

H A R L A N R I C H A R D S

September 6, 2011

CAUTION: THIS ENTRY CONTAINS DESCRIPTIONS OF GRAPHIC VIOLENCE

I am somewhat amused by the apparent contradiction between the rhetoric and reality I see in American society. I am also frustrated, disappointed, angry, despondent and incredulous, but most of all I am resigned to it.

When the North Koreans or Iranians imprison an American, we just know it is the result of a corrupt system. Our pundits and leaders pull out all the stops to see justice done. We, as Americans, expect our citizens convicted of crimes in other countries to receive clemency and early release. Yet when it comes to our own judicial system, once one of us is sentenced to prison, we are expected to stay there until our sentence is served no matter how long that sentence is or how unjust the conviction.

The terrorist that killed over 90 people in Norway recently is facing 21 years in prison. I have served 27 years for stabbing a man in self-defense with no end in sight. Let me tell you about it.

I generally choose not to rehash what happened in 1984. I do not want to reopen old wounds or bring fresh pain to the family members of the man I killed. I am also embarrassed by how gullible I was. I pride myself on my intelligence but intelligence is not good judgment and I made several bad decisions after I was in a fight that I'm still paying for 27 years later.

My first mistake was listening to my attorney. I trusted him and when he told me that lying about what happened was the surest way to get acquitted, I believed him. Right, wrong, I didn't care. Just beat the case so I can go on with my life. I was ethically challenged, to say the least. I wanted to prove I was acting in self-defense and get acquitted justly but my attorney told me that the prosecutor would be able to bring in my prior criminal record and the jury would convict me because of that. So I went along with his plan.

There was a lot of blood at the apartment and my attorney wanted me to testify that I stabbed the man who attacked me, then fled from him and witnessed my cousin inflict the fatal wounds. This required not giving a statement to the police and persuading my cousin not to show up at the trial. The physical evidence my attorney planned to use to support the contrived story was a pool of blood outside the apartment, the origin of which was unexplained.

Well, we had the trial, my attorney doing an uninspired job of challenging the prosecutor's case because, as he said, their story is so different from ours it doesn't matter. The defense hinged on the origin of the pool of blood not being revealed in the prosecution's main case. But the last, or next to the last, state witness explained that the paramedics spilled the blood which then made the contrived defense unworkable. I asked my attorney to seek a mistrial or stay so we could find my cousin who disappeared and he refused because then he would have to tell the judge what he had planned.

So self-defense was presented without my cousin there to testify on my behalf (and without my criminal record coming to the jury's attention). It was easy for the prosecutor. All she had to say was "If Richards is telling the truth, why isn't his cousin here to testify for him?"

But even that wasn't enough. The judge, afraid I'd get acquitted anyway, structured the jury instructions to make sure the jury never considered my self-defense claim.

The fight started when I was sucker-punched and knocked backward down the hallway as I offered to shake hands. No one witnessed the start of the fight, or the fight which occurred in a dark hallway.

The brother of the guy I stabbed had recently been released on parole for attempted murder. He brought his brother to that woman's apartment that night to do his fighting for him. He had a jealous rivalry with my cousin over the woman but was afraid of getting revoked if he beat up my cousin. His brother was there to do his dirty work. He apparently told his brother that I was my cousin's enforcer which is why I was attacked first (I'm 5'8" tall, weigh 150 pounds and have a crippled leg).

Dumb Harlan. I had no idea any of this was going on. I thought we were visiting my cousin's friend and a couple more of her friends were coming over to visit. I'd have left if I had known what was going on.

So the on-parole brother had to lie about why he came over, how the fight started and what happened during the fight. The woman, just wanting to cooperate, told the police what really happened. Their two star witnesses were telling two different stories and my cousin and I weren't talking. The police staged a "reinactment" where suddenly the woman, who had become the girlfriend of the on-parole brother, changed her story to match his. There was no crime without his testimony.

