MY WEEKENDS WITH THE KOSHER NOSTRA BY JEFFREY MILLER

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(Note: The last section of this story, about the car crash, originally appeared in different forms in my Where There's Life, There's Lawsuits: Not Altogether Serious Ruminations on Law and Life (2003), and in my column in The Lawyer's Weekly for April 22, 1994. The notion of self-plagiarism has always seemed absurd to me, but if this is it, I plead guilty with an explanation.)

Tncle Hy wasn't much interested in children, which I guess is why memory presents a series of snapshots of him instead of video. Here he is, underexposed if we're speaking strictly of lighting, a barrel of a dusky, balding man (yes, actually Sicilian looking), on the couch in the overstuffed living room of his little townhouse at the corner of Fourteenth and Quitman, oysgeshpreyt, as my mother would have put it, man-spreading, which is to say overexposed if we're speaking of social decorum: monkey-hairy and naked under a laughably short robe (or was it a smoking jacket, all half-sleeves and belt, the kind of thing Hugh Hefner was about to make popular, more or less?; it was even gold lamé, I think, but maybe memory gilds the lily), his testicles playing peekaboo with you as he smoked cigars and ate Russell Stovers chocolates in the gloaming there (no daylight played in that overstuffed home, the drapes never undrawn, table lamps glowing dimly yellow), watching college football, smirking over the cigars and candies vi a gans, like a goose (to quote my mother again, in her Yankee Yiddish), while also talking incessantly on an aquamarine Princess phone, a model I think was supposed to be chic at the time, which is to say 1964. You might remember, that model had a pretty long run as fashions go: a

rotary-dial oblongish thing, maybe pink, maybe aquamarine, in your living room or on the divider between the dining room and the kitchen. The only phone we Melameds had was the rectangular basic black model, shiny where it wasn't scratched, bracketed to a wall next to the kitchen sink.

Another, somewhat brighter snapshot of that townhouse: the open fridge. There were always those Russell Stovers chocolates, big cartons of them, star-bright white boxes printed with red ribbons and baskets and glistening friandiserie, spotlit in the finster, adding to the home's sombre air of luxury, to the mind of a thirteen-year-old, anyway. Of course refrigerating chocolate back then was not a crime against humanity, and it was not just socially acceptable but a social obligation to eat half a pound of objectively nauseating fatty corned beef with mustard on bleached-flour rye and flush it down with a couple of bottles of strawberry soda at the Turkish or Russian baths (the difference I still can't tell you), which were not necessarily obscure clubs for secret homosexuals, no matter how odd all that obese, pink nudity, grizzled pubic hair, and shmalts sweat seemed, under the viaduct yet, in a mean part of town, to an adolescent. Yes, this is how I free associate Uncle Hy, all these decades later: nostalgia that you could easily mistake for stomach flu.

It was always graveyard quiet in Hy and Auntie Charne's townhouse, in striking contrast to the constant near-hysteria in our cramped little home as my mother directed household traffic like a terrified, barking cop, barely holding it together even after rush-hour. This impression of shadowy luxury on Quitman was assisted, actually, by the fact that there was not much else besides chocolates in the fridge; at Auntie Charne's you would not have heard an echo of my mother regularly shouting, "Stop davening over the fridge!" - which is to say "Close the damn refrigerator instead of shokeling (praying and rocking) over its contents that God will bring forth there Russell Stovers and pastrami!" My aunt and Hy ate in restaurants habitually, like Europeans, where the very American Melameds dined out once a month, on my father's pay-day, at Russman's Family Diner, where you got pickled watermelon rind, gherkins, and little dumplings of hot peppers as an appetizer, plus soup or juice and salad with Thousand Island dressing, as forshpays to the heaped entrée of fried chicken with fries and veg, dessert and coffee or tea included. It was a big, Eisenhower/Kennedy, postwar occasion, comparable to celebrations of the new moon at synagogue. Then again, the celebration never quite ended for Uncle Hy, who might well have had a bottle of champagne in his fridge, too, but that is perhaps revisionist (once more) in the circumstances.

