



A Defense of the Heart

by Lt. Col. Leonard M. Cohen

21st Annual Fiction Writing Competition

The Editorial Board of the *Georgia Bar Journal* is proud to present “A Defense of the Heart,” by Lt. Col. Leonard M. Cohen of Beavercreek, Ohio, as the winner of the *Journal’s* 21st Annual Fiction Writing Competition.

The purposes of the competition are to enhance interest in the *Journal*, to encourage excellence in writing by members of the Bar and to provide an innovative vehicle for the illustration of the life and work of lawyers. As in years past, this year’s entries reflected a wide range of topics and literary styles. In accordance with the competition’s rules, the Editorial Board selected the winning story through a process of reading each story without knowledge of the author’s identity and then ranking each entry. The story with the highest cumulative ranking was selected as the winner. The Editorial Board congratulates Cohen and all of the other entrants for their participation and excellent writing.

Monday evening, 1700 hours, at Robins Air Force Base, Ga. Usually the sound of the national anthem tells me it’s time to start packing up, but not tonight. My court-martial’s in two days.

Technically, it’s Senior Airman Matthew Bolin’s court-martial, since he’s the one who ran off when he was scheduled to deploy to Afghanistan. But I’m his assigned military defense counsel, so I’ll be right there with him every step of the way. Except for the jail time, of course.

I’m sitting at my desk reading the stipulation of fact we’ll be using for Bolin’s guilty plea. His duty history had been stellar—Airman of the Quarter, honor guard, promotion below-the-zone—until he disappeared for four days. The local police spotted him sleeping on a bench in what passes for a mall in the booming metropolis of Warner Robins and gave him an armed escort back to see his Uncle Sam, who’d missed him terribly. Bolin’s been sleeping in a cozy pretrial confinement cell ever since, waiting to swap his career and G.I. Bill for the honor of a federal conviction. Not a great trade, but he’s hardly in the best bargaining position.

I hear a knock at my door and the face of my defense paralegal, Staff Sgt. Wendy Perry, appears. “Go home, it’s quitting time,” I say.

Perry ignores me, as is her habit, and comes in and closes the door behind herself. She points back towards the waiting area.

"There's a Molly Winslow here to see you, sir."

Molly Winslow?

"Have her make an appointment, I'm working on Bolin."

Perry seems entertained. "Even if she says she's Bolin's civilian defense lawyer?"

Huh?

"Says she wants to talk about her client," Perry says. "I can tell her you're out if you want, visiting Bolin in jail."

"Son of a—"

Perry swallows a smile.

Ah, that's the way it is. "That's good, Perry, you got me," I say. "Just remember, payback's hell—now go home and play games with your husband."

"Uhm, sir, about Ms. Winslow . . . no joke, she's out there. Really."

But of course she is; why wouldn't she be? The only law I've been able to count on lately is Murphy's, and, as they say, Murphy's an optimist.

"Well don't just stand there, Perry, show her in."

When Ms. Winslow appears, she's at least got the look-like-a-lawyer thing down. She's wearing a tailored navy-blue suit, and has a leather briefcase in her left hand and a purse that says money hanging over her shoulder. Early thirties, maybe, brown hair cut in what I think's called a wedge, splitting the air as she strides over to my desk. She looks straight at me with green eyes and extends her right hand.

"Molly Winslow," she says. Her grip's firm.

"Jack McClure," I say, and try not to crack her knuckles.

"Sorry to barge in, but I represent Matt Bolin. His father sent me."

I raise an eyebrow. Bolin had left me with the impression his parents were dead. "You got an I.D. card?"

Ms. Winslow reaches into her purse and hands me a business card.

"I meant an I.D. card, to get on base . . . reserves, National Guard, something like that?"

Ms. Winslow shakes her head. "Sorority sister from college sponsored me on, lives on base with her husband, a pilot."

"You've never been in the military?"

"Is there a problem?"

I look at her business card. Across the top in gold-leaf print it says Winslow, Bolin & Banks. The address is on West Peachtree, in Atlanta.

"Bolin's father's a lawyer?"

"Yes."

"That explains why he exercised his rights so promptly when the cops picked him up. About the only thing he's done right."

"Matt's a good kid," Ms. Winslow says, her eyes becoming a darker green.

"Didn't say he wasn't . . . just saying his judgment ain't been so hot lately."

"Where is he now?"

