

Where Is Justice?

by Daniel Gwynn 7/4/12

I am angry, but I blame no one but myself for my incarceration. I just don't understand where the "Justice" comes into all of this. I've been hard pressed to find it since this nightmare began. Setting aside the fact that I am an innocent man on Pa.'s death row, I can't understand why justice has been so elusive.

I begin at the arrest, where I was stalked by a Philadelphia police officer patrolling a high crime area late at night. The officer admits that he didn't see me doing anything wrong, but he was curious as to my identity because he didn't know me like he knew the others in the area. So on his fourth drive-by, this officer cornered me on a dark secluded street, jumped out of his patrol car, grabbed me, frisked me, then locked me in the back of his vehicle while he searched my back pack for my ID. I tried to exit the vehicle while he searched my bag, so he pulled me out of the car, handcuffed me, then threw me back into the back seat of the patrol car.

Now what part of any of that sounds legal to you?

The trial court ruled, "that the defendant was arrested when he was placed in the police car is of no moment in light of the fact that no search took place until after probable cause to arrest had been established." (which was the bench warrants.)

The Pa. Supreme Court had a different take, and went so far as to address a legal argument not even raised by either attorneys, nor did they afford us an opportunity to argue the points of fact & laws. Their ruling extended police freedom of action under the "investigative stop doctrine," and narrows the Courts' understanding of the term "arrest" in criminal procedures.

The Court held, "that there was no illegal arrest, search or stop; that the officer's actions were an investigative stop based upon a reasonable suspicion that crime was afoot; and locking up a subject in patrol car handcuffed, while checking ID, was the preservation of the status quo."

Where's the justice in either of these rulings and actions? The officer never attested to a suspicion that crime was afoot, he only stated that he didn't know me like he knew the others in the area. He also stated that he pulled things out of my back pack to get to my ID, which according to "Black's Law" constitutes a search. The eventual lawful arrest based on the outstanding bench warrants would not have been taken place except for the probable cause developed during the illegal arrest and search. Since all of the investigation done in this case flowed from this illegal arrest, or an investigative stop gone too far, the courts should exclude that evidence. Instead, the injustice is being perpetuated from one Pa. court to the next.

I grew up believing in justice, truth & fairness. Watching TV shows like Perry Mason, Matlock, Columbo, CSI, and Law & Order enabled my idealism of our judicial system. There was always that overzealous detective, lawyer, investigator and even judge who sought out the truth no matter what, and in the end they got their bad guy-- justice prevailed.

During my trial, I sat there looking around the room for my Matlock to come and save the day. But no such luck. Truth & justice was denied. My appeals have been pretty much the same, but this time I'm armed with a "Matlock/CSI" team fighting for that truth & justice. What they uncovered could overturn my conviction, but the Pa. appellant courts are refusing to grant me an evidentiary hearing declaring that my "newly discovered evidence" is meritless and untimely. So where is the Justice?

Why is it so difficult for an innocent man to find justice in the Pennsylvania criminal justice system?

\* "Arrest has been defined as an act that indicates an intention to take a person into custody or that subjects him to the will and control of the person making the arrest. Com. v. Lovette 498 Pa. 655, 450 A.2d 975 (1982)."