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SCOTT TUROW

REVERSIBLE ERRORS



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reversible error

n. a legal mistake made by a trial court which is so significant that an appellate court reviewing the case must set aside the trial court's judgment. The trial court is then instructed either to dismiss the case, to retry the case, or to otherwise modify its decision.

CHARACTERS

ARTHUR RAVEN

Rommy's lawyer
for his final
appeal in 2001

PAMELA TOWNS

Arthur's associate
on Rommy's case

SUSAN RAVEN

Arthur's sister

LARRY STARCZEK

The detective on
Rommy's case
in 1991 and 2001

MURIEL WYNN

The prosecutor
on Rommy's case
in 1991 and 2001

GILLIAN SULLIVAN

The judge who
convicted and
sentenced
Rommy in 1992

ROMMY "SQUIRREL" GANDOLPH
convicted of the 7/4/91 murders

**AUGUSTUS
"GOOD GUS"**

LEONIDIS

murdered 7/4/91

JOHN

Gus's son

LUISA REMARDI

murdered 7/4/91

GENEVIEVE CARRIERE

Luisa's friend

ERNO ERDAI

TN Air Security Supervisor
for Luisa and Genevieve

COLLINS FARWELL

Erno's nephew

PAUL JUDSON

murdered 7/4/91

PART ONE

Investigation

1

APRIL 20, 2001

Attorney and Client

THE CLIENT, like most clients, said he was innocent. He was scheduled to die in thirty-three days.

Arthur Raven, his lawyer, was determined not to worry. After all, Arthur reasoned, he was not even a volunteer. Instead, he'd been drafted by the federal appellate court to ensure that after ten years of litigation, no sound arguments remained to save Rommy Gandolph's life. Worrying was not part of the job.

He was worried anyway.

"I'm sorry?" asked Pamela Towns, his young associate, from the passenger's seat. A gurgle of anguish had escaped Arthur as he had come, once again, face-to-face with himself.

"Nothing," said Arthur. "I just hate being the designated loser."

"Then we shouldn't lose." Pamela, with rosy good looks fit for TV news, flashed a bright coast-to-coast grin.

They were far from the city now, doing eighty on cruise control in Arthur's new German sedan. In these parts, the road was so flat and straight, he did not even have to touch the wheel. The prairie farmlands raced by, corn stubble and loam, silent and eternal in the wan light of morning. They had left Center City at seven to beat the traffic. Arthur hoped to hold a brief introductory meeting with their new client, Rommy Gandolph, at the state penitentiary at Rudyard and to be back at his desk by two o'clock — or three, if he decided to risk asking Pamela to lunch. He remained intensely conscious of the young woman nearby, of the tawny hair falling softly on her shoulders, and of the hand that crept to her thigh every several miles to retract the hiking of her tartan skirt.

Eager as he was to please her, Arthur could offer little hope for the case.

"At this stage," he said, "under the law, the only thing that could possibly amount to reversible error would be new evidence of actual innocence. And we're not going to find that."

"How do you know?" asked Pamela.

"How do I know? Because the man confessed to everybody but the *Daily Planet*." Ten years ago, Gandolph had copped to the police, then gave a handwritten statement to the prosecutor, Muriel Wynn, and finally repeated his admissions on videotape. On each occasion, he had acknowledged he was the person who'd shot two

men and a woman and left them in a restaurant food locker in a case still referred to, in the tempered words of the press, as 'the Fourth of July Massacre.'

"Well, he kept saying on the phone he's innocent," said Pamela. "It's possible, isn't it?"

For Arthur, who had been a Deputy Prosecuting Attorney before coming to work seven years ago at O'Grady, Steinberg, Marconi and Horgan, there was no possibility of that at all. But Pamela, at twenty-five or twenty-six, had just started practice. Saving an innocent client was the sort of adventure she'd imagined in law school, riding like Joan of Arc toward radiant Justice. Instead, she'd settled for a big law firm and \$120,000 a year. But why not have everything? Well, you couldn't blame people for their fantasies. God knows, Arthur Raven realized that.

"Listen to what I found in Rommy's probation records," said Pamela. "On July 5, 1991, he was sentenced to time served for a violation of probation. The murders were early on July 4th. So 'time served' would mean he was in jail, wouldn't it?"

"It would mean he was in jail at some point. Not necessarily on July 4th. Does his rap sheet show he was in jail on July 4th?"

"No. But it's something to investigate, isn't it?"

It would have been something to investigate a decade ago, when the records to prove it was nonsense still existed. Yet even at that, the federal appeals court was likely to grant Gandolph a brief stay of execution, during which Arthur and Pamela would be obliged to scramble in dogged — and futile — pursuit of this phantom theory.

Rankled by the prospect of more wasted time, Arthur nudged the cruise control wand a bit higher and felt

some dim satisfaction in the big auto's response. He had purchased the car two months ago as a trophy of sorts after he became a full partner in his law firm. It was one of the few luxuries he'd ever permitted himself, but he had barely turned the key when he began to feel he was disrespecting the memory of his father, who had recently passed, a loving man, but one whose eccentricities had included a cramped frugality.