"Pretrial confinement facility, five minutes away. The military magistrate thought four days of hide-and-seek to avoid a war made him a flight risk, given he didn't come back on his own and all."

"He's in jail?"

"More like after-school detention, with bars and no hall pass."

No smile from Ms. Winslow.

"How long's he been there?"

"About 30 days."

"I need to see him," Ms. Winslow says, twisting a button on the front of her jacket. "The sooner the better."

"If you'd told me you were coming—"

"We just heard about it yesterday. One of Matt's buddies knew his father was a lawyer, tracked down the phone number and caught Mr. Bolin at the office last night."

"And you rushed down first thing today."

Ms. Winslow's green eyes flash. "We had to figure out the best thing to do."

"Why isn't dad here?"

"Excuse me?"

"Mr. Bolin . . . if it was my son, I'd want to represent him."

"Think that'd be a good idea, a father arguing his son's case to the jury?" Molly shakes her head. "I'm sure they'd trust him."

Her voice has a certain tone. Dumbass, it says.

"The court members," I say.

"Sorry?"

"You said jury . . . in the military, they're called court members. Probably a good idea to learn the lingo if you want credibility." Dumbass.

The skin tightens around her eyes.

I wave her business card. "The Winslow on here's you, I take it?"

"That's right."

"So Mr. Bolin's sent you down to take care of his boy."

Her face flushes. "All that matters to you is I'll be handling the case from here on."

"Really? You know his court-martial's Wednesday morning, right?"

"I've handled a trial or two, Mr. McClure."

"It's Capt. McClure," I say, pointing to the epaulets on my shoulders. "It's a military rank, which works out great because it's going to be a military trial . . . called a court-martial, by the way."

Her eyes are starting to look a bit like green laser gun sights.

"Ever seen a court-martial, Ms. Winslow? Not counting 'A Few Good Men,' I mean . . . which, just to clue you in, was total bullsh—"

"Why don't we skip the sarcasm, captain."

This time her tone manages to suggest the orifice associated with a proctologist's specialty area. I have to admit, she has a certain style.

"Let's face it, Bolin needs the best representation he can get," I say. "You show up out of the blue at the 11th hour . . . without even the courtesy of a phone call, I might add . . . and don't even know the first thing about how a court-martial works, much less—"

"You about finished, captain?"

Yes indeed, a certain flare.

"No, I'm not finished," I say, but I am. Fact is, it's a guilty plea. A third-year law student could handle it as part of a clinical program. Anyway, if Bolin gets his own lawyer, there's nothing I can do about it except salute smartly and follow orders. Ms. Winslow appears able to handle a guilty plea, that's for sure.

"Well," I say, "if we're going to work together, is it Ms. or Mrs.?"

She stares at me.

"Is there a Mr. Winslow?"

"What business—"

"Would you prefer I call you Ms. or Mrs. Winslow?"

"Oh . . . I don't . . . Molly. Just Molly."

I punch the intercom button on my phone and ask Perry to call the confinement facility and find out when they can have Bolin ready for a meeting with his lawyers.

"Roger that," Perry says, "and congratulations on doubling the size of the legal team."

I hang up and grab the stipulation of fact off my desk, wave it at Molly. "I was doing the final proof-read of his pretrial plea agreement when you got here."

"Plea agreement?"

"They threatened to charge desertion at first . . . posturing . . . ended up going with intentionally missing a movement—which, you'll be glad to know, has nothing to do with a lack of fiber."

Still no smile.

"Bolin agreed to plead guilty for a cap of 30 more days in jail and a bad conduct discharge."

Molly sighs.

"We still get to argue for less in sentencing," I say. "A court-martial has a findings and sentencing portion . . . we plead guilty, that takes care of the findings part, then we parade his achievements in front of the court members, talk about his tender years, we'll probably get less."

"What's the max if he doesn't plead?"

"Dishonorable discharge, two years confinement, reduction to the

lowest enlisted rank and forfeiture of all pay and allowances."

Molly massages her forehead.

"He'll do fine," I say, "they're just hoping for the kick. He's tossed out, he'll find something else—seems like a smart kid."

Of course, most employers try not to hire from the pool of available convicted felons.

"I appreciate what you've done so far, I really do," she says. "I think we can make a good team on sentencing."

"I'll do what I can, Ms. Winslow."

"Molly, please."

"Well, Molly, what do you say we go see Bolin?"



