SYMPOSIUM REMARKS

THE PERSPECTIVE OF INCARCERATED PERSONS (PANEL DISCUSSION)

ORAY FIFER, RUDY MARTINEZ & PAUL WRIGHT; MODERATED BY PROFESSOR GREGORY SISK*

Professor Gregory Sisk: When academics and lawyers get together and have conferences like this, we talk a lot about all the things we do for our clients, and we often forget to include our clients in that discussion. This would have been especially a wrong step to take today. Our purpose today is to give a voice to those who are often forgotten and to talk about the experiences they have had. It is essential to actually hear from those who have walked the walk, and I am so delighted with the three we have here today. I am going to introduce them each, and after I introduce them and give them a chance to say hello, I have a series of questions to ask. For those of us who are experienced in prison rights litigation, you will recognize that some of these questions are pretty simple and basic. But there are those here in the room that are still learning about this, and it is important to ask some of those basic questions.

The first person I want to introduce to you is a former client of mine, Oray Fifer, who successfully sued the United States Government under the Federal Tort Claims Act for excessive use of force by correctional officers. And he did a fantastic job of handling this pro se before the District Court. He did a wonderful job establishing the record and unfortunately lost before the District Court. Then we took on his case with the Appellate Clinic and managed to win the appeal. But of course, winning doesn't mean the case is over. The next step was to go back to a bench trial in front of the same

* Oray Fifer successfully sued the federal government for injuries suffered by being shot with rubber munitions by a correctional officer despite complying with orders during a prison riot. After the initial dismissal of his lawsuit was reversed on appeal, Mr. Fifer convinced the district judge in a bench trial that the correctional officer was not justified in using force and was awarded damages. Rudy Martinez spent twenty-five years in prison on a mandatory life sentence for nonviolent drug offenses. He was granted clemency by President Barack Obama in 2016. Paul Wright is the founder and executive director of the Human Rights Defense Center. He is also editor of Prison Legal News (PLN), the longest running independent prisoner rights publication in U.S. history. Professor Gregory Sisk is the Laghi Distinguished Chair in Law, University of St. Thomas School of Law (Minnesota) and Faculty Advisor to Spring Symposium 2022.

judge that granted summary judgment against us. We found an attorney to handle that in Arizona and Oray testified, and the District Court judge found in his favor, finding that liability had been established and awarded damages. One more thing before we hear from Oray, I hope I don't embarrass him by saying this, he was one of the most positive people that I have ever known, and I think I have told Oray this, but if not, he is hearing this today. There were times I would be having a hard day for reasons that were pretty minor and I would get an email or a phone call from Oray and by the time I was done, my spirits were lifted. So Oray, welcome and say hello to everyone.

Oray Fifer: Hello, everyone. First, I'd like to thank Professor Sisk for having me here today in the University of St. Thomas. As Mr. Sisk pointed out, we successfully sued the government in law, so all credit to Professor Sisk and Catherine, both Catherines who helped on the case. I think there were three Catherines, weren't there? I just try to come and assist, and come in and learn, and—better than I did before. And I believe I've had some hiccups, but when you have hiccups and you fall off, you get back on the horse again and try to not make the same mistakes twice. So again, I thank the Professor and the University of St. Thomas for having me here today to speak before everyone and that's me, Oray Fifer. Thank you.

Prof. Sisk: There was a Caitlin and a Catherine. So glad to have you here.

Prof. Sisk: The next person I want to introduce, and let me turn to this, and I hope you look at the bio in the program as well. Rudy Martinez, you said to me, please describe me as a former federal commuted prisoner. So, Rudy spent twenty-five years in prison on a mandatory life sentence for nonviolent drug offenses. He was granted clemency by President Barack Obama in 2016.

And I'm proud to say that the clemency petition was supported by our own professor, Mark Osler, who established the first-in-the-nation clemency clinic, the Federal Commutations Clinic, has been granted. He remembers it so well and is so honored that he was able to make the phone call to Rudy that the clemency petition had been granted. So, Rudy, say hello to everyone if you would and a few words if you'd like.

Rudy Martinez: Well, first of all, again, it's always a pleasure to be asked to speak. I believe this is my third time here in St. Thomas, and what I owe this school is impossible to pay back. But I guess the only way to do that is to continue living and hopefully setting that example for those who are still incarcerated and have those life sentences because I'm still in contact with many that are incarcerated throughout the United States, and they're actually counting on me, like, don't mess up out there.

And it's true, it's a lot of pressure, but again, I owe a debt of gratitude to St. Thomas, of course, Professor Osler and Bruce Rubenstein—who is

also an author here in Minneapolis—wrote a story in *Mpls.St.Paul Magazine* that really catapulted my case to the eyes of Mark Osler here and you guys, so thank you. And thank you all for attending today. I know it's been long, but that extra credit will come in handy.

Prof. Sisk: Attorneys have to be here to get your CLE credit, so you can't claim all the hours unless you stay until the end. Paul Wright is really a legend in this field. Anyone who has spent any time working on prisoner rights cases, and I learned this very early on, knows the importance of *Prison Legal News*, and has followed the travails of *Prison Legal News*, and has been able to get access to the readership in prisons. Prisons are now wishing other prisoners are aware of all of those pieces of news.

He was in prison for seventeen years in the state of Washington until his release in 2003, and he continues to work with the Human Rights Defense Center, especially on issues about censorship for prisoners. So, welcome, Paul, say hello and give us some thoughts.

