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BLACK AND WHITE AND READ ALL OVER:
AN ANALYSIS OF NARRATIVES IN THE O.J. SIMPSON MURDER TRIAL

A Thesis
Presented to the
Faculty of
California State University,
San Bernardino

In Partial Fulfillment
of the Requirements for the Degree
Master of Arts
in
English Composition

by
Martin Larry Lastrapes

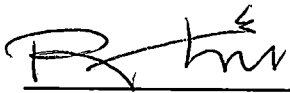
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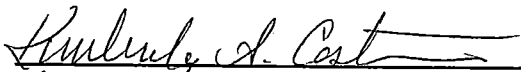
by
Martin Larry Lastrapes
December 2006

Approved by:




Dr. Ron Chen, Chair, English

11/30/06
Date



Kimberly Costino



Mary Boland

ABSTRACT

The contents of this thesis are an examination of the O.J. Simpson murder trial and the racial narratives that effected not only its outcome, but the way it is perceived by the American public. I've chosen to examine the trial by analyzing four books: *Without a Doubt* by Marcia Clark, *In Contempt* by Christopher Darden, *Journey to Justice* by Johnnie Cochran, and *Reasonable Doubts: The O.J. Simpson Case and the Criminal Justice System* by Alan Dershowitz. Because each author also served as lawyers in the case, an analysis of their books offers a unique perspective as to how race functions within the framework of the U.S. criminal justice system. The primary lens of my analysis is Jean-Francois Lyotard's text, *The Postmodern Condition: A Report on Knowledge*. During the course of my analysis, I argue that racial narratives effect how and why people can see the same things differently and that the O.J. Simpson murder trial is a primary example.

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CHAPTER ONE

INTRODUCTION

On June 12, 1994, Nicole Brown and Ronald Goldman were brutally murdered in front of Brown's Brentwood home; O.J. Simpson, Hall of Fame football player, occasional actor, and Brown's ex-husband, was charged with the murders. At the end of a long trial, which ended on October 2, 1995, in a controversial decision, Simpson was acquitted. The grand narrative of the O.J. Simpson murder trial in 1995, upon its completion, was canonized in the consciousness of American society into what I call the Simpson narrative; that grand narrative says that Simpson was guilty, but because his lawyer, Johnnie Cochran, offered a racially driven defense to a black—and therefore sympathetic—jury, Simpson was set free. Between television and print media, the Simpson narrative was offered over and over to an American public who was captivated by it, absorbed it and redistributed it amongst each other, reinforcing it with every retelling. But, none of those media avatars had the same narrative authority as Marcia Clark, Christopher Darden, Alan Dershowitz and Johnnie Cochran, all of whom wrote books in which they re-constructed the trial. Their

re-constructions are ultimately competing narratives, each trying to influence how the trial is perceived.

Many people have examined the Simpson trial in many ways. I've chosen to examine the trial based on the four books--*Without a Doubt* by Marcia Clark, *In Contempt* by Christopher Darden, *Journey to Justice* by Johnnie Cochran, and *Reasonable Doubts: The O.J. Simpson Case and the Criminal Justice System* by Alan Dershowitz--because of the narrative authority each author possesses; an authority granted not just by the courts where they participated in the trial, but by the public who reinforces their authority. I will examine how the Simpson narrative is reconstructed in each book and what the differences are in each re-construction; while there are many, such as class and gender, that are impossible to separate from any cultural narrative, I will primarily be focusing on racial narratives and how they affected each narrator's reconstruction. In examining these things, I will argue that the issue of race, which most Americans are so desperate to ignore, affects them, and their system of criminal justice, everyday in ways both subtle and grand. I will argue that the same ever-circulating racial narratives that affected the trial itself affected the lawyers who tried the Simpson

case, as well as their narrative re-constructions. And I will argue that racial narratives affect the people within the criminal justice system, what they can say about it and the ways in which they can say it. Overall, I will argue that racial narratives affect how and why people can see the same things differently and that the O.J. Simpson murder trial is a primary example. The primary lens of my analysis will be Jean-Francois Lyotard's text, *The Postmodern Condition: A Report on Knowledge*, in which the object of Lyotard's study is "the condition of knowledge in the most highly developed societies" (xxiii). Though Lyotard doesn't discuss racial narratives in his text, he does discuss inherent conflict in narrative "truth," especially with regard to science and its ability to deduce its own "truth."

In his book, *O.J. Simpson Facts and Fictions: News Rituals in the Construction of Reality*, Darnell M. Hunt explains that "most of these narratives, especially the popular ones, focus on whether or not the famous defendant 'did it,' whether he brutally murdered his ex-wife and her friend" (11). Though this is true, Paul Reidinger, in his article "Squeezing the Juice Out of O.J.," gives a more cynical viewpoint, when he writes,

Now come the books, in an avalanche--from prosecutors and defense attorneys, reporters, jurors, ex-district attorneys... Each tome is bad in its own way--this one whiny, that one glib, a third self-righteous--but they do have one thing in common: They are not meant to be read, not a one. They're not texts but objects intended to be held up by talk-show hosts as the "author" makes his or her two or three points--a few hundred words worth--around which the rest of the book jiggles like a bowl full of Jell-O. (92)

I tend to agree with Reidinger when he says, "Each tome is bad in its own way--this one whiny, that one glib, a third self-righteous," however, I disagree when he says, "They are not meant to be read, not a one." I believe, at least with the four books I chose, each author wanted their version of the Simpson narrative to be read; it was very important to them that their side of the story be heard; the conviction inherent in their respective texts suggests that each author believes that their perspective of the Simpson narrative is the closest to the truth and that each not only wants his/her narrative re-construction to be heard, but to prevail as "the truth."

Not surprisingly, the narrative re-constructions offered by these lawyers have many inconsistencies and many of these inconsistencies are the result of racial narratives and the effect they have on each narrator's ability to re-construct the narrative of the trial. It was by design that I chose two black narrators (Darden and Cochran) and two white narrators (Clark and Dershowitz); by having black and white represented on both sides of the trial, by which I mean the *prosecution* and the *defense*, my analysis of the nuanced narrative re-constructions will not be burdened by the agendas of the narrators. This design of racial balance is not exclusively mine, as it is reflected in the construction of the prosecution and the defense; both sides were playing racial politics from the start of the trial. Whether Simpson is innocent or guilty will not be the subject of my analysis. Instead, I will be focusing on how race and racial narratives affected the re-constructions of the trial, and how they affected the narrators and their narrative re-constructions. While I realize we can never really separate cultural issues, such as class and gender, from race, I've chosen to focus on race because it was the primary cultural issue that was spotlighted during the Simpson trial; that being said, I

will at least address class, since the issue of Simpson being a *rich* black man dictates it's inclusion.

While class was an issue that affected the Simpson trial and narrative, the transmission of the Simpson narrative, as the general public received it, was most visibly affected by racial narratives. Racial narratives not only shape how the Simpson narrative is received, but also the narrators who present the narratives and ultimately America's established body of knowledge, with regards to the Simpson trial. It also effects, and is affected by, America's race relations and it's ideologies about race. Such effects are not necessarily the result of mindful or direct manipulation so much as a result of the subject positions of both narrator and narrative receiver. This thesis is my effort to understand how and why racial narratives affect and shape the Simpson narrative, which, I hope, will bring some level of understanding to how and why racial narratives affect U.S. culture in general.

According to Hunt, our "knowledge" is shaped by the cultural contexts in which we find ourselves: "In other words, how we come to 'know' what we think we know is largely constrained by the cultural context(s) in which we find ourselves" (3-4). In the U.S., the cultural contexts

in which we "find ourselves" are shaped by race. For this reason we see and present narratives in the way they appear to us, after they've been pushed through our personal filters. The way the Simpson narrative is presented and received represents the way U.S. narratives, grand or little, are presented and received: through the prism of racial narratives. In a contribution to *Law's Stories: Narrative and Rhetoric in the Law*—a collection of essays about the criminal justice system, edited by Peter Brooks and Paul Gerwitz—Gewirtz breaks down some of the more specific racial narratives that affected the Simpson narrative, when he writes,

For some blacks, for example, Simpson became a symbolic victim of the racism facing blacks throughout U.S. history, or at least a black hero whose fall would damage an entire race... For some whites, the evidence that a mainstream black celebrity who seemed so polished and likable might really be a brutal murderer reawakened atavistic fear and distrust of all blacks; or Simpson became the prototypical hustler using an irrelevant cry of racism to try to get away with murder... The foreground of these wider possible

meanings is what made the trial a traumatic event in our country's tortured history of race relations. (155-156)

The breakdown of black perception and white perception is key in understanding the influence of racial narratives on the overall Simpson narrative. The Simpson trial is important to talk about, because it speaks to these larger issues of race, race relations and America's ideologies about race. Throughout this project, I will be reflecting upon these sentiments, implicitly or otherwise, as I analyze what Lyotard might refer to as the societal narratives of the trial.

Lyotard defines societal narratives by how they compare to scientific narratives. He writes, "Science had always been in conflict with narratives. Judged by the yardstick of science, the majority of them prove to be fables" (xxiii). His point is that science is interested in coming as close to the truth as the facts will allow, while narratives are interested in presenting a version, or representation, of the truth. He writes,

I have said that narrative knowledge does not give priority to the question of its own legitimation and proof. This is why its

incomprehension of the problems of scientific discourse is accompanied by a certain tolerance: it approaches such discourse primarily as a variant in the family of narrative cultures. (27)

By this he means that narratives, unlike science, don't burden themselves with the need for proof. A narrative simply needs to be reported and it has the potential of becoming truth. What gives it this potential are the people to whom the narrative is presented; if they, as a whole, can be convinced that it's true, then it's true. Lyotard refers to the elements that affect a narrative's ability to be the whole truth, when he writes,

The narrative function is losing its functors, its great hero, its great dangers, its great voyages, its great goal. It is being dispersed in clouds of narrative language elements--narrative, but also denotative, prescriptive, descriptive, and so on. Conveyed within each cloud are pragmatic valencies specific to its kind. Each of us lives at the intersection of many of these. However, we do not necessarily establish stable language combinations, and the properties of the

ones we do establish are not necessarily
communicable. (xxiv)

While Lyotard doesn't ever specifically make reference to racial narratives, he does, as noted in the above excerpt, make reference to "clouds of narrative language"; these metaphorical clouds are the umbrella under which racial narratives can be found. And, as Lyotard writes, "Each of us lives at the intersection of many of these," which is to say, the way we see and present narratives will always be affected by racial, as well as other, narratives. If one were to consider the overall Simpson narrative as an ocean and all of the sea creatures, plants and rock formations were the sub-narratives that make it up, then the atmosphere outside of the ocean would be the cultural narratives, such as race, class and gender: if the atmosphere is freezing, it creates glaciers, if it is hot, it creates hurricanes; whatever the result, it will always effect what is happening in the narrative ocean. Their effects on one another are inextricably linked. (A more cynical point of view would be that racial narratives are the oil tanker, controlled by the drunken captain who eventually crashes it, spilling miles of oil and polluting the otherwise untainted narrative ocean.) The American

public can't discuss the Simpson narrative without having the flow of their discourse being affected by racial narratives.

Not only will this flow of discourse be affected by racial narratives, it will also be made up of two narrative forms that Lyotard believes are always working with and against each other: the grand narrative and the little narrative. According to Lyotard, grand narratives are those narratives that the majority of society agrees upon, making them a form of "truth," while little narratives are smaller, lesser known narratives that never quite penetrate the consciousness of society. When I refer to the Simpson narrative, what I am really referring to is the grand narrative of the Simpson trial, which is: Nicole Brown was murdered and Simpson, upon being charged and tried, was ultimately acquitted; the story, as told by the dominant culture (white America) by and large declares Simpson guilty, having gotten away with murder by playing the "race card" to a largely black jury.

The grand narrative of the Simpson trial has been allowed to achieve truth status because it is legitimated by other racial narratives in our culture; most notably the narrative of the racist police officer; the strong, white

police officer that profiles urban communities, abuses his power and puts innocent minorities in prison. According to Hunt,

[T]he LAPD had a notorious history of policing the city's black community. Modeled after a paramilitary unit, infamous for its succession of racist police chiefs, and celebrated by America in the hit television series *Dragnet*, the LAPD had patrolled Los Angeles' inner-city over the years as if it were an occupied war zone. (76-77)

He goes on to write that "because this history was common knowledge among many (if not most) black residents of the city, it could not be ignored when it came time for them to confront the Simpson murder case" (76-77). Validating this racial narrative, with regards to the Simpson narrative, is former LAPD detective Mark Fuhrman and his controversial involvement in the murder investigation and trial, the subject of chapter four of this project. This is not the only narrative that I pay attention to, however. A variety of racial narratives run throughout the Simpson narrative, affecting the way it is shaped and viewed both by the people who were directly involved and by the public who witnessed it. The purpose of this thesis is to trace the

ways in which Clark, Darden, Cochran and Dershowitz's narrative re-construction of the Simpson trial are affected not only by the narratives of the LAPD, but also by the relationship between the narrators' racial identity and the authority this grants them to re-construct the trial and establish "truth."

Given the racial narratives informing our reading of them as narrators and the trial itself, each author finds him/herself caught in the intersection of racial narratives, as they cut through the narrative of the Simpson trial; none of them is immune to the effects that these racial narratives have on their own re-constructions or how these re-constructions are read and received in terms of their "truth" status. Writes Lyotard,

A *self* does not amount to much, but no self is an island; each exists in a fabric of relations that is now more complex and mobile than ever before. Young or old, man or woman, rich or poor, a person is always located at "nodal points" of specific communication circuits, however tiny these may be. Or better: one is always located at a post through which various kinds of messages pass.

(15)

Based on the above excerpt, the "nodal points" where each author is placed is where the Simpson narrative and racial narratives intersect. Within that intersecting point, the interpretation of "fact" and "truth" will always be at the mercy of the narrator and the place they hold within the racial narrative that is affecting their interpretation. If racial narratives affect the knowledge each author offers as fact, then racial narratives will also affect the way in which I discuss that "knowledge." However much I would like to be an unbiased analyst, I am human and, despite my best efforts, this very analysis will be affected by my interpretation of racial narratives and my own place within them.

According to Lyotard, "Simplifying to the extreme, it is fair to say that in principle there have been, at least over the last half-century, two basic representational models for society: either society forms a functional whole, or it is divided in two" (11). Racial narratives routinely split the American public in half. In the case of the Simpson narrative, and the intersecting point of racial narratives, Americans have been divided into the dichotomy of "black" and "white." This effects whether the grand narrative of the Simpson case is "a black man got

away with murder because a mostly black jury wanted to send a message to white America" or "a black man found justice, despite the attempts of a corrupt system of justice to falsely imprison him, based on the racist agenda of a racist white cop." The books I chose represent both of these narratives, with Clark and Darden (the prosecution) believing and attempting to legitimate the latter, and Cochran and Dershowitz (the defense) believing and attempting to legitimate the former.

