

Joe is on time for his appointment. He carries a huge bag, like a trip-to-China bag, which is stuffed full and must be heavy as shit. Joe is a big strong guy, but even he labors under the weight. He slips the bag off his shoulder and lets it drop to my hardwood floor. The bag is outfitted with metal hardware, but my I betray no expression. I am Mount Rushmore face.

“Fuck that’s heavy,” he says. I nod and say nothing. I have taken Joe’s case ‘on assignment’, which means Joe is not paying me. I have allowed Yale County to assign me. Yale County pays me. It’s a cut rate, only about a third of what I normally charge. But last year the State Bar made pro bono work a requirement and not just a suggestion. I read the fine print and discovered that reduced-fee criminal work will qualify. I was a prosecutor when I first got out of law school. There’s not much to criminal work. Criminal work is easy, especially for a guy like me, a guy who reads the fine print.

Joe sits in the black chair opposite my desk. There are two chairs – one is black, one is blue. Black and blue – the colors of pain because that’s what the people who see me are in. Pain. I’m not some pussy-ass real estate lawyer, no title searches here, no draft-a-will. I’m a litigator. I deal in conflict. I stand up in court and object and argue; I wheedle and cajole. I stand now and introduce myself and Joe shakes my hand. He has a powerhouse grip and holds my hand longer than he should. As we shake I lean over my desk to see if the bag scratched the floor; I can’t tell. Finally, the handshake ends and we sit down.

“So what’s in the bag,” I ask.

“My whole life’s in the fucking bag,” Joe says. “Everything I could grab before the cops made me leave. I want to know,” Joe looks seriously at me, as if his life depends on it, “what you’re going to do about it.”

“What do you want me to do?”

“It’s all bullshit,” he says, “all lies. I want to sue the police. And Phoebe. I want to sue Phoebe. I want her arrested.”

“I should arrest your girlfriend?”

Joe looks at me like I’m not on his side. “Are you gonna help me?”

“I have a professional responsibility to help you.”

“Like you took an oath.” Joe laughs like it’s a joke. Joe has a stupid laugh.

“Exactly,” I nod. “I took an oath.”

“Bullshit.”

I don't say anything. I just stare at Joe. Joe has the eyes of a milk snake and hasn't shaved in a week and his hair is pulled back in a ponytail. It's all there though, his hair, but it's turning gray. Joe doesn't say anything either, just stares back. He's probably too angry to see me. But if he can see me he sees blue eyes and tight clear skin and blonde hair made blonder by the sun; I look like a goddam movie star. Not to mention my snow-white shirt and silk tie.

“What are you gonna do then?” Joe has talked first. I am so happy. I take a deep breath and hold it and then exhale slowly. “Well Joe,” I begin my prepared speech, “I intend to defend you and protect your rights under the United States Constitution. I intend to file a written demand for discovery, to file pre-trial motions and have hearings on those motions, to file motions in limine, to voir dire the jury, to confront and cross-examine witnesses, to move for a directed verdict, to deliver a crackerjack closing statement, to poll the jury if it comes to that, to file a notice of appeal if necessary and prosecute the appeal on your behalf, all the way to the United States Supreme Court.”

Joe does not want to be impressed but Joe is impressed. “Damn,” he shakes his head. “I thought you were a free lawyer. They said my case was ‘on consignment.’

“On assignment.” I do not laugh at Joe. My face is as serious as can be. I'm rather proud of my speech and my delivery of it. I have, as they say, nailed it.

“Assignment,” I repeat. “I am assigned by the county. I am free to you. The county pays me.”

Joe is glum all of a sudden. “I'm not some deadbeat, you know. I paid her tuition, you know, Phoebe. Her tuition. Did you know that?” He brightens. “You need any work done? I'm a contractor. I just get my tools out of the car, it's my car anyway you know. Anything. Kitchen remodel. Cabinets. Granite countertops. Cork floor.”

I tell him I have all the kitchen I need.

“Or collections. I used to work collections. Pen registers. Skip tracing. Pay a guy a visit. You got any outstanding judgments?” Joe seems proud to know some of the lingo.

“I'll keep you in mind.”

The next time I see Joe is at court for the arraignment. In the meantime I have done nothing on his case. What is there to do? There is nothing to do. It's a garden variety domestic violence case. Phoebe, the girlfriend and victim, refused medical treatment so it's only a misdemeanor. Still, they have a child in common and she will no doubt use this as leverage in the custody case, which she initiated the day after Joe was arrested. Joe's got a different free lawyer on the custody case. My generosity only goes so far. I don't do family court for free.

Joe is a nervous guy who likes to run his mouth. But he likes me and therefore takes my advice and keeps his mouth shut. Big loud guys like Joe – you need to break those cocksuckers in two at the first opportunity. Hence the spiel at the first meeting. Joe is now in line and I can breathe easy. After court we're outside standing next to my car. Joe looks at my car.

"I used to drive a BWM," he says.

"Is that right?" I am waiting for Joe to thank me and leave. I hope he doesn't ask me for a ride. I am creating reasons why I can't give him a ride, deciding which one to choose.

