

Closing Argument

A play in two acts

by John Scavone

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Characters (in order of appearance)

Paula Woodward, late 30's to early 40's, a defense attorney

Alan Woodward, early to mid 40's, a prosecutor

Setting: The Woodward's' living room, to be represented by sparse furniture: a sofa and stuffed chair, perhaps an end table and lamp, set on an area rug more or less center. Upstage is a book case of legal volumes. There is either a bar, bar cart or small hutch serving as a liquor cabinet and on which they can fix their drinks. Downstage on each side is a long wooden table, one belonging to each character. Each contains a legal pad of notes, two or three books, other papers and a laptop which will be used to "display" slides as exhibits, that is, the slides are unseen. The tables may be used as desired by the actors at times other than those indicated in stage directions, but each uses only his or her own table. There should be a wooden chair or two at each table, which the actors can also use, for example, when testifying as witnesses. The stage should be surrounded by black drapery, or if walls are wanted, these should represent a courtroom setting.

Time: The present.

Closing Argument

Act I

Paula enters at five minutes, gets a book from the bookcase, pad and pen from her table. She sits on the sofa, reading and making notes. At rise, Alan enters, studies her for a moment. He makes himself a drink, downs it, makes another.

PAULA

Are you trying to get drunk tonight?

ALAN

I'm trying to relax and calm down. If I don't, I'm liable to explode, and that won't solve anything.

PAULA

I think an explosion would be nice for a change, instead of having to sit through one of your emotionally controlled, very boring, cross-examinations.

ALAN

Where is she, Paula?

PAULA

Another wish not granted.

ALAN

Where is she? I have a right to know.

PAULA

A father's right?

ALAN

Yes, besides it being my job to get the truth.

PAULA

So then I am on trial. For the record, I haven't been read my rights.

ALAN

Stop it.

PAULA

Stop what?

ALAN

Obfuscating. You resort to sarcasm when you want to avoid the subject at hand.

PAULA

I wasn't being sarcastic, I was stating a fact.

ALAN

Tell me what you've done with her.

PAULA

Do you for one second think I'd do anything to hurt my daughter? Do you?

ALAN

No, I don't. So what's happened to her? Where is she?

Pause.

PAULA

She's safe.

ALAN

Safe where?

PAULA

Safe. That's all you should be worried about, that Elizabeth is safe and warm and fed. That she's loved. It's called being a parent.

ALAN

A parent is someone who does right by a child, regardless of consequences or personal pain. Someone who sets an example.

PAULA

What about her pain? For God's sake, we're the only parents she's ever known. You want to just tear her life away from her and give her to people she's never seen before.

ALAN

That's not what I want. I don't want any of this, I'd give everything I have to make it go away.

PAULA

That's exactly what I'm hoping to do.

ALAN

We can't, it's not in our power.

PAULA

It should never have come to a hearing being ordered. Grandparents have no right of custody above a parent's right, the Supreme Court ruled on that long ago.

ALAN

The difference in this case is that Jason Cook had no right putting her up for adoption in the first place.

PAULA

He was her father, and now you are.

ALAN

Step-father.

PAULA

What?

ALAN

Cook was Elizabeth's step-father. According to the family, her mother was pregnant with her when they married. It's not likely they're lying, it would be too easily disproved by comparing the birth and marriage records from Florida.

PAULA

He still could have been her father. People have been known to play hide the weenie before they get married.

ALAN

If necessary, a simple DNA test can answer that question.

PAULA

You're ready to pull out all the stops, aren't you? Your mind's all set on giving her up.

ALAN

That's not fair, and you know it. I'm trying to do what my office demands. I'd expect you to understand, you're an officer of the court, the same as I am.

PAULA

Definitely not the same as you. I can find a little compassion in the law.

ALAN

Yes, you've put together a brilliant career at Legal Aid defending hookers and addicts.

PAULA

Everyone's entitled to a defense, to have someone give a good goddamn about them. Somebody has to keep the fat foot of your law from stomping on the weak.

ALAN

That's what you think I do, use the law to victimize the innocent?

PAULA

If the conviction record fits.

ALAN

I need another drink.

PAULA

I think I better have one, too.

*She waits for Alan to fix his,
then fixes one for herself.*

ALAN

You don't seem to understand the position you're putting us in. The family has filed suit to get Elizabeth back. It's our duty to answer it.

PAULA

Funny they weren't worried about her when her mother was killed.