For sure there were eight-millimetre porn films somewhere off-stage. Memory stands indelible on that. "It's something not for you," my mother informed my sister Lainie and me, before she and my father went off into the kitchen with Uncle Hy on one particular visit, leaving us kids to watch "The Lone Ranger" on the TV, one of the first colour ones, I think, turned up loud, but not so loud you couldn't hear my parents laughing and get sick to your stomach. If I

remember right, Auntie Charne, Dad's oldest sister (Dad was the fifth of six kids, Charne the second, after Uncle Shimson the cement contractor) stayed with Lainie and me in the living room, trying to appear disinterested but succeeding in looking embarrassed. When my parents came back into the living room, they seemed non-plussed, as after an irresistible obligation, or at least I hope they did. I think they did.

Anyway, a few months later, on this specific weekend, my mother's father was dying, it turned out, never mind that Zeydie was only fifty-nine. I was newly barmitzvahed, which is to say that, now that I had turned thirteen, Jewish law considered me an adult, responsible for all six-hundredthirteen of the religious duties as calculated by Maimonides. But my mother refused to believe that I was responsible enough to look after myself, my sister, and my homework while she and my father spent hour upon day at Rose Hospital. (To give me more credit would somehow suggest I didn't need her.) So Lainie and I were shuttled from relative to relation to neighbour to be baby-sat, never mind that Mom and Dad had taken out a second mortgage so that I should be eligible to perform any and all of the six c-notes of adult mitzvot (where I picked up such cant you shall presently see) as witnessed by a synagogue packed with relatives, friends, and the Sabbath regulars, to whom we neoadolescents were alleged to announce, "Today I am a man." If anybody actually said that at his bar mitzvah, I have yet to meet him. Maybe this accounts in part for my mother's distrust of me. Then too, my Bubbie always insisted on another cliché – that, contemplating the gifts which accompany the rite of passage, my mother's younger brother announced, as he practised his bar mitzvah speech in the mirror: "Today I am a fountain pen!" This is again suspect insofar as you hear the same story in every

Jewish family (the evolved version, I suppose, would be "Today I am an iPad!"), just as we all hear about how one of our great-uncles or great-grandparents escaped the Tsar's military draft by disguising himself as a *babushka*. Maybe it happened, maybe not.

So anyway, back to the other side of the family, the Melamed side, and Snapshot One. It's Saturday afternoon. We are in Uncle Hy's living room. Auntie Charne perhaps is there, but even when present she is a ghost: where Uncle Hy is dark and oily and smirky, she is pale, quiet, mostly unnoticeable, always melancholy, never mind that – albeit plump and soft as a pincushion – she is always carefully groomed and remains attractive, even in her midforties. But probably she isn't actually home: as it's Saturday, I now imagine she must have been window-shopping downtown, which was dead on the weekend in those days when you dressed up to visit department stores that alternatively seduced and nauseated you with the smell of stale milk chocolate mingled with staler cheap perfume. (Yes, chocolate candy and nausea seem to have been pretty well epochal – a sign of the times.) Even to a thirteen-yearold, she appears unhappy in her marriage, and I always associate her sadness with her childlessness, which is almost a shanda at the time – a profound, semi-religious, shame, an affliction with public, shtetlish, effect. Maybe part of that is because, never mind her upbringing (which actually began in a shtetl in the Ukraine), she takes the Colfax bus to shop at the May D&F on the Sabbath.

So she is probably downtown on this *Shabbos*, maybe Lainie is with her. I don't recall. But I clearly remember Uncle Hy *oysgeshpreyt* on the couch in the dark, a wet cigar stub in his *moyl*, watching college football, talking a lot – constantly, actually, on the Princess phone. And, putting his hand

over the transmitter end, he says to me, "Joey, you keep track of the scores for me. Shout them out when they tell them."

I do this, and Uncle Hy writes the scores down, a stubby, dark, oily parody of Hefner but earnest and calculating not to mention seriously balding, still blubbing on the aquamarine Princess phone. Even then I am surprised that he is such a keen fan of the game. He doesn't strike me as the type, Uncle Roly-Poly with the peekaboo balls in the dark, on a bright Saturday afternoon.

After the broadcasts, he takes me into the sunlight, to Jess and Lil's on West Colfax, for lunch. You could smell the barbecued pork every time you drove past it there in the old Jewish ghetto, an olfactory complement to the threat of American assimilation. Which struggle is perhaps largely the point of my story – possibly of my life. Very possibly.

