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Ryan W. Selfridge
Gettysburg College

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Abstract

This paper is a look at an American Mock Trial Association scenario placed in the world of Skyrim. The piece applies legal concepts regarding forming narratives in the courtroom, something that is absolutely necessary to a jury trial. The unique scenario the trial was held in facilitated the explanation of the rules of evidence in the footnotes, and illustrates how the evidence was admitted to the court.

Keywords

Law, Trial, Court, American Mock Trial Association, Witness Statement, Story-telling

Disciplines

Law | Legal History | Legal Studies | Legal Writing and Research

Comments

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by Ryan Selfridge.

LAW 260

Fall 2014

"Jarl Balgruuf the Greater, let's get this begun in earnest," Haydn Doren said to the leader of Whiterun.¹ It was past time for this matter to be straightened out. What happened was a tragedy, he was sure of that, but the weight on his son's mind was enough, especially without a mother. Aela died during childbirth, and he was all that his son had, he had stopped his exploits as an adventurer as soon as this had happened. His life was now his second priority, to his son's. He would not allow anything else to come from this. He was a proud Nord of Skyrim, in a hold populated mainly by Nords, and these elves brought nothing but trouble, wherever they went.² Jarl Balgruuf, a fellow Nord, would see that he was free of blame. He had to. If not, he may take the desire of the people into account. They identify with him, he was certain he could sway them. His travels throughout Skyrim in his younger days, especially his troubles with the law, would help him now.

"Aye." The Jarl had enough to worry about without accidents like this happening in Whiterun. The battle of Whiterun was still a recent memory, dragons were still roaming the land, and the city was in the process of putting the pieces back together.

¹ This story will be set in Whiterun, a hold in Skyrim. Skyrim is a vast, cold land, and the home of the Nords. It will have most of its references taken from the popular video game, *The Elder Scrolls V: Skyrim*. It is the fifth installment of *The Elder Scrolls* video game series, and the trial is taking place after the conclusion of the main story, which will be explained as needed in regards to the trial. All references will be taken from *The Elder Scrolls Wiki* unless otherwise noted. I will try to minimize footnotes by only explaining what the reader will not be able to piece together through context clues without playing the video game.

Balgruuf the Greater, The Elder Scrolls Wiki, www.elderscrollswikia.com.

² While race is not an issue in the trial, for the sake of creativity, I plan on it being present, though not a point of contention in this story. Also, while Haydn Doren is representing himself, he will make no testimony of his own, as he was not assigned as a witness.

"Haydn Doren, Andil and Linwe Parwin³ have claimed that you are to blame for the death of their daughter, Sydnus, by having a lack of control over your child, Jyrik Doren," the leader stated from his seat in the grand hall. Murmuring from the audience had already begun. In addition to justice, he had to worry about maintaining his seat, as well as controlling his subjects. His forces were stretched thin as it was, and he could not afford to quell any unrest resulting from this trial. He was prepared to gauge the temperature of them to aide in his ruling, if need be. "They have already presented their side. You will have an opportunity to add testimony written by your chosen witness, as well as refute the testimony brought against you. You will have one chance to tell your side of the story, then I will decide your fate."

"Thank you Jarl." Haydn found a focus that he hadn't seen since the last time he had been in battle, years earlier. All eyes were on him, including those of his son. He could not fail. *Talos guide me*, were the last thoughts he had in his mind before he began.⁴

"It is a sad day for Whiterun, not only because one of our children was lost, but because the threat of sending a man, and his young son, into poverty, over a tragic accident that was not their fault," Haydn knew it was a mistake the second it left his mouth. It sounded like a cry for pity, and it reflected in the Jarl's expression.

"I cannot express how I feel about the tragic death of Sydnus, by a discharge of a Staff of Firebolts. My son, Jyrik, as many of you know, was best friends with Sydnus.⁵ They played together constantly, oftentimes with toy staffs, or harmless water staffs. It is hard enough for my son to deal with the loss of her, even more so, as the staff was accidentally discharged in his

³ The Parks will be Altmer in this story. They are high elves, who possess great skill in magic.