Lyotard writes that narratives "determine [the] criteria of competence and/or illustrate how they are to be applied. They thus define what has the right to be said and done in the culture in question, and since they are themselves a part of that culture, they are legitimated by the simple fact that they do what they do" (23). Lyotard's point is that narratives become "fact" when the people who facilitate the narratives decide they're "facts." If the people define which narratives are "true" and their thoughts will always have attachments to racial narratives, then racial narratives will always play a part in the established body of knowledge. With concern to the people's consensus of truth, Lyotard writes, "This way of inquiring into sociopolitical legitimacy combines with the

new scientific attitude: the name of the hero is the people, the sign of legitimacy is the people's consensus, and their mode of creating norms is deliberation" (30). While science requires actual proof, the only proof societal narratives require is the word of the people; a narrative becomes legitimate when the masses of society deem it so. This isn't to say that there aren't some people who have more power than others; these people, whose power is at least in part related to race and racial narratives, have a hand in influencing what society deems as truth.

This is true with the Simpson narrative and the racial narratives that affected it. Clark, Darden, Cochran and Dershowitz each had the luxury of re-constructing the Simpson narrative for the benefit of a public that didn't have the same access to the "truth" as they did; this is relevant because the fallacies that are inherent in the recreation of any memory will be perceived by the public as fact, by virtue of their not knowing exactly what happened. Hunt writes, "[T]he Simpson case generated a range of narratives, each competing for dominance, but some gaining the upper hand in the struggle to set the conditions of belief" (28). The narrative which gained the upper hand in

the struggle to set the conditions of belief was ultimately decided by the American public ten years ago: the Simpson narrative is that of a rich, black man who used his wealth to hire a smart, but morally bankrupt, "dream team" of defense lawyers who exploited the racial sympathies of a black jury that wanted to send a message to white America and its system of justice. While this narrative may be "true," in the sense that any societal consensus is true, the point of this project will be to analyze how that "truth" is/was affected by racial narratives. I will be looking at the role race and racial narratives played in whose version of the "truth" gets to be grand and the role that these grand narratives played in shaping race relations in America. What I will ultimately argue is that the competing narratives offered by Clark, Darden, Cochran, and Dershowitz do nothing to reconcile the racial division that pervades our culture. Indeed, in their attempts to achieve grand or truth status for their narratives, these authors, whether intentional or not, only contribute to the perpetuation of the social division between black and white.

CHAPTER TWO

LITERATURE REVIEW

Many people have examined the Simpson trial in many ways and in this chapter I've selected a few samples from the vast collection of Simpson literature. The authors of my selected samples—Linda Williams, Melvin C. Terrell, Sylvester Monroe and Toni Morrison—are all interested in the Simpson trial and how it was affected by racial narratives, however, they approach the trial from different angles. Williams, among other things, looks at how the Simpson trial, and America's subsequent view of it, was affected by the Rodney King trial that came before it. Terrell puts the Simpson trial into the context of the Million Man March, organized by Louis Farrakhan, and the near-presidential campaign of Colin Powell, all of which occurred in 1995 and all of which were affected by overt racial overtones. Monroe focuses his writing on Johnnie Cochran, Simpson's lead attorney, how he more than any other character from the trial put race in the foreground and how, because of that, America became engaged in a discussion about race that was long overdue. Morrison examines how an "official story," or grand narrative, of

the Simpson trial came to be and what racial implications were involved in it.

One thing that all four samples have in common is that they want to discuss and examine the issue of race and racial narratives as they affect and are affected by U.S. culture. Each of these discussions are capable of being had without referencing the Simpson trial, if the authors chose to do so; but the Simpson trial offered something that allowed each author to use it as the foundation for their broader discussion about the issue of race in America. In this way, it starts to become clear that the Simpson trial hasn't resonated in the consciousness of America for over ten years simply based on the tabloid-friendly story of a celebrity's fall from grace. Each of the writers in this literature review found something in the Simpson trial that not only offered a conduit for them to make their points, but the Simpson trial, in every instance, enhanced their thoughts and ideas. I chose to review these texts because they sufficiently represent the goal of my project, which is an examination of how racial narratives affect America's societal narratives. My project differs, however, in that it focuses specifically on narrative re-constructions of the trial by those that

American society is likely to see as particularly authorized to construct the grand narrative(s) of the Simpson case: the lawyers themselves. My analysis of Clark, Darden, Cochran and Dershowitz's texts will show that race not only affected the trial, but it affected the way in which each author was able to re-construct the narrative of the trial. For instance, Clark and Darden were both prosecutors, and so they both had the same objective with concern to the trial; in writing their narrative re-constructions, their motive to prove that Simpson was guilty and got away with murder was almost identical. However, because Clark is white and Darden is black, what they say, how they say it, and the authority they are granted as "truth tellers" is different from one another because of how they each were affected by the ever-circulating racial narratives. And the same goes for Dershowitz, a white lawyer, and Cochran, a black lawyer; despite their similar motives, their re-constructions are presented differently as a result of the racial narratives affecting them and the audience reading their narratives.

Linda Williams book, *Playing the Race Card: Melodramas of Black and White from Uncle Tom to O.J. Simpson*, examines the O.J. Simpson trial against the movie *The Jazz Singer*,

the television miniseries *Roots* and the book *Uncle Tom's Cabin* and—perhaps most relevantly—the narrative of the Rodney King trial. Williams understands and breaks down the power of narratives, as they concern the criminal justice system:

The prosecution's job is to tell a story based on the evidence that X happened (e.g., Rodney King was brutally beaten by racist cops; Nicole Brown and Ron Goldman were brutally murdered by a jealous O.J. Simpson). The defense has the job of proving that the prosecution's story is wrong, and therefore argues a different story: Rodney King threatened to overpower the police with every move; L.A. police framed Simpson for murders he did not commit. Its obligation is to show reasonable doubt about the prosecution's story by arguing any number of examples of "not X"... Thus, a process of dialectical argument, in which the art of rhetoric flourishes, spins warring stories in an effort to determine a highly contingent "truth." (263)

Two warring stories, two competing narratives—both of them intertwined with racial narratives. The Rodney King

narrative, when viewed through the lens of race, is either the story of a black man who broke the law and was lawfully subdued by the LAPD or it is the story of a black man who was brutally beaten by a pack of white cops who acted out their racist agenda. Both narratives tell the same story, but depending on who is telling the story, and their subject position within the racial narratives that are affecting it, the complexion of the story will differ. The narrative of the Rodney King trial is particularly important to understanding the context of the Simpson trial, because each shared the common thread of the LAPD; depending on who is recounting the King narrative or the Simpson narrative, the LAPD is either a racist institution or a noble band of law enforcers.

Williams' book is based on the thesis that in order to view either the Rodney King trial or the Simpson trial in the appropriate context, one must "trace the mass culture genealogy of black and white racial drama over the last hundred and fifty years" (xiii). More than any other narrative associated with the LAPD's racist history, Williams believes that the Rodney King narrative—which was only three-years-old at the time—was foremost in America's consciousness as the Simpson trial (and narrative) took

shape. The Rodney King narrative was itself, like the Simpson narrative, informed by race. As Williams explains,

One of the lessons of the King beating trial had been that the jury was led to see the victimized body of King as itself the source of danger—that there was no neutral “color blind” reading of the visible field. King was interpreted as perpetually threatening to beat the police who beat him; this threat, embodied in the sight of the powerful black male body, made his beating defensible in the eyes of both white police and white jurors. In the visual field, which evokes race without having to directly speak it, the black male body can be viewed as dangerous, threatening, and sexual, or as passive, victimized, and downtrodden. The prosecution, relying much too confidently upon the evidence of the videotape that clearly showed King being beaten, presumed that it had impartial evidence in no need of further interpretation. To watch *California v. Powell* is to understand how the prosecution failed to make its case precisely

because it had what it thought was

incontrovertible *visible* evidence. (266)

Racial narratives, Williams is arguing, were at work in the not guilty verdict of the LAPD officers. Within the white community, Williams implies, there is a fear of black men as being powerful beasts; in the case of Rodney King, he was viewed as being dangerous enough to overpower four LAPD officers, which prompted them to use extreme force in subduing him—it was this narrative that allowed the white jury to acquit the white LAPD officers. The conflicting narrative (which was shared almost exclusively by the black community up until America saw the videotape of Rodney King being beaten) is that black men are constantly and unjustifiably being harassed by white police officers; when this narrative was trumped by the narrative of the dangerous black man being subdued by the brave white police officers, the racially-fueled Los Angeles riots of 1991 came to pass. So, the narrative of the King beating that became grand not only fueled racial tensions, but it widened the racial divide so severely as to insight violence. My analysis of the narratives of the Simpson trial will reveal a similar, if less overtly violent, widening of the racial divide.

While the L.A. riots (an event) left the biggest impression from the Rodney King narrative, the "race card" (a phrase) arguably left the biggest impression from the Simpson narrative. Williams writes at length about the "race card," which is the phrase most often used when discussing the Simpson trial; her rhetoric strongly voices the resentment she feels not only for the phrase itself, but by the assertion that race was irrelevant to the trial. Williams writes, "Behind this statement stands a moral assertion that within American jurisprudence—and indeed in many other areas of contemporary American popular culture—race should be unmentionable" (1). For race to be unmentionable, would be to ignore how much America and its culture have been shaped by the very narratives it is being asked to ignore. This sentiment is implied in every mentioning of the "race card." Williams attempts to unfold the compact layers of the "race card" phrase, when she writes:

[T]he rhetoric betrays a peculiar logic by which what constitutes a winning hand has been identified with a handicap. To win at the "game" of race is to lose the larger game of life in which unraced competitors already play with a

full deck. Liability is transformed to asset and reformed again as liability. Thus the metaphor of the race card attempts to discredit any racialized suffering that can be turned to advantage now that colorblindness is supposedly in effect. It acknowledges, and simultaneously condemns...a politics of identity grounded in injury. Yet it offers no alternative means to the redress of injury beyond the injunction to get over it, to not drag the baggage of past injury into the present. (4)

Williams' point here, and throughout her book, is that if we are not allowed to draw on the injuries of the past in order to breathe relevance into more contemporary injuries for fear that the past will unreasonably cloud the present, what choices are we left with? Especially when the past is, by all indications, *illuminating* the present: If there is a history of racial injustice at the hands of the LAPD, why was it wrong for the Simpson defense to talk about it? Even if the LAPD ultimately didn't make any attempts to frame Simpson, their past deeds, at the very least, justify that the notion of misconduct may be raised. In my study of Clark, Darden, Cochran and Dershowitz's books, I found

that their representations of the race card differed along these lines. Clark and Darden, as the prosecutors, believed that the LAPD's past deeds shouldn't have been used against them, because they believed there was no proof that the Simpson investigation was affected by racism; Cochran and Dershowitz, on the other hand, did believe that an inherent racism within the LAPD affected the murder investigation and justifiably were included in the trial.

While Williams spends time writing about the relationship between the King trial and the Simpson trial, Melvin C. Terrell, in his article "The 3 Brothers: The Minister, The General and The Defendant" compares the Simpson narrative to the narratives of Louis Farrakhan and Colin Powell, each of whom were prominent black figures in 1995. According to Terrell, "The stories of O.J. Simpson, Minister Louis Farrakhan and General Colin Powell largely set the agenda for the discussions of race and racism—how it works and how it warps our institutions and our individual perceptions of reality" (35). My examination of the Simpson trial—through the books of Clark, Darden, Cochran and Dershowitz—elicited a similar argument to the one Terrell is making; like Terrell, I found that racial narratives affect, or warp, a society's individual, as well

as collective, perceptions of reality. Terrell's article, which is broken into three parts, talks about the Simpson case and the effect it had on race relations in America and how it affected the perception of the criminal justice system. Terrell points out that Simpson went from being "the quintessential assimilated Black man" to being viewed as "an ethnic hero" (35). The assimilation that Terrell writes about refers to the issue of class; Simpson, while still a black man, transcended into a social class where his peers became the affluent white community; in this way, he was no longer connected, if he ever was at all, to the black community. In this way, Terrell brings up a commonly heard commentary within the discourse of the Simpson narrative: O.J. Simpson spent his entire life trying to get people to disregard his blackness, to view him simply as a *man* and not a "black" man; but when he was on trial, it was necessary for him to be "black" again. Terrell writes,

When Johnnie Cochran transformed this simple case of murder into a holy crusade against police misconduct, incompetence and institutional racism, O.J., the victim, was born. Victimization is the single most unifying experience, resonating with African Americans across socio-

economic barriers. The jury bought Cochran's argument, but white America has not.... After the verdict, O.J. was transfigured into the unjustly accused martyr. Judging from his conduct after the trial and despite his acting ability, it is a role for which he seems ill-equipped to play.

(35)

When he says that victimization is the unifying experience that resonates throughout the black community, the implicit point is that even though Simpson wasn't really a part of the black community, both by choice and by virtue of his social standing, his perceived victimization at the hands of the LAPD was enough to allow the black community to rally behind him; because, ultimately, it wasn't Simpson himself they were rallying behind, but the rather the sentiment his situation represented, which was that of a black man being prosecuted by a white system of justice—a system that has victimized the black community in the past. Terrell is quick to point out that Simpson didn't simply come up with the idea of embracing the racial narratives surrounding him, but Cochran "transformed this simple case of murder into a holy crusade against police misconduct, incompetence and institutional racism" and "O.J. the victim

was born." The implication that Terrell seems to offer is that Cochran, a skilled rhetorician and Civil Rights activist, would have known full well about the black community's propensity to sympathize with the victimization of one of their own, even if the victim wasn't really one of their own. In my examination of Cochran's book, I found that he was explicit in his sympathies and activism towards the civil rights movement; in particular, Cochran writes about the first major trial he lost, which was defending Geronimo Pratt, a former leader of the Black Panthers, against a murder charge. Cochran argues that the LAPD, and its racist agenda, put Pratt in prison for a crime he didn't commit, because as a prominent member of the Black Panthers, he was a nuisance.

There is, as Marcia Clark and Christopher Darden would later point out, an irony in the fact that the defense relied on Simpson the "black" man. Up until the trial, Simpson, by his own efforts—and the efforts of the media that adored him—became an un-raced man; a black man who transcended race and was happily accepted into the affluent, white community. When the defense in his murder trial argued that there was a conspiracy by the LAPD to frame Simpson—the "black" man—most white Americans thought

it was crazy; Simpson, in their eyes, wasn't a "black" man. He was simply a *man* who killed a *white* woman; racial narratives affect the anger of the white community, where it concerns Simpson's acquittal, and if there are people among the white community who believe Simpson's race had nothing to do with their anger, they are being naïve. Hypothetically, if Simpson had been on trial for murdering his black wife and her black friend, the white community would not have roared with such anger and resentment, during or after the trial; and if Simpson were acquitted of that hypothetical crime, you would hear nary a peep from the white community.

