

## **The Judge**

“Let me see your license, son, and proof of insurance.” Officer Wright shined a flashlight into the eyes of Justin Richter, fifteen years of age.

All thumbs, Justin fumbled in his wallet. “Uh, here’s my license, officer, but I’m driving my friend’s car, and he doesn’t have insurance,” he said, squinting.

“This is a learner’s permit, boy. You can’t drive without an adult present in the front seat.”

“I know, but I was just trying to help my friend. He’s not feeling well.” Justin glanced at Dion, a seventeen-year-old who had invited him to the party.

“Have you been drinking, boy?” Officer Wright leaned closer to the open window.

“No sir.”

“Well, I can smell alcohol and”—he sniffed a couple of times—“and marijuana from here. Step out of the car, both of you.”

Once they had, a plastic bag of marijuana lay in plain sight on the floorboard of the driver’s side. Dion had set it on the console between them when they got into the car to leave. As soon as Justin had started the engine and pulled out, it slipped off and fell in front of his seat.

“Boys, I’m taking you both into custody for possession of a controlled substance. You’re gonna have to go down to juvie.”

“But I don’t have any drugs,” Justin cried.” I’ve never even used drugs. The drugs are his.” He pointed to Dion, standing by the passenger’s door.

“That don’t matter. If you’re in a car that’s got drugs, you’re just as guilty as him.”

“But . . .”

Dion took off running across a field beside the road and into a wooded area, so Justin was left holding the bag . . . of marijuana, and Justin knew that the policeman would not chase Dion, giving him the chance to run in the opposite direction. As a bird in the hand, he was worth two in the bush.

Oh, why did he go to that stupid party, Justin asked himself, sitting in the back of the squad car. He didn’t even have a good time there. When they offered him a bottle of beer or passed him a blunt, he said he was Dion’s “designated driver.” What a lame way of saving face! He wanted desperately to fit in with them. But he didn’t. Not only did he not get drunk and high with them, he didn’t even have any tattoos or body piercings. He didn’t cut classes with them, tag fences with them, or shoplift with them. And that couple making out in the corner—they were sure to end up having sex before the night was over. What if a girl had come on to him? He wouldn’t know what to do. Let’s face it: he was a total loser. A scared little boy afraid to enter a dark room. He had been trying to get in with the cool kids. Tonight Dion had given him his big chance by inviting him to the party, and he blew it. He would never be cool. And now this, just for rolling through a stop sign.

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At the juvenile detention center they booked Justin on the charges of driving without a license, driving without insurance, driving while under the influence, and possession of a controlled substance. They fingerprinted him, issued him an orange jumpsuit, and escorted him to a “room”—a small cinderblock enclosure with a stainless-steel sink and toilet. Across from them stood a concrete bench topped by a thin, plastic-covered mattress. The thick steel door clanked heavily behind him, shutting him in.

If this box qualified as a “room,” he had been living in a five-star hotel at home without knowing it. Justin turned and looked out the tiny square window reinforced with iron mesh.

Trapped, Justin banged on the door with his fists and kicked it with his feet. The sound thundered through the section.

“Let me out of here,” he screamed. “I don’t use drugs.”

No response. The guard sat oblivious at the center table, busy with his paperwork.

“I wanna go home! Let me out of here, you stupid bastards!” he yelled, making himself hoarse.

Justin kept up the banging, kicking, and swearing for a full thirty minutes. When he finally wore himself out, he sat down on his “bed,” his hands and feet throbbing with pain. Of all the hundreds of kids who had passed through the juvenile detention center, he had just realized, not one had ever won a fight with a steel door.

He thought about his mom. Surely they would call her, but they would have to leave a message because she was at work. She would come home and worry because he wasn’t there. What would she think when she found out he had been arrested? Justin closed his eyes. “Drunk and in trouble with the law. Just like your father,” he could almost hear her say. Although she had never actually said those words to him, he feared them more than anything.

The next morning they brought Justin before the judge for a detention hearing. The judge assigned him a public defender, ordered him detained, and set an adjudicatory hearing for two weeks later. Evidently his mother had gotten the message. She lost half a day's wages by taking off work to come to court. Without saying a word, she looked at her son and shook her head.

