The Journal Of The Section Of Litigation American Bar Association

Litigation online

Volume 30 No. 2, Winter 2004

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http://www.abanet.org/litigation/home.html

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I have been a lawyer for 23 years; I've lived in Philadelphia, Pennsylvania, for all of those years; and every year I've been called for jury duty. Philadelphia has a "one-day/one trial" program, which means you must serve at least a day or, if you're picked for a jury, one trial. I've never been picked for a jury because most lawyers don't want another lawyer on their jury. I considered this a good thing, because, like all of us, I always have a ton of work back at the office and can't afford to be out for long.

This year, however, my luck ran out, and I was picked as a juror in a criminal case. Or at least I thought my luck ran out; at the end of the five days, I was counting myself fortunate to have had the experience of sitting on a jury with my citizen peers, every one of whom took the duty seriously and served with passion and dignity. I also learned a lot as a litigator, including what *not* to do if you want the jury to believe your side of the case.

I have a few suggestions for the bench as well as the bar on how to keep jurors from falling asleep and from seething with rage, the two most prevalent states during the week of jury duty. Movies I have seen about jury deliberations, and they are notably few, may get the rage part right (although the source of the rage is not what the writers think it is), but they completely fail to deal with the problem of boredom (which I guess makes sense, since boredom is not photogenic). And lest you think that your focus groups and jury experts will help you figure out how to pick a jury and present your case: They have no idea what motivates jurors, believe me. The best way to find out is to serve on a jury.

The Setting

Philadelphia has a new criminal justice center, a spiffy building with attractive courtrooms and a large welcoming jury array assembly room with complimentary continental breakfast and beverages. For me, the new building—and the offer of food and coffee in the morning—transformed a boring and impersonal waiting game into a bearable (although still tedious) experience. The jury commission and Philadelphia judges have gone out of their way to make jurors feel treasured and appreciated; in addition to the free food, they have instituted a visitation program, with a judge coming into the room to talk to the group before they fill out the mind-numbing voir dire forms. The lucky judge who visits doesn't talk about the form—there's a video to help people fill it out—but about the importance of the experience of being a juror and how judges view the jury's role. Then, like a talk show host, the judge takes questions from the audience.

Above all, everyone connected with potential jurors, from the judges' tipstaff to the receptionists and guards, smiles. Wow—I remember when a grunt was about as good as it got.

I brought a bagful of reading material, so the boredom inherent in the inevitable waiting was broken by my feeling that I was accomplishing something. After about an hour (and seven chapters), my name was called, and I was marched, along with 39 other potential jurors, to a courtroom on the ninth floor.

The Judge

We were lucky. Judge Gwendolyn Bright is like her name—bright. She's also pleasant and courteous. And runs a tight ship. She gave us a summary of the case, reading the charges and explaining them to us (four counts related to a drug bust). She asked some of the voir dire questions of the array but allowed the attorneys—the assistant district attorney and defense counsel—to ask individualized questions as well. The jury selection process moved quickly while the jurors were in the courtroom, and a jury of 14 was ultimately empanelled in a little less than a day. At each step, the judge explained what was going to happen to us and why we were placed either in the jury box, the body of the courtroom, or a waiting room (in fact, it was not unlike my experience with

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my dentist, who gives me a running commentary of what he's doing although my mouth is usually too stuffed with instruments even to nod that I understand). So far, so good.

I was picked immediately: juror number two. A member of the judge's tipstaff took me to a small waiting room, gave me instructions for the rest of the trial (no talking about the case, don't talk to the lawyers or the defendant, etc.), and told me to go home for the day but to report back to the courtroom at 10:00 am the following morning.

