LET US NOW *NOT* PRAISE *MY COUSIN VINNY*

Jules Epstein†

This fish-out-of-water comedy has some of the all-time best courtroom scenes.[1]

Everything that guy just said is bull@$%.[2]

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1. Ashley Merryman, *The Best Legal and Courtroom Dramas*, ROGEREBERT.COM (Mar. 4, 2024), https://www.rogerebert.com/features/the-best-legal-and-courtroom-dramas#google_vignette (on file with Syracuse Law Review) (last visited Jan. 25, 2026).

2. MY COUSIN VINNY, Blu-ray, at 1:15:30–1:15:40 (Twentieth Century Fox 1992).

ABSTRACT

There are few courtroom films more extolled and loved than *My Cousin Vinny* ("MCV"). It is Hollywood perfection—the underdog advocate, the thrill of the courtroom, the last-minute revelation that "saves the day"—all delivered with wit, bumbling as in the best of Shakespearean comedies of error, and comedic pizzazz. And MCV is used across legal education and in the courts—as a teaching tool, as the hallmark of great lawyering, and indeed as a reliable source for judicial decision-making.

But MCV has a darker side that warrants exposure. If it is true that movies can shape social attitudes and beliefs, MCV is a dangerous film. It makes it appear that poorly trained lawyers are perfectly capable of handling and winning cases where the stakes are high; creates a false impression that cases can be handled fairly when they rush from arrest to trial; ignores the realities of capital case (death penalty) representation; and belittles public defenders, the true heroes of the criminal defense world. Therefore, there needs to be a corrective, a chronicling of the negative aspects of this film, both so lawyers and law students learn what not to emulate and all of us are reminded that comedy can mask or minimize serious flaws and perpetuate pernicious myths and stereotypes. This Article endeavors to be that corrective, looking at MCV in its true context, a death-penalty prosecution.

INTRODUCTION

The film *My Cousin Vinny* ("MCV") was released thirty-three years ago on March 13, 1992.[3] To say it has legendary status may be to damn it with faint praise. MCV makes "top" legal film lists,[4] is used as a teaching tool in advocacy trainings both for law students and

3. *See My Cousin Vinny*, IMDB, https://www.imdb.com/title/tt0104952/ (on file with Syracuse Law Review) (last visited Jan. 25, 2026).

4. In addition to Merryman's list, *supra* note 1, *see, e.g.*, @majfoalbkeopaza, *The 25 Greatest Legal Movies (According to the American Bar Association)*, IMDB (May 10, 2018), https://www.imdb.com/list/ls026258815/ (on file with Syracuse Law Review); Rick Stevenson, *25 Best Lawyer Movies Of All Time Ranked*, LOOPER (Mar. 1, 2022, at 02:37 ET), https://www.looper.com/783461/best-lawyer-movies-of-all-time-ranked/ (on file with Syracuse Law Review); Tom Nicholson, *Your Honour, I Move to Recognise the Best Courtroom Dramas Ever Made*, ESQUIRE (Oct. 20, 2021), https://www.esquire.com/uk/culture/film/a34155993/courtroom-movies/ (on file with Syracuse Law Review); Soniya Hinduja, *10 Courtroom Movies That Are Actually Legally Accurate*, MOVIEWEB (Mar. 30, 2025, at 11:00 ET), https://movieweb.com/best-courtroom-drama-movies-legally-accurate/ (on file with Syracuse Law Review); @davidwise3131, *Best Legal Movies of All Time*, IMDB (Jan. 21, 2014), https://www.imdb.com/list/ls059151004/ (on file with Syracuse Law Review).

practitioners, and is repeatedly referenced in legal arguments, legal scholarship, and court opinions. And it is rarely criticized.

But something is wrong with that monolithic acclaim. It is too easily forgotten that the case in the film is a capital (death penalty) prosecution in a pro-death penalty state[5] before an adamantly pro-execution jury. And it is replete with bad lawyering,[6] unethical conduct, and hurtful stereotypes. So rather than singing its praises, this Article takes a critical and disparaging look at what remains an iconic courtroom film.

This Article begins by recounting the persistence of praise for MCV. It then places the film in the context of death penalty litigation, both nationally and in particular in Alabama in the 1990s. Once contextualized, the Article turns to the many flaws in this film, flaws that raise concerns about how lawyers should prepare and litigate cases. It concludes with what is hopefully a reasoned introspection—is this Author just a "grumpy old man" finding fault with what is expressly categorized as a comedy, or is there in fact a need for a "don't try this at home (or in court)" label that needs to be appended to this film?

I. UBIQUITOUS & (MOSTLY) NON-CRITICAL VIEWS

MCV references are found across the legal landscape. A LexisNexis natural language search for "My Cousin Vinny" found the term in 56 cases,[7] seven "statutes and legislation," 317 "secondary materials," and 441 instances of "legal news."[8] In decisional law, laudatory language includes the following:

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5. *See Alabama Remains an Outlier as Death Penalty Decline Continues*, EQUAL JUST. INITIATIVE (Dec. 06, 2023), https://eji.org/news/alabama-remains-an-outlier-as-death-penalty-decline-continues/ (on file with Syracuse Law Review) (noting that "Alabama remains an outlier in its continued use of the death penalty").

6. The problematic lawyering escapes the "critical" eye of reviewers. One touts the film, claiming "never once does it lose its legal accuracy. The movie's depiction of courtroom procedure is surprisingly real. From cross-examinations to rules of evidence, it nails the technical aspects of a trial." Hinduja, *supra* note 4.

7. The search returned 59 cases, but one involved the witness testifying about their actual cousin named "Vinny." "And then when my cousin, Vinny, came over I had him carry it to the red barn out back because I wanted to clean up the kitchen. I had already cleaned the rest of the house." Casula v. State, No. 1285, 2022 Md. App. LEXIS 624, at *10 (Md. Ct. Spec. App. Aug. 24, 2022). Two more involved a theft of items including a video cassette of the film. *See* Mims v. Warden, La. State Penitentiary, No. 08-cv-0670, 2011 U.S. Dist. LEXIS 113288, at *2 (W.D. La. Aug. 30, 2011); Thomas v. Warden, La. State Penitentiary, No. 08-cv-1912, 2011 U.S. Dist. LEXIS 132533, at *2 (W.D. La. Oct. 26, 2011).

8. LEXISNEXIS, "My Cousin Vinny", 824 results (Apr. 7, 2025) (on file with Syracuse Law Review) (filtered by "Cases", "Statutes and Legislation", "Secondary Materials", "Legal News").

- "In 1992, Vincent Gambini taught a master class in cross-examination."[9]
- "Even popular culture recognizes the importance of cross-examination . . . *My Cousin Vinny* (Palo Vista Productions et al. 1992) (demonstrating that cross-examination can both undermine and establish the credibility of witnesses)."[10]
- "There are many gems in the 1992 movie *My Cousin Vinny* . . . about trial lawyering and procedure."[11]

Courts also rely on the film when explaining points of law. The film has been used to illustrate the preference for in-court testimony over hearsay;[12] to describe a witness's appearance and demeanor;[13] the lack of probable cause in a description of a car;[14] the limited utility of eyewitness expert testimony;[15] to reject immediate injunctive relief;[16]

9. Novato Healthcare Ctr. v. NLRB, 916 F.3d 1095, 1098 (D.C. Cir. 2019). The cross-examination in question is that of Mr. Tipton. As the court explained, "On cross-examination, Vinny elicited Tipton's breakfast-making process. By the end of the cross, it was clear that Tipton could not have cooked his breakfast of eggs and grits in just five minutes." *Id.* at 1103. The entire cross-examination is then reproduced. *See id.* at 1103 n.5.

10. Doe v. Baum, 903 F.3d 575, 581 n.1 (6th Cir. 2018).

11. S.C. v. State, 224 So. 3d 249, 251 (Fla. App. 2017).

12. *See* State v. Shorter, 945 N.W.2d 1, 11 n.4 (Iowa 2020) ("For example, Billy Gambini's 'I shot the clerk??' turns into a confession when relayed to the jury by Sheriff Farley as an affirmative statement. My Cousin Vinny (Twentieth Century Fox 1992).").

13. *See* Commonwealth v. Baez-Benitez, No. CR-2462-2020, 2022 Pa. Dist. & Cnty. Dec. LEXIS 1488, at *2–3 (C.P. Ct. Lehigh Cnty. Apr. 27, 2022) ("The Toyota Camry belonged to Jalessa Nuez, the victim in this case. . . . , who in both appearance and behavior resembled Mona Lisa Vito . . . .").

14. *See* Robinson v. White, No. 23-12676, 2024 U.S. Dist. LEXIS 194764, at *11 (E.D. Mich. 2024) ("*see also* MY COUSIN VINNY (Twentieth Century Fox 1992) (examination of Mona Lisa Vito) (showing how easily a person could mistake a 1964 Buick Skylark for the 1963 Pontiac Tempest which had the same body length, height, width, weight, wheel base, wheel track, and was also available in metallic mint-green paint).").

15. *See* State v. Carpenter, 605 S.W.3d 355, 371 n.2 (Mo. 2020) (Powell, J., dissenting) ("A juror of ordinary intelligence would understand that poor eyesight may affect the reliability of an eyewitness identification. Recall the scene in *My Cousin Vinny* in which Vinny Gambini famously discredits the eyewitness identification made by a pleasant elderly witness with comically thick glasses: "Maybe you're ready for a thicker set." *My Cousin Vinny* (20th Century Fox 1992).").

