

Is this one way Oscar Pistorius will get off?

 By [Sid Peimer](#)

19 Mar 2014

There are a number of high-profile trials, notably the OJ Simpson one, which captured the imagination of the world - only for the accused to evade punishment. The late Johnny Cochrane, who defended OJ, never once got distracted by all the hullabaloo or the myriad of 'facts'. He also never tried to prove OJ innocent. He just kept to the 'good defence lawyer's law'.

The law of the law ... and new business pitches

As any successful defence lawyer will tell you, "If you argue 10 points, and even if each is a good point, when they get back to the jury room they won't remember any." Although Pistorius' fate will be decided by a judge and two assessors, they're still people, just like a jury. So this law still holds.

This law also applies to new business pitches. I assume that, at best, when I walk out the room they will remember me for one thing. I don't find that disheartening - if you've ever sat through a five-agency pitch you'll know what I mean. I can't imagine what it must be like sitting through a month-long trial.

We won a pitch recently by leaving the potential client with a clear mental image: we had all the expertise to service their account and that the absence of their brand was reminiscent of an empty trophy case that desperately needed to be filled. To be honest, I wasn't the one who came up with it, neither did we consciously plan for it, but the universe doesn't care how you got there. First is just first.

Belief is not action

There's a second human trait at play here as well. Although the jury may have believed OJ was guilty, they did not deliver a verdict of guilty. This is neither strange nor uncommon, but a clear illustration of a trait that we all share: belief is not action.

When I sign up for gym, I truly believe that I will go at least three times a week. The truth is 90% of us fail miserably. That's because belief is not action. We know that smoking causes lung cancer, but we choose to smoke. Once again, belief is not action. As strange as this may sound, the judge and his assessors do not have to *believe* that Pistorius is innocent to deliver a verdict of not guilty!

No one likes a bore or a bully - in the court or in business

So what does Mr Pistorius defence, Barry Roux, need to do? First, he needs to curb his power. The Daily Mirror described one of his cross-examinations as follows:

"When Roux quizzed the initial police detective in the Pistorius case, [Hilton Botha](#), in court, South African journalist Karyn Maughan tweeted: 'This is like watching a baby seal getting clubbed'." [1]

No one likes a bully, and if he continues his bullying tactics, he's on dangerous ground. Facts might be nice to squeeze out of people, but facts play a secondary role in this type of case, albeit for the most serious crime one can commit.

Second, because we know belief is not action, all Roux has to do is to make it difficult for them to deliver a verdict of guilty. Cochrane had a simple recipe. Whatever was discussed (and usually pointed to OJ's guilt) he would point out a salient fact about society: police brutality, especially if you were black. The issue of the day was blue on black violence. The jury, being mostly black, were potential victims. They wanted to support Cochrane - after all, it was their very own lives at stake. So, how could any well-meaning citizen deliver a verdict other than not guilty? Guilt, irrespective of the facts, was out of the

question.

It is about feelings

In the OJ case, the drama in the courtroom never came from the DNA evidence, which was so overwhelming and used as a narcoleptic by the prosecutor Marsha Clarke. No one likes being lectured to, so she was somewhat less than convincing (literally). The defence cut right to the very core of our being, the effect clearly described by Professor Gerald F. Uelme: [2]

"For me, the most dramatic point in the trial was the playing of the Fuhrman tapes. I'd never experienced a moment like it, when you could actually feel the words searing into the consciousness of the incredulous listeners. Most of us had never heard anything like the racist rantings of Detective Mark Fuhrman and would never have believed a police officer could say such things."

What could save Oscar?

So what does Roux have to do? As a layperson myself, with only the experience of entering a plea of guilty when caught smoking at the age of 12, it actually seems very clear. He has to focus on that 'one thing'. And what is that one thing? Simple. The world is not made for the physically challenged. While we jump to our feet at the behest of any motivation, they do not have that privilege. The cards are stacked against them. They have challenges you cannot imagine. They have frustrations that are enough to shoot holes in restaurant floors. They feel so threatened that they need to sleep with a gun under their pillow. All Roux has to do is to show Pistorius having to struggle to stand in the courtroom to drive home that point.

Would you, or anyone decent for that matter, then have the guile to find this person guilty? The verdict says as much about you as it does of the accused.

References

[1] <http://www.mirror.co.uk/news/world-news/oscar-pistorius-murder-trial-who-3199539#ixzz2wJqL1I16>

[2] Gerald F. Uelmen is a professor and former dean of the Santa Clara University School of Law.

<http://www.scu.edu/ethics/publications/ie/v7n1/lessons.html>

ABOUT SID PEIMER

A seasoned and insightful executive with multisector experience in roles as diverse as senior management, strategic planning and copywriting. I am a qualified pharmacist with an MBA from UCT. I am also an accomplished keynote speaker and presenter.

■ Is this one way Oscar Pistorius will get off? - 19 Mar 2014

[View my profile and articles...](#)

For more, visit: <https://www.bizcommunity.com>