

The Practice
Rape Shield
Season 8, Episode 7
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Transcribed by olucy

Inside Diane Ward's bedroom, she is sleeping. Alan is dressed for work, standing next to the bed, looking at her. She awakens and sits up.

Diane Ward: What are you doing?

Alan Shore: Just looking.

Diane Ward: Just looking?

Alan Shore: I leave. I perhaps should have shared that prior to getting intimate, but—in relationships, I leave.

Diane Ward: Are you leaving now?

Alan Shore: Only to go to work. I don't mean to suggest any waning interest on my part, to the contrary. But in the spirit of honesty...

Diane Ward: You leave.

Inside a prison visitors' room, Tara Wilson takes a seat across from her client on the other side of the glass. They each pick up their phone to talk.

Tara Wilson: Okay. You'll be transported to the courthouse tomorrow at 8am. The trial is scheduled for 9.

Derrick Mills: When do I see my lawyer?

Tara Wilson: Mr. Berluti will be waiting for you at the courthouse. As will I. You might want to think about a plea. Aggravated rape could be as much as twenty-five years.

Derrick Mills: Can I ask you something?

Tara Wilson: Certainly.

Derrick Mills: How is it that I'm going on trial tomorrow, facing twenty-five years, and I haven't seen my lawyer in weeks.

Tara Wilson: He's been working on the case. And he's quite prepared. I assure you, you're in very capable hands. ***Derrick Mills angrily hangs up his phone.***

Theme.

Tara is carrying a large floral arrangement to Jamie's desk.

Eugene Young: What are these?

Tara Wilson: They're for Jamie, actually.

Ellenor Frutt: Wow, orchids in November. Who from?

Tara Wilson: We don't know.

Jimmy Berluti: You ready?

Tara Wilson: Ah, a little heads up. The client's slightly perturbed not having seen you.

Jimmy Berluti: Okay. Let's go.

Eugene Young: Jimmy, hold on a second. You haven't seen your client?

Jimmy Berluti: Not since the arraignment. Tara's been doing the back and forth with him. I've been prepping the case from here. Hey, you're the one who said "watch our time" on the court-appointed cases, Eugene, so—

Eugene Young: I said "draw limits." I never said "don't bother to meet with the client."

Jimmy Berluti: I'm ready to try the case. Don't worry. C'mon Tara.

Eugene turns to see Jamie standing at her desk, reading the card that came with the flowers.

Eugene Young: Nice. Who from?

Jamie Stringer: This is kinda private.

Ellenor Frutt: Somebody Jewish, I hope.

Inside Judge Roberta Kittleson's courtroom. Samuel Palmer is on the witness stand.

Samuel Palmer: I arrived home, I think it was just after 8pm. I was picking up Jessica to go out to dinner. It was her twenty-first birthday.

D.A. Robert Webb: Jessica is your daughter?

Samuel Palmer: Yes. I came into the house and I immediately heard noise coming from somewhere.

D.A. Robert Webb: What kind of noise, sir?

Samuel Palmer: Well, I really couldn't identify it at first. But then I went into the living room and, uh, I-I saw the cause of the noise.

D.A. Robert Webb: What did you see, sir?

Samuel Palmer: I saw my daughter being raped.

D.A. Robert Webb: I know this is difficult, sir, but can you describe for the jury exactly what you saw?

Samuel Palmer: Jessica was on her back, on the floor. That man over there was on top of her. Her pants were pulled down. His too. And he was forcing himself inside of her.

D.A. Robert Webb: Are you sure this is the man you saw on top of your daughter?

Samuel Palmer: I'm positive it was him. It was him. **He points to Derrick Mills.**

D.A. Robert Webb: What happened next, Mr. Palmer?

Samuel Palmer: I picked up a shovel by the fireplace and I knocked him unconscious. Then-then I called 9-1-1. I tied him up with an electrical cord. The police came and got him.

D.A. Robert Webb: And could you describe for the jury the condition of your daughter?

Samuel Palmer: She was beyond hysterical.

D.A. Robert Webb: I'm done, Your Honor.

