The Greatest Legal Movie of All Time: Proclaiming the Real Winner

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In August, 2008, the ABA Journal featured an article entitled: “The 25 Greatest Legal Movies.”¹ A panel of experts, described in the article as “12 prominent lawyers who teach film or are connected to the business”² selected “the best movies ever made about lawyers and the law.”³ Those experts included a United States District Court Judge, the Dean of the Yale Law School (who has since been confirmed as Legal Advisor to the United States Department of State), five law professors, four practicing attorneys, and a law-trained, ABA Journal Assistant Managing Editor who wrote the article and who characterized himself as “a film geek since childhood.”⁴ This distinguished panel ranked its twenty-five top legal movies, choosing To Kill a Mockingbird as its number one legal movie.⁵ The panel also selected twenty-five films as

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²Id. at 38.
³Id.
⁴Id. at 47.
⁵Id. at 37-38.
“honorable mentions,” which were listed in alphabetical order.  

I am confident that the panel worked long and hard on its task. Their selections are certainly worthy of inclusion on any list of great legal movies. However, I believe an injustice has been done, and I am writing to correct that injustice. The *real* greatest legal movie of all time was not selected as the winner. It was not ranked in the top twenty-five. In fact, it was not included in the list of twenty-five honorable mentions so that it would rank in the top fifty. I would wager that it was not even considered by the panel as a candidate for inclusion as a “legal” movie.

The greatest legal movie of all time is (drum roll, please): *Dumbo*. How do you react to this proclamation? “*Dumbo*?” you say, “Surely you jest. *Dumbo* is a children’s movie, and it’s not about the law or lawyers.” But before you reject my choice, I ask that you consider the reasons justifying my selection.

Is *Dumbo* a children’s movie? That’s debatable. The movie contains numerous examples of cruelty that make it unsuitable for children. For example, upon seeing Jumbo Jr.’s large ears, the female elephants nickname him Dumbo. “Dumb” is equated with different, with a physical characteristic–large ears. The boys taunt Dumbo, ridiculing him because of his ears, and when Dumbo’s mother tries to protect him, she is the one who is locked up as crazy in a cage marked “mad” elephant. When Dumbo is made into a clown, the matriarch elephant urges her sisters to “take the solemn vow. From now on, he is no longer an elephant.”  

The clowns

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6 *Id.* at 47.

want Dumbo to leap from a height of 1000 feet. And when one clown suggests he might get hurt, other clowns reject the thought, saying: “Elephants ain’t got no feelings.” “No, they’re made of rubber.”

Is Dumbo a children’s movie? Do we really want our children to learn that if they overindulge in alcoholic beverages, they may be fortunate enough to observe pink elephants on parade?

But even if Dumbo can be appropriately characterized as a children’s movie, does that exclude it from consideration? Don’t adults learn things from children all the time—things like innocence, joy, happiness, and other genuinely experienced emotions? From Dumbo, we witness the incredible bond of love between a mother and her child when Mrs. Jumbo rocks Dumbo in her trunk while she is confined in her cell, unable to even see her baby. In To Kill a Mockingbird, Atticus learns a lesson from his daughter, Scout. When Sheriff Tate informs Atticus that he will not charge Boo with murder for killing Bob Ewell—that it would be a sin to “drag[] him with his shy ways into the limelight”—Atticus is troubled by the sheriff’s decision. But Atticus accepts that decision after Scout tells him that the sheriff is right, that “it would be sort of like shooting a mockingbird, wouldn’t it?”

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8Harper Lee, author of To Kill a Mockingbird, prefaces her book with a quotation from Charles Lamb: “Lawyers, I suppose, were children once.” Apparently, she would agree with my assertion that adults learn things from children. See HARPER LEE, TO KILL A MOCKINGBIRD (unpaginated Preface) (1960).

9All quotations from To Kill a Mockingbird are taken directly from the movie itself. The quotation cited here is also found in LEE, supra note 8, at 290.