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Gregory Lambe, Justin's young public defender, had been practicing law for just over a year but had never once tried a juvenile case. Minutes before the trial Mr. Lambe sat on a bench outside the courtroom, his open briefcase at his side. In his hand he held a sheet of paper on which he had outlined his strategy to contest the results of the breathalyzer test. He slowly read the four questions he had typed up, trying to memorize them as he did, so he wouldn't have to refer to his paper while cross-examining the prosecution's witness:

- 1) Can you prove the breathalyzer was properly calibrated?
- 2) Did you test my client to determine that he did not have abnormally high levels of acetone, which the breathalyzer can falsely identify as ethyl alcohol?
- 3) Did you test whether my client had an elevated partition ratio of breath alcohol to blood alcohol?
- 4) Can you prove that the machine did not measure mouth alcohol from belching or acid reflux rather than blood alcohol?

In his mind he rehearsed how he would destroy the credibility of the witness after each question: What? You can't even prove that the breathalyzer was properly calibrated, and yet you dare to adduce its unreliable results as evidence against my client? The cumulative effect would be devastating.

Then Mr. Lambe leafed through the numerous pharmacological studies he had stuffed into the expandable organizer of his briefcase. They would furnish scientific proof that at least thirty nonsteroidal anti-inflammatory drugs, many of them available over the counter, can cause

a false positive for marijuana on a urinalysis. When he finished, he put the studies back and closed the briefcase. Rubbing his hands together, he relished the thought of ripping the prosecution's case to shreds.

His victory would taste all the more delicious given that Chief Assistant District Attorney Ken Wolfe, with fifteen years of experience prosecuting juvenile offenders, was opposing him. That year the district attorney was retiring, and Wolfe was running for his seat. Although Justin had admitted to driving without a license and without insurance, he denied driving under the influence and possession of a controlled substance. Only the latter two offenses figured in Mr. Wolfe's formal petition to charge Justin, since gang violence fueled by the drug trade was growing worse in their small town and local residents feared for their property and personal safety. Lambe understood that drug convictions were the racehorse Mr. Wolfe was riding to electoral victory, and he was about to knock Mr. Wolfe right off his high horse.

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Inside the courtroom, the two lawyers faced off like David and Goliath, except that David didn't have a slingshot. The prosecution did not introduce either a breathalyzer test or a urinalysis into evidence for the simple reason that neither the detaining officer nor the detention center had conducted one. Instead, it relied on Officer Wright's testimony, and Officer Wright in turn relied upon his olfactory sensibilities.

Mr. Lambe was holding a weapon with no ammunition.

"Do you have any questions for this witness?" the judge asked him.

"Yes, your Honor." Mr. Lambe rose to his feet and buttoned his suit coat, struggling desperately to formulate a question in his mind as he approached the witness stand.

"So, uh, Officer Wright, you say that you, uh, smelled both alcohol and marijuana on my client, is that correct?"

“Yep, that’s right.”

“Well, uh, how do you know, sir, that the smell was not coming from the other boy in the car rather than from my client?”

“Because there was two boys, and I got two nostrils. You do the math.”

At that flippant response everyone in the courtroom broke out in a hearty laugh, everyone except Mr. Lambe and Justin, that is. Even the judge could not completely suppress a smirk.

“Any more questions for this witness?” the judge asked, obviously striving to regain his composure.

“N-n-not at this time, your Honor.” Mr. Lambe sensed they were all laughing at him rather than at the officer’s remark. Like a scolded child sent to stand in the corner, he slunk back to his seat.

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The prosecution introduced the bag of marijuana as physical evidence, called upon Officer Wright as an eyewitness to Justin’s intoxication, and summoned the guard on duty the night of his detainment to testify about his drug-induced behavior. For its part, the defense had no physical evidence, since no tests were done, and no witnesses of Justin’s sobriety, since Dion had run and was never caught. It had nothing but Justin’s word.

The time for closing arguments had come.

“Ladies and gentleman of the jury, look at this young man.” Mr. Wolfe extended his right arm, pointing his index finger at Justin.

“What do you see? An ordinary teenager? No, a potential murderer! With no regard for his own life, the life of his passenger, or the life of any person in our town, he got behind the wheel of a car, when he does not even have a driver’s license and when he was drunk on alcohol and high on drugs.”

