stand and say: I am willing to plead guilty to first degree murder and be sentenced to life in prison. By then every interaction with the state's attorneys was contentious. One of them, Bodenheimer, stayed jokey and outwardly genial with the judge, and was merely gruff with me and crude with Clive. But Williams was furious, furious all the time, a balked simmering man who believed that there was something wrong with what we were doing by defending Joel, who treated every ruling in our favor - and they were few and far between - as a personal outrage. He dismissed me as an "ACLU lawyer" but, like most lawyers in the criminal justice world of New Orleans, he was fond of my brother-in-law Bill, so he gave me a grudging nod now and then. But he truly loathed Clive.

There could not be two men more unlike in appearance and manner. Clive was thin, his accent was British upper-class, and he had that cultural self-deprecation which is rooted in a centuries-old certainty of his place in life. He was so committed to the abolition of the death penalty that he spent over twenty years in voluntary exile from England, working and living in Alabama, Atlanta, Mississippi, New Orleans. Clive did everything with a light touch, what it cost him I don't really know, but he was outwardly a graceful, almost delicate presence. He would give talks in New York or Boston, saying, "Come to the South and fight the death penalty with me, it'll be a lark, we'll have such fun." He really used those phrases, unselfconsciously, or perhaps not. He was attractive to women and to straight men too, and he accepted admiration without seeming to seek it.

Williams had some intellect but it was far from deft, and he was incapable of nuance. His disappointments in life made him more belligerent, not resigned: it was as if those rejections were stuffed into his briefcase every morning, along with the charges and indictments and punishments he sought for others. He was a blocky man, whose weight went up and down: At the time of Joel's trial he was heavy. At an earlier hearing when he was literally spitting with rage during a relatively minor motion argument, one of the interns pulled her hair across her face in a gesture designed to hide her laughter from the judge.

"Maybe he'd be in a better mood if he'd break down and buy a suit that fit," she said. "Those pants must be hurting him."

"They're hurting me," I said, and we both had to look away and laugh later, because you're not supposed to laugh in court, or in front of observers, or your client, or the Victim's family members, even when the case goes on for years and even though people eventually forget to act within the rules, within the roles, forget to be the Defense Lawyer or the Judge or the Victim's Family. Forget, for a moment, what we're doing here. Forget that the wormhole waits.

Williams stuffed into a cheap suit too small for him, face boiled red with resentment - that became an image of this case. But it was not just the prosecutors' self-righteous swaggering that set Joel off, that made me wonder if he was in danger if we sent him back to his cell without putting him on suicide watch.

Joel stood up, in the front of the courtroom. It was a small room. As always with this case, it was crowded with local newspapermen and the Associated Press stringer, sitting between the Victim's family and some of the [*1081] TV news people who were not permitted to film inside but would go out to the steps, afterward, and speak solemnly into the camera.

It was important to Joel that his voice not shake, he'd told me earlier, and it didn't. But it was soft, even in that small packed room the reporters in the back strained to hear it.

When he stated his willingness to go to prison forever, the judge looked at him almost paternally. It may have been the first but was by no means the last time the judge's compassion came into that courtroom.

"My understanding is that the State of Louisiana declines this offer of a negotiated settlement, is that right?" asked the judge, and winced slightly at the theatrical fury in Bodenheimer's voice when he said, too loudly, "That's right, Your Honor. We are seeking the death penalty in this case."

"Anything else?" asked the judge and Joel, very softly, said "I'm sorry. I'm sorry for what I did to him."

The prosecutors both sneered: Williams looked at Joel and then at Clive with eyes narrowed and face twisted with suspicion, but Bodenheimer turned around to the witnesses and the reporters, and mugged almost comically, as if to say "Can you believe this?"

Someone in the back of the small room gave a muffled laugh, and Bodenheimer quickly turned to face the judge, satisfied. At that moment the judge looked up, wearily said, "This hearing is adjourned for the day," picked up some papers and stood a beat before the bailiff's "All rise."

