

To my readers: Thanks for helping me decide the verdict for my next book, *The Justice Game*. You've clicked on the button that requests more information about the case. Below you will find chapters 65-68 of *The Justice Game* (not yet edited). These chapters contain the opening statements of both lawyers and should give you all the information you need.

Thanks for taking part in this unique experiment!

Randy

Chapter 65

“Ms. Starling, does the plaintiff have an opening statement?”

“We do, Your Honor.”

Kelly stood and walked toward the jurors, holding nothing but a remote control. After months of pre-trial discovery, deposition disputes and a bevy of motions, she couldn't believe that the moment had finally arrived.

“By our readiness to allow arms to be purchased at will and fired at whim we have created an atmosphere in which violence and hatred have become popular pastimes.”

She looked at Juror 3, Rodney Peterson, the only African-American left on the jury. A history professor. A Democrat. A man active in the inner city. “Those are not my words,” Kelly said. “They are the words of Dr. Martin Luther King, Jr.”

She stopped a few feet in front of the jury box and surveyed all the jurors. “What Dr. King said is true. And nobody has been more ready to allow guns to be purchased at will and fired at whim than the defendant—MD Firearms.”

Kelly had placed a large screen in front of the witness box hooked up to an LCD projector. She pushed a button on her remote and the first fact flashed on the screen. “According to the Bureau of Alcohol, Tobacco and Firearms, the federal agency tasked with oversight of our gun laws, one percent of gun stores sell the weapons traced to fifty-seven percent of gun crimes. ‘How can that be?’ you might ask. That doesn't seem statistically possible. And you're right—it's not.

“Unless... those gun stores help it along a little bit. Unless a few stores, a few renegade dealers, find ways to supply the black market for guns and make money from it. Maybe they sell a bunch of guns to legal purchasers knowing that those purchasers are supplying the guns to criminals. Maybe they fudge the paperwork. Maybe they lose the paperwork. However they do it, these dealers are merchants of death, making money by supplying the street gangs and thugs and drug dealers with lethal firearms.

“The evidence in this case will show that Peninsula Arms was one such dealer.”

For the next few minutes, Kelly took the jurors through a series of PowerPoint slides that demonstrated her point. She started with a map of the United States, highlighting those cities that had filed lawsuits against renegade dealers. Using a blowup of the federal firearms transaction record, she explained how a straw sale occurred—having an eligible purchaser fill out the paperwork knowing that the gun was in reality going to somebody else who couldn’t have purchased it on their own.

She showed them slides full of statistics gleaned from the various lawsuits. Two dealers sold thirty percent of the guns traced to street crimes. One was Peninsula Arms. In 2006 alone, Peninsula Arms sold 251 guns linked to murders or aggravated woundings in Philadelphia, Washington, Baltimore and New York City. Undercover agents from New York City had enticed Peninsula Arms clerks into an illegal straw sale—and it wasn’t hard.

“MD Firearms knew about these lawsuits and these statistics. And what did they do with this knowledge about one of their biggest dealers?” Kelly asked. She walked over to the table where Jason Noble and Case McAllister were sitting. “Did they stop selling to Peninsula Arms until the dealer straightened up?” Kelly looked down at Case who returned her gaze with an unrepentant stare. At that moment, she was pretty sure Case wanted to shoot out her kneecaps. *Perfect.*

“Did they help the ATF set up a sting so that Peninsula Arms could be prosecuted? Did they even send their dealer a lousy warning telling them to curtail the straw sales or MD Firearms might have to stop supplying them?”

Kelly gave a small derisive laugh and headed back toward the jury. “No. I’ll tell you what they did—they kept on selling guns to Peninsula Arms. And you know why?”

Kelly hit the button and showed the profit margins on an MD-11. “Here’s why--\$200 per gun. Nearly a million dollars last year from Peninsula Arms alone.”