In the same way that the Simpson trial offered a forum to talk about issues of race, which ultimately transcended Simpson himself, making him almost irrelevant to the discussion, Terrell uses his article to talk about how race and racial narratives affect the criminal justice system:

What really needs revamping is the whole concept of policing African-American communities, weeding out the racist officers, thugs and gang collaborators from the ranks and the leadership. The so-called "siege mentality" among so many big city police departments is indicative of their

failure in winning the hearts and minds of the majority of African Americans who are overwhelmingly law-abiding... This case, like John F. Kennedy's assassination, will be debated far into the next millennium. Its impact on society and the courts has outstripped the importance of O.J., the man. Weighed against what the case said about our system of justice, O.J. and his pursuits are to some extent irrelevant. (35)

Terrell's article is ultimately interested in putting the year 1995 into context as "a watershed year in terms of race relations" (35). It is his impression that our nation hasn't talked this openly about race relations, in relation to public policy, since the civil rights movement. The Simpson narrative is important to discuss then because of the platform it affords the discourse of race relations in America; in particular its impact on the criminal justice system. More relevantly to this project, it's relevance to the issue of racial narratives and how they are constantly circulating, shaping and molding our perceptions of America. Like Terrell, in my own study I found that, through the four narrative re-constructions that I analyzed, each lawyer was put in a position where they had

to talk about race relations in America and how they affect the criminal justice system. Overall, I believe it was good that the lawyers talked about race relations and their affect on the criminal justice system, because, having been a part of possibly the most racially fueled trial in U.S. history, they are in a primary position to talk about the ramifications of race.

While Terrell focuses on Simpson as the primary character of the Simpson narrative, Sylvester Monroe, in his article "Race Man," focuses on Johnnie Cochran, an important supporting character. In his article, he writes about how Cochran confronted the American public with the issue of race and the way it affects all situations; he also discusses white America's reaction to the trial and the issue of race and social trends in dealing with matters of race. Monroe writes,

Like the infamous not-guilty verdicts in the first Rodney King case that sparked the worst urban rioting in modern U.S. history, the acquittal of O.J. Simpson on two counts of first-degree murder in the grisly slayings of his ex-wife, Nicole Brown Simpson, and her friend, Ronald Lyle Goldman, stands out as one of those

seismic moments in history, when everyone remembers where they were, what they were doing and how they felt when it happened. And in this case, how they felt generally divided along racial lines. (30)

As with my own study, Monroe distinguishes that America's feelings on the acquittal of Simpson were "divided along racial lines," which is to say the white community, in general, was outraged, while the black community, in general, felt vindicated. Like Williams, Monroe points out the narratives of Rodney King and the Los Angeles riots, implying that they are part of the discussion, even though they are separate events.

Monroe's article offers some compelling statistics regarding the racial divide in public opinion, particularly in relation to the Simpson case: "Eight of 10 Blacks in a *Washington Post* survey say justice was done in the case, while 55 percent of Whites contend it was not.... 68 percent of Blacks [agreed] that racism is a 'big problem' in America; only 38 percent of Whites agreed with that observation" (30). Race, Monroe points out over and over again, is intertwined with America's perception of just about everything. His numbers speak to the fact that the

people who participated in the survey were affected not only by the narrative of the trial or the racial narratives that affected it, but by their position within those narratives.

As many other writers did when contributing to the Simpson narrative, Monroe points out the irony of Simpson going from an un-raced black man to a regular "black" man—harkening the issue of class—who was susceptible to all of the racial injustices the LAPD and the criminal justice system were capable of dishing out. He writes,

When Simpson reverted to being "just another Black male under arrest," the African-American community, as usual, reclaimed its Black prodigal son. They demanded that he be given a fair trial and all the rights of an innocent defendant until proven guilty beyond a reasonable doubt. And in the end, it was reasonable doubt, according to the jurors, that allowed Simpson to go free. (30)

The reasonable doubt the jury ultimately came to was predicated on the doubts they had about the LAPD; specifically Mark Fuhrman. There was also the issue of the jury being mostly black and their ability to sympathize with Simpson as a black man being victimized by a white

system. As Terrell points out in his article, this sentiment transcends social-economic barriers; the black members of the jury, in the real world, had nothing in common with Simpson on a social level, but their sympathies were connected to him on a racial level; the narrative of the racist LAPD officer, and their position within it, was circulating in their minds, affecting the way they perceived Simpson. Cochran and his defense team weren't simply playing the "race card," they were spotlighting the well-understood racial narrative of the LAPD as racist and corrupt. Because the jury understood this narrative, it was not a far stretch for them to find reasonable doubt.

Monroe praises Cochran for his willingness and ability to take full advantage of the platform afforded him by the Simpson trial to force America into a long overdue discussion about race relations: "As a brilliant trial lawyer and former prosecutor, Johnnie L. Cochran...was ideally suited to do what America did not want done: force a national discussion on race" (30). That discussion, as Monroe writes, would come to involve not just Mark Fuhrman, but also Christopher Darden: "If it had not been clear before, the courtroom jousting between Cochran and Christopher Darden, deputy Los Angeles County district

attorney and the lone African-American on the prosecution, made it obvious that race would cast a long and inevitable shadow over the nine-month trial" (30). But, Cochran's effort would ultimately be met with considerable backlash.

Writes Monroe,

Across the country, an avalanche of anti-Black sentiment quickly found a voice as angry Whites unleashed a verbal assault upon everyone from Johnnie Cochran for playing the "race card" that had been dealt to him by Mark Fuhrman, to the Simpson jurors for "freeing a murderer," to Black women, in general, for betraying the movement against domestic violence. (30)

Monroe is ultimately interested in praising Cochran's role in making race relations in America, and in the criminal justice system, a relevant issue for discussion, when, for far too long, America had become complacent in its attitudes toward race: "Thanks to Johnnie Cochran...no one can pretend that race is no longer a problem in America" (30). With regard to my study of Cochran and the other three lawyers, my examination yields the same sentiment. Clark, Darden and Dershowitz all had to address the issue of race in their narrative re-constructions; and Cochran's

strong position on the role of race and race relations had a lot to do with that. While Clark and Darden appear to resent having to address race, Dershowitz, like Cochran, believed it was necessary; these feelings are represented within their re-constructions.

While Williams and Monroe offered their individual takes on the Simpson narrative, Toni Morrison and Claudia Brodsky Lacour offered a collection of takes from various writers in their book *Birth of a Nation'hood: Gaze, Script, and Spectacle in the O.J. Simpson Case*. It is a collection of essays from a range of academic, social and political thinkers; each essay has a unique point of view, ranging from the marketing of the Simpson trial to the effect it had on racism and civil rights in America.

Morrison, as well as being co-editor, provides the book's introductory essay: "The Official Story: Dead Man Golfing." In it she draws comparisons of the Simpson narrative to Herman Melville's story *Benito Cereno*, which is about an American captain who "boards a ship in disrepair with gifts of food and good intentions. What he sees is what he is socialized to see: docile if disorderly blacks; a frail, un-manly [read 'un-American'] captain attended by a devoted Sengalese" (ix). The captain soon

learns that the black men on the ship are about to rebel against him: "Melville, releasing and withholding, massaging and sabotaging, rationalizing and raising doubt, hiding and exposing, tells the story of an innocent white captain while simultaneously critiquing the racist foundations of that innocence" (x). The captain sees the black men that the racial narratives of his time have conditioned him to see them: "docile if disorderly blacks." The critique, Morrison goes on to explain, is that black people have historically been viewed as submissive children or violent children—or both at once; and, like children, blacks are seen as not having the ability to act or think logically or rationally. She writes,

And it is the absence of a rational analysis of behavior that is so disturbing in the O.J. Simpson case. Given the propensity to ascribe irrationality to black behavior; given the planned versus unplanned, the subtle mind versus mindlessness that the alleged motive and the murderous actions had to embrace; given the difficulties the "time line" presented in believability; given the claims of race as a blinding force for the defendant and the jury, it

would be interesting and possibly revealing to try to imagine an un-raced figure executing the murders. Not a race-transcending "crossover" into the white world; not a beloved, faithful hero capable of betraying whites and "falling" back into blackness, but a figure functioning within the bounds of credibility, but beyond the hysteria of race-inflected rationales. (xii)

Morrison's point is that the hysteria surrounding the Simpson trial is undeniably attributed to the racial narratives connected to it; the prosecution's assertion that Simpson murdered Brown and Goldman out of rage and jealousy was plausible for white Americans to believe *because* Simpson is black, not in spite of it, because of the racial narrative that says the black community is irrational, passionate to a fault and mindless enough to commit murder without considering the consequences.

Morrison further presses her point about the irrevocable role of race in the Simpson narrative when she shares the details of her failed attempt to write a novel inspired by the Simpson narrative: in it, however, the murderer and his victims wouldn't be black—race would be irrelevant in her construction of the narrative. She

writes, "I tried it with a cunning, pre-meditating killer. I tried it as an explosive, spontaneous slaughter. I gave the character an intricate interior life; then a simpler one. I made him a drug user; a drug hater; a devoted father; an indifferent father; a violent husband; a patient husband..." (xiii). But, all of her efforts collapsed without the support of black irrationality. According to Morrison, she couldn't write about the Simpson narrative without writing about race because racial narratives were indelibly intertwined. She writes,

Early on it began to look like white mischief—the kind that surfaces when the opportunity to gaze voluptuously at a black body presents itself. The narrative of the entertainment media and their "breaking story" confederates was so powerfully insistent on guilt, so uninterested in any other scenario, it began to look like a media pogrom, a lynching with its iconography intact: a chase, a cuffing, a mob, name calling, a white female victim, and most of all the heat, the panting, the flared nostrils of a pack already eager to convict. For many, black and white, the passion they felt in the wake of the media onslaught was

real, hinging as it did on violence and treachery. Mr. Simpson became the repository of fear. (xiii)

For Morrison, racial narratives were clearly informing the Simpson narrative, and race itself was clearly relevant to the proceedings of the trial: “[T]he race-based nature of the narrative is reduced to a footnote, an aside, a secondary debate about whether race mattered in the case and if so, how deplorable” (xiv). Understanding that racial narratives are constantly circulating, Morrison scoffs at the notion of race having wrongly tilted the balance of justice.

Morrison explains that amidst all of the media attention, there was something bigger happening; a contribution was being made to the established body of knowledge. Morrison almost seems to be drawing directly from Lyotard’s scholarship when she writes,

Yet something more was going on; something more than a hot property of mayhem loaded with the thrill that a mixture of fame, sex, death, money and race produces. That something more was the construction of a national narrative, an official story. One of the most alarming aspects of the

Simpson case is the shotgun wedding of the commodified, marketplace story and the official story. A national narrative is born in and from chaos. (xv)

The "national narrative" Morrison refers to is the same as what Lyotard would call the "grand narrative." The Simpson narrative, she argues, was constructed by the media—this is what she makes reference to with the "commodified" story. The media, as much as anything else, was interested in the most sensationalized version of the Simpson trial; that version which put a heavy emphasis on "fame, sex, death, money" and especially "race." If this was the narrative that the national media was going to offer, then it was also the narrative that the public would consume and reciprocate. All of this would contribute towards informing the overall Simpson narrative, which was a "wedding of the commodified, marketplace story and the official story." The grand narrative was constructed with a combination of sensationalized "facts" and the "facts" of what "really" happened; these "facts" would all have been affected by their position among the racial narratives intersecting with them and the media that presented them. Like Morrison, I want to analyze how the "facts" of the

Simpson case were presented in the books of Clark, Darden, Cochran and Dershowitz and, in doing so, I want to examine the ways in which each was affected by America's racial narratives.

In the proceeding chapters, I will look specifically at how Clark, Darden, Dershowitz and Cochran's reconstruction of the Simpson narrative, and each other, is affected not only by the racial narratives that intersected the trial, but each author's position within those racial narratives; particularly with regard to how Mark Fuhrman, the LAPD detective who found the infamous bloody glove, is presented and handled in each of their re-constructions. While I will be applying the scholarship within *O.J. Simpson Facts and Fictions* and *Law's Stories*, it is Lyotard's scholarship in *The Postmodern Condition* that will serve as the primary lens of my analysis. Because the overall conversation of the Simpson narrative routinely tilts on the wedge of race, as I demonstrated in this literature review, my thesis will join the conversation by discussing the affect racial narratives had on the four lawyers as they each took their turn at re-constructing the trial. In examining these influences, I will argue that the issue of race, which most Americans are so desperate to

ignore, affects them, and their system of criminal justice, everyday in ways both subtle and grand; I will argue that Clark, Darden, Cochran and Dershowitz, as well as their narrative re-constructions, were affected by the same ever-circulating racial narratives that affected the trial itself; and I will argue that racial narratives affect the people within the criminal justice system, what they can say about it and the ways in which they can say it. The implications of my argument are that, in the U.S., racial narratives affect everything we say and do; for that matter, racial narratives affect how we see the same things differently, as with the Simpson trial. It is the ever-circulating racial narratives that caused such a division in opinion over how American's reacted to Simpson, the trial and the acquittal. This perpetuation of the racial divide is problematic and it goes to the core of the conflicting race relations in America; we will always have difficulties with race relations in America as long as we continue to view things along racial lines and the racial divide.

CHAPTER THREE

THE LAWYER'S RE-CONSTRUCTIONS OF ONE ANOTHER

Clark, Darden, Cochran and Dershowitz, despite working on the same trial, see the trial in different ways from each other; some differences are bigger than others, while other differences are subtler. Not surprisingly, they also have varying views and constructions of each other in each of their books. In this chapter, I examine how each author re-constructs the others in their respective books in order to demonstrate how each lawyer must break the other down in order to establish his/her own authority on the subject of the Simpson trial and the role various narratives of race play in this process. Such an analysis will serve as a preface to my discussion of the role of Clark, Darden, Cochran and Dershowitz's narrative re-constructions of Mark Fuhrman in reinforcing the racial narratives already in circulation that work to perpetuate the seemingly insurmountable racial divide in this culture.

Without a Doubt: Marcia Clark

In her book, Clark focuses primarily on the Simpson trial, as opposed to the other three authors who focus on their personal lives before the Simpson trial almost as

much as the trial itself. While writing about the trial, she takes time out to re-construct each of the other three lawyers during her narrative re-construction of the Simpson trial.

Of Johnnie Cochran, Clark writes:

...Cochran was no legal scholar, nor was he a particularly clever tactician. But he was smooth and charismatic and judges seemed to love him. Bill [Hodgman, Clark's main partner in the trial, before Darden came on board] warned me early on that Johnnie would play the race card. Johnnie always played the race card... At age fifty-six, Johnnie was one of the best-known and best-respected black men in the country. He was in a position to be one of those conciliators to whom both blacks and whites could turn in times of racial distress. A word from him could help calm the waters. Why risk a citywide race riot to promote O.J. Simpson as a cause célèbre? Shows you what I know. (126-127)

Clark's objective appears to be to discredit Cochran's ability as a lawyer, as when she says he "was no legal scholar." She's establishing that not only did he use the

"race card," but he heightened the possibility of racial conflict on a national level, as when she writes "[Cochran was] in a position to be one those conciliators to whom both blacks and whites could turn to in time of racial distress." The implication being that he did the opposite when he chose to defend Simpson. She establishes that Cochran disrespected himself, and his accomplishments, by associating with Simpson. When Clark writes, "Why risk a citywide race riot to promote O.J. Simpson as a cause célèbre?" she is implying that Cochran not only had an ability to dissuade racial tension, but an obligation, and by choosing to defend Simpson, at the expense of an angry white public who believed (and still believe) he was guilty, Cochran was being irresponsible. Racial narratives here are affecting Clark because she is no longer talking about just the trial; she is putting the trial, and Johnnie Cochran, into the bigger context of race relations. Clark's references to race reflect what Sylvester Monroe refers to when he wrote that "an avalanche of anti-Black sentiment quickly found a voice" amongst the white community (30). When Clark writes that Cochran could "calm the waters," the implication is he could've calmed the tension in the black community, as well as assuaged the

anger of the white community, by validating Simpson's guilt in some form or fashion.