"And listen to this," Pamela was saying. She had withdrawn Rommy Gandolph's rap sheet from the thick folder on her lap and read out the entries. Gandolph was a thief and a fence. He'd had half a dozen convictions — burglary, theft, possession of stolen property several times. "But nothing with a gun," said Pamela. "No violence. No female victims. How does he suddenly become a rapist and a murderer?"

"Practice, practice, practice," answered Arthur.

From the corner of his eye, he saw Pamela's full mouth turn briefly downward. He was screwing this up. As always. Arthur did not know exactly what he had done wrong with women to leave him single at the age of thirty-eight. Appearance was one issue, he realized. He'd had the droop and pallor of middle age since his teens. In law school, he'd had a brief, hurtful marriage to Marjya, a Romanian immigrant. After that, for a period he'd seemed to have neither the inclination nor the time to start again. He had given so much to the law — so much fury and passion in every case, so many nights and weekends where he actually felt pleasure in having solitary time to concentrate. And his father's declining health, and the question of what would become of his sister, Susan, had also been draining preoccupations for years. But now, seeking even the faintest sign that

Pamela had some interest in him, he felt humbled by his foolishness. His hopes with her were as unlikely as hers for Gandolph. He felt the need to chasten them both.

"Look," said Arthur, "our client, Gandolph. 'Rommy'? Not only did Rommy confess early and often, but when he went to trial, his defense was insanity. Which requires his lawyer to admit Rommy committed the crime. Then we have ten more years of appeals, and post-conviction petitions, and *habeas corpus* proceedings, with two different sets of new attorneys, and none of them happens to mention that Rommy is the wrong man. Let alone Rommy, who only remembered that he didn't do it when he was about forty-five days away from getting the needle. Really, Pamela. Do you think he told the lawyers before us he was innocent? Every con knows this game — new lawyers, new story."

Arthur smiled, attempting to appear worldly-wise, but the truth was he'd never really accommodated himself to criminal defendants' shenanigans. Since leaving the Prosecuting Attorney's Office, Arthur had played defense lawyer infrequently, only when one of the firm's corporate clients or its bosses was suspected of some financial manipulation. The law he lived most days as a civil litigator was a tidier, happier law, where both sides fudged and the issues raised were minuscule matters of economic policy. His years as a prosecutor seemed to be a time when he'd been assigned each day to clean out a flooded basement where coliform bacteria and sewer stink rotted almost everything. Someone had said that power corrupted. But the saying applied equally to evil. Evil corrupted. A single twisted act, some piece of gross psychopathology that went beyond the boundaries of what almost anybody else could envision — a father

who tossed his infant out a tenth-floor window; a former student who forced lye down the throat of a teacher; or someone like Arthur's new client who not only killed but then sodomized one of the corpses — the backflow from such acts polluted everyone who came near. Cops. Prosecutors. Defense lawyers. Judges. No one in the face of these horrors reacted with the dispassion the law supposed. There was a single lesson: things fall apart. Arthur had harbored no desire to return to that realm where chaos was always imminent.

In another fifteen minutes they had arrived there. Rudyard was a small town like many others in the Middle West, its core a few dark buildings, still smudged with coal soot, and several tin hangars with corrugated plastic roofs that housed various farm services. At the outskirts, a kind of mini-suburbanization was under way, with strip malls and tract homes, the result of the economic security afforded by an unusual anchor industry — the prison.

When they turned a corner on a movie-set neighborhood of maple trees and small frame houses, the facility suddenly loomed at the end of the block, like a horror-flick monster jumping out of a closet, a half-mile continuum of randomly connected yellow-brick buildings, notable for the narrowness of the few windows. Those structures in turn surrounded an old stone edifice stout enough to have survived from the Middle Ages. Toward the perimeter lay not only a ten-foot brick wall, but a graveled moat of projecting stainless steel spikes, and beyond that a boundary of cyclone fencing supporting five-foot spirals of razor wire, brilliant in the sun.

In the prison guardhouse, they signed in, then were directed to a worn bench for the long wait while Rommy was brought down. In the interval, Arthur reviewed

Rommy's letter, which had arrived via various intermediate hands at the Court of Appeals. It was composed in a hodgepodge scrawl, with multicolored markings and other features too irregular even to be called childish. Just looking at the letter, you knew that Rommy Gandolph was both desperate and crazy.

Dear Judge,

I am on DEATH ROW for a CRiMe I never CoMmitted. They Say I hAve had all my AppeeLs, and it's all com out against me EVEN so I AM INNOCENT. the lawrs who had file my PC Over in the STate says they CaN't represnt me now, on account of Fed laWs. what can I do? the day that I get my execution is sposed to be May 23!!!!. i can't have a stay or nothin unless I have a habeus going, but I don't have a Lawr do I. What can I do? can't Somebody over there Help me? I'm going to be killed, and I never hurt no one, not in this case or any other time that I rember RighT now. HELP ME. I DIDN'T KILL NO ONE ever!!!!