The on-parole brother claimed I started the fight by shoving his brother and that he followed us down the hall where he witnessed me straddling his brother. He then claimed he kicked me off his brother, grabbed a knife and chased me out of the apartment. Liar! It still makes me angry when I think about it. The woman originally stated the on-parole brother never went down the hallway but after the "reinactment" she vividly recalled him "whooshing" past her. Liar!

Her two kids were there in different bedrooms and told the police they didn't see anything. Six months later at the trial, one of them saw me stabbing the guy as he laid on the floor and the other saw me stomp on the guy's stomach and blood shot 3 feet into the air. Liars!

The guy was 235 pounds of rage attacking me. He had me pinned against a wall. I was dazed and weak from the punch - he almost knocked me out. I pulled a knife with a 3 inch blade and stabbed him in his arm. He didn't feel it. I stabbed him shallowly in his side. He noticed, kept fighting and called for his brother to come help him as he kept me pinned to the wall. I began frantically slashing at him trying to break free. He grabbed my knife arm and began forcing me to the floor. In a last, desperate move, fueled by terror, I broke free and stabbed him 4 times in his shoulder and chest. He began to fall backward pulling me down as I attempted to break his grip.

I finally broke loose, looked up and saw the woman and my cousin in the hallway and called to my cousin to get me out of there. He said to follow him. The hallway had a dog-leg in it and as I came around the corner I saw the on-parole brother standing at the end of the hallway with a knife in his hand. It was the only way out so I advanced on him and told him to back off. As he backed up and I entered the living room, his brother came staggering out of the hallway. When the on-parole brother looked over to see his brother, I fled.

I knew I hurt him, I didn't think I killed him. I was scared and just wanted to get away. I reasoned, wrongly, that a 3 inch blade could not do that much damage. He died and I was charged with murder.

Getting back to the trial, the judge wanted to insert the "shove" into the jury instructions as a fact and my attorney objected and the judge relented. But after agreeing not to do so, he inserted the wording "if you find that the defendant engaged in unlawful conduct in shoving" the brother . . . then he is not entitled to claim self-defense. He made the shove that never happened a fact and prevented the jury from ever considering whether I was acting in self-defense.

But even then, if the jury found me guilty of murder, it was required to decide whether the charge should be reduced to manslaughter if I believed I was acting in self-defense. Instead, the judge instructed the jury to cease deliberations as soon as it reached its verdict on murder. Thus was a clear-cut case of self-defense turned into a first degree murder conviction and I was sentenced to life in prison.

I was outraged. I confronted my attorney. He felt bad and offered to do my appeal for free. I accused him of setting me up and told him to give my parents back some of the money they paid him or I'd tell the court what he did. He refused and I told it all.

At the post-conviction proceedings, I testified along with my father, cousin, cousin's attorney and another witness who had been recruited to lie at the trial. We all said the same thing: my attorney hatched the plan and persuaded me to go along with it. My attorney and his partner denied it, said I refused to cooperate with them and that I made up the story

about my cousin. The judge held that all of us were lying and that my attorney and his partner were telling the truth. I couldn't believe it. But I should not have been so naive. No judge is going to make a ruling that will ruin the career of a renowned defense lawyer based on a killer's allegations.

On appeal my new attorneys were giving me the legally mandated assistance of counsel in such a lackluster manner that I got frustrated and fired them. I did my own appeal and lost. Once again, I had the naive belief that appellate court judges rule on the issues and that a self-represented killer could overturn a murder conviction. WRONG! I couldn't believe it. In prison for life for stabbing a man who attacked me without provocation. Still naive, I resolved to learn the law and overturn my conviction.

I studied and researched and investigated. I obtained documents showing that the guy had a 20 year history of unprovoked attacks on people he didn't know. At the trial, he was portrayed as a pillar of the community. I also learned that a man had his murder conviction overturned from the same county based on the exact same jury instruction error I had in my trial about considering manslaughter. I tried to obtain documents from the prosecutor's files under the open record law to show that they knowingly used perjured testimony to convict me. The state supreme court overturned 20 years of prior case law to block me from getting the documents I needed.