He turned to face the jury squarely. “Would you allow your child to ride in a car with an unlicensed, intoxicated driver? Would you want your son or daughter, your husband or wife, your mother or father on the streets when he was out menacing pedestrians and motorists alike? It was only by the grace of God that he didn’t kill someone, and that someone could easily have been you or one of your friends or loved ones.”

Mr. Wolf pointed again at Justin. “Look at him. What do you see? A poor, misguided youth who deserves our pity? No, a dangerous criminal preying on society! We must protect ourselves from monsters like him. If you let this young criminal go free today, what will he do? Suddenly reform and become a model citizen? Absolutely not! Once a criminal, always a criminal, I tell you! He will think that he has gotten away with using drugs and with driving under the influence this time and that he can get away with it next time too.”

Mr. Wolfe walked over to the jury box and rested his palms on the rail, peering at each juror in turn from left to right. From this point on his voice crescendoed with each sentence.

“When he kills someone—and it is only a matter of time until he does—will you be able to look into the eyes of the family and friends of his victim and say, ‘I was the one who let him go?’ A man who fires a loaded gun into a crowd may not be trying to kill anyone in particular, but he is certainly willing to kill someone, and so is the one who drives under the influence. If you let him go free today, you might as well put that loaded gun into his hand and tell him to shoot into a crowd. What is more, you will be making yourselves his accomplices since you are giving him a deadly weapon.”

Mr. Wolfe raised his hands and opened his arms in a broad gesture. “Ladies and gentlemen of the jury, I call upon you today to protect yourselves, to protect your loved ones, to protect us all, and to take this criminal off the streets.”

He held his arms outspread until the echo of his final words, which seemed to hang in the air, had died away.

No one remembered Mr. Lambe's closing. Not even Justin's mother, who once again had forfeited half a day's wages. The jury reached a unanimous verdict on the first and only vote. When the foreman read the words "guilty on all charges," Justin turned around to look at his mother. Her eyes expressed deep sadness and disappointment.

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The judge ordered Justin into a secure residential treatment facility for a minimum of sixth months and a maximum of two years. In addition to compulsory attendance at school, Justin would learn military-style discipline, undergo rigorous physical training, take psycho-educational classes, attend AA meetings, and receive counseling.

The first day at his placement Justin lost another fight with a steel door. He sat in his cell, fuming about the father who abused him, the mother who was always working and had no time or energy for him, his friend Dion, who ran off and abandoned him the night he was detained, Officer Wright, who falsely arrested him, and Mr. Lambe, who scarcely presented a defense. Above all, he hated both Mr. Wolfe, who had lied about him, and the judge, who had sentenced him, and he vowed to himself that someday he would take revenge. How else could he right the wrong done to him?

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With his white hair and beard, Mr. Rede, Justin's counselor, presented a grandfatherly aspect. Had he been a father figure instead, adolescent males would have inclined to challenge him and engage him in a power struggle. As it was, his good-natured smile tended to disarm them, and his lively interest in their stories encouraged them to open up.



“Justin, we’ve been talking for three or four months now, isn’t that right?” Mr. Rede asked at their weekly session that Thursday afternoon. He had a plan in mind.

“Yeah, that sounds about right.” Justin slouched in his chair.

“Let’s spend a few minutes reviewing and taking stock, okay?”

“Okay.”

Mr. Rede looked down at his handwritten notes. “Let’s see. You told me your father died of cirrhosis of the liver when you were five and the only thing you remember of him is that he was a violent alcoholic who used to come home in a drunken rage and beat your mother until she lay helpless on the floor, right?”

“Yeah, and I used to hide under the bed because I was afraid he would beat me up too.”

“Right. And you said you felt guilty for not protecting your mother and ashamed because you weren’t big and strong enough to do so. You also said that after your dad died, your mom had to work two jobs and that she left the house before you got up and didn’t come home until you were ready to go to bed. I think you told me once that she might as well have been a ghost. Now, what did she do again?” Given his heavy caseload, Mr. Rede did not always recollect the details he had not written down.

“She worked at a factory during the day and cleaned offices at night, but she didn’t make much money. We never had enough.”

