

"What I Learned from a Parking Ticket"

By David Kraemer

Last November, I came out of my apartment one Friday morning to discover a parking ticket on the windshield of my car, parked on Broadway. I was sure I had made it before the time on the meter had run out, so I immediately assumed that the meter must have been faulty. Imagine my surprise when I discovered that the ticket was for parking in a bus stop.

Indeed, I was parked next to a bus stop, but I was clearly not in it. So I ran into the nearby Rite Aid, bought a disposable camera, took pictures of the parked car from all angles, and sent in the evidence, along with the ticket marked "not guilty," to the appropriate address. I assumed that would be the end of the story. But nearly two months later I got back a "verdict" indicating that my plea had been rejected, and the ticket upheld, because "the pictures do not depict the location indicated on the ticket." Orwellian, no? Of course, that was precisely the point of my defense. But the judge didn't seem to understand the flaw in his logic. So I appealed the decision, only to find myself face to face with three ignorant hacks (they bore the title "judge") who considered even more evidence to reach the same conclusion: the traffic officer gave me a ticket, so he must have been right. I can assure you that he was not. He was either blind or trying to reach his quota. Either way, he, along with New York City, stole \$55.00 from me (plus expenses for my defense).

Why do I bother repeating this story? Because this experience has taught me how immensely flawed our system of justice is. I was falsely accused, and from that moment on the burden was on me to prove my "innocence" in the context of a system which assumes that a police officer who makes an accusation must be correct, and the accused therefore guilty. Of course, I know that this is, in its specifics, an insignificant matter. The time I devoted to my defense was surely worth far more than the \$55 I had to pay. But suppose I was a black man, accused wrongly of a more serious crime, confronting the same system, with its same self-affirming assumptions, with the same odds of success. In the past, I had known in theory that errors were possible. But I had assumed that they were rare and that the system had ways to protect the accused against most of them. My experience has taught me that such assumptions are naïve. If the court system could affirm my "guilt" with such clear evidence to the contrary, how much more likely is it to deliver injustice when the case is unclear and the accused assumed to be a criminal (because of black skin, for example)?

Now, you may be thinking that I am too hasty in my conclusions because in more serious, criminal cases, the burden of proof is much higher ("beyond a reasonable doubt"). But here, too, my experience has taught me that the system is highly flawed. Last summer I had the unfortunate experience of sitting on a jury in a "slashing" case. The accused was a young black woman who did not testify

during the trial. The case against her was built on the testimony of three drug addicts, all with a grudge against her. Their testimony was contradictory in several crucial details, and unbiased witnesses who ought to have been present to testify (according to their story) were never brought to the stand. As we went into the deliberation room, I assumed that a vote for acquittal would be quick because the case for the prosecution was so weak.

So imagine my surprise (sorry to do this again) when all but myself and one other juror gave a first vote for conviction. Why? Because "she refused to testify, so she must be guilty." Or because "she looks like the kind of person who could have done it." Or some other permutation of the above. When I pointed out that her refusal to testify could not be held against her (according to the judge's directions) and that the burden was on the DA to offer a compelling case, they simply shrugged. When I insisted on reviewing all of the contradictions in their testimony (something the arrogant pro bono lawyer for the defense had failed to do), they shrugged again. For them, "reasonable doubt" was not a legal category, it was a matter of the "gut," and their gut told them that the accused was guilty.

The simple fact is that common people are not equipped to understand and respect the fine points of the law, its definitions, and its technical requirements. Whether or not this young woman actually did the slashing, I am confident that she was not "guilty" in the legal sense of the term. But the system constructed to assume her innocence and to set a high bar before concluding for guilt did not work. Because, whatever the high theory of our system of justice, it is executed by people whose flaws undermine the theory. The system is simply too naïve to be practicable. Those who function within it too easily undermine its ideals and goals.

I shudder to think what would happen to me if I were a black man wrongly accused of a serious crime. Or even a white man. And it could happen. Judaism, I promise, has a better system. But there is not enough room in this column to elaborate and explain its details. In my next piece for this column, I will offer the alternative for consideration.