



Wisdom **Melissa Vincenty**

A WORLD WITH BORDERS

She is unconventional. Melissa Vincenty, this US immigration lawyer who at seventeen, relocated from Cleveland Ohio to Dusseldorf Germany, who set out to challenge herself in every way she possibly could. Whose former employers include the Tibetan government-in-exile; who once aspired to a singing career, paying her way through college singing telegrams, usually in costume. Police officer and nurse uniforms were client favourites.

*Written by Hamish White
Photography by Peter Plozza*

Melissa wears Akira, Jac + Jack, RM Williams. With Special thanks to Centennial Parklands Sydney, Opera Australia Props Hire, Many Foley-Quin, Stu Quin. Make up and Hair by Renee Sayed.

He overstayed his visa and was dobbed in by an angry girlfriend

"I once sang happy birthday on a film set to Michael J Fox," she tells me.

"So he just stood there while you sang the whole song at him?" I ask. "It must've been embarrassing."

"It is embarrassing," she says.

"I meant for him," I say.

"Yeah, I know. You have to know how to put people at ease."

The telegram job ended any performing aspirations she had. Singing unamplified outside, or in smoky bars, played havoc with her vocal cords; she needed surgery. There are no regrets though.

"If I haven't had that revelation, I could have struggled for years – I see that happening to young performers, they have this dream and they keep working towards that, and don't see they need to move on. I'm glad I'm doing what I do now. I really enjoy it."

Vincenty works from home. Her office is the backroom of her suburban villa in Lane Cove, an affluent, green suburb on Sydney's lower North Shore, about twenty minute's drive from the CBD. Birds chirp outside. This is the place she's called home since relocating from Hawaii, four years ago. Legal textbooks compete for space on shelves with children's toys. She offers me a cup of tea, Earl Grey with milk. The traditionalists will tell you it should be served sans milk, with a wedge of lemon. But Melissa is anything but. She probably thinks I am a weirdo when I tell her about the lemon thing. But this is a welcoming woman, tall and red-haired, with a winning smile. Her time is valuable and she has a thriving legal practice, but when you sit down with her you have her full attention.

Vincenty recently joined Nevitt Ford, a law firm based in Melbourne, as a US Immigration specialist. She is only one of two in Australia. From her home office, she works Australia-wide, getting on a plane when she needs to.

Her clients include numerous high-profile identities, and music industry professionals.

"Everybody, no matter how famous they are, has to deal with immigration," she says. "Even Russell Crowe needs a visa." She uses an Australian example so I get the point. Russell is a fellow Sydney resident, who still has to put his pants on and go through Customs like the rest of us; there's no special treatment on account of being the Gladiator, or having a reputation for throwing telephones.

"Immigration laws for music industry professionals are especially complex," she says.

"If you are heading to the US to record, the kind of visa you need often depends on whether you are going to sell the music there. Nowadays, with online sales, if you put a song on iTunes, you'll most probably will. Though there's still the issue of where the money actually enters an account."

"What if you only make part of the music in the States?" I ask.

"Well, exactly," she says. "It's a tricky question. The law is complicated – it hasn't kept up with changes in the industry."

And this at a time when the industry is more international than ever before, when increasingly, many of us see ourselves as global citizens, and the world as our playground. But it's a playground with rules, and the modern ease of movement sometimes allows us to forget we ignore these rules at our peril.

I ask Melissa whether given all the complexity of US Immigration Law and visas, the temptation would be that once you get to the border you just say you're on holiday. How are the officials going to find out what you do once you get out of the airport?

"Well yes," she says. "And I don't care if clients take the risk, that's a personal decision. But they need to get the advice. I like to talk to my clients about what their long term career goals are. Some people, when they say they want to

go to the US, have a very romanticised image of that. I want to understand what their hopes and dreams are. That sounds so hokey, I know. But you have to be realistic about what your goals are. Are you going to want to stay and live there, or just access that market?"

If you do run risks, it could cause visa problems later on.

"One unsophisticated officer might waive you through, but another might say where is your music going to be sold? Are the songs going to be on iTunes? And decide you're on the wrong visa. It only takes one customs official to say, hang on – what's with the guitar? That officer has the ultimate decision whether you come in or not. Artists want to be in the US – it's the world's biggest market, but that's also why you don't want to be barred for a long period."

Melissa says advice on the internet is often wrong, misleading or contradictory.

