

Notable topics

[Seth Stevenson](#) March 05, 2019 5:45 AM



An artist's interpretation of Dominic Gibson tearing open his shirt upon hearing the guilty verdict in 1998. Illustration by Chloe Giroux

Cover Story

[Jurisprudence](#)

Guilty

In 1998, I helped convict two men of murder. I've regretted it ever since.

Part One

The case was, in some ways, simple. Twenty-two-year-old Maurice Douglas and 17-year-old Dominic Gibson stood atop a hill in Washington, D.C., on a drizzly night in April 1997. Someone shot down the slope of the hill, killing an off-duty police officer who'd been standing at the bottom.

At first, I thought my job as a juror would be to figure out who'd fired his weapon. Was it Maurice? Dominic? Both of them? But then it became clear that the answer to this crucial question—who killed the police officer?—didn't matter in the eyes of the court. And as the trial wrapped up, I realized I was about to convict two men of murder, only one of whom I thought was guilty.

Those of us on the jury had no doubt, from early on, that Maurice deserved to go to prison for a long time. Dominic, however, was a question. I wasn't even sure he'd taken his gun out of his pocket. Yet our decision hinged not on what he did or didn't do that night, but on a cruel corner of the law that seemed to leave us no room for nuance or pity. The more we got herded toward a clean resolution, the more our votes tightened around Dominic like shackles. I was the last holdout, searching for some way to grant him mercy. Then I caved, too, regretting my capitulation even as I said it aloud.

Late on the morning of May 21, 1998, after deliberations that lasted over parts of three days, we single-filed back into the courtroom. Our foreman cleared his throat and read our unanimous double-guilty verdict. Maurice didn't blink. Next to him, Dominic leaped to his feet and bellowed in despair, face contorting. Bailiffs rushed to subdue him as he lifted hands to his chest and tore open his white shirt. I can still see the buttons popping off and skittering across the courtroom floor. A second person, back in the public seating, was also wailing. More than a decade later, as I sat on her living room sofa, Dominic's mother would tell me it had been her.

When we left the chaos of the courtroom and retreated to the quiet sanctuary of our jury chamber, one of my fellow jurors went to the sink in our private bathroom so she could vomit. We sat in silence and listened to her retch until she came back out and sat in silence, too. After a while, the bailiffs placidly informed us that we'd completed our service and were free to go. We took the rear freight elevator, exited the back of the courthouse, and said brief goodbyes on the sidewalk. I wouldn't talk to any of them

again for 20 years.

Over those two decades, the vision of Dominic rising and bawling in anguish, ripping apart his crisp white shirt, haunted me. In 2013, I resolved to revisit what I had never quite laid to rest—to speak to the people tangled in the middle of this case and to discover, if I could, what really happened on that hill, and in that courtroom.

When we describe our criminal justice system as an enormous machine—one designed to convey young black men into prisons and keep them there—it is Dominic's story we're talking about. I tell you this particular story, as opposed to any of the countless other stories one could tell, because in this story I am a cog in the machine.

The prologue to the crime is relatively easy to piece together, based on courtroom transcripts and police reports. It was 10 o'clock on a Saturday night. Dominic Gibson was hanging out, as he later put it in his testimony, "with a rack of other people" on a front porch in the Lincoln Heights neighborhood of Northeast D.C. The teens on the porch were drinking and smoking weed.

A black '89 Cadillac DeVille rolled to a stop at the curb; Dominic's older friend, Maurice Douglas, was at the wheel. Maurice called Dominic over, and another kid named Darryl Byrd—on the porch, they'd been celebrating Darryl's 17th birthday—tagged along.

Just a few minutes before, a short distance away, Maurice had been driving down the street in front of his mother's home when he'd gotten blocked behind two double-parked cars. He couldn't swerve past them or the men loitering nearby, so he'd slammed his horn, which started both sides jawing. Maurice at last managed to ease the Caddy by, howling a threat out his window as he sped around the corner. "That's all right, motherfucker, I'll be back," he said, and then went looking for reinforcements.

Now Maurice was telling Dominic and Darryl that he wanted to “smash” the dudes he’d been beefing with. What that word meant in 1997 Northeast D.C. is a matter of debate. But Dominic later claimed he’d never thought there’d be any shooting—just a regular fight, punches thrown. He’d be there for support in case Maurice was outnumbered.

Maurice drove a few blocks and parked on a shoulder. He and Dominic jumped out while Darryl hung back and slid into the driver’s seat. Maurice and Dominic ducked through a small wooded path winding between buildings and emerged from the brush at an elevated spot, a perch where they could peer down the mild slope of 43rd Road NE. At the bottom of this quiet side street, 40 yards away, stood Bob Johnson and Paul Shelton.

Johnson—31, married, the father of two young boys—was a D.C. police officer, as was the 29-year-old Shelton. (They, and the alleged perpetrators, were black.) Both were off-duty that evening, out of uniform and driving unmarked cars, waiting to meet up with friends before a night on the town. Johnson and Shelton had been the ones who’d double-parked the cars that blocked Maurice’s Caddy, and they’d been on the other side of the shouting match that ensued, though they hadn’t thought much of it at the time.

Maurice and Dominic both owned guns, and they were carrying them that night. (Dominic claimed he’d begun carrying a .32-caliber revolver for self-defense after being stabbed in the neck at his high school just a month before. He was asked to testify about that incident in a separate trial, but refused.) And this is where the narrative gets hazy.

We know that shots were fired from the top of the hill. We know that at least 11 bullets zipped down the incline. We know that one 9 mm bullet broke Johnson’s rib, passed through his stomach and liver, and killed him within minutes. We know that Maurice and Dominic sprinted back along the wooded path to the waiting Cadillac, and that Darryl peeled away once they were in the car.

Maurice was arrested the next day; everyone in the neighborhood knew that black DeVille, and he'd bragged to an acquaintance on the night of the crime that he'd "squeezed on" someone. In his initial responses to police questions, though, Maurice pinned everything on Dominic, saying his friend had rushed into the street looking crazy and "just started shooting."

