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Hunger Striking Prisoner's Dream of a New Trial Won't Come True This Year

by Jane Mills | November 13, 2008 8:00 AM

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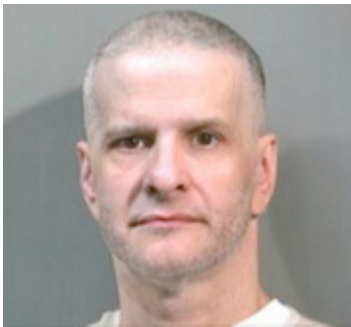


Photo courtesy of the DOC

William Coleman

A habeas corpus petition filed in 2005 by hunger striking inmate William Coleman inched forward Wednesday after a brief status conference before a Rockville judge but not before the judge denied an odd request from Coleman's attorney to set a December trial date in the case.

The petition, written in Coleman's own hand, seeks a new criminal trial on grounds that his lawyer was ineffective or a finding that he's actually innocent.

Coleman claims he was falsely accused by his wife of rape while their relationship was deteriorating and after he had filed a motion for custody for their two children. He has said in statements issued by the American Civil Liberties Union and other materials that he is protesting a justice system susceptible to false criminal accusations made by spouses locked in contentious divorce or custody disputes. He says police and prosecutors failed to perform any investigation of his wife's accusations.

He is now divorced.

Coleman also claims his attorney, former Waterbury lawyer Michael Gannon, failed to represent him competently, calling no witnesses, among other failings. Gannon's license to practice law was later suspended by the state after he was found to have violated the rules in over 10 cases.

Coleman, 48, a British national who was living in Waterbury at the time of his spousal rape conviction lost an appeal last year and has been on a hunger strike since September 2007.

The status conference Wednesday was the first court activity of any kind in the three-year-old case.

A petition of habeas corpus, or the "Great Writ" protects against illegal imprisonment.

His attorney Kalisha Raphael, an assistant public defender in the habeas corpus unit, requested the December date even though papers needed to ready the case for trial have never been filed in the case.

"Mr. Coleman is currently on a hunger protest and although he has indicated it is unrelated to this habeas petition the goal is to set a trial date as soon as possible," Raphael said in explaining her request to the judge.

Cynthia Serafini, the Waterbury prosecutor who won Coleman's conviction and is defending the Department of Correction against the habeas petition, asked for a scheduling order instead.

"For the record your honor, there is not even an amended petition filed," she said, referring to the rewrite of inmate-written petitions by their attorneys that are filed in habeas corpus cases.

After initially ordering the parties to consult on a proposed scheduling order in the case, District Judge John Nazzaro changed his mind after a recess and a lengthy off the record sidebar with Raphael and Serafini. He ordered another status conference for December 10. Raphael told Nazzaro she would file an amended petition before then.

The sidebar was the only one held in over 50 status conferences that moved at a steady clip all morning in Nazzaro's court. Most of the habeas cases on Wednesday's docket were filed in 2005.

After the amended petition is filed by Coleman's attorney, the state will have 30 days to respond to it. Pleadings continue to progress this way according to court rules or a judge's orders until the issues are fully briefed, making a December trial date seem impossible.

Coleman's petition has been frozen in time since 2005 because of a request from Raphael, who said in a motion she needed to review the transcripts of Coleman's criminal case and might need to request more of them. Raphael's motion and the judge's order granting it put the ball squarely in Raphael's court for moving the case forward again. It is not clear when she received transcripts or when she began investigating Coleman's case. Coleman's unsuccessful criminal appeal, separate from the habeas petition, was pending before the appellate court until last year

Adele Patterson, who oversees the habeas corpus unit, and Raphael declined to comment Wednesday and did not return earlier telephone calls seeking comment.

Brian Carlow, deputy chief public defender, declined to comment in an October telephone interview citing attorney client privilege when asked if the three-year freeze was necessary to investigate Coleman's habeas claims, typically a time consuming task; or to buy time for a habeas unit with a heavy caseload; or for some other reason.

The time it takes for a "trial ready" habeas case to go to trial has increased lately from 18 months to about 30 months, according to a source in the Rockville courthouse where the judiciary consolidated habeas petitions in 2003. The centralization of habeas cases in one court with staff and two judges dedicated solely to habeas cases improved their management, according to the Rockville clerk's office. Additional judges are assigned temporarily to assist from time to time, which Nazzaro announced in court was imminent.

