

Legally Speaking

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Celebrity Justice is to Justice . . .

At this writing, the American public's eyes are transfixed not on the Iraq War, nuclear proliferation, the parliamentary Kabuki dance over the immigration bill, nor even the impact of televised presidential debates on global warming. Nope. It's all Paris Hilton all of the time. Sentenced to 45 days in jail for a probation violation on a previous DUI, the estimable heiress served a scant three days before the L.A. county sheriff softened his heart toward her and let her return home for house arrest in Malibu—and then only for another 20 days, since the 45 doesn't really mean 45, but 23 (for good behavior). For us garlic-smelling masses, three weeks at a beach mansion in Malibu doesn't sound all that bad – some of us might even think of it less in terms of prison than . . . a vacation. The judge took a dim view of the sheriff's generosity, and it was back to the calaboose for the sobbing Hilton. Meanwhile, Scooter Libby looks at three years for his perjury and obstruction conviction. Mary Winkler, who murdered her pastor-husband by shooting him in the back while he was asleep on the bed and left him to bleed to death, got just 210 days.

I carry no brief for Paris. Indeed, as the only estate planning attorney I know who opposes inheritance taxes, I have yet to find a good response to, "Paris Hilton is the complete answer to why there needs to be an estate tax." Indeed. What has me bemused is the hue and cry over "celebrity" justice. This is not something new, nor even does it hail back to the O.J. Simpson trial. You can go back to Fatty Arbuckle's acquittal for the mysterious death of Virginia Rappe (after two hung juries) in 1922. That trial found a press almost universally against Arbuckle, including such unlikely bedfellows as William Randolph Hearst's San Francisco Examiner and the New York Times, who outdid each other in their blistering condemnation of the Hollywood culture in general and Arbuckle in particular. (Imagine that!) And yet, most objective analysts today agree that there was the flimsiest of evidence against him. So thought the last jury, who took but six minutes to return an acquittal, most of consumed drafting an apology to him. Then there was Robert Blake, acquitted in a criminal trial of murdering his wife, found liable in a civil case (like Simpson) for wrongful death. And Michael Jackson, and Kobe Bryant, and Winona Ryder, and Martha Stewart, and, well, you get the picture. There appear to be extreme results, sometimes favorable to the celebrity, sometimes not. But it is in the end just that—only an appearance.

Upon occasion I find myself downtown in a criminal court and never cease to be saddened at the array of human misery I see there. I also get to see justice meted out by overworked judges, prosecutors, and defense counsel. I've seen 48 cases brought up before a single judge in less than two hours, some of them involving sentencing, some of them dealing with the revocation of probation for multiple subsequent offenses. I would

admit to being surprised if any judge I know would have imposed a 45 day jail sentence for a once-violated DUI probationer. Could happen, but it would be unusual. The hard reality is that we now have so many mandatory sentencing requirements from the legislature (most relating to any kind of impaired driving and domestic violence), that local jails are jammed with one or two night guests who check in after DUI or domestic violence arrests. This comes at a significant cost, both monetary and societal. Career criminals facing multiple felony charges accrued over months or even years can expect to find themselves in jail for but a fraction of their sentence for practical considerations of overcrowding. So it is that a celebrity, whose trial is showcased in a breathless minute-by-minute cacophony of talking heads, faces a two-edged sword. Unlike the thousands of faceless defendants who daily find themselves before the bench and whose particular circumstances are known to but a few, the spotlight illuminates the celebrity case out of context with the judicial circumstances that accompany it. Judges, many of whom are elected officials, are human, and understand the harsh scrutiny and political fallout that will inevitably accompany even the appearance of favoritism.

So before categorically condemning celebrity justice, consider that their status can cut both ways. Because celebrities can afford high-end legal representation, along with the most expert experts money can buy, and come equipped with a built-in spin apparatus, it may be much better to be a celebrity defendant guilty of a serious crime.

Blessing can turn to curse for the innocent celebrity or one guilty of only a minor offense. Genuine innocence, even if vindicated by a jury acquittal, can send you to a career Elba Island, and a sentence that would be a commonplace for anyone else may be decided with the wetted judicial finger in the air of public opinion when it's a celebrity. Give me my richly deserved obscurity any time.