Jimmy Berluti gets up to cross-examine.

Jimmy Berluti: You said, sir, you heard noises when you entered. Did you hear screams?

Samuel Palmer: I said before I couldn't identify the noises.

Jimmy Berluti: When you saw what you saw, would it be fair to say it caused you feelings of shock?

Samuel Palmer: That would be fair.

Jimmy Berluti: Did you see any weapon in my client's possession?

Samuel Palmer: No.

Jimmy Berluti: Nothing further.

Tara Wilson and Jimmy Berluti are talking to an angry Derrick Mills in the courthouse conference room.

Derrick Mills: You didn't do *nothin'*!

Jimmy Berluti: Look, Derrick, this was the father of the victim. You've got to walk a careful line.

Derrick Mills: I'm the victim here, Mr. Berluti. Do we not understand that?

Jimmy Berluti: In the eyes of the jury, this man was sympathetic. It would have been a mistake for me to beat him up.

Derrick Mills: So you did nothing?

Jimmy Berluti: No. I established that he didn't hear screams, which, as the girl's father he would have remembered hearing. I established that he went into shock upon seeing the event. Shock compromises capacity to observe. **To Tara**—Did you explain to Mr. Mills that our theory of defense--

Derrick Mills: Why haven't *you* explained it to me? Huh? She's a law student. Where the hell have you been?

Jimmy Berluti: We got a problem, Mr. Mills? Cuz if we do, I've got an easy suggestion. We can go see the judge and tell her you want a different lawyer. I doubt she'll give you one in the middle of the trial, but hey. It's worth a shot. You like to take your shots where you find them, eh, Derrick?

Tara Wilson: All right. This isn't helping.

Jimmy Berluti and Tara Wilson are walking down the hallway of the courthouse.

Jimmy Berluti: Seems like a nice guy.

Tara Wilson: He's angry.

Jimmy Berluti: Yeah, I picked up on that.

Tara Wilson: Jimmy, if I could play the role of a naïve law student for a second. There's no chance that he could be innocent, is there?

Jimmy Berluti: What are you talking about? You're the one who's been saying he's guilty.

Tara Wilson: I know. I'm sure that he is. It's just that he's so indignant.

Jimmy Berluti: Lesson number one, Tara. The guiltier they come, the more indignant they get about being arrested.

Tara Wilson: Right. Good. **They both get on the elevator. Jimmy looks troubled.**

At the office of Young Frutt & Berluti, Alan Shore greeting Diane Ward at the door.

Alan Shore: Is there a problem?

Diane Ward: No.

Alan Shore: Excellent. So you are here to...?

Diane Ward: Alan, I don't like "I'm leaving" to be the first words out of a man's mouth in the morning. Especially after I've slept with him the night before. ***Ellenor Frutt is at a nearby filing cabinet, overhearing this conversation. Alan notices this.***

Alan Shore: Could we perhaps discuss this later?

Diane Ward: Oh, I'm not here for confrontation, Alan. Only some clarity. Will we be seeing each other again?

Alan Shore: Would tonight be soon enough?

Diane Ward: Yes.

Alan Shore: Fine then. ***She stares at him, a little surprised. He reaches over and kisses her briefly on the lips, then ushers her to the door. She leaves.***

Ellenor Frutt: The man Roland Huff shot. Wasn't that his sister?

Alan Shore: I believe it was, yes.

Ellenor Frutt: You slept with her?

Alan Shore: I did, actually. Thank you for asking. ***He starts to walk away.***

Ellenor Frutt: Alan. ***Ellenor walks off after him.***

Eugene comes into the room alone, sees the flowers on Jamie's desk and reads the card. Jamie comes up behind him.

Jamie Stringer: Do you mind?

Eugene Young: Sorry, I, uh, uh

Jamie Stringer: Thought they were firm flowers?

Eugene Young: Well, since they were out in the open, I thought—

Jamie Stringer: I left them on my desk.

Eugene Young: Okay. Sorry. ***He starts to walk away, then turns around.*** You settled Melissa Kenner's case for twenty-five thousand dollars?