The slow wheels of justice in Coleman's case present a problem. He was sentenced to serve 8 years of a 15-year sentence. He is half way through that sentence and will be released no later than December 2012. The closer an inmate is to freedom, the harder it is to celebrate winning a new trial through a habeas: if he is convicted again after a second trial, he could be sentenced to serve the balance of his 15-year sentence. If he forgoes a new trial, he will be required to register as a sex offender. He also faces possible deportation to England.

Coleman lived on a liquid diet for a year ending in September when he announced that he would cut out liquids. Shortly after this the Department of Correction began forcing liquids intravenously and then began force-feeding him through a tube inserted in his nose. Correction Commissioner Theresa Lantz won a court order in January authorizing the procedure if it became necessary to preserve his health. Coleman had lost about 130 pounds by September, down from about 245, according to the Connecticut ACLU, which is defending his right to protest. The DOC has denied press requests to interview Coleman in person.

The ACLU will challenge the order in a bench trial set for January on the grounds that Coleman has the right to refuse medical treatment and proceed with his hunger strike as free speech.

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Comments (6)

Posted by: Doriss William | November 13, 2008 8:48 AM

This case is utterly ridiculous. The CT Habeas unit is Byzantine and completely dysfunctional. The CT State Public Defenders Office is completely incompetent. Read "Public Lawyers Reject New Cases," N.Y. Times, Nov. 9 '08. Also, "CT Prosecutors Poorly Trained," N.Y. Times, Jan. '02.

The State is operating a de facto criminal enterprise in the form of a "criminal justice system," which is currently "Unconstitutional" and in noncompliance with model standards of jurisprudence going back hundreds of years. All of this is easily demonstrable, but the General Assembly and the Executive branch will not listen, as everyone is apparently bogged down in the minutiae of Byzantine procedure to the exclusion of common sense.

This is a very important case and presents the State with both a conundrum and an opportunity to clean up its criminal "justice" act. By the time Coleman is cleared of false criminal accusations and convictions, he will have done his time. His life will have been ruined, and the State will refuse to acknowledge or take responsibility for errors and violations of due process under the Bill of Rights and the U.S. Constitution.

Posted by: dan | November 13, 2008 11:46 AM

the justice system is too corrupt, no one cares anymore. whats also concerning is the fact that people believe that the system is good and if you are guilty then that must be right. it is more and more often not the case. everyone should be affraid, because it could happen to someone you know and love. doriss there is a contact tab on his web page, get in tough with his supporters .

Posted by: anon | November 13, 2008 4:02 PM

it's just that it is terribly overdue for reform and inspirational leaders inside or outside the legal sphere are not emerging. It is nearly ripe for it. Maybe I am wrong, but I think some of the bad stuff is going to start giving out soon, you know, ripping at the seams.

I mean from police training, procedure, and culture, to prosecutorial guidelines, models of accountability and eventually a shifting supreme court. except for that last part - the shifting supreme - the rest is nonpartison, theoretically.

Several paradigms are just about exhausted.

Posted by: Shark | November 13, 2008 9:00 PM

Doriss,

With respect to the two articles you cited in support of your statement that "The CT Public Defenders Office is completely incompetent", the first one mentioned nothing about public defenders in Connecticut. The second article, while not even locatable, by its title alone appears to be about PROSECUTORS, not public defenders. And while not everyone who has been convicted is guilty, not everyone who claims they are not guilty is innocent.

Posted by: victim | November 13, 2008 11:47 PM

The CT justice system IS corrupt. Prosecutors by CT Statutes are suppose to work for JUSTICE and investigate the evidence but all they want is CONVICTION.....take the plea bargain or they threaten you with the full extent of the corrupt system. If you have power money and influence, or your 'related' you're all set. If you're economically disadvantaged, you are victimized by stupid laws that are meant for the commoner, not the Elite who make and enforce the laws. The elite and enforces manipulate the law and the system for their own benefit and/or their 'friends'. Speak out, and you are victimized to the full extent of their corlruption.

Posted by: Doriss William | November 14, 2008 12:23 PM

"Training is Scarce for State Prosecutors," Michael Kolber. Try this: <http://query.nytimes.com/gst/fullpage.html?res=9E0CE3D61F3CF932A15757C0A9649C8B63>. Having problems with edit function. The story is about prosecutors being poorly trained in CT. Why should I go to prison because my prosecutor is poorly trained and/or incompetent? I demand a competent prosecutor as much as I demand a competent dentist. I don't like either one, but if you have to go, you have to go.

