

The Lincoln Lawyer

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ONE

The morning air off the Mojave in late winter is as clean and crisp as you'll ever breathe in Los Angeles County. It carries the taste of promise on it. When it starts blowing in like that I like to keep a window open in my office. There are a few people who know this routine of mine, people like Fernando Valenzuela. The bondsman, not the baseball pitcher. He called me as I was coming into Lancaster for a nine o'clock calendar call. He must have heard the wind whistling in my cell phone.

"Mick," he said, "you up north this morning?"

"At the moment," I said as I put the window up to hear him better. "You got something?"

"Yeah, I got something. I think I got a franchise player here. But his first appearance is at eleven. Can you make it back down in time?"

Valenzuela has a storefront office on Van Nuys Boulevard a block from the civic center, which includes two courthouses and the Van Nuys jail. He calls his business Liberty Bail Bonds. His phone number, in red neon on the roof of his establishment, can be seen from the high-power wing on the third floor of the jail. His number is scratched into the paint on the wall next to every pay phone on every other ward in the jail.

You could say his name is also permanently scratched onto my Christmas list. At the end of the year I give a can of salted nuts to everybody on it. Planters holiday mix. Each can has a ribbon and bow on it. But no nuts inside. Just cash. I have a lot of bail bondsmen on my Christmas list. I eat holiday mix out of Tupperware well into spring. Since my last divorce, it is sometimes all I get for dinner.

Before answering Valenzuela's question I thought about the calendar call I was headed to. My client was named Harold Casey. If the docket was handled alphabetically I could make an eleven o'clock hearing down in Van Nuys, no problem. But Judge Orton Powell was in his last term on the bench. He was retiring. That meant he no longer faced reelection pressures, like those from the private bar. To demonstrate his freedom — and possibly as a form of payback to those he had been politically beholden to for twelve years — he liked to mix things up in his courtroom. Sometimes the calendar went alphabetical, sometimes reverse alphabetical, sometimes by filing date. You never knew how the call would go until you got there. Often lawyers cooled their heels for better than an hour in Powell's courtroom. The judge liked that.

"I think I can make eleven," I said, without knowing for sure. "What's the case?"

"Guy's gotta be big money. Beverly Hills address, family lawyer waltzing in here first thing. This is the real thing, Mick. They booked him on a half mil and his mother's lawyer came in here today ready to sign over property in Malibu to secure it. Didn't even ask about getting it lowered first. I guess they aren't too worried about him running."

"Booked for what?" I asked.

I kept my voice even. The scent of money in the water often leads to a feeding frenzy but I had taken care of Valenzuela on enough Christmases to know I had him on the hook exclusively. I could play it cool.

"The cops booked him for ag-assault, GBI and attempted rape for starters," the bondsman answered. "The DA hasn't filed yet as far as I know."

The police usually overbooked the charges. What mattered was what the prosecutors finally filed and took to court. I always say cases go in like a lion and come out like a lamb. A case going in as attempted rape and aggravated assault with great bodily injury could easily come out as simple battery. It wouldn't surprise me and it wouldn't make for much of a franchise case. Still, if I could get to the client and make a fee agreement based on the announced charges, I could look good when the DA later knocked them down.

"You got any of the details?" I asked.

"He was booked last night. It sounds like a bar pickup gone bad. The family lawyer said the woman's in it for the money. You know, the civil suit to follow the criminal case. But I'm not so sure. She got beat up pretty good from what I heard."

"What's the family lawyer's name?"

"Hold on a sec. I've got his card here somewhere."

I looked out the window while waiting for Valenzuela to find the business card. I was two minutes from the Lancaster courthouse and twelve minutes from calendar call. I needed at least three of those minutes in between to confer with my client and give him the bad news.

"Okay, here it is," Valenzuela said. "Guy's name is Cecil C. Dobbs, Esquire. Out of Century City. See, I told you. Money."