Paul Wright: Hi. Thanks for having me. For those of you that aren't fans of *Prison Legal News*, I brought some copies, they're up on the thing there. So, like crack, the first one's free. Actually, I've never heard of anyone actually giving away crack, but it sounds good. And we had some talk earlier today about the Prison Litigation Reform Act (PLRA). And one of the things that the Human Rights Defense Center does is we publish a number of books aimed at both pro se prisoner litigants litigating their own cases, and also for practitioners that are representing prisoners.

And so, as you can see, this is a big book, so I was only able to schlep one with me. If anyone's actually litigating cases involving prisoners and you're going to encounter the PLRA, this is the book. And the good thing is there's nothing else on the market that covers the PLRA, so it's good to have exclusivity and a good product. So, these books are available on prisonlegalnews.org as well.

So, as Greg mentioned, I've been doing this pretty much since I started *Prison Legal News* in 1990. I started the magazine while I was in prison because I thought that it was important for prisoners and their families to have a voice in what passes for criminal justice debate in this country, which isn't much. And since then, we've grown what there was at the prison press—or the penal press in this country—when we started in 1990. We had around a million people locked up and there were around fifty or sixty independent prison rights publications. Today, the prison population has more than doubled to over two million and it's pretty much us.

And the interest in prison publications hasn't gone down because of a lack of interest among prisoners and people interested in progressive criminal justice reform; it's already been stomped out because of state repression. And one of my jokes is I hope to someday live in a country that

respects the role of a free press and an independent media, but hey, I'm not moving to Iceland anytime soon, so we're doing the best we can here.

Prof. Sisk: So, I'm going to ask a series of questions. I think I'll start with Paul and move in opposite order. So, the first question is—really, the question itself is wrong because I think you'll tell me immediately that there is no typical day in prison. But tell me—build on that, what was a typical day like for you during those many years of incarceration?

Paul: There's a journalist named Ted Conover, and he wrote a book called *Newjack*. And he went to work, he wanted us to see what those things were like in New York prisons. They wouldn't give him access to a prison as a journalist, so he decided to go work in one. So, he went through the whole process, got a job as a guard and he worked at, I think it was Sing Sing, for around a year.

And I think he summed it up when he said that prison is like a fireworks factory, where everything is quite anonymous until it blows up. And I think that's probably a pretty good analogy. Prisons, I think, in general, are pretty boring until they're not. And the stuff that makes it into, I think, literature, drama, the movies—the dramatizations—were the more exciting days. But like everything else, I think that one of the bad analogies about trying to analogize typical days in prison is also that they vary by the experience.

I think that one of the other analogies is if you ask soldiers, "What was it like being in the army?" Well, it depends where you're at. I was in the army, but I served in Germany in the 1980s where all we did was sit around and drink a lot of beer and play soldiers. So that's a very different experience. Even during the Vietnam War, some guy may be in an infantry unit trudging through the jungle, and the other guy is at an army base making sure no one runs out of blankets. Overall, I'd say prisons are generally somewhat boring, but it also depends where you're at.

I did time mostly—pretty much exclusively—in maximum-security prisons in Washington, and even among the maximum-security prisons, they varied wildly. The Washington State Reformatory, at the time, was the place to be in Washington—you're close to Seattle, you had programs, you had activities, there were educational programs, and the guards were a little more civilized.

You go to Clallam Bay, which is on the Olympic Peninsula, and you have an all-white guard force, they're pretty reactionary, pretty open about their membership in the KKK—which, being from Florida, I didn't even know they had KKK chapters in Washington. I thought it was very much a southern thing, but what do I know? And, yeah, not a lot going on. There's maximum-security prison and there's maybe fifty jobs for 900 prisoners.

The Washington State Penitentiary is in a category on its own. So again, I think it varies, and literally every day is different. And a lot of it

comes down to what you are doing. I published *Prison Legal News* for most of the time I was incarcerated. I went into prison in 1987 and I started *Prison Legal News* in 1990, so a lot of my stuff was writing, and I maintained whatever prison job I needed to so the administration could say I was dutifully employed. But at the Penitentiary, they said I couldn't work anywhere because I was a security risk. So, I thought, "Hey, this is great, I can work out and write all day."

So, in other places, I was like, "Oh, you've gotta work." And, okay, I'll be a janitor and I'll clean the gym for a couple—for fifteen minutes—and then work out for two hours and then write. So, I think it varies very much depending on where you're at, and there are stints in solitary confinement. My joke was that regardless of what I was or wasn't doing, prison administrators wanted to make sure I could go to solitary at least once a year just to check on the conditions there and see how things were going in seg. So, again, it very much depends.

Prof. Sisk: Rudy, same question.

Rudy: Mine was a little bit different. State prisoner at Walla Walla, is that correct? Yeah, Walla Walla. And Walla Walla is one of the most well-known. I mean, you could be on the East Coast and you'd have heard of Walla Walla. So, you know, it was a—as we say—referred to as a tough joint. But I was a federal prisoner, and in the feds, it was a little bit more, as guys in the state would say, "Oh, well, the feds are soft, it's easy time." But that wasn't the case.

Unfortunately for me, when I first got to Leavenworth, which wasn't my first stop, actually—Terre Haute, Indiana was, but I only lasted a month there until they transferred me to Leavenworth. And when I arrived in Leavenworth in 1992, they had just brought all the Aryan brothers and the Mexican mafia guys from California because they couldn't control them in the state. So, the feds, bright idea, say, "Well, we will control them." Biggest mistake they ever made.