The Ordeal

Up to this point, even if I wasn't a lawyer or familiar with court and jury proceedings, I would have been able to figure out what was happening in the courtroom in which I'd be sitting as a juror. In the array room, a jury commission employee explained what would be happening, a judge spoke to us to explain the human perspective, and a videotape of several judges explaining the jury questionnaire form made the reasons for the form as well as the method of filling it out understandable. In the courtroom, the judge and the tipstaff let us know what to expect and what was happening. Despite having to sit in a cavernous assembly room, and then in a windowless courtroom, I felt connected to the world unfolding around me.

All that stopped once I entered the jury room the next morning.

Dave, a member of the judge's tipstaff, welcomed us all, told us to get comfortable, wear comfortable clothing, and feel free to bring breakfast every morning. He reminded us of the free food available to us in the jury assembly room but told us not to leave the jury room unless he or another member of courtroom personnel came to get us. He showed us where the jurors' bathroom was and told us to knock quickly and loudly on the courtroom door if we had a medical emergency. Then he left.

Having all been admonished not to talk about the case among ourselves, we jurors looked shyly at one another and silently sat at the jury table, reading our papers and books and, for those with enough foresight to bring breakfast, eating. It occurred to me to start asking the others about themselves, or to suggest we go around the table and introduce ourselves; but my colleagues were all seemingly engrossed in their reading, and I couldn't gauge whether I'd be intruding, since I didn't even know them yet. So I buried my head in my book.

An hour later, no one had said anything and no being from the outside world had intruded. What was going on? Were we waiting for someone? I counted heads—12 jurors. I remembered the judge had told us we would be a jury of 14—two alternates. So apparently we were waiting for two more jurors to be picked. I spoke up.

"I think we're waiting for the alternate jurors to be picked," I said. All heads swiveled to look at me. "It would be nice if someone told us that," said the woman I learned later was named Brenda, who ultimately became our foreperson. We all looked at one another and then returned to reading. Another hour passed. My stomach and my watch told me it was lunchtime. Suddenly the door opened, and two more people walked in. Our alternates—something would now happen. All of us old hands smiled at the newcomers, one of whom smiled back and the other of whom was furious at being picked and told us so. "I don't want to be here," he said clearly and loudly.

Hard on the newcomers' heels was Dave.

"Line up," he said, "by juror number." With alacrity, we pushed back our chairs and got into line, the only recalcitrant being juror 14, who "didn't want to be here." With practiced patience, Dave shoved him into position, like a sheepdog shepherding a flock of sheep. When we were lined up, Dave opened the door to the courtroom, stuck his head through to make sure everyone was ready for us, and announced that the jury was entering.

Excited at a little action, I took the opportunity after sitting down to look around at the players in the courtroom. The defendant, a handsome young black man with a beard (handsome enough to be an actor, in fact, which actually turned out to be relevant to the case) sat at the defense table with his lawyer, a middle-aged white woman with bleached-blond hair. Either he had been coached or he was naturally curious, but as the jurors examined him, he looked us straight in the eye. The defense counsel looked us over as well. The prosecutor sat at the table closest to the jury box; he was a slim, bespectacled young black man with a beautifully cut suit, one of a series of beautifully cut suits that he would wear throughout the next week of trial. He did not look at us but pored over a document at his table. (We learned later from Dave that this was his first drug case; before this, he had handled arraignments. For me, that explained why at least three times during the trial, senior members of the prosecutors' office could be seen in the front row of the courtroom, watching what was going on.)

Some extremely casually dressed men sat in the audience portion of the courtroom, and Judge Bright sat on the raised bench, a vase of fresh, colorful flowers enlivening the dark paneled wood of the bench and bar. That vase was moved around on the bench during the course of the week and sometimes obscured the judge's face during the trial; in the days that followed I was curious whether its placement was purposeful and she sometimes just didn't feel like looking at us.