16. *See* IAP Worldwide Servs., Inc. v. United States, 160 Fed. Cl. 57, 85 n.51 (2022) ("The government's position is reminiscent of a classic scene from *My Cousin Vinny* (20th Century Fox 1992), in which the fictional Judge Chamberlain Haller tells defense attorney Vinny: 'It appears to me that you want to skip the arraignment process, go directly to trial, skip that, and get a dismissal.'").

to justify the denial of summary judgment;[17] to limit the scope of motions in limine;[18] to condemn "crass language" in court pleadings;[19] whether conduct of standing and speaking in court violated federal law;[20] whether an objection fully preserved a claim;[21] to illustrate to jurors, by referencing the film, that "a witness could qualify as an expert based on experience rather than academic background;" [22] and to explain "locking differentials."[23]

Litigants also rely on the film to argue a point, be it to a jury or in motions to a judge.[24] In one trial the defense cited the film as an

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17. *See* Walsh v. N.Y.C. Hous. Auth., 828 F.3d 70, 76 (2d Cir. 2016) ("To use the apt metaphor coined by Vincent Gambini . . . , a plaintiff may satisfy her burden by building a wall out of individual evidentiary bricks.").

18. *See* Williams v. City of Phila. Off. of the Sheriff, No. 17-2697, 2023 U.S. Dist. LEXIS 7380, at *15 (E.D. Pa. Jan. 15, 2023) ("To borrow from cinematic Judge Chamberlain Haller of *My Cousin Vinny* fame, the Federal District Courts have procedures . . . .").

19. Moomjian v. T.D. Ameritrade, Inc., No. 15-CV-0952, 2016 U.S. Dist. LEXIS 108620, at *19–20 (N.D. Tex. Aug. 16, 2016) ("In using the term 'BS,' Moomjian contends that he is quoting a character from the movie *My Cousin Vinny*. . . . [I]t is offensive and disrespectful to the court. To use or refer to crass or indecorous language uttered by a character in a movie is simply an excuse for Plaintiff to use inappropriate language to state what he really thinks about the merits of the motion.").

20. *See* United States v. Bronstein, 849 F.3d 1101, 1111 (D.C. Cir. 2017) ("Their coordinated standing, facing the bench, and messaging indicate the Appellees were addressing the Court and gallery. *Cf.* MY COUSIN VINNY (20th Century Fox 1992) (Judge Chamberlain Haller: 'Don't talk to me sitting in that chair! . . . When you're addressing this court, you'll rise and speak to me in a clear, intelligible voice.').").

21. *See* Neely v. State, 193 S.W.3d 685, 688 (Tex. App. 2006) (Gray, C.J., dissenting) ("Defense counsel made a timely and specific objection, not unlike Vinny Gambini in the movie, *My Cousin Vinny*[.]")

22. United States v. Hallock, No. 06-CR-396, 2014 U.S. Dist. LEXIS 33483, at *15 (D. Nev. Mar. 14, 2014).

23. Ring & Pinion Serv., Inc. v. ARB Corp., No. C09-586, 2013 U.S. Dist. LEXIS 14106, at *2–7 (W.D. Wa. Feb. 1, 2013).

24. *See, e.g.*, United States v. Stewart, No. 21-cr-034, 2024 U.S. Dist. LEXIS 74921, at *5–6 (D. Col. Apr. 24, 2024) ("[The Government] likens Dr. Weithers to a mechanic who, like Mona Lisa Vito, may have 'general automotive knowledge,' but could not 'help the jury understand whether someone committed vehicular homicide.' (My Cousin Vinny (Palo Vista Productions 1992); ECF No. 145 at 3.).").
In one instance, defense counsel validated Vinny's opening statement gambit but then flipped it to try and gain credibility by saying that much of what the prosecution said in opening was accurate and the disputed issues in the case were narrow.

> [M]embers of the jury, this is the point during the trial where if this were the movie *My Cousin Vinny*, which some of you may have seen, is the defendant's attorney's time to stand up and say everything [the prosecutor] just said is nonsense. During a typical trial in this courtroom, it would be the time for the defense attorney to stand up and say my client is pure as the driven snow

object lesson in the risk of mistaken identification.[25] Another used the trial's ambiguous admission of shooting the clerk to challenge the sufficiency of proof for "other acts" evidence.[26]

One decision offers a rare critical note that highlights the absurdity of the film:

> You know all of us know that the movie My Cousin Vinny was funny because of how ridiculous it was, and there's a point in there where the lead actor, the defense attorney, is like shocked that the State gave him all the evidence. Well, right, because that's how it works.[27]

Law review and journal articles continue the praise of Vinny's talents, calling him a "great trial lawyer;"[28] an "effective and realistic" cross-examiner;[29] a "canny inquisitor;"[30] a "surgical[ly] precis[e]"

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and innocent and not guilty of anything. You don't have any evidence, you've got the wrong guy, he was [in] another state, in another city at the time the crime was alleged to have been committed.

Ladies and gentlemen, I can't say that because it's not true. *Jesse . . . is guilty*.

The question is, the fighting issue in this case, is *what is Jesse . . . guilty of*?

Brown v. State, No. 14-1646, 2016 Iowa App. LEXIS 43, at *10 (Jan. 27, 2016).

25. Tappenden claimed to have viewed the incident through a window from her house across the street, but there are myriad reasons that she could have, in good faith, misperceived, misremembered, or misunderstood the events leading up to the shooting. Indeed, the Court is reminded of the classic scene in *My Cousin Vinny*, in which a witness positively identified the defendants as the two men he had seen fleeing a murder at the Sac-O-Suds, only to later admit that he may have been mistaken because he originally saw them, in the words of Joe Pesci's Vincent Gambini, through "this dirty window, this crud-covered screen, these trees with all these leaves on them, and I don't know how many bushes." MY COUSIN VINNY at 1:24:40-1:26:40 (20th Century Fox 1992); K.C.R. v. County of Los Angeles, No. CV 13-3806, 2016 U.S. Dist. LEXIS 191696, at *6–7 (C.D. Cal. Mar. 18, 2016).

26. *See* People v. Harrell, No. 8181/2010, 2012 N.Y. Misc. LEXIS 3506, at *6 (Sup. Ct. July 23, 2012); *see also* Howard v. State, No. 13-13-00390-CV, 2014 Tex. App. LEXIS 3051, at *23 (Mar. 20, 2014).

27. State v. Green, 992 N.W.2d 56, 68 (Wis. 2023).

28. Bill Haltom, *But Seriously, Folks!: Coming Soon: My Cousin Vinny's Mediation*, 40 TENN. BAR J. 37, 40 (2004).

29. 1 LEXISNEXIS PRACTICE GUIDE: MINNESOTA CRIMINAL LAW § 8.25 (2025) ("One of the best examples of an effective and realistic cross-examination of eyewitness identification is in the movie *My Cousin Vinny* starring Joe Pesci.").

30. Joseph D. O'Connor, *The Celluloid Lawyer*, 20 GPSOLO 52, 54 (2003).

cross-examiner;[31] "skillful" at cross and impeachment;[32] one who offers "classic, art-imitating-real-life" skills;[33] or a lawyer "zealously seeking justice for [his] client . . . ."[34]

At least one article lauds the film's commitment to accuracy in portraying the law and the courtroom:

> [D]espite some inaccuracies, many lawyers love "My Cousin Vinny." . . .
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> It may have helped that both screenwriter Dale Launer and director Jonathan Lynn were obsessive about getting the legal details right. According to Screencraft, Launer's method of research was asking a litigator friend questions about his experiences. Whenever the litigator suggested something was too boring to delve into for a movie audience, Launer pushed for more detail. Meanwhile, Lynn has an M.A. in law from the prestigious Cambridge University. During filming, he made small changes to the action to ensure the depiction of the trial was as accurate as possible.[35]

There is less unanimity in praising MCV across the 317 "secondary material" references to the film, at least regarding worries about the effect on the audience. "But every time Hollywood skirts the ethics rules in its scripts, it creates more opportunity for less-sophisticated clients to believe that the way that fictional lawyers behave is the way that real lawyers should behave. And that should worry us a bit."[36] A

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31. Adam Harris Kurland, *Court's in Session: A Law Professor Returns to the Majestic Chaos of a Criminal Jury Trial*, 52 HOW. L.J. 357, 364 (2009) ("Each cross-examination must be undertaken with surgical precision and a clear, realistic plan of what purpose one seeks to achieve. Thorough preparation is essential. Even the entertaining cross-examinations by the Joe Pesci character in *My Cousin Vinny* do not deviate from this formula.").

32. Sara Gras, Susan Azyndar & Susan David deMaine, *Pro Say Podcast*, 114 L. LIBR. J. 81, 83 (2022).

33. Charles T. Hvass, Jr., *The New Commandments of Cross-Examination*, 28 LITIG., 28 (2002) ("The cross-examinations of the supposed eyewitnesses in *My Cousin Vinny* provide classic, art-imitating-real-life examples of neutralizing the witness.").

34. Roberta M. Gubbins, *Of Interest: The Internet is for All Lawyers*, 95 MICH. BAR J., 18 (2016).

35. Natasha Lavender, *The Untold Truth of My Cousin Vinny*, LOOPER: COMEDY MOVIES (Feb. 3, 2022, at 22:43 ET), https://www.looper.com/756949/the-untold-truth-of-my-cousin-vinny/ (on file with Syracuse Law Review).