"On a chat room, you might read someone saying: 'I overstayed for a few days, and it was ok.' Well maybe for them. But don't rely on someone who got their Green-card ten years ago, because the whole situation has changed. It is OK to get initial information from the internet, like about the categories of visas, but especially if you have any arrest, or if you've ever had visa problems in another country, tell your immigration professional. These days, border security forces are talking to each other."

Vincenty has no shortage of immigration horror stories, of those who ran the risks or didn't get the advice beforehand.

"I had one client who was a college soccer star in Hawaii. He overstayed his visa and was dobbed in by an angry girlfriend. He'd forgotten about it, he'd made a mistake. But then he was sitting at a table in Starbucks, and an immigration official came in and slammed his

head on the table. He'd never been arrested before, so he was emotionally distraught. They put him in a Federal prison – Hawaii is a small place, and they didn't have a detention centre. And immigration detention is a civil action, not criminal, so you don't have the same rights."

"And things like bail hearings?"

"That's right. You're not covered by the US Constitution – which for criminal actions, covers you whether you're a citizen or not. You have no right to a lawyer and you can be kept indefinitely for violations. The way we treat human beings sometimes, it's horrific."

Things got very nasty for her young footballing client.

"When you get detained, it's procedure to do a strip search as a health check, but with him it was just before a holiday weekend, and they didn't have anyone to do it, so they put him in solitary confinement for four days, until they could search him. I saw him on the third day, and they had him in shackles. He was going through a mental breakdown."

"You don't think that kind of thing happens to sporting stars," I say.

"Nobody does. Some of my clients say to me: 'It's only Mexicans who get deported.' But it doesn't matter who you are, you can find yourself in trouble."

"What happened to the soccer player?" I ask.

"He was one of the lucky ones," she says. "We got him out after a week on an immigration bond, and he ended up staying in the US and marrying his girlfriend. Well, a different girlfriend."

Vincenty explains one of the big issues facing those who want to work or travel overseas is past indiscretions – though the type of indiscretion to worry about varies.

"People think it's all regulated the same, but every country is different," she says. "For example, a lot of artists and productions are going

it doesn't matter if the skeletons in your closet are old

to Canada now. In Canada, DUIs are a big deal," she explains. "You can't just go to Canada if you have a DUI, you have to get an exception, and show rehabilitation. But they don't care so much about them in the US, unless you've got a lot of them or they're recent. In Canada, lots of drugs are illegal, but when you arrive there they don't care if you've done it two days ago. In the US, if you ever admit to having used an illegal drug, you'll be denied entry."

"That's good to know," I say. "But what if it was legal to have smoked it though, like if you were on holiday to Amsterdam?"

"It doesn't matter. There are states in the US now that have legal marijuana, but it's still illegal for immigration purposes. I have a client who admitted smoking it in Colorado, and he was denied entry. Talk about crazy, right? I don't know how they're going to sort it all out."

According to Vincenty, it doesn't matter if the skeletons in your closet are old; so old you've almost forgotten them yourself.

"I have another client in his late 60s, who had a drugs conviction – cultivation – when he was 19. He was so sweet. He hadn't told his wife about the conviction – it had been so long ago, and it had only been two pot-plants he kept for personal use."

"Poor guy," I say.

"I know, right? But he was lucky, he took the customs official aside, explained it, and the guy took it easy on him, told him next time he needed a visa – he couldn't keep using a visa waiver."

"Is the US system able to interface with other country's records?" I ask. "And see you were arrested for owning a potplant in 1982?"

"That's coming," she says. "And if they find out you didn't declare something later on, you get in more trouble. Just because a visa waiver is accepted, doesn't mean when you land they won't have that information."

I tell her that the visa waiver form is complicated, for a non-American.

"What's a Crime of Moral turpitude?" I ask. "That's not a term which is known to Australian Law."

"It's not really used by US attorneys anymore, either," she says. She walks over to a nearby bookshelf, removes a heavy legal textbook, and hands it to me. "That whole book is on the meaning of that one term," she says.

It drives home the point that if you think you understand US Immigration Law, that's almost certainly a sign that you don't. And that if you have any kind of doubt about your own status, it can pay to get the right advice.

"I don't judge anyone," she says. "I've heard everything under the sun, so nothing's going to shock me."

Melissa Vincenty has seen a lot of life, you believe she'd be difficult to shock. Born the fifth of six children in Cleveland, she'd caused a local stir by going on exchange to Dusseldorf at age seventeen, leaving behind her family and a serious boyfriend.

