Reversal of Fortune:

Claus Von Bulow

The movie "Reversal of Fortune" depicts the real life story of an extremely rare case which was overturned by the appellate court in favor of Claus Von Bulow regarding his wife's coma in December 20th in 1980. This particular case and the appellate courts are very interesting. At the appellate level, the trial court record and briefs prepared by both parties are reviewed, and oral arguments may be heard; witnesses are not called and no jury is convened. The trial court record usually contains the pleadings that first initiated the case, a complete transcript of the court proceedings, materials admitted into evidence, and documents indicating the final judgment. This case was handle quite differently.

In the initial trial, Claus was found guilty and sentenced to 30 years in prison. They believed that he had injected his wife with insulin, resulting in a coma. Claus then hires Harvard law professor, Alan Dershowitz to represent him in the appellate case. At first, Alan is reluctant to take the case, but as he takes a closer look, he realizes that the family hired a private prosecutor and conducted a private search. The district attorney’s office accepted the filtered evidence presented to them and based their case on it. He believes that if they get away with that, every
rich person will do the same, and next time the defense will not be so rich. Although Alan decides to take the case, he remarks that they have a "100 to 1" against the chance of winning the case. As explained in *Judicial Process*:

- Criminal appeals are routine; they seldom raise meritorious issues (that is, they do not raise new or important points of law) (Wold and Caldeira 1980). Current standards for effective assistance of counsel force lawyers to appeal, no matter how slight the odds of appellate court reversal. As a result, a significant number of criminal appeals lack substantial merit. According to one intermediate appellate court judge, "If 90 percent of this stuff were in the United States Post Office, it would be classified as junk mail" (Wold 1978)(416).

This emphasizes the importance of this case. With such a slim chance of reversing a case in the appellate court, Alan proceeds nevertheless. At first, he discovers most of the legal apprentices working with him believe Von Bulow is actually guilty, but as they uncover that more and more of the evidence was manufactured, their opinions change.

As the defense gathers information, they come to realize that no one is quite sure what drug was injected into Sunny, nor did they have evidence that Claus was the one who injected it in the first place. Since Claus' wife, Sunny Von Bulow was not a diabetic, Alan wonders why they would have insulin in the first place. She was found with fourteen times the reasonable amount of an insulin injection. The only thing that the prosecutor lacked in the first case was proving Claus' motive. They assumed that Claus' only motive could possibly of been the fact that he stood to
inherit fourteen million dollars from his wife. Claus’ mistress later testifies that Claus showed her an analysis of her will. Although, down the road, Claus’ team comes to find out that she might have intended to hurt Sunny by exposing their love affair by making such statements and returning love letters when she was aware that Claus was not home. The tables are turned as the motives of Alexander and Ala are examined, including their desire to disinherit Claus and Cosima and to prevent anyone else from having any input in the care of the comatose Sunny. Another questionable issue in the first trial was Robert Brillhoffer’s notes of the families testimonies which were used against Claus in court. Brillhoffer used these notes against the defense witness, but the defense never saw the notes themselves. The judge would not let them have them because he claimed in was insufficient grounds.

Alan concludes that there are two major problems. The first is that the case against Claus is very strong. Second, Alan states that “the legal conviction is not the only conviction that they have to reverse, the most difficult part is that the American people have an absolute assertion that he is guilty.” They have to absolutely obliterate every aspect of the case itself. Along the way, Alan team have problems with the moral implications of taking such a high profile case in which, they question whether Claus is guilty or not. Alan states, “If lawyers only defended innocent clients there’d be ten defense lawyers in the entire country and none of you would be able to find a job.” They find a witness, although not a very credible one, who tells Alan that we was delivering packages to Alex (Sunny’s son) six times before he before he grew suspicious and opened one. He says that he found pills, powder,
and syringes. He also stated that Alex admitted that it was for his mother. Alan’s team gathers several affidavits from various people including a priest.

In Sunny’s coma, she says that it is true that she had a drinking problem, smokes three packs a day, took valium amongst other things even though she knew she had hypoglycemia, which made it hazardous. She also admits that she preferred to stay in bed most of the day. Although this information is vague and does not help the case whatsoever (because Sunny is in a coma and the narrator of the film), it helps the viewer gain some perspective on the matter on hand. Sunny had overdosed on aspirin before her final coma. No one maintained that Claus had anything to do with that incident. This helps Claus’ case and also helps Alan create the case that Sonny was indeed, suicidal. Claus states that Sunny never likes doctors and refused to go on many occasions. In the film, one of Alan’s employees makes a rather imperative statement regarding appellate courts, "They do not like to reverse cases or change laws based on technicalities, but they do when they believe that the convicted are innocent."