“Oh yes, now I remember. And because she had to work all the time, you pretty much had to fend for yourself, right?”

“Yeah, I had to fix my own food if we had any, wash my own clothes, which I didn’t do very often, and get myself up to catch the bus to school. Sometimes I didn’t make it.”

“So, you lost your father to death and your mother to work. You were practically an orphan, weren’t you?” Mr. Rede looked Justin in the eyes when he asked that question.

“Yeah. You know, it was really bad when my dad was beating up my mom, but then at least my mom and I held each other afterwards. She knew I was scared, and I knew she was hurting. But after my dad died, it was kind of worse because I almost never saw my mom at all. I thought she just didn’t want to be around me.” Justin hung his head.

“You know, when they have it bad at home, some kids find a kind of second family at school, but that didn’t happen to you, did it?”

“No. The teachers just stuck me in the very back of the class and never called on me, probably because I didn’t really go to school all that often, and I didn’t know any of the answers anyway.” Justin still hadn’t raised his head.

“And the kids weren’t so nice to you either.”

“No way. Sometimes they made fun of me because I was real different. I can kind of understand it now. I mean, I didn’t take a bath very often, I never combed my hair, my clothes were dirty and torn, I probably smelled. But most of the time they just played like I wasn’t there.” Justin finally looked up.

“Yes, it must have been pretty lonely.” Mr. Rede looked at him directly again, lowering his voice a bit. “I’ll never forget the time you told me that you always sat by yourself in the lunchroom and that if you didn’t bring a lunch and didn’t have any money, you waited out lunch period in the bathroom.”

“Mhmm.” Justin nodded in agreement.

“Justin,” Mr. Rede said in his grandfatherly way, “I want you to remember how we talked about letting go of the guilt and the shame. It wasn’t your job to control your father’s violence and to protect your mother. You were just five.”

“I know. I’m working on that.”

“Good. We may never know why your father drank. But we do know that he just didn’t know how to cope with his problems without alcohol and that when he drank, he took out his pain and frustration on the people he loved the most. And we can be pretty sure that your mother didn’t want to leave you alone, but she had to work to keep you alive. It must have broken her heart not to be with you, but she worked so much because she loved you.”

“Yeah. I get that now.”

“Nevertheless, the adults in your life let you down in a big way. For whatever reason, your parents abused or neglected you. Your teachers didn’t take an interest in you or try to help you either, and the juvenile justice system failed you as well. Yes, you took a big risk going to that party, and you did break the law by driving without a license and without insurance, but you were wrongly convicted on possession and DUI charges, and that is why you are here when perhaps you really shouldn’t be. But those were the cards you were dealt. The question now is: how are you going to play them?”

“What do you mean?” Justin sat up from his usual slouch.

Mr. Rede leaned forward, knitting his brow in seriousness. “I mean that you have a big decision to make, Justin, perhaps the most important one you have ever made and one that will determine the course of your life in the future. In just a few short years you are going to be an adult yourself. Are you going to be like the adults who failed you, or are you going to be different?”

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Mr. Rede had probably asked that question or a similar one hundreds of times to no effect, but it appealed to Justin's adolescent idealism, giving him a sense of mission to become someone important, and to his equally adolescent feelings of superiority, allowing him to think himself better than those who had failed him.

Without much experience of the adult world of trades and professions, Justin gravitated towards those with which he had come into direct contact. Gradually he formed a plan to become a lawyer, one the exact opposite of Mr. Wolfe, who had lied about him and wrongly put him in the prison they called a "treatment facility." He would fight for truth and justice.

Released from his incarceration and back in his old school, Justin attacked his studies with the fierceness and tenacity of a junkyard dog latching onto a bone. Before long, he found his teachers taking an interest in him and offering to tutor him after school. His senior year, his school counselor helped him get a scholarship to a junior college and financial aid. Over the next several years the pattern of academic success rewarded by scholarships repeated itself, and Justin completed junior college, transferred to a university, and went to law school. His mother took off work to attend each of his graduations. How proud she was of her son, the lawyer. She told him so herself. Five years later he ran for judge of a county court at law and was elected. The seed planted by Mr. Rede's question had sprouted, matured, and borne its fruit, though Justin Richter had by now lost something of his high adolescent ideals, and the Don Quixote fantasy of a knight errant righting wrongs yielded to the more mundane concern of earning a living.

