



## Registry Matters Podcast

Episode 281

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Announcer 0:00

This episode of Registry Matters is brought to you by our patrons. Thank you for your continued loyalty and support.

Andy 0:07

Recording live from FYP studios, east and west, transmitting across the internet, this is episode 281! , every time we say these numbers, Larry I'm just like, wow, we've done a lot of these! Anyoo, it's 281 of Registry Matters. So how are you this evening?

Larry 0:24

I am doing fabulous, except for a little bit of pain that I can't get rid of.

Andy 0:30

I don't really want to hear about your problems, to be honest with you.

Larry 0:33

Then why did you ask?

Andy 0:34

(laughs) It's one of those like, polite things to say? No one wants to hear about your problems. "Yeah, you know, my back hurts. And I have this thing... that just" -- no one cares. Just say "I'm doing fine."

Larry 0:48

Okay, "You're doing fine."

Andy 0:49

(laughs) So head over to YouTube and make sure that you press like and subscribe and get notifications. Definitely go over to your favorite podcast app and press, and do the subscribe stuff there too. I'm gonna like swallow my tongue while I'm talking. And anyhoo, so. Then you'll get all the notifications, and it will help the show. So, if you're not willing to become a patron over at [patreon.com/registrymatters](https://patreon.com/registrymatters), then that would be a fantastic way to support the program. And it would be a pretty good way to do it, too. So, do me a favor, sir. Tell me, what are we doing this evening?

Larry 0:49

Uh, very little.

Andy 1:26

All right, then. Well, let's close it down. Have a good night. Take care, everybody. See ya!

Larry 1:31

So we have a guest. We're gonna be joined, in a little bit, with Kathleen from Washington, from the Citizens Against Government Entrapment, the CAGE group. And we're going to go into a deeper dive about her son's case and the stunning victory. And we're going to have a few questions from one listener that I think are interesting and deserve to be covered. And we have some news regarding Halloween, and some challenges that are forthcoming. And we may even cover some articles. We got some fun stuff up

from the Senate emails. I'm gonna tell people how to write to their senators.

Andy 2:12

Fantastic. Well, let's head over here. I'm gonna press a button that I haven't pressed in a long time. And I sure as heck hope it works. (news ticker music) Hey it works! Hey we got news!

Larry 2:23

I haven't heard that in a long time.

Andy 2:26

So what is our big, big happy news?

Larry 2:29

Well, there's a federal court case in Missouri regarding Halloween. The judge has granted a temporary restraining order and we're gonna get into that. So you're the reader, so you can read from the story.

Andy 2:44

All right. Well, "A federal court granted a Temporary Restraining Order (TRO) that, in effect, stops a Halloween sign requirement for all PFRs in "Missoura". Specifically, the court order rules that the state, and local governments in Missouri, "are temporarily enjoined from enforcing" the Halloween sign requirement. The court order leaves in place additional Halloween requirements, such as turning off all outside residential lighting after 5pm on Hallows Eve.

Larry 3:15

All right. Well, according to Janice Bellucci, who is the lead attorney in the case, "This is a significant victory for registrants in Missouri. They will not have to endanger themselves, their families and their property on Halloween by posting a sign on the front door of their residence."

Andy 3:35

In its decision, the court agreed with every legal argument made on behalf of the plaintiff, Thomas Sanderson, who resides in the city of Hazelwood, Missouri. That is, the court agreed that the Halloween sign requirement was both "government speech" and "compelled speech". As a result, the court determined that the sign requirement violated the First Amendment. Also in its decision, the court recognized that the government has a compelling interest in restricting certain conduct of PFRs. The court then determined that the sign requirement was "not narrowly drawn to accomplish those ends". You said this repeatedly, that such requirements must be narrowly tailored.

Larry 4:12

I have indeed said that and, law enforcement, I know you're listening. And when you go to your legislators asking for these laws, remember, you can do almost anything, if you narrowly tailor it. But you can't do these blanket things like this. But the court stated that registrants "are likely to suffer irreparable harm this year on Halloween absent the issuance of the temporary restraining order". The court then stated that the government

failed to show that the Halloween sign requirement "has or will increase public safety".

Andy 4:48

Can you tell me something? Oh, what'd I just say that they have? It was compelled speech and government speech? What is the difference between government speech and compelled speech?

Larry 5:00

I don't know that I can really dissect it succinctly, but you're compelled to speak when you must do the speaking yourself. This is my non-legal opinion. And when the government puts a sign up, every time you see a sign that the government has posted, the government speaks often. Clearly, the government speaks. When you go to a restaurant, and you see a restaurant grade, that's the government speaking. But you're compelled to post that sign. So I think there's an overlap between the two, of what's compelled to be spoken, and the government speaking. If the government puts a sign out on a public right-of-way, there's a question about what all the government can say, and what intervention rights you would have. So what if they put the PFR signs on the public right-of-way, but yet they're directly in front of your house? It's still, in essence, in my opinion, you're being compelled to speak. But it's also the government speaking. So I think this is going to have to be kind-of resolved by the courts, to figure out how to distinguish between the government speech and compelled speech.

Andy 6:09

But that was something of the issue in Butts County. If they're putting it right there, a foot or two off the road, isn't that still technically like government property, but you take care of it? What is it, the "right-of-way", the "easement" or something like that? I don't remember the term.

Larry 6:24

Correct. That's what they argued, that they were putting them on their property, but it didn't fly very well.

Andy 6:30

Right. All right. Well, the TRO issued is valid for 14 days and thus stops the Halloween sign requirement this year. The court has scheduled a hearing on November 9th, regarding whether to grant a Preliminary Injunction that, if granted, would continue to stop that sign requirement for an additional period of time. So what happens next?

Larry 6:50

Well, what would normally have happened next would be that this TRO, this Temporary Restraining Order, would remain in effect, preserving the status quo, and then they would have an adversarial process on the ninth, where the judge would decide to continue the TRO in effect, or to extinguish it, based on having heard from both sides. Right now, this temporary restraining order was just granted on the pleadings of what was filed the complaint, without much input from the other side. But the new twist on it is that the Attorney General of Missouri has filed a motion for an "emergency stay", and if that motion is granted, it would allow the government to enforce the state law as it currently exists. The motion was filed in the 8th Circuit Court of Appeals, after business hours on Friday. And, according to this motion, the federal district court lacks jurisdiction to issue a statewide Temporary Restraining

Order. The motion then requests the appellate court to either stop the TRO completely, or to limit the TRO to the plaintiff in this particular case.

Andy 7:50

Miss Bellucci then stated, "It is unfortunate that the Attorney General has challenged the district court's decision."

Larry 7:57

She did say that, and I keep saying this to people, please listen to this. If you don't want the AG's office to fight everything, including anytime you win something on appeal, whether it be an individual case or something like this, you're going to have to reduce funding to the AG's office. Because if they have these resources, they're going to use them. But anyway, the AG's office stated the TRO "imposes an extreme burden on Missouri's sovereignty". The motion also states that the TRO "prevents Defendants from ensuring that thousands of children this Halloween do not ring the doorbells of" PFRs. The Attorney General also asserts, in its motion, that the TRO poses a threat of irreparable harm to the government and to the public. And finally, the Attorney General asserts that the sign requirement does not violate the First Amendment because it is not compelled speech. Instead, the sign requirement addresses only conduct similar to the requirement that a person register.

