

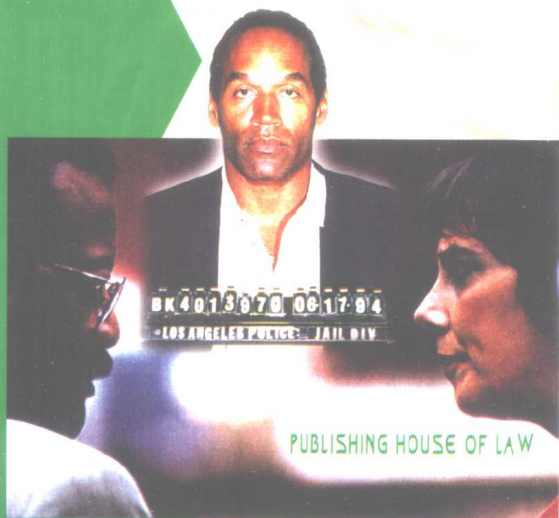
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O·J·辛普森案  
诉讼文书选

# The Court Records of O.J. Simpson Trial

许卫原/编



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出版社



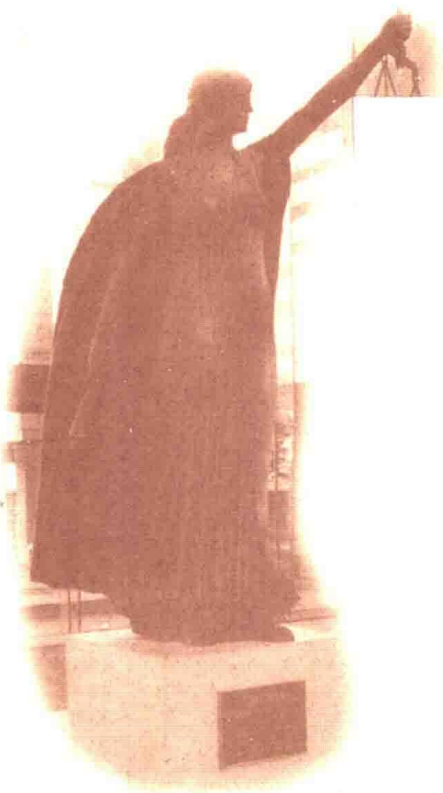
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## 出版者的话

1755年,在英语——作为一种文字的发展史上,是具有里程碑意义的。这一年,英国的第一部《英语大辞典》问世。她的作者便是英国著名的作家和词典编纂学家撒缪尔·约翰逊(Samuel Johnson)。他在这部大辞典的序言里写下了这样一句话: The greatest pest of speech is frequency of translation. ... this is the most mischievous and comprehensive innovation (语言最大的祸害就是频繁的翻译,这是一种最有害且最综合意义上的“再炮制”。)

“炮制”常常会差强人意,甚至于以讹传讹,而法学译作更在一定意义上是件“不可为而为之”的作品。英美法的一些概念、术语实难在汉语中有完美的匹配。于是我们推崇读原文。

原文闪烁着作品本身质朴而灵动的光芒,而地道的语言传递着的是英语中“法言法语”独特的个性化色彩。

少有机会读到英美法学原篇的中国学子们,将会从这套丛书中看到真正的英文法学篇章是个什么样子。这里既有严谨、典型的英美法学学术篇章,也有法庭上唇枪舌剑的审判实录,更有闻名于世的英美法“案例学习”。

这套辑录自90年代以来的“原汁原味”的法学英语读物,我们相信她带给您的会是这样的阅读体验——语言一百分,思想不打折。

1997年12月

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## 导 言

一九九四年六月十二日，在洛杉矶好莱坞附近，一个名叫妮科尔·辛普森的白人妇女和她的朋友荣·戈德曼双双陈尸血泊中。此后，美国上演了一场全球瞩目的世纪大审判。被控者为著名的前美式足球明星 O·J·辛普森。

O·J·辛普森被美国人视为英雄。他出身贫贱，又自母亲处遗传了严重的骨节病，从小即不得不穿着铁鞋矫正腿形。处此逆境，他仍奋斗不息，自大学足球而职业足球；自海兹曼奖而美式足球名人堂，而演员，而大公司的公共形象。他的成功之路上充满着化不可能为可能的传奇。