Valenzuela was right. But it wasn't the lawyer's Century City address that said money. It was the name. I knew of C. C. Dobbs by reputation and guessed that there wouldn't be more than one or two names on his entire client list that didn't have a Bel-Air or Holmby Hills address. His kind of client went home to the places where the stars seemed to reach down at night to touch the anointed.

"Give me the client's name," I said.

"That would be Louis Ross Roulet."

He spelled it and I wrote it down on a legal pad.

"Almost like the spinning wheel but you pronounce it Roo-lay," he said. "You going to be here, Mick?"

Before responding I wrote the name C. C. Dobbs on the pad. I then answered Valenzuela with a question.

"Why me?" I asked. "Was I asked for? Or did you suggest me?"

I had to be careful with this. I had to assume Dobbs was the kind of lawyer who would go to the California bar in a heartbeat if he came across a criminal defense attorney paying off bondsmen for client referrals. In fact, I started wondering if the whole thing might be a bar sting operation that Valenzuela hadn't picked up on. I wasn't one of the bar's favorite sons. They had come at me before. More than once.

"I asked Roulet if he had a lawyer, you know? A criminal defense lawyer, and he said no. I told him about you. I didn't push it. I just said you were good. Soft sell, you know?"

"Was this before or after Dobbs came into it?"

"No, before. Roulet called me this morning from the jail. They got him up on high power and he saw the sign, I guess. Dobbs showed up after that. I told him you were in, gave him your pedigree, and he was cool with it. He'll be there at eleven. You'll see how he is."

I didn't speak for a long moment. I wondered how truthful Valenzuela was being with me. A guy like Dobbs would have had his own man. If it wasn't his own forte, then he'd have had a criminal specialist in the firm or, at least, on standby. But Valenzuela's story seemed to contradict this. Roulet came to him empty-handed. It told me that there was more to this case I didn't know than what I did.

"Hey, Mick, you there?" Valenzuela prompted.

I made a decision. It was a decision that would eventually lead me back to Jesus Menendez and that I would in many ways come to regret. But at the moment it was made, it was just another choice made of necessity and routine.

"I'll be there," I said into the phone. "I'll see you at eleven."

I was about to close the phone when I heard Valenzuela's voice come back at me.

"And you'll take care of me for this, right, Mick? I mean, you know, if this is the franchise."

It was the first time Valenzuela had ever sought assurance of a payback from me. It played further into my paranoia and I carefully

constructed an answer that would satisfy him and the bar — if it was listening.

“Don’t worry, Val. You’re on my Christmas list.”

I closed the phone before he could say anything else and told my driver to drop me off at the employee entrance to the courthouse. The line at the metal detector would be shorter and quicker there and the security men usually didn’t mind the lawyers — the regulars — sneaking through so they could make court on time.

As I thought about Louis Ross Roulet and the case and the possible riches and dangers that waited for me, I put the window back down so I could enjoy the morning’s last minute of clean, fresh air. It still carried the taste of promise.

TWO

The courtroom in Department 2A was crowded with lawyers negotiating and socializing on both sides of the bar when I got there. I could tell the session was going to start on time because I saw the bailiff seated at his desk. This meant the judge was close to taking the bench.

In Los Angeles County the bailiffs are actually sworn deputy sheriffs who are assigned to the jail division. I approached the bailiff, whose desk was right next to the bar railing so citizens could come up to ask questions without having to violate the space assigned to the lawyers, defendants and courtroom personnel. I saw the calendar on the clipboard in front of him. I checked the nameplate on his uniform — R. Rodriguez — before speaking.

“Roberto, you got my guy on there? Harold Casey?”

The bailiff used his finger to start down the list on the call sheet but stopped quickly. This meant I was in luck.

“Yeah, Casey. He’s second up.”

“Alphabetical today, good. Do I have time to go back and see him?”

“No, they’re bringing the first group in now. I just called. The judge is coming out. You’ll probably have a couple minutes to see your guy in the pen.”