10See LEE, supra note 8, at 291 (“it’d be sort of like shootin’ a mockingbird, wouldn’t it?”).
Obviously, an article published in the ABA Journal would highlight lawyers. The first paragraph of “The 25 Greatest Legal Movies” begins by asking “What would Hollywood do without lawyers?”\textsuperscript{11} and ends by asserting that “lawyers have provided some of Hollywood’s most memorable cinematic heroes and some of its most honorable and thoughtful films.”\textsuperscript{12} Nevertheless, not all “legal” movies are about lawyers. \textit{12 Angry Men}, which is the movie ranked second by the panel of experts,\textsuperscript{13} is about the deliberations of a jury. No lawyer is seen or heard throughout the entire movie. \textit{Erin Brockovich}, ranked ninth,\textsuperscript{14} is about a paralegal. \textit{The Paper Chase}, ranked seventeenth,\textsuperscript{15} and \textit{Legally Blonde}, an honorable mention,\textsuperscript{16} are about law students.

But even if the category of “legal movies” gives a preference to movies about lawyers, \textit{Dumbo} surely qualifies. What do lawyers do? They zealously advocate for their clients.\textsuperscript{17} What did Timothy Q. Mouse do? A. He zealously advocated for his client. Timothy defended Dumbo from the mean female elephants who were contumeliously deriding him. He advocated for

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\textsuperscript{11}Brust, supra note 1, at 38.
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\textsuperscript{12}Id.
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\textsuperscript{13}Id. at 40.
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\textsuperscript{14}Id. at 41.
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\textsuperscript{15}Id. at 44.
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\textsuperscript{16}Id. at 47.
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\textsuperscript{17}A lawyer is ethically obligated to act as zealous advocate for his or her clients. “A lawyer should represent a client zealously within the bounds of the law.” MODEL CODE OF PROF’L RESPONSIBILITY Canon 7 (1980). \textit{See also} ANNOTATED MODEL RULES OF PROF’L CONDUCT pmbl. (5th ed. 2003) (“[W]hen an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and at the same time assume that justice is being done.”).
\end{flushleft}
Dumbo by whispering into the ear of the sleeping ringmaster urging him to select Dumbo to
climb to the top of the pyramid of pachyderms as the climax of the feat that the ringmaster had
envisioned. He argued for Dumbo, pleading with the crows to convince Dumbo that he really
could fly. He negotiated a contract for Dumbo to appear in Hollywood. In fact, the only way we
know Timothy’s name is the fact that he signed the contract for Dumbo as his manager. Dumbo
did not speak a word throughout the entire movie. Timothy Q. Mouse was his mouthpiece–his
lawyer. And where was Timothy in the final scene of the movie–with the female elephants
singing Dumbo’s praises, Dumbo’s mother riding in a special car at the end of the train, Dumbo
and the crows flying behind? Timothy is not in the picture. If Timothy was simply a friend, he
would be in the picture. But as Dumbo’s lawyer, Timothy’s work for Dumbo has been
completed, and Timothy will not take the spotlight away from Dumbo. Timothy has faded from
sight–perhaps working on some matter for another client.

If we compare *Dumbo* to the experts’ choice of *To Kill a Mockingbird* as the best legal
movie, we find some startling similarities between the two movies. In *To Kill a Mockingbird*,
the lawyer’s name is Atticus Finch and his client’s name is Tom Robinson. What do

Just as Jumbo Jr. is disparagingly nicknamed Dumbo because of his large ears, in *To Kill
a Mockingbird*, the Finches’ reclusive neighbor is nicknamed Boo. The children are informed
that he is a dangerous maniac. Because his father was unwilling to place Boo in an asylum, he
was locked him up in the courthouse basement for many years. The word itself engenders

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18 In the book, the story of Boo Ridley differs slightly from that portrayed in the movie.
In the book, Boo and some other teenage boys got into trouble and were charged with
fear—the children are frightened of Boo. Throughout the entire movie, Dumbo never speaks. Throughout the entire movie (although we only see him toward the end), Boo never speaks.

Both movies depict life in the deep south at about the same period of time. *To Kill a Mockingbird* is situated in the fictional town of Maycomb, Alabama in the mid-1930s. *Dumbo* takes place in Florida as the circus is leaving its winter quarters and proceeding up the state. *Dumbo* was first released on October 23, 1941.  

