

## **Honor Bound**

What really happened in the Trinity Commons parking lot?

by Graham Hillard

On the evening of February 6, 2009, Harry R. Coleman Jr., a 59-year-old real estate investor, was drinking a glass of wine in the dining room of Villa Castrioti, an Italian restaurant in Cordova's Trinity Commons shopping center, when his mother-in-law entered from the parking lot, obviously distraught. Coleman, who prefers to be called Ray, had spent the afternoon visiting a hospitalized friend in West Memphis, Arkansas, and had arranged to meet his wife, Katheryn, and her mother for dessert. As Coleman recalls, he had taken only a few sips of the wine when he was interrupted. Katheryn, who that evening was celebrating her fifty-second birthday, had become involved in an altercation outside the restaurant, according to her mother, and Coleman's presence was required immediately.

Expecting nothing more serious than a fender-bender, Coleman left his table and made his way to the sidewalk separating the restaurant from the parking lot, leaving behind his day planner. What he saw there surprised him. To his right, at a distance perhaps the width of six parking spaces, a crowd had gathered in the vicinity of Coleman's vehicle, a silver Hummer, and a second automobile, a similarly colored Yukon Denali parked directly beside it. Standing between the two vehicles was Katheryn, and in front of her on the sidewalk was a man who would later be identified as Robert Schwerin Jr., a 52-year-old mechanic employed by FedEx.

Katheryn would later testify in court that upon pulling into the parking lot she noticed Schwerin, who went by the nickname "Dutch," kneeling in front of her husband's Hummer, "pulling parts off the car and chunking them to the side." According to statements offered by several witnesses, Katheryn confronted Schwerin, at one point going so far as to place her body behind the Denali—Schwerin's vehicle—to prevent his leaving. Though the exact nature of the words exchanged by Katheryn and Schwerin remains a subject of debate, witnesses and participants alike agree that the key source of the controversy was the proximity of the automobiles to one another—though both were parked legally, the gap between them was too narrow to allow Schwerin access to his vehicle through the driver's side door.

Making his way onto the scene, Coleman tried to ascertain what had happened. After conferring briefly with Katheryn, he approached Schwerin, and the two began a heated conversation. (One witness has since characterized the exchange as a barrage of “cussing and yelling back and forth.”) Katheryn soon joined the men on the sidewalk, and the atmosphere grew tenser yet. According to testimony offered later, Katheryn began to jab Schwerin’s chest with her fingers, and Schwerin responded by “trying to create space between the two of them,” pushing Katheryn aside, though not roughly enough to disrupt her balance.

It was at this moment, witnesses suggest, that the first explicit threat of violence was delivered. Seeing the interaction between Katheryn and Schwerin, Coleman reportedly told the latter, “If you touch my wife again, I’ll blow your f\*\*\*\*\* brains out.” Coleman, who denies both this remark and the characterization of his wife’s behavior, instead blames Schwerin for the introduction of violence, later testifying, “He told me he was going to kill me, my wife, and my dog.”

Whichever of these narratives is accurate, what happened next is beyond dispute. Moving into the parking lot and opening the rear passenger door of the Hummer in an attempt to shield himself, Coleman took his cell phone from its hip holster and dialed 911. Receiving no answer, he retrieved a Wilson Compact .45 caliber handgun from the Hummer’s center console and walked back to where Schwerin was waiting.

Prosecutors at Coleman’s trial would make much of the gesture that followed. Standing only inches from Schwerin, Coleman placed the tip of his gun on Schwerin’s lips and forced the muzzle into his mouth, according to multiple testimonies. (Coleman disputes this characterization and says instead that he placed the gun “between [Schwerin’s] nose and his mouth,” though one imagines a jury drawing little distinction between the two acts.) The men paused in this tableau for a moment. Then, fewer than 15 minutes after the encounter had begun, Coleman took several steps backward, raised his gun, and shot Schwerin in the chest.

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The trial of Ray Coleman began on July 12, 2010, in the Criminal Court of Shelby County, Tennessee, the same institution in which, 41 years earlier, James Earl Ray had pleaded guilty to the charge of assassinating Martin Luther King Jr. Presiding over the trial was Judge John T.

Fowlkes Jr., a former assistant U.S. attorney who, in December 2011, was nominated to the federal bench by Barack Obama. (Fowlkes was confirmed this past July.)

The highest charge against Coleman presented prosecutors with a particular challenge. In order to secure a conviction for second-degree murder rather than the lesser included offenses of voluntary manslaughter, reckless homicide, or criminally negligent homicide, they would have to prove that Coleman's act *did not* arise from a state of passion—that the defendant, with clear mind, knowingly and without provocation chose to end Schwerin's life.

The burden upon Coleman's attorneys, who had chosen to argue self-defense, was ostensibly simpler. Were they to show that Coleman held a reasonable belief that death or serious injury to himself or his wife were imminent, *even if that belief were mistaken*, he would be acquitted.

Though both sides entered the courtroom confident of victory, the prosecuting team, led by Assistant District Attorney Paul Hagerman, seemed particularly certain of Coleman's guilt. For Hagerman, the trial was an opportunity to show that Coleman, who is 5'11", had acted not in self-defense but out of a desire to impose his will on a larger man. (Dutch Schwerin was 6'1" and outweighed Coleman by nearly 60 pounds at the time of his death.)