Jamie Stringer: Uh, oh, yeah. She was very pleased. Hence the flowers.

Eugene Young: How come you never told me about the settlement? I mean, that's a pretty good result.

Jamie Stringer: Well, I-I don't know. I don't talk about all my cases, Eugene.

Eugene Young: Where's the money?

Jamie Stringer: Sorry?

Eugene Young: Our contingency? There are no funds in the client's account. So when is the money coming in?

Jamie Stringer: Soon. Very soon.

In the outer office of Young Frutt & Berluti, Jamie Stringer is talking to Ellenor Frutt.

Ellenor Frutt: What's this?

Jamie Stringer: The contingency on Melissa Kenner. I can't make deposits as an associate, so I'm giving it to you as a partner.

Ellenor Frutt: I'm confused. We deduct contingencies and then we pay the client. Why is this check—

Jamie Stringer: I forgot. The client got the whole thing. She cut a money order for us.

Ellenor Frutt: You forgot? You just gave the client the whole thing?

Jamie Stringer: Look, we got the money. Can you just make the deposit?

At that moment, Melissa Kenner bursts in the door carrying a cake.

Melissa Kenner: Hello!

Jamie Stringer: Melissa! We were just talking about you.

Melissa Kenner: I brought a little surprise. Did you get my flowers?

Jamie Stringer: I did. Thank you so much.

Melissa Kenner: Well, I just thought – ***at that moment, Melissa sees Alan Shore walk into the room.*** Mr. Torrence! What are you doing here? ***Ellenor looks perplexed.***

Alan Shore: Oh, well, uh, I work here.

Melissa Kenner: You work here? I don't understand. You work for the airline?

Ellenor Frutt: The airline?

Alan Shore: It's just in-house counsel for a big airline. It just wasn't my calling. And I was so overwhelmed by Jamie's dedication to you. It so warmed the cockles of my heart. I was inspired to shift career direction. Thank you, Melissa, for both the new life and the warm cockles. ***Ellenor is staring at Alan, stunned.***

Inside Judge Roberta Kittleson's courtroom. Jessica Palmer is in the witness chair.

Jessica Palmer: I was trying to find my way back to find my way back to Storwood Drive, and I pulled over and asked for directions. And suddenly, he just jumped in.

D.A. Robert Webb: Who jumped in?

Jessica Palmer: Him. He told me he had a knife. And told me to drive.

D.A. Robert Webb: Did you see the knife?

Jessica Palmer: No.

D.A. Robert Webb: Okay. Then after he told you to drive, then what happened, Jessica?

Jessica Palmer: He reached inside my purse, pulled out my wallet and my license. He saw the Beacon Hill address. He said he wanted some nice Beacon Hill things. And he said if we didn't go there, he'd kill me.

D.A. Robert Webb: So you drove to your home?

Jessica Palmer: Yes. He just wanted some stuff to sell to get drugs. So I took him in. He looked around and then, then he said first he wanted some recreation. And that was the word he used. Recreation. Then, then he grabbed me. I tried to scream but it—

D.A. Robert Webb: Take your time.

Jessica Palmer: He pushed me to the floor and pulled off my jeans. And I was just, I was saying to myself, "Dear God. Please just let me pass out."

D.A. Robert Webb: Did you pass out? **Jessica shakes her head no.**

Jessica Palmer: And then he was inside me. He was inside me.

D.A. Robert Webb: Jessica, at any time, did you consent to having sex with the defendant?

Jessica Palmer: No. God, no.

D.A. Robert Webb: Thank you, Jessica.

Jimmy Berluti rises to begin his cross-examination.

Jimmy Berluti: Jessica, allegation of rape. That's a very serious thing. When you accuse a man of rape, he could lose his freedom.

D.A. Robert Webb: Does counsel have a question?

Jimmy Berluti: Did you willingly have sex with my client only to claim rape after your dad walked in?

Jessica Palmer: No. He forced me.

Jimmy Berluti: I see. And have you ever claimed somebody raped you before after having —

D.A. Robert Webb: Objection!

Judge Roberta Kittleson: Sustained. Cut it out, counsel.