As a middle-class white woman, Clark takes the risk of coming across as racially insensitive if she simply proclaims that Cochran exploited race; her position within the ever-circulating racial narratives appear to have inspired her wish for Cochran to have used his powers to calm the racial waters, rather than stir them up. The implication is that, from her position, the racial waters were already calm and need not be stirred up over Simpson.

Of Alan Dershowitz, Clark writes:

Early on, probably during the first or second week of the case, I'd seen Alan Dershowitz do one of his talking-head numbers on national TV. It seemed to me, at least, that he was convinced of Simpson's guilt. To PBS talk-show host Charlie Rose, he professed indignation at the "excuses" defendants use nowadays to absolve themselves of guilt. He cited "cop-outs" such as the "battered-woman syndrome" and the "abused-child syndrome." He predicted that the defense in the Simpson case would most likely mount a mental defense. "The Juice Excuse," he would call it. Then, the next

thing I hear, he's being touted as one of O.J. Simpson's "legal strategists." Do these guys think no one is listening? (128-129)

As with Cochran, Clark appears to be invalidating Dershowitz and his contributions to the Simpson defense. She does this first by characterizing Dershowitz as a "talking-head," someone who goes on television and offers his or her expertise in exchange for airtime; beyond that, she points out that "he was convinced of Simpson's guilt" while on TV, but would later be "touted as one of O.J. Simpson's 'legal analysts.'" The implication is that Dershowitz is a lawyer without firm convictions, a man who will himself to whoever is buying.

Unlike the excerpt about Cochran, the above excerpt makes no mention of race. It's not because there are no racial narratives circulating, but rather that Clark is now talking about another white person in Dershowitz and so, from that position, race doesn't need to be addressed. If Clark did write about Dershowitz's role from the context of race and how racial narratives affected the trial, it would almost seem out of place. However, it is not my contention that Clark picks and chooses when to address race, but rather, from her position with the racial narratives

surrounding the trial, Clark reacts to the racial narratives as they become relevant. With Cochran, a black man, race was relevant; with Dershowitz, a white man, it was not. I also don't think this is a conscious decision on Clark's part, but that it speaks to the nature American's; depending on one's racial background, one will react differently to the affects of racial narratives as they intersect with their world.

Of Christopher Darden, Clark writes:

It's been said that we recruited Chris because he was black. But that isn't true. At the time he popped his head in my door, we had no scouts out beating the bushes for minority talent. A good lawyer presented himself. I knew him. I trusted him. He happened to be black. Now, did I think his race would help us with a predominately black jury? Possibly. But there was also the risk that those jurors might reject him as an Uncle Tom. At the very least, the D.A.'s office would almost certainly be charged with race pandering. Sure enough, a day or so after Chris's appointment was made public, Johnnie Cochran went around telling

reporters that we'd hired ourselves a token black man... To me, Chris's race was a wash. (225)

Here, Clark is again in a position where she must acknowledge the racial issues involved, as they are too evident to ignore. She acknowledges that she understands how the scenario looks and counters it, writing "we had no scouts out beating the bushes for minority talent. A good lawyer presented himself... He happened to be black." The perception that Clark alludes to, without ever saying it, is that she is a white lawyer, surrounded by other white lawyers, prosecuting a black man for the murder of his white wife; since, at this point, Cochran had been secured by Simpson, the perception was largely black versus white.

The racial narrative most affecting this excerpt is the Uncle Tom issue, which Clark addresses head on, showing that she is aware of it. Because of her position within the narrative, she must do what she can to dispel it, as a means of protecting Darden, who was her primary partner in the case. Clark makes it clear that she understood that the perception of her bringing a black lawyer onto her team would look suspiciously like she was somehow pandering to the black community or binging in an "Uncle Tom"; she makes it very clear in the above excerpt that even if Darden, as

a black man, could help make a mostly black jury more sympathetic to her case, it wasn't her intention. This aids her attempt to establish her authority in reconstruction the grand narrative of the Simpson trial; by acknowledging the perception that Darden was added to the prosecution team, she gives herself the ability to strike it down.

Reasonable Doubts: The Criminal Justice System and the O.J Simpson Case: Alan Dershowitz

Dershowitz doesn't write as much about the other lawyers, as they do about each other; but there is one section of his book where he addresses all of them at once.

Of Cochran, Darden and Clark, Dershowitz writes:

Johnnie Cochran was picked to head the trial team before the racial makeup of the jury was known, although after it was known that the trial would be in downtown Los Angeles. Would Cochran have been picked if the trial was to be held in Santa Monica or Simi Valley? I think so, but I don't know for certain. Would Christopher Darden have been selected by the prosecution for a Santa Monica or Simi Valley trial? I don't know. Would Marcia Clark have been given the nod if one of

the victims had not been a woman? No one will ever know.... Some black jurors may tend to listen more carefully to a black lawyer, just as some Jewish jurors may identify more closely with a Jewish lawyer. We certainly hoped and expected that Cochran's race would be a plus with some black jurors, just as the prosecutor hoped that Darden's race and Clark's gender would be a plus.

(123)

Dershowitz acknowledges the circulating racial narratives in a very up-front manner. He is able to do this based on his position within the narratives. Unlike Clark, he is a white man on the side of the Simpson, the black defendant; for this reason, it would appear that he is more at liberty to address the issues of race that affected the trial.

When he asks if Cochran, as a black man, would still have been chosen if the trial was held in Santa Monica or Simi Valley, the implication is that they are largely white communities, which would have produced a largely white jury who, in all likelihood, would not have sympathized with Cochran or Simpson.

This latter point is important enough, that Dershowitz addresses it specifically embraces, when he writes "Some

black jurors may tend to listen more carefully to a black lawyer, just as some Jewish jurors may identify more closely with a Jewish lawyer. We certainly hoped and expected that Cochran's race would be a plus with some black jurors, just as the prosecutor hoped that Darden's race and Clark's gender would be a plus." Again, it's Dershowitz's position within the racial narratives he's addressing that allows him to address them at all; if the Simpson defense is seen sympathetically by the black community and that community is aware of the racial narratives in play, then Dershowitz, as a part of the defense team, and despite being a middle-class white man, can speak to those narratives.

Dershowitz's willingness to acknowledge the complexities of the racial narratives involved in the case harkens back to Morrison's assertion that "it would be interesting and possibly revealing to try to imagine an un-raced figure executing the murders," because if race weren't involved, then Dershowitz would have no need to talk about any of the racial narratives that he addresses (xii). Because Dershowitz does talk about race, he establishes his own authority to re-construct the grand narrative of the Simpson trial, because in order to

honestly discuss the Simpson trial one must be willing to address the issues of race that affected it.

In Contempt: Christopher Darden

Darden spends the first half of his book writing about his personal life, from childhood to law school and eventually becoming a prosecutor. When, during the second half of his book, he begins his narrative re-construction of the trial, he writes quite a bit about the other lawyers in the case.

Of Marcia Clark, Darden writes:

Marcia and I were contemporaries. We'd started in the D.A.s office about the same time and had once been assigned to the same trial court, eight years earlier. We were about the same age (OK, she was a few years older) and were midlevel prosecutors—a couple of ambitious Grade 4s. Approaching fourteen years in the office, Marcia had learned (as I had) from the older 4s to keep a bottle of booze in her bottom desk drawer. She kept Scotch. I kept tequila. We'd also learned that the meek didn't inherit anything in an office filled with lawyers. So we were also

ballers, aggressive prosecutors who didn't put up with shit from anyone. And we were friends. (131)

Because Darden is on the side of the prosecutors, which is the side that gains most of its sympathy from the white community, he does not address race at all when talking about Clark. Darden's re-construction of Clark, as Clark's with Dershowitz, doesn't address racial narratives, because there don't appear to be any racial narratives that need to be addresses; though Darden is not a white man, his reaction is reflective of a white man, to the extent that he ignores, subconsciously or otherwise, the racial implications of their relationship. He's the only black lawyer on a prosecution team that, essentially, represents the sympathies of the white community. He doesn't mention any of this in the above excerpt, however. He only mentions their positions within the D.A.'s office, their penchant for drinking on the job and their professional friendship. Unlike Clark, I contend that Darden's position as a black man makes him much more aware of the racial narratives affecting the trial; so when he doesn't address them, it comes off as more of a conscious choice, rather than a subconscious one.

Of Alan Dershowitz, Darden writes:

Alan Dershowitz anchored the front line. A Harvard law professor and author, Dershowitz had defended or filed appeals for the wealthy accused murderer Claus Von Bulow, the wealthy accused rapist Mike Tyson, and the wealthy accused tax evader Leona Helmsley. From what I could understand, he was being paid to monitor by television the case of the wealthy accused murderer in Boston. Good work if you could get it. Before joining the Dream Team, Dershowitz had suggested that Simpson plead insanity. (215)

As with Clark, Darden never mentions or even implies anything about race or racial narratives; however, he does allude to the issue of class. All of the people he mentions as being former clients of Dershowitz have money; Darden hammers this point by prefacing each of them with "wealthy." By placing Simpson in this grouped of wealthy people, he is touching on the issue of class. Within the subtext of the above excerpt, Darden references the fact that Simpson was a wealthy black man, one who has little in common with average black man or woman, a selection of whom served on the jury that acquitted him; with the exception of Mike Tyson (who, like Simpson, acquired his wealth as a

professional athlete), all of the other clients are white. Even if Darden did not consciously make this connection when he wrote it in his book, it's mere presence signals the racial narratives that are informing the trial. By tearing rhetorically down the authority of Dershowitz, Darden has taken another step towards establishing his authority.

Of Johnnie Cochran, Darden writes:

Johnnie Cochran sat there facing sideways, legs crossed, picking lint off one of his shimmery, Buck-and-the-Preacher suits, trying to contain his smile—the arrogant grin of a guy dealt two aces, who always carries two others in his sock. For Cochran, there were two defense strategies: Sew up witnesses and deny everything (the Michael Jackson child molestation case); or cry "Racism!" (every other case). This was his dream assignment. He could do both. (214)

The racial narratives affecting this excerpt are dense with substance and it is no coincidence that it comes in the passage about Johnnie Cochran. His first reference, *Buck and the Preacher*, refers to a 1972 film about a con man preacher; the preacher in the movie is not only a con man,

but he is also black. Being that there have been many con men in the movies, Darden could have picked any other character to compare Cochran to, but he chose to compare him to a black preacher; this implies that Darden doesn't see Cochran simply as a con man, but as a black con man. So even in a vague allusion to an obscure movie, racial narratives are affecting Darden's words.

Journey to Justice: Johnnie Cochran

Like Darden, Cochran uses the first half of his book to establish his personal life, from childhood to law school and eventually to becoming a defense attorney. As with Clark, Darden and Dershowitz, Cochran writes about his counterparts during his narrative re-construction.

Of Marcia Clark, Cochran writes:

Marcia Clark, who had worked with [Phillip] Vannatter on an earlier case, was the deputy district attorney he personally called from the scene of the crimes. Marcia was one of the office's ambitious rising young stars. She knew that the way to achieve an even more visible place in the firmament was to attach herself to a high-publicity case. The trial of Nicole Brown and Ronald Goldman's killer would be such an

opportunity, but only if O.J. Simpson was the defendant. (275)

The racial narratives intersecting through the above passages are subtle, but present nonetheless. Vannatter was one three officers on at the murder scene along with Mark Fuhrman. If only by association, Vannatter, as an LAPD officer and Fuhrman's peer, is brings about images of the racial narrative which refers to the racist LAPD officer; because he, according to Cochran, called Clark personally, she is now also, if only by association, rhetorically connected to that narrative. By illustrating her as an opportunistic young lawyer looking to make her mark by bringing down a black celebrity, Cochran is implying that there are deep racist roots motivating Clark's actions. Whether or not any of this is true, it's the message that appears to be implied in Cochran's passage about Marcia Clark. It's his position as a black man within this narrative that allows him to make such a statement; if he were anything other than a black man and still made the above statement, it may very well have meant something entirely different.

Of Christopher Darden, Cochran writes:

[T]here were times during our acquaintance...when it seemed to me that Chris felt he was always free to make the most self-serving choice so long as he looked sufficiently anguished over it. Some of that I attributed mainly to the difference in our ages. As a beneficiary of the civil rights struggles waged by previous generations, Chris Darden seemed to me to be one of those young blacks who had had the luxury of assimilating the narcissism so common among Americans his age. "Nobody understands my pain but me because only I have suffered it" could be their motto. Like Frederic Douglass, W.E.B. Du Bois, Dr. King, and Malcolm X, they understand the anger discrimination engenders. But their self-involvement forever forestalls them from experiencing the liberation those great men found in selfless commitment. (279)

The racial narratives in this passage flow a lot more freely, because now Cochran is commenting on fellow black man, which means he doesn't have to make vague allusions towards his point; he can simply say what he means. The strongest implication that Cochran makes in the above

passage is that, between the two of them, Darden is not as connected to his black heritage as Cochran is. Though he isn't implicit about it, this appears to be an insult that would only be relevant from one black man to another; and that it should come in the context of a book about the Simpson trial signals the racial narratives that are influencing it. This insult is furthered when Cochran mentions the names of Frederic Douglass, W.E.B. Du Bois, Dr. King, and Malcolm X, beloved black leaders all of them, as men who understood the black struggle in a way that Darden couldn't possibly understand. This allusion appears to wield most of its potency from Darden's role with the prosecution, which, as I stated earlier, drew most of its sympathy from the white community.

The most significant rhetorical point that Cochran appears to be making is that Darden was in no place to criticize Cochran's legal strategy, because he doesn't entirely understand what the black struggle is about; for Darden to prosecute against a black man, then ask that the defendant's own blackness be ignored, implies that Darden was disconnected from his black heritage and ignorant to the black struggle. All of this reflects the racial narratives that were affecting the trial.