ALAN

At the time they only knew she and Cook had disappeared. They probably assumed she was dead, too.

PAULA

They didn't work very hard to find out.

ALAN

I can't answer for what they did or didn't do. They know now that she's alive, and they want her back.

PAULA

They must also know that she's been living in a loving home for the last six years, and that we acted in good faith when

we adopted her.

ALAN

We did, which will shield us from prosecution, but not if we don't cooperate with the investigation and produce her.

PAULA

Shouldn't you recuse yourself from the investigation?

ALAN

So far, it's a civil case. My office isn't involved in any aspect of the hearing.

PAULA

You seem to have a lot of inside information.

ALAN

Which I'll use if I can to protect all of us, you, me and Elizabeth.

PAULA

So then you are on our side?

ALAN

Of course I'm on your side! It simply isn't a question of taking sides.

PAULA

The law is always about taking sides. When someone is accused, the State's Attorney presumes guilt and works to prove it. The defense presumes innocence, or at least mitigating circumstances, a reason the person did what she did, a reason that overrules the letter of the law. It's an adversarial system, and there's a reason for that. It's because the law can be wrong, wrong, Alan, and when it is, we have the moral duty to fight it.

ALAN

To fight within the law.

PAULA

To fight it in any way we can!

Alan goes to his table, checks his notes.

ALAN

(to the audience) Ladies and gentlemen, in the case before

us tonight, you will hear evidence of a woman's deliberate actions. In full knowledge and understanding of the law, she's taking it upon herself to decide right and wrong. We recognize that it's a tragic situation. It's certainly not our aim to tear our own family apart. But six years ago another family was so torn, and they're asking now to be put back together to the extent they can be. They're seeking their rights, they want what they say belongs to them, and if they can prove it does, they deserve to have it back.

PAULA

Objection!

ALAN

On what grounds?

PAULA

A little girl isn't a piece of property. We didn't buy stolen jewelry, we adopted a baby, a living human being.

ALAN

An apt analogy. If we had purchased some jewelry, or any kind of merchandise, honestly and in good faith, and if it were later shown to be stolen goods, we'd still be forced to return it to its rightful owner.

PAULA

My objection stands, Elizabeth is not goods.

ALAN

Semantics, you're arguing semantics!

Paula goes to her table, checks notes.

PAULA

(to the audience) Ladies and gentlemen, the defense is arguing for humanity, for the one and only person who's being given no voice, no chance to decide her own fate. Our Constitution, the law on which all our other laws are based, guarantees that right to every person, it's the most sacred of all rights. A six-year-old girl deserves that right the same as any of you.

ALAN

Ha! You're making my point for me.

PAULA

The prosecution isn't letting me speak.

ALAN

Elizabeth is six years old, she isn't of age and hasn't come into her rights.

PAULA

Have you asked her what she wants? As her father, Alan, not as an Assistant State's Attorney, did you sit down with her and ask if she's happy, if she wants to stay with her parents, her friends, in the home she loves? Did you ever take the time to really know her? Do you know what she likes to do when she's alone, what her favorite foods are, her favorite books or tv shows? I do.

ALAN

So you're saying I'm a bad father?

PAULA

I'm saying you see black and white instead of gray, the real color of human beings.

ALAN

Wow, that's a pretty good line.

PAULA

(making herself another drink)

Screw you.

ALAN

No, I mean it. You'd blow away a judge or a jury with that one. You really do have talent.

PAULA

Thanks.

ALAN

Paula, why not just argue the case? Why not let it come before a judge as it should, and argue your side of it? Our side, I mean.

PAULA

Really? Our side?

ALAN

I love Elizabeth as much as you.

PAULA

Do you? Do you really care what happens to her?

ALAN

You know I do.

PAULA

I don't know that at all. I know you want her here so you can turn her over to DCFS, or whoever's going to take charge of her.

ALAN

You have a low opinion of your husband.

PAULA

Are you denying the fact?

ALAN

Why are you choosing to go about it this way? If you can tell me that much, maybe I could understand. Why like this?

PAULA

A lawyer should never ask why, because any answer will be the right one.

ALAN

I'm asking, anyway.

PAULA

Because I'm terrified.

ALAN

Of losing her?

PAULA

Yes, part of it is selfish. She's mine, she belongs to me, as much as if I'd actually given birth to her. More so, in some ways. Alan, do you remember what it felt like when we learned I can't conceive? Maybe it wasn't the same for you, but for me it was a kind of death sentence. I had to bury something in myself.