36. Nancy Rapoport, *Lights, Camera, Ethics? TV Lawyers Tend to Set Bad Example*, LAW360 (Feb. 10, 2025, at 13:59 ET), https://www.law360.com/articles/2291332/lights-camera-ethics-tv-lawyers-tend-to-set-bad-example (on file with Syracuse Law Review).

contrary concern was also espoused, with the worry being that Vinny's being "wholly lacking in competence to handle a case . . . does create some pessimistic views of lawyers and how well they handle representation of a client."[37]

And those concerned about professional conduct acknowledge the ethical concerns that abound. "While much of the comedy derives from Gambini's initial incompetence and near-miraculous turnaround, Gambini did commit two egregious ethical violations during the course of his representation of the boys."[38] Under the heading of "Professional Incompetence," another article highlights that "Vinny Gambini (Joe Pesci) in *My Cousin Vinny* is woefully misinformed about evidence and trial procedure."[39]

Overall, with ethical concerns exempted, the courts, counsel, and commentators sing MCV's praises. Whether they should have is disputed in the remainder of this Article.

II. CONTEXT—ALABAMA & THE DEATH PENALTY[40]

Alabama in 1993, and frankly Alabama before and since,[41] was not a jurisdiction where one wanted to face capital murder charges.

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37. Tonja Haddad, *Silver Tongues on the Silver Screen: Legal Ethics in the Movies*, 24 NOVA L. REV. 673, 677 (2000).

38. Amy S. Beard, *From Hero to Villain: The Corresponding Evolutions of Model Ethical Codes and the Portrayal of Lawyers in Film*, 55 N.Y. L. SCH. L. REV. 961, 971–72 (2011). The two identified errors were taking the case when he was "not remotely qualified to represent two criminal defendants facing the death penalty," and "impersonat[ing] a prominent New York trial lawyer." *Id.* at 972.

39. William G. Hyland, Jr., *Creative Malpractice: The Cinematic Lawyer*, 9 TEX. REV. ENT. & SPORTS L. 231, 251 (2008).

40. Substantial research for this segment of the Article was conducted by Temple University Beasley School of Law librarian Ryan McGinnis and library student research assistants Marco Ricci, Alice Hindanov, and Pranav Ramesh. Thanks are due to each.

41. Even today, Alabama faces criticism for defending death sentences notwithstanding compelling scientific proof of innocence. *See, e.g.*, Ivana Hrynkiw, *Alabama vs. Science: Confronted with DNA, Alabama Offers Theory that 'Defies Logic' to Keep Man on Death Row*, AL.COM (June 23, 2025, at 08:43 CT), https://www.al.com/news/2025/06/confronted-with-dna-alabama-offers-theory-that-defies-logic-to-keep-man-on-death-row.html (on file with Syracuse Law Review). Christopher Barbour confessed to killing a woman after an acquaintance raped her, a confession he repudiated promptly but which was used as the basis for his conviction and death sentence, a parallel to the *My Cousin Vinny* "confession." Recent DNA testing showed that the sperm found in the deceased came from a neighbor of the victim who is now serving a life sentence for a different murder. As a federal judge concluded:

The new DNA evidence identifying Jackson's DNA as the sole male DNA in Mrs. Roberts' rape kit is powerful evidence that Barbour's confession is false, and that

In the early 1990s, Alabama had one of the most active death penalty systems in the country. Alabama's death row grew rapidly through the 1980s. This resulted not only from jury sentences requiring execution but by the then-lawful conduct of judicial overriding of jury verdicts of life sentences. Data collected in 2011 showed that since 1976, Alabama judges overrode jury verdicts 107 times, and 92% of the overrides were overrides of jury verdicts of life sentences to impose the death penalty.[42]

That death sentences were the norm is shown in part by the rapid growth of Alabama's death row population after the death penalty was held to be constitutional in 1976.[43] By 1990, the death row population had grown to 117 inmates.[44] The population on death row grew to 143 inmates by the end of 1995.[45] This increase outpaced the national growth rate of death row inmates, and by the mid-90s, only California, Texas, Florida, Pennsylvania, and Illinois (states with far higher populations) had a larger number of inmates on death row than Alabama.[46] In 1994, Alabama alone accounted for 8% of all new death sentences nationwide.[47] Although beyond the reach of this Article, Alabama continues to be a death penalty state with a current death row population of 167.[48] Since 1976, the State has executed seventy-eight individuals.[49]

Just as death sentences are pervasive, so too is the problem of inadequate, and constitutionally ineffective, counsel. Resentencing often occurs as a result of a finding of trial counsel ineffectiveness. A

Mrs. Roberts' murder did not occur as the prosecution presented it at trial. No physical evidence links Barbour to the crime scene. Thus, this DNA evidence "further excludes [Barbour] from the crime scene, invalidates his confession, and links a [new] third party"—Tyrone Jackson—"to that scene." Barbour v. Hamm, 746 F. Supp. 3d 1252, 1296–97 (M.D. Ala. 2024) (quoting Floyd v. Vannoy, 894 F.3d 143, 157 (5th Cir. 2018)). The State continues to oppose relief for Mr. Barbour.

42. *See* EQUAL JUST. INITIATIVE, THE DEATH PENALTY IN ALABAMA: JUDGE OVERRIDE 4 (2011).

43. *See* Gregg v. Georgia, 428 U.S. 153, 207 (1976).

44. *See* LAWRENCE A. GREENFELD, U.S. DEP'T OF JUST., BUREAU OF JUSTICE STATISTICS BULLETIN: CAPITAL PUNISHMENT 1990, at 6 (1991).

45. *See* TRACY L. SNELL, U.S. DEP'T OF JUST., BUREAU OF JUSTICE STATISTICS BULLETIN: CAPITAL PUNISHMENT 1995, at 1 (1996).

46. *See id.*

47. JAMES J. STEPHAN & TRACY L. SNELL, U.S. DEP'T OF JUST., BUREAU OF JUSTICE STATISTICS BULLETIN: CAPITAL PUNISHMENT 1994, at 1 (1996).

48. *See* DEATH PENALTY INFO. CTR., https://deathpenaltyinfo.org/state-and-federal-info/state-by-state/alabama (on file with Syracuse Law Review) (last visited May 10, 2025).

49. *See id.*

review of 168 death sentences returned between 1990 and 1999 showed that fifty-three of those under sentence of death (31%) subsequently were resentenced to life imprisonment or less.[50] Over a broader period of time, as reported by the Equal Justice Initiative, "[a]t least 170 Alabama death sentences have been reversed by state or federal courts and resulted in an exoneration, lesser conviction, or reduced sentence."[51] With no statewide public defender and a low compensation rate for appointed counsel, it is often the case that it is younger and less experienced counsel who handle capital trials.[52] Until 1999, compensation was woefully low. "Alabama [paid] capital defense attorneys only twenty dollars per hour for any work done out of court and forty dollars per hour for in-court activity, and capped out-of-court fees at $1,000."[53] And even today the requirements to be eligible for capital case representation are not particularly onerous.[54] Alabama conducts no assessment to show that counsel is indeed

50. Data and analysis conducted by Temple students, drawing from the Death Penalty Census Database of the Death Penalty Information Center. Analysis on file with author.

51. *Alabama's Death Penalty*, EQUAL JUST. INITIATIVE, https://eji.org/issues/alabama-death-penalty/ (on file with Syracuse Law Review) (last visited May 12, 2025).

52. Sara Rimer, *Questions of Death Row Justice for Poor People in Alabama*, N.Y. TIMES, March 1, 2000, at A1.

53. Alexandra L. Klein, *The 2022 Alabama Executions and the Crisis of American Capital Punishment*, 24 NEV. L.J. 1, 45 (2023). Eerily reflecting MCV, in the prosecution of Anthony Boyd, who was executed in October 2025, "[a]ccording to court filings, the court appointed a defense lawyer who had passed the bar only four months prior to trial and had no trial experience…" *Alabama Executes Anthony Boyd*, EQUAL JUST. INITIATIVE (Oct. 23, 2025), https://eji.org/news/anthony-boyd-alabama-execution/ (on file with Syracuse Law Review).

54. To be lead counsel, the attorney must have the following background:

1. Must have at least five (5) years of criminal litigation experience.
2. Must be familiar with the Alabama Rules of Professional Conduct, must be familiar with current criminal practice and procedure in Alabama, must be familiar with capital jurisprudence established by the U.S. Supreme Court and the Supreme Court of Alabama;
3. Must have litigated a capital case to verdict, hung jury, or plea as associate counsel, or have litigated four (4) homicide cases to verdict, hung jury, or plea[.]
4. Must have substantial familiarity with, and experience in the use of, expert witnesses and scientific and medical evidence in litigation;
5. Must complete at least ten (10) hours of capital defense related continuing legal education every two (2) years.

ALA. ADMIN. CODE r. 355-9-1-.08 (2025).

