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The Entertainment Effect:

Do Those Within the Entertainment Industry Receive Preferential Treatment When Facing the Justice System?

By: Andrea Sturniolo

The American Justice System and Celebrity Favoritism

The United States has an extremely unique form of government. When our forefathers decided to separate from English rule they took the time to create a government that reflected the ideals that they held dear. One such principle was that everyone should be treated equally. They felt so strongly about this that when they were drafting The Declaration of Independence they included “[w]e hold these truths to be self-evident, that all men are created equal...”¹. This was further established in our legal system when the Sixth Amendment was added to the Bill of Rights.

The Sixth Amendment establishes how citizens are to be treated when facing the judicial system. It states:

“In *all* criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining Witnesses in his favor, and to have the Assistance of Counsel for his defence.”²

The Amendment does not separate citizens into categories. Each person shall receive all of the rights described above; at least ideally. While this is how our legal system should work, there are many extra-legal factors that could cause one person to receive specialized treatment over another³. One such extra-legal factor that has been considered by many to cause favoritism within the legal system is celebrity status⁴.

Everyday the entertainment industry plays a role in the average American's life. American's allow those within the industry to influence their physical and behavioral choices. Actors, actresses, authors, musicians and athletes are idolized. "Even the mainstream news recognizes that stories concerning celebrities are likely to attract customers"⁵. It is no surprise that because of their celebrity status they receive preferential treatment in many situations. But does this treatment seep over into the legal system? Do celebrities actually receive certain advantages, which are not accorded to the average citizen, because of their wealth and fame?

Many believe that the answers to these questions are yes. This belief is not unfounded⁶. It would be difficult to deny that celebrities receive some sort of specialized treatment when they are facing the trial process.⁷ For this reason it appears to be easier to convict the average "Joe" for committing the same crime that an A-list celebrity committed. One attorney stated, "If the person is sympathetic, you need more evidence. If they are loved by the public, you're going to need even more"⁸. Why is it so much more difficult to find a celebrity guilty of a crime? Or give them the sentence that they deserve? One main reason is because these people are always in the limelight. Society admires and cherishes celebrities making it hard for jurors "to imagine that someone who is famous (and possibly admired by the juror) could be guilty of a crime, or perhaps jurors hesitate to punish someone who is so popular"⁹. This feeling of punishing a person that you truly worship could be the driving force behind celebrity favoritism within the legal system.

The Privileges Celebrities Receive

The list of privileges that a celebrity may receive is extensive. The measures that courts have used include sealing documents that would typically be available to the public¹⁰, placing restraints on the media, placing gag orders on jurors, attorneys and witnesses, conducting

extensive voir dire, giving special jury instructions, offering postponements and granting change of venue motions¹¹. Most of these privileges are designed to ensure that celebrities are afforded a fair trial, however, a few only seem to be applied because of the celebrity's fame.

Within the last several years the media industry has had difficulty reporting on these judicial proceedings due to courts all over the country sealing documents and issuing gag orders. The court's reasoning for affording celebrities these privileges is that it ensures the "defendant's fair trial right against an onslaught of publicity that could inject bias into the jury pool"¹². However, this interferes with the public's First Amendment rights. In Richmond Newspapers Inc. v. Virginia the Supreme Court determined that the press, as well as the general public, has a First Amendment right to be present at trials¹³. Additionally, the gag orders and sealed documents have made it extremely difficult for the participants in the trial, including the lawyers, to determine what they can and cannot say to the press causing essentially a lockdown on the specifics of celebrity trials¹⁴.

Favoritism for Fatty

Some consider the manipulation of the legal system by the courts for celebrities to be a relatively new phenomenon because of the recent news stories highlighting certain celebrities walking away with what seems to be just a slap on the wrist. This belief is most likely due to society's ability to access news within a few seconds. The reality is that this affect that the entertainment industry has on the legal system has been occurring for decades.

One case that has been highly criticized for allowing celebrity status to influence the outcome is the 1920's trial of Roscoe "Fatty" Arbuckle¹⁵. Arbuckle was a superstar of the silent film era, quickly becoming the funniest man in America at the time¹⁶. Arbuckle began performing for an audience at the age of eight and at the height of his fame he was receiving a

million dollars a year to perform on film¹⁷. During the Great Depression the average annual earnings was a little over one thousand two hundred dollars¹⁸, making Arbuckle's million-dollar salary extremely unconventional. But just like any celebrity of his stature, Arbuckle was being paid the big bucks to entertain the masses and his ability to do his own stunts captured the hearts of the audience. It even influenced one of the fathers of cinema, Charlie Chaplin¹⁹.