She paused, letting that number sink in. “Now, in case you think I’m just making this up—that MD Firearms isn’t really motivated just by money, they did us the favor of putting it all in writing. How fitting that in a case about distribution of firearms, Mr. McAllister over there should be so kind as to produce a memo that can only be referred to as a ‘smoking gun.’”

Page by page, Kelly took the jury through the McAllister memo. The man had analyzed the profits made through four troublesome dealers, including Peninsula Arms. He argued that shutting off these four dealers (that together accounted for over fifty percent of the guns in the northeast cities traced to crimes) would generate lawsuits by the dealers and serve as an admission that MD Firearms had a duty to monitor its dealers.

“According to Mr. McAllister, a cost-benefit analysis suggested that MD Firearms should continue selling guns to all licensed dealers.”

Kelly got mad just thinking about it. She didn't have to manufacture emotion—her anger was real. If McAllister and Davids had acted responsibly, Rachel Crawford might still be here today. “Do you know what's missing from Mr. McAllister's cost-benefit analysis?” Kelly demanded. “Do you know what just happened to slip his mind, just fall through the cracks?”

She stopped, jaw clenched, lips pursed. “The cost of innocent human life—that's what. The devastation to a young couple like Rachel and Blake Crawford. The death of a tiny baby, little Rebecca Crawford, tucked safely inside her mother's womb twenty-two weeks into gestation.”

Kelly paused, pulling the images from the 3-D ultrasound up on the screen. “Unfortunately for MD Firearms, Mr. McAllister is not the only one who gets to do a cost-benefit analysis on whether they should have stopped selling guns to Peninsula Arms.

“You, ladies and gentlemen, get to do your own cost-benefit analysis. Was it reasonable for MD Firearms to keep selling to dirty dealers? Did their failure to exercise reasonable care cost Rachel Crawford her life?”

Kelly let the question hang there for a moment as she prepared to change gears. She wanted to talk for a few moments about Ed Poole. She needed to make sure that Jason Noble either put him on the stand or paid the price for pulling him as an expert.

“The defendant has retained an expert witness named Ed Poole,” Kelly explained. “A former Chief of Police for the City of Atlanta. He's going to tell you that the man who shot Rachel Crawford could have obtained his gun from the black market. That it wouldn't have made any difference if MD Firearms had cut off dealers like Peninsula Arms.

“But then I'll get a chance to ask him a few questions on cross-examination. And without giving away what I'm going to say, I'll promise you this: By the time he leaves the stand, you won't be willing to believe a word the man says. Mark *my words* on that.”

Kelly lowered her voice. She went to her counsel table and picked up the MD-11 used to kill Rachel Crawford. “This case is really the story of a gun,” she said. “This gun.”

It took her ten more minutes to tell the story. The illegal purchase by Larry Jamison. His vendetta against Rachel Crawford because of the investigative report Rachel had prepared. His plan to take Rachel hostage and execute her on live television.

“Unfortunately,” said Kelly, her voice nearly a whisper. “His plan worked to perfection. What you're about to see is graphic, but it's why the stakes are so high when a company

like MD Firearms does a cost-benefit analysis about the way it distributes firearms. What you're about to see, what many of you have already seen, are the last few minutes of Rachel Crawford's life..."

Chapter 66

Jason Noble leaned back in his chair, frowned a little, shook his head a little, and jotted a note or two. He stifled a yawn for the jury. On the outside, the epitome of boredom. On the inside, butterflies in full riot mode, heart pumping, perspiration factory working overtime.

He noticed that Kelly Starling had no trouble keeping the rapt attention of the men on the jury. She had recently cut her short blonde hair, making her appear even more business-like. She wore a white blouse, gray suit, heels, understated earrings, a silver necklace, and a touch of lipstick—very classy, but nothing to draw attention to herself.

She didn't have to. She walked around the courtroom with elegant grace, her eyes blazing with intensity, yet still she managed a beguiling smile here and there. The four men on the jury followed her every move. The three women kept glancing over at her client. She was, thought Jason, a formidable opponent.

