

Axle swinger tries for sentence reduction

There are a handful of case files at the Laramie County District Court office that I regularly review. One is the Warren National University lawsuit filed by a couple hundred former students and another is the one I have always referred to as the "axle swinger" case.

Recently, I learned that the guy who killed his younger brother after a night out drinking together had filed for a sentence reduction. Readers will remember that the guy swung an axle shaft with gear attached at his larger younger brother at least six times, according to his own attorney at sentencing. The victim was trashed at the sentencing hearing and the judge (Ed Grant) praised the killer at the same setting. Unlike any other similar case in Wyoming, the Court granted a "probation-only" sentence to the living brother. He proceeded to violate probation several times, including repeated use of heroin and, finally, a DUI arrest led to the imposition of his underlying sentence of prison and he began to serve his time.

When I first started to review the motion for sentence reduction, I thought I could support his request. While I seemed to be the only person in this town who "represented" the dead man, my objection from the beginning was that no one should be allowed to be judge, jury and executioner as the perp had been. And, then for an uninformed new DA to take office and immediately agree to probation-only, disposition rejected by his predecessor, made no sense to me. The probation-only plea had been offered by a separated ADA who had no authority to make the offer. And his boss had said "no."

I just don't think we want to become a society wherein one person can decide that another should die and then kill that person, regardless of the quality of the person executed. I also don't believe society, or justice, is served when a judge is swayed by the level of attendance at sentencing, not the seriousness of the crime. I've never accepted the disparity of justice between this well-connected man and a vulnerable and scared woman alone in the courtroom, Jessica Venable.

I will remind readers that after the guy struck his younger brother repeatedly, swinging an axle shaft with gear attached, he then went to his bedroom in the family house the dying brother was not welcome in and made telephone calls and slept until he finally called 911 the following morning. He did not tell the judge the truth at sentencing about the incident - his attorney had to interrupt to correct his "allocution."

He skated but could not behave himself on probation and finally, and I'm sure my coverage of the crime and sentencing had something to do with the DA's office finally doing the right thing, he was sent to prison to serve the sentence for which he had been shown total leniency and allowed to walk from the courtroom at original sentencing a free man, while his brother lay dead in Olivet Cemetery.

With this background, I was still prepared to say, "he's done time, that's all I sought," before I began to review the motion for sentence reduction. I didn't have to get very far to change my mind.

He has a different attorney now. His trial attorney deceived the judge by citing cases that supposedly were given probation-only sentences on similar crimes. The citations were not on-point. They were unrelated.

In this Motion, there are two things that convinced me he should serve out his sentence - or at least more of it. (His probation was revoked on November 19, 2010.) He has been confined one year of a 3-5 year original sentence. A year might have been deemed adequate - he could have learned his lesson in that time. But, he hasn't. He is still blaming his dead brother for his predicament. More than once, the Motion refers to the murdered brother as "mentally ill," as though that was the justification for killing him. Mental health experts might disagree with that. I don't recall any testimony that he was mentally ill. And it wouldn't matter if he were. He didn't deserve to be killed and the perp had no right to execute him. His attorney asks the Court to "reduce his sentence to time served and terminate his probation." I respectfully disagree.

Visits to The Cheyenne Herald website

The Cheyenne Herald website was online prior to July 3, 2008 but data was irretrievably lost when the webmaster changed "stats" programs. Some may wonder if The Cheyenne Herald will cease to publish after the 2012 general election because of lack of interest. That is certainly not the case. To make a baseball reference, I'd rather go on top like Sandy Koufax than struggle along after no major league team wants me like Jack Morris did.

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