"Thank you."

I started to walk toward the gate when he called after me.

"And it's Reynaldo, not Roberto."

"Right, right. I'm sorry about that, Reynaldo."

"Us bailiffs, we all look alike, right?"

I didn't know if that was an attempt at humor or just a dig at me. I didn't answer. I just smiled and went through the gate. I nodded at a couple lawyers I didn't know and a couple that I did. One stopped me to ask how long I was going to be up in front of the judge because he wanted to gauge when to come back for his own client's appearance. I told him I was going to be quick.

During a calendar call incarcerated defendants are brought to the courtroom in groups of four and held in a wood-and-glass enclosure known as the pen. This allows the defendants to confer with their attorneys in the moments before their case is called for whatever matter is before the court.

I got to the side of the pen just as the door from the interior holding cell was opened by a deputy, and the first four defendants on the docket were marched out. The last of the four to step into the pen was Harold Casey, my client. I took a position near the side wall so that we would have privacy on at least one side and signaled him over.

Casey was big and tall, as they tend to recruit them in the Road Saints motorcycle gang — or club, as the membership prefers to be known. While being held in the Lancaster jail he had cut his hair and shaved, as I had requested, and he looked reasonably presentable, except for the tattoos that wrapped both arms and poked up above his collar. But there is only so much you can do. I don't know much about the effect of tattoos on a jury but I suspect it's not overly positive, especially when grinning skulls are involved. I *do* know that jurors in general don't care for ponytails — on either the defendants or the lawyers who represent them.

Casey, or Hard Case, as he was known in the club, was charged with cultivation, possession and sale of marijuana as well as other drug and weapons charges. In a predawn raid on the ranch where he

lived and worked, sheriff's deputies found a barn and Quonset hut complex that had been turned into an indoor growing facility. More than two thousand fully mature plants were seized along with sixty-three pounds of harvested marijuana packaged in various weights in plastic bags. Additionally, twelve ounces of crystal meth which the packagers sprinkled on the harvested crop to give it an extra kick were seized, along with a small arsenal of weapons, many of them later determined to be stolen.

It would appear that Hard Case was fucked. The state had him cold. He was actually found asleep on a couch in the barn, five feet from the packaging table. Added to this, he had twice previously been convicted of drug offenses and was currently still on parole for the most recent. In the state of California the third time is the charm. Realistically, Casey was facing at least a decade in prison, even with good time.

But what was unusual about Casey was that he was a defendant who was looking forward to trial and even to the likelihood of conviction. He had refused to waive his right to a speedy trial and now, less than three months after his arrest, eagerly wanted to bring it on. He was eager because it was likely that his only hope lay in an appeal of that likely conviction. Thanks to his attorney, Casey saw a glimmer of hope — that small, twinkling light that only a good attorney can bring to the darkness of a case like this. From this glimmer a case strategy was born that might ultimately work to free Casey. It was daring and would cost Casey time as he waited out the appeal, but he knew as well as I did that it was the only real shot he had.

The crack in the state's case was not in its assumption that Casey was a marijuana grower, packager and seller. The state was absolutely correct in these assumptions and the evidence more than proved it. It was in how the state came to that evidence that the case tottered on an unsteady foundation. It was my job to probe that crack in trial, exploit it, put it on record and then convince an appellate court of what I had not been able to convince Judge Orton Powell of during a pretrial motion to suppress the evidence in the case.