曾经英雄如此，如今却被戴上手铐，站在法庭上面对双重谋杀的指控。英雄弑美女，黑人杀白人，先生凌虐内子，富豪草菅小民，处处都是奥塞罗的当代版。在漫长的 474 天里，整个美国被紧紧地套在 O·J·辛普森案审判中。媒体全程报导，追腥逐臭；举国全民辩论，黑白分明；宣判时刻，飞机停飞，车船停驰，商店停业，企业停工，整个美国为之屏住呼吸……

本书节选了部分 O·J·辛普森刑事案的法庭记录原文，名为部分其实不及百分之一。虽然如此，本书力求精心选择，涵盖全面。但是，读者若想探知辛案之究竟，非此本小书所能胜任。本书作者另有一本亦将由法律出版社出版的中文。专著细述其详，读者诸君若有兴趣，不妨一读。原文中凡是能自字典中查找的字词，编者不拟越俎代庖。编者将就特殊的法律术语和相关的背景做一些必要的注释。

许卫原 于纽约

1997 年 10 月

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## 目 录

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### · 导 言

1. 玛莎·克拉克	向大陪审团举证 .....	( 1 )
2. 克里斯·达顿	开庭总述(控方) .....	( 14 )
3. 强尼·考克兰	开庭总述(辩方) .....	( 39 )
4. 玛莎·克拉克	开庭总述(补充) .....	( 87 )
5. F·李·贝雷	交叉质询探长马克·佛曼 .....	( 93 )
6. 玛莎·克拉克	结案辩论(控方) .....	(110)
7. 强尼·考克兰	结案辩论(辩方) .....	(160)
8. 克里斯·达顿	反质辩论 .....	(190)
9. 判决 .....		(232)

## 1. 玛莎·克拉克 向大陪审团举证

本段为大陪审团期间,凯托·凯伦作证的法庭记录节选。凯托·凯伦是 O·J·辛普森和其前妻妮科尔·辛普森的共同朋友,他又是双重谋杀案之前最后见到 O·J·辛普森的人。他的证词在整个审判中至为重要。

大陪审团阶段为美国检控方立案之初始阶段。大陪审团人数通常 12 人至 23 人不等,因地而异。任期为一年。该组织专事检察官之立案听证。通过表决的方式决定是否将受控人交付法庭审判。听证期间,公众及辩方不准列席,检察官不需大量举证。证据及证人也无需经辩方交叉质询。

大陪审团听证并非唯一的立案方式。另一方法则为预审听证,整个过程对公众开放,辩方也可以交叉质询,是否交付审判则由法官裁决。

值得一提的是,采用何种方式立案是由检察官决定的,有时甚至可以重选进行。这个历时 474 天的“世纪审判”先后经历了大陪审团和预审听证两个阶段,其中大陪审团审议被宣判无效。这在美国司法史上是史无前例的。

**MS.Clark:** Thank you.

At this time, Madame Foreman, I would Like to call Mr. Brina Kaelin to the witness stand.

**The Foreperson<sup>1</sup>:** Brina Kaelin, Please raise your right hand.

You do solemnly swear the testimony you are about to give in the matter now pending before the grand jury of the county of Los Angeles shall be the truth, the whole truth and nothing but the truth, so help you god.

**The Witness:** I do.

**The Foreperson:** Please be seated.

Mr. Kaelin, Please state and spell your full name, speaking directly into the microphone.

**The Witness:** Brian Gerard Kaelin.

B-R-I-A-N G-E-R-A-R-D K-A-E-L-I-N.

**The Foreperson:** Thank You.

Miss Clark, You may proceed.

**MS. Clark:** Thank you.

*Brian Gerard Kaelin,*

*Called as a witness before the Los Angeles county grand jury, was duly sworn and testified as follows:*

## **EXAMINATION**

**By Ms. Clark:**

**Q:** Mr. Kaelin, Were you acquainted with a woman by the name of Nicole Simpson?

**A:** On the advice of my attorney, I must respectfully decline to answer and assert my constitutional right to remain silent<sup>2</sup>.

**Q:** You seem to be reading from a piece of yellow paper and there is some writing on that paper.

Is that writing what you have just read to us now?

**A:** Yes.



**Q:** And did your attorney write that out for you this morning?

**A:** On the advice of my attorney, I must respectfully decline to answer and assert my right to remain silent.

**Q:** On the night of June 12, 1994, were you in the company of Mr. Orenthal James Simpson?

**A:** On the advise of my attorney, I must respectfully decline to answer and assert my constitutional right to remain silent.

**Q:** Did you go out to Mc Donald's with him in his Rolls Royce at approximately 9 p. m. on the evening of June 12, 1994 in Los Angeles county?