Andy 8:59

Literally going to your police station and giving them fingerprints, butt prints, and all those other things. They're saying that that's equivalent to having some, like, the lights that they would show at the opening night of the opera at your front property, they're saying that those are similar?

Larry 9:15

Well, I didn't read what they said. But my guess is what they said, would be, they're claiming that you've already had your due process because you've either pled guilty or you've been convicted of a PFR offense. And they're taking the position that categorically, by being a PFR, that you are already on notice of obligations as a result of your conviction, such as registering, and this is just an extension of the registration obligations. That would be my guess as to what they're saying.

Andy 9:43

Did I hear correctly that NARSOL has also sent some similar letters to Louisiana of Cease and Desist for something similar, like Halloween signs or something?

Larry 9:54

You did hear that correctly. We sent three different counties -- parishes as they're called -- we sent them notice because in Louisiana, unlike in Missouri, there's no sign statute. It's similar to what was happening in Georgia. There's a prohibition in Louisiana that a PFR can't give away on certain holidays (which is probably unconstitutional itself) but there's nothing about signage. So therefore, you've got these renegade sheriffs. So we're going to try to take the steps that we took, replicating what we did in Georgia, to get this rolling. We're going to put all the Louisiana sheriffs on notice that if you continue doing this, we're coming after you. And I expect that they're going to probably flip the middle finger just like they did in Georgia. [Andy:

Is that a legal term?] (laughs) Well, they look at it from a powerful position. They have virtually unlimited resources. And they know that ours are finite. And they know that we can't be everywhere. Therefore, they're going to say, "To hell with it. If you got something to file, file it." And we'll have to get an attorney, or a group of attorneys, and we'll have to start suing in Louisiana. But ultimately, I feel confident this is a winnable endeavor. It doesn't bring down the registry, but it makes your life a little bit better if you don't have to worry about this kind of nonsense on Halloween.

Andy 11:15

And forget the, hold on, like if they're putting the signs up. But they're also then saying that you have to do certain things. So, let's just say you decided to, as your legal term just used, you say, give them the middle finger, and you leave your light on. What are the consequences of simply leaving your light on, on your front porch, on Halloween night? I'm assuming there could be prison time for it.

Larry 11:39

There very well could be. And I don't know that it's been imposed, but I also don't know that it hasn't been imposed. And these types of things, if they're on the books, they're going to be enforced, because we've over-resourced our law enforcement. Listen again, to me: If you don't want all these flimsy prosecutions, you're going to have to stop voting for people who promise to be the Law-and-Order candidate, and are willing to give the law enforcement apparatus whatever they say they need without question. If you believe that we're in an over-prosecuting society, you're going to have to stop giving them carte blanche because, if this is on the books, I will assure you that someone has likely been prosecuted for it. We just don't know about it.

Andy 12:22

And okay, so back to Missouri, then the DA has then tried to appeal up the next level of the chain, to try and get them to not enforce the TRO, and I think you said that's a "stay"? So, they're trying to undo the TRO?

Larry 12:35

They are. That is what they're doing. They would have filed an emergency motion with the 8th Circuit. Again, I didn't read it, but we read excerpts from it. But they would be asking the 8th Circuit to dissolve the stay, because they would have argued that the test for a stay is also that you have to show "likelihood of success on the merits", and "irreparable harm". The judge found those two components present when he granted the TRO. But you also have to weigh the damage that can happen to the other party, which is the state. And the state is arguing that they're going to suffer irreparable harm and the judge didn't take that into consideration. That these children are going to be abducted, the PFR is going to grab them away from their parents, they're going to drag them into their houses. Of course, there's not a documented case, anywhere, of that happening. But that's what they're gonna say.

Andy 13:32

Because I was just going to ask you, what is the state's irreparable harm? I mean, like Missouri is not going to be arrested and put in jail, Missouri is not going to not exist because of anything.

Larry 13:41

But they would be arguing that they're not able to protect their citizenry, and that that's their job as a governmental entity, that we're trying to protect our citizens. And this renegade, liberal, do-good, nonsensical judge has stepped into our sovereignty. They threw that word out there already, in the response, about sovereignty.

Andy 13:59

I saw the sovereignty thing but I'm like, "What about the sovereignty of the citizens?" When we were reading that, I was thinking about, "What about the sovereignty of the citizens? Don't we have some level of sovereignty and constitutional rights, etc. etc. etc. and all of that, too?"

Larry 14:12

Well, I thought we did. But apparently that's evaporating, unless you declare yourself a sovereign -- what is it? a "sovereign citizen", right?

Andy 14:21

(laughs) We could bring somebody on to talk about that. We should do a show about that one day, Larry.

Larry 14:27

Indeed we should.

Andy 14:30

Shall we move along?

Larry 14:32

Sure. We've only got five minutes left.

Andy 14:34

Okay, very good. All right. I will read quickly. Here's a question from a listener. "I have a question." (that's not me. I have a question, but this person, I have a question) "I was hoping you could address on a podcast or individually. I don't have money to consult an attorney and (as you know) SORNA is extremely confusing. In 2003. I pled guilty to 'travel with intent to engage in' (naughty activities) 'with a minor and sexual exploitation'. I currently live in Pennsylvania, which is also where I was charged and convicted. Due to my conviction occurring before 2012, my registration requirements are very minimal compared to the current PFR requirements. I read about the latest SORNA regulations from January 7th, and I'm curious how they could affect me. My privacy is very important to me. So I don't want to have to register my vehicle, internet identifiers or give them any other information they don't deserve. I see the rule is currently being challenged in California" -- I don't see how that applies -- "but it's still in effect in the rest of the country, however, I don't think it's really been talked about by NARSOL or any other groups recently." Larry, that bottom section confuses the crap out of me. I don't know what he's talking about January 7th, and what ...rule he's talking about.

Larry 15:48

He's talking about the Attorney General promulgated that rule, that's the subject of the lawsuit in California, and that where a partial injunction has been issued. That rule did Absolutely... Nothing... to change the status quo. But that's got the people all

worked up, across the country, that have nothing but free time and energy on their hands to imagine -- what did we call this -- an Imaginary Boogeyman.

Andy 17:39  
Yes.

Larry 16:13  
So those who like to dredge up Imaginary Boogeymen, they have dredged up Imaginary Boogeymen in their head. Now there are a lot of questions buried in there and we haven't even gotten to the question yet. But he's talking about the interim rule that became a permanent rule. Remember it was proposed under Trump, before he left. The new administration came in, they put all new regulatory proposals on hold. They did a bottom-up review on all of that, because they were trying to stop his dissolving the environmental protection regulations. They decided that that one was a good one, so they allowed it to take effect. And that's the subject of the lawsuit in California. But folks, it did not do anything. It didn't change the status quo. Nothing in your life, if you're a PFR, should have changed by the promulgation of that rule, because the State determines the registration requirements. There. Is. No. Federal. Registry. There just isn't. Everything about the "federal registry" is nonsensical, because there isn't one. (laughs) Somehow or another, people have invented something that doesn't exist. There's a website that the US Department of Justice links in, to all the state registries. But that's not a federal registry. And you don't have any place you could go file anything with a Federal Registrar, because one doesn't exist. But anyway, we can move on.