Judge Bright said "Good afternoon" (we had passed my usual lunchtime of noon at this point) and proceeded to give us a pretrial charge, explaining what the defendant was charged with, reading the actual charges, and explaining our duties. (He was charged with possession of a gun; possession of drugs with intent to distribute; possession of drug paraphernalia; and conspiracy to distribute drugs.) She explained that the lawyers would make their opening statements to explain what they expected to be proven during the trial. She explained the presumption of innocence and stressed that the defendant did not have to take the stand in his own defense and that we should attribute no adverse meaning if he chose not to. I was again impressed with her pleasant manner and directness and her ability to explain everything in an intelligent but understandable, uncomplicated way.

I also believed that she was a good time manager and kept things moving in her courtroom. Since we were sitting in the courtroom during the normal lunchtime, it seemed we were not going to waste any time. I knew instinctively she was not going

to make us go without lunch and figured she knew exactly how long she was going to keep us in the courtroom before a lunch break. In this, I was right. She excused the witnesses, who were to be sequestered (all the casually dressed men left the courtroom; I realized they had to be detectives). She invited the lawyers to make their opening statements. And when they had concluded their openings, she sent us out to lunch.

You may wonder why I was focusing so much on eating. All of the jurors were similarly focused (I'm avoiding the word "obsessed"). As I will explain, we did so much sitting, and so much waiting, that eating became a diversion eagerly awaited by all the jurors. There was an unfortunate consequence to this focus: We tended to eat big lunches, which then caused us all to nod off after lunch, even when we were on "active duty" in the courtroom listening to testimony. This unfortunate fact of the juror's existence is something that every trial lawyer worth his or her salt (no pun intended) should take into account in case preparation: Do something lively in the afternoon if you want the jury to pay attention. He who waits as the jury snoozes, loses.

As to the openings of the prosecutor and defense counsel, each was almost a textbook example of what not to do (his) and what to do (hers). The prosecutor got to go first, of course, and at last he was animated, looking us in the eye and speaking to us from the heart. So far, so good. But then—nothing. He told us we would hear evidence that the defendant was involved in selling drugs. He asked us to listen to the judge's instructions, that she was the arbiter of the law but we were the deciders of the facts … blah, blah, blah, and more. He thanked us for being there, basically said how much he appreciated us—but never told us the facts he intended to show. This was disappointing and had me wondering whether there was no case (in which case, why waste our time?) or whether this was a case he didn't believe in. He mouthed ringing platitudes but gave us no story to follow.

By contrast, defense counsel was extremely effective because she avoided telling us the "usual"—glad you're here, this is a great civic duty, etc. She was brief and to the point. She looked each of us in the eye and said, with a touch of sadness: "The Commonwealth has to make out its case against my client beyond a reasonable doubt. The evidence they will present to you will not show that he has committed the crimes he is charged with. If you agree, you will find him, as I expect you will, not guilty. Thank you."

She said just what I was thinking. If the prosecutor had a case, wouldn't he have told us what it was? The fact that she had nothing to add, of course (he's a good boy who supports his mother, someone who looks like him did it, or the like), made it seem that the prosecutor had no evidence and so she had no rebuttal testimony to offer. The statement was internally and externally consistent—the state had no case.

Our appetites whetted now for the presentation of the case, we were dismissed for lunch and told to come back in two hours. The judge reminded us not to talk about the case among ourselves. As we left, there was some grumbling from almost every jury member about the length of the lunch break; on the one hand, because we hadn't eaten, it was nice to think about lingering over lunch, on the other hand, the long lunch subtracted substantially from the time left during the day to hear the case. How many days were we going to have to stay at this?

I didn't go out to lunch with the other jurors. Instead, I raced to my car to retrieve my cell phone and my Blackberry (not only were phones banned from the courthouse, they also were unable to receive signals inside the building) and transacted as much business as I could for the next hour. Then I finally had a chance to eat. As it turned out, a number of the jurors had jobs that required the same rush to their parked cars—transact business during lunch, eat, and run back to court.

Most of the jurors had trouble keeping their eyes open once ensconced in the jury box. Why?

