

Trial Flashbacks: My Client's, and Mine

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There are parts of my childhood that I don't understand—and parts that I never will. Most of the sources that I have now from that time in my life are unreliable. There's youthful brain or my adult parents' recollection, neither of whom I trust to give me completely accurate information (but for very different reasons). The memories come out of order, disjointed, in fragments, and always bubble up at the last time you'd want them. Like during a jury trial.

My mom woke me up, clutching my infant sister. She said it was time to go. We fled out my bedroom window. I didn't have time to change out of my pajamas, and I remember being cold in the car. I was curled up as much as I could in the passenger seat. It wasn't long before the car stopped in a parking lot before pulling out onto the main road. We waited in that parking lot for what seemed like an eternity.

Now, I'd really like to know why we went back, or how? Did we climb back into our beds after coming back in through the bedroom window without him ever knowing we had left? Did he find out and force her to return? I remember tiptoeing out into the darkness, but I don't remember the dawn.

I work as a public defender, but not in the typical sense. I don't have criminal clients; I represent children in foster care. Sometimes we take parent cases. Representing parents happens in limited circumstances in our office and mostly only when the parent has a criminal charge where we represented them in the past. When I tell laypeople that I'm a public defender, you can always expect a reaction. Yet even among our own clan, we juvenile defenders are kind of outcasts. Public defenders who see grisly nurse exams from rape or bloody photos from stab wounds tell me, "I don't see how you do that," when I tell them I represent children in foster care. Most days, it seems like I have no choice.

I find it easier to represent the children on my docket than the parents, but there is one type of case I would do anything to avoid. Give me any case except a mom accused of failing to protect her children from the abusive relationship she didn't leave. You've got a dad on your docket who treats you like garbage? I'll take it from you. You've got a horrific sexual abuse case with multiple children involved? I've got it. Shaken baby? Sign me up. Just take this case off my hands.

So, my boss asks for help on a case. All I know in advance is that there are five children and the youngest has a skull fracture and seven broken ribs. The boss knows there are a ton of medical

personnel testifying, and I have done a trial like this before. I'm an easy pick for a second chair. Then I open the file.

I'm not sure of the exact point that I realized I have stopped breathing. The absence of breath isn't a conscious act for me; I often don't realize that I'm holding my breath until my brain kicks in. I suck in a breath of air that would sound like a gasp to anyone sitting near me, but the air feels more like it's forcing its way in, not my lungs gulping it down. I have no idea how much time has passed because I'm not in my office.

I'm sitting at a table that feels like it's made for giants, and everything is metal. It's cold. Why is it always cold? I'm far away from the ground on a hard chair with dangling feet, and the looming table seems just as far away as the laminate ground. I'm in a tiny room with white walls and one big glass panel. There's a cassette tape recorder sitting on the table, connected to the outlet in the floor by a hole in the middle of the table. The door opens, and an officer walks into the room. Before he says a word, he presses the red button on the cassette tape recorder, and the tape starts to wind its way around plastic, white gears.

A few months later, I haven't "found the time" to make it through all the discovery in my new case. I'm just the second chair. Going through the medical records seems like enough. I do not open the PDF where the police reports and the photos are saved. I've been attending her Pre-Trial court dates to observe, but I'm silent on the Zoom screen. A week or two later, I get some great news, my boss has now been promoted to an even higher level of management. (There are a lot of managers in my office, and she's my favorite.) It isn't long before they start reassigning the bulk of her cases to me. I'm not the second chair any longer.

Memory is a strange beast in general, but it might as well be the jabberwock with trauma. Some days my brain feels like a sieve that has trouble catching words. You want me to remember a name? Now that's a good joke. Other days it's different, a true repository of information. I know that memory is so unreliable that witnesses cannot reliably tell the color of a person's shirt or a specific tattoo, so I often second guess my own memories. *Was it real or was it a dream?*

My dad wakes me up in the middle of the night, picks me up with the blanket wound tightly around me. He takes me outside and puts me in the bench seat of a single cab truck. "Smoke." I suppose the rumbling sound of the diesel engine wakes up my mom because she comes running out of the white, matchbox house as we begin to

idle up the gravel drive. The window on my side is about half-way down. At the same time my mom reaches for me, dad reaches for the crank and begins to roll up the window. He steps on the gas. With her arm stuck in the window and holding me, she is drug down the gravel road screaming. At one point he reaches over me again for the window crank, opens the window, and she's gone.

