

## JOHNNIE COCHRAN'S PANTHER: AN ESSAY ON TIME AND LAW\*

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*His tired gaze—from passing endless bars—  
Has turned into a vacant stare which nothing holds.  
To him there seem to be a thousand bars,  
And out beyond these bars exists no world.<sup>1</sup>*

—Rainer Maria Rilke, *The Panther*

*There is a timeless quality to the unconscious which transforms yesterday into today.<sup>2</sup>*

—Black Panther 21, *To Judge Murtagh*

This is an essay about the time that remains. 1619 was the year of our demise. Our time ran out and their time began. We have struggled and struggled but each time, even with our legal efforts redoubled, we find ourselves back at the beginning.

*Let us begin with this prayer for the dead. The end is not yet. Fear not. The end of our confinement will come. Fear not. The commune will be. Fear not. We will all be free. Fear not. The cause is not lost, only not yet won. Fear not. The fallen are not dead, only sleeping. Fear not. The black flag is the end of the state power. Fear not. The red flag is the end of capital power. Fear not. We have nothing to lose but our chains.*

Johnnie Cochran was one of the great trial lawyers of our time. Cochran's great abilities were born of a great loss. In 1972, Geronimo Pratt of the Black Panther Party, a veteran of Vietnam with a Purple Heart, was convicted of a 1968 murder and assault with intent to commit murder, a

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1. RAINER MARIA RILKE, *The Panther*, in THE SELECTED POETRY OF RAINER MARIA RILKE 25 (Stephen Mitchell ed. and trans., 1989).

2. Black Panther 21, *To Judge Murtagh: From the Panther 21*, in THE BLACK PANTHERS SPEAK 196, 198 (Philip S. Foner ed., 1995).

conviction that was affirmed on direct appeal.<sup>3</sup> Geronimo Pratt was innocent and his imprisonment was part of the government's conspiracy against the panthers. Geronimo Pratt's body was caged for twenty-seven years.<sup>4</sup> Cochran felt the loss. Cochran's fellow-feeling created a free space within his mind. Every free space is part of the commune. Every panther is a forever-free citizen of the commune. Geronimo Pratt the man was caged but as a panther he ran free. The freedom that enabled Johnnie Cochran to become one of the great lawyers of our time was the solidaristic freedom within which he conducted an intra-psychic dialogue with his lost-and-found black panther.

Once upon a time there were women and men and children who turned into panthers. "Hunted and penned in an inglorious spot," the panthers whirled about and ran forward through death in pursuit of their pursuers.<sup>5</sup> I was there when they ran through the razor wire of the state machine. I was there for the parting of black fur and flesh. I had lived only four or five years of our captivity when it happened. I saw with my own eyes the banners of blood. I saw with my own eyes the red flags of our emancipated future. You were also a witness to the commune. Every uprising has the commune as its heart.

The emancipation did not take place. Legal emancipation is not emancipation. Legal emancipation is only the perfection of slavery. Legal emancipation is the repetition and intensification of the original appropriation that created the masters and the slaves, the haves and the have nots, the propertied and the helpless. Slaves, being legal property, know that emancipation requires emancipation *from* property and *from* legality. Emancipation is a red and black tomorrow.

The panthers understood our red tomorrow as a relation between time and law. The panthers understood that law carries us back to the place where we, in our loneliest loneliness, were made commodities, made to be worse than senseless things, to be sold and made to labor, and to do so for all time. The panthers understood that we who were born of slaves are ourselves slaves. Our species of property bears the deathly black mark of dispossession. We who inherit this dispossession, and who bear on our bodies the black mark of this lack, know ourselves and each other through our joint condemnation to the undiscovered country, the common sentence we have each been made to serve for all time.

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3. *In re Pratt*, 170 Cal. Rptr. 80, 82 (Ct. App. 1980).

4. *In re Pratt*, 82 Cal. Rptr. 2d 260 (Ct. App. 1999).

5. CLAUDE MCKAY, *If We Must Die*, in *HARLEM SHADOWS: THE POEMS OF CLAUDE MCKAY* 53 (1922).

White time is the deferral of black freedom dreams. Each dream deferred is an interval of white time. Law is the measure of white time. As the Black Panther 21 defendants put it, "There is a timeless quality to the unconscious which transforms yesterday into today."<sup>6</sup>

The slave is traumatized by what she knows-and-does-not-know about the death she has already died. The slave's sleep is threatened by the memory of its Middle Passage. The slave creates a dream kingdom by reworking its Middle Passage until that Middle Passage appears to be a kind of freedom. Psychoanalysis reveals that the surface of the dream is the mask of the thought below. The deep meaning of the slave's freedom dream is emancipation from property and from law, but the surface of the dream, where the reworked Middle Passage appears, appears as the legal emancipation of the very species of property the enslavement of which makes property and law possible. The dream of this impossibility—the impossibility of legally emancipating the species of property whose continued enslavement makes property and law possible—allows the slave to continue to sleep. And continue it does. The slave dreams executive orders, the slave dreams legislative acts, the slave dreams judicial rulings, and each dream ends in the deferral of the slave's freedom and, therefore, another interval of white time. Law is the way that the slave's freedom dreams become white time. The panthers, understanding this in a wide-awake moment, attempted to seize the time.

Capitalism spins the illusions that it needs out of the strivings of the dispossessed. The strivings of the dispossessed are the stuff, the material, with which the tapestry of capitalist illusion is created. Law is the illusion that masters are not masters and that slaves are not slaves and that both classes, master and slave, are legal subjects and therefore not classes at all but individuals and as individuals, paradoxically, all alike and each equally a bearer of rights. There is no rule of law. There are rulers and those whom they rule. Law is the master's house. Fidelity to law is fidelity to the master. Fidelity to the master is slavery. Slavery is the death that we each died in 1619 and that we all die again with every one of our foredoomed attempts at merely *legal* emancipation.

Our dreams measure the time. We dream of freedom-through-law and our dream is deferred. We dream of law and they defer our emancipation. Dream and deferral, dream and deferral, tick and tock, the time seems to go on and on, but always within 1619.

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6. Black Panther 21, *supra* note 2.

Johnnie Cochran's heroic and storied career is the subject of this symposium and the instrument with which this tale of time and law will be told. Cochran, I will argue, had a unique ability to succeed as a litigator that was born of loss, a crushing loss that resulted in the 27-year incarceration of his client, Geronimo Pratt of the Black Panther Party. The panthers were the most-conscious section of the dispossessed in the wide-awake world of 1968. Paul Robeson's words from earlier awakening were an apt description of the panthers:

Senator Ferguson: I would like to have the essence of communism.