ALAN

I do remember. And we both mourned, perhaps I not as much as you.

PAULA

Then after we decided to adopt, the waiting, the myriad times we got our hopes up, and something would go wrong. It seemed like we'd be wearing diapers ourselves before we ever had a child of our own.

ALAN

You're exaggerating a little bit.

PAULA

And finally Elizabeth came. The second I laid eyes on her, I knew she was the one, that everything had happened to get her to me. Like a flood, everything I'd clamped down inside rushed out of me and swallowed her. I fell more in love with her than I've ever been, even with you.

ALAN

I'm not sure how to take that.

PAULA

Take it as the truth. That's supposedly what you want.

ALAN

Alright, it's the truth. I love her, too.

PAULA

You asked why. And the other part of why isn't selfish. I'm a mother tiger, I instinctively bare my teeth and claws when anything threatens my child.

ALAN

No one wants to hurt Elizabeth.

PAULA

The law does, your law. One mother has already been taken from her, now you want to take another.

ALAN

(to the audience) There you have it. This woman, a mother, is acting on instinct and emotion. Believe me, there is the deepest, most primal emotion on all sides in this case. Six years ago a mother— and a father, I might add— lost their only daughter to murder, the most heinous of crimes. What do you suppose were their emotions? How do you think they feel now, having learned that their only grandchild is alive and where she is? Put yourselves in their place. Wouldn't you want that child returned to her natural family? Wouldn't you want that last link to your own child returned to you? No matter. It may be unfortunate, but emotion must be put aside, ignored. The law demands a cold, reasoned interpretation of fact. That's what we're asking you to do.

PAULA

You can't have it both ways. You can't ask them to consider

one side's emotions and then say emotion doesn't count.

ALAN

I didn't say it doesn't count. I believe I said it must be weighed in light of the facts of the case.

PAULA

(to the audience) The prosecution would have you believe that the law can be applied without regard for the people it's supposedly designed to protect, without regard for the heart. But if that were true, we wouldn't need juries at all. We don't ask you only to apply the law, we ask you to decide what's right, in this case, what's right for a little girl, what's best for her. You can't do that without turning to your own hearts. You can't decide unless you can feel. The defense intends to prove beyond a shadow of all doubt that there is only one right decision, because there's only one right, human, feeling you can have.

ALAN

That's improper, you're trying to prejudice the jury.

PAULA

I'm trying to show that the case is more complicated than the law allows.

ALAN

No, it's quite simple, a simple matter of obligation under the law. If we don't turn her over, we can be found in contempt of court. Is that what you want?

PAULA

I want what's best for my child. And I have the harshest contempt for any law that doesn't want the same.

ALAN

Even if it means going to jail?

PAULA

I figure I can do a dozen years, at which point Elizabeth will become an adult and none of it will matter.

ALAN

She'll have spent those years growing up with no family at all.

PAULA

Maybe I'll see her on visiting days.

ALAN

Goddamn it, Paula, it will get you nothing! You can't win like this, and you know it. All you'll succeed in doing is dragging me down with you.

PAULA

Now we're getting to what's really important, aren't we?

ALAN

I don't know what you mean.

PAULA

You're worried whether this whole mess will affect your career in some way.

ALAN

For Christ's sake, that's ridiculous.

PAULA

No, it isn't. Macklin is retiring next year, and you're going to run for State's Attorney.

ALAN

I haven't announced any such intention.

PAULA

Nor discussed it with your wife, but I know damn well you're running. Being involved in any kind of lawsuit might somehow throw a wrench in your works, and you want to take care of it as quietly and harmlessly as possible, rather than fight for Elizabeth.

ALAN

I will fight for her, we'll fight for her together.

PAULA

We haven't been together for a long while, Alan.

ALAN

Objection, relevance.

PAULA

Our marriage is absolutely relevant.

ALAN

Then I object to your implication.

PAULA

Again, I was stating a fact.

ALAN

You were raising a very sore point.

PAULA

For me, too.

ALAN

I'm not the one who stopped wanting sex.

PAULA

What I wanted was time, I needed to sort things out. Being unable to conceive, I felt I was less of a woman.

ALAN

I tried to understand. I never pressured you.

PAULA

No, you moved to another bedroom.

