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The Sentence

A judge is punished for his sentence.

Albany District Court judge Jonathan Tears took his job as seriously as any of those who elected him to that office could hope for. He insisted at dinner parties when asked about his job, that it was not a job at all, but a calling not unlike that of a clergyman or a doctor, one in which he every day displayed his devotion to public service, to serving his fellow man. Justice was what he cared about most of all, justice and in the long run fairness. He was daily faced with choices he had to make, deliberating on the punishment of miscreants who were brought before him. Of course, only the guilty could be punished, and that was what the court that he administered as the sole arbitrator of its functioning, certainly ensured. His juries were carefully selected; the prosecutors and defense attorneys abided by the established procedures of his court and that of the county and State of New York; his clerk of courts observed the proper procedures.

Judge Tears made all his administrative decisions concerning pleas of guilty, plea bargaining and so on, as transparent as possible. As the final arbiter of justice he must be well informed of any attempts to short circuit the system, especially the making of bargains, which was always happening, always a little questionable, but without which the work of the court, overburdened by cases, could not be achieved.

Furthermore, he took every case heard before him seriously, whether it was a minor offense or a serious one. And once a verdict of guilt was delivered by the court, it was his prime responsibility to deliver a sentence that served justice, especially with regard to the suffering caused any victims of the crime. He made it a point of having victims contribute to the sentencing, and if at all possible, rendered a sentence that took into account the suffering of the victim.

So it was on the first day of November, just a few weeks

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before Thanksgiving, he heard a case that appalled him, almost brought tears to his eyes at particular points, when the victim and the victim's mother displayed their anguish. They had suffered, though the father was noticeably absent from the sentencing hearing. And upon inquiring why the father was not in court for the sentencing hearing, his clerk of courts reported that the father was out of the country but had sent an email to him demanding the severest punishment that matched the horrible details of the crime be administered without mitigation. The offender had to get what was coming to him, that was what the father had said.

Justice Tears noted this input and took it seriously. The trouble was that, if he took it really seriously, it was not at all clear whether he could in fact deliver a just sentence, or to put it more precisely, whether in pronouncing a sentence it would guarantee that the punishment would match the crime.

The evidence of guilt in this case was clear and insurmountable. One Mike Malone fifteen years old had been molested by the local priest on a number of occasions after choir practice. The actions would not have come to light except that Mike's mother caught him masturbating one morning in his bedroom when she went in to clean his room. She scorned him and in his defense he pleaded that he couldn't help it because Father O'Brien had shown him how to do it and so he was practicing. Of course, his mother was appalled, and immediately, perhaps mistakenly she wondered in retrospect, she called the police. She took it upon herself to make that call since her husband, who would have been even more upset, was out of the country on business, and could not be contacted. She had no doubt at all that her husband would have given the boy a good thrashing, then dragged him around to confront Father O'Brien and given him a good thrashing too.

"Albany emergency dispatch," came a monotone voice. "Please state your location and address."

Mrs. Malone almost hung up the phone. She was overcome by embarrassment.

"It's Mrs. Malone at 53 Smith Street. My son Mikey has been molested by Father O'Brien and I don't know what to do."

The well trained emergency dispatch officer responded in

her practiced monotone voice. "Is anyone there injured? Who else is in the house?"

"It's just me and my son. I don't think he has been injured," answered Mrs. Malone, on the verge of hysteria.

"Is he able to breathe?"

"Yes, he's fine. I only just found out that it happened."

"Stay calm Mrs. Malone. An emergency unit is on its way."

The juvenile police unit showed up, a specially trained female officer taking charge and interviewing the boy with his mother's permission. Mike, for his part, was a little puzzled, though of course upset that there were police in his house and they even came into his bedroom. His puzzlement was caused by the fact that he actually enjoyed the sexual encounters with Father O'Brien, and had not thought it all that awful. In fact, it made choir practice much more enjoyable. So, when asked for details of his encounters he was very reticent, and essentially clammed up, as is pretty common with teenagers anyway. But in the end, after considerable cajoling by the officer and his mother, he provided a few details, but asked that his mother leave the room while he described them, as it was very embarrassing talking about the details of sex in front of his mom. The worst thing they tried to make him do was reveal the names of any other boys he thought may have been victimized.

By the time all of this made its way into court, the details had been reported in the local newspapers, and this was the worst thing as far as Mike was concerned. He was embarrassed and teased at school by other boys, especially bigger boys. Of course, the papers did not print the names of victims, but that did not stop everyone finding out who they might be.

In any case, we need not go into the details of these shenanigans, except to say that Father O'Brien appeared in court, was found guilty of several charges of indecent assault on under age children. He foolishly in his defense, against the advice of his counsel, the public defender, claimed that the boys liked it and that it was all done with their consent.

