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**A TALE OF TWO DEFENSE ATTORNEYS: USING
THE FILMS “JAGGED EDGE” AND “SUSPECT” TO
TEACH LESSONS IN ETHICS, GENDER ROLES AND
TRIAL PROCEDURE IN A LAW CLASS**

by

Sharlene A. McEvoy*

INTRODUCTION

Twenty-first century students are a media-oriented group accustomed to gaining information from sources other than books, magazines, journals, and newspapers. Many college professors therefore attempt to engage student interest by using media to teach important concepts.

One of the most challenging subjects to instruct is law because it has a particular argot that is unfamiliar to those outside of the legal profession. The use of film provides an avenue to engage students in not only learning legal terms but in providing a springboard for classroom discussion.

This paper discusses the use of two films that can aid students in learning a variety of legal and ethical concepts as well as to foster a debate about gender roles in the legal profession: “Jagged Edge”¹ and “Suspect”.²

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Synopsis of “Jagged Edge”

Recently divorced Teddy Barnes (Glenn Close) is a former prosecutor who now practices at a large San Francisco, California law firm. Driven from her job by a guilty conscience over failing to disclose exculpatory evidence about the innocence of a criminal defendant, Henry Styles, who hanged himself while in prison, she has vowed not to undertake any more criminal cases. John C. “Jack” Forrester (Jeff Bridges) has been accused of murdering his wife Paige, a wealthy newspaper owner and her maid in a particular brutal fashion. Forrester insists that Teddy represent him not only because she is a woman but also because of her stellar reputation as a trial attorney.

Reluctant at first, but prodded by the bosses at her law firm, Teddy agrees and engages a private investigator Sam Ransome, (Robert Loggia) to look into the case. Coincidentally, the prosecutor Tom Krasny (Peter Coyote) was involved in the mishandling of the information and the subsequent cover-up in the Syles case.

Both Teddy and the politically ambitious Krasny square off in the courtroom drama that ultimately leads to Forrester being found “not guilty” despite lingering doubts about whether he is really innocent.

Synopsis of “Suspect”

Kathleen Riley (a surprisingly effective Cher) occupies a legal position at the other end of the spectrum from Teddy Barnes. Kathleen plays a single, overworked public defender in Washington D.C. who is also reluctant to take on a client Carl Wayne Anderson, (Liam Neeson in an early role). Anderson, unlike the wealthy and polished Jack Forrester, is a handicapped homeless veteran who is forced to survive by

breaking into parked cars to find a warm place to sleep.

Unlike Teddy Barnes who has an investigator to help her unearth information to support her case, Cher has very little help in her effort to exonerate her client, who stubbornly refuses to communicate with her until she learns that he is unable to speak or hear and can only explain what has happened in writing.

Kathleen seeks to obtain a continuance in the case so she can take a much needed vacation. She wants more time to find more information about how Elizabeth Rose Quinn, a government employee from the Justice Department, was murdered and why a potential witness had his throat cut. She gets no sympathy from Judge Matthew Helms (John Mahoney) or prosecutor Charlie Stella (Joe Montegna).

Like Jack Forrester, Carl Wayne Anderson's trial ends with his being freed but the result has nothing to do with Kathleen's courtroom skills.

ETHICAL ISSUES

Both films were produced in the 1980s at a time when women were just beginning to enter the legal profession in large numbers. However, both lawyers display ethical lapses that raise serious questions about their professional judgment. Teddy Barnes embarks on a sexual relationship with her client during the trial, despite the fact that the Rules of Professional Conduct for lawyers proscribe such conduct.³ Trial testimony reveals that Forrester had also had a sexual relationship with his wife's friend, under circumstances similar to those with Teddy. Horseback riding was said to be his method of seduction.

While Kathleen Riley is not in love with Carl Anderson, she becomes involved with one of the jurors; a lobbyist for the dairy industry, Eddie Sanger (Dennis Quaid)

who is not above seducing a member of Congress to get a favorable vote on a bill. Sanger repeatedly gives covert help to Kathleen during the trial through anonymous telephone calls and not-so-chance meetings. Kathleen should have reported this activity to the judge so that a mistrial could have been declared, but she does nothing even though the judge has glimpsed her in Sanger's company and has threatened to charge her with professional misconduct.