She stood now at the edge of the jury box, out of the way, and for the first time nobody paid any attention to her. She played the video of the shooting. It started with Rachel live on the air and then somebody yelled something about a gun. The screen went blank for what seemed like an eternity.

When it came back on, Jamison was on camera along with Lisa, the news anchor, and Rachel. Jamison forced the women to introduce themselves and told the television audience they had just heard a bunch of lies. He paced behind Lisa and Rachel, then pointed the gun at Rachel's face.

While Jamison ranted about the investigative report, Jason watched the looks on the faces of the jurors. Most of them grimaced, bracing themselves for what they knew was coming. They seemed to be holding their collective breath.

Jamison questioned Rachel about her sources, threatening her as he did so. He forced Rachel to apologize and beg for mercy. He questioned Lisa: "Do you agree it's her fault?" Lisa shuddered and sobbed, "She made a mistake."

Though the jury knew it was coming, the gunshots still managed to startle them. Some jolted back as they watched Rachel dive for the floor, Jamison pumping bullets into his victim even as his own body was torn apart by the SWAT team bullets. There was shouting and chaos. Both Rachel and Jamison lay dead on the set, blood splattering their bodies.

The screen went blank.

Kelly moved to the front of the jury box and stood there. She didn't say a word. Her back was to Jason so he couldn't tell if she crying or just trying to hold it together. The tension in the courtroom was off the charts.

“Ms. Starling,” Judge Garrison finally prompted. He said it softly, as if trying to nudge her from a trance.

“Silence,” Kelly said. “Since the time those gunshots were fired, for my client...there’s been nothing but silence. Where once there was the laughter of a spouse; a greeting when he came home from work; the soft breathing on the pillow next to him at night, all those sounds that brought joy and contentment in life—now, there’s just silence.”

Kelly hit the remote again, and the screen displayed the ultrasound images. “Where once there was a heartbeat, there is silence.

“What would my client give to spend one more day with his wife? I’ll tell you what he’d give—anything in the world. You can’t put a price on a soul mate.”

Kelly stopped and turned toward Jason’s counsel table, her eyes locking with Case McAllister.

She turned back to the jury and lowered her voice. “Not even Mr. McAllister could do a cost-benefit analysis on that.”

* * *

Watching on the flat screen television in his office, Robert Sherwood gave Kelly’s opening an approving grunt. He took a long pull on his cigar and wafted the smoke toward the ceiling. Kelly Starling had risen to the occasion.

At Justice, Inc. she had been a good lawyer—a pleasant face, an ultra-competitive personality and a hard worker. But she had never shown the flashes of brilliance that Sherwood had seen from Jason Noble. Five years of trial experience had changed her. Sherwood had expected a solid opening. But this one bordered on greatness.

At heart, Robert Sherwood was still a trial lawyer and he loved watching the cases unfold. He had spent the months since Andrew Lassiter’s departure rebuilding trust with investors. For once, the stars were truly aligning on a case. If things stayed on course, it could be Justice, Inc.’s biggest gamble yet. There were dozens of publicly traded gun companies that would be affected.

He took another puff on the cigar and watched Jason Noble rise to face the jury. This would be good. Kelly Starling had thrown down the gauntlet. Let’s see how the whiz kid responds.

Chapter 67

Jason Noble stood, took a quick look around the courtroom, and froze. Leaning against the back wall, arms folded across his chest, was Jason's father. They had closed off the courtroom earlier that morning when they ran out of seats but his dad had must have used his law enforcement credentials to talk his way past the bailiffs.

Jason wasn't used to having his father in the audience. Even in high school, the man would always have an excuse during Jason's soccer games. It got to the point where Jason didn't even tell him the game schedule. But now he was standing there against the back wall, and he gave Jason a little nod, adding an extra jolt of adrenaline to an already surging body.

Jason knew his first job was to take the emotion out of the courtroom. The jurors needed to use their heads, not their hearts.

"Some of you may have seen the movie, *A Beautiful Mind*, the true story of a mathematical genius named John Forbes Nash. He won the Nobel Prize for Economics. He helped crack the Soviet's encryption codes during World War II. He may be the most impressive mathematical genius the world has ever seen."