I went back into court to raise these and other issues knowing I had a new trial and acquittal coming. I still naively believed I could overturn my own conviction without an attorney. But the state supreme court once again overturned 20 years of prior case law to create a procedural default rule. If the issue was available on direct appeal and I knew about it, it had to be raised then or be forever waived. The procedural bar was retroactively implemented so even though it did not exist when I was convicted, I was still barred. I then tried to argue ineffective assistance of appellate counsel to get my direct appeal reinstated but was denied because I had fired my attorneys and represented myself.

I then filed for habeas corpus relief in the federal court and lost there because good ol' Bill Clinton signed the anti-terrorism and death penalty act which eviscerated federal habeas corpus for state prisoners.

I exhausted every possible avenue of relief and am stuck serving a life sentence. When I came to prison lifers were serving 13-15 years on average to release. Had the same standard been applied over the years, I would have been released years ago. Now the average is 30 years and over.

In 2002, I first transferred to minimum security. I spent 3½ years in a "secure minimum" (it has a fence around it) before transferring to Gordon Correctional Center - a work release facility. I spent 19 months on work release and in 2007 transferred to Sangar Powers Correctional Center - another work release site. That's when a whole new set of troubles started.

I started out as a state van driver and was supposed to go back on work release as soon as a job was found I could do with my crippled leg. But someone called the superintendent and told him to take me off driving - who or why I still don't know - and I was never allowed to go back on work release. In 2008, the parole commission increased my defer to 12 months and I was transferred back to a secure minimum because of the defer. The official reason: "current offense and prior criminal record." There was no change in facts to justify this. It is still inexplicable.

I spent 2 years back in a secure minimum and received a lower parole defer which allowed me to return to a work release center. In June 2010, I returned to Gordon and worked as a driver. I drove over 30,000 miles unescorted, spending 10-12 hours per day, traveling up to 250-300 miles per day. I expected to be paroled in 2011. But the parole commission again increased my defer based on my "current offense and prior criminal record." Only this time I was returned to medium security and subjected to conditions so horrendous I have not been treated this badly since I left maximum security in 1993. Once again, there was no change in facts to justify this.

What is going on, you may ask? Well, I am asking, too. Why am I the only one this is happening to? There has never been a prisoner returned to medium security after 9 years in minimum for no reason. Nor has there ever been a prisoner who has had his parole defer increased from less than 12 to 12 months twice with no change in facts. It boggles my mind.

In another country, this never would have happened to me. But if it did, I'd become a cause celebre. American citizens would speak out against the injustices I incurred in the other country. But in the U.S., innocent people, wrongly convicted, are routinely locked up for decades and nobody bats an eye. If you can't explain what happened in a sound bite, nobody will listen. Besides that, nobody wants to be seen as soft on crime. Unfortunately, I do not have an DNA evidence that will prove I am serving life based on perjury.

If one of the people who lied at my trial would come forward to tell the truth, I'd be a free man. But I'm not holding my breath. They have no incentive to come forward, nothing to gain. And I doubt if their conscience is still bothering them 27 years later. Nor do I think they are going to find God and come forward to do the honorable thing.

Here is a bit of irony. I have a cousin on the other side of my family who happens to be very good friends with the on-parole brother. For 27 years he has been pals with the man whose lies were the sole reason I am serving life in prison for a crime I am not guilty of. Small world, eh?

I made a point of not mentioning any names in this narrative. I am not out to cause the actors in my life's drama any problems for the parts they played in putting me here. After all, I did stab him. Had I not been carrying a knife or not chosen to use it those people could not have sent me to prison. So I have to take responsibility. And some good has come of it.

I took the opportunity to do the emotional healing I needed and found a spiritual path to make sense of all the suffering. Had I not given my life to God, I would have ended it rather than spend all these years in prison for which I am not guilty. God will free me when He is ready and in the mean time I will continue to do His will to the best of my ability.