

CRIMINALIZING POVERTY

First, the facts:

The arrested: Darek D. Windsor. Age 27. Not prior felonies.

The charge: 21 O.S. 1991 Section 652; Assault and battery with a deadly weapon due wit, a pocket knife.

The maximum sentence: 20 Years imprisonment.

The imposed sentence: 50 Years with 40 to serve in D.O.C. custody with 85% of the sentence to be served day for day.

My story is not a new one. Uneven treatment of fellow humans has been an undeniable fact since the dawn of self-awareness. Though the bulk of us imprisoned are guilty of at least some crime, parallels can still be drawn to the sad case of the whipping boy. A few hundred years ago and an ocean away, a child would be selected from the Royal Crown's stock of peasants to be beaten mercilessly in the stead of one of the Royal children who had done wrong or displeased their charge. The poor took the licks and did the time in place of the well-to-do in that society. It is a prime example of the insane barbarism of the old world that made no logical sense. The royal prince learned nothing and the whipping boy was robbed of his freedom.

Fast forward to present day America and we find an updated version of the same infringement on basic human rights. Some fortunate ones with the same charge and circumstance as an unfortunate soul may get a 6 month deferred sentence where the accused without the monetary backing may get a sentence beyond even what the law allows. How can that be? The lawyers know the written law and maximum penalties, the D.A. knows the written law and maximum penalties, and certainly the Judge knows the written laws and maximum penalties. How can they knowingly assess penalties that ignore the written law they are sworn to uphold?

This is not a baseless allegation. I have first-hand knowledge and proof of this. My judgment and sentence is out there for all to see on the Oklahoma D.O.C. website at Darek D. Windsor vs. The State of Oklahoma Case number CF-2008-306, or Federal Case number 12-CV-105-JHP-TLW.

I fought my case with a string of indigent lawyers and a pair of paid attorneys that fought hard for their paycheck, but not their client. Through every level of the State Court, then the Federal Court, I was met with only appeal denials. I actually wasn't afraid of the imposed 50-year sentence at first. I figured that in the great and fair United States of America surely one of the Judges, especially the Federal Judges would hear my case and see that I was incorrectly sentenced and had received 2 ½ times the legal limit for my crime. I should have been very afraid. I appealed to every court until I had completely exhausted my remedies. No Judge would hear my case. I have been stuck with the illegal sentence with only commutations left to grant relief. The governor alone can fix this error.

Before you start feeling sorry for me, let me assure you, I am 100% guilty of the crime. I fully accept that I should be punished accordingly. In my mind, contrary to popular belief, alcoholism is not a disease. It is a choice. A choice I began to make in High School and by my arrest at age 27, I had developed borderline cirrhosis. I drank at least a half-gallon of 80-proof vodka each day just to feel normal. If I went more than a few hours without any alcohol I experienced grand mal seizures which landed me in the hospital on many occasions. Two of such episodes culminated in the mental ward due

to the wild hallucinations I was experiencing during extreme delirium tremens. I had bitten chunks out of my tongue during epileptic episodes, and yet I still went back to the bottle.

I had been arrested on several occasions for misdemeanor infractions, every one of which I committed while intoxicated. Shoplifting was a repeated charge by a man who holds thieves' among the lowest form of human. Self-hatred always plays a role in addiction. I was not a violent person, just a pathetic, distant alcoholic. The worst infraction I had made in my life up to that point was being a fair-weather father to my daughter, Susan Elizabeth, who had just turned 9 years old a month before my arrest. I had repeatedly chose the bottle over her. I didn't want to be around my child while I was drinking, but I was always drinking. The memories I hold of my life between ages 17 and 27 are a jumbled phantasmagoria of snippets that may or may not be products of my own imagination in no particular chronological order. Which brings us to the day I crossed the threshold into the world of violence with a single act that I do not fully understand or remember, but I have read and reread the case file shaking my head in disbelief that I would do such a thing to another person. But facts are facts.