Of Alan Dershowitz, Cochran writes:

To his credit, Shapiro had already begun assembling a topnotch team...[including] Alan Dershowitz of Harvard Law School fame. (233)

Not much there. Cochran also writes:

I wasn't the only one to take note of what we'd accomplished [in putting together a favorable jury]. As he did throughout the trial, O.J. spoke frequently by telephone with Alan Dershowitz at Harvard. "Whatever you do," Alan told O.J. that night, "make sure you keep Johnnie Cochran between you and that jury." (263)

Though the latter passage is brief, there are strong racial implications. The jury that Cochran was so proud of was made up of mostly black jurors; Cochran's implication is that Dershowitz understood the significance of those black jurors; Cochran implied that Dershowitz was aware of the importance of earning the sympathy of the black jurors for both Simpson and himself. They would understand the suffering that the LAPD had historically brought upon the black community, even if Simpson himself wasn't really connected to that suffering; again, this hearkens to the issue of class that divided Simpson from the black jurors.

Cochran has very little to say about Alan Dershowitz in his book; it doesn't seem to reflect any ill will (he spends far too much time bashing Robert Shapiro to hate on any other lawyer in his book), so much as it might reflect how unimportant he perceived Dershowitz to be in the grand scheme of the Simpson narrative. If there is any other significance to be taken from Dershowitz's limited role in Cochran's book, it could be, as with Darden's book, that Dershowitz just didn't have enough of an influence to be a part of his re-construction. Like with any narrative, racial narratives affect both what you say and what you don't say.

Regardless of what point each author is trying to make in their re-construction, they can't get to it without first running through the gauntlet of racial narratives. In a contribution to *Law's Stories*, Paul Gewirtz writes:

The racial character of the [Simpson] case was intensified by the backdrop of powerful historical narratives about blacks and whites that were repeatedly used (sometimes unconsciously) to shape how the basic facts of the courtroom stories were perceived or to give

those stories some wider symbolic meaning or resonance. (155-156)

In general, what Gewirtz is getting at, is the four books by Clark, Darden, Dershowitz and Cochran were affected both consciously and unconsciously by "the backdrop of powerful historical narratives about blacks and whites." If racial narratives dictated how the case was tried, then racial narratives would naturally dictate how the narrative of the case was re-constructed. And because both black and white lawyers took their turns at re-constructing the trial, the same racial narratives that affected the trial would affect each of their re-constructions. As Clark, Darden, Dershowitz and Cochran each address the racial narratives that affected the trial, they all eventually intersect with the narrative of Mark Fuhrman; and, as I will demonstrate in the next chapter, the way Fuhrman is represented in each re-construction is telling about how each author/lawyer's re-construction is affected by racial narratives and their position within those narratives. Now that, as I have demonstrated in this chapter, each author has both establish their own authority, while tearing down the authority of their counterparts, they can each go forward

and re-construct Fuhrman within their versions of the grand Simpson narrative.

CHAPTER FOUR

THE MANY NARRATIVES OF MARK FUHRMAN

As the narrative of the Simpson trial is reconstructed in books written by Clark, Darden, Cochran and Dershowitz, no portion of the narrative is more infused by divisive racial narratives than that which involves Mark Fuhrman. While there are many different and valid issues within all four narrative re-constructions that can be examined and analyzed, I've chosen to focus on the portions of each book that are dedicated to re-constructing Mark Fuhrman and his role in the Simpson trial, because his role so acutely involves the issue of race, race relations and racial narratives. An examination of Fuhrman's role in the Simpson trial will allow me to most effectively make my argument that that racial narratives affect the people within the criminal justice system, what they can say about it and the ways in which they can say it. Overall, I will argue that racial narratives affect how and why Clark, Darden, Cochran and Dershowitz all saw Mark Fuhrman, and his participation in the Simpson trial, so differently from one another, as evidenced in their narrative re-constructions; because each lawyer is fighting for their narratives to be the grand one, and racial narratives are

informing their perception of the trial, they are each simply perpetuating the divide in opinion, rather than forming an consensus.

In general, the narrative of Mark Fuhrman, as per his involvement in the Simpson trial, is as follows: he was an LAPD detective who worked on the murder investigation; he found a couple of damning pieces of evidence, most notably the infamous bloody glove; when it was later revealed that he was an admitted racist, this was used against him and the prosecution, when the defense posited the theory that Fuhrman planted the evidence in order to frame Simpson; ultimately, Fuhrman's overall involvement is viewed as one of the key reasons why Simpson was eventually acquitted of the murders. The prosecution—in the form of Clark and Darden—and the defense—in the form of Cochran and Dershowitz—have a lot invested in how Fuhrman is remembered; this is reflected in how he is re-constructed in each of their books. What it also reflected is how the same racial narratives that affected the overall Simpson narrative affect each of their re-constructions of Fuhrman.

In a contribution to *Law's Stories*, Robert A. Ferguson writes, "Because courtroom stories exist only within the stark nominations of guilty or innocent, lawyers are cast

entirely within a win-lose situation and quickly discard an ineffective narrative for a better or more timely one" (87). This is true with regards to the re-construction of Fuhrman's within the books of Clark, Darden, Cochran and Dershowitz. Fuhrman was the star witness for the prosecution, until his racism made him a liability. For this reason, Clark and Darden play down Fuhrman's importance to the case, while Cochran and Dershowitz play it up; Dershowitz and Cochran are very adamant in their reconstructions that, because he was such a key figure, Fuhrman's racism was a direct reflection on the case against Simpson.

Regardless of what point each author is trying to make in their re-construction, they can't get to it without first running through the gauntlet of racial narratives. In a contribution to *Law's Stories*, Gewirtz writes, "The racial character of the [Simpson] case was intensified by the backdrop of powerful historical narratives about blacks and whites that were repeatedly used (sometimes unconsciously) to shape how the basic facts of the courtroom stories were perceived or to give those stories some wider symbolic meaning or resonance" (155-156). The "backdrop of powerful historical narratives about blacks

and whites," which Gewirtz refers to are the same as the racial narratives which I have referred to throughout this thesis; and they are the same racial narratives that greatly affect the re-constructions of Mark Fuhrman. For this reason, neither Darden, Cochran, Clark or Dershowitz could write about Fuhrman without treading very carefully, like tiptoeing through a minefield, knowing that anything they say will ultimately be heard through the filter of race.

The structure of this chapter will mirror the structure of the previous chapter, in that I will go book by book, one at a time, examining how each author re-constructs Fuhrman; while doing so, I will analyze how their re-constructions are affected by racial narratives. In general, each re-construction—be it by Clark, Darden, Cochran or Dershowitz—hits the same key points regarding Fuhrman: his role in the Simpson case, his history of racism, a letter from Kathleen Bell which offers a first hand account of Fuhrman's racism, and a set of audio tapes begrudgingly provided by Laura Hart McKinny which essentially prove Fuhrman to be a racist. Not one of the authors believes Fuhrman is a good person, yet, depending on whose re-constructing the narrative, he is viewed either

as a horrible racist whose personal biases tainted good police work or a meticulously evil racist who found an opportunity to bring down a prominent black figure. If one narrative wants to acknowledge the racial narratives present, then they must highlight Fuhrman's racist history as much as possible; if another narrative wants to diffuse the racial narratives present, then they must diffuse Fuhrman's racist history as much as possible.

Marcia Clark on Mark Fuhrman

Earlier in her book, Clark shares a story, which, on the surface has nothing to do with Fuhrman, but, within the subtext, it has everything to do with Fuhrman; it involved an encounter with a corrupt cop when she was in high school, hanging around with some hippies. She writes, "They were not junkies or hypes or anything, just basically good kids who, like me, didn't fit in anywhere else." She goes on to write, "And I smoked a little dope, something I admit without a twinge of regret or guilt" (157). It was Clark's stint as a dope-smoking hippy that facilitated her encounter with the bad cop, who busted her along with her friends; when she asked what the bust was about, the cop informed her that they had found "a bunch of hype kits and Baggies of heroin" (158). Clark goes on to describe the

rest of the bust, as well as the realization she came to, when she writes,

I was wearing a sleeveless top, which, as I think back on it, should have told the cops right off the bat that I was no junkie. But I stretched out my arms obediently. The officer examined them and pointed to a small scratch on my right bicep.

"You see," he said triumphantly, "that could be a skin pop." Skin pop? What the hell was that? The sickening realization swept over me that this guy could say anything he wanted. He could manufacture any evidence he wanted. No matter how innocent I was, he could send me to jail if he wanted to. To him I was just a scruffy piece of shit... I never figured out what happened that night. How the heroin--if it really was heroin--got there. Whose it really was. The word around school was that the cops had planted the drugs as an excuse to bust us because neighbors had complained about noise in the park. (158-159)

By virtue of her decision to include this story, it appears that Clark wants to reader to draw a correlation between her experience as a hippie and her experience with Mark

Fuhrman: the message being that she knows how it feels to be on the wrong side of justice and she knows how it feels to have a bad cop threatening her freedom with nothing but a false charge and a willingness to plant evidence. The implication being that she is not a prosecutor who puts up with corrupt cops and if she honestly believed Fuhrman had planted evidence, she wouldn't be defending him; this is relevant to Fuhrman, since he was accused, by the defense, of planting evidence to frame Simpson. If there is a subtle message in the subtext, one that Clark may not have been aware was being sent, it is that race did not play a role in her encounter with the bad cop; the implication being that bad cops don't exclusively harass the black community.

In Clark's re-construction of the Simpson narrative, Fuhrman takes on the appearance of a flawed hero. She writes, "At a personal level my heart went out to him. Publicity seekers, hucksters, disaffected cops and county workers, and wackos of every stripe were streaming out of the woodwork to recall supposed locker-room boasts that he's had an affair with Nicole Brown or had painted swastikas on the lockers of fellow officers... They all turned out to be bullshit" (329). From Clark's point of

view, Fuhrman got a bad rap; among the bad rap, she points out the "painted swastikas" he had been accused of painting on other officers' lockers. This image of a swastika is a very powerful image, with strong racist overtones; it appears that Clark is trying to diffuse the power of it, with regard to how it connects to Fuhrman, by pairing with another accusation that he "had an affair with Nicole Brown."

Not only was it necessary for Clark to diffuse Fuhrman's racist history, but she also had to discount his overall importance to the case. She writes, "Mark Fuhrman just wasn't that important. He'd found a single piece of evidence in a case that involved dozens of equally inculpatory findings.... Fuhrman was a big deal only because the defense required a bogeyman to distract the jury from the devastating evidence against their client" (330). Though she doesn't specifically say so, the "bogeyman" that Clark refers to is essentially that of the racist LAPD officer; the reason he would have distracted the jury is because they were mostly black. Clark ultimately can't deny that Fuhrman is a rabid racist, so instead she tries to establish that Fuhrman simply isn't important in the overall Simpson narrative.

Of course, if Fuhrman was such a small piece to the prosecution's puzzle, the question may be asked: Why bother putting him on the witness stand and risk having his racism become public? Clark is aware of this question and attempts to address, writing,

What would have happened if we hadn't called him? It's not as if he'd have disappeared from the case. The defense would ask every witness, at every opportunity, why Mark Fuhrman wasn't at this trial. "Is he beyond subpoena power? Is he refusing to testify? No? I see." Net result? We'd look like we were hiding him. Why would we do that? Because we *had* something to hide. And then, this theme would be sure to reach its crescendo during closing arguments, where the law explicitly permits either side to comment on the failure of the other to call a logical witness. The defense would blow us away. Or, even worse, they might have called Fuhrman themselves... Look, if I could have thwarted the race card by not calling Fuhrman, I would have crossed him off the witness list in a heartbeat. But failure to produce him would simply have aggravated the

controversy. The only course open to us was to call Fuhrman and try to block the kicks. (331-332)

Clark is walking a rhetorical tightrope here; initially she attempts to establish that Fuhrman is not a very important figure in trying to convict Simpson, but then she must also defend why she put him on the witness stand. As when she writes, "Look, if I could have thwarted the race card by not calling Fuhrman, I would have crossed him off the witness list in a heartbeat. But failure to produce him would simply have aggravated the controversy." She implies her awareness of the racial narratives burden Fuhrman's presence and acknowledges that she wanted hide Fuhrman so as not to draw attention to the racial narratives that would inform his presence. Ironically, she implies that she needed to put him on the witness stand for the very reason she wanted to hide him: he was an admitted racist. Clark knew that the racial narrative of the racist LAPD officer would haunt her case and essentially admits that if she could've gotten away with it, she would have hidden Fuhrman away to avoid it.

Clark, in her re-construction, also wants to bring attention to the issue of class, where it concerned

Simpson, since he was not a typical "black" man, but rather an un-raced "black" man who really wasn't a part of the black community. Clark writes, "It seemed to me the height of immorality—cynically exploiting a serious social issue for the benefit of a murderer who'd never lifted a damned finger to advance the cause of civil rights. O.J. Simpson wasn't 'rousted' by a band of racist cops—the *evidence* demanded that he be arrested and tried" (330). Clark's position within the narrative, as a white woman, might otherwise have made it difficult for her to criticize a black man for not lifting "a damned finger to advance the cause of civil rights"; that she freely criticizes Simpson speaks volumes about his class status. Simpson was generally treated as a wealthy white man and Clark's comfort in criticizing him speaks to this. Clark, in addressing the issue of class, is also attempting a rhetorical move that would neutralize the racism of Fuhrman by implying that Simpson wasn't really all that "black" and therefore would be an unlikely target of racism.

Clark eventually presents Fuhrman as an LAPD officer who may have been racist, but ultimately wasn't very important to the case; to this extent, she adopts the strategy that perhaps Fuhrman wasn't nearly as racist as

people thought. She begins this line of reasoning by addressing a disability claim in which Fuhrman had spouted many racist remarks. Upon establishing that "even the doctors who examined him concluded that he was exaggerating, perhaps lying outright, about the degree of racial hostility he felt," Clark says simply, "I could believe this" (332-333). Clark writes about other LAPD officers, even black ones, calling into her office to put in a good word for Fuhrman; he even "played early-morning basketball" with "other African Americans" (333). Clark appears to be drawing on the racial narrative that black men love playing basketball; the implication being that if he engages in black activities with other black men, then he must not be a racist. This also draws on the racial narrative of the white man/woman who claims that some of his/her best friends are black, as a way of proving their acceptance of the black community.

Clark also writes about how one of her fellow D.A.s who recalled how thoughtful Fuhrman had always been to her black rape victims and how he had once gone out of his way to clear a black suspect of murder charges. "These were hardly the actions of a dedicated racist" (334). Fuhrman was also an "enthusiastic supporter" of a black D.A. who

Clark knew; according to Clark, Fuhrman often went out to lunch and dinner with this D.A. and she had even baby-sat for his kids. The D.A. told Clark that Fuhrman "wouldn't frame anyone" and "Don't let them get you down girl" (334). Of the D.A.'s endorsement of Fuhrman, Clark writes, "It reinforced my own conviction that Mark, if he had ever been a racist, had reformed. People change" (334). Ultimately, Clark's position as a white woman within these racial narratives leaves her with an impotent voice where it concerns vouching for Fuhrman; the reason she uses so many examples of black people accepting and praising Fuhrman appears to be a way of addressing this impotence.

