

Dateline November 30, 2010

ANATOMY OF A PUNITIVE PRISON TRANSFER:

You might have heard the news. On Thursday, November 18, 2010, at 2:30 AM, I was awakened by the little, bald-headed, myopic prisoner in the next bunk telling me he was being transferred.

“You? Are you sure?” I asked. “Did you put in for a transfer?”

“No. I only have two months left before I go home.”

That didn't sound right. I was still groggy, having been awakened from a dream about – I couldn't remember. You know how dreams are. But I told him he should double-check with the guard, to make sure. I had a sneaking suspicion they'd mistakenly awakened my neighbor in bunk 116, when they meant to wake me up. I'd been fighting the prison warden and his minions at Tomoka C.I. (Daytona Beach, Florida) since the previous February, when the self-righteous mailroom clerk informed me she had confiscated a book, *Wordsmith 2010*, an anthology of award-winning short stories, essays, and poems, published annually by the Tampa Writers Alliance, mailed to me.

Why was the book confiscated? She said she'd read the article I'd written, and felt it was “a threat to security.” A threat to security? How could that be? The article in question, “To Protect the Guilty,” was a 2400 word excerpt from the “Prison Diary Project” sponsored by the Anne Frank Center USA in New York City, in 2008, in conjunction with the PEN American Center's Prison Writing Program. That particular essay—a memoir—recounted my negative experiences with Ku Klux Klan (KKK) prison guards at a North Florida prison several years before. I couldn't imagine how that could be construed as a threat to security. The recollection was from years before, at a distant, unnamed prison, and involved unnamed guards who had retaliated against me in retribution for my perceived insults to the character and intelligence of KKK members, prison guards or otherwise. Hmmm...perhaps she was in the women's auxiliary of the Klan, the little women who sewed up the sheets and pillowcases into those white robes and pointed hats worn by the men folk as they danced around a burning cross in a cow pasture, reminiscing about the good old days, when they were the masters and the slaves answered “yassuh” and “nahsuh” to the overseers as they hoed those endless rows of cotton.

Word came down a few days later that “The warden wants your ass in jail!” The mailroom clerk had gotten the formal complaint I'd filed about the improper confiscation, had taken the book to the warden, who read the KKK memoir and was offended by it, too. Hmmm...why was he offended? Had I touched a sensitive nerve? How deep did the KKK roots go in the Florida prison system? With the head of the 30,000-plus employee DOC being a black former police chief in Tallahassee, the state capital, one would think that any prison employees who professed white supremacist, racist organization links would keep their heads down, maintain a low profile, and not draw attention to themselves. But no, they couldn't resist the impulse to retaliate against the messenger, the prisoner who talked about them; the urge to strike back was too strong. And they did.

The offended warden ordered his subordinate to write a bogus disciplinary report against me for multiple unwarranted “mail regulations violations,” for violating the strictures against advertising for a pen pal (never did, don't have any pen pals), running a business while incarcerated (absolutely false), entering contests and sweepstakes (nope-not even a Saturday night Powerball ticket), and commercially advertising for money, goods, and services (they should have checked my account—the court found me indigent, a fancy word for “poor”). Never happened. Didn't matter.

They call prison disciplinary hearings “Kangaroo Courts” for a reason. I don't know why Kangaroos have such animosity toward us, but the two kangaroos who presided over the two hearings I had refused to listen to a word I said, as I was standing against the far wall with my hands cuffed behind my back. I presented evidence refuting the false charges, and requested staff witnesses who could verify my statements. Denied without any reason. Guilty. Thirty days in solitary confinement, thirty days loss of gain time. Do not pass “GO.”

It snowballed from there. I went to lockup, served every day of the thirty, no “good behavior,” unlike those caught smoking pot, possessing drugs or other contraband, who got out early. The colonel told me, when I asked why, “There’s a reason for that.” Yes, it’s called retaliation.

One characteristic of Normans is that we fight. We’ve been fighting for over a thousand years of recorded history. It doesn’t matter if we’re outnumbered. A hundred Norman knights on horseback attacked and scattered ten thousand Saracen (Muslims) foot soldiers besieging a city in Sicily on the way back from the Crusades, a long time ago. I once fought eight attackers to a draw at Raiford in my much-younger days. But all I had to fight these false charges was my pen, and they took that!

I fought and fought, on paper, lost every battle (of course), and finally filed a lawsuit in the circuit court in Leon County, the state capital. Once you get out of the prison decision chain (denied, denied, denied) and into judicial review, one’s chances of receiving a fair hearing are increased.

What else could the prison officials do to me, to fire another arrow, now that my appeal war is in the hands of the court? Punitive transfer!

My neighbor double-checked with the guard. He came back. “It’s you,” he said.

Just what I suspected. The guard had made a mistake, woke up the wrong guy. I packed.

We’d been hearing about it for weeks, even months. One dorm was falling apart, collapsing, had been condemned, and 150 prisoners had to be sent elsewhere before Thanksgiving. Like the tomato fields on the side of the road, it was “U-PICK-EM.” The very people who’d retaliated against me were the ones who picked the 150 chosen to go. The word was that they were taking the opportunity to get rid of all the “troublemakers.” I knew my time there was short.