The lawyers invite Claus over to their law firm, or rather Allen’s house to hear his side of the story. Claus states that during the time of the first coma, Sunny loved Christmas and on this occasion, she made eggnog. He continues to say that on this particular Christmas, she drank the entirety of the eggnog (nearly twelve glasses). Claus explains that she rarely drank before that, but they were having marriage problems. Claus had recently admitted to his love affair with Alexander, and she was upset because he also decided to work more. They spent the evening and most of the night arguing. She drank and took pills throughout the night,
according to Claus. Their housemaid, Maria stated that she heard Mrs. Von Bulow moaning in the morning, but Claus says that she was exaggerating and that she never moaned at all. Claus' conclusion is that she had tried to kill herself.

Claus recalls the story of Sunny's second coma which he states, was instigated by his job, again. He was offered to work in the oil industry in Europe, but this upsets Sunny. She wants him to retire. Sunny decides that she was to split up again on the night before her coma, Claus explains. This goes against Alex's claim that Claus had wanted to divorce after she fell into a coma. Claus states "Why would I want to split up after she is already in a coma? That makes no sense." Claus states that she ate only a sundae despite her condition. He says he was working when the children came and got him because she fell and was weak. That night, Claus explains that they had nearly the same conversation as they had had the night before her first coma only this time, she was much more angry. He states that he was working all morning before he found her unconscious on the bathroom floor.

As the case progresses, Alan decides to send needles with different drugs to the same lab that the insulin needle was sent during the original case in order to check their accuracy. They also test needles themselves in order to see why there is a crusty tip. They conclude that it was dipped, but not used. Claus believes that it was created as false evidence. The needles come back from the lab false/positive which knocks out any medicinal evidence. One of Alan's assistants finds that in a different Rhode Island case, a judge ruled that if any case was based on circumstantial theory "the case falls apart if any part of the case is weak." Alan elaborates "If there is a weak link in the chain, you throw the chain out." At this
point, the first witness, David Marriott stops by Allen's house decreeing that he can swear that the woman whom he delivered drugs to was indeed, Mrs. Von Bulow. He makes a few strange statements which are proceeded by his trip to the bathroom whereupon he pulls out a tape recorder to prelude his evil plot to stymie Allen's case.

Throughout the film, the defense lawyers continue to speak of how they have heard that the state had an "ace in the hole", but they did not know what it was. They come to find out that the first witness, David Marriott, was recording all of his conversations with Alan and manipulated the content. The defense is worried that if they win the case, Alan will go to jail. It isn't long until the courts realize that the tapes were falsified and David Marriott's credibility is worsened more so. At this point in the case, Claus' lawyers decide that there are two important aspects of their defense. Namely, judicial error, or they should of thrown out the case in the first place and that they just need to prove Claus innocence. This case is different from most appellate court cases. For instance, usually only the trial court determines the factual issues in a case. In its review, the appellate court does not try factual issues. Instead, it determines only whether there is sufficient evidence to support the findings of the trial court and whether the trial court correctly applied the law. On the day in court, the Supreme court justice interrupts Alan's statement regarding new evidence by stating, "You know there is no ground in appellate court to enter new evidence." Alan quickly snaps back with "the only way to show a better theory is to present it", based on Rhode Island's decision regarding a previous case. The defenses first evidence is the crusted needle. This becomes the chief reason that discredits the original case and leaves little room for the court not to reverse it. It comes down
to the Brillhoffer notes and the illegal search and seizure which are overturned and Claus is found not guilty. Alan's last words to Claus are short and sweet, he looks him in the eye and says, "I dealt with it legally, now you have to deal with it morally." Alan never truly never knows whether Claus was innocent or not, but it is not his job. From the beginning, Alan affirms the idea of justice or, according to Judicial Process, "Fairness in treatment of the law." It is not who is wrong or right, but who has the stronger case.

Finally, this case would be considered, "Layer 1, The Celebrated Cases," according to Judicial Process' figure 8.5 on page 263. The fact that Claus Von Bulow was well known at the time made this case as important as cases involving O.J Simpson, Michael Vick and Casey Anthony of our time. More recently, Alan Dershowitz acted as an appellate adviser to O.J. Simpson's defense team during Simpson's trial in 1995. He has worked many high profile cases since Claus Van Bulow. Roger Ebert's review of the movie describes:

- The von Bulow case was the dream of the media. It had all the ingredients to catch the imagination of a public addicted to soap-opera excesses: fabulous wealth, sex, drugs, aristocracy, servants, and all the other accoutrements of the international jet set. It contained many features of the classic mystery, including a dramatic piece of evidence: an incriminating black bag containing drugs and a syringe with an insulin-encrusted needle(1).

This description recognizes the beliefs of what makes a case a celebrated case.

Judicial Process explains, "Celebrated cases are unusual because, from the moment
the cases begin, criminal justice officials treat them differently, making sure every
last detail of the judicial process is followed (263)." As illustrated above, this case
was unique from most cases. The reversal was a tremendously exclusive verdict in
history.
Work Cited

Barbet Schroeder. (Director) (1990). Reversal of fortune [DVD].