Dominic and Darryl, fearing Maurice would do exactly this, had fled together by bus to North Carolina. Dominic was caught a week later, spotted by a local officer who recognized him from a wanted bulletin. During a police interrogation, with no lawyer present, Dominic confessed he'd been on the scene and had been armed. But he swore then, as he has ever since—to police, to prosecutors, to anyone who'll listen—that he never fired his gun.

Darryl pleaded to accessory-after-the-fact and turned government witness. Maurice and Dominic became co-defendants. The case went to trial in May 1998, a little more than a year after the shooting. I appear at the very beginning of the court transcript, during voir dire. I'm juror No. 902.

Artist's rendition of the night Office Bob Johnson died.

Chloe Giroux

"What kind of work do you do?" asked the judge, a woman in her early 50s with glasses and nape-length hair.

"I'm a journalist," I replied.

I was barely a journalist. I was 23, and 11 months into my first job out of college, mostly answering phones and refilling the fax paper at Slate's D.C. bureau. When I got the jury summons, I was living in a \$500-a-month, roach-riddled studio apartment near Logan Circle in Northwest D.C. I forever lacked clean laundry and never missed Thursday night \$1 Buds at Lucky Bar.

Many at the courtroom cattle call shirked civic duty, citing high-powered

jobs or long-planned vacations. It seemed anyone clever enough to escape did. I made no effort to get dismissed. I remember musing that a murder case might be a neat adventure.

A pleasing frisson tingled through me as my number was called, and I sat in the jury box. I settled in to enjoy what I at first imagined, I'm now ashamed to confess, as a piece of theater being performed for my entertainment. Over eight days of testimony, a wide array of witnesses took the stage. There were the kids who'd been partying on the porch that night; the detectives who'd bagged the shell casings littering the hilltop; and Paul Shelton, who'd been next to Bob Johnson when the bullets flew—and had been hit, too, in both feet. Shelton seemed so much older than me back then, though he was much younger than I am now.

Maurice and Dominic slouched at adjacent defense tables, rarely glancing at each other. Separate lawyers hovered at their elbows. It seemed bizarre and plainly unfair that they were being tried before the same jury at the same time. Each was blaming the other, claiming he'd been surprised when his companion had suddenly fired his weapon.

We jurors had been ordered not to talk about the trial until testimony ended and deliberations began. During breaks, sequestered in our chamber, we at first made awkward chitchat. But that small talk petered out. I shoved my nose into the paperback *Infinite Jest* I schlepped with me everywhere in those days. On our lunch breaks, I'd wander across the street to the National Mall alone, escaping into the soothing hush of the Hirshhorn Museum and trying in vain not to let my mind drift to bullet fragments and evidence custody chains.

The prosecution described the incident as “road rage writ large,” and it was clear to me that emotional investment in the crime had been entirely one-sided. Maurice had beefed with the victim. Maurice had openly vowed revenge. Maurice had itched to return to the scene. My gut—and guts can be wrong and prejudicial—said that Maurice was the leader and that

Dominic, five years younger, traveled in his shadow.

The prosecution tried awfully hard to make us believe that two separate guns had been fired down the hill. But the shell casings and spent bullets all traced back to a single, specific handgun: a clip-loading Luger 9 mm pistol that was never found by police. There was no hard proof that a second gun had been fired.

A lot of information was kept hidden from us by design. Whenever the lawyers approached the bench, those of us in the jury box weren't permitted to hear what they were saying. The judge would flick on her "husher"—[a white-noise machine](#) that kept those sidebars private. Later, reading the unexpurgated courtroom transcripts, I learned that Maurice's lawyer had approached the judge immediately after opening statements and moved to "sever" the two defendants—to give Dominic and Maurice separate trials. "It's apparent that [Dominic's lawyer] is aligned with the government in this case," Maurice's lawyer protested. "He's essentially acting as a second prosecutor." Dominic's lawyer could have made an identical argument: Each defendant was pinning the crime on the other. But the judge quickly denied the motion and kept the joint trial rolling.

Maurice declined to testify on his own behalf, which left Dominic as the final person to take the stand. He wore a navy suit that billowed around his gangly teenage body. The transcript confirms a detail I've always vividly remembered: Dominic's lawyer opened by shouting at his client, "Sit up, Mr. Gibson!" I assumed at the time that this was a calculated tactic, meant to demonstrate that Dominic could heel to authority and was not some nihilistic punk. With distrust in his voice, Dominic recounted his version of events.

At first, guided by his lawyer, he claimed he'd had no clue what Maurice had in mind as they'd walked to the top of that hill. But pressed during cross-examination, Dominic allowed (as he had during police questioning) that he'd followed Maurice "in case anybody try to fight him or anything, I

was going to be right there.” Dominic’s confessed understanding of why he’d accompanied Maurice would ultimately seal his doom.

Once the government finished cross-examining Dominic, he faced another round of barbed questions, this time from Maurice’s attorney. This set of queries painted Dominic as the killer who’d fired the Luger, and Maurice as a blindsided innocent who’d passively watched the horror unfold. Rising to an accusatory finish, Maurice’s lawyer barked at Dominic, “It’s you, isn’t it true, who fired your 9 mm down the street?”

“No, it’s your client,” Dominic said.

By the time the testimony was over, I was convinced beyond a reasonable doubt that Maurice had shot at Johnson. I also believed that the prosecution had only proved that one gun had been fired, and I found it hard to envision a scenario in which Dominic would have been the lone shooter. Why would he take it upon himself to start shooting at men he’d never argued with or even seen before? Meanwhile, it was easy to imagine him as subordinate to his older pal, standing by as Maurice fired angrily at the dudes he felt had dissed him.

But then, in her closing argument, the prosecutor claimed we could find both men guilty without the government proving who fired the fatal shot. Just before the judge sent us off to deliberate, she issued us instructions that echoed this idea: Both defendants could be equally guilty of murder in the first degree even if one of them had never brandished a gun. “It is not necessary that the defendant have had the same intent that the principal offender had when the crime was committed or that he have intended to commit the particular crime committed by the principal offender,” she read to us. “The aider and abettor is legally responsible for the acts of other persons that are the natural and probable consequences of the crime in which he intentionally participated.”

