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Pathos

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Professor Davis

To The Potential Juror

The hollow “thump, thump” of the judge’s gavel echoed around the courtroom, reverberating in the mind of young Damien Echols, like thunder clapping before an imminent tempest, prompting yet another upheaval in the stomach of this poor child. Assuming an undaunted expression to mask the swelling dread within him, he desperately strived to appear unafraid in the face of the charges against him, in light of the potential punishment: death, a lethal injection whose feeling is akin to a thousand fires igniting beneath his skin. Though an individual may try to scream, no sound emerges, for his lungs no longer answer his mind’s call. His body would shut down. He would die. Beads of sweat run down his face, like the precipitation of that approaching typhoon, for his survival was now contingent upon these jurors. Jurors already gazing upon him with disdain filled eyes, mentally critiquing his appearance, judging his mannerisms, despite swearing an oath to impartiality.

Barely a few months earlier, he attended high school just like any other student, right? Walking down the hall, students avoided him. Walking down the hall, students gossiped about him, hurled insults at him, not even trying to disguise their disdain. In the city of West Memphis, Arkansas, he was an outcast. He listened to Metallica; they listened to Alan Jackson. He read *Wicca for One*; they read *The Bible*. While everyone else attended parties and football games, he was exiled. His black overcoat and his dark hair covered more than his tattoos, but served a dual purpose: to cover his inner demons, his emotional isolation. In response to the vicious comments

and unending jabs from his peers, his dark persona armored him; it gave protection against everything except the horrors of his own mind. Yet, this very armor which protects him against perceived external threats dooms him when society seeks a dissident to crucify, even a jury purportedly designed to seek justice.

Modern Americans idealize the concept of justice. The sheer volume of law and order shows on television illustrates this romanticism. We like to think that jurors are infallible, that justice is always served. Occasionally, the mismatched trial turns up, people become furious for a short period of time when a guilty man escapes this justice, yet we ignore the innocent man condemned to death in order save the appearance of the rule of law, of order, of justice. People prefer to believe that society has progressed to such an extent that the masses no longer persecute minorities, but there are cases where an individual is singled out based on his differences and is punished, perhaps by being turned into a scapegoat for a crime. Damien Echols, one of three teens charged with the murders of three younger children in the early 1990's, is forced to become a scapegoat to maintain the perceived security of society (*Garden Times*). The prosecution fosters this hysteria by using the strange personal identity of the defendant, the religious unity of the jury, and creating a motive wrapped in narrative to distance him from, to demonize him in the eyes of the jury in order to receive a guilty verdict. There no evidence directly linking him to the murders of the children, yet he was convicted and sentenced to death row for murders he didn't commit. How does this fit into our romanticism? It appears as though we pursue justice not for its own sake, but for our own peace of mind, muffling the cries of the innocents caught beneath our rabid march to war for the ideal, relinquishing our integrity to make headway in our crusade.

This young, socially ostracized student paid the penalty for being different, for poor jury deliberation, and for an overzealous prosecuting attorney; the price for which is conviction and death. He spent nearly a decade and a half on death row, alienated from the rest of society with his life effectively ruined and irrevocably altered, before he was freed through an Alford plea (*CBS News*). In a system designed to be impartial, to pursue justice in all cases regardless of the nature of the defendant, a teenager became caught in this verbal fencing match between two attorneys in which rhetorical appeals became the ripostes and thrusts, and in competition, a rivalry, one side inevitably ends a victor, casualties notwithstanding. If an innocent life is convicted, taking the place of the murderer, a guilty man walks free, and the deaths of three adolescent children go unpunished, illegitimately punished at least. Not only does this type of juror behavior cost the life of an innocent, a culprit who brutally mutilates three children continues his everyday life, mingling with law abiding, unaware citizens.

Jurors pursue this notion of complete rationalism in the courtroom which, it seems, actually induces a vulnerability to rhetorical ploys, for by discounting it, they fail to consider it when they process information. Science, rationalism, and their deductive methodology dominate contemporary thought to the exclusion and devaluation of rhetoric, for it is viewed as irrational, purely based on emotional and antithetical to reason. This perspective on thought refuses to consider that emotions are intricately intertwined in the decision making process, yet without passions to ascribe meaning to information, there is no method of weighing and evaluating contesting testimonies, evidence, and submissions. The embroiled attorneys are all too often interested in winning the case for their client than for the professed search for truth, and recognize that, in order to attain that goal, they must persuade the jury by any means necessary, often resorting to narratives, pathetic appeals, and rhetorical shifts. When the jurors, obliviously

confined in their principles and certainty, ignore this fact, they passively participate in the juridical process, inadvertently subverting justice rather than advancing it. They cede a form of rhetorical prerogative power to the speakers in the room, granting them the ability to simultaneously admit evidence, explain a narrative, and forge connections among them as well as constituting the jury to whom these are addressed. In other words, they lay out the content of the trial, and synchronously endow the audience with the very tools necessary to assess its validity- the metaphors, categories, and merits involved in juridical deliberation.

Therefore, it becomes necessary in the pursuit of justice to alter the mindset of this discourse, to take actively participate in this trial, to personally define the importance of evidence, and to become aware of rhetorical ploys when they are made. In West Memphis, Arkansas, the audience succumbed to the hysteria uniting the jurors against the defendant. Their passive participation in discourse condemned him to death, only narrowly avoided by a plea, robbed him of over a decade of his life, and dragged his name through the dirt, effectively eliminating any chance at beginning a life anew, and atrocities such as these extend beyond West Memphis, Arkansas. This cannot be considered a regional problem, a cultural problem. The root cause lies in the individual, and must be addressed by individuals. How many guilty have walked free? How many innocent lives have been destroyed? How many will continue to do so before we overcome this passive participation in deliberation, determining for ourselves as jurors which evidence we believe convicts or exonerates an individual? Damien Echols deserves this small courtesy; he deserves justice. Everyone does.

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