He created numerous films while working for the Keystone Film Studio where he became known as "Keystone's most valuable pastry thrower"²⁰. However, 1920's Hollywood was not all fun and games like the Keystone Kops (a group that Arbuckle was a part of) made it appear to be²¹. While Prohibition came into effect in the 1920's it did not prevent the rich and famous from painting the town red. "Stories of wild parties, promiscuous behavior, and excessive alcohol and drugs abounded"²². Fatty Arbuckle was no stranger to the party scene, appearing at, as well as, throwing numerous parties²³.

It was a gathering that Arbuckle threw at the St. Francis Hotel in San Francisco that caused his legendary problems with the legal system²⁴. Arbuckle, Lowell Sherman, and Fred Fischbach rented a suite in the luxurious hotel and threw a weekend long Labor Day party²⁵. Arbuckle claims that at some point during the party he discovered an extremely sick guest, Virginia Rapp, in the bathroom of his luxurious suite²⁶. Arbuckle also states that he tried to help her by placing her on his bed and covering her body in ice²⁷. A few days later Virginia Rapp passed away from a ruptured bladder²⁸.

Other party guests tell a drastically different story from Arbuckle's. At one point during the party Virginia had screamed at Arbuckle "Stay away from me! I don't want you near me. What did he do to me, Maudie²⁹? Roscoe did this to me"³⁰. After these accusations were made,

Arbuckle was arrested and tried for the rape and manslaughter of Virginia Rapp with a champagne bottle³¹.

Roscoe Arbuckle faced a total of three different trials³². In the original trial the lone holdout juror claimed that she would never have acquitted Arbuckle causing the trial to end in a hung jury³³. The second trial ended in a similar fashion with a hung jury³⁴. It was the third trial in which Arbuckle received his acquittal³⁵. This decision was decided within ten minutes of the jury leaving the courtroom for deliberation³⁶. After the decision was offered, the judge concluded:

“I do not find any evidence that Mr. Arbuckle either committed or attempted to commit a rape . . . But we are not trying Roscoe Arbuckle alone; we are not trying the screen celebrity who has given joy and pleasure to the entire world; we are actually, gentlemen, in a large sense trying ourselves. We are trying our present-day morals, our present-day social conditions, our present-day looseness of thought and lack of social balance”³⁷.

The use of the language “the screen celebrity who has given joy and pleasure to the entire world” suggests that this judge probably had some sort of affinity for Fatty. Arbuckle’s achievements in the entertainment industry and his skill to make people laugh with a simple pie to the face influenced the judge’s opinion on whether Arbuckle committed this crime. Additionally, the jurors released a statement with their decision claiming “[a]cquittal is not enough for Roscoe Arbuckle”³⁸. It is possible that the jurors followed in the judge’s footsteps by becoming influenced by Roscoe Arbuckle’s celebrity status.

While Arbuckle escaped punishment from the courts, he was not so lucky when he faced the rest of society and the film industry. Arbuckle was placed on the blacklist for his brush with the law, which essentially made it impossible to find a job³⁹. An entertainer’s toughest critic is their fans. Once that support has disappeared, the stars’ career can crumble in an instant.

Lucy's Not Red

This preferential treatment goes far beyond the courtroom. It has even played a role in a few Congressional hearings. One of the most notable hearings was held to discuss the communist status of one of America's Sweethearts, Lucille Ball.

During the late 1940's and early 1950's, communism was at the forefront of everyone's mind. The Cold War was in full swing and citizens lived in fear of a possible attack by the Soviet Union. The government used this anxiety to bring those they believed to be a potential threat to the surface. Citizens were told to keep an eye out for anyone who had connections to the Communist Party. To help with the hunt, Congress established the House Un-American Activities Committee ("HUAC") in 1938⁴⁰. HUAC was charged with uncovering potential "disloyalty and subversive activities on the part of private citizens, public employees, and those organizations suspected of having Communist ties"⁴¹. Congress essentially gave HUAC responsibilities that are typically reserved for the judicial system. The Committee was given the power to subpoena witnesses and hold others in contempt of Congress⁴².

