

Book Review

Reel Justice--The Courtroom Goes to the Movies by Michael Asimow and Paul Bergman. Kansas City, Missouri: Andrews & McMeel, 1996. Approx. 300 pp.

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A good film can transport the viewer to a different world. But is that world fact or fiction? Sometimes it's easy to tell. Filmgoers don't leave *Back to the Future* thinking that a DeLorean can be easily converted into a time machine. Common sense tells filmgoers that police officers bear little resemblance to the action heroes of *Die Hard* and *Lethal Weapon*.

In courtroom drama, however, the difference between real life and reel life is much more difficult to discern. There are no indestructible aliens or death-defying leaps off skyscrapers to shatter the illusions of reality. Instead, many courtroom dramas purport to be serious explorations of social issues. They are scripted by serious screenwriters, directed by serious directors, and star serious actors. As a result, the non-lawyer filmgoer has no way of knowing that the legal system depicted in the film may be as far from reality as the Death Star in *Star Wars*. Unless, that is, she has *Reel Justice--The Courtroom Goes To The Movies* by Professors Michael Asimow and Paul Bergman of the UCLA School of Law.

Take for example, the 1992 film *Philadelphia*, directed

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by the OscarTM-winning director of *The Silence of the Lambs*, Jonathan Demme. *Philadelphia* was the first mainstream Hollywood film to focus on AIDS. The film tells the story of a young gay law firm associate, Andrew Beckett (played by Tom Hanks), who is fired from a prestigious law firm when the partners suspect that he is infected with AIDS. In the ensuing wrongful termination action, Beckett is represented by Joe Miller (Denzel Washington), an ambulance-chasing sole practitioner who initially was reluctant to take the case. The law firm contends that Beckett was dismissed because of incompetence and a bad attitude. To win the lawsuit, Miller must prove that the real reason was his client's medical condition.

The film was widely praised. It received several Academy AwardTM nominations including Best Picture, and Hanks won top honors for Best Actor. While some film reviewers chided the film for portraying Beckett and his family as too good to be true, the plausibility of the courtroom scenes was seldom challenged. The typical viewer undoubtedly left the theater believing that she had seen an accurate portrayal of the legal system at work. But was that confidence justified? Not quite.

As the authors of *Reel Justice* explain, wrongful termination lawsuits are often difficult to win. The plaintiff must prove that the employer's stated reasons for the firing are false. This is not easy, even if the claim is justified, because frequently the employer can invent plausible reasons for the dismissal. In *Philadelphia*, however, the defendant law firm's explanation of Beckett's firing is far-fetched. The head of the firm, Charles Wheeler, claims that he has concluded that Beckett was a poor attorney. This seems implausible since he had just assigned him to be lead attorney on the firm's most important case. Wheeler also claims that the last straw occurred when Beckett misplaced an important complaint. Since Wheeler

supposedly is the best attorney in the city, he certainly could have devised a more plausible reason for dismissing Beckett.¹

The trial attorneys in the film receive mixed reviews. There are some examples of good lawyering. Plaintiff's attorney Miller does a good job of eliciting testimony from the firm's clients and employees that Beckett was an outstanding attorney who had never misplaced documents. Defendant's attorney Belinda Conine has a low-key, non-confrontational style that is appropriate for a powerful defendant opposing a terminally-ill plaintiff. Conine effectively uses her cross-examination of Beckett to show that he had made a great effort to conceal his sexual orientation and his illness from the firm, thus making the firm's claim that it was unaware of his disease more plausible.

Unfortunately, these examples are more than offset by a number of fanciful incidents. The most dramatic moment in the trial, for example, occurs during Conine's cross-examination of Beckett. On direct, Miller had elicited testimony that suggested that the firm may have become aware of Beckett's disease by noticing a lesion on his face. Conine attempts to discredit this theory by holding a mirror up to Beckett's face and asking him if he sees any lesions. Since the lesions have disappeared from his face, Beckett cannot. On Miller's redirect, however, Beckett testifies that he has lesions on his chest similar to those previously on his face. He then, with the court's permission, removes his shirt to the gasps of the jury--and probably much of the audience.

Professors Asimow and Bergman point out that in an actual courtroom neither Conine's cross-examination nor Miller's redirect would be permitted. The issue at trial is

¹ On the other hand, maybe Wheeler is not such a good lawyer after all. He and the other senior partners attend every day of the trial. Apparently they do not have any legal work that requires their immediate attention.

whether or not lesions on Beckett's face might have revealed his AIDS to the law firm *before he was fired*. Thus, whether or not he had lesions on his face or chest *at the time of trial* is irrelevant. Miller does attempt to make the chest lesions relevant by eliciting testimony from Beckett that the lesions were similar to those previously on his face. And in an actual courtroom Miller would have been permitted to introduce a photo of Beckett's face showing the lesions, or even a photo of a similar lesion. But the potential prejudicial impact of showing Beckett's chest in court preclude such a demonstration.