A “punitive transfer” can usually be identified by certain characteristics. Traditionally, it is accomplished by putting a prisoner on a bus and shipping him to a distant, less-desirable prison much farther from his family and loved ones. Not only does that get the troublemaker out of their hair, but it also punishes him by imposing physical and financial hardships on those who would visit him. In this economy of foreclosures, unemployment and prohibitive travel expenses, the possibility of aging and infirm loved ones making difficult treks to distant prisons are greatly reduced, effectively punishing the prisoner’s family members, too, who are only guilty of caring about their loved one in prison and wanting to support and reassure him to keep him connected to the “outside” world.

A second characteristic of a punitive transfer is that it was unrequested. There is a procedure in the prison rules for requesting a “good adjustment transfer” to the prison of one’s choice. Maintain a clean record, behave yourself, don’t get in trouble, work hard, earn “gain time” each month, participate in programs, and the prison authorities will approve you to go to a better prison, usually closer to one’s family or visitors.

That is a great incentive for good behavior and positive accomplishments. “Give me a year of hard work and I’ll transfer you wherever you want.” We’ve all been told that. Some favorable prisons with good vocational programs, education, or paying jobs (PRIDE Prison Industries), have long waiting lists of a couple of years to get there.

Not so for “punitive transfer,” however. Few if any want to go to some distant prison out in the boondocks, far from the major population centers, unless they live down the road. I had been previously approved to go to Sumter C.I., near Bushnell, forty miles from my family. No more. The defendants in my court case made the decision for me. They didn’t like seeing me in the visiting park each week with my loved ones. “Let’s ship him to Alabama,” they most likely said, gleefully. “That’ll teach him.”

The third and most crucial characteristic in this anatomy of a punitive transfer is that it is retaliatory in nature. It punishes a prisoner for some act on his part. In my case, it is perfectly clear. They were offended by the KKK prison guard article. They retaliated by concocting false disciplinary charges and throwing me in solitary confinement. I responded by filing formal complaints and appeals to higher authorities, as the law

says I am entitled to do. The Bill of Rights, the First Amendment to the U.S. Constitution, guarantees several rights to all citizens, freedom of speech, and the right to redress grievances to the government—to officially complain of government actions— among them.

Even prisoners are guaranteed these rights, the freedom to pursue legal remedies without fear of reprisals by government officials. Think again.

Reprisals and retaliation have a “chilling effect” on prisoners, who already suffer hardships and denials of “due process” by the very nature of their incarceration. The message is clear to all—complain at your own risk, see what happened to him?—it will happen to you.

Former D.O.C. Inspector General Dave Brierton once said, “Prisoners are put in prison as punishment, not for punishment.” That statement was in response to an investigation into abuses and brutality by guards at Florida State Prison. Brierton understood that being in prison was the punishment, and the guards’ jobs weren’t to inflict their own brands of additional punishment as they saw it.

Chained in leg irons, carrying heavy bags of my court documents, I stumbled onto the crowded, rickety prison transport bus with 45 of my fellow prisoners. Who were they? The vast majority were Jamaican, Latino, and Miami ghetto prison gang members, drug dealers, and strong-arm robbers who preyed on weaker prisoners. One older white prisoner was infamous for having castrated himself with a razor blade years before. The monthly testosterone shots he got at medical resulted in occasional rages and assaults, keeping him in and out of lockup, an obviously mentally-ill person. Get rid of him. Another transferee was a mentally-deficient younger man whose sole possession was a pair of flip-flops he carried in his back pocket. Not a toothbrush, nor a pair of socks. He helped carry one of my heavier bags, since his hands were free. And then there was me, the troublemaker.

The first question the prison gang members asked me was, “What are you doing on the bus with us?” They knew why they were being transferred. **“Norman, you never get in trouble. Why did they get you?”**

I explained that I had filed a lawsuit against the administration. “Oh—okay.” That explained it. They knew the drill.

That was Thursday. The occupants of the Friday and Monday transport buses were mostly those who had been filing institutional grievances, one of them a man with hepatitis C, Crohn’s disease, and other highly infectious terminal illnesses who complained about being assigned to the kitchen. I didn’t want him in there, either. Ship him. One thing about their strategy—**ship out everyone who filed complaints and the assistant wardens’ workload drastically diminish, not that they have a lot to do anyway.** For the past several months, a dozen or so “officials” from the warden down to the assistant wardens, colonel, majors, classification officers, and others spent one day a week going into each housing area “shaking down,” (searching bunks and lockers), and supposedly “inspecting” each dorm, ranking them in an arbitrary order of feeding. What a waste of taxpayers’ money! Close to a million dollars in annual payroll, and they are going around doing the dorm officers’ jobs for them.

Who was running the prison while the entire administration was confiscating extra rolls of toilet paper from lockers? The secretaries! Fire the administrators, Governor Rick Scott, and let the secretaries run the prison! They’re doing it already.

That’s what I was up against at Tomoka. The truth can be told at last. Of course, that doesn’t mean that the reprisals and retaliations are over. They have telephones, and can easily call their friends at other prisons and ask them to continue the process for them. Hopefully, by illuminating the tactics that will lesson the chances of more adverse actions. Or maybe not.

The law says that once a plaintiff makes allegations of reprisal, backed up by specific details and facts, the burden shifts to the defendants to prove that they would have taken the same disciplinary actions in the absence of the constitutionally—protected activity. That’s a legalistic way of asking would they still have locked me up if I hadn’t written the KKK article two years before, or punitively transferred me later. The answer seems clear—no. Everything proceeded from the constitutionally-protected activity. If I were a functionally-illiterate prisoner, we wouldn’t be having this conversation.

That's the way it is in prison in Florida. Stay tuned for further developments.

Charlie Norman-unlawfully incarcerated over 30 years ago.