As we marched out of the courtroom with this language in our ears, my

thoughts reordered themselves. If I found Maurice guilty of murder, it seemed the law demanded that I find Dominic guilty of the same crime.

Pluck 12 random Americans with wildly differing capacities to reason and express themselves verbally. Demand they step away from their lives for some indeterminate amount of time. Force them to listen to unsettling stories of violence and predation. Isolate them, and make them bicker with each other until they speak as one. Then grant them the power to lock a man in a cage until he's dead.

At the center of our jury chamber was an immense wooden table, and beige Berber carpet lay beneath our feet. Four of the other jurors seated around that table remain sharp in my memory: a young Asian woman who wore skirt suits and rushed back to her office each day when court ended; an elegant, older black woman who solved crosswords and dressed in drapery ensembles; and a white man and a blond white woman, both in their 30s, who, in my recollection, were the alphas in the room, dragging us to the verdict they preferred.

The other seven jurors smudge in my mind. I can't see their faces. This was 20 years ago, and my recall is hazy. Maybe that carpet was blue, not beige. I do remember that we self-segregated to some extent: The jurors on one side of the room were mostly not white, and those on the other side were mostly white, and the not-white side seemed more inclined to give Dominic the benefit of the doubt. I sat right in the middle.

The afternoon that deliberations began, we instantly flipped from reading paperbacks to arguing about the finer points of handgun ballistics and the nature of evil. As if to mark the new focus in the room, a bailiff slid a cardboard box stuffed with physical evidence into the middle of our table. I could see, balled inside, the puffy green Eddie Bauer jacket Dominic had worn on the night Bob Johnson was killed.

Our first group decision was to elect a foreman. Looking back, the pick

seems preordained: We chose the most confident white man in the room. He'd lobbied for the job.

For a moment, my mind whirled with the thought of hanging the jury.

As we began to proffer our half-formed thoughts about guilt and innocence, I discovered to my relief that many jurors sided with me: Maurice was dead to rights, Dominic was a knottier problem. But I remember our foreman very quickly stepping in to ask if we even needed to figure out which defendant had pulled a trigger. According to the judge's instructions about aiding and abetting, it was enough merely to know that a trigger had been pulled, with both men present and in some sort of cahoots, and—per the language the judge had read to us—that the pulling of the trigger had been a “natural and probable consequence” of those cahoots.

I remember that a woman on the jury—the blond in her 30s, an attorney, whom I saw as half of the room's power duo—took up whatever conversational space the foreman left unclaimed. She made it clear she had zero doubt that we were required to find both defendants guilty. Other jurors seemed as though they would have preferred to reject the aiding and abetting case against Dominic, but they couldn't out-debate the leaders in the room. Members of the pro-Dominic faction would sigh, or shake their heads. They'd start to pose a question, but then have trouble formulating it. One by one, they all came around to guilty.

I ended up arriving at the same place. It was the language of the law that hemmed me in. It seemed strict and unyielding. A different jury, a different mix of humans, might have felt less constrained by those words. We could have opted to convict Dominic only on some of the lesser charges he was facing—for instance, sent him to prison for several years for possessing a firearm during a violent crime—while not convicting him of murder. No matter what the law said, the decision was ours. We had a choice. We'd

bear responsibility for what happened to Dominic from that day forward.

On our third day of deliberation, surmising broad agreement, the foreman said he would poll the room one final time. Something in me spasmed, and after voting guilty in prior polls, I reversed my vote. But I was Dominic's lone backer. The foreman, seeing I was the only person who'd said not guilty, politely asked me to explain why I'd switched when we were so close to a resolution. For a moment, my mind whirled with the thought of hanging the jury. It was in my power to do that, I was pretty sure, to force the system to do it all over because this roll of the dice—this jury, this trial—wasn't fair. Why not roll 'em again?

I was the youngest person in the room by several years, nearer in age to Dominic than I was to my fellow jurors. (At one point, when we'd been deliberating in circles and the mood went loopy, the blond lawyer joked that I should try on Dominic's puffy green jacket to see how it fit. I did not.) I was shy, and conflict-averse, and tended to recede when conversations grew heated. In the end, the idea of halting everything felt like standing in front of a tank.

Instead, I mumbled, palms out, with a wan smile on my face, and assured the foreman I was just being stupid. He polled us once more to be sure. This time I joined the herd, with a dry gulp. We were unanimous.

Part Two

Within a few weeks, the trial was an anecdote I could regale friends with at barbecues: "How's your summer going, Seth?" "Well, I recently convicted two men of murder," I'd say jovially, bottling my doubts about the verdict by assuring myself that those jury instructions had made my decision for me.

But when I look back now, I can see the trial torqued my insides in ways I didn't quite realize at the time. For one, it sparked an obsession with high-

stakes legal proceedings. As a reporter, [I would go on to watch Michael Jackson's fancy private lawyer](#) induce a jury into letting off a likely child molester. [I would see Scooter Libby](#) get busted for perjury and obstruction of justice, only to later see him fully pardoned by President Donald Trump. During [the Whitey Bulger trial](#), I was in the courtroom as a hitman named John Martorano described each of 20 monstrous murders he'd committed, testifying as part of a plea deal that put him in prison for all of 12 years. None of this felt particularly like justice.

The more I covered all those newsworthy trials, the more I discovered that the trial I really longed to report on was the one I'd been a part of. So, 15 years after I'd left the case behind, I vowed to learn everything I could about what I'd done and who I'd done it to.

When I was a juror, in accordance with common practice, I was never told the range of punishments that would result from a conviction, and I never bothered to find out after the trial ended. One of the first things I discovered online when I finally started poking around was a newspaper story covering the defendants' sentencing. About two months after the trial had ended in 1998—while I was still recovering from a July Fourth weekend I'd spent 'shrooming at a Willie Nelson concert—Dominic, who was by then 18, had been sentenced to 46 years to life in federal prison. I had assumed that he might get something like 20 years. Instead, his sentence for disputed involvement in the shooting death of one person was decades longer than the one Whitey Bulger's hitman had received for confessing that he'd personally killed 20 people. And Maurice, the ringleader? He got 51 years to life—just five more than Dominic.