So, during that time, these guys decided to make what they call a commission, get organized, and this is at Leavenworth. So, tensions were high. And as Paul said, the institution can go up any time, with riots and what have you. And, sure enough, July 5, 1992, we had the riot inside the auditorium of Leavenworth, and I'm stuck right there in the middle of it two months into my time, and three people get killed and it was just a big mess. And that really woke me up because from that day on, my whole attitude had changed.

Now, mind you, I was a first-time nonviolent offender going into my very first prison—I've never been incarcerated. And I actually came out to the yard with a smile on my face. And I remember this Mexican guy walking by me with another guy in Spanish telling him, "What the hell is this guy smiling about?" But I spent so much time in the hole at MCC, I was

just happy to be out in the sun. And just to show you, that's how naive I was.

But, yeah, after that day, July 5, 1992, after that riot, I realized that this is a whole different world. I actually knew that when I walked into the chow hall of Leavenworth—and I was fortunate enough to grow up in uptown in the north side of Chicago, which was the melting pot of the city as far as I was concerned. You walk into that chow hall in Leavenworth, 500 inmates there, and it was segregated—Whites, Blacks, Spanish, Native Americans—and that's just the way it was. So, where do I fit in?

And I'm walking around with the tray, where am I going to sit at? I feel like I could sit anywhere. I made the mistake by sitting at the ABs' table, and unbeknownst to me, I was one of the first people to get there and next thing I see, here comes a bunch of white guys and they're looking at me and they're like, "Hey homes, what are you doing here?" I'm like, "I'm having lunch." They said, "No, your people sit over there." I'm like, "My people?" And then I realize, well, there are some Native Americans there. My father's Native American; my mother's Mexican.

And so, I went over there to the Native American table, and then, "Where are you from?" "I'm from Chicago." Well, they're from the South, they're Hopi Indians. And that's just the way it went until finally I established my own table with my own friends and what have you, and it was the only mixed table in the whole joint. And that right there placed me as a bad guy because the last thing the SIA—the special investigating agents there in the prison—want is unity. They want you divided and that's how they control you.

So, they see a table with Native Americans, African Americans, Mexicans, Puerto Ricans, Cubans—there's a problem here, man, who are you? How'd you make this happen? We can't allow this in the institution. And that's pretty much how my journey started because they called me into the office, "Hey, what are you doing? Who are those guys?" And that's just a sad fact of being in federal prison, the penitentiaries, and that discrimination holds true today. And how'd my day start after that? Every institution that I would go to, you had to make your knife, you had to have a knife.

And it was a good thing that in twenty-five years I didn't use it, and I thank God that I didn't have to use it, but I'll tell you what, it always felt comfortable having it. As I told Mr. Osler, I was worried when they were first doing my commutation papers, the motion, because I was like, "Listen, I got a few incident reports here of me carrying knives, but I never hurt anybody." But nonetheless, I was the guy who didn't mind going to segregation because I spent so much time in segregation, to me, hey, that was the stress reliever right there, going to segregation.

And I remember they found a knife on me in the yard and the lieutenant asked, "Why is it that every time we take you to the hole, you got a big

smile on your face? And what are you doing carrying this knife?" I said, listen, the old adage, "I'd rather be caught with it than without it." And that was my attitude for twenty-five years. Yeah, that was my day.

Prof. Sisk: So, Oray, I know you've been in more than one. You were in federal custody as well, in Arizona and Alabama. Give us your sense of what a typical day was like for you.

Oray: Well, I've been in five federal prisons. I was also in the state, Walla Walla, Clallam Bay, Monroe, and McNeil. And the difference between state and federal is night and day. So, my typical day was, well, the first prison I went to was in Colorado, and I didn't know anything about federal prison. I just thought maybe it was the same as the state, but it's really not the same because the feds are broken down. It's politics, it's politics in the state.

But you have different politics in the feds because you're dealing with people all over the country, from state to state, even from other countries. So, when you first—when I first hit Colorado, my friend, he'd been down—I think I hit the federal prison in 2001. And my roommate, he'd been down since I think, '88, so he was breaking all the different rules down to me. And when you first come in, you go to the receiving center, everybody will come up there and talk to you before you hit the actual compound. And the captain will tell you, SIS will be there and tell you.

And sometimes, they'll tell you, depending on what prison you go to and how violent it is, they'll ask you straight up if you've told on somebody, let us know so we can remove you, not put you on the compound. Whoever your people are, get with them. And they have an unwritten rule that they'll tell you behind the scenes that if the compound is violent enough, they'll tell you, "Well, get with your people, you're probably going to need a knife on this compound because if someone starts to come at you, we're not going to be able to save you."

And a lot of the time, I've seen people get stabbed up and the police be right there. And they're just—they're really taught to just watch until you're done and you've dropped the knife. When you drop the knife, they take you to the SHU. So, a week while I was in Colorado, I was on the phone and the Sureños and the Paisas got into it over some wine. So, this particular prison has a hallway, and the hallway is small, but the phones are there. So, you have at least thirty guys on this side and fifteen guys on the other side, and it's a small hallway, so these guys are going at it, hitting each other with knives and throwing mop buckets, and I'm on the phone and I'm like, "What the heck is going on?"

So, my roommate who's been there, he had to fight through the crowd to grab me and pull me through the mesh of fighting and take me to my cell. And he said, "Look, man, you cannot be in nothing like that or in the middle of that because those guys are fighting and they're stabbing wildly and

you can get stabbed and get hurt." And that was my first introduction to federal prison. And after that, there were several more incidents. So, I just made up my mind to no matter what the incident was or where I went, I was there to change my attitude and to change my life.

