

REALITY QUEST

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CHAPTER EIGHTEEN
THE PUBLIC DEFENDER

Public defenders are assigned to defend members of society who can not afford to pay for their own defense. (Why one has to pay to be able to give their perception of the truth, continually perplexes me.) Attorneys become public defenders in order to further their career climb and gain the experience necessary in order to be successful at their own practice where they can charge their clients ten times what they charge for their services as public defenders.

I'm sure there are some who become public defenders for the sake of justice to the poor, but few on this planet.

My first experience with a public defender was when I was arraigned on the felony kidnapping charge in Salt Lake City, Utah. At my arraignment, I stood in line behind about twenty other defendants who were patiently waiting their turn to be handed the business card of the attorney assigned to them.

When I got to the front of the line, I was handed a card and told to call his office sometime and set up an appointment with the secretary.

"But that is exactly what he said to the other twenty individuals he had given his card to before me," I thought as I looked at him puzzled. I couldn't for the life of me understand how he could possibly understand the issues of a case as complex as mine and defend the other defendants assigned to him.

I soon found out that he didn't understand the issues, nor did he care.

I called his office and set up an appointment for the following week. I was out on bail. "But what about the guy who can't afford bail and is possibly innocent of the charges against him?" I wondered. "How long does he have to wait in jail for an appointment to see his attorney?"

When I entered the public defenders office, I took my seat beside many other defendants who were waiting to see their court appointed attorney. I thought I was in a doctor's office waiting to see the doctor who had scheduled my appointment at noon, but was still seeing his 9:30 appointment.

As I looked around me, I saw the faces of anxiety which were etched strongly on the countenances of other indigent people who had made a mistake, or possibly been accused of making one, by their own government and were now coming to *their* government for help in *their* defense against their government. Ironic, huh?

I finally got to see my attorney who fumbled through his very cluttered desk to locate my file, which, by the way, he never did locate. He asked me what my charges were, and when I told him, he said, "Oh yea, you've been getting some media coverage." He told me that he had thought about my case and told me that it would be useless to fight extradition, because unless I could prove I was not Chris Nemelka, Montana would win extradition.

Our meeting lasted about ten minutes, and after this inconvenience I seemed to have caused this "busy" attorney, I decided not to fight extradition, but take my chances in Montana.

In Montana, I was in jail for two days before I met my public defender. I received his business card during my preliminary bail hearing and read his name to myself, "J.G. Shockely, Attorney at Law." "Okay," I thought, "This is a small town and there aren't too many felons in jail with me, maybe this guy has more time for me."

After getting his card, I was returned to my cell where I asked the other six inmates of the felony wing who shared my 10' X 16' cell, who their attorneys were. Four of the six had the same attorney as me. The other two had another attorney, Donald Spadone, the other public defender in the area.

"How is Shockley?" I asked them. I got good reviews and bad reviews, but soon realized that these poor guys didn't know the difference between a good attorney and a bad one. All of them were poor, uneducated men between 19 and 35 years old.

I first met Shockley just before, and I mean, *just before*, the beginning of my arraignment. He approached me and asked me who I was. I told him and he informed me he was my attorney and then asked me what I was going to plead. "He was the attorney. I thought he was suppose to advise me of what to plea," I thought to myself as I gave him the same puzzled look I gave the Utah public defender.

Shockley must of read my thoughts, because he said, "Why don't you just plead "not guilty" and we can change the plea later if we want." I was stunned at his arrogance and incompetency of understanding my situation. Before I had time to say anything else, the court was called to order by the Bailiff.

I pled not guilty and went back to my cell. A few hours later, the jailer came and got me and told me my attorney was here to see me. I was led to a small room off the jail where I was locked up. Moments later, in came Shockley in Levis and tennis shoes, a cowboy hat and a pipe stuck out of his mouth. Without taking his pipe out of his mouth he said, "Hi! Nemelka." "I understand you have been fasting for awhile. I'll tell you, its not going to do you any good." Before I said a word, he continued, "Right up front I'm going to tell you that I think all my clients are liars." I assured him I had no intention on lying to him. He then let me tell him my story.

As I was concluding the facts of my case, he thumbed through the Montana Code Annotated, which contained the laws for the state of Montana, and found what he was looking for about the time I finished.

He had looked up the definition for "kidnapping" as outlined in the Montana code, and told me to read it. It basically said that a kidnapper was one who, "*without legal authority, conceals or detains any person against their will.*" He knew as well as I did that at the time I supposedly kidnapped Joshua, I had legal custody of him and that Joshua wanted to be with me. He then said, "I'm going to make a fortune off this case."

He then told me of his experience as a Federal Prosecutor and that with all his experience as such, he would never have attempted to prosecute this case. He then told me that I had "pissed off" the local authorities and that was probably why they were doing this to me. I then asked him about the \$75,000 bail they had set and why Corn had went back on his promise to let me transfer my Utah bail bond to Montana. He knew nothing about this, but said he was sure he could get my bail reduced.