When *To Kill a Mockingbird* was first published as a book in 1960, it was controversial. Within a few years, the book was banned from several schools and libraries. Critics, objecting to questionable language, references to sex and violence, and negative portrayal of authority figures, claimed the book was immoral. Defenders of the book asserted that the claim of immorality came mostly from conservative Southerners who objected to the book’s “candid portrayal of Southern white attitudes.” Years later, African Americans expressed concern that the book reinforced racism—after all, an innocent black man is convicted of a rape he did not

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20 CATHARTINE BERNARD, UNDERSTANDING TO KILL A MOCKINGBIRD 36-37 (2003).

Dumbo also engendered controversy. The crows are considered to be African American stereotypes. In the script, the leader of the crows is named Jim Crow and the other crows are all voiced by African American actors. Jim Crow laws—named after a black minstrel show—were the laws that enforced segregation in the South. In To Kill a Mockingbird, Jim Crow laws relegated African American citizens to a separate seating area in the balcony of the courtroom. Jim Crow laws were also used to discourage African Americans from registering to vote.

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22 BERNARD, supra note 20, at 37-38.


24 Id.

25 BERNARD, supra note 20, at 27.

26 When Atticus’s children, Scout and Jem, are invited to sit in the “Colored balcony,” black men rise to give the white children their seats. “Their gesture is not so much one of respect as requirement—by law, black people were obligated to give up their seats to any white person who wanted them.” Id.

27 For example, the Constitution of Alabama, adopted in 1901, circumvents the explicit voting protections granted to African Americans by the Fourteenth and Fifteenth amendments to the United States Constitution by imposing residency requirements, a poll tax, literacy tests, a real property ownership requirement, and by disqualifying persons convicted of various crimes—including vagrancy and “any . . . crime involving moral turpitude.” ALA. CONST. of 1901, art. VIII, §§ 178 (residency requirement and poll tax), 181 (literacy test requirement and real property ownership requirement), 182 (disqualification for conviction of various crimes including any crime involving moral turpitude). The Alabama Constitution also adopted a variant of a “grandfather clause” known as the “soldier clause” or the “fighting grandfather clause” entitling male citizens who were descended from individuals who served in the land or naval forces of the United States in the American Revolution, the war of 1812, the Mexican American War, or in any war with the Indians, or in the Civil War—whichever serving for the Union or the Confederacy. Id. §180. See generally R. Volney Riser, Disenfranchisement, the U.S. Constitution, and the Federal Courts: Alabama’s 1901 Constitutional Convention Debates the Grandfather Clause, 48 AM. J. LEGAL HIST. 237 (2006) (discussing the verbatim transcript of the Alabama 1901 constitutional convention designed to disenfranchise African Americans from their rights as citizens.) It seems paradoxical that the “cutesy” term of “Jim Crow laws” is
Because jurors were selected from voter registration lists, Jim Crow laws prevented African Americans from serving on juries. In the trial of Tom Robinson, the “jury of his peers” consisted of twelve white men.

Surely there are differences between *Dumbo* and *To Kill a Mockingbird*. Once Jumbo Jr. has been nicknamed Dumbo, he retains that moniker for the rest of the film. In contrast, after Boo Radley saves Scout and her brother Jem from Bob Ewell, Atticus formally introduces Boo to Scout as Mr. Arthur Radley. Thereafter, Scout addresses him as Mr. Arthur.

In defending Tom Robinson, Atticus Finch makes his closing argument to a jury composed of twelve white men. In contrast, Timothy Q. Mouse makes his argument on
Dumbo’s behalf before a “jury” of five black crows.

The strategy of the arguments differ. Atticus expresses his confidence in our system of justice and in the jurors themselves. Atticus says:

Now gentlemen, in this country, our courts are the great levelers. In our courts, all men are created equal. I’m no idealist to believe firmly in the integrity of our courts and our jury system—that’s no ideal to me. That is a living, working reality.29 Now I am confident that you gentlemen will review, without passion,

29 In the book, after expressing his belief in the integrity of our courts and in the jury system as a living, working reality, Atticus states: “Gentlemen, a court is no better than each man of you sitting before me on this jury. A court is only as sound as its jury, and a jury is only as sound as the men who make it up.” LEE, supra note 8, at 218.