Andy 17:48  
Well, I was gonna say, I got a call from a referral from somebody, and they're in Georgia. And the guy's wife is a former attorney. And they were like, "Well, what about the Federal duty to register?" I was like, "Oh, , you know?" Look, I just pulled a 24-hour shift, so I'm not super-coherent but, I'm telling you, there's not a federal registry. There's a website that they go scrape all the other information from, and they put it together, and they post it. But you're not on a quote-unquote "federal registry", and they were like, "I'm just dumbfounded and flabbergasted that you say this, because I always thought there was a federal registry." And I was like, "No, there's no federal registry. They have the information, and they publish it. But you're not on the Federal Registry, because there isn't one." [Larry: Well I think you're even overstating it by "scraping it", they just linked you into the state's registry.] Well they have to get it somehow so it's on their site. They're getting it. I'm assuming they're being fed like ...files, probably like monthly or quarterly or something like that, for them to post, to get over there. I'm with you. But they're not like going out and scraping it. I was just using that term to, kind of loosely, describe it.

Larry 18:52  
They're linking you to, when you put a name in, it searches all fifty or however many jurisdictions we have that are in that website. But it searches, and if they find a person with that name, it gives you that state's registry. It takes you to New Mexico's registry, and you're seeing what New Mexico has registered. But there's no federal registry. And people just cannot accept that, for some reason.

Andy 19:15  
There are even attorneys that can't accept it.

Larry 19:18  
It makes my job very difficult, because they are in denial that they've created something that doesn't exist. There is a federal guideline for states to have a "compliant" registry, and things that states must do to be deemed "substantially compliant". And there is a federal penalty for failing to register when you transfer or travel. It's called "interstate commerce" when you have a duty to register in one state, and you move to another state, you have to, at the bare minimum, present yourself, and see if that state wishes to register you. If you fail to present yourself for registration, you will indeed be prosecuted. The Feds will prosecute you, and they will be very harsh on you. But that's still not a Federal Registry. That's a violation of a federal law, similar to the "Fugitive in Flight", where that "Interstate Flight to Avoid Prosecution"? If you commit a crime in Georgia, and you think that Georgia police might be on your case, and you go to Idaho, you've engaged in Interstate Flight to Avoid Prosecution and the Feds can prosecute you for that. But the crime itself is in Georgia, and Georgia will prosecute you for the original felony. And the Feds usually just pick you up on an Interstate Flight charge, and it gets you back to Georgia, then they wash their hands on you. But to this guy's question, he's not completely off the rails. So go ahead read his question, then I'll take his question. But he's not completely off the rails.

Andy 19:18  
So after all that was set up, "Here's my question. How could this rule affect me? And what would need to happen before it could? In the Registry Matters podcast, Larry said that nothing can happen until the government notifies me of my requirement to comply with federal SORNA. What would that look like? Could the PA State Police send me a notification to provide my information in the mail? What if my yearly registration said "While, under PA law, you don't need to provide this information, Federal SORNA does..." would I then need to provide my other information such as website usernames and my vehicle info? What should I do if this happens? Should I give them the information? Or would there be some way to challenge it? Thank you so much for your help. This is so confusing of a topic, and I want to be prepared. - Jack"

Larry 21:29  
Well and there's where the meat of his questions are. The reason why they did this regulation was because, only eighteen states I think, have been deemed "substantially compliant". And through the process of the many years since the Adam Walsh Act passed in 2005, they have recognized that getting all the moving parts put together, through legislative action, has proven very challenging. So they devised a scheme here, to reiterate these obligations that, they view, would be ideal, that are contained in the Adam Walsh Act. But, until the state of Pennsylvania incorporates them into their law, you would continue to do what the state of Pennsylvania requires you to do ...and No More Than That! Because the Feds, in my opinion, can't prosecute you, because there's no federal registry. So, if Pennsylvania is not collecting those things that he's worried about giving, and their law doesn't require them be collected for the older registrants, why is he going bonkers. In fact, there is a section in the Adam Walsh Act that says

that if the highest tribunal in the state rules that this cannot be enforced, that doesn't ding that state from being "substantially compliant". So, he's got that defense already. If the Pennsylvania State Police were to send out letters and say "you have to do these things, because it's a federal law" well, then he's faced with a real dilemma. They did that in West Virginia. Remember, they sent everybody the letters saying that "you have to give 21 days advance notice of international travel", even though it wasn't in West Virginia law? And every PFR went dashing back to their police barracks with those letters, and they signed them like good little sheeple! And I would have told them to take their damn letter and stuff it! But that's just what I would have done. But people went back and turned those letters in. So, would Pennsylvania -- absent legislative intervention -- would they require him to do something that's not in Pennsylvania statute? I can't tell you that they wouldn't do that. I cannot tell you for a moment that they wouldn't do that. You could have another radical governor get elected and they could come in and say, "Well, by golly, we gonna enforce these federal requirements on everybody. And we gonna ignore what those crazies did that exempted these older registrants." They could do that. When they do, when you get that letter, THAT's the time when you have a justiciable controversy. Until that letter comes, you don't have anything to worry about, as long as you're doing what the state requires you to do. You should go to sleep at night and stop thinking about a Federal Registry that doesn't exist! [Andy: Okay. Calm down Larry, calm down... Take it easy.] (laughs) Why do people worry about nonexistent problems?

Andy 24:25

I don't know. But it's pretty much part of the human condition, is to worry about things that you can't fix, control, or do anything about. But you're still going to keep yourself up at night.

Larry 24:33

But what if they don't even exist?

Andy 24:36

Well, people do that all the time. But that's another conversation for a different day.

Larry 24:41

But that's what these people are worried about. The lawsuit in California? Not A Soul has been told, that has been released from registration obligations, that "You are going to be put back on the registry." These people stayed awake all night long, for many months, and months and months. And they said "Oh! Well, the way I read this rule, they might put me back on the registry. It says that I have a duty under federal law." But no one has even hinted that they have any interest in taking people who have been discharged from registration, and bringing them back on the registry. Not a soul has suggested that, that's in an enforcement position. But yet, they dream themselves into a crisis, they spent thousands of dollars filing a lawsuit that's not likely to gain a whole lot of traction. It did gain some traction, they did get a partial injunction. But they got an injunction, to prevent something, that no one, has ever even talked about, happening! (laughs) Would you please send me my transportation?

Andy 25:45

I will work on that immediately. Immediately after this episode, we will get that Uber sent,, so you can go to the gorge. You ready to move along?

Larry 25:52

You got to tell people what the gorge is, so they'll get the joke.

Andy 25:56

It's like a thousand foot high bridge in your neighborhood? And no one, there's not a single survivor from jumping off. Is that what I understand?

Larry 26:04

I think there's no documented survivor. Yes, it's pretty much onto a lot of rocks. If you go down that eight hundred or so feet, you're gonna splatter pretty good, so. But yeah, this particular person has very little to worry about. But it could happen. It could be a renegade operation of the Pennsylvania State Police. I don't see it. They've been litigated to submission already. This issue of the registration has been so heavily litigated in Pennsylvania, I think it's gonna be a long time before they think about trying to upset the applecart. But I can't guarantee anything.

Andy 26:42

Very well. Shall we move along then?

Larry 26:44

Let's do it.

Announcer 26:45

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Andy 27:35

All right. Well, Kathleen, are you online here, now?

Kathleen 27:38

I am, and you didn't tell me before you unmuted me.

Andy 27:43

I did not. Well, I didn't hear, there was nothing that came across, so everything's good.

Kathleen 27:49

I burped!

Andy 27:49

(laughs) Oh, did you? I didn't hear it. It didn't come over, so everything's great.

Kathleen 27:52

I heard it and went oh shit, that was live.