I carried profound guilt over sending Dominic to prison for decades when I'd thought he hadn't deserved it.

When I started reporting in earnest, I filed a series of public information requests, which surfaced statements that Maurice and Dominic each gave to the police before lawyering up. Their divergent personalities—Maurice

hunting for angles, Dominic earnestly proclaiming his innocence—radiated from the page. Dominic sounded so much younger than his friend, more naïve. It had always bothered me that Dominic had been tried as an adult when he'd been only 17 at the time of the crime. I discovered that this was D.C. policy: The prosecutors could, at their discretion, treat an underage offender as an adult if they deemed the crime sufficiently heinous. And that's what they chose to do.

Over beers with a lawyer friend, I learned why the government is generally reluctant to sever defendants. The explanation was dispiritingly mundane, but telling: It's cheaper and quicker to hold one trial instead of two, bringing in all those police officers and witnesses once instead of twice. Dominic didn't rate the time and expense of his own trial, so he'd have to go halves with a guy who was actively trying to ruin him. (Note that celebrity pharmaceutical villain Martin Shkreli, represented by a top-notch private lawyer, was in 2017 [granted a request to sever from his hostile co-defendant](#).) I turned up documents revealing that Dominic had appealed his conviction in 2002 on multiple grounds, among them this refusal to sever. But the idea that each defendant was harming the other—so obvious to me as I watched from the jury box—did not sway the District of Columbia Court of Appeals. Dominic's appeal was denied.

What about the judge's instructions, which had loomed so large in my mind during the trial? "You were caught in the crossfire of a horrible legal doctrine," said NYU School of Law professor [Erin Murphy](#) after she reviewed trial documents I sent. " 'Natural and probable consequences' cases are often like this."

Those four words, which were in our jury instructions, emerged from a doctrine—a theory about how to interpret the statutes regarding aiding and abetting—that had become popular in D.C. courts starting around 1993. The trial transcripts in fact reveal an argument (conducted out of the jury's earshot) between the judge and the defense attorneys over this very

phrasing. The judge, in opting for the “natural and probable consequences” language, was following the standard playbook of her region and era. By using that language, she was essentially saying that Dominic could be guilty of first-degree murder without having meant to murder anyone, and without having foreseen that anyone might be murdered.

In her NYU classes, Murphy—who was a criminal defense attorney in D.C. in the early 2000s—teaches the case that put the kibosh on this line of argument in D.C. courts. [*Wilson-Bey v. U.S.*](#) centered on a 2000 crime in which a pair of sisters were both convicted of first-degree murder even though the younger sister, while armed, gave no indication of an intent to kill. In its 2006 ruling, the D.C. Court of Appeals reversed the younger sister’s conviction, repudiating the “natural and probable consequences” doctrine.

“[I]n any prosecution for premeditated murder, whether the defendant is charged as a principal or as an aider or abettor,” read the opinion, “the government must prove all of the elements of the offense, including premeditation, deliberation, and intent to kill.” It then addressed the jury instructions, which included the same “natural and probable consequences” language I’d been given. “Because the instruction ... in this case omitted the *mens rea* element of the offense charged, the error was of constitutional magnitude.” *Mens rea* is Latin for “guilty mind.” The court decided that the younger sister didn’t have one, and that it mattered that she didn’t.

“If your case happened now,” Murphy told me, “you wouldn’t have had those same jury instructions. In order to find Dominic guilty now, they’d tell you that you need to find he specifically intended to help someone else take a life.”

The system devours its own errors, digests them, and chugs along without stopping to spit them out.

In my eyes, the prosecution had failed to prove that Dominic intended for someone to die. So, I asked Murphy, could Dominic file another appeal, this time arguing that the rules had changed and he deserved a new trial? “My gut says no,” she explained. “Generally speaking, a finalized conviction cannot be reopened simply because the law has changed.” What I’d helped do could not be undone.

I confessed to Murphy that I carried profound guilt over sending Dominic to prison for decades when I’d thought he hadn’t deserved it. “You are absolved of all personal responsibility for this horrifying outcome,” she assured me. “It took eight more years for the court in D.C. to agree with the correct instincts you had in 1998. Which was too late for Dominic.”

It was nice of Murphy to absolve me. But my regrets about the part I’d played in convicting Dominic did not recede. If I’d ever harbored vague fantasies that my reporting could help Dominic—even fantasies I couldn’t quite admit to myself—those pretty much evaporated by the time I was done talking to Murphy. The system devours its own errors, digests them, and chugs along without stopping to spit them out. Dominic would stay in prison at least until 2028, when he would be in his late 40s and I would be in my 50s.

Part Three

I contacted Darlene Pitt in the fall of 2013, shortly after I’d decided to revisit the case in earnest. She invited me to her home in Capitol Heights, Maryland. When I visited, she was recovering from a stroke she’d suffered a few months before, and was just returning to her job reviewing patient charts for insurance companies. In her late 30s at the time of the trial, she was in her mid-50s by the time I met her.

I asked if she resented me for helping to put her son in prison. “You just did what they told you to do,” she assured me. She described the trial as one giant fix, with everything tilted against Dominic from the start. The

fact that the victim was a police officer, Pitt believed, meant the police and prosecutors “basically did what they wanted to do.” She was certain that witnesses were bullied and threatened into testifying.

One day in 1997, she said, she'd come back from work to find officers raiding the Lincoln Heights home where she and Dominic lived. “All the police kept telling me was they gonna kill Dominic when they find him,” she remembered. “They took me to Wendy's to buy me something to eat while they were in the house, and they said, ‘You know when we find him we're gonna kill him.’ And I said, ‘I'll scream in this Wendy's,’ so they ran me out.” She said Jim Vance, a well-known local D.C. newscaster [who died in 2017](#), called her up soon after and told her, “They're railroading your son.” Personally, I don't doubt that the government used every possible tool at its disposal, both emotional and procedural, against Dominic and his allies. And I'm sure that, for Pitt, watching those tools get deployed against her child was terrifying.