Mr. Paul Robeson: My father was a slave. A few weeks ago I was standing in North Carolina on the very soil my father was a slave. I go to the whole history of our civilization, 100,000,000 Negroes from Africa, torn to pieces and died in the slave trade; on our backs in America the very primary wealth that America built on our backs, cotton, taken to the New England textile mills. What do we get from it today? Poverty, insult, inferior station in life, no opportunities. Who controls the wealth? A few people. Now somewhere, to me, by whatever means, at certain times in our history these means have been revolutionary; in other times evidently not, but somewhere, to me, communism is interested in seeing that those people who are oppressed, who suffered this, somewhere they represent those people in their struggle toward freedom.

Senator Ferguson: That is the essence of communism?

Mr. Paul Robeson: Yes.<sup>7</sup>

Geronimo Pratt tried to convince Cochran to say farewell to the master. Pratt failed and Cochran remained unconvinced despite their many conversations. And, because he could not say farewell to the master, Cochran failed as a litigator and Pratt's world became prison walls all around for 27 years. The failure haunted Cochran. The haunt, the introjected panther, gave Cochran a unique ability to walk through the razor wire of legal hostility to the black clients he defended after Geronimo Pratt.

Introjection, a term first used by Sándor Ferenczi, is a method of development by which aspects of that which one individual received from a relationship with another are preserved, in the absence of the other, by making

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7. *An Act to Protect the United States Against Un-American and Subversive Activities: Hearing on H.R. 5852 Before the Comm. of the Judiciary of the United States S., 80th Cong. 2 (1948) (excerpt from testimony on the Mundt-Nixon Bill).*

that lost other a part of the self.<sup>8</sup> This process is the key to understanding Cochran's development after Geronimo Pratt.<sup>9</sup> In Cochran's words:

[The Geronimo Pratt case] taught me and a lot of other lawyers never to accept the official version of an event, never accept a lab report, a forensic finding, never take so-called expert testimony at face value. It taught me to check everything, then check it again. *As a result, I see things I never saw before, ask questions I never asked before. I'm a better advocate for my clients. But...what a price Geronimo had to pay.*<sup>10</sup>

Pratt had to pay the price of the ticket. We know the price. James Baldwin told us, me and you, repeatedly, like a tom-tom, like a heartbeat:

The price the white American paid for his ticket was to become white - and, in the main, nothing more than that, or, as he was to insist, nothing less. This incredibly limited not to say dimwitted ambition has choked many a human being to death here: and this, I contend, is because the white American has never accepted the real reasons for his journey. I know very well that my ancestors had no desire to come to this place: but neither did the ancestors of the people who became white and who require of my captivity a song. They require of me a song less to celebrate my captivity than to justify their own.<sup>11</sup>

In 1971, a mystery known only as Citizens' Commission to Investigate the FBI broke into the FBI office in Media, Pennsylvania and stole a carload of secret documents. The documents revealed that the FBI had been conducting illegal operations against individuals and organizations for decades. Targets included blacks, student groups, antiwar organizations, communists,

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8. Sandor Ferenczi, *Introjection and Transference (1909)*, in *FIRST CONTRIBUTIONS TO PSYCHO-ANALYSIS* 35, 47-48 (Ernest Jones trans., Karnac Classics 1994).

9. Introjection's specificity is in the non-integration of the internalized or introjected object with the self:

Internalization is the primary contributor to psychological development, occurring throughout the life cycle whenever relations with a significant other are disrupted or lost. Perception, memory, mental representations, and symbol formation encode within the self aspects of objects and interactions with others, gradually building the structures of the mental apparatus, so that the individual can assume the functions originally supplied by others.

PSYCHOANALYTIC TERMS & CONCEPTS 102-103 (Burness E. Moore, M.D. and Bernard D. Fine, M.D. eds., The American Psychoanalytic Association and Yale University Press 1990).

10. JACK OLSEN, *LAST MAN STANDING: THE TRAGEDY AND TRIUMPH OF GERONIMO PRATT* 484 (Anchor Books 2001).

11. JAMES BALDWIN, *Introduction: The Price of the Ticket*, in *THE PRICE OF THE TICKET: COLLECTED NONFICTION 1948-1985* IX, XX (1985).

unions, and anyone labeled subversive. This was COINTELPRO, the FBI's secret war on blacks:

The [FBI] approved 2,370 separate counterintelligence operations. Their techniques ranged from anonymously mailing reprints of newspapers and magazine articles (sometimes Bureau-authored or planted) to group members or supporters... to mailing anonymous letters to a member's spouse accusing the target of infidelity; from using information to raise controversial issues at meetings in order to cause dissent, to encouraging street warfare between violent groups; from contacting members of a legitimate group to expose the alleged subversive background of a fellow member, to contacting an employer to get a target fired; from attempting to arrange for reporters to interview targets with planted questions, to trying to stop targets from speaking at all.<sup>12</sup>

Until the break-in, nothing was known about the FBI war on the panthers.<sup>13</sup> Black Panther Party member Kathleen Cleaver recalls the uncertainty and doubt, "We did not know what to believe about what, so the general effect, not only of the letters but the whole situations in which the letters were part, was creating uncertainty. It was a very bizarre feeling."<sup>14</sup> Not knowing what to believe about what was a kind of madness. Geronimo Pratt recalls:

I didn't know about COINTELPRO then, but I knew something was amiss. I knew there was something more going on than those little peons, more than the LAPD [Los Angeles Police Department]... and the FBI playing their little games. I was in Folsom Prison, facing sadistic guards and all kinds of manipulating prisoners who were trying to kill us with knives, when it was revealed that Richard Nixon and J. Edgar Hoover, had plotted to destroy one of the most beautiful movements that history had ever seen. And those sick individuals were allowed to get away with it... Oh, he got kicked out of office, but it was strange that we went to San Quentin, and he went to San Clemente. It didn't add up.<sup>15</sup>

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12. OLSEN, *supra* note 10, at 222 (quoting Report of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities).

13. *The complete collection of political documents ripped-off from the F.B.I. office in Media, Pa. March 8, 1971*, WIN MAGAZINE, March 1972.

14. OLSEN, *supra* note 10, at 229.

15. Geronimo ji Jaga, *Every Nation Struggling to Be Free, Has a Right to Struggle, a Duty to Struggle*, in LIBERATION, IMAGINATION, AND THE BLACK PANTHER PARTY: A NEW LOOK AT THE PANTHERS AND THEIR LEGACY 71, 71 (Kathleen Cleaver and George Katsiaficas eds., Routledge 2001).

Cochran was a philosopher who focused on the problem of reasonable doubt. Cochran's panther introject enabled him to understand that the entire system was to be doubted. The panthers doubted the entire system and when Geronimo Pratt took up residence in Johnnie Cochran's head, Cochran was able to use that *systematic doubt* to serve his clients. Faith in law on the one hand, and panther skepticism on the other, made for a uniquely successful litigation style.