No one was safe from these accusations, not even the most prestigious and high-powered members of society. Many Hollywood stars' could not use their status as a shield against such accusations. However, not many stars achieved the level of fame that Lucille Ball did. Her success in the celebrated sitcom "I Love Lucy" has made her a beloved actress for well over a half a century.

Like many celebrities, Lucille Ball had a difficult childhood. She spent much of her youth being passed around between family members who only made enough money to scrape by⁴³. However, Ball accredits this lifestyle with transforming her into the amazing actress and

comedienne she grew up to be. She claims, “when life seemed unbearable, I learned to live in my imagination, and to step inside other people’s skins—indispensable abilities for an actress”⁴⁴.

From a young age Ball desired to be a key member in the entertainment industry. For a brief period she attended the John Murray Anderson—Robert Milton Theater School in New York with hope of receiving some sort of formal education that was centered on the industry⁴⁵. At one point, though, her teachers informed her that she was not a very talented actress and would never make it in such a dog eat dog industry⁴⁶. Luckily, Ball did not take this criticism to heart and only used it to fuel her drive.

In 1933, Ball received her big break when she was asked to participate in a new Eddie Cantor movie, *Roman Scandals*⁴⁷. From that point on she began making her mark in the industry. A few months after moving to California, Ball finally made enough money to bring her mother, Desirée Hunt, her brother, Freddy Ball, and her grandfather, Fred Hunt to live with her⁴⁸. It was during this period of time that Ball’s entanglement with communism began.

Grandfather Fred had a lot of time on his hands while he was living in Hollywood, so he began hosting meetings in Ball’s garage. Ball claims her garage became “the meeting place of radical left wingers and crackpots”⁴⁹. Ball even went so far as to claim that she was a communist on her 1936 voter registration card to comply with her grandfather’s desires⁵⁰. Ball believed these meetings and her registration card were harmless, not giving much thought to them until the beginning of the 1950’s.

Between 1936 and the early 1950’s Ball was living the life. She met and fell in love with Desi Arnaz⁵¹; the two were married in 1940⁵²; and by 1951 CBS had given them the break they were hoping for, the chance to perform as co-stars⁵³. CBS saw the potential that the duo offered

as a pair and was more than willing to give them a chance to create a pilot of a television show starring Lucille Ball and Desi Arnaz as the All-American couple⁵⁴. The big wigs at CBS immediately fell in love with the show and decided to put it on the air beginning in the fall of 1951⁵⁵. *I Love Lucy* appeared to instantly become every American's favorite television series. Ball stated "[o]ur twentieth show made us number one on the air and there we stayed for three wild, incredible years"⁵⁶.

Ball and Arnaz appeared to be flying high. They were the perfect couple on and off screen. However, in 1952 Ball's past finally caught up with her. She learned that the infamous House Un-American Activities Committee had unearthed her voter registration form from 1936⁵⁷. Fortunately for Ball "by the time HUAC caught up with her in April 1952, 'I Love Lucy' was too big to suffer a frontal assault. Every courtesy was afforded the reigning star of situation comedy"⁵⁸. Lucille Ball was permitted to make her testimony in private⁵⁹. This type of privilege would not have been afforded a typical citizen. Communism was a very serious crime during the 1930's, 40's and 50's. Hundreds of others "were dragged publicly before the House Committee on Un-American Activities...and publicly humiliated"⁶⁰.

The evidence against Ball seemed to be clear and convincing. To begin with she had been hosting communist meetings at her residence. Rena Vale, a former communist member stated:

"Within a few days after my third application to join the Communist Party was made, I received a notice to attend a meeting on North Ogden Drive, Hollywood [Ball's home]. On arrival at this address, I found several others present; an elderly man informed us that we were the guests of the screen actress, Lucille Ball, and showed us various pictures, books and other objects to establish that fact, and stated she was glad to loan her home for a Communist Party new members class"⁶¹.

This statement implies that Ball took a much greater interest than she let on. It is possible that at one point she did believe in the Communist cause. Additionally, the voter registration form was clearly in her handwriting and the word “Communist” is legible.