Several authors have noted the similarity of thought between the words of Atticus Finch in his closing argument to the jury and the words spoken by the Honorable James Horton, the presiding judge in the second Scottsboro trials. On March 25, 1931, Nine African American men were arrested for raping two white women. The men were tried and convicted of the crime on April 9, 1931. Eight of the nine were sentenced to death. The case was appealed, and on November 7, 1932, the United States Supreme Court ordered new trials because the trial court had failed to make an effective appointment of counsel, thereby depriving the defendants of due process under the Fourteenth Amendment. Powell v. Alabama, 287 U.S. 45, 71 (1932). In the second set of trials, which began on March 27, 1933, Judge Horton expressed his confidence in the jurors who were to decide the case, when he informed them: “So far as the law is concerned, it knows neither native nor alien, Jew or Gentile, black or white. This case is not different from any other. We have only our duty to do without fear or favor.” BERNARD, supra note 20, at 33; CLAUDIA DURST JOHNSON, UNDERSTANDING TO KILL A MOCKINGBIRD 32 (1994). For a discussion of the Scottsboro trials (and retrials) as setting both the historical context of and the inspiration for the trial of Tom Robinson in Harper Lee’s novel, see BERNARD, supra note 20, at 30-34; JOHNSON, supra at 15-81.

At the second trial of the Scottsboro defendants, the jury found Hayward Patterson guilty and he was sentenced to death. On a motion for a new trial, Judge Horton granted the motion and set aside the jury verdict, finding that “the testimony of the prosecutrix in this case is not only uncorroborated, but it also bears on its face indications of improbability and is contradicted by other evidence, and in addition thereto the evidence greatly preponderates in favor of the defendant.” JOHNSON, supra at 60. In December 1933, both Hayward Patterson and Clarence Norris were convicted of rape and sentenced to death, but the United States Supreme Court reversed the convictions because African Americans had been continually and totally excluded from jury service in Alabama—a violation of the Equal Protection Clause of the Fourteenth Amendment. Norris v. Alabama, 294 U.S. 587, 598 (1935).
the evidence that you have heard, come to a decision, and restore this man to his family.

In contrast, Timothy reprimands the crows, using reverse psychology to induce feelings of guilt. Timothy says:

You all ought to be ashamed of yourselves. A bunch of big guys like you, picking on a poor little orphan like him. Suppose you was torn away from your mother when you was just a baby. Nobody to tuck you in at nights. No warm, soft, caressing trunk to snuggle into. How would you like being left out alone, in a cold cruel heartless world? And why? I ask you, why? Just because he’s got those big ears, they call him a freak. The laughing stock of the circus. And when his mother tried to protect him, they threw her into the clink. And on top of that they made him a clown! Socially, he’s washed up! Aw, but what’s the use of talking to you cold-hearted birds? Go ahead! Have your fun! Laugh at him! Kick him now that he’s down! Go on! We don’t care.

Atticus is not successful. Tom Robinson, an innocent man, is convicted. Timothy is successful. The crows respond to Timothy’s argument by assisting him in convincing Dumbo that he really can fly. In fact, the crows suggest use of the “magic feather” as the device to make Dumbo believe he has the ability to fly.

Why is *Dumbo* a better legal movie than *To Kill a Mockingbird*? Surely it is not because Timothy succeeded in his argument, while Atticus did not. A lawyer’s greatness is determined by his or her devotion to his or her client and a willingness to work within the legal system to achieve a favorable result for that client.\(^{30}\) The problem with *To Kill a Mockingbird* is that the legal system—supposedly designed to assure that all persons are treated equally—is portrayed as

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\(^{30}\) Monroe Freedman, a leading authority on lawyers’ ethics, acknowledged that Atticus Finch acted heroically in representing Tom Robinson, but criticized him for failing to “volunteer a small but significant amount of [his] time to advance social justice.” Monroe Freedman, *Atticus Finch, Esq., R.I.P.: A Gentleman But No Model for Lawyers*, LEGAL TIMES, Feb. 24, 1992, in JOHNSON, *supra* note 29, at 189, 191. While Atticus Finch may have been a “gentleman of character,” a true hero would not have lived his life as a passive participant in the pervasive
being fatally flawed. Tom Robinson was convicted of rape, not because he was guilty of that crime, but because the jury was prejudiced against him. To the jurors, Tom had committed an unpardonable sin. He had allowed a white woman to tempt him to kiss her. Can justice be achieved if in our courts of law prejudice prevails over truth? I think not.