So, I particularly stayed in the law library, and they have places there called UNICOR where inmates work, factory work usually. Mostly UNICOR does contracts with the military, so I stayed in. In the morning, I go to work at UNICOR, I come back, and I go down to the law library to work on my case and work on other people's cases. And I try to occupy my time all day, whether it be that or play sports and keep myself out the way. Because, as stated before, you could wake up and walk outside your cell and the tension is so bad that it could be cut like a knife because somebody could have done something.

And now, in particular, when I was in Phoenix, that incident with the riot with the Blacks and Mexicans that Professor Sisk helped me on the case, it was the same thing. I walked out of the cell and there's people lined up upstairs, downstairs, and some incident that happened earlier that day, I didn't know anything about. And then from there, the whole prison exploded. So, a typical day is just me trying to stay out the way, but sometimes you just can't do that in federal prison because you're within that fence, and anything that happens could affect you.

Even if you don't know it, it could affect you. So you just basically have to stay positive and just stay away from everybody and just have tunnel vision as to what you want to do with yourself when it comes to bettering yourself and just stand out the way. And that was my day there—I would go to work, I try to go to the law library, and then I would go work out and then I would come right back to the cell, and that was my day.

Prof. Sisk: And as follow-up on that story, even when Oray is staying out of the way, minding his own business, trying to stay out of it, that's when he got shot in the face multiple times by a correctional officer with munitions that led to that case. So, that doesn't always work, does it? So, Oray, let me follow up with you and start with you on the next question. What was your worst day in prison and why?

Oray: Well, my worst day, I was in a prison called FCI Herlong. And I woke up that day to go to work at UNICOR. Unbeknownst to me, there were—same thing in Phoenix—there were some guys standing around, a few of them standing around, they were talking. And when I particularly walked by, they just stared, they stopped and just looked at me and just started whispering. So, I got a funny feeling, but I really didn't think anything of it, and I went to work.

So, at work, this guy out of Detroit came to me and said, "Hey man, did you hear about your friend from Seattle?" Because I'm from Seattle, he said, "Man, they ran in the cell and tried to jump him." So, I was like, "No,

I ain't heard nothing about it." So, he's like, "Well, yeah, that's what happened, man, you need to go talk to him." And he said, "Yeah, they ran in his cell, and they were supposed to go out to the yard at 12:00 with the other guy to talk about the incident and try and squash it."

So, I went back to UNICOR, and I told him after I get out of UNICOR at 3:00, I'll come back and talk to him to see what happened. So, I guess all that day while I was in UNICOR, he was at rec and they kept coming down there, trying to beat him up. And this is what they do in federal prison: once you have one incident with a person and the captain doesn't take you off the yard, they'll keep coming at you and keep coming at you until they get off the yard and you get off the yard, right?

So, when I came out of UNICOR at 3:00, I went and talked to him and he said, "Well, we are supposed to all meet out at the yard at 3:00." Now, mind you, this particular prison had an unwritten rule between the SIS, the captain, and probably the warden too. They had a rule that if I have a problem with you—now, federal prisons go by cars. So, depending on the car you are in, you might have a race car like the ABs; that's a car. You might have gang members, the Bloods; that's a car. Or you might have, if you're not part of any of those groups, the state where you are from could be considered a car. I'm from the state of Washington. So, all the guys from the state of Washington might hang out with each other.

So, my particular car that I was in, that I was associated with, is because I'm from the state of Washington. So, it doesn't matter if I don't say that I'm associated with that car from Washington, I might say, I'm on my own, I'm not with that. They're still going to associate me with that because I'm not a gang member, I'm not part of a racist group or religious group, so I'm an individual by myself and they are going to associate me with the state of Washington. So, anytime somebody from the state of Washington gets in a fight, they're going to come after you too because you are from the state of Washington.

So, we went out to the yard and what I was saying earlier, the captain in the war on this particular compound, and SIS had a rule: if I had a problem with your car, we had a problem, they're going to have you go out to the yard and try to resolve the issue. If you can't resolve the issue, they're going to give you ten to fifteen minutes. The loser gets off the yard. And as you can imagine, this particular yard was wild because everybody that had a problem would go out to that yard and they could never squash the incident. You can't come to a peaceful conversation and try to work it out because those dudes, once you go out to the yard, there isn't no talking, we are just going to lose or get off the yard.

And I went to the yard to try to talk with my friend and those people that got into it with him for running in his cell and trying to stab him and beat him up. So, we basically thought that we had a deal that the incident was squashed and we were going to move forward, but evidently not. So,

when we went to the other part of the yard and I was talking to them, just all of the sudden, out of nowhere, thirty dudes just rushed us. And man, I got—we tried to handle our own with that, but it was just too many of them, and he got knocked out, and my other friend got stabbed up, and I got my nose broke and damned near messed up and had to go to the SHU.

And basically, we were the losers, so we ended up having to get off that yard and I got shipped to Phoenix. And as you said earlier, I wasn't even there six months and got into another riot and got shot six times in the face. So that was one of my worst incidents that—well, actually, that six times in the face was my worst incident, but that incident right there led to that incident. And when I was in Victorville, I got to Herlong because I got stabbed there. So, it was just all bad on those West Coast prisons. And my friend told me when I was in Colorado, he said, "Do not go to those West Coast prisons." And when I was laying there after getting shot six times in the face, all I could hear was his voice in my head, "Don't go over there. Don't do it. Don't do it."

