Journal of Criminal Law and Criminology

Volume 15 | Issue 3 Article 7

1925

Loeb-Leopold Case

THE LOEB-LEOPOLD CASE—(Continued)

E. SENTENCE OF THE JUDGE

In view of the profound and unusual interest that this case has aroused, not only in this community but in the entire country and even beyond its boundaries, the Court feels it his duty to state the reasons which have led him to the determination he has reached.

It is not an uncommon thing that the plea of guilty is entered in criminal cases, but almost without exception in the past such pleas have been the result of a virtual agreement between the defendant and the state's attorney, whereby, in consideration of the plea, the state's attorney consents to recommend to the Court a sentence deemed appropriate by him and, in the absence of special reasons to the contrary, it is the practice of the Court to follow such recommendations.

In the present case the situation is a different one. A plea of guilty has been entered by the defense without a previous understanding with the prosecution and without any knowledge whatever on its part. Moreover, the plea of guilty did not in this particular case, as it usually does, render the task of the prosecution easier by substituting admission of guilt for a possibly difficult and uncertain chain of proof.

Here the state was in possession not only of the essentials, substantiating facts, but also of voluntary confessions on the part of the defendants. The plea of guilty, therefore, does not make a special case in favor of the defendants.

Since both of the cases, namely, that of murder and that of kidnapping for ransom, were of a character which invested the Court with discretion as to the extent of the punishment, it became his duty under the statute to examine witnesses as to the aggravation and mitigation of the offense.

This duty has been fully met. By consent of counsel for the state and for the defendants, the testimony in the murder case has been accepted as equally applicable to the case of kidnapping for ransom. In addition, a prima facie case was made out for the kidnapping case as well.

The testimony introduced, both by the prosecution and the defense, has been as detailed and elaborate as though the case had been tried before a jury. It has been given the widest publicity and the

public is so fully familiar with all its phases that it would serve no useful purpose to restate or analyze the evidence.

By pleading guilty the defendants have admitted legal responsibility for their acts, the testimony has satisfied the Court that the case is not one in which it would have been possible to set up successfully the defense of insanity as insanity is defined and understood by the established law of this state for the purpose of the administration of criminal justice.

The Court, however, feels impelled to dwell briefly on the mass of data produced as to the physical, mental and moral condition of the two defendants. They have been shown in essential respects to be abnormal; had they been normal they would not have committed the crime. It is beyond the province of this Court, as it is beyond the capacity of human science in its present state of development, to predicate ultimate responsibility for human acts.

At the same time, the Court is willing to recognize that the careful analysis made of the life history of the defendants and of their present mental, emotional and ethical condition has been of extreme interest and is a valuable contribution to criminology. And yet the Court feels strongly that similar analysis made of other persons accused of crime would probably reveal similar or different abnormalities.

The value of such tests seems to lie in their applicability to crime and criminals in general. Since they concern the broad questions of human responsibility and legal punishment, and are in nowise peculiar to these individual defendants, they may be deserving of legislative but not of judicial consideration. For this reason the Court is satisfied that his judgment in the present case cannot be affected thereby.

The testimony in this case reveals a crime of singular atrocity. It is, in a sense, inexplicable; but it is not thereby rendered less inhuman or repulsive. It was deliberately planned and prepared for during a considerable period of time. It was executed with every feature of callousness and cruelty.

And here the Court will say, not for the purpose of extenuating guilt, but merely with the object of dispelling a misapprehension that appears to have found lodgment in the public mind, that he is convinced by conclusive evidence that there was no abuse offered to the body of the victim.

But it did not need that element to make the crime abhorrent to every instinct of humanity, and the Court is satisfied that neither in the act itself, nor in its motive or lack of motive, nor in the antecedents of the offenders, can he find any mitigating circumstances.

For both the crime of murder and kidnapping for ransom the law prescribes different punishments in the alternative.

For the crime of murder, the statute declares:

"Whoever is guilty of murder shall suffer the punishment of death, or imprisonment in the penitentiary for his natural life, or for a term not less than fourteen years. If the accused is found guilty by a jury, they shall fix the punishment by their verdict. Upon a plea of guilty the punishment shall be fixed by the court."

For the crime of kidnapping for ransom, the statute reads:

"Whoever is guilty of kidnapping for ransom shall suffer death, or be punished by imprisonment in the peniteniary for life, or any term not less than five years."

Under the plea of guilty, the duty of determining the punishment devolves upon the Court, and the law indicates no rule or policy for the guidance of his discretion. In reaching his decision the Court would have welcomed the counsel and support of others. In some states the legislature, in its wisdom, has provided for a bench of three judges to determine the penalty in cases such as this. Nevertheless, the Court is willing to meet his responsibilities.

It would have been the path of least resistance to impose the extreme penalty of the law. In choosing imprisonment instead of death, the Court is moved chiefly by the consideration of the age of the defendants, boys of 18 and 19 years. It is not for the Court to say that he will not in any case enforce capital punishment as an alternative, but the Court believes that it is within his province to decline to impose the sentence of death on persons who are not of full age.

This determination appears to be in accordance with the progress of criminal law all over the world and with the dictates of enlightened humanity. More than that, it seems to be in accordance with the precedents hitherto observed in this state. The records of Illinois show only two cases of minors who were put to death by legal process —to which number the Court does not feel inclined to make an addition.

Life imprisonment may not at the moment strike the public imagination as forcibly as would death by hanging; but to the offenders, particularly of the type they are, the prolonged suffering of years of confinement may well be the severer form of retribution and expiation.

The Court feels it proper to add a final word concerning the effect of a parole law upon the punishment of these defendants.

In the case of such atrocious crimes it is entirely within the discretion of the Department of Public Welfare never to admit these defendants to parole. To such a policy the Court urges them strictly

to adhere. If this course is persevered in, the punishment of these defendants will both satisfy the ends of justice and safeguard the interests of society.

In No. 33623, indictment for murder, the sentence of the Court is that you, Nathan F. Leopold, Jr., be confined in the penitentiary at Joliet for the term of your natural life. The Court finds that your age is 19.

In 33623, indictment for murder, the sentence of the Court is that you, Richard Loeb, be confined in the penitentiary at Joliet for the term of your natural life. The Court finds your age is 18.

In 33624, kidnapping for ransom, it is the sentence of the Court that you, Nathan F. Leopold, Jr., be confined in the penitentiary at Joliet for the term of ninety-nine years. The Court finds your age at 19.

In 33624, kidnapping for ransom, the sentence of the Court is that you, Richard Loeb, be confined in the penitentiary at Joliet for the term of ninety-nine years.

The sheriff may retire with the prisoners.