"Ever since I was six or seven, I knew I wanted to live overseas," she says. "I was probably the most competitive of my siblings. If you tell me I can't do something, I'll try and do it three times as hard."

After Dusseldorf, she backpacked through Europe, enjoying a newfound independence and taking more than a few chances.

"It would've terrified my mother to have known what I was getting up to, she had no idea where I was for six weeks, then I'd send her a postcard, saying 'I'm in Morocco now!'" That experience of just being in the world on your own, surviving. I would say to my friend, "Where will we sleep tonight? A park bench! A few years later, I told my mum what I'd been doing, and she said wow, I'm glad you survived."

She sees benefits now in her early risk-taking.

"As most exchange students will tell you," she says. "It changes your life. 'If I hadn't had that experience, it would have taken more years to figure things out. After that, I felt I could do anything, go to any city, and I would be fine.'"

When Melissa came home from Europe, she moved out of her family home immediately. After Germany, it didn't seem like a big deal. She says she feels sorry for young people today; higher living costs make it harder to achieve independence.

"What 18 year old kid has their own apartment now?" she asks. "It's as if you're forced to be a child a lot longer than you're meant to be."

She also laments the effect of the internet age. It's made travel easier but taken away some of the challenge. The risk-taking. It's an interesting idea – that despite a shrinking globe and greater interconnectivity, we might have lost something too. This is not just another old person complaining that the world has become more dangerous. Vincenty is worried it's becoming too safe.

Back then, she says, not many young Americans travelled overseas, especially from a provincial centre like Cleveland, one of those maligned working class towns like Flint, Michigan, which Michael Moore binged on about in *Roger and Me*. Which Michael Moore binged on about in pretty much every film he ever made, even when it wasn't relevant.

"Are you a Cleveland Browns fan?" I ask. "That football team is famous for losing heroically, right? For always finding a way to clutch defeat from the jaws of victory?"

"Yeah, they're like the South Sydney Rabbitohs," she says (a reference to a Sydney Rugby team, which just won the local championship, having being heroically terrible for decades). "I'm a big Browns fan. We just beat Pittsburgh – another industrial town – there's a big rivalry."

Melissa's father and brothers were all engineers in Cleveland, she'd been expected to go down this path too. Her father had designed a large mining truck – one of those colossal things with tyres the size of your house. She points out a wooden model of the truck on a book shelf, which her father built as a toy for her son. The guy has skills.

But having acquired a taste for the world outside sleepy Ohio, Vincenty enrolled in an international studies course at World College West, California, what she herself calls a hippie college. It was an experimental institution with little more than a hundred students. She thinks being part of such a small group forged strong bonds; between young people who shared a common, unconventional outlook on life. It was where she met her husband, Jamie.

"There's an amazing community of people who went there," she says. "It's amazing to see the people who've gone there and what they've achieved."

The school is now defunct.

"There'll never be another place like that," she rues. "Courses are becoming more vocational. Instead of educating the mind, it's preparing you to do a job."

She feels the proliferation of choices which young people have now doesn't always mean a better quality education. For her, the most important thing is taking risks, and learning about the world through hands-on experience. In her final year, the hippie school required students to spend time in a developing country. Melissa went to China.

She was posted to a rural village, outside of Shanghai. This was the late 1980s, only a few years since Deng Xiao Ping implemented market reforms and opened China up a little to the outside world, though it would soon be apparent there were limits on how much opening up the country was prepared to tolerate. Towards the end of the course, she noticed officials in

Look more like the record executive than the artist

her village acting unusually, the town snitch (as she called him), began following her and other students. She'd heard there were rumblings of discontent in local universities, which had been building for months. Then the local poetry professor, who'd been travelling from a nearby town to teach them, stopped visiting abruptly. They were told only that he'd taken a leave of absence. It was only later, when she left China, and learned what had been happening on the ground in Beijing, that it all made sense. Later, when she looked back though the poems he'd shared with them, she realised they were interwoven with subtle, yet powerful dissent. When forbidden from participating in open debate, political expression must take on more creative forms.

What was happening in Beijing, of course, was the Tienanmen Square massacre, in which the central government clamped down heavily on pro-democracy protests, and an unknown number were killed. The world was shocked by images of a lone student facing off a battle tank, but in their rural village, Melissa and her classmates knew nothing at all.

They were told their course was finishing early. The class left China via Hong Kong, where they were greeted almost as celebrities, everyone wanted to talk to them about Tienanmen Square, when they were among a small minority on the planet with no idea it'd even happened.

