

SYSTEMIC SENTENCING

PROPOSAL

FOR

John Galecke

SUBMITTED TO:

The Honorable Dennis Moroney
Branch 20
Milwaukee County District Court
Milwaukee, Wisconsin

PREPARED BY:

Robin Shellow

SUBMITTED BY:

James Shellow, Robin Shellow
Attorneys for John Galecke

Introduction

John Galecke acknowledges he bears complete responsibility for the attempt to procure cocaine and he accepts that he will be held accountable for his offense conduct by this court. Michelle Mitchum is the probation officer who prepared the pre-sentence report for this case. She reviewed all pertinent documents including police reports. Ms. Mitchum also interviewed the offender's brother, girlfriend and father as well as members of the Cedar Creek counseling clinic. She also reviewed documents pertaining to his alcohol and drug treatment, his self-employment, as well as all the material regarding John Galecke's rehabilitative efforts.

After a thorough review of this case, Ms. Mitchum does not oppose a probationary sentence in this case. She writes, "*Possibly a period of time on probation with or without Huber may answer sentencing needs. During any period of probation, Galecke should be required to participate in any programming deemed necessary by the probation department.*"

Case for Placement in the Community vs. Incarceration

The staggering cost of prison construction and the dramatic increase in the numbers of incarcerated offenders at local, state and federal levels in recent years as a result of mandatory sentencing policies, increases in statutory maximums and various sentencing

enhancers, coupled with decreasing state budgets nationwide, provides both opportunity and justification to fashion alternatives to incarceration for certain offenders. As a result, the concept of “restorative justice” now receives the attention it deserves.

The Commissioner for Corrections for the State of Maine said, in an interview:

With restorative justice, we hold offenders accountable and make the victim the center of the criminal justice process. The corrections system ought to first assess the amount of coercive authority necessary to insure public safety, but once you’ve disposed of that, we can hold the offender accountable, making him right the harm he has done to the victim and the community, in a punishment that is as much as possible visible to the public and related to the harm done.¹

While protection of the public—referred to above as “the amount of coercive authority necessary to insure public safety”—is always an issue at sentencing.

Incarceration by itself may be considered a relatively easy, passive sentence compared to the restorative justice approach which holds offenders directly accountable to the community in which they have offended, confronts them with the personal harm they have caused, and requires them to make real amends to those who have been damaged.

We believe that restoration of the material and emotional losses to our community through extensive community service which targets that portion of the population that has

been unfairly affected by the impact of drugs such as gifted and talented students at the Milwaukee Public Schools whose fathers and mothers are addicted to crack cocaine. What John Galecke does need is to help restore the community he has damaged. That goal can best be met with a community-based sentence.

As this court contemplates an appropriate sentence for John Galecke, it is hoped full consideration will be given to the following sentencing proposal. The plan holds Galecke responsible for his offense conduct and provides for measurable reparation for the damage he has done to the community.

SENTENCING RECOMMENDATION

It is respectfully requested that due to John's lack of prior criminal record, age at time of offense, extraordinary acceptance of responsibility, and continued responsible treatment outcomes that John Galecke be placed on probation with a substantial stayed prison sentence.

The following proposed conditions of probation meet the primary goals of protecting the public, punishing the defendant and deterring future criminal activity. Each of these conditions has been individually tailored to the unique circumstances to the defendant before the court.

- 300 hours of community service ,or whatever the court deems appropriate, to be performed over the period of probation.

¹ DeWitt, K. (1995, December 25). Crowded Jails Spur Search for New Way of Punishing. *The New York*

- Develop and fund a scholarship for at-risk gifted and talented children from Milwaukee's inner city utilizing either MATC, University of Wisconsin, Milwaukee, Marquette University, Alverno College or any other close, secondary institution which promotes academic excellence and entrepreneurial skills.
- Solicit corporate matching funds for scholarship referenced above.
- Give two speeches per year at schools to be approved by his probation officer regarding the devastating effects of drug use on the potential success of Milwaukee's children.
- Random urine analysis.
- 90 12-step meetings in 90 days to commence the day this court sentences the defendant. Thereafter, whatever the probation officer deems appropriate.
- Respond to all 110 letters submitted on his behalf and explain to those persons the impact his conviction has had on members of the Milwaukee community and update them quarterly on his continued relapse prevention initiatives as well as his community service.
- Cooperate with third-party community monitor.

Development of Moral and Personal Responsibility

In preparation for sentencing, John Galecke has completed two phases of a three phase program we developed and refer to as the Compliance, Accountability and Commitment Multi-Phase Moral Development Plan for Adult Offenders. The successful completion of each of these two initial phases offers concrete evidence of John's ability and willingness to comply with all court conditions.