I looked at Joel and he was shaking. I put my hand on him to get him back to his seat, the Defendant's seat, and no one noticed. It was more the laugh than the sneer; more than anything else, it was the judge's weary smile and the shuffling of papers, it was the ordinariness and the lack of response. It was the humdrum horror of the American death penalty.

Joel knew, we should have known, that this was a sacred moment, the moment that he said, in public, to the ears of the grieving: I killed him, and I am sorry. I will be punished, and I am sorry for what I did. His lawyers knew that you can't expect this to be taken seriously, that the roles are already so defined, positions so calcified, that people can't hear the remorse and pain. In Joel's case his age hurt him too; he sounded callow, he was, in fact. He was a product of his family but also of his culture: twentieth century American cheap suburban mall culture.

But what sent Joel shaking that day was the experience of meeting, unmediated, the reality of capital punishment. It would never be enough that he said he was sorry, never be enough punishment while he was alive. Not for the family of the boy he killed, he sort of understood that, but for these lawyers. These crude, educated men wanted him dead, not just dead but killed, and they could get what they wanted through the weary judge and the shuffled papers and the sobered or snickering spectators.

We'll never know what it does to you, to be told that even in the class of murderers you are the worst - that your country, your city, your community wants you to be put to death. You watch all those people in the jury pool who said, sure, they could vote for your death, and then you watch the twelve who just might do that as they tell each other that you are not worth the air you breathe. [*1082] I've seen men come off the Row, death sentences reduced to life, watched as the burden of that judgment left them, as they became merely murderers, forgotten prisoners, no longer condemned. Seen even the saddest or sickest of men get younger, lighter. We can't really know.

The wormhole. Joel entered the wormhole that day in that courtroom, and he never came out the other end - not really, not during trial or later in prison. There was a shadow in his eyes, a new memory of a new horror, from that moment forward. The prosecutors called him "hard" but he wasn't hard when he killed, he was fucked up and wounded and loaded and uncomprehending before that day. But when he looked at the men of power and privilege who would kill him with the law, something bitter broke off and stuck in him, and stayed.

Once an old friend from my Bourbon Street days asked me thoughtfully, why did I get so mad? I started to talk about the clients, the compounded tragedies of murder, and he interrupted me.

"Sad, I get that. This is sad stuff. Why so mad?" He was a carny, and knew what I meant when I said: the game has been gaffed. And it has. It looks like a poor person can get a fair shake, it looks like it hasn't been rigged from the beginning. But it has. It's all a fake, even when sometimes the players are fooled too.

I spent a lot of time with Joel. I watched him change, lose his youth and learn some tough truths, and after the plea attempt, I saw some of his sweetness leave too. But he and I could always talk. I would go at the end of a long day of interviewing witnesses and experts, reading documents, reading law. Usually we worked for an hour or two and then before I left, we would just talk. I gave him some comfort, he gave me, slowly, fragments of himself.

We talked about New Orleans, his suburban view of it, or sports, or the two New Orleans' obsessions, music and food. Food he didn't care much about, said "talking about it just makes me mad, the crap they gave us here." So we talked about early 90s music. I let him tell me why so many straight kids like Queen's Bohemian Rhapsody, and I let him laugh at me for being a square because I liked the original Play that Funky Music by some forgettable band better than the hit by Vanilla Ice. We talked about Aaron Neville, who never needed his Linda Ronstadt comeback to be big in New Orleans, and whether we liked the duets. I did, Joel did not. But he did like Hammer, and so I listened to Pray but it just made me go back to Prince.

This is what it sounds like, when doves cry.

Tears in Heaven was a hit the year he was waiting for trial, and one day he asked me "Do you know what that song is about?" Yes, I told him, the sad story of Eric Clapton's toddler son who fell out of a window to his death.

"His mother was home that day," said Joel. He watched me, and I spoke slowly, not wanting to make a mistake for him.

"That's right."

"She was there when the baby fell out the window."

His voice was so intense, he was looking at me as if everything depended on my response. I looked at him, and said nothing.