Once back in the jury room, we were all raring to go—and ready to fall asleep. The jury room was warm, and our friend Dave didn't show up to take us immediately into the courtroom as we had hoped. Instead, at 3:00 pm, just as almost everyone was dozing, one of the tipstaff came in to the jury room and politely asked us to line up. Despite a burst of energy at the thought of actually getting to hear the case, most of the jurors had trouble keeping their eyes open once ensconced in the jury box.

Why? This should have been the most compelling part of the prosecution's case—his leadoff witness and the most important part of the story. But both the prosecutor and the witness—a detective from the drug squad—seemed uninterested in the case. The defendant, who up to this point had attempted a nonchalant look, seemed more interested in the testimony than the witness, who droned on in a soft voice that sounded as though he was reading from a prepared report. I'm sure the officer had testified at hundreds of these trials and for him the process had become routine, but it is a mistake for any lawyer, even a prosecutor, who wants to win a case to allow a witness for his side to sound bored. A bored witness is a boring witness.

What could the prosecutor have done? He could, at the least, have varied the tonal range of his questions. A monotonous back-and-forth between question and answer enhanced the soporific nature of the proceedings. I caught my eyes at half-mast several times, and my companion in the neighboring chair jerked himself awake during the testimony at least twice.

The testimony lasted just about an hour—and then the judge dismissed us for the day. That was a relief in one way because I needed air and a cup of caffeine. But it was frustrating as well because I knew that at this slow pace, we had at

least two more days of jury work ahead.

The next two days we jurors alternated between long stretches of inactivity in the jury room and sudden requests from the tipstaff to line up in juror order in order to hear a bit more testimony. The worst part about the inactivity was not knowing why we were doing nothing: Were they trying to settle (plea bargain) the case? Had a witness failed to appear? Were there emergency matters or motions being heard by the judge? Were the lawyers arguing about something out of the hearing of the jury? Every once in a while during our downtime, one of the tipstaff would poke a head into the jury room to make sure we were all OK. A number of jurors asked why we were just sitting there and when we would be back in the box listening to testimony. The tipstaff's answer was always along the lines of, "I don't know, the judge never tells me anything, I just do what I'm told."

No one ever took it out on the staff, but the grumbling began as soon as the door to the jury room closed. I asked, "Would you feel better about waiting if someone gave us a reason for it?" Virtually as one, the jurors all answered, "Absolutely."

For the next two days, we heard testimony, sometimes for two hours, sometimes for just half an hour. By the time the defense rested, and the judge released us to the jury room for a break and dismissed the alternates, every person on the jury was smiling because we knew the end was in sight. Of course I, as the only lawyer on the jury, was the only one who knew that we still had to hear the judge's charge. "When can we begin to talk about the case?" one of the jurors asked Dave the tipstaff. "The judge has to give her charge first," he said, closing the door. "What's that?" I was asked by my fellow jurors, who knew by this time what I did for a living. When I explained that she was going to tell us about the law we were to apply, and mentioned how long it would take, my colleagues groaned.

The judge's charge is something I've come to see as a necessary evil. We lawyers and judges maintain the fiction that the stilted renderings of what the law says have an influence on how the jury decides. Unfortunately, no one can understand charges except appellate courts. It would make more sense to simply say to a jury: Do you think the defendant did anything wrong? Does his behavior trouble you? Do you think he broke the law, that is, what *you* think the law is?

Scientists say that dogs mostly respond to our tone of voice when we speak to them and that they understand only about 30 words; we say, "Spot, don't keep playing with my shoes, leave them alone," and Spot hears "Blah blah blah blah … *shoes* … blah blah blah," with an angry tone. This is very much the same as a jury listening to the judge's charge. Before the jurors' eyes glaze over, they get the gist of the instruction but hardly its nuances.