In his opening statement, delivered on a wet July day 17 months after the shooting, Hagerman pursued this theme relentlessly. "Harry Coleman was mad, so he killed a man," Hagerman told the jury. "He killed a man by sticking a gun in his face. He killed a man after dragging the gun down to his mouth in an attempt to threaten and dominate. He killed a man who was unarmed. He killed a man even though there were no threats. Harry Coleman killed a man because he wanted to."

In order to prove their theory, Hagerman and Eric Christensen, a second state prosecutor who assisted with the case, turned to the members of Schwerin's family who had been present on the night of his death. Like the Coleman family, the Schwerins had met that evening at Villa Castriotti, the Italian restaurant from which Coleman was summoned into the parking lot. In attendance at the dinner were the parents of Schwerin's deceased wife, his 20- and 21-year-old sons, Colt and Dallas, and their 15-year-old sister, Savannah. Joining Schwerin's sons were Asia Smith and Katie Johnson, the young men's girlfriends.

Katie Johnson was the first witness to take the stand, and her testimony gave direct support to Hagerman and Christensen's premise. Upon leaving the restaurant, Johnson testified, she walked with Schwerin and Savannah to the Denali, where the three of them were confronted by Katheryn Coleman. According to Johnson, Katheryn stood in the path of the Denali and "was in Dutch's face the whole time, hollering and screaming and cussing at him." Though Katheryn would later deny preventing Schwerin's exit or using profanity ("I called him a fat head; that's the only thing I called him"), Johnson's recollection of events was supported by all three of Schwerin's children, as well as Asia Smith, and the narrative established by her testimony—that Katheryn had herself been an aggressor—would prove damaging to Coleman's case throughout the duration of the trial. So, too, would Johnson's assertion, again echoed by other witnesses, that while Schwerin's speech toward Coleman and Katheryn was abusive, Schwerin never threatened Coleman or advanced toward him "in an angry and menacing way," a claim that was central to Coleman's defense.

Other prosecution witnesses landed similar blows to Coleman's claim of self-defense. Called to the stand after Katie Johnson, Asia Smith reported hearing Katheryn taunt Schwerin upon Coleman's arrival in the parking lot, encouraging him to "talk bad to me again" in her husband's presence. Dallas Schwerin testified that, upon shooting their father, Coleman threatened Schwerin's *children*, stating, "Get away, or I'll shoot you, too." Perhaps most damaging to Coleman's narrative of victimization were the statements of Erik Jensen, an arresting officer at the scene. According to Jensen's testimony, proposed by Hagerman in a heated bench conference and later offered in open court over strenuous defense objections, Dallas and Colt told officers after the shooting that Katheryn should be arrested along with her husband. Katheryn's response, yelled across the parking lot, was, "F\*\*\* you, I hope he dies."

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Hagerman and Christensen's central witness from outside Schwerin's immediate circle was, in many respects, the trial's most mysterious figure. Joseph Sneed, a tall, bearded 31-year-old, began the evening of February 6th in a Panera Bread Company several doors down from Villa Castrioti. Sneed, who had come to the Panera Bread Company to pick up donated food for a community organization for which he often volunteered, stumbled upon Coleman and Schwerin only by way of a second good deed. Leaving the restaurant and looking out into the parking lot,

he noticed a black Mustang with its hood popped. After speaking briefly with the Mustang's owners, he set out across the parking lot in search of jumper cables.

It was at this point that Sneed became aware of the scene unfolding outside Villa Castrioti. "These two particular vehicles were parked facing the sidewalk," he told the jury, "and as I approached, I remember seeing the man on the sidewalk"—Schwerin—"in between the two vehicles." Asked by Hagerman to comment on the victim's demeanor—a crucial aspect of both the prosecution's and the defense's cases—Sneed described Schwerin as bemused rather than belligerent or threatening. "It was silly to him," Sneed testified. "He was laughing and she"—Katheryn—"was a little bit aggravated. His demeanor was, this is a joke."

As Sneed turned to continue his search elsewhere, however, he heard a scream. Coleman, whom Sneed had not previously seen, had retrieved his gun from the interior of the Hummer and had begun "pointing it at everything that moves." Now Sneed decided to intervene. Approaching Coleman, he tried to soothe the man. "I told him, 'Think about what you're doing,'" Sneed testified. "And he never said anything to me. His eyes were bloodshot, he was frothing at the mouth, and he was like, 'Arrrgh, arrrgh.' And I'm thinking, what's wrong with this guy?"

Only feet away from Coleman by this point, Sneed realized that the situation was quickly deteriorating. "I'm looking in his eyes," Sneed told the court, "and I've seen this look before from people on the street, as if they're going to shoot somebody." Concerned for his own safety, Sneed stepped aside. "And no sooner than that, you know, he shoots."

Despite his obvious altruism, Sneed, who would later refer to his training as an Eagle Scout when discussing his contributions to the evening, was a far more complicated figure than his actions alone suggested, a fact stressed by the defense on cross examination. A practicing Muslim and a pillar of his community, Sneed was also a former criminal with a significant legal history. (Under direct examination by Hagerman, he admitted to ten misdemeanor theft convictions and three convictions for attempted aggravated robbery.) Yet neither Sneed's past nor his unfamiliar garments—both in court and on the evening of February 6th he wore a *tobe*, a long, white robe often seen on Muslim men in north and central Africa—seem to have undermined his credibility with the jury. Rather, his troubled past seems to have been outweighed by his behavior during the incident. Testifying about the moments immediately following the shooting, Sneed reported applying pressure to Schwerin's wound and assisting

with CPR, gestures that surely increased the jury's sense of Sneed as trustworthy and even heroic. Most damningly for Coleman, he provided verification of the Schwerin family's accounts of the evening's climax. *Had* Schwerin lunged toward Coleman immediately before the shooting? Hagerman asked. Sneed's answer: "No."