We met for about an hour before he said he had another client to see. I went back to my cell pretty confident that maybe Shockley knew what he was doing.

After a day or so, I called Shockley on the phone in my cell and asked him if he had made any progress in reducing my bail. He told me that the State wanted me to turn over Joshua, and that is why they were keeping me in jail. I then said, "You are supposed to be my attorney; defending me and explaining why I haven't turned over Joshua." He was quite upset at my persistence and said something which he has regretted ever since, and when this book is published, will regret the rest of his career:

"Look!" he told me. "The County pays me \$45 per hour to defend you. If you're willing to pay my normal fee, maybe I can go about this a different way!"

He said this to the wrong guy at the wrong time. I told him I would see him in court tomorrow where I would fire him and represent myself. Shockley was madder than a disturbed hornet's nest and hung up the phone.

Shockley knew he had made a big mistake. I had a court appearance scheduled for a bail hearing the next day. The night before, I prepared what I though was a wonderful case to get my bail reduced by representing myself.

The night before my bail hearing, I made the hardest decision I have ever made in my life. I decided to turn Joshua over to the Ladenburgs. I thought that I would be given ample opportunity to get him back when the truth came out in court.

I called my father in Salt Lake and told him to tell Jackie to turn over Joshua to the Ladenburgs. My father, who also loved Joshua immensely, was devastated. He refused to do it himself.

My mother and my sister, Paulette, (ironically the same individuals who four years earlier had watched Paula sign the papers to relinquish custody to me,) went where Jackie was keeping Joshua and told him they were going to give him to the Ladenburgs. Joshua screamed in horror. He cried profusely and held on to Jackie's legs and wouldn't let go. My mother had to pry little Josh's arms away from Jackie's legs and carry him away screaming from the only family he had ever known.

My mother took Joshua over to my brother Mike's house, (he's married to Paula's eldest sister), and while she and my sister wept, handed Joshua over to Teena, Paula's sister, never to see him again.

Good job Oleson, Judge Erickson, and the Ladenburgs, you're quite the considerate bunch!

Joshua's never been the same since. I sure miss my little Josh. I cried all that night in my jail cell as I pondered the fact that I had broken the promise I had made a few weeks earlier to my little boy.

Shockley had other ideas to protect his butt. The next day, he took advantage of being an officer of the court, and cornered the judge to tell him what I was going to accuse him of in court. Somehow he biased that judge against me by telling him something which I can only speculate on based on how the judge treated me in court. (This can all be verified by court records which transcripts I was not able to afford at the time I wrote this book.)

Before entering the courtroom, Shockley came up to me and asked me if we could work this out; that he could get my bail reduced if I gave him a chance. I refused and told him he was through representing me. He left me and made a beeline for the judges chambers. When my case was called to the bench, Shockley came up and stood by my side. He told the judge that I wanted to represent myself. The "Honorable" Douglas Harkin presided and asked if it was so, and mocked me by saying, "Mr. Nemelka, do you believe you are going to receive some divine intervention in your defense?" I was shocked as I answered no. Harkin then dismissed Shockley. Then this judge said, "Mr. Nemelka, you've got five minutes to tell me what your going to say- about bail only!" This I am sure he said to stop me at that time from telling the court what Shockley had done.

I proceeded to present my case for a reduction in bail when he interrupted me and told me he would lower my bail to \$20,000. Gerald Williams of the prosecution objected and gave the judge a letter I had sent to Paula while I was on the run, which said I was going to come and get Brittany and flee to Canada from the injustice that had occurred to me.

I did write the letter, but never intended to flee to Canada. I wrote it from Utah, sent it to some relatives in Canada, and had them send it, so that the post mark would read Canada, thus throwing the FBI off by making them think I was in Canada when in reality I was living in Utah where I had been living with an incognito identity.

Judge Harkin raised my bail back to \$75,000 based on the letter. I then blurted out, (something I did regularly in open court,) "Why in the hell would I have turned myself in, if I was going to flee to Canada?"

"I don't know," the judge responded, as he hit his bench with his mallet. "Next case!"

Shockley had got to Harkin. This judge hated me, but luckily for me, there was a new judge every week, and the following week I was in front of one of the kindest, most considerate judges I have ever met. His name was John S. Henson.

I had set a rehearing for my bail reduction. When my case was called to the bench by Judge Henson, he spent a little time reviewing the papers before him. He looked up briefly to ask, "Mr. Nemelka, why did you change your name to Stohl?"

A few years before, I wanted to make a new life for me and my family, so I changed my name to Christopher Abraham Stohl to escape religious persecution from my own family and my ex-church. I did so based on The Bible's account of Abram changing his name to Abraham, thus my new middle name, and Saul changing his name to Paul. I figured, at the time, that the former Chris Nemelka was not the same person as the now, Christopher Abraham Stohl.