Even with all this evidence Ball’s explanation that her grandfather begged her to join and she complied to keep him from having a stroke was sufficient to appease the committee. She stated “I am not a Communist now. I have never been. I never wanted to be. Nothing in the world could ever change my mind. At no time in my life have I ever been in sympathy with anything that ever faintly resembled it”⁶². The committee claimed that Lucille Ball had simply been “politically immature” and that they “saw no reason for further investigation of what was essentially an impulsive, emotional step [Ball had] taken in [her] youth for the sake of [her] grandfather”⁶³. For a committee that was known for being extremely rough on witnesses, the members seemed to afford Ball every advantage they could and gave her the benefit of the doubt.

News of Ball’s run in with the committee eventually leaked to the public. To ensure that Lucille Ball was actually cleared, Desi Arnaz contacted the Director of the FBI, J. Edgar Hoover. Hoover declared that HUAC had officially cleared Ball and he even stated, “*I Love Lucy* was among his ‘favorites of the entertainment world’”⁶⁴. The members of the House Un-American Activities Committee immediately followed suit by affirming that they “love Lucy, too”⁶⁵. Ball’s celebrity status played a huge role during her congressional hearing. It is likely that she was cleared because of the fame of *I Love Lucy* and the fact that the committee did not want to disappoint the entire country by finding that their beloved Lucy was a communist.

Shocking Preference for Downey

Many modern artists receive similar, if not more, preferential treatment than Roscoe 'Fatty' Arbuckle and Lucille Ball did. One such modern artist received a privilege from the court that was so far beyond what any typical person would receive, that the sheriff personally requested writ of mandate from the Superior Court of Los Angeles County to right the court's egregious error⁶⁶.

Robert Downey Jr. is best known for his portrayals of two infamous literary heroes, Sherlock Holmes and Iron Man⁶⁷. While he plays the hero on screen, bringing criminals and terrorist to justice, he is no stranger from encounters with the law in his personal life. Downey would face the court system a number of times for his unfortunate addiction to illegal drugs.

Downey was introduced to the entertainment world at a very early age since he is the son of the "avant-garde filmmaker Robert Downey Sr. and actress Elsie Downey"⁶⁸. He was first introduced to the big screen in 1970 when he played a puppy in his father's film, *Pound*⁶⁹. This was just the beginning of a career that would span decades, launching Robert Downey Jr. into the coveted position of one of Hollywood's A-list stars.

Robert Downey Jr.'s big break came when he was cast in the 1987 film *Less Than Zero*⁷⁰. In this film the character he portrayed, Julian Wells, hit very close to home. Julian Wells was the "party loving, cocaine addicted" best friend of Downey's co-star Andrew McCarthy⁷¹. Downey played the excellent party boy because he was essentially playing himself. At the age of eight Downey was introduced to drugs by Robert Downey Sr.⁷². His addiction eventually spiraled out of control. Downey explained that:

“Until that movie, I took my drugs after work and on the weekends. Maybe I’d turn up hungover on the set, but no more so than the stuntman. That changed on *Less Than Zero*. I was playing this junkie-faggot guy, and, for me, the role was like the ghost of Christmas future. The character was an exaggeration of myself. Then things changed, and, in some ways, I became an exaggeration of the character”⁷³.

Downey’s stint with drugs would not end with his first trip to drug rehabilitation facilities.

Downey’s drug abuse would get him in trouble with the law and cause some turbulence in his continuously growing success within the film industry⁷⁴.

By the time Downey was 27, he was making waves in the industry. He was nominated for an Academy Award for best actor for his portrayal of Charlie Chaplin⁷⁵. This role showed critics and audiences around the world how versatile Downey could be. Unfortunately, Downey had also created a reputation for himself “as a troubled and controversial figure in Hollywood”⁷⁶. Downey had become known among his peers for his drug and alcohol abuse.

In 1996 the negative events in Downey’s life really started to escalate. In June “the actor was stopped by police after driving naked in his Porsche on Sunset Boulevard, and found not only to be without clothes, but in possession of cocaine, heroin and a .357 Magnum. Less than a month later, and just a few hours before he was slated to be charged [for the indecent with the Porsche], Downey ran afoul of the law again after he was found passed out in a neighbor’s house”⁷⁷. Robert Downey Jr. continued to struggle with his abuse well into the early 2000’s and made more appearances before the court in 2000 and 2001.