Anyway, I don't know how long it is after this particular Saturday that my father tells us the cops have arrested Auntie Charne at Tobin's Pharmacy, at closing time. Maybe you had a Tobin's, which, as with Jess and Lil's (also Woolworth's and the first floor of the May D&F), I can still smell and taste, like Proust with his famous madeleine, only Tobin's was aromatic of Old Spice, yet more cheap perfume, cherry Coke, and mintchocolate milkshakes – one of those huge drug stores that was also a toy store, perfumerie, candy store, tobacconist, soda fountain, not to mention hang-out, featuring as its regular soundtrack those metal blender-sticks rat-tat-tatting as they spun against frosted steel cups in which they mixed your shake. It was at the other end of the block on Ouitman, on the southwest corner of West Colfax.

But my aunt was not there for a milkshake, of course, or even cigarettes or perfume. She stood accused of bookmaking, which seemed a pretty harmless avocation to me, such a big reader that each summer vacation the local library gave me a certificate, signed by Denver's chief librarian, for reading at least eight books when I should have been playing baseball in the street or chasing girls at Soda Lake. One of my Hebrew-school teachers was a bookbinder by day. But now was a dark turning filled with novice-teenager guilt: what my aunt's arrest meant in fact was that I had worked as a barely teenaged accomplice to the Jewish mafia, a.k.a., the Kosher Nostra, Denver bush-league affiliate. Were they coming for me next?

also don't know how Auntie Charne got off the charge, or even if the police charged her. I believe, anyway, that a manila envelope was involved as state's evidence. I believe she spent a night in jail, poor soul, although I can't imagine this melancholy spirit appeared in the least criminal to the arresting and booking officers. I suppose Uncle Hy took the hit, irresistibly, explaining that his befuddled wife hadn't known what she was delivering - a defence, I have since learned, that lawyer's call "lack of mens rea": my aunt didn't understand that she was picking up the vig or whatever Uncle Hy was owed by chancers who placed bets through him on football games. Maybe she was also delivering, obliviously, what her husband owed a few of the chancers. Who knows? It took me some years to figure even this much out, and I guess you'd say that I had even less mens rea than my poor, middle-aged, apparently clueless, soft-as-a-pin-cushion auntie. But I was soon to be wised up, if never quite a wise guy – which is to say that my naïve involvement with the Kosher Nostra did not stop there. (Melodramatic pause, set to the theme of *Dragnet* ...)

Here, in fact, are probably the most dramatic snapshots from my visits with Uncle Hy back then – more specifically, my lakeside adventure with Uncle Hersh, the youngest of my dad's and Auntie Charne's four siblings. Dad was just a year older than Herschel, which had made the boys particularly close even into adulthood. But unlike Dad, Uncle Hersh played baby-of-the-family to the hilt throughout his eighty-six years.

Recall that this was the era not just of guilt-free chocolate, the confounding aroma of cheap perfume and cheaper cigars, and second heapings of fatty meat, but of the Rat Pack (somehow comprising all those things), when Frank Sinatra was connected with the mob in Vegas, where Meyer Lansky pleaded with them (unsuccessfully) not to whack his Jewish buddy Bugsy Siegel for running their gambling operations into the ground. So I suppose Uncle Hersh imagined that he cut a sort of romantic figure as a Vegas junket character, and Uncle Hy was more than willing to encourage him in that delusion. It was a mutual exploitation society, to riff on a popular song of the day.

To see the broader portrait of my uncles in this respect, you should know that Hy the bookmaker was not just a bookmaker and fence who got his hapless wife arrested, but that he claimed legitimate employment, although feasibly it was just a cover: he worked as a consignment jeweller, so-called. He didn't have a shop, and his inventory was what I would now call peripatetic, given his suppliers and their methods. In other words, he was a Leave-It-with-Me who worked from home instead of on Larimer Street before the warehouse district was gentrified. He got Herschel a car once, a Pontiac that didn't want to run, so Herschel ran it into Sloan's Lake for the insurance. Typically, he laughed this off. I say typically insofar as Uncle Hersh presented, a psychiatrist might say, as comical and friendly, but he was chronically tinder-box embittered: his father (my grandfather), Hersh was convinced, had cheated him of success by making him pour concrete all day in the family business, then

