

WHAT NOT TO DO WHEN YOUR ROOMMATE IS MURDERED IN ITALY: AMANDA KNOX, HER “STRANGE” BEHAVIOR, AND THE ITALIAN LEGAL SYSTEM

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ABSTRACT

One of the most widely publicized cases of our time is that of Amanda Knox, the college student from West Seattle who was convicted of murdering her British roommate in Italy and served four years in prison before being acquitted and released. Retried in absentia, she was convicted again, only to be exonerated by the Italian Supreme Court, which handed down its final opinion in September, 2015. Throughout its eight-year duration, the case garnered worldwide attention, in part because of the pretty, photogenic defendant and the drug-fueled sex game that the prosecutor adduced as the motive for the crime. Interest in the case spiked again with the release of a Netflix original documentary, Amanda Knox, in the fall of 2016.

While the Amanda Knox case has been remarkable for its ability to fascinate an international audience, it is not altogether unique. Rather, it is emblematic of broader themes and a broader problem—that of human beings’ prejudice against “strangeness” and our desperation for a hasty assessment of guilt or innocence—qualities that can bleed into a legal system to the detriment of the quest for truth.

In this Article, I explore the Amanda Knox case in the context of our defective ability to judge. In Part One, I use the conceit of a “What Not To Do” list to highlight the role played by Amanda’s “strangeness” in bringing about her arrest and two convictions. In Part Two, I re-examine the usual rationale for Amanda’s behavior and suggest that a better explanation lies in her age and developmental stage. In Part Three, I shift from the interpreted to the interpreters, arguing that the latter were powerfully affected by the Madonna/whore complex and cultural differences between Perugia and Seattle. In Part

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Four, I analyze the impact of the Italian legal system, with its deep roots in the inquisitorial paradigm and its limited adversarial reforms.

This Article is based not only on scholarly research but also on my four sojourns in Italy, where I retraced Amanda’s footsteps and discussed the case with numerous legal experts. I had the opportunity to interview Amanda herself after she was free in Seattle.

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INTRODUCTION

Youth is the season of credulity.

*Sir William Pitt*¹

When I was twenty years old, during a brief sojourn in a poor, deathly hot Venezuelan border town called San Antonio del Táchira, I accepted a free ride from a stranger and nearly got myself raped.² Why, the reader may wonder, did I take such a chance? The answer is simple: to save money. I was a student, living in Colombia on a college fellowship, and the desire to conserve my dwindling funds outranked, in my mind, the need to protect myself from any risk I might run by getting into a stranger's car.

This was hardly the only foolish and hazardous mistake in judgment that I made in my youth, or even later in life, but it *is* the one that springs to my mind when contemplating Amanda Knox. For Amanda, too, was twenty years old and living in a foreign country when she made a series of impulsive choices that would stain her reputation, deprive her of freedom, and—after two years in preventive detention—catapult her from murder victim's roommate to convicted murderer.

To be sure, some of Amanda's hapless decisions were quite different from my own; for instance, performing a gymnastic stunt in the Perugia *questura* (police station),³ wearing a sleep T-shirt reading "All You Need Is Love" to her trial,⁴ and singing out "Ta-dah!" while thrusting out her arms in front of police officers at the crime scene.⁵ However, we both unwittingly put ourselves in dangerous territory: I by getting into a stranger's car, and Amanda by showing up, uninvited, at the *questura*, begging to be allowed to wait inside while her boyfriend, Raffaele, was interrogated.⁶

Later she would explain that, believing there was a murderer on the loose, she was afraid to stay alone in Raffaele's apartment, or outside in his car, by herself in the dark.⁷ Moreover, she was still under the sway of a powerful illusion, namely, that the police

¹ WILLIAM HENRY DAVENPORT ADAMS, ENGLISH PARTY LEADERS AND ENGLISH PARTIES 218 (1878) (quoting Sir William Pitt's speech to the House of Commons, Jan. 14, 1766).

² For an account of this attempted rape, see Martha Grace Duncan, *Beauty in the Dark of Night: The Pleasures of Form in Criminal Law*, 59 EMORY L. J. 1203, 1224–25 (2010).

³ See, e.g., CANDACE DEMPSEY, MURDER IN ITALY 284 (2010); BARBIE LATZA NADEAU, ANGEL FACE: SEX, MURDER, AND THE INSIDE STORY OF AMANDA KNOX 65 (2010); RAFFAELE SOLLECITO, HONOR BOUND: MY JOURNEY TO HELL AND BACK WITH AMANDA KNOX 54–55 (2012).

⁴ See NINA BURLEIGH, THE FATAL GIFT OF BEAUTY: THE TRIALS OF AMANDA KNOX 256 (2011); NADEAU, *supra* note 3, at 126.

⁵ See AMANDA KNOX, WAITING TO BE HEARD: A MEMOIR 91 (2013).

⁶ *Id.* at 107–08.

⁷ *Id.* at 107.

viewed her as a helpful witness,⁸ not as the prime murder suspect. Because of this illusion, she failed to foresee that just by walking into the police station, she would put herself in peril. Young and female, without a family member or even a lawyer, she made herself extremely vulnerable—as vulnerable as that most helpless of literary characters, Thomas Hardy’s Tess, in *Tess of the d’Urbervilles*.⁹

Near the beginning of that classic novel, Tess Durbeyfield, who has little experience of life or men, enters a fruit garden with Alec d’Urberville. When the wily Alec attempts to insert a strawberry into Tess’s mouth with his fingers, she initially bars the intrusion, saying: “No, no! . . . I would rather take it in my own hand.”¹⁰ But Alec insists, and she reluctantly complies. At the end of this encounter, Hardy writes the words that, foreshadowing Tess’s doom, could apply equally well to Amanda when she walked, oh so innocently, into the *questura*: “Thus the thing began.”¹¹

* * *

Since no project comes to a writer out of a clear blue sky, I owe the reader an account of the origins of this one. More than a decade ago, I began to notice the abundant references to remorse or, more exactly, *lack* of remorse in news stories and legal opinions about accused murderers. Often it was unclear why the accused persons had been judged remorseless, but in many instances the indicator was simply an impassive face, a failure to cry, laughter, or one seemingly callous remark observed in the moments immediately following the crime.

I reacted skeptically to these interpretations, which attributed unequivocal meaning to equivocal behavior and often involved judgments made hastily, when the accused may have been in shock or denial. Because of my personal history as someone who, at age twenty-two, had been unable to feel sadness or grief following my father’s suicide, I had good reason to know that it could take years to respond to a horrible event—not on account of callousness or depravity, but because the feelings were simply too awful to be borne.¹² Thus, I doubted the interpretations of remorselessness and, naturally, also doubted the law’s *use* of these interpretations to decide a person’s fate.

My concerns gave rise to years of research. With the help of my student assistants, I amassed cases of individuals who had been charged with murder or attempted murder and then exhibited supposed indifference to their crimes. Both to render the project manageable and to make the strongest possible argument, I focused on children and adolescents, choosing seven cases for in-depth exploration. Among the seven were a nine-year-old boy who shot a girl and then remarked, “If you don’t think about it, you

⁸ *Id.* at 108.

⁹ THOMAS HARDY, *TESS OF THE D’URBERVILLES passim* (Scott Elledge ed., W.W. Norton & Co. 2d ed. 1979) (1892).

¹⁰ *Id.* at 34.

¹¹ *Id.* at 35.

¹² See Martha Grace Duncan, “*So Young and So Untender*”: Remorseless Children and the Expectations of the Law, 102 COLUM. L. REV. 1469, 1470 (2002).

won't be sad" as he walked by her moribund body on his way to play Nintendo;¹³ a fourteen-year-old girl who beat her mother to death with a candlestick holder and then joked to a policewoman that she didn't have body parts in her pocket;¹⁴ and a fifteen-year-old boy who participated in a fatal assault on a Ph.D. student and then giggled through the night, making up rap songs and saying that his cellmate's nickname was "Homicide."¹⁵

In all these examples, the law interpreted the defendants' "lack of remorse" as a sign of vileness and treated them more severely because of it. Most severe of all was the penalty imposed on Chris Thomas, a seventeen-year-old boy who was found asleep on the sofa a few hours after killing his girlfriend's parents.¹⁶ This ability to fall asleep so soon after committing a heinous deed was construed as a sign of remorselessness, which, in turn, enabled the court to find vileness, an aggravating factor required by law to sentence him to death.¹⁷

Based on this research, I published a law review article, "*So Young and So Untender*": *Remorseless Children and the Expectations of the Law*,¹⁸ which drew on developmental psychology, sociology, and literature to re-interpret the "callous" acts. Emphasizing that the root of *remorse* is *remordere*, "to bite again,"¹⁹ a meaning that Nathaniel Hawthorne picks up in his phrase, "a gnawing of the inmost heart,"²⁰ I described *remorse* as acute agony over past wrongdoing—an emotional state that some people might well seek to avoid. Thus, I argued that we should anticipate resistance to remorse, especially in juveniles, who are less likely to show or even feel this deeply painful, complex emotion.

By now the reader will have noticed several similarities between the cases of "remorseless" juveniles and that of Amanda Knox. For instance, all but one of those cases, like Amanda's, involved a homicide. In addition, the accused were all very young. While Amanda was not a minor, she was still—throughout her first trial and imprisonment—in her early twenties, and this is a period that some psychologists recognize as a developmental stage between adolescence and mature adulthood.²¹

¹³ Commonwealth v. Kocher, 602 A.2d 1308, 1312, 1317 (Pa. 1992).

¹⁴ See Duncan, "*So Young and So Untender*", *supra* note 12, at 1480–85.

¹⁵ See Commonwealth v. Archer, 722 A.2d 203, 207 (Pa. Super. Ct. 1998); *id.* at 1502–07.

¹⁶ Thomas v. Commonwealth, 419 S.E.2d 606, 619 (Va. 1992); see Duncan, "*So Young and So Untender*", *supra* note 12, at 1486–87.

¹⁷ Thomas v. Commonwealth, 419 S.E.2d at 619 (citing Bunch v. Commonwealth, 304 S.E.2d 271, 282 (Va. 1983)); Duncan, "*So Young and So Untender*", *supra* note 12, at 1486–87.

¹⁸ Duncan, "*So Young and So Untender*", *supra* note 12.

¹⁹ WEBSTER'S NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE 2108 (2d ed. 1947) [hereinafter WEBSTER'S NEW INTERNATIONAL DICTIONARY].

²⁰ NATHANIEL HAWTHORNE, THE SCARLET LETTER 182 (Sculley Bradley et al. eds., W.W. Norton & Co. 2d ed. 1978) (1850).

²¹ See, e.g., EMERGING ADULTS IN AMERICA *passim* (Jeffrey Jensen Arnett & Jennifer Lynn Tanner eds., 2006) (including chapters on emerging adulthood by different authors); Jeffrey Jensen Arnett,

Furthermore, all of these defendants were judged to be evil, depraved, or dangerous based on acts that were irrelevant or only tangentially related to the homicide, and most of the acts—from the young girl’s joke about body parts to Amanda’s notorious cartwheel—occurred very soon after the crime.

Along with similarities, there are also significant differences between Amanda’s case and the cases of the remorseless children. Amanda was not tried under American law, with its sacrosanct presumption of innocence, but rather under Italian law, which makes it easier for defendants to be convicted but also easier to obtain a reversal on appeal.²² In another contrast, Amanda’s strange detachment worked primarily to target her as the main suspect and provoke her arrest, whereas in the remorseless children cases, the “callous” behavior influenced the decisions at waiver and sentencing—later stages of the process.

Finally, unlike the defendants in “So Young and So Untender,” Amanda has been cleared of any involvement in the homicide. The DNA at the crime scene matched that of another suspect, who was eventually convicted of Meredith’s murder.²³ Amanda’s DNA was nowhere present,²⁴ and she has now been fully exonerated by Italy’s highest court.²⁵

These similarities and differences afford us a chance to reassess the seven American cases in the light of a case tried in a continental European country, where both the law and the culture pose a dramatic contrast to the United States. By exploring how Amanda’s quirky behavior led to her murder convictions in a legal system that is still largely inquisitorial and a culture that highly values appropriate dress and behavior, we can learn more about the ways that legal systems, expecting proper tears rather than playful antics, may make flawed decisions and arrive at unjust results.

The benefits of comparison run in the other direction as well. Until now, most writers drawn to Amanda’s case have examined it in isolation.²⁶ Viewed this way, it has

Emerging Adulthood: A Theory of Development from the Late Teens Through the Twenties, 55 AM. PSYCHOLOGIST 469, *passim* (2000).

²² See James Q. Whitman, *Presumption of Innocence and Presumption of Mercy*, 94 TEX. L. REV. 933, 933–34, 988–89 (2016) (contrasting the criminal justice systems of the United States and continental Europe, with special emphasis on the Italian system).

²³ Rachel Donadio, *American Testifies in her Murder Trial in Italy*, N.Y. TIMES (June 12, 2009), <http://www.nytimes.com/2009/06/13/world/Europe/13italy.html> [https://perma.cc/B3HY-MWGS]; see also Ian Fisher, *German Police Arrest Third Suspect in Perugia Murder Case*, N.Y. TIMES (Nov. 21, 2007), <http://www.nytimes.com/2007/11/21/world/europe/21italy.html> [https://perma.cc/Y9V6-7J3P].

²⁴ See Stephanie Kirchgaessner, *Amanda Knox Acquitted Because of ‘Stunning Flaws’ in Investigation*, GUARDIAN (Sept. 7, 2015), <https://www.theguardian.com/lus-news/2015/sep/07/amanda-knox-acquitted-because-of-stunning-flaws-in-investigation> [https://perma.cc/A2Q9-ED3D].

²⁵ See Stephanie Kirchgaessner, *Meredith Kercher Murder: Amanda Knox and Raffaele Sollecito Acquitted*, GUARDIAN (Mar. 27, 2015), <https://www.theguardian.com/world/2015/mar/27/meredith-kercher-amanda-knox-and-raffaele-sollecito-acquitted> [https://perma.cc/55NL-S9FQ].

²⁶ Many books have been written about the Amanda Knox case; however, most of these accounts were published several years before the case ended, in 2015. See, e.g., BURLEIGH, *supra* note 4 (published in 2011); DEMPSEY, *supra* note 3 (published in 2010); JOHN FOLLAIN, A DEATH IN ITALY (2011); GARY C. KING, THE MURDER OF MEREDITH KERCHER (2010); NADEAU, *supra* note 3 (2010); MARK C. WATERBURY,

been tempting to see her story as bizarre and *sui generis*, something that could only happen in Italy and for which Italian law was to blame.²⁷ But, as a broadly comparative approach reveals, the kinds of mistakes made in Amanda’s case are not limited to Italy’s legal system, to inquisitorial systems generally, or to cultures that value propriety and decorum over “being oneself.”²⁸ This Article will shed light on the reasons that a criminal justice system would prosecute a young person not just once, but off and on for nearly eight years, despite what the Italian Supreme Court would describe in its final opinion as “investigative amnesia” and “culpable investigative omissions” as well as an “total absence of biological traces” belonging to Amanda or Raffaele at the crime scene.²⁹

* * *

This Article unfolds in four parts. In Part One, “What Not to Do When Your Roommate Is Murdered in Italy,” I lay the foundation by telling the story of Amanda’s odyssey through the byzantine Italian legal system. To highlight the choices that caused Amanda to be fingered as the prime suspect and twice convicted of murder, I employ the conceit of a “What Not To Do” list,³⁰ identifying the cultural taboos and social conventions that Amanda violated, to her great regret.

In Part Two, “Behind the Cartwheel,” I turn from the story to the underlying causes of what some have called Amanda’s “bizarrely inappropriate” behavior. One of the most oft-cited reasons is naïveté; indeed, Amanda herself has adduced this concept, saying that, vis-à-vis the Italian police, she was “a mouse in a cat’s game.” However, I will

THE MONSTER OF PERUGIA: THE FRAMING OF AMANDA KNOX (2011). In addition to the works just listed, some books treat Amanda’s case in a comparative context. See, e.g., DAVID C. ANDERSON & NIGEL P. SCOTT, THREE FALSE CONVICTIONS, MANY LESSONS (2016) (examining empathy in three cases, including Amanda’s); ELLEN NERENBERG, MURDER MADE IN ITALY: HOMICIDE, MEDIA, AND CONTEMPORARY ITALIAN CULTURE (2012) (including an Epilogue on Amanda’s case); STEVIE SIMKIN, CULTURAL CONSTRUCTIONS OF THE *FEMME FATALE*: FROM PANDORA’S BOX TO AMANDA KNOX (2014).

²⁷ See Olga Khazan, *Amanda Knox and Italy’s ‘Carnavalesque’ Justice System*, ATLANTIC (Jan. 30, 2014), <https://www.theatlantic.com/international/archive/2014/01/amanda-knox-and-italys-carnavalesque-justice-system/283487> [<https://perma.cc/FY3Z-D6T4>] (“It wouldn’t have happened in the U.S., legal scholars write, because Italy doesn’t forbid double jeopardy.”); See also *infra* Part IV.

²⁸ See *infra* notes 413–444 and accompanying text (comparing the Amanda Knox case with cases in Australia and the United States).

²⁹ Cass. sez. quinto, 24 settembre 2015, n. 32598, Foro. it. V 2015, 4, 25,42 (It.), translated in *Supreme Court Motivation Report*, INJUSTICE ANYWHERE 45 (Sept. 7, 2015), <http://www.amandaknoxcase.com/wp-content/uploads/2015/09/Marasca-Bruno-Motivations-Report.pdf> [<https://perma.cc/4NP5-676J>]. See also Elisabetta Povoledo, *Italy’s Highest Court Explains Decision to Clear Amanda Knox*, N.Y. TIMES (Sept. 7, 2015), https://www.nytimes.com/2015/09/08/world/europe/italys-highest-court-explains-decision-to-clear-amanda-knox.html?_r=0 [<https://perma.cc/A99Y-LZ3L>].

³⁰ For a discussion of the infinite forms, including lists, that writers can employ to shape creative nonfiction, see Brenda Miller & Suzanne Paola, TELL IT SLANT: WRITING AND SHAPING CREATIVE NONFICTION 74–89, 149 (2005). See also Carolyn Forché & Philip Gerard, *Introduction to Creative Nonfiction: An Adventure in Lyric, Fact, and Story*, in WRITING CREATIVE NONFICTION: INSTRUCTION AND INSIGHTS FROM TEACHERS OF THE ASSOCIATED WRITING PROGRAMS 1 (2001) (describing creative nonfiction as “factual prose that is also *literary*—infused with the stylistic devices, tropes, and rhetorical flourishes of . . . fiction”).

endeavor to show that naïveté, being vague, moralistic, and culturally relative, is a weak explanation at best.

In place of naïveté, I will propose that we focus on Amanda’s developmental phase, in particular, “emerging adulthood,” the part of the human life cycle extending from eighteen to twenty-five years of age and even beyond. Two features of this phase—“intense identity exploration” and “a focus on self”—seem particularly applicable to the twenty-year-old Amanda. I will delineate these features and correlate them with her inappropriate actions, thereby demonstrating that the concept of emerging adulthood offers an alternative, benign way to account for her “bizarre” behavior between the fall of 2007 and her first conviction in the early winter of 2009.

In Part Three, “Interpreting the Interpreters,” I shift the focus from Amanda’s improvident choices to society’s response. Specifically, I ask why many observers—in Italy, the United Kingdom, and elsewhere—were so incapable of empathy for Amanda, so quick to place her beyond the pale, and why the Italian police and judiciary were so ready to believe her guilty of murder based on her failure to mourn in the expected manner. In my quest for answers, I will explore the Madonna/whore binary and the cultural differences between the United States and Italy.

Finally, in Part Four, I analyze the Italian criminal justice system, with its inquisitorial roots and its partial shift to the adversarial model in 1989, and question whether Amanda might have been treated the same way elsewhere.

In researching and writing this Article, I have not relied solely on written sources but have also traveled several times to Italy, experiencing firsthand the mysterious ambience of Perugia, the medieval walled city where the murder occurred. In addition, I witnessed part of Amanda’s appellate trial in a postmodern courthouse in Florence, the Palazzo di Giustizia. During these expeditions, I interviewed Italian criminal lawyers, law professors, journalists, and interpreters. They afforded me perspectives on Italian law and culture that would have been impossible to gain on my own. In search of a deeper, more intuitive understanding of the case, I traveled to Amanda’s hometown of Seattle, where I spoke at length with Amanda’s best friend, Madison Paxton, and—over brunch on a drizzly, gray Sunday—with Amanda herself.

I. WHAT NOT TO DO WHEN YOUR ROOMMATE IS MURDERED IN ITALY: ADVICE FOR AMANDA, WITH THE BENEFIT OF HINDSIGHT

[T]he impression of reality . . . is a delicate, fragile thing that can be shattered by very minor mishaps.

Erving Goffman, *The Presentation of Self in Everyday Life*³¹

³¹ ERVING GOFFMAN, *THE PRESENTATION OF SELF IN EVERYDAY LIFE* 56 (1959).

Momma says presentation is everything.

Jennifer Lauck, *Blackbird*³²

Before Departing for Italy

1. *Do not carry a vibrator, pink and bunny-shaped, inside a see-through toiletry bag to Italy.*

Though an innocent parting gift from a friend, intended as a joke, the pink vibrator will bring you more trouble than you can possibly imagine at the moment you toss it heedlessly into your clear plastic bag before rushing to the airport.³³ Later, after you leave it out in a shared bathroom, still in the transparent case, the vibrator will make your British roommate uncomfortable, although you do not know this at the time. In fact, you learn of Meredith's discomfort only at trial, after she is dead, when a friend of hers, testifying that Meredith was bothered by your overt sexuality, cites the pink vibrator in its see-through beauty bag.³⁴ This testimony will enable the prosecution to say there was antipathy between you and the victim, thus providing a motive for the crime.³⁵

In addition, your vibrator will contribute to the reputation you will acquire as a sex-obsessed woman.³⁶ In the coming criminal trial, your reputation will matter; those who sit in judgment upon you (a panel of professional and lay judges) will not be sequestered and thus will be exposed to the sensationalized media accounts of your character.³⁷

2. *Do not adopt "Foxy Knoxy" as your profile name on MySpace.*

Like the pink vibrator, this nickname too has an innocent origin: when you were thirteen, your soccer teammates called you "foxy" because of the way you deftly maneuvered the ball down the field.³⁸ You put this moniker on MySpace, thinking it safer than your real name,³⁹ but when MySpace falls into desuetude and your nickname languishes, forgotten, Italian reporters will uncover it. They will now refer to you as

³² JENNIFER LAUCK, *BLACKBIRD: A CHILDHOOD LOST AND FOUND* 5 (2000).

³³ *See KNOX*, *supra* note 5, at 13–14.

³⁴ *Id.* at 293–94.

³⁵ *See NADEAU*, *supra* note 3, at 29.

³⁶ *SIMKIN*, *supra* note 26, at 168.

³⁷ *See Amanda Knox Case Puts Spotlight on Italy's Courts*, CBS NEWS (Oct. 3, 2011), <http://www.cbsnews.com/news/amanda-knox-case-puts-spotlightspotliht-on-italys-courts/> [<https://perma.cc/8TUS-HFGZ>] (quoting author Douglas Preston, as saying, "[T]he failure of the Italians to sequester a jury was a key factor in Knox's conviction on murder charges.").

³⁸ *See KNOX*, *supra* note 5, at 31.

³⁹ *See id.* at 206.

Volpe Cattiva, “Wicked Fox.”⁴⁰ You will realize later, while in prison, that when people think of you as a wild animal, they find it easier to hate you.⁴¹

In Italy, Before the Murder

First Chronological Interlude

*September 2, 2007: Twenty-year-old Amanda Knox arrives in Perugia seeking a place to live during her junior year abroad. Purely by chance, she meets a young Italian woman, Laura Mezzetti, who has rooms to rent in a picturesque villa, No. 7 via della Pergola. Laura and her best friend, Filomena Romanelli, are already occupying two rooms on the upper level, while four Italian male students reside on the lower level. Upon inspecting the villa, Amanda, enchanted, signs the lease and then departs on a trip to Germany.*⁴²

*September 20, 2007: Amanda returns to Perugia, moves into the villa, and meets Meredith Kercher, a British student who has taken a lease in the interim and now occupies the room next to Amanda’s.*⁴³

*Early October, 2007: At the Università per Stranieri, Amanda begins classes in Italian language and culture. Feeling that she has too much time on her hands, she takes a part-time job at Le Chic, a bar owned by Patrick Lumumba.*⁴⁴

3. *Do not embark on a “campaign to have casual sex”⁴⁵ when you arrive in Italy, notwithstanding your friends’ pressure to do so.*⁴⁶

Not only will you contract oral herpes from your first essay into meaningless intimacy,⁴⁷ but also you will enable the prosecutor to portray you as a *femme fatale*, even at times a “whore,”⁴⁸ whose wantonness stands in ironic contrast to your Madonna-like beauty.⁴⁹

⁴⁰ See *id.* at 207.

⁴¹ See *id.*

⁴² See KNOX, *supra* note 5, at 20–22.

⁴³ See *id.* at 25.

⁴⁴ See *id.* at 40–41.

⁴⁵ *Id.* at 102.

⁴⁶ See *id.* at 14.

⁴⁷ See *id.* at 23.

⁴⁸ See, e.g., SOLLECITO, *supra* note 3, at 63.

⁴⁹ For a discussion of Amanda’s resemblance to the Virgin Mary, see *infra* text accompanying notes 302–03.

Your experimentation with casual sex will come to light after a prison doctor announces that you have tested positive for HIV.⁵⁰ Shocked and frantic with fear, you will soothe yourself, as is your custom, by writing. You will make a list of your former lovers and the kind of protection used with each one, and this list will become public when the police search your cell, confiscate your writings, and share your sexual history with the press.⁵¹ By mistake, newspapers will report that you have slept with seven men in Perugia in six weeks, instead of seven in the United States and Italy over a period of years. Two months after the initial diagnosis, you will learn that it was an error; you are not HIV-positive after all.⁵²

4. *When texting your boss, Patrick, on the evening of the murder, do not write: “Ci vediamo più tardi,” the literal translation of “See you later,” if what you mean is “Goodbye.”*

The literal translation will hurt you badly, for although the Italian words allow for the meaning you intended—a casual signing off, rather than an appointment⁵³—the police will not acknowledge the ambiguity. Rather, they will interpret the text as clear evidence that, shortly before the crime, you made a commitment to go out and see Patrick.⁵⁴ Since you claimed that you stayed in all evening with your new boyfriend, Raffaele, the message seems to catch you in a deception and undercuts your alibi for the time of the murder. During the long hours of interrogation on November 5 and 6, 2009, the police will wave your cell phone in your face, repeating your words, “*Ci vediamo più tardi*,” and calling you a liar. When you are no longer able to withstand the pressure, you will sign a statement in Italian, adopting the detectives’ understanding of those fateful words: “See you later.”⁵⁵

⁵⁰ See KNOX, *supra* note 5, at 213.

