

"If you just bought this street paper and you are worried about criminal justice, you need to worry about why the people you walk by, and have simple transactions with every day, can't take for granted a roof over their head, or a next meal. That's where justice begins. Not in the courthouse but out on the street corner where you bought this paper."

DEAN STRANG | STEVEN AVERY'S DEFENSE ATTORNEY IN "MAKING A MURDERER"

probably still would've done it. I mean, we've both done high-profile cases before, where there's been more local reaction. But this is different.

D.S.: For myself, I wonder, because I remember distinctly at the time, once we'd decided to cooperate with the filmmakers, thinking, 'OK, they're bright and they're hardworking but they are, after all, students. They are talking about making a documentary.' I remember reassuring myself that if they sell their movie, it'll be 110 minutes in a theatrical release in some arthouse in Greenwich Village and 17 people will ever see it. I remember telling myself that. (Laughs.) I got that one wrong.

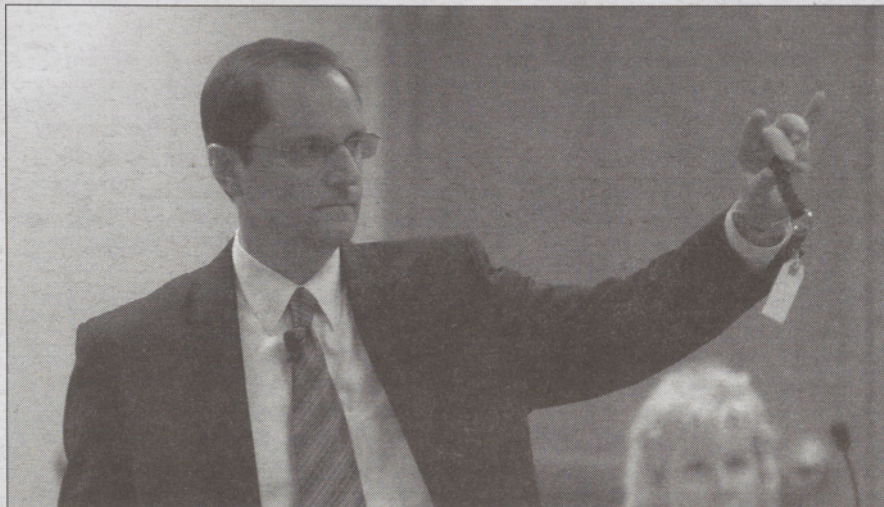
J.S.: At the most, we thought there might have been a DVD that was way down in the catalogue of mail-order through Netflix mailing or Blockbuster, or whatever it might be. There were really only a few documentaries like that at the time ... and really only one that had given the defense perspective – a film called "The Staircase" that very few people have seen.

INSP: We heard in the program about there being hundreds of thousands of dollars available for Avery's defense. It sounds like a lot of money, but, as I understand, it is actually not that lucrative to take on these sorts of cases. How hard do you have to think before taking on a job like that?

D.S.: There was enough money here that our partners were not going to banish us from our law firms. Was it going to be a loss on paper? Yes. Was it going to be a disastrous loss? No. It's not just the short-term economic decisions that govern whether you're going to take a case like that. Part of it is, is the case compelling to me? Do I like the client? Do I think there's a potential injustice that's developing? It was a chance to work with Jerry Buting again. We had worked together before and that goes toward whether it will be a valuable experience.

In the long run, a case that gets heavy publicity can potentially advance a lawyer's career. In the short term, it doesn't necessarily mean you'll get more work. But in the long run, if your colleagues generally think that you handled yourself well – win or lose – it can tend to burnish your reputation and lead to referrals over time. There's also the wonderful ethic of our profession that says sometimes you do things for free or sometimes you take a loss, because it's the right thing to do.

J.S.: And you have to think, it's not just the economic cost of working on a case this big. They are just black holes for the rest of your practice. You get all-consumed in that. It also affects your family life, and we knew that. All these things had to be sorted out before I agreed that I wanted to participate. I already had another big Innocence Project case going on already that I was doing pro bono. (The Innocence Project is a nonprofit legal organization committed to exonerating wrongly convicted people; Strang and Buting are both involved with it.)



