

## WHEN JUSTICE FAILS: COLLATERAL DAMAGE

*Ronald Keine\**

Wayne “Doc” Greer was my best friend. We rode our Harley Davidsons through many states, Canada, and Mexico. We shared many things—a bottle, a joint, and sometimes the same women (yes, we were bikers and we did things like that). We shared our dreams and inner-most thoughts. We also shared the experience of being wrongly convicted, incarcerated, and on death row in New Mexico for a crime we did not commit.

He was in the cell next to me for the two years we spent on death row. Even now, thirty years later, when I give speeches and try to tell people about Doc, I get too emotional to finish the story. Even now as I write this essay, I find that dealing with it, reliving the hurt and the guilt of not acting, is difficult to bare. Doc committed suicide after we were exonerated and left death row.

His totally senseless death has troubled me for years and is more profound in my memory than my own entire ordeal on the row. I claim partial blame for this tragedy. I feel that I failed him. I didn’t have his back, which was the biker’s code. I should have seen it coming. My best friend needed help, and I ignorantly did not recognize it and let him die. He died as a direct result of his wrongful conviction, just as sure as if they had killed him in the death chamber. No official ever apologized or compensated Doc’s family for what they did to him or to them.

I first met Doc in Detroit in 1969 when we were members of a motorcycle club called the “Minutemen.” It was a small club, by Michigan bike club standards, of about thirty-five to forty members. I knew some of the members of the club as I had been riding for a few years as a loner. I was invited to a party at the clubhouse, which was on Gratiot and the I-94 freeway in Detroit—an area

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known for being a “tough” section of town. I was introduced to many members by their club name as real names were rarely used. When introduced to Doc, I asked him, “[w]hy do they call you Doc?” He stood up from his bar stool with his six-foot-something 275-pound frame. He looked down at me and replied, “[c]uz I tell ‘em to.” He ended his statement with a look that could only mean “you got a problem with that?” I replied, “Nice to meet you,” and gave him the biker handshake.

Doc had quit his job as a foreman in one of the big three auto plants to pursue his life as a biker. He was well-respected by all who knew him and feared by those who didn’t. With his almost bald head and menacing look, nobody fucked with Doc. After a while, Doc became my best friend. Little did we know that we would end up on death row together in New Mexico.

In 1969, a movie debuted called *Easy Rider*, starring Peter Fonda, Dennis Hopper, and Jack Nicholson.<sup>1</sup> Dominant in this movie is a scene with Fonda and Hopper traveling across the states on their Harley choppers to the sound of Steppenwolf belting out “born to be wild . . . head out on the highway, looking for adventure . . .”<sup>2</sup> This instantly became my life purpose. Doc concurred. We both had Harleys and needed badly to get out of Detroit. Not that we were in any trouble, but we knew that there was a better life out there somewhere. We wanted to ride with wind in our faces and be free. We thought there had to be something more than this mundane life. People who live in depressed areas of big cities know exactly what I’m talking about.

Not too long after setting out on our adventure, Doc and I were sitting on death row in New Mexico, convicted for a murder of which we knew absolutely nothing. The first year on the row was bad enough, but the second year was just plain nuts. Doc was in the cell to the left of me. He got into transcendental meditation and astral projection. He was writing a hippie girl from Albuquerque who taught him how to send his mind outside of his body. He would escape death row, leaving his body behind, and would join her in her apartment. At first, this seemed a good escape from the drudgery of the prison cell. Doc would “see her” on Friday nights. Later, it became twice a week, then every day, and then many times a day. He would tell me of the encounters with all of the vivid details. It got to the point where he could no longer distinguish the

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<sup>1</sup> EASY RIDER (Columbia TriStar Motion Picture Group 1969).

<sup>2</sup> STEPPENWOLF, BORN TO BE WILD (1968).

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dream from reality. Once in a while, he would discuss certain incidents as if I were there with him on his mind trek. A few times he told me that he may not be coming back to his cell that night and I shouldn't be concerned because he was escaping the row to be with his true love. I started getting worried. I told him this was going too far, that it was not real but just an abstract escape. He wouldn't believe me. I told him to bring me back something to show it was real, "a pair of panties, a lock of hair, and while you're at it, pick me up a six pack." This went on for a while. He was "out" for most of our final days in that dingy basement cave that was death row. I kept trying to get him to see the folly of what he was doing. He started refusing to talk to me. He stopped talking to me for two months.

As the months went by, he would spend a lot of time curled up in a fetal position in the corner of his cell. He lost over one hundred pounds. I had to reach around the bars and throw cups of cold water on him to bring him back to reality and get him to eat. He was more comfortable in his makeshift world than having to deal with reality.