After establishing praise for Fuhrman from members of the black community, Clark addresses some of the direct accusations of his racism. Of Kathleen Bell, a key witness for the prosecution who claimed to have heard Fuhrman use racist remarks during a visit at a Marine recruiting center, Clark writes, "Kathleen Bell...worked at a real estate agency located above a marine recruiting station near Mark's neighborhood in Redondo Beach. She'd drop down to say hi to the marines working there. On a couple of occasions she'd seen Mark Fuhrman" (334-335). Bell had sent a letter to the defense, letting them know that she

had personally witnessed Fuhrman's racist rhetoric, including a statement Fuhrman made about pulling over interracial couples, even if he didn't have a legal reason to do so. Bell eventually called in a complaint. Clark writes,

Kathleen Bell's allegations struck me as unlikely. First off, the comments about the black man and white woman in the car fit too neatly into the defense's case. That is, Fuhrman is enraged when he sees Simpson with a Caucasian wife, so when he gets the chance he plants evidence to frame him. She seemed to recall Fuhrman's remarks with suspicious particularity, given they were ten years old. (335)

Clark's position appears to be that the simplicity of Bell's accusation are what make them so unlikely; the convenience of Fuhrman being a racist who hated interracial couples, fit to neatly, especially since Simpson and Brown were an interracial couple. Clark's position within the narrative suggests that she isn't as affected by the idea of an interracial couple being harassed by a racist cop, since it is something she never experience (or, at the very least, if she did, she never mentions it in her book).

Clark eventually attempts to discredit Bell; she talks about a hearsay story in which Bell hit on Fuhrman, only to have him rebuff "her advances with...a 'gracious' rejection." Clark also voices her suspicions "from the outset that Bell wasn't motivated by a good citizen's desire to blow the whistle on racism" (336). Before leaving Bell alone, Clark goes on an extended rant, in which she hopes to establish that Bell was not a credible character in the Simpson narrative. She writes,

In the frenzy of Monday-morning quarterbacking that followed the trial, pundits would soberly characterize Bell as a credible witness with no ax to grind. Give me a break. This woman was looking for a payday and, very possibly, for payback. What more satisfying revenge could you take on a man who has rejected you than to humiliate him before an entire nation? The supreme irony was that Mark Fuhrman didn't even remember her. But we'd all have to deal with her in court, when Kathleen Bell would have a chance to savor her few minutes of fame. (337)

Despite the story of Bell hitting on Fuhrman being hearsay, Clark treats it as a fact. Clark is drawing on the gender

narrative of the woman scorned, the one that Hell hath no fury like. By attacking Bell's credibility with this narrative, she is hoping to defuse the racial narratives affecting Fuhrman.

In addressing the delicate process of putting Fuhrman on the witness stand, Clark writes, "It required me to take him step-by-step through his role in the case, carefully layering beneath that superficial narrative the information that made it clear he couldn't have framed Simpson" (342). The one thing that concerned Clark was Fuhrman's stubborn denial that he had ever used the word "nigger." She writes,

I found it hard to believe that Mark had never uttered that word. Not after what I'd seen in the disability file. I *did* believe that he'd never said it to an African American, face-to-face. But *never*? Not over a beer? Not to his buddies? Not in private? That seemed unlikely to me... If I couldn't shake him off his denial about the N-word, then I had an obligation to tell the jury that I had doubts about it. But I'd contrast it with that part of the testimony I was perfectly certain of: that he didn't plant evidence. (343)

The reason that the theory of Fuhrman planting evidence holds water goes straight to the narrative of the LAPD's history; it wasn't entirely difficult to believe that if the LAPD had planted evidence in the past and if Fuhrman was a racist cop who had admitted to planting evidence against black men before, then perhaps he had planted evidence in an attempt to frame Simpson. For this reason, it makes sense for Clark to diffuse Fuhrman's racist history. The further she can separate Fuhrman from the narrative of the racist LAPD officer, the better her case for him looks.

More damning than the allegation that Fuhrman planted evidence was the audiotapes of him repeatedly spouting racist remarks, which surfaced despite the prosecution's best efforts to keep them subdued. The tapes were the result of an aspiring screenwriter, Laura Hart McKinny, who, over the course of a ten-year span, had interviewed Fuhrman. Writes Clark, "They struck a deal: he would give her inside cop skinny, and she would give him credit as her technical adviser and a percentage of whatever" (440). The screenplay McKinny was writing was about corrupt cops and "Fuhrman had made tapes in the process" during the interviews. Almost immediately, Clark attempts to

discredit McKinny, when she writes, "[McKinny] had retained lawyers in Los Angeles. Lawyers to do what? Shop the screenplay? Sell the tapes?" (436). Clark is attempting to establish McKinny as someone who was simply looking to exploit the Simpson trial. Clark goes on to write, "The only glimmer of hope here was that Mark had simply been helping McKinny develop a character for a work of fiction." Clark chooses to believe that the racial epithets were used "in the context of developing a story.... It wasn't a biography of Mr. Fuhrman's life" (437). After Clark is done defending Fuhrman to the reader, she offers a glimpse to how angry the whole Fuhrman situation made her feel. With no other recourse at her disposal, Clark becomes, first, didactic:

[T]he anger and sadness I felt was not only for the prosecution but for the country, torn by racial hatred. *People v. Orenthal James Simpson* had done nothing but widen the divide. We'd hoped that by carefully presenting the facts, we could convince *all* the people that our charges were justified. Now these horrible epithets were about to infiltrate our courtroom, and they would further strain the uneasy truce between blacks

and whites. The release of these tapes, and the prominence they would assume, would mean a step backward for all of us. And a step forward for hate. (438)

In emphasizing "all," Clark is referring to the majority of the black community that sympathized with Simpson and believed he was innocent; but she doesn't say this specifically, because her position within the narrative might make her look inappropriate if she addresses it. Clark's contention appears to be that she wanted to withhold the tapes not because they hurt her case against Simpson, but because their unveiling would "mean a step backward for all of us. And a step backward for hate."

Ultimately, Clark is resentful of Fuhrman. She resents his presence in the case, she resents the racial narratives that he validated and she resents that she was put in a position where she had to defend his character. She writes,

Did I feel betrayed? You bet. We all did. After the tapes came out, I got a lot of criticism for having "embraced" Fuhrman. Bullshit! I never had any choice about calling him as a witness. And it was Mark Fuhrman's job to inform us of anything

that might be used against him by the defense. Instead, he took the stand at the preliminary hearing without telling us about his personnel package. Then he testified—as I held my breath and silently screamed, *No, don't do it!*—that he hadn't uttered the N-word in the last ten years. All the while he knew about those tapes. And now, after all our hard work...the case came down to this: MF. Read it any way you like. (439)

The circumstances were what they were and, despite her best intentions, there was nothing Clark could do about it: Mark Fuhrman was a racist LAPD officer who found a key piece of evidence in a murder investigation where the victim was a white woman and the suspect was her wealthy black ex-husband. All signs pointed to at least the possibility that Fuhrman had the opportunity and motive to plant evidence. As Clark re-constructs this portion of the Simpson narrative, she is further perpetuating America's racial division, because in taking sides with Fuhrman, she is ultimately taking sides against the black community.

Christopher Darden on Mark Fuhrman

Darden, in the first half of his book, writes a lot about his own experiences with racism; the implication of these chapters appears to be, among other things, a way of affirming his connection to the black community, while also defending Fuhrman, which will connect him with the white community. He writes about how important it was for "whites to put blacks in their place [after slavery], how important it has been to replace a codified social hierarchy with a lawless one, how important it has been for many white people to have someone beneath them." Darden goes on to write, "To allow white people to define us is to be slaves forever, to be beneath whites on some artificial social order" (13-14). Darden here is putting the spotlight on some powerful racial narratives about the social-hierarchy in America that has always placed the white community above the black community. In doing so he is not only showing that he is aware of their existence, but that he understands why his participation with the prosecution would draw negative reactions from the black community.

Darden very clearly understands is complicated position with the Simpson narrative and puts the spotlight right on it, when he writes,

People in the mainstream of white society don't always realize there are other stream, some just as deep and fast moving, rivers of thought that aren't often reflected in *Time* magazine and on the *CBS Evening News*. In black barbershops, black taverns, and black Baptist churches, there were people very much in their own mainstream who didn't believe for a minute that O.J. Simpson was guilty. These weren't criminals or uneducated people. These were people who wondered why successful black men were so often targeted by law enforcement.... They didn't wonder about all the evidence gathered against Simpson; they wondered why police were so eager to suspect him. And those same people were going to wonder who that black man was trying to convict O.J. (173)

Darden appears genuinely conflicted by his connection to both sides of the conflict, though he never wavers in his belief Simpson was guilty. In the above quote, he references very specific gathering places of the black

community— black barbershops, black taverns, and black Baptist churches—and, in this way, he is not only acknowledging their existence, but he is also rhetorically suggesting that he knows about them because he is part of the black community that utilizes them.

Ultimately, Darden admits that there seemed to be nothing he could do to accrue any favor from the black community once he chose to be a part of the prosecution—the white side. He writes,

The fallout was immediate. On talk radio and in newspapers, in barbershops and restaurants, I was branded an Uncle Tom, a sellout, a house Negro. I couldn't understand how they could attack me when they didn't know me. Other black "experts" stepped forward...saying that I had a responsibility to the community and to my "blackness" to reject the case... I waited for prominent blacks to come to my defense, to say Cochran was wrong to question my ethics and my reasons for being on the case. I waited for prominent blacks to say they were proud that we had black prosecutors as well as black defense attorneys, that it was bigoted and small-minded

to expect only one philosophy and one position from African Americans. I waited. But they were silent. (172)

Darden hits on many of the racial narratives that affecting the perception of the Simpson narrative from the position of the black community; among them, that there was a sentiment from the black community that he owed it to his "blackness" to reject the case, otherwise he would be considered a "house Negro." When Darden shared his disappointment in not having any prominent blacks say they were proud of what he was doing, his words hearken back to what Linda Williams said about the race card, when she wrote, "Liability is transformed to asset and reformed again as liability. Thus the metaphor of the race card attempts to discredit any racialized suffering that can be turned to advantage now that colorblindness is supposedly in effect" (4). Darden hoped the liability-turned-to-asset would rest on his side of the trial; he hoped that because he was a black prosecutor trying a high profile case, he would be viewed as the hero, the one who, against all odds, was making progress within a legal system that routinely benefited the white community at the cost of the black community. Before the trial unfolded, Darden says he

expected to be embraced by the black community, only to find that the opposite would happen. He writes, "I had naively believed my presence would, in some way, embolden my black brothers and sisters, show them that this was their system as well, that we were making *progress*" (11). He found that his liability was not an asset, but instead remained a liability.

Darden laments not having gone to the black press during the trial to offer his side of the story, to explain why he was aiding the white side of the conflict. He writes, "Maybe it wouldn't have made any difference. But maybe it would've kept me from being alienated from my community, from being stranded in this inhospitable borderland where I've found myself, smack between black anger and white anger, between retribution and condescension, between two very different kinds of fear" (173). The inhospitable borderland that Darden found himself became especially so when it was time to address Fuhrman in his re-construction.

There is an inherent conflict for Darden when re-constructing Fuhrman, as predicated by the racial narratives affecting his re-construction, as well as his position within them. Being on the side of the

prosecution, Darden's re-construction, for the most part, defends Fuhrman. Darden's rhetoric appears to be conflicted, because, as a black man, defending Fuhrman goes against the sympathies of the black community; but as a member of the prosecution, his loyalties lay more with the white community. These conflicted feelings appear in various forms during the course of Darden's re-construction of the Simpson narrative. Before Darden takes on Fuhrman, he addresses Fuhrman's employer, the LAPD. He writes,

[T]here were...stories of people beaten, kicked, and knocked around by LAPD officers; stories of a police officer who planted so much evidence his colleagues called him Farmer; stories of other cops who flat-out lied on the stand to get a conviction. There were even stories of racist cops, guys who collected Nazi paraphernalia and tossed around vicious racial epithets like gossip at a barbershop. Most of the cops I knew and worked with were good, conscientious officers, committed to serving the community. But even among some of those guys there was a bunker mentality, the sense that it was them against the world and they needed to do whatever they could

to protect their own and to get convictions, to put away the assholes. (97)

In the same way that Clark shared her story of the corrupt cop busting her and her hippie friends, Darden is acknowledging to the reader his awareness of corrupt cops; in this way, he doesn't appear to want any of his later words to come off as naïve. The reference Darden makes about "vicious racial epithets" getting tossed around "like gossips at a barbershop," is subtle, but has a specific implication: the barbershop is a place where black men regularly congregate as a social setting; this probably wouldn't be an obvious allusion to most anyone outside of the black community and I suspect Darden understands this, which is why he included it; it appears to be a subtle attempt to show his connection to the black community, while still going forward with a narrative that will ultimately draw the sympathies of the white community.

When Darden begins his re-construction of Fuhrman in the Simpson narrative, he starts out as with the standard position taken by all of the prosecutors, when he writes, "[T]here was no way Fuhrman or any other officer could have planted [evidence]... Dozens of people would have to be involved if this were a conspiracy. Ten racist cops

couldn't have pulled this one off" (165). Though Darden honors his position among the prosecution by defending Fuhrman, it doesn't mean he has to like him; and Darden is very clear about his dislike for Fuhrman, as when he writes, "Every time I talked to Fuhrman, I wanted less and less to do with him" and "I'd seen enough. I knew all I needed to know and more, actually... I *couldn't* put this guy on. I couldn't accept his answer that he hadn't used the N-word in the last ten years" (273, 276). This is a primary example of the conflicted borderland Darden finds himself in, as predicated by his position with the Simpson narrative and the racial narratives around it.

Darden points out his awareness of his conflicted position from the moment he was initially given the job of questioning Fuhrman on the witness stand—a duty which Clark reluctantly took over, when Darden later refused to do it—which occurred during a meeting with the prosecution team. He writes, "I looked around the room and realized how white they looked. All these white people and me. How would that look to the homies in South Central: one brother surrounded by all this whiteness, sticking out like a scratch on a new Mercedes?" (188). Darden is in a position where he is surrounded by white lawyers, defending a racist

white cop and prosecuting an iconic black figure; in this position, Darden is keenly aware of how the picture must look, especially to the black community. He appeals, in his rhetoric, to "the homies in South Central," a reference meant to show his connection to the black community, while participating with the white community.

Darden goes on to write about being given the responsibility of questioning Fuhrman on the witness stand, addressing all the racial insinuations that came with it:

Did...Marcia think that hearing about a once-racist cop from a black lawyer would somehow defuse the awful beliefs? I had insisted that my addition to this case had nothing to do with my race, but now I wondered if my colleagues thought they could "sneak" Fuhrman...through by giving them to the black guy... From the beginning, I had said that I wouldn't allow my race to be used in this case and I still wouldn't... Even if Mark Fuhrman was a racist, I would put him on the stand to testify that O.J. Simpson was a murderer. (189)

Darden boldly addresses the racial narratives informing the suspicion that he was brought onto the prosecution as a way of currying favor with the jury. He starts to wonder, in

the above passage, if in fact all those suspicions which he tried to dispel were ultimately true; he wonders if perhaps he really was there because he was black. After he addresses this issue of the possibility of the prosecution team exploiting him for his race, he never really talks about it again in the book. At this point, since Darden has established that he believed Fuhrman to be a racist cop and a bad guy, the implication that he appears to be putting forth is that anything positive he says in support of Fuhrman *must* be true.