leaving the firm to the eldest of "Max Melamed and Sons," my Uncle Shimshon. So Uncle Hersh joked and laughed a lot, but his was not the Jewish survivor's humour. Herschel's humour had a cruel streak, or rather, vein: bad blood ran through it. Poison, really, sadly, because, as I say, he had charisma. Yes and still, everybody liked him, often even after the facade slipped. revealing the penchant to take offence at the most offhand of observations and to bully, out of bitterness borne of what eventually proved to be wilful failure – wilful because he genuinely possessed the winning personality, drive, and looks of a worldbeater. (Before you understood how coldblooded he could be, his laughter could seem admirable, a form of clinical, even Freudian, detachment – which I suppose it was, in a sort of psychopathic way.) He was the baby, Herschel, the pampered one (that must have been the source of all this: he was bred for disappointed expectation), enormously charming in small doses, short but handsome, stocky from furious weighttraining even in his fifties and sixties, and not so prone to early alopecia as Dad. He died the hair, though, and my mother suspected "plugs." These days he drove around in a classic Thunderbird convertible, with the fins, not a scratch on it (probably hot, but no more clapped-out bangers), and gave his address as our house in Jefferson County, until Mom saw it one too many times in The Denver Post "Police Blotter," and she hit the roof. Again. On this occasion Herschel literally had lost his pants, shooting craps in a garage, the thief waving a pistol at this crew of wannabe wise guys, telling them to strip so they couldn't chase him, supposedly. Why you couldn't chase in your underpants, I still wonder. Probably the guy took their shoes, too, or at least that's how I make the story more credible for myself.

Not long before, Uncle Hersh had given me probably the oddest of all the uninspired

bar mitzvah gifts: a Samsonite vinyl suitcase that was so heavy, it was pretty well useless for anything but smuggling body parts into the mountains or the lake, even if you were a grown man, not just a putative one. Looking back, I'm pretty sure he did not buy it. Probably he got it from Uncle Hy. But the fact that he gave me anything was itself remarkable, and in his case generous and thoughtful. I still appreciate it, although I never use the suitcase. Honest, officer.

Which brings us back to one Sunday around that same time, back at Auntie Charne's and Uncle Hy's, the day after college football and before the NFL in the afternoon. Also before Auntie Charne got collared for running book. Herschel comes by for *latkes* left over from Friday night dinner and *Shabbos* lunch. (Though there were only the two of them in the townhouse and they mostly ate out, when Charne cooked she made like she had cooked with her mother, for a small army.) Uncle Hy hands Herschel a piece of paper and says, "After you finish *fressing*. *Après* lunch."

After he fresses, Uncle Hershel invites me along. "Come for a ride, Yosl. We'll have a laugh. You'll meet an interesting character. You'll catch your old uncle up on what's with the Melameds of JeffCo" – by which he means my suburb, Jefferson County. It is still warm enough we can put the Bird's top down. I can't resist. An adventure with Uncle Hersh, everybody's favourite, more or less, when he doesn't get mad and stop talking to you for the rest of your natural.

It turns out we don't have far to go, still the West Side, but the nicer part, down by Sloan's Lake and the Hebrew Educational Alliance, where my friend Paulie Schneid lives in a new house built on the foundations of his grandparents' place, and where he and I went to Hebrew/bar mitzvah school. A guy's waiting for us at the curb of a nice split-level place with a big front lawn.

"Pretty, right, Joey?" Uncle Hersh (a rooming-house tenant, we imagined) asks me, sucking on a cigar that has gone unlit. "Pool in the back, too." Mysteriously, this makes my uncle laugh. He's a big guy, I can't help noticing, this character on the sidewalk, but soft, and he's sweating, looking constipated, like he's eaten too much farmer's keysel, extra-dry cottage cheese, for those who've been chased from their cottages in pogroms. Reeks of sweat, Old Spice, and onions. Memory says also herring, but that is perhaps melodramatic if not yet more nostalgic olfactory kitsch. "You sit in the back, Joe," Uncle Herschel says. This Yid's coming with us on our little ride." He pronounces "Yid" with the insulting short i, not the Yeed pronounced among friends.