[*1083]

"Eric must have been really, really pissed at her" he said, and "I betcha he thinks it was really her fault."

"Do you suppose that's how you would feel, Joel?" I asked but he broke away then, turned his face to the corner of the grimy visitation room and changed the subject.

On the next visit he said "I love my mother" and I patted his hand. I know, Joel.

The prosecutors never changed, throughout that trial, or at least that's how it seemed. Bullies, both of them, who believed they were universally admired for their toughness. The hatred of Joel, the intensity of public contempt for him fed them, and they were certain that the jury would come back with death.

The judge did not feel that way, at least not by the time Joel tried to plead.

The judge assigned to Joel's trial was a Republican good ol' boy. He loved being a judge. Loved going to buy coffee and being told "Your money's no good here, Judge," loved hearing "Morning, Judge!" ring out as he made his way down the street to the courthouse. He'd been appointed initially, not elected, in recognition of his tireless service ass-kissing and hand-holding the real politicians, and a crooked corrupt bunch they were in Jefferson Parish, Louisiana. The parish, you remember, that sent the Grand Wizard of the Ku Klux Klan to the state legislature.

But as the case progressed, I watched His Honor become positively sickened at the thought of killing this kid. He had signed on for the conviviality, for the backslapping and maybe for the sense of doing some good, although he and I would have defined that very differently. I doubt that he had ever considered that the function of a judge was to keep the status quo firmly in place, and if he had, why he'd have been fine with that. White wealthy Southerners on top, transplanted Yankees uncomfortably welcomed for their money but not their manners; black politicians warily negotiated, the poor and most other black people down and all the way out. No problem for this guy. But he hadn't signed on to killing people.

Years earlier the charismatic, felonious and Roman Catholic governor Edwin Edwards pulled a fast one on the judges of Louisiana: he made the trial court judge responsible for signing death warrants. In almost every other capital

state, this was in the hands of the executive, so the governor signed the warrant. Edwards was governor during the time when opposition to capital punishment was fatal for a politician in the Deep South, and he wasn't about to risk anything for a mere principle. But in a move worthy of Pontius Pilate, Edwards took the governor out of the equation.

So as our trial moved on, the gregarious judge started looking at the reality of someday signing his name to a piece of paper that would start the strapdown team at Angola in motion. And he really, really didn't like that very special tour of the wormhole, not one bit.

Caroline, our expert social worker, was in the office late one night the week before the trial began, working on her direct exam with Lee and me, when Clive came in, face drawn. By then the conflict between Joel's lawyers was palpable, [*1084] although Clive was too polite most of the time to say what he thought while I was around, and I was just trying to work with demons at my elbow, in my dreams. Clive's team of young people had drawn away from me, and I knew it was my fault that there were two little camps in the offices.

One night earlier in the previous week he had turned up at Lee's side, very critical of the mitigation we were planning to present, telling her it wouldn't work and that I wasn't ready to do it. When Lee told me, I was shocked, too caught by my own fear to see Clive's. My fear gave voice to crippling doubt, his translated into a need to control. As Clive got closer and closer to trial he wanted to manage it all, direct it all, for fear if he let something out of his hands it would cost Joel his life.

Looking back, I wonder why I didn't cave right then. I do not know why Clive's doubts did not double the voices in my own head. That's the way it usually worked for me, all criticism became proof, sharpened the savagery of the internal monologue that said, "You cannot do this, you aren't good enough, you haven't worked hard enough, you will let him down and he will die." But although those demon voices continued their carping, the voice of the story, Joel's untold misery, baby Joel, teenage Joel, was becoming stronger still. And perhaps I saw that Clive suffered too, that all of us who do this work are riven by self-doubt and fear. We just deal with it in different ways.

So we kept going, in court and out, seeing witnesses and working in the office late at night. Then this one night, Lee's light brown hair falling into Caroline's tight curls as their heads bent over the chart on the floor, Clive came in, shaken.

"Arnie told me about Rudy. It's all true. He said he did it because Rudy is so slow, to teach him about sex. 'To protect him.' He actually said that."