"You almost need a second one just for the parts, am I right?" He laughs his stupid laugh. I can't stand Joe. "I wouldn't have one again," he says.

"You took the bus here right?" I check my watch. When I look up I am startled because I see a thin black blade.

"See this?" Joe says. I lean back and pull focus and realize that it is only a pen. "I want you to have this." He hands me the pen and I take it. It is difficult to resist when a thing is handed to you, even a thing you do not want. Ask any process server. The pen is solid and has legitimate heft.

"That's a thousand dollar pen," Joe tells me.

"I'm already paid Joe. Like I told you."

"No I want you to have it. It's a token of good faith."

"I don't know what that means. Good faith of what?" I hand the pen back to Joe but he does not take it. Joe is good at not taking what is handed to him. I persist however. "Joe, take the pen. It's improper for me to accept this." Joe walks backward away from me, facing me. He holds both hands up, palms so I can see them.

“Mont blanc,” he says. “I’ve had that pen for years. It has signed many important documents.” Then he spins and jogs lightly away. He’s nimble, I think, for such a big guy.

When I get back to my office I put the pen in a drawer but I do not forget about it, not right away. I write on Joe’s file ‘pen in top left drawer/return to client/disclose payment’. Then I forget about it. But not a week goes by and Joe calls to see how the case is going. What have I done on the case? I’ll tell you what I’ve done on the case. Nothing. Because there is nothing to do. He asks about the pen.

“I haven’t used the pen,” I say.

“Oh you gotta try it,” he says. “Try it.”

“Joe.”

“Try it right now. Seriously.” He laughs. You know how I feel about that laugh.

“Did you get your stuff?” I ask, which is a mistake on my part because it is not my job to help him get his stuff, not technically. I’d do it for a paying client of course. The judge – in case you want to know – has ordered Joe to stay away from Phoebe. Joe, however, still has personal belongings at her (once their) apartment. And tools in the trunk of her car. And there is an issue about whether the car is hers or his.

“No I didn’t get my stuff,” Joe says. His voice is triumphant. This is the real reason he has called, to get me to ask this very question. He goes on and on, in great detail. The asshole cop this, the fuckhead judge that. Etcetera, etcetera. I asked for it.

“Okay Joe,” I say. “I’ll make some calls.”

I make some calls and fix the problem. Joe gets his nail gun and power drill and circular saw and whatnot, not to mention his stereo (Joe still has a stereo) and CD collection (likewise). He calls to tell me all about it. Then he asks what I’ve done on the case. You know what I’ve done on his case? I have done nothing on his case. But this time I need to tell him something.

“Joe,” I say, “I am allowing tempers to subside.”

“What’s that mean?”

“Give it time Joe.” I can hear him breathing on the other end. Then he starts in. The usual rant. I set the phone down and decide – on a whim – to try that pen. I

take it from the drawer and pull the cap. The tip is like a calligraphy pen, like a pen from the 18th century. I wonder if I need an inkwell. I try to write my name on the back of an envelope. The pen scratches along like a rake on blacktop; I cringe and shiver.

“JOE,” I interrupt “Your pen doesn’t work.”

“What?” he sounds confused.

“That pen you gave me. The fancy pen. Doesn’t work.”

“Oh,” he says, “the ink might be clogged. Might need a new cartridge.”

“Thousand dollar pen Joe? A thousand dollars? Really? And do me a favor Joe. Leave the lawyer part to me.” I hang up the phone. Joe immediately calls back but I let it go to voice mail. This process repeats itself. Many times.

The next day when I come in I find an envelope has been slid under my door. In it is a package of ink cartridges and a note. The note is part apology and part advice on how to get the most out of my pen. These are Joe’s actual words: ‘this is how to get the most out of your pen’. Like he’s the president of Mont Blanc. I follow Joe’s advice. I should be working (different case, not Joe’s), but I’m interested now in the pen. I want the pen to work.

I break down the pen, remove the old cartridge, jab it with a pin to unclog it, bang it on my desk, blow on it, reinsert the cartridge. I have high hopes as I start to write my name. A dull scratching. I put the tip in a jar of water. Try again. A wet dull scratching. I remove the old cartridge and try a new one. Go through the steps. The best I achieve is a watery trail of ink, which smears and bleeds through the paper. Jesus Joe and Mary. What a fucking loser is Joe. Joe is losing at life. I return the pen to the top left drawer and focus on the other case. I focus on not being a loser like Joe.

Another month goes by. What have I done on Joe’s case? I have negotiated a favorable plea bargain offer. Extremely favorable. Joe does a little anger management, all charges will be dismissed. Moreover, the counseling will help Joe in his custody case. I congratulate myself for having done nothing, but on purpose. Tactical nothingness, I like to call it. I should teach a class at the local law school. I decide to call Joe and give him the good news.

“Anger management?” he says. “That’s bullshit. I’m not taking that. This should have been dismissed by now. Anger management,” he repeats, “what is that supposed to mean?”

I explain it as if he’s actually asking, as if he’s not simply being an ingrate and an asshole. “Besides,” I say, “it will help on the custody case.”

