

## THE WILD COURTROOM SPEECH

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*Saint James Harris Wood*

Mark Russell, an overeducated petty criminal, somehow follows me from jail to jail while we are being processed, indicted, judged, and some other stuff in Latin. We first met in the downtown San Diego jail, and though we are nothing alike, neither of us is institutionalized, because both of us had avoided incarceration until well into our thirties. Most felons are shaped and molded by the state from their teen years. Therefore, Mark and I do not fit in.

San Diego has seven or eight county jails and likes to transfer people around from one jail to the other and back for no apparent reason. I was transferred to the South Bay Jail for a few weeks, and Mark was on the same midnight bus. He played a good game of chess, and so we started to get to know each other. Again I was transferred, this time to the infamous Vista County Jail, and one week later, there he was two bunks down in the same dorm. We are also on the same court schedule, and in court is where he stands out as a person especially divorced from reality.

Mark is a slightly overweight thirty-two year old white guy from Los Angeles whose receding hairline, lack of tattoos, and faintly intelligent expression suggest a middle-class upbringing and college education. Other inmates kid that he looks like the TV detective, Hunter, and whisper among themselves that he is a cop from Oceanside based on this likeness. Luckily for Mark, no one usually acts on such goofy suppositions. Regardless of our diminished circumstances, he is in good humor, always ready with a quip or joke about his various lunatic cellmates, and able to laugh along when the object of one of his barbs responds with the inevitable obscenity that passes for wit here. Mark can laugh, yet hasn't succumbed to the hysteria that infects many inmates who chortle endlessly for no reason, their incarceration apparent grounds for enthusiasm.

Mark *does* epitomize another form of self-delusion rampant among those awaiting their court dates: a finely tuned state of denial. When we

first discussed the charges against him, he expressed real astonishment that the authorities would jail him for what he insists was his first petty theft. He admits his guilt to a certain point, but guilt doesn't seem to be the point.

"Well, actually it wasn't even a real arrest," Mark claims. "I was leaving the store with some drill bits I had inadvertently put in my pocket when, out of the blue, this store detective asked me to come to his office. The detective and I talked and laughed over my accidentally taking the bits. That's when I first noticed that he did not have on his employee badge which everyone who works at this particular chain is required to have."

Mark possesses a seemingly unlimited store of such arcane knowledge regarding store detectives and shoplifting, which he tries to use in court to confuse his case. "Anyway, the detective said he had to call the police in order to complete his paperwork, and that I would be given a ticket and released. We went out front to smoke a cigarette while waiting for the officer. When the cop got there he immediately did a warrant check, and up turns this prior arrest for petty theft that I had completely forgotten about." Mark is flabbergasted that things he forgot about could harm him. "Suddenly, I'm dangerous. They handcuff me, take all my stuff away, and bring me to this two-bit jail. What kind of backwoods town is this? I never even had a prior in this county."

As the days and court dates pass, it's discovered that Mark has five or six priors for petty theft in four or five different counties. As each is discovered, he expresses genuine amazement that they have come to light. More unbelievable still, they are to be held against him. In California a first arrest for petty theft is a misdemeanor and you are just given a ticket. A second arrest for petty theft can be charged as a felony. One judge studied Mark's record and remarked that he committed his thefts in so many counties that he was a veritable one man traveling crime wave.

The simple scam goes like this: you steal goods from certain stores, go to a different branch and they will give you a cash refund without a receipt. Even the slowest clerk will only do this a few times, and so it's on to the next county and new stores. Mark worked his way from L.A. to Orange County, and down the coast to San Diego in this fashion. He was, in truth, a documented, casual, middle class criminal, who didn't regard himself as such.

In Los Angeles the authorities are prone to drop to a misdemeanor any charge that doesn't involve bleeding victims or tons of drugs. San Diego, on the other hand, is liable to stick to the letter of the law. The happy-go-lucky shoplifter is then transformed into a felon looking at time. When this state of affairs became apparent to Mark, he was beside himself with indignation.

"You can't do this to me! I'm from L.A.!" – a fact he brought up in every courtroom appearance, which only served to antagonize the district attorneys and public defenders alike. Regardless, Mark doggedly insisted that an L.A. sophisticate should not be held responsible for his benign crimes in rural San Diego's antiquated penal system.

Against his public defender's wishes, Mark made wild courtroom speeches filled with non-sequiturs and deranged legal strategies. One day while we were both in court, the sorely pressed judge tried to interrupt his harangue with the standard admonishment, "Everything you say can and will be held against you." This drove Mark to further excess.

"Everything! You say everything not only can but will be held against me? I can say nothing in my own defense? With all due respect to the court, this violates my constitutional rights and common decency. I understand that we're not in L.A. operating under civilized penal codes, but it's still hard to fathom this 'everything against me' attitude. Maybe your honor has phrased it poorly. If so, in view of the phrasing, plus the constitutional abuses, I'm forced to declare a mistrial."

Mark's lawyer, trying to get him to sit down and shut up, finally gets his attention and explains that he is not yet on trial, just being arraigned, a process that normally takes about thirty seconds. He can't declare a mistrial, something only a judge can do, if Mark was, in fact, on trial.

He can't be stopped.