Like Clark, Darden broaches the subject of Kathleen Bell; he writes about Bell's allegation that Fuhrman told her he would pull over any car that had a black man and a white woman, and he brings up the alleged statement Fuhrman made about how if he had it his way, they would take all the "niggers," put them together in a big group and burn them. Writes Darden, "Genocide. Jesus. What was I getting into? Of course Fuhrman denied it" (193). Darden also writes about the psychiatric reports that had Fuhrman making racist statements: "I picked it up and noticed that these psychiatric reports were coming at a time when Fuhrman was going through his second divorce, a messy split that began with his wife's affair" (194). Darden is subtly

walking that tightrope of defending Fuhrman, without condoning him. He writes,

Yes, [Fuhrman] did have personality problems. Big ones. And he was my witness. Here I was, as black as black could be... Thankfully, I didn't have to argue that Fuhrman wasn't a racist. I was going to argue that Fuhrman's beliefs had nothing to do with the deaths of Nicole Brown Simpson and Ronald Goldman... How many times must Fuhrman say "nigger" before his transgression was the moral equivalent of two homicides. I believe that any defendant has the right to question police officers about racial bias, assuming there was some possibility that the bias had a connection to the case. In this case, it didn't. Fuhrman had made no racist statements or actions in this case and had no opportunity to plant evidence or somehow violate Simpson's civil rights. (195)

Darden's conflicted position is highlighted again in this passage, when he reinforces that he is "black as black could be," while also defending Fuhrman's racism as being a personal problem that "had nothing to do with the deaths of Nicole Brown Simpson and Ronald Goldman." There is a

certain agitation implicit in Darden's tone, which alludes to the resentment he feels for his conflicted position in the Simpson narrative. At one point, he even writes, "I set the Fuhrman file back on my desk and thought about running. Just walking away from the case. Let the white lawyers deal with it... Perhaps this was not an issue for a black attorney" (196). Ultimately, Darden maintains his post within the prosecution, thereby cementing the perception that he had sided with the white community against the black community.

Because Darden is in such a conflicted position, he tries, as Clark did, to posit the argument that if Fuhrman had been a racist before the Simpson case then, perhaps, he had changed. The crux of his argument rests on his comparison of Fuhrman to Malcolm X. He writes,

Could a man like Fuhrman change? Could an outright racist see the light? Malcolm X had. At home, I reached for a worn paperback copy of Malcolm's autobiography. When he made his pilgrimage to Mecca, Malcolm X discovered that there were all types of Muslims, black, brown, and white. He discovered that the white devils, whom he blamed for the world's evil, could also

be worthy servants of Allah... But that was Malcolm X, one of the most respected men of his time and one of my teenage heroes... But could someone like Mark Fuhrman change? And even if he did, wasn't the result different because the source of his racism was different [than Malcolm X's]? One was reactive, the other proactive. Effect and cause. Fuhrman's change would be like saying: "I no longer hate you for *what you are*." Could Mark Fuhrman change? I sure as hell hoped so. Because in a couple of days, I was going to be forever connected to him. (198)

Darden's conflicted position is epitomized in this passage, as he delicately walks the tightrope of trying to appeal to the black community, without alienating the white community. He points at Malcolm's discovery that not all white people are devils; that a person could be white, while also being Muslim, a religion not regularly connected with the white community; within this point, Darden's own predicament is reflected.--it appears that he wants to make the point that he can be black, but still serve on the prosecution against Simpson. The other purpose Darden appears to be serving, is a connection he wants the reader

to make a positive connection between Mark Fuhrman and Malcolm X; Malcolm X was at one time a threatening figure to the white community, before he softened his views upon gaining enlightenment during his pilgrimage; though Fuhrman didn't make a similar pilgrimage, Darden wants the reader to nonetheless make the same connection.

Darden soon backs off of the Malcolm X comparisons and addresses the McKinny tapes. He covers all the same ground as Clark does in establishing the history of how the tapes came to be a part of the Simpson case. Where Darden and Clark differ in their re-constructions is Darden is more forthright in acknowledging how bad the tapes were, without trying to defend Fuhrman:

I pulled the nearly empty bottle of tequila from my bottom drawer and settled in, skimming the awful pages [of the transcripts]. It was worse than I had imagined... The racial epithets were everywhere ("Nigger driving a Porsche that doesn't look like he's got a \$300 suit on, you always stop him... How do you intellectualize when you punch a nigger? He either deserves it or he doesn't") along with something potentially worse, suggestions of planting evidence and lying about

cases... Fuhrman used the N-word at least three dozen times during the taped conversations made over the past ten years; he bragged about beating suspects and suggested that male officers often plant evidence. He denied planting evidence in the Simpson case, but seemed to enjoy his role in the center of controversy. "I'm the key witness in the biggest case of the century," he bragged to McKinny. "And if I go down, they lose the case. The glove is everything. Without the glove—bye, bye." I didn't read anymore. (344-345)

Based on Darden's conflicted position, there is no positive spin he can make about the tapes, which is evident by the fact that he doesn't attempt to do so. Unlike Clark, Darden offers some of Fuhrman's specific words as they turned up in the transcript. Marcia Clark didn't offer these same specifics, because, based on her position, she didn't have to; the white community wasn't clambering for the downfall of Fuhrman. Darden, in this way, is attempting to appeal to the black community; showing that he not only knows Fuhrman was a bad guy, but he is willing to offer proof that reaps no positive effects for the prosecution.

In sort of a post-script to the Fuhrman issue, Darden writes, "There are so many good cops in Los Angeles, patrol officers and detectives who had worked so hard to restore some credibility in the black community after the [Los Angeles] riots... In the notes back and forth between Marcia and me, the standard code for Fuhrman, 'MF,' took on another meaning. 'Motherfucker,' Marcia said" (350). Darden can barely hide his hatred for Fuhrman throughout his re-construction. It's interesting that, despite knowing how things would turn out and how much he hated Fuhrman, Darden would still make the effort, however begrudgingly, to defend him. This is a reflection Darden's conflicted position, in which he can't entirely defend Fuhrman or condemn him, because he is attempting to appeal to both the black community and the white community. While Darden is in spirit attempting to lessen the racial divide by way of his narrative re-construction, he is ultimately perpetuating the divide by providing a version of the Simpson narrative that does not form a consensus with the other lawyers.

Alan Dershowitz on Mark Fuhrman

Dershowitz, in comparison to Clark and Darden, quickly gets to his point, without spending too much time setting up Fuhrman's context in the case. He writes,

Clark and other prosecutors put Mark Fuhrman on the stand after having been informed that he was a racist, a liar, and a person capable of planting evidence even before they called him as a trial witness. If the [McKinny] tapes had not surfaced, the prosecutors would have attempted to destroy the credibility of the truthful good Samaritan witnesses who came forward to testify about Fuhrman's racism. Only the tapes stopped them from doing that. (44)

Racial narratives, in part, affect Dershowitz's critique of Clark.; when he points out that Clark presented Fuhrman, knowing that he was a racist, and capable of planting evidence, she was counting on the judicial system to disguise Fuhrman's overwhelming faults. The deeper implications are that the U.S. judicial system, as it is currently run, benefits the white community more than it does the black community; Dershowitz's implication is that Clark was counting on this benefit when presenting Fuhrman.

The "good Samaritan" Dershowitz refers to is Kathleen Bell; and he is half right, as Clark does attempt to destroy her credibility in her book, if not during the trial.

Dershowitz writes that Bell was "a woman who was reluctant to testify for the defense because she believed that Simpson was guilty" (171). This is an important rhetorical move in Dershowitz's re-construction, because it illustrates Bell as a witness who really didn't want to help Simpson; an interesting contradiction, with concern to Clark's re-construction.

The reason Clark and Darden's re-construction of Fuhrman is longer than Dershowitz's is because most of theirs involves their defending and rationalizing of Fuhrman's role in the case; Dershowitz, being a member of the defense, doesn't have to spend time doing this and therefore can afford to go straight to the more damning details of the Fuhrman narrative. Dershowitz is free to pile on all of the negative details that Clark And Darden either left out or vaguely acknowledged, including passages from the transcript of the audiotapes. In setting up the context of the passages he shares, Dershowitz writes, "'The blue wall of silence' is a code that forbids one policeman from testifying against another and requires policemen to

'back up' a fellow officer, even if they know he is lying... The Fuhrman tapes confirmed the existence of this mentality" (54). The following passage is a selected quote from Dershowitz's book of the audiotape transcripts; the voice in the quote Fuhrman's:

Now it's funny because guys in Internal Affairs go, Mark, you can do just about anything. Get in a bar fight. We'd love to investigate just some good ol' boy beating up a nigger in a bar. No problem, not even any marks... Just body shots. Did you ever try to find a bruise on a nigger? It is pretty tough, huh? (54)

The racial narrative of the racist LAPD officer is clearly in play in the above passage and, based on Dershowitz's position within the Simpson narrative, he benefits from the reader seeing such a bold display of racism from Fuhrman. Also on the tapes, Fuhrman talks about how the old-time officers will cover for each other; Dershowitz offers the following passage:

Why don't you give them the 77th lie detector test? You know, everybody—and a bunch of guys will laugh—old timers, you know. And then one kid will ask his partner, "What's that?" You keep

choking him out until he tells you the truth. You know, it is kind of funny. But a lot of policemen will get a kick out of it. Anyway, so you are in the shadows like that. (55)

Finally, Dershowitz presents a quote where Fuhrman discusses tampering evidence with drug-users, by turning old injection wounds on their arm into fresh needle marks:

[If] you find a mark that looks like three days ago, pick the scab. Squeeze it. Looks like serum's coming out, as if it were hours old...

That's not falsifying a report. That's putting a criminal in jail. That's being a policeman. (55)

While the above passage doesn't appear to be affected by a racial narrative, it does offer further evidence of Fuhrman as a dishonest LAPD officer. If anything is evident in the above quote it's that Fuhrman was always interested in doing his job; it just happened that doing his job coincided with his racist beliefs and, ultimately, that's what got him in trouble within the Simpson narrative. It's interesting to note that Clark and Darden read the same transcripts as Dershowitz and would have seen these quotes, among others. It's not surprising that they didn't appear in their re-constructions; I don't mean to imply that

Clark and Darden were devious or deceptive, they were simply reacting in the most logical manner, based on their position within the Simpson narrative.

Dershowitz claims that he expected the Clark and the prosecution *not* to call Fuhrman as a witness and he even claims he warned the defense team of this possible "smart move." He writes, "Marcia Clark was smart enough to know that calling Fuhrman would be playing into our hands" (64). As noted earlier in this chapter, Clark defends herself, by explaining she had no choice but to call Fuhrman as a witness, because if she didn't do it, the defense would have. Dershowitz addresses this:

Had [Fuhrman] not been called, the defense would have objected to the introduction of the glove on the ground that the "chain of custody" had been broken. But since it was not Fuhrman who actually removed the glove from the place where it was allegedly found, the prosecution probably would have been able to have its cake and eat it too by introducing the incriminating glove without calling the dangerous witness. The defense would have asked the jury to consider why this witness

had not been called, but this kind of "missing witness" argument is rarely compelling. (64)

Dershowitz's implication in the above passage is that there was a reasonable chance that the prosecution could have gotten away with keeping Fuhrman off the witness stand, if they truly believed his racist past would harm their case; Dershowitz is again alluding to the unbalanced system of justice that the prosecution expected to benefit from. Based on this allusion, Dershowitz attacks the ethics of the prosecution for putting Fuhrman on the witness stand. He writes,

Ethically, a lawyer cannot properly call a witness who he or she knows is going to lie. Marcia Clark had to know that Fuhrman was going to lie about not having used the "N" word. She had read his psychological reports, in which he explicitly used the word, had been told about his racism by another assistant district attorney, and was aware that several credible witnesses, with no axes to grind, were prepared to swear they had heard Fuhrman use the word repeatedly... I was certain that Clark was smart enough to bite the bullet and not call her expected "star"

witness in front of this jury. I was wrong. She made a mistake. She thought she could get away with calling Fuhrman, because prosecutors nearly always get away with calling cops who lie.

Juries—especially white juries—tend to believe well-spoken, all-American police officers, even when they are lying. Black juries tend to be a bit more suspicious. (65)

Dershowitz is not longer making allusions or implications, in the above passage; he is pointing directly at the racial narratives that he believed informed the prosecutions decision in putting Fuhrman on the witness stand. He essentially accuses Clark of being a part of the problem that perpetuates the white community's benefit within the judicial system, because "Juries—especially white juries—tend to believe well-spoken, all-American police officers, even when they lie." The reference to "all-American" is an allusion to white America. In the last line of the passage, where he states, "Black juries tend to be a bit more suspicious," is a direct implication to the conflicting racial narratives that informed the Simpson trial; the black community and the white community saw the Simpson narrative very differently from each other.

Dershowitz's final thoughts about Fuhrman refer directly to the issue of race and the claims the defense improperly used the "race card." He writes, "Race was irretrievably introduced into the trial when Marcia Clark embraced Mark Fuhrman *after* being told of his racism... The so-called race card was dealt by the prosecution and trumped by the defense, as the defense was obliged to do" (164-165). Dershowitz, in his re-construction of the Simpson narrative has thus portrayed the prosecution—and not the defense—as the ones who inappropriately used race in the trial. Of course, the reason Dershowitz's re-construction varies from Clark and Darden's is not simply because of the defense versus prosecution, but also because of his position with the Simpson narrative; as a white appellate lawyer on the side of the defense, Dershowitz was free to critique his white counterparts and the system of justice that normally benefits them. Because his position ultimately drew upon the sympathies of the black community, he could make his claims without having to worry about offending his audience. Dershowitz, like Clark and Darden, is ultimately perpetuating the divide, because, even though he has found a way to appeal to both the black and white

community, he has not formed a consensus with his counterparts.

Johnnie Cochran on Mark Fuhrman

The central theme that runs through Johnnie Cochran's book, informing everything about his re-construction of the Simpson narrative, is the narrative of the LAPD and its history of corruption and racist deeds. In setting up the context, Cochran writes about one his first big cases, which was defending Geronimo Pratt against charges brought against him by the LAPD. Pratt, a once prominent member of the Black Panthers, tried to tell Cochran, upon having already been convicted of crime which he didn't commit, about the corrupt nature of the LAPD and their willingness to frame black men. Cochran wasn't yet prepared to believe such a claim. After Pratt was sentenced to life in prison, despite what Cochran believed to be an effect appeal on his part, he began to thin that perhaps Pratt was right. He writes, "In the days that followed, there were rumors and whispers, glimmers of dark secrets. I had begun to learn things, though not nearly as much as I intended to know. One of us, indeed, had been living in a fantasy world. But it wasn't my client" (4). It is with this story, and the jaded epiphany he has within it, that Cochran sets up the

context of his book, which is the corrupt nature of the LAPD; this context will go on to inform his re-construction of Mark Fuhrman.

