

Wednesday, March 7, 2007

The Libby Trial and What We Should Learn From It

Recently on "Hardball" one of the jurors in the Libby case said:

"The woman, Ann Redington, said in an interview on MSNBC's "Hardball" that she cried when the verdicts against Libby were read Tuesday. She said Libby seemed to be "a really nice guy." Redington said "it was very difficult" it was hard "to vote to convict Libby, who was found guilty of four of five felony counts accusing him of lying to a federal grand jury and the FBI. Prosecutors said he hoped to derail a special prosecutor's investigation of the leak of the identity of Valerie Plame, a covert CIA operative.

"He seemed like a ton of fun. ... I didn't want to see him and his wife and say he was guilty of a crime," Redington told MSNBC's Chris Matthews. But she she said she had no choice given the evidence. (<http://www.msnbc.msn.com/id/17506701/>)

Well, Ms. Redington, you **did** have a choice. You will never be told of that choice in any courtroom of the United States (even though this right exists in three State Constitutions), *but in fact a choice always exists for you as a juror!*

What choice is that?

You have the absolute right to judge the law as well as the evidence as a juror, even though you will be told otherwise!

Specifically, from the following:

"We recognize...the undisputed power of the jury to acquit, even if its verdict is contrary to the law as given by the judge, and contrary to the evidence. This is a power that must exist as long as we adhere to the general verdict in criminal cases, for the courts cannot search the minds of the jurors to find the basis upon which they judge. If the jury feels that the law under which the defendant is accused, is unjust, or that exigent circumstances justified the actions of the accused, or for any reason which appeals to their logic of passion, the jury has the power to acquit, and the courts must abide by that decision." --United States Court of Appeals for the District of Maryland: (US vs Moylan, 417 F 2d 1002, 1006 (1969)).

Not to mention that the basic reality of juries leads to this inescapable conclusion. A jury member may vote to acquit without explaining their vote in any way, shape or form. They are not bound to tell the judge or, for that matter anyone, why they voted the way they did. *That is a foundational part of being a member of a jury - your deliberative process is yours alone, and belongs to nobody else!*

There are several "boxes" that guard our freedom. The Founding Fathers were very wise men, and put forward these "boxes" as a means of insuring that we would never suffer the tyranny that had been thrust upon them by the British during colonial days.

In the order of intended use, we have the following:

The Ammunition Box. Guaranteed by the Second Amendment, and commonly misunderstood. Many people believe that the Second Amendment is about sporting arms or hunting rights. Wrong answer. Those of you who believe this, or who think that the Second Amendment is "outdated" - you are sentenced to go read *The Federalist* - doing so will disabuse you of that notion. *In fact, the Second Amendment exists because the*

founders recognized that no government has ever managed to enslave its people without disarming them first! Of course only a madman would hope that this last box would **ever** need to be used. Yet that is the beauty of it - **its very presence is a tremendous deterrent against tyranny.** Just like "Mutually Assured Destruction" during the Cold War, the presence of The Second Amendment, and its preservation, insures that we will

- ~~The Soapbox~~ This is the final box in the First Amendment, known as the Right of Free Speech. Indeed, freedom of speech is at its pinnacle when the speech is offensive to someone with power, for nobody ever bothers to try to ban inoffensive speech. Through The Soapbox our society is protected from *tyranny by deceit and concealment*, where the acts of men (especially the government) are hidden and men and women can be kept unaware of abuses.
- The Ballot Box. We have, for the most part, the right to vote out of office those who offend our sensibilities. We exercise the franchise with far too cavalier of an attitude these days, and most politicians are "given a pass" on the true questions of the day (when was the last time you heard a politician put forward *an actual plan* to fix the problems with Medicare and Social Security - not platitudes and generalities, *but a specific plan?* Never!)
- The Jury Box. When we fail in our use of the first two boxes, we next have The Jury Box. We gain this right from the Constitutional Right to a Trial By Jury. And it is here that one finds the power of **jury nullification**. A law that is unjust, *or has been unjustly applied*, may be stopped in its tracks by *any* jury. *This is a right you always have as a juror, even though you will not be told so and in fact you may be told **exactly the opposite!***

So, when you hear of jurors in the Libby trial who were upset that they "had" to convict Scooter Libby, you might remind them that they were under no such obligation, if they found that the law was either misapplied or simply made no sense "as charged."

Sorry ma'am, but if you really believe what you told Chris Matthews, *you had a duty to vote to acquit!*

It really is that simple.

Posted by Karl Denninger at 19:43