⁴ Talos is the god of the North, and most Nords choose to worship him.

⁵ My goal was to make the jury, and in this story, the Jarl and audience as sympathetic to Jesse/Jyrik as possible.

hands.ⁱ But that is exactly what it was. A tragic accident that could have been prevented by vigilance on the part of the Parwin's."

He waited a split-second for a reaction before continuing, and what he got was encouraging: interest in the eyes of the Jarl, as well as chatter from the crowd. The hook was sunk.

"One of the Imperials in Whiterun, Ennodius Colollius, was hired by the Parwin's, for over 50,000 septims, which, by the way, is more than enough to buy a fine set of ebony armor, to create a report around Jyrik's mental state.⁶ Never mind that he has never met my child, but even by the standards of his own test, it is not applicable to children of his age!ⁱⁱ Jyrik was too young for this 'scholar of child psychology,' whatever that may be, to get any results from the test he used!"⁷

Haydn heard a murmur from the gallery behind him, and saw Jarl Balgruuf shoot a quick glance of disapproval towards the Imperial. Good, he thought, these are my people. He had a chance to show that this scholar's tests pale in comparison to practical knowledge.

"Us Nords are hearty people, we like to brawl every once in a while, especially as kids.⁸ Is a schoolyard skirmish enough to label a child as a danger? I'd say not, but Colollius the scholar, seems to rely on it. It's foolish to consider a child of eleven a threat for an incident that happens everyday in schoolyards around the realm. What was I to do? Force him to work in the

⁶ Imperials are a race that is the most similar to humans. They're highly educated which is why I cast Emerson Couples as one. I brought this witness up first, since I can discredit one of their strongest arguments first. It will make less of an impact in the decision if it is brought up first.

⁷ Throughout the trial I will attempt to discredit witnesses that are for the plaintiff as much as possible.

⁸ Here, I assumed that the plaintiff would have been able to admit Exhibit 9, which is the notification of student discipline, as it is a business record. All other exhibits will not be brought up.

fields, raising cabbage for months to punish him and avoid this? How would that have done anything?"

He had the crowd's attention now. Any faith they had in the Southerner was gone, and the Jarl was examining the crowd. He felt the odds swaying in his favor. The next thing Haydn needed to attack was the written confession Jyrik gave after the accident. It paints a negative picture of his son, as a magic craving goon that didn't think of the consequences.ⁱⁱⁱ This was easy in Haydn's mind. He would use the expert to discredit the confession, and then play the sympathy card to win the whole room over.

"When it comes to Jyrik's written statement after the accident, Logrof Baslod, an expert on false confessions known throughout Skyrim, examined the written statement that Jyrik provided the guards, as well as the circumstances.⁹ One of the biggest factors regarding false confessions is age, since kids like Jyrik can be easily swayed by authority figures, especially in stressful situations. I wasn't there to give advice to my son," he says, tears glistening in the torchlight.¹⁰ He knows he needs to make his point, and make it stick.

"He was in a room, with his best friend's corpse, surrounded by guards, and anything that happens afterwards can only be seen as a reaction from a frightened child.^{iv} Does anyone here think that it is at all possible that my son, an eleven-year-old boy, was equipped to deal with this, especially without his father?¹¹ If you have any sympathy at all for my boy, and the

⁹ I am assuming that the plaintiff would be able to get the write confession of Jesse Duran in, as it is an excited utterance, and it being on paper does not remove the distress that Jesse was under.

¹⁰ Emotion is a big part of the defense, as in this story it is the defendant representing himself. There are no histrionics necessary, as this is an important case to Haydn Doren.

"There's No Business Like...?" Some Thoughts on the Ethics of Acting in the Courtroom, Peter W. Murphy, South Texas Law Review (2002).

