

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

April 11, 2017

Jury Nullification

Have you ever heard of jury nullification? It is the concept that our judicial system is based on juries and that juries have the right to decide the facts and the law. Black's Law Dictionary (2009), page 936, defines jury nullification as:

"A jury's knowing and deliberate rejection of the evidence or refusal to apply the law either because the jury wants to send a message about some social issue that is larger than the case itself or because the result dictated by law is contrary to the jury's sense of justice, morality or fairness."

Judges never want jurors to know they have the right to decide the case before it any way it wants to. Judges often determine the outcome of a trial by structuring the jury instructions in such a manner as to get the result the judge wants. It happened in my trial and in many other criminal trials which has resulted in countless years of unjust imprisonment for innocent defendants.

Usually, the hapless defendant doesn't learn about jury nullification until after he or she is convicted. Then the big question comes up: why wasn't the jury informed of its right to decide the case how it wanted? The answer lies in who controls the court system - judges. They do not want unpredictable results in their courtroom, nor do they want results which differ from their opinion on what the outcome of the trial should be. Heaven forbid if a jury renders a fair or just outcome in a trial which contravenes the technical definition of what constitutes a breach of the law.

Numerous court decisions have held that defendants may not inform juries of their right of nullification. Judges will not let jurors be informed. When someone tries to do so outside of the courtroom, they are charged with jury tampering.

We would have a fairer, more just court system if all juries were informed before a trial of their right to nullify a bad outcome which would result if they followed the letter of the law.