Yeah, it was the classic ride, only for about two blocks, and more or less in the Keystone Kops sense. The man looks around and back at his house, like he's worried who might see, or maybe he won't see it again. By now, I'm wondering that myself, but he doesn't look at me. So we drive the couple blocks to Sloan's Lake. "We'll feed the ducks, eh, Joe? You like ducks, Motty?" Uncle Hersh asks our passenger, huffing, turning to him without a smile. I kid you not, as Jack Paar used to say on "The Tonight Show" back then. The cigar has been relit. Memory swears Herschel then says something about how the ducks sleep with the fishes, but that would have been too corny in the circumstances. Nostalgia kitsch. Nobody is laughing. Especially not young Joev Melamed ...

Whom Uncle Hersh now sends out of the car with some bread for the ducks, torn from the buns we'd had with our hamburgers after we'd left Auntie Charne's, still hungry. (Herschel really was a *chassid* of the weight room in those days, training six, seven days a week with some of his West Side buddies: it was their religion. So potato pancakes and

Pepsi wasn't exactly the lunch of champions.) But I am close enough to the car, flinging sweet white bread, that I can hear what's going on. At one point, Herschel asks Motty to hand him the *Rocky Mountain News* on the floor. I will give you the rest of the story as I narrated it to my father, when he came to pick me up that afternoon:

"You know what was in the newspaper, Dad?"

"'Kennedy Shot in Texas'?"

"Huh?"

"That was a joke, Joe," Dad said. "You know, what was *in* the paper?"

"No, really. Listen. No joke. *Listen!* There was a gun. A pistol. No kidding. I kicked it when I was sitting there. The newspaper. I felt something hard in it, so I lifted it where it was folded over, with my foot. A gun, Dad! A pistol."

"I don't know, Joey," my dad lied, shaken and trying not to show it. What if the thing had fired, blown my foot off? "Probably it was just a tool, a wrench or something. You know, Uncle Hersh does handyman work. We were all brought up in Zeydie Max's construction business. He's pretty good, you know, at that stuff, your uncle. Handy. Skilled. Very skilled."

"Dad, I'm not blind." Or stupid.

"Well, maybe it was a caulking gun. And if it was a regular gun, it wasn't loaded. Your Uncle Herschel wouldn't play around like that. Not with you in the car." Dad wanted to believe that, I could see. But he didn't, I could also see, and neither did I.

And so I remained thrilled by my little Sloan's Lake adventure, in the sickened way you feel after horror movies and rollercoasters (faint nausea as *Zeitgeist* again!), but not much interested in Uncle Hersh from then on. My uncle was a bully, a petty hoodlum. (We left the constipated debtor at the lake, by the way, to make his own way home.) My weekends with the Kosher Nostra came to feel like slumming,

dangerous in a petty, dreadful, faintly nauseating, way, and I believed my uncles were better than that. I still do. But I remained a connected guy, at least in theory. As one does.

few years later, when I graduated further into manhood by obtaining a drivers' licence. I ran a red light on Hampden Road near the I-25 off-ramp. I was driving the Corvair I'd bought out of my after-school earnings as a dishwasher and cook's assistant at Rose Hospital. "The Mixmaster," my friends called that car, in a day when the term described a machine for making cakes, not hip-hop music. It was the closest that I could get to a European sports car. It had only "three on the floor," but I'd put a knob on the shifter that gave the impression it was four. Although this made operating the car a puzzle for other drivers, it was cheaper than buying an actual European sports car, and my father was fanatically loyal to stolid automotive products made in America, by General Motors. (He never mentioned Henry Ford's antisemitism, but his hatred of the brand was fanatical.) Dad, after all, paid the licence fees and insurance. And, sure enough, Ralph Nader was right, not long after, when he described the Corvair as unsafe at any speed, never mind that, so far as I know, he was not referring to the so-called heating-anddefrosting system.

Which is to say: It was cold and rainy the day of the crash, the radio was blaring, and Paulie Schneid and I were yammering about whatever teenagers yammered about in 1968. The windshield was badly fogged by all that hot air and I didn't see that a traffic light had turned red. A car coming off the highway broadsided my Corvair, knocking Paulie out cold, briefly, and gashing the forehead of the passenger in the other car. I was left dazed, with two bloodied elbows and a totally destroyed automobile. Paulie

stopped talking for a total of maybe two minutes.

Everybody told me anxiously, "You'll have to plead 'guilty with an explanation." In the continuing fog, this sounded sensible: I'd run the light and I had an explanation. It never occurred to me until I entered the courtroom months later that there might have been alternatives.