Students can be asked to evaluate each lawyer's conduct. Should they have withdrawn from representing their clients? Was the well-being of the defendants compromised by their behavior? By becoming involved romantically with Jack Forrester did not Teddy become more invested in getting him exonerated? Similarly, Kathleen was trying to do her best under difficult circumstance to free her client. Wasn't Sanger just trying to be helpful by suggesting that Kathleen determine whether Anderson was left or right handed, finding the key to the file cabinet, and the cuff link? Was it not her job to free her client even if the means to do so was questionable? She did not solicit Sanger's help and tried to discourage him by telling him to leave her alone.

CONTACT WITH THE JUDGE

During the trial as Teddy begins doubt Forrester's innocence, she meets with Judge Clark Kerrigan (John Dehner) to discuss withdrawing from the case.

She had told Forrester that she would take the case on one condition: that she would drop out if she found out that he was guilty. When Teddy is shaken by testimony from Eileen Avery that she and Forrester had a six month affair, she vows to drop the case.

Teddy poses a hypothetical to the judge who admonishes her about her ethical obligation to her client but says if a lawyer wants to drop out of a case, a judge would

have to accede to the attorney's wishes

According to the Rules of Professional Conduct, "A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation". Teddy had a duty to consult the judge to determine if he would entertain her request to step down from the case. At this point in the trial the judge would have to consider if Forrester's right to a fair trial would be prejudiced by allowing Teddy to drop out.⁴

Kathleen Riley seeks out Judge Helms not to inform him of juror Sanger's improper conduct⁵ as she had told Sanger she should do and get him thrown off the jury. Instead Kathleen goes to Judge Helms' house and says that she has evidence that she believes will exonerate her client. She then abruptly changes her mind and says she will introduce the evidence in court. Judge Helms charges that her behavior is erratic and borders on professional misconduct.

By visiting the judge's house did Kathleen violate a rule of professional conduct that states:

"A lawyer shall not communicate ex parte with (a judge) during the proceeding unless authorized to do so by law or court order"⁶

Certainly the prosecutor, Charlie Stella should have been involved in any meeting with the defense attorney and the judge.

Judge Helms had long been suspicious that Riley had been in contact with a juror. He noticed Sanger near her car shortly after the trial began and later spotted them in the law library.

The judge summoned her to his chambers and asked, “Have you had contact with a juror on this trial? Kathleen replied, “No”, lying to the judge.

He says “If I find any evidence of collusion, I will have you disbarred and charged with jury tampering.”

Should Kathleen have admitted that she had spoken to Sanger and then have asked to be removed from the case?

Kathleen told Sanger that she would do anything to help her client because she was “his only chance”. Was it a breach of ethics to lie or did she have her client’s best interests in mind?

The Rules of Professional Conduct require that a lawyer shall not knowingly “make a false statement of fact or law to a tribunal (read judge) or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.”⁷

COURTROOM STRATEGY

Teddy Barnes makes a brief opening statement “John C. Forrester did not kill his wife or her maid. He is an innocent man, unjustly accused.” Was this an effective opening gambit?

Students should pay attention to the cross examination of Virginia Howell and Anthony Fabrizi and the nature of the objections raised.

Fabrizi claims that he saw a hunting knife with a jagged edge in Forrester’s locker Number 122 but another witness, Duane Bendix claims to have had such a knife in his locker: 222.

Students should note how persistent Teddy is in asking Anthony Fabrizi if it is not possible that the knife he identified with a jagged edge was not in Jack Forrester’s locker but in the locker with a similar number? Eventually Fabrizi, flustered by the persistent questioning, admits that it is possible that it was

not Forrester's knife, significantly undermining the prosecution's case.

The students should also note Teddy's instructions to Forrester about his pre-trial behavior, namely that he not be seen in public having a good time that he be viewed as a grieving widower. She also instructs him to wear a blue suit and to help her carry her briefcase into court as part of the positive impression to be left on the jury.

The instructor should note that Krasny's team had a woman attorney and Teddy worked with a younger man.