Judge Tears was a judge to be reckoned with, so when the public defender Jack Flynn, found that Judge Tears would be

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presiding over the case, he was none too happy and dutifully conveyed this to his client, Father O'Brien. The public defender, a good catholic himself, had visited Father O'Brien on a number of occasions in preparation for this trial, had even asked the disgraced priest to hear his confession, though Father O'Brien had resisted his request for some time, given the circumstances. Besides, Father O'Brien's superiors had warned him not to do so, and in fact had announced that, should he be found guilty, he would be drummed out of the priesthood. Not that they had the right to do so. Only God and Jesus could do that. And as far as he was concerned, he had done nothing wrong except give his young charges a little pleasure. Brightened up their lives, even.

Public defender Flynn looked over the small crowd in the courtroom. There were a few parents of other boys who had eventually come forward and owned up to being the Father's victims. But it was pretty clear who was the ultimate victim, Mike, who sat his head bowed, too distraught to look up, too embarrassed to look at Father O'Brien, frightened that their eyes might meet, and then he would remember the occasions of his encounters with the terrible Father O'Brien. Having had to describe in detail in front of the jury and the courtroom what they did together was something he would never forget. It was now a nightmare.

Judge Tears entered the courtroom. "All rise!" cried the clerk. All rose then seated once Judge Tears had himself seated and rustled a few papers back and forth, then looked out at his courtroom.

"The defendant will rise," said the judge, looking over his spectacles.

Defender Flynn nudged his client. Father O'Brien rose, his face expressionless, no doubt his entire body was numb, his mind thoroughly overcome with remorse. Or at least, that was what his defender had drummed into him. Remorse! Feel remorse! Say that you are sorry and say it showing that you really mean it! He stood, head bowed, stroking his greying beard. Judge Tears spoke.

"You have been found guilty of despicable deeds, you have heartlessly taken advantage of your innocent charges, broken

every rule of decency, and disgraced the great church that you represent. It is a shame that there is no punishment in the law of this state that is equal to the crimes you have committed. You deserve to have done to you what you have done to your young innocent charges. The court can only hope that the punishment that it imposes upon you will come some way to making up for the damage you have done to these young lives.”

Father O’Brien stood still, looking down, his balding head seemingly pointed at the judge, a manner not approved of by his defender, who nudged him, trying to get him to look up.

“Mr. O’Brien!” demanded Judge Tears, clearly upset. “Look up when I address you! Acknowledge what you have done!”

Father O’Brien, humiliated, managed to raise his head just a little, and mumbled, “I’m sorry, your honor.”

Judge Tears ignored the inaudible remarks. “I hereby sentence you to five years of incarceration in the care of the Correctional Services of the state of New York, and may you receive at the hands of your fellow inmates what you did to your young charges. You raped them, so shall be done to you.”

Judge Tears departed, without the slightest look at the criminal O’Brien, nor at the rest of the court. He had delivered his sentence, may God have mercy on his soul.

The officer of the court applied the necessary handcuffs and other procedures of security and marched the criminal from the court, whereupon he would be transported to the place of incarceration where Judge Tears’ punishment would be faithfully administered, no doubt. Sex offenders, as everybody knows, are the prime targets of assault in prisons everywhere.

It may be safely assumed that Father O’Brien was dealt with according to the insinuations made in Judge Tears’ sentence. Mere incarceration was not enough for this crime. The punishment did not match the crime, as one would say, reflecting Judge Tears’ frustration that the law did not allow him to sentence Father O’Brien to be raped, just as he had raped his innocent charges. If he were raped in prison, was this not a proper matching of the punishment to the severity of his crime? This was undoubtedly on Judge Tears’ mind when he made his remarks,

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later to be regretted. Of course, in a civilized society, we do not punish criminals who might even deserve such punishment, in this way at all. They receive a civilized punishment that is prison.

One might leave it there except that the media who were present at the sentencing hearing took careful note of Judge Tears' remarks and dutifully reported on the sentence in full. They immediately saw the great gift of a news headline that Judge Tears had given them: JUDGE SENTENCES RAPIST TO BE RAPED.

The New York Commission on Judicial Conduct reprimanded Judge Tears for this outrageous sentence and ordered him to step down from the bench. Of course, the punishment that Judge Tears had imagined was eventually and frequently carried out, without any judicial intervention. Such punishments were under the purview of the New York State Department of Corrections, which remained "unaware" of such punishments.

Let's not forget the victim. Mike continued to masturbate without any outside assistance, as did all his co-victims. He carried the guilt for the rest of his life, and was reminded of this every time he looked at his mother. He blamed her for going to the police, which further added to his guilt. As for his father. He continued to be preoccupied with his work and never mentioned the incident. It was as though it had never happened.

Moral: The punitive effects of a sentence are immeasurable.

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