When Dominic first learned he might face life in prison, Pitt recalled, he was placed on suicide watch. “And he said, ‘Ma, I can't do this, I didn't do nothing. Ma, I'd rather die than spend my life in jail.’ And I wanted to kill *myself*. I wanted to give my life for him, you know?” She began to cry as she recounted this to me in her living room, and her partner Vincent, sitting next to her, laid his hand on her shoulder.

“Don't get yourself worked up,” said Vincent. But then he began to grow agitated himself. “I felt like they said to you”—meaning me, and the rest of the jury—“that if you find one guilty you gotta find the other one guilty. And how are you gonna find two people guilty for one bullet?” he wondered.

Pitt faulted her son's attorney, Shawn Moore, for not getting Dominic a separate trial. She said she'd tried to fire Moore and hire a more aggressive lawyer, but that she couldn't afford the \$30,000 to \$50,000 that private attorneys were asking for. “Every time I talked to that lawyer, he could

never look at me,” she said of Moore. “He always talked to me with his head down. And then I saw him and that prosecutor having lunch together one day during the trial. So I knew that wasn’t fair.” (Moore says, “I have never, never had lunch together with a prosecutor. That’s just flat-out false.”)

“I feel like in my heart Dominic is coming home, and I pray every night. You showing up—it’s just a piece of the puzzle.” — Darlene Pitt

Pitt hired a few lawyers in an effort to overturn her son’s conviction. That 2002 appeal was filed on the grounds that Moore had been ineffective, that there had been insufficient evidence to secure Dominic’s conviction, and that the defendants should have been severed. But that gambit hadn’t succeeded, and the legal fees stacked up. She said one attorney claimed the case was over and done. Then, when Pitt came up with more funds, “suddenly [that attorney] said there was new evidence. It was all about the money for them.” A few months before we spoke, Pitt had hired National Legal Professional Associates (an outfit that charged her a monthly fee she described as “not expensive”), and she believed that NLPA was still working on turning up fresh evidence and arguments to get Dominic out of prison.

It’s a quirk of the D.C. justice system that, because the district lacks any maximum-security facilities within its borders, the city’s convicted felons are often placed in the custody of the Federal Bureau of Prisons. That’s how Dominic became a prison nomad. “Florida, Mississippi, Atlanta, New Mexico. They don’t put him somewhere close, and they don’t tell you why,” complained Pitt, who had trouble affording the cost of a long-distance visit.

At one point, she mentioned an intriguing lead. “When Dominic was at Red Onion,” she told me—referring to a Virginia supermax prison located near the Kentucky border—“Maurice wrote him a letter stating that he did everything. We sent it to the lawyers, but they said it wasn’t sufficient

enough. They didn't do nothing." It wasn't clear where the letter had gone. If it exists, I haven't been able to find it.

After a while it got quiet in the living room, and it seemed like it might be time for me to go. Pitt was still teary. "I feel like in my heart Dominic is coming home," she said, turning to me, "and I pray every night. You showing up—it's just a piece of the puzzle. It's not a coincidence, you sitting on my couch." She looked straight into my eyes. "God uses who he has to use to get the job done."

Soon after, Pitt urged me to get in touch with Dominic's son. I hadn't been aware during the trial that Dominic was a father. "Little Dominic" was born in 1996, a year before the shooting. Pitt adopted the boy, who is now in his early 20s. Little Dominic told me on the phone that he sees his father "once every year, with my grandmother." Then he posed a question that I didn't want to answer: "Can I ask you something? Are you trying to get him out?"

During the time I've spent reporting on the trial, my life has zigged and zagged. I'd drift away from Dominic's story for a while, and then I'd drift back. Every time I moved to a new apartment, I'd lug a giant stack of documents in a couple of bulging plastic bags, and they'd beseech me whenever I'd see them perched atop a bookshelf or tucked into the bottom of a file drawer. In 2015, after putting the story aside for a long stretch, I felt the urge to meet some of the people I'd spent a couple of weeks staring at from a jury box in 1998. I took a train from New York, where I had moved, back down to D.C.

I remembered Teresa Howie cutting a lively presence in the courtroom: She would cock her neck with incredulity as a witness spoke and pepper her questions with slang, like "from jump street" when she meant "right from the start." She was the lead prosecutor, the one who cross-examined Dominic and gave the government's closing argument. By the time I met with her in her D.C. office, she had left the murder beat and was specializing in white-collar fraud and corruption. She instantly

remembered Dominic's case, though she didn't recognize my face from the jury box.

"It was hot and heavy with homicides in the '90s," she said. She estimates that she tried 15 murder cases in that era. But her cross-examination of Dominic, Howie told me, remains one of the highlights of her career. She kept a transcript of it as a souvenir.

Howie had been 10 years out of law school then, and Dominic was the first defendant she'd ever had take the stand. Teasing out his intent was vital to securing an aiding and abetting conviction. She'd had to gather herself when she realized she'd baited him into confessing that he'd been watching Maurice's back that night. "You could hear a pin drop in the courtroom," she said. "I haven't had too many moments like that."

As a juror, I could feel the jolt of tension between the prosecutor and the defendant, but I didn't intuit the legal import of that moment until later, when it became evident that Dominic's state of mind would be crucial to our verdict. Howie didn't second-guess the outcome of the trial, nor the punishment we'd meted out. "The cowardly nature of it," she said, getting indignant all over again. "Creeping through a back alley, shooting down at the unsuspecting guys at the bottom of the hill. Ambushing them."

Howie remembered that Dominic had rended his shirt when he heard the verdict and that buttons had gone flying everywhere. "He started crying. For the first time you realized, you know"—she shook her head in disbelief—"he's only 18 years old."