In "Suspect", Carl Wayne Anderson's appearance at the arraignment as a shaggy haired, bearded man with unkept clothing is a far cry from the person who appears at trial. He wears a brown suit and tie. His hair is cut short and he has no beard. Students should be asked about whether had he appeared at trial in his original condition, a jury have been more likely to convict him.

The instructor should also call the class's attention to the fact that in "Suspect", the title of the case is United States v. Carl Wayne Anderson because the crime occurred in Washington D.C. where murder charge is tried in federal court.

USING THE MOVIES IN CLASS

The instructor can end the film when the jury's verdict is announced in People v. John C. Forrester since the focus of the class is on legal procedure.

The instructor might ask students to consider the comment Teddy Barnes makes to Forrester when he asks her:

How can you continue to defend me if you think I'm guilty?

Teddy replies: "It happens all the time. It's the

legal system.”

The students should be asked if the legal process should be a search for truth as opposed to just about getting a client exonerated.

Students should also consider whether prosecutor Krasny behaved unethically when he did not disclose to the defense that Julie Jensen had suffered a fate similar to Paige Forrester eighteen months earlier. Teddy had found out about Jensen due to an anonymous tip but Krasny admitted in the presence of the judge in chambers that he had pulled the police report. Students should be asked to consider if Krasny’s pattern of unethical behavior first, in withholding information in the Styles case, and second in Forrester’s case, should be a reason for him to resign as prosecutor and face additional punishment. Krasny’s conduct clearly violates the ethical canon that;

A lawyer shall not:

1. Unlawfully obstruct another party’s access to evidence or unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act.⁸

When Krasny was Barnes’ supervisor in the district attorney’s office, she went along with the scheme to conceal the evidence that would have exonerated Henry Styles.

The instructor should point out that Krasny’s surprise witness Eileen Avery was not on the witness list. When Teddy protested in a sidebar with the judge and Krasny, she complained that this was the kind of stunt she had warned about in chambers.

Krasny claimed that Avery had agreed to testify only at the last minute as a result of a subpoena which he produced to the court. Teddy was unprepared for Avery's bombshell testimony and did not cross-examine her.

Students should be asked if this was the turning point of the case or did that come later when Sam Ransome uncovered additional information implicating tennis pro Bobby Slade.

The instructor should remind students that Teddy first had faith that Forrester was innocent then believed that he was guilty, and then believed that he was not. They should be asked what information Teddy had at each point.

Students should analyze Teddy's cross-examination of Bobby Slade. Did she goad him into calling her the name that appeared written in blood on the headboard of the victims? Did his menacing conduct in the parking garage cement his place as the prime suspect in the murders?

Kathleen Riley faces far different challenging in representing her client. Since Carl Anderson is deaf and dumb, she can only communicate with him by asking him questions by writing on the blackboard.

When she asks her boss, Morty for investigative help he says that he will scrounge up some money, then asks if this potential witness, Michael John Guthridge, is a figment of her client's imagination.

When Guthridge cannot be found, Kathleen asks Judge Helms for a continuance which he denies. Do the students think that the judge should have granted the delay?

She pleads with the judge that she cannot present an effective defense without the witness. The judge debunks her argument questioning whether Michael could be found and if he were, whether his testimony would have any value.

Judge Helms is unsympathetic to all of Kathleen's pleas during the trial. Students should be asked to view the movie

and carefully evaluate the respective demeanors of Clark Karrigan and Mathew Helms.

The instructor should ask students to examine how many objections were sustained and overruled and which side – prosecution or defense had the edge. Did Judge Karrigan rule more even-handedly than Judge Helms?

Ask the students to count the objections sustained and overruled by Judge Helms as well as other comments he made. Do the students detect an animus toward Kathleen and her client? Do the students think that Helm’s attitude was based on discrimination because Kathleen was a woman?

Unlike “Jagged Edge”, “Suspect” partially depicts the voir dire or jury selection process. Students should be asked about the questions Kathleen Riley poses to the bank loan officer and how his responses prompted Riley to use one of her peremptory challenges. Why would she want the bank employee dismissed as a juror? Students should also be asked about Sanger’s response to the prosecutor’s question about capital punishment and the judge’s curious instruction to the jury about the death penalty.