We were glad, grateful for the confirmation. We knew we would never put Arnie on the stand, that the molestation he denied to me, Lee, Caroline, and others, he could never talk about in public. Not even after admitting it to Clive.

"Joel?" I asked and "No," said Clive, shaking his head.

"No, of course he won't tell us that," said Lee. "Rudy was 13 or 14 when it started; 19 when it ended. Or so they say. But it started with Joel in his crib, and ended before he was old enough to speak."

And Rudy didn't kill anybody.

In the end Clive told the story of the crime, of three boys in a fast food restaurant, and I told the story of the family, with Caroline.

Clive's theory of defense was true: Joel had never meant to kill that young man; he should have been charged with manslaughter. Clive prepared a cross of the detectives that managed to get the facts out in the most respectful way possible for the victim's family, but yet showed that the cops were never above making an easy case better for themselves by lying about it. Joel's statement and the level of his immediate contrition proved our case. But Louisiana law is bad on those facts and the jury came back fast, guilty of first degree murder, at the end of a Friday night.

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We went to the judge's chambers. There was a 12-hour mandated delay between this verdict and the start of the penalty phase, which in practice was going to take us through the weekend since the judge wanted Sunday off. I came to believe that he also was hoping it would help us.

There were six of us in the small chambers. Two lawyers for each side, the judge and his secretary.

The topic of conversation was church. We discussed the practicalities of the jurors attending religious services. The jury could not go to a local church: the case was the top of the news every night and someone would talk if we let the

jury out. But it was a Lafayette Parish jury, mostly Catholic, and we knew that their bishop, much-loved, had been a determined foe of capital punishment for many years. Clive and I agreed, "Can't hurt to put them in the pews."

And it was Palm Sunday. We didn't mind the jury hearing again the story of Jesus, riding a donkey into Jerusalem, hollow hallelujahs ringing in his ears, days away from Calvary.

We had negotiated it down to a private Mass, with the priest instructed not to mention the case or current affairs or capital punishment. Williams sat glum, sensing it might be unwise, that something had been put over on him by the smart Englishman he detested.

"All right," he finally said. "They can go." Then he added a last requirement.

"No big picture or statue or anything of, you know, the executed Jesus!"

There was silence from all. Then Clive leaned forward to him and said, dryly,

"Somewhat of a Christian theme, old boy."

I didn't laugh but the judge couldn't help himself and Williams and Bodenheimer withdrew permission. The sentencing jury would be unchurched.

Mame never showed. She called the night the jury convicted him of first degree murder to tell us we would have to save his life without her.

"I am in the hospital," she said "It could be serious."

"What's wrong with her?" asked an intern, and I snapped "the vapors" but of course that wasn't true. Somatic illnesses are illnesses, Mame made herself sick because it was the only way she could explain why she didn't stop what was going on before it destroyed her child.

I went to see her in the hospital and tried for two hours to get her to make an audio tape to play for her son's sentencing jury.

"Just say, Joel is my son, and wish I could be there to tell you that I love him very much."

"Joel is my son, I know he is very sorry for what he did," she would say, and pause, then in a rush "but that other boy is just as bad and he is getting out in five years."

No, no, the time for that is past Mame. And I would start the tape over again.

Two hours, and I never got a sentence on the tape that we could use. I cannot remember now all the different things she said to make it a toxic statement about her and her resentments instead of the anguished plea of a loving [*1086] and not blameless mother. I do remember the overheated hospital room, the dark sky through her window, and her small glittering eyes. She pretended confusion when she saw my dismay as again and again I erased and re-started the tape. But there was something shrewd and implacable in her face, and I finally knew she had defeated me. Miserable at the failure, for the waste of precious hours, I left.

I had her saying, "Joel is my son. I am so sorry I am hospitalized and cannot speak to you in person. I love him very much." It would have sounded like "I love him very mut," because I had to cut the tape to get rid of whatever poisonous addition spoiled it, but in the end it didn't matter. Clive didn't want us to play it because he thought it would open the door to the prosecutors' use of the news footage of Mame saying the death penalty was okay. I said so what, somebody on the jury would get that mothers aren't supposed to want their sons dead, but Clive was sure he was right and I gave in.