Prof. Sisk: Don't go to the West Coast. Well, let me turn this over to Rudy. The same question.

Rudy: Oh, the worst day in prison. Same thing. I have to be honest with you, it was the day that we had waited two weeks—they were deliberating my case for two weeks. It was a CCE case, which was a large case, and I had a court order to dress up every day and to take showers every morning. I was coming from segregation before I went to court. And this particular morning, they refused to give me clothes or give me a shower because they were running late, the lieutenant was running late. And I told him, I'm not going to get on the bus until I shower.

He got upset. One thing led to another. I refused to cuff up, the bus left, and now the court's upset because I'm not there. And the judge finally finds out, realizes, okay, they haven't given him a shower that I gave a court order for nor his clothes, and called. Now, they were forced to do that. That day the verdict comes in, I'm found guilty. I come back to the SHU, to my cell, and realize that they had stripped everything. Everything was gone—mattress, my clothes, my personal belongings, everything.

And they had spray painted the window. There was a little window probably about three inches wide and about six feet long. And that window, you could look outside downtown of Van Buren, MCC, Chicago. There used to be a Chinese restaurant with the neon light and a pawn shop. And while I was there, I would always look downstairs and watch the people walk and what have you. But anyways, when I come back from being found guilty, they had put a white coating on there.

And I go inside the cell and I'm just looking, I'm like, "Wow, look what they did, nothing's there." I'm not going to go off, I'm too tired. So, they take off the cuffs and I sit down, put my back against that window and

you could still see the neon light flashing on and off. And I noticed that there was a paperclip on the floor, and I picked up the paperclip and I opened it up, and I got to thinking. And I'll tell you what, if you have ever been to an AA meeting and they tell you to take inventory of your life, if you haven't done that, any of you, I really strongly suggest that you do.

And I try to go back as far as possible to try to say—try to think, how did I get in this predicament? I know what I'm facing, a mandatory life sentence. But in the back of my mind, I was thinking, I would never get that sentence, I would probably get twenty years. And as I'm going through my whole life, I left home at fifteen, stayed out there in the streets selling drugs at an early age, and I find myself here now.

And I always remember because it was me, my brother, my sister, and my mother, back in the '70s. The government would come by with their government trucks and they would pass out food, government cheese—big blocks of cheese which we loved because my sister made the best grilled cheese sandwiches out of that cheese. So, my mother would get me, my brother, and my sister every Friday, and we would go to Sheridan and Foster, and we would each get a box of this food and we would bring it back home.

And so, there was always peanut butter in these boxes, always, the big piece of peanut butter. And so, no matter if my mother was an alcoholic, whatever the story is, I don't blame her. I did what I did, I knew what I was doing. But even if there wasn't food, there was always peanut butter and tortillas. And to me, that was a meal. So here I am, I don't realize how much time has elapsed until I put my hand on the floor and it's wet. And I'm like, "What the hell, why is it wet?" And I realized that I had been crying, and snot's running out my nose, whatever. So, I must have been there for a couple hours at least, and I'm taking inventory of my life.

And that snapped me out of it. I was like, "What the hell?" And so, I'm, like, "Damn." And I realized how just exhausted I was. And something caught my eye underneath the toilet and the sink, the silver toilet and sink that's against the wall, and I saw something shining underneath there. And I crawled over there, and I reached my hand underneath there to pull out that object, and that object was a peanut butter jar from my commissary. So, when they took out all my stuff and had the bag of my commissary, the peanut butter must have rolled out and rolled underneath the sink, right?

So, the jar, the top came off so all you see is the aluminum foil, that's what caught my eye. So, I reached over there, and I grabbed this thing, and I started laughing to myself. Peanut butter is still here. And honest to God, I was just happy because I'm like, "This is hope." I got that paper clip, and even though at that time, I was probably at my lowest point in life, there was a mirror that's made out of metal so you really can't see yourself in there, but I remember etching inside there, "Never give up."

So, when I hear these stories the other lawyer that was here, the gentleman from Nigeria, telling that story about how you think you're going to win, but you don't. Honest to God, I wish that for you students or those that are fighting this cause, if there was a statue to give you guys, what is the—the guy who pushes up that rock?

Prof. Sisk: Sisyphus.

Rudy: I would get a statue of that, and I would give you guys that because it's very important that we don't give up. And that was the worst day of my life, yeah, or day of prison anyways.

Paul: I say pretty much the worst days I had while I was locked up was getting convicted and getting sentenced. But I can say that I did seventeen years in prison, to quote our beloved former President Trump, in real shitholes—and that's one of the things, too, is not to get into the misery Olympics about what are the good prisons or whatever, it's like, they're all bad, they're bad in different ways, though.

One of the things I think that—I've always been pretty positive about keeping things on a positive outlook, and I've looked at it that I'm fifty-six years old and I spent twenty years in the military—three years in the military and seventeen in prison, so I spent pretty much the time I was eighteen until thirty-eight in violent, paramilitary, male-dominated institutions. And I can say that looking at the positive, I've never been beaten, I've never been raped, I've never been pepper sprayed, I've never been tasered. I've been shot at, but fortunately my opponents were a shitty shot, no hit. I've never been stabbed, unlike Oray here.