Jimmy Berluti: Isn't it true you invited my client back to your house?

Jessica Palmer: No. It is not true. And I did not extend an invitation to be raped.

Jimmy Berluti: Nothing further.

Tara Wilson and Jimmy Berluti are exiting the courtroom and walking down the hallway.

Jimmy Berluti: That went well.

Tara Wilson: Jimmy, it might be my imagination, but when you asked if she'd ever claimed rape before—

Jimmy Berluti: What?

Tara Wilson: Well, it just seemed that the District Attorney was ready for the question. He pounced to shut it down.

Jimmy Berluti: What are you saying?

Tara Wilson: You might have stumbled onto something.

Jamie Stringer and Ellenor Frutt are talking in the outer office of Young Frutt & Berluti.

Jamie Stringer: I wasn't in on it. He just did it.

Ellenor Frutt: He pretended to be a representative of the airline?

Jamie Stringer: Yes.

Ellenor Frutt: First, why didn't you stop him? And second, why didn't you tell me or Eugene?

Jamie Stringer: I didn't know he was going to do it, Ellenor. And I didn't tell you to protect both him and you.

Ellenor Frutt: Jamie, you are a second-year associate. It is not your call whether to tell or not on something like this.

Jamie Stringer: The guy went to bat for me. How can I—

Ellenor Frutt: I don't care. You report to a superior, either me or Eugene. No exceptions.

Ellenor walks over to the library where Alan is doing research.

Ellenor Frutt: Alan, can you come into my office please?

Alan Shore: Have I been bad?

In the firm's conference room, Jimmy Berluti and Tara Wilson are working at a table covered with files and books.

Tara Wilson: Oh, God, Jimmy. Here it is.

Jimmy Berluti: What?

Tara Wilson: Page thirty-two. Victim's father reports two previous unconfirmed claims of rape. Investigated...

Jimmy Berluti: ...unsubstantiated. No arrests made. How could we have missed this?

Tara Wilson: It's practically a scribbled footnote. Look. It notes even the father doubted the validity of the prior claims.

Jimmy Berluti: She tells the father she was raped. Twice. The claims are dismissed. So she sets it up for him to walk in on her so he'd have to believe her.

Inside Ellenor's office.

Ellenor Frutt: You got fired from your last firm for embezzling.

Alan Shore: Allegedly.

Ellenor Frutt: You threatened extortion your first week here.

Alan Shore: That was an accident.

Ellenor Frutt: Break privilege, for which you almost got disbarred.

Alan Shore: Horseshoes.

Ellenor Frutt: Sleep with witnesses.

Alan Shore: Just the one.

Ellenor Frutt: And now I find out you actually impersonated an opposing party so you could settle a case. That's not just fraud. That's probably criminal. Alan, look at me. You are seriously self-destructive.

Alan Shore: Isn't everybody?

Ellenor Frutt: Look, I adore you, you know that. But this firm is my life. I have to tell Eugene.

Alan Shore: May I ask why?

Ellenor Frutt: He's a fellow partner. I have a fiduciary responsibility to him. And you are exposing him to enormous liability, as you are Jimmy and me. Alan, you are an amazing lawyer. But I don't think it's going to work out here.

Alan Shore: Are you firing me?

Ellenor Frutt: I'm going to talk to Eugene. But—I—

Alan Shore: But you don't think it's going to work out here.

Inside Eugene Young's office.

Ellenor Frutt: The difficult thing about firing him—

Eugene Young: Aside from him being your friend—

Ellenor Frutt: Is that once again he fell on the sword for somebody else. This time for the firm, as well as for Jamie. And he did save us from a malpractice judgment.

Eugene Young: And possibly exposed us to something much worse.

Ellenor Frutt: Eugene, since I'm his friend I'm going to have to let you make the call here. In the spirit of objectivity, I just can't bring myself to do it.

Eugene Young: Okay. Ellenor, in the spirit of objectivity, you're going to have to deal with Jamie. She's complicit, too.

Inside Judge Roberta Kittleson's courtroom.