Judge Bright did her best to read the charge with some feeling so the jury didn't sink into a comatose mass, but nothing could obscure its obscurity. It didn't help that one of the crimes charged against the defendant was "possession with intent to distribute" illegal drugs and that "possession" was defined to include "constructive possession"—which, explained Judge Bright, meant the defendant didn't have to be holding the drugs, he just had to have them in his control or have the right to control them. (As I'll discuss a bit later, the constructive possession part of her charge turned out to be the most difficult for us to understand.) It also didn't help that the charge included the admonition that evidence didn't have to be direct but could be circumstantial. Through no fault of the judge's but due to the accretions of time and appellate decisions, the charge was so much "blah blah."

What this means for the litigator is that, although carefully crafting your submittal to the judge of a proposed charge is imperative to preserve issues on appeal, you must influence the jury to do justice (that is, find for your client) without regard to the finer points of law. You must tell a compelling story to sell the fact that the only way for the jury to do justice is to find for your client. They will not listen to more than a fraction of the judge's charge. They will decide for themselves whether a party to a case has right on his or her side. You must hammer whatever you have in your facts or your witnesses or your documents or your narrative to make the jurors feel they have to be on your side. The extreme version of this truth is the phenomenon of jury nullification, but believe me, it happens in every jury deliberation in some form or another.

We retired finally to the jury room, and Dave came in to tell us that we still couldn't start deliberating. We had to wait for the jury verdict sheet, and we all had to be in the room when we talked about the case in any way, shape, or form. He suggested we might all want to use the bathroom while we were waiting for the jury verdict sheet, to save time. I felt as though I was back in first grade, when I had to raise my hand to go to the girls' room. But I lined up with everyone else. By the time we had relieved ourselves, the verdict form was delivered, in Dave's hands, with a certain amount of pomp and circumstance. "Don't look at this sheet yet," he said, "and don't talk about the case until the judge's courtroom deputy comes to talk to you."

And we had just gotten ready to finally do our thing! This was typical of our jury experience so far: We would be admonished to hold ourselves in readiness, only to be told to cool it for a while; then suddenly we would be jerked into activity mode.

Another member of the judge's staff entered. She was the one who could tell us about the jury verdict form. She explained that it had the four charges against the defendant on it, with two boxes for each labeled "guilty" and "not guilty." We were to check only one for each charge.

At this point, I mentally put my head in my hands and groaned. What I realized is that the jury experience was pegged to the absolute lowest common denominator in terms of juror intelligence. The assumption was that at least some jurors needed their hands held even more than schoolchildren crossing the street—that there was actually a juror out there who needed to be told that a defendant could not be found both guilty and not guilty of the same crime. Lawyers being what they are, I guess one juror out there once wanted to have

it both ways, and because of that juror, the instructions have become codified. For those of us with more intelligence, however, the hand-holding and patronizing were boring and, eventually, either offensive or ludicrous.

Our first real order of business was electing a foreperson. Those jurors who spoke up to suggest someone for the role looked at me, saying that since my business is the law, I was the logical choice. I declined, however—forcefully. I had strong feelings about the case based partly on my experience as a lawyer, and I believed it would be unfair for me to act as the foreperson because I would inevitably try to influence everyone else, even unconsciously, for reasons unrelated to what had happened in our courtroom. We elected as foreperson a black woman who had proved herself over the past week to be articulate, funny, smart, and educated, and she was happy to take the role—because she had strong opinions and wanted to be able to try to influence the other jurors!

In any case, she was a terrific choice. She was organized, following the court's and tipstaff's instructions, leading the jury through discussions of each charge in turn, and marshalling the evidence we had heard. She conducted the deliberations with humor. She kept tempers from flaring. And when the final disagreements began to emerge among the jurors, including cries of "racism" that derailed discussion and "hung" the jury twice, she was able to get the deliberations back on track.

