

Introduction

I HAVE WRITTEN THIS BOOK to sound an alarm. Each day you pick up a newspaper, or turn on your TV, only to hear of some prisoner being released on new DNA evidence proving his or her innocence. Some of these prisoners have been in prison for decades. Their regular appeals have all long been decided against them, and their wrongful convictions upheld in court after court. Why were these cases of injustice not discovered or exposed as wrongful convictions during the regular appeal process? Why have these cases sat for years on some judge's desk, even after the new evidence proving innocence was submitted to the courts, before the prisoner received a decision restoring to them the liberty which had been stolen by our society? The answers to these questions, and what can be done to correct the problems contained in the answers, are in this book. You may not like the messenger, but if you ignore the message because of that, you will do a disservice to yourself and to America as an ideal.

Seven years ago I began writing articles critical of the manner in which the courts decide appeals of criminal defendants. Not all of the articles I have written are contained in this book. When I started this project I was painfully aware that the average citizen has little knowledge of our court system. Most know only what they see on TV or read in the newspaper, and that information is so misleading and incomplete as to almost constitute propaganda. I was also aware that the failings I had observed in the court system resulted from a gradual deterioration in the quality of justice due to an ever increasing caseload upon which judges were being unfairly required to decide.

The following articles address many separate areas of the court system and the law, as it has evolved since the year 1789, when the court system was first designed. My articles further identify a basic flaw in the design of our court system that was a product of a misunderstanding by our forefathers of the differences between the system of government then present in Great Britain, and the federal republic they designed. There is a degree of redundancy in my articles. This is because the same structural weakness may have more than one cause, or affect more than one area of law, influencing the overall fairness of our court system. If I had attempted to discuss in one article, each and every problem which either caused, or resulted from, the central problems, two problems would have arisen. First, the article would have been so complex as to be unmanageable. Second, much of the background knowledge needed to understand the more complex interactions would have detracted from the main points. I would have been constantly digressing to explain legal terms or practices, and the article would have resembled a jigsaw puzzle that only a legally trained mind would have been able to grasp in one sitting.

Instead, I decided to write a series of articles that build one upon the other, progressively introducing a larger concept in digestible pieces, then pulling all the pieces together at the end. Combined, my articles constitute a treatise on our judicial system. Legal terms, which are defined in earlier articles for one subject, are used in later articles addressing collateral issues that contribute to the larger problem defined in the closing articles.

There is a method to my madness. I have written these articles, from the first ones written around 2001, with the intention that they would all come together to create this book. I have written them in such a manner that the combined articles would educate the reader to be able to comprehend the larger problems exposed in later articles. The crippling problems are created by a lot of smaller problems interacting.

This book is about something larger than any individual. It is about meaningful access to the courts in our nation – a birthright of the American people – being denied to those most affected by that denial. It is about the growth and evolution of our laws being restricted by inadequate human and physical resources and facilities. Although I have described my personal plight at the beginning and end of early chapters, or used it as an

Introduction

example in some instances, the heart of this book – from around Chapter 3 to the end – addresses a much larger injustice and deception than anything that could happen to me personally. As I stated in one of my articles, it is not what was done to *me* that motivates me, it is what was *done* to me with which I take issue.

I want to thank Professor Brian Firth of Bronxville, New York and Hans Sherrer of Seattle, Washington, for all their hard work in doing the editing which it was impossible for me to do on this – as Professor Firth calls it – steam powered typewriter. I also wish to thank David St. John of Elderberry Press for introducing me to Professor Firth after reviewing a few of the following articles. While our initial agreement was that I would pay Professor Firth \$15.00 an hour for his editing services, once he started reading what I had written, he told me not to worry about paying him, and went ahead full speed completing the manuscript, trusting me, a prisoner he had never met, to pay him when I had the money. That type of trust from a member of the public is a rare commodity for a prisoner to receive. It restored my belief in what I have done and what I have to say to the American people as something that is worth all the time and effort that has gone into writing this book.

Having rattled on long enough, it is time to allow you to turn the page.

The following treatise contains my heart and soul, but more importantly it contains knowledge that affects every American and the future of our nation. For without fairness and intellectual honesty from our courts, the Constitution of the United States, and this nation, will not be more than a footnote of history in the epic saga of the human species.

We begin.