The other story is about public defenders in some ten or twelve states, to be sure. One can easily extrapolate this story to all jurisdictions where public defenders are overworked and underpaid. CT is not exceptional here. As someone who has utilized the public defenders services in CT, I am certainly entitled to my own observations and opinions. I am also privy to the situations in other cases, including a murder trial in New Haven which I attended as a member of the public. I was not impressed.

"And while not everyone who has been convicted is guilty, not everyone who claims they are not guilty is innocent." Good observation, Shark You have passed Logic 101. However, in the judicial arena, it's a little trickier than that. The function of a criminal trial is not to determine "guilt" or "innocence"--as strange as that may seem--but to determine "guilt beyond a reasonable doubt." That is the big bugaboo which many lay people seem not to be able to comprehend, which is also one reason why so many innocent people or people charged in a weak case get convicted anyway.

It's 3:00 on a Friday afternoon, and the jury is tired. Everybody wants to get home in time for supper, and nobody wants to return to the courthouse Monday morning. So the jury foreman says, "look I THINK he did it, I really do. Let's wrap this up. We've been here long enough! How many here want to disagree with me?" Now, after untold hours of deliberation, everyone decides to throw in the towel: Guilty as Charged.

This is not proper procedure in our well-established, centuries-old "common law" tradition which goes back to the 13th Century Anglo-Saxon era which we subsequently adopted in America in the late 18th and early 19th centuries. We uphold these pre-American precepts with lip-service each and every time we enter the courthouse. My argument is that these words which we hold dear have become a sham. It is disgraceful that we say one thing, but do something else when push comes to shove, or when it's time to go home for supper. A criminal trial is an adversarial proceeding, not a picnic in the park. The players of the game can be underhanded, devious, deceitful and--yes--evil.

Prospective jurors actually need a 2 week crash course in law and jurisprudence before being accorded the extraordinary privilege and obligation of serving on a jury charged with deciding whether another human being's freedom should be removed.

My argument is that what you have now is a three-ring circus where biased judges co-conspire with state prosecutors and wimpy public defenders who are unable to land those high paying jobs in the private sector. Public defenders are typically suffering under tremendous case loads and are unable to devote the resources necessary to properly defend their clients against wanton, warrantless charges and overcharging by the state. I happen to know what I'm talking about, having gone thru the whole bloody process. (It is not a pretty picture, and I have posted elsewhere about my own situations and conclusions.)

The actual function of public defenders has devolved into a role where the public defender actually

spends most of her time negotiating the most favorable "plea-bargain" for her client, instead of fighting tooth-and-nail for his innocence, if he truly believes he is innocent. She is merely an asterisk in an overwhelmingly rigged system. Once you are caught, there is no walking out of the courtroom without pleading to something, even if its jaywalking.

I have actually argued with Martin Zeldis of the Appellate Public Defenders Division of the State. I claim that I was denied the complete and total exoneration to which I was entitled thru tricks of jurisprudence and outright malfeasance of the part of the judge, who I claim was "prejudiced" and co-conspired with the State to achieve a minimum of two misdemeanor convictions so that I would not walk out of her courtroom "Scot-free." Zeldis steadfastly maintains that I was properly served by his offices in that they helped me beat eleven out of thirteen charges, including nine felony. I beg to disagree. He saw the glass as half full. I saw it as half empty. There is no simple solution to this problem.

The fact remains, as I told the 2nd Circuit Court of Appeals at my oral hearing last Spring, "My cases are important because if these judgments are allowed to stand, it will send a message to the State that it can charge anyone with any crime, anywhere, any time--without consideration for the facts, and without functional oversight or accountability--and get away with it in real time. I felt that way then, I feel that way now. I rest my case.

Finally, for those wishing to pursue this whole area, please read Sasha Abramsky's book, "American Furies: Crime, Punishment, and Vengeance in the Age of Mass Imprisonment," 2007. It's an eye-opener on the true state of criminal "justice" in America. Some of us have experienced this firsthand. Some of us have experienced extreme injustice in CT. I wish Coleman the best and I hope he makes it, I really do. His is an important case.

The "he's garabage anyway" argument does not cut it anymore: not for me, not for Coleman or anyone else hauled into a CT court without warrant or probable cause. Much work needs to be done. But who will do it when nobody listens, when nobody cares? Is this not the sign of a declining civilization?

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