The main issue that kept the jury deliberating for three days was, did the defendant have "constructive possession" of the drugs at issue in the case? He was arrested with nothing on his person except empty baggies, some empty glass vials, keys, and a few dollars cash, although the testifying detectives described having watched him on the street for days interacting with people who were later arrested with baggies of drugs. His grandmother's house, to which he had a key and which detectives saw him enter and exit several times, was raided; one room turned out to have a safe with thousands of dollars of cash, a plate and knife with cocaine residue, and more empty baggies. That room also contained "head shot" photographs of the defendant and of his brother, the kind used by actors to job hunt, and a gun. In short, the evidence was circumstantial at best.

Those who thought he was guilty of dealing drugs—and that included the forewoman and me—admitted to relying to some extent on gut instinct. Two other jurors, both black, thought the defendant was being railroaded because he was black. Two other jurors, both white, said, essentially, there's no smoke without fire. They were convinced the defendant was up to no good, with the paraphernalia found on his person and the actual cocaine residue found in his grandmother's house in a room with his photo in it. The jurors who were convinced the defendant was being unjustly accused made a seductive argument—that all of the items found on his person could have innocent explanations; that he never was found with drugs; and that if the police had had anything better on him, they would have told us about it. The fact that the defendant's head shots were found in his grandmother's house, along with his brother's, could have an innocent explanation—perhaps both brothers hoped to become actors, the *brother* was in charge of sending out the photos, the *brother* was the one tied up with drugs, and the room belonged to the defendant's *brother*.

What was fascinating about this alternative scenario was that there was absolutely no testimony in the record about the defendant's brother, apart from the fact that his head shots had been found with the defendant's. The holdout jurors made it up out of whole cloth. But they did so for a good reason. That bit of evidence was introduced without an explanation, and, like a dangling participle, it hung in the air and required resolution. Jurors hate loose ends and unexplained phenomena. The prosecutor should have dealt with the brother—who was, logically speaking, not an issue in the case—by asking the detective witness who introduced and identified the photos something about why the brother's photos were there. Even asking the detective what they had to do with the case and being told "nothing" would have helped.

In short, our holdouts thought the case against the defendant was weak.

In terms of hard evidence, I had to agree. In fact, we all easily voted not guilty on the gun charge because the gun was found not on the defendant but in a room in his grandmother's house. The evidence was entirely too attenuated for any of us. And yet I, like most of the other jurors, had a gut instinct that the defendant was not out on the street with baggies to bag up sandwiches for lunch. He may not have had constructive possession of the gun, but constructive possession of drugs—that was a harder call.

Our forewoman, eyes blazing, made quite an impassioned speech about this perceived racism, claiming that the black community had to take responsibility for its bad actors and that drugs were a scourge on their community and drug dealers had to be taken off the streets and punished. She explained, with both logic and persuasion, that there was a reason there was a crime called "possession of drug paraphernalia," one of the offenses charged against this defendant, and a reason that the judge had told us about this thing called "constructive possession." He could be part of a drug ring without being caught with actual drugs on his person. I chimed in with something to the effect of if it walks like a duck, quacks like a duck, and looks like a duck, it's probably a duck. I also explained that "beyond a reasonable doubt" didn't mean the defendant had to be found holding baggies full of cocaine.

The holdout jurors were completely unconvinced by the constructive possession theory. The forewoman and I finally convinced them to listen again to the judge's charge on constructive possession. We went through the waiting game: learned how to send a message to the judge, waited for both counsel and the defendant to be brought to the courtroom, and waited for the judge to call us back to the courtroom. After listening to the charge again, I was struck by how unhelpful it was. It relied on tautology, defining constructive possession by using the words to define themselves.

The rereading did nothing to make the holdouts change

their minds. In fact, those of us leaning toward finding the defendant guilty of constructive possession of drugs with intent to distribute found ourselves much less sure of the proof, and what had been a ten-to-two vote to convict on that count became a 12-to-zero vote of not guilty after the rereading. This vote proved pivotal in our deliberations. The two holdout jurors realized the rest of us were not trying to railroad the defendant. This vote, combined with the forewoman's strong advocacy of the legal effect of circumstantial evidence and of the need to stop blaming others for crimes in black neighborhoods that were killing the black communities, softened our holdouts. Eventually they were persuaded to join the other jurors in finding the defendant guilty of two of the four counts: possession of drug paraphernalia and conspiracy to distribute drugs.