Modern philosophy began in a dream. On 10 November 1619, Descartes had a dream of a great discovery. That discovery would be the beginning of what the West would call reason:

Some years ago I noticed how many false things I had accepted as true in my childhood, and how doubtful were the things that I subsequently built on them and therefore that, once in a lifetime, everything should be completely overturned and I should begin again from the most basic foundations if I ever wished to establish anything firm and durable in the sciences. But that task seemed enormous, and I waited to reach such a mature age that no more appropriate age for learning would follow. Thus I waited so long that, from now on, I could be blamed if I wasted in further deliberation whatever time remains for me to begin the project. Therefore today I appropriately cleared my mind of all cares and arranged for myself some time free from interruption. I am alone and, at long last, I will devote myself seriously and freely to this general overturning of my beliefs.<sup>16</sup>

Descartes, the dreamer required by the dream, dreamt the modern world, our time out of mind, into being. It is in the time of that being that this philosophical tale of lawyers and panthers takes place:

Descartes bethinks himself of an idea, very simple and marvelously clear. He understands, he sees that Science should be the work of one person alone, *a work done by a single master*: 'As it is certain beyond any doubt that the state of true religion, where *God alone* made all the ordinances, must be incomparably better-ordered than all the others.' He sees also, and in that same flash, that humanity, which the efforts of all the ancients have been unable to 'advance by a single step in the pursuit of wisdom,'—humanity has been but a child up to the present, governed by its appetites

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16. RENÉ DESCARTES, *MEDITATIONS AND OTHER METAPHYSICAL WRITINGS* 18 (Desmond M. Clarke trans., 2000).

and its preceptors, and consequently has been kept in a servile state, although it is the heir to whom the world is promised.<sup>17</sup>

In 1619, "About the latter end of August," the year of the Cartesian dream and a world away, there is a document, an account of people traded for food.<sup>18</sup> A Dutch Slave Trader exchanges some "20 odd" blacks for food.<sup>19</sup>

Flesh becomes fruit and the taking and eating of that fruit was the beginning of Western thought. Some twenty odd blacks sold in the New World for a now-old reason. For commodities to be black and thoughtful there must be others, owners, who are white. The whites become white by taking and eating the strange fruit. The slaves are the stuff of dreams. Indeed, the slaves dream of freedom during all the days and nights of their captivity. Eating the dreamers fills the whites with strange dreams. These appropriated dreams are the sum and substance of white reason, of law and the modern mind, of Enlightenment.

Cartesian thinking is the thinking of the world within 1619. "Science," we are informed, "should be the work of one person alone, a work done by a *single master*."<sup>20</sup> We are also informed that "the state of true religion, where God alone made all the ordnances, must be incomparably better than all the others."<sup>21</sup> The God of all the laws is the Original Accumulation, the mystery, the navel of the dream, the eternal return of the repressed trauma of the Middle Passage, the eternal unfolding of 1619. Cartesian thinking, "in that same flash," informs us that there are servants and inheritors.<sup>22</sup> The servants are but children at present. The inheritors, however, are the heirs to which the world is presented. In Descartes, humanity is depicted as both servant and heir, but humanity is not one. After the Middle Passage, in the world girdled round by 1619, humanity is masters and servants. The masters are the heirs of the Original Accumulation. And, when the world becomes the Market, the Original Accumulation is the God of all things great and small.

1619 is both the awakening of reason and the long dark night of the African soul. If the sleep of reason produces monsters then we who are black are most certainly those monsters. We who are black are the major part of the

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17. JACQUES MARITAIN, *THE DREAM OF DESCARTES* 22 (Mabelle L. Andison trans., Philosophical Library 1944).

18. *John Rolfe to Sir Edwin Sandys, January 1619*, in 3 *THE RECORDS OF THE VIRGINIA COMPANY OF LONDON* 243 (Susan Myra Kingsbury ed., 1906).

19. *Id.*

20. *See* MARITAIN, *supra* note 17.

21. *Id.*

22. *Id.*

two million souls imprisoned here in the US. All have a lack. We who are black are born into families with no net financial assets. We who are black have nothing to sell but the skin we are in and nothing to expect from the Market but a hiding. Impoverishment is imprisonment when the world is the Market.

Blackness is a prison. The existence of colorline means that we are all "hunted and penned in an inglorious spot."<sup>23</sup> Blacks in prison are imprisoned within a prison that is itself imprisoned ("hunted *and* penned"):

One might have hoped that by this hour the very sight of chains on black flesh, or the very sight of chains, would be so intolerable a sight for the American people, and so unbearable a memory, that they would themselves spontaneously rise up and strike off the manacles. But, now, more than ever, they appear to measure their safety in chains and corpses.<sup>24</sup>

Descartes wrote, "I think, therefore I am" but slaves are no one. Slaves are things that think and although thinking is what separates the thinker from the world of things, *cogito ergo sum*, it is different with the slave because the slave is a thing. Things are not persons. A body, to be a person, must be an "I." Without the animation of the "I," the thinker required by the thinking, the body is a thing inanimate. The slave, then, is a corpse that walks and works.

Descartes:

How could I deny that these hands or that this body is mine, unless perhaps I think that I am like some of those mad people whose brains are so impaired by the strong vapour of black bile that they confidently claims to be kings when they are paupers, that they are dressed in purple when they are naked, that they have an earthenware head, or that they are a totally hollowed out shell or are made of glass. But those people are insane and I would seem to be equally insane if I followed their example in any way.<sup>25</sup>

*How could I deny that these hands or that this body are mine?* The panthers understood Descartes great discovery and, understanding it, turned it completely round: *How might I assert that these hands or that this body are mine?*

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23. MCKAY, *supra* note 5.

24. James Baldwin, *An Open Letter to My Sister, Angela Y. Davis*, in *IF THEY COME IN THE MORNING: VOICES OF RESISTANCE* 13, 14-17 (Third Press 1971).

25. DESCARTES, *supra* note 16, at 19.

For a slave to *assert that these hands or this body is mine* it must cease to be a slave. The question, *How might I assert that these hands or that this body are mine?* is a revolutionary one. The answer to the question is the ground of certainty. Emancipation is the ground of certainty. And that is what the panthers understood. And Cochran understood the panthers, after a time.

Slavery is a class relation. Whiteness is the way that black slavery is represented as natural. How might I *assert* that these hands or that this body are mine? This reformulation is a revolutionary question because its answer requires the overturning of the class relation, whiteness, that is represented as nature itself. One slave cannot overturn a class relation. To overturn a class relation the dispossessed must take at least two steps. First, the dispossessed must see themselves as the dispossessed. Second, the dispossessed must organize themselves as a class with the aim of dissolving the means and mechanisms by which they have been dispossessed. These means and mechanisms are complicated. The fruits of their dispossession, the lost labors of the dispossessed, have been accumulated by the owners and deployed against the dispossessed as means and mechanism for continued dispossession.