⁵¹ See *id.* at 215–17.

⁵² See *id.* at 213–17; see also NADEAU, *supra* note 3, at 27, 84 (quoting Barbie Latza Nadeau, a journalist considered unsympathetic to Amanda, stating that “the police set a trap for Amanda by telling her she had tested positive for HIV”).

⁵³ See SOLLECITO, *supra* note 3, at 58 (noting that in Italian, as in English, these words can “simply mean ‘See you around’”). But see BURLEIGH, *supra* note 4, at 194–195 (explaining that ‘See ya later’ in American idiom doesn’t translate literally into Italian”); NADEAU, *supra* note 3, at 69 (saying that “in Italian, the same phrase generally suggests a fixed appointment”). For Amanda’s explanation of the linguistic confusion as told to the author, see *infra* text accompanying note 257 and following discussion.

⁵⁴ NADEAU, *supra* note 3, at 69.

⁵⁵ See KNOX, *supra* note 5, at 115–19.

The Day after the Murder

Second Chronological Interlude

November 2, 2007: Amanda awakens in the apartment of her boyfriend, Raffaele, where she has been spending the night ever since they met at a concert eight days earlier. When she returns to the villa to shower and change, she notices things that seem odd: the front door standing open, blood drops in the sink and on the bathroom rug, and feces left in the toilet.⁵⁶

Worried, Amanda calls her mother and her housemates but is unable to reach Meredith. After eating breakfast at Raffaele's, she takes him back to the villa, where they discover a broken window and other signs of a break-in. At the suggestion of his sister, a police officer in Rome, Raffaele calls the Carabinieri, the paramilitary unit in charge of violent crimes.⁵⁷

In the meantime, members of a wealthy Perugian family find two mysterious cell phones in their garden; the phones will later prove to be Meredith's. The family contacts the Polizia Postale, the police that investigate Internet crimes. It is they who reach the villa first and find Raffaele and Amanda waiting outside.⁵⁸ Housemates and friends converge at the villa, but no one has heard from Meredith, and the door to her room is locked. When one of the young men kicks it open, Amanda, who is too far from the doorway to see inside, hears voices shouting the Italian words for "foot" and "blood." Then the police order everyone out.⁵⁹

5. Do not kiss your boyfriend right outside the villa where Meredith's dead body lies or sit on your boyfriend's lap in the police station, cuddling and making funny faces.

Like Meursault, the protagonist of *The Stranger*, who smoked a cigarette at his mother's wake, and who swam, made love to his girlfriend, and watched a movie—a comedy no less—the day after his mother's funeral,⁶⁰ you too will be reviled and condemned for your inappropriate behavior following on the heels of Meredith's murder.⁶¹

When you kiss your boyfriend not far from the scene of the grisly crime, your kiss will be filmed and played on television in a nonstop loop to display your indifference to

⁵⁶ See *id.* at 65–67.

⁵⁷ See *id.* at 67–70.

⁵⁸ See NADEAU, *supra* note 3, at 41–43.

⁵⁹ See KNOX, *supra* note 5, at 71–72.

⁶⁰ See ALBERT CAMUS, *THE STRANGER* 8, 20–21, 64 (Matthew Ward trans., Everyman's Library 1993) (1942).

⁶¹ See, e.g., FOLLAIN, *supra* note 26, at 93.

your roommate's death.⁶² When you sit on Raffaele's lap, making faces in the police station, your behavior will be remembered and recounted at trial as evidence of your failure to mourn.⁶³ Testifying before a packed courtroom, Meredith's British friend Robyn will describe how you stuck out your tongue at Raffaele and "showed no emotion," while everyone else was distraught.⁶⁴

An observation of the brilliant ethnographer Erving Goffman is relevant to your predicament here: "A demand regarding engrossment," he writes, "is a demand on the inner spirit," and, as such, is a requirement that some individuals cannot meet.⁶⁵ In that case, Goffman advises, they should either feign engrossment or stay away from the place where people will notice their distraction.⁶⁶

6. *When Meredith's friend Sophie, seeking consolation, gives you a hug in the police station, do not turn away without reciprocating.*⁶⁷

Too exhausted to even make the effort of hugging her back, you will try to make amends later the same evening, with comforting words—but to no avail.⁶⁸ In court, Sophie will testify about the initial rebuff, describing you as "cold."⁶⁹

7. *When Meredith's friend Natalie expresses the hope that Meredith had not suffered, do not respond, "How could she not have suffered? She got her fucking throat slit."*⁷⁰

You will say this because, being in a state of "righteous fury" at Meredith's killer, you cannot understand the relative self-control of Meredith's British friends.⁷¹ But your words will come across as crude and unempathic when Natalie repeats them during the trial.⁷² In relation to the Italian standard of *la bella figura*, you will fall far short, actually presenting yourself as its "evil twin," *la brutta figura* ("ugly face").⁷³

⁶² See KNOX, *supra* note 5, at 74, 206; NADEAU, *supra* note 3, at 55.

⁶³ See BURLEIGH, *supra* note 4, at 175; NADEAU, *supra* note 3, at 128.

⁶⁴ NADEAU, *supra* note 3, at 128.

⁶⁵ ERVING GOFFMAN, *BEHAVIOR IN PUBLIC PLACES* 38 (1963).

⁶⁶ See *id.*

⁶⁷ See DEMPSEY, *supra* note 3, at 81; FOLLAIN, *supra* note 26, at 90–91.

⁶⁸ See KNOX, *supra* note 5, at 80 (explaining that she was "too wrung out at that moment to reciprocate").

⁶⁹ See SOLLECITO, *supra* note 3, at 173.

⁷⁰ See KNOX, *supra* note 5, at 82.

⁷¹ See *id.* at 80, 82.

⁷² See BURLEIGH, *supra* note 4, at 175.

⁷³ See Carol King, *Bella Figura and Brutta Figura: Italy's Beauty and the Beast!* ITALY MAG. (Aug. 8, 2012), <http://www.italymagazine.com/featured-story/bella-figura-and-brutta-figura-italys-beauty-and-beast> [<https://perma.cc/M3MA-V8TL>].

8. *Do not stay in Perugia after the crime, though it may seem like the independent and admirable thing to do.*

Most of Meredith's British friends, aided by the British Consulate, will leave Perugia within a few days of the murder,⁷⁴ and you, too, have the option of leaving, for you could go home to Seattle, or to stay with "Aunt Dolly," your mother's cousin in Germany and your contact person in the event of an emergency.⁷⁵ Like the British students, you are worried about your safety,⁷⁶ but your reasons to stay will prove more powerful than your fears. Not only do you aspire to help the police find Meredith's killer,⁷⁷ you are also determined to salvage your hard-won year abroad—a year you earned by working odd jobs in Seattle, saving money, and persuading your parents to let you go—all so that you might have a culturally enriching experience.⁷⁸ These reasons are noble, but in the end they will not be justified, for by staying in Perugia, you will be forced to undergo the trauma of a murder conviction and incarceration.

During the Investigation

9. *Do not ignore Aunt Dolly's first phone call, in which she suggests that perhaps you should get a lawyer or seek assistance from the American Embassy in Rome.*⁷⁹

Knowing yourself to be innocent, you will be unable to imagine why you would need legal counsel. You have yet to learn that mere innocence will not protect you. You will likely be suffering from what is called the "illusion of transparency": the belief that others can see through to your nonculpable self.⁸⁰ Or perhaps you will be relying too heavily on the presumption of innocence familiar to you from the American legal system. It may behoove you to model your actions after those of your Italian housemates, Laura and Filomena, both interns at Perugian law firms, who seek legal counsel after Meredith's body is found.⁸¹ As the saying goes, "When in Rome . . ."⁸²

⁷⁴ See BURLEIGH, *supra* note 4, at 103; DEMPSEY, *supra* note 3, at 92; Sam Tanenhaus, *Trial and Error: 'Waiting to Be Heard: A Memoir,' by Amanda Knox*, N.Y. TIMES (May 24, 2013), <http://www.nytimes.com/2013/05/26/books/review/trial-and-error.html> [<https://perma.cc/53DL-RUKU>].

⁷⁵ See KNOX, *supra* note 5, at 10, 85, 93, 102.

⁷⁶ See *id.* at 86.

⁷⁷ See *id.* at 85.

⁷⁸ See *id.* at 5–10.

⁷⁹ See *id.* at 89, 93–94.

⁸⁰ See Thomas Gilovich et al., *The Illusion of Transparency: Biased Assessments of Others' Ability to Read One's Emotional States*, 75 J. PERSONALITY & SOC. PSYCH 332 (1998); Saul M. Kassir, *On the Psychology of Confessions: Does Innocence Put Innocents at Risk?*, 60 AM. PSYCHOLOGIST 215, 218.

⁸¹ See Tanenhaus, *supra* note 74.

10. *Do not ignore Aunt Dolly's second phone call, in which she no longer suggests but tells you to call the American Embassy.*⁸³

It would be good to have the facts “on the record,” Aunt Dolly says, “just in case.”⁸⁴ At the time, you will ask yourself: “Just in case what?”, but later you will wonder whether things would have turned out differently had you taken her advice.⁸⁵

11. *When the police take you back to the villa and provide you with protective gloves and booties, do not—when you finish dressing—sing out “Ta-dah” and turn your arms out, like a star in a Broadway musical.*⁸⁶

You will do this to make up for a *faux pas* that you committed a few minutes earlier, on the ride to the villa in the police car. You complained of being tired, and your complaint irritated one of the officers, who replied, “Do you just not care that someone murdered your friend?”⁸⁷ So now, always fighting the last battle, you try to seem friendly and cooperative, but the police will only look scornfully at your antics.⁸⁸ One of those present, a specialized detective brought in from Rome to help with the investigation, will later tell reporters that you suggestively swiveled your hips as you put on the booties. This seductive movement, known in Italy as *la mossa* (“the move”), was one of the first things that aroused his suspicion of your involvement in the murder.⁸⁹

12. *Do not stay away from the memorial service for Meredith or in other ways fail to mourn her death.*

You will miss the service partly out of fear of attending alone and also out of concern that strangers will approach you with awkward questions.⁹⁰ But your absence

⁸² See JOHN BARTLETT, FAMILIAR QUOTATIONS 144 (1968) (quoting St. Ambrose's advice: “When you are at Rome live in the Roman style; when you are elsewhere live as they live elsewhere.”).

⁸³ KNOX, *supra* note 5, at 102.

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ See *id.* at 91.

⁸⁷ *Id.* at 90.

⁸⁸ See *id.* at 91 (explaining that “having just been reprimanded for complaining, I wanted to be friendly . . . [but] they looked at me with scorn”).

⁸⁹ See SOLLECITO, *supra* note 3, at 48; Ian Leslie, *Amanda Knox: What's in a Face?*, GUARDIAN (Oct. 7, 2011), <https://www.theguardian.com/world/2011/oct/08/amanda-knox-facial-expressions> [<https://perma.cc/T49K-Q9U6>].

⁹⁰ See KNOX, *supra* note 5, at 107.

from the candlelight memorial on the public square as well as your “strange coldness”⁹¹ and “odd detachment”⁹² will have an impact that may hurt you. As Goffman says, “The impression of reality . . . is a delicate, fragile thing that can be shattered by very minor mishaps.”⁹³

13. *Do not go with Raffaele to a store called Bubble*⁹⁴ *and purchase bikini panties in red, adorned with a caricature of a cow.*⁹⁵

Barred from the villa, which is now a crime scene, and suffering through your period,⁹⁶ you are compelled by necessity to buy new panties. But try to avoid the color red and its associations with sin, as in the prophet Isaiah’s words: “[T]hough your sins be as scarlet, they shall be as white as snow; though they be red like crimson, they shall be as wool.”⁹⁷

The scene of you and Raffaele buying underpants will be captured on Bubble’s video camera and sold to the Italian media. Described by some reporters as “a saucy G-string” and by a lawyer during the trial as “sexy lingerie,” the underpants will be featured in newspaper stories about your shopping excursion the day after Meredith’s body was found.⁹⁸ Those who sit on your case at trial—a panel of two *giudici togati* (professional judges) and six *giudici popolari* (lay judges)⁹⁹—will be at liberty to read these media accounts of your conduct. They may conclude that you are indifferent to the crime, preoccupied with your alluring underpants instead of your roommate’s murder.

⁹¹ See BURLEIGH, *supra* note 4, at 195 (quoting Amanda’s first interpreter as saying that she seemed “strangely cold”).

⁹² See NADEAU, *supra* note 3, at 63.

⁹³ GOFFMAN, *THE PRESENTATION OF SELF IN EVERYDAY LIFE*, *supra* note 31, at 56.

⁹⁴ See KNOX, *supra* note 5, at 94.

⁹⁵ See Jon Swaine, *Amanda Knox asks the Kerchers to take her to Meredith’s grave*, TELEGRAPH (April 30, 2013), <http://www.telegraph.co.uk/news/worldnews/europe/italy/10028484/Amanda-Knox-asks-the-Kerchers-to-take-her-to-Merediths-grave.html> [<https://perma.cc/7RS5-6PLP>].

⁹⁶ See KNOX, *supra* note 5, at 98.

⁹⁷ HOLY BIBLE: KING JAMES VERSION, *Isaiah 1:18*. See also Jolande Jacobi, *Symbols in an Individual Analysis*, in MAN AND HIS SYMBOLS 323, 350 (1964) (describing red as “the symbolic color of feeling and passion”); KNOX, *supra* note 5, at 94 (saying it “probably would have been better if I’d chosen a more sedate color than red”).

⁹⁸ See KNOX, *supra* note 5, at 94; BURLEIGH, *supra* note 4, at 5; NADEAU, *supra* note 3, at 60–61.

⁹⁹ See MICHAEL A. LIVINGSTON ET AL., *THE ITALIAN LEGAL SYSTEM: AN INTRODUCTION* 67 (2d ed. 2015).

14. *Do not close your ears to the warning implicit in Aunt Dolly's third phone call, when she asks whether you have called the American Embassy.*¹⁰⁰

You will tell her that you have not had time, although, in fact, you have not even considered calling the Embassy.¹⁰¹ Intent on proving your independence, you are trying to give her and your other callers the impression that you have things under control. But later, you will reflect that Aunt Dolly's warning had presented you with your "last chance to alter the course of coming events."¹⁰²

15. *Do not perform a gymnastic stunt in the police station, despite an officer's inquiry about what you can do.*

While you are waiting for Raffaele in a chair near the elevator, a police officer will sit down beside you. "As long as you're here," he will say, "do you mind if I ask you some questions?"¹⁰³ During the ensuing talk, your back begins to ache, so you will stand up and stretch, touching your toes, and raising your arms over your head. "You seem really flexible," the police officer will observe, "What else can you do?"¹⁰⁴ In reply, you will perform a stunt— an act that most accounts describe as a cartwheel,¹⁰⁵ but that you say was "a split."¹⁰⁶

Whether a cartwheel or the splits, it will turn out badly. According to your version, at the moment when you are on the floor, your legs splayed in a perfect split, the elevator doors will open in front of you to reveal Police Officer Rita Ficarra, the chief interrogator on your case. She will ask, "What are you doing?" in a voice that strikes you as "full of contempt."¹⁰⁷ In court, she will testify about her astonishment at seeing you showing off your gymnastic ability, saying that it "honestly seemed out of place."¹⁰⁸

16. *Do not submit voluntarily to an interrogation because of your trust in the police and your belief that, being innocent, you have nothing to fear.*

You will think that the police are merely seeking your help, even when they keep asking the same questions over and over. You will assume that you are all on the same

¹⁰⁰ See KNOX, *supra* note 5, at 105–06.

¹⁰¹ See *id.* at 105.

¹⁰² *Id.* at 106.

¹⁰³ *Id.* at 108.

¹⁰⁴ *Id.* at 109.

¹⁰⁵ See, e.g., BURLEIGH, *supra* note 4, at 193 (describing Amanda doing a cartwheel to oblige a police officer); NADEAU, *supra* note 3, at 65 (describing Amanda doing a cartwheel and splits).

¹⁰⁶ KNOX, *supra* note 5, at 109.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 309.

side even while the police yell at you relentlessly: “Who did you meet up with? Who are you protecting? . . . Who’s this person? Who’s Patrick?”¹⁰⁹

Too late, you will realize that the police consider you a suspect, not a witness,¹¹⁰ and— what is even more frightening—they have done so from the start.

17. *When a policewoman pokes her head in the door and announces, with a hint of glee, that Raffaele has destroyed your alibi,¹¹¹ do not give up hope in your boyfriend’s essential goodness and loyalty or allow his betrayal to shake your belief in your own memory.*

At the time you will feel deserted. You will think, “Now it [is] just me against the police, my word against theirs. I [have] nothing left.”¹¹² And it is true that Raffaele did betray you during the harsh interrogation on November 5 and 6, signing a document saying that you had gone out for several hours on the night of the murder.¹¹³ But eventually you will learn that he, too, recanted his statement in the clear light of day. From then on, you will find that he is steadfast. His family will pressure him relentlessly, asking why he “couldn’t say [he] was asleep on the night of the murder and had no idea what Amanda got up to.”¹¹⁴ But he will refuse to abandon you or to compromise with the truth.¹¹⁵ He will send you a bouquet of roses on your first birthday in prison,¹¹⁶ and his other gifts and letters will help you endure the years of confinement.¹¹⁷

18. *Do not make a false “confession” in which you accuse an innocent man of murder and place yourself at the scene.¹¹⁸*

In the wee hours of the morning of November 6, succumbing at last to the interrogators’ pressure, you will sign a statement placing yourself at the crime scene and

¹⁰⁹ *Id.* at 116.

¹¹⁰ See BURLEIGH, *supra* note 4, at 236.

¹¹¹ KNOX, *supra* note 5, at 113–14; NADEAU, *supra* note 3, at 66–67; SOLLECITO, *supra* note 3, at 57–58.

¹¹² KNOX, *supra* note 5, at 114.

¹¹³ See SOLLECITO, *supra* note 3, at 57–58.

¹¹⁴ *Id.* at 222.

¹¹⁵ See *id.* at 219–24 (describing how Raffaele staunchly resisted the urgings of his family to destroy Amanda’s alibi and distance himself from her to improve his chances of gaining freedom).

¹¹⁶ See *id.* at 149–50; *cf.* KNOX, *supra* note 5, at 268 (recalling Raffaele’s gift of flowers but remembering them as “a huge bouquet of white lilies.”).

¹¹⁷ See KNOX, *supra* note 5, at 266 (describing her correspondence with Raffaele as “soothing”); see also SOLLECITO, *supra* note 3, at 189 (describing their “blossoming correspondence,” and gifts exchanged while in prison).

¹¹⁸ See NADEAU, *supra* note 3, at 72–73. For an analysis of Amanda’s false confession, see *infra* text accompanying notes 228–52.

implicating your boss, Patrick Lumumba, in the murder of Meredith.¹¹⁹ While you never admit to any actual participation in the assault or murder, this statement, being a radical departure from your original story, will make you look like a liar. In addition, your accusation of Patrick, a man who can easily prove his innocence, will come across as the desperate ploy of a guilty person.

Why will you do it? Exhaustion, fear, isolation, and youth—all may have played a part. By the time you sign the incriminating statement, you will have been interrogated repeatedly over a five-day period.¹²⁰ On the final night, in a small crowded room, you will be questioned for four hours straight while deprived of food and water. During this interrogation, several police officers will threaten you, charge you with lying, plead with you to remember, and slap you on the head.¹²¹ As you will later write in your memoir, “I would have believed, and said, anything to end the torment I was in.”¹²²

19. *Do not try to undo the false “confession” by voluntarily writing an amended version of the same story.*

From the age of seven, whenever you got in trouble with your mother, you would take out your Lion King notebook and compose an explanation and apology.¹²³ You could count on your mother to respond with hugs and reassuring words.¹²⁴ So, in the Perugia police station, when you start to suspect that you have not actually remembered the crime scene but only imagined it, you believe that you can make things right with words you scribble on a page. You thrust the page into a policewoman’s hand, confident that you have cleared everything up.¹²⁵

But what worked with your mother, your original authority figure, will only make things worse with the authorities you now face. For it will turn out that your initial “confession,” having been made without a lawyer present, will be inadmissible in the criminal trial,¹²⁶ whereas the statement you write to repair the damage—in which you repeat your “vision” of the murder but with the strong suggestion that it was only a dream—will be treated as voluntary and admissible.¹²⁷ Thus, ironically, your self-incriminating words will be used against you because of your very attempt to mitigate their impact. Your noble desire to be helpful and honest with the police and prosecutor will be the very thing that, for many, establishes your guilt.

¹¹⁹ See NADEAU, *supra* note 3, at 72–73.

¹²⁰ See BURLEIGH, *supra* note 4, at xxiv.

¹²¹ See KNOX, *supra* note 5, at 103, 116–17.

¹²² *Id.* at 104.

¹²³ See *id.* at 159.

¹²⁴ See *id.* at 60.

¹²⁵ See *id.*

¹²⁶ See NADEAU, *supra* note 3, at 72–73.

¹²⁷ See *id.* at 74–75 (stating that the spontaneous statement would “seal her fate”).

Third Chronological Interlude

November 6, 2007: Amanda and Raffaele are arrested and incarcerated, along with Amanda's boss, Patrick Lumumba.¹²⁸ Patrick, who has a solid alibi, will be released two weeks later.¹²⁹ However, Amanda's false accusation has lasting repercussions. In particular, Amanda will be charged with defamation of character. The civil trial will proceed simultaneously with her criminal trial—in the same courthouse, in front of the same jurors—resulting in the admission of evidence into the criminal trial that would not otherwise have been allowed.¹³⁰

November 15, 2007: Police declare the murder weapon to be a kitchen knife selected at random from a drawer in Raffaele's kitchen. They state that Amanda's DNA is on the handle and Meredith's on the blade.¹³¹ However, forensic experts object that the DNA on the blade is a "low copy number," too small to be admitted in a British or American court.¹³²

November 20, 2007: Rudy Guede, a casual acquaintance of both Amanda and Meredith, who played basketball with their male housemates, is arrested and charged with Meredith's murder.¹³³ Rudy's handprint, set in Meredith's blood, has been found on the pillowcase under her body, and his bloody shoeprints have been picked up in the hall and bedroom of the villa. His DNA has been discovered inside Meredith's vagina, on the cuff of her sweatshirt, and on her bra strap.¹³⁴

December 18, 2007: The police return to the Villa and retrieve a clasp from Meredith's bra, which had been left on the bedroom floor for forty-six days. After testing, the police announce that the clasp contains traces of Raffaele's DNA.¹³⁵

¹²⁸ BURLEIGH, *supra* note 4, at xxiv–xxv.

¹²⁹ *Id.* at xxv.

¹³⁰ DEMPSEY, *supra* note 3, at 308.

¹³¹ BURLEIGH, *supra* note 4, at xxv; KNOX, *supra* note 5, at 197.

¹³² BURLEIGH, *supra* note 4, at 263–64.

¹³³ *Id.* at xxv, 98; *see also* Rachel Donadio, *Man Guilty of Killing of Briton in Italy*, N.Y. TIMES (Oct. 29, 2008), <http://www.nytimes.com/2008/10/29/world/europe/29italy.html> [<https://perma.cc/SQ66-BKP6>].

¹³⁴ BURLEIGH, *supra* note 4, at 14; DEMPSEY, *supra* note 3, at 219.

¹³⁵ BURLEIGH, *supra* note 4, at xxv.

Between the Arrest and the Trial

20. *Do not keep a diary in prison.*

To be sure, many who follow your case will understand why you are tempted to record your prison sojourn. We will sympathize when we read on the first page of your diary that you are writing this “to remember . . . because not that many people will ever have this experience.”¹³⁶ To some readers, including me, your diary will be the most poignant and moving artifact of your case. Its form, even more than its content, will seem touchingly resolute, with its cover page neatly laid out: first, the title, “MY PRISON DIARY,” printed in shaky block letters, and, further down the page, with asterisks flanking it, the dutiful translation into the language you are hoping to master: “**Il mio diario del prigioniero.**”¹³⁷

The diary comes across as very young. In fact, journalist Nina Burleigh describes your script as “childishly rounded,”¹³⁸ while author Candace Dempsey writes that the big block letters on the cover page reflect the “grandiosity of youth.”¹³⁹ In me, it evokes memories of my own childhood diaries: an azure one with stars and a moon and a brass lock on its leather cover, and a red one in which I wrote “reviews” of all the books I read in eleventh grade. On the front cover of the red one, I printed the words, “MY FRIENDS IN THE WORLD OF BOOK LAND,” a title so earnest and clichéd that I cringe now to think of it. Yet it is the very earnestness of your cover page that moves me.

On November 29, 2007, your cell will be ransacked by the police and your diary confiscated. The police will leak your private musings to reporters, who will publish excerpts in their newspapers.¹⁴⁰ In some of these excerpts you marvel at the prosecutor’s theories, presenting them as preposterous. But unfortunately, tone does not translate well from one culture or language to another; thus, the media will ignore your sarcasm, framing your reflections as serious when you intended them to be absurd.¹⁴¹

Fourth Chronological Interlude

*October 28, 2008: After a “fast-track” trial, Rudy Guede is convicted of murder in Meredith’s death and sentenced to thirty years in prison. On appeal, his sentence is reduced to sixteen years.*¹⁴²

¹³⁶ For a digital copy of Amanda’s diary, see www.injusticeinperugia.org/diary.html [<https://perma.cc/HCP2-L4QP>].

¹³⁷ *Id.*

¹³⁸ BURLEIGH, *supra* note 4, at 284.

¹³⁹ DEMPSEY, *supra* note 3, at 180.

¹⁴⁰ See, e.g., BURLEIGH, *supra* note 4, at 283; DEMPSEY, *supra* note 3, at 337; SIMKIN, *supra* note 26, at 172–73.

¹⁴¹ See KNOX, *supra* note 5, at 234.

¹⁴² *Id.* at 281–82; see also GARY C. KING, THE MURDER OF MEREDITH KERCHER 185 (2010).

January 16, 2009: *The trial of Amanda and Raffaele begins in Perugia.*¹⁴³

During the Trial

21. *On Valentine's Day, do not go to court wearing a sleep T-shirt with pink letters six inches tall reading: "All You Need Is Love."*¹⁴⁴

It may seem unlikely that something as "frivolous" as clothing would have an impact on your case, but remember that when Joan of Arc was tried for heresy in Rouen, five of the charges against her concerned her "inappropriate" way of dressing, such as her donning of garments made of luxurious fabrics like "gold and silk . . . trimmed with fur."¹⁴⁵ And while it will not lead to your being burned at the stake, you too will pay a price for your decision to wear the oversized T-shirt to court.