The judge, who had by then abandoned any pretense of objectivity about the sentence, wrung his hands at the news. "She wasn't there for him when he was a little boy, and she's not there for him now." Then he asked me who "our" next witness was. And he meant every bit of that "our," - you've never seen a judge so grateful for mitigation.

Sometimes, in a courtroom, I enter a bubble, a place where I am aware only of the person I am talking to and the jury. Seems I can't make it happen, but I love when it does, when I come back to earth and back to counsel table and realize that I have been gone for awhile. Other voices mute, time stops, nothing exists but the questions and answers for the witness or the words I say to a judge or jury. I make objections and reply to them, I don't lose the law or my memory of the facts, but I ride above it, nothing else matters. In the flow.

It happened in this case three times, the first when I started talking to the juror Spring about her anger at my stupid joke. When I told the joke I was uncomfortable, self-aware, horribly awkward, but the moment I turned to her she and I stepped into the bubble for a minute, and I felt that moving ball of concern and judgment go past me, go to Joel.

It happened for the direct exam of Caroline too.

Caroline's task was to present the social history, tell the jury of Joel's life as a child. Usually that story would be told mostly by lay witnesses, family members and friends, but Joel's family were silenced, Arnie by guilt and denial and drink, Rudy by his limitations and his love. And Mame wasn't coming. So it fell to the expert, smart and caring and knowledgeable.

Caroline had a doctorate in social work, taught at Tulane and had years of experience with families and kids in every sort of crisis. She had a warm teaching style, didn't rely on jargon and didn't talk down to people. Caroline had ideal experience, a precise, careful intellect, and had the perfect bearing for this case.

Caroline was also black.

When Caroline and I entered the bubble, as Joel's story unspooled and her account became more detailed, more engrossing, the prosecutors acted like dumb adolescents instead of lawyers at a capital trial. And race was a part of it, they [*1087] might as well have telegraphed to the jury: this witness isn't important. Don't listen.

We put the genogram on an easel, and Caroline's mellow voice narrated that multi-colored chart, laid before the jury the layers of pain and abandonment and damage that had crippled Joel's soul and delivered him to the door of McDonald's with a gun in his hand and no idea why he was so mad.

Caroline and I were taking each other - and the jury - into hotel rooms in Florida with Arnie and Rudy and Joel. We were showing the calligraphy of adolescent anguish that Joel practiced on his own skin. I was unaware at first, had to be told later that it started with Williams, shuffling papers and flipping through folders, noisily. Then he and Bodenheimer began talking to each other, in whispers, but still audibly. Out of the corner of my eye I saw Clive get up and walk quietly behind them, kneeling, importunate. I knew he was politely asking them to be quiet. It didn't work.

Caroline and I moved to the description of Joel's confinement at the psychiatric hospital, after his suicide threats in school. The jury was with us, when Williams turned around and deliberately dropped a stack of the papers he had organized in a pile on the floor. He all but brushed his hands together with a "there, that's done" satisfaction. It was noisy enough that I got distracted for a moment. That's when one of them got up and walked out of the courtroom, in the middle of my examination, and returned with a can of soda. Which he popped, at counsel table, while Caroline was speaking.

I think it was Williams but it might have been Bodenheimer. Doesn't matter, they were in it together, just as they shared the frat boy humor of their awards to each other, the big mock syringes, mounted on a board and titled "The Big Prick Award," shared it all until Bodenheimer betrayed his friend and his oath and was imprisoned for it.

Thinking it over much later, I am surprised. I knew they were vulgarians, crude men-will-be-men types who believed themselves to be fine fellows. But faced with a defendant as young and slight as Joel, I thought that they would restrain themselves for fear they would alienate the jury. And given a smart African-American expert, I thought they would be outwardly deferential.