The slave is not enslaved by this or that particular master. The master is not the master of this or that particular slave. The masters, as a class, are masters of the slaves, as a class. Before the violence by which the first capital is obtained, there is the commons, the having and holding of all things and all flesh in common. The violence by which the first capital is obtained is class violence, it marks those who are to hold property and those who are to be held as property. When all are equally possessed of only of the skin that they are in, and that skin is common, the mark must be made or found ready-made on the skin, for there is nothing else to mark. The violence by which the first capital is obtained requires a group, a class, and the class that would own must devise a mark to differentiate itself from the class that is to be owned. Race, then, is class formation, marked on the body as white-over-black, and nothing else. Every slave is owned by every master. Every master owns every slave. The emancipation of any slave, then, requires the emancipation of every slave from that which makes slaves slaves. Slaves are legal property.<sup>26</sup> After legal

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26. W. E. B. DuBois observed:

Slaves were not considered men....They could own nothing; they could make no contracts; they could hold no property, nor traffic in property; they not could hire out; they could not legally marry nor constitute families...they could not appeal from their master, they could be punished at will.

Jones v. Alfred H. Mayer Co., 393 U.S. 409, 445 (1968) (Douglas, J. concurring) (quoting W.E.B. DUBOIS, BLACK RECONSTRUCTION IN AMERICA, 1860-1880 (The Free Press 1962)).

emancipation, the children of slaves inherit their forebears' lack of property and the children of the masters inherit the property of their forebears. The lack that is substance of legal emancipation leaves the slaves *free* only to do the bidding of the class from which they were legally emancipated. Slaves who believe in law believe, with knowing non-knowledge, that they themselves are commodities, and this makes them easy to control. They are easy to control because they control themselves. They control themselves by staying within the horizon of law. Human emancipation is goodbye to all that. Emancipation is the end of property and law. Emancipation is the commune.

Doubt was the path that Descartes traveled toward certainty:

I will suppose that some evil demon, who is all powerful and cunning, has devoted all their energies to deceiving me. I will imagine the sky, air, earth, colours, shapes sounds and everything external to me are nothing more than the creatures of dreams by means of which an evil spirit entraps my credulity. I shall imagine myself as if I had no hands, no eyes, now flesh, no blood, no senses at all, but as if my beliefs in these things were false. I will remain resolutely steady in this meditation and, in this way, if I cannot discover anything true, I will certainly do what is possible for me, namely, I will take great care not to assent to what is false, nor can that deceiver—no matter how powerful or cunning they may be—impose anything on me.<sup>27</sup>

Such rigor is difficult to maintain:

But this is a tiring project and a kind of laziness brings me back to what is more habitual in my life. I am like a prisoner who happens to enjoy an imaginary freedom in his dreams and who subsequently begins to suspect that he is asleep and, afraid of being awakened, conspires silently with his agreeable illusions.<sup>28</sup>

Before Geronimo Pratt, Cochran was deceived. Cochran refused to see what it was that the panthers were fighting. After Geronimo Pratt, incarcerated, took up residence in a liberated zone of Johnnie Cochran's head, Cochran came to understand the way in which we dreamers conspire silently with the agreeable illusions by which we are incarcerated:

Anybody who believes that all police are perfect, that they don't lie, that they don't have the same biases and racism that the rest of society has, is

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27. See DESCARTES, *supra* note 16, at 22.

28. *Id.*

living in a dream world. This is not for the feint of heart... This is for the courageous who understand what the constitution is about.<sup>29</sup>

Cochran was the leader of the "Dream Team" of defense lawyers in the case of *People of the State of California v. Orenthal James Simpson*. I will discuss Geronimo Pratt's place inside Cochran's legal analysis in the context of the closing argument in that case.

To be, when the outrageous fortunes of the entire stolen world conspire against being, requires courage. Everything in this modern world called "ours" is, in material fact, theirs. Everything in the world became theirs when they took it from us. It becomes theirs over and over with every transaction that does not undo the original capture of peoples and lands that served as the modern capitalists' starting capital. For a slave to become human, the entire order of things must be undone and that means the undoing of property and law altogether.

What is the constitution about? The constitution is the horizon of the world governed by those who enslaved us. The constitution is the horizon of the world governed by our masters and the heirs of our master's house. "This is not for the feint of heart."

The constitution is the "dream world." Like the lotus-eaters, those who partake of what the panther's called *the system* forget the material reality of the world. If only this executive order is given, if only this legislative effort is successful, if only this judicial interpretation is made, if only x or y or z, then we will all be free. These *if only* propositions are dreams and delusions. The interpretation and implementation of the slave's dream is left to the master. The master, to remain the master, must continue to enslave the slave. The rule of law is the rule of the master. There are masters and slaves, capital logic begins with that fact. The logic of capital is inexorable. An appeal to the master can accomplish nothing because the master must continue to enslave the slave if the master is to remain the master. The constitution is the "agreeable illusion" that Satan can cast out Satan.

In the dream world of constitutional order each of us is like Descartes' "prisoner who happens to enjoy an imaginary freedom in his dreams and who subsequently begins to suspect that he is asleep and, afraid of being awakened, conspires silently with his agreeable illusions." The state machine, the special monopoly of violence that emerged out of our imprisonment in order to continue our Middle Passage, derives the largest part of its hideous strength

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29. *California v. Simpson*, No. BA097211, 1995 WL 686429, at \*71 (Cal. Super. Ct. Sept. 27, 1995).

from our own *silent conspiracy* with its *agreeable illusions*. Our indeterminate sentence runs forever, or at least as long as our silent conspiracy with the agreeable illusion that we are very nearly free continues.

Everything called property has a genealogy, a legal genealogy. The collected genealogies all lead toward the event that originated property and property's ideological form, law. But the point at which property's laws meet the original accumulation is like the navel of the dream, somewhere beyond our legal ability to interpret. We can go no further than the navel of the dream with our legal method. We can go no further because the slavery that was the beginning of property and its law is somewhere outside of property and its law. Indeed, law is law *because* it places the origin of property outside of reach. It is as if we were deceived by some all powerful "evil demon." We are ourselves the source of this demonic deception. The state power that bedevils us is largely a thing of our own manufacture.

Cochran and his introject discussed the state in this way in the *People v. OJ*, with the reference to "twin demons of evil" and "twins of deception." A juror in a case turning on police witnesses is invited to see things the way that the state machine sees things. Jurors look with the eyes of the state machine. The police are instruments of state perception. The same state machine, the special monopoly of violence that is presented to us as immortal and omnipresent, as everywhere and yet somehow outside of history, requires us to surrender our eyes in order to become its blind justice. Justice is blind to the way formal or juridical equality enables and disguises the material relation between the master and the slave. Cochran asked the jury to have the courage to look with its own eyes.

"*Have the courage to know!*" was Kant's famous answer to the question, "*What is Enlightenment?*"<sup>30</sup> What is it to look at the world through human eyes and not the eyes of the master's state machine? It takes courage to know and courage is the beginning of the ruthless criticism of everything existing.