Why will you do it? Perhaps the T-shirt—a gift from your stepmother, Cassandra,¹⁴⁶ that is adorned with lyrics from your beloved Beatles—functions as a soothing "transitional object" in this frightening place.¹⁴⁷ Or perhaps it is simply what you say in your memoir: that by dressing in your "usual jeans and a T-shirt," you hope to enable the jury to see the real you.¹⁴⁸

But rather than making you seem normal and innocent, your flamboyant T-shirt will be interpreted as "obnoxious," a sign of your "attention-grabbing narcissism" and of your disrespect for the Italian judicial system. In the British press, the T-shirt will even be read as a sign of your "psychopathic" personality.¹⁴⁹ Your choice of attire on that one day will be, as you later reflect, "what did the most damage in those early weeks."¹⁵⁰

22. *Do not wait until the last week of your trial to start wearing conservative clothes to court.*

Even after suffering through the Valentine's Day debacle, you will not appreciate how much your fashion choices differ from Italian expectations. Thus, in the autumn of

¹⁴³ DEMPSEY, *supra* note 3, at 268.

¹⁴⁴ See, e.g., NADEAU, *supra* note 3, at 126; SOLLECITO, *supra* note 3, at 174.

¹⁴⁵ See MARINA WARNER, JOAN OF ARC 143, 161 (1981).

¹⁴⁶ See KNOX, *supra* note 5, at 298.

¹⁴⁷ Cf. D.W. Winnicott, *Transitional Objects and Transitional Phenomena—A Study of the First Not-Me Possession*, 34 INT'L J. PSYCHOANALYSIS 90 (1953) (defining "transitional objects" and explaining their role as a defense against anxiety, particularly depressive anxiety. Note that the article deals primarily with the psychology of infants).

¹⁴⁸ See KNOX, *supra* note 5, at 299.

¹⁴⁹ See *id.*

¹⁵⁰ See *id.* at 298.

2009, once the weather turns chilly, you will go to court every day wearing the same red hoodie.¹⁵¹ When you finally abandon the hoodie in favor of a more professional look, the *Times of London* will consider the change newsworthy enough to run an article with the headline, “Amanda Knox’s switch to a more sober style of dress may have come too late.”¹⁵² While acknowledging that your new clothing (white slacks and a lime-green blazer) is an improvement because it is more in keeping with the serious charges against you, the *Times of London* article will also quote an American journalist who says that you should have dressed that way from the start.¹⁵³ In a similar vein, Nina Burleigh will conclude that your belated adoption of formal clothing, while a “nice gesture to *la bella figura*,” was “not enough, and everyone knew it.”¹⁵⁴

Fifth Chronological Interlude

*December 4, 2009: Amanda and Raffaele are convicted of murder.*¹⁵⁵

23. *When you are convicted of murder and sentenced to twenty-six years in an Italian prison, do not despair.*

Upon hearing the verdict, you will slump against your lawyer’s chest, while your mother and sister—their voices the only ones you can distinguish in the tumult—sob behind you. Because your legs are too weak to support your body, the guards will lift you under the arms to remove you from the courtroom. They will deposit you in a chair to wait for the prison van, and you will moan: “No, no, no,” while Raffaele and the guards try in vain to comfort you.¹⁵⁶

Sixth Chronological Interlude

*October 3, 2011: After independent experts release a report highly critical of the police’s handling of forensic evidence, the appellate court acquits both Amanda and Raffaele.*¹⁵⁷

When the acquittal is announced, Amanda cries convulsively, her tears subsiding only after guards escort her to the basement of the courthouse. There, she will tenderly squeeze Raffaele’s hand before being

¹⁵¹ BURLEIGH, *supra* note 4, at 3.

¹⁵² Richard Owen, *Amanda Knox’s Switch to a More Sober Style of Dress May Have Come Too Late*, *TIMES OF LONDON* (Dec. 4, 2009), <https://www.thetimes.co.uk/article/amanda-knox-switch-to-more-sober-style-of-dress-may-have-come-too-late-kz7vb6lp0cp> [<https://perma.cc/GGH5-FU3C>].

¹⁵³ *Id.*

¹⁵⁴ BURLEIGH, *supra* note 4, at 3.

¹⁵⁵ *Id.* at xxvii.

¹⁵⁶ See KNOX, *supra* note 5, at 360–70.

¹⁵⁷ See Elisabetta Povoledo, *Amanda Knox Freed After Appeal in Italian Court*, *N.Y. TIMES* (Oct. 3, 2011), www.nytimes.com/2011/10/04/world/europe/amanda-knox-defends-herself-in-italian-court.html [<https://perma.cc/KJJ8-2HM3>].

*whisked away in a car to Rome and then on by plane to the United States.*¹⁵⁸

*Five and a half months after her release, Raffaele visits her in Seattle, where her mother and stepfather host an elaborate party to celebrate her freedom, with an all-American cheesecake in honor of Raffaele's twenty-eighth birthday.*¹⁵⁹ *During the few moments when they are able to speak privately, Amanda tells Raffaele that she wants only good things for him, that she is pleased he came. And although their love affair has long since ended, Amanda and Raffaele give each other an embrace of rare warmth when they say goodbye.*¹⁶⁰

*March 26, 2013: The Court of Cassation, Italy's highest criminal court, overturns the acquittal of Amanda and Raffaele and orders a new appeal.*¹⁶¹

*January 30, 2014: The new appeal ends with the court reinstating the murder convictions of both Amanda and Raffaele. The court increases Amanda's sentence to twenty-eight and a half years, while leaving Raffaele's sentence of twenty-five years unchanged.*¹⁶² *In a written statement, Amanda says that the verdict has "frightened and saddened" her. She adds: "My family and I have suffered greatly from this wrongful persecution. . . . Most troubling is that it was entirely preventable." Amanda and Raffaele's lawyers announce that they will appeal the conviction.*¹⁶³

March 29, 2015: The Supreme Court of Cassation overturns the murder convictions of Amanda and Raffaele and drops all charges against

¹⁵⁸ See KNOX, *supra* note 5, at 444–47, 52.

¹⁵⁹ SOLLECITO, *supra* note 3, at 253, 259.

¹⁶⁰ See *id.* at 260.

¹⁶¹ Elisabetta Povoledo, *Italy's Highest Court Overturns Acquittal of Amanda Knox*, N.Y. TIMES (Mar. 26, 2013), <http://www.nytimes.com/2013/03/27/world/europe/amanda-knox-retrial-ruling.html> [<https://perma.cc/TVE5-V474>].

¹⁶² Elisabetta Povoledo, *Amanda Knox is Re-Convicted of Murder in Italy*, N.Y. TIMES (Jan. 30, 2014), <https://www.nytimes.com/2014/01/31/world/europe/amanda-knox-trial-in-italy.html> [<https://perma.cc/3J3J-5EJS>].

¹⁶³ Kevin Rawlinson & Mark Smith, *Meredith Kercher Murder: Knox and Sollecito Lose Appeal—As it Happened*, GUARDIAN (Jan. 30, 2014), <https://www.theguardian.com/world/2014/jan/30/meredith-kercher-murder-knox-and-sollecito-appeal-verdicts-due-live> [<https://perma.cc/4EU2-MSV6>].

them.¹⁶⁴ Tearfully, Amanda expresses her gratitude for “having her life back.”¹⁶⁵

September 7, 2015: The Court hands down its formal explanation, citing “stunning flaws” in the investigation. In particular, the Court stresses the “absolute lack of biological traces” of Amanda or Raffaele at the crime scene. It also criticizes the prosecutor and lower-court judges for failing to establish any plausible motive for Amanda to commit the crime.¹⁶⁶

II. BEHIND THE CARTWHEEL: EXPLAINING AMANDA’S “STRANGE” BEHAVIOR

In our society any man who does not weep at his mother’s funeral runs the risk of being sentenced to death.

Albert Camus¹⁶⁷

Knox, it seems, spent four years in prison largely for a failure to grieve in quite the way that various middle-aged men would have liked.

Charlie Lyne, *The Guardian*¹⁶⁸

As discussed in Part One, Amanda was found guilty of murder largely because of what others saw as her strange behavior, in particular, her failure to mourn her roommate’s death. Through a series of improvident and impulsive actions, she actually helped the prosecutor build his case against her, leading to two murder convictions, four years of incarceration, and over seven years in a legal limbo before she was finally exonerated.

Why she behaved the way she did is a question that has evoked much speculation. Was she simply naïve because of her youth and inexperience, as Amanda herself asserts in her memoir?¹⁶⁹ Was she self-destructive—one of the “pale criminals” described by

¹⁶⁴ Elisabetta Povoledo, *Amanda Knox Acquitted of 2007 Murder by Italy’s Highest Court*, N.Y. TIMES (Mar. 27, 2015), https://www.nytimes.com/2015/03/28/world/europe/amanda-knox-trial.html?_r=0 [<https://perma.cc/V6DW-29DD>].

¹⁶⁵ Yamiche Alcindor, *Kercher Family Shocked After Knox is Cleared in Murder*, USA TODAY (Mar. 28, 2015), <https://www.usatoday.com/story/news/world/2015/03/28/kercher-family-shocked-as-knox-is-cleared-of-conviction/70592860/> [<https://perma.cc/RC5X-9KJ8>].

¹⁶⁶ Greg Toppo, *Italy’s Top Court: Amanda Knox Conviction Based on Poor Case*, USA TODAY (Sept. 7, 2015), <https://www.usatoday.com/story/news/world/2015/09/07/italy-top-court-amanda-knox-conviction-based-poor-case/71844786/> [<https://perma.cc/MUU6-5BGN>].

¹⁶⁷ CAMUS, *supra* note 60, at xix.

¹⁶⁸ Charlie Lyne, *Judge Not: How Netflix Produced the Definitive Amanda Knox Film*, GUARDIAN (Sept. 24, 2016), <https://www.theguardian.com/film/2016/sep/24/netflix-amanda-knox> [<https://perma.cc/6D63-QMEE>].

¹⁶⁹ KNOX, *supra* note 5, at 102.

Freud who seek punishment to alleviate the tension of unexpiated guilt?¹⁷⁰ Or were the police correct that the most compelling explanation of Amanda's behavior was her involvement in the crime?¹⁷¹ As the reader may have surmised by now, I believe the answer to the last question to be no. Amanda's actions, however unseemly, can be persuasively explained by theories other than her participation in the murder. Let us now consider some of these alternative theories.

A. "A Mouse in a Cat's Game": Why Amanda Did What She Did

Naïve:

Having native or unaffected simplicity; ingenuous; artless; as, *naïve* manners; a *naïve* person.

Untaught; especially philosophically or scientifically uninstructed; unphilosophical; unsophisticated; as, nature seen from a *naïve* point of view.

*Webster's New International Dictionary*¹⁷²

1. Presenting the Theory of Naïveté

Of all the reasons that have been proffered for Amanda's bizarre behavior, perhaps the most commonly mentioned is her naïveté. Consider, for example, the following passage from Tom Dibblee's review of Amanda's memoir in the *Los Angeles Review of Books*: "Knox didn't call the police when she got home from Sollecito's because she was naïve. She was incapable of imagining a violent crime being part of her life."¹⁷³ In the next paragraph, Dibblee asserts: "But Knox's naïveté didn't stop there. She believed that the police's objective was to discover the truth, and that if she just acted like herself and told the truth, her innocence would be obvious to everyone around her."¹⁷⁴

¹⁷⁰ See Sigmund Freud, *Some Character-Types Met with in Psycho-Analytic Work*, in THE STANDARD EDITION OF THE COMPLETE PSYCHOLOGICAL WORKS OF SIGMUND FREUD 309, 332–33 (James Strachey trans., 1914–16) (describing "criminals from a sense of guilt").

¹⁷¹ See Rachel Brodsky, *Amanda Knox Italian Police Bombshell: We Knew She Was Guilty of Murder Without Physical Evidence*, CBS NEWS (March 18, 2010), <http://www.cbsnews.com/news/amanda-knox-italian-police-bombshell-we-knew-she-was-guilty-of-murder-without-physical-evidence/> [<https://perma.cc/6C33-6SB2>] (citing detective Giobbi as saying that the "case was solved simply by observing Amanda Knox's behavior"); Ian Leslie, *Amanda Knox: What's in a Face?*, GUARDIAN (Oct. 7, 2011), <https://www.theguardian.com/world/2011/oct/08/amanda-knox-facial-expressions> [<https://perma.cc/QSU6-TDRT>] (describing detective Edgardo Giobbi, the lead investigator on the case, as saying that his suspicions were first aroused when he watched Knox swivel her hips provocatively at the crime scene).

¹⁷² See WEBSTER'S NEW INTERNATIONAL DICTIONARY, *supra* note 19, at 1624.

¹⁷³ Tom Dibblee, *On Being Off: The Case of Amanda Knox*, LOS ANGELES REV. OF BOOKS (2013) (book review), <https://lareviewofbooks.org/article/on-being-off-the-case-of-amanda-knox/> [<https://perma.cc/ZV8P-X7HE>].

¹⁷⁴ *Id.*

In a similar vein, Nathaniel Rich also adduces naïveté as the reason for Amanda’s eccentricity. Writing in *The New York Review of Books* and *Rolling Stone*, he describes Amanda as “guileless almost to the point of aberrance,”¹⁷⁵ and “ever credulous,”¹⁷⁶ with a “childlike innocence”¹⁷⁷ and “callowness.”¹⁷⁸ According to Rich, Amanda failed to realize that she would “be judged by her behavior, her looks, and her nationality.”¹⁷⁹ Nor did she understand “that her faith in human nature was a dangerous fantasy.”¹⁸⁰ The importance that Rich attaches to Amanda’s “childlike innocence”¹⁸¹ can be seen in the way he describes her memoir, namely, as a coming-of-age tale in which the “shattering” of her naïveté figures as the “central and most gripping narrative.”¹⁸²

Not only professional writers, but also those who knew Amanda on a personal level, emphasize naïveté as a factor in the case. For instance, Amanda’s best friend, Madison Paxton, addressing Amanda’s prolonged failure to realize that she was a suspect, explains: “But she actually, genuinely, was that naïve.”¹⁸³ Similarly, Amanda’s mother describes her daughter as “oblivious to the dark side of the world,”¹⁸⁴ while her stepfather says that she was utterly lacking in “street sense.”¹⁸⁵

Amanda herself, writing in her memoir, *Waiting to Be Heard*, about the reasons for her imprudent and ultimately self-destructive behavior, employs words such as “naïve,”¹⁸⁶ “stupid,”¹⁸⁷ and “childlike.”¹⁸⁸ For example, she states: “I was too naïve to imagine that the detectives suspected that the murder had been an inside job. . . . Now I see that I was a mouse in a cat’s game.”¹⁸⁹

Later in the memoir, Amanda muses in the same self-critical vein about disregarding her Aunt Dolly’s warnings. She writes: “In retrospect, I understand that Dolly had a hunch I was headed for a train wreck. . . . I didn’t see these things as I should have, as

¹⁷⁵ Nathaniel Rich, *Amanda in Wonderland*, 60 N.Y. REV. OF BOOKS, (2013) (book review), <http://www.nybooks.com/articles/2013/08/15/amanda-knox-in-wonderland/> [https://perma.cc/8UXW-EJ2C].

¹⁷⁶ Nathaniel Rich, *The Neverending Nightmare of Amanda Knox*, ROLLING STONE 88, 93, (2011), <http://www.rollingstone.com/culture/news/the-neverending-nightmare-of-amanda-knox-20110627> [https://perma.cc/CVU6-EHH9].

¹⁷⁷ *Id.*

¹⁷⁸ *Id.*

¹⁷⁹ *Id.*

¹⁸⁰ *Id.*

¹⁸¹ *Id.*

¹⁸² Rich, *Amanda in Wonderland*, *supra* note 175.

¹⁸³ Rich, *The Neverending Nightmare of Amanda Knox*, *supra* note 176.

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ KNOX, *supra* note 5, at 169.

¹⁸⁷ *Id.* at 383.

¹⁸⁸ *Id.* at 244.

¹⁸⁹ *Id.* at 78.

foreshadowing.”¹⁹⁰ And again, remembering her surprise upon learning that the media had made her into a symbol of evil, she writes: “*How am I still this naïve?*”¹⁹¹ Her answer, “[a]t twenty, I still had a childlike view of people,”¹⁹² seems to be a rebuke as much as an explanation. Perhaps most merciless of all is the passage she writes about her initial confinement in Capanne prison: “Looking back, I thought of how stupid I was in November 2007 when I’d first been arrested. I thought I was a special case and would be kept in prison for only a few days at most—for my ‘protection.’ But . . . I was not special. In the eyes of the law, I was a murderer.”¹⁹³

Reading Amanda’s memoir for the first time, I was saddened to see this young woman, only twenty years old, whose superego had become so punitive, pitiless, and cruel that it even destroyed her illusion of specialness. As harsh on herself as her harshest critics, Amanda almost never looked back with compassion at the younger, less experienced girl she once was. The following statement, which she made orally at her first appeal, is a rare exception: “I think of how young I was then, how I didn’t understand anything.”¹⁹⁴

2. Challenging the Theory of Naïveté

Despite its popularity as an explanation of Amanda’s behavior, the concept of naïveté suffers from several weaknesses. One is its tendency to acquire a moralistic or judgmental tone, which tends to discourage a quest for understanding. Another is its superficiality. While posing as an answer, the concept of naïveté begs deeper questions, such as why Amanda implicitly trusted authorities, why she engaged in eccentric behavior without foreseeing the bad impression this would leave on others, and why she believed people could see through her antics to her true, innocent self. The concept of naïveté is also overbroad. It appears that at least three meanings are intended when people declare Amanda to be naïve: her credulity,¹⁹⁵ her belief in the “illusion of transparency,”¹⁹⁶ and her artlessness.¹⁹⁷

To take up first her credulity, writers use *naïve* in this sense when they refer to Amanda’s reluctance to recognize that a heinous crime could have happened at the villa

¹⁹⁰ *Id.* at 106.

¹⁹¹ *Id.* at 244.

¹⁹² *Id.*

¹⁹³ *Id.* at 383.

¹⁹⁴ *Id.* at 415.

¹⁹⁵ See Rich, *The Neverending Nightmare of Amanda Knox*, *supra* note 176.

¹⁹⁶ For a discussion of the illusion of transparency, see Thomas Gilovich, Victoria Husted Medvec & Kenneth Savitsky, *The Illusion of Transparency: Biased Assessments of Others’ Ability to Read One’s Emotional States*, 75 J. PERSONALITY & SOC. PSYCHOL., 332, 333 (1998); Saul M. Kassin, *On the Psychology of Confessions: Does Innocence Put Innocents at Risk?*, 60 AM. PSYCHOLOGIST 215, 218 (2005).

¹⁹⁷ See WEBSTER’S NEW INTERNATIONAL DICTIONARY, *supra* note 19, at 1624.

where she lived.¹⁹⁸ They also use *naïve* with this meaning when they write negatively about Amanda’s implicit faith in the police—her prolonged assumption that she was not a suspect, despite being interrogated over a five-day period, and her ready acceptance of the police officers’ assurance that she was being placed in custody not to prevent her escape but rather for her own protection.¹⁹⁹

Related to credulity is Amanda’s belief that, because she was innocent, she could not be convicted, as long as she was true to herself. Writers who mean *naïve* in this sense may be alluding to Amanda’s stated belief that if only people could see her “real self,” they would know she was not guilty.²⁰⁰ One illustration of this form of naïveté is her decision to wear a T-shirt to court so everyone could see she was just a normal person.²⁰¹ Another example is her insistence on having a face-to-face conversation with Prosecutor Mignini, against her lawyers’ advice.²⁰² If Mignini could only hear her account from her own lips, Amanda thought, he would have no choice but to recognize her innocence.²⁰³ However, contrary to her expectation, Mignini controlled the encounter, turning everything Amanda said into further evidence of her guilt.²⁰⁴ This certainty that one’s innocence is both obvious and protective is so common that it has been given a name in criminal law: “the illusion of transparency.”²⁰⁵

A third meaning that may be intended when people call Amanda naïve is artless,²⁰⁶ or “unchecked by convention.”²⁰⁷ As Amanda wrote on Facebook: “I don’t get embarrassed and therefore have very few social inhibitions.”²⁰⁸ Free from the filter of self-consciousness, she simply did whatever came naturally, indifferent to the reactions of others. For example, she had no hesitation about doing the splits or making faces with Raffaele in the *questura*, in full view of the police. It is notable that, in a different context, this third sense of *naïve* is sometimes seen as a positive trait, as in the phrase “a woman of artless grace and simple goodness.”²⁰⁹

¹⁹⁸ See Dibblee, *supra* note 173.

¹⁹⁹ See KNOX, *supra* note 5, at 136.

²⁰⁰ See, e.g., KNOX, *supra* note 5, at 229 (“If I just had the chance to present my real self to Mignini I’m sure I could change that perception. People could no longer say I’m a killer.”).

²⁰¹ See *id.* at 298–99.

²⁰² See *id.* at 229.

²⁰³ See *id.*

²⁰⁴ See *id.* at 236–40.

²⁰⁵ See Kassin, *supra* note 80, at 218.

²⁰⁶ For a definition of *naïve* as artless, see WEBSTER’S NEW INTERNATIONAL DICTIONARY, *supra* note 19, at 1624.

²⁰⁷ For a definition of *naïve* as “unchecked by convention,” see *id.* at 1500.

²⁰⁸ See Rich, *Amanda in Wonderland*, *supra* note 175.

²⁰⁹ THE AMERICAN HERITAGE DICTIONARY 1198 (3d ed. 1992) (under synonyms of *naïve*); cf. JANE AUSTEN, EMMA 152 (George Justice ed., 4th ed., W.W. Norton & Company 2012) (1815) (describing Frank Churchill’s impression of Harriet: “He had never seen so lovely a face, and was delighted with her naïveté.”).

Finally, the concept of naïveté is also inadequate because it can serve as a proxy for “lack of worldliness and sophistication.”²¹⁰ We see this usage in the following scene.

3. *At the Uva Bar Firenze with Professor Lucia Re—May 26, 2014*²¹¹

I am sitting with an Italian colleague, Lucia Re, in the Uva Bar in Novoli, a district of northwestern Florence. Although far removed from my hotel in the picturesque city center, the Uva Bar is conveniently located near Lucia’s office in the law school at the University of Florence. I have arranged to meet with her primarily because of her expertise in criminal law, a field in which she has published three books before the age of forty.

Besides her career success, Lucia is fluent in several languages. She has cultivated opportunities to live in foreign cities, including Paris, where she spent four years on an Erasmus fellowship—the same fellowship that the British students in Amanda’s case were awarded to study in Perugia. She reminds me of my younger self and inspires me to recapture my adventuresome spirit.

After a few minutes of talk about the weather and our respective careers, Lucia and I turn to the subject of Amanda’s case. We are in the middle of discussing Amanda’s eccentric behavior after her roommate’s murder when Lucia volunteers that many American students matriculate at the University of Florence. “Often they become a problem,” she says, “requiring that we schedule extra faculty meetings to discuss what to do.” When I express surprise, she explains that American students “are more naïve than Italians. They don’t know how to behave or how their behavior is being interpreted. They don’t know who they are dealing with.”

“What do you mean?” I ask, feeling defensive. To hide my reaction, I lift my wine glass to my mouth and take a sip.

She has just bitten into her sandwich and motions for me to wait until she can swallow. While biding my time, I study the silk scarf she is wearing in a layered oval around her neck. Nearly every Italian woman I see is adorned with such a scarf, expertly draped to frame her face. Lucia’s is a black and white print that brings out her striking coloring—her dark hair and eyes, almost the color of ebony, and her pale skin, with just a hint of olive.

“You told me that you had never seen gypsies until you came to Florence,” Lucia reminds me, after finishing her bite. “The American students tell me the same thing, that they too have never seen gypsies.” I say nothing out loud, but it strikes me that this is not

²¹⁰ For a definition of *naïve* as “lacking worldliness and sophistication,” see THE AMERICAN HERITAGE DICTIONARY, *supra* note 209, at 1198.

²¹¹ Interview with Lucia Re, Professor of Law, Università degli Studi di Firenze, Scuola di giurisprudenza, in Florence, Italy (May 26, 2014).

really naïveté, any more than it would be naïve if an Italian had never seen a Native American before visiting the United States.

“I have another illustration for you,” my companion goes on, warming to the subject. She tells me about a male student from the United States who started crying in front of her. It was the last day of class, and when she asked him what was wrong, he said that he was just sorry to leave Italy. According to Lucia, the student’s crying was shockingly naïve. “No Italian young man would ever do that,” she says. “Not in front of a professor!”

She seems so certain, but in my mind, I am trying to grasp why this was wrong, and why she considers it an expression of naïveté. I think of naïveté as an ingrained character trait, whereas this student may simply have been ignorant of Italian culture. In particular, the student may not have understood the Italian rules that govern the expression of sadness—rules that seem confusing to me as well. After all, Amanda was criticized precisely for *not* crying in public over Meredith’s death.

When we finish our lunch, I mention needing to buy more clothes for the remainder of my stay. Lucia informs me that a new H&M department store has opened up a few blocks away, and she graciously walks me there in the muggy heat. Upon reaching the store, she asks a clerk, in Italian, to call a taxi for me when I have finished shopping, but the large mall with its many exits defeats me in spite of her thoughtful gesture. I do not know where to wait for the taxi, and the driver—if indeed he comes—never finds me.

As I wander around, increasingly hot and anxious, wondering what to do, a young street vendor and her boyfriend offer to help. They call for a cab and call again when it fails to appear. At last, a taxi arrives and takes me back to my hotel in the city center. Everything has turned out all right. But that evening, at nine o’clock, when the last bells ring in the Duomo, I listen to the sonorous music through my balcony’s open doors and reflect that I am fortunate to be safely home. Perhaps somebody might view me, too, as naïve for so casually relying on the generosity of strangers, the vagaries of chance.

* * *

Having explored the weaknesses of naïveté as anything more than broadly descriptive of Amanda’s behavior, we must look elsewhere for more adequate explanations. When we do, one field of scholarship immediately beckons: the psychological literature on developmental stages, which I take up next.

B. “Through a Glass, Darkly”: The Role of Amanda’s Developmental Stage

When I was a child, I spake as a child, I understood as a child, I thought as a child: but when I became a man, I put away childish things.

For now we see through a glass, darkly, but then face to face; now I know in part, but then shall I know [in full] even as also I am known.

*First Corinthians*²¹²

1. The New Paradigm of Emerging Adulthood

One of the surprising things about the literature on Amanda Knox is that writers have accorded her so little leeway based on her age. Had she been a mere three years younger, she would have been a minor, and her age might have played a significant role in her treatment under the law. Even apart from her legal status, as a seventeen-year-old, she would have been considered an adolescent in popular culture and might have benefitted from being seen as such in the Italian media. It hurt her that, being twenty, she did not fall within the period we currently think of as adolescence.

