



# Theory of Innocence

FROM CHAOTIC FACTS TO COHESIVE DEFENSE FRAME



# Theory of Innocence

- ▶ Definition: Concise, legally grounded explanation of why your client is not guilty. It's the thread of the case, rooted in the law, *the* facts and a core moral logic that resonates with jurors. Your Anchor. Your persuasive independent account of innocence.



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# 3 Components



1. The Law (the legal anchor)
2. The Facts that support the law
3. The Moral Logic (Archetype)



# The Law



Why is your client NOT Guilty?  
(legally)

What does this feel like? (the  
legal-ish reason)



# GENRE

1. It never happened (mistake, setup)
2. It happened, but I didn't do it (mistaken identification, alibi, set-up, etc)
3. It happened, I did it, but it wasn't a crime (self-defense, accident, claim or right, etc)
4. It happened, I did it, it was a crime, but it wasn't this crime (lesser included)
5. It happened, I did it, it was the crime charged, but I'm not responsible (insanity, diminished capacity)
6. It happened, I did it, it was the crime charged, I am responsible, so what? (jury nullification)

Don't get too caught up in law reasons.  
What does this feel like



**Genre:** Its the legal-ish, but deeply intuitive lens that the jurors are looking through.

# What does it feel like?



# Charge: Violation of DVPO

- ▶ Client was personally served with paperwork in parking lot of Urban Air
- ▶ Given 50B paperwork by sheriff
- ▶ Paperwork clearly indicates that the house is temporarily granted to PW and he is not allowed to go back there
- ▶ Client immediately goes back there
- ▶ Caught on his own ring camera footage





# Charge: Violation of DVPO

- ▶ Client was personally served with paperwork in parking lot of Urban air
- ▶ Given 50B paperwork by sheriff
- ▶ Paperwork clearly indicates that *his* house is temporarily granted to PW and he is not allowed to go back there
- ▶ Client immediately goes back there
- ▶ Caught on his own ring camera footage
- ▶ Retrieved some medications/clothes for his daughter and for himself before PW got home
- ▶ Never contacted her
- ▶ Never went back until the house was given back to him
- ▶ PW didn't know he was there until she checked the footage next day



# Legal Anchor:

- ▶ Why is he Not Guilty?
- ▶ What does this feel like?
- ▶ He had no intent
- ▶ He didn't mean to