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Passed over for promotion time and again, Officer Wright worked the same beat for twenty years. When the blue-gray Mercedes rolled through the stop sign, he switched on his

flashing lights and pursued. The Mercedes stopped in the next block, and Officer Wright approached the vehicle.

“Let me see your license, sir, and proof of insurance,” he said, shining his flashlight in the driver’s face.

“Do you know who I am, officer?”

Officer Wright knew exactly who he was. “Your license and proof of insurance, please.”

“I’m Ken Wolfe, chief assistant district attorney,” the man said, slurring his words.

“Have you been drinking, sir?” Maintaining professional decorum only added to the enjoyment of the role reversal.

“I could have your badge, officer.”

The hell you could. “Please step out of the car, sir.”

“Your badge. Do you understand? I could have your badge.”

“Step out of the car now.” He was the one giving orders here. For all its monotony, the job had its unexpected pleasures.

Ken Wolfe opened the door, took one step out, and fell flat on his face.

When Officer Wright had lifted him to his feet, he cuffed him and said, “Mr. Wolfe, I am placing you under arrest for driving while intoxicated.” It was a fine day when the little guy got to stick it to the big guy.

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Never elected district attorney, Mr. Wolfe was only the shell of his former self. A few years after Justin’s adjudicatory hearing, his wife was killed in an automobile accident involving a drunk driver. That experience would have turned many people away from alcohol forever, but not Mr. Wolfe. Perhaps he began drinking hard to numb the feelings of grief and regret that he did not know how to handle. Or perhaps he was trying to put himself out of his own misery by

slow suicide. Whatever the case, he had accumulated two DWI convictions, though because of his position with the district attorney's office, he avoided fines, jail time, and loss of his license. Now he stood in court to be arraigned on his third DWI charge, a felony offense with a possible two-to-ten year prison sentence, and there was nothing more his colleagues could do for him. He had to take his chances with the justice system like any other drunk driver. Was he about to see how bitter his own medicine tasted?

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"Next case," Judge Richter called out.

"The State of Texas vs. Ken Wolfe," answered the bailiff, "on the charge of driving while intoxicated."

Judge Richter jerked his head up to look at the man he had so hated fifteen years before, the man whose eloquent lies had deprived him of freedom for so long. Suddenly he was a teenager again, and all the self-righteous indignation he felt at the false charges of driving under the influence and possession of a controlled substance came surging back up within him. He had sworn revenge on Mr. Wolfe, who didn't recognize or even remember him, and now his moment had finally come. After Wolfe's attorney entered a plea of not guilty, Judge Richter set a date for the trial.

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Released on his own recognizance but placed on administrative leave, Ken Wolfe spent the two weeks before his trial doing what he always did in his spare time: drinking. The morning of the trial was no exception. Skipping breakfast, he poured himself a shot of whiskey, just to "steady his nerves." When he felt the smooth trickle down the back of his throat and the warmth in his belly, he began muttering to himself. How dare they accuse him, Ken Wolfe, the chief assistant district attorney? The nerve of those people. He poured himself another shot. Who did

they think they were anyway? Those arrogant little bastards. They obviously didn't know whom they were dealing with. But just wait till he took the stand. He would show them, as well as his own lawyer, who had advised him not to testify. As he relished the prospect of demolishing the prosecuting attorney, he poured himself another shot. That little upstart had no idea what he was getting into. But he was about to find out what it meant to tangle with the great Ken Wolfe. One more shot for the road.

As soon as Mr. Wolfe was sworn in, Cyrus Voigt, a young prosecutor who worked under Wolfe in the district attorney's office stood ready with his first question.

"Mr. Wolfe, I want to begin by asking you point blank, were you, on the night in question, driving while intoxicated?"

"Of course not. That's ridiculous." The very notion offended him.

"But we have heard testimony from Officer Wright that you were."

"Well, it's his word against mine. And he's just a beat cop. I'm the chief assistant district attorney." He sat up a little straighter and stuck his chest out.

"Officer Wright testified that you were so drunk you fell flat on your face."

"That's nonsense. I merely tripped when I got out of the car." What? This lanky kid never stumbled?