Andy 27:55

And so is this! Well, welcome back. Thank you as always. It's appreciated that you come along. Um, so let's just get right into it, shall we? You have some great news. What is your great news?

Kathleen 28:13

My great news is that in trial number two of my son's case, he was found not guilty. And that's actually, statistically, according to one of our members, it's more likely that he would have killed himself than won at trial, which is pretty sad.

Andy 28:29

Probably more likely he would have been hit by lightning, too.

Kathleen 28:32

Probably. So, the other, which I find interesting, the other good news is that he was found Not Guilty, not just "by reason of entrapment", but the entire Not Guilty. Which, as I was explained, is extremely different. Like, not guilty by entrapment, you only have to be greater than it "could" have happened. Whereas, not guilty completely, it had to be like up in the 90's percent that he didn't do it. So, it was really kind of, I felt, it was even more validating to hear that they literally stayed in chambers deciding all this, to go beyond the "not guilty by reason of entrapment", all the way up to "not guilty, period".

Andy 29:17

Larry, can you chime in and clarify any of that?

Larry 29:20

I think I understand it now. We were in pre-show and I didn't really get it. But they didn't just cut him loose because the cops were naughty. From what I read in the article that we talked about a couple of weeks ago, as the jurors continued their deliberations, they were first inclined to convict him. But then they dug deeper because of some holdouts, and they discovered that he was so cooperative at every step of the way, that they actually did believe him, that he had no intent of having sex with a minor. So they said, not only were the police naughty, but, we find you not guilty, period. You didn't have any intent of having a rendezvous with a minor, which is amazing. I think that's what she's talking about. That means you have to find guilt beyond a reasonable doubt, and they found plenty of doubt on this, because of the way the police conducted themselves.

Andy 30:15

Larry, do you think your grand jury would have (laughs) worked this way?

Larry 30:21

If the panel that I served with, minus the alternates, if they were present, no. They would have had no interest in it. Now we did occasionally have alternates. Amazingly, the alternates were better jurors than the regulars. They weren't jaded, so when you had an absence of the regular twelve, if you had a couple of absences, those were only going to be on the jury for that one day, and they were very much interested in details, and doing their job. But the regulars could have cared less.

Andy 30:53

Very well. Okay, so let's move along then, Kathleen. So the way that I understand it, with this whole thing, is that law enforcement are creating accounts that appeal to adults, portrayed as adults, meaning it's "an adult" seeking "an adult" in "an adult" environment. And then the conversation spins up, and then the "victim" (with heavy air quotes) all of a sudden becomes a minor. Did I sort of portray that right?

Kathleen 31:21

Yeah, you did. And it was interesting that, trying to portray this in "voir dire", and I'm probably saying that wrong, because I'm not, whatever it is, French. When we were trying to pick out the jury, so many people assumed that the ad -- that was going to happen in this case, because as soon as our lawyer started talking and said the word entrapment, everybody kind of knew what we were talking about. And so everybody started assuming that Jace had gone to a site that wasn't an adult site, and clicked on an ad that was for a child. And that is the assumption, across the land, whenever you hear this. And it is perpetrated by the police and the media, for a reason, and that is to increase the popularity of these, and to help make the public feel safe. Unfortunately, it's very untrue, and it's very misleading. So much so, that one of the ladies in voir dire actually started, I'll say "verbally assaulting", Jace. She was very worked-up, and she just was convinced that Jace, you know, intended to do this. And this is before they know anything! There's no facts on the table yet.

Andy 32:39

This word, I'm not really familiar with this word. Is this when they're doing jury selection?

Kathleen 32:44

Yep.

Andy 32:45

Okay, so this is when you're like, sitting there just everyone, you have a number. It's almost like an auction?

Kathleen 32:51

Yes.

Andy 32:51

And they asked you, "Okay, so does anybody else have an issue? Call on number 34?" Whatever it is, and you present your issue saying, "I know this person, we went to school together". "Oh, you're excused" because you know the defendant?

Kathleen 32:56

That is it, yes.

Andy 33:05

But so this person started addressing your kid in the -- Larry, is that how that's supposed to work? Is that the jurors that are on selection are supposed to address the defendant?

Larry 33:18

Well, courts typically do that process differently. It can range from individual voir dire to a group session. I prefer individual, but it takes a whole lot more time. And so typically, in conversation mode, the judge will ask all the questions themselves. But in some

instances, the attorney you know, the prosecution and the defense attorney, get to ask the questions. So you're trying to figure out if the juror can be impartial. Now, the truth of the matter is, like Ashley said, when she was our guest, nobody wants an impartial jury. You want a jury that's gonna see things your way.

Andy 33:54  
(laughs) Of course.

Larry 33:55  
You're looking, as a defense attorney, we're looking for the most open-minded juror that might have some kind of angst with the cops, where they might be more predisposed to find reasonable doubt. But in that particular courtroom, I don't know how they did it. But they're asking questions to try to figure out if you have any preconceived notions that would justify the person being excused. Because we only get so many excuses that we can, what are called peremptory challenges, we only have a limited number of those. And when we jettison one of those, then we've wasted it. If we could excuse the person for cause, if we could flush out... is it flesh or flush? If we can flush out a reason to drop that juror without using a peremptory challenge, then we don't waste that challenge we may need later when we're trying to get rid of what we perceive to be a juror that's not going to be open-minded to our position, because we're looking for a jury that's going to rule our way.

Andy 34:51  
Is my example of knowing the defendant? Is that one of the ones that wouldn't cost you a strike?

Larry 34:57  
That would absolutely be. If the person says "I do not think I can be fair, I know this person", that was the first thing they asked us on each case, was did we know anybody? And we were supposed to disclose that. And then they would ask us if we did know them, would it impair our ability to be impartial? And then occasionally, I mean, maybe once or twice in the whole term, someone was excused because they couldn't be impartial. But usually everyone says, "Of course that doesn't impair my ability to be impartial."

Andy 35:22  
(laughs) Alright. Kathleen, tell me more about this woman that verbally attacked Jace. How did this interaction go down? I totally, I can't even imagine how this goes.

Kathleen 35:34  
It was interesting. And, to speak to what Larry was talking about, yes. Both of the attorneys got 45 minutes to talk openly to all of the potential jurors. So as it's going along, and like you said, the juror would raise their hand if they wanted to speak about an issue that was brought up. And everybody was talking to the attorney. So, you know, the attorney would ask a question, someone would raise their hand, they would answer the attorney, looking at him and talking to him. But, in this one section, and the lady was sitting in the -- we were in pews, which is church, not court, but you know what I mean -- she was sitting in the pew right in front of me, and she doesn't know who I am. But I swear to , she's lucky I didn't come over that damn chair. I was so upset. And I gotta tell you, I really did not plan on that happening. She literally

looked at Jace, and started talking to Jace, and saying "You had intent." And, of course, she was excused for her jury pool, because she could not be unbiased.

Andy 36:40  
I'm assuming that counts as a strike though?

Kathleen 36:42  
Nope.

Andy 36:43  
It counts as one of your, she was excused for, wow.

Kathleen 36:45  
Anybody who shows that they cannot be impartial is allowed to leave.

Andy 36:51  
Interesting.

Larry 36:52  
Yes, you don't burn a peremptory challenge if a person's excused for cause.

Andy 36:55  
Oh, okay. Not a peremptory okay, I gotcha.