I met with Judge Mary Abrecht later that same day. She was 52 at the time of the trial. When I spoke with her 17 years later, she'd retired from the bench and was working as a Supreme Court docent, giving tours to visitors. "Sometimes if there's a complicated question from a tour group that I seem to answer well, they'll ask how I know so much," she said with a smile. "But I generally don't let on that I was a judge." I met her in the building's

public lunchroom, which I found after navigating exhibits trumpeting the glory of the American judicial system.

Abrecht kept notes on every trial she presided over, and she showed me the memo she'd recorded shortly after Maurice and Dominic's trial was done. Maurice "was the 'cool' one, the leader," she'd written, and Dominic "was asked to join him, and went along." When I asked how she felt about the double conviction, she expressed no feelings either way. It was the jury's choice, which "takes the burden off the judge," she said. She felt vindicated in her handling of the trial because motions for a retrial and an appeal had both been rejected.

While Abrecht declined to express an opinion about the defendants' guilt or innocence, she did tell me she'd been upset about the draconian guidelines she'd been forced to follow when sentencing Dominic. "I think the real evil is these mandatory minimums," she said. Then and now, the mandatory minimum for first-degree murder in D.C. is 30 years. "One of those two defendants didn't feel as culpable. But 30 years was the starting point for both of them. The statute used to be 20 to life, and that wasn't mandatory." Without those sentencing constraints, she said, she might have given Dominic and Maurice prison terms that differed more dramatically. I asked her, at the end of our conversation, to imagine that Dominic did not take his gun out of his pocket that night. If that's what happened, did a sentence of 46 years to life seem like a fair outcome? "No," she said.

(Abrecht died in August 2018 at age 72. [Her obituary in the Washington Post noted that](#) before becoming a judge, she'd been one of D.C.'s first female police officers, and that she [wrote a book](#) about her experience on the force. I last spoke to her in June to check some facts, and she said she looked forward to reading my story. I wish she'd been able to.)

I wasn't able to meet with Shawn Moore in person, but I spoke to him on the phone. I remembered Dominic's government-appointed lawyer as a

man who was always running a little late. Moore, 49 at the time of the trial, would hustle through the courtroom's double doors at the last possible instant, shuffling the manila folders that overflowed in his arms, his suit jacket flapping as he speed-walked to the defense table.

“There are some cases where I've second-guessed myself as to strategy, or how I handled a witness,” Moore told me. “But in Dominic's case, I don't think I would have done anything differently. It just didn't take a whole lot for the government to get an aiding and abetting instruction. The threshold is low.” He sighed so loudly, I could feel his melancholy radiating through me. “And then it was up to the jury to decide.”

“What I remember—and you're not supposed to do this as a lawyer,” he continued, “is that I always sympathized with Dominic. To me, he was a pretty good kid. He was young. He seemed to be dragged into this by Maurice Douglas. And he wound up paying a big price for it.”

After talking to the prosecutor, judge, and defense attorney, what struck me was that none of the trio—though they acknowledged the heartbreaking nature of the case—seemed to think there was anything remarkable about it. Shawn Moore once defended a man who took random potshots at people driving on the freeway, and who smiled wide when he got arrested. Teresa Howie's first homicide case involved a drug addict killing another drug addict over \$5 in coins. There were still nickels strewn across a hallway when she visited the crime scene. The trial I'd been part of was just one of scores of awful cases they had watched the D.C. courts digest and extrude. To me, Dominic was a victim of grand forces. To them, he was another shit-out-of-luck black kid from Northeast who'd made some bad decisions.

The other thing I noticed was that none of these professionals felt they'd had much control over the case's outcome. The prosecutor who tried a minor as an adult, the judge who sentenced that teenager to decades in prison even though she felt he wasn't maximally “culpable” in the crime, and the defense attorney who didn't second-guess any tactical choices on

behalf of a losing client—they all felt they'd done what the system required of them. Both Moore and Abrecht reminded me that the onus of the verdict is on the jury. I saw them as the machine's operators and myself as one of the gears they were turning. They told me I'd been the one in control the whole time.

Prison bus transport illustration: An inmate looks out the barred bus window.

Chloe Giroux

When I first contacted Dominic, he was a resident of USP Lee, a high-security prison in Pennington Gap, Virginia. It was the fall of 2013, and he was 33 years old. After the prison phone crackled into connection, I told him that I'd been a juror on his trial. I asked if he was willing to talk to me even though I'd helped convict him of murder.

"I know you had to go with the instructions they gave you," he said. "I appreciate you being upfront with me." There was no animosity in his voice. But he said he wanted to clear things with his lawyer and his prison counselor, just to be safe.

A few weeks later, I got a call from a frantic Darlene Pitt. She hadn't been able to reach her son for some time, and then he'd suddenly popped up at USP Atwater—a maximum-security prison north of Fresno, California. Within a couple of hours of being dropped into the general population there, she said Dominic had told her he'd been stabbed 16 times by a gang of fellow inmates. It was unclear to her why he'd been transferred across the country, or why he'd been attacked. She told me she'd immediately flown to California, and that officials at the prison had at first refused to let her visit with Dominic before relenting and giving her one hour with him. "He said he just got there, didn't know anybody, and then 10 guys started stabbing him."

A month after that, I received my first letter from Dominic. It was posted from Atwater, written in blue pen on three sheets of lined yellow paper. It

began with an epigraph: “To the world you just one person but to one person you can mean the world.” He apologized for taking so long to respond to me. He said that prison authorities had frozen his account so he couldn’t buy a stamp or make a phone call. “No matter how hard these people try to make it for us to stay in contact it won’t work,” he wrote. He didn’t mention the stabbing. He said he hoped I would come see him in person. He also told me he was writing an “urban book” about “young men in the hood that wasn’t everything these people/government say they are, they just caught a bad break in life.” He suggested I could help publicize this novel once it came out.

I sent a letter back to him at Atwater, but I’m not sure it reached him. A couple of weeks later, I got a second piece of mail from him, this time postmarked from a penitentiary in Tucson, Arizona. There was a new epigraph scrawled at the top: “The pursuit of truth will set you free even if you never catch up with it.” Dominic didn’t explain why he’d been transferred again—his mother assumed it was because of the stabbing incident—but he asked me to come see him there.