"Objection, Your Honor." Kelly Starling was on her feet, a small smile on her lips. "Perhaps I'm in the wrong case. But if not, this can't be relevant."

Jason had not objected during Kelly's entire opening, though he had plenty of opportunities. He thought it made lawyers look petty and simply called more attention to what the other side was saying.

He spread his palms. "I'm getting to the point, Judge. If opposing counsel could give me sixty seconds or so before making her first objection, she'd see how it's relevant."

"Make your point quickly," Garrison said, as if Jason had been stalling for hours. "Objection overruled."

"Where was I?" Jason mused for a second, "Right. This brilliant man, John Forbes Nash, also claimed and really believed that extraterrestrials spoke to him. As a result, he was confined to a mental institution. When a Harvard Professor visited him and asked how a mathematician like him could possibly believe that extraterrestrials were sending him messages, Nash told him this: 'Because the ideas I had about supernatural beings came to me the same way my mathematical ideas did. So I took them seriously.'"

Jason paused and let the jury think about this. He had no notes and spoke matter-of-factly, like a lecturer in a college classroom. "Judge Garrison will give you the jury instructions at the end of this case. He will tell you that your job is to decide the case based on the facts and the law, using your own common sense. But you cannot let your emotions influence your decision.

“The left side of your brain uses logic, math and science. It is detail-oriented, where common sense rules. But the right side of your brain uses feelings and emotions and is impetuous. What the judge is saying is that anybody with half-a-brain can get this case right—I know, bad pun. But maybe not somebody with a full brain.

“To do justice, especially on an emotionally charged case like this, you need to use the left side of your brain. Because if you engage that right side, your emotions will overwhelm justice. And that’s what makes it so hard to render unbiased justice—because your thoughts and ideas, whether they are primarily logic-based or emotion-based, all seem to come to you the same way. They all seem to come from the same source.

“It will be your job to constantly ask yourself: Logic or emotions? Facts or feelings? In this case, you must work hard to separate your common sense from your emotions.”

A few of the more favorable jurors seemed to have relaxed their tight facial expressions, but most still looked skeptical. The visual image of Rachel Crawford had been burned into their brain—right lobe or left, it didn’t seem to matter.

“I will help you do that as much as I can. I want you to know that my sympathy is with Mr. Crawford too. Nobody should have to bear the silence that Ms. Starling talked about. The question here is not whether life has been fair to Mr. Crawford. The question is who should be blamed.”

Jason hesitated. This next promise was a bit of a risk, but not really. The conventional wisdom was that a good defense attorney wouldn’t cross-examine an innocent victim like Blake Crawford who had no factual knowledge about the event itself. Plus, Jason already had the man’s video deposition. He could play the video if he needed it during his case.

“I don’t want Mr. Crawford to be sitting there wondering if I’m going to put him through the meat grinder on cross-examination,” Jason turned slightly and caught a glimpse of Crawford. “So I’ll tell you and him right now. When Mr. Crawford takes the stand, I’ll have no questions for cross-examination. The man has already suffered enough.”

A few of the jurors gave Jason a curious look. They hadn’t been expecting that.

Jason picked up the MD-11 firearm that Kelly had left on the exhibit table and took it back to his own counsel table. He placed it in the middle of the table, a foot or so from Case McAllister’s legal pad. He had warned Case to keep the table clear of everything else.

“Here’s something else I’m going to ask you do: I want you to keep your eye on that gun,” Jason said. “The murder weapon. The one used by Larry Jamison. Sold by Peninsula Arms. Purchased by a man named Jarrod Beeson. And manufactured by my client, MD Firearms.

“I want you to watch it closely during my entire opening statement.”