Larry 36:59  
So, the peremptory challenge is used when you have nothing else left. And you just flat out know you can't live with this person, and you say, "Judge, I'm gonna exercise my peremptory challenge." But now, the state is limited because of the Batson case from the US Supreme Court. In Batson, and I don't remember the other party, there are "Batson Considerations" because of racism issues to sanitize the jury and get rid of all the minorities. So prosecutorial offices tend to do that, to make sure they get an all white jury. So they have considerations, when they're using a peremptory challenge, that they have to look at Batson. We don't have to do that on the defense side, at least not in New Mexico. We could care less. If we just can't stand a person, we use a peremptory challenge, but you've burned it. And depending on how many counts you've got against you, and how serious the case is, you're going to have a limited number of those challenges. You may have three, you may have six, but you don't have unlimited. You cannot continue to excuse people without stating a reason.

Andy 36:59  
Gotcha. And, Kathleen, you provided a video clip. Are you ready to hit that?

Kathleen 37:58  
Yes.

Andy 37:59  
Ok. Doo dee doop doop doo... So here is that interaction. And I hope the audio is okay. Tell me quickly if it is not, but the audio in the clips was really crappy to begin with.

Kathleen 38:23  
It is. I'm sorry.

Prosecutor 38:26  
Anybody else? 39? Yes, ma'am.

Potential Juror 38:34  
I don't feel that I can be unbiased.

Prosecutor 38:49  
Ok you don't feel that you can be unbiased. What do you mean by that?

Potential Juror 38:50  
I mean like, that, he clicked on an ad. Did he click once? Twice? How can he carry on with this person? What is okay, what is not? You know? He clicked! He knew what he was doing when he clicked.

Prosecutor 39:00  
Okay. So again, you're assuming certain things. Okay. And but like I said, you haven't heard anything yet. And the judge hasn't told you what the law is, regarding this case. But you just feel that from your own, I guess, personal...

Potential Juror 39:24  
Yes.

Prosecutor 39:25  
...beliefs or feelings that this is not a fit for you. Okay. And that's perfectly fine. Thank you for letting us know. Okay, anybody else?

Andy 39:39  
Sorry if you guys can't hear, it'll come out in the post. Kathleen, can you describe what went down though?

Kathleen 39:45  
Sure, I could definitely describe it. So, the prosecuting attorney had asked if anybody had any scenarios with minors being molested or what have you, if they had anything in their history that might interfere with them being impartial. And we went around the room, and you know, people would tell their stories, and he would say, "Okay, can you be impartial?" And they would say, "Yes, I think I could" or "No, I think I'd have problems with that". And everything was, of course, noted by the attorneys and the judge. And so then it was kind of over. And then at the last minute, this woman raises her number, and says, "I have to be honest". And we're like, "Okay...", and she starts saying, "He clicked on that ad. He clicked on that." and, "He had intent. He had to have intent, or he wouldn't have -- how many times did you click on it?" And she just starts going off. And it was very emotional for me. But also, the attorneys were like, "Wow!" And he even says, "You don't know anything about this case yet." And she's like, "Nope, he did it. He had intent. He clicked on that." And it was just really upsetting for me, as she was sitting two feet from me, and I could have put her six feet under very easily, but I withheld.

Well, good on you for having restraint. What did you want to say Larry?

Larry 41:18  
I was gonna say, I would cut her a little bit of slack for that. Don't take that at face value. There are people who have no desire to be on juries. And they've done their own "Google research" on the internet and they figured out how to be excused. And saying something like that could have been just simply to be excused, so that she didn't have to disrupt her life. I would probably give her a little bit of slack over that. But go ahead.

Andy 41:41  
I didn't realize that you were sitting directly behind her. I mean, it is like, it is the worst video quality, and it also is pretty close to the worst audio quality. Larry, you need to spend money in the courtrooms to have better audio and video. But then after you told me that you were sitting behind her... So if you go look at it on YouTube, you'll be able to see the video. But anyway, it's all pixelated and crappy anyway. There's not much to it. But I did find, Larry, when you were bringing this up, there is an episode of a podcast called "More Perfect". (Thank you, Brian, for finding that.) And it is about that Batson thing that you were just talking about, and this podcast covered it, I guess it was July 16, 2016. Excellent podcast where they described the whole Supreme Court thing of being able to use these racial challenges, and the Supreme Court hearing it at that time.

Larry 42:31  
Batson vs Kentucky. I Googled it, and it was from 1986.

Andy 42:36  
Okay, well, anyway, that podcast. So you switched attorneys, if I'm not mistaken, Kathleen?

Kathleen 42:45  
Well, it was (scoffs) we've had, I don't know, eight attorneys. So yeah.

Andy 42:52  
Wow!

Kathleen 42:53  
The first trial, yes, was a different attorney.

Andy 42:56  
And I mean, I just basically wrote down the question of "How was the original attorney at handling the case?" I didn't mean to say attorney number 2, 3, 4, 5 or 6, I just said "original" because I thought you only had ...a couple?

Kathleen 43:09  
No. There's been a lot. The first attorney, and that's part of the reason that I wanted to discuss later in this, about why these are so difficult to win is, the first attorney did not understand some of what's happening. And he told us that "You would never take this case in front of a jury", that "you would have to do a bench trial for this." And I wasn't really convinced, because, you know, not as a mother, but as someone that has strong feelings about who should or shouldn't be held accountable for what they do, I felt that, you know, if there's a chance, only one person out of twelve would have to raise a doubt. Okay, I'm not speaking very eloquently tonight, but you know what I mean. Versus the One Judge who, if he had a bad night the night before, and suddenly



my son's in prison for ten years. So I very much pushed for a jury trial. In fact, there are emails going back and forth, for months, between me and this attorney. And he just got tired eventually of ...listening to me? Surprise!... And so, he signed my son's waiver for a bench trial. And that is how we ended up winning our appeal.

Andy 44:29

And so, I mean I'm not sure if I have it written down, but this isn't a replicable kind of situation, because of That One Thing. You might not have been able to ever come back, and go back to trial, had it not been for that.

Kathleen 44:48

Absolutely, and it's true, and I've heard this repeatedly. If you talk to appeals attorneys or whatnot, they're not going to turn something over, pretty much based on anything other than a technicality. I mean, it would have to be extremely blatant. And they don't pass judgment on the evidence, or the believability of the evidence. They pass judgment on the technicalities, and this was a technicality. It also happens to be one of your civil rights: jury by peers. So actually, it's happened a few times, but probably one of the few cases where it's a technicality, and you get a retrial. Just happened to be us, which is kind of freaky, considering we went through The Times and everything. What were the chances it was going to be one of the three families from the New York Times? That was pretty bizarre.

Andy 45:42

Okay. So as we're going through, I know I have some other clips to play. Hopefully, they'll work for everybody to hear it. I will try to boost the audio so that it goes through well. What else do you want to cover about this? There's a whole bunch of other notes to go through without a lot of like, questions for me to ask you.