¹¹ There may be an objection on speculation, but this is taken from Dr. Logan Bashir's affidavit, and this is his realm of expertise, so therefore it would not be speculation if he were testifying.

understanding that in the heat of the moment he was disoriented and had no idea what to do, the credence given to that piece of parchment should be thrown away."

The Jarl gave a slight nod, and the crowd was quiet. Out of respect and understanding, was all Haydn could hope for. Next, he'd need to prove that it was an accident, which Sydnus helped to make happen.

"A neighbor, Thadgeir the Unsteady, was the first to arrive at the Parwin's residence. While Thadgeir has an unsavory reputation for having a few too many pints of Meade, he insists that he was sober when these events took place.^v I find no reason to doubt a Nord when it comes to drinking, especially one that indulges as much as Thadgeir. Upon entering the house Thadgeir asked what had happened, and Jyrik said to him, 'It was just a game,' as he was sobbing.¹² That phrase, 'It was just a game,' brings this together more than anything that I could say. It was a tragic accident between two kids playing a game.

"Theodorus acknowledges that he had seen Sydnus and Jyrik play games before with harmless water staffs. The watcher of Sydnus, Dangor Bolrin, a Bosmer, admits to seeing the same thing, and that Sydnus enjoyed these games.¹³ Despite his hatred towards my son and I, Bolrin never claimed to see Jyrik hurt Sydnus. Not once. What happened that day was a tragic accident, but the fault lies neither with my son, nor with me.

"It is not up for debate that the staff was fired while in Jyrik's hands. The report of Magicka¹⁴ expert Juillen Selone does not refute that.^{vi} However, he found traces of Sydnus' hands, as well as Jyrik's, on the chest.^{vii} If this doesn't prove that both children desired to possess the staff, then nothing can."

¹² This hearsay would also be admitted as an excited utterance.

¹³ The Bosmer are wood elves, which are seen as inferior to the Altmer.

¹⁴ Magicka is what powers magic in *Skyrim*. I replaced gunshot primer residue with Magicka residue.

The tension in the room was palpable, with the stony face of Balgruuf looking at him, and the excited murmuring of the crowd behind him. The last, but most important part of his defense remained: proving that he was not responsible for what happened.

"Dangor acknowledges that Sydnus knew where the staff was. He acknowledges that Sydnus also had an idea where the combination was.¹⁵ This occurred months before the shooting, yet he did nothing to inform the Parwins about this.^{viii} This led to that house being a place of danger, with two children who enjoyed playing with toy staves having access to a deadly version of their favorite toy."

He was halfway there, but the hard part was now in front of him. Attacking someone who was in a vulnerable state never appealed to Haydn, not even when he had bested countless Altmer in battle, but this was different. Not only did his well being, but also that of his son relied on this.

"The plaintiff, Andil Parwin, an Altmer, who had previously served the High Dominion as a mage, decided to purchase a staff to prevent burglaries.¹⁶ Someone with as much experience with dangerous magic as him should have known the dangers of possessing a staff in a house with a child, no? It seems otherwise. On the morning of the accident, two children were left unattended in the Parwin home. My Jyrik, and Sydnus, were alone in a house that contained a Staff of Firebolts that belonged to Andil and Linwe Parwin.¹⁷ Yes, it was locked away in a secure chest, but what use is a chest if you leave the combination to it lying around? I've already proven that Sydnus had an idea where the combination was. The question is where the soul gems

¹⁵ This is not hearsay, as it is to show knowledge of the declarant.

¹⁶ I substituted Park's time in the Navy as a mage for the High Dominion, which is the government of the Altmer.

American Mock Trial Association 2014-15 Case Problem, Affidavit of Andy Park, 62.

¹⁷ A Staff of Firebolts is the weapon in Skyrim most similar to a gun. It unleashes one controlled burst of fire.

were kept.¹⁸ Parwin swears that the gems were kept in another room, but everything else presents something differently.^{ix} Dangor was in that room several months earlier and cannot recollect seeing any soul gems on the shelf where they were supposed to be.^x That would be something that would stand out, eh? Selone's investigation found inconclusive traces of Jyrik or Sydnus' hands on the soul gems.^{xi} If that was the case, the gems certainly had to be there before. This is yet another example of Andil failing to make the house a safe place for children, let alone ones who had previously shown interest in magic."