Judge Roberta Kittleson: All right, Mr. Berluti. You may begin your defense.

Jimmy Berluti: Thank you, Your Honor. The defense re-calls Jessica Palmer.

D.A. Robert Webb: I'm sorry, Your Honor, but if this involves a continuation of cross-

Jimmy Berluti: This is something new.

D.A. Robert Webb: Well, I'd appreciate a proffer.

Judge Roberta Kittleson: Counsel, step up. ***Both attorneys approach the bench.*** What is going on?

Jimmy Berluti: Evidence has come to light that Ms. Palmer has made claims of rape before and—

D.A. Robert Webb: This is rape shield. You can't get into this.

Jimmy Berluti: Can't get into it?

Judge Roberta Kittleson: None of us will get into here. Chambers.

Inside Judge Roberta Kittleson's chambers.

D.A. Robert Webb: Her sexual past is off limits. Any questions relating to her sexual past are—

Jimmy Berluti: This goes to her credibility, not her sexual past.

Judge Roberta Kittleson: This woman alleged rape how many times?

Jimmy Berluti: Two. Both times to her father, who was dubious himself—

D.A. Robert Webb: You can't say this.

Jimmy Berluti: I can't say it? If she goes around claiming rape—

D.A. Robert Webb: First of all, you can't prove these claims were false. And even if you could, it still falls within rape shield. False rape accusations by the victim are not admissible unless a four-prong test is satisfied. One prong being, the victim is the only prosecution witness. Which here, she isn't. We have an eyewitness to the rape.

Jimmy Berluti: Her father.

D.A. Robert Webb: It doesn't matter.

Jimmy Berluti: I'm not lookin' to impugn a woman's sexual past. This is only being introduced to impeach—

Judge Roberta Kittleson: I understand. But there's no impeachment exception. And even if there were, you have a slew of problems, counsel. First, Mr. Webb states the law correctly.

Jimmy Berluti: Your Honor—

Judge Roberta Kittleson: Second, victim's testimony has to be confused or inconsistent. Hers wasn't.

Jimmy Berluti: Let me question her—

Judge Roberta Kittleson: And third, you have to file all questions regarding her sexual past before trial. You didn't.

Jimmy Berluti: Because I didn't know.

Judge Roberta Kittleson: And whose fault is that? It was in the file. Did you read it?

Jimmy Berluti: They buried it deep in the file, barely a footnote, they didn't want us to find it.

Judge Roberta Kittleson: But it was there.

Jimmy Berluti: Your Honor, come on. This woman has perhaps falsely claimed rape before. How can it be possible that the jury doesn't get to hear this.

Judge Roberta Kittleson: You can write your congressman if you don't like the law, counsel. In here, we simply follow it. Any and all evidence of prior rape accusations will not be introduced.

Tara Wilson and Jimmy Berluti are meeting with Derrick Mills in the courthouse conference room.

Derrick Mills: You can't even raise it?

Jimmy Berluti: No.

Derrick Mills: How can this possibly be?

Jimmy Berluti: There are specific laws—

Derrick Mills: Don't I have the right to confront my accuser?

Jimmy Berluti: Unfortunately, not in rape cases. Look, I know this is unfair. I don't know what to say.

Derrick Mills: So what happens next?

Jimmy Berluti: We put you up. You tell your story.

Tara Wilson: Derrick. As entitled as you are to anger, you can't let it overtake you in there. This is important. Anger is consistent with a rapist. You need to keep it together.

Inside Ellenor Frutt's office.

Ellenor Frutt: I'm not firing you. But if this were a big firm, or perhaps any firm other than this one, you would be fired. You do know that.

Jamie Stringer: What's happening to Alan?

Ellenor Frutt: It's Eugene's decision, so, he's likely gone.

Inside Eugene Young's office.

Eugene Young: Did you hear what I just said?

Alan Shore: I did.

Eugene Young: Well, do you have a responses?

Alan Shore: I'm sure I do, but I'm distracted at the moment. Can I get back to you?

Eugene Young: I have given you an opportunity, perhaps your last opportunity, to account for yourself. You need to tell me your thinking now.

