

Joint Enterprise

If you're a junior defence barrister you don't get to choose the cases you would actually like to handle – the clerk just dumps the file and wanders off.

It's a bit like being in a bus queue but without being able to get on the one with a number on the front which is heading where you actually want to go.

As the clerk left I looked at the folder for one John Markham and realised it condemned me (but hopefully not him) to being in court on Monday week.

I first encountered "call me Johnny" when he was out on bail and deemed to think it was okay to arrive half an hour late for his appointment at our chambers.

He'd been accused of dealing Class B drugs – namely marijuana or weed to use the vernacular - an awareness that I felt might get Johnny boy to warm to me.

Boy was I wrong about that!

His first question related to client confidentiality, although this was actually expressed as "you're not gonna dob me in are you squire?"

I assured him that anything he said was covered by client privilege.

This was apparently "bussin" and "sick" both of which I assumed probably meant we were okay to proceed.

He confessed, despite my obvious concern, that he did "do a bit of skunk" and recommended two new 'kosher' ones known as 'sour wood' and rather bizarrely as 'wedding cake', both of which he could let me have at street price.

I was still confused by all the exotic names, but he didn't seem offended when I declined this generous offer.

I stopped this broad chat about the benefits of weed and explained to him that it was my job to keep him out of the 'joint'.

My attempt at this jocularly went over his head and I wondered if he was indeed out of his skull on something smokable at this precise moment.

Finally, he gave me the details of his arrest – apparently he and a couple of his mates were simply hanging out in the doorway of a boarded- up shop when the 'feds' arrived.

They scattered but there were some 'pigs' waiting around the corner and he was apprehended (not the term he used!)

Some other plods found a substantial bag of 'granddaddy purple' in the doorway and he had subsequently been charged with dealing.

I asked if his fingerprints might have been on the bag and he just scoffed at my obvious naivety.

I was fairly confident that all the prosecution would have was at best circumstantial.

However, on the day of the trial the prosecution handed me a note informing us that they had an eye witness who would swear to having seen the bag in my client's hands.

The judge of course dismissed my objection to this late detail.

"Thank you very much my lord" I responded and was grateful that the sarcasm was lost on Justice Soames.

The prosecution only had two witnesses – the first was a somewhat rotund police constable who was lead through his evidence, helped by frequent references to his notebook, by my learned friend, the pompous bloke appearing for the prosecution.

I was invited to cross examine and the judge nodded appreciatively when I said I only had two questions.

"Constable Owens"

"It's sargeant" came the expected response to my deliberate mistake.

"Apologies sargeant – please tell me how you came to be observing a derelict shop – with a van of constables waiting conveniently just round the corner – a bit of serendipity was it?"

There was a pause while he was obviously struggling with the vocabulary – the judge tutted and patiently explained what serendipity meant.

"Oh..no – we've had our eyes on hm for some time now – we know he's at it!" and he nodded towards Johnny.

"And just how many times has he been successfully prosecuted?" I asked mildly

He turned bright red and stammered "Well...none.."

"No further questions " I stated firmly as he added "Not yet!"

I was delighted when M'Lord admonished him and had the 'not yet' comment stricken.

Having I thought pretty much demolished the police evidence I was quietly confident of doing the same to the eye witness.

This turned out to be an old lady – and again she answered all the non aggressive questions from the prosecution.

My turn

"Good morning Mrs Thompson, do you mind if I ask you how old you are?"

"Not at all, I'm 76" she announced proudly.

"That's lovely – I notice you wear glasses – are they prescription?"

"Oh yes..my eyes aren't what they used to be young man" she grinned

"And how far away were you when you saw my client – he's the one standing in the dock"

"I was on a bus – I was going home and I looked out the window"

And that's when I should have stopped and claimed 'Mistaken Identity' and asked the judge to dismiss the case – based on an old lady, wearing glasses, at some distance away on a moving bus.

But I was enjoying seeing the police and prosecution squirming so I continued –

“So just how can you be certain that it was my client you saw with the bag of drugs?”

“That's easy” she said I know Johnny well – he gets me my weekly supply of wacky baccy – really helps with my arthritis – he even rolls the spliffs for me – such a nice boy”

As they took Johnny down I remembered the barristers irrevocable first law – ‘never ask a question you don't know the answer to!’