Yet, the phase of adolescence is a social construct, which lacks hard-and-fast boundaries based on age. Many social historians believe that adolescence was not even recognized as a separate stage of life until the end of the nineteenth century.²¹³ Moreover, its parameters have shifted through time. For example, G. Stanley Hall’s seminal work *Adolescence*, published in 1904, draws the upper age limit at twenty-four.²¹⁴ Using this threshold, we could view Amanda as an adolescent at the time of Meredith’s murder, without stretching the concept at all.

However, it may not be necessary to pursue this strategy. In recent years, some psychologists have proposed a new paradigm, a developmental stage that is neither adolescence nor young adulthood, but between the two.²¹⁵ They call this stage “emerging adulthood.” Spanning the years from the late teens through the twenties, this phase is

²¹² 1 *Corinthians* 13:11–12.

²¹³ See, e.g., John Demos & Virginia Demos, *Adolescence in Historical Perspective*, in 31 J. MARRIAGE & FAM. 632 (1969). But see N. Ray Hiner, *Adolescence in Eighteenth-Century America*, 3 HIST. CHILDHOOD Q. 253, 254–55 (1975).

²¹⁴ See G. STANLEY HALL, *ADOLESCENCE* xix (1904). See also KATHERINE DALSIMER, *FEMALE ADOLESCENCE* 115 (1986) (describing Jane Austen’s heroine Anne Elliot, who is nineteen to twenty-seven years old in the novel, as facing the challenges of “late adolescence”).

²¹⁵ See, e.g., *EMERGING ADULTS IN AMERICA* *passim* (Jeffrey Jensen Arnett & Jennifer Lynn Tanner eds., 2006); Jeffrey Jensen Arnett, *Emerging Adulthood: A Theory of Development from the Late Teens through the Twenties*, 55 AM. PSYCHOLOGIST 469, *passim* (2000).

thought to be characterized by the following features: intense identity exploration, instability, a focus on self, feelings of being in-between, and a sense of possibilities.²¹⁶

Recent developments in the field of neuroscience corroborate the theory of emerging adulthood. At the National Institute of Mental Health (NIMH), UCLA, and elsewhere, scientists are now convinced that the brain does not stop growing after puberty, as was previously thought. Rather, researchers believe that the brain continues to develop until at least age twenty-five.²¹⁷ In particular, they believe that the prefrontal cortex, which is responsible for impulse control and judgment, is among the last regions of the brain to mature.²¹⁸

Applying the findings from the literature on emerging adulthood to Amanda's case, two traits in particular are worthy of consideration for the light they shed on her supposedly bizarre actions in Perugia: intense identity exploration and a focus on self.

Let us consider first the trait of intense identity exploration. As we have seen, Amanda was judged severely by both the Italian public and the Italian legal system partly because she had acquired a reputation for licentiousness. This tainted reputation even gave rise to the prosecutor's most enduring theory about Amanda's motive for the murder: the sexual theory concerning the two roommates' disagreement over Amanda's alleged promiscuity.²¹⁹ Yet, according to her memoir, the random sexual encounters that characterized her early weeks in Italy were not typical of Amanda's previous life, nor was she entirely comfortable with them at the time.²²⁰ Rather, they were a deliberate donning of a new identity, an experiment she decided to undertake while far away from home;²²¹ they were in keeping with the intense identity exploration of emerging adulthood. For those who believe that promiscuity blighted Amanda's character or gave her a reason to kill her roommate, the findings on this phase of the life cycle should give them pause.

Turning now to the trait of self-focus, the reader will recall that Amanda was often criticized for words and acts having to do with her physical and emotional needs. For instance, when the police were driving her to the villa, she complained of extreme fatigue

²¹⁶ See CHRISTIAN SMITH ET AL., *LOST IN TRANSITION: THE DARK SIDE OF EMERGING ADULTHOOD* 15 (2011); cf. Jeffrey Jensen Arnett, *Emerging Adulthood: Understanding the New Way of Coming of Age*, in *EMERGING ADULTS IN AMERICA*, *supra* note 215, at 3, 7–14.

²¹⁷ See, e.g., Claudia Wallis, *The Wild World of a Teen Brain*, in *YOUR BRAIN* 62, 64 (Jeffrey Kluger ed., 2009) (citing Dr. Jay Goeddel to the effect that the “best estimate for when the brain is truly mature is 25”); Robin Marantz Henig, *What is it about 20-Somethings?*, N.Y. TIMES MAG. (Aug. 18, 2010), http://www.nytimes.com/2010/08/22/magazine/22Adulthood-t.html?pagewanted=all&_r=0 [<https://perma.cc/NQZ3-JBNQ>] (summarizing a longitudinal study of brain development by the NIMH).

²¹⁸ See Wallis, *supra* note 217, at 65.

²¹⁹ See, e.g., FOLLAIN, *supra* note 26, at 344 (quoting Mignini's closing argument in which he imagines Amanda attacking Meredith for being too much of a prude, or as he puts it “goody-goody”).

²²⁰ See KNOX, *supra* note 5, at 14, 34–35, 49, 58.

²²¹ See *id.* at 14.

and an officer chided her for thinking only of herself.²²² Another example occurred when all of Meredith's friends were in the *questura* together crying and Amanda was sitting on Raffaele's lap making faces.²²³ According to her memoir, this was Amanda's way of comforting herself, but it looked like indifference to the death of her friend. And of course, there was the time she stood up in the police station to stretch her aching back, a stretch that would culminate in the infamous gymnastic stunt.²²⁴

In ignoring the larger context to focus on the foreground of her own needs, Amanda again calls to mind the protagonist of Camus' *The Stranger*, Meursault. In one scene, a meeting with the magistrate, Meursault tells us that he is distracted by the heat and large flies landing on his face and, as a result, is having trouble following the magistrate's reasoning.²²⁵ In another scene, the lawyer asks whether he felt sad during his mother's funeral and Meursault responds that he was sleepy and tired on that occasion.²²⁶ His physical needs, he adds, sometimes "got in the way of" his feelings.²²⁷ As with Meursault, so also with Amanda: sometimes her preoccupation with her own comfort made her seem markedly eccentric and insensitive to those around her. But her actions can also be understood as expressions of self-focus, the egocentricity that characterizes young people still in the phase of "emerging adulthood."

2. Explaining Amanda's False "Confession"

To the reader who has patiently followed my analysis thus far, one set of questions remains: Why did she confess to being at the scene of the crime? And why did she accuse an innocent person of killing Meredith? To many, this is difficult to understand. As Professor Richard Leo writes, "[M]ost people believe . . . that an innocent person will not falsely confess to police unless he or she is physically tortured or mentally ill."²²⁸ However, "[t]his myth is," Leo continues, "completely false."²²⁹

A landmark study published in the *Stanford Law Review* in 1987 supports the proposition that innocent people do confess.²³⁰ In this study, Professors Hugo Bedau and Michael Radelet found that out of 350 miscarriages of justice, forty-nine were at least

²²² See *id.* at 84.

²²³ See *id.* at 610–62.

²²⁴ See *id.* at 99–104.

²²⁵ CAMUS, *supra* note 60, at 68.

²²⁶ *Id.* at 65.

²²⁷ *Id.*

²²⁸ Richard A. Leo, *False Confessions: Causes, Consequences, and Solutions*, in *WRONGLY CONVICTED* 36, 37 (Sandra D. Westervelt & John A. Humphrey eds., 2002).

²²⁹ *Id.*

²³⁰ Hugo Adam Bedau & Michael L. Radelet, *Miscarriages of Justice in Potentially Capital Cases*, 40 *STAN. L. REV.* 21, 57–58, 62–63 (1987).

partially due to false confessions.²³¹ In fact, false confessions were the fourth most recurrent cause of these wrongful convictions, preceded only by mistakes in eyewitness identification, perjury by prosecutorial witnesses, and “community outrage over a crime.”²³²

Not all false confessions are alike. According to scholars, they fit into three categories: (1) *voluntary*; (2) *coerced-compliant*; and (3) *coerced-internalized*.²³³ The first type, the *voluntary* confession, occurs when the suspect makes a false confession that is unsolicited, sometimes arising from mental illness or morbid guilt.²³⁴ The second type, the *coerced-compliant* confession, manifests itself when the suspect, unable to bear the torment of the interrogation any longer, breaks and admits to the crime; however, in a unique characteristic of this type, the suspect often retracts the confession once the interrogation ends.²³⁵ And finally, the *coerced-internalized* type occurs when the suspect becomes disoriented during the interrogation and ends up doubting her own memory and accepting a false story as true.²³⁶

Of course, these categories are ideal types; in practice, they may overlap, as seems to be the case with Amanda. In particular, Amanda’s confession, which she refers to as a “spontaneous declaration,”²³⁷ appears to be a combination of the *coerced-compliant* and the *coerced-internalized* types.

As to the *coerced-compliant* type, she meets both criteria: succumbing to torment, and promptly retracting the confession following the interrogation. Consider, first, Amanda’s vivid description of the factors that caused her to “break.” “The pressure was greater than just being closed in a room. It was about being yelled at relentlessly by people I trusted completely, by people I’d been taught to respect. Everything felt bigger, more overwhelming, more suffocating, than it was . . . [T]hey kept telling me I was wrong.”²³⁸ This led Amanda to sign two spontaneous declarations; specifically, she signed one at 1:45 A.M.,²³⁹ endured more interrogation, and then signed another at 5:45

²³¹ *Id.* at 23–24, 57–58.

²³² *Id.* at 57, 60–63.

²³³ See *Explaining False Confessions*, 303 BRIT. MED. J. 1087, 1087–88 (1991) (identifying three types of false confessions); Saul M. Kassin & Lawrence S. Wrightsman, *Confession Evidence*, in THE PSYCHOLOGY OF EVIDENCE AND TRIAL PROCEDURE 67, 76 (Saul Kassin & Lawrence Wrightsman eds., 1985) (same); Christine S. Scott-Hayward, *Explaining Juvenile False Confessions: Adolescent Development and Police Interrogation*, 31 L. & PSYCHOL. REV. 53, 55–56 (2007) (identifying the second and third types of false confessions).

²³⁴ See Kassin & Wrightsman, *supra* note 233, at 76–77; Feodor Dostoevsky was deeply interested in this voluntary type of false confession, see generally FEODOR DOSTOEVSKY, CRIME AND PUNISHMENT (1866).

²³⁵ See Kassin & Wrightsman, *supra* note 233, at 77; Scott-Hayward, *supra* note 233, at 55.

²³⁶ See Kassin & Wrightsman, *supra* note 233, at 78.

²³⁷ KNOX, *supra* note 5, at 123, 125.

²³⁸ *Id.* at 116–17.

²³⁹ *Id.* at 118.

A.M.²⁴⁰ Hours after signing the second declaration—after being permitted to sleep and eat a meal for the first time since the day before—Amanda wrote a statement attempting to retract her confession.²⁴¹ She said: “In regards to this ‘confession’ that I made last night, I want to make clear that I’m very doubtful of the verity . . . [T]hese things seem unreal to me, like a dream, and I am unsure if they are real things that happened or . . . just dreams my head has made.”²⁴²

Besides showing the characteristics of the *coerced-compliant* type, Amanda’s confession also exhibits traits of the *coerced-internalized* confession, such as confusion and belief in the false story. Thus, she writes, “Nothing had substance. Nothing seemed real. I believed them [the police]. Their version of reality was taking over. I felt confused, frantic, and there was no escape . . . I could no longer distinguish what was real from what wasn’t.”²⁴³

But how does Amanda’s confession relate to her developmental stage? Studies show that young people are “over-represented” among suspects who make false confessions.²⁴⁴ To be sure, many of these studies equate young people with adolescents,²⁴⁵ a category that would exclude Amanda; however, it seems legitimate to extrapolate from studies of adolescents to emerging adults because the same explanations could well apply. For instance, one reason for the greater prevalence of false confessions among teenagers, compared with adults, could be that the former put more weight on the short-term impact of their decisions than on the long-term consequences.²⁴⁶ Thus, if the police imply that by confessing they will earn the freedom to go home, this immediate benefit may cause them to comply when an older person might not. In addition, young people are more susceptible than adults to suggestion and pressure from authorities.²⁴⁷ And finally, young people lack the life experience that helps adults make better choices.

All of the above characteristics could also be true of emerging adults because, as we have seen, some scholars now believe that brains do not fully mature until at least age

²⁴⁰ *Id.* at 125.

²⁴¹ *Id.* at 125, 127, 130.

²⁴² *Id.* at 132–33.

²⁴³ *Id.* at 117.

²⁴⁴ Steven A. Drizin & Richard A. Leo, *The Problem of False Confessions in the Post-DNA World*, 82 N.C. L. REV. 891, 944 (2004).

²⁴⁵ See, e.g., Saul M. Kassin et al., *Police-Induced Confessions: Risk Factors and Recommendations*, 34 L. & HUM. BEHAV. 3, 19 (2010); Scott-Hayward, *supra* note 233, at 53–54.

²⁴⁶ See Elizabeth S. Scott & Thomas Grisso, *The Evolution of Adolescence: A Developmental Perspective on Juvenile Justice Reform*, 88 J. CRIM. L. & CRIMINOLOGY 137, 164 (1998) (discussing how adolescents’ “temporal perspective” differs from that of adults).

²⁴⁷ Megan Crane, et al., *The Truth about Juvenile False Confessions*, INSIGHTS ON LAW & SOCIETY (Winter 2016), www.americanbar.org/publications/insights_on_law_and_society/16/winter2016/JuvenileConfessions.html [<https://perma.cc/9N6A-4F5D>].

twenty-five, and one of the last parts of the brain to develop completely is involved with impulse control and judgment.²⁴⁸

But we need not rely on extrapolation from studies of adolescents to attribute Amanda's false confession to her youth. Consider, for example, an article entitled *The Problem of False Confessions in a Post-DNA World*, by Professors Steven Drizin and Richard Leo. In their study, they analyze 125 cases of what they call "proven false confessions"²⁴⁹—the "largest cohort" of such cases studied until that time.²⁵⁰ Based on their analysis of this sample, they find that even "beyond" juveniles, "an age bias persists."²⁵¹ More specifically, they write that "[t]he vast majority of false confessors are young adults in their twenties or thirties."²⁵² Obviously, this is a class that would include twenty-year-old Amanda.

To summarize the argument of this subsection, Amanda's false confession, like other acts she committed that were seen as bizarre, irrational, or inexplicable, may reflect not her guilt, but only her age.

* * *

I first met Amanda in March 2014. By that time, she was twenty-six years old and no longer in the early stages of emerging adulthood. Whether through the mere passage of time, with its concomitant brain maturation, or through the traumatic experiences she had endured in Perugia, Amanda had acquired better judgment, including an appropriate level of wariness when dealing with strangers.

While this change was, in general, a sign of growth, it certainly made my work harder. I was, after all, a perfect stranger to Amanda. So it was only after I had traveled to Perugia, spent time with her Italian supporters, corresponded extensively with Madison, and had dinner with Madison in Seattle that Amanda would agree to talk to me. Even then, she was cautious. The following scene shows how much she had matured from the twenty-year-old student who arrived in Italy trusting, blithe, and eager for adventure in the fall of 2007.

3. *At Breakfast in Seattle with Amanda and Madison—March 2, 2014 (a little over a month after the guilty verdict was reinstated by the Italian appellate court)*²⁵³

It is raining softly as I walk across the Olive Way Bridge, above Interstate 5. Over one shoulder, I carry a heavy briefcase, over the other, my purse, while I pull my suitcase behind me. The bridge is long and bereft of people, so eerily desolate that I am relieved

²⁴⁸ See *supra* text accompanying notes 217–218.

²⁴⁹ Drizin & Leo, *supra* note 244, at 932.

²⁵⁰ *Id.* at 891.

²⁵¹ *Id.* at 944–45.

²⁵² *Id.* at 945.

²⁵³ Interview with Amanda Knox & Madison Paxton, in Seattle, Wash. (Mar. 2, 2014).

when it ends and I am back on city streets again. Veering northward, I follow East Olive Way up a steep hill, passing small establishments with friendly names such as Pie Bar, Stumbling Monk, and Pretty Parlor. After hiking for some ten minutes, I reach a small white and taupe brick buildin, with sea-green trim and a portico with the name “Glo’s” in emerald-green script above the door. A cluster of people waits outside. After giving my name to the hostess, I join those who are huddled under the portico; it is crowded but at least it is dry.

At precisely 9:30, Amanda and Madison arrive. Madison, whom I met for dinner just a few days earlier, pushes through the waiting throng and is about to pass right by me when I cry out, “Madison!” She gives me a hug and then gestures toward Amanda, who is standing on the sidewalk on the edge of the crowd. Amanda and I walk toward each other and embrace quickly before following the hostess to a table in the center of the warm, bustling diner.

It feels good to be inside, out of the dankness. As I remove my jacket and scarf, I notice that my companions are dressed casually: Madison in a crocheted orchid sweater and black denim pants, and Amanda in a pink knit cap, mauve shirt, and faded jeans. Their outfits are muted and plain, without prints or accessories. Apart from the tiny silver posts in Amanda’s ears, neither Madison nor Amanda wears any jewelry. I can’t help thinking that my niece in Santa Barbara, who is about the same age, would have been more stylishly dressed, but then she is “into” fashion. Besides, she has no need to be unobtrusive, nor does she live in Seattle where, as Madison has told me, it is genuineness rather than appearance that matters.

To look at Amanda now, I reflect, one would never guess that she was someone whose choice of attire had constantly hurt her in Italy, damaging her reputation and even her legal case. From the red panties she purchased the day after the body was found, to the T-shirt reading “All You Need Is Love,” to the red hoodie she wore to court day after day, her clothing was viewed as inappropriate—sometimes too flamboyant, sometimes too casual, but always as a sign of disrespect for the legal proceedings.²⁵⁴

A waitress in a black tank top comes to take our order. On her left arm she boasts a striking half-sleeve tattoo: an intricate picture of a black-widow spider and its web. Her arrival reminds me that I have not yet looked at the menu, but Amanda and Madison, who have evidently decided what to eat on the way, are ready to order; they request a small bowl of berries and a plate of eggs Benedict, to split between them. Not wanting to be distracted by eating, I order only coffee and fruit.

After the waitress takes our orders and leaves, a silence falls over the table. It makes me anxious, so I rush to fill the void, but my words come out sounding abrupt and awkward:

“How much time do we have?”

²⁵⁴ See *supra* Part I, subsections 13, 21–22.

Amanda becomes visibly distressed. “Oh, is this going to be a formal interview?” she asks.

I back off quickly. “Oh, no,” I say. “It doesn’t have to be.” Disappointed, I remind myself that they never promised me an interview, only a meeting for breakfast. In fact, I am lucky to have this opportunity at all.

But Madison comes to the rescue by suggesting that I tell Amanda about my project. “You have told *me* a lot about it, but I think you should explain it to Amanda directly.”

Impressed by her sensitivity, I follow Madison’s advice, repeating in detail the cases I have written about in the past, which I hope to put into a book along with Amanda’s case. I say that I am interested in how we judge one another, especially when we condemn a person for not showing the proper feelings or the prescribed level of engrossment in a communal event, such as a death.

Amanda nods. She says she understands.

Madison turns abruptly, causing her long, tousled hair to swing in my direction. She speaks sharply. “Is Amanda going to be the only innocent one in your book?” she asks. “Because if she is, that’s not acceptable!”

I promise to include some innocent people, such as convicts who were eventually exonerated, in any book I write about Amanda. “I might do a study of the West Memphis Three,” I say, “or the Central Park Five. Actually, the Central Park Five would be a good comparison, since they also made false confessions.”²⁵⁵

Seemingly satisfied, Madison leans back in her chair.

I look at Amanda. “I think a lot of the people who judged you cruelly have forgotten what it’s like to be twenty years old,” I say. “When I was twenty, I accepted a free ride on the border between Venezuela and Colombia and narrowly escaped being raped.”²⁵⁶

They murmur expressions of concern.

I had not planned to talk about my close brush with rape, but it seems to have helped to build Amanda’s trust. I venture a delicate question: “Would you be willing to tell me about the morning when Meredith’s body was found?”

She takes a deep breath. “At the crime scene, Filomena and I were the only ones who knew Meredith, and Filomena actually saw into the room; I did not. *She* saw the blood in the room. *She* spoke Italian. *I* was going by what people were telling me, and I could not envision it in my own mind.”

Despite her earlier reluctance to be interviewed, Amanda cannot get the words out fast enough. She barely pauses for breath, and I am worried about my ability to commit her words to memory, so I ask if she would mind my taking notes. She agrees, and I push aside my breakfast, retrieve my legal pad from my briefcase, and begin to write.

²⁵⁵ See SARAH BURNS, THE CENTRAL PARK FIVE 193–95, 204 (2011); Saul Kassin, *False Confessions and the Jogger Case*, N.Y. TIMES (Nov. 1, 2002), <http://www.nytimes.com/2002/11/01/opinion/false-confessions-and-the-jogger-case.html> [<https://perma.cc/YR64-6UWV>].

²⁵⁶ See Duncan, *Beauty in the Dark of Night*, *supra* note 2 at 1224–25.

Although I am obviously taking notes and Amanda is a celebrity, no one is paying any attention to us in the crowded restaurant. Perhaps they do not recognize her. Devoid of makeup, she is wearing wire-rim glasses and her pink knit cap covers much of her cropped hair. Although still very pretty, she looks quite different from the glamorous young woman with makeup and long wavy hair whose picture appeared in the news, night after night, some six and a half years earlier.

“I heard it was Meredith [who was dead],” Amanda continues, “and I heard it was not. Some told me there was a body in a wardrobe, some that it was under a blanket. I was in disbelief, trying to understand the situation, gathering facts. I was standing there dumbfounded, waiting; Filomena was hysterical, almost collapsing from emotion, mourning openly.”

Because Amanda leaves her conclusion hanging, I will wish later that I had said something to make the implications of her statement explicit. I could have said: “It sounds as though Meredith’s death wasn’t real to you, that you were in denial. And that would make sense. Your inability to see the body, or to obtain unequivocal facts, certainly could make it easier to be in denial.” But at the time, it does not occur to me to say these things; I am absorbed in scribbling notes, capturing my experience before it ends.

Amanda says that just as Filomena had facts more solid than her own, so also did the British students. By the time the British students were informed of the murder, through phone calls from the police, the information was “definitive,” she says. “They didn’t have all these conflicting facts that I had. That morning, I went into machine mode.” Falling silent, Amanda takes a bite of blueberries, then pushes the bowl of fruit over to Madison.

I am trying not to ask many questions, to let Amanda take the lead. Above all, I do not want to sound like I am judging her for decisions that turned out to be ill-fated, and so I never ask why she remained in Perugia after the crime. Luckily, of her own accord, she launches into a justification, contrasting herself with those who left. “For the British students,” she says, “going back home was not that big of a deal; they were on an Erasmus program and got financial aid. For them, it was a three-hour trip, like going from Seattle to frickin’ California.”

As Amanda scoops up the last bit of eggs with her fork, she pauses, and I take advantage of the opportunity to introduce a final topic: her text message to Patrick. I have read conflicting versions of this subject, some saying that her text, being a literal translation from English, would sound incriminating to Italian ears, others that even in Italian there was room for the meaning she intended—room to use “[s]ee you later” as a way to say goodbye.²⁵⁷ I ask whether, as someone who is now fluent in Italian, she can clarify the matter.

²⁵⁷ See SOLLECITO, *supra* note 3, at 58 (saying that in Italian, as in English, these words can “simply mean ‘See you around’”). But see BURLEIGH, *supra* note 4, at 194–195 (saying that ‘See ya later’ in

Amanda gently takes the pen from my hand and drags my legal pad across the table, navigating through the debris of our breakfast. She spins the legal pad around to face her and begins to make a list, writing in a neat, girlish backhand just like the handwriting I had seen in her prison diary:

Ci vediamo.

Ci vediamo più tardi.

Ci vediamo più tardi. Buona serata.

Moving her finger down the list, she explains each variation: “*This* is the way a native speaker would say ‘See you later.’ *This* is what *I* texted. The “*più tardi*” got me in trouble, making it sound as if I were going to see Patrick that evening.” Amanda speaks in the patient tones of a good language instructor, and I remember that a love of languages is something we share. “But I didn’t end my message there,” she continues. “I added ‘*Buona serata*,’ which means ‘Have a good night,’ and that would only be used if I were *not* seeing him.”

“So the police just ignored the last phrase?” I ask, shaking my head.

“Yes.”

When the waitress brings our check, the young women will not let me pay. “You paid for my dinner at Il Fornaio,” Madison objects. “Besides, you hardly ate anything.” A credit card passes back and forth between them so fast that I lose track of who owns it. They are like sisters, I reflect. How lucky for Amanda that she is not alone in her ordeal.

Upon leaving the restaurant, the three of us stay together, walking down the hill in the direction of Amanda and Madison’s bus stop while looking for a cab to take me to the airport. The rain, which is falling much harder now, taps steadily on the sidewalk. None of us are dressed for this weather, and we hunch up our shoulders against the dampness and cold. The sight of Amanda shivering in her thin jacket reminds me that she was also inadequately dressed on that November morning in Perugia when Meredith’s body was discovered.²⁵⁸ In his memoir, Raffaele describes giving her his jacket and standing close to keep her warm.²⁵⁹

Together, we walk for some ten minutes down the hill. Over my protests, Amanda takes my suitcase and pulls it behind her. Periodically, Madison, having spotted a taxi, sprints ahead, but her attempts to flag it are always in vain. At last we arrive at a hotel, where numerous cabs are waiting. Before I clamber into one of them, both Madison and Amanda hug me goodbye.

American idiom doesn’t translate literally into Italian”); NADEAU, *supra* note 3, at 69 (saying that “in Italian, the same phrase generally suggests a fixed appointment”).

²⁵⁸ See ANDREW G. HODGES, AS DONE UNTO YOU: THE SECRET CONFESSION OF AMANDA KNOX 111 (2015) (quoting Amanda’s e-mail in which she writes that she was “freezing” that morning).

²⁵⁹ SOLLECITO, *supra* note 3, at 33–34.

In my office the next morning, I find a sweet e-mail from Amanda. She thanks me for my interest in her case and encourages me to write if I have further questions. It is signed simply “a.”²⁶⁰

III. “INTERPRETING THE INTERPRETERS”: EXPLAINING THE REACTIONS TO AMANDA

It is more of a job to interpret the interpretations than to interpret the things.

Michel de Montaigne²⁶¹

Meagre, indeed, and cold was the sympathy that a transgressor might look for, from such bystanders. . . . The unhappy culprit sustained herself as best a woman might, under the heavy weight of a thousand unrelenting eyes, all fastened upon her.