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Ray Coleman was represented at trial by the veteran criminal attorneys Leslie Ballin and Steve Farese, the crack team who, in 2007, made national headlines by securing a jail term of only seven months for Mary Winkler, the Tennessee minister's wife whose confession of murdering her husband—she shot him in the back while he slept—was mitigated by claims of spousal abuse. Because criminal trial procedure allowed Hagerman to present his case first, Ballin and Farese's initial job was to undermine the credibility of the state's witnesses against Coleman. Accordingly, Farese, a tall man with a broad, sloping forehead and a reputation for bluntness, used the cross examination of Katie Johnson, the state's first witness, to establish what would become one of the defense's most important assertions: that because the members of Schwerin's party were so eager to see Coleman convicted, their testimonies were essentially worthless.

To secure this point, Farese pursued an aggressive line of inquiry. Why, he asked, had Johnson testified on direct examination that she never saw Coleman use a cell phone when her police statement, given the night of the incident and reviewed by Johnson only hours before her testimony, suggested that she had? Why was her claim, on direct, that Coleman had threatened to "blow [Schwerin's] brains out" conspicuously absent from her police statement despite its obvious importance? For Farese, the reason was self-evident: collusion among the prosecution's witnesses. "Someone has told you a lot of things about what happened out there that night," he remarked to Johnson.

Ballin and Farese managed to poke similar holes in much of the testimony offered, most notably by extracting from Officer Jensen the confession that Katheryn's alleged wish to see Schwerin dead had, like much of Katie Johnson's testimony, been absent from the official record up to that point and was only now being asserted. Though Ballin left unsaid Jensen's purported motive for exaggerating, the argument was implicit: Like Schwerin's family, Jensen was too emotionally invested in a conviction to be trusted.

Despite these small victories, Ballin and Farese could only hope for an acquittal if the jury believed their larger claim—that Schwerin had been enraged on the evening in question and that Coleman’s concern for his safety had been legitimate. On this point, the defense was far less successful. Though both Katie Johnson and Schwerin’s children acknowledged on cross examination that Schwerin had used profanity, each insisted that he had been no angrier than Coleman (or Katheryn) and that Coleman had had no reason to fear for his life. Perhaps sensing that Savannah, Schwerin’s 15-year-old daughter, would be more likely than her siblings to make a damaging admission under pressure, Ballin engaged her on this point at length.

“You know when your dad is angry?”

“Yes.”

“You’ve seen that before?”

“Yes.”

“And the look on his face caused you to be scared, right?”

“Yes.”

“And this is your dad?”

“Yes.”

Yet even this exchange—which, interpreted in the light most favorable to the defense, might have legitimized Coleman’s professed fear by portraying Schwerin as a bully—was blunted by the prosecution. “Were you scared that your dad was going to attack Mr. Coleman?” Hagerman asked Savannah on redirect. “No,” she replied.

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When the time came for the defense to put its own case before the jury, Coleman’s attorneys called only five witnesses. The first and third of these—a 911 operator and an auto mechanic, respectively—testified only briefly, verifying in turn that Coleman had attempted to call for help and that the damage Schwerin had done to the Hummer had evidently been performed “aggressively.” (Schwerin had partially disassembled the covering of one of the vehicle’s fog lights.)

The defense's second witness, a bald, mustached crime scene investigator named Marlon Wright, provided testimony of far greater potential value, but here, too, the prosecution was able to counter the defense's claims. According to Wright, an inventory of the scene had revealed a single shell casing, located "generally in the same area" in which Schwerin had fallen. (A shell casing discharges from the gun itself when a shot is fired, theoretically allowing investigators to draw conclusions about the relative location of the shooter.) The defense's interpretation of this finding, implied by Ballin on direct examination and further emphasized by Farese during closing arguments, was that the casing's proximity to the spot of Schwerin's death proved Coleman's assertion that Schwerin had charged him just before the shooting—that the two men had, as a matter of science, been closer to one another than the 10 feet suggested by the prosecution's witnesses.

Yet a shell casing, as Hagerman pointed out on cross examination, is easily kicked aside, particularly in a crime scene as crowded as Coleman's. "There's no science about what happens to a shell casing once it hits the ground," Hagerman told the jury.

The defense's final witnesses were Katheryn and Ray Coleman, and, not surprisingly, the story that emerged from their testimonies differed markedly from the one put forth by the state's attorneys. Katheryn, whose credibility had been severely undermined during the prosecution's case, nevertheless attempted to provide a counterbalance to Hagerman and Christensen's assertion that she had helped instigate the tragedy.

"Did you ever tell Mr. Schwerin that he couldn't leave?" Farese asked her.

"No, sir."

"Did you ever block his vehicle from leaving?"

"No, sir."