That didn't happen. They were oblivious. They had created the public perception of Joel, then adopted it completely. He was hated, condemned, despised. They had always known that he would be seen that way by any jury, by anyone except Clive and me. The trial was a formality on the way to a death sentence.

But the shuffled papers, the dropped bundle, the popped cola can, cost them. Some of those white Louisiana jurors resented the assumption that they must be racists because they were white, that they would go along with the rudeness to Caroline.

The jury sent out a note, "Please Your Honor ask the DAs to stop making so much noise. We are having trouble hearing the witness." The judge, perhaps a little ashamed that he had not shut it down earlier, denied Bodenheimer's request to instruct them that it was all an accident, that they hadn't meant to do it. He instead asked the jurors if there was any part of Caroline's testimony that they would like to have repeated. They said no, they got it all. The all-white jury [*1088] looked at Bodenheimer and Williams sternly, and smiled at Caroline. The next day, we did closing arguments.

One night, a week or so before trial, working through the night at the office, I despaired again of the task before us. Too few witnesses, too many spaces in the story, and the fear of my own inadequacy to this task I had chosen choked me.

"Clive is right: we are not ready. This isn't going to be enough. We need someone to say that Arnie did it to Joel too, we need experts to say what happened to him, why he wanted to die, to cut himself, why it affected his judgment and thinking and we don't have them."

"Everyone has a family" Lee said, and that was how I began the closing argument in Joel's penalty phase. There was no preface: I did not thank the jurors for their service, for their attention, I said nothing about the law at first. The bald beginning was unlike any argument I'd made or heard. In retrospect it was effective, but I cannot tell you if it was deliberate or if I just forgot.

"Picture a family" began every paragraph, until I had retold the story of baby boys brought to that ordinary middle class couple who were not as they seemed to be. "Picture a family" Joel, adopted, Joel, screaming through his infancy. "Picture a family" Rudy at the firehouse, Rudy, bigger and slower and strange, brought home to stay. "Picture a family" Mame's pills and Arnie's booze. "Picture a family" Joel cutting himself and talking of suicide at twelve. "Picture a family" trips to the beach with Arnie and Rudy on the floor, Arnie and Rudy in the bedroom with the door shut, Arnie and Rudy locked in the combat of rape and love and need. "Picture a family" Mame's willful blindness, turning her back on them all when her husband left her bed for Rudy's, "Picture a family." "Picture a family" that allowed it to become, as the prosecutors said, all Joel's fault.

"The prosecutors will get up and say this doesn't matter but how we treat kids does matter. You know that. Families matter. They will say he made choices, they will tell you he should have learned how to get help before he turned bad, he should have learned to control his anger, his pain."

Where would he learn that? At his father's knee?

"That's not what he learned at his father's knee."

Picture a family.

I know I entered that bubble with the jurors, I was alone in the room with them for most of the hour. Perhaps the prosecutors were chastened by the jurors' note about Caroline, but they kept quiet and let the room get still.

After a while, "She should stop talking about the family" whispered one of our interns to Nick, my law partner. "Look at them. They are turning away, shifting in their seats, they're bored."

"Not bored," Nick said. "Uncomfortable. They're listening. They get it. Don't stop her now."

I finished the story of a family and then took the jury into the wormhole.

If the twelve of you decide that Joel is no longer fit to live, then the day will come that his mother and father and friends and lawyers will drive the three [*1089] hours to Angola Penitentiary, to the gates of the prison, to the death house at Camp F. His parents and a few friends will sit with Joel until 6 o'clock on the last day's visit, and then leave. He will wait. Near midnight, he will be brought to the execution chamber. The witnesses will be seated in a gallery, with the curtains drawn, and when a signal is given, he will be helped to a standing position, shackled and bound, chains on his feet and belly and hands, to speak his last words. He will say he is sorry for the victim's family perhaps, he will send a message to those he loves, and then the curtain will be drawn again, while he is strapped to a table and his arm is swabbed and a vein is found. Then the witnesses will be allowed to see him one last time, his eyes fixed on his spiritual advisor, most likely. Awake, alive, until the poison puts him to death.