Uncle Hersh knew a bail bondsman, my relatives said. In fact, he knew most of them in town. Maybe Uncle Hersh would speak to them, and they would accidentally-onpurpose get to talking with the judge in the Russian or Turkish steam-baths or the courthouse canteen about how this certain actually good kid from Jefferson County was coming up on a certain "careless" charge and this genuinely impressive kid was an advanced-placement "A" student, Hebrew school graduate who conducted the entire service at his bar mitzvah, and not the sort who would normally run a red light, and definitely not the sort who would thrive in the county lock-up.

This sounded fine, too, until it occurred to me that the judge would think that I personally was trying to pervert the course of justice, which would make him madder than ever, so that he'd lock me up for years in the state pen, like the drug smuggler in "Midnight Express," if not like my similarly more-or-less innocent Auntie Charne.

By the time I got to court, I was in a terrible state. I wasn't sure what my explanation was, but I was ready to plead guilty with an explanation to anything, including murdering Jimmy Hoffa, even though he wasn't dead yet.

Most of that day is a fog, itself, but I remember that several people whose cases were called before mine pleaded guilty with an explanation. This seemed to provoke nothing more serious than boredom in the judge, although at each plea he'd grumble something I couldn't make out. And even if

his honour didn't appear to think much of pleading g.w.e., the defendants all seemed to get off with fairly light fines. When my turn came, I pleaded "Guilty with an explanation," too. I don't think my knees even shook that much, although, sure enough, I had a bad stomach for nearly a week after.

By the court date I'd convinced myself that I should take whatever happened like a man because: (1) despite his manifest boredom, the judge might be impressed; (2) if the other cases were any indication, it would be over in a minute; (3) maybe it would expiate the terrible guilt I felt about the whole thing; (4) I didn't have a heck of a lot of choice.

"No low contendree," the judge seemed to say, and, though my memory may be melodramatic again about this, I think he actually banged his gavel on his desk, the way they do on television. Then he asked me for my explanation, and I mumbled something about the inadequacies of manifold exhaust heating systems in not-very-recent compact automobiles manufactured by General Motors. Silently, I asked my father's pardon for the fourth or fourteenth time.

The judge fined me seventy-five dollars, which was a lot of money to a seventeen-year-old making a buck-fifty an hour in 1968. But compared to the agony of guilt and fear I'd experienced until judgment, it was a cake-walk. In fact, I was disappointed that the judge virtually took no notice of me before he went on to the next malefactor, who of course pleaded "Guilty with an explanation." I don't think his honour even looked at me. I almost wished he'd balled me out or something, so that I could have felt purged or maybe angry at him, so that he could have shared the guilt.

Only now do I understand the great favour he did me by entering a plea of *nolo contendere*. I have since read that it was in

use in Britain as early as the reign of Henry IV, 1367-1413. When William Hawkins explains "implied confession" in his *History of Pleas of the Crown*, he is generally thought to be describing the *nolo contendere* plea: "An implied confession is where a defendant, in a case not capital, doth not directly own himself guilty, but in a manner admits to be yielding to the King's mercy, and desiring to submit to a small fine. ... The defendant should not be estopped [prohibited] to plead not guilty to the action for the same fact."

We defendants in Colorado in 1968 were doing just that – hoping the state would look kindly on us for admitting we'd blown it, but blown it without deliberation or bad faith – without mens rea. We were not pleading guilty guilty (in which case we would have been able to speak to sentence anyway, putting forth facts and regret in mitigation), but guilty kind of. The guilty mind, as lawyers put it, the mens rea, wasn't really, truly, deeply so. Auntie Charne and I shared a state of innocence, only slightly tainted – just this side of Eden, you might say, innocently guilty.

I knew that this did not oblige the judge to go any lighter on me, and I was never very impressed by Uncle Hersh's connections after that, but by changing my plea to "I do not contend the charges," the judge most certainly did me a mercy. He reserved my right to deny liability if the people in the other car sued me – which, fortunately, they never did. But the notion that they could have (I take this opportunity to apologize to them yet again, and thank them from my heart for their own mercy), and, worse, that I might have killed somebody, chills me to this day, proving that I was and remain demonstrably unfit as a recruit for the Kosher Nostra – even in its Denver bush league iteration.