What did the Panthers' courage enable them to know? What do slaves knowingly-not-know? The Middle Passage is the navel of the dream. In the navel of the dream, time ceases to approach us cyclically. Time seems instead

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30. Kant wrote:

Enlightenment is man's release from his self-incurred tutelage. Tutelage is man's inability to make use of his understanding without direction from another. Self-incurred is this tutelage when its cause lies not in lack of reason but in lack of resolution and courage to use it without direction from another.

IMMANUEL KANT, *What is Enlightenment?* in *ON HISTORY* 3, 3 (Lewis White Beck ed. and trans., 1957).

to proceed with linearity. Time, in other words, seems to pass, not arrive. Time, however, only seems to pass. We are always inside of 1619.

Accumulations like the Middle Passage create a world of appearances. Within such a world of appearances, time seems to fly like an arrow from now until tomorrow. But tomorrow is always a repetition of yesterday. And today is always 1619, although our dream of legal emancipation makes it appear as though this day will pass and our day will come. All of our straightforward efforts curve with the curvature of the world we are on, the globe that encircles the Middle Passage, to bring us back to the beginning, back to 1619, back to the original accumulation. That is what the panthers knew and what slaves knowingly-do-not-know.

"I'll never put him out of my mind."<sup>31</sup> Those were Cochran's words regarding Geronimo Pratt. Pratt, it should be stated, was said to be a different kind of panther, "an anarchist at heart."<sup>32</sup> With Pratt in mind, Cochran knew what the panthers knew.

OJ had been a favorite of white America. His storied athletic career, his warm personal style, something about him, perhaps his seemingly total lack of connection to black politics of any kind, made OJ seem black, yes, but approachable, even to those who do not normally or willingly choose to approach blacks. OJ was a black man but he was most definitely not a 'race' man and his lack of a political line may have been what made him an easy-to-imagine answer to the question *Guess who's coming to dinner?* OJ seemed to cross the colorline. White capital grew accustomed to his face.

The good black is the one who makes white people feel happy in their whiteness. The bad black, being black, makes people feel white but, being bad, makes them feel angry in that whiteness. The good black is the truly qualified black who would *certainly* have been gladly hired had she or he been

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31. OLSEN, *supra* note 10, at 236.

32. *Id.* at 210. It may be that if the Marxist/Leninist panthers had moved in the anarchist direction recommended by Geronimo Pratt, they might have withstood the COINTELPRO attack and who knows what might have been:

Heike Kleffner: Did you think that it was necessary to have hierarchical structures in order to control the organization or make sure it stayed together?

Geronimo Pratt: What we called vertical structures were more popular, and I was one of the ones who dissented from that. I thought that, since we were widespread, we needed a horizontal structure, based more on a cell system, that empowered the local leadership. But, because of the fear and paranoia so prevalent among the national leadership, they would opt for the vertical.

*An Interview with Geronimo Ji Jaga (Elmer Pratt)*, in *THE NEW ABOLITIONISTS: (NEO) SLAVE NARRATIVES AND CONTEMPORARY PRISON WRITINGS* 237, 241 (Joy James ed., SUNY Press 2005).

the one who applied for the opening. The bad black is the one who actually appears at the opening. The good black and the bad black are the front and the back of the same medal. OJ was the good black. When things turned around, he became the bad black.

OJ was accused of murdering Nicole Brown Simpson and Ron Goldman. Their bodies were discovered in the morning of 13 June 1994. The trial, with its paradoxes, seemed to reach out of the television and encircle the entire world. OJ became black, and a bad black at that, because he was accused of murdering a white woman, his former wife, Nicole Brown Simpson. *Time* magazine turned him into Othello, going so far as to darken his skin on its cover.<sup>33</sup>

OJ the bad black had "done the state some service" as the good black. Othello's apology was followed by a final act of state service, suicide:

Soft you; a word or two before you go.  
 I have done the state some service, and they know't.  
 No more of that. I pray you, in your letters,  
 When you shall these unlucky deeds relate,  
 Speak of me as I am; nothing extenuate,  
 Nor set down aught in malice: then must you speak  
 Of one that loved not wisely but too well;  
 Of one not easily jealous, but being wrought  
 Perplex'd in the extreme; of one whose hand,  
 Like the base Indian, threw a pearl away  
 Richer than all his tribe; of one whose subdued eyes,  
 Albeit unused to the melting mood,  
 Drop tears as fast as the Arabian trees  
 Their medicinal gum. Set you down this;  
 And say besides, that in Aleppo once,  
 Where a malignant and a turban'd Turk  
 Beat a Venetian and traduced the state,  
 I took by the throat the circumcised dog,  
 And smote him, thus.<sup>34</sup>

OJ, accused, was made to don the blackness of that accusation. Othello killed himself. OJ went to trial. Many whites echoed Othello's judgment of the one "Perplex'd in the extreme" who "threw a pearl away richer than all his tribe." Othello's condemnation of himself was the same condemnation that many whites in the USA projected upon OJ. OJ had been the good black,

33. *An American Tragedy*, TIME, June 27, 1994.

34. William Shakespeare, *Othello*, Act V, Scene II.

maybe the best black, and now he was the bad black, maybe the worst black. But he had been the good black for a long time and during that time had accumulated the sort of wealth blacks are rarely allowed to possess, the wealth that gives its possessor a kind of whiteness. OJ had money.

OJ had the resources to hire Johnnie Cochran and the Dream Team. Cochran knew that the Los Angeles Police Department could not operate in a just manner. Cochran knew that everything connected with the Los Angeles Police Department would be connected with the colorline. These are the connections that Cochran was able to understand because of the panther in his head:

"This killer must have been covered in blood, and they say he drove this Bronco and he got in it. It would be covered in blood, wouldn't it? Everybody is looking for blood." ...So it doesn't fit. Something is wrong. How does anyone drive away in that car with bloody clothes with no blood on the seats, no blood anyplace else? Every police officer who came in talked about how bloody this scene was.<sup>35</sup>

The Los Angeles Police Department had a problem with blood. Blood appeared in places where it should not have appeared and blood failed to appear in places where it should have appeared.

It doesn't make any sense. They can't explain it because Mr. Simpson was not in that car and didn't commit these murders. That's the reasonable and logical explanation. None other will do, and it's too late for them to change now these shifting theories.<sup>36</sup>

OJ was not covered in blood, as one would likely be after committing two murders with a knife. Blood, not found on OJ, was found on a glove and on a sock. The blood, 7/8 of one drop, contained a chemical preservative used by the Los Angeles Police Department. This taint led Cochran to make the accusation that the evidence had been planted by the Los Angeles Police Department. The blood, tainted by a chemical preservative used by the Los Angeles Police Department, went on an inexplicably odd tour with Det. Philip Vanatter before it was introduced as evidence against OJ: "Vanatter carries the blood, against regulation, 26 miles out of the way, to OJ's house. Why?" The glove linking OJ to the crime scene was found by Det. Mark Fuhrman, "It all

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35. *California v. Simpson*, No. BA097211, 1995 WL 686429, at \*75-76 (Cal. Super. Ct. Sept. 27, 1995).

