

Hatchimal-Gate: Exposing the Real Hatchet Job

“If it wasn’t for bad luck, Murdoch wouldn’t have no luck at all. He’s wakin’ up this mornin’ in jail when there’s strong proof he ain’t done nothing wrong. I would certainly defer to a jury’s contrary verdict if it had seen this evidence and convicted Murdoch after a fair trial, presided over by a fair judge, followed by an appeal where the justices considered all of his constitutional claims. But Murdoch had none of these.”

(Judge Alex Kozinski, in the En Banc appellate decision of Murdoch v. Castro, No. 05-55665 on June 21, 2010)

I have spent almost two years fighting for a man who has spent the last 23 years of his life in prison for a crime he did not commit, a man who never had any semblance of a fair trial, a man who has never even held his second child. So, when my husband I and were watching television over Thanksgiving weekend and I saw a video about Hatchimals, the latest toy craze, a lightbulb went off over my head. Let me explain.

By this time, my husband and I had committed thousands of hours, and hundreds of thousands of dollars, towards assembling a legal team, reading thousands of legal documents, and interviewing experts in order to get Chuck Murdoch’s case heard. We were in it to win it, and were already utilizing every resource we had, so after I saw the Hatchimal video, I went on eBay and bid on some. In the end, I had bought 156 of the goofy toys—an amount crazy enough to earn a joke in one of Jimmy Kimmel’s monologues. Sure, it was a gamble, but this whole venture has been a gamble.

Almost two years ago, I received a letter from Chuck Murdoch, who is serving Life Without Parole (LWOP). I get letters from prisoners regularly, and I never respond. However, this letter struck me as different. Chuck, who had just read *Water for Elephants*, wondered if I had heard of his grandparents, who were circus performers at about the time the novel was set. Crazy enough, I had. In fact, one of his grandmothers was interesting enough that she became the basis of one of my characters, Lottie the Aerialist. My interest was piqued, so I googled Chuck.

The very first thing I encountered was the [scathing dissenting opinion of Chief Justice Kozinski](#), who presided over the appeal. I couldn’t believe what I was reading. Judges do not speak like that, yet Alex Kozinski did, putting out there in black and white that Chuck Murdoch had had an unfair trial, that there were deals behind the scenes amounting to judicial extortion, and that illegal evidence had been admitted. Despite all this, Chuck continues to languish in a California prison, where he is known as “Bad luck Chuck.”

It turns out that if evidence is mishandled and misrepresented in your trial, and your lawyer fails to object, you can't use that error in an appeal. There is such a thing as "inadequate assistance of counsel," but you need to have a lawyer savvy enough to bring it up—and Chuck did not. As I continued reading, I felt sicker and sicker. Since the letter of the law supports all previous decisions, however grievously applied, the legal web around this case is like the Tar Baby. Each misapplication of the law gets buried and reinforced by a further misapplication of the law, and now, twenty-three years later, it's an unbelievably tangled mess of tar and turpentine. Until this came onto my radar, I believed that, as a citizen, I was protected by the law. I no longer do. None of us is safe, although, to paraphrase *Animal Farm*, some of us are safer than others.

My husband agreed that something had to be done. Our sole motivation is in righting a shocking, flagrant, heinous wrong, but this case should be important to every citizen of the United States because it illustrates just how frighteningly flawed our justice system is. It is also devoid of equal treatment and transparency. Any ideas we have about justice being blind to circumstance can go right out the window.

Bob and I have flown out multiple times to meet with Chuck to verify his story and understand the case. I became a licensed Private Investigator. I personally spent 18 months cataloguing documents, researching the law, and tracking down witnesses. We have assembled a team of experts, including lawyers who have worked on the California Supreme Court, who are working around the clock to finally get Chuck his first real shot at justice.

Fighting an appeal is hard and expensive: it requires not only rereading all 7,000 pages of documents, but redoing everything that was not done in the first place. It requires thousands of hours of locating and interviewing witnesses, recreating crime scenes, validating alibis, and understanding what occurred in 1994. It takes an appellate lawyer to write a brief that will hopefully get us a shot at justice. It takes another lawyer to organize the investigation into new evidence and it takes many investigators hours and hours to properly do the work the police did not. And, it took me. It took me caring about the life of another human being and giving my time, energy and resources without any guarantee.

Hence the Hatchimals scheme, to make some money outside my main work to try to offset the hefty legal bills that are coming in monthly without an end in sight.

My foray into the toy market would have passed quietly, but when I tried to list the toys back on eBay, I learned that the online sales site had initiated a new rule—no more than three auctions a week for Hatchimals. Fearing a near-total loss, I looked for other channels. It was easy to set up a store on Shopify, but hard to get the word out, since eBay takes up most of the presence on search engines. So I announced it

on Facebook, and Brian Hickey at PhillyVoice tried to help by writing about it. And that's where the trouble began.

There followed a torrent of accusations and recriminations, personal and graphic threats and incitements to physical violence—all over the entirely false notion that I had denied parents the presents they needed to give their children for Christmas. The Lorti (aka Zappa) brothers, who cleared stores in October, even took time to post taunts. The media jumped on board, gleefully and prematurely proclaiming my failure, stating I'd "outraged parents everywhere," based—from what I can tell—solely on the reaction of internet trolls. I find it amazing that the only media outlet who has let me tell [my side of the story](#) is TMZ. The rest of the media seems to prefer the narrative of "silly stupid woman makes bad business decision and gets her comeuppance."

To be clear: Anyone who bought from my [online store](#) knew they were paying a premium to support my cause. Anyone else could have bought a Hatchimal for less at any time on eBay, and still can. At last count, there were more than 10,000 available, so I did not create or propagate any shortage.

In the end, thanks to the people who bought through my store, I made enough to cover about 3% of our accrued costs and had a handful of Hatchimals left to give away. More importantly, the legal team decided it was time to provide information about the case, and that's exactly what I intend to do. If the cost of getting Chuck's story some attention is that I suffer some embarrassment over toys, it will have been worthwhile.

Twenty-three years after being wrongfully convicted, Chuck Murdoch is still waking up in prison, where he'll spend another Christmas for something everybody who's looked seriously at the case knows he didn't do. It turns out that you don't actually have to commit a crime to be convicted. You just need to be accused of it.



Dec. 13, 2016