The implementation for the third phase of this proposal is contained in the sentencing recommendation outlined above and whose hallmark is giving back to the community.

Achieving the Goals of Sentencing

We believe the inherently punitive sanction offered by a stayed prison sentence and the overlapping community centered conditions of probation comprise an approach which acts as a protective buffer between John and the public. We believe the combination of conditions serves the public's interests and John's far more effectively than does the prison system and significantly reduces the likelihood of re-offending. We acknowledge the need for punishment for his offense conduct, however, we ask the court to impose a sentence that will allow John to continue the program of redirection and redevelopment already in place.

We believe the conditions we have outlined meet the goal of reducing the likelihood of recidivism, pursuant to one of the goals of sentencing set forth by the Wisconsin legislature. We believe our program and the process employed to implement the program is appropriately punitive. We do not believe in coddling our clients, rather, we force them to adhere to the program without question. We do not ask courts to take chances on untested, unrepentant, unworkable clients.

John Galecke was given an extraordinary opportunity to demonstrate his commitment to a program of complete sobriety and moral repentance prior to sentencing. In the past nine months, since being released on bond, John has successfully completed the first steps in a lifelong program of redevelopment and we present this man's actions subsequent to his arrest to the court both as a rehabilitated and repentant man as well as a "work in progress."

**Compliance, Accountability and Commitment—
a Multi-Phase Moral Development Plan
Structured For John Galecke**

First Phase Programming

After his initial appearance, the first priority in John's program of compliance was treatment which would offer the best guarantee that John would never use drugs again. He participated in and completed the program at Cedar Creek Counseling. Clearly, some of the changes in John's, behavior and attitude are a product of the power this court has

over him. We would all like to think people experience a “sea change” without reason. However, addicts perform best when they are given clear expectations with absolute consequences, structure and little or no room to exercise their own invariably immature—and in this case criminal—choices. Prior to the involvement of the systemic sentencing team, John had already made those changes. When he was first interviewed by this writer in June of this year, John and his lead counsel attempted to “wow” this writer with the enormous efforts that this defendant had made toward rehabilitation. I explained to John that I expected nothing less from a person who had participated in the downfall of our community which we witness on a daily basis. I explained to John that I expected him to continue all of his current treatment efforts and involvement in prevention related projects and that I would be providing a structured program of assignments designed to provide the court with sufficient assurances that he could follow a sentencing plan whose main tenants were not “John centered” but were “community centered.”

After several hours of discussing his very lengthy and daily efforts toward absolute sobriety, John began the second phase assignments.

Second Phase Assignments

John’s lead lawyer brought in the “Don’t BS me, I’ve heard all the excuses SWAT team” whose specialty is accountability through moral redevelopment. My inclusion as a specialist brought in to work with John was not an attempt to buy his way out of trouble. We work only with clients who at the sentencing stage are motivated to accept complete

responsibility for their offense behavior. Further, they must prove themselves worthy of judicial moderation, through rigorous, difficult work assignments to which they must adhere unquestioningly.

John's first set of second phase assignments were given with little direction. He was required to make an oral contract with us, which was witnessed by his girlfriend, Rebecca Konkel, in which he promised not to minimize his misconduct, among other things. From the day he made that promise, he was required to:

1. Continue verifiable attendance at 12-Step meetings
2. Meet regularly with third-party community monitor, Robert Kurth
3. Visit the grave of his mother and explain at the gravesite his offense conduct
4. Write an account of graveside visit
5. Visit grandfather's grave
6. Write an account of the list of personal faults and times, other than the offense, when he has failed those he loved
7. Create a list of all friends and relatives to whom he must explain criminal conduct
8. Contact each of the 110 people on that list and explain that he is now a felon who violated the cocaine laws of the state of Wisconsin
9. Write a family social history
10. Obtain information regarding potential community service

Fashioning a moral value system for the rehabilitated addict in the context of a cocaine offense constitutes the bulk of the second phase assignments. Often there are tasks that seem too simple or self-serving, but even addicts who now have much direction in their lives must be taken in hand and given concrete, basic assignments. Death is a difficult concept for anyone including, but not limited to, an addict, to grasp. When John Galecke acknowledged that his drug use spiraled out of control after the deaths of his mother and grandfather, it was apparent that he had not come to terms with their passing. Addicts—criminal and non-criminal—share a sense of invincibility. In a redirected and rehabilitated addict that sense of security can later lead to a wonderful source of self-confidence. Nonetheless, due to the magnitude of Mr. Galecke's destructive behavior, he must be taught to understand the permanence of death—his own and that of the people he mourns.

John was shaken by many of these second phase assignments—especially the graveside visits. His comments and the diligence with which he completed his reports were a sign of his capacity to express and act on the remorse he feels.