**A:** On the advice of my attorney, I must respectfully decline to answer and assert my constitutional right to remain silent.

**Q:** Is it your statement to us today that you will refuse to discuss or testify to any matter concerning the events of the night of June 12, 1994?

**A:** On the advice of my attorney, I must respectfully decline to answer and assert my constitutional right to remain silent.

**Q:** And do you also, then, refuse to discuss with us the relationship you had with Mr. Orenthal James Simpson and his wife Nicole Simpson?

**A:** On the advice of my attorney, I must respectfully decline to answer and assert my constitutional right to remain silent.

**Mr. White:** Madame Foreman, based on the witness' answers here thus far, I would ask that you order the witness to go to department 122 for a Litigation of this issue as to whether or not he can properly invoke the right of self-incrimination in this circumstance.

**The Foreperson:** Mr. Kaelin, I advise you that your refusal to answer the questions put before you is without legal cause<sup>3</sup> and that

if you persist in your refusal, you will be in contempt of this grand jury<sup>4</sup> and I will order you remanded forthwith to department 122 of the superior court for the county of Los Angeles for further proceedings regarding this contempt.

I further advise you that this grand jury is a lawfully constituted legal body and that your refusal, without legal cause, to answer questions before this grand jury does constitute contempt and will subject you to imprisonment pursuant to the laws of this state.

Will you now testify or will you answer the questions, any and all of them, which you have previously refused to answer?

**The Witness:** I would like to step out and speak to my attorney.

**The Foreperson:** You may do so.

Excuse me.

Will the sergeant-at-arms please escort Mr. Kaelin to the door.

*(The witness exits the grand  
jury hearing room.)*

*(Short pause.)*

**The Foreperson:** Mr. Kaelin, Will you now testify or will you now answer the questions, any or all of them, which you previously refused to answer?

**The Witness:** On the Advice of my attorney, I must respectfully decline to answer and assert my constitutional right to remain silent.

**The Foreperson:** Mr. Kaelin, I declare you to be in contempt of this grand jury.

The sheriff is ordered to transport you forthwith to department 122 of the superior court for further proceedings regarding

this contempt.

I further direct the grand jury legal advisor, deputies district attorney and the court reporter to proceed immediately to department 122 for further proceedings in this matter.

*The grand jury is now in recess in this matter .*

*( The deputies district attorney ,  
the legal advisor , the court reporter  
and the witness exit the grand jury hearing room . )  
( Recess taken . )*

*Brian Gerard Kaelin ,  
Recalled as a witness before the Los Angeles county grand jury ,  
having been Previously duly sworn , resumed the stand and testified  
further as follows :*

### **EXAMINATION(RESUMED)**

**By Ms. Clark :**

**Q:** Mr. Kaelin, Were you acquainted with the victim, Nicole Brown Simpson?

**A:** Yes.

**Q:** And how did you become acquainted with her?

**A:** I met Nicole in December of '92.

**Q:** How did you meet her?

**A:** It was in Aspen<sup>5</sup>, and we were introduced through friends.

**Q:** Did you maintain contact with her after you met her that first time?

**A:** Yes.

**Q:** At that time, where were you living?

**A:** Hermosa Beach.

**Q:** While you lived in Hermosa Beach, did you maintain contact with her?

**A:** Yes.

**Q:** How did you maintain that contact?

**A:** Through friends.

**Q:** Were you romantically involved with her?

**A:** No.

**Q:** Did you ultimately attend a party with her?

**A:** Yes.

**Q:** And when was that?

**A:** The party was after Aspen, so January, I think, '93.

**Q:** Where was that party given?

**A:** At her house.

**Q:** Which was where?

**A:** Brentwood.

**Q:** On what street?

**A:** Gretna Green.

**Q:** Did you speak to her at that party?

**A:** Yes, I did.

**Q:** Did that particular property have a spare room there?

**A:** Yes, it did.

**Q:** Can you explain what kind of spare room that was.

**A:** On Gretna Green, there was a guest house behind her house.

**Q:** Did you — Were you interested for some reason in that guest house?

A: Yes.

Q: Why was that?

A: Because I lived in Hermosa Beach and it was a long drive and I asked if that room was available to live in.

Q: Did she say or — Did she respond?

A: Yes.

Q: What did she tell you?

A: She said, "sure, you can live there."

Q: Did you move in?

A: Yes, I did.

Q: Were you paying rent?

A: Yes.

Q: During that period of time, did you become acquainted with the suspect, Orenthal Simpson?

A: Yes.

Q: Did you ever see him with Miss Simpson, Nicole?

