

## Law of Parties v. Mitigating Circumstances

By Toby Lynn Williams

The grim reaper of my fate awaited; beckoned, with his phalanges fingers as he simultaneously grips his scythe; dressed in his ghastly attire with his facial structure concealed in iniquitous darkness, to not only embrace my arrival, but to escort me into the abyss of everlasting punishment.

When the police vehicle entered the prison's property, my heart commenced to pound with rapidity because I was unaware of what awaited my prison arrival, as the prison stories commenced to swarm my thoughts like angry bees. "Be ready to fight as soon as you enter." "Find the biggest dude and hit him as hard as you can!"

My trip from the courthouse to the Diagnostic unit of the Texas prison system was excruciating. And upon my arrival, I was handed off to multiple nefarious looking officers for the purpose of processing me into the prison system. They surrounded me for an exchange of handcuffs and leg irons. Thereafter, they escorted me into a capacious area where there resided an unusual emptiness. My concerns about the emptiness were quickly relayed that I was considered extremely dangerous; forbidden from being around other convicts. This discovery slowed my heart rate. Not that I was 'considered extremely dangerous', but that I had not the stories I've heard to be concerned about, especially when it came to visualizing the unattractive results --major damage to my physical being and possible total psychological annihilation, which I was already struggling to maintain under the circumstances.

The diagnostic process was conducted with haste. Officers immediately shepherded me to a van thereafter, which required them to assist me by lifting me because the leg irons around my ankles forbade me from stepping upward.

Our destination was the O.B. Ellis unit, which appeared to be more of a glass house than a prison. In spite of what it appeared to be, it was definitely a prison; with razorwire fences surrounding it, its guard towers with armed guards and multiple gray uniformed officers. As for the inside; no doubt about it --prison! I was now surrounded by red brick, crash gates and steel bars.

Although I had been relieved of my leg irons, and belt around my waist with its lock box mechanism responsible for shielding the key hole on the handcuffs, I was required to traverse through the prison corridors with the

handcuffs behind me and two prison guards as my escorts.

The officers led me to an office where I felt like I was solidifying the final stages of signing my life away. "Sign this!" "Sign that!" The demands exuded threatening connotations, or perhaps the moment was intensified by my present circumstances. The primary purpose for my signature consisted of my agreement to adhere to the prisons' rules and regulations, and accept any disciplinary infractions for my failure.

As the final steps to my destination were being accomplished, I observed that the prison corridors were now crowded with men whom I grew silent at my appearance. Many faces revealed astonishment, some appeared menacing, but what frightened me were that some appeared predatorial. I would learn later that many of them thought I was about fifteen or sixteen although I was twenty-one.

We stopped in front of one of the housing areas where my future awaited, just beyond the sign revealing Ad. Seg., for Administrative Segregation: Death Row!

"You're hereby sentenced to death..." were the thunderous words from the bench that occurred earlier during the day. As those words commenced to reverberate, as tears cascaded down my sunken cheeks, accompanied by quivering lips, I was grateful for alone; grateful for the darkness of the cell to maintain my hidden circumstances. I had just entered into the realization that I was now residing in the --end of my life!

Destroyed!

Eliminated!

Annihilated!

Terminated!

Humiliated!

Ruined!

Obliterated!

Wretched!, emanating from stupidity; total disregard for life and the livelihood of others. All that mattered, even if only minute --eradicated!

In spite of my two (2) co-defendants' conviction, there was another co-defendant that escaped the charges.

I can accept the responsibility for my own actions, and have, but what about him? Does my acceptance of my own responsibility negate his involvement? Does it nullify the elements to sustain his conviction as it relates to the "law of parties?"

Many expletives rolled across the portal of my cerebral cortex at con-

sidering that he absconded law enforcement and maintained his efforts at seclusion.

Perhaps I was the source of his escape. I, therefore, guess I could be considered as harboring a fugitive, though I couldn't be considered as "staying down for a cause" more than preventing my own embarrassment for exposing his involvement.

To expect him to do the right thing is on the list of impossibility. He would never come forth to convey his atrocious behavior.

Although he never experienced one day behind the bars of his decision, I had incarcerated him psychologically; within the caverns of my soul to induce me into his desires. The manifestation of his involvement would definitely reduce the culpability in order to eradicate the severity of the charge, which left me --under a sentence of death!

Ten-years-old; but a lad when I encountered him. He had been a true friend, though a short while, so I thought. That is until the truth of who he actually was had been exposed by his efforts to assault me. But I trusted him, only to be encumbered by the trap he set for me in order to commit his atrocious crime --he raped me to ignominy!, and inculcated me to guilt, and imbued me with fear; to the psychological concerns of my aunt, whom concluded that I had ventured over into the asylum of insanity. Eventually, the mental health facility's prognosis manifested that I was a "special case."

Had my psychological incarceration of him render him as an accomplice? The Texas statute attaches liability to a party whom has completed an offense prior to the actual committing of a crime, by the party's previous acts, which induced furtherance. Therefore, I was the principal with regards to the committing of the crime, and he is recognized as the accomplice predicated upon engagement as it relates to furtherance.

Was he not aware of what would possibly result? Well, the law supports that there is no excuse emanating from ignorance.

Circumstantial evidence has the potential to attach one to an offense. What are the circumstances? The act he committed?

From the appearance of it, the primary element associated with the law of parties to this magnitude is "influence," i.e. negative influence.

The legislative branch of government, whose responsibility is to make the law, acknowledges law of parties to this magnitude from the perspective of "mitigating circumstances" which shifts "blameworthiness."

The judicial branch of government rarely implement the concerns regarding mitigating circumstances in its charge or minimize those concerns with

confusion. And this is practically non-existent in plea bargained cases.

How long must the one influenced be held to suffer the consequences without consideration to mitigating circumstances?

Although I've taken responsibility for my actions, in spite of my atrocities, I'm not naive to the degree that I do not recognize that there was a measure of negative influence predicated upon my efforts to maintain the psychological incarceration of my victim. However, I've pardoned him; totally eradicated his negative influence by embracing an appreciation for having survived what I've endured. And this contributed to catapulting me into recognizing my purpose which derived out of what I had endured.

Mitigating circumstances eventually intervened on my behalf, emanating from low test scores venturing me into the trenches of mild mental retardation, which manifested during my 1985 jury trial.

The mandatory duty, under the charge of capital murder, provided me with a psychological evaluation. However, the prosecutor implemented efforts to circumvent the psychologist conclusion with confusion, alleging that I was malingering. During the jury's deliberation, they sought opportunity to review the test scores, to no avail. The prosecutor and judge intervened with prevention, which resulted in the Court of Criminal Appeals vacating my death sentence in 1992.

The journey had been long; often times excruciating. I was forty-two when I took the initiative to work through the concerns of my past. Although efforts to run, through the aide of alcohol and drugs, which merely intensified those concerns. I was eventually approached by boldness whom wrest me into the corner of transparency. But what about those physically incarcerated whom has been submersed in their atrocities that they can see "no light at the end of the tunnel?" Whos strength, to grapple with boldness, is renewed with the contemplation of revenge?

I'm presently under a sentence of life, surrounded by men whom has succumbed to drug addiction; seeking to reside in a fictitious world because of their fear of rehasing the pain they've endured, and there's no one there to "render aide."