Third Phase Programming

The goal of the third phase Community Protection Team approach is to eliminate the possibility that John Galecke will ever re-offend. Through comprehensive efforts in the critical areas of drug treatment, a lifelong commitment to ethical and moral development,

we believe we offer protection to the public by monitoring the continued redirection of John's behavior and the malleable aspects of his character. Team members do not replace the efforts of Probation Department staff, institutional or aftercare programming. Rather, the Team enhances these efforts and dramatically increases John's capacity to continue to become a crime free taxpaying citizen whose impact on the community is positive rather than a drain.

The theoretical underpinning for the Community Protection Team approach is the belief that the offender is a member of a system—his family, his neighborhood, his community, his religious community, the legal system, his co-workers and his friends. His conduct has an impact—a rippling effect—on the functioning of each system. In turn, components of each system must work together to insure that all protective steps are taken so as to guarantee present and future public safety.

Members of the Community Protection Team include:

John's lawyers

His probation officer, if so willing

A representative from the Prosecuting Attorney's office, if so willing

A member of the community who has agreed to act as John's community monitor

Rebecca Konkel

John Galecke

And this court, should it find it appropriate to participate.

Community Monitoring

The hallmark of the Community Protection Team approach is the utilization of a third party volunteer community monitor. Robert Kurth has agreed to be John's monitor. He is trained in the area of drug diversion and relapse prevention and thus is a perfect volunteer adjunct to this team. He realizes that in this case his role is not equal to a probation officer, but rather to provide additional assistance for this court and the assigned probation officer to rely upon in monitoring this defendant. He becomes the eyes and ears of the community who solemnly promises to report any deviation in compliance with this plan—no matter how slight.

Volunteer monitoring by a member of the community can be a useful adjunct to the sentencing plan in appropriate cases. An important—if not the most important—sentencing goal is protection of the public. When used in conjunction with supervised probation, the addition of a monitor can provide an extra, innovative layer of protection to ensure the offender does not re-offend and complies with all required court orders. And it does so at no cost to the taxpayers.

A community monitor assists the offender to fulfill the conditions of probation through regular telephone and in-person contacts. Community monitors assist with such things as driving the offender to court-related appointments, advocating in obtaining community resources and helping the offender to prepare short- and long-term goals and then

measuring progress toward these goals. The monitor may assist by identifying problems and bringing them to the attention of the probation officer in a constructive manner, so as to help achieve compliance with each service or requirement outlined in the court's order.

Community monitors do not act as or substitute for probation officers, attorneys, therapists, social workers or court personnel. Rather, they informally share the burdens of these roles and assist in the rehabilitation and compliance of the offender with the sentencing plan. They do not need to be highly trained professionals or high profile members of the community, nor do they need specialized training. What they must have is a strong sense of social responsibility, a good understanding of the volunteer role and a well-developed sense of boundaries, to establish limits for themselves and their client.

Volunteer monitoring empowers people and it gives them an opportunity to be part of a thoughtful solution. Instead of seeing tax dollars spent on more prison construction without a commensurate drop in crime rates, citizens can be part of a structured program of deterrence and rehabilitation that actually works. Instead of wringing their hands, citizens can see their volunteer efforts are working when their tax dollars might be wasted on long-term incarcerative projects. Community monitoring imposes no cost on the taxpayers of the community. Community monitoring has been proposed by this writer and accepted in many courts.

The Community Protection Team approach which utilizes community centered conditions of probation proposed for John Galecke is the product of eight years of

experience. This writer has prepared comprehensive sentencing plans, many of which have been adopted without amendment by courts. (See document entitled “Prior Success with Systemic Sentencing Plans” in the Appendix.) All of these successful plans share the following elements:

- Offenders accept responsibility for their conduct and hold themselves accountable to victims and to the community. They agree to adhere to conditions which frequently are more rigorous than parole requirements. Successful participants are people who examine themselves, the mistakes they have made, the direction they wish to take. These are people who decide they want something different for themselves and are willing to work very hard to prove themselves.
- Elements of the plan are underway at the time of sentencing, whenever possible, so that courts who adopt such plans have evidence before them that offenders are good, worthy candidates and can show proof at the time of sentencing.
- Successful sentencing plans frequently involve members of the community who believe that protection of the public starts with their own involvement.
- These plans demand real, measurable changes of behavior in offenders.

Conclusion

The program outlined above neither depreciates the gravity of John Galecke's offense conduct nor belittles the extraordinary progress he has made toward moral redevelopment. The significance of this defense proposed approach is that it focuses on the need for the public to be protected through vigorous monitoring and continual disclosures to the 110 people whom he has identified as people from whom he kept his criminal drug use secret.