Trial of Alexander the Great

A Prosecutor's Role

The prosecutor in a trial aims not only to persuade the jurors of the government's case that the defendant has committed a crime, but also to assure that no innocent person is wrongly convicted. Shane Read is assistant United States attorney in Dallas, Texas, and author of the book Winning at Trial. *This article appears in the July 2009 issue of* eJournal USA, *"Anatomy of a Jury Trial."*

By Shane Read

The role of the prosecutor at trial is to represent the government and prove the defendant is guilty of the crime charged. This article focuses on the job a prosecutor has in the courtroom and shows some examples from one of America's most famous trials.

There are five key parts to a trial: jury selection, opening statement, direct examination, cross-examination, and closing argument. When a trial begins, the judge brings about 40 jurors into the courtroom so that 12 fair jurors can be selected. In order to find these jurors, the prosecutor is allowed to ask the jurors questions. Such questions might include: Have you ever had any bad experiences with the police, or have you or has a family member been wrongfully convicted of a crime? If a juror answers yes to these questions, then the prosecutor will ask follow-up questions to find out if the juror can still be fair given his or her experience.

After the jury is selected, the prosecutor gives an opening statement. In essence, this is a speech in which the prosecutor tells the jury about the evidence he will show them in order to prove the defendant's guilt. One of the best opening statements — because it was so persuasive and well organized — was given by prosecutor Joseph Hartzler in the Timothy McVeigh trial. McVeigh was on trial for masterminding the bombing of a federal government building in Oklahoma City on the morning of April 19, 1995. On that morning, McVeigh parked a rental truck filled with homemade explosives in front of the building. He got out of the truck, and when it exploded 168 people were killed, including 19 children.

What made the opening statement so persuasive was that the prosecutor began by immediately capturing the jurors' attention so that they would be interested in hearing the detailed evidence that would later be presented at trial. He started by telling about the last few hours of life of a young child who was dropped off by his mother at the day care center in the federal

building that was bombed. The prosecutor did this in order to focus the jury's attention on McVeigh's ruthless act of violence against the most innocent of victims — a child.

The prosecutor then told the jury how he was going to prove that McVeigh was guilty. One problem was that there were no eyewitnesses who saw McVeigh get out of the truck that exploded, but the prosecutor had physical evidence such as receipts for the rental of the truck and testimony from McVeigh's former friends who watched him acquire materials for the bomb and listened to McVeigh explain what he was going to do.

Calling Witnesses

After the prosecutor gives an opening statement, the defense attorney has a chance to do the same. Then the prosecutor begins the most critical part of the trial. He has to call witnesses who can tell the jury what they saw or heard that proves that the defendant is guilty. The prosecutor will also show the witness photographs, documents, diagrams, and objects for the witness to identify that prove the defendant committed the crime. In the McVeigh trial, one of the key witnesses was Lori Fortier, who had been a good friend of McVeigh. The prosecutor asked her about the time when she saw McVeigh make a diagram for her to show how he would build the bomb. Fortier also told the jury how McVeigh had tried to persuade her to help him in his plot. She said she refused.

After the prosecutor presents his case to the jury, the defendant has the right — but no requirement — to present evidence of his innocence. When the defense does this, the prosecutor has the right through cross-examination to ask the witnesses questions challenging their truthfulness. McVeigh's defense lawyer tried to present evidence that showed an unknown man was the actual killer. However, through logical questioning of the witnesses, the prosecutor was able to show that McVeigh was indeed the bomber. McVeigh was found guilty in 1997 and executed in 2001.

The prosecutor's role ends when he gives a closing argument at the completion of a trial. Like the opening statement, the closing argument is a speech to the jury. In this second speech, the prosecutor summarizes what the witnesses have told and shown the jury and then argues why the defendant should be convicted. Having said this, the prosecutor's role is not to get a conviction at all costs, but to seek justice so that no innocent person is wrongfully convicted.