We ride over to the pretrial confinement facility in Molly's Mercedes, surrounded by the warm smell of leather. My Corolla always smells like a day-old sack of Krystal burgers with cheese.

When we park and go inside, the security forces duty officer at the front desk, Tech. Sgt. Logan, looks at Molly, then at me with a question on his face. I clue him in. Logan gives Molly a quick run-down on dos and don'ts, peeks at her driver's license, then walks down the hall to get our boy.

"I'll bring him to the visitor's room," he says, over his shoulder.

I steer Molly in the right direction and follow her. I'm thinking about how we might divide up the trial when Molly turns around and puts a hand on my chest.

"I'll meet with him alone first," she says.

Huh?

She drops her hand. "Get him through the shock of finding out his father knows he's in jail, cover some personal stuff . . . I'll come get you."

"I see."

"I promise. It'll only be a few minutes."

I walk back to the lobby.

Forty minutes later, Logan pulls himself away from the Stephen King novel he's reading. "How much longer you think she's gonna be?"

"I promise it'll only be a few minutes," I say.

After another 20 minutes or so—who's counting?—Molly reappears. "Sorry," she says, and heads for the exit door.

"Whoa, hang on there, teammate. You might not have noticed, but I haven't been in the game yet."

Logan lowers his book.

Molly's still moving towards the door when I step in front of her.

"What's going on, Ms. Winslow?"

She glances at Logan, who pretends to read, and puts a hand up to her mouth. "He's not bleeding anymore," she says.

"He cut himself . . . with what?" I start toward the visitor's room as Logan jumps up and grabs a first-aid kit from a hook on the wall.

"No!" Molly sounds like a mother whose toddler's about to run off the sidewalk into traffic.

Logan and I stop.

"You said he's bleeding," I say.

Molly runs her hands through her hair. "Pleading," she says, "I said he's not pleading anymore."

My mouth opens, but I can't remember what language I speak.

"He made a mistake, Jack . . . he doesn't want a federal conviction for making a mistake."

"Maybe he should've thought of that before he committed a federal offense."

Logan's watching us.

"Allegedly committed," I say.

"It's his call on what to plead, you know," Molly says.

"Thanks for the lesson in Criminal Defense 101."

Molly waves her briefcase at the parking lot. "We ought to start putting our case together."

We?

"Correct me if I'm wrong, Ms. Winslow, but I believe it was you, and only you, who's managed to take something that was under control all the way to major-league goat-roping—how long you been here?"

The green laser-sights are back.

"—less than two hours, one of which I spent sitting out here by myself."

Logan frowns.

"So here's an idea . . . you put it together. If you're half as good at trial prep as you are at client control, it shouldn't take more than 15 minutes. You'll have time left over for Humpty Dumpty."

Logan snorts and I glare at him.

"I'll take Bolin back to his bunk, if that's all right with y'all," he says, and leaves.

Molly and I trudge out to her car in silence—the loud, screaming kind. I direct her back to my office by pointing each time we need to turn. When we get there, I have to pull out my keys and unlock the outside door because Perry's smarter than me. She's gone home.

"Where should I drop my stuff?" Molly says.

I put her at a table in the corner of my office.

The solitary benefit of a change in plea will be seeing the senior trial counsel, Capt. Warren Pegram, come unglued when he hears about it in the morning. Since he'll have to get his witnesses rounded up and prove his case, it's possible he'll be more pissed than me. Theoretically.

Problem is, he won't have trouble proving anything. Yeah, it'll add a slight hassle factor, but he's got all the evidence he needs to get his finding of guilty. So it's still a sentencing case—except the only limit on what can happen to Bolin is the max.

"Hey," Molly says, "does the military break its crimes into elements like we do in civilian practice?"

No, we still try cases like they did when dinosaurs roamed the earth.

I pick a folder up off my desk, hand it to her. It contains a copy of the charge against Bolin and copies of the pages from the Military Judges Benchbook and Manual for Courts-Martial that cover the elements. I also have pages for affirmative defenses I review for every case, no matter whether they seem to apply or not, so I don't miss anything. Elements, definitions, judge's instructions—everything you always wanted to know about

missing a movement but were too ignorant to ask.

Speaking of ignorant, Molly sits down in one of my overstuffed client chairs and starts reading. I sit behind my desk and crank up my computer. Maybe I can find something on Westlaw covering what to argue when you have no facts or law.