And I got jacked around in prison. I mean, not too long into my sentence, I decided that I really didn't like my conditions of confinement, I didn't like the way I was being treated, and I was going to try and do something about it. And I'd say that probably for me—more than an organizer, a jailhouse litigator, or a jailhouse lawyer—I've always viewed myself more as an activist. And writing is just a tool, litigation is just a tool, this is just one way to accomplish a goal.

And along the way, I've organized work strikes, I've organized food boycotts, I've lobbied the legislatures, everything else while I was in prison. And yes, I've been retaliated against, I went to the hole a lot and everything else. But I look at that and that just goes with the territory. And if you're signing up for it, if you're signing up for the life of an activist, you can't be a critic of the American police state and not expect to be repressed. That's exactly the point that you're criticizing—that it is a repressive, fascist, police state that doesn't respect basic human rights, including the right to free speech.

So, it's not really a surprise when they act like fascists. So, that's why I say in terms of negative—the bad days in prison, on the one hand, they

were all bad. On the other hand, there's a lot of good times, and I think that that's kind of a flip side of it, I think that.

Prof. Sisk: Well, that's my next question. When was your best day in prison? So, you can go ahead and follow-up with that if you'd like.

Paul: Yeah. I'll segue into that. It's the fact that I think that a lot of things—not to get overly philosophical or too Zen about things, but I think a lot of it is just—it depends on if you have a good time with good people regardless of where you're at. Some of the best memories of my life were times I spent in prison with friends of mine, you know what I mean? It's like one of the things, being in prison. I don't use drugs, but a lot of the people in prison do, so a considerable portion of their time and energy is spent getting drugs.

But if you spend your time and energy on other things—I like to eat, so scoring a smoked turkey breast in a maximum-security prison or getting a rack of barbecued St. Louis ribs into prison, that's pretty impressive. And I can say, I pulled that off. And then I got my buddies, "Hey, we're going to have some ribs for Christmas." And I tell one of my good friends, I say, "Jimmy, you work for the captain, you're his janitor, ask him if you can use the microwave to warm up the ribs." And he said, "He's going to ask me where I got the ribs, Paul." And I'm like, "Well, he ain't going to ask too much, you're his janitor."

So, I think that's one of the things you can say, is that regardless of where you're at, you still have valuable experiences. As I say, it's not all negative. And a lot of guys I did time with, I guess I'm getting old here, but guys I met thirty years ago in the '80s and the early '90s, we're still friends. And in a lot of respects, I think that's just it, whether you're in college, whether you're in the military, whether you're in prison, you can and do make valuable relationships, and I think it doesn't really matter where you're at in terms of that.

The other thing I'll say, too, is that I certainly value the support that I got from my family. And my parents lived in Florida, but at least once a year, they drove up to Washington to visit me at one point or another. Most members of my family made it out to Washington at least once or twice in seventeen years to see me, even if it was a lot of sacrifice for them. So, I think that's also the flip side of it, too. I'm on really good terms with all the folks that took the time, my family that took the time, to come see me. I don't talk to the ones who didn't because I'm kind of like, "Hey, you didn't have time for me when I was locked up, what makes you think I want to have time for you now that I'm not?"

So, I think in a lot of respects, human experiences, I think, replicate themselves wherever you're at.

Prof. Sisk: So, Rudy, I'm going to ask you that question, but I'm going to make it a little harder. It can't be the day you find out that you got clemency, you've got to choose a different day.

Rudy: Wow. Other than the day they were telling me I was going home, huh?

Prof. Sisk: No, no. It's too easy.

Rudy: Well, to give credit to Paul, the guys who worked in the library, the legal cats, you didn't mess with them, they had a ton of respect. And I didn't read a book until I was incarcerated. And shortly thereafter, something happened to me when I was transferred to Cook County Jail, put in handcuffs and shackles for 112 days consistently every day from 7:00 in the morning to 10:00 at night. Amnesty International had interfered with that, they came in and stopped all that. And they had no choice but to transfer me back to another division in Cook County Jail, which was the basement of division one.

And I remember telling my story to a guy, and he's like, "Man, they violated your rights, bro." And he's telling me all these things they did to me, but what am I going to do? And I say, everything happens for a reason. There's the book card, and I'm going through books, and now I started reading constantly, and there's this book called *Prison Litigation Manual*, and it had a bunch of pages missing, but it had the amendments, and I'm reading the Eighth Amendment. And I thought, wow, "This is so cool, this is cruel and unusual punishment, whatever."

And I'm reading the rest of them and I'm like, "Okay, well, what do I have to do in order to file?" And back to the two young ladies who were doing the stuff on the courts regarding fees and what have you, back then, it was fifty bucks, it was nothing. I think now it's $300 or whatever it is.

Prof. Sisk: Four to five, I think.

Rudy: So, I go get this book that I always thought had something to do with dinosaurs, but it's called a thesaurus. And I get the dictionary and I got to write the statement of facts, that's the first thing I got to do. So, I said, "Well, I'm going to try to sound intelligent and use some of these words here." So, it took two weeks to get three pages for a statement of facts. But I got it in, and I got representation from Jenner & Block. And I didn't stop from there because I won my case and they had brought me over to county jail.

I went back to Leavenworth, and I was placed in segregation again. And they used to leave lights on twenty-four hours in there, and I used to put newspaper on top of the lights, and they would give me incident reports for covering up the lights. But for months, I would probably be in segregation. And so, I filed on that, that was my first filing to the courts in Kansas City, and they had to put switches on the outside, so they were really pissed. And slowly but surely, this is how I ended up moving from institution to

institution. I didn't believe in working in UNICOR. I didn't believe that we should make eighteen cents an hour, but yet they're not making the adjustment for the cost of living.