"familiar with capital jurisprudence." Rather, counsel simply attests to that conclusion on an application form.[55]

The conclusion of former Alabama Supreme Court justices and former Bar Association presidents in an amicus brief discussing the lack of post-conviction counsel in capital cases was simple and clear: "Our capital system in Alabama is in disarray. Without counsel to vigorously represent death row inmates in state postconviction, we know that there have been instances where justice was not served."[56]

Emblematic of the problem at or before the MCV trial is *Hinton v. Alabama*.[57] In 1985, two restaurant managers were murdered in separate instances.[58] In a third restaurant robbery the manager was shot but survived.[59] Shown a picture of Hinton, that victim identified him as the perpetrator.[60]

Critical to the prosecution was a firearm found in Hinton's home. "After analyzing the six bullets fired during the three crimes and test-firing the revolver, examiners at the State's Department of Forensic Sciences concluded that the six bullets had all been fired from [that weapon]."[61] The prosecution theory was simple—with Hinton identified as the perpetrator of the robbery with the surviving manager, the similarity of the crimes and the firearms "match" would establish his guilt for the two capital murder charges.[62]

Hinton's counsel applied for funds for a defense expert, and the trial court granted $1,000 ($500 per murder case) on the mistaken belief that Alabama law capped funding at that level.[63] Counsel, operating under the same mistaken understanding of the law, sought no added funding.[64]

The result was inevitable—the hiring of a less-than-qualified expert and, ultimately, a sentence of death. As to the expert's

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55. *See* ALA. OFF. OF INDIGENT DEF. SERVS., APPLICATION FOR APPOINTED COUNSEL CERTIFICATION AS LEAD COUNSEL FOR CAPITAL MURDER REPRESENTATION 2, https://finance.alabama.gov/media/jgyfyy02/capitalcertlead-counsel.pdf (on file with Syracuse Law Review) (last visited Feb. 20, 2026).

56. Brief of Amici Alabama Appellate Court Justices and Bar Presidents in Support of Petition for a Writ of Certiorari, Barbour v. Allen, No. 06-10605, 2007 U.S. S. Ct. Briefs LEXIS 921, at *19 (May 11, 2007).

57. Hinton v. Alabama, 571 U.S. 263, 264 (2014).

58. *See id.*

59. *See id.*

60. *See id.*

61. *Id.* at 265.

62. *See Hinton*, 571 U.S. at 265.

63. *See id.* at 267–68.

64. *See id.*

qualifications, counsel "found only one person who was willing to take the case for the pay he could offer: Andrew Payne. Hinton's attorney testified that Payne did not have the expertise he thought he needed and that he did not consider Payne's testimony to be effective."[65]

Were it not a capital case and instead a comedic film, the trial would have been laughable:

> Payne admitted that he'd testified as an expert on firearms and toolmark identification just twice in the preceding eight years and that one of the two cases involved a shotgun rather than a handgun. Payne also conceded that he had had difficulty operating the microscope at the state forensic laboratory and had asked for help from one of the state experts. The prosecutor ended the cross-examination with this colloquy:
>
> "Q. Mr. Payne, do you have some problem with your vision?
>
> A. Why, yes.
>
> Q. How many eyes do you have?
>
> A. One."[66]

There was even more. Payne's actual training was "in military ordnance, not firearms and toolmark identification," and his degree was in civil engineering.[67]

Post-conviction, three skilled and highly credentialed experts examined the firearm evidence—none could conclude that any of the bullets had been fired from Hinton's revolver.[68]

The Supreme Court, unanimously and per curiam, found that Hinton was deprived of the Sixth Amendment right to effective representation. More than one failing was identified:

> Hinton's attorney knew that he needed more funding to present an effective defense, yet he failed to make even the cursory investigation of the state statute providing for defense funding for indigent defendants that would have revealed to him that he could receive reimbursement not just for $1,000 but for "any expenses reasonably incurred." . . .

65. *Id.* at 268.
66. *Id.* at 269 (internal quotation marks omitted).
67. *Hinton*, 571 U.S. at 269.
68. *See id.* at 270.

> We wish to be clear that the inadequate assistance of counsel we find in this case does not consist of the hiring of an expert who, though qualified, was not qualified enough. . . .The only inadequate assistance of counsel here was the inexcusable mistake of law—the unreasonable failure to understand the resources that state law made available to him—that caused counsel to employ an expert that *he himself* deemed inadequate.[69]

This, then, was the terrain in which MCV took place.

III. THE MANY PROBLEMS WITH MCV

Yes, MCV is a movie. Yes, it is a comedy (might I say "farce"). And yes, truth and justice prevail. But movies shape how we think, individually and collectively. "Movies can have a significant impact on gender and ethnic stereotypes, change attitudes towards certain groups of people and cause newly formed opinions on various issues."[70] Of particular concern, "perhaps unconscious to most of viewers is the realization that film is likely to influence their attitude and perception about numerous topics."[71]

What are the attitudes of concern in this film? At a minimum, they include how (and how quickly) trials should proceed; what skills and preparation a lawyer needs; what makes a fair trial; and who in fact are good lawyers. Time and again, MCV gets it wrong.

A. Unqualified & Unprepared

Lisa: You got one huge responsibility taking on this murder case—screw up n' those boys get fried.[72]

The Sixth Amendment of the United States Constitution affords those facing criminal prosecution the right to "Assistance of Counsel for his defence."[73] This must be "more than just a warm body at

69. *Id.* at 274–75.

70. Tina Kubrak, *Impact of Films: Changes in Young People's Attitudes after Watching a Movie*, 10 BEHAV. SCI. 1, 2 (2020).

71. Michelle C. Pautz, *Argo and Zero Dark Thirty: Film, Government, and Audiences*, 48 PS: POL. SCI. & POL., 120–21 (2015).

72. MY COUSIN VINNY, Blu-ray, at 33:35–33:45 (Twentieth Century Fox 1992).

73. U.S. CONST. amend. VI.

counsel table."[74] Rather, counsel must be "effective."[75] Eight years before the release of MCV, the Supreme Court ruled that "[c]ounsel, however, can also deprive a defendant of the right to effective assistance, simply by failing to render adequate legal assistance."[76]

The Supreme Court has referred to the right to effective assistance as a "bedrock principle in our justice system."[77] The American Bar Association's ("ABA") Model Rules of Professional Conduct ("MRPC") gives some insight into what effective counsel entails in its definition of competence. It says, "[c]ompetent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation."[78]

Effective counsel has an even higher standard in trials with the possibility of the death sentence. Hopefully, few would disagree that capital cases are among the most intricate and complex cases in the legal system today. This is because "[t]hey involve a unique separate sentencing phase, a complex body of law that is specific to death cases, and complicated and convoluted doctrines that limit appellate review for errors committed at trial."[79] A commentator notes that "[w]ithin criminal justice, death penalty cases are the most complex, the most labor intensive, and the most expensive."[80]

In Alabama, defendants in a capital trial are entitled to a court-appointed attorney with at least five years of experience in the active practice of criminal law.[81] This ensures that the attorney possesses the necessary experience and training to handle the complex and difficult issues inherent in death-penalty cases.[82] In federal capital prosecutions, defendants are appointed two attorneys, and at least one of them must be learned in the law applicable to capital cases.[83]

At the time that Vinny took the case, he had been practicing for less than six weeks. This was not only his first murder case, or even simply his first criminal case; this was the first time he was

74. United States v. Schaffer, 731 F. Supp. 3d 382, 387 (N.D.N.Y. 2024).

75. Mark R. Lee, *Right to Effective Counsel: A Judicial Heuristic*, 2 AM. J. CRIM. L. 277, 277 (1974).

76. Strickland v. Washington, 466 U.S. 668, 686 (1984).

77. Martinez v. Ryan, 566 U.S. 1, 12 (2012).

78. MODEL RULES OF PRO. CONDUCT r. 1.1 (A.B.A. 2023).

79. Michael D. Moore, Note, *Tinkering with the Machinery of Death: An Examination and Analysis of State Indigent Defense Systems and Their Application to Death-Eligible Defendants*, 37 WM. & MARY L. REV. 1617, 1639 (1996).

80. Victor L. Streib, *Sentencing Women to Death*, 16 CRIM. JUST. 24, 25 (2001).

81. *See* ALA. CODE § 13A-5-54 (2026).

82. *See* McGowan v. State, 990 So. 2d 931 (Ala. Crim. App. 2003).

83. *See* 18 U.S.C. § 3005.

representing a client in trial. MCV even hints at the fact that the law school Vinny attended was not accredited. Vinny had no business taking on the responsibility of being Bill and Stan's counsel.

As seen throughout the movie, the Sixth Amendment mandate was not a standard that Vinny was able to meet. He had no knowledge of the Alabama Rules of Criminal Procedure going into the trial. While he eventually was provided with a book of the rules, even his non-lawyer paramour Mona Lisa had a better understanding than he did. It appears that he did not know he could ask questions at the probable cause hearing, and he sat silent and interposed no objections during jury selection.

Yet Vinny was not alone in failing to provide Bill and Stan of their Sixth Amendment right. The judge had inherent authority to remove Vinny as counsel from his responsibility to oversee and ensure a fair trial. That authority is reflected in the local rules of the Alabama federal court, which repeats that "[w]hen it appears that an attorney . . . is failing to perform at an adequate level of competence necessary to protect [his] client's interests, the Court shall be empowered to take such remedial action . . . to insure the attorney's maintenance of an adequate level of competency."[84] In MCV, it was obvious that Vinny was in over his head and was incapable of representing Bill and Stan effectively. The court should have realized that and taken the necessary steps to ensure that Bill and Stan were receiving effective counsel. By not doing so, the court failed to fulfill its obligation to provide a fair trial and ensure effective counsel.