I was working at Dewey Smith Horse Ranch North of Bartlesville, Oklahoma. I had a fold-out style pocket knife for cutting weed eater string as grounds maintenance was my job. It was July 21st and the sun was already scorching the landscape at 10 a.m. as I was finishing off the first liter of vodka that I had deceptively poured into an Aqua fina water bottles. Each day I would bring two of the liter bottles to work, not to get drunk, but to keep the shakes and seizures at bay. Shortly thereafter, something in my head must have finally snapped. There was a young man that tended to the horses. I don't recall having a problem with him that may have set me off, but again, facts are facts. At some point we had gotten into a tussle. During which I had taken out my pocket knife and cut his neck and shoulder. The police came. I was apprehended. My victim went to the hospital for stitches and an overnight stay. The cut may have been shallow, but the scar will be deep, and for the rest of his life. My remorse will never be enough apology to him for what I did.

That was the last day I will ever drink. Looking back on my life, all of my great downfalls can be linked directly to my alcohol abuse. And again, I will not play the victim, it was my choice, and I chose wrong time and time again. I deserve my just punishment.

As I was sitting in the dank basement of Washington County Courthouse in Bartlesville, my mind was still steeped in irrational thoughts. Over the years of alcoholism my brain had been pickled. It took at least a year of sobriety before I started to accept my new unclouded reality, and began to think like a rational person. The Washington County Jail was left to go to ruin in order to get state funding for a new facility. The jail itself denied several basic rights to the inmates such as an hour outside the cell each day and access to a law library. Overpopulation left inmates sleeping on the floors. And rains would flood the underground jail. Black mold climbed the walls, toilets frequently overflowed dumping raw sewage into the 8-man cells with 10 to 12 occupants under 24 X 7 lockdown. I was in the County Jail for 9 months. No television. No newspapers. No magazines. No radio. No windows. No fresh air, only the spore laden recycled air dumped from the unkempt vents which started a perpetual allergy problem that continues to this day. The recreation was confined to a small book cart that came around every few days, and of course, the unavoidable fist fighting.

A lawyer of merit volunteered to take on my case shortly after my arrest claiming that if I hire him, I would never see the inside of a prison cell. As with all humans, there was a price tag, his read \$50,000. I am a small town guy from a small family with a small budget. So as I couldn't afford a proper

defense I was assigned one of the jesters of the litigation community, a court appointed attorney named Mark Kane. I was completely ignorant of the law and put full faith and confidence in the notion that the public defender had my best interest in mind. I was daft to believe he worked for me and not the state. Some lessons must be learned the hard way. Mr. Kane assured me that if I was to take my case to trial I would get a sentence of life without the possibility of parole. But if I were to sign a blind plea, the Judge would give me a 20 year sentence, Which , being my first felony, would be assessed as a split sentence, 10 years in prison, 10 years on paper. Here is where I sealed my fate. I sighed on the dotted line. The maximum penalty was 20 years. The victim's family wanted 40. The Judge gave 50! I was told I could withdraw my plea within 10 days of sentencing. Which I tried. And I learned the first thing of many about legal procedure, just because you ask for something, it is up to the court to grant or deny the request. I didn't realize that after I had sighed the blank page it was up to the courts if my folder was ever to be opened up again to be evaluated by any Judge. Neither State nor Federal Judges would hear my appeals regardless of the validity of my claim.

A few months after I "pulled chains" to OSR at Granite, Washington County finally did get the old jail beneath the Court House condemned and received the funding to build a new facility. As a final wink to the mistreatment received while in county lockup, the billing department had the moxie to charge the prisoners \$1,140 per month rent to be confined in such a squalid place while they let it degrade to be condemned. If I do ever get out, I still owe Washington County over \$10,000 for their courtesies extended.