36. *Id.* at \*76.

comes back to Fuhrman when he says in that letter, 'If I see an interracial couple, I'll stop them. If I don't have a reason, I'll make up a reason.'"<sup>37</sup>

The prosecution treated the witnesses to Det. Fuhrman's racism as if they were liars. That was before the prosecution knew any portion of the famous tapes would be admitted into evidence. Cochran reminded the jury of this during his closing argument:

Remember her [Ms. Laura McKinny] famous response, quote, "Why are we having this adversarial conversation? Why do I detect this negativity? I'm just here to tell the truth. Aren't you in a search for the truth, Mr. Prosecutor? And then they went on to ask, "Well, why didn't you stop him from using this so-called 'N' word? She said, "I was in a journalistic mode. I didn't try to stop him from using that word anymore than I try to stop him from talking about coverups where male police officers have no respect for women police officers because they don't cover-up misdeeds." That was her testimony from the witness stand. You saw her. She is credible; don't you think? She has tapes to back her up, but look at how she was treated by them."<sup>38</sup>

The detectives, per Cochran, were lenses through which the evidence had to be examined:

Vannatter, the man who carries the blood. Fuhrman, the man who finds the glove. Remember those two phrases; Vannatter, the man who carries the blood, Fuhrman, the man who found the glove."<sup>39</sup>

Cochran, in a Cartesian moment, referred to Fuhrman and Vannatter as "twins of deception" and "twin demons of evil":

The book of Luke talks about that. Talks about if you are untruthful in small things, you should be disbelieved in big things. There is no question about that. We have known that all along. So this man with the big lies—and then we have Fuhrman coming right on the heels and the two of them need to be paired together because they are twins of deception, Fuhrman and Vannatter, twins of deception who bring you a message you cannot trust."<sup>40</sup>

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37. *Id.* at \*81.

38. *Id.* at \*78.

39. *Id.* at \*78.

40. *California v. Simpson*, No. BA097211, 1995 WL 697928 at \*6 (Cal. Super. Ct. Sept. 28, 1995).

A flawed lens gives reason to doubt the evidence observed through that lens. The colorline was the flaw in the lens. Detectives Fuhrman and Vannatter were the flawed lenses through which the jurors had to look to see the case against OJ:

When Fuhrman gets on the witness stand and says, "I haven't used this 'N' word for 10 years," you think Phillips [Fuhrman's supervisor] knows he's lying? Some of you probably knew he was lying. It took all those tapes to make those of you who didn't believe these kinds of things exist to take place.<sup>41</sup>

But the great proof had to do with the systematic, that is to say total, nature of the flaw in the lens. The flaw was total because it was not merely a flaw with two police detectives, the prosecutors knew and went forward with their case anyway. The flaw had to do with a lack of courage, a lack that someone would have to fill:

Didn't [Fuhrman's supervisor] have an obligation to come forward under those circumstances? For—if Fuhrman speaks so candidly to this lady [Laura Mckinney] that he met in a restaurant, in West L.A., you think he talks like that to the guys on the force? She talked about how he said those worlds in Police Administration, Police Procedures. That's the way he talks. That's the way he is. Nobody came forward to reveal this. We revealed it for you.<sup>42</sup>

And:

So when Miss Clark so gently puts him [Fuhrman] on the stand and talks to him about, 'Tell us how you feel about testifying today, 'Nervous,' okay, 'reluctant' and all the things about this bad lady Kathleen Bell—they brought it out at the beginning. 'This bad Kathleen Bell saying all these mean things about you. Oh, and you don't—you don't know her even, do you? When we asked you to look at her on the Larry King show and you couldn't recognize her. You don't know her. Oh, well, it's just terrible, all these bad things happening to you, Detective Fuhrman.'<sup>43</sup>

Kathleen Bell, a witness cross-examined by the prosecution as if she had been a liar, had written the following letter:

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41. *California v. Simpson*, No. BA097211, 1995 WL 686429 at \*83 (Cal. Super. Ct. Sept. 27, 1995).

42. *Id.* at \*83.

43. *Id.* at \*86.

I'm writing to you in regards to a story I saw on the news last night. I thought it ridiculous that the Simpson defense team would even suggest that there might be racial motivation involved in the trial against Mr. Simpson. And so I then glanced up at the television. I was quite shocked to see that Officer Fuhrman was a man that I had the misfortune of meeting. You may have received the message from your answering service last night that I called to say that Mr. Fuhrman may be more of a racist than you could ever imagine. I doubt that, but at any rate, it was something that got my attention.

Between 1985 and 1986 I worked as a Real Estate Agent in Redondo Beach for Century 21 Bob Maher Realty, now out of business. At the time my office was located above a Marine Recruiting Center off of the Pacific Coast Highway. On occasion I would stop in to say hello to the two marines working there. I saw Mr. Fuhrman there a couple of times. I remember him distinctly...

While speaking to the men I learned that Mr. Fuhrman was a police officer in Westwood...I don't know how this subject was raised but Officer Fuhrman says that when he sees a Nigger, as he called it, driving with a white woman, he would pull them over. I asked what if he didn't have a reason and he said that he would find one. I looked at the two marines to see if they knew he was joking, but it became obvious to me that he was very serious.

Officer Fuhrman went on to say that he would like nothing more than to see all niggers gathered together and killed. He said something about burning them or bombing them. I was too shaken to remember the exact words he used. However, I do remember that what he said was probably the most horrible thing I have ever heard someone say. What frightened me even more was that he was a police officer sworn to uphold the law.<sup>44</sup>

Kathleen Bell was not the only witness treated as a liar by the prosecution. Natalie Singer testified that Detective Fuhrman told her, "The only good nigger is a dead nigger" and Roderic Hodge testified that he was told, on arrest, "I told you I'd get you nigger."<sup>45</sup> The flaw in the lens was deep, all the way through the police force and the prosecutor's office. Deceived by "twins

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44. California v. Simpson, No. BA097211, 1995 WL 697928, at \*13-14 (Cal. Super. Ct. Sept. 28, 1995).

45. *Id.* at \*17.

of deception" the jury could not trust that everything was what it appeared to be. The "demons of evil," like Descartes Evil Demon, were powerful:

A racist is someone who has power over you, who can do something to you. People can have views but keep them to themselves, but when they have power over you, that is when racism becomes insidious... He has power. A police officer is in the street. A patrol officer is the single most important figure in the criminal justice system. He can take your life.<sup>46</sup>

But the power of the deceiver, the "twins of deception," is generated by our silent conspiracy with the agreeable illusion of the dream world, and by our lack of courage. Cochran asked:

Both prosecutors have now agreed that we have convinced them beyond a reasonable doubt, by the way, that [Detective Fuhrman] is a lying perjuring genocidal racist and that he has testified falsely in this case on a number of scores. And so why don't they speak out? Why do they take him to their breasts?<sup>47</sup>

Cochran warned the jury about the way the senses, in this case the state machine's instruments of perception, are deceivers:

I told you that I don't take any delight in that [criticizing Detective Fuhrman] because you know before this trial started, if you grow up in this country, you know there are Fuhrmans out there. You learn early in your life that you are not going to be naïve, that you love your country, but you know it is not perfect, so you understand that, so it is no surprise to me, but I don't take any pride in it.