"I still sometimes wonder what happened to our professor," Vincenty says. "I hope he was OK."

Sydney's Lane Cove seems a long way from rural China, or Tibet and Northern India where – after law school in Hawaii – she worked as an advocate for the Tibetan people, bringing attention to the torture of Buddhist nuns and oppressive Chinese prisons (she remains an adviser to Amnesty International). Melissa and

her family are now settling in to life in Australia. They are here to stay, and she says she's planning on sitting the citizenship test soon.

"Is that that test where you need to know quaint stuff like the names of famous dead cricketers?" I ask.

"Yeah, and which of your Prime Ministers was a world beer-chugging champion," she says (the answer is Robert Lee Hawke).

Here in her home office, she is supported by the resources of her mid-sized law firm, so she doesn't have to worry as much anymore about administration, things like accounting and marketing. She can focus more on her clients.

It had been a different story a few years back in Hawaii, where she ran her own practice for a decade, and much of her time was spent in courts and detention facilities. It had been high profile work, representing victims of labour trafficking rings. At one point though, she felt like her work-life balance was increasingly askew, especially following the birth of her son.

"My career was going well in Hawaii, I had no real reason to leave, but I was burned out. I'd had a client die. I was working seven days a week for my clients, being everything for my work, and not enough for my family. If I could separate my emotions, say: 'that's work' and 'that's family' I would, but I can't – and I think I'm a better attorney for that. My husband was fine as me doing that, but he said this is too much for you, you need to let someone else do it. You can't be everyone's saviour."

She says there was a moment when she realised she was getting too close to her work.

"I loaned 1000 dollars to a client to help him put up an immigration bond. He lost the money, I think he was probably lying to everybody. He never paid me back. I know where he is, I could go after it, but I'm over it."

Like so many other episodes in her life, she has chalked this up to experience, a hard

learned lesson that she will always care about her clients, but there have to be boundaries. And to keep her work/family balance in mind.

Vincenty's and her husband, a computer specialist, viewed Australia as a good place raise their young son, and give him another perspective on the world, away from their homeland.

"It's a great experience for him. He watches the American news, and the local news, and he notices they're not the same. I want him growing up knowing people view Americans differently elsewhere, and there is more than one way of seeing things."

The kid is quickly acclimatising to his new country.

"He's really eased into it," she says. "He calls everyone mate now. He calls me mate. I tell him: 'I'm not mate, I'm your mother.'"

Immigration law is one of the few areas of life in which Vincenty believes it doesn't pay to take chances. Being prepared counts, even something as knowing how to deal with the low-level fascist you might encounter when you step off a plane – usually at LAX.

"Dress professionally." She advises. "Look more like the record executive than the artist."

I ask her what you should do if you do fall foul of officious officials, if they are trying to kick you out and make you sign something.

"Well it maybe in your interest to get turned away. It's a non-attempt at entry. The results for subsequent visa applications can be quite different. It's not the same as being deported, which might mean you are barred for re-entering for a time, even permanently."

"Like when you overstay your visa?"

"Well the important thing with visa overstayers is whether or not you've overstayed six months. Any more than that, and you're going to have trouble coming back. But even one day over is overstaying, and they are going to kick you out. I say to my clients, if you're going to

stay the full amount of time on your visa, leave a few days early. If you end up staying an extra day because your flight got cancelled, that's too bad. Once you've overstayed – even by one day – you can't use a visa waiver again. There's no forgiveness. If you calculate the dates wrong, it's tough luck."

"So if you realise you've overstayed," I say. "It's best to report it quickly – it's not one of those problems you can just bury your head in the sand about, and hope it goes away?"

She agrees, but with a tone which suggests my question was a silly one.

"And trust your lawyer with embarrassing secrets," I say.

"Your lawyer is the one person you should not be uncomfortable with," she says. "You know, I have people who overindulge – who tell me everything. Maybe because I'm the only person they feel comfortable telling. They just want to get it off their chest. Usually it's not horrific, they're just embarrassed, and it happened in their past."

Melissa is part legal adviser, part make-shift therapist. I can see why she's been so successful. She is both friendly and non-judgemental, the kind of person you can tell you once owned a marijuana tree in college, or worse. But she's also tough and competent, the kind of person you want on your side when you are in solitary confinement in Federal prison, awaiting a strip-search. It can pay to have the number of a good immigration lawyer on your cell-phone. Most of the time you won't need Melissa Vincenty's help, but if you do, you really, really will.