

And the Beast Spit Him Out

– *And the Beast Spit Him Out**

"I have committed a terrible crime.

I have paid a terrible price."

John Snider, 71 years old, made that statement.

He stood, wearing an orange jumpsuit, before Judge Dick Ambrose. He hunched over a podium and leaned on his cane. He had been led out, in shackles, from the invisible door that hides in all Cuyahoga County Courtrooms. It is part of a wood paneled wall that separates the absurdity of the courtroom from the insanity of jail. Pass through and you enter the belly of the beast- nothing but cinderblock and stainless steel and unbreakable glass doors. A black shirted deputy sheriff stood behind him. He was close enough to reach out, if need be. It was more likely John Snider would fall than run. He stood ready to be sentenced, for the third time.

John Snider pled guilty to distributing child pornography. Making money by assaulting children is unspeakable. Even trading the pictures with others is reprehensible. But John Snider did none of that. John Snider had never acted out in any way.

He looked at pictures on his computer. He got them from a sharing program, like LimeWire used to be. The sharing program allows others to look at your files. John Snider did not know he was sharing. In fact, no one but the police ever looked at his pictures. Police can send out a "ping" connected to the program and find a person who had downloaded pictures. The person does not ever have to leave his house, or buy a dirty book, or talk to anyone (even online). They just have to look at pictures.

(You have to be wondering why the sharing program, a multinational platform for passing smut, was not been indicted along with John. Me too.)

Based upon the ping, the police raided John Snider's home. He was charged with distributing child pornography. "Distributing" – even though he only looked at the pictures.

Distribution, and the long prison terms it brings, should be reserved for people who sell videos or who run websites. It should fit those who actively share the filth. It was never meant for people who just looked at the pictures.

Court psychiatrists and private mental health professionals examined John Snider. No one believed he had any sexual interest in children. He was an obsessive/ compulsive collector of anything that caught his interest. He had seen a news report, downloaded a small number of pictures and that was it. He did it, the Doctor said, as result of depression.

He had once been a valued executive, a senior insurance adjustor, until a back injury shortened his career and fed his depression. He was a family man, loved by his wife and children. He had never acted out in any way and had never been in trouble.

His case was assigned to Judge Kathleen Sutula. That assignment is done in a public proceeding known as an arraignment. Other defendants and their lawyers are there. A gallows' humor groan inevitably rises from the lawyers each time Judge Sutula's name is called. She is considered, among other things, harsh.

I whispered to John Snider as we walked from the bench, "It will be OK", more out of hope than optimism.

John Snider pled guilty, because he was guilty of possessing the pictures. He could be sentenced to probation, or prison time. No jail to years in the belly of the beast.

And here is the problem. You would think that similar people with similar crimes would get similar sentences. That is not the way it is. Sentences vary wildly depending upon the Judge.

At the sentencing, John Snider's whole family was there: his wife, daughters and a son in law. Everyone knew the Judge had a reputation. We feared the hearing might be brutal.

Judge Sutula has added flowers and a nightstand light to her bench, presumably to soften the ambiance. The homey touch did not soften the dread of standing before her.

She had, once, given probation to a defendant in a case just like this. There must have been special circumstances, but she had done it before. The family believed (we all hoped) that John Snider: who had never been in any trouble, who was 69, and who no one thought was a danger, would avoid jail.

He did not. The Judge began a pointed lecture. The facts weren't quite right and it seemed very personal. It ended with her sentencing him to 2 years on the

3 crimes. Hard, I thought as I sat there, but not outrageous. Then, in a tone I thought sounded more pointedly personal, she said that sentences would run consecutively. That means stacked one on the other. John Snider, at 69, would go to prison for 6 years.

With a broken back and a bad heart he was more likely than not to die in jail.

The deputies moved John Snider, quickly and silently, through the secret door. He did not have an opportunity to look back to his family. And in that instant, he was gone.

There was nothing in the Judge's presentation that would have signaled consecutive sentences. Consecutive, one on top of another, is reserved for the worst criminals.

We appealed. It took a year. John Snider was in prison. The Appellate Court agreed with us. The sentence did not follow the law. The case was sent back for another sentencing. But the sentencing would be back in front of Judge Sutula again.