The seed of the prosecution of Harold Casey was planted on a

Tuesday in mid-December when Casey walked into a Home Depot in Lancaster and made a number of mundane purchases that included three lightbulbs of the variety used in hydroponic farming. The man behind him in the checkout line happened to be an off-duty sheriff's deputy about to purchase outdoor Christmas lights. The deputy recognized some of the artwork on Casey's arms — most notably the skull with halo tattoo that is the emblematic signature of the Road Saints — and put two and two together. The off-duty man then dutifully followed Casey's Harley as he rode to the ranch in nearby Pearblossom. This information was passed to the sheriff's drug squad, which arranged for an unmarked helicopter to fly over the ranch with a thermal imaging camera. The subsequent photographs, detailing rich red heat blooms from the barn and Quonset hut, along with the statement of the deputy who saw Casey purchase hydroponic lights, were submitted in an affidavit to a judge. The next morning Casey was roused from sleep on the couch by deputies with a signed search warrant.

In an earlier hearing I argued that all evidence against Casey should be excluded because the probable cause for the search constituted an invasion of Casey's right to privacy. Using an individual's commonplace purchases at a hardware store as a springboard to conduct a further invasion of privacy through surveillance on the ground and in the air and by thermal imaging would surely be viewed as excessive by the framers of the Constitution.

Judge Powell rejected my argument and the case moved toward trial or disposition by plea agreement. In the meantime new information came to light that would bolster Casey's appeal of a conviction. Analysis of the photographs taken during the flyover of Casey's house and the focal specifications of the thermal camera used by the deputies indicated the helicopter was flying no more than two hundred feet off the ground when the photographs were taken. The U.S. Supreme Court has held that a law enforcement observation flight over a suspect's property does not violate an individual's right to privacy so long as the aircraft is in public airspace. I had Raul Levin, my investigator, check with the Federal Aviation Administration.

Casey's ranch was located beneath no airport flight pattern. The floor for public airspace above the ranch was a thousand feet. The deputies had clearly invaded Casey's privacy while gathering the probable cause to raid the ranch.

My job now was to take the case to trial and elicit testimony from the deputies and pilot as to the altitude they were flying when they went over the ranch. If they told the truth, I had them. If they lied, I had them. I don't relish the idea of embarrassing law enforcement officers in open court, but my hope was that they would lie. If a jury sees a cop lie on the witness stand, then the case might as well end right there. You don't have to appeal a not-guilty verdict. The state has no comebacks from a not-guilty verdict.

Either way, I was confident I had a winner. We just had to get to trial and there was only one thing holding us back. That was what I needed to talk to Casey about before the judge took the bench and called the case.

My client sauntered over to the corner of the pen and didn't offer a hello. I didn't, either. He knew what I wanted. We'd had this conversation before.

"Harold, this is calendar call," I said. "This is when I tell the judge if we're ready to go to trial. I already know the state's ready. So today's about us."

"So?"

"So, there's a problem. Last time we were here you told me I'd be getting some money. But here we are, Harold, and no money."

"Don't worry. I have your money."

"That's why I am worried. *You* have my money. I don't have my money."

"It's coming. I talked to my boys yesterday. It's coming."

"You said that last time, too. I don't work for free, Harold. The expert I had go over the photos doesn't work for free, either. Your retainer is long gone. I want some more money or you're going to have to get yourself a new lawyer. A public defender."

"No PD, man. I want you."

"Well, I got expenses and I gotta eat. You know what my nut is each week just to pay for the yellow pages? Take a guess."

Casey said nothing.

"A grand. Averages out a grand a week just to keep my ad in there and that's before I eat or pay the mortgage or the child support or put gas in the Lincoln. I'm not doing this on a promise, Harold. I work on green inspiration."

Casey seemed unimpressed.

"I checked around," he said. "You can't just quit on me. Not now. The judge won't let you."

A hush fell over the courtroom as the judge stepped out of the door to his chambers and took the two steps up to the bench. The bailiff called the courtroom to order. It was showtime. I just looked at Casey for a long moment and stepped away. He had an amateur, jail-house knowledge of the law and how it worked. He knew more than most. But he was still in for a surprise.

I took a seat against the rail behind the defendant's table. The first case called was a bail reconsideration that was handled quickly. Then the clerk called the case of *California v. Casey* and I stepped up to the table.

"Michael Haller for the defense," I said.