Alan Shore: Eugene, trust me, if I shared my thoughts with you, you'd regard them as disrespectful, rather than a product of my preoccupation, which I assure you is all it is.

Eugene Young: Talk.

Alan Shore: Okay. I went to bed with a lovely woman the other night. She had an extremely fetching body which, believe it or not, I wasn't aware of prior to the lovemaking. The reason for that is, she dresses to desexualize herself. And that led me to believe that perhaps there's some dark backstory I'm not privy to. I do know she seems sad. And then it got me to thinking, most of my relationships have been with sad women. And I was wondering why, what does that say about me? In the end, it always comes back to me. **Eugene is staring at Alan.** Comments?

Inside Judge Roberta Kittleson's courtroom. Derrick Mills is in the witness chair.

Jimmy Berluti: She picked you up?

Derrick Mills: Yes. I was on my way home from work.

Jimmy Berluti: What do you do, sir?

Derrick Mills: I'm a foreman at a furniture warehouse. I was on my way home, walking down Tremont and she pulled over to ask me for directions.

Jimmy Berluti: Jessica Palmer?

Derrick Mills: Yes. And then she started talkin' me up. Then, she asked me if I wanted to climb in, go for a drive.

Jimmy Berluti: She invited you into her car?

Derrick Mills: I know. It struck me as strange, too. Plus, she seemed shy, so what she was sayin' wasn't exactly in keepin' with her scared-like personality, but that's what happened.

Jimmy Berluti: Okay. So, you got in?

Derrick Mills: Yes. Then she started talkin' about it was her twenty-first birthday and tellin' me how she had lived a sheltered life, how she hadn't lived, how she hadn't done wild things and stuff like that. And the next thing, she's inviting me back to her place.

Jimmy Berluti: Just like that?

Derrick Mills: Just like that. It's the truth.

Jimmy Berluti: And you said yes?

Derrick Mills: Attractive women don't pull over every day and invite me home.

Jimmy Berluti: So what happened after you got to her place?

Derrick Mills: We went inside. She was very forward, sexually. She said it was like some kind of fantasy of hers. She wanted to pick up some guy in her car and take him home and make love to him. And I made some crack like, "yeah, it's my fantasy too." I mean, she didn't even want to go to her bedroom. She wanted to make love right there on the floor. Be wild.

Jimmy Berluti: Mr. Mills, this sounds like a very aggressive woman.

Derrick Mills: I know. And she had that same shy demeanor as she had in this witness chair. It didn't make sense, but that's what she said. She wanted to have sex, and we did. And in the middle, her father comes in and hits me with a shovel. And that's what happened. As God is my witness, that's what happened.

D.A. Robert Webb begins his cross-examination.

D.A. Robert Webb: Problem is, we have another witness and he saw you committing a rape.

Derrick Mills: We were making love. Which she consented to.

D.A. Robert Webb: This woman picks up a total stranger, drives him to her home in Beacon Hill and asks him to make love to her?

Derrick Mills: Yes.

D.A. Robert Webb: You wouldn't go into somebody's house uninvited, would you Mr. Mills? Ever been convicted of a crime, sir?

Derrick Mills: Ten years ago.

D.A. Robert Webb: Breaking and entering?

Derrick Mills: That's not who I am today.

D.A. Robert Webb: One assault.

Derrick Mills: I was a kid back then. I'm a thirty-year-old man now. I made a life for myself.

D.A. Robert Webb: Why didn't you wear a condom?

Derrick Mills: I didn't have one. Neither did she.

D.A. Robert Webb: Gee, that seems odd. This woman solicits a total stranger for sex and she's not going to have a condom? That's a death wish, isn't it Mr. Mills?

Derrick Mills: Well, maybe she's got a death wish. Maybe she had some disease where she needs to fake it—

D.A. Robert Webb: Move to strike!

Judge Roberta Kittleson: Mr. Mills!

Derrick Mills: Well, why can't I say it?

Judge Roberta Kittleson: Mr. Mills, I will direct you to answer the District Attorney's question. He asked you if you—

Derrick Mills: He asked me if she had a death wish. It goes to her disease.