While both movies offer only fleeting shots of the juries, students should be asked to look closely at the make-up of both panels to determine, how many men and woman and how many minorities were involved.

In “Suspect”, the judge ordered the jury sequestered stating that he believed that counsel had had contact with the jurors. Was it done too late in the trial to affect the jury’s verdict?

Students should consider carefully the opening statements. Who was the more effective? Prosecutor Stella gives a brief portrait of Elizabeth Rose Quinn, the victim, and describes her murder in graphic terms and how the only thing

stolen was nine dollars.

Kathleen focused on personal qualities of Carl Anderson, how he was a veteran who fought for his country and fell on hard times after suffering from meningitis. Students should be asked which opening statement influenced them the most.

Riley says Carl Wayne Anderson was not a hardworking citizen. “He is the American nightmare”. Was it fair to cite his service in Vietnam? She says nine dollars, in Carl Anderson’s world, is the difference between eating and starving to death? Was defense counsel using the right approach by preempting the prosecution’s criticism of the defendant?

Students should look carefully at the direct and cross-examination of the doctor who examined the victim’s fatal throat wound. Did Kathleen effectively undermine the witness’s direct testimony? Judge Helms criticized her cross-examination for being weak. Do the students agree with that assessment?

Should Kathleen Riley have permitted her client to testify since he was forced to use a computer to respond to questions? His taking the stand focused the jury’s attention on the fact that his handcuffs had to be removed which would have told them that he must have become disruptive when they were out of the courtroom.

Students should be asked to consider if Carl Anderson did not testify would the jury have regarded him less favorably as unwilling to tell his story to them. Did his testimony help or hurt his case? Did the prosecutor’s cutting cross-examination score points in portraying Anderson as violent? In the wake of his testimony, would the students vote “guilty” or “not guilty”? How do students view the fact that Jack Forrester did not testify at his trial?

CONCLUSION

The most effective use of the movie “Suspect” is to stop the showing at the point the jurors are sequestered. The students should base their assessment of the case as presented up to that point. The students should be asked to decide the case. If the class votes “guilty” ask what part of the prosecutor’s case swayed the group to that decision. If “not guilty” ask if that verdict was based on the opening statements and examination of witnesses.

Students should be asked to evaluate Kathleen Riley’s effectiveness as a defense attorney – What did she do right and what went wrong?

In “Jagged Edge”, the instructor should stop the film at the point where Teddy and Jack Forrester are waiting for the jury to reach its verdict. How do the students evaluate the case? Which side presented the stronger evidence? If the students were jurors, would they vote “guilty” or “not guilty” and why?

In neither case, should the class be shown the entire movie. The students should focus on the legal issues and the quality of the representation given to both defendants.

Finally, the students should be asked: Who is the better defense counsel? Teddy Barnes or Kathleen Riley?

If the students were accused of a crime, which lawyer would they want standing beside them? Or maybe the students would decide that they would rather be represented by a lawyer who more closely follows the rules of professional conduct.

¹ Columbia Pictures 1985. Directed by Richard Marquand.
108 minutes

² Tri Star Pictures 1989. Directed by Peter Yates.

³ See for example Conn Rules of Professional Conduct, Rule 1.8(j) Conflict of Interest: Prohibited Transactions, Jan 1, 2007 http://www.aw.cornell.edu/ethics/ct/code/CT_CODE.HTM#Rule_4.1

⁴ Id. See for eg 1.16(c) Declining or Terminating Representation.

⁵ Id. See Conn Rules of Professional Conduct Rule 3.3(e) Candor Toward the Tribunal:

“When prior to judgement, a lawyer becomes aware of discussion or conduct by a juror which violates the trial court’s instructions to the jury, the lawyer shall promptly report that discussion or conduct to the trial judge.”

⁶ Id. See Rule 3.5(2) Impartiality and Decorum.

⁷ Id. See Rule 3.3(1) Candor Toward Tribunal.

⁸ Id. See for eg Rule 3.4(1) Fairness to Opposing Party and Counsel.