In another dramatic scene, Conine cross-examines Beckett about his gay lifestyle, including having sex with a stranger at a gay movie house. But, as *Reel Justice* explains, the only issue at trial was whether or not Beckett was fired because he had AIDS. Thus, questions about his lifestyle would have been excluded as irrelevant. Similarly, Miller would not have been permitted to elicit testimony from an African-American secretary that Wheeler's secretary had criticized her jewelry as "too ethnic". Such testimony has no bearing on the reason for Beckett's dismissal and might prejudice the jury.

Professors Asimow and Bergman find several other errors in the film, but the aforementioned gaffes make it sufficiently clear that the depiction of the legal system in *Philadelphia* is far from accurate. Do these errors make *Philadelphia* a bad film?

Yes. Or at least not a very good one.

To its credit, the film is competently directed, and it features a fine acting performance by Hanks as well as an excellent soundtrack. It's also a step forward for Hollywood simply to make a major film about AIDS. But *Philadelphia* misses the mark as an exploration of the tragedy of individuals with AIDS.

The film was marketed as a realistic portrayal of both the disease of AIDS itself and of the prejudice faced by gays who have contracted the disease. The film does not develop

Beckett's personal life and, most importantly, his relationship with his long-time companion Miguel. Instead, much of the movie is a formula Hollywood drama pitting good versus evil--the noble little guy versus the evil businessmen. And, as in most formula courtroom dramas, the good guy appears to be losing until a dramatic reversal (here the lesion demonstration) occurs late in the trial.

Philadelphia is only one of many films analyzed by Professors Asimow and Bergman in *Reel Justice*. The film is discussed here at length because it typifies the weaknesses of purportedly serious mainstream Hollywood films, and because many of the readers of this review are likely to have seen the film. The extended discussion also gives the reader a taste of the legal analysis provided by Professors Asimow and Bergman.²

Reel Justice discusses more than 60 films. The films include classic court dramas like *Anatomy of a Murder*, recent thrillers like *Jagged Edge*, and less well-known gems like *A Cry in the Dark*. The analysis of each film begins with "vital statistics" such as cast, director, screenwriter, running time, and so forth. There is also a one or two line synopsis and a rating from one to four gavels. If the film has a surprise ending, there is a warning to the reader that the detailed summary of the plot immediately following the rating may undermine the viewer's enjoyment of the film. My own recommendation would be to skip the plot summaries for all of the films until after they are viewed.

Each plot summary is followed by a legal analysis of the film. The legal analyses are consistently entertaining and informative. Was the law portrayed accurately? Did the

² Even my fairly lengthy discussion of *Philadelphia* omits much of Professors Asimow and Bergman's discussion. They describe, for example, the actual case upon which the film was based.

attorney adopt sound trial tactics? If the film was based on a true story, how did the actual events differ from those portrayed in the film? Did the attorneys commit any ethical violations? Professors Asimow and Bergman will tell you this and more.³

In addition to film reviews, *Reel Justice* contains several essays on broader topics such as the hearsay rule and circumstantial evidence. One of the most interesting of these looks at the treatment of women lawyers in the movies. It is not a pretty picture. Women lawyers usually are portrayed as incompetent, neurotic, unethical and, most notably, unable to resist having affairs with their co-workers, supervisors, and clients. With the exception of Katherine Hepburn in *Adam's Rib*, Hollywood seems incapable of casting a woman as a competent, well-adjusted attorney with a stable home life.

Reel Justice is pitched towards ordinary filmgoers, not just lawyers. Legal doctrines like the hearsay rule and double jeopardy are explained in ways that are understandable to the average reader. But the lawyer or law student may enjoy the volume even more. After all, it's about us.

³ Understanding the principle of comparative advantage, the authors limit their analysis to the legal aspects of films. For example, the reader will find no discussion of the director's use of tracking shots or unusual light effects. The background and interests of the authors also appear to be reflected in the number of gavels they assigned to each film. Stanley Kubrick's *Paths of Glory*, for example, is assigned three gavels rather than the maximum of four. That seems about right with respect to the script and acting. But I would give the film four gavels because of the brilliant direction and cinematography.