Responding to the rest of the prosecution's claims, Katheryn was equally resolute. At no point, she insisted, had she accosted Schwerin or used profanity. Neither had she expressed the hope, related by Officer Jensen in the trial's most inflammatory testimony, that the shooting would be fatal, an assertion that she characterized on cross examination as "the biggest story I've ever heard." Asked, as almost every previous witness had been, to describe Schwerin's demeanor,

Katheryn, who, at 5'4", would have had to tilt her head considerably just to meet Schwerin's eyes, stressed both his size ("He was like an ex-NFL player with a beer gut") and his anger ("He was rocking back and forth like he was about to explode, like a tea kettle"). Not only had Schwerin charged her husband, Katheryn asserted, he had knocked her down in the process. "When the shot was fired, I was on the ground."

Coleman, taking the stand in his own defense, attempted similar work, describing Schwerin as an intimidator who had revealed from his opening remark—"Are you the pimpy son of a bitch in this big car?"—a willingness to bully. Like Katheryn, Coleman stressed Schwerin's actions immediately before the shooting. "He came charging me," Coleman told the jury. "He'd already hurt my wife, and he was coming to do what he said, and that's try to kill us."

That the defense's strategy ultimately failed seems due in large part to the fact that Coleman's attorneys were unable to offer independent verification of this claim. Yet Leslie Ballin, to whom I spoke earlier this year, points to a second factor when assessing the trial's outcome: Katheryn Coleman. In the Mary Winkler case, the jury was clearly moved by the defendant's tearful demeanor during her testimony. (Appearing on *The Oprah Winfrey Show* after the Winkler verdict, Steve Farese confessed as much: "Like my father always taught me, it's not what you say but how you say it. I think that's what got a hold of these jurors.") Katheryn, by contrast, appeared "testy" on the stand, as Coleman later told me, responding with particular indignation to Hagerman's questions on cross examination. Ballin makes this point even more bluntly: "Katheryn came across badly."

Whatever the reason, and despite the trials' similarity (both defendants claimed to have killed with justification), the defense team seemed largely unable, in Coleman's case, to create a narrative as compelling as the one fashioned for (and by) Winkler. As a result, the prosecution's account of the tragedy—that Coleman shot Schwerin to complete his domination of a larger man—is the one that stuck.

Closing his case before the jury, Hagerman leaned again on this premise: "[Coleman] killed a man in front of his children. You're the judges in this courtroom. You bring justice to what happened out there. . . . Prove to him that he didn't make himself the bigger man that night. Prove to him that he committed murder."

Later that evening, the jury found Coleman guilty of the highest count on the indictment: second-degree murder.

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In late December 2011, I drove to the West Tennessee State Penitentiary in Henning, Tennessee, to meet Ray Coleman. WTSP is a sprawling, 2,500-inmate campus built in the pod system ubiquitous among modern correctional facilities. Located 50 miles northeast of Memphis, it sits on a parcel of land just off Highway 87, a meandering, two-lane strip of road that dead-ends at the Mississippi shortly after passing the prison. A sign noting the lack of ferry access greets travelers as they turn onto the highway.

Though prison officials received me, on this and subsequent visits, with the same mixture of courtesy and wariness that ultimately informed my every interaction with the Tennessee Department of Corrections, my time at WTSP nevertheless reinforced my idea of maximum-security facilities as occupying a space at once dystopian and absurd. The standard, oppressive details would have been familiar to anyone with a television: great coils of razor wire perched atop fences; video surveillance in every corner. Yet occasional touches seemed intentionally satirical, almost playful. On my second trip to the prison, a guard leading me through a maze of corridors paused en route to file his retirement papers. (“It’s just not what it used to be,” he told me.) Another officer, manning a desk just inside the administrative building, invited me to examine the framed photographs of 22 previous wardens, a roster stretching back to the 1930s. In one picture, a gentleman with thinning brown hair and plastic frames set low on his nose poses with a litter of puppies.

Coleman, whose protruding belly and deep Southern drawl bring to mind a character in a Flannery O’Connor story, is intensely aware of this dynamic. “Prison would be a joke,” he wrote to me early in our correspondence, “except that it’s real live humans in here.” Despite the relative pleasantness of his circumstances—Coleman resides in an “honor” pod designed to house inmates who have shown a willingness to abide by prison rules—he remains a figure deeply unsettled by his sense that an injustice has been done. “I hadn’t even had a speeding ticket,” he told me on more than one occasion. “But when you bring the police department to bear on you, plus the district attorney to bear on you, with all their resources, your everyday guy is sunk.”

Coleman's newfound contempt for the criminal justice system is surely rooted, at least in part, in the popularity he enjoyed as a businessman and investor. Because his real estate dealings took him all over the South ("I always believed in chasing a lot of rabbits"), Coleman developed a wide and varied circle of acquaintance. Earlier this year, he sent me a parcel containing copies of the 157 letters of support sent by friends and family to Judge Fowlkes in the period between his conviction and sentencing. In one of these, the writer, a retired FBI agent in Augusta, Arkansas, describes Coleman as having led "an exemplary life with no tarnishes present" and outlines several of Coleman's many charitable activities. (A notable example shows Coleman arranging for clothes and money to be brought to a newly released fellow inmate.) Another letter recounts Coleman's intervention in the near-drowning of a 9-year-old child. Yet another, composed by a former academic who performed the environmental assessment for a number of Coleman's land deals, makes repeated reference to Coleman's honesty and collectedness (and, helpfully, includes its author's *curriculum vitae*). In her own letter to Judge Fowlkes, Katheryn Coleman recalls an instance, in the mid-Nineties, in which her husband was recognized by the FBI for helping to thwart a bank robbery. Coleman chased down the getaway car.