But for some of you, you are finding out the other side of life. You are finding out—that is why this case is so instructive. You are finding out about the other side of life, but things are not always as they seem.<sup>48</sup>

The panthers began as a movement to police the police in Oakland, California. Cochran sounded like the early panthers when he argued:

Who polices the police?  
You police the police.  
You police them by your verdict.  
You are the ones to send the message.  
Nobody else is going to do it in this society.

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46. *Id.* at \*13-14.

47. *Id.* at \*10.

48. *Id.* at \*9.

They don't have the courage.  
Nobody has the courage...  
They have a bunch of people running around  
With no courage to do what is right,  
Except individual citizens.

You are the ones in War.  
You are ones who are on the front line.<sup>49</sup>

Cochran argued, true to the Cartesian method, that we 'see' with the light of reason. Cochran, further, argued that light requires courage, mutuality, and direct action ("You are the ones in War. You are the front lines."). Geronimo Pratt, who had served in the role of Minister of Defense for the Black Panther Party, put the very same argument this way:

It's a shame we haven't called a state of emergency over the rate at which our young men and women are going to prison. And you going to the White House or Capitol Hill, asking "Ol' Massa, can I do this," "May I start this program?" Oh yes, he'll give you a few million, then turn around and build fifty prisons behind your back, hire your nieces and nephews to work in the prisons to kill us.<sup>50</sup>

Cochran's argument, then, may be recast:

Q: Who is at war?  
A: "You are the ones in a war."  
Q: What war?  
A: "...our young men and women are going to prison."  
Q: "Who polices the police"  
A: "You are the front lines."

Most black children are born into families with no net financial assets. Slaves, being property, cannot own property. Slaves pass on this lack to their children. After legal emancipation, when the slave enters the Market, she or he enters it as a slave, with one difference. After legal emancipation the slave is no longer sold on the Market. After legal emancipation the slave must sell itself on the Market. That difference makes no difference, save as an ideology that makes slavery appear to be freedom, the freedom of the Market.

Slaves bow before their Master ("May I start this [anti-poverty] program?"). The Market, to be the Market, must seem to be a place of minds

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49. *Id.* at \*11-12.

50. Jaga, *supra* note 15, at 73.

meeting, of exchanges governed by consent and consideration, not by tooth and talon. Slave and master appear to be rights-bearers and, therefore, equals and equally free to buy and sell. The equality and freedom of the peace of the Market is false. The master buys and sells things on the Market. The slave, however, sells herself *as if* she were a thing. That makes all the difference and that difference was made by an act of world-shattering violence. The violence of the original accumulation is total war. That total war is carried on through the Market and its law. War is what drives the slave to the point of selling itself as a thing. War trauma is what accounts for the slave's false consciousness of its repeated surrenders. Law is the not-understood war trauma of the Middle Passage. Law is the way the slave sells itself on the false notion that it is not selling itself. The slaves repeated surrenders, its perpetual painting of a juridically more-equal tomorrow, allow the Master to quite economically continue the slave's enslavement. So long as the slave sees its enslavement as freedom, the slave enslaves itself, thus sparing the Master the costs of chains and whips, and thus keeping us within 1619.

Most of the people in chains today, like yesterday, are black. It might be you in the morning, it might be me in the evening, it might be all of us tomorrow, like yesterday, like today, certainly sooner than you think. We might be Angela Davis on the cover of *Newsweek*, we might be O.J. Simpson on the cover of *Time*, we may be utterly and completely innocent and we may be guilty beyond a reasonable doubt, our guilt or innocence plays no part in determining our imprisonment. Make no mistake, we are imprisoned because we are black. The chains on our bodies make their bodies white. We are caged for their sins and thus our individual failures and triumphs and variations are sound and fury, signifying nothing. As Los Angeles Police Chief William Parker put it immediately after the Watts Uprising, "We've got 'em dancing like monkeys in a cage."<sup>51</sup> As the Panthers put it, "There is a timeless quality to the unconscious which transforms yesterday into today."<sup>52</sup> The invisible hands of the Market keep us all in the grasp of the original accumulation, within the event-horizon of the Middle Passage, within 1619 and its repetitions.

During the trial that would see him go to prison for 27 years, Geronimo Pratt said, "They're after me, and they're going to do whatever it takes to get me, Cochran." Geronimo Pratt and the other panthers were cut to ribbons:

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51. OLSEN, *supra* note 10, at 485 (statement by Los Angeles Police Chief William Parker immediately after the Watts Uprising was put down).

52. Black Panther 21, *supra* note 2.

We began to feel the effects of COINTELPRO-type operations from the start. Even before I had gotten out here to California, those kind of things were being felt throughout the country, throughout the movement. But it became more intense at the end of 1968 and the beginning of 1969, shortly after J. Edgar Hoover issued his infamous proclamation that we were the greatest threat to their national security.<sup>53</sup>

Cochran wrote of his initial reaction:

As much as I liked and respected Geronimo Pratt, I refused to follow him into his never-never land of official plots and governmental conspiracies. Time to get back to work, I thought as I walked back to my car. Time to rejoin the real world. I had faith in the rule of law as applied by our criminal justice system under the norms ordained by the Constitution.<sup>54</sup>

Five years into Geronimo Pratt's solitary confinement, Cochran, in conversation with Stuart Hanlon, a then-young attorney who would join the Pratt litigation team for nearly a quarter century, an entire career, remembered:

When we were getting ready for trial, Pratt kept telling me that the whole thing was political. Said somebody wanted to neutralize him and the Black Panthers. I kept asking, "Who's somebody?" He kept saying, "I wish I knew." "That's about what he told me [Hanlon]." "I said, 'Son, you've got a vivid imagination.'" I told him that I'd won ten straight murder cases and he would be the eleventh. I said, "We've got the facts and the D.A.'s got nothing." So this college kid says, "You're wrong, Cochran. We've got to find out what's behind all this, or I'm going to prison." Well, he was right and I was wrong. Now he's in his fifth year in solitary and I'm still losing sleep." Hanlon asked, "No question he's innocent?" "None. The guy is a victim of a frame-up that goes so high it's scary. I wouldn't be surprised if the FBI was involved." "What's the proof?" "That's the problem."<sup>55</sup>

The Black Panther Party began as a method of policing the police. Recall Cochran's closing argument in the OJ case ("Who polices the police? You do."). The Marxist-Leninist Party of the dispossessed, taking its name from the symbol used by Stokely Carmichael's Loundes County Freedom Organization, selling copies of Mao's Little Red Book to raise funds with which to purchase weapons, patrolled the streets of Oakland, California to serve as a

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53. *An Interview with Geronimo Ji Jaga (Elmer Pratt)*, *supra* note 32, at 239.