Judge Roberta Kittleson: Mr. Mills, I sincerely don't want to prejudice your case. Members of the jury there is no evidence before you concerning the victim having a disease. You are to disregard such rants from the defendant—

Jimmy Berluti: Objection! He's not ranting, Your Honor, and—

Judge Roberta Kittleson: Mr. Berluti, we can stop this proceeding right now and complicate everybody's lives. There are rules of evidence. We will all play by those rules. Mr. Webb?

D.A. Robert Webb: I'm done, Your Honor.

Judge Roberta Kittleson: Very wise decision.

Ellenor Frutt walks into Eugene Young's office.

Ellenor Frutt: Hey.

Eugene Young: Hey.

Ellenor Frutt: Did you fire him?

Eugene Young: Don't ask me why, but no.

Ellenor Frutt: Maybe you like him.

Eugene Young: I do not like that man, it had nothing to do with that. You fire Jamie?

Ellenor Frutt: No. How you doing, Eugene?

Eugene Young: Me? Fine.

Ellenor Frutt: Okay.

Judge Roberta Kittleson is sitting alone at a bar. Jimmy Berluti comes in and sits on the barstool next to her.

Judge Roberta Kittleson: What are you doing here?

Jimmy Berluti: I just came in for a drink. I didn't know you'd be here.

Judge Roberta Kittleson: I'm here every night and you know it.

Jimmy Berluti: You had discretion to let that stuff in—

Judge Roberta Kittleson: Get lost, or I'll hold you in contempt.

Jimmy Berluti: I'll risk contempt. That woman cries wolf with rape. She set the whole thing up for her father to walk in on.

Judge Roberta Kittleson: Prove it in court, Jimmy.

Jimmy Berluti: My client is innocent. You know it. That's probably why you're in here getting drunk.

Judge Roberta Kittleson: Wrong again. I get drunk every night.

Jimmy Berluti: I know you, Roberta. I know your heart and I know your sense of fairness. This is something you can fix.

Judge Roberta Kittleson: Jimmy, you are a lawyer appearing before me in a trial. This is ex parte. After this case is over, if you want to sit next to me, fine. We can share a drink. Who knows, I might even wet your whistle after. But for now, get your ass off that stool.

Jimmy Berluti: You're a vulgar, desperate woman.

Judge Roberta Kittleson: All the more reason to remain a good judge, then. Now beat it. ***Jimmy leaves.***

Inside Judge Roberta Kittleson's courtroom, D.A. Robert Webb is giving his closing argument.

D.A. Robert Webb: You heard the victim. You heard from an eyewitness who saw the rape in progress. The defendant says it was consensual. Consensual sex does not look like rape, ladies and gentlemen. And consider the logic of what the defendant is asking you to believe. That Jessica Palmer picked up a strange man—a felon—in a terrible section of town, brought him back to her place to have unprotected sex, all the while knowing her father would either be there or be there shortly. That really sounds credible, doesn't it? And what would be her motive for making this up? Because rape trials are fun?

Jimmy Berluti is now giving his closing argument.

Jimmy Berluti: The eyewitness was her father, who basically admitted he went into shock as soon as he entered the room. Can we completely trust his version of what he thinks he saw? No. This case comes down to Jessica Palmer's word against Derrick Mills'. Might you be more inclined to believe her? Sure. Okay. But can we know she's telling the truth beyond all reasonable doubt. And you want to talk about logic? My client's prints were all over the car, all over the house. He's got a record. His prints are on file with the police. He's going to rape somebody and leave that kind of evidence behind? He's going to leave his semen there for easy DNA

identification? Does that make sense to you? Something's going on here, folks. The D.A. asks what would be her motive to lie? We can't know. We have rape shield laws that prohibit us from getting into her story. But let me ask you this. Does it feel like you've got the whole story? Does it?

Inside Diane Ward's kitchen, she is clad in a robe and serving tea to Alan Shore, who is wearing a suitcoat and partially unbuttoned shirt, with no tie.