In Vinny's mind, he was doing his cousin a favor by taking the case. However, his inability to meet Sixth Amendment standards of competence, those detailed by the ABA, deprived Bill and Stan of their right to effective counsel as defined in *Strickland* and its progeny. In doing so, he placed their lives at risk. MCV conflates energized, caring counsel with competent counsel and again conflates the trial judge's concerns with Vinny's credentials with the duty to intercede when performance proves lacking.

84. M.D. Ala. LR 83.1; *see also Ex parte* Terminix Int'l Co., 325 So. 3d 800, 804 (Ala. 2020) ("It is well established that a trial court has the authority to disqualify counsel for violating the Alabama Rules of Professional Conduct.").

B. Two Clients? No Problem

Vinny: Your Honor, . . . my clients didn't do anything.[85]

The Sixth Amendment's right to conflict-free representation is not optional; rather, it is constitutionally guaranteed.[86] Even though there is recognized a right to select counsel of one's own choice, "this right 'is circumscribed in several important respects,'" including by the requirement of bar membership and rules against conflicts of interest.[87]

That assistance must be rational, undivided, and in the client's best interest. When two defendants are represented by the same lawyer, the interests of the clients may diverge or directly conflict, and the loyalty owed by the attorney can become compromised, thereby breaching the constitutional guarantee.

The Supreme Court recognized the danger of representing co-defendants in *Glasser v. United States* when the Court ruled that having an attorney representing a second co-defendant impaired the first defendant's right to effective assistance of counsel as guaranteed by the Sixth Amendment.[88] The conflict arose when the trial court appointed Daniel Glasser's attorney, Willam Stewart, to also represent a co-defendant, Norton Kreske, after Kreske voiced his dissatisfaction with his previous lawyer, despite Glasser's objection.[89] Glasser specifically told the court that dual representation would make the jury believe they were working together as co-conspirators and benefit Kreske at the expense of himself.[90] Glasser's fears were proved valid when Stewart refrained from cross-examining certain government witnesses and failed to pursue defenses, weakening Glasser's case.[91] The Court warned that "[t]he right to have the assistance of counsel is too fundamental and absolute to allow courts to indulge in nice calculations as to the amount of prejudice arising from its denial."[92] The Court further emphasized that "'[a]ssistance of counsel'… contemplates that such assistance be untrammeled and unimpaired by a court order requiring

85. MY COUSIN VINNY, Blu-ray, at 29:10–31:15 (Twentieth Century Fox 1992).
86. *See generally* U.S. CONST. amend. VI.
87. United States v. Gonzalez-Lopez, 548 U.S. 140, 156 (2006) (quoting Wheat v. United States, 486 U.S. 153, 159 (1988)).
88. *See* Glasser v. United States, 315 U.S. 60, 76 (1942).
89. *See id.* at 68.
90. *See id.*
91. *See id.* at 73–74.
92. *Id.* at 76.

that one lawyer shall simultaneously represent conflicting interests."[93] "[T]he constitutional right to the assistance of counsel means the effective assistance of counsel who is not inhibited by conflicting loyalties to other defendants."[94]

To protect against this, the Federal Rules of Criminal Procedure ("FRCP") impose an obligation on courts to intervene when parties have joint representation. Rule 44(c)(2) states that "[t]he court must promptly inquire about the propriety of joint representation and must personally advise each defendant of the right to the effective assistance of counsel, including separate representation."[95] It also directs the court to take "appropriate measures to protect each defendant's right to counsel."[96]

The ABA's MRPC draws the same line. Under Rule 1.7(a), "a lawyer shall not represent a client if the representation involves a concurrent conflict of interest."[97] A concurrent conflict of interest exists when:

> [T]he representation of one client will be directly adverse to another client; or there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.[98]

In order to adequately address conflicts of interest under the MRPC, a lawyer must identify clients, determine if a conflict exists, assess whether representation can proceed despite the conflict, and if so, consult with clients and secure their informed consent. In MCV, when Vinny represents both Bill and Stan as co-defendants, the judge does not inquire about the appropriateness of joint counsel. There is no colloquy, no advisement, and no informed consent. The omission from the tribunal would violate Rule 44 in any real courtroom. Equally

93. *See Glasser*, 315 U.S. at 70.

94. Steven J. Hyman, *Joint Representation of Multiple Defendants in a Criminal Trial: The Court's Headache*, 5 HOFSTRA L. REV. 315, 316 (1977) (citing *Glasser*, 315 U.S. at 65–66).

95. FED. R. CRIM. P. 44(c)(2).

96. *Id.* This requirement is more protective than that imposed by the United States Supreme Court. "[U]nless the trial court knows or reasonably should know that a particular conflict exists, the court need not initiate an inquiry." Cuyler v. Sullivan, 446 U.S. 335, 347 (1980).

97. MODEL RULES OF PRO. CONDUCT r. 1.7(a) (A.B.A. 2023).

98. *Id.*

important, none of this was done by Vinny when deciding to represent Bill and Stan.

Even if clients are made aware of potential dangers and agree to proceed with the same lawyer, "[i]n some states substantive laws stipulate that the same lawyer may not represent more than one defendant in a capital case, even with the clients' consent."[99] Where such rules apply, Vinny's dual representation would not just be ethically questionable, it would be legally prohibited.

The ethical dilemma is both manifest and ignored in MCV. From the outset, Bill and Stan have potentially divergent defenses. While both boys stick to the innocence defense, Stan had a viable defense of "mere presence," a challenge to the legal sufficiency of the proof even if the jury believed he was in the store during the killing and that Bill was the perpetrator. "Merely being at or near the scene of a crime even without raising the hue and cry does not make a man either principal or accessory to that crime."[100]

The silence and inaction of the trial court placed an imprimatur on a snap judgment on choice of counsel and Vinny's highly problematic dual representation. Vinny's accepting that status—having the fate of not one but two defendants in his untrained hands—is equally pernicious, with his lack of criminal experience (and multiple failed bar examinations) blinding him to the problem. And for the audience, the dilemma of potential conflicts and their corrosive effect on the Sixth Amendment guarantee of effective counsel remains unexposed.

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99. MODEL RULES OF PRO. CONDUCT r. 1.7 cmt. 16 (A.B.A. 2023).

100. Leonard v. State, 192 So. 2d 461, 469 (1966);

[T]here is no rule of law or presumption that because of the mere presence of the accused at a time and place where crime is being committed he is guilty of the commission of the offense. Such a rule has never been and should never be invoked in any criminal prosecution, for a person ever so innocent may by force of circumstances be present and witness the commission of the most heinous of crimes, and it would be an unsafe rule, unsound in principle, and repugnant to human justice and right, to say that by his mere presence he is presumed to be the perpetrator of or connected with the commission of the offense.

Greer v. State, 563 So. 2d 39, 42 (Ala. Crim. App. 1990) (quoting Lee v. State, 93 So. 59, 60 (Ala. Crim. App. 1922)).

C. Lies, Lies, & More Lies

Judge: [The Brooklyn Academy of Law?] Is that an accredited law school?
Vinny: Oh . . . yes.[101]

Lying to the court, especially a judge, is not a grey area. It's a line that no lawyer may cross, and doing so puts them outside the bounds of professional conduct. "The justice system, often described as a truth-seeking process, is one of the central ways in which we uncover facts in a democratic system. It seems natural then that lawyers, as officers of the court, should have a heightened obligation to tell the truth."[102] In line with this, "lawyer[s] acting as . . . advocate[s] in . . . proceeding[s have] an obligation to present the client's case with persuasive force. Performance of that duty while maintaining confidences of the client, however, is qualified by the advocate's duty of candor to the tribunal."[103]

The ABA's MRPC draw a clear line. Rule 3.3(a)(1) commands that a "lawyer shall not knowingly . . . make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer."[104] Rule 8.4(c) also bars "engag[ing] in conduct involving dishonesty, fraud, deceit or misrepresentation."[105]

The Supreme Court of Maryland made that point plain in *Attorney Grievance Commission of Maryland v. William Francis Trezzvant*.[106] Attorney William Trezzvant violated the rules of professional conduct by intentionally omitting the fact that he was not licensed to practice law in Maryland, and later falsely claiming to the judge that a magistrate had granted his oral motion to appear pro hac vice.[107] As a result of his deception, he gained access to a courtroom he did not have jurisdiction to practice in, the same result as MCV, where Vinny lies about his qualifications, experience, and legal name, convincing the judge that he was qualified to appear.

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101. MY COUSIN VINNY, Blu-ray, at 21:15–21:25 (Twentieth Century Fox 1992).