The Tucson warden, after a long back and forth, denied my request to interview Dominic in person “due to the offender’s observed institutional adjustment which presents a security concern related with the secure, orderly running of the institution.” I managed to arrange a phone interview, but minutes before we were set to talk, the prison’s public information officer called to say Dominic wanted to clear things with his attorney first, and that they hadn’t been able to reach the lawyer.

This dance continued over many months and messages via [the CorrLinks email system](#). I would ask Dominic direct questions like, “Is it true that you got stabbed in prison in California like your mother told me?” but he wouldn’t answer them. After turning down another of my requests to speak by phone, Dominic wrote that National Legal Professional Associates was still researching his case and he was awaiting those findings.

I called NLPA. It turned out they'd put Dominic's mother on a "payment plan" of a few hundred dollars a month. She'd paid them \$1,050 so far. Once she paid \$4,750, they said, they'd finish researching a "motion" they were working on and then pass it to a criminal lawyer who could make use of it—and who could charge Dominic further fees. NLPA wouldn't tell me whether the motion was based on new evidence or arguments, or how it differed from Dominic's previous motion and appeal. They did ask me if I'd be willing to offer an affidavit about my experience as a juror. Although the request made me uncomfortable, as it further blurred the lines between my roles as a participant and a journalist, I said I'd be willing to attest that I felt it was unfair that the co-defendants in the trial had not been severed. I signed a statement to that effect, but I don't know if anything ever came of it.

In my view, NLPA's business model seemed premised on giving inmates and their families false hope while bilking them on a subscription basis. I should have known that a federal inmate's life would be rife with miseries, large and small. Nevertheless, discovering them one by one was deeply sad, and only more so with the knowledge that I could have helped spare Dominic all of them.

Maurice Douglas, Dominic's companion on that hilltop in 1997, is now 44 years old—just a few months younger than me. I wrote to him last year at the high-security prison in Lewisburg, Pennsylvania, where he was then detained. I asked him questions about the trial, and the night of the crime, and about that letter Dominic's mother said he'd written in which he'd allegedly taken full responsibility for the shooting. I never got a response.

At Maurice's sentencing hearing in July 1998, Bob Johnson's widow had told the court what kind of man her husband was. "He could have turned out like you," Yvette Johnson said, addressing Maurice to his face. "But he decided a long time ago that he wasn't going to go that way. See, growing up in the projects is not an excuse for making bad decisions. He even came

back to the neighborhood to give people a living example that you can make it out.”

For a long time, I'd thought the story I was reporting wasn't about the man who'd been shot. But of course it is. There was a victim here and a need to determine who should be punished, and how severely, for that victim's death.

I spoke to Yvette Johnson at the end of 2015. She had a gentle voice when she picked up the phone in her Maryland home. She was 35 when her husband was killed by a bullet that seemed to come from nowhere. They'd been married six years. At the time of the murder, her older son was 3 and her younger son was 4 months old.

“My husband is gone forever and there's nothing else to be done, but they still have the opportunity to change their lives.” — Yvette Johnson

D.C. Mayor Marion Barry attended Officer Johnson's 1997 funeral. Yvette had heard rumors that he might try to score political points at the event by pushing the city to adopt the death penalty so he could look tough on crime. But Yvette, who doesn't believe in capital punishment, insisted the mayor leave politics out of his eulogy, which he did.

She was at the trial every day. While she remembered Dominic “yelling out” at the verdict, she interpreted that moment differently than I did. In her mind, there was no doubt that both Dominic and Maurice were murderers, and that Dominic was upset only because he'd been punished for his crime. “He couldn't believe that he was found guilty,” she said of Dominic's outburst. “That's what stunned me. Did you really think you were going to get away with killing a police officer?”

I asked her if there was anything she would say to Dominic and Maurice now. “In the time since the trial,” she said, “I would hope, I would pray,

that they're different. That they're not still angry. I would hope that they would turn their life around so that something good would come from the whole situation. My husband is gone forever and there's nothing else to be done, but they still have the opportunity to change their lives."

In the spring of 2018, thinking there was nothing about this case I didn't already know, I learned something new. I had always assumed that D.C. jurors were anonymous, and that, unless we chose to reveal ourselves—by, say, writing a personal essay—no one could ever discover our names.

It turned out I was wrong, as I discovered in a happenstance conversation—one that made me feel very dumb—with a journalist who'd done lots of court reporting. In D.C., jury lists are presumptively public, and are sealed only if someone (generally a juror) makes a request. Evidently, none of us had done that. So I got the list. And I began searching public records for the names.

When I realized it was an actual possibility, the idea of speaking to the other jurors became daunting. The question I'd been asking all these years was whether I'd done the right thing in that jury chamber. Whether I should have done something else. Those deliberations were private. There were no transcripts to go back over, and these were the only other people who'd been there, the only ones who could help me sort out what had happened. How would they remember my actions? How would they feel about what we'd done?

I quickly discovered that one juror had died in 2016 at age 87. Many others I was unable to locate or contact. One person I did succeed in finding had been an alternate who was excused once deliberations began, and had only vague memories of the testimony we'd heard. But I did get in touch with two people who'd been in that room when we voted to convict.

The first was a woman who was 27 at the time of the trial. She didn't remember me or the particulars of any other jurors (I had only the vaguest

recollection of her), yet she said that one thing has remained very sharp in her mind for the past two decades. “I have always scratched my head wondering why, or how, two people can be convicted for one thing,” she told me over the phone. “It was clear to me at the time that one of them had done it. It was strange to me that we didn’t have to figure out who it was. But that was the law, and that’s what the judge told us we were doing. That was our job.”

The other juror I reached was our foreman, the man I’d seen as herding us toward finding Dominic guilty. He’d been 39 back then, and working as a paralegal at a D.C. law firm. “I have thought about this trial a lot,” he told me when I called him in March 2018. “Soon after it was over, and many times over the years. Even before you contacted me, I always thought someone might go back to see if Dominic could get retried. I thought it should be re-examined. I was hoping someday it would be.”