Nathaniel Hawthorne, *The Scarlet Letter*²⁶²

Upon receiving the e-mail that Amanda signed simply “a,” I immediately thought of the letter “A” that Hester Prynne, the protagonist of *The Scarlet Letter*, was sentenced to wear on her bosom, symbolizing her crime of adultery. That “A” first appears in chapter one, when Hester comes through the iron-studded oak door of the weather-stained wooden jail in colonial Boston.²⁶³ Waiting outside the jail are the Puritan town folk with their “meagre” sympathy, gazing at her with their “thousand unrelenting eyes.”²⁶⁴

From the first pages of the novel, Hester exerts a fascination by virtue of being a beautiful woman who has allegedly committed a crime. And this fascination, this irresistible allure, has continued to draw the attention of scholars for well over a century, just as Amanda’s case has inspired many books, articles, and movies during the last eight years. It is, of course, common in studies of *The Scarlet Letter* to analyze not only the character of Hester and the reasons she acts as she does but also the Puritans and the reasons they interpret and judge her as they do.²⁶⁵ It is also typical to interpret Hester’s

²⁶⁰ E-mail from Amanda Knox, to author (Mar. 2, 2014, 14:55 PST) (on file with author).

²⁶¹ MICHEL DE MONTAIGNE, 3 THE COMPLETE ESSAYS 313–14 (Donald M. Frame trans., Anchor Books 1960) (1588).

²⁶² NATHANIEL HAWTHORNE, THE SCARLET LETTER 43, 46 (Sculley Bradley et al. eds., W.W. Norton & Co. 2d ed. 1978) (1850).

²⁶³ *Id.* at 43.

²⁶⁴ *Id.* at 41, 46.

²⁶⁵ See Mursalin Jahan & Syed Zaheer Hasan Abidi, *Individualism of Hester Prynne in the Seventeenth Century Puritan Society: The Scarlet Letter*, 4 INT’L J. STUD. IN ENG. LANGUAGE & LITERATURE 100–106 (2016).

story through Hawthorne's background and the worldviews of romanticism and transcendentalism, which were pervasive at the time of Hawthorne's writing.²⁶⁶

However, in the present Article thus far, we have been considering Amanda almost entirely as the *agent* of her story—exploring reasons for her behavior such as her naïveté and her developmental stage. We have not yet focused in depth on Amanda as the *object* of her story. We have not considered that the perceptions of her behavior, like those of Hester's adultery, have been refracted through universal archetypes, cultural mores, and embedded legal traditions. These influences must have affected the way Amanda was perceived and judged by those who stood in relation to her much like the Puritans stood in relation to Hester in seventeenth-century Boston. It is to these influences that we now turn.

A. *Angelic Saint or Femme Fatale: The Madonna/Whore Complex and Its Vicissitudes*

Christian symbols remain very much alive within modern European societies Indeed, the very fact that religion plays a less evident part than in the past . . . gives these same symbols great power since they can operate unchecked and at the unconscious level[.]

Luisa Accati²⁶⁷

If Amanda had had buckteeth, pimples, and glasses, none of this would have happened.

Perugian journalist (speaking off the record)

1. *The Duality Pervading Amanda's Case*

Near the end of his closing argument in the criminal trial of Amanda and Raffaele, the prosecutor Mignini invited the court to imagine what Amanda might have said to Meredith just before killing her: "You little saint. I'm going to teach you a lesson. You're going to have sex with us."²⁶⁸

In this fantasized re-enactment, Mignini drew on his longstanding theory that the killing resulted from a sex game gone awry. In keeping with this theory, he saw Meredith and Amanda as polar opposites: Meredith as the pure young woman and Amanda as the

²⁶⁶ See John Carlos Rowe, *The Internal Conflict of Romantic Narrative: Hegel's Phenomenology and Hawthorne's The Scarlet Letter*, 95 MOD. LANGUAGE NOTES 1203–31 (1980) (analyzing the conflict between Puritanism and transcendentalism in Hawthorne).

²⁶⁷ Luisa Accati, *Explicit Meanings: Catholicism, Matriarchy, and the Distinctive Problems of Italian Feminism*, 7 GENDER & HIST. 241, 244 (1995).

²⁶⁸ DEMPSEY, *supra* note 3, at 306; see also KNOX, *supra* note 5, at 352 ("You were a little saint. Now we'll show you; now you have no choice but to have sex").

sex-maniac. Being pure, Meredith was bothered not only by the pink vibrator on display in their shared bathroom but also by Amanda's tendency to bring strange men into their home.²⁶⁹ For her part, Amanda was said to be annoyed by Meredith's puritanism, for which she took revenge by killing her.²⁷⁰

One might be tempted to dismiss Mignini's words as the typical theatrics of a prosecutor, however a similar dichotomy pervaded the entire case—a dichotomy not between Meredith and Amanda but within Amanda herself. Consider, for example, another closing argument—that of Carlo Pacelli, the lawyer who represented Patrick Lumumba in his calumny suit against Amanda. “So who is Amanda Knox?” Pacelli asked.

Is she the gentle, sweet, clean-faced girl you see here today before you?
Or is she the one I have just described to you on the basis of witness testimony? Amanda is both, for a double soul . . . lives in her: the angelic, compassionate Santa Maria Goretti . . . and the Luciferian, satanic, diabolic one . . . an explosive mixture of sex, alcohol, and drugs, . . . dirty on the outside because she was dirty on the inside, in her soul and spirit.²⁷¹
In conclusion, Pacelli urged the judges to disregard Amanda's “doll-like” exterior and recognize that underneath, she was a “spell-casting witch, a virtuoso of deceit.”²⁷²

The words are strikingly melodramatic. And while they were spoken by a civil lawyer, we must remember that the civil trial took place—per Italian practice—at the same time as the criminal trial and before the same judges.

By inferring good, even saintly qualities from Amanda's beautiful surface and contrasting them with the “diabolic” core deep within, Pacelli drew on the archetypical *femme fatale*: the “female beauty concealing indelible evil.”²⁷³ That Amanda's lovely face, being deceptive, rendered her especially evil is an idea we also see in Tina Brown's *Foreword* to Nadeau's book *Angel Face*. She writes: “Who was Amanda Knox? Was she a fresh-faced honor student from Seattle . . . an all-American girl . . . ? Or was her pretty face a mask, a duplicitous cover for a depraved soul?”²⁷⁴

In contrast to the view that Amanda's goodness was on the surface, and her evil hidden underneath, others have suggested that both qualities might be visible in Amanda's countenance alone. For instance, one journalist, summarizing the issue that

²⁶⁹ See KNOX, *supra* note 5, at 293–94; FOLLAIN, *supra* note 26, at 35.

²⁷⁰ See BURLEIGH, *supra* note 4, at 274 (citing that Amanda wanted to take revenge on this “too-serious English girl”); WATERBURY, *supra* note 26, at 42.

²⁷¹ Transcript of Oral Argument of Carlo Pacelli at 14, Corte d'Ass., 27 novembre 2009, n. 9066, Giur. it. (2010) (No. 7/2009) (Stefania Alessi trans., 2017).

²⁷² James Bone, *Amanda Knox, A 'Drug-Taking, Sex-Crazed She-Devil' Who Blamed Murder on Innocent Man*, AUSTRALIAN (Sept. 27, 2011), [http://www.theaustralian.com.au/new/world/Amanda-knox-a-drug-taking-sex-crazed-she-devil-who-blamed-murder-on-innocent-man/news-story/ab5f5e62fe5\[https://perma.cc/9Z9X-KQKX\]](http://www.theaustralian.com.au/new/world/Amanda-knox-a-drug-taking-sex-crazed-she-devil-who-blamed-murder-on-innocent-man/news-story/ab5f5e62fe5[https://perma.cc/9Z9X-KQKX]).

²⁷³ SIMKIN, *supra* note 26, at 199.

²⁷⁴ Tina Brown, *Foreword* to NADEAU, *supra* note 3, at vii, viii.

would confront the judges, asked whether Amanda was a “killer whose angelic face [was] betrayed by her ice-blue eyes.”²⁷⁵

As these passages show, dualistic rhetoric about Amanda’s character permeated her case. It becomes important, then, to ask why prosecutors and journalists framed Amanda’s identity the way they did. No one adduced the image that Amanda herself tried to show the court: that of an ordinary girl dressed in her “usual jeans and a T-shirt.”²⁷⁶ Rather, they described her as either utterly pure, like the saint referenced by Pacelli (an eleven-year-old who fought to preserve her virginity, then forgave her assailant before dying of her wounds),²⁷⁷ or dirty and sexual, or a synthesis of the two. And if she was dirty and sexual, then she must be a murderer as well. Why would this be?

2. *Psychological and Christian Roots of the Madonna/Whore Complex*

To begin on the most abstract level, it seems that what matters most in our unconscious is not one end of a continuum or the other but the relationship between the two. As the distinguished psychologist Jolande Jacobi has written, “[E]verything that is psychologically alive . . . has the essential attribute of *bipolarity*.”²⁷⁸ In a beautiful phrase, Jacobi refers to this phenomenon as “the unity of the primordial opposites.”²⁷⁹

But recognizing that polarities are a key feature of our unconscious minds only takes us so far. It does not explain the *particular* polarity that was applied to Amanda—chaste saint or lewd devil—often referred to as the Madonna/whore complex. The most famous explanation of this dichotomy appears in Sigmund Freud’s essay “On the Universal Tendency to Debasement in the Sphere of Love.”²⁸⁰ Freud calls attention to a psychological limitation in many men; namely, the inability to experience both “affectionate” and “sensual” components of love toward the same woman.²⁸¹ He writes, “Where they love they do not desire and where they desire they cannot love.”²⁸²

Instead of directing tenderness and lust toward one woman, they employ the defense mechanism of splitting: a primitive, Manichean way of organizing experience into stark

²⁷⁵ Richard Owen, *The Dilemma for the Jury: Was This a She-Devil or All-American Innocent?*, TIMES OF LONDON (Dec. 5, 2009), at 4. For another reference to Amanda’s eyes as indicative of her evil side, see ELLEN NERENBERG, MURDER MADE IN ITALY 248 (2012).

²⁷⁶ KNOX, *supra* note 5, at 299.

²⁷⁷ See Transcript of Oral Argument of Carlo Pacelli, *supra* note 271, at 14.

²⁷⁸ JOLANDE JACOBI, COMPLEX/ARCHETYPE/SYMBOL IN THE PSYCHOLOGY OF C.G. JUNG 65 (Ralph Mannheim trans., Princeton University Press 1959).

²⁷⁹ *Id.* at 56.

²⁸⁰ Sigmund Freud, *On the Universal Tendency to Debasement in the Sphere of Love*, in 11 THE STANDARD EDITION OF THE COMPLETE PSYCHOLOGICAL WORKS OF SIGMUND FREUD 177 (James Strachey trans., 1957).

²⁸¹ *Id.* at 180.

²⁸² *Id.* at 183.

opposites such as goodness and evil, darkness and light, love and lust.²⁸³ To strengthen this defense, they may also employ projection, ascribing their own inner division to women, whom they perceive distortedly as falling into two types: “the sacred” and “the profane.”²⁸⁴ The sacred, being chaste, are seen as marriageable and “good,” whereas the profane, being wanton, are seen as whores and “bad.” By contemplating *all* women through this template, such men avoid the confused and painful awareness that it is they themselves who feel desire toward the very woman whom they also tenderly love.²⁸⁵

Compelling as Freud’s theory may be, it cannot adequately account for the pervasive influence of the Madonna/whore binary in Italy or, more specifically, its impact on Amanda’s arrest and trial. The theory fails to consider the powerful role of Christianity, which from its earliest days contrasted the spirit (associated with men) with the flesh (associated with women),²⁸⁶ and which to this day vividly embodies the Madonna/whore binary in the figures of Eve, “mother of all living”²⁸⁷ and Mary, the mother of Jesus.

The story of Eve—who disobeyed God by eating of the Tree of the Knowledge of Good and Evil and tempted Adam to do the same, leading them to “[know] they were naked” and cover themselves with fig leaves, so that sex, which had been innocent, became tainted with sin—requires no detailed retelling here.²⁸⁸ Although not a whore in the sense of a harlot, a woman who “prostitutes herself for hire,”²⁸⁹ Eve has traditionally been considered a whore in the broader sense of a woman who tempts men into evil ways through her sexual allure.²⁹⁰

Mary is, as we know, the polar opposite of Eve, representing chastity and purity. Her symbolic meaning stems in part from the doctrine of the Virgin Birth, but it also derives from another belief often confused with the Virgin Birth-- the doctrine of the Immaculate Conception, made an article of faith by Pope Pius IX in 1854.²⁹¹ The doctrine of the Immaculate Conception maintains that Mary—despite being the product of sexual

²⁸³ Cf. *id.* (describing the “split in their love”). For a general discussion of “splitting” as a defense mechanism, see Nancy McWilliams, *Psychoanalytic Diagnosis* 99–100 (1994).

²⁸⁴ For the dichotomy of “sacred” and “profane,” see Freud, *On the Universal Tendency to Debasement in the Sphere of Love*, *supra* note 280, at 177. For the point about projection, see PAUL GORDON, DIAL “M” FOR MOTHER: A FREUDIAN HITCHCOCK 89–90 (2008). See also Catherine Stimson, *Forward*, in MARGARET F. ROSENTHAL, *THE HONEST COURTESAN* vii, vii–viii (1992) (describing the “common Western polarity in the representation of women” and men’s projection onto “women in general [and] the figure of the courtesan/prostitute in particular”).

²⁸⁵ Cf. GORDON, *supra* note 284, at 89–90.

²⁸⁶ See MARINA WARNER, *ALONE OF ALL HER SEX: THE MYTH AND CULT OF THE VIRGIN MARY* 57 (1976).

²⁸⁷ *Genesis* 3:20.

²⁸⁸ *Genesis* 3:1–24.

²⁸⁹ 20 THE OXFORD ENGLISH DICTIONARY 301 (J.A. Simpson & E.S.C. Weiner eds., 1989).

²⁹⁰ See Vladimir Tumanov, *Mary Versus Eve: Paternal Uncertainty and the Christian View of Women*, 95 NEOPHILOLOGUS 507, 512 (2011).

²⁹¹ See Marilyn McCord Adams, *The Immaculate Conception of the Blessed Virgin Mary: A Thought-Experiment in Medieval Philosophical Theology*, 103 HARV. THEOLOGICAL R. 133, 133 (2010).

intercourse between Saint Anne and Saint Joachim—was “at the first instant of her conception” infused with grace that freed her from original sin.²⁹² As the Italian feminist scholar Louisa Accati explains, Mary’s virginity was thereby “redoubled,” because neither her son’s conception nor her own was achieved through concupiscence, or ardent desire.²⁹³ Here we see the absolute bifurcation of virtue and carnality inasmuch as Mary had to be utterly uncontaminated by sex to be a worthy mother of God.²⁹⁴

Mary’s sublime purity has made her, in some places, an autonomous object of worship, separate from God and Christ.²⁹⁵ The intensity of Marian devotion varies from one country to another and scholars differ in their assessment of this variation, but at least one journalist, Nina Burleigh, believes that the cult of Mary is “stronger in Italy than in any other European nation.”²⁹⁶ After all, since the fourteenth century, Italy has been the site of the Holy See, which has given it a uniquely intertwined relationship with Catholicism. And although the country is now more religiously pluralistic than in the past, a majority of Italians still identify as Catholic.²⁹⁷

Even Italians who no longer adhere to Catholic beliefs may still be affected by Catholic symbols. Indeed, this effect may be even more powerful when its action is unconscious, as Accati explains in one of the epigraphs that begin this section.²⁹⁸ The ongoing cultural impact of Catholicism in Italy can be seen in the popularity of Italian television shows about saints and popes. For example, the BBC reports that on a spring weekend in 2003, thirty-five percent of all Italian households were watching a television dramatization of the life of Maria Goretti,²⁹⁹ the saint whom Pacelli referenced at Amanda’s trial: the twelve-year-old who died from wounds she sustained defending her honor.

And what of Perugia, the walled city where Amanda was first suspected, tried, and imprisoned? Two popular icons of the Virgin Mary are located there: the Madonna del Verde and the Madonna delle Grazie. The originals are displayed in public places, but a reproduction of the Madonna delle Grazie hung on the wall behind Prosecutor Mignini’s desk throughout the trial.³⁰⁰ A devout Catholic, Mignini often spoke of this Madonna and how she had saved his uncle’s life during World War II.³⁰¹

²⁹² See Accati, *supra* note 267, at 248.

²⁹³ See *id.*

²⁹⁴ Cf. WARNER, *supra* note 286, at 51 (“That the Mother of God should be a virgin was a matter of such importance to the men of the early Church that it overrode all other considerations . . .”).

²⁹⁵ For a reference to Mary’s “sublime perfection,” see WARNER, *supra* note 286, at 150. For Mary as an autonomous object of worship, see BURLEIGH, *supra* note 4, at 291.

²⁹⁶ BURLEIGH, *supra* note 4, at 291.

²⁹⁷ See JOHN POLLARD, CATHOLICISM IN MODERN ITALY 169 (2008).

²⁹⁸ See *supra* text accompanying note 267.

²⁹⁹ See CHARLES KILLINGER, CULTURE AND CUSTOMS OF ITALY 67 (2005).

³⁰⁰ BURLEIGH, *supra* note 4, at 293.

³⁰¹ *Id.*

As to their appearance, Burleigh writes that the two Perugian Madonnas look very much alike with their “pale, heart-shaped faces, tiny pert noses, light distant eyes, [and] small perfect mouths.”³⁰² She believes that Amanda “bears an uncanny resemblance to both of them.”³⁰³ I had the opportunity to judge for myself on a return trip to Perugia in the spring of 2016.

3. *In the Duomo with the Two Madonnas and Claudia. Perugia – March 3, 2016*

My guide Claudia and I decide to go first to the Museum of the Cathedral of San Lorenzo (the Duomo) to see the Madonna del Verde. At the information table on the main floor, the lady tells us that we are welcome to descend the stairs but, because the lights are out, we will probably not be able to see the Madonna. Nevertheless, after wandering around below ground in semi-obscurity we find her, and by using Claudia’s flashlight are able to get a good look at this very old icon—the older of the two Madonnas, believed to date from the early fourteenth century.

When she was first discovered, the Madonna del Verde had been a frieze on the wall of a cave; later, in the fifteenth century, she was moved, transferred to canvas, and repainted.³⁰⁴ Perhaps the repainting accounts for the brilliant colors of her apparel—the bright green dress, thought to be the origin of her name, and the electric blue cape, punctuated by little stars, that covers her head and then falls over her shoulders and arms. Behind her head a halo gleams, and on her lap the infant Jesus sits, swaddled in an orange cloth. At the bottom of the painting, on a green background, an inscription in Italian reads “I am the mother of holy hope.”

Gazing at the picture, I make an effort to detect the supposed resemblance between the Madonna del Verde and Amanda, but try as I might, I cannot see it. To me, the Madonna’s elongated face contrasts markedly with Amanda’s, as does her long nose and the vacant look in her eyes. With her head bent slightly forward, she casts her gaze not eagerly toward the viewer or the baby Jesus but dully off to the side and into the distance.

After ascending the steps to the main floor, we leave the museum and enter the nave of the Duomo, where the Madonna delle Grazie can be seen inside a tabernacle not very far back and on the right. She is said to be the most beloved Madonna of the Perugini;³⁰⁵ indeed, several women appear to be praying to her as we enter. And it is true, I think, she

³⁰² *Id.* at 294.

³⁰³ *Id.*

³⁰⁴ See *id.* at 293; cf. EDWARD HUTTON, THE CITIES OF UMBRIA 21 (2d ed., 1906) (“[T]he curious fresco La Madonna del Verde is certainly one of the earliest in Perugia”); *Key to Umbria: Perugia Museo del Capitolo della Cattedrale di San Lorenzo*, www.keytombria.com/Perugia/Museo_Capitolare.html [<https://perma.cc/XHV5-B782>] (describing the Madonna del Verde as “originally in fresco . . . the old Duomo,” which was “heavily repainted” and “transferred to canvas in 1466”).

³⁰⁵ Interview with Giulia Alagna, journalist and life-long resident of Perugia, in Perugia, Italy (March 4, 2016).

does look remarkably like Amanda, or rather Amanda looks like her, especially because of her perfect oval face and light-colored eyes.

My overall impression is that she is lovely, like a fairytale princess, in a pale rose-colored dress, a periwinkle cape spattered with golden stars, and on her head a crown of gems. The palms of her hands are turned outward toward the worshiper, with the fingers flexed in a gesture that the guidebook describes as one of “benediction, protection, and welcome rather than prayer.”³⁰⁶ Although not a Catholic myself, I feel comforted by her image and succumb to the impulse to join the parishioners who are already kneeling before her on the velvet cushioned bench.

Back in my hotel room late that night, I muse about the two Madonnas and Amanda’s resemblance to one or both of them. Sometimes I find it hard to believe that appearance—a purely accidental characteristic—could really have had an impact on the case. Yet only this morning, out of the blue, Claudia said, “Italians do not have a good opinion of Amanda. If she weren’t beautiful, they wouldn’t have depicted her as a sensual monster. Her only fault was to be beautiful.”³⁰⁷ Another young Perugian, a journalist intimately familiar with the case, told me essentially the same thing in the observation I quoted as an epigraph to this section: “If Amanda had had buck teeth, pimples, and glasses, none of this would have happened.” Well then, I think, if her beauty *in general* had such an effect, why not her similarity *in particular* to Mary the mother of Jesus? And, my logic continues, if judges were impressed by the similarity, then this association might have led them to conceive of Amanda as a whore, because one side of a polarity brings its opposite to mind.

4. *The Casual Blending of Whore and Murderess*

Still, we are left with a question: how did the reporters, lawyers, and judges so easily make the leap from *whore* to *murderer*? One theory is that a woman’s virtue is closely tied to her chastity; thus, once she is seen as “easy,” promiscuous, or lustful, the idea that she could murder is not much of a stretch.³⁰⁸ A second is that in some eras and locales, murder by a woman has been considered “so unthinkable . . . that it [has] to be explained away as the action of a whore, witch, monster or madwoman.”³⁰⁹ And underlying both of these hypotheses is a third: the psychoanalytic concept of *condensation*.³¹⁰ A characteristic of primary process thinking³¹¹—the kind of thinking we do unconsciously,

³⁰⁶ Cf. HUTTON, *supra* note 304, at 11 (“With hands raised she seems to deprecate our prayers and to bless us”).

³⁰⁷ Interview with Claudia Marzella, in Perugia, Italy (Mar. 3, 2016).

³⁰⁸ SHANI D’CRUZE, SANDRA WALKLATE, & SAMANTHA PEGG., MURDER 48 (2006).

³⁰⁹ JUDITH KNELMAN, TWISTING IN THE WIND: THE MURDERESS AND THE ENGLISH PRESS 230 (1998).

³¹⁰ See CHARLES BRENNER, AN ELEMENTARY TEXTBOOK OF PSYCHOANALYSIS 51 (rev. ed. 1974).

³¹¹ For an explanation of primary process thinking, see *id.* at 45–46.

free from the constraints of logic and time—*condensation* is defined as the fusion of two or more images or ideas, along with their psychic energy, into one.³¹²

A seventeenth-century play, *The White Devil*,³¹³ provides a helpful example of condensation in a context similar to that of Amanda. Written by British playwright John Webster, loosely based on true events, and set in Italy, this revenge tragedy tells the story of Vittoria Corombona—a beautiful but poor woman of noble birth who evokes the amorous desire of a Duke. When the Duke “seeks to prostitute [her] honor,” Vittoria submits to a kiss, sparking rumors that she is having an adulterous affair.³¹⁴ Soon thereafter, her husband is murdered³¹⁵ and, despite a lack of evidence, she is accused of the crime.³¹⁶ Her accuser is counting on the infamy of Vittoria’s “black lust” to establish her guilt.³¹⁷ Upon being brought to trial, Vittoria courageously defies the court in these words:

For your names
Of whore and murderess, they proceed from you
As if a man should spit against the wind;
The filth returns in’s face.³¹⁸

Despite (or perhaps because of) her bravery, Vittoria is imprisoned in a convent for repentant whores,³¹⁹ and later she is murdered.³²⁰ Although her eloquent speech fails to save her, it does exemplify the casual blending of *whore* and *murderess*, a condensation that pervades the entire play. For Vittoria’s judges readily blur the line between adulteress and killer, just as Amanda’s accusers inferred from her supposed wantonness that she was guilty of Meredith’s murder.

B. Presentation versus Authenticity: The Role of Cultural Differences

Person [fr. L. *persona* a mask (used by actors), a personage,
. . . fr. Etruscan *phersu* mask or masked person.]

*Webster’s New International Dictionary*³²¹

³¹² *Id.* at 51–52.

³¹³ John Webster, *The White Devil*, in *THE DEVELOPMENT OF ENGLISH DRAMA* 256 (Gerald Eades Bentley ed., Appleton-Century-Crofts, Inc. 1950) (1612).

³¹⁴ *Id.* at 259.

³¹⁵ *See id.* at 272.

³¹⁶ *See id.* at 274.

³¹⁷ *Id.* at 273.

³¹⁸ *Id.* at 276.

³¹⁹ *Id.* at 278.

³²⁰ *Id.* at 308.

³²¹ WEBSTER’S NEW INTERNATIONAL DICTIONARY, *supra* note 19, at 1827.

It is probably no mere historical accident that the word person, in its first meaning, is a mask. It is rather a recognition of the fact that everyone is always and everywhere, more or less consciously, playing a role. . . . It is in these roles that we know each other; it is in these roles that we know ourselves.

Robert Ezra Park, *Race and Culture*³²²

Up to now, I have seen many masks; when am I going to see the faces of men?

Jean-Jacques Rousseau, *Julie*³²³

1. *La Bella Figura Versus the Romantic Ideal of Being Oneself*

In his seminal book, *The Presentation of Self in Everyday Life*, Erving Goffman calls attention to the fact that we are—all of us, always—wearing a mask in front of others, managing the impression we make, pretending an engrossment that we do not feel, or pretending indifference when we are truly engrossed.³²⁴ Analyzing subcultures ranging from the crofters of the Shetland Islands to housewives in Paris to patients in a mental hospital in Washington, D.C., Goffman compares all human interactions to a performance in a theater with scenes, an audience, and a backstage.³²⁵ To Goffman, the fact that we are all playing a role in front of others is not immoral, counterfeit, or dishonest; it is inevitable. Moreover, this inevitability is not a reason to despair, for the masks we wear are, Goffman claims, “our truer self, the self we would like to be.”³²⁶

Diametrically opposed to Goffman’s model of presentation is the model of authenticity—the ideal of being genuine and open in our social relations so as to be true, above all, to ourselves. Associated with the Romantics, the ideal of authenticity was expressed by the philosopher Jean-Jacques Rousseau in these words: “How pleasant it would be to live among us if exterior appearance were always a reflection of the heart’s disposition.”³²⁷

These abstract standards of human interaction, these opposed philosophical ideals, help to illuminate the cultural differences between Italy and the United States and between Perugia and Seattle. In Italy, the standard of *la bella figura* bears a close resemblance to Goffman’s model of presentation, whereas in the United States, the high value placed on individualism resonates with the Romantic ideal of authenticity.