One day, the guards arrived at our cells and announced we had a court date that day. The winter wind blew right through the orange jumpsuit I wore. Underwear would have at least helped a little, but the guard on death row guffawed at the idea of letting us wear any. Underwear was not allowed because the authorities believed we could rip the cloth into strips to make a rope to hang ourselves. I, with my ever-present problem of not wanting to exercise my right to remain silent, retorted, "[h]eaven forbid that we should rob you of the pleasure of killing us by beating you to the punch." The guard barked, "[y]ou four have court today, and if you behave, we'll tell the drivers to turn the heat on in the prison bus for you." I wonder if he could even spell the word "condescending," much less understand its meaning.

To us, this was just another court hearing to reject our latest plea to let us show our innocence—there had been many. It was no more to us than a chance to get out of the death row drudgery for a day, to actually experience what most people take for granted—fresh air, trees, landscapes, and new people to talk to. When you are on 24/7 lockdown for almost two years, you learn to enjoy, even savor, the slightest amenities. For our entire stay on the row, we didn't get showers or exercise. To bathe, we plugged up the sink, sat under it, and let the water overflow on us. Soap down. Repeat. Some others on the row, especially those who hadn't talked in years, just didn't

bother at all.

It was a total shock, then, when the judge freed us at the hearing that day. We were totally unprepared for it. I can remember standing on those courthouse steps contemplating my next move. I first had to take stock of my situation. I was a twenty-nine-year-old and had nothing. Every asset I owned was sold to raise money for a lawyer who abandoned us after our arraignment, forcing the court to furnish us with a young, inexperienced lawyer. The rumor that the prison would give us clothes and bus fare home was not a reality for we, exonerated men. That was only for parolees and guilty offenders who had maxed out. When someone is exonerated, they are no longer the ward of the court. The penal system has nothing more to do with them. They are done with you. They cut you loose. You are free.

After our exoneration, Doc went back to a biker club in California where he soon went to jail again for a minor infraction. About a year later, he came back to Detroit where I had gone after our release. His parents still lived there as well as his ex-wife who had remarried. I have never talked to his ex-wife or kids about this. I never saw them again. They probably hate me.

Doc showed up on my doorstep one day out of the blue. He was drunk. He wanted me to leave and go back to the club in California with him. I told him that I had a new life now. I had a small business that I had started from scratch, a home, and I didn't want to follow the outlaw biker life anymore. I still ride motorcycles, mind you, but not with a club. He was drinking heavily every day. I asked him to join AA, get sober, and join me in my business as a partner. He didn't want to do that. He wanted life to resume like it was before we were wrongly convicted, as if time stood still during our incarceration and we could just pick it up where we left off.

He was genuinely hurt when I would not go with him. He said that he would go back to the club by himself, but he had no motorcycle and no money to get one. I was worried that he would get caught riding some stolen motorcycle and end up in prison again. He certainly didn't need that. I told him that if that is what he really wanted to do, I would give him my motorcycle, an old BMW. I would sign the title over to him. He said, "[i]t ain't no Harley and it ain't no chopper." He refused the bike.

Three days later, someone told me that Doc went to Tennessee, to the old family farm where he was raised as a kid, put a loaded shotgun in his mouth, and pulled the trigger.

As for me, I no doubt suffer from PTSD because of my time on

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death row. At first, the ordeal turned me into an emotional ice cube and recluse. I am now over that, I think, but it took me years to fix it. I still struggle with the emotional turmoil of my wrongful capital conviction, especially when I am talking about it to others in a speech or public event. One of the therapeutic ways to help a person with PTSD is to talk about the traumatic event which caused the disorder. Doing so for the death row exoneree can sometimes be a double-edged sword as speaking about it causes retraumatization. Many death row exonerees handle these emotions with alcohol and drugs. I do neither. I do like a few beers now and then. I tried a few drugs in my youth but didn't like any of them. I now do not use any drugs. I dedicate my time and life to speaking out against the death penalty. I don't really care if it hurts me as long as I can take the hits without becoming severely damaged. Speaking out gives me the chance for my life to mean something, a chance to leave a mark and do something for humanity.

In a little over a year, we have welcomed two new death row exonerees into our midst.<sup>3</sup> Like Doc and me, these are innocent men who were sentenced to die and sat in prison on death rows across this country because of a failed justice system—two more men who have lost everything dear to them over their years of captivity. I feel a lump in my throat when I realize that these men do not yet realize that they will carry the scars of their ordeal for the rest of their lives. They simply do not yet know how they have been affected by their experience. They think that they are free and that it is all over. I will be there for them when they realize that something is wrong and that something horrible followed them off of the row.

From my own experience, I know that they have not yet realized that they are not the only ones who suffered because of their wrongful capital conviction. Certainly, a wrongful conviction does damage to the innocent person. Doc's life reveals this clearly. But, the damage caused by a wrongful conviction reaches beyond the innocent person who sits in prison. At speaking events, I frequently get approached by concerned family members of loved ones who have been wrongly convicted. Some of them drove hundreds of miles to give me volumes of copies of the paperwork from the case. They too have been victimized by the failures of the justice system;

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<sup>3</sup> See *Innocence Cases: 2004–Present*, DEATH PENALTY INFORMATION CENTER, <http://www.deathpenaltyinfo.org/innocence-cases-2004-present> (last visited Mar. 25, 2012).

they too suffer from the aftereffects of the wrongful conviction.

