

The Tonya Craft Case: The Mask Slips Off

May 12, 2010 By Ken. Law

For the most part, our criminal justice system does an adequate job of creating a minimally credible appearance of due process and the rule of law. Judges grant the occasional defense motion, some stupendously ridiculous prosecutorial demands are rebuffed, and the judiciary even occasionally holds the state accountable for its own misconduct.

When kids are involved, though, all bets are off. The mask slips away, and the system is revealed at its worst: as a mechanism to accept, uncritically, the demands and accusations of the state, and to evade such impediments as the rule of law may pose to putting somebody in jail.

Over the last two years, Tonya Craft learned that the hard way. Yesterday she was acquitted of multiple counts of child molestation, demonstrating that juries can still occasionally serve their historical function as a buffer between the state and the individual. That's a victory. But the sweetness of the victory cannot cover the foul taste of the pervasive, terrifying, and contemptible behavior of the prosecution and its lapdog on the bench in this case. Tonya Craft was subjected to a Kafkaesque travesty of justice, and has emerged with her freedom, but with not much else.

You can't talk about the Tonya Craft case without talking about the work of William Anderson, who has covered the case in great detail. Anderson is to the Craft case what K.C. Johnson was to the Duke Lacrosse case: a relentless citizen journalist devoting substantial time and skill to documenting government misconduct. I won't just regurgitate his work here. Visit his blog yourself, including his open letter to Tonya Craft after her acquittal, or read Gideon's summary or this post at Change.org or this one at Cato@Liberty.

I can't even summarize the damn thing without raising my blood pressure to vision-blurring levels. Let me just give you some highlights:

1. Judge Brian House, the prosecutorial lapdog in question, refused to recuse himself even though he had represented Tonya Craft's ex-husband in their divorce action. In other words, the sitting judge was previously an advocate against the defendant. This might explain why he vigorously suppressed and disallowed exculpatory evidence and testimony, while letting the prosecution levy every marginal, prejudicial, and inflammatory attack on Tonya Craft (for instance, by focusing on her having consensual affairs with adults).
2. The prosecution team, Len Gregor and Chris Arnt, openly and contemptuously committed egregious misconduct throughout the proceedings, with what amounted to the encouragement of Judge Brian House. That misconduct included suppression of exculpatory evidence, subornation of perjury, harassment of witnesses, open appeals to racism and sexism, unprofessional attacks on the defense team (and, really, on the entire concept of a defendant being entitled to a defense), unprofessional public statements about the case (like the Facebook post you see below, upon which friendly potential trial witnesses commented), breathhtaking closing argument abuse, and a list of other conduct too disgusting and lengthy to set forth here.



3. The prosecution relied upon, and Judge Brian House allowed, the sort of junk advocacy-science that makes many child abuse cases so dangerous and unjust: "child advocates" whose explicit role is to interrogate children until they make accusations of child abuse, and to explain away any inconsistent statements.

So, Tonya Craft escapes with her freedom, but with very little of her life left. Think it couldn't possibly happen to you? You're wrong, especially where kids are involved. The mere accusation of child abuse makes us go nuts. We live in a society that sentences a woman to life in prison for making a 13-year-old boy touch her clothed breast. We live in a society where proponents of censorship utterly unrelated to child abuse understand how they can manipulate our hysteria about children to promote broader censorship:

"Child pornography is great," the speaker at the podium declared enthusiastically. "It is great because politicians understand child pornography. By playing that card, we can get them to act, and start blocking sites. And once they have done that, we can get them to start blocking file sharing sites".

We live in a society that has stopped having ridiculous show-trials for "witches" centuries ago, but has had a century of equally hysterical, equally inquisitorial, equally unjust, and equally preposterous show-trials of suspected "ritual" child molesters. Ask [John Stoll](#). Ask the [McMartins](#). Ask [the Amiraults](#). It can happen to you, as surely as you can be struck by lightning. It can happen to anyone so long as we, as a society, allow the mere allegation of a threat to children to utterly unbalance us, eviscerate our critical faculties, and make us eager to abandon our commitment to the rule of law. It can happen as long as we tolerate (and even applaud) prosecutors like Len Gregor and Chris Arnt and pseudo-judges like Brian House.

One of the best legacies we can leave our children is a system of justice that takes rights, and due process, seriously. One of the worst bequests we could make is a system that abandons even the pretense of fairness upon an accusation of child abuse. Shame on us if we are willing to destroy our children's world in order to save it.

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