Out of the corner of my eye, I see Molly waving a piece of paper. "They're charging missing a movement through design, not neglect, right?"

I nod without looking up.

"According to this, they have to prove specific intent," she says.

I consider how as I nod in a way that says, Bravo, you can read.

"So if they can't prove specific intent, we win," Molly says. "Find a way to show he didn't intentionally miss his flight and—"

I can't help myself. "Sure . . . and while we're at it, let's prove the existence of God."

"Can you go back to not talking?"

"Oh, I'm sorry. He vanishes for nearly a week starting on the very day he's supposed to deploy, then doesn't come back until the cops catch him." I stroke my chin. "Coincidence? I think not."

"There's gotta be—"

"If it looks like a duck, walks like a duck, quacks like a duck, guess what? I suppose we can argue he isn't a chicken."

"Real helpful," Molly says. "What he is, is a boy . . . a boy who lost it for some reason, acted out of character."

"You talking about when he turned down the plea agreement?"

"Jack . . . what's that short for anyway—jackass?"

I shrug.

We work a couple of hours with no flash of genius. Our fallback's calling witnesses to testify to Bolin's character for obedience to orders—hoping the court members overlook the problem with that last big order. We decide that I'll handle the character witnesses and the cross-examination of the prosecution witnesses, while Molly takes care of Bolin's direct.

That still leaves the problem of what he can possibly say that will help, but you can't have everything.

"Let's call it a night," I say, "start fresh tomorrow."

"Couldn't they not have a trial," Molly says, "just let him get out?"

"Discharge in lieu of court-martial . . . we offered, they said no."

"Who's they?"

"Mostly the SJA—staff judge advocate—he's the head lawyer," I say. "Commanders follow the SJA's advice on something like this."

"Then we need to talk to this SJA."

"Been there, done that."

"Not me," she says.

The hope on her face keeps me from saying anything, but I think about how her talk with our client turned out.



In the morning, I'm the first one to the office. Perry gets in a few minutes later and starts to ask how things went, but stops when she sees my face. I have her call the legal office and set up an appointment with the SJA as soon as he's available.

The SJA, Col. Russell P. Farnsworth III, enlisted in the Marine Corps right out of high school. Two years later, he was in the Nevada desert in August participating in Red Flag, the mother of all joint-service war exercises. He and his fellow jarheads were stripped down to their skivvies living in canvas tents, eating field rations and drinking water out of sizzling metal canteens like real men, talking about how the Air Force "warriors" were probably sitting in air-conditioned pre-fabs washing down steak and shrimp with cold beer. They'd all laughed when one tattooed marine with particularly well-developed biceps said, "Guess that's why we call 'em a sister service."

When Farnsworth's hitch was up, he went to college on the G.I. Bill, then law school on an academic full-ride. Seven years of school surrounded by civilians made him miss the military lifestyle, so he

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decided to return to the Marine Corps as a JAG. He was just putting pen to enlistment paper when, for some reason, Aesop's fable about the sour grapes came to mind.

I'd heard him tell the story 18 times.

"What are y'all going to do with the SJA?" Perry says.

"Beat a dead horse. Track down Capt. Pegram, too."

Perry looks at me.

"New plea," I say, "not guilty . . . your face is going to freeze that way, Perry."

Molly gets in at 0800 hours, and we ride over to meet with Farnsworth at 0815. Farnsworth's cordial enough, listening politely, nodding and pursing his lips at the appropriate times. But he doesn't ask a single question. Instead, once Molly's finished, he puts on his sympathetic face and says, "Sorry, Ms. Winslow, this has to go to court."

He straightens his tie in the reflection off the glass covering his law school diploma and explains that if Bolin walks away with just an administrative discharge, every time there's a war, there'd be a line around the block of other airmen asking for the same thing. Molly

seems to shrink for a moment, then shakes his hand and thanks him for his time. She drops me off at my office and goes to prep Matt for his testimony.

"I'll be a while," she says.

She was.



The day of the court-martial, I'm up at 0500 hours. I feel like I slept 10 minutes. Court's scheduled to start at 0800 with a session to cover preliminary matters before the court members are seated. I'll be running on adrenaline and water like I do for every case, not able to eat until we break for the night. Fear of screwing up always churns my insides. I figure it's a healthy fear given that I usually come out on top.

Coming out on top in Bolin's case would be a sentence equal to, or less than, the cap I'd negotiated in his long lost pretrial agreement. I don't see it happening.