Kathleen 46:01

No problem. I just wanted to, Larry had made some points about how stings are very successful, and they are. And what we've found, the group and myself, are that there are some reasons for that. And I don't think a lot of people understand those reasons, or even think about those reasons. But one of the main reasons, which was true of our first attorney, is that attorneys aren't really aware of what's happening. They don't know, and I'm not sure they don't. I believe that they've been doing this bait-and-switch one for about twenty years now, and I'm not sure why attorneys ...don't know? But I have found that a lot of attorneys don't understand the extent of: how much they're encouraging you to show up, how much they're manipulating you, how ...ambiguity plays into what they're doing. And what ended up being in a lot of these clips, and in a lot of what got Jace found Not Guilty, was that the cop admitted he was purposely being vague and naive. And so the jury is like, "Well, you're -- how do you know that he was, if you're telling us you weren't purposely telling them you were a minor? Right?" So that was kind of funny. Also, another thing that a lot of people don't understand is that you have got to have a forensic investigator on these. When we went through our first trial, the attorney that we had did not have a forensic investigator. And within an hour of our second trial's attorney, who we ended up with, their forensic investigator had found where our texts were altered. I mean, it was just obvious, when he showed us. Two places! And we went through the first trial without the guy even mentioning it, or bringing it up or saying it in court, let alone. So

that's huge. Also, another thing that really is against the citizens that get caught, is that the lawyers tell you not to talk about it. [Andy: To whom?] To anybody. "Don't talk about your case. You're pretrial. Don't talk about your case." Unfortunately we, as citizens who've always been law-abiding, have no clue this is happening. We don't know the cops are out there on adult sites, sending adult pictures, and pretending to be an adult ...other than one sentence that says they're a minor. I mean, we don't know that. And so unfortunately, a lot of us assume that "It's a mistake. Oh, they'll let us go. It's not right, they'll figure it out. You know they'll see he's a good person." It's not like that. They really did entrap you for a reason. So unless you talk to other people who've been through it, you would not know that. And we're told not to talk to other people. So that's very difficult. And then, the last part about why the stings have been successful, is because of the entrapment issue, and there's a couple points to the entrapment issue. But, as Larry and I have discussed before, and he's said many times on your show is that, in the entrapment issue, you have to admit that you did X. And how these stings work, is: You drive there. You go. And "going" is the "substantial step" (and I'm using air quotes). They trick you into going! The entrapment is the going, not that you intended to, or not intended to, or any of that. The entrapment is the traveling. That is where people kind of lose it. So yes, it's entrapment, but it's not entrapment for rape. It's entrapment for traveling. And I just find that to be a very fine point, that a lot of people don't get. [Andy: Why do you then think these cases are so hard to win?]

Kathleen

Well I think, as part of, you know, what I was just discussing, they get law-abiding citizens who aren't necessarily doing anything wrong. In my son's case -- and I can talk about it now, all I want -- he went out on an adult site, he answered an ad that said nothing about children. In fact, it was strongly suggestive about an adult role-playing because they, they're talking about video games, okay? And so they get these people who have no idea this is going on, and everybody I talked to, in the beginning, was kinda like "That didn't happen. He must have done something. What are you talking about?" Nobody understood. And they're arresting people who don't, additionally, don't know how the justice system works 'cause we've never been arrested before. I mean, we're law-abiding citizens, and so -- rightly so, and I've been told during my whole trial, that -- I didn't have a clue what I was doing. You're right! I didn't have a clue what I was doing! All I kept doing was fighting. And, as it turned out, thankfully, we had an asshole for our first attorney, and it worked out. But the attorney not knowing what was happening, or thinking that you can't take this kind of a case in front of a jury? That's something that they have to understand now, how these are happening. And you don't know, when you're talking to an attorney. They're going to tell you "Oh, yeah, I've done a lot of these", but that you don't know, 1: if they really believe you or not, and 2: if they know how to then turn it into a trial that could win. And there are ways of making that happen which, obviously, we managed to do. So, and also a lot of people think they're mistakes, they're gonna get cleared up by themselves. We thought that, before the first trial, absolutely. And by the time you're convicted, it's too late! So, we thought that judges would be fair. And it's not true, because they're elected. Now, I know that's jurisdictional. But those that are elected, they can't let someone, caught in a sting by their own police, go. So, they're not even unbiased. In our first trial, the prosecuting

attorney constantly used the phrase "a thirteen-year-old girl". You went to go see a thirteen-year-old girl, you this that or the other? I mean, they said "thirteen-year-old girl" a hundred times! There was no thirteen-year-old girl. And so, in trial #2, it was not said. The prosecuting attorneys used the phrase "undercover", or "the chatter". But he did not use "thirteen-year-old girl" because we would have objected. And we did object.

Larry 52:47

Can I ask a question, Kathleen? Did you, or did your attorney on the second trial, did he file a motion "in limine"? Because the prosecution would not have been able to help themselves, unless they had been ordered, pretrial, not to do that. Did they file a motion to limit the prosecution in referring to the "thirteen-year-old"?

Kathleen 53:03

So, I did ask our lawyer that, and we certainly pushed that. I did, I can show you the emails 'cause that's the kind of gal I am -- I don't know, because he's like, "Oh, we changed on the fly. You'd have to get that through the court reporter 'cause he's done with us now." But we did ask him to do that.

Larry 53:24

He probably did. The prosecution would not have been able to help themselves, otherwise. But go ahead.

Kathleen 53:29

Right. And they certainly did mention "thirteen-year-old girl" from the text, because it is in there twice. So, they certainly said that. And when he was doing his opening statement, he did say that. But while we were talking, back and forth, they did not use "thirteen-year-old girl" the way they did in the first trial. And the other really funny -- not funny, sad -- thing is, in our jury, I can tell you that one of the jurists wrote the judge and said, "Are cops allowed to lie on the stand?" because they all knew he was! And I think that's pretty sad. But, as citizens, we don't think the cops are gonna lie on the stand! And then they do! And we're like, "Wait! That's not true!" And I think it makes it easy for them to when. We're caught unaware, is what I'm trying to say. And we need people to understand how these are happening, and why they are happening.

Andy 54:29

Hey, Larry, I think that's something we need to cover here. The group of people that seem to kind-of be in our sphere, have very limited experience with the criminal justice system. And so then ending up in this whole PFR environment, then we end up like, "Oh my ! There are all these terrible things about the criminal justice system!" that another segment of the population has been screaming about for decades. And now, I guess we're becoming enlightened about all the crap that goes on in the courtroom of un-fairplay.

Larry 55:04

Absolutely. That's the thing that just shakes these people to the core, because they've grown up... serving in the military, having great faith and confidence in the integrity of our system... as Kathleen discussed. And this happens, and they just know it will self-correct. And when it doesn't, it shatters everything that they thought they knew. And they cannot accept that the system that

we have given our lives for -- I haven't, but these people that have -- has evolved to be so bad. And they have to rationalize it, by believing that they somehow got screwed by a corrupt prosecutor. They can't admit that The System is Bad. They have to isolate it down to, "I got screwed, because it was a conspiracy against me". Folks, we have a Bad System. Its design is beautiful. The execution of our system is not so good. And one of the biggest things you can do to change that, is to reduce the resource level. Without these resources, these sting operations are very expensive. Huge amounts of personnel are employed to do these things. If you don't want these things to happen, you've got to reduce resources. Don't buy into that mantra about "defunding the police". That was a buzz-phrase that was invented by the conservative right, to scare people. Nobody ever proposed defunding the police. We talked about reducing and reallocating funds. But as long as the money is there, this is gonna happen. And the people who experience it for the first time, it's a culture shock. Kathleen, you had no idea what you were facing. I think it was just last episode when I confessed, on the grand jury, I had the utmost faith in the system. I believed that when people put their hand on that bible, took that oath to be a juror, that they had read that manual, and they took that commitment seriously, to be the last line of defense between an overzealous prosecution, and standing in between that, and not letting it happen. They didn't give a damn.

Kathleen 57:09

I'm sorry.