The prosecutor announced his presence as well. He was a young guy named Victor DeVries. He had no idea what was going to hit him when we got to trial. Judge Orton Powell made the usual inquiries about whether a last-minute disposition in the case was possible. Every judge had an overflowing calendar and an overriding mandate to clear cases through disposition. The last thing any judge wanted to hear was that there was no hope of agreement and that a trial was inevitable.

But Powell took the bad news from DeVries and me in stride and asked if we were ready to schedule the trial for later in the week. DeVries said yes. I said no.

"Your Honor," I said, "I would like to carry this over until next week, if possible."

"What is the cause of your delay, Mr. Haller?" the judge asked impatiently. "The prosecution is ready and I want to dispose of this case."

"I want to dispose of it as well, Your Honor. But the defense is having trouble locating a witness who will be necessary to our case. An indispensable witness, Your Honor. I think a one-week carryover should be sufficient. By next week we should be ready to go forward."

As expected, DeVries objected to the delay.

"Your Honor, this is the first the state has heard about a missing witness. Mr. Haller has had almost three months to locate his witnesses. He's the one who wanted the speedy trial and now he wants to wait. I think this is just a delay tactic because he's facing a case that —"

"You can hold on to the rest of that for the jury, Mr. DeVries," the judge said. "Mr. Haller, you think one week will solve your problem?"

"Yes, Your Honor."

"Okay, we'll see you and Mr. Casey next Monday and you will be ready to go. Is that understood?"

"Yes, Your Honor. Thank you."

The clerk called the next case and I stepped away from the defense table. I watched a deputy lead my client out of the pen. Casey glanced back at me, a look on his face that seemed to be equal parts anger and confusion. I went over to Reynaldo Rodriguez and asked if I could be allowed back into the holding area to further confer with my client. It was a professional courtesy allowed to most of the regulars. Rodriguez got up, unlocked a door behind his desk and ushered me through. I made sure to thank him by his correct name.

Casey was in a holding cell with one other defendant, the man whose case had been called ahead of his in the courtroom. The cell was large and had benches running along three sides. The bad thing about getting your case called early in the courtroom is that after the hearing you have to sit in this cage until it fills with enough people to run a full bus back to the county jail. Casey came right up to the bars to speak to me.

"What witness were you talking about in there?" he demanded.

"Mr. Green," I said. "Mr. Green is all we need for this case to go forward."

Casey's face contorted in anger. I tried to cut him off at the pass.

"Look, Harold, I know you want to move this along and get to the trial and then the appeal. But you've got to pay the freight along the way. I know from long, hard experience that it does me no good to chase people for money after the horse is out of the barn. You want to play now, then you pay now."

I nodded and was about to turn back to the door that led to freedom. But then I spoke to him again.

"And don't think the judge in there didn't know what was going on," I said. "You got a young prosecutor who's wet behind the ears and doesn't have to worry about where his next paycheck's coming from. But Orton Powell spent a lot of years in the defense bar before he got to the bench. He knows about chasing indispensable witnesses like Mr. Green and he probably won't look too kindly upon a defendant who doesn't pay his lawyer. I gave him the wink, Harold. If I want off the case, I'll get off. But what I'd rather do is come in here next Monday and stand up out there and tell him we found our witness and we are ready to go. You understand?"

Casey didn't say anything at first. He walked to the far side of the cell and sat down on the bench. He didn't look at me when he finally spoke.

"As soon as I get to a phone," he said.

"Sounds good, Harold. I'll tell one of the deputies you have to make a call. Make the call, then sit tight and I'll see you next week. We'll get this thing going."

I headed back to the door, my steps quick. I hate being inside a jail. I'm not sure why. I guess it's because sometimes the line seems so thin. The line between being a criminal attorney and a *criminal* attorney. Sometimes I'm not sure which side of the bars I am on. To me it's always a dead-bang miracle that I get to walk out the way I walked in.