"Your blood alcohol level was .16, twice the legal limit."

"That means nothing. I can hold my liquor better than most people." He was doing it right now, and no one even suspected.

"So, you do admit you were drinking on the night in question?"

"Drinking? It wasn't even real booze, just a little beer." Big deal.

"Exactly how many beers did you drink before getting behind the wheel?"

“Why are you doing this to me? I don’t deserve this. After all my years of service, this is how you treat me?” It was all so unfair.

“How much beer did you drink, Mr. Wolfe, before you drove?”

“You’re just trying to bring me down. Are you after my job? Well, no one can take my place, I tell you. No one.” This was getting to be too much.

“Mr. Wolfe, how much did you have to drink that night?”

“Look, you little punk, you work for me. I can have you fired. When I’m done with you, you’ll never work anywhere again. I’m the chief assistant district attorney. Do you understand? The chief assistant district attorney!” He banged his fist on the rail in front of the witness stand. Without realizing it, he had just driven the last nail into his own coffin.

Ken Wolfe was the only one in the courtroom that day surprised by the verdict: guilty.

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The moment of sentencing had arrived.

Over the years, Judge Richter’s memories of his father’s abuse, his mother’s neglect, his friend Dion’s abandonment, Officer Wright’s wrongful arrest, Mr. Lambe’s incompetent defense, and the judge’s unjust sentence had lost their emotional charge. But his anger at Mr. Wolfe had lain smoldering all this time. Although his initial thoughts of revenge had receded into the background, Judge Richter remembered the prosecutor’s speech as though it were yesterday. He could almost hear how Mr. Wolfe had written him off as a “dangerous criminal” and a “potential murderer,” though he had become the “model citizen” Mr. Wolfe denied he ever could be. On the contrary, it was Mr. Wolfe who was “menacing pedestrians and motorists alike.” It was he who had “gotten away” with driving while intoxicated twice and who thought that he could “get away with it the next time too.” Indeed, it was “only a matter of time” until Mr. Wolfe killed someone with his drunk driving. If Judge Richter did not “take this criminal off the



streets” by sending him to prison for ten years, would he “be able to look into the eyes of the family and friends of his victim and say, ‘I was the one who let him go?’” Would he be putting “a loaded gun” into Mr. Wolfe’s hands and telling him to “shoot into a crowd”?

Judge Richter thought long and hard—so long that the silence in the courtroom became uncomfortable, and everyone started fidgeting. Finally, he spoke.

“Mr. Wolfe, fifteen years ago you sentenced me to six months to two years in a secure residential treatment facility. Although I was completely innocent of the charges of driving under the influence and possession of a controlled substance, I can see now that my time in that facility was the best thing that ever happened to me. Today, I am going to return the favor and give you a second chance, one my own father never had.”

He paused to make sure of himself before proceeding. “Mr. Wolfe, I could sentence you to ten years in prison. After due consideration, however, I hereby sentence you to a two-year residential treatment program to be followed, upon return to life in the community, by weekly sessions with a parole officer, a substance-abuse counselor, and an AA sponsor for a period of eight years. May it do you as much good as it did me.”

What would ten years in prison have been like for an assistant district attorney? Even Mr. Wolfe had to admit he had been wrong. That fifteen-year-old boy did change: he became the Honorable Justin Richter.

### *Glossary of Names*

Justin: just (Latin)

Richter: judge (German). Justin Richter grows up to become a just judge.

Wright: a homonym of “right.” Officer Wright presumes to be right, and the court takes him as such.

Dion: a short form of “Dionysos” (Greek), the god of wine, revelry, fertility, and dance.

Gregory: watchful, alert (Greek)

Lambe: homonym of “lamb.” Mr. Lambe comes well-prepared to trial but is no match for Ken Wolfe.

Ken: born of fire (Gaelic)

Wolfe: homonym of “wolf.” Ken Wolfe is a fiery orator who devours Mr. Lambe like a wolf.

Rede: counsel, advice (Old English). He is Justin’s counselor.

Cyrus: young (Persian through Greek)

Voigt: overseer, bailiff, lawyer (Middle High German). Cyrus Voigt is the young lawyer who prosecutes his boss, Mr. Wolfe.