Chapter 68

Jason moved back in front of the jury box. “Larry Jamison is not here today. He caused all of this heartbreak and chaos and loss. But he is not here. Why? Because the SWAT team took him out *before* he could kill other innocent victims in his vile rage. They used a standard issue Colt CAR-15 to do it. And you won’t see that gun being introduced into evidence in a lawsuit against its maker. It’s a military assault weapon, every bit as deadly as the MD-11, no doubt about that. But it was used to protect innocent life, not take it.”

Jason walked over to his counsel table and stood behind the chair he had been sitting in. “There’s an empty chair at defense counsel table. Until now, I had been sitting here. But I’ve decided I’m not going to sit here anymore. Why? Because this is the number one chair at the defense counsel table and the person sitting in this chair ought to be a lawyer for Larry Jamison. That man is the one who pulled the trigger.”

Next, Jason leaned over and asked Case McAllister to move down a seat, freeing up the second chair at the defense table. “This chair,” Jason said, “ought to belong to Jarrod Beeson. Right now, he’s a little busy, spending twelve months behind bars for participating in a gun running operation. He bought the gun for Larry Jamison, knowing that Jamison couldn’t purchase it on his own. In fact, Beeson bought more than twenty-three guns from Peninsula Arms, and turned right around and sold many of them to criminals.”

Jason stood there for a moment, his hands on the chair in front of him. “This is Beeson’s seat.”

There was only one chair left at the counsel table, the seat now occupied by Case McAllister. Behind the table were several other leather chairs for legal assistants and others helping the lawyers. Jason took two of those chairs and moved them parallel to the counsel table but several feet away, on the opposite side of the table from the jury. He asked Case McAllister to move into one of those seats.

For the rest of trial, Jason and Case would be sitting there, with no table to put their notes on. It would be awkward but it would be a lasting visual reminder of his opening statement.

But Kelly Starling was on her feet. “Judge, I object to this...whatever it is. It’s certainly not an opening statement; it’s more like musical chairs.”

“It’s unusual,” Jason said. “I admit. But I’m not aware of any rule that says we’ve got to sit *at* the table instead of *next to* the table.”

“Let’s get on with it,” Garrison said. “Objection overruled.”

“This last chair,” Jason continued, “the last one actually *at* the table, is for Peninsula Arms. They engaged in numerous straw sales. They have actually been cited three times

by the ATF. And they sold this gun to Jarrod Beeson knowing that he would in turn sell it to somebody else who wasn't a legal purchaser. You won't hear from their owner or their clerks because they're all taking the Fifth Amendment."

Jason surveyed the table and walked back to the jury. "There are only two reasons the plaintiffs are trying to put my client at that table. The first is because my client has money..."

"Objection!"

"Sustained. Watch yourself, Mr. Noble."

"The second is because my client sold guns to Peninsula Arms even though they allegedly knew the gun dealer had sold some guns illegally. But let me ask you a question. When you buy a car, do you expect the car dealer or car manufacturer to check your driving record and refuse to sell you a car if you've got a few speeding tickets? No. You expect *the government* to suspend your license if you've got too many tickets to be driving. But if the government allows you to drive, and you've got a valid license, you expect the car dealer to sell you a vehicle. Ford's job is to sell cars, not police the roads.

"In the same way, it is the bureau of Alcohol, Tobacco and Firearm's—we commonly refer to them as the ATF—it is the ATF's job to police the gun stores. It is MD Firearms job to sell guns—good guns, those that work as advertised, to any licensed firearm dealer."

Jason pointed to the defense table. "I asked you to watch that gun," he said. "Did you notice that the gun hasn't moved? It's not an animate object with a conscience and a sense of good and evil. That gun is an object. It can be used for good, like the SWAT team used their guns, or evil, the way Jamison used this particular gun.

"Jamison pulled the trigger. Beeson supplied the black market. Peninsula Arms sold guns illegally. And MD Firearms? All they did was manufacture a lawful product that worked as advertised and sold it to a licensed firearm dealer that operated with the blessing of the federal government.

"Use the left side of your brain and ask yourself this simple question: Other than the fact that my client has money, why is MD Firearms even sitting in this courtroom?"