“Oh right,” he says. “I need the pen.”

“What?”

“The custody case. I have court tomorrow morning. I might need to sign something. So I need my pen back.” I can’t stand Joe, his stupid laugh, his ungrateful attitude.

“You gave the pen to me,” I remind him. Joe should learn a lesson I think, a lesson about promises.

“You said you didn’t want it,” Joe says.

“Regardless.”

“You said you were paid by the county. That it was improper for you to take the pen.”

“I never said that.”

“But you took it anyway. Then you complained that it didn’t work.”

“Well it didn’t.”

“So I bought you new cartridges.”

“And those didn’t work either,” I say.

“So you did try them. You’re using the pen. I guess that’s some kind of ethics violation. To take something of value when you’re paid by a public entity. Double dipping. I looked it up.”

“You’re an expert on legal ethics now? Is that it?”

“Your decision was made on the case when you decided to keep the pen and hang up on me. The deal was, win the case, and the pen is yours. Consider yourself well paid.”

I stare at the black chair and the blue chair. I know what's going on here. Joe is trying to share his pain with me, spread it around, diffuse it. I know better than to engage him further. Nevertheless, I engage him further. "Is this a joke?" I say. "Is this a fucking joke?" I have cursed. I am fucking this up.

"The only joke is how little you've done on my case. You never got the 911 tapes. You never called my character witnesses. You never investigated Phoebe's mother."

I stare at the phone in disbelief.

Joe continues, "You took the job when I handed you a \$1000 pen. The pen is yours if you get my son back."

"You're talking about the custody case. The family court. I'm criminal only," I say. Relevant information, however, has no place in the mind of Joe.

"That pen has signed loans and court documents pertaining to my son. And you won't give it back. Every action I take will be to be closer to my son. Hence, a policy was made. Therefore, the pen was extended and accepted on good faith. If I don't get my son back I'm making heads roll, third world style."

"JOE." Surprisingly he stops talking. I find out when the family court appearance is; it's the day after tomorrow. "Come to my office tomorrow morning at ten. We'll talk about the magic pen."

"You better have magic ready Mr. Houdini." But then Joe winds down. He is probably as weary as I am. Anger takes energy. We hang up. I remove the poor pen from the drawer and set it atop my deep dark desk. I pick it up. It's got real heft, real potential, this pen.

That night I have a dream. I dream I live in a six bedroom house with four fireplaces and a three car garage and a swimming pool. I dream there is a home office and in the home office is a rolltop desk made of black oak. The top is rolled back and a single pen lies across the work surface. Above is a ceiling fan with blades made of aircraft grade titanium, which cast flat shadows like dark sharks circling in shallow water. In my dream I enter the office and sit at the desk and then somehow (I cannot – in the way of dreams - quite recall) Joe is there. He's all up in my face; he's acting the bully; he's about to strike me. I grab the pen and stab Joe in the chest but the pen is cheap and ineffectual; it breaks in two. Joe grabs me by the front of my shirt and propels me to the window and is about to pitch me out (a three story fall) when I scream and wake up.

My heart is beating like I just sprinted a quarter-mile and I am sweating. I wait for my heart to settle then swing my legs over the edge of the bed and slide my feet into a pair of monogrammed slippers. I am pleased to realize as I walk about my house that it has six bedrooms and four fireplaces and all the rest. All the rest except the pen, not even the cheap one. When the dark shark-shadows sweep over the work surface of the rolltop desk they cover nothing; the work surface is blank and cold. I should have a pen, I think. I should have a pen with heft.

When Joe comes in at ten I am ready for him. “Joseph,” I bellow. “Here’s your pen.” He is surprised by my bluff and hearty cheer. “Thanks,” he says. He has the pen but he is now uneasy. I am the one in control. I am the lawyer. I am the guy with money. I am the guy with power.

I patch it up with Joe. I apologize and tell him that he was right all along; that the pen was in fact conditioned upon performance. I tell him that we will reject the anger management bullshit. “Anger management?” I say to Joe. “Now what the fuck is that?!” I tell Joe that I’ll take his family court case, that I’ll get him his son back, that I’ll put his life on track.

“Why are you doing this?” Joe says. “This is not what I expected.” He extends the pen. “Why don’t you keep it.”

This time I know better. “Joe,” I say, “you’ve inspired me.” I show him my gleaming new pen, top of the line, three grand it cost me. His own pen becomes tawdry in his outstretched hand and my sudden happiness, while not precisely quantifiable, is worth much more than three thousand dollars. “Besides,” I smile, “this one actually works.”

After I win both cases Joe pays me the courtesy of a thank you card. At first I’m faintly touched, despite myself, but when I open the card I understand. The card is signed in Joe’s deranged hand but the ink is steady and strong and the color is deep violet, like the color of the sky a few minutes past dusk. I remove from the top left drawer of my desk the packet of cartridges that Joe sent me. And now I know that the color of the ink – at least according to Mont Blanc – is aubergine. And I wonder just how in the world a guy like Joe got that pen to work when a guy like me could not