The United States Court of Appeals had entered an order treating Rommy Gandolph's correspondence as a successive petition for relief under the federal *habeas corpus* statute and appointing a lawyer for him — Arthur. Judges often waved their magic wand at random to turn some unwilling toad — a fully occupied lawyer — into a *pro bono* prince, with a demanding new non-paying client whom the rules of court required he accept. Some might read the appointment as a compliment, the court asking a respected former state prosecutor to apply

the legal equivalent of last rites. But it was an onerous addition to an already overburdened life.

Eventually Rommy's name was called. Pamela and Arthur were patted down in the holding area, and then the first of many electronic bolts was shot and a door of bulletproof glass and iron crossbars clanked irrevocably behind them, as they followed a guard. It had been many years since Arthur had been inside the joint, but Rudyard in its own way was timeless. Not the procedures. The procedures, as he remembered them, seemed to change every few days. The authorities — the state legislature, the governor, the prison administration — were forever trying to improve discipline, to stop the in-flow of contraband, to control the gangs, to keep the inmates, veteran scammers, from scamming. There was always a new form to fill out, a new place to stow money, keys, cell phones — all the big-house forbiddens. Always another gate to get through, a new search procedure.

But the mood, the air, the people — they were eternal. The paint was fresh; the floors gleamed. No matter. They could scrub it as clean as they cared to. With so many people confined in such close quarters, with an open privy in every cell, the atmosphere was tainted with the smell of human waste and some larger effluvium, which on first breath vaguely sickened Arthur, much as it had years ago.

Down a low brick corridor they approached a door of green metal plating. On it was stenciled one word: 'Condemned.' Inside they were steered to the attorney's room, which was not really one room but two, a space no more than five feet wide divided by a wall, which yielded halfway up to an arrangement like a teller's drive-through window — a pane of glass, with a metal trough

beneath to allow papers to pass. Although it violated every principle of attorney-client confidentiality, the correctional system had won the right to keep a guard posted in the corner on the prisoner's side.

Behind the window was Rommy Gandolph, a brown-skinned wraith with a head of wild hair. He was swallowed in the loose folds of the yellow jumpsuit worn solely by inmates who'd been sentenced to death. His arms were shackled and thus he was required to reach with both hands for the phone that would allow him to converse with his lawyers. On their side, Arthur picked up the lone handset and held it between Pamela and himself while they introduced themselves.

"You-all the first real lawyers I had," Rommy said. "Rest was state defenders. Think maybe I got a chance now I got real lawyers." Rommy leaned close to the pane to explain his predicament. "I'm the next Yellow Man takin the walk, you know that? Everybody lookin at me already. Like somethin oughta be different cause I'm gone be dead so soon."

Pamela bent at once toward the document passage and spoke encouraging words. They were going to get a stay of execution today, she promised.

"Yeah," said Rommy, "cause I'm innocent, man. I ain kill't nobody. I want that DMA test, man, see if I got any." DNA, always the first thought these days, held no hope for Rommy because the state had never claimed he had left at the scene any identifiable genetic evidence — blood, semen, hair, tissue scrapings, even saliva.

Without warning, Gandolph sighted Pamela down the length of an extended finger.

"You pretty as you sounded on the phone," he told her. "Think me and you oughta get married."

Briefly arising, Pamela's smile suddenly passed into eclipse, as it appeared to grow on her that Rommy was deadly earnest.

"Man gotta get married 'fore he die, right?" Rommy asked. "Ain that a good idea?"

Great, Arthur thought. Competition.

"You'n me get hitched up," Rommy told her, "I can get a conjugal."

Judging from her rigid posture, this was not part of Pamela's vision of valiant representation. Arthur, who'd had no idea how to commence this interview, quickly picked up Judge Gillian Sullivan's judgment and commitment order from 1992 that sentenced Rommy to death, and began reading it out loud.

"Auga-what? Who now?" asked Rommy Gandolph.

"Augustus Leonidis," said Arthur.

"Am I knowin him?" asked Rommy. The lids twitched over his closed eyes as he made an effort to place the name.

"He's one of the three," said Arthur quietly.

"What three?"

"The three the state says you killed." Confessed to killing, Arthur thought. But no need to put too fine a point on it at present.

"Mmm," said Rommy. "Don't think I knowed him." Rommy shook his head, as if he'd missed a social call. Gandolph was nearing forty. He had a yellowish tinge to his eyes, and, by all appearances, the blood of the Americas in his veins. In contemporary parlance, he was 'black,' but there looked to be white and Indian and Hispanic in him as well. His hair was gnarled and uncut, and he was missing several teeth, but he wasn't ugly. Crazy-ness just seemed to have eaten the center out of him.