La bella figura has been cited as a factor throughout Amanda’s case. For instance, a few days after Amanda’s conviction in Perugia, the European news and debate website

³²² ROBERT EZRA PARK, *RACE AND CULTURE* 249 (1964).

³²³ JEAN-JACQUES ROUSSEAU, *JULIE, OR THE NEW HELOISE II*, 193–94 (Dartmouth Press 2010) (1761).

³²⁴ GOFFMAN, *THE PRESENTATION OF SELF IN EVERYDAY LIFE*, *supra* note 65, *passim*.

³²⁵ *See id.* at xi, 22.

³²⁶ *Id.* at 19.

³²⁷ Jean-Jacques Rousseau, *Discourse*, in *THE FIRST AND SECOND DISCOURSES* 37 (Roger D. Masters ed., Roger D. & Judith Masters trans., St Martin’s Press 1964).

VoxEurop published an article with the headline, “Knox a victim of ‘la bella figura’?”³²⁸ In a similar vein, an online travel magazine published a review of Amanda’s memoir with the title, “Amanda Knox’s cardinal sin and Italy’s dysfunctional ‘bella figura’ culture.”³²⁹ And in the book *Murder in Italy*, Candace Dempsey writes, “The now twenty-two-year-old Amanda had [finally] learned how to cut a *bella figura*.”³³⁰

But what, exactly, is *la bella figura*? Alas, there is no precise English equivalent. Perhaps its best-known aspect has to do with dress; for example, in her memoir *Crazy in the Kitchen: Food, Feuds, and Forgiveness in an Italian American Family*, noted writer Louise DeSalvo describes how her Italian grandfather insisted on wearing a perfect suit when he was dying.³³¹ He was concerned that being seen at his *funeral* in less than elegant attire “would have made a bad impression” and “brought disgrace to his family.”³³² Dramatically, DeSalvo concludes, “Even in death, *la bella figura*.”³³³

On a lighter note, an Italian colleague told me a story about her cousin who came from Italy to visit her in Knoxville, Tennessee. My colleague had hired a kindergarten teacher to chauffeur her daughter to school and, it being a warm climate, the teacher always wore shorts. Upon seeing this professional woman so casually dressed, the cousin reacted with horrified incredulity and righteous indignation.³³⁴

While it embraces the notion of appropriate attire, the concept of *la bella figura* goes well beyond clothing. Highlighting its broad significance, Professor Gloria Nardini writes, “[the term] is a central metaphor of Italian life, admittedly an extremely complicated one.”³³⁵ Steven Belluscio endeavors to flesh out these complications as follows: “[L]a *bella figura* [is] a complex of behaviors through which one puts on—literally and metaphorically—a ‘good face’ in order to mask immorality, incompetence . . . or literally anything that could mar one’s public image. The opposite of *la bella figura*, *la brutta figura* (‘ugly face’), is to be avoided at all cost[s].”³³⁶ Echoing Belluscio’s words in her book, *Living and Working in Italy*, Caroline Prosser writes,

³²⁸ Knox a Victim of “La Bella Figura”?, VOXEUROP (Dec. 10, 2009), <http://www.voxeurop.eu/en/content/news-brief/153431-knox-victim-la-bella-figura> [<https://perma.cc/4R3Z-QBHP>].

³²⁹ Aaron Hamburger, *Amanda Knox’s Cardinal Sin and Italy’s Dysfunctional ‘Bella Figura’ Culture*, MATADOR (May 14, 2013), <http://matadornetwork.com/abroad/amanda-knox-cardinal-sin-and-italys-dysfunctional-bella-figura-culture/> [<https://perma.cc/PN6C-GFHG>].

³³⁰ DEMPSEY, *supra* note 3, at 292.

³³¹ LOUISE DESALVO, *CRAZY IN THE KITCHEN: FOOD, FEUDS, AND FORGIVENESS IN AN ITALIAN AMERICAN FAMILY* 62 (2004).

³³² *Id.*

³³³ *Id.*

³³⁴ Telephone Interview with Flavia Brizio-Skov, Professor of Italian, University of Tennessee, Knoxville (Sept. 28, 2013).

³³⁵ GLORIA NARDINI, *CHE BELLA FIGURA* 7 (1999).

³³⁶ STEVEN J. BELLUSCIO, *TO BE SUDDENLY WHITE: LITERARY REALISM AND RACIAL PASSING* 200 (2006).

“*Bella figura* refers not only to the way you look, but also to the way you act and what you say.”³³⁷

Just as *la bella figura* is associated with Italy, so also the Romantic belief in authenticity is associated with the United States. As distinguished psychologist Rollo May writes,

The emphasis was on being true to one’s own convictions. This was true especially in American sectarian Protestantism, strongly aided by the individualism cultivated by our life on the frontier. Hence the great emphasis in America on *sincerity* as one lived by one’s own convictions.

We idealized men such as Thoreau, who supposedly did that.³³⁸

Similar to Rollo May, Ronald Sharp, an English professor and former university president, asserts that “form and artifice have acquired a bad reputation” in the United States.³³⁹ He traces this cultural trait to two historical forces: our Puritan heritage, with its values of simplicity and plainness, and our rejection of class structure, which is associated with ceremony.³⁴⁰

Of course, the United States and Italy are both characterized by great variation from one region to another, and one risks error by generalizing about the culture of either nation. But before we turn to particular places *within* these nations, let us dwell a little longer in the general realm while we consider the following scene.

2. *At the Opera with Alice in St. Mark’s Anglican Church, Florence—May 20, 2014*

It is the intermission. The audience has just watched the painful scene at the end of Act Two of *La Traviata* in which Alfredo, believing that Violetta has returned to her old life as a courtesan, throws his gambling winnings contemptuously at her feet, in a roomful of party guests. Overwhelmed, Violetta swoons, and the other guests condemn Alfredo for his insulting gesture.³⁴¹ Then Alfredo, his anger spent, sings of his remorse over what he has done.³⁴²

I am sitting in a small English church on the *via Maggio* just a few blocks from the Arno River. With me is my Italian friend, Alice,³⁴³ a doctoral candidate in law at the European University Institute. We have chosen to see the opera in St. Mark’s rather than in a typical opera house in hopes of having a more intimate experience. Indeed, the

³³⁷ CAROLINE PROSSER, *LIVING AND WORKING IN ITALY* 298 (2011).

³³⁸ Rollo May, *The Dangers of Innocence*, in *MEETING THE SHADOW: THE HIDDEN POWER OF THE DARK SIDE OF HUMAN NATURE* 174 (Jeremiah Abrams & Connie Zweig eds., 1991).

³³⁹ RONALD A. SHARP, *FRIENDSHIP AND LITERATURE* 23 (1986).

³⁴⁰ *Id.*

³⁴¹ Giuseppe Verdi, *La Traviata* act II (Francesco Maria Piave libretto) (1853).

³⁴² *Id.*

³⁴³ Pronounced *Ah-lee-chay*.

church, where we are seated in the front row only a few feet from the singers, affords the sense of involvement we were seeking.

What we had not expected was the richness of the interior, with its glowing dark wood and sumptuous icons and paintings. In the booklet we received upon entering the nave, we read that this building was once part of a Medici *palazzo* and was later owned, for a time, by Machiavelli's family. Centuries afterward, when artists renovated the interior, they adopted the style and brilliant colors of the English Pre-Raphaelites. The result is a beautiful, historic setting in which to absorb Verdi's glorious music and the story of the fallen woman.

The people around us, taking advantage of the intermission, are starting to leave the nave, and Alice and I decide that we too could use some fresh air. We are about to rise but, just at that moment, the young couple across the way begins to kiss. It is a long, lingering kiss, one that, in this intimate setting, would be hard not to see, especially since we are seated directly opposite the couple, separated only by the small floor space where the opera is being staged.

To me, the kiss is charming. I like the couple's obvious infatuation and complete obliviousness to their surroundings. But Alice is not amused. She turns to me, aghast. "In a *church*?" she says.

I try to mollify her, saying that the young man and woman are probably newlyweds from the States, on their honeymoon. "They are in love," I say lightly, "with eyes only for each other." But nothing I say appears to diminish her righteous indignation.

After the intermission and Act Three, in which Violetta progressively weakens, finally dying of consumption in Alfredo's arms,³⁴⁴ we file out of the church directly behind the amorous couple. Since they are conversing, we are able to make out that they are English-speakers with American accents, confirming my earlier hunch about their nationality.

Outside of St. Mark's, we leave the crowd behind, turning left onto the *via Maggio* and walking the few blocks to the *Ponte Santa Trinita*, the bridge that will take us over the Arno River and back to the city center. In the middle of the bridge, we pause and gaze toward the West, where the river narrows and the *Ponte Vecchio* has stood since medieval times. On parts of the river, shadows fall, cast by the crescent-shaped stone arches of the famous bridge. They make a romantic contrast with other stretches of the river that reflect the lights of Florence in a distorted, shimmering way.

As we look at the view, Alice, evidently still bothered by the kissing couple, raises the subject again. "They were touching each other's knees all through the performance," she says. "It was distracting!"

I have to admit that she is right; it *was* a little distracting. But, as with the kiss, I found their caresses more charming than outrageous. Mostly, I am surprised and puzzled at my friend's strong reaction. As she has told me before, she is not a devout Christian,

³⁴⁴ See Verdi, *supra* note 341, at act III.

nor a believer in any faith; thus, religious conviction cannot explain her offended sensibility. Neither can her age or any unusual prudishness that I have discerned. She is a twenty-something with a boyfriend and a stylish, even flirtatious, way of dressing. Furthermore, Alice has traveled abroad and studies at an international university. A lack of exposure to other cultures would therefore not account for her indignant response. No, the only explanation that makes sense to me is that she is Italian and, as such, values *la bella figura*. The kissing couple, like Amanda, has violated this deeply rooted cultural norm.

3. *The West-Coast Dreamer in Insular Perugia*

I have presented the scene at the opera in some detail to illustrate how standards for behavior in public places are different in Italy than in the United States. But, as was already noted, both Italy and the United States are extremely diverse. Beyond considering the culture of each nation as a whole, it is important to zero in on the *subcultures* that are most likely to have played a part in Amanda's case: the American West Coast, especially Seattle, and the central Italian region of Umbria, especially Perugia. It is to these places that we now turn.

Numerous writers, attempting to account for Amanda's behavior or for the Italian reactions to her, have alluded to regional subcultures. For example, in *A Murder in Italy*, Dempsey recounts how "[t]he Seattle girl had managed to scandalize the entire table" by breaking into song while dining at a restaurant with Meredith's British friends.³⁴⁵ Dempsey explains: "In countercultural Seattle, [Amanda] sang while driving, on the street, wherever she felt like it."³⁴⁶

Amanda's boyfriend Raffaele also draws on Amanda's place of origin to interpret her questionable acts. For instance, in the *questura* soon after Meredith's body was found, Amanda wrote in her journal that she would "really like to say that [she] could kill for a pizza but it just doesn't seem right."³⁴⁷ After gaining access to this language, the Italian newspapers used it against Amanda. But Raffaele, writing in his memoir, *Honor Bound*, offers a defense of her words: "This was Amanda free-associating, as Amanda the West Coast dreamer was in the habit of doing."³⁴⁸

Whereas Dempsey and Raffaele adduce culture to explain some of Amanda's specific acts, Amanda herself makes a more general point when she writes, "[M]y Seattle upbringing had left me unprepared for the cultural strictures of my new environment."³⁴⁹ And finally Rebecca Mead, writing in *The New Yorker*, makes this broad, damning

³⁴⁵ DEMPSEY, *supra* note 3, at 17.

³⁴⁶ *Id.*

³⁴⁷ KNOX, *supra* note 5, at 83.

³⁴⁸ SOLLECITO, *supra* note 3, at 40.

³⁴⁹ KNOX, *supra* note 5, at 37.

assessment: “[T]he social codes of the American Northwest [would] . . . be perceived in [Amanda’s] host country as aberrant and even malign.”³⁵⁰

The idea that the American Northwest has a culture all its own, antithetical to the Italian or Perugian culture, finds confirmation in Colin Woodard’s book, *American Nations: A History of the Eleven Rival Regional Cultures of North America*.³⁵¹ Woodard describes a region he calls the “Left Coast” that “extends in a strip from Monterrey, California, to Juneau, Alaska, including . . . Seattle.”³⁵² Among the central attributes of Left Coasters, he suggests, is “a culture of individual fulfillment,”³⁵³ characterized by “self-exploration and discovery.”³⁵⁴ Untroubled by traditional expectations, Left Coasters believe that “[t]he world . . . can be easily and frequently reinvented.”³⁵⁵

Focusing on Seattle in particular, an article in *Rolling Stone*, remarkably titled “Normal Weirdness in Seattle,” describes the early nineties culture in which Amanda grew up.³⁵⁶ The author, Patti O’Brien, writes that “Seattle [is] America’s premier haven for eccentrics, youthful freaks and genial space cases—a kind of cultural Mars. Seattle is out there. Things happen differently here than in other places.”³⁵⁷

The description sounds hyperbolic but, if it contains even a kernel of truth, Seattle’s culture is dramatically different from that of Perugia, with its three-thousand-year-old history and geographic insularity. Founded by a prehistoric people who preceded even the Etruscans, and situated on top of a hill, Perugia lies roughly halfway between the Adriatic and the Tyrrhenian Sea. It is the capital of Umbria, a region renowned for its isolation. Writers often highlight its uniqueness as the only region of Italy that neither touches the sea nor shares a border with a foreign country.³⁵⁸

People I know who have lived in Perugia for most of their lives invariably bring up these same facts to explain Perugia’s conservative culture to me. My guide Claudia was raised in Perugia from the age of eight and is now studying for her Masters at the University of Milan. “Is Perugia more conservative than Milan?” I ask her.

³⁵⁰ Rebecca Mead, *Foreign Story*, NEW YORKER (May 6, 2013), <https://www.newyorker.com/magazine/2013/05/06/foreign-story> [<https://perma.cc/DW7Z-5N4L>].

³⁵¹ COLIN WOODARD, *AMERICAN NATIONS: A HISTORY OF THE ELEVEN RIVAL REGIONAL CULTURES OF NORTH AMERICA* (2011).

³⁵² *Id.* at 11.

³⁵³ *Id.*

³⁵⁴ *Id.*

³⁵⁵ *Id.* at 295.

³⁵⁶ Patti O’Brien, *Normal Weirdness in Seattle*, ROLLING STONE (Mar. 18, 1993), at 34.

³⁵⁷ *Id.*

³⁵⁸ See, e.g., DAMIEN SIMONIS ET AL., *ITALY 561* (2010) (describing Umbria as “the only region in Italy that borders neither the sea nor another country”); DANA FACAROS & MICHAEL PAULS, *UMBRIA 2* (4th ed. 2009) (“the only region neither to touch the sea nor to border another country”). Cf. JONATHAN BOARDMAN, *UMBRIA 3* (2012) (“the only region of peninsular Italy without a coastline”); IAN CAMPBELL ROSS, *UMBRIA: A CULTURAL HISTORY 1* (1996) (“peninsular Italy’s only landlocked region”).

My question comes across as dumb, and she bursts out laughing. “Yes. Milano is amazing! It’s open-minded, dynamic, not like Perugia. People who are born and raised here [in Perugia] are closed. Here you meet always the same person, you do always the same things, you have to create what you want to do. In Perugia, you are not stimulated so much. It’s because of the geography: being on a hill, yet not near the sea, which is a symbol of freedom.” Finishing her sentence, she laughs again, amused by her own flight of fancy.³⁵⁹

Now that I have spent more time in Perugia, I find myself wondering whether Amanda would have been treated differently had the crime occurred in Rome, Florence, or Milan. Would these more cosmopolitan cities have been so quick to judge Amanda for her failure to live up to *la bella figura*? Did the provinciality of Perugia—this remote city with its ancient, winding, and dusky streets—play a dispositive role in her guilty verdicts? Perhaps not, but it certainly could not have helped.

IV. “CAUGHT BETWEEN TWO TRADITIONS”³⁶⁰: ITALY’S HYBRID LEGAL SYSTEM

All I am going to say is that she wasn’t discriminated against because of being an American.

Dr. Stefano Maffei³⁶¹

Maybe the [limited] reforms in our criminal procedure are a kind of inoculation against the American way. After all, the adversarial system doesn’t go with European feeling.

Professor Elisabetta Grande³⁶²

A. *Was Italy’s Legal System to Blame?*

Having explored both the role of the Madonna/whore complex and the role of cultural differences, we come now to the third and final topic in our effort to “interpret the interpreters” of Amanda. This topic is, of course, Italian law. What part, if any, did it play in the initial targeting, arrest, and conviction of Amanda?

Others, too, have addressed this topic and some—viewing Amanda’s treatment as a miscarriage of justice—have placed substantial blame on the Italian legal system. For example, after the first guilty verdict in 2009, Maria Cantwell, a United States Senator

³⁵⁹ Interview with Claudia Marzella, in Perugia, Italy (Mar. 3, 2016).

³⁶⁰ Luca Marafioti, *Italian Criminal Procedure: A System Caught Between Two Traditions*, in CRIME, PROCEDURE, AND EVIDENCE IN A COMPARATIVE AND INTERNATIONAL CONTEXT 81 (John Jackson et al. eds., 2008).

³⁶¹ Interview with Dr. Stefano Maffei, Senior Lecturer in Criminal Procedure, Università di Parma, in Bologna, Italy (Dec. 9, 2014).

³⁶² Interview with Elisabetta Grande, Professor of Comparative Law, Università del Piemonte Orientale, in Turin, Italy (Dec. 11, 2014).

from Washington, released a statement saying that she had “serious questions about the Italian justice system and whether anti-Americanism tainted this trial.”³⁶³

While rejecting the theory of anti-Americanism, George Fletcher, a law professor at Columbia, described the verdict as “a scandal of the first order.”³⁶⁴ By way of explanation, he stated that Italy (which for a time had endeavored to model its procedure on that of the United States) had failed to “adapt correctly” the American legal system.³⁶⁵ In a similar vein, Alan Dershowitz, a law professor at Harvard, opined that the Italian legal system “is not among Europe’s most distinguished.”³⁶⁶

But these observations are quite sweeping. On a more specific level, some aspects of Italian criminal procedure that have been vehemently criticized include, *inter alia*, the concurrence of civil and criminal trials before the same judges,³⁶⁷ the flagrant use of character evidence,³⁶⁸ the failure to sequester those sitting in judgment,³⁶⁹ and the exposure of defendants to double jeopardy.³⁷⁰

In contrast to these critics, some comparative law scholars have argued that the continental legal system, including its Italian iteration, is as likely to achieve justice as the American system, albeit through a different path. One such scholar is James Q. Whitman, a law professor at Yale. In his article, *Presumption of Innocence or Presumption of Mercy: Weighing Two Western Modes of Justice*, he suggests that the American and continental criminal systems both have virtues—the former doing a better job of protecting the innocent from conviction, the latter of being merciful to the convicted criminal.³⁷¹ He believes that the United States would do well to emulate the

³⁶³ Michael Cooper & Isolde Raftery, *A Court Fight and a Tireless Battle Over an Image*, N.Y. TIMES (Oct. 4, 2011), <http://www.nytimes.com/2011/10/05/us/court-fight-and-tireless-battle-over-an-image.html> [https://perma.cc/692W-9WFV] (quoting Senator Cantwell).

³⁶⁴ Liz Robbins, *An American in the Italian Wheels of Justice*, N.Y. TIMES: LEDE BLOG (Dec. 5, 2009), <https://thelede.blogs.nytimes.com/2009/12/05/an-american-in-the-italian-wheels-of-justice/> [https://perma.cc/HAY3-YN5U] (quoting George Fletcher).

³⁶⁵ *Id.*

³⁶⁶ *Id.* (quoting Alan Dershowitz). See also Frank Bruni, *Sexism and the Single Murderess*, N.Y. TIMES (May 4, 2013), <http://www.nytimes.com/2013/05/05/opinion/sunday/bruni-sexism-and-the-single-murderess.html> [https://perma.cc/V4DV-4D25] (describing the case against Amanda as “profoundly flawed” and saying that the “Italian judiciary works about as smoothly as the Italian government”).

³⁶⁷ See Timothy Egan, *An Innocent Abroad*, N.Y. TIMES: OPINIONATOR BLOG (June 10, 2009), <https://opinionator.blogs.nytimes.com/2009/06/10/an-innocent-abroad/> [https://perma.cc/ST7M-BNLX].

³⁶⁸ James Q. Whitman, *Presumption of Innocence and Presumption of Mercy*, 94 TEX. L. REV. 933, 990 (2016).

³⁶⁹ See *Amanda Knox Case Puts Spotlight on Italy’s Courts*, CBS NEWS (Oct. 3, 2011), <http://www.cbsnews.com/news/amanda-knox-case-puts-spotlight-on-italys-courts/> [https://perma.cc/8TUS-HFGZ]; WATERBURY, *supra* note 26, at 122.

³⁷⁰ See Doug Longhini, *Amanda Knox and Double Jeopardy: Does it Matter in Italy?*, CBS NEWS (Jan. 31, 2014), <http://www.cbsnews.com/news/amanda-knox-and-double-jeopardy-does-it-matter-in-Italy/> [https://perma.cc/Y22W-3QN5]; Khazan, *supra* note 27.

³⁷¹ See Whitman, *supra* note 368, at 933–34.

more humane approach of the continental model, specifically by showing more concern for the guilty.³⁷²

In the *Appendix* to his article, Whitman focuses directly on the Italian system and its treatment of Amanda.³⁷³ He acknowledges that, at first blush, she does not appear to have been treated with mercy because of her heavy prison sentence. He argues, however, that Amanda's actual time served would have been shorter than the nominal sentence had her conviction been upheld.³⁷⁴ In addition, he explains that Amanda was not the kind of defendant who typically benefits from Italy's paternalistic ethos. He writes: "[S]he did not admit her guilt and throw herself on the mercy of the justice system There is a great deal of mercy to be had from the Italian system; but . . . it is largely for those who do not display defiance toward the state."³⁷⁵

Like Whitman, John W. Head, a comparative law professor at the University of Kansas, defends Italian criminal procedure against the condemnation it received during Amanda's case. He focuses on two criticisms: the failure to sequester the lay judges and the absence of due process. As to the first, he argues that the professional judges, who work alongside the lay judges, lend guidance to the latter and thus diminish any prejudicial impact stemming from the exposure of the lay jurors to the media.³⁷⁶ As to the second, he suggests that because of the safeguards provided by Italy's many opportunities for appeal on both the facts and the law, "the Italian system might in fact afford more protections than are available in the U.S. system."³⁷⁷

In a final example of a scholar who defends the Italian system in the context of Amanda's case, Julia Grace Mirabella seeks not only to assess the validity of the criticisms but also to explain their origins. In her excellent student note, she writes that these criticisms stem from a misunderstanding of the inquisitorial tradition in which Italy's criminal procedure is rooted.³⁷⁸ In addition, she claims that Americans tend to contrast the *ideal* of the adversarial model with the *practice* of the Italian model, to the detriment of the latter.³⁷⁹ If, instead, Americans were to consider the *practice* of their own system, with its economic inequities and other flaws, she believes they would make

³⁷² See Whitman, *supra* note 368, at 935.

³⁷³ See *Appendix: The Amanda Knox Case*, in WATERBURY, *supra* note 26, at 985.

³⁷⁴ Whitman, *supra* note 368, at 990 (explaining that Italy has "a statutory presumption that offenders will not serve out their nominal sentence").

³⁷⁵ Whitman, *supra* note 368, at 989–90.

³⁷⁶ John W. Head, *Criminal Procedure in Transition: Observations on Legal Transplantation and Italy's Handling of the Amanda Knox Trial*, in FESTSCHRIFT IN HONOR OF FERIDUN YENISEY (Ayse Nohuoglu ed., 2014).

³⁷⁷ See *id.*

³⁷⁸ See Julia Grace Mirabella, Note, *Scales of Justice: Assessing Italian Criminal Procedure Through the Amanda Knox Trial*, 30 B.U. INT'L L.J. 229, 248 (2012). Accord Danielle Lenth, Note, *Life, Liberty, and the Pursuit of Justice: A Comparative Legal Study of the Amanda Knox Case*, 45 MCGEORGE L. REV. 347, 349 (2014) (cautioning against criticisms of foreign legal systems and arguing that Amanda could have been found guilty in the United States).

³⁷⁹ Mirabella, *supra* note 378, at 257.

a fairer comparison.³⁸⁰ Such a comparison would reveal that Amanda might have been found guilty in the United States just as she was in Italy's very different criminal law system.³⁸¹

But what exactly *is* Italy's criminal law system? It is often referred to as a hybrid,³⁸² but what is it a hybrid of? Simply put, it is a composite of the two dominant Western models of criminal procedure: the Anglo-American, which is adversarial, and the continental European, which is inquisitorial. But since this answer obviously begets more questions—What is adversarial? What is inquisitorial?—we risk embarking on a process of infinite regress. As a compromise between a brief but simplistic answer and a more profound but lengthy one, I will limit my response to reviewing the basic philosophical tension between these two classic modalities.

Central to this tension is that the adversarial system, while placing value on the truth, also holds fast to other values—in particular, protection of the individual from the state.³⁸³ In contrast, the inquisitorial system is designed to seek the truth above all else, and reflects a greater trust in the state and its representative—the public prosecutor.³⁸⁴ To put the distinction less abstractly, the adversarial procedure resembles a competition between two sides—the prosecution and the defense—whereas the inquisitorial procedure resembles an official inquiry, a direct seeking of the truth.³⁸⁵

Like the rest of continental Europe, Italy is imbued with an inquisitorial tradition dating back hundreds of years.³⁸⁶ Yet in the late 1980s, inspired by the American adversarial model which was then considered prestigious, Italy embarked on an ambitious

³⁸⁰ *Id.* at 258.

³⁸¹ *Id.*

³⁸² See, e.g., Giulio Illuminati, *The Frustrated Turn to Adversarial Procedure in Italy* (Italian Criminal Procedure Code of 1988), 4 WASH. U. GLOBAL STUD. L. REV. 567, 575 (2005); Mirabella, *supra* note 378, *passim*.

³⁸³ See Mirjan R. Damška, *The Uncertain Fate of Evidentiary Transplants: Anglo-American and Continental Experiments*, 45 AM. J. COMP. L. 839, 843 (1997); Marvin E. Frankel, *The Search for Truth: An Umpireal View*, 123 U. PENN. L. REV. 1031, 1034 (1975) (“It becomes evident that [in the adversarial system] the search for truth fails too much of the time.”).