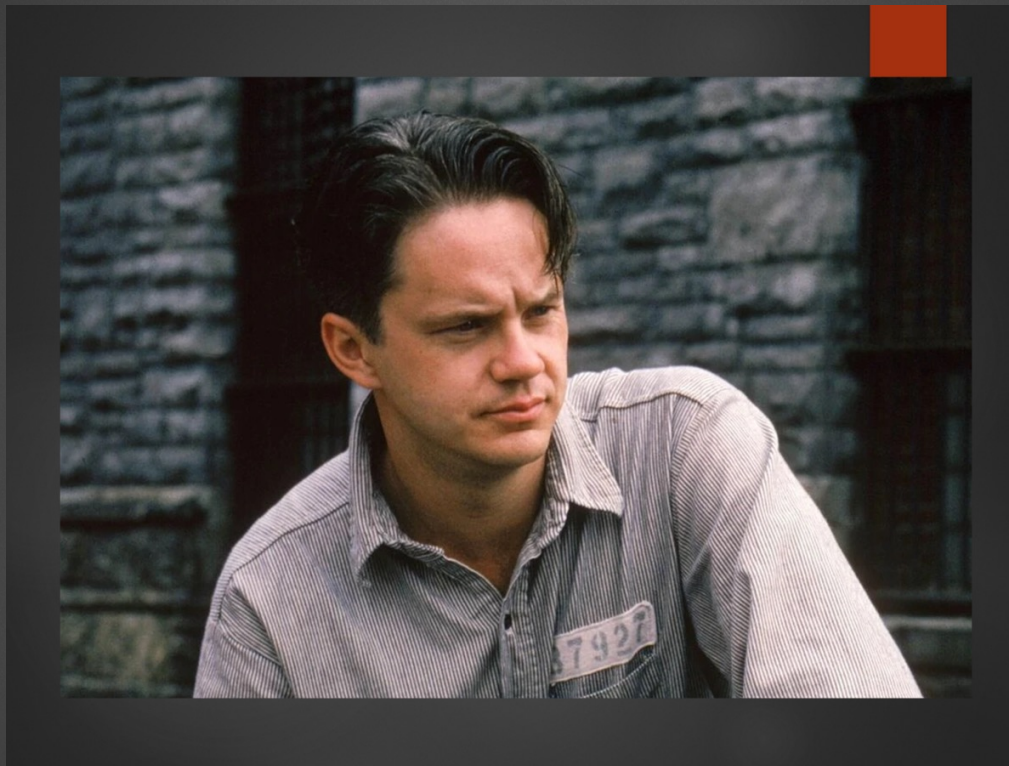
# The Legal Anchor



No intent



# One more example:





# Charge: prison break

- ▶ Why is he not guilty?
- ▶ Genre?

# GENRE

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# Charge: prison break



- ▶ Why is he not guilty?
- ▶ Genre?
  - ▶ #6, jury nullification
- ▶ Why should we not care that he broke out?
  - ▶ He never should have gone to prison in the first place
  - ▶ It's the unspoken Legal-ish law of Fairness and Justice

**Legal anchor:** He is not guilty because he never should have gone to prison in the first place and left it a better place than when he entered. Its only fair.



# Mal Davis



# Mal Davis

## Charge: Felony Murder

### ► WHY is he not guilty?

1. It never happened (mistake, setup) ✓
2. It happened, but I didn't do it (mistaken identification, alibi, set-up, etc) ✓
3. It happened, I did it, but it wasn't a crime (self-defense, accident, claim or right, etc)
4. It happened, I did it, it was a crime, but it wasn't this crime (lesser included)
5. It happened, I did it, it was the crime charged, but I'm not responsible (insanity, diminished capacity)
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# Why do you say the felony murder never happened?

- ▶ He didn't aid or abet a drug transaction
- ▶ He was coerced
- ▶ He was just following orders



# Mal Davis legal anchor

- ▶ Mal is not guilty because he did not aid or abet any felony and had no intent to commit a felony. He was coerced into being there by rogue officers.

# FACTS:



- ▶ 3-5 facts that makes this theory make sense
- ▶ Which ones must the jury accept to acquit?



# DVPO example

- ▶ **Legal anchor:** He had no intent to violate DVPO
- ▶ **Facts:**
  - ▶ He never contacted her then or ever again
  - ▶ Only grabbed the things he needed
  - ▶ His house, he knows there's a ring camera there
    - ▶ If he intended to commit a crime, why would he do it on camera?



# Shawshank Redemption example

- ▶ **Legal anchor:** He is not guilty because he never should have gone to prison in the first place and left it a better place than when he entered. Its only fair.
- ▶ **Facts** that supports this?
  - ▶ Andy was wrongfully convicted
  - ▶ He spent 20 years educating and supporting others
  - ▶ He exposed corruption when he left
  - ▶ No one got hurt

# Mal Davis legal anchor



- ▶ Mal is not guilty because he did not aid or abet any felony and had no intent to commit a felony. He was coerced into being there by rogue officers



# Facts that support that

- ▶ “He just made the call”
- ▶ “He didn’t bring drugs or weapons”
- ▶ “He was standing away from the others”
- ▶ “The cops made him do it”
- ▶ “He was afraid of the officers”
- ▶ “He said the cop was drunk and pissed off”
- ▶ “Mills gave him the phone”
- ▶ “He was shocked by the shooting”
- ▶ “He recognized Mills as a cop”
- ▶ “He didn’t know anyone would be killed”

# Mal Davis Facts that support the legal anchor

- ▶ Mal Davis had no weapons
- ▶ He was not involved in the drug transaction
- ▶ He expressed shock (Are you fucking crazy?!) before running
- ▶ Mills was drunk and coercive
- ▶ Mal made the call because Mills ordered him to
- ▶ Mal never agreed to sell, buy or possess drugs himself



# The Moral Logic:

Moral Logic is the  
unspoken justification a  
juror uses to feel good  
about voting “Not Guilty”

# The Moral Logic:

Archetype: Universal truths that people recognize instantly, without needing explanation.