One such stint with the legal system leads to a scandalous error by the court. Sheriff Sherman Block of the County of Los Angeles brought the issue of preferential treatment because of celebrity status and wealth to the forefront of everyone’s mind. Block was seeking a writ of mandate ordering the superior court to “set aside its order of March 3, 1998, directing the Sheriff

to release real party in interest, Robert John Downey, Jr., from custody and to transport him—at Downey’s expense—to Paramount Studios to complete work on a motion picture”⁷⁸ because his release from the county jail violated section 4004 of the California Penal Code. Section 4004 states:

“[a] prisoner committed to the county jail for examination, or upon conviction for a public offense, must be actually confined in the jail until legally discharged...the court before which said proceeding is pending may make a legal order, *good cause* appearing therefor, for the removal of the prisoner from the county jail in custody of the sheriff”⁷⁹.

The question before the court was whether allowing Downey to finish a contractual obligation was considered “good cause” under California Penal Code section 4004.

Downey had been convicted on the charges brought against him for the 1996 incident with his Porsche. His sentence had been suspended and he was placed on probation, “one of the terms of which was that he was required to seek and maintain employment as approved by the court”⁸⁰. The major players in the film industry at the time were afraid to work with someone who could be “incarcerated at any moment” for violating probation⁸¹. This made him impossible to insure by any film company. If Downey were thrown in jail during the filming of a movie, production would come to a standstill.

Finding a job is one of the most difficult hurdles to overcome for someone on probation. Downey, though, was in a unique situation; he was an A-list Hollywood superstar. He returned to the court and requested a modification of his probation, which was granted⁸². The court’s order was tailored to perfectly fit Downey’s situation. It “indicated that if advised of a probation violation that did not involve a substantial danger to the public, the court would—if ‘comfortable’ that Downey would ‘maintain his sobriety’—allow Downey to ‘finish his commitment’ before ordering him incarcerated or into a lock-down program”⁸³. Downey did end

up violating probation while he was filming and the court followed through with its promise by allowing Downey to finish his contractual obligation⁸⁴. For his violation Downey was sentenced to one hundred eighty days in the county jail⁸⁵.

To most observers, setting aside probation and possible incarceration to complete a film would seem sufficient preferential treatment for one celebrity. The court, however, took it a step further. After the completion of the film, Downey was eventually transported to county jail but the court decided to offer him an additional privilege. “In January 1998, Downey successfully moved to be released from county jail in order to participate in postproduction work on the movie he had completed in December 1997”⁸⁶. Downey was released three additional times to assist with post-production work⁸⁷.

It is highly unlikely that an ordinary citizen would be granted the same opportunities that Robert Downey Jr. received. The court attempted to rationalize its decision by claiming that if Downey could not complete the film “numerous other people would be affected”⁸⁸. Yet, there are other ways that the court could have ensured that others lives would not be altered. For example, it could have expressed to Downey that it was an unfortunate situation in which he had placed himself but there was nothing the court could do for him. This would have forced the production company of the film to find an insurable actor who did not have the possibility of violating probation looming over his head.

The California Court of Appeals seemed to agree. It found for the Sheriff, determining that releasing Downey to complete a contractual obligation did not fall under the definition of “good cause” as it appears in Section 4004⁸⁹. The court stated, “Such misfortunes befall employers and third parties to some degree in many criminal cases in which an employed

defendant is sentenced to county jail. There is nothing exceptional about the circumstances in which Downey found himself”⁹⁰. In the last paragraph of the opinion the court further enforced its belief that the treatment that Downey received was improper. The opinion asserts, “Downey, like every other inmate sentenced to county jail, was placed there, at least in part, to be punished for a criminal act. When a defendant is incarcerated for his criminal conduct, the essence of that punishment is that he is deprived of freedom to attend social functions or to participate in employment opportunities”⁹¹. It appears that, in this case, the general public was not the only ones that had an issue with a celebrity receiving preferential treatment within the American legal system.

Analogous Treatment for Athletes

Privileges are not just afforded to Hollywood’s A-list celebrities. Other performers are doted upon as well. The list includes star football, basketball, and baseball players. There are some cases in which the defendant is not even a professional athlete. The courts will afford college athletes the same preferential treatment that is provided to professional athletes. The only requirements appear to be that the person is well known and loved by society.