When I get to the courtroom, Logan has already brought the star of the show over from his pretrial confinement cell. Bolin and Molly are sitting at the defense table, heads close together whispering. Even from 10 feet away,

I can see the red rims around Molly's eyes.

Pegram comes in and heads straight for me. "Still pleading not guilty or did you flip a coin and change your mind again?" he says, and struts over to the prosecution table. A fungible captain from the base legal office is already there sitting second-chair.

At 0800 on the dot, the bailiff says "All rise," and our assigned military judge, Lt. Col. Judith Jackson, comes in. Except for voir dire, which she runs herself, Judge Judy lets the lawyers do their thing without too much interference. She knows the law as well as most military judges do, if not better. How that can help us, I have no idea.

Within an hour, we've seated the court members and finished both openings. Capt. Fungible did the prosecution's, telling a simple story, because it is a simple story. I did ours, slogging through a standard "don't make up your mind until you've heard all the evidence" pitch. What else could I say?

Pegram calls Bolin's commander and first sergeant as his first two witnesses, and I cross each of them pretty much the same way.

"You learned everyone was accounted for except one airman, right?"

"Correct."

"When you heard the missing airman was Bolin, you thought that couldn't be right, didn't you?"

"The last name I expected to hear."

"Why's that?"

"He was the best airman we had."

"You believed there was no way Bolin would intentionally fail to show up for duty, right?"

"Correct."

"Because you'd observed and heard of Bolin's devotion to duty?"

"Correct."

"Knew his reputation for obedience to orders?"

"I did . . . we'd never had a problem."

I end with a slew of questions that cover all of Bolin's accomplishments I know about. His commander and first shirt throw in some more stuff as well, God bless them.

Killjoy Pegram takes a little shine off the apple on redirect.

"But you came to learn that Bolin didn't show up, didn't you?"

"Yes."

"Did he call to say he wasn't coming?"

"Not that I'm aware of."

"Did he show up late because of car trouble?"

"Not that I know."

"In fact, after his flight left without him, the first time you saw him again was after the Warner Robins police department apprehended him and turned him in, right?"

"That's correct."

"Do you consider that acceptable duty performance?"

"No."

I guess the good news is since I was able to get our favorable character evidence on cross of the commander and first sergeant, we won't need to call them in our case in chief.

The prosecution's last witness is one of the Warner Robins police officers who caught Bolin. His direct's so easy, Pegram lets

Fungible do it. Once it's over, Pegram puts on his best James Earl Jones voice and says, "The government rests."

"Does the defense have any evidence to present?" Judge Judy says.

Molly stands. "The defense calls Airman Matthew Bolin."

Bolin inhales like a person who's been underwater too long, then pushes up out of his chair and walks to the witness stand. As he's sworn in, his right arm forms a perfect squared corner at the elbow, though his "I do" has a discernible tremor.

"Airman Bolin, why didn't you show up for your deployment flight?"

Getting right to it . . . smart.

Bolin grits his teeth and says nothing.

Then again—

Molly walks up in front of him. "Let me ask it like this, when were you first notified you'd be deploying to Afghanistan?"

"The first time I heard?"

"Yes."

"Right after commander's call in June, seven of us were told we'd be deploying in August."

"How did you feel when you heard?"

"Excited . . . that's what we train for, why I joined." Bolin sits up straighter. "Maybe a little nervous, but mostly excited."

"At that time, did you think about not going?"

"Not at all."

"Let's move to the day you were supposed to go, August 29, you didn't show up for your flight, did you?"

Bolin shakes his head. "No, I didn't."

"Part of being in the military is the possibility of being in harm's way?"

"Yes."

"When you joined the Air Force, you knew you might have to go to war one day."

"I fully expected to."

"Did you miss your deployment because you were scared to go?"

"Not of going to war, no."

Molly walks to the end of the jury box farthest away from Bolin. "Please tell us what you were scared of."

Bolin wets his lips. When he speaks, it's almost a whisper. "My mother," he says.

One of the court members covers his mouth with his hand, while a couple of others shake their heads. All of them look disappointed.

I can relate.

I peek at Pegram. He isn't bothering to hide his smile.

"How did your mother keep you from deploying, Airman Bolin?"

"She sent me a letter."

"A letter?"

"Yes."

"When did you get her letter?"

"The day before the deployment."

"What did it say?"