Diane Ward: Are you not going to work today?

Alan Shore: I am, I just thought I might hover a bit this morning. **Alan is steeping his teabag in his cup.**

Diane Ward: What are you thinking?

Alan Shore: Why does everybody so readily ask that question today? It's as common as "How's the weather?" It's cheating. People should be required to figure it out. **Diane clears plates from the table to the sink.** Has a man ever asked you to disrobe? I don't mean go to bed, I mean simply asked you to disrobe from across the room so he might look at you?

Diane Ward: No.

Alan Shore: Would you like to be asked that?

Diane Ward: I don't know. Like I said, I've never been asked.

Alan Shore: Would you like to be asked?

Diane Ward: Yes.

Alan Shore: Interesting. **Alan sips from his cup.** If you think I'm asking only because you want me to, I assure you I'm being genuine. Would you take off your robe? **Diane turns around and drops her robe to the ground.**

Inside the law office of Young Frutt & Berluti.

Eugene Young: How long have they been out?

Jimmy Berluti: Almost five hours, which I guess it's good. It means they at least gotta be asking questions.

Eugene Young: Yeah. Can I talk to you for a second? **They both enter Eugene's office and he closes the door.**

Eugene Young: It was in the file that she had claimed rape before? **Jimmy looks down in embarrassment.** So if you had filed your questions with the court as required, you probably would have been able to cross examine the victim on it.

Jimmy Berluti: You don't need to tell me. Okay.

Eugene Young: You and I both know the idea that every defendant is entitled to an adequate defense is a lie. Defense lawyers, many times, barely bother to meet the client or read the file. Some even doze during trials. Lawyers phone it in all the time. But for it to happen here, for a lawyer in this firm to be as blatantly unprepared, court-appointed or not...

Jimmy Berluti: If we lose, I'll prepare the inadequate defense appeal myself.

The phone rings, Eugene answers it.

Eugene Young: Yeah? Okay. **He hangs up.** Your jury's back.

Inside Judge Roberta Kittleson's courtroom.

Judge Roberta Kittleson: Will the defendant please rise? Members of the jury have you reached a verdict?

Foreperson: We have, Your Honor.

Judge Roberta Kittleson: What say you?

Foreperson: Commonwealth versus Derrick Mills, on the charge of forcible rape, we find the defendant, Derrick Mills, guilty.

Judge Roberta Kittleson: This concludes your service. The court thanks you. Security will take the defendant into custody. We are adjourned.

Jimmy Berluti: Derrick. Derrick, look at me. I will get you out. Whatever I have to do. I will get you out.

Derrick is led away. Jimmy and Judge Kittleson exchange glances.

Inside the law office of Young Frutt & Berluti, the entire team, except for Jimmy, is gathered round, talking about the verdict.

Ellenor Frutt: Where is Jimmy now?

Tara Wilson: He went home. He's pretty devastated.

Eugene Young: Call him. He needs to get to work on the appeal.

Tara Wilson: Eugene, I should have caught this, too.

Eugene Young: Yes, you should have. But you're a third-year law student. He's not. **Eugene turns to leave, but Alan is in his pathway. He stares at Alan for a moment.**

Alan Shore: You're not going to ask me my thoughts, are you? **Eugene keeps walking by.** Eugene, Ellenor said something about me being self-destructive. It was probably just conversation filler, I really don't know. But I assure you if I am, unwittingly or unconsciously trying to take anybody down, it isn't you. Or this law firm.
Eugene walks away.

Inside the bar, Jimmy Berluti is sitting alone. Roberta Kittleson walks up to him.

Judge Roberta Kittleson: You're on my stool.

Jimmy Berluti: I'm sorry. Your ruling was correct. And any—this was my doing. I just came to say that. Now that the case is over, I was wondering if your offer's still good. I mean, to have a drink together.

Judge Roberta Kittleson: The case isn't over. There's still sentencing. But I suppose there's nothing wrong in drinking separately on adjacent stools, enjoying the illusion of company, I guess.

Jimmy Berluti: I could use it.

Judge Roberta Kittleson: So could I.

End.