

CHAPTER 4: IS A JUDGE ALLOWED TO LIE?

While Emily was on the witness stand, she stated that I had punched her in the face in August 2009. She said: *He punched me in the face. I saw white. It was so hard. I jumped out of bed after. I kind of got my senses back. I started yelling at him, I was throwing his clothes down the stairs, telling him to get out of the house. I had bruising on my face. I called in sick for the next two days to go to work. I was embarrassed. I didn't want anybody to see. I didn't call in sick the third day because I would*

need a doctor's note and certainly didn't want to go to my doctor because she would definitely see what happened. I was embarrassed about what happened. I didn't want anybody to know.

I was shocked and could not believe my ears. This was by far the most serious allegation against me that I had ever heard. She did not provide a date for the incident. On August 15, 2009, I had proposed to her and we got engaged. When it was my turn to ask questions, I asked her if the punch in the face was before our engagement or after. She stated that it was after our engagement. That leaves a 15-day period in August that this incident must have happened.

When it was my turn to talk, Justice Shern asked me if I had punched her. I vehemently denied that and said that I had never punched anyone in the face. I explained that it was a complete fabrication and a complete lie. Later, he asked me again when I said that we had bought a house together in late August. I vehemently denied it again and said: "I swear to Ariana and Paige that such a thing did not happen." Later, I told Justice Shern:

I've never ever in my life hit anybody and there has never been any physical abuse, and the proof of it is the Qurans incident. The whole thing happened in maybe 45 minutes or an hour time period and started with pictures, family pictures, then started with the Quran, and then I still didn't do the dishes. Then Ms. Pey brought my parents' wedding Quran, put it next to the sink. She made threats. If I was abusive, if I were to use force, I could have gone and grabbed the Quran. Ms. Pey would have been scared. I could have stopped it, physically, like go grab the Quran. I did not get close to her until Ms. Pey threw the Quran out and I went and grabbed it at the time and the only thing I did after that was to sit there and watch TV. The next day I did the dishes.

When I went home that night, I was quite upset. I couldn't sleep, and in the middle of the night, I thought of the email conversations we'd shared during that time. I looked them up – we'd sent at least three to four emails a day to each other except during the weekends. After the engagement, we had started planning the wedding and looking for a venue; we were also looking for

houses, and we purchased a house on August 23, 2009. We talked constantly to each other, during the day through email, and every weekend we were out looking at wedding venues and houses, as well as renovating Emily's house to get it ready for sale.

I printed two or three emails for each day from August 15 to September 4. The next morning I read all the emails at the court while I was on the stand. All of the emails contained statements on wedding planning, how much she loved me and how much she couldn't wait for me to come home, the things she wanted to do, and so on. Below is an example:

Emily: Hi Sweet, I would like Kristy to be my maid of honour – is this okay? I love you, xxxooo

Ali: Hey Sweets, of course it's okay. I love you, xoxoxox

Emily: Who are you going to ask?

Ali: I don't know yet. I love you, xoxoxox

Emily: I wish you would talk to me sometimes and tell me your thoughts, that was all I was asking. I love you, xxxooo

Ali: I am talking to you Emily. I was thinking that I would probably ask my cousin if they are coming. I am not sure right now. I love you, xoxoxox

After I read the emails, I asked Justice Shern if he saw any sign of anyone being punched in the face or even signs of a fight or disagreement in them, and I explained to him again that the story of physical abuse is a complete fabrication.

When it was Emily's turn to speak, she provided a chat between us from Friday August 28, 2009. In that chat, she says: "I'm just nervous it will happen again. To tell you the truth, I don't know what I want to do but I feel very scared right now."

She claimed that it was the punch in the face that she was referring to. When it was my turn to ask questions, I explained that if you continue reading that chat, it actually explains what it was that she was scared about:

Ali: You told me that you don't want to marry me. It was your decision.

Emily: It wasn't mine.

Ali: I just agreed with what you said.

Emily: I didn't tell you that, Ali.

Ali: What did you tell me, Emily?