Taken together, these pleas for leniency paint a compelling portrait, and certainly one more complicated than the brutish sketch of Coleman offered at trial. Yet, counter-intuitively, they may have done his cause more harm than good. Rejecting a late-breaking claim by Coleman's attorneys that their client's state of mind was impacted by a previously undiagnosed bipolar disorder, Fowlkes sentenced Coleman to a term of 18 years without the possibility of early release. The notes he had received on Coleman's behalf, Fowlkes suggested, portrayed the defendant as "a person who is calm, cool, [who] never does anything violent, doesn't lose his temper, is gentle and caring"—a set of characterizations that seemed to belie the psychiatric testimony offered by the defense. "There is a major inconsistency," Fowlkes pointed out, between the letters and the testimony, offered prior to sentencing, that Coleman suffered from "paranoid psychosis." Fowlkes went on: "I think the thing that controlled his mental condition was the weapon."

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Coleman, whose relationship with firearms has spanned more than five decades, rejects absolutely the suggestion that the presence of a weapon emboldened him during his encounter

with Schwerin. Rather, he says, his experience with guns is indicative of his innocence: He wouldn't have fired if he'd had a choice.

To illustrate this notion, Coleman points to the testimony of Joseph Sneed, the tall young man in Muslim garb who told the jury that Coleman frothed at the mouth and moaned shortly before the shooting. According to Coleman, the noises Sneed heard weren't moans at all but a strategy recommended by police to citizens seeking a carry permit: the word "stop" repeated multiple times in an unsuccessful attempt to convince the charging Schwerin to halt. "We were taught that when I had to go get a pistol permit," Coleman told me. "That's one of the things the highway patrolman who taught us said: 'Man, do anything you can to keep from shooting.'"

As further evidence of his equanimity, Coleman offers anecdotes from his experiences as a property owner. "I've caught people cooking meth out on the land," he said. "I've faced down many a gun." Yet, regardless of these provocations, on no previous occasion had he drawn his weapon and pointed it at another person. The pistol in his Hummer, he informed me, was kept for shooting armadillos on the side of the road.

Despite his imprisonment for a gun-related crime, Coleman, who was born in Greenville, Mississippi, in the heart of the Mississippi Delta region characterized by the historian James C. Cobb as "the most Southern place on Earth," speaks warmly and often about the role firearms have played in his life. "I started hunting and fishing when I was 7, 8 years old and had my first gun when I was 15"—a narrative that would have been shared by "90 percent" of the Greenville population. As a young man, Coleman joined the National Guard, where he served for eight years, eventually rising to the rank of captain before leaving in order to concentrate exclusively on real estate.

Though the career that followed succeeded beyond his expectations (Coleman readily assents to the phrase "self-made millionaire" and credits his success to a brief stint at Merrill Lynch, who "really taught me some zeroes"), even these memories are infused with tales from the hunt. "I've had some of the most die-hard Yankee attorneys from Wall Street come and visit me in Jackson, Mississippi," Coleman told me, "and they'd fly in there and we'd work during the week, and they'd say, 'What are we going to do on the weekend?' and I'd say, 'We're going dove hunting.'"

Though guns dominated Coleman's family culture—and, by his telling, that of the broader South—of perhaps even greater consequence is his open admiration for the South's system of honor, a tradition he believes to be quickly disappearing. Since his arrival at WTSP, Coleman has established a reputation as a model inmate. His single dispute with a member of the prison's staff occurred when, like Schwerin, a guard cursed at him, an occurrence that Coleman considered an affront to his dignity. Similarly, when I asked him if he had inherited money from his parents, who had owned and operated a hardware store, Coleman spoke instead of the good name they had handed down. "That kind of stuff goes a long way in Mississippi," he said. "I mean, you could walk into a bank and it was the old word 'character.' Character would just as much get you a loan as a financial statement back then."

Reflecting on their confrontation, Coleman is quick to ascribe similar thinking to Schwerin. When I asked him why, in his opinion, Schwerin hadn't fled at the sight of a gun, Coleman suggested that his opponent may have been governed by his own sense of honor. "Maybe he didn't want to back down in front of his children," Coleman told me. Recalling the moment in which he pressed his gun against Schwerin's face, Coleman claims to have lowered his voice in order to lessen the larger man's humiliation. "I told him to leave us alone, go home, we're scared. And the reason I leaned into him was that I didn't want to embarrass him."

Looked at in a certain way, then, Coleman's encounter with Schwerin can be understood not merely as an argument but as a sophisticated and intricate cultural exchange—one in which each man felt obligated not to relent. It is through this lens that Coleman appears most obviously guilty. Schwerin swore at him—Schwerin behaved like a bully—and Coleman, believing his honor to be at stake, took action.

Throughout the trial, the defense's case was damaged by a question meant to assert just such a theory—one so obvious it surely would have occurred to the jury even if the state's attorneys hadn't raised it repeatedly. Given the presence of his automobile—given the fact that he, not Schwerin, had been armed—why hadn't Coleman simply left the scene? When I asked him this very question, his responses were alternately bewildered ("What was I supposed to do, leave my family?") and reflective ("I think that's where we lost the trial"). Yet the answer he ultimately provided seems both closest to the truth and most damning: "I don't think I'm the kind of guy to run."