"Nonetheless, this is my life. I'm a prominent citizen from out of town, unfamiliar with your archaic laws and customs. This is supposed to be my day in court regardless of what obscure legal term you call it. I've got a judge who tells me that my protestations of innocence, or explanations of extenuating circumstances, will in some twisted manner later in the proceedings be used against me. I've got this poor dupe of a public defender, who I'm afraid is in collusion with the forces against me. Now, I'd rather not become my own attorney..." It was evident that everyone in the courtroom agreed on this point. "But,

where else can I turn? This obviously minor incident, this insignificant episode that I hesitate to even label a crime, this silly thing that even your legal code calls a *petty* theft – I can't recall the Latin term – has become a vendetta in the form of a felony charge...and I'm not even allowed to raise my voice in my own defense or it will be used by tricky prosecutors to convict me. I will take this petty theft all the way to the Supreme Court if need be. I will not be marked for life with the stigma of felonhood merely because of an overzealous, small-time store detective...who was himself doing wrong.”

The judge stared at Mark's public defender willing him to shut Mark up. The public defender just sat. He may have been angry about a ruling on an earlier case. The bailiff, worried about the bad turn the arraignment had taken, was on the phone trying to get someone to bring him bullets for his gun because he'd forgotten his. Mark, ranting and waving his arms, seemed to have hypnotized the very people who should have stopped his speech.

“I contend that if everything I've just said is held against me, I'll have to notify the ACLU who will confuse this case even further and to such an extent that legal scholars will have to be called in, creating intolerable expense and setting precedents that petty criminals statewide will take advantage of, hoping to hinder their cases.” Mark told me earlier that his plan was to make such a nuisance of himself that the case would be quickly settled to his satisfaction, a tactic used by expensive lawyers throughout the world.

“I do not want to be the one to unleash this judicial nightmare on the innocent citizens and jurists of California, but the unfairness of a felony...why, that would make me a felon.”

The judge glared at him with a lavish intensity, bordering on hatred. Fingering his gavel, he probably wondered why judges weren't issued their own large caliber pistols to brandish in situations like this, thereby cowing people not properly intimidated, like Mark.

The judge surely knew that only one camel's hair case like the one before him might someday destroy the judicial system. It could start with one courtroom plunged into confusion by one case, in a system where thousands of misguided souls must be processed each day. Mark's speech had already delayed today's docket and could cause a chain reaction with dozen and then hundreds of cases not going forward.

Lawyers from these cases would be delayed and cause other courtrooms to halt while they waited for the lawyers. Witnesses, defendants, and spectators from the halted courtrooms would come pouring out into the halls and into other courtrooms, which would then be stalled themselves, and plunged into chaos. Like a stock market crash, word would spread throughout the city, the state, and the country, paralyzing the entire United States judicial system.

While the judge contemplated this doomsday scenario, he heard the defendant gibbering in Latin, so he forced his attention back to Mark, who continued on with his perfect mad confidence.

“...ipso facto, e pluribus unum say I, with no respect intended for the district attorney or my fellow prisoners, some of whom I believe to be political prisoners taken hostage during the war on drugs. What has any of this to do with my case? I assure you it is all relevant. I’ve spent many hours in the law library researching this case, although the indexes have been tampered with in such a way as to make it impossible to discover anything relevant. I did read several cases filled with obscure and esoteric legal terms which I’ve memorized that I’m willing to put up against any lawyer trained in a foreign country.”

The district attorney’s hands were held out in a pleading manner to the judge, who looked as if he wanted to lure the defendant within striking distance of his gavel. And still, no one said anything, except Mark.

“At any rate, I digress only to show the careful and thorough preparation I’ve given to this case and to illustrate the climate in which my petty insignificance has been blown up to felony proportions. So, again noting the constitutional excesses, taking in the prohibitive cost of this complicated case, plus the pathetic pettiness, I’d like to spare everyone, and again move for dismissal.”

The judge, still fingering his gavel and dreaming of frontier justice, quickly came to, slammed down the gavel with finality and snapped, “Yes, I agree, you’re dismissed, but the charges stand.”

Before Mark could soliloquize further, the judge gathered his robes and other judicial accoutrements and swept from the courtroom muttering about misconduct, miscreants, and mistrials.

The majority of those present seemed disoriented, yet relieved that Mark’s diatribe had concluded. With the judge gone, Mark had lost his focal point and looked sadly deflated. He couldn’t understand why

the case hadn't been dismissed, and had come to believe practically everything he'd said. We'd played chess the night before and he'd practiced his speech and also played the part of the judge who complimented Mark on his fine legal sense and then freed him.

But in the real world he was going back to jail. A controlled chaos gripped the courtroom, as everyone shook off their disorientation. A legal aide slapped another on the back to help him regain his breath because both had been choking on suppressed giggles. An inmate sitting next to me, Sergio, who was very good at crying, began to do so loudly, gasping and moaning about political prisoners. Other inmates in the dock loudly proclaimed that Mark was no advocate of theirs, while secretly planning their own mistrials based on the day's events. The bailiff argued with someone on the phone about bullets. The district attorney rushed from the courtroom, legal briefs flying, to another courtroom where the defendants might be more easily subdued. The public defender stood glaring, daring that her gaze be met by Mark, whose own eyes searched the courtroom hoping to make contact with anyone, who with a kind glance, would affirm his logic. This caused more of a curious panic among those in the spectators' section who feared that even a second's visual contact might cause them to be swept into the case due to some verbal gymnastics.

Mark slowly hung his head, realizing there would be no affirmation in this courtroom on this day. All his words, noble and illogical as they may have been, were ill received. He turned his back to the courtroom and put his hands out to the marshal for his shackles, thinking to himself that they represented, well...shackles. As he was led from the court, escorted by the deputy, who kept his distance, carefully avoiding any legal ploys, Mark knew in his heart that he was in the right, and the world was wrong.