

Teen's 100 Year Sentence a Travesty of Justice

Now, How to Undo the Damage of a Texas Triangle

by Thomas F. Coleman, Esq.

Aaron Hart's conviction and 100 year prison sentence cry out for a reversal.

Aaron could use some help from the criminal justice and social service systems. But spending the rest of his life behind bars, where he was recently raped, isn't exactly the type of help that a humane society provides to young man with mental retardation who has had a scrape with the law.

Aaron may have a chronological age of 18, but from an intellectual and emotional perspective, Aaron is only about six years old. He has an IQ between 47 and 52. His intellectual and developmental limitations are obvious. Aaron does not know how to read or write, can't count money, does not know his left shoe from his right, and likes toys designed for 5 to 6 year-olds.

"He's basically a child in an adult's body," said Allan Hubbard, Victim's Advocate for the District Attorney's Office.

So why the 100 year prison sentence? Aaron got caught in the middle of a Texas Triangle: an overzealous prosecutor, an incompetent defense attorney, and an unusually cruel judge.

Aaron's troubles started when he went to his neighbor's house to mow her lawn. The neighbor's six-year old son went into the back yard to watch. A little while later, the boy's mother walked outside to check on the youngsters. She found them in the garage with their pants down. Aaron was sent home.

The six-year old told his mom that he and Aaron played with each other's genitals. Apparently, the sex play involved mutual touching, licking and rubbing. The entire incident lasted about five minutes.

Aaron was later questioned by the police. They read him his Miranda rights – as if a boy with an IQ of 47 is going to understand this legal mumbo jumbo – and Aaron agreed to answer questions.

Aaron admitted to the sex play. So he was arrested and taken into custody. The prosecutor charged Aaron with five felony counts.

Instead of pleading not guilty, challenging the alleged confession, and developing a defense based on mental incapacity, the attorney had Aaron plead guilty to all five counts. The attorney asked for a jury trial on the issue of sentencing, a procedure which is allowed in Texas.

At the sentencing hearing, no expert witnesses were called and the issue of Aaron's retardation was not addressed. No alternatives were presented as an option to a prison sentence.

Despite the fact that this was Aaron's first sexual offense, and prior to that he had a minor offense for petty theft and criminal mischief, the prosecutor pressed for a sentence of 40 years.

The jury recommended a sentence of 30 years on each of three counts and 5 years on each of the other two counts.

At the time of sentencing, the judge had the discretion to run the sentences concurrently with each other, a procedure that would have been normal in this type of a case. That would have resulted in a 30-year sentence. But no, not this judge. He decided that Aaron was a menace to society and decided to run them consecutively. Thus, the 100 year prison term. Aaron will be eligible for parole when he is 68 years-old.

Fortunately for Aaron, attorney David Pearson decided to inject himself into the case and to undo the damage caused by the Texas Triangle. He was appointed to represent Aaron and immediately sought a motion for a new trial or new sentencing.

Pearson argued that Aaron was not competent to understand the legal proceedings and did not understand his Miranda rights. His confession and guilty pleas should be set aside for these reasons alone.

But the guilty verdict and 100 year sentence were illegal for other reasons. The first defense attorney was incompetent. He should have had mental health experts appointed to evaluate Aaron. A motion to suppress the confession should have been filed. Mitigating evidence should have been presented to the jury.

Sentencing options other than prison incarceration should have been given to the judge for consideration. The judge abused his discretion in running the sentences consecutively. A life sentence for a first offense such as this by a defendant with mental retardation is cruel and unusual punishment.

After a hearing on the issues, the judge took less than a minute to rule. Motion denied. Aaron was taken away in shackles by the bailiff and transported to county jail.

While Aaron was in the custody at the local jail, he was raped by another inmate.

Brenda Cherry, a local activist in Paris, Texas – the community where this case occurred – was outraged at the entire debacle. She alerted a journalist from the Chicago Tribune who then wrote a story about Aaron's case and his 100 year sentence. The story appeared in the Los Angeles Times and a few other papers.

I read about the case and brought it to the attention of Dr. Nora Baladerian. Nora has been my friend for 29 years. She is a clinical psychologist who specializes in helping people with intellectual and developmental disabilities, whether they are victims or defendants. Nora heads up the Disability, Abuse, and Personal Rights Project of Spectrum Institute.

She also works closely with Jim Stream, Executive Director of The Arc of Riverside County, California, a nonprofit organization providing services to and advocacy for people with intellectual disabilities.

Nora and I decided that I should reach out to David Pearson and Brenda Cherry to offer our assistance. Aaron deserves a new trial and, if convicted again, a sentence that is proportionate to the crime and to his level of culpability.

David welcomed the assistance. He would be pleased to have the participation of human rights, disability rights, and other advocate groups in the appeal. I offered to help coordinate friend-of-the-court briefs for the appeal.

Brenda was delighted to hear that other people were as outraged as she was over this situation. She got me on the phone with a local attorney and the three of us discussed strategies to protect Aaron from further harm in the prison system. We decided to work together to keep media attention on the case and to put political pressure on state government officials to protect

Aaron from further harm. Hopefully, the prison system complies with the Americans with Disabilities Act and has special custodial arrangements for prisoners with disabilities.

Nora Baladerian put me in touch with Robert Perske, author of *Unequal Justice* – a book about how people with developmental disabilities are abused by the criminal justice system. She also brought Leigh Ann Davis into the loop. Leigh-Ann lives in Texas and works with The Arc of the United States.

Charles Richards, a writer with *The Paris News*, first broke the story about the 100 year sentence. Then, thanks to a follow-up story written by Howard Witt, Southwest Bureau Chief of the *Chicago Tribune*, people throughout the nation have been put on notice about the travesty of justice caused by the Texas Triangle.

Political, legal, and financial assistance is needed. Aaron's parents are a low income family. Without help, they won't even be able to afford travel to the prison were Aaron is transferred. It also takes money to fight a high profile case like this.

Letters of support from community groups, religious leaders, and other individuals would be helpful, especially to demand that Texas officials keep Aaron safe pending his appeal, and get him treatment as a rape victim. Legal briefs in the appeal from bar associations and advocacy organizations will help increase the chances of a successful appeal.

Donations to help with travel costs, legal coordination, and administrative work, would be helpful. Spectrum Institute is a nonprofit corporation with federal tax exempt status. So donations to this project are tax deductible.

If you would like to help to bring justice to this Texas case, please contact Spectrum Institute. We would sure appreciate your support. ♦♦♦

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