Pegram is on his feet. "Your honor, it sounds like we're getting into hearsay."

Molly doesn't hesitate. "We're not offering the content of the letter for its truth, judge, we're offering it for its effect on Airman Bolin."

Judge Judy peers over her glasses at Pegram, who shrugs. "Overruled," she says, "for now."

Pegram sits down, waiting to hear what's in the letter.

I'm right there with him.

"What did your mother's letter say?"

"That she was proud of me, how well I was doing in the Air Force."

Pegram's smiling again.

"That kept you from making your plane?"

"No."

"What else did she say?"

Bolin's head is down.

"Matthew . . . tell the court members what else, if anything, she said."

Bolin acts like a man whose best friend just betrayed him with a kiss. "She said she didn't know how she'd make it if something happened to me . . ."

The tremor in his voice is back.

". . . if she lost me, like she lost my brother."

Pegram isn't smiling anymore. "Objection to the hearsay."

"Not offered for the truth, your honor," Molly says.

"Overruled."

"What did that mean to you, that she couldn't lose you like she'd lost your brother?"

"Objec—strike that."

"I had a brother . . . who died."

Every court member's eyes are locked on Bolin.

"What happened?"

"I don't know the details, it happened before I was born." Bolin hangs his head. "It's like a family secret nobody talks about."

"Do you have any living brothers or sisters?"

"No."

"You were an only child when you were born?"

"I was."

Molly lowers her voice. "What kept you from deploying, Matt?"

Bolin crosses his arms, uncrosses them.

"I was afraid of what might happen to my mom, that's why I couldn't go."

"Couldn't—why do you say couldn't?"

"I mean I wanted to go, it was my duty to go, but I couldn't . . . like I was powerless, not in control of myself."

"When you felt powerless, not in control of yourself, when are you talking about?"

"The day I was supposed to deploy, when I was getting ready to drive to base ops to catch our plane."

"Can you describe what happened?"

"I . . . I remember loading my car, but after that, I don't know. I must've driven somewhere, I couldn't tell you where."

"Given your character for following orders—testified to by your commander and first sergeant—why didn't you tell someone you weren't going to show up?"

"Your honor." Pegram sounds whiney.

"You'll get a chance to argue your case in closing, Ms. Winslow," Judge Judy says.

Molly nods. "Why didn't you

call your first sergeant or commander and tell them you where you were, what was going on?"

"I don't know, I don't remember thinking about it . . . don't remember anything."

"Has this ever happened to you before?"

"No."

"Do you remember the police waking you up at the mall?"

"Not the moment they did, no, but I remember the officers helping me to their car, taking me to the base."

"Were you aware you were in trouble?"

"No . . . I remember thinking I needed to get back, that I was deploying soon, but I didn't know I'd missed it."

"Let's focus on when it first dawned on you that you missed your deployment . . . when was that?"

"When I got to the base and security forces read me my rights. They told me I was suspected of desertion."

"No more questions," Molly says.

When Judge Judy asks if there's any cross-examination, Pegram's out of his chair before she can finish the question.

I got to give Pegram credit, he gave it his best shot. He must've asked Bolin a hundred questions about each and every detail of the four days he was gone—where did you eat, where did you sleep, what did you see, what were you feeling? Will the Braves ever win another World Series? Bolin answers every question with some variation of I don't remember or I don't know. By the end, Pegram's frustration is almost too painful to enjoy.

Pegram tries to salvage it with one last question. "You've had a very convenient memory lapse, wouldn't you say, Airman Bolin?"

Matthew Bolin gives him a thousand-yard stare. "I wish I could remember, sir," he says. "I really do."

The thing is, he looks like he means it.

"Redirect, Ms. Winslow?"

"The defense rests, your honor."

The prosecution elects not to put on any rebuttal evidence, and Judge Judy sends the court members out while we go through the jury instructions she'll read after closing arguments. Pegram makes a half-hearted attempt to keep out the instruction on evidence negating mens rea, arguing not enough evidence was presented for the court members to reasonably find Bolin had an emotional condition that might negate specific intent.

"What trial were you watching, Capt. Pegram?" Judge Judy says.

During his closing, Pegram never hits his stride.

Molly, on the other hand, is remarkable. As she gets near the end, she asks the court members to pay particular attention to the instruction the judge will give them regarding Bolin.