# The Moral Logic:

Archetype: Universal truths that people recognize instantly, without needing explanation.

shortcut to deep  
emotional understanding

# Archetype examples?

- ▶ Love is a fundamental emotion
- ▶ Sibling rivalry
- ▶ David vs. Goliath
- ▶ It's easier to blame someone else than blame yourself (Scapegoat)
- ▶ Knowledge is power
- ▶ Life is not Fair
- ▶ Nothing lasts forever



# Moral Logic

- ▶ Archetypes are the gateways to Moral Logic
- ▶ Shortcuts for
  - ▶ Who is this person?
  - ▶ What does this story mean?
  - ▶ This is what justice looks like in this kind of case

# DVPO Example

- ▶ **Legal Anchor:** He had no intent to violate
- ▶ **Archetype:** Devoted Father/Protector, Its father's duty to protect his daughter, no harm no foul, intent matters
- ▶ **Moral Logic:**
  - ▶ “ We don't punish people who are trying to do comply- we give them the benefit of the doubt. There is no intent to harm- only intent to parent”



# Shawshank Redemption



- ▶ **Legal Anchor:** He escaped but was wrongfully imprisoned
- ▶ **Archetype:** Redeemer/Wronged Man
- ▶ **Moral Logic:**
  - ▶ “ When the system gets it this wrong, the law shouldn’t be used to keep an innocent man in a cage. Sometimes breaking out is the only way to restore justice”

# Archetypes for Mal

- ▶ Scape Goat- used to protect someone else
- ▶ Pawn- no power or control
- ▶ Outsider – misunderstood, misjudged, assumed guilty by bias



# Mal Davis

- ▶ **Legal Anchor:** He didn't aid or abet a drug deal. He was coerced by rogue cops.
- ▶ **Archetype:** Scape goat/Pawn/Outcast
- ▶ **Moral Logic:**
  - ▶ "This wasn't his plan. He didn't have power. He didn't have drugs. He was dragged into this by people with more power, more choices, and less control. You don't convict the pawn because the king made a bad move".

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# Its NOT



- ▶ A list of reasonable doubts
- ▶ It's not a response to the state's theory
- ▶ Its not a story

# DVPO Example Theory of Innocence

- ▶ Mr. Client was personally served with a DVPO and took it seriously. He returned home only to collect medication and items for his daughter and left before the protected party ever returned. He never contacted her, never returned, and never showed any intent to violate the order. This is not willful intent, its good parenting.



# Shawshank Redemption Theory of Innocence

- ▶ Andy Dufresne was wrongfully imprisoned for a crime he didn't commit. He spent two decades enduring abuse, building a library, mentoring inmates and helping others find hope. When the legal system refused to correct its mistake, he escaped peacefully, without harming anyone, and exposed massive corruption in the process. The law may say he escaped- but justice says he was finally set free. You don't punish a man for saving his own life when the system failed to do it for him.

# Mal Davis Theory of Innocence





# Mal Davis Theory of Innocence

- ▶ Mal Davis is a 28-year-old drug addict who was forced by two drunk police officers to help set up a drug deal that resulted in the killing of Officer Pete Mills by a dealer named Ed (Jelly) Akins. Mills and his partner, P.O. White, were rogue cops who spent the night getting into drunken arguments and fights in a futile effort to make a drug bust in violation of many laws and police department policies. Mal had no weapon, never killed anyone and never intended to be involved in any drug deal or shooting.

# DVPO Example Theory of Innocence

- ▶ Mr. Client was personally served with a DVPO and took it seriously. He returned home only to collect medication and items for his daughter and left before the protected party ever returned. He never contacted her, never returned, and never showed any intent to violate the order. The law requires a willful violation- and this was not that.
- ▶ A good father who was suddenly slapped with a no-contact order wrongly arrested for trying to follow the no contact order when trying to get medication for his daughter.

**No Intent, No Harm, No Crime**



# Shawshank Redemption Theory of Innocence

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- ▶ Wrongly convicted man escapes prison after 20 years of good deeds inside the prison to find justice.

**When the Law Fails  
Justice Finds a Way**

# Hooks for Mal

- ▶ When an officer tells you to do something, you do it
- ▶ Reckless Officer Mills, Got himself Killed
- ▶ Used, Not Guilty
- ▶ You don't Punish a Pawn when the King made the move