Larry 57:10

It didn't ever occur to them that people... I said, "Look we're making crucial decisions, if we indict this person for this count, they're going to be un-bondable! And this is not a premeditated killing, here. This is not. This is an accidental killing. If we indict 'em..." They said, "Well, it'll get pled down. It'll get..." I said "Yes, but they won't be able to be out on bond. They're gonna be held pretrial." They didn't care!

Kathleen 57:33

Ouch!

Andy 57:34

I don't think really maybe it's not even that Larry. They probably don't even know, they don't understand what that means. "Oh, you just spend the day in jail, whatever, who cares?" But no! They spend ...months! in jail and they don't have the experience, they don't have the wherewithal to understand that you then can't pay your phone bill, you can't pay your car bill, you can't pay your rent, you get thrown out. You lose all that shit, you lose your job. And then everything goes down the toilet in that whole exchange, if you don't have a family, or some other kind of support system, that can help ride through those. But who has all the extra resources to pull that off, for an extended period of time? Maybe a handful of days or something, but not any extended period of time!

Larry 57:43

And it can sometimes, depending on the severity of the charge, be years, not just months. And people can't withstand that. And they don't have access to plan their defense, to execute all the pretrial machinations that you need to do. You need access discovery. It's

no longer, we don't deliver boxes of papers anymore, back and forth. We deliver it on a digitized format, either on a thumb drive or through some other process. And since we haven't done criminal defense for about ten years, I don't even know all the techniques they're using now. But, all that stuff, you can't really do, when you're sitting in jail. You cannot defend yourself. But this is stuff that the average middle-class person could care less about! It's never occurred to them. They figure, "If the PO-lice locked you up, you musta done it!" just like that would-be juror said, and they don't care! It doesn't ring a bell with them.

Andy 59:04

At the expense of having this run all night, and I'm sure, Kathleen, that you could talk about this all night, and I'm happy to go there. But we have some other clips that I want to get through. They're pretty short and hopefully I can make them sound "more gooder". But let's give the next clip a shot:

Defense Attorney 59:20

In another incoming message from Mr. Hambrick he said "Do you live alone?" correct?

Cop 59:33

Yes.

Defense Attorney 59:33

Um, can a thirteen year-old live alone?

Cop 59:39

They shouldn't.

Defense Attorney 59:40

Know any that do?

Cop 59:42

No it is not.

Defense Attorney 59:44

Is that an indication that Mr. Hambrick believes he's talking to, NOT somebody who's thirteen?

Cop 59:50

It's indicative, yes sir.

Defense Attorney 59:53

And, you could have cut off the conversation there... because it appears that he's not looking for a thirteen year old, correct?

Cop 1:00:02

Uh, I could have done that.

Andy 1:00:06

(laughs) "I could have done that"? Tell me what this exchange is. "I could have done that." That's funny.

Kathleen 1:00:11

"I could have done that." Yes. So, our attorney was very good about pointing out all of the ambiguous phrases that the cop said. That's the cop on the clip. And also, all of the things that Jace said, that showed that he didn't believe it was a kid. And we all thought that was great. "I could have". I'm like, "Yeah, you could have, you

piece of shit" Uh yeah, so this was like two hours into the three-and-a-half-hour conversation, Jace says, and this is after they've, quote-unquote, "become a minor", Jace says, "Do you live alone?" And yeah, clearly the cop should have walked away at that point.

Andy 1:00:55

Let's go on to, then, the next clip:

Defense Attorney 1:01:04

So um, halfway down, about getting condoms. And your response, "Cool, because I don't got any" kind-of smiley face, or whatever, correct?

Cop 1:01:19

Yessir.

Defense Attorney 1:01:20

Ok, and earlier you testified that you put that in there as a signal, to show that the person's not sexually active, correct?

Cop 1:01:30

Yes.

Defense Attorney 1:01:32

But just previously, you sent a message indicating that she's not a virgin. So that kind of contradicts itself, correct?

Cop 1:01:40

Uh, yes. I can see that it would be contradictory.

Andy 1:01:44

The cop seems so smug to me!

Kathleen 1:01:47

Oh, he is!

Andy 1:01:49

He just seems to have this like perpetual smirk on his face!

Kathleen 1:01:51

Mm-hmm. They never for a second believe they're going to lose, uh-uh.

Andy 1:02:00

That's a pretty high degree of arrogance.

Kathleen 1:02:02

It was, actually. And I know that a lot of people that are caught in these, they tell you to bring something. And that proves to the cops that you intended X, Y or Z, condoms in this case. But they like to send out these ambiguous statements. And they had just said, Jace said, "Oh, you're" -- you know, he got into playing, pretending she was thirteen "Oh, you're a virgin?" And her answer was, "Who said I'm a virgin?" And I'm thinking, "This is the problem! They're aggressively encouraging someone to show up!" And you have to point those out, versus reality, okay? If you aren't a virgin, you might have condoms. You can't have it both ways. And someone has to point this out to the jury.

Andy 1:02:49

Larry, I think you're kind of down on this subject of being, if it is or isn't, entrapment? And so, can you provide some counterpoint? To me it seems obvious that it's entrapment. But you're still a little, I think you're still on the other side?

Larry 1:03:06

Well, the details of this case are somewhat unique. As we went into it a couple of weeks ago, in terms of, you know, he went the extra mile to lay a good foundation. Seldom people do that, and the cases are usually very shitty in terms of an entrapment defense. Because the detective in this case wasn't very good. He had too much arrogance. But the entrapment defense breaks down with most juries, because they see a predisposition. And it doesn't matter that the predisposition was not there initially. It matters to them that, once confronted with the information that you're dealing with a thirteen-year-old, that the person doesn't cut bait. And then the pushback I get was, "Larry, you don't understand. We try to disengage, but they keep calling us. They keep texting us." Well, there's a thing called "block", where you can block people. And there's all sorts of things you can do to disengage. But people tell me that I just somehow don't get it. I've actually worked on these cases. I've done three or four trials, as an assistant, where we've gone in with an entrapment defense, and we lost every single one of them. So I'm just telling you the odds are not in favor of it. Because the fine line is you have to show, asserting as a defense, that you had No Predisposition. And the jurors will say, "You had the predisposition from the time you knew that they were presented as a minor, and you continued. That's the predisposition." And they don't give a damn about the idea of it being originally raised by the police. They care about what the defendant's actions were, once they became aware that there was a so-called minor involved. I can't change how jurors think. I can just tell you what's going to happen in most cases.

Andy 1:04:55

I got one more clip to play, and then we can close this out. But let's see what this other one is:

Defense Attorney 1:05:02

"You live alone?" Another obvious indicator that he still believes that he's talking to an adult! Thirteen year-olds can't live alone! "I live with my nosy-ass mom."

Andy 1:05:29

That's you, Kathleen. You're the nosy-ass mom.

Larry 1:05:33

(laughs)

Kathleen 1:05:33

Yeah. And you can't see it because of the video setup but (anyways it's a podcast, but) literally, the attorney looked at me and he goes, "I'm sorry." He goes, "You guys might be surprised, but the defendant lived with his nosy-ass mom too, so exactly how does that mean 'minor'?" (laughs) You know? It was pretty good.

Andy 1:05:56

Up to the current timeframe, people are living with mom and dad for a ...pretty long period of time, these days.

Kathleen 1:06:02

Yes, and the attorney said that, and some people in the jury actually snickered. They're like, yeah into their 30's these days!

