

The Appeal

by William Hurwitz, M.D.; Arlington County Detention Center; 2005
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I'm happy my case is being appealed
Injustice and error will soon be revealed
The issues are many and good ones at that
With precedent strong and logic that's pat
And if I might be perfectly candid
My case should soon be reversed and remanded
What follows are points we'll make in our brief
The basis in law for judicial relief.

My records were seized without probable cause
Overbreadth in the warrant defying our laws
A general search is never allowed
Specific items must be avowed
The listing was absent – affidavit sealed
A Supreme Court case will be revealed
That holds on such facts that a search doesn't fly
To the evidence seized, one must say goodbye.

The jury was left somewhat confused
They asked for help, but the judge refused
“The bounds of medicine” he couldn't describe
Or when to an addict, one could prescribe
Instructing the jury “good faith” to ignore
Was something the Courts had not done before
Without good faith, the safe harbor was lost
With just that instruction, a line had been crossed.
For absent intent, could I have Mens Rea?
If good faith was there, where's Culpa Mea?

One of the rulings that prejudiced me
Did not allow the jury to see
The FAQ's which the DEA
Had published with hope that it would allay
Doctors' concerns that treating pain
Would risk prosecution again and again.

National experts were all involved
Hoping that conflicts could be resolved
That cops and docs could clearly declare
Rules that promoted good patient care
The principles published were fair and humane
Doctors could even treat addicts with pain.

The document bolstered our position
So we moved to allow it as a party admission
Motion Denied – and with artful evasion
The pretext provided – it was not regulation.

Embarrassed by what their experts had cast
The DEA pulled those FAQs fast
With nary a thought of the damage they'd do
To the good will and trust of the doctors who
Had worked so hard and with such high hopes
But were made now to feel like chumps and like dopes.

A charade it had been. That was now clear.
That act demonstrated they were never sincere
When push came to shove, prosecution came first
The hoped for concurrence was sadly reversed
And doctors betrayed and in fear now abstain
From treating their patients' intractable pain.

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