Consider also Sheriff Tate’s decision not to arrest Boo Radley for the murder of Bob Ewell. His decision is not based on a lack of evidence that Boo committed the killing. Rather, it is his concern that Boo—this strange and different man—may not get a fair trial. In speaking to Atticus, Sheriff Tate justifies his decision by referring to the trial of Tom Robinson. He says, “There’s a black man dead for no reason. Now the man responsible for it is dead. Let the dead bury the dead this time, Mr. Finch.” He declares that Boo has done Atticus and the town “a big service.” And so, Sheriff Tate concocts a lie—“Bob Ewell fell on his knife. He killed himself.”—to avoid arresting Boo and subjecting him to a trial. If an officer of the law is willing to lie in order to avoid use of the legal system he has sworn to uphold, can that legal system be trusted to ensure justice? I think not.

Both *To Kill a Mockingbird* and *Dumbo* are movies about prejudice. Prejudice is a part


32 In the book, Sheriff Tate declares that Boo has done Atticus and the town “a great service.” LEE, *supra* note 8, at 290.

33 In the book, Sheriff Tate concludes his statement by saying: “Bob Ewell fell on his knife. Good night, sir.” *Id.*
of human nature. We believe we are superior to others who look different—for example, a
different skin color or extremely large ears. We believe we are superior to others who think
differently from us—for example, we are certain that our religion is superior, is the “right”
religion. Prior to the Civil War, imposing slavery on Africans was considered justifiable in order
to bestow upon them the gift of salvation. Of course, the gift came at a cost—hell on earth in life
as a slave.\footnote{How ironic that the “task” of conferring this costly gift has been characterized as “The
White Man’s Burden.” \textit{See generally} WINTHROP D. JORDAN, THE WHITE MAN’S
BURDEN: HISTORICAL ORIGINS OF RACISM IN THE UNITED STATES, 87-98 (1974)
(discussing the conversion of slaves to Christianity in the United States).} We, and those who think and look like us are the in-group. All others are inferior,
they are outsiders—the “others.”

Why is \textit{Dumbo} a better legal movie than \textit{To Kill a Mockingbird}? At the end of his
closing argument, Atticus invokes the name of the Lord in his quest to have the jurors find his
client innocent. He implores them, “In the name of God, do your duty. In the name of God,
believe Tom Robinson.”\footnote{In the book, Atticus merely states: “In the name of God, do your duty.” \textit{Id.} at 218. He
then says something more in an undertone to himself, which Scout does not comprehend. She
asks her brother Jem what Atticus said, and Jem replies, “‘In the name of God, believe him,’ I
think that’s what he said.” \textit{LEE, supra} note 8, at 290.} But the jurors do not listen. The jurors do not do their duty; they do
not believe Tom Robinson. Justice is not achieved in the courtroom. But even if Tom Robinson
had been exonerated, as an African American man living in Alabama in the 1930s, he would not
have been accepted in society as an equal.

Because Atticus invoked the name of the Lord to conclude his argument, perhaps it is
appropriate for me to quote from the Bible to conclude my argument in support of \textit{Dumbo} as the
greatest legal movie. In the book of Deuteronomy, the ancient Israelites were commanded:
“Justice, justice shalt thou pursue, . . . .”36 Why is the word “justice” mentioned twice? Is the second use of the word merely to emphasize the importance of pursuing justice? I am not a Biblical scholar, but I would like to suggest an alternative explanation. The first mention of justice refers to justice in the legal system. When an innocent man is acquitted of a crime he did not commit, justice is achieved in the courtroom. In To Kill a Mockingbird, that justice was not achieved. The second mention of justice refers to justice in society. When someone who is different—an outsider—is accepted as an equal by others, justice is achieved in society. In Dumbo, Dumbo achieved success in society. For his accomplishment (flying), he was appropriately applauded and rewarded. The broader notion of justice in society was achieved.

Is it possible that people will someday be able to overcome their prejudices and accept as equals those who are different? Dumbo offers us that hope. After all, as Jim Crow told Timothy Q. Mouse: “I be done seen ‘bout everything, when I see an elephant fly.”

36c. . . that thou mayest live, and inherit the land which the LORD thy God giveth thee.” 16 Deuteronomy 20.