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Besides prolonging his encounter with Schwerin, Coleman's insistence upon his rights as a gentleman can be connected to an episode that remains one of the case's strangest and most tragic. In the immediate aftermath of the shooting, following the arrival of the police and his subsequent arrest, Coleman spent three days in Shelby County Jail before his release on bail, an experience that affected him profoundly.

Unlike WTSP, which, generally speaking, enjoys a good reputation among inmates, Shelby County Jail is notorious for its chaotic environment. Known locally by its address, 201 Poplar, the jail has been alluded to in songs by a number of Memphis-based rap artists, including the Academy Award-winning group Three 6 Mafia. (In "Long Nite," a song set partially in the jail, the group laments, "It ain't no fun watching them n\*\*\*\*\* fight over phone calls.") The jail's annual bookings approach 56,000, a number that includes an average of 70 juveniles each day.

When I asked him about his time in 201, Coleman spoke with a hard edge rarely present during our conversations. "It was unbelievable," he told me. "I mean, hollering and screaming and gang members." He went on: "In my mind, I said, 'I ain't going back. No way a man can live like that.'" Seventeen months later, his trial quickly approaching, Coleman decided that he stood only a one percent chance of conviction. "And I said, 'Well, if that one percent comes, I ain't going to jail. I've got a lot of insurance that'll take care of my kids forever and ever, and I've lived a good life.'"

On the fifth day of his trial, aware that the case would likely proceed to the jury by late afternoon, Coleman followed through on his promise. Filling a small pill bottle with ether, he taped it to his chest beneath his clothes. "I'd always heard that ether is how they kill mules," he told me, his voice cracking. "You know, when you got through with an old mule back farming, everybody would pat their old mule, and they'd put a washrag full of ether over the mule's mouth, and he'd just slowly pass away."

Sitting in the courtroom later that evening (the jury's deliberation began at 4:00 on a Friday afternoon and lasted fewer than three hours, a fact that Coleman mentioned to me on more than one occasion), both families awaited the verdict. Once the decision was read, a bailiff escorted the defendant to a small holding area where, after speaking briefly with Steve Farese (Leslie

Ballin had returned to the courtroom to sit with Katheryn), Coleman excused himself and stepped into an adjacent bathroom. Not yet handcuffed, he sat down on a toilet, removed the ether bottle from his chest, extracted one of the cotton balls he had placed inside it, and stuck the cotton in his nose.

Testifying at Coleman’s sentencing hearing, Officer Overton Wright, who, on the day of the verdict, was in charge of inmate security, recalled hearing knocking from inside the holding area. “I opened the door, and Mr. Farese told me that something was wrong with Mr. Coleman,” Wright told the court. Following Farese, he entered the bathroom to find Coleman collapsed on a toilet. “And I smelled what I believed to be some strong odor. And I noticed he was real red, so I grabbed him, and he snatched his hand back and put it back over his nose.” Wright continued: “He kind of struggled with me a little, but I got his hands behind his back, put him on the bench, cuffed him, pulled him to the floor and rolled him over, and there was a large piece of white cotton ball stuck up in his right nostril.”

Using the earpiece of Coleman’s eyeglasses, Wright and a second officer managed to remove the obstruction from his nostril. The two men alerted a team of medics, and Coleman was taken to the Regional Medical Center at Memphis, less than a mile from the courthouse. There, Wright had the opportunity to speak with Coleman. “Once we got him to the hospital, and the doctors kind of revived him a little,” Wright testified, “he thanked me for saving his life.”

That Fowlkes could have taken Coleman’s suicide attempt into account when imposing his sentence surely escaped neither the defense nor the prosecution. Arguing for a term of 23 years—a sentence only two years short of the maximum allowed by law—Hagerman asked the court to take note of a Tennessee legal precedent known as *State v. Jordan*, which allows judges to consider “any criminal behavior occurring between the time of conviction and the time of sentence.” Despite Hagerman’s argument and the vivid testimony of Officer Wright, however, Fowlkes ultimately declined to hold Coleman’s act against him. “Maybe it is an insult to the court the way he acted back there in the lockup,” Fowlkes said, “but I’m not going to apply that.”

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Early last month, the Tennessee Court of Criminal Appeals heard oral arguments in the case of *State of Tennessee v. Harry Coleman*. (Coleman’s first appeal, presented to Judge Fowlkes, was

denied last summer.) In furtherance of his client's request for a new trial, William Massey, the Memphis-based attorney who has taken over for Ballin and Farese, argued before the three-judge panel that the psychiatric diagnosis offered at Coleman's sentencing hearing—Bipolar I Disorder with Psychotic Features—would likely have altered the trial's outcome had the jury been aware of it. The state's contention, conversely, is that because Coleman's diagnosis was reached only as a result of his actions post-verdict (Coleman was taken to the Memphis Mental Health Institute for analysis after his suicide attempt), the diagnosis fails, as a matter of law, to meet the standard for newly discovered evidence. A decision is expected by the end of the year. Though the psychiatric evidence is significant (if nothing else, it advances Massey's claim that "[Coleman] acted in a state of passion"), Coleman himself is clearly uncommitted to it. "Did I have some psychosis that night?" he asked aloud during a recent conversation. "My psychiatrist thinks I did." Regardless, Coleman says, "I had—I know I had—a threat."

Should their current motion fail, Coleman told me, his team will take up, in subsequent appeals, the argument he favors: that he was the recipient of ineffective counsel. And though Leslie Ballin and Steve Farese had already begun to establish a national reputation by the time they accepted Coleman as a client, several questions linger regarding the original defense strategy.