A: Yes.

Q: Did you ever observe them to argue or fight?

A: I saw them close and I saw maybe an argument.

Q: And where was that?

A: *Gretna Green*.

Q: Do you recall the nature of the argument or just that it was one?

A: That it was one.

Q: Was that the only time you ever saw an argument between them?

A: Yes.

Q: How long did you live on *Gretna Green*?

**A:** I lived there form '93 until January of '94.

**Q:** Were you present when they were together very often?

**A:** Can you say that again?

**Q:** Yes.

When Mr. Simpson was with Nicole Simpson, were you present very often, or was that something — or were you usually not around when the were together?

**A:** Not on dates or anything like that, no, I was never with them.

**Q:** So would you say that you had fairly little contact with them as they interacted as a couple when they were together?

**A:** Yes.

If he was at Gretna Green and the kids were there and if I was there, I would play with the kids. And that's it.

And it would be — you know, I would be there, also, but I didn't go on the dates or anything like that.

**Q:** So your contact with them as a couple was very limited.

**A:** Yes.

**Q:** At some point, did you move away from the Gretna Green residence?

**A:** Yes.

**Q:** Tell me how that happened.

**A:** Nicole was moving to a new part of Brentwood, and she had asked me one time to look for a place and then changed her mind to live there. And I was gong to move there.

And O. J. Simpson asked me if I wanted to move into his place.

**Q:** Now, at the time you were living at Gretna Green, Nicole Simpson was living in the main house.

Is that correct?

A: Nicole Simpson in the main house on Gretna Green, Yes.

Q: Who was living with her there?

A: Her children, Sidney and Justin.

Q: And was any man living there with her?

A: No.

Q: Mr. Simpson was not living there?

A: No.

Q: Do you know where he lived at that time?

A: Yes.

Q: Where?

A: In Brentwood.

Q: Same place as now?

A: Rockingham, yes.

Q: So what year was it that you moved out of Gretna Green?

A: I moved out of Gretna Green in '94, January.

Q: And that was at the same time that Nicole Simpson moved out?

A: Uh-huh.

Q: Is that "Yes"?

A: Yes.

Q: Now, what was your plan?

Were you planning to move with her to the new place?

A: Yeah.

Q: But Mr. Simpson asked you not to?

A: He asked me if I wanted to moved into his place.

And it was inside the house this time on Bundy<sup>6</sup> and I would be living in the house and he said it would probably not be right to be

in the same house.

**Q:** With Nicole Simpson?

**A:** Yes.

**Q:** The Bundy residence then that she was moving to in January of '94 did not have a separate guest house?

**A:** Not a separate guest house, but a room that — it was in the house, but it would be kind of by itself, but still in the house.

**Q:** It was in the house?

**A:** Yes, it was.

**Q:** it was not a separate guest house like it was on Gretna Green?

**A:** Exactly.

**Q:** And Mr. Simpson indicated to you that he preferred you not live there since it was inside the house?

**A:** Yes.

**Q:** So he asked you to —

**A:** If I didn't mind, he said he has a room there. He goes, "you can move in there."

**Q:** So he offered to rent a place to you at the Rockingham address?

**A:** He just gave it to me.

**Q:** For free?

**A:** Yeah.

I asked if I could — you know, if he wanted anything like that.

He said, "no."

**Q:** So did you move in?

**A:** Yes.

**Q:** And —



**A:** To Rockingham<sup>7</sup>?

**Q:** Yes.

**A:** Yes.

**Q:** And the place you moved into, can you describe it to us.

**A:** It's a lot like a hotel room.

It has — it's off to the side. It has a doorway, it has the bed and the bathroom and it's like an office space.

**Q:** Is it in the middle? the side?

where is it in relation to the main house?

**A:** The side.

**Q:** I'm going to show you a diagram.

**Ms. Clark:** I would ask this diagram be marked People's 3.

**The Foreperson:** So ordered.

*(Marked for I. D. : = Exhibit 3.)*

**Q: By Ms. Clark:** Now, showing you the diagram.

If you could try to indicate — it's going to be off this diagram, your guest house, but indicate to the jury where your place would be.

**A:** If this is the front of the house here, back here is a pool, the pool, it would be here.

My place would be right here.

**Ms. Clark:** For the record, the witness has indicated. . . . .

**Q:** When you say, "the front house," you are indicating the area that says, "front door" here on the diagram?

**A:** Yes.

**Q:** Then when you say, "the pool," you are pointing directly behind that off the diagram; right?