Another fact that is worth examining is the sad truth that helps me except my fate, if I were not arrested I would be dead. At best I was 6 months away from drinking myself to death. Prison did save my life. And in that regard, I did get a second chance. There was a man who died that day at the horse ranch, it was me. But that metaphorical death was far more painful than any actual death I can imagine. Life is always more painful than death, especially a life riddled with guilt, and a life to be lived apart from everything beloved. But I am still very glad it happened. I hated the person I was but instead of putting forth the effort to change, I found comfort and escape in drugs. Never again will that be the story. My life has been saved and I have spent the last 8 years striving to be a better person. During my first 4 years incarcerated behind the walls of Oklahoma State Reformatory at Granite, I went through what is known as "Gladiator School". Fights and stabbings were common and were rarely one on one. I learned about Prison Politics and Prison Justice which can be closely paralleled by the unwritten laws that govern elementary school playgrounds across America.

I spent my last 2 years at OSR enrolled in the Faith and Character program which is where I really started to look at myself and the world around me differently. There are 47 different character traits that I worked on to improve the quality of my personality. Security was the most impactful trait to me. Simply stated, if you don't do the wrong thing in the first place than you have nothing to hide and therefore can live with the security in your life that no one is chasing you. No lies to cover. No assault or thievery for which to feel remorse. It's a simple principal that had somehow gotten lost.

In 2012 instead of the world ending, I was relocated to Cimarron Correctional Facility (CCF) in Cushing, Oklahoma. I have been on this yard a little over 4 years now and have had zero security infractions. I continue to take vo. tech classes I've completed three of them so far and am currently the tutor for the horticulture program. I have also discovered that without the alcohol to cloud my mind and control my life I am an artfully skilled person. I have taught myself to draw graphite portraits that look

like photographs. Then learned to paint. Then I got into woodcrafts. I only have access to Popsicle sticks, but I built a functional guitar, then through inner-library loan books on music theory, learned how to read and play music. I have since built 7 more guitars and am currently building a violin. I spend my leisure time studying physics and botany. I have realized how much time I have wasted and am trying to make good of the time I have left.

This brings us to the best day of my life. I would be remiss in leaving out this detail. The little girl I had not seen since her 9th birthday came to visit on June 12th, 2 days after her 17th birthday. I had written one sided letters for the last 8 years. In my mind for my past transgressions and absenteeism as a parent I deserve her silence if not her hatred. My daughter is a better person than I will ever be. She did forgive me. So that left an open spot on the top of my bucket list. I entered visitation and saw her as the young lady she had become. She was short and beautiful, both gifts from her mother. She was confident and intelligent, courtesy of her dear old dad's gene pool. But in her dark eyes existed a wisdom beyond her years that neither of her parents ever held. In her swollen belly grew my grandson, Jarrod. In October I will be a 35 year old grandfather. There is so much I have to teach the little guy. How to tie a fishing hook, how to respect the world around him, science, math, art, and how to appreciate the little things in life that so many take for granted. If I were properly sentenced, even given the maximum of 20 years, which I think I deserve, I would still have enough life left to pass on all I have learned and make right what I had let go so wrong. But as we live slaves to a system that has developed loopholes that allow lawmakers to ignore written law and criminalize poverty, we without monetary backing will continue to have the sentences for our missteps embellished with the time not handed out to those who can buy favor.

To any one past or presently incarcerated, my story is all too common. Stories like this rarely reach the media to inform the general public of the atrocities that exist within the penal system. The blind eye of Justice has been turned to its own actions. It is clearly not right and something must be changed. Anyone with the gumption and capabilities to lead us to reform, please feel free to use my case as an example.

If the validity of anything I have written is in question I urge the reader to check the facts of my case. I know what kind of shameful person I was and what kind of person I am now. I am greatly ashamed of my past, but I will put it on blast for the whole world to read if it keeps the next first timer with no bank account from receiving excess time and having an illegal sentence imposed with all court remedies met with blind denials.

My case number is: 12-CV-105-JHP-TLW.

Thank you for your time.

Respectfully.

Darek D. Windsor

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