I don't remember the first time I saw my client, but I remember the first time I truly met her. We had seen each other in court several times before this day, talked on the phone, and had even caught up at Panera once in person during "the great time of Zoom," where in-person meetings were very rare for me. But I still hadn't met her. In fact, each time we talked, *I wasn't even there*. I wasn't listening. I was back *then*.

I came out of my room from playing with my toys. They were screaming again. Mom was on the floor, and dad was on top of her. Hitting? Choking? [That part is fuzzy.] This time I get a strange burst of courage. I'm going to do something this time! I charge! I vault onto his back. I climb up on to him and start hitting. Stop! Stop! Stop! Stop! My fists are so small. They do nothing. I keep hitting, but my tiny fists just bounce off his back.

Today, with my client, I decide I am going to listen. I. Am. Going. To. Listen. [I repeat it like a mantra]

I
Am
Going
To
Listen.

It's time to prepare her for her testimony. I ask her, when do you want to start?

She says, at the motel.

I say, no, when? When does your story start?

She says, I suppose when I call 911, when the baby stopped breathing.

I say, are you sure we should start there? She says, what about the day my child is born?

I tell her, it's up to you. Do you think that's what best describes your story?

She says, maybe the day I met him.

I say, maybe that's a good place.

She starts telling me about how they first met, and I'm not sure how—it wasn't by me prompting—she started to tell me about her *then*. And it wasn't the day that she met him. Her *then* was at a time when she too had tiny fists.

In a moment, the space between us changes from a desk to a mirror. She isn't *just like* me. She *is* me. I see how the paths we followed to get to this day in my office started from the same point, branched out in a million different directions, and met up once again here. I could never imagine myself with five children in a relationship with their abusive father before this day. But, as she told me her story, I saw myself in the same moments. I realized I could have easily followed her same path. For the first time, even though I had heard about it, read about it, studied it, watched it, I understood why she didn't leave.

The jury trial started the next week, and I was nervous. More

than anything, I felt unprepared and guilty. I had gone all this time, not adequately prepared, and she had a defense! How could I not have seen that she had a defense!?

I worked non-stop until the trial began. The trial was relatively smooth as trials go. The judge shut down my TLC voir dire, but the prosecutor didn't do anything that surprised us in his case. We called eight witnesses, the last was mom, and she told her story in a small and quiet voice to jurors who leaned in and cried with her. The jury was out for about three hours until we heard they had a question. Shortly after the judge's answer, they came back with a verdict. My client mom reached for my hand, and I quickly grabbed it under the table. As the jury read the verdict, all I could think about was how her hand was so small, and of tiny fists.

We didn't get the verdict we wanted, but I approached the prosecutor and asked him if his opinion on the case had changed at all after hearing mom's story.¹ He didn't answer me then but told me later he was going to re-consider how this case should move forward—if he would continue to ask for termination or decide to give her a chance for reunification. We may not have won this case through the jury, but we might just win this case through him.

With every case, lawyers learn a bit more about the law. But TLC lawyers learn a bit more about themselves. The next time I get assigned a failure to protect from domestic violence case, I'm not going to try to trade it away.

And the next time I open the file, I will be so much closer to not going back *then*. 🍷

Endnote

- 1 In Michigan, parents have a right to a jury trial for adjudication but not termination. The same Judge who presided over this jury trial will later determine if the mother's parental rights should be terminated.

Lydia Anderson Fields is pictured then and now. She plans on being a career public defender and has been called "a true believer" by those in public defense. Charlie and Rusty Fields allow Lydia and her husband, Ben, to live in their home in Whitmore Lake, MI, as long as they are provided regular dog bones and cuddles. Lydia's post-pandemic goals include exploring nearby Detroit, traveling to see the Canadian side of Niagara Falls, and seeing fellow Warriors in person once again!



Lydia Anderson Fields then



Lydia Anderson Fields now