The foreman, to whom I offered anonymity so he’d feel comfortable speaking freely about our deliberations, dredged up some stray memories of the trial. One was that he swore he’d seen Abrecht crying after the verdict came down. (I didn’t remember that at all. Neither did the judge. “Although I have cried on the bench,” she told me, “it was usually for emotional child cases in the Family Division, not criminal cases.”) He also recalled that when we left the courthouse for the last time, “a bailiff, or one of the cops in the hallway, they put out their hand and shook my hand and said, ‘Don’t worry, you guys did a great job. You did the right thing.’ ”

Only two people from the jury were distinct in his mind after 20 years. The first was me. “I seem to remember a question you asked that made me feel like you wanted to give Dominic a break,” he said. “This may have been after we took two or three votes. You asked something like, ‘Are we sure that we want to convict Dominic on all of these charges? Because we’re really making an impact on his life.’ ” In my memory, I’d been meek and retiring, but he was describing a person who’d fought to sway the outcome.

The other juror he remembered was the blond female lawyer—the one I'd seen as his companion in the jury room's power duo. He recalled her having light brown hair. And he didn't think he'd been aligned with her at all. Instead, he felt she was the one who'd dominated the room—that she'd herded him and everyone else toward our verdict. “I think she stifled deliberations because she was a lawyer,” he said, “and the other jurors thought she was credible. If she hadn't been there, I probably would have spoken out more.”

(I am fairly certain I identified this woman from the jury list. I sent messages to her home and office via phone, email, and post asking to speak with her about the trial. She never responded.)

It's hard not to wonder how many other jurors are out there, refugees from various trials—people once meshed together by responsibility but now feeling all alone, wondering if anyone else shares their doubt and self-recrimination. I was surprised at how good it felt, how much resolution I derived from talking to the jurors I'd served with. At the same time, it seemed as if we were all telling ourselves stories that would make us feel better. It was that judge's instruction. It was that one woman who dominated the jury. None of us wanted to accept that we'd been in charge.

In October 2015, Darlene Pitt invited me to a party celebrating the release of the novel Dominic had written in prison, titled *One Foot In, One Foot Out, Choose One*. People gathered at a bar on H Street in Northeast D.C. the night before Halloween. Pitt wore an Egyptian costume with a short skirt, and high heels with gold straps that spiraled up to her knees. Dominic's grandmother was there, too, in a Redskins hoodie. Forty copies of Dominic's book were laid out on a table.

It's hard not to wonder how many other jurors are out there, refugees from various trials, wondering if anyone else shares their doubt and self-recrimination.

Dominic called into the party from a prison phone. His voice was patched through the sound system. He was jovial—the chuffed author, greeting his fans—and he thanked us for “coming out to support the kid.” He kept getting cut off by the prison’s automated recording announcing that he’d hit his phone time limit.

Just before I left, Darlene signed one of the books for me on Dominic’s behalf. “To Seth. The BEST. Dominic Gibson,” she wrote. She gave me a hug as she handed it to me.

The book’s cover art showed a lightning storm, with bolts spidering around the Washington Monument. In the foreground was a photo of a young black man lighting what appeared to be a blunt. It was hard to tell who’d printed it, as no publisher was listed inside. I read it on the train back to New York. ([It’s available on Amazon.](#))

The novel’s protagonist is a D.C. kid named Dwayne “D1” Jones. His mother, Ms. Darlene, frets that D1 is going to wind up in prison. The book has lots of sex, and drugs, and descriptions of D1’s exploits on the basketball court. When D1 gets arrested for murder, it ends his promising basketball career and breaks Ms. Darlene’s heart. But D1 gets a “paid lawyer” instead of a government-appointed one, and this makes all the difference. As he awaits the verdict, D1 says to one of his cellmates, “Only in the criminal justice system does a person literally have to trust his life with the inexperience of 12 strangers/jurors.”

The jury finds D1 not guilty. He goes on to become a successful record producer, and returns to speak as an honored guest at his old elementary school. Ms. Darlene beams with pride.

In 2016, the D.C. Council passed the [Incarceration Reduction Amendment Act](#). This new law lets convicts pursue sentence adjustments if they were under 18 at the time of their crimes and have served more than 20 years in prison. Dominic’s latest attorney—enlisted in the wake of that act’s passage

—hasn't returned my many calls and emails asking about her client's legal strategy. And the wardens at each new prison Dominic's been transferred to, like every warden before, have refused my requests to interview Dominic face to face.

A couple years ago, I asked Dominic if he'd agree to one last interview by phone, in which we could speak openly about his life. I will never know what happened atop that hill in 1997—what Dominic did or didn't do. But I have no doubt he was treated unfairly by the court, and I'm increasingly inclined to think he was treated unfairly by me. I wanted to let him know that, and maybe arrive at some final verdict on how I felt about Dominic and the trial and my own behavior. But Dominic remained reluctant to talk. Here's what he wrote to me then:

I need for you to understand that I am fighting to get my life back for something that I honestly didn't do. ... I do not need the Government bringing something up and trying to use it against me. They have already lied enough on me. ... I just hope that you can understand what I am up against and what I am going through being in prison for the last 20 years for something that I didn't do. So, Seth, I feel like this is not the end of my story, it's just the beginning.

After I got Dominic's note, I put the story on a shelf for a while. When I at last got something down on paper, I contacted Dominic on CorrLinks and told him that, five years after we'd first talked, this story was finally going to be published. To my surprise, he asked if he could call me.

Dominic was still worried that this article might get him in trouble with the prison system or the courts. When I asked him how he was doing, generally, he sounded in good spirits. His voice was warm and gravelly, with none of the edge it had when he'd taken the witness stand 20 years ago. He was excited to be working on the sequel to his book, and said he hoped to be a mentor to young men whenever his prison sentence ended.

He asked me what was happening in my life, and I told him I'd had my first kid. He congratulated me. "You're seeing things from a new perspective now," he said, laughing. We said goodbye. As I hung up, I vowed to keep checking in on Dominic from time to time—knowing that, for at least the next decade, I can find him where I put him.