54. JOHNNIE L. COCHRAN JR. WITH TIM RUTTEN, *JOURNEY TO JUSTICE* 135 (Ballantine 1996).

55. OLSEN, *supra* note 10, at 9.

barrier between the black proletariat and the brutality of the Oakland Police Department. Recall Cochran's words on waiting for the verdict in the Geronimo Pratt case that "Geronimo Pratt and I were about to learn which of us was living in a dream world."<sup>56</sup> Now go back, once again, to the "dream world" section of Cochran's closing argument in the OJ case "Anybody who believes that all police are perfect, that they don't lie, that they don't have the same biases and racism that the rest of society has, is living in a *dream world*. This is not for the feint of heart... This is for the courageous who understand what the constitution is about."<sup>57</sup>

It takes courage to leave the dream world. Cochran was able to leave the dream world and by creating a space in his mind for his courageous Black Panther comrade, Geronimo Pratt. Consider this very revealing philosophical arabesque:

I went home that night as dejected as I have ever been. In my mind, I replayed the philosophical debates Geronimo Pratt and I had waged virtually from the time we met... [O]ur differing points of view mirrored the split that divided black families and friends across America in those days. I was very much a man of Dr. Martin Luther King's school... Geronimo Pratt held to the school of Malcolm X and other militant theorists of his generation... Somehow that night, I felt I had let our side of this great argument—my side and Dr. King's—down.<sup>58</sup>

Far from letting "his side" down, Cochran, perhaps without any consciousness of it, had changed sides, and become a panther, at least inasmuch as he had introjected his lost panther brother. In Cochran's words, "That night, as I measured myself against Geronimo Pratt, I wondered about myself. 'Two-ness,' again. It was a bleak moment. Like many of its kind, it marked the end of one phase of my education."<sup>59</sup>

Cochran moved from the *dream world* to Malcolm X. Rev. Dr. Martin Luther King Jr. also left the dream world of 1963, the March on Washington, the 100th Anniversary of the Emancipation Proclamation. On 4 April 1967, King broke the silence and came out against the war in Vietnam, denouncing, as a Trinity, racism, capitalism and militarism. King was assassinated on 4 April 1968, the first anniversary of his broken silence. King knew the cost of his broken silence. On 3 April 1968, his Gethsemane, King told the Memphis

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56. COCHRAN & RUTTEN, *supra* note 54.

57. California v. Simpson, No. BA097211, 1995 WL 686429 at \*83 (Cal. Super. Ct. Sept. 27, 1995).

58. COCHRAN & RUTTEN, *supra* note 54, at 140.

59. *Id.*

audience that would be his last that "longevity has its place," a place less important than the cause of the dispossessed. In that sense, King also took up Malcolm's X. Consider, in connection to this discussion of Malcolm's cross, the following moment from a short visit between the two ("two-ness again"):

He felt as though he were entering a mausoleum. Through a heavy-gauge wire grate, he watched Pratt approach in shackles. He wore a white jumpsuit with a big black X on the back. Cochran asked the escorting guard, "What's the X for?" "Helps us aim."<sup>60</sup>

The X has a place in the curious psychoanalytic algebra of introjection, the process that allows us to continue on after the loss or separation from someone important to us by taking that lost someone into our own minds. The exchange written of immediately above ended with Pratt's plea and Cochran's promise:

"Promise you won't forget me"  
"I promise."<sup>61</sup>

Pratt was convicted for murder largely based on the testimony of Julius Butler, a witness presented as a member of the Black Panther Party who was in fact an informant for both the Los Angeles Police Department and the FBI, a fact not revealed in court, a fact that surely must have been known to all concerned at that time. Pratt was doubly-separated from the people's movement by COINTELPRO. First, he was incarcerated as part of the FBI's war against the panthers. Second, while incarcerated, he spent eight years of that incarceration in solitary confinement, also as part of the FBI's war against the panthers. A generation would pass before the evidence that the prosecution held secret for twenty-seven years, the evidence that testimony against Pratt was obtained from an informant whose status as an informant, kept secret at trial, would finally come to light. After the Pratt guilty verdict Cochran wrote:

Never again would I accept anything as it appeared at first glance without delving deeper beneath the surface and then deeper still...Geronimo Pratt paid the tuition for all those lessons of mine...That is why I have never forgotten him. But through the years our conversations have deepened along with our friendship. We are brothers, in fact; we have both moved

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60. OLSEN, *supra* note 10, at 178.

61. *Id.* at 179.

a long way and are no longer so far apart. Today, I owe Geronimo Pratt not only a debt of justice but one of love.<sup>62</sup>

Johnnie Cochran's brilliant courtroom ability grew out of this love, a love that gave him the courage to know. This was as it should be, for the panthers, who almost built the commune that one day will be, were led by this love.

The panthers turned Descartes' dream on its head. With a panther in his head, Johnnie Cochran was able to work miracles in the courtroom. There's more to the story than *I think, therefore I am*. Cochran's career, like Pratt's, was more than merely *his* story, it was also *ours*, part of the history of the commune to be.

To think, we must be. To be, we must be loved. To be loved, we must be free to return that love. Love calls us out of nonbeing. Love is stronger than death. There is a look and a smile and a word and a touch and *then* we come to be, not before, only after. We come to be only after love calls us into being *and* we follow. When we leave take leave of the place that is no place, it is love that leads us on. The place we leave is no place, it is non-being. Every journey from the undiscovered country to life is therefore a return to life and a return of that love.

Mother love is our best way of describing the love that calls us out of non-being, but it is not the only way. Because everyone who thinks, every "I," is an attempt to return to life and to return that love that calls us out of non-being, mother love is not the only way to imagine the love that is the ground subjectivity, the being of every thinker, the without-which-not of every "I." There is no end to the possibilities of the love that calls us out of non-being. Mother love, however, is a good enough way to describe it.<sup>63</sup>

Death is the end of possibilities. Death is a class relation. The Commune is another. What is the Middle Passage but the sovereignty of death? What is to be done?

Love is stronger than death. Class struggle, then, is our return to life and our return of the mother love that calls us out of non-being. Johnnie Cochran's life was touched by the panthers in this motherly way, and it was this touch that enabled him to perform certain wonders. In Geronimo Pratt's words, "What we really are fighting to build is a matriarchal system."<sup>64</sup> The panther commune is what we will all be when we return to the love that led each of us out of the undiscovered country.

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62. COCHRAN & RUTTEN, *supra* note 54, at 141.

63. Maria Grahn-Farley, *Astrid AND Me*, 17 LAW AND LITERATURE 269 (2005) (on parental love).

64. Jaga, *supra* note 15, at 76.