Interestingly, one issue that did not come up even once during deliberations was the fact that the defendant did not take the stand. In her introductory charge, Judge Bright told the jurors that the defendant did not have to take the stand in his own defense and that we should draw no inference if he chose not to. She gave a standard jury charge to us after the evidence had closed on this, as well. It did not rate one word of discussion.

I think this occurred for two reasons. One, the prosecution's case was relatively weak, and my fellow jurors didn't believe the prosecutor had proved anything that required rebuttal from the defendant. Two, the level of juror sophistication about Miranda rights and the right not to incriminate oneself is astounding—not surprising in a world where police procedurals are so popular that you can watch three different flavors of *Law and Order* on any given night on television, as well as real-life cop shows and actual criminal trials. "Make them prove it" is the mantra of today's jurors; most do not need to be persuaded that the state always bears the burden of proving its case.

The Aftermath

Five days after we had entered Judge Bright's courtroom, our little drama was over. The forewoman filled in the jury verdict form, knocked on the door to rouse Dave one last time, and delivered our verdict sheet. An hour later, having assembled all the participants, Dave lined his ducklings up and marched us back to the jury box for our final lines. The judge read the verdict form, the forewoman announced it, and both lawyers let out the breaths they were holding. The defendant couldn't contain himself. He looked us each in the eye and said "Thank you."

It was almost over. Dave led us to the jury room and said the judge wanted to talk to us. She came back to the room promptly and handed each of us a signed certificate of appreciation from her, thanking us for our service. She thanked us orally, too, and asked whether we had any questions. At that point, most of us just wanted to go home, but the forewoman asked what many of the jurors were thinking: What happens to the defendant? Judge Bright told us he would be sentenced, but not today, and that she couldn't tell us what the sentence would be. Then it was over, and we gathered our belongings and filed out of the jury room.

I was left with the unshakable conviction that jurors really care about the decisions they make. Each of us wanted to do the right thing. Each of us admitted to staying up all night fretting once we began deliberations. We felt the weight of awesome responsibility.

Being part of the jury also awakened me to the undeniable fact that jurors are simply people, with a complete set of matching luggage (aka baggage) largely hidden from view. No amount of voir dire could possibly clue in even the most talented questioner to the preoccupations and habits of thought of each individual juror. It is the complex series of interactions among the jurors that results in an approximation of "truth," not an individual juror's habits or prejudices. There is discussion, passion, horse-trading, and common sense that all get mixed into the deliberations, but overall it is the evidence and the gestalt created by the story woven around the evidence—not the law—that move jurors. If there is a hole in the story, the jurors will supply the "facts" from their own experiences. As lawyers, it is important for us not to leave any holes in our story presentation. Even the smallest hole can turn a verdict around.

As for judges and jury experts: The care and feeding of jurors has come a long way. The Philadelphia model jury project has done much to demystify what goes on onstage while the jurors, like Rosencrantz and Guildenstern in *Hamlet*, wait in the wings. But the process still has a way to go. Court staff should be given a script with more to it than "I only do what the judge tells me." If the judge has to take an emergency motion in the middle of the trial, and that's why the jury is twiddling its thumbs in the jury room, tell the jurors. If a lawyer has a family emergency, tell the jurors one of the participants in the trial had to deal with a family emergency. If the parties are attempting to negotiate a plea bargain or settlement, tell the jurors the participants are dealing with an issue that came up in the trial. Jurors don't need exact details, but they will be less antsy or angry if they have some idea of why they're being kept waiting.

Overall, my jury experience was positive, and I'm glad I had the opportunity to serve. I'm also glad I won't have to do it again for three years.