"He was in limbo, lost to everyone, including himself. When you leave here in just a few minutes to decide what Matthew Bolin's future holds—to decide whether he leaves here able to continue to serve his country and to excel, or whether he leaves here a convicted felon—think about how inconsistent missing that flight was with everything else you've heard about Matt."

She walks over and puts her hands on Bolin's shoulders.

"This young man's heart, a heart filled with concern for his mother, ruled his actions. He was so worried he lost the ability to choose, the ability to form the legal intent to commit a crime. If Matthew Bolin's guilty of anything, he's only guilty of being unable to make a choice he felt could destroy his mother."

Molly steps out to the edge of the defense table to wrap it up.

"I wonder . . . what would a mother say if she had Airman Bolin as a son?"

Pegram twitches, but keeps his seat.

"She'd probably tell him how grateful she is that he loves her, tell him that he doesn't need to carry her burden anymore . . ."

Molly turns toward Bolin.
". . . because you gave me the strength to carry it by growing up into the kind of man any mother would be proud of."

Pegram chews on a fingernail.

"And I expect his mother would be able to tell him one last thing, too." Molly turns back to the court members and takes a moment to make eye contact with each of them. "Take the second chance the court members gave you when they came back with their verdict of not guilty, and keep on making everybody proud, son."

The courtroom is silent as Molly makes her way to the defense table and sits down. Judge Judy raises an eyebrow at Pegram, who shakes his head. After the judge instructs the court members and sends them off to deliberate, I drive over to my office to wait. Molly stays with Bolin.

Less than two hours later, the call comes that they've reached a verdict.



Once the verdict's announced, and the post-trial details are taken care of, Molly follows me back to my office parking lot. When she gets out of her car, she's holding her cell phone.

"Be there in a minute," she says, "I need to call his father."

When I get inside, Perry's at her desk in the waiting area. "You won again, sir," she says.

"She won, Perry, I just watched."

I make my way into my office and sit in my chair. I need a beer. Five minutes later, Molly comes in and starts gathering her stuff.

"You held out on me," I say.

She stops shoving papers into her briefcase.

"Turns out you're quite the trial lawyer."

"I told you I'd tried a few."

"Yeah, but you didn't tell me everything, did you?"

Molly goes back to packing, and I wait until she's finished.

"Definitely sandbagged me," I say.

She turns her head.

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"Should've realized a lot of women use their maiden names professionally, I guess."

"I couldn't take a chance on it slipping out," she says, "wouldn't want them to know, right?"

"The jury?"

"Court members, Jack, that's what we call them in the military."

We both laugh.

"They would've trusted you anyway, Mrs. Bolin."

"Maybe, but how did—"

"Some legal research while the court members were deliberating. You were so good, I had to see what kind of cases you'd tried before."

Molly smiles. "Do I detect some professional jealousy?"

"No doubt, since after that I went through property records to see what kind of house a real trial lawyer would live in . . . and there you were . . . on a deed with your husband."

"Nice to know you respect my privacy."

"No offense, they're public records." I stand up. "And by the way, you look a good 10 years younger than 42."

Molly's green eyes are bright. She tugs the strap of her purse over her shoulder, picks up her briefcase and sticks her hand out across my desk.

"How we started," I say, and shake her hand. "Glad it worked out the way it did, I really am."

"Me too, Jack."

I walk her out to the parking lot and open her car door for her, wondering if she'll stop to see Matt one

more time before she heads back to Atlanta. "I still can't believe you're old enough to be his mom."

"Never said I wasn't."

"That's true."

She surprises me with a quick kiss on the cheek before she gets in her car and drives away. Molly Winslow Bolin, a woman full of surprises.

The other thing my research found was no evidence of a second son. No birth certificate, no death certificate, no nothing.

To be fair, I can't call that a surprise. Not when she threw the question out in front of us all, right there in her closing argument.

What would a mother say if she had Airman Bolin as a son?



Lt. Col. Leonard M. Cohen practices government procurement law at Wright-Patterson Air Force Base, near Dayton,

Ohio. He grew up in the Atlanta area, graduated from Georgia State University and went to work for a local cosmetics company. Fired for failing to appreciate the weighty difference between the lipstick shades ruby-red and coral-red, he ran away and joined the Air Force, serving on active duty for 20 years—first as a helicopter pilot, then as an attorney. He received his J.D. from Wake Forest University and LL.M. from George Washington University. He can be reached at leonard.cohen@wpafb.af.mil.