Early on, Cochran establishes the point that he was not the lawyer who first introduced race into the trial (from a narrative standpoint, race was always involved, but, in this case, he is talking about the actual subject of race and racism); it had been introduced before he joined the defense team. He writes, "[News reports] pointed out that 'sources' among Simpson's defense lawyers already had signaled their intention to try to prove that the glove recovered at Rockingham had been planted by a white LAPD officer." He goes on to write that since he had just joined the defense team "that day," the defense sources alluded to "did not include me. In fact, the source of the information concerning the possibility of a white detective—Mark Fuhrman—planting evidence at O.J.'s Rockingham home was Bob Shapiro" (249-250). Shapiro is a white man, which is interesting, because while Cochran never shies away from the subject of race, he wants to be clear on the point that he didn't initiate it.

Cochran recounts Fuhrman's involvement on the night of the murders, but does so in such a way that his re-

construction illustrates Fuhrman as being much more sinister than he appears in Clark and Darden's reconstructions. He writes,

Fuhrman, a detective assigned to the LAPD's West Los Angeles Division, had made the first thorough investigation of the murder scene, pinpointing many key items of evidence. He was unwatched and unsupervised for various periods of time during those early-morning hours... At Rockingham, it was Fuhrman, again alone, who claimed to have spotted minute traces of blood on O.J.'s white Ford Bronco, which was parked on the street... [I]t was Fuhrman who climbed the wall and admitted his colleagues, who commenced their warrantless search of the grounds. During that search, it was Fuhrman—once again utterly alone—who purported to have found a bloody glove matching the one at the murder scene in a narrow passage behind the guest house... At the very least, it was obvious that critical items of evidence seeming to link O.J. Simpson to the murders of his ex-wife and Ron Goldman had been gathered by a detective who, according to his own account, was a virulent

racist. Or perhaps he was, as the police officials who denied his disability claim seemed to believe, not really a violent racist but merely a colossal liar. (250-251)

The racial narratives of the LAPD are informing the above passage, making every detail sound utterly suspicious; in a different context, the idea of a detective finding clues by himself might not sound so queer, but when Fuhrman does it, it sounds very shady. Cochran never seems to make any absolute claims about Fuhrman's role in the case, but rather builds the case in his book, much like he did in court, trying to establish the jury may have found reasonable doubt. Cochran, in referencing the psychological reports, addresses something Clark wrote about, which was that police officials must not have believed Fuhrman was a racist since they ultimately turned down his request for early retirement. He makes the claim that Fuhrman comes out looking bad as either a "violent racist" or a "colossal liar." Either one plays into the defense's hands: If Fuhrman is a "violent racist" then he had motive to frame Simpson for murdering a white woman; if Fuhrman is a "colossal liar" then he can't be believed when

he said he didn't plant the glove—both possibilities play into the narrative of the LAPD as a corrupt institution.

Cochran does something very interesting in his reconstruction, which is addressing the issue of class and agreeing with Clark and Darden's assertion that Simpson was an un-raced "black" man. He writes "it is worth noting that [the defense] *never* believed or argued that some shadowy cabal of Los Angeles police offices set out to frame O.J. Simpson for murder because he is a black man." Cochran goes on to write, "O.J. is one of those rare figures in contemporary American life whose achievements and personal charisma transcend conventional racial categorizations. To put it bluntly, nobody thought of him as black" (273). Cochran, even after using much of his book to establish the LAPD as an organization with a racist history, doesn't put the blame on the LAPD. He writes, "None of us on O.J. Simpson's defense team believed that any of the officers who arrived at Bundy Drive the night of June 12, 1994, went there with the predetermined intention of framing our client. Nor did they sit down together later in those dark hours—or at any time—and say: 'Let's do it'" (273). Everything Cochran writes in the latter passages seems to go against his position with the Simpson

narrative—Simpson's race was supposed to matter and the LAPD was supposed to have framed him. It appears as if Cochran is simply setting the reader up for when he writes, [I]f you look carefully at the facts, then weigh them against the culture and history of the LAPD and the district attorney's office, as well as against the political climate in which they were then operating, another possibility presents itself. What happened that night and over the succeeding days resulted from the unplanned interaction of the sloth, carelessness, incompetence, dishonesty, bias, and ambition of the police and prosecutorial authorities involved. (273)

The difference is subtle, but clear: The LAPD, it's officers, and the political climate of Los Angeles, were all being affected, as they always are, by racial narratives and for this reason, even when they did not consciously do so, these elements unconsciously conspired to frame Simpson. These elements may have remained dormant, it is implied by Cochran, were it not for Fuhrman's role in igniting all of the combustible variables. Cochran writes,

Detective Mark Fuhrman was something else entirely. He was not incompetent nor slothful; he was neither careless nor misguided. He was a living remnant of the LAPD's dark past, an active, vocal, hate-filled bigot whose violent—even murderous—impulses were, by his own account, barely under control... The more my talented colleagues on O.J.'s defense team analyzed the evidence, the more I became convinced that all these personalities and forces—both historical and political—had combined to put our client in the dock. There had been no concerted plan. But the criminalists' ignorance and incompetence, the detectives' habitual sloth and deceit, Fuhrman's racism, and the prosecutors' ambitions had come together with terrible effect. (275-276)

Cochran points to the racial narratives—both historical and political—that are affected the Simpson case; and he points to Fuhrman as the detective who embodies the racist history of the LAPD's "dark past." Cochran seems to imply that there was no grand conspiracy being played out as a part of a concerted plan; the conspiracy was inherent in the society and in the system, the conspiracy exists always

beneath the surface, never far away, always close enough to rear it's ugly head when an opportunity, such as the murder investigation of Brown and Goldman, should make itself available; the conspiracy moved beyond the investigation and into the trial, where it was thought that Fuhrman could participate without incident; just incase anyone were to take issue with Fuhrman, Darden was asked to join the prosecution.

Cochran addresses what he believed to be a clear case of exploitation on the part of the district attorney's office when they assigned Darden to help prosecute Simpson. He writes,

[A]s the evidence mounted that Mark Fuhrman was poison, I became increasingly uneasy about the role into which I thought the district attorney's office was trying to thrust Chris Darden. He may have been willfully confused and insufficiently in control of his emotions. But on a purely human level, he did not deserve to have people he trusted play upon his sense of loyalty and use him to launder the testimony of this despicable false witness. (291)

Cochran's position with the Simpson narrative, as a black man on the defense team, gives him an authority, not shared by Dershowitz, to voice a concern about how Darden was being positioned within the trial. Cochran addresses the accusation that a black voice, such as Darden's, could validate Fuhrman, it could "launder the testimony of this despicable false witness." Essentially, whether or not he was truly concerned for Darden, Cochran is alluding to the hypocrisy of the "race card," the claim that the prosecution initiated. Beyond that, Cochran is also reconstructing Darden as a lawyer who was "willfully confused" and "insufficiently in control of his emotions." The latter hearkens to what Morrison said, when she wrote, "it is the absence of a rational analysis of behavior that is so disturbing in the O.J. Simpson case. Given the propensity to ascribe irrationality to black behavior" (xii). Whether or not Cochran intended this last implication doesn't change the implication that Darden was an irrational black man.

While Cochran's position within the Simpson narrative allows him to critique Darden, as one black man to another, he appeared to have stepped out of his boundaries when he touched on the narrative of Adolph Hitler, by comparing him

to Fuhrman. Cochran made the remark during his closing argument:

There was another man not too long ago in the world who had those same views [as Mark Fuhrman], who wanted to burn people, who had racist views and ultimately had power over the people in his country. People didn't care. People said, "He's just crazy. He's just a half-baked painter." They didn't do anything about it. This man, this scourge—became one of the worst people in the history of this world. Adolf Hitler. Because people didn't care, or they didn't try to stop him. (348)

Whatever Cochran's intentions were, his position with the Simpson narrative and the racial narrative that surrounded it didn't allow for him to speak so intimately on such a subject, because it is the white community that is most connected to the narrative of Hitler; the same white community that Cochran was in direct opposition with as Simpson's defense attorney. Ultimately, Cochran's allusion wasn't well received. Because he was criticized about these remarks, along with the accusations that he played the "race card," Cochran addresses the issue:

In connection with this "race card" question, I also have to say something about the incident that was, for me, the most painful of the entire trial. That was the accusation that by comparing Mark Fuhrman to Adolf Hitler in my final argument, I trivialized the *Shoah* or Holocaust. I never intended to suggest that Fuhrman's perjury was morally—or in any sense—comparable to the genocidal crimes of the Third Reich... I never suggested nor do I believe...that Fuhrman and Hitler were the same... But I do continue to believe that the authoritarian impulse that lurks in the Mark Fuhrmans in our police forces is essentially totalitarian. If it is allowed to flourish unchecked by decent people, it can eventually grow to proportions of Hitlerian horror. (363)

Within his apology, Cochran alludes to the racial narrative that informed his book, which is that of the LAPD. While he is apologizing, he also manages to reinforce the point that he was criticized for making; which is to say, he is restating the point for which is simultaneously apologizing

for. In this way, Cochran reasserts his claim that Fuhrman is, at least in part, relatable to Hitler.

Ultimately, like Darden, Clark and Dershowitz, Cochran has perpetuated the divide amongst the lawyers who have each tried to wield their authority in an effort to reconstruct what they believed to be the definitive grand narrative of the Simpson trial. A big part of that divide is Cochran's strong opinion of the LAPD; his views will never be in total synch with prosecutors, such as Clark and Darden, though they will almost always be on par with defense attorneys, such as Dershowitz. This speaks to the state of race relations in America, in so far as racial narratives affect everything we say and do; Clark, Darden, Dershowitz and Cochran have each contributed the Simpson narrative, but the ever-circulating racial narratives have affected all their contributions. Because these, and other, re-constructions of the grand narrative of the Simpson trial will always be affected by racial narratives, the divide amongst consensus will never be resolved.

CHAPTER FIVE

CONCLUSION

After looking at the re-construction of Mark Fuhrman in *Without a Doubt*, *In Contempt*, *Reasonable Doubts* and *Journey to Justice*, one thing becomes perfectly clear: nothing about the Simpson case is perfectly clear. The Simpson case, like so many other "realities," has come down to a collection of narratives; and even those narrators who we presume to have authority over the subject can't agree on what "really" happened, especially since their points of view will always vary based on their position within the trial and the racial narratives that informed the trial. In a contribution to *Law's Stories*, Robert A. Ferguson writes:

[T]he competition in storytelling caters to the lowest common denominator... What are the appropriate standards in an artful presentation? Where does the legal requirement of the "whole truth" meet the dictates of a believable story? Is the best story necessarily the truthful one? What sacrifices in detail can be made in a truthful story to make it more generically appealing? How do we evaluate the presumed

integrity of the storyteller when we must acknowledge that crafting a story involves certain made-up components? And what of the many audiences that listen to a trial? What choices can and should be made between them by the storyteller who would be heard? (85)

Clark, Darden, Cochran and Dershowitz don't tell the "whole truth" in their books; not that they lied necessarily, but they certainly don't offer everything they know about the Simpson case. The choices they make in what to include and what to withhold isn't always made on a conscious level.

Writes Lyotard, "As long as the game is not a game of perfect information, the advantage will be with the player who has knowledge and can obtain information" (51). It seems that this is exactly the dilemma with trying to acquire truth in the Simpson narrative; all of the players have knowledge, so the advantage lay with all of them, and all of their knowledge is inherently flawed, which is reflected in their narrative re-constructions.

As with any other aspect of the Simpson narrative, the issue of Mark Fuhrman and his role in the case cannot be viewed as simply one part of the big picture; the issue of Mark Fuhrman is ultimately the issue of race--and race

permeates at all levels of the Simpson narrative. Removing Mark Fuhrman from the trial wouldn't remove the issue of race from the Simpson narrative; however, putting the spotlight on Fuhrman creates a convenient starting point for beginning a discussion of race in the Simpson narrative. Hunt offers his thoughts on the totality of the Simpson narrative, when he writes:

[L]ike the proverbial earthquake or falling brick, the O.J. Simpson murder case, too, cannot be understood "outside any discursive condition of emergence." That is, the case was not (and can never be) about *just* the physical act of murder, or Simpson's material status as innocent or guilty. The Simpson case ultimately became the media event it did because of the important narrative elements it possessed. (50)

The important narrative elements Hunt is referring to are the racial narratives that informed the trial; the same racial narratives that affected the narrative reconstructions offered by Clark, Darden, Cochran and Dershowitz, all of whom failed to reach a consensus with regard to the grand narrative of the Simpson trial.

What is to be done if there is no consensus to be found among the narrators who are narrating the same narrative? What is there to be said about the rhetorical moves a narrator makes, when his/her move is intended to counteract the move of another narrator telling the same story? Lyotard writes,

The stronger the "move," the more likely it is to be denied the minimum consensus, precisely because it changes the rules of the game upon which consensus had been based... Such behavior is terrorist... By terror I mean the efficiency gained by eliminating, or threatening to eliminate, a player from the language game one shares with him. He is silenced or consents, not because he has been refuted, but because his ability to participate has been threatened... (63-64)

In a sense, all four "players" are behaving as "terrorists" in the narrative "game." Throughout their books, knowingly or not, each author is effecting the Simpson narrative by "threatening to eliminate" one (or more) of the other authors from their authoritative role as narrator(s); when one author writes something that is in direct competition

with what another author writes, then it creates the perception that one of them must be right and one of them must be wrong. But, when the audience doesn't have access to the same knowledge that the narrators have, they can't ever really know who is right or wrong—or who is telling the truth.

I don't for one moment doubt that Marcia Clark and Christopher Darden truly believed, with all their hearts, that O.J. Simpson murdered Nicole Brown and Ronald Goldman; I don't for one moment doubt that Johnnie Cochran truly believed that O.J. Simpson was innocent; and I don't for one moment doubt that Alan Dershowitz truly believed that O.J. Simpson's acquittal was the right verdict, even if Simpson ultimately was the murderer. I don't doubt these things because each author/lawyer has effectively re-constructed the Simpson narrative through their individual points-of-view. Are they telling the truth? I don't know. But, that's the point of narratives: they take the place of truth and instead offer "truth." What I do know is that none of their narrative re-constructions did anything to reconcile the racial division in America; if anything at all, intentionally or otherwise, what they did was widen the racial divide. They ultimately made a contribution to

the perpetuation of the social division between black and white in America.

What makes the Simpson trial important--the reason that it matters--is that it offered a forum where everybody could in some way participate in the discourse of race. A lot of people have a lot of feelings about race, but they don't often talk about them. Not talking about them doesn't mean that they shouldn't be talked about and, more importantly, it doesn't mean that people *don't* want to talk about them. America needed something to facilitate the conversation, something so big, so sweeping that nobody could ignore it--and the murder trial of O.J. Simpson provided exactly that.

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