I can remember when I come into the feds, a bag of Doritos was a dollar and twenty-five cents, and when I left, it was five dollars and fifty cents, but yet you're still going to get paid eighteen cents an hour. And I would encourage guys, "Don't go to work, man, don't go to work." Next thing you know, in the middle of the night, I'm getting cuffed up, I'm put on the plane or the bus, and I'm at the next joint. So, this is how I end up at eleven institutions because—it wasn't because of any disciplinary, it was a simple fact of you can't let these guys push you around, you just can't.

And just a really quick story, I ended up in Marion, the so-called toughest prison in the United States. And I end up in Marion under a fictitious incident report, and who am I there with? John Gotti and Jeff Fort. And I'm sitting here eating breakfast and here's John Gotti. And Jeff Fort introduced me to John Gotti because Jeff Fort was from Chicago. I don't know if you guys know who Jeff Fort is, he was actually the leader of the El Rukns back in the late '80s, they were arrested for domestic terrorism. And this guy was very well-known in Chicago. And here he is in front of me, welcoming, "Hey homie, you're from Chicago." And he introduced me to John Gotti.

And I'm sitting there, and in the back of my mind is, "What the hell am I doing here? How did I get here in Marion with these guys? I don't belong here." And they sent me there on what they call a classification 332, closer supervision, but I didn't do anything. And this is what happens when the feds or the state have a paint brush in their hand and they can paint you any way they want, and they can make you dangerous and sound dangerous, and that's what happens often.

But I think going back to what you asked, as far as my best day, was my first filing in Cook County against Cook County Jail and getting representation for that case. Yeah, for sure.

Prof. Sisk: So, same question for you, Oray, your best day.

Oray: My best day was when I saw a friend—well, I fought a few cases, but this one particular case that I won, I had a friend who had thirteen life sentences. And when the First Step Act came down, I helped him file on that First Step Act, and his case was a little complicated. And when you're doing time in some of these prisons, you have a lot of guys with a lot of time, life sentences. I had a celly who had ninety years and had a friend who had 232 years, which, as a result of 924(c), ran consecutive.

So, some of these dudes, when you look at them, they don't have any hope because with the amount of time they got, they've basically accepted the fact that they're probably going to die in prison. So, when I filed that form and I argued it, we mailed it, and he ended up getting an attorney. The

attorney stated that the brief was so good that all he was going to do was modify a couple things. Well, that guy ended up one day getting a letter from his attorney and an order saying that all his life sentences had been dropped down to 360 months. He'd already been incarcerated for twenty-six years, so he was an immediate release.

So, he was just—he just couldn't believe it. But to see his face change from no hope to where he's just stunned, that was one of the joys that I got from that and was one of the happiest days that I had in prison. Because in my head, he wasn't the only one that I helped get out of life sentences, fight their cases, and win their freedom back—it was a few of them—but his particular case was unique because he had thirteen life sentences and he just thought he would never get out.

And in the back of my head, I guess with the twenty-five years I got, I always thought everything in life happens for a reason. And somebody sent me to that prison, that federal system, for a reason—to learn the law and to help some of those guys out that didn't have hope, that thought they would never get out, but they end up winning their cases. And from some of my help and from some of the other attorneys' help after they got the initial petition, some of them got out and some of their cases I won for those guys with life sentences—those were probably the happiest times that I've had there besides me getting my college degree.

Prof. Sisk: Well, and you can see why, as I said earlier, I would hear these stories from Oray and I would always feel uplifted by the end of the day, just really so thankful for you and those stories. So, one last question and I'll turn it over to the audience. I'll start with Rudy this time. What do you think people don't know about prison that they should know?

Rudy: Again, I can speak for the Federal Bureau of Prisons, and I don't know if many of you realize this, but it's very difficult to get into the federal prisons, the penitentiaries. You can do interviews in the FCIs or the camps, but you'll never be able to get inside behind those walls, and there's a reason for that. They don't tell you about the statistics of the people who've been injured in there because it goes against whatever—wherever that prison may be, in some rural area.

The funny thing is when the census comes around every year, we have to fill out that census card. So, they're benefiting off us as prisoners and that rural community is making money off of us. But yet they won't tell you how many people got killed that month or whatever, because the assaults and all this stuff has to go on record and they hide that, and that's always bothered me. I don't know how here we are in 2022, and that is still allowed to happen.

And even going into the penitentiary to see your clients is difficult, you were talking about the phone calls or what have you. And I think that's something that a lot of people don't realize—ask yourself, when have you

ever saw an interview from the Federal Bureau of Prisons and the penitentiary with any inmate? And if you know of one, please let me know because I haven't seen it. And I wish I spoke to the commissioner earlier before he left. And I'm sorry for interrupting you while you were speaking because that's what held me up in my apologies.

But, yeah, if we could have more guys like him and that mentality trickled down to the wardens, for instance. Here's the bad thing about the Federal Bureau of Prisons: a warden comes in, and he only stays for a year-and-a-half to two years. So, he comes in, he wants to implement these new rules. Okay, we're going to change this, we're going to change that. Maybe a good guy, maybe some good rules to change. Then the next person comes in and says, "No, you guys got it too good, we're going to change that." So, nothing ever stays the same in there.

As I was telling Paul, in 1992, when the Pell Grant was taken away from the Bureau of Prisons, that is pretty much the day—or I'm sorry, '95, I think it was between '93 and '95—the Zimmer Bill came in, and that's pretty much where I want to say the schooling and rehabilitation went out the window for the feds.