³⁸⁴ See MIRJAN R. DAMAŠKA, EVIDENCE LAW ADRIFT 120–21 (1997). But see Elisabetta Grande, *Dances of Criminal Justice: Thoughts on Systemic Differences and the Search for the Truth*, in CRIME, PROCEDURE AND EVIDENCE IN A COMPARATIVE AND INTERNATIONAL CONTEXT 145, 146–47 (John Jackson et al. eds., 2008) (arguing that neither system is more committed to the truth but that the inquisitorial model seeks “ontological truth, based . . . on the belief that an objective reconstruction of reality is attainable,” while the adversarial model seeks “interpretive truth,” based on the belief that neutrality and ontological truth cannot be achieved).

³⁸⁵ See Elisabetta Grande, *Italian Criminal Justice: Borrowing and Resistance*, 48 AM. J. COMP. L. 227, 245 (2000) (describing one procedural model as a “party-controlled contest,” and the other as “an officially-controlled inquest”); JOHN H. LANGBEIN, THE ORIGINS OF THE ADVERSARY CRIMINAL TRIAL 333 (2003) (“Adversary procedure presupposed that truth would somehow emerge when no one was in charge of seeking it. Truth was a byproduct.”).

³⁸⁶ See James Thomas Ogg, *Adversary and Adversity: Converging Adversarial and Inquisitorial Systems of Justice*, 37 INT’L J. COMP. & APPLIED CRIM. JUST. 31, 31 (2013); CARLO CALISSE, A HISTORY OF ITALIAN LAW 18–20 (Layton B. Register trans., 1928).

project to adopt a more adversarial system.³⁸⁷ As might be expected when such an entrenched paradigm is challenged, these reforms met with considerable resistance.³⁸⁸ When the dust had settled, what was left was still a predominantly inquisitorial system, albeit one with some new adversarial elements.³⁸⁹ Hence the description of Italy's legal system as hybrid.

This nebulous hybridity together with the confinement of my experience to the adversarial system and my awareness that legal practice diverges from theory were factors in my decision, made early in this research project, to seek clarity from criminal law experts in Italy. The first such expert I arranged to interview was Dr. Stefano Maffei, a senior lecturer in criminal procedure at the University of Parma. I met him on a drizzly morning in Bologna, much like the morning when I met Amanda and Madison for breakfast in Seattle some nine months before.

*1. In Bologna's Historic Center with Dr. Stefano Maffei—December 9, 2014*³⁹⁰

Italian men are car fanatics and worship all things automotive.

Graeme Chesters, *Living and Working in Italy*³⁹¹

Rain is lightly falling out of a dove-gray sky on the morning when I leave the Grand Hotel Majestic Già Balioni and set off down the hill to meet Stefano Maffei. Originally, I was to travel by train to Parma, where Stefano works, or to Modena, where he lives. But this week Bologna is hosting an auto show, a big one, "the biggest in all of Italy," according to Stefano, and as he wants to attend the show, we are to meet in Bologna. He will not be able to drive near my hotel, as private vehicles are banned in the city center, so he has told me to wait on the street opposite the *Bologna Centrale* station.

"How will I recognize you?" I asked him last night, when we spoke on the phone.

He assured me that he would be easy to spot. "I'm young and I'll be wearing a black leather jacket," he said. "And I'll be driving a Porsche—a gray Porsche convertible."

Not being a car aficionada, I doubted my ability to recognize a Porsche, convertible or otherwise. So before hanging up, I took the precaution of saying, "I'll be wearing a black wool coat and a bright teal scarf."

It's a good thing I did, because the street opposite the train station is crowded with moving cars and motorcycles. Stefano has instructed me to find the Una Hotel and stand in front of it, but the covered walkway is too close to the buildings for me to read their names. Moving out from under the portico, I walk back and forth along the curb,

³⁸⁷ See, e.g., Grande, *supra* note 385, at 231.

³⁸⁸ See *id.* at 228, 238 (discussing resistance to the transplanted elements).

³⁸⁹ See *id.* at 256.

³⁹⁰ Interview with Dr. Stefano Maffei, Senior Lecturer in Criminal Procedure, Università di Parma, in Bologna, Italy (Dec. 9, 2014).

³⁹¹ GRAEME CHESTERS, *LIVING AND WORKING IN ITALY* 424 (2007).

searching for the word “Una,” while also keeping an eye on the street. I think that perhaps, by some miracle, I will recognize the Porsche or even Stefano in his black leather jacket.

No longer protected by the arcade, I am starting to get quite wet when a voice calls, “Marta!” A man three cars away is beckoning to me through his open window. Relieved that we have found each other, I run over, open the door, and collapse into a deep seat of pumpkin-colored leather. Stefano greets me and continues to drive, circling the neighborhood. I can’t tell whether he has a particular destination in mind or is simply searching for any place that will serve our purpose. At last, he pulls into a parking lot and leads me into a building where I follow him through a series of corridors to a bleak room, enormous and bare except for the small white tables and folding metal chairs distributed throughout the space.

Selecting a table, he sits down, without taking off his jacket. Now that we are face to face, I notice that he is strikingly handsome, with thick, dark eyebrows and a Greek nose. Under his jacket he wears a crisp chocolate shirt, buttoned up all the way, with a pair of sunglasses looped over the neckline. On one side of his glasses, a small adornment, silver and crescent-shaped, glints in the fluorescent light.

Matching my behavior to his, I start to sit down without removing my scarf and winter coat, but they make me too hot in the stuffy room. I unwind the scarf, shrug off the coat, and toss both garments over a chair, accidentally dropping one of my gloves on the floor. “*Piacere di conoscerla!*” I say, retrieving my glove. “A pleasure!” I am indeed happy to meet him in person after communicating by e-mail and cell phone with uneven results. “I am learning Italian,” I explain, “but have only just begun.”

“Actually, everyone in Italy speaks English,” Stefano says. I must have looked surprised, because he quickly adds, “Or *prefers* to speak English rather than listening to Americans *trying* to speak Italian.”

I decide to divert the conversation to a safer path. “Is most of your scholarship in the field of criminal procedure?” I ask. Halfway through the question, I realize how ignorant it sounds, as if I have not come prepared for the interview.

“I am an academic lawyer but a peculiar one,” he replies. “I’m only at the University of Parma for one semester a year. My interests are very practical.” As it is apparent already that Stefano and I have different sensibilities, his acknowledgement of that difference, instead of being disturbing, reassures me that there is some common ground between us. “I run a program for Italian lawyers,” he says. “It’s called ‘English for Law and International Transactions.’ Every year, I take a group to Philadelphia so they can see an American trial.”

“Oh.” I nod uncertainly. Having seen only Stefano’s academic résumé, which highlights his Ph.D. from Oxford and his publications, I had been unaware of this side of his life. “What inspired you to organize these excursions?” I ask, aligning my gloves, which have been lying askew on the table between us.

“I’m a huge fan of the American system,” he answers. “I’m in love with the fact that the jury doesn’t have to give reasons for its decisions.” Certainly, this aspect of the American system is very different from Italy’s, I reflect. In the first place, Italy does not have a jury, at least not in the sense that Americans use the term: as a body of fact-finders composed entirely of lay people. Second, as Stefano implies, Italy’s judges must provide a written opinion (the *motivazione*) for every verdict.

I wonder whether Stefano’s experience in court caused his ardor for “unreasoned” verdicts, so I ask, “Do you have a practice as well?”

“I help British barristers whose clients are facing extradition to Italy,” he says. I nod while absorbing this new information; it helps me understand why Stefano has been quoted in the media about the possibility of Amanda’s extradition to Italy.

As the discussion about his career tapers off, I venture to inquire into a statement Stefano made in an e-mail, one he sent me before I came to Italy. “You wrote, ‘It’s not that I *think* Amanda is guilty; she just *is*,’” I recall.³⁹² “Why are you so convinced of her guilt?”

While I speak, Stefano is gazing out of a window far across the room. Turning his face briefly toward me, he answers, “All I’m going to say is that she wasn’t discriminated against because of being an American.” As he resumes looking out, disappointment assails me. I have come so far to talk to him, only to find that he has decided to be reticent. Nevertheless, I press on, hoping to salvage something from the interview.

“So you believe she was treated fairly?”

“Her Italian boyfriend is from one of the *richest* families in Italy; he had the *best* lawyers in Italy. Yet, he too was found guilty. Yes, I think she was treated fairly.” Stefano speaks English with impressive fluency and a musical intonation. I have to caution myself lest his lilting cadence distract me from the gravity of what he says.

He turns again to face the far-off window. I seem unable to evoke his interest and keep the conversation going. But while I am trying to think of a promising topic, he surprises me by volunteering an answer to the question I had asked earlier. “The case against Raffaele and Amanda is overwhelming; I’ve never seen so much circumstantial evidence! It’s not a very interesting case as a result.”

“Besides,” he says, “Amanda’s not suffering; she’s free in Seattle.” He makes a sweeping gesture in the air, as if to suggest a bird in flight or maybe the distance between Italy and the United States. His view of Amanda’s situation is so different from my own that I hardly know how to reply. Silently, I recall what Amanda told me when we met—that she could not take any job where people would recognize her. The moral opprobrium, the stigma that attaches to being a felon is considered part of the punishment in our Anglo-American law,³⁹³ but to Stefano that branding appears to be insignificant.

³⁹² E-mail from Dr. Stefano Maffei, to author (Aug. 9, 2013, 14:02 CEST) (on file with author).

³⁹³ For the seminal opinion on the importance of stigma in Anglo-American criminal law, see *Morissette v. United States*, 342 U.S. 246 (1952).

It occurs to me that at any moment, Stefano may decide to call a halt to the interview and go to the auto show. Before that happens, I need to understand why he believes Amanda to be guilty. At the risk of annoying him, I raise the topic again. “A few minutes ago,” I say, “you referred to the overwhelming case against Amanda, but wasn’t there doubt over every witness, over the supposed murder weapon, the tainted bra clasp, and the footprints?”

Stefano thinks for a minute before answering with confidence. “When the Supreme Court nullified the acquittal,” he says, “it was as if they had a puzzle with five hundred dots. Every single dot could be something else, but taken all together, the dots can only mean one thing.”

The argument is one I have heard before, during an exchange with a criminal law professor at the University of Florence. I am aware that in continental Europe, judges often employ the “holistic” approach to interpretation, whereas in common-law countries, they rely more heavily on the “atomistic” approach.³⁹⁴ Doubtless because of my immersion in the Anglo-American system, the “holistic” approach is unconvincing to me. I wonder how the sheer quantity of evidence can be compelling if every piece of evidence is ambiguous or compromised.

“I was very surprised at the second opinion,” Stefano goes on. “When the Court of Appeals acquitted, it claimed that if you take one piece out, the whole case falls apart. They took out the DNA from the bra clasp, which was contaminated, but DNA is not necessary to prove guilt.” His comment puzzles me, because the Court of Appeals had not merely challenged “one piece.” Rather they had questioned the credibility of witnesses, rejected the lower court’s analysis of the footprints and the motive, and declined to attach incriminatory meaning to Amanda and Raffaele’s behavior after the murder.³⁹⁵

Stefano’s cell phone is ringing. He answers and speaks briefly in Italian. I gather that the caller is a friend he is meeting at the auto show. He glances at his watch while hanging up.

“Do you need to leave?”

“Yeah, I’m afraid I really do.”

He drops me off across from the train station, in the same place where he found me, just an hour earlier. It is still raining. Retracing my steps on the *via dell’Indipendenza*, this time plodding uphill, I notice that all the shops are bustling with customers, in sharp contrast with the previous day when they were silent and empty. Thanks to a cautionary e-mail from Stefano, I knew in advance that businesses would close on December 8 for

³⁹⁴ See Mirjan Damāška, *Atomistic and Holistic Evaluation of Evidence*, in *COMPARATIVE AND PRIVATE INTERNATIONAL LAW* 91 (David S. Clark ed. 1990); John Jackson & Máximo Langer, *Introduction: Damāška and Comparative Law*, in *CRIME, PROCEDURE AND EVIDENCE IN A COMPARATIVE AND INTERNATIONAL CONTEXT* 1, 16 (John Jackson et al. eds., 2008); Jennifer L. Mnookin, *Atomism, Holism, and the Judicial Assessment of Evidence*, 60 *UCLA L. REV.* 1524, 1534–36 (2013).

³⁹⁵ See FOLLAIN, *supra* note 26, at 433–38.

the Feast of the Immaculate Conception—a holiday dating from perhaps as early as the seventh century in the Eastern Church.³⁹⁶ It is a remarkable juxtaposition: on the one hand, my Italian colleague with his luxury sports car and his specialized international law practice; and on the other, this quaint and ancient holiday, celebrating the purity of the Virgin Mary, who was believed to have been conceived without the stain of original sin.³⁹⁷

2. *Interlude: A Stroll Through Bologna, the Cradle of the Legal Profession*

In Bologna the porticoes . . . contribute to an overall harmony by subordinating the part to the whole, and the individual to the community. Here, unlike in other cities, every building gives some part of itself to the street.

Naomi Miller³⁹⁸

Back in my room at the Grand Hotel Majestic, I realize that several empty hours remain before my next appointment. Looking for inspiration in the hotel reading room, I learn something remarkable, which prompts me to venture back out on the streets. What I have learned is that Bologna's architecture is intimately entwined with the rise of the legal profession in the West. In particular, its unique porticoes—the rose and umber stone arcades that extend over the sidewalks—were not erected to shelter pedestrians from the elements, as one might think. Rather, their construction was provoked by the renown of Bologna's law school, which, in the Middle Ages, drew men from all over Italy and even far-flung places in Europe to study jurisprudence with the great doctors of law.³⁹⁹

This dramatic infusion caused a housing crisis. In response, the city authorities passed a law permitting any Bolognese family that took in a student to expand its property, beginning one floor up to avoid encroaching on the already-narrow medieval passageways. According to the law, families who built these additions were obliged to construct wooden columns to support them, connecting the columns with graceful arches; and so began the *portico Bolognese*.⁴⁰⁰

I marvel at this history while I walk for hours under the porticoes, absorbing the ambience of the medieval town. Unfortunately, my continued walking on the hilly, cobblestoned streets aggravates an old, painful foot injury. I debate whether to buy some

³⁹⁶ See *Immaculate Conception*, in 7 THE CATHOLIC ENCYCLOPEDIA 674, 677 (1910).

³⁹⁷ *Id.* at 674–75. For a discussion of the doctrine of the Immaculate Conception, see *supra* notes 291–94 and accompanying text.

³⁹⁸ NAOMI MILLER, *RENAISSANCE BOLOGNA* 156–57 (1989).

³⁹⁹ For the relationship between the porticoes and Bologna's fame as a center of legal studies, see MARY TOLARO NOYES, *BOLOGNA REFLECTIONS* 23–24, 148–49 (2009). For the eminence of Bolognese doctors of law in medieval times, see HASTINGS RASHDALL, 1 *THE UNIVERSITIES OF EUROPE IN THE MIDDLE AGES* 126–27 (1895).

⁴⁰⁰ See NOYES, *supra* note 399, 23–24.

more comfortable shoes. On the one hand, I want to make a good impression on the professor I am going to meet; on the other, my foot is really hurting. Finally, comfort triumphs over vanity. I stop in a store, where my errand turns out to be a big undertaking, involving, in the end, all the clerks in the store. Together, we enjoy a good laugh because—between my Spanish and primitive Italian, the store owner’s native Catalán, and the clerks’ limited English—we can find no common language in which to discuss feet and shoes. Still, when I leave I am clad in a pair of New Balance sneakers, my patent-leather dress shoes ensconced in a bag harmlessly swinging from my arm.

The sneakers assuage the pain as I walk along the *via Marsala* and turn onto the *via Zamboni* on my way to talk to Michele Caianiello, a professor of comparative law at the University of Bologna. Arriving at the law school, I enter through the arched doorway and approach the receptionist. Since we have not specified a room in which to meet, she suggests that I wait in the inner courtyard, where I will be sure to see the professor when he arrives. It is not a pleasant place. A yellowed plastic sheet hangs over dingy pillars and a stained, crumbling façade. Even in the yard itself, I can spot no flowers or plants, only some weeds struggling to grow between the stones. The setting makes me feel disheartened, almost repulsed, so sharp is the contrast with my expectations. The law school of the University of Bologna—one of the most important centers of learning in the Middle Ages⁴⁰¹—strikes me as positively dreary.

3. *At the Università di Bologna with Professor Michele Caianiello—December 9, 2014*

“This is the *least* I can do for you,” Michele says with a smile, when I offer to pay for the espresso he has just bought me from the vending machine. Carrying my cup, I walk behind him to a small room where we set down our briefcases and remove our coats and wool scarves. We appear to be in a seminar room, windowless and plain, only a little more attractive than the inner courtyard of the law school where I had waited. But Michele’s buoyant spirit offsets the gloom of our surroundings. He is remarkably kind when I explain the reason for my unprofessional shoes, which clash with my pearls and the new dress I bought especially for this trip. Another person might have remained silent or given me a disapproving look, but Michele confides his own similar conflict, putting me at ease. “This morning I thought I should wear a suit to meet you,” he says, smiling, “but then I said to myself: ‘No, it’s my day off!’”

Even without a coat and tie, Michele looks like the quintessential law professor, with his well-worn briefcase, wire-rim glasses, and goatee fading from gray to white as it approaches the point of his chin. He is nicely dressed, in a cobalt-blue pullover sweater

⁴⁰¹ See JAMES A. BRUNDAGE, *THE MEDIEVAL ORIGINS OF THE LEGAL PROFESSION* 221 (2008) (saying that by the last quarter of the twelfth century, Bologna had become Europe’s most highly regarded center of legal studies).

on top of a light blue button-down shirt. Of the shirt, only the collar and cuffs are visible, and they bring out the pale blue color of his eyes.

Our exchange about clothes makes me think of Amanda and her attire during the trial. I decide that this may be a good way to begin our legal discussion. “Do you think Amanda’s way of dressing and behaving hurt her case?” I ask without preamble, blurting out the words.

He lifts his paper cup to his lips, takes a sip of coffee, and sets the cup back on the big mahogany table before answering. “In your country,” he says, “you have the jury, which is not obliged to provide reasons for its verdict. In Italy, we have not the jury; we have a panel of judges, and they must provide the written ‘motivation’ for their decisions.” I nod, remembering how Stefano had talked about the American jury, how he loved its freedom to render a verdict without giving reasons. “Of course,” Michele adds, “they do not always say their true reasons; they’re not going to put something into the ‘motivation’ that might lead to reversal on appeal.”

Absorbing his explanation, I turn to another of the questions I have been wanting to ask. It concerns the reforms in the legal system that occurred in 1989. The date seems too long after World War II to be a consequence of the War, so I ask, “What led Italy to undertake the reforms in 1989?”

Lifting his hands to his temples, Michele carefully adjusts the glasses that have slipped down his nose. He thinks a minute before answering. “The inquisitorial system was perceived as fascist,” he tells me. “It was associated with Mussolini, who was discredited. Before World War II, we had a Constitution but it could easily be altered, and indeed Mussolini altered it profoundly, despite the promises he made upon taking power. Then,” he pauses dramatically and looks at me, “your country won the War.” I blush, because his admission has abruptly put us on an unequal footing. It seems that I am a little embarrassed to be from the country that won the War.

“After the War, the United States proposed a new Constitution [for Italy],” he goes on, “one that would be higher than ordinary law. For fifteen years, we treated the Constitution as mere wishful thinking, but in 1963, scholars began to advocate a real adversarial system. We had little confidence in our government, and the adversarial system seemed better suited for challenging its truth.” Pushing his chair farther away from the table, Michele stretches his arms out to the side and arches his back. “Forgive me for talking so much,” he says. “It’s just that it is *beautiful* to discuss comparative law.”

I am struck by Michele’s unabashed passion for legal history and philosophical thought. He reminds me of friends I had in Colombia who would debate theories of revolution far into the night, their slender fingers holding cigarettes or *bocadillos*—the Colombian dessert made of sweet guava paste, always topped with a slice of cheese.

I assure him that, far from being bored, I am captivated by what he is saying about Italian history. “In the sixties and seventies,” he continues, “it wasn’t possible to make

reforms in criminal law because of the wave of terror that endangered Italy. We call that period the *anni di piombo*. Do you know the phrase?”

I nod. The expression is vaguely familiar, no doubt from the books I have been reading about the violent women in Italian cinema.

Seeing that I am silent, Michele swallows the last of his coffee and explains, “The phrase means ‘years of lead.’”

“‘Lead’ as in bullets?”

“Yes. Terrorists’ bullets. Only when the militant factions had been beaten, in the late 1980s, could the legal reforms be implemented.”

Before coming to Italy, I struggled mightily to understand Italy’s ambiguous criminal procedure. Occasionally I would read an article that captured this ambiguity in its very title, such as “Italian Criminal Procedure: A System Caught between Two Traditions.”⁴⁰²

An especially confusing figure is the Italian public prosecutor, who has no counterpart in the Anglo-American system. Wielding enormous power, this official occupies roles that, in the United States, we associate with both a lead detective and a lead prosecutor, and is known to Americans mostly from literature set in civil law countries—for instance, Javert in *Les Misérables*, Porfiry Petrovich in *Crime and Punishment*, and the examining magistrate in *The Stranger*.⁴⁰³

Michele has written about this figure in a book chapter that I happened upon months before. It is another source that epitomizes the Italian system’s hybridity in its title: “The Italian Public Prosecutor: An Inquisitorial Figure in an Adversarial Proceeding?”⁴⁰⁴ Here, Michele explains that Italian prosecutors are conceptualized as members of the judiciary; they are categorized along with judges under the rubric of *magistrati*. At the onset of their careers, prosecutors must submit to the same examinations as judges and, once in office, they enjoy the same lifetime tenure and independence that judges have under the Constitution. Finally, prosecutors, like judges, are required to be neutral in a criminal case, at least during the preliminary investigation. They are duty-bound to seek out evidence that will exculpate as well as inculpate the suspect. But in practice, Michele writes, the prosecutors only seek evidence that will hurt the suspect; therefore, the prosecutor’s duty to be neutral is merely a “ghost provision.”⁴⁰⁵

⁴⁰² Luca Marafioti, *Italian Criminal Procedure*, *supra* note 360; See also William T. Pizzi & Luca Marafioti, *The New Italian Code of Criminal Procedure: The Difficulties of Building an Adversarial Trial System on a Civil Law Foundation*, 17 YALE J. INT’L L. 1, 3 (1992).

⁴⁰³ For a path-breaking article using literature to explain the role of the public prosecutor, see Richard Weisberg, *Comparative Law in Comparative Literature: The Figure of the “Examining Magistrate” in Dostoevski and Camus*, 29 RUTGERS L. REV. 237 (1976).

⁴⁰⁴ Michele Caianiello, *The Italian Public Prosecutor: An Inquisitorial Figure in Adversarial Proceedings?*, in THE PROSECUTOR IN TRANSNATIONAL PERSPECTIVE 250, 251 (Erik Luna & Marianne Wade eds., 2011).

⁴⁰⁵ *Id.* at 251.

A ghost provision, I repeated to myself when I read it, liking the phrase. I reflected that the obligation to be neutral certainly *was* a ghost provision during the preliminary investigation of Amanda, when Giuliano Mignini was the prosecutor. Far from seeking both exculpatory and inculpatory evidence, he seemed determined to prove Amanda's guilt.

Given Michele's expertise, I decide to inquire about something else that I have been wondering about. "Would you say the Italian prosecutor gained power through the reforms?" I ask. "I mean, do you think the reforms, despite being intended to help the accused, might have hurt Amanda's case?"

Instead of answering, Michele holds up his hand, palm outward, signaling for me to wait. He starts to open his briefcase and then, since our table is high, he stands up to get better leverage. Still silent, he removes a sheet of paper from his briefcase. It is graph paper, the grid made of fine blue lines, the squares so small that the paper itself appears to be blue. Michele angles the paper on the table in front of him with a corner pointing toward his chest and begins to write. The room is quiet but for the sound of his pen carefully drawing lines on the sleek bluish paper. While Michele works, I finish my now-tepid coffee and look around. Carved out of the wall is a frieze I had not noticed when we came in. It depicts a hovering cupid, his bow extended, his arrow aimed at a naked woman lying on the floor.

Michele stops writing, looks over the sheet of paper, and pushes it across the mahogany table to me. He has drawn two flow charts on the page, labeling the one on top, "1930 Code of Criminal Procedure" and the one on the bottom, "1989 Code." Above and beside the lines, he has identified the legal figures and processes that dominate each stage: for example, "police," "judge of instructions," and "trial." As he reviews the diagram with me, I see that under the old code the power in the pre-trial phase rested mostly with the police and the judge of instructions, whereas afterward that power devolved to the public prosecutor, who took over direction of the preliminary investigation instead of handing it off to the police.

Listening to Michele talk about the investigation reminds me of Prosecutor Mignini and his closed-mindedness—his suspicions of Amanda from the very first day. Although that phase is long since over, it continues to color the case. "What do you think will happen to her?" I ask. "Since the Court of Cassation nullified the acquittal last time, does that mean they are likely to rule against her again?"

Michele assures me that a different panel on the Court will decide this appeal. The judges can reverse the conviction, he says, for either of two reasons: a mistake of law or an inconsistency in the judges' written motivation.

I nod, remembering that the Court of Cassation, in nullifying Amanda's acquittal, adduced "contradictions and inconsistencies" as a reason for its decision.

"What if they affirm the conviction?" I ask. "What if they request extradition, but the U.S. refuses to extradite?" I tell him about the cynical prediction made by one of my

Italian friends, namely that the Italian government will lack the courage to ask for extradition, lest it lose face if the United States declines the request.

Michele disagrees. If the Italian high court rules against her, he thinks that Italy *will* ask for Amanda's extradition, pursuant to the treaty between the two countries. Nevertheless, he concedes that the process can be very political. "Do you remember the Chilean dictator Pinochet?" he asks. "He was in England for medical care when Spain asked the United Kingdom to extradite him to Spain"⁴⁰⁶

"To Spain?" I ask, not understanding.

"A lot of the people he 'disappeared' were Spaniards living in Chile," Michele explains. "That's why Spain wanted him extradited to their country."

"Oh," I say. I had not known that. "And did England honor the request?"

"No. At the time, Margaret Thatcher was the Prime Minister, and she befriended Pinochet, even visiting him in the hospital. Chile had supported the United Kingdom in the war over the Falkland Islands and, in gratitude, she refused to extradite Pinochet."

I have never heard this story before, and I am fascinated. I would love to talk more, but Michele tells me that his wife and three young sons are waiting at home so he must say goodbye. Leaving the law school, I discover that the rain let up while we were talking and the sun has gone down. The sky is awash in a deep purple tint and the buildings and sidewalks, even the arcades which were so colorful in the daytime, are indistinguishable in the winter twilight. I walk to the intersection of the *via Zamboni* and the *via Marsala*, turn right, and stroll along under the porticoes.