102. Bruce A. Green & Rebecca Roiphe, *Lawyers and the Lies They Tell*, 69 WASH. U. J.L. & POL'Y 1, 38 (2022).

103. MODEL RULES OF PRO. CONDUCT r. 3.3 cmt. 2 (A.B.A. 2023).

104. MODEL RULES OF PRO. CONDUCT r. 3.3(a)(1) (A.B.A. 2023).

105. MODEL RULES OF PRO. CONDUCT r. 8.4(c) (A.B.A. 2023).

106. Att'y Grievance Comm'n of Md. v. Trezevant, 297 A.3d 1102 (Md. 2023).

107. *See id.*

The court sanctioned Mr. Trezzvant by indefinitely suspending him from the practice of law in Maryland with the right to petition for reinstatement after ninety days, stating that "dishonest motive was demonstrated by his intentional concealment of his inability to practice law in Maryland and misrepresentation . . . . He engaged in a pattern of misconduct by practicing law without authorization and making numerous misrepresentations about that fact to, among others, the court, opposing counsel, and Bar Counsel."[108]

Vinny's lies to the judge about his experience litigating high-profile murder cases and almost two decades of experience, and his subsequent fake legal name, are for the sole intention of concealing his inability to properly appear as counsel in this case. While the audience is meant to laugh, the message is no joke. By the end of the film, Vinny has not only secured an acquittal for his cousin but also the admiration of the judge. The narrative paints a picture that deceit to the court is a clever trial skill and an acceptable means to a just outcome. In the real world it means sanctions and potential disbarment.[109] It also reinforces a prevalent perception that lawyers are "low . . . in trustworthiness."[110]

D. Haste Makes Death

Judge: The Court finds sufficient evidence exists for this matter to go to trial. I'm setting this trial for this Monday.[111]

Death cases—those where the possibility of a sentence of death must be addressed—take time. Why? It is a murder trial *plus* a punishment trial, and preparation is required for each. "[C]apital prosecutions are slower to proceed to trial than noncapital criminal prosecutions. Both the prosecution and the defense have to consume more time and energy in the investigation of the case because of the likelihood of an additional sentencing hearing."[112] In particular, "the

108. *Id.* at 1113.

109. *See, e.g.*, MODEL RULES FOR LAW. DISCIPLINARY ENF'T r. 9 (A.B.A. 2020).

110. Debra Cassens Weiss, *How Are Lawyers Viewed by the Public? Envy May Account for Glee in Attorney Mishaps, Study Says*, ABA J. (Sep. 25, 2014, at 10:55 CT), https://www.abajournal.com/news/article/how_are_lawyers_viewed_by_the_public_envy_may_account_for_glee_in_attorney (on file with Syracuse Law Review).

111. MY COUSIN VINNY, Blu-ray, at 44:05–44:15 (Twentieth Century Fox 1992).

112. Jeremy Root, *Cruel and Unusual Punishment: A Reconsideration of the* Lackey *Claim*, 27 N.Y.U. REV. L. & SOC. CHANGE 281, 293 (2001).

defense's sentencing argument has always required considerably more investigation into the complexities of the defendant's full life."[113]

Studies make clear that when a case is designated as "capital" the pre-trial preparation is both absolutely and relatively a lengthy process. One study in Nevada showed that "the median time estimate as lead attorney for pretrial phase activities was 1,075 hours in a typical capital murder case and 461 hours in a typical non-capital murder case."[114] A study of Louisiana capital cases showed that "[i]t takes approximately three years from the date of arrest to trial."[115] The amount of time needed to prepare is tied to the level of experience of the attorney. Less experienced attorneys spend approximately 50% more time preparing for non-capital cases and 73% more time for capital cases.[116]

That a rushed trial could not produce a just verdict was well known in Alabama. Sixty years before MCV, a unanimous Supreme Court condemned a capital prosecution where the defendants, after arrest, were arraigned and then brought to trial "a few days later," an eerie parallel to MCV.[117] That prosecution was the infamous and long-condemned Scottsboro Boys case.[118]

The Supreme Court granted relief by finding a denial of the right to counsel, but that determination focused in large part on the lack of time to prepare the case. "[A] defendant, charged with a serious crime, must not be stripped of his right to have sufficient time to advise with counsel and prepare his defense. To do that is not to proceed promptly in the calm spirit of regulated justice but to go forward with the haste of the mob."[119]

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113. Jesse Cheng, *Death is Disparate*, 77 SMU L. REV. 751, 755 (2024).

114. TERANCE D. MIETHE, UNIV. OF NEV., L.V., ESTIMATES OF TIME SPENT IN CAPITAL AND NON-CAPITAL MURDER CASES: A STATISTICAL ANALYSIS OF SURVEY DATA FROM CLARK COUNTY DEFENSE ATTORNEYS 2 (2012), https://dpic-cdn.org/production/legacy/ClarkNVCostReport.pdf (on file with Syracuse Law Review).

115. Ben Cohen, Calvin Johnson & William P. Quigley, *An Analysis of The Economic Cost of Maintaining a Capital Punishment System in the Pelican State*, 21 LOY. J. PUB. INT. L. 1, 3 (2019).

116. *See* MIETHE, *supra* note 114, at 6 tbl. 2.

117. Powell v. Alabama, 287 U.S. 45, 51 (1932).

118. The arrest occurred on March 25, 1931, trial began April 6, and sentences of death were imposed on April 9, fifteen days later. *See The Scottsboro Boys*, NAT'L MUSEUM OF AFR. AM. HIST. & CULTURE, https://nmaahc.si.edu/explore/stories/scottsboro-boys (on file with Syracuse Law Review) (last visited Jan. 22, 2026); *Powell*, 287 U.S. at 53.

119. *Powell*, 287 U.S. at 59.

Subsequent to the Scottsboro case, under Alabama law, a court may grant a continuance at counsel's request.[120] Similarly, federal courts may grant a continuance under the Speedy Trial Act.[121] A delay in the trial is permitted if the ends of justice served outweigh the interest in a speedy trial.[122] Courts look to whether the denial would lead to a miscarriage of justice or insufficient time for defense preparation, and if denying the request would deprive the defendant of effective counsel.[123]

Vinny, of course, voiced no objection. His silence, going beyond a lack of understanding of the duties of counsel in a capital case, may have had the boomerang effect of reinforcing perceptions that trials can occur promptly and that delay is only pernicious, the latter a view that even the *Powell* Court acknowledged.[124] That cry—that justice delayed may be justice denied—is also one that politicians embrace.[125] And of course, had the jury convicted, there would have been no evidence for a penalty-trial defense. Making a prompt trial seem normative and unexceptional, a perception reinforced by Vinny's ultimate success, did no service to criminal justice.

E. Failure to Seek Severance of the Co-Defendant's Case

Bill (to Stan): I'm being booked for murder, and you're being booked for accessory to murder.[126]

Rule 14(a) of the FRCP says that a court may order separate trials of defendants, otherwise known as severance, if a joint trial would

120. *See* ALA. CODE § 15-9-84 (2025).

121. *See* 18 U.S.C. § 3161(h)(7)(A).

122. *See id.*

123. *See id.* at § 3161(h)(7)(B)(iv).

124. It is true that great and inexcusable delay in the enforcement of our criminal law is one of the grave evils of our time. Continuances are frequently granted for unnecessarily long periods of time, and delays incident to the disposition of motions for new trial and hearings upon appeal have come in many cases to be a distinct reproach to the administration of justice.
Powell, 287 U.S. at 59.

125. On May 14, 2025, Alabama's Governor signed into law a speedy trial act that "expedites trials for violent criminal cases, reduces backlogs and ensures swift justice for victims." *Gov. Ivey Signs the Speedy Trial Act*, ALA. POL. REP. (May 14, 2025, at 07:15 CT), https://www.alreporter.com/2025/05/14/gov-ivey-signs-the-speedy-trial-act/ (on file with Syracuse Law Review).

126. MY COUSIN VINNY, Blu-ray, at 09:55–10:00 (Twentieth Century Fox 1992).

result in prejudice.[127] Severance finds constitutional support in the Sixth Amendment's guarantee of a fair trial. It is warranted when "there is a serious risk that a joint trial would compromise a specific trial right of one of the defendants or prevent the jury from making a reliable judgment about guilt or innocence."[128] As of 1983, Alabama state law also recognized the need for severance in some codefendant trials.[129]

As one commentator notes, the prejudice against a defendant can be brought about in a variety of ways, including guilt by association, antagonistic defenses, or inculpatory testimony by the co-defendant.[130] As to the last, the Supreme Court held decades before MCV that a defendant's rights can be violated during a joint trial by the introduction of a co-defendant's confession implicating the defendant.[131] Even if not directly implicating the non-confessor, that admission is evidence only against the speaker and the jury must be instructed that it can't be used against any other person on trial.[132]

Similarly, severance should be pursued when joinder risks undermining the jury's ability to make independent assessments of the charges and evidence against each defendant, which leads to higher conviction rates.[133] Studies have shown that jurors often fail to separate facts between defendants, even when provided with instructions to do so.[134] When faced with similar evidence across multiple defendants, jurors tend to "accumulate" evidence by viewing each charge as support for conviction of the others.[135] One such example is when a conviction was overturned because joinder led to the jury considering

127. *See* FED. R. CRIM. P. 14(a).

128. Zafiro v. United States, 506 U.S. 534, 539 (1993).

129. *See* Holsemback v. State, 443 So. 2d 1371, 1378 (Ala. Crim. App. 1983) ("The test of whether a severance should be granted on the ground of prejudice to the defendants is whether under all the circumstances as a practical matter it is within the capacity of the jurors to follow the court's instructions and to collate and appraise the independent evidence against each defendant solely upon that defendant's own acts." (citing United States v. McLaurin, 557 F.2d 1064, 1075 (5th Cir. 1977))).

130. *See* John F. Decker, *Joinder and Severance in Federal Criminal Cases: An Examination of Judicial Interpretation of The Federal Rules*, 53 NOTRE DAME L. REV. 147, 173–76 (1977).

131. *See* Bruton v. United States, 391 U.S. 123, 126 (1968).

132. *See id.*

133. *See* Kevin P. Hein, *Joinder and Severance*, 30 AM. CRIM. L. REV. 1139, 1173 (1993).

134. *See id.* at 1146–47.