And sadly enough, you have inmates now, for instance, I may be a white-collar criminal, and I'm coming in—I know about brokers and what have you, stocks, and I can ask the warden, "Hey, can I teach a class in this?" And he'll say, "Yeah." And that's where you're going to get your certification, from another inmate, because nobody's coming from the streets to do that. Except I think in California is the only place where the BOP benefits because of that state, what they offer. But other than that, there is no rehabilitation in the Bureau of Prisons, I can tell you that right now.

And I've taken many classes, but those were just pretty much self-taught classes, they were taught by other inmates and what have you, to keep myself busy, but yeah.

Prof. Sisk: Paul, what do you think people need to know?

Paul: I'd say the big thing is pretty much the lack of accountability is the part that always gets—that's always gotten me. I mean, that's been one of my things for thirty-plus years. There's one of the things when I was hearing—you'd done the earlier presentation about the probation officer sexually assaulting the probationers. I mean, part of me, as a taxpayer, just as anyone who actually pays taxes or who has a job, the idea, like, okay, so someone's showing up at their job and they're viewing it as sexually assaulting the people that they are supposed to be supervising while being paid on our nickel, is a normal part of the job.

But the thing is, this is super common, and it's not just in the sexual assault context. I mean, as someone who's been covering this stuff for years, it seems like a huge percentage of staff at women's prisons seem to

think that raping the women prisoners, that's just a job perk that goes up there with getting your uniforms ironed in the prison dry cleaner or shop for free, or getting free haircuts from the prison barber. But it permeates just everything, from the lack of medical care in Washington, as it is in most states. So that's one of the things.

The one gentleman was talking about the prison medical care and doing the suicide cases. And generally, doctors have to be licensed. There's an exception to that. You don't have to be licensed if you're working for the government. So, the Bureau of Prisons and the Veterans Administration of the military are a huge dumping grounds for unlicensed physicians, and so are state prisons. And in Washington, it's very common for doctors who sexually assault their patients to have their license suspended. But then they'll suspend the suspension as long as they only treat male patients.

So, the only way you can have an all-male patient clientele if you're a doctor is basically to be the prison doctor in a men's prison. So, I could say for several years, I had my own gynecologist, he was the prison doctor. But the thing is, these guys, it's not like they're good doctors with some boundary issues. No, they're sex predators and they're really crappy doctors. And, yeah, this is why the mortality rate is so high.

But it's just like this whole level of lack of accountability where the notion is the fact that people die, people are getting raped, people are getting killed, they're dying horrific deaths, and no one loses their job. I mean, that's part of the thing that for thirty years, or thirty-plus years, from the day I went to prison that I realized this is what's going on, and you really better not get sick in prison.

That's the type of thing that's just really—that's just been—that's one of my pet peeves. But I think that's the thing—that very few people outside of prison see the whole lack of accountability until you're having some type of regular, either personal contact because either you're in prison or you have a loved one or someone, your immediate circle or friends or family that's doing this, or you're doing it professionally either because you're an attorney, criminal defense, civil rights, or I'd like to think the prosecutors and the defense lawyers defending the state of affairs are also well aware of it, but this whole lack of accountability.

I think that people—I don't know, I'm still outraged about it, and I've been dealing with it for thirty-plus years, but you'd think that whether it's as a taxpayer, just as a human being, or you just have the innate sense that people need to be held responsible and they need to be held accountable for their jobs. Very few people have jobs where if you screw things up so badly that someone dies, you're still keeping your job. And yet in prisons and jails, this is the norm.

And that's one of the things that I think that if people knew about—I'd like to think if they knew they'd be outraged. So, that's why thirty-two years later, I'm still doing this, so that hasn't changed.

Prof. Sisk: So, same question for you, Oray: what do you think that, now that you've been out for a while and talking with people again, what do you find that people don't know about with what was going on with you in prison?

Oray: Well, one thing is that you really do have people in prison that are innocent that don't get help, that may have been set up by officers on the street and they end up getting a lot of time and no one's helping them on their case. And their case is so far gone, past its appeals process, so now they can't get back in court. When Bill Clinton signed in that bill, and I think it was in '95, I think it was the anti-death, the anti-terrorism, the AEDPA, the Antiterrorism and Effective Death Penalty Act, it killed a lot of people's chances of getting out of prison, whether they're innocent or guilty, when that bill was signed. For your 2255, basically your habeas corpus, it basically killed your habeas corpus.

And you got a lot of guys in there that more than a lot of people think are innocent, actually innocent, that are still sitting in prison today that can't get any help. And they might write some law schools and ask them to look at their case, but some of those law schools might have so many petitions that they can only pick out certain ones. But I wish there was something, maybe some type of challenge to that AEDPA that would get rid of it to allow some of these guys' cases to be reheard and seen again.

And one of the things I think back to, I don't know if anyone remembers this, I think back in—I think it was in the early 2000s, they stopped the death penalty in Texas and in Illinois because DNA was starting to prove a lot of people were innocent. And I just think about, okay, those people whose DNA proved them innocent and ended up getting out of the death penalty, what about those people who said they were innocent and truly were innocent and were actually executed, who's going to be held responsible for those people?

And those peoples' cases were probably so messed up that people didn't want to take on the case or maybe they really just thought they were guilty. And that's the one thing that holds onto my memory, that you actually have innocent people in prison that can't get help.