These sad vindicators implore me to help free their innocent loved ones. Many of these people pull at my heart with their stories. I wish I could do more, but all I can do is connect them with a group or person in their state who has resources to assist them. In each case, I invariably find that lawyers and local advocates already are at work on the case. It is wrenching to see their desperation as they search for anyone to help them. They hold out hope that they will find a minister, a death row exoneree such as myself, or a social worker with the magic bullet to freedom that the lawyers have overlooked. Some are still in shock at the sudden realization that the U.S. justice system is flawed and even corrupt. They have gradually come to realize that their loved one will not be released because of a just system, but in spite of an unjust one. They have come to understand that they too are the victims of this system. Their family has been overwhelmed by the experience. Some of these supporters have yet to fully confront the struggle that awaits them. How do I tell them that they may have to mortgage their homes, sell everything they have, and cash in their savings to fight an indefinite struggle in their quest for their loved one's exoneration and freedom?

I think of the impact of my own wrongful capital conviction on my family and on my children. I think of my daughter who, in the tenth grade, was instructed to write an essay about a topic of her personal choice. She chose to write about the death penalty. This was a subject about which she was well-versed because of her first-hand experience of having a father who had been wrongly convicted of murder and sentenced to die, a man who was near his execution date when the real murderer experienced a religious epiphany, walked into a church, and confessed his crime to a preacher. She worked long and hard to perfect her paper. She researched for days and cited her sources. She spent evenings searching the internet. She interviewed me as if she were writing a graduate thesis.

She counted on the grade on this essay to raise her failing grade in the class. My daughter hated school. Her grades and attendance reports reflected just that. This was her chance to prove to everybody what she could do, to elevate the self-esteem that had been so damaged by years of brutal and cruel teasing by classmates because of her father's false conviction. When finally completed, she was proud of her opus. She beamed and bounced around the house like a child with a new toy. She knew she would earn the passing grade. My review of it confirmed the quality of the paper and I

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assured her of success. She had admired me for my work as an anti-death penalty activist. I had taught her that with the ability to take action comes the responsibility to do so. She watched me manage my ordeal by facing it and speaking out. I taught her to stand up with her head high, not to be a victim. She turned in her paper and was confident it would earn an “A”.

After three days of avoiding me, she finally told me that the teacher had given her paper a failing grade. She was totally devastated. I reviewed the paper which looked like a brutal murder scene with red ink scrawled across every paragraph. In bright red, the teacher had arrogantly and angrily debated the death penalty, argued her statistics (which came from the Death Penalty Information Center, a widely respected source of information about capital punishment), and accused her of lying about my exoneration. I was floored to see this coming from a teacher. I had assumed, like many, that all teachers were left-wing radicals. Something horrible must have happened in this teacher’s life; she was not at peace.

I was mortified. I was angry. I was hurt. I wanted to march right down to that school and confront that tenured imbecile. One of the worst hurts of my whole life was watching my daughter’s pain over this rejection. My wrongful conviction had come back to haunt not only me, but my innocent daughter as well. Why must this be a life sentence for me and my family? Why must this injustice continue to torment us? I was proven innocent. Why won’t people accept that? Why must we suffer these indignities, time and time again?

I can understand why people find it hard to believe that this can happen to an innocent person. When my daughters were young, I did not want to explain to them just how broken the American justice system is. I wanted to spare them the details. I wanted to shield them from the negative thoughts. I did not want them to fear the police and those working in the system. I did not want them to hide every time they saw a police car or heard a siren, like I do.

But we cannot go on denying the reality before us. At current count, over three thousand people sit on death row in the United States.<sup>4</sup> One out of ten will be executed—murdered—by the state. For every eight executions, one innocent man will be exonerated. Although no one can say for sure, no doubt some of those executed

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<sup>4</sup> See *Fact Sheet*, DEATH PENALTY INFORMATION CENTER, <http://www.deathpenaltyinfo.org/documents/FactSheet.pdf> (last updated Mar. 1, 2012).

will be innocent. We know that perhaps thousands of innocent people sit in prison. Some, we will be able to set free. Most we will not. The damage suffered by the innocent and their supporters and loved ones is immeasurable.

My grandson once trembled and screamed uncontrollably when his mother was pulled over for speeding. He feared that the police were going to take his mother away and put her in jail. He was too young to understand why this horrible thing happened to me. He only knew that it did—only that I was taken away and almost killed for something I did not do. I sincerely hope his is the last generation to suffer the collateral damage of my wrongful capital conviction.