Emily: I told you I was scared. That's all. I told you I wasn't sure because I was scared.

Ali: You said we are kidding ourselves and we are being silly, we can't get married. You didn't even want to touch me the whole night. Anyway, it's not a fight. We need to really think what is our best way forward.

After reading parts of the chat message at the court, I asked Emily if in any part of that chat she asked me to apologize or promise that I wouldn't do it again, or that I should not do something I had done. I then asked her if in any part of that chat I apologized to her or said that I would not do that again. She went quiet, realizing that there was a hole in her argument. Justice Shern responded for her: "I believe the answer is no."

Based on Emily's testimony, the chat that occurred on Friday August 28, 2009, took place after the punch in the face, and she didn't go to work for two days afterward. That meant she would have gone to work on Monday, August 31, 2009. On Monday, again, there

were eight emails between us. Here is an example from Monday, August 31, 2009 at 12:04 pm from Emily:

Hello sweet,

How is your morning?

How was your drive to work with Michael? I was thinking you could take them to lunch one day to thank them? Or we can bring them a case of beer.

The carpet people are just installing the carpet in the rooms now. They had done the underlay. They are coming back tomorrow to do the stairs, but we can put the stuff in the rooms tonight.

I'm going to do some of the laundry today and work a bit on the downstairs.

I love you, I hope you're having a good day.

I spent a major part of the four-day trial showing the court that the punch in the face story was a complete fabrication. As I mentioned, I told Justice Shern: “I swear to Ariana and Paige such a thing did not happen.” However, this is how Justice Shern reported the incident in his reasons for judgment:

- *Regarding the allegation of punching the applicant in the face, the respondent's version is that the parties were going to counselling every week until the week before the marriage. The respondent does admit that there was an altercation where he did push the applicant with his hand in the back. She got up from the bed and left the room and then 10 seconds later came back in the room, jumped on him in the bed and attacked him. The call was made to the police, who asked him to leave. He went to a hotel and returned the next day.*
- *However, the applicant's evidence is that there were missing emails from August 26 to August 30. Further, she produced as Exhibit 70, a text message from the respondent to the applicant dated August 28, 2009 where the applicant indicates to the respondent that she feels scared and states:
"I'm just nervous it will happen again to tell you the truth, I don't know what I want to do but I feel*

very scared right now. Can you tell me what you want to do?"

- *The respondent's evidence regarding the parties' relationship is that the parties had cultural differences and that they had multiple breakups. (Trial Endorsement, paragraphs 30 and 31)*

I couldn't believe my eyes: "The call was made to the police, who asked him to leave. He went to a hotel and returned the next day." If there was a police call, then why were we arguing about what happened and when it was? If there had been a police call, there would have been a clearly recorded date and a police report, and there would be no disputing the call report. Emily had insisted that she hadn't even gone to her doctor, because she didn't want her to see and that she didn't tell anyone. So was Justice Shern lying?

All of the police incidents, dates, and reports were in the court submissions. Emily did not claim that there had been a police call and Justice Shern could have easily looked at the police reports and their dates to see

if there had been a call. It is not possible that Justice Shern accidentally believed that she had called police when she insisted that she hadn't told anyone, and I'd been arguing for four days that such a story was completely false.

Justice Shern also said: "The respondent does admit that there was an altercation where he did push the applicant with his hand in the back." This is absolute madness. This was the most serious allegation that was made against me, which I vehemently denied, and I believe that I was successful in providing more than enough evidence that this was a lie. I consistently insisted during the trial that there had been no altercation or fight during the timeframe of the alleged punch in the face. I explained to the judge that this had been a mere fabrication and provided much evidence to that effect.

In fact, I know that my evidence was convincing because Justice Shern had to actually manufacture an outright fabrication in order to make me look guilty of something he knew well I hadn't done. There were no police calls or reports. No one left the house to go to a

hotel, and return the next day, and I did not admit to any altercation.

Why would the judge have needed to invent a story that doesn't even make sense? In fact, he knew very well what he was doing. He had no choice but to resort to lying to justify the horrible outcome that my children and I suffered.