This final blow would be different from all the others he had dealt. This one would hurt the parents of a dead child, a child he had known well. *Talos forgive me*, Haydn prayed.

"With the evidence I have presented before you, I believe that it is clear that I am free from blame. This was a tragic series of events that could have been avoided if Andil and Linwe Parwin took the necessary precautions to guard the Staff of Firebolts, as well as the soul gems used to fuel it. Jyrik and Sydnus were accustomed to playing games involving magic, and they both wanted to try something new. Tragically, that game took a wrong turn. Thank you, Jarl."

He'd done it. He felt there was no way he could lose. All that remained was the Jarl's ruling. Balgruuf did not waste much time thinking. He stood, prepared to speak.

"This is the type of decision that no one wants to make. With the facts presented before me, I rule in favor of Haydn Doren. He will receive no punishment for the death of Sydnus Parwin. I wo-"

Before he could finish speaking, Andil Parwin rose from his seat, drawing his dagger and sprinting towards Haydn, bellowing, "DIE, YOU NORDIC SCUM! YOUR DEMON CHILD KILLED MY SYDNUS!"

¹⁸ Soul gems are used to charge staffs and enchanted items. They are the equivalent of bullets in this story.

Nobody was able to react quick enough to stop Andil, and with a dagger inches away from Haydn's throat, he saw something rupture through the esophagus of Andil. As the elf fell motionless to the floor, he saw one man, cloaked in black, standing with a raised bow. It was Sgt. Bitchtits, the Hero of Skyrim.¹⁹

ⁱ *Trial Advocacy: Setting Yourself Apart from the Herd: A Judge's Thoughts on Successful Courtroom Advocacy*, Joseph F. Anderson, Jr., South Carolina Law Review (1999).

ⁱⁱ American Mock Trial Association 2014-15 Case Problem, Deposition of Emerson Couples, 88-90.

ⁱⁱⁱ *Ibid*, Exhibit 1, 108.

^{iv} *Ibid*, Expert Report of Logan Bashir, 80.

^v *Ibid*, Affidavit of Terry Chapin, 34.

^{vi} *Ibid*, Jules Sebastian's Crime Scene Analysis, 100.

^{vii} *Ibid*, Jules Sebastian's Crime Scene Analysis, 101.

^{viii} *Ibid*, Affidavit of Danny Brooks, 29-30.

^{ix} *Ibid*, Affidavit of Andy Park, 67.

^x *Ibid*, Affidavit of Danny Brooks, 31.

^{xi} *Ibid*, Jules Sebastian's Crime Scene Analysis, 101.

¹⁹ Sgt. Bitchtits was the name of my character, and was the protagonist in the video game. The ending was going to be dull, so I decided to throw myself into it.

Annotated Bibliography

1. The Elder Scrolls Wiki, www.elderscrollswikia.com. This is the wiki dedicated to *The Elder Scrolls* games and I used it to provide background information.
2. *The Elder Scrolls V: Skyrim*, Bethesda Softworks, 2011. This is the game that introduced me to the series, and also where this story is taking place. I got some background information from my time playing the game as well.
3. American Mock Trial Association 2014-15 Case Problem. This is where all of the facts relating to the trial come from. It was used to recreate the trial in a different setting.
4. "*There's No Business Like ... ?*" *Some Thoughts on the Ethics of Acting in the Courtroom*, Peter W. Murphy. *South Texas Law Review*. This source frames acting in the courtroom. It allowed me to better understand the ways I could display that in this trial.
5. *Trial Advocacy: Setting Yourself Apart from the Herd: a Judge's Thoughts on Successful Courtroom Advocacy*, Joseph F. Anderson, Jr. *South Carolina Law Review* (1999). This source showed when hysterics were appropriate. I used them in the story when I thought they could be useful.