Andy 1:06:12

Yeah, what were you gonna say Larry?

Larry 1:06:14

I was just gonna congratulate Kathleen. This was an amazing, amazing turnaround, of what was a bad situation. I didn't have a lot of high hope that it would prevail the way it did. The technicality was a significant one. We talked about that a few weeks ago, of waiving a jury trial. I would never do that and I can't think of an attorney I've ever worked with... where we would be so arrogant as to waive a person's right to a jury trial, without them being involved in the decision. But that was what gave you the second bite at the apple. Your determination is remarkable. He's lucky to have you as a mother. And I hope you continue to advocate for people who are caught in these stings because they're disgusting. And we need to bring tighter control on law enforcement, because they're not going to be able to control themselves.

Andy 1:07:07

I want to bring up a question that was asked in chat, which I think is super-relevant. He's like, "Do these cops ever get any kind of reprimand?" Larry, I'm gonna definitely point that in your direction. I'm assuming, no? But what are your thoughts? Do they get any kind of slap on the wrist, anything??

Larry 1:07:25

Well, since most disciplinary things are kept private, unless it's a termination, it's hard to say. But I'm not aware of anything like that happening. Their reward is to make cases. And the more the better. That's one of the measurements. When you have these specialized units, they have to make cases. I mean, it's like the sex offender registration tracking unit. Can you imagine, if you employed ten deputies in Fulton County, and they didn't bring a single case for registry violations? Can you imagine what the Good Taxpayers would be thinking? "Well, why are we paying the salaries of ten deputies, when there's no violations occurring??"

Andy 1:08:04

You're almost describing a quota!

Larry 1:08:07

It's not really a direct quota, but they need to justify their existence. And when you run these stings, if you run hundreds and hundreds of personnel hours, and you have absolutely no arrests, somebody in the bean-counting role is gonna say "Well, wait a minute. We just expended \$270,000 for a week-long undercover operation, and we didn't arrest a soul." That just doesn't go over very well, politically.

Andy 1:08:38

Kathleen, you want to jump in, there?

Kathleen 1:08:40

So, how they get their hand slapped, so to speak, goes back to their idea of: there's a return on their investment for these things. And it's really easy to take people by surprise, and turn it into a

win, as we can all see, because of the reasons we've been talking about. You know, nobody suspects this is really happening. So, one of the ways that they do get slapped, which Larry was just pointing out, is that they don't make the return on investment. Jace has been through two trials now, an appeal, you know, he was on the registry for a year, he did probation for a year, he did sex therapy for a year. Now all those things we pay a lot for, but also the state cannot call this a monetary victim. They are now on the hook, theoretically, for having allowed him to go to prison, without his civil rights being followed, due process or whatever you want to call it. And so, they've lost their return on investment. And what we have to do, like Larry says, is continue to win these, to make their return on investment Not a Good Thing.

Andy 1:09:53

Did you get some kind of monetary reward? And I'm not, like, you don't have to speak to it. But I mean, like, you see these people that go to prison and then they have it overturned thirty years later, and they get awarded \$6 million, which seems like a really small amount of money for being locked up for thirty-something years. But did you guys get a cash-out?

Kathleen 1:10:10

We will.

Andy 1:10:11

Fantastic! Good for you! Yes, and I'm sure Larry would be super-happy, like: Hit them where it hurts them, in their pocketbook!

Kathleen 1:10:18

Yes, exactly. And it's just amazing that this has already been, you know like I said before, in the New York Times and all. So I think this was really bad for them to lose, because it had been, nationally, brought to people's attention. And then they lost this on retrial, and didn't even need the entrapment. And so I think it's a huge loss for them. I think that will go, that has legs, in my opinion.

Andy 1:10:45

Was the article in The New York Times, like a little tiny quip? Or was it like a big blown-out article? Like how big was it in the New York Times?

Kathleen 1:10:56

I have it over there. It's big. Give me one second, go on to the next thing.

Andy 1:11:02

I will, I will, I will. What are your closing thoughts on this Larry?

Larry 1:11:05

I don't have anything other than congratulations, and I hope we keep fighting this battle, because they're not gonna stop, until they are stopped. They Cannot Stop Themselves. You are going to have to step in, as the employer of law enforcement, and you're going to have to give them boundaries. Just like we're going to have to do, in terms of police protocols and procedures, about how they interact with citizens. If we don't want them to beat people up, we're gonna have to hold them accountable, and give them the contours. We've got to quit pretending like we're not

responsible for overseeing people that we pay. But anyway, congratulations!

Kathleen 1:11:41

Thanks! Yeah, it was in the New York Times Magazine.

Andy 1:11:44

Yeah. Okay. Okay.

Kathleen 1:11:45

And it's six full pages, and then two pages with pictures of me and Jace, and then one of the other families. It was pretty substantial!

Andy 1:11:56

Excellent, fantastic! Well, congratulations.

Kathleen 1:11:58

Well, thank you!

Andy 1:12:01

But there's still also then damage like, I'm assuming if you search for his name, do you see like a registry entry? Like, even some of these bull-crap places that collect archived data, and that you can hardly ever get rid of? I mean, he's still listed in there, like his job prospects would then be reduced because of it.

Kathleen 1:12:22

So yes. And that also goes to: did they get a slap on their hand? Somebody wrote me and said, "I'm so glad you got justice for Jace." And I wrote back and said, "There is no justice for Jace." Jace spent three years unable to get a job, even though he filled out hundreds of applications. He wouldn't even get called back. Typically, someone doesn't have a huge footprint on the internet, but since I'm an advocate ...we're all over it! So, there's no way we can let go! And Jace does not have a very common name, "Jace". So yeah. It doesn't matter how much money he would ever get awarded. It's never gonna be Justice. It's not justice.

Andy 1:13:02

Of course.

Kathleen 1:13:02

They ruined my son's life. They took his 20's from him. Yeah.

Andy 1:13:08

Absolutely. I totally understand. Well, thank you, as always, for coming on and being so... what's the word I want to say, candid, I guess?

Kathleen 1:13:16

Obnoxious?

Andy 1:13:17

No, no, no, no. You're the best.

Kathleen 1:13:19

It's all good.

Andy 1:13:21

And anyhoo. So we will get out here. Larry, do you have anything else you want to say before we get out?

Larry 1:13:26

I do not. I'm looking forward to being back next week. And then we're done for this year!

Andy 1:13:30

Uh, that's not true. But it's close, but not true. We did get a returning patron, and his name is Joey. And I can't thank you enough, Joey, for coming back. He did it so that he could listen to the livestream. So, thanks a bunch, man! And he's in the house. Literally, his name is "Joey in da house".

Larry 1:13:52

His name is Joey Buttafuoco.

Andy 1:13:54

Oh, see, you know who that is! There's so many things in this world of pop culture, Larry, that you don't know, but you know that name.

Larry 1:14:05

I do.

Andy 1:14:02

Good old Howard Stern. All right. So, head over to registrymatters.co for the show notes. And that's where you can subscribe, and you can find all the links, and I'm going to just leave it at that. But go over to patreon.com/registrymatters to subscribe, for as little as \$1 a month! And that makes everybody super-duper-duper happy. (Microsoft did not ruin your life, Joey). And so without anything else, thank you, Kathleen again, I appreciate it very much. Thank you Larry, as always, for all the insight that you provide. And I will see everybody next week. And have a good night.

Larry 1:14:32

Good night.

Announcer 1:14:38

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