Attorney Jerry Buting defends Steven Avery during Avery's murder trial.



Attorney Dean Strang defends Avery during the trial.

D.S.: Yeah, and you had kids in high school.

INSP: You certainly both looked like you cared beyond the paycheck, that there was an element of it being the right thing to do. Did it have a big impact on both of your lives at the time?

J.B.: No question. For two months, we had an apartment that was an hour and a half from our homes. For most of the two months we were there, I would come home for less than 24 hours every weekend, and that was it. I would try to get home for Saturday mornings when the kids were having their basketball games or whatever.

INSP: Brendan Dassey (Avery's nephew, who was also convicted for Halbach's murder, in a separate trial) has recently had his murder conviction overturned, on the basis that his confession was coerced. He is to be released within 90 days unless the state wins a retrial. Did you think this was the right decision?

J.S.: Absolutely. In fact we were very disappointed that the state courts never did. Although, not terribly surprised because in

Wisconsin those state court judges are elected. And try as they might, it's very hard for an elected judge to throw a confession out that could mean a whole case might get dismissed. I frankly never really expected that either one of these defendants, if they lost at the trial, would succeed at appeal until they got to federal court, where it is very different because the judges are appointed. They don't have to run for election, and they can therefore make the decision on the law rather than whether their opinion would be politically unpopular.

D.S.: What I'd like to add to that is not only do I think that the federal court came to the right outcome, I think it came to the right outcome in the right way. Even people who disagree with the outcome probably would acknowledge this federal court in the right way. It was indisputably a thoughtful decision, a factually well-documented decision, a careful decision and a thorough decision. The judge gave full and fair consideration to every argument the state was making, every argument the defense was making and what prior courts had said that bound him. It was a very good piece of

judicial craft, whether you agree with the outcome or not. I do. I think it was the right outcome, but it is important that it was done in the right way.

INSP: Are you convinced that both Avery and Dassey are innocent of Halbach's murder?

D.S.: "Convinced of innocence" is not the way I've ever put it. I've never been at all convinced of guilt, and I've suspected innocence. But I'm not omniscient; I wasn't there. In the end, this is part of what we are trying to talk to the public about. Guilt or innocence is really not the modest question that the criminal justice system can hope to answer. The modest – but critically important – question for the criminal justice system and for human affairs is: Is the state able to prove your guilt beyond a reasonable doubt so that, with whatever level of uncertainty remains, we're comfortable with taking somebody's liberty for the rest of his life? I think that both of us are utterly convinced that this case was not proven beyond reasonable doubt.

INSP: Did you ever worry that "Making a Murderer" made Teresa Halbach's death into water-cooler entertainment?

J.B.: The case or the program? Not the case.

INSP: Not the case as it happened in the courtroom, but the film and then the ongoing coverage of the case became something that people discussed in the way they discuss any TV program.

J.B.: Some of it did concern us. That's why we wanted to do a speaking tour. It can be dealt with in a very shallow way, or you can deal with the real issues. There have been people who have taken it very seriously. There are people on social media, on Reddit, where they've just gone down in the rabbit hole. Some of it is bizarre, but a lot is not. Some of it is very well thought-out. All in all, I think it has not been abused as entertainment. There is some entertainment aspect to it; otherwise you're not going to get people interested in watching it.

D.S.: I guess it's entertainment in the sense that people watch a film in their leisure time, but the importance of any victim's experience or any defendant's experience – or their families' experiences – is not a voyeuristic peak at their grief or their pain, and it's certainly not revelling in the details of somebody's death. The importance of any victim or any defendant or any family member's experience is in what it tells us about how well we're doing in the criminal justice system in trying to provide justice for victims, for their families, for defendants, and ultimately for all of us.

You certainly can say, I'll never commit a serious crime. You cannot say that you'll never be accused of one. And you certainly cannot say that you'll never be the victim of one. So you can wind up involuntarily needing whatever effort at justice lawyers and judges and police officers can muster. There is a great public interest, I think, in