

CHEYENNE HERALD

FREE - TAKE ONE

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the local advocacy journal

In the next issue of the Cheyenne Herald ...

Read an exclusive interview with Dr. James Cook, former LCCC vice president of student activities who challenged his wrongful termination and won. His settlement is final and now he can talk. And talk he does. With the Cheyenne Herald. Dr. Cook knows firsthand of the cabinet members meeting with a Trustee about the failings of the president, the aftermath of the Costa Rica trip, Darrel Hammon's excessive and unnecessary travel at college expense, Hammon's hiring practices and much, more more. **THIS JUST IN (Saturday, November 27, 2010)** -- The LCCC Board of Trustees will hold a "special business meeting" at 5:00 pm November 29, 2010 to "consider the college president's contract." It is most likely this meeting is to consider a proposal to offer Hammon a buy-out to resign. Story on page 12.

Justice for you finally, Michael. Justice for you finally.

The victim was a big lug. Maybe 300 lbs and 6'3". He was violent. He allegedly abused his girlfriend and terrorized family members. He was alienated from his family and removed from the parents will. He was unwelcome at their house.

You should be able to kill a guy like that with impunity, shouldn't you? I don't find any record of his being incarcerated but that must have just been his luck. He deserved to die. That is what the case file for his brother suggests over and over, by person after person. Mostly family members but even professionals.

So his older, smaller brother killed him.

And he got away with it.

Because the big lug deserved to die. He served no useful purpose on this earth and deeply religious persons can place a death sentence on someone who so clearly needs to be killed. Can't they?

So his older, smaller brother killed him.

That brother was charged with second degree murder. All indications from how he handled himself after the incident indicated that charge was appropriate and he even told his priest that he had "done it." He fled. He lied about the events of that deadly night. He wrote letters to his mother and a girlfriend in which he allegedly "confessed." He attempted suicide.

This is a case I've written about several times here. This is the case in which the former DA said the killer would have to do time but the "tough on nonviolent female offenders, soft on male violent offenders" new DA said, "an ADA made an unauthorized deal to allow the guy to walk and I'm going to honor that deal regardless of how the DA who knows the facts may feel." A deal with a former ADA.

Second degree murder with a couple decades in one of the state prisons morphed into voluntary manslaughter with a slap-on-the-wrist probation-only sentence.

by Dave Featherly, Publisher and Editor

Readers know the details. This is the axle swinger case.

The living brother began to lie at his sentencing but his attorney stopped him. Those offered plea bargains are supposed to have to "allocute" their guilt but he started to downplay the incident by suggesting he had struck his brother but once. His attorney interrupted and told the judge, "the evidence would show he struck his brother at least six times." But, his attorney lied for him in another way. In front of God and everyone, including all the clergy in attendance, that privately-paid attorney cited three cases to convince the judge that a probation-only sentence for voluntary manslaughter had precedents. Each case he cited was not on-point. Not true. None had probation-only sentences for voluntary manslaughter. None of the three. There was no precedent for such a sentence. Until this case.

The judge did not confirm the claim. He did not review the cases cited but used them for his acceptance of the plea. No staffer confirmed the attorney's representation. Nor did the DA's office. Had any of them done that, they would have seen what the Cheyenne Herald found - that none of those cases were probation-only on a manslaughter plea or conviction.

Judge Grant accepted the plea and praised the defendant in front of him. A new attorney quoted Grant's praise in his recent Probation Revocation brief. A crowded courtroom has nothing to do with the severity of a crime, the guilt of the defendant or the deserved punishment. No judge should consider the number of family and friends in attendance for such a serious crime - the taking of another's life. Evidently, the judge agreed with the others - the victim deserved to die. Not a natural death. Not by his Maker taking him early. But by being struck repeatedly with a steel axle shaft. Not a "metal pole." A steel axle shaft with gear attached.

The smaller brother was fortunate. Not often does someone stand in front of a judge to be sentenced to probation-only for a charge involving the death of another, with a sea of relatives and clergy in support in the courtroom, a judge spinning his parochial school class ring, a DA's office who had not read the defendant's brief seeking probation-only and a stack of letters, medical records and statements trashing the victim. Such were the events that day. No one but the defendant knew what happened between his brother and himself after that night of drinking together and he couldn't be believed. His dead brother was not represented that day. Not by the DA's office and not by the Court. Even though dead, he was demonized in a Laramie County courtroom that day. Bad enough, that wouldn't be the last time he would be victimized in public.

The person who caused his death walked. But he couldn't keep his nose clean. Or whatever body part he "took" the heroin into. He was back for probation revocations. "Probation revoked and reinstated," the judge ordered. That had to scare this Teflon criminal, right? It didn't and he violated probation again.

In a probation revocation hearing just held, the living brother's supporters came forward again with fresh letters on his behalf. The victim was trashed anew. The dead brother could not defend himself and he wasn't on trial. And no one spoke for him. He was killed in 2005. His life should have been enough. Leave his soul alone.

A new attorney and a supporter described scenes they did not witness. They have no idea what happened that early morning. Only what they had been told by the guy who caused the death.

The record shows that the dead brother was struck repeatedly with an axle shaft holding a gear. His new attorney called it a "metal axle pole." A pole. Like a fishing

cane pole? Not a steel shaft? Trying to avoid revocation of a probation that should never have been granted, the new attorney told the judge that the axle swinger "took responsibility for his role in that death." Like hell. The attorney tried to run another con on this judge (Campbell), writing that while a blow with the shaft may have been sufficient to disable the larger brother, he "was struck again. Perhaps that was the fatal blow."

Or it could have been the next one. Or the next one. Or the next one. Or the sixth one.

This latest hearing was not about whether the dead brother deserved to live or die. Judge Grant made that determination a few years ago. He ruled that brother deserved to be killed. This hearing was about whether the one causing the death should remain free on probation after violating terms of that gift probation over and over again. Remember, the living brother never claimed justifiable homicide, self defense or an accident. He arranged a plea down from second degree murder to voluntary manslaughter. The victim's behavior or reputation should not have been an issue. Here, it continues to be.

Five years after the incident, the living brother is still portrayed as the victim by his supporters. This judge didn't buy that line. The axle swinger's probation was revoked and he was sentenced to serve his underlying sentence - 3 to 5 years. It is finally time to allow Michael to rest in peace. Leave him alone. He is dead. He is gone. I will write no more if he is trashed no more. RIP, Michael.

I wanted the dead brother no one seems to care about to know. I found his grave marker at Mount Olivet and I let him know. I wanted him to know that justice delayed is not always justice denied. I had to clean off his marker. It was not visible. It was covered with leaves. But I knew where to look and how to find the marker. No one had visited his gravesite on the fifth anniversary of his death, November 12th.

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