Just before the second sentencing I learned that a family member, the son-in-law, bragged that he had spoken to the Judge by phone before the first sentencing. He claimed he had given her an earful of what a terrible person John was. He had no evidence, but apparently harbored some grudge or insecurity. His father was a policeman, a boss in a suburb. The son in law was a policeman wannabe. He was flexing his muscles here. He could talk to the Judge privately- wield his policeman's power in secret. And he was a coward. He had been at the sentencing, pretending to support the family.

A Judge cannot talk to anyone but the lawyers about the case and then only if both lawyers are present. It is clear in the rules. If she does talk to anyone alone, she has to let the lawyers know. Either side has a right to deal with the consequences. It is called an ex-parte communication. Judge Sutula never let anyone know she had spoken to the son-in-law.

We believed she should be removed from the case. The procedure is to file an affidavit of disqualification to the Supreme Court. The Chief Justice decides the outcome.

We had information from the family members about what the son-in-law did. But, at this point, we had nothing from him.

We let the Judge know what we had learned. We asked her to remove herself. This time she was just plain angry. "In all of my years on the bench", she said, "It has always been my policy to not talk to anyone". She did not affirm or deny. She did not say anything meaningful. We filed what we had with the Supreme Court and laid out what we knew.

We do not know what communication took place between the Judge and The Supreme Court. Though we had to provide copies of our request to both the Judge and the Prosecutor, the Judge provided nothing to us.

Very quickly we received an order from the Court. The Judge had stated that she was not influenced. She said she did not recall a phone call. The Chief Justice wrote that it was only hearsay from the family, not the son-in-law himself. Request denied.

I do not claim what follows was intentional, or that the insult exists anywhere other than in my head. In the written order of the Supreme Court each time they referred to the Judge, it was "Judge Sutula". And each time they referred to me, it was "Milano". "Milano claims..."- "Judge Sutula avers...".

The sentencing was reset before Judge Sutula once again. Now we would face the scenario about which many of my colleagues had warned me. "You will only piss her off."

We needed to attempt, again, to talk to the son-in-law. There was great concern over the family problems he had caused and now would cause. Nevertheless, we contacted him and he talked. Better said- he vomited out everything about his phone call with the Judge. None of what he had told her was true. He seemed to believe he was safe. He could say anything. John Snider was in jail.

We redid the motion for the Supreme Court with his affidavit attached and sent it in. The case was set for sentencing. Family, counselor and friends again appeared at the Courthouse ready for the worst.

Judge Sutula brought us into the Courtroom. This time she knew that there was evidence of the ex-parte discussion. She was about to sentence again, but decided that it might be better if she waited. To barrel ahead would look like she was out to get John Snider. Sentencing was postponed until the Supreme Court made another decision.

We waited.

Then, without warning, we got a phone call telling us that the case had be re-assigned to Judge Dick Ambrose. Judge Sutula had voluntarily removed herself from the case. Shortly thereafter, we got an order from the Supreme Court telling us, in effect, that since the Judge had removed herself, they would go no further to investigate the Judge/son-in-law conversation.

And then came the third sentencing.

"Please Judge ", John Snider whispered as if he were ashamed and afraid his family would hear, "I cannot bear to wake up scared every morning. Scared that I will be stabbed. Scared that I will be beaten. Scared that I will be extorted. I have been in jail for 16 months. My wife and I have lost our home. She has been gravely ill, and I am sure the stress I caused her has worsened her illness."

Judge Ambrose reduced the sentence from 6 years to time served, about a year and a half. That was punishment enough. He then ordered John Snider to be

released to his family-under the strict supervision of county sheriff and the sex offender unit of the probation department.

John stood a moment, leaning on his cane, looking confused. Believing he was being released, he moved towards his wife. The deputy moved quickly. "Come with me", back through the invisible door, back to jail. There was paperwork to do. You can't leave jail until get the paperwork gets done.

John Snider had no street clothes. About 7 that evening the deputies gave him a jacket and some shoes to go with his jail orange coveralls.

And with that... the beast spit him out.

PS: There is an inscription above the Bench in the Court of Appeals. It says, "This is a government of law, not of men". Do you believe that is true?

PPS: Judge Ambrose is Dick "Bam Bam" Ambrose of Cleveland Browns glory days. Lawyers suck up to Judges. Browns fans are hero worshipers. That is a lot of obsequiousness for one lawyer to bear.

** In the Belly of the Beast is a book by Norman Mailer and Jack Abbott. It detailed Mr. Abbott's time in prison.*

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