ALAN

I thought you wanted to be alone. I thought sooner or later you'd come to me, ask me back into our bedroom.

PAULA

I waited for you to say you wanted to come back.

ALAN

I hoped adopting Elizabeth would fix our problem. It didn't. You became so wrapped up in her, you wouldn't have heard anything I said.

PAULA

You were jealous of her, and don't even try denying that.

ALAN

Fine, I'll admit it, I was a little jealous. It's not so damned unusual. A man needs care, too, once in awhile.

PAULA

You're right, and I accept my share of blame. I wish you'd just told me what you were feeling, instead of withdrawing so completely into your work. You made home the place you come to eat dinner, sleep and change your clothes.

ALAN

Looking back, I wish I could change a lot more.

PAULA

(making another drink)

You can't. We've become too used to being apart, to having separate sides of our life. Elizabeth and I are on one side, you're on the other.

ALAN

We've gotten off track. Let's return to the facts as they stand now. Elizabeth's family wants her back.

PAULA

We're her family!

Alan checks his notes.

ALAN

(to the audience) Jason Cook was married to Elizabeth's mother. Neither was a fit parent, that's irrelevant.

PAULA

It's all relevant.

ALAN

(continuing) Only in that it might help explain the result. Drugs, poverty, mean temper, there were a number of contributing factors. They lead to the fact that one night, in a fit of rage, he murdered his wife and disappeared with his step-daughter. Six years later, he was found and brought back to Florida to face charges. In order to avoid the death penalty, he confessed to his crime and to having deposited Elizabeth on the steps of a convent. From there, she went to an adoption agency and to us. *(to Paula)* Any objection?

PAULA

To your choice to end the story at that point, in that manner.

ALAN

What does my manner have to do with anything?

PAULA

(to the audience) In those intervening six years, Elizabeth has been fed, clothed, sheltered and loved. She's being educated, she has friends. She doesn't know her life is any different from any of theirs. If her father is somewhat

distant, she thinks it's because he's a man and sometimes that's how men are.

ALAN

I object to that, the defense is offering opinion as fact.

PAULA

It's a fact she thinks that, it's the way I've explained it to her.

ALAN

So Elizabeth has talked to you? About me?

PAULA

She wonders why you're not around, why you don't seem to take much interest in her anymore. She doesn't put it in those words, but that's what she means.

ALAN

That hurts. It really hurts.

PAULA

I'm sorry. There's danger in seeking the truth.

ALAN

Evidently. Why didn't you tell me that's what she felt?

PAULA

Why didn't you ask her what she felt?

ALAN

My career is important to me. Am I supposed to apologize for that?

PAULA

The defense doesn't ask you to apologize for anything. Don't ask me, either.

ALAN

So you admit you're in the wrong.

PAULA

I admit nothing.

ALAN

You just said you won't apologize. If you'd done nothing wrong, there would be nothing to apologize for.

PAULA

Now who's arguing semantics? *(to the audience)* Let's continue. Let's compare Elizabeth's life now to what it most likely would have been.

ALAN

Objection, speculation.

PAULA

The prosecution opened the door when they introduced her mother's murder.

ALAN

Which has nothing to do with Elizabeth's life now.

PAULA

She wouldn't have her present life if not for that. Therefore, knowing what you do about her mother's life with Jason Cook, you're also aware that Elizabeth would have grown up in a poisonous atmosphere had her mother not been killed. True?

ALAN

Yes, I'm aware, but—

PAULA

The chances are slim for any child growing up in an environment such as you described. Isn't that true?

ALAN

I can't know what her chances would have been.

PAULA

Come now, there have been dozens of studies done in that area, and you're familiar with many of them. Are you not?

ALAN

I know the generally held beliefs, yes.

PAULA

Don't you believe them yourself? Can you honestly say Elizabeth would have been better off living with poverty, violence, and all the rest of it? Can you? Answer!

ALAN

No, I can't!

PAULA

You've considered what her life would have been like, including the increased possibility that she might not even have survived as long as she has. You've considered that?

ALAN

Yes, believe it or not, I have considered that.

PAULA

And still you can send her back. Nothing further, for now.

ALAN

I won't let you leave it there.

PAULA

Subject to recall, I'm through with the witness.

ALAN

But you've conveniently skipped over an important fact, the most important. She won't be going back to her mother and Jason Cook. She'll be going to her natural grandparents, her blood relations.

PAULA

So you do have your mind made up to get rid of her.