The university quarter is growing more deserted by the minute. I am apprehensive about being alone, but I brush the feeling aside; tonight, happiness envelops me like a coat of armor. Not only has Michele proved to be a delightful person, but he has also taught me a lot about the history of Italian law, more than I could have gleaned from many books. As I turn onto the *via dell'Indipendenza*, the brighter, busier street where my hotel is located, I reflect on how generous Michele has been to me, like Bologna itself, where "every building gives some part of itself to the street."⁴⁰⁷

* * *

But it is one thing to learn about Italian law in the abstract, and quite another to see the actual site where the law was applied to a particular case. It is a cold, wintry morning when I finally see the inside of the courthouse where, between January 16 and December 4, 2009, Amanda and Raffaele stood trial for murder.

⁴⁰⁶ See Warren Hoge, *After 16 Months of House Arrest, Pinochet Quits England*, N.Y. TIMES (Mar. 3, 2000), <http://www.nytimes.com/2000/03/03/world/after-16-months-of-house-arrest-pinochet-quits-england.html> [https://perma.cc/7LGY-ZCJR].

⁴⁰⁷ See *supra* text accompanying note 398.

4. *At the Palazzo del Capitano (the Courthouse of Perugia) with Claudia—March 3, 2016*

The courthouse of Perugia is not a place that just anyone can enter. I have been turned away three times and I only succeed on the fourth attempt when a Perugian friend, an interpreter and self-described “fixer,” manages to obtain written authorization for me from the Public Prosecutor. After obtaining that authorization, with its impressive seal and signature, I feel like Dorothy in the *Wizard of Oz*, returning to the Emerald City with the requisite broomstick of the wicked witch. *How can they turn me away now?* I think.

Still, I don’t want to take the risk of waiting, so the very first thing I do the next morning is set off to the Palazzo with the official letter, accompanied by my trusty guide Claudia. The doorkeeper appears to be the same one who refused me entry on my previous visits. She is a middle-aged woman with dark hair pulled back in a rhinestone clip, who wears a sort of work uniform composed of a navy jacket and matching pants. In no way does she resemble the blustery doorkeeper in the Emerald City with his drooping moustache, spear, and double-breasted green suit, but the discrepancy cannot quash my fantasy of being a heroic character like Dorothy and her brave friends.

Upon seeing the authorization, the doorkeeper speaks to a burly man in Italian and he tells Claudia and me to wait. As the wait turns into fifteen minutes, then twenty, Claudia becomes more and more annoyed at what she calls “the Italian bureaucracy.” She begins to worry out loud that we will not be admitted, but I, having never even gotten through the door before, feel certain that this time will be different.

And sure enough, the burly man eventually returns, beckoning us to follow him. We enter an elevator that is just large enough for the three of us, descend one flight, and then follow the man down a dark narrow passageway. Again we descend a flight and walk down a gloomy corridor that would make the perfect setting for a film *noir*. At the end of the corridor, the man stops and searches through a massive set of keys, opens a heavy door, and lets us in.

At first I am disappointed. The room seems pretty ordinary for all this fuss. But when the man turns on the light, I see that while the middle of the room is filled with mundane things—cheap modern chairs, tables, and a podium—the walls are medieval, made of bricks that have faded through the centuries. The bricks are crumbling badly—when I accidentally lean against them, they leave a smear of white dust on my coat.

Then I look around the room, expecting to see flags, seals, or other civic symbols such as are routinely present in American courtrooms but can spot nothing of the sort. Instead, three friezes of the Madonna and Child adorn the back wall and in front, directly behind the judge’s podium, a large crucifix depicts Jesus writhing in agony.

If only I could linger here for a few hours, I think, and try to imagine what it would feel like to be on trial for murder. I would try to picture Judge Massei sitting under the crucifix, the other members of the court next to him—their red, white, and green sashes

stretched diagonally across their chests, from the right shoulder to the left hip—and the police officers, with their sky-blue berets and crisp white shirts, facing the court. Perhaps, if I could muster the courage, I would even listen for the low, gravelly voice of Prosecutor Mignini deriding me with his scathing description of my grisly crime, and then the quiet voice and even pitch of Judge Massei pronouncing the verdict, “*Colpevole.*” Guilty.⁴⁰⁸

But the man with the keys is just standing there, waiting; obviously he is not going anywhere without Claudia and me. Nor does he have anything to do while waiting. I do not wish to make him waste time, suffering boredom, while I am not visibly occupied, so I reluctantly signal that we can leave. The man takes out his massive key ring with the loud jangling keys and locks up the door again before leading us back to where we started.

Somehow, Claudia reaches the doorkeeper’s desk ahead of me. She appears to feel a connection to the woman, for when I arrive she is already speaking to her in a hushed tone. “I was trembling the whole time we were down there,” she says. Later she will explain to me that it was because of her brother, who worked as an interpreter on Amanda’s case and spent many hours in that courtroom.

Then the doorkeeper tells us something surprising: she has never gone down to the courtroom.

“How long have you been here?” I ask in rudimentary Italian.

“*Tres anni.*” Three years. She adds that whenever the prisoners do not enter the courthouse through the front door but instead are brought to court straight from their cells in the dungeon, she changes the images on her surveillance monitor to avoid seeing them. She cannot bear the feelings these handcuffed prisoners evoke in her.

“*E lei lavora qui?*” I ask in a teasing tone. And you work here?

Acknowledging the irony, she smiles.

After leaving the courthouse, Claudia and I walk southward along the *via Baglioni* in the direction of the Brufani Palace Hotel, where I am staying. When we reach the *via Mazzini*, we cut across to the main street of Perugia, the *Corso Vannucci*. While trudging over the cobblestones, we reflect on the conversation, marveling at what the woman has told us. We are both astonished at her casual revelations—that she has never been in the courtroom, that she is afraid to do the very job she is paid to do. As we approach the medieval fountain, we compare impressions of the woman’s motivation for eschewing any glimpse of the handcuffed prisoners. She has confided that she is protecting herself from feelings, but which ones? Which are the feelings she wants to keep at bay? Our understanding, it turns out, is the same: that the doorkeeper is afraid of the convicts but feels more pity than fear.⁴⁰⁹

⁴⁰⁸ KNOX, *supra* note 5, at 369.

⁴⁰⁹ Interview with Claudia Marzella, in Perugia, Italy (Mar. 3, 2016).

CONCLUSION: ON JUDGING AND BEING JUDGED

Everyone cried except Amanda and Raffaele. They were kissing each other.

Amy Frost, British friend of Meredith, testifying in court.⁴¹⁰

None of us stands outside humanity's black collective shadow.

C.G. Jung⁴¹¹

1. *Summary*

From its beginnings at the crime scene in Perugia to its denouement in the Court of Cassation in Rome we have tracked Amanda's odyssey through the Italian criminal justice system. In "What Not to Do When Your Roommate is Murdered in Italy," we have observed how Amanda's peculiarities—her playful cuddling, her inappropriate dress, and her general "lack of gravitas"⁴¹²—provoked suspicion and condemnation on the part of the police, prosecutor, and judges.

In "Behind the Cartwheel," we changed our focus from the story itself to an investigation of the *reasons* for Amanda's behavior. Specifically, we considered the concept of naïveté—the reason offered in Amanda's memoir and in the writings of many people who believe in Amanda's innocence. Arguing that naïveté is judgmental and vague, I proposed that we look instead to Amanda's age or, more exactly, her developmental stage—emerging adulthood, with its traits of *intense identity exploration*, *self-focus*, and *poor judgment*—to account for her seemingly inexplicable actions after the murder.

In "Interpreting the Interpreters," we shifted from Amanda's behavior to that of those who sat in judgment upon her: the police, prosecutors, judges, and society at large. In attempting to understand the severity of their censure, we sought illumination in the Madonna/whore archetype, with its Christian, Italian, and psychological roots; and cultural differences, including those between Italy and the United States as well as those between Perugia and Seattle. Finally, we considered the impact of Italian criminal procedure, with its deep inquisitorial tradition and partial adversarial reforms.

2. *Beyond Amanda: Parallels from Australia and the United States*

This case occurred in a particular time and place, under circumstances that—like all fact patterns—can never again occur in exactly the same way. But the case of Amanda

⁴¹⁰ NADEAU, *supra* note 3, at 63.

⁴¹¹ C.G. JUNG, CIVILIZATION IN TRANSITION 297 (R.F.C. Hull trans., Bollingen Series, Pantheon Books 1964).

⁴¹² BURLEIGH, *supra* note 4, at 288.

Knox has an interest beyond the tale of an isolated miscarriage of justice, for it resonates with other legal proceedings that took place in different eras, on different continents, in which individuals were punished for their “strangeness” yet ultimately found innocent of wrongdoing. By examining such parallel instances, we can challenge the theory that any single factor was the *sine qua non* for what happened to Amanda.

Consider, for our first parallel instance, the case of Lindy Chamberlain, whose nine-week-old baby, Azaria, disappeared in 1980 while her family was camping in the outback in Australia’s Northern Territory.⁴¹³ Chamberlain claimed that a dingo had taken the baby but, at the time, dingoes were not known for attacking humans and her allegation was widely disbelieved.⁴¹⁴ Besides her implausible story, Chamberlain’s demeanor and dress also evoked suspicion inasmuch as they failed to match the template of a grieving mother. Her sundresses with the spaghetti straps, her “cold” and “detached” manner, and her unflinching description of the precise way that dingoes tear the flesh off their prey—all raised questions about whether she truly mourned her child.⁴¹⁵

Given this background, many Australians did not think it much of a stretch to conclude that Chamberlain had killed her baby. To be sure, there was no obvious motive, but Lindy’s husband was a pastor in the Seventh Day Adventist Church, of which Lindy too was a devout member. This sect was little-known in Australia. Thus, when rumors spread that Seventh Day Adventists engaged in child sacrifice, some Australians readily believed them;⁴¹⁶ some even accepted the rumor that Azaria’s name meant “sacrifice in the wilderness.”⁴¹⁷

Although the state could come up with no body and no plausible motive, Chamberlain was put on trial for murder. Convicted and sentenced to life at hard labor, she spent three years in prison before the chance discovery of Azaria’s soiled matinee jacket in the vicinity of a dingo lair corroborated her story and brought about her release. It was not until 2012 that she was completely vindicated by a coroner’s ruling that a dingo had, in fact, killed her baby.⁴¹⁸

Comparing Lindy Chamberlain’s case with Amanda’s, we find both differences and similarities. The most obvious difference is that Australia’s legal system derives from

⁴¹³ See JOHN BRYSON, *EVIL ANGELS: THE CASE OF LINDY CHAMBERLAIN* 39–48 (1987).

⁴¹⁴ See James Gorman, *After 32 Years, Coroner Confirms Dingo Killed Australian Baby*, N.Y. TIMES (June 11, 2012), <http://www.nytimes.com/2012/06/12/world/asia/after-32-years-coroner-confirms-dingo-killed-australian-baby.html> [<https://perma.cc/BKD2-5ZPB>].

⁴¹⁵ See Dianne Johnson, *From Fairy to Witch: Imagery and Myth in the Azaria Case*, in *THE CHAMBERLAIN CASE: NATION, LAW, MEMORY* 7, 14–16 (Deborah Staines, et al. eds., Australian Scholarly Publishing 2009).

⁴¹⁶ FRANK BONGIORNO, *THE EIGHTIES: THE DECADE THAT TRANSFORMED AUSTRALIA* 79 (2017).

⁴¹⁷ *Id.* See also Johnson, *supra* note 415, at 18.

⁴¹⁸ Malcolm Brown, *After 32 Years of Speculation, It’s Finally Official: A Dingo Took Azaria*, SYDNEY MORNING HERALD (June 12, 2012), <http://www.smh.com.au/national/after-32-years-of-speculation-its-finally-official-a-dingo-took-azaria-20120612-20711.html> [<https://perma.cc/YU3V-FXWX>].

English Common Law,⁴¹⁹ and its criminal procedure is adversarial, not inquisitorial or hybrid like Italy's.⁴²⁰ In adversarial systems, evidentiary rules are stricter than in inquisitorial ones,⁴²¹ yet this feature did not spare Chamberlain from being judged largely on her "strangeness" rather than on germane facts.

As for the similarities, both women were scorned for their failure to show grief after a death. The lack of obvious sadness was interpreted not only as bizarre but also as a sign that they had actually desired the death of the victims and been involved in their murders. These interpretations were both flawed, but for different reasons. The person Amanda lost was an acquaintance of only five weeks. If Amanda erred, it was not that she failed to mourn but that she failed to empathize with the grieving people around her or at least to *feign* sympathy, even if her "inner spirit" was not engaged.⁴²²

Lindy Chamberlain, by contrast, had lost her own baby. If we make the reasonable assumption that she loved her daughter, then the rich literature on mourning, which emphasizes denial and postponement, would apply. Consider, for example, the words of psychoanalyst Otto Fenichel: "In the affect of grief, postponement seems to be an essential component."⁴²³ Grief, he explains, is a "wild and self-destructive kind of affect," which would "overwhelm the ego" if it were not gradual and delayed.⁴²⁴ Historian Drew Gilpin Faust describes the same phenomenon in her book, *This Republic of Suffering: Death and the American Civil War*. In a chapter entitled "Realizing: Civilians and the Work of Mourning,"⁴²⁵ she writes: "For many bereaved, even assimilating the fact of a loved one's death was difficult."⁴²⁶ Faust later adds that "[h]ow to mourn was often something that had to be learned."⁴²⁷

Besides being judged for their failure to mourn, another analogy between the cases of Lindy Chamberlain and Amanda is that both were derided for wearing "inappropriate" attire. At first blush, the reader may suppose, as I did, that this sort of censure would be

⁴¹⁹ AUSTRALIAN CRIMINAL LAW IN THE COMMON LAW JURISDICTIONS 16 (Kenneth J. Arenson et al., 4th ed., 2014).

⁴²⁰ See Ogg, *supra* note 386, at 31 (comparing criminal trial procedures in Italy with the "more traditional adversarial system" of Australia).

⁴²¹ See JOHN D. JACKSON & SARAH J. SUMMERS, THE INTERNATIONALISATION OF CRIMINAL EVIDENCE 72 (2012) ("[T]here is little room in the continental European context for notions of admissibility or for exclusionary rules in the sense that they are understood in common law countries . . . [because] all the evidence must be heard by the judge or the fact-finder.").

⁴²² Cf. GOFFMAN, BEHAVIOR IN PUBLIC PLACES, *supra* note 65 and accompanying text (describing the concept of the "inner spirit" in relation to outward presentation).

⁴²³ OTTO FENICHEL, THE PSYCHOANALYTIC THEORY OF NEUROSIS 162 (1945).

⁴²⁴ *Id.*

⁴²⁵ DREW GILPIN FAUST, THIS REPUBLIC OF SUFFERING: DEATH AND THE AMERICAN CIVIL WAR 137 (2008).

⁴²⁶ *Id.* at 144.

⁴²⁷ *Id.* at 165.

limited to female suspects; however our next example, the case of the West Memphis Three,⁴²⁸ belies this assumption.

In 1994, three young men in their teens were charged with the murder of three eight-year-old boys found gruesomely killed in West Memphis, Arkansas. Because all of the victims were naked and bound and because one had been mutilated in the genitals, authorities suspected the involvement of a satanic cult.⁴²⁹ Based on this suspicion, they picked up eighteen-year-old Damien Echols, who was known for his interest in the supernatural, and his friends, Jason Baldwin and Jessie Misskelley.⁴³⁰ All were interrogated without a lawyer.⁴³¹ Jessie Misskelley confessed to being at the crime scene and implicated the other two in the murders.⁴³² However within hours of the confession he recanted, and from that time on he steadfastly refused to testify against his friends.⁴³³

Jessie's refusal left the state with scarcely any evidence usable at trial against Damien and Jason.⁴³⁴ But almost a month had passed since the victims' bodies had been found and the police were becoming desperate for someone to blame.⁴³⁵ The prosecutors elected to proceed against Damien and Jason, compensating for the weakness of evidence with the graphic power of the satanic cult theory. As one detective said, "We've got a story that is very, very believable. It is so close to perfect that we have to believe it."⁴³⁶

At trial, prosecutors introduced evidence of the teens' supposed weirdness as seen in their long hair, their taste for heavy metal music, and their eccentric attire.⁴³⁷ Damien, in particular, was known for wearing black,⁴³⁸ a color that—like the scarlet hue of Amanda's panties⁴³⁹—scandalized onlookers. It was rumored that dressing in black and listening to heavy metal were associated with Satanism.⁴⁴⁰ In his closing argument, using religious language reminiscent of Amanda's trial, the prosecutor pointed at Damien and said, "There's not a soul in there."⁴⁴¹

⁴²⁸ See generally MARA LEVERITT, *DEVIL'S KNOT: THE TRUE STORY OF THE WEST MEMPHIS THREE* (2002).

⁴²⁹ See *id.* at 58–59.

⁴³⁰ See *id.* at 52–53, 67.

⁴³¹ See *id.* at 76–77.

⁴³² See Nathaniel Rich, *The Nightmare of the West Memphis Three*, N.Y. REV. OF BOOKS (April 4, 2013) (book and movie review), <http://www.nybooks.com/articles/2013/04/04/nightmare-west-memphis-three> [https://perma.cc/L3LM-KZVD].

⁴³³ See *id.*

⁴³⁴ See LEVERITT, *supra* note 428, at 74.

⁴³⁵ See LEVERITT, *supra* note 428, at 73–74.

⁴³⁶ *Id.* at 98.

⁴³⁷ See *id.* at 53–55, 232, 258, 288.

⁴³⁸ See, e.g., *id.* at 43, 100, 110, 235.

⁴³⁹ See *supra* notes 95–99 and accompanying text.

⁴⁴⁰ See LEVERITT, *supra* note 428, at 100–01, 366 n.136.

⁴⁴¹ *Id.* at 1.

In the end, all three young men were convicted of murder. Damien, being the oldest and the supposed ringleader, was sentenced to death, whereas Jason and Jessie were given life sentences.⁴⁴² Eighteen years later, the revelation of jury misconduct, new DNA testing, and heightened public scrutiny of the case paved the way for a rarely used plea agreement.⁴⁴³ Under the terms of the agreement, Jason, Jessie, and Damien all were unconditionally released.⁴⁴⁴

The cases of Lindy Chamberlain and the West Memphis Three confirm that the kind of legal nightmare Amanda experienced was not an isolated incident. For in those cases too, people were suspected of murder based on behavior unrelated to the crime. In all three of the cases, authorities hastily developed a fantasy about a killing, such as “sex game gone awry” or “satanic cult,” and then, instead of critically examining the fantasy or pausing to think of other theories, they treated their fantasy as fact and grounds for a murder trial.

3. *Motes, Beams, and Shadows: Explaining our Defective Judgment*

So what are we to take away from this study? How *should* we judge? After the botched cases we have just discussed, it is tempting to adopt the well-known precept from the Sermon on the Mount: “Judge not, that ye be not judged,”⁴⁴⁵ and thereby dodge the numerous possible ways of getting it wrong.

But it would be a tad difficult for the legal system to give up judging and even if it were possible, there is reason to believe that this is not what Jesus had in mind. According to the scholarly exegesis in the *Interpreter’s Bible*, Jesus meant that we should eschew “censorious judgment and too quick condemnation,” not avoid judging altogether.⁴⁴⁶ In an interesting exposition, the *Interpreter’s Bible* goes on to say that judging entails risks: “[I]n every censure we reveal ourselves. If we call someone lazy, we confess that we know what laziness means.”⁴⁴⁷ Apart from the risk of self-revelation, the exposition continues, there is also the very real danger of judging wrong, or of “transferring” our faults to another,⁴⁴⁸ as in the story about beholding the “mote . . . in thy brother’s eye” and not the “beam . . . in thine own.”⁴⁴⁹

⁴⁴² See *id.* at 276; Rich, *The Nightmare of the West Memphis Three*, *supra* note 432.

⁴⁴³ See Rich, *The Nightmare of the West Memphis Three*, *supra* note 432.

⁴⁴⁴ See *id.*

⁴⁴⁵ *Matthew* 7:1 (King James).

⁴⁴⁶ 7 THE INTERPRETER’S BIBLE 324–25 (George Arthur Buttrick et al. eds. 1965).

⁴⁴⁷ *Id.*

⁴⁴⁸ *Id.* at 325–26.

⁴⁴⁹ *Matthew* 7:3–5 (King James).

What the *Interpreter's Bible* calls *transfer*, psychoanalysts call *projection*⁴⁵⁰ or *projective identification*.⁴⁵¹ Regardless of what we call it, the idea is the same: we take the badness that we cannot bear to see in ourselves—what Jungian analysts have named *the shadow*⁴⁵²—and attribute it to someone else. And sometimes we take an additional step, punishing that other person for our own inadmissible thoughts and feelings.

Assuming that this analysis is correct, a solution to our problem is implied. If only we could summon the courage to acknowledge our shadow—admitting to consciousness the shameful defects such as selfishness, greed, anger, and lust, that are present in us all—then we might not be so inclined to project them onto another. Being kinder and more tolerant toward ourselves, we would have less need for surrogate victims or scapegoats, like Amanda.

EPILOGUE

At no. 7 via della Pergola—March 3, 2016

Perugia maintains, even revels in, a reputation for gloom, bloody feuds and dark doings.

Jonathan Boardman, *Umbria*⁴⁵³

What we call a beginning is often the end
And to make an end is to make a beginning.
The end is where we start from.

T.S. Eliot, *Little Gidding*⁴⁵⁴

When Claudia and I turn the corner, we lose the buildings' protection, and the icy wind slaps our faces with surprising power. Claudia pulls the faux-fur collar of her beige parka tighter around her neck, and I tug at the ends of the gray and white wool scarf that I bought only yesterday, together with a padded jacket, for extra protection from Perugia's late-winter weather.

⁴⁵⁰ For explanations of this defense mechanism, see CHARLES BRENNER, AN ELEMENTARY TEXTBOOK OF PSYCHOANALYSIS 91 (rev. ed. 1974); NANCY MCWILLIAMS, PSYCHOANALYTIC DIAGNOSIS 107–11 (1994).

⁴⁵¹ See MCWILLIAMS, *supra* note 450, at 110–12.

⁴⁵² See generally, e.g., ROBERT A. JOHNSON, OWNING YOUR OWN SHADOW: UNDERSTANDING THE DARK SIDE OF THE PSYCHE (1991); MEETING THE SHADOW: THE HIDDEN POWER OF THE DARK SIDE OF HUMAN NATURE (Jeremiah Abrams & Connie Zweig eds., 1991); SYLVIA BRINTON PERERA, THE SCAPEGOAT COMPLEX: TOWARD A MYTHOLOGY OF SHADOW AND GUILT (1986); see also, e.g., M.L. von Franz, *The Process of Individuation*, in MAN AND HIS SYMBOLS 158, 168–76 (Carl G. Jung ed., 1964).

⁴⁵³ JONATHAN BOARDMAN, UMBRIA: A CULTURAL HISTORY 23 (2012).

⁴⁵⁴ T.S. Eliot, *Little Gidding* 31, 38, canto 5, in FOUR QUARTETS (Harcourt, Brace and Co. 1943).

The bitter wind demands all our attention and we are silent as we traverse the *via della Pergola*, wading through mud and gravel that sticks to our shoes in clumps and giving a wide berth to the men working in the street. Metal barricades with red and white diagonal stripes block off the intersection, warning of construction, but no one seems to care where we go as long as we avoid the men, so Claudia and I descend the hill and cross the yard, walking right up to the front porch of number seven.

The first time I came to Perugia, in October of 2013, my guide was Claudia's older brother, Gaetano. Thirty-five-years-old, smart and knowledgeable with a sense of humor and a passion for English, he had been, in nearly every way, the perfect guide. Throughout Amanda's detention and first trial, he had worked as an interpreter and assistant to a British journalist reporting on the case; thus he knew all the locations I needed to see, and he readily took me to see them, but only from a distance. When I asked if we could go inside the *questura*, or into the yard of Amanda's villa, he responded, "It's too dangerous." When I wanted to submit a formal request to see the courtroom where Amanda was tried, he warned, "You really don't want the authorities to know you're interested in this."

To explain his apprehension, Gaetano recounted an experience that had occurred several years earlier, when Amanda was incarcerated in Capanne Prison. In his role as the British journalist's assistant, Gaetano requested that his name be put on the list of Amanda's visitors. One night soon thereafter, the police called him demanding that he report immediately to the *questura*. This incident, along with his proximity to the entire case, left him with a profound trepidation.

It left me with trepidation, too. After hearing his story, I decided that Gaetano could assess the risks entailed in my research much better than I, so I reluctantly deferred to his judgment. But now, two years and four months have passed since that first visit, *eight* years and four months since the murder occurred, and I am resolved to see the places I need to see, immersing myself in the atmosphere of Perugia so that I can understand, as far as possible, what role the city's history and culture played in Amanda's arrest and conviction.

Luckily for me, Claudia, who has had no previous involvement with the Perugian legal system, is not intimidated by the Italian authorities. Although she expressed fear on the *Corso Garibaldi* (the street where Raffaele lived), and although she "trembled the whole time" we were in the courtroom, still her fears have not deterred her from bringing me to the spot where I now stand in my muddy shoes—only a few feet from the front porch and barred door of Amanda's villa.

The porch is strewn with assorted objects, the largest and oddest being a dilapidated wooden armoire with peeling wallpaper lining and a missing door. Propped against the armoire, someone has left a broom with a red broom head and a mop with a blue handle. On the dusty brick floor, beside the mop, lies a red bucket on its side, its mop-bucket

wringer fallen halfway out. These objects make the villa look deserted, and the place feels ominous but at the same time disappointingly mundane.

Staring at the porch, I can't help thinking how much the villa has changed since September 2007, when Amanda, beguiled by its charm, signed the lease for her room immediately. Had she chosen to live elsewhere, I reflect, her life would almost certainly have been different, as she never would have been involved in this case. Instead of serving four years in an Italian prison, she would have spent one year abroad and gone home to Seattle, changed but not traumatized, leading a life of relative anonymity instead of being known throughout the world for her role in a murder case.

And I have another thought too: this place changed *my* life, because I most likely would not have come to do research in Italy, or made so many dear friends here, or started learning a marvelous new language, were it not for this case of a young American tried for murder in Perugia. I would not have acquired a fascination with comparative law or regained my adventurous spirit. No, none of that would have happened were it not for the infamous crime that took place on the eve of All Soul's Day 2007, on the very lot where we are standing. This rundown, desolate villa, now surrounded by weeds and dead leaves, on a street thick with fragmented pebbles and slime—*this* is where it all began.