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On March 18, 2010, J. Keith Haney, a private investigator secured by Coleman's attorneys, drove to Marshall County, Mississippi, to interview Larry Britt, a county engineer whose work had taken him, years earlier, to Dutch Schwerin's residence. (Schwerin kept homes in both the Memphis area and Byhalia.) According to notes forwarded by Haney to Leslie Ballin, Britt's first encounter with Schwerin occurred when Britt informed the residents of Schwerin's street that new water lines needed to be installed in the road. Though Schwerin was "cordial" during their first meeting, when Britt returned 10 days later to speak with a neighbor, Schwerin confronted him, calling him a "lying son of a bitch" and accusing him of telling Schwerin's wife that her husband alone was delaying installation of the new line.

Though Britt protested ("Mr. Britt tried to tell Schwerin that he had not seen or talked to his wife since the day he had been at his house," Haney wrote), Schwerin continued to accost him, "ranting and raving and acting as though if he were loud enough and bullied enough, he would

get his way.” Britt went on, according to Haney’s notes, describing Schwerin as a “big, blow-hard bully” who could easily have intimidated “somebody smaller.” Upon learning of the manner of Schwerin’s death, Haney wrote, Britt was unsurprised: “Schwerin tried his stuff with the wrong person, and it got him.”

That Larry Britt might have provided crucial evidence of Schwerin’s character is a fact not lost on Coleman. Yet a second piece of evidence, similarly unused by the defense, presents an even more convincing picture of the deceased. Nearly a year before his interview with Larry Britt, Keith Haney traveled to Marshall County at the request of Robbie and Richard Hornsby, a husband and wife whose property abutted that of a man named William E. Rentrop, Dutch Schwerin’s father-in-law. According to the Hornsbys, who had contacted Coleman’s attorneys shortly after learning of Schwerin’s death, their encounter with Schwerin proceeded from a standing arrangement between Rentrop and Richard Hornsby, who had agreed to keep an eye on his neighbor’s property in exchange for hunting and four-wheeling rights. (Though Rentrop owned 151 acres, he used the land only for recreation and lived elsewhere.)

As Haney later told Coleman’s attorneys, Robbie Hornsby answered a knock at her door on an April morning in 2004 to find Dutch Schwerin standing just beyond the threshold. Schwerin, according to Haney’s notes, began “screaming and cussing at Robbie,” demanding to know who had been riding four-wheelers on “his” land. Though Robbie attempted to calm Schwerin, he grew angrier, telling her, “If any of you ever come back on my property, I’ll kill you, kill your family, kill your pets, everything”—a threat remarkably similar to the one Coleman himself reported receiving from Schwerin. Terrified, Robbie called her husband, who, after a brief, similarly violent conversation with Schwerin, came home and notified the police.

Keith Haney would later report to Coleman’s attorneys that the Hornsbys were so shaken by Schwerin’s behavior and threats that, soon thereafter, the two of them purchased a gun “to keep at the house in case Schwerin came back.” Like Larry Britt, the Hornsbys claimed not to be surprised by Schwerin’s death. Yet the two of them went further: “Both Robbie and Richard stated that they know it is not the right thing to feel,” Haney’s notes recall, “but [they] both felt a large sense of relief knowing that Schwerin was dead and not coming back to hurt them.”

When I asked him about these witnesses, Leslie Ballin offered a persuasive defense of the decision not to call them before the court. In the first place, Ballin told me, the introduction of “bad acts” witnesses on the part of the defense would have opened the door to rebuttal witnesses from the prosecution. (According to the Tennessee Rules of Evidence, the prosecution may only introduce such testimony “if the accused attacks the character of the alleged victim.”) Thus, testimony offered by the Hornsbys and Larry Britt would likely have been countered by prosecution witnesses praising Schwerin—a risk given the victim’s widower status (Emilie Schwerin passed away in 2004) and 21 years’ service at a respected corporation. Furthermore, Ballin argued, “bad acts” witnesses would have been exposed to a simple but devious question on cross examination—one designed to illustrate Coleman’s guilt further: “When Schwerin annoyed you,” the prosecution would have asked, “did *you* shoot him?”

Despite these arguments, Coleman, who, at the time, signed off on the decision not to call the additional witnesses, now regrets resting his case without them. (“That was a horrible mistake,” he told me.) Describing the circumstances in which the choice was presented to him, late in the afternoon on the trial’s penultimate day, Coleman recalls a conference room packed with attorneys, all of whom believed the additional witnesses to be unnecessary. “There were about 20 people in the room . . . when we were making that decision,” Coleman told me. “And we had to make that decision in like an hour or something.” He went on: “We just rested too early. Steve and Leslie thought they had the trial won.” Though Coleman declines to say that he felt pressure to accede, trial documents indicate that Leslie Ballin, at least, considered the decision already made. Asked by Judge Fowlkes in an earlier bench conference if he would be calling the witnesses, Ballin made clear that he intended to convince his client. “I’ve got a two-headed coin,” Ballin said, “and I am going to go use it.”