ALAN

Don't put words in my mouth!

PAULA

They just came out of your mouth!

ALAN

"The defense presumes innocence." Those are your words. But what are you presuming about Elizabeth's grandparents and the rest of her family?

PAULA

We're her family!

ALAN

Answer my question. The truth is, you know nothing about these people, do you?

PAULA

I can only imagine.

ALAN

I'm not asking what you imagine, I'm asking what you know about them. The answer is nothing. Isn't that correct?

PAULA

Correct.

ALAN

They may be fine, hard-working, decent people. Correct?

PAULA

They may be.

ALAN

Not only the grandparents, the extended family as well, uncles, aunts, cousins. They could believe as firmly as you do in love and decency, education for a child, clean clothes and enough to eat. Isn't that correct?

PAULA

What's your point?

ALAN

My point is that it's wrong to judge an entire family by the way Elizabeth's mother and step-father lived. Would you agree with that? There's no such thing as a bad seed, some genetic defect that would render a whole family unfit to raise a child. Agreed?

PAULA

I didn't mean what I said as an indictment of the family.

ALAN

But by inference, you did indict them. You presumed guilt, didn't you? Didn't you? Answer my question.

Pause.

PAULA

Let me ask you something, Alan.

ALAN

You're out of order.

PAULA

A follow-up in rebuttal. You said you had considered what Elizabeth's life might have been like. Thinking as her father, did you also consider that a certain environment

produced her mother and Cook? If you're not sending her back to them, might not you still be sending her back to that same environment?

ALAN

That's still just speculation.

PAULA

But isn't it worth thinking about? It's true I don't know these people. I do know that Elizabeth is in a good place now, she certainly wouldn't be going to a better one. If she were, I could send her off gladly.

ALAN

It is simply not our place to decide.

PAULA

Not my place, you mean.

ALAN

Is that what I said?

PAULA

You're arguing for them, stating their point of view.

ALAN

No, I'm not.

PAULA

You are, at every turn. You've taken a defense position for the plaintiffs. Don't you see the conflict of interest in that?

ALAN

No, there's no conflict.

PAULA

Only if it's not your real interest.

ALAN

Counsel is seeking to put the prosecution on trial. She's telling us how to do our job, and making it a false issue before the court.

PAULA

I'm not telling you how to do your job, I'm describing how you've gone about doing it. Shall I have the record read back to you?

ALAN

(making a drink)

No, continue, if you think you're so smart.

PAULA

It's apparent that I'm not. I foolishly assumed my husband would be standing beside me to fight for our daughter.

ALAN

Believe what you wish, my interest is in doing what's right and doing it the right way. Even in a private matter, I'm still an attorney for the State. My interest is in justice.

PAULA

A noble claim. Saying it doesn't make it so.

ALAN

You resent me and my work, don't you? You've always resented what I do.

PAULA

Unfortunately, in our world your work is necessary.

ALAN

But you hate the fact that it's my work, your husband's work.

PAULA

I hate the fact that's it's always uppermost in your mind, your wife and daughter always take a back seat. Having a family is a career move, not something you really want.

ALAN

My career again, you keep coming back to it, as if it's a crime for me even to have one.

PAULA

Not a crime, an impediment, a barrier.

ALAN

To what?

PAULA

To being a husband and father.

*Alan goes to his laptop,
displays the first slide.*

ALAN

Move to have prosecution's exhibits numbered one through six accepted into evidence.

PAULA

What are they?

ALAN

A group of pictures. Exhibit one, Elizabeth and I opening presents on her first Christmas with us.

PAULA

The purple unicorn, oh my God, I almost forgot about that, I still keep it in the attic.

ALAN

She called it "horsey".

PAULA

You were the one who picked it out for her. She loved that ugly thing, she hugged it to rags, wouldn't let go of it for anything. Remember?

ALAN

She can be stubborn as hell when she wants to be.

(displays slide)

Elizabeth and I on her third birthday. Was that your first try at making a cake? It turned out pretty well as I recall.

PAULA

It was lopsided, but tasted okay.

ALAN

It must have, the way she's got it smeared all over her face.

PAULA

Chocolate has always been her favorite.

ALAN

(displays slide)

Exhibit three, Elizabeth and I at the zoo. Remember that day?

PAULA

This is just after we'd lost sight of her, then found her again. Four years old and she'd gone back for the cotton candy we said she couldn't have.