The hearse that arrived hours earlier for a healthy man will carry a dead one away.

And they will say: the jury has spoken.

When Williams got up to argue for death, he was a big dangerous man, angry but controlled, and he was good with juries. But halfway through his close he grabbed our genogram, held it up and started making fun of it.

"Red, with blue stripes. Is that the color that makes you a murderer? Or is it this one - his father drank too much. Every child of a drunk is a murderer?" He went on like that but the jury wasn't listening to him, they were staring again at the genogram, at Lee's color riot of pathology, fascinated and sad.

After we finished closing arguments and the judge sent the jury off to deliberate, Clive went to the jail and sat with Joel. I went across the street to the public defender's offices, four small rooms strung out in a row - shotgun houses they're called in New Orleans, and I sat in one of those rooms with some women around me and rocked back and forth. I should have been with Joel, but I did not trust myself to hold it together.

"Learn to define success," I later told younger lawyers. We should have gotten the plea, that would have been the right ending, when Joel agreed to stand up and say, "I did it, I'm guilty," the state of Louisiana should have sent him to Angola then and there.

Success in a Louisiana capital penalty phase almost always comes from a hung jury. One juror refuses to vote for death, and by law, life in prison is automatically imposed. We fight over how long they have to deliberate, over whether the judge should be allowed to "dynamite" the stuck jurors with additional words about deliberating further, but if you've done your job in selection and argument, the juror who says: "enough, I vote for life" knows that he or she cannot be made to change, and that the death penalty is no longer an option. It is that way in most states. So sitting out a capital sentencing jury, time becomes your friend, even though it doesn't feel that way. One night, in the case where the prosecutor wept, the jury went to deliberate at five or six in the evening, and didn't come back until three in the morning. Five jurors firmly for life in that case, and it took all those hours.

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Waiting on Joel's jury, I rocked and said very little, and tried not to feel. I told the others to do their speculating and rehashing out of my hearing. I was prepared to wait all night.

Less than two hours later, word came. "They have a verdict." "Too soon too soon" was all I said, leaning like an old woman, or a sick one, on Katy's arm as we crossed the street and walked the half block to the courthouse. "Hung jury" meant life; "verdict" meant death.

I was unable to pretend through the moments it takes. The judge warns the spectators and families not to react, the lawyers sit at their tables for the last time. I knew my shaking was visible, I couldn't stop. Joel laid his arm on mine, our forearms touching their length, and he half held me up as the "all rise" sounded for the jury.

I couldn't look. We are told the jury that dooms will not look at the man they condemn, the merciful jury will. So I deliberately did not look when they filed in, sat down, handed their paper to the clerk who read:

"We the jury, unanimously agree on a sentence of life in prison."

Joel smiled like a kid, relieved, and then ducked his head. The prosecutors stood, glumly astonished. I was trembling but upright. I don't remember anything else that night, except going back to the jury room with Clive to thank the jurors who were eager to get back to their homes in Lafayette. Spring reached around a woman in front of her and grabbed my arm, took my hand, and looked into my eyes. She nodded, as if she'd had a question answered, and smiled at me for the first time. "We appreciated y'all's professionalism" she said softly, and "yes, yes" said others, in the Southern habit of assent and comment that comes out of the churches.

It sounded like "Amen" to me.

The next day, Father Chris showed me his journal, which he'd been writing on the ferry boat every night, riding across the Mississippi to catch a long slow bus uptown to the rectory. He'd written it the night we rested, before my argument.

"Think of his family" it began. It was the story, that was the story, and there weren't very many of us to tell it, at the end. Clive could talk about the murder but not his father, although it was Clive that Arnie confessed to, and Clive never did trust the jurors to see what Mame had done - Mame who was disappointed in her man and her boys and no doubt in herself as well. So it was left to Caroline and me. We did our best. We did okay.