135. *See id.* at 1149.

evidence that would have be inadmissible had severance been pursued.[136]

However, the burden is on the defendant to show factually specific and compelling prejudice.[137] While courts are often reluctant to grant severance without a significant level of prejudice,[138] Vinny did not even attempt to meet this burden.

Here, the obvious beneficiary of severance would have been Stan, who initially was not Vinny's client. Stan, not charged capitally, was stuck with a death qualified jury. Stan, once he became Vinny's client, was stuck with Billy's "confession" and no request by Vinny that the confession not be weighed as evidence against Stan. But Billy could have been a beneficiary as well. This is especially true when Stan chose to move forward with the public defender, as this could have easily led to a defense of "Billy did it alone."

Clearly, there were many ways in which Vinny's failure to seek severance could have gone wrong. Even though there were ultimately no negative consequences, Vinny's lapse in strategic judgement is yet another example of the shortcomings of his performance and a consequent normalizing of the two-defendant joint trial with the implication that juries can "sort it out."

F. The Complete Failure of the Opening Statement to Tell a Story

*Vinny: Uh, everything that guy just said is bullsh*t. Thank you.*[139]

The purpose of an opening statement is to broadly outline the case for the jury's understanding.[140] While argument is prohibited,[141] it can be the most persuasive part of an attorney's defense.[142] It is an opportunity for counsel to frame the evidence and provide the jury with a roadmap of the case.[143] The jury will be exposed to evidence in bits and pieces throughout the trial, and the opening statement is an

136. *See United States v. Foutz*, 540 F.2d 733, 739 (4th Cir. 1976).

137. *See* Dix v. United States, 955 F. Supp. 787, 790 (W.D. Mich. 1997).

138. *See* Hein, *supra* note 133, at 1170–71.

139. MY COUSIN VINNY, Blu-ray, at 1:15:30–1:15:40 (Twentieth Century Fox 1992).

140. *See* United States v. DeRosa, 548 F.2d 464, 470 (3d Cir. 1977).

141. *See* United States v. Yakobowicz, 427 F.3d 144, 150 (2d Cir. 2005).

142. *See* Kathryn Holmes Snedaker, *Storytelling in Opening Statements: Framing the Argumentation of the Trial*, 10 AM. J. TRIAL ADVOC. 15, 18 (1986).

143. *See* McKinney v. State, 654 So. 2d 95, 98 (Ala. Crim. App. 1995).

opportunity to provide a cohesive image of the evidence.[144] In MCV, Vinny squanders that opportunity entirely.

Opening statements carry so much weight that some argue there are constitutional implications. One commentator argues that opening statements could be viewed as so fundamental to adversarial advocacy that denying a defendant the opportunity to give an opening statement could be a violation of constitutional rights under the Sixth and Fourteenth Amendments.[145] Some courts have all but expressly supported this view. In *United States v. Stanfield*, the court reversed a conviction when the judge gave one opening statement on behalf of both sides, arguing that there is a long tradition of opening statements being given by counsel that should be continued.[146]

Effective storytelling in an opening statement involves presenting a clear and engaging narrative that helps the jury to understand the case. One commentator describes the trial lawyer as a "storyteller," similar to a movie or a person at a campfire, whose goal is to create a vivid mental movie of the events in dispute.[147] The lawyer must describe what happened and why the jury should care in a way that resonates with their common sense and moral compass.[148]

Research confirms the importance of an opening statement and the effect it can have on a jury. A University of Chicago study found that in 80% of cases, the jury's final verdict mirrored its initial impression after hearing the opening statements.[149] This is why many attorneys have a tendency to turn their opening statement into an argument.[150] By offering no story at all, Vinny left the prosecution's narrative uncontested in the jurors' minds, which could have all but solidified the final verdict.

Vinny's opening was not merely inadequate—it was nonexistent. Rather than telling a story, he offered sarcasm; a move not likely to win hearts and minds of the jurors. Rather than outlining a defense theory or giving the jury reason to doubt the prosecution's case, Vinny

144. *See* Tom Riley, *The Opening Statement: Winning at the Outset*, 3 AM. J. TRIAL ADVOC. 225, 226 (1979).

145. *See* Richard W. Lewis, *Opening Statement: A Constitutional Right?*, 7 AM. J. TRIAL ADVOC. 623, 623 (1984).

146. *See* United States v. Stanfield, 521 F.2d 1122, at 1124–25, 1129 (9th Cir. 1975).

147. *See* Gerald Reading Powell, *Opening Statements: The Art of Storytelling*, 31 STETSON L. REV. 89, 90–91 (2001).

148. *See id.* at 92–93.

149. *See* Riley, *supra* note 144.

150. *See* Testa v. Village of Mundelein, 89 F.3d 443, 446 (7th Cir. 1996).

dismisses the prosecution's opening statement in a single sentence and sits down. He fails to introduce the defendants, explain that the eyewitness testimony is mistaken, or present any timeline of events. He gives the jury no story to follow and nothing to help them interpret evidence or connect the pieces that will be presented throughout the trial. He cedes the story-telling field entirely to the prosecution.

Hollywood is more forgiving of such errors than the average jury is. While some viewers of MCV might have seen this as an early stumble that Vinny corrected for as he quickly grasped the law and courtroom procedure, and while many if not most law students and lawyers would know that *something* more is needed, the potential message to at least some is that this opening came from a stand-up, aggressive lawyer, especially since he "won" the case. That is not the image of a prepared, capable lawyer that anyone should want to engender.

G. Failure to Consult an Expert

[A]s the court is aware, the defense is entitled to advance notice of any witness who will testify, particularly to those who will give scientific evidence, so that we can properly prepare for cross-examination, as well as to give the defense an opportunity to have the witness's reports reviewed by a defense expert, who might then be in a position to contradict the veracity of his conclusions.[151]

Vinny's courtroom strategy and charm might win laughs, but his legal strategy of waiting until after the prosecution rested to consult an expert would trigger alarm bells in any real case. Tire marks were central to the prosecution's theory of the case, yet Vinny did not secure expert consultation on them until the eleventh hour. The result? A last-minute, untested, and unprepared witness, pulled from the gallery rather than a properly vetted forensic authority. While it worked out for Vinny in Hollywood, in the real world, it amounts to ineffective assistance of counsel.

According to the 1989 Guidelines for the Appointment and Performance of Counsel in Death Penalty Cases, counsel should secure the assistance of experts where it is necessary or appropriate for the preparation of the defense, understanding of the prosecution's case, or rebuttal of any portion of the prosecution's theory of guilt.[152] This

151. MY COUSIN VINNY, Blu-Ray, at 1:24:57–1:25:13 (Twentieth Century Fox 1992).

152. *See* GUIDELINES FOR THE APPOINTMENT & PERFORMANCE OF COUNS. IN DEATH PENALTY CASES § 11.4.1(D)(7) (A.B.A. 1989).

standard is echoed in the ABA Standards for Criminal Justice, Defense Function, which states that "[w]henever defense counsel is confronted with specialized factual or legal issues with which counsel is unfamiliar, counsel should . . . consider engaging or consulting with an expert in the specialized area."[153] Together, these standards require more than last-minute witness scrambling, they demand timely, strategic preparation.

It was not only the hortatory guidelines that point to the need for securing an expert of one's own. Years before MCV, the Court held in *Ake v. Oklahoma* that due process mandated a state-funded independent expert for the defense, at least in cases where the defendant's mental condition is at issue and a psychiatrist could be helpful.[154] Although no Alabama decision in that time period addressed *Ake* and court-funded experts in subjects beyond mental illness, by 1989 it had been applied in a nearby state to funds for a fingerprint expert.[155] Between *Ake* and the ABA Guidelines, it was clear that experts needed to be consulted before trial.

While Vinny ultimately presented expert testimony, his own words showed a lack of understanding of what an expert could do — not merely "contradict the veracity of [the prosecution expert's] conclusions," but to offer affirmative evidence of innocence. Here, having access to an expert was a fortuitous coincidence. His fiancée happened to be in the courtroom and had knowledge of cars. Vinny did not consult her beforehand, did not notify the court of any expert before the trial, and did not even have confirmation that she would qualify as an expert until a spontaneous voir dire.[156]

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153. CRIM. JUST. STANDARDS FOR THE DEF. FUNCTION § 4-3.7(g) (A.B.A. 2017).

154. *See* Ake v. Oklahoma, 470 U.S. 68, 83–84 (1985).

155. *See* State v. Bridges, 385 S.E.2d 337, 338–39 (N.C. 1989) (emphasizing the right to expert assistance where it would "be of material value in preparing a defense."). The view that *Ake* required court-funded experts in areas other than psychiatry was not uniformly held at that time. *See, e.g.*, Deborah W. Denno, *The Myth of the Double-Edged Sword: An Empirical Study of Neuroscience Evidence in Criminal* Cases, 56 B.C. L. REV. 493, 542 (2015) (noting "a period when the courts in Oklahoma interpreted *Ake* very narrowly; specifically, *Ake* was applied only when the State introduced expert psychiatric evidence to demonstrate future dangerousness.").

