

Plea deals

I recently wrote critically here that if the local DA had witnesses, evidence and a confession, he still would not prosecute if he didn't have a video. Some probably thought that was an exaggeration and went a little too far.

A DA's job, this one and others (thankfully there is only one other in the State of Wyoming - in Natrona County), is to clear cases. If it's domestic violence, that means to dismiss, consolidate or reduce charges against the abuser. If it's a DUI against a notable person, that means deferral - expunge the violation if the offender does not re-offend within a year.

And, if it's murder, plea bargain to a lesser crime.

In a recent case, a person who accompanied a relative to a house to rob a young man who had a sizable amount of cash in his possession had charges reduced to the point that his guilty plea to those charges should get him in and out of Rawlins in less time than Jessica Venable was sentenced for an incident that was not even a crime.

The murder of the young man is a capital offense, a death penalty case. The act was premeditated and heinous. Yet, the DA plea surrendered to the accomplice to gain his testimony at trial. How many juries would take the testimony of an accomplice in a planned robbery in front of others over eyewitnesses who could identify the killer and not have to be paid for

their testimony? Why in the world plea bargain down to a minor offense?

David Bush is doing 45 to life for a murder with no body, no evidence linking him to his wife's disappearance and no credible testimony linking him to a crime. But, the DA here had to plea bargain with a guy when other witnesses could have identified the shooter? That's just plain laziness. Rather than have to prepare for two trials, the office can plea bargain one away, then prepare for trial of only one - and that one will have to defend himself against the testimony of his accomplice.

Something has to be done about plea bargains. Something has to be done to provide oversight on incompetent DA's and county attorneys who plea bargain when they can gain a conviction at trial but they're too lazy or lack the self-confidence that they can gain a conviction unless they have a video of the crime being committed.

Plea bargains are intended to benefit the guilty and that happens here in Laramie County. Plea bargains are not intended to be applied to the innocent. A dangerous combination of lazy DA's and incredibly incompetent public defenders does not lead to justice. It leads to clearing the deck - to disposing of cases without trial or conviction by a jury of the accused peers. Of letting guilty walk and innocents going to prison. How many are in Rawlins or Lusk who shouldn't be there? More than one. More than one.

WYOMING WOMEN SHOULD BE IN WNIT

This is being written two days before the selection committee for the Women's National Invitational Tournament announces their selections for the post-season tournament.

Not on a par with the NCAA tourney but light years up on the post-season tournament the UW men's coach and AD bought into last year, the NITs provide a place for very good teams to continue playing.

Unlike the NCAA tournament which invites 65 teams to participate and goes forward with 64 after a "play-in" game to kickoff March Madness, the WNIT has a field of 48. And rather than games being on neutral courts, WNIT games are played on one of the team's home court.

In 2007, the University of Wyoming women's team, led by the incomparable Hanna Zavec, played six games at home, won them all and were national champions that year. Albeit of the WNIT, the championship drew a lot of attention to the women's program and basketball fans, who now only have a women's program to support, went to each game in progressively greater numbers.

Stories from the 2007 WNIT can be found on the Cheyenne Herald website.

The 2009-2010 UW women's record was 19-11, with two more wins considered "exhibitions." The nonconference schedule was not stacked with home games to pad the won/loss record as the men tried.

The women's nonconference record was 9-3, with six away games and one on a neutral court (Casper), five at home. They were 9-7 in MWC games this season, defeating every team in the conference except Utah. They won one and lost one in the MWC tournament to finish at 19-11.

The WNIT is aware of the drawing power of the UW women's team. Who can forget the 15,462 sellout? This season, average attendance was 3,253 for 13 games, 3,387 for conference games.

Because they are a recent WNIT champion, UW deserves to be selected. Because of their won/loss record (19-11), they deserve to be selected. Because their record was built with more road games (16) than home games (13), they deserve to be selected. Because of their home crowd appeal, they deserve to be selected. Because of defeating every MWC team (except Utah) that finished above them, they deserve to be selected.

Wyoming was the No. 6 seed in the MWC tournament but they finished in a tie for 4th. Seeding was based on tie-breakers.

Wyoming is a state of few people but the UW women's basketball team has three home grown products who are key players on the team. A team built that way should get some special consideration. UW has one of the better players in the region in Aubrey Vandiver, with Hillary Carlson not far behind. UW women should play in the 2010 WNIT. And win it.

When is an investigation not an investigation?

As written on these pages in the last issue, there was simply no "there" there.

It took the local District Attorney a few more days to realize that but he, too, reached the same conclusion and advised the world that his office would not go forward with "prosecution" of a violation of the open meeting section of Wyoming statute.

Well, knock me over with a feather!

With a document headed "DECLINATION OF CASE" the DA's office said "... we believe the case in unable to be prosecuted at this time for the following reason(s): The choice used was "Evidence Issue."

This form has fifteen choices for reasons the DA refuses to take a case forward. Nowhere does it say, as it should, "because we are not absolutely, positively convinced we can win a conviction and there is little potential for a plea deal."

As written here, this was not a violation worth pursuing. But, I don't have a legal responsibility, not to mention a professional responsibility, to take the action that is required by state law as the DA does. My opinion was based on priorities - on how unimportant the violation was, not whether there was a violation.

As "Additional Explanation," the DA wrote that after a review of the confidential minutes of the executive session meeting, "it is clear that most of the matters discussed to the meeting fall clearly within the executive session exceptions to the Open Meetings law." Most of the matters? That's interesting legal reasoning.

Let's say a guy drove into a 7-11, put \$20.00 worth of gas in his car, went inside and bought some candy and a soft drink - all of which he paid for. The cashier quickly put the \$20 bill into the safe. Almost, but not quite as quickly, the customer pulled a gun and demanded money. The cashier was only able to give him \$13.00 in cash. The robber should not be prosecuted, based on the DA's reasoning, because "most of the transaction" was legal. The only illegal act was the robbery. The purchase was legal.

The "internal investigation" consisted of a review of the minutes of the secret meeting. Minutes are never a verbatim account of what happened. They are only required to be a reflection of action taken, not discussion held. Unless several of the participants, especially from among the four who said later that illegal action had taken place, were interviewed, there was no investigation. There was merely a reading of an incomplete record of the meeting. But, all is well than ends well, isn't it?

Another interesting thing about this Declination of Case is that it is not addressed to anyone. Even though it ends with, "If you have any questions, please feel free to contact me for further clarification," the "you" is not identified.

Also, perhaps borrowing from the Cheyenne Herald, DA Scott Homar dictated the words: "Therefore, a clear and willful violation of the law is not apparent."

Remember, I have said here that it is impossible to prove that anyone is guilty of "knowingly and willingly" violating this statute. It is absolutely without value. As Chief Justice Voigt said, "it has no teeth."

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