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Whether or not the testimony of Britt and Mr. and Mrs. Hornsby would have swayed the jury, both Ballin and Coleman agree that a fourth uncalled witness—one whose absence was ultimately beyond the defense’s control—might have altered the trial’s dynamics markedly. Clark Plunk, a 62-year-old small-business owner and city commissioner from Lakeland, was eating dinner inside Villa Castrioti when Coleman’s mother-in-law entered the dining room. Speaking to police, Plunk, who had known Coleman casually for several years prior to the

incident (both men frequented the restaurant), recalled staying behind when Coleman left. “After a few minutes,” he told the interrogating officer, “Ray had not returned, so I got up to go outside to see what was going on.”

Stepping onto the sidewalk, Plunk joined an encounter already well under way. “When I got within 15 yards of Ray and the people he was into it with, that’s when I saw the gun.” Plunk continued: “Ray had the gun in his right hand, and he had his left arm extended as if he was trying to protect himself.” According to Plunk’s statement, Coleman spoke to Schwerin at this point, and it is here that Plunk’s recollection of events deviates most markedly from the testimony offered by the prosecution’s witnesses. “Ray just kept saying, ‘Back up, back up,’” Plunk told police. “The guy kept coming at him. Ray was turning to left and right, like he was trying to keep himself from getting sucker-punched by somebody. He was in defensive mode. The whole time Ray was backing up, the victim kept coming at him.”

Plunk signed his statement at 12:44 on the morning of February 7th. In the weeks that followed, Coleman’s defense team kept in close contact with their witness, arranging for a private investigator to speak with Plunk and confirm his story. Armed now with a corroborating account, Coleman felt certain that he would be acquitted.

Yet before Plunk could testify, tragedy struck. Awaiting trial, Clark Plunk suffered a stroke.

Discussing the events that followed, Coleman is quick to point out that Plunk’s stroke was not permanently debilitating. According to Coleman, Keith Haney, the team’s private investigator, allowed several months to pass, then called Plunk on the telephone, anxious to gauge his condition. Plunk, Coleman recalls, simply hung up the phone. “So we give it about a month and I call him,” Coleman states. “And his sister is like his bookkeeper and secretary, and she says, ‘Ray, Clark is paranoid. He’s had his stroke, and he’s scared if he testifies he’s going to have another stroke.’” Concerned, Coleman pressed her. “This is life or death for me,” he remembers saying. Plunk’s sister replied: “Well, he considers it life or death for him, too.”

As the trial drew near, Coleman grew increasingly determined to introduce Plunk’s testimony into evidence, despite his friend’s misgivings. “So I talked to Leslie and Steve,” Coleman recalls, “and they said, ‘Well, maybe we’ll just take his deposition and then use that for the trial.’”

Yet even this plan was rejected by Plunk, who, by this point, wanted nothing more to do with Coleman's case. "If y'all come see me," Coleman claims that Plunk told him, "I'm going to lie." (Plunk failed to respond to several attempts to reach him for comment.)

Though clearly disgusted by Plunk's change of heart ("He had a convenient case of amnesia"), Leslie Ballin seemed resigned, when I spoke to him, to the defense's powerlessness to compel Plunk to speak. ("He said his memory was going. How could I put him on the stand?") Yet Ballin acknowledges that the defense's inability to corroborate Coleman's assertion that Schwerin charged him in the moments before his death posed a significant hardship at trial. Whereas the prosecution had Joseph Sneed—an independent, and presumably neutral, witness—Coleman had only his own word and that of his wife. As a consequence, Coleman's claim was largely ignored by the state's attorneys, who chose instead to press their theory that the defendant shot Schwerin in order to dominate him. Proper corroboration, Ballin told me, "would have helped immensely."

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In the spring of this year, I made a final trip to the West Tennessee State Penitentiary. Coleman, who has now been incarcerated, in one form or another, for more than two years, has come to believe that the state's handling of his prosecution was exacerbated by the political ambitions of Bill Gibbons, the district attorney who supervised Hagerman and Christensen and who, in 2010, ran a brief, unsuccessful campaign for the Republican gubernatorial nomination. As Coleman tells the story, because Dutch Schwerin worked for FedEx, whose Memphis-based employees form a powerful political constituency, Gibbons naturally pressed harder than he otherwise might have. "That's 50,000 votes," Coleman said. "He was in the courtroom every day."

Of further concern to Coleman was the composition of his jury. One member, a university librarian, had "probably never touched a gun," Coleman said. Others "didn't even have a high school education," and some "slept during the trial." On this point, at least, Leslie Ballin agrees. "The jury was an enigma," he told me. "If this case is tried ten times, eight out of ten he is acquitted."

Despite his complaints, Coleman is aware of prison's tendency to embitter its inhabitants, and he is determined to escape this fate. "In my case I've got to watch it and not fall off," he wrote to

me several months ago. “A lot of people snap in here every week.” In this pursuit, Coleman is aided by a clear conscience. Though he apologized, at sentencing, for his role in the shooting, he remains convinced of the righteousness of his actions. “I felt like I did what was necessary.”

In the summer of 2010, the Tennessee House and Senate overrode a gubernatorial veto of SB3012, a bill permitting guns in establishments that serve alcohol. The previous year saw the passage of legislation designed to allow firearms in state parks. When I asked Coleman if he regretted his lifelong relationship with guns, he seemed confused, admitting finally that he’d had little choice in the matter. “That’s the South,” he told me. Should his conviction be overturned, Coleman intends to return to hunting, the pastime that has given him so much pleasure over the course of his life. Yet he knows that whatever happens, neither family will fully recover. “It’s just been an indescribable horror.”