156. It is not guaranteed, outside of Hollywood, that the witness would have been accepted as an expert on tire marks, even under a liberal standard of admissibility. MOVIECLIPS, *My Cousin Vinny (5/5) Movie CLIP - Automotive Expert (1992) HD*, at 00:03–00:10 (YouTube, Aug. 4, 2015) https://www.youtube.com/watch?v=3nGQLQF1b6I (on file with Syracuse Law Review) (stating her experience was "tune-ups, oil changes, brake relining, engine rebuilds, rebuilt some trannies [sic], rear ends"). Reasonable minds could differ on

Had she not been there, or had the judge excluded her testimony, Vinny would have had no way to rebut some of the State's most critical forensic evidence. And had the state called no expert, Vinny's client could have been convicted despite the availability of compelling proof of innocence. That is not ethical or effective lawyering, and the celluloid version of trial preparation again fails to show what must be done before a trial ever occurs.

H. Attacking Public Defenders

Stan (to public defender): You're fired.
Stan (pointing to Vinny): I want him![157]

"Public defense," i.e., public defender offices and their attorneys, are in many ways the embodiment of *Gideon v. Wainwright* and its promise of free counsel for all indigent persons charged with crime.[158] Public defenders are often the lawyers who best represent people facing criminal charges.[159] Yet, this reality is turned on its head in MCV.

From the moment the public defender opens his mouth in court, he's the epitome of incompetence. He is stammering, spitting on the jury, and clearly overwhelmed. His cross-examination falls apart. Stan eventually tells the public defender, "You're fired," and yells, "I want him!", pointing to Vinny. At this point, Vinny has never tried a case and has been held in contempt twice. However, Stan's decision is portrayed as reasonable rather than reckless. This leaves the viewer with the conclusion that anyone is better than the public defender.

While *MCV* values an inexperienced Vinny over an incompetent public defender, real-world data provides proof to the contrary. One study showed that defendants who were randomly assigned public defenders were 19% less likely to be convicted of murder and 62% less likely to receive a life sentence than defendants who were appointed

whether that made her an expert in "positraction" and rear axle "limited split differential."

157. MY COUSIN VINNY, Blu-ray, at 1:24:08 (Twentieth Century Fox 1992).

158. *See generally* Gideon v. Wainwright, 372 U.S. 335 (1963).

159. *See* Eve Hanan, *Big Law, Public Defender-Style: Aggregating Resources to Ensure Uniform Quality of Representation*, 74 WASH. & LEE L. REV. ONLINE 420, 431 (2018) ("Studies demonstrate that public defenders are more effective than panel attorneys, and state-wide public defenders are more effective than county-based public defender offices.").

private attorneys.[160] They also served 24% less time in prison than those with court-appointed private attorneys.[161]

This evidence contradicts the film's portrayal of public defenders. It is not public defenders as a category that underperform. Instead, it is assigned counsel who deliver the worst outcomes. Assigned counsel are private attorneys appointed by the court and are generally paid on an hourly basis or through a flat fee.[162] This system is often "criticized for appointing attorneys with inadequate skills [and] experience," such as recent law school graduates or attorneys in need of more trial experience or income.[163] MCV's portrayal suggests that *any form of a privately selected attorney is better than an appointed one.*

If public defenders are deficient, the fault often lies with systemic factors, rather than the individual attorney. Many issues faced by public defender programs are related to a lack of resources and overwhelming caseloads.[164] Public defenders are often forced to prioritize which of their cases will receive their full attention because they cannot possibly do so for their entire caseload.[165] Additionally, there are concerns that, due to the nature of their position, public defenders are pressured to prioritize processing cases as fast as possible instead of providing a thorough defense.[166] However, that is not true of all defender offices, a point that is often ignored.

While the portrayal of the public defender in MCV is meant to be comedic, it is harmful to the reputation of public defenders across the country where too often the cry "I don't want a public defender—I want a real lawyer" is heard.[167] By reinforcing the notion that public

160. *See* James M. Anderson & Paul Heaton, *How Much Difference Does the Lawyer Make? The Effect of Defense Counsel on Murder Case Outcomes*, 122 YALE L.J. 154, 159 (2012).

161. *See id.*

162. *See* Thomas H. Cohen, *Who is Better at Defending Criminals? Does Type of Defense Attorney Matter in Terms of Producing Favorable Case Outcomes*, 25 CRIM. JUST. POL'Y REV. 29, 31 (2014).

163. *Id.*

164. *See id.* at 31–32.

165. *See* Heather Baxter, *Too Many Clients, Too Little Time: How States Are Forcing Public Defenders to Violate Their Ethical Obligations*, 25 FED. SENT'G REP. 91, 91–92 (2012).

166. *See* Cohen, *supra* note 162, at 31–32.

167. *See, e.g.*, State v. Marmolejo, No. A-5337-13T4, 2016 N.J. Super. Unpub. LEXIS 2143, at *15–16 (Super. Ct. App. Div. Sep. 26, 2016) ("For example, immediately before the beginning of a hearing or trial, a defendant may express dissatisfaction with the public defender assigned to represent him, or the private attorney he has hired, albeit the grounds seem frivolous. If counsel is a public defender, defendants ask for a 'real lawyer,' or accuse their lawyer of being in league with the State,

defense is synonymous with ineptitude, the film undermines trust in an essential component of the criminal justice system. In a country where roughly 80% of defendants rely on public defense, that significance of that message is evident.[168]

I. Attacking Stutterers

Gibbons (to the jury): We intend to prove that the p-p-p-prosecution's c-c-case is circumstantial and c-c-coincidental. Thank you.
Stan (to Gibbons): That's it? What happened to all the things we talked about?
Gibbons: I get a little nervous out there sometimes.[169]

In MCV, the public defender's over-exaggerated stutter renders him unable to give an effective opening statement or conduct a cross-examination. The implication of these scenes is that an attorney with a stutter is synonymous with incompetence and unfit to represent a client. This message contributes to a broader societal stigma towards people with speech impediments and the perception that they are unable to excel as a with professional, especially in careers centered around public speech.[170]

There is nothing that legally prevents a person who stutters from becoming an attorney. The Americans with Disabilities Act (ADA) and federal regulations prohibit discrimination against individuals with speech impairments.[171] While these laws affirm the right to participate in the legal profession, they fail to mitigate the societal bias against people with speech impairments.

Research confirms the message in MCV that stuttering has a negative impact on how people are perceived by their peers. People who stutter are routinely judged as less intelligent, confident, and competent—even when their communication skills meet the demands of the

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or assert that if granted a lengthy enough postponement, they will be able to raise the money with which to retain private counsel.").

168. *See* Cohen, *supra* note 162, at 35.

169. MY COUSIN VINNY, Blu-ray, at 1:17:30–1:18:05 (Twentieth Century Fox 1992).

170. A recent and notable occurrence of faulting stutterers, one that itself brought loud condemnation, occurred during the 2024 United States Presidential campaign when candidate Donald Trump mimicked President Biden's speech impediment. *See* Dustin Gardiner, *Stuttering Advocates Have Words for Donald Trump*, POLITICO (Mar. 12, 2024, at 11:07 ET), https://www.politico.com/news/2024/03/12/donald-trump-joe-biden-stutter-00146467 (on file with Syracuse Law Review).

171. *See* 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(6).

job.[172] This perception is even more severe for lawyers and other professionals whose occupations require frequent public speaking.[173]

The perception that any good lawyer is supposed to speak eloquently can lead to marginalization of people who speak differently.[174] A person's ability to speak clearly becomes the standard for the credibility, competency, and preparedness. Misconceptions on why people stutter can cause people to view a person with a stutter as nervous, untruthful, or unintelligent.[175] While there are possible solutions to the stigma against people who stutter in the legal profession, such as changing the structure of oral arguments or focusing on preparation instead of fluency, the message conveyed in MCV only furthers the stigma.[176]

CONCLUSION

Marshall McLuhan infamously wrote that "the medium is the message."[177] That phrase was meant to convey the thesis "that the form of the medium through which a message is conveyed is more important than the content of the message itself. In other words, the medium has a greater impact on human perception and behavior than the specific information it carries."[178] To steal and probably misappropriate McLuhan's words, when the medium is comedy, the message is that we can laugh—and laugh away bad lawyering, problems with the death penalty, and the other pernicious messages encrypted in MCV.

Perhaps this author is a "grumpy old man." But if it is correct that "perhaps unconscious to most of viewers is the realization that film is likely to influence their attitude and perception about numerous topics,"[179] then MCV needs to be taught in context. Law students,

172. *See* Franklin H. Silverman & Kathryn K. Paynter, *Impact of Stuttering on Perception of Occupational Competence*, 15 J. FLUENCY DISORDS. 87, 89–90 (1990). Indeed, "[t]he average IQ of people who stutter is 14 points higher than the national average." Beth Gilbert, *Stuttering: Myth v. Fact*, PSYCHCENTRAL (May 17, 2016), https://psychcentral.com/lib/stuttering-myth-vs-fact#1 (on file with Syracuse Law Review).

173. *See* Silverman & Paynter, *supra* note 172, at 89.

174. *See* Aysha S. Ames, *Fluency as Privilege: Making the Case for the Stuttering Lawyer*, 13 ALA. C.R. & C.L. L. REV. 177, 180 (2022).

175. *See id.* at 191–92.

176. *See id.* at 208.

177. *'The Medium is the Message'*, MCLUHAN.ORG, https://mcluhan.org/the-medium-is-the-message/ (on file with Syracuse Law Review) (last visited Oct. 11, 2025).

178. *Id.*

179. Pautz, *supra* note 71, at 120–21.

lawyers, judges and policy makers are not immune to hidden persuasion, and perhaps they (we) need to be reminded that much of what happens (or doesn't get done) in this movie is bull@$%.