The baffled prosecutors gave a statement on the steps of the courthouse predicting Joel would be raped in prison. The murdered boy's brother said the same thing, using almost the same wording. This was quoted in all the local news stories, and again in December, when Joel's trial made every television and press round-up of the year's top ten events.

Mike Wallace did a sloppy half-hour piece on the trial on some national news show - not "Sixty Minutes" - and repeated on the air the lie that had become courthouse lore: that one lone juror had saved Joel's life.

The state legislature, at the prompting of Jefferson Parish, changed Louisiana law so that appointed capital counsel could never again ask for [*1091] payment from the parish, despite the fact that Clive and I got a lower hourly rate than the poor dead boy had made at McDonald's. When we went to collect it, the pinch-faced bureaucrat who had to sign our checks looked up from his desk and said, "Lethal injection would have been too good for him. I wish they'd pulled him out of the jail, laid him out on the levee and set him on fire. I'd've brought the matches."

The local paper, the Times-Picayune, ran an editorial cartoon saying that the defense lawyers should get the electric chair too.

What was it that worked? The anger engendered by the prosecutors' loutish behavior? Joel's youthful good looks, his nervousness? The trace of sweetness that stayed around his eyes and smile? The protective surge that rose in Spring's heart when I told a stupid joke? Or did the truth help, a little bit of Joel's truth, and Mame's and Arnie's and Rudy's too, coming off the colored squares and jittery knees, past the popped coke can, into the hearts of the listeners. Was that what helped me quiet the voices that still tear me down, quiet them long enough to tell Joel's story?

There were spaces in the story, and we had to hope the jurors would fill them in for themselves. Where does memory go when you're too young to talk about it, but what's happening is too hard to forget? Trauma, the disease of memory. What did Joel write, in tiny letters of his own crusted blood? What do you suppose Jesus wrote, in the sand, at the feet of the men with rocks in their hands - men who thought they had come to conduct an execution, but left as shriven abolitionists?

* * * * *

Joel refused the privilege of his skin and his class at Angola. After a few months working in the fields he was brawny and brown, and the guards told him they'd make him "inmate counsel" and he would never have to go out and swing a hoe on days when the temperatures were in the 90s by sunup. Joel told me the water truck followed the work gang around, while a white man sat on a horse with a gun, and every twenty or thirty minutes someone would sing out "man down!" and he'd know another guy had fainted. He was proud he never had, proud he did not give in.

"Inmate counsel is a good job," I told him. "Some of the finest lawyers I know are inmate counsel at Angola. I'll help you." But he said no, to get the job he would have to kiss ass or turn rat and he wasn't going to give them the satisfaction.

I liked being with him but I never stopped looking for something I'd seen in him before the hatred got to him, before his trip down the wormhole. I looked for the Joel I first met, a terribly sad kid who'd done a tragically awful thing. But that Joel was shadowed - not by guilt but by horror. He never really came back.

Clive saw him fairly often. I had two clients executed in 1996 and 1997, and it got harder for me to go to the prison, but we spoke on the phone from time to time, and every year in the week between Christmas and New Year I would drive to the prison to see just the lifers.

[*1092]

It was four days after Christmas in 1999, Joel's fifth year in prison, when Nick called. "I didn't want you to hear it on the news."

Joel was dead, shot. Some say by inmates, some say by the guards. It might have been an escape attempt. I don't know. I don't know that part of his story. I know it was one way out of the wormhole, and I know the story I've told.

Legal Topics:

For related research and practice materials, see the following legal topics:
 Criminal Law & Procedure
 Guilty Pleas
 General Overview
 Criminal Law & Procedure
 Counsel
 Right to Counsel
 General Overview
 Criminal Law & Procedure
 Sentencing
 Capital Punishment
 Mitigating Circumstances

FOOTNOTES:

ⁿ¹ Ivan Solotaroff wrote a book about executioners, *The Last Face You'll Ever See*, and quoted Williams and Bodenheimer.

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n2 *McCleskey v Kemp*, 481 U.S. 279 (1987).

n3 Mikal Gilmore, *Shot in the Heart* (1994).