I told the judge that I had done it for religious purposes, and he lowered his head and continued going through the paperwork. He finished reading, took off his glasses, reclined a little in his chair, and asked me to proceed.

"Your Honor," I began, thinking maybe I was finally in front of someone I can truly call "Your Honor", "During my last court appearance the judge asked me, 'Mr. Nemelka, do you believe you are going to receive some divine intervention in your defense?' "I do not think so your honor, because the last time a man depended on divine intervention to help him in a court of man, he was charged, prosecuted, and crucified." You could have heard a pin drop in that court room.

I then proceeded to tell the court what had happened with Shockley. He looked at me, he looked at George Corn, the District Attorney, then he looked back at me, then at Corn, then at me. I knew I had made a friend.

When I finished, Shockley came out of the audience and denied everything that I had said about him. He said that, as an officer of the court, he had a right to defend himself. I just shook my head as he perjured himself. The judge told Shockley that his protest would be noted by the court.

I then proceeded to explain why I was being charged with kidnapping. Judge Henson let me speak until I was finished, but all the while looking over his bench at me, then Corn, then me, then Corn.

He lowered my bail to \$20,000, and again Corn objected and presented the letter to the judge as evidence. The judge looked at the letter, asked for my explanation, listened to it, and told Corn that his objection was overruled.

Judge Henson is one in a million.

From that time on, Shockley would tell his other clients not to talk to me about their cases. He told one client who shared my cell, that he was on Judge Henson's bad list; and that anything he did in his court would be a struggle.

I won my first court argument. However, my victory was short lived. When I left the courtroom, I was served papers by the Sheriff which were again prepared by Oleson in Flathead County, in another jurisdiction, and signed by Judge Erickson.

The papers ordered the Sheriff to keep me in jail until a court date which was set for me to appear on an Order To Show Cause in Flathead County in two weeks. I didn't take this as a set back. It was all right for me to stay in jail where I could prepare my defense against Oleson in the Flathead Court. Also, I was assured a free ride up to Kalispell, Montana in a Sheriff's car.

However, it didn't take too long before I figured out that Oleson had no intention of letting me testify in front of Judge Erickson. He filed the petition to keep me in jail and keep me from going anywhere. He knew he had a lot of "butt covering" to do, and with me behind bars, he had time to think.

I worked in my cell and my father worked on the case from the outside. We had a case prepared that would have surely reversed the orders of Judge Erickson when he heard the truth. I made the mistake, under extreme emotional strain, by writing Judge Erickson the morning after I had told my father to give Joshua to the Ladenburgs, and told him I didn't want to see him in his court. Being devastated by what I had just done to my son, I ripped him a new jurisprudence nostril. After I calmed down the next day, I rewrote Erickson, told him I was sorry for the last letter, and that I looked forward to presenting my side of the story in his court.

Of course, Oleson was the master mind behind the whole thing. He let me sit in jail for two weeks, when I could have been out on my reduced bail, before he got the court date cancelled in Flathead county and withdrew his Order To Show Cause. Boy, this Oleson character really hates me.

After this happened, I was furious. I refused bail and told George Corn I wanted to take him on in court. My father offered to hire me a good attorney from Missoula, but this parasite wanted \$16,000 to take the case. I told my father that if I am a fool, then I have a fool for a client. I was sick of attorneys and corrupt judges. If I couldn't count on a fair hearing from a legal system I was taught to trust in, then I would obtain my own hearing; and if I went to prison, so what!

I went up in front of Judge Jack Green and asked him to dismiss the case based on the fact that the State's only purpose was to persecute me instead of prosecute me for any misdeed.

Judge Green, hardly looked up from the papers before him on the bench. He denied my request for a dismissal, but told me to work on a *habeas corpus* which he would review.

I had previously sent Judge Green a letter in which I asked for his patience in presenting my case owing to the fact I was proceeding pro-se. I explained why I dismissed my former public defender.

Well, the attorneys once again got to the judge and prejudiced his mind before he even met me. I asked Judge Green if he had received my letter, and if in fact, he had read it. He responded, looking up over the bench at me for the first time, "Mr. Nemeika, I am a very busy man and would appreciate it if you wouldn't send me any letters." He was rude and very to the point.

I couldn't hold back my emotions any longer. Months of taking abuse from a biased judicial system took its toll on me. I wept profusely. I couldn't regain my composure as I stood before Judge Green shaking. My sobs were heard by the court and noticed by the court reporter whose eyes began to swell with tears. The court was completely silent as I wept and said, "What's the use?"

I sat back down behind the defendant's table. Judge Green stopped reading the papers before him, took off his reading glasses and looked at me, this time in a very different manner. He almost had compassion on his wrinkled face. ...continued...