One of the most controversial cases in recent times, People of the State of California v. Orenthal James Simpson, is a prime example of a star athlete who received preferential treatment because of his star status. Orenthal James Simpson, better known as O.J. Simpson, was accused and brought to trial for the murder of his ex-wife Nicole Brown Simpson and one of her friends⁹². A murder charge has a “beyond a reasonable doubt” standard of evidence, meaning the jury needed to believe “beyond a reasonable doubt” that O.J. Simpson was the man who

committed the atrocious crime. Unfortunately, Simpson was acquitted of all charges because the prosecution's case was built around circumstantial evidence⁹³.

The evidence suggested that Simpson received preferential treatment because of his celebrity status appears in two situations. The first instance occurred before the trial even began. The State of California was determining whether or not to seek the death penalty in the murder trial⁹⁴. The Prosecutors decided to hold a mock trial to see how a jury would perceive this type of a sentence. After the mock trial, the State decided against seeking the death penalty because "jurors would balk at conviction if it meant the possibility of executing the football legend"⁹⁵. O.J. Simpson was saved from facing the death penalty because the prosecution believed that during the actual trial the jury would have the same reaction as the mock jury did. Simpson's fame and the fact that he was a role model for millions of Americans clearly influenced the way that the State decided to approach this case.

The second example of O.J. Simpson's fame working in his favor arose during the trial. Simpson was afforded more rights as a prisoner than most. For example, the court granted Simpson longer breaks during the trial⁹⁶. Many critics believe his celebrity status played a critical role in the court's decision to offer Simpson these extended courtesies.

O.J. Simpson's case was not a unique circumstance. Many other athletes face the court system and walk away with an unblemished record. In a case involving Barry Bonds, the presiding Judge clearly displayed his affinity for Mr. Bonds. Barry Bonds was requesting a seven thousand five hundred dollar (\$7,500) reduction in his family support payments⁹⁷. Bonds' request was originally granted because "[Judge George] Taylor was a self-described 'ardent baseball fan' who even asked the baseball star for an autograph"⁹⁸. Following this decision there

was a public outcry because Bonds' reduction was clearly due to Judge Taylor's partiality for the renowned baseball player. Taylor did eventually reverse his decision realizing that his original ruling was unjustified⁹⁹.

Another baseball player, Marcus Moore, was acquitted of rape and sexual assault charges that were brought against him. One juror stated that Moore's star status was one of the reasons for his acquittal¹⁰⁰. The juror asserted, "Everybody said he was guilty. They didn't want to convict him. It was baseball that did it. They didn't want to push it with a baseball player, a celebrity. They thought being traded down to the minors was punishment enough"¹⁰¹. Being traded down from the majors to the minors is clearly not the type of punishment that the legal system is supposed to dole out for violating the law. If the jury believed that Moore committed the crimes he was accused of, then they should have found him guilty. For a jury to acquit Moore purely because of his ability to play America's past time proves that celebrity status plays a role in how the rich and famous are treated when confronting the courts.

The last case demonstrating preferential treatment for a star athlete involved the NBA star, Charles Barkley. Barkley was being charged with hurling another person through a window¹⁰². The judge delayed "the trial to accommodate Barkley's playing schedule"¹⁰³. Any other non-celebrity would not be afforded this convenience without a good cause. Having to be at work would probably not satisfy the courts definition of good cause.

Fame Is Not Always an Advantage

In the bulk of high-profile cases, celebrity status is very beneficial; however, there are some instances where one's celebrity status can be considered a grave disadvantage. As stated earlier, the American society is extremely fascinated in what is occurring in the lives of the rich

and famous. The press understands this attraction and feeds on it by stalking celebrities to discover every hidden aspect of their lives. This investigative work by the press has destroyed many reputations and uncovered vital evidence¹⁰⁴. An illustration of this phenomenon occurred during the O.J. Simpson trial. “The National Enquirer uncovered a photo of O.J. Simpson wearing a certain type of shoe that he claimed he never owned”¹⁰⁵. The press revealed a vital piece of evidence that would probably not have been uncovered if “Simpson was not a celebrity worthy of media investigation”¹⁰⁶.

The Scapegoats of American Society

Another problem that celebrities face is when they are used to illustrate a point. The courts understand how much society idolizes celebrities. By punishing celebrities more severely for their crimes the justice system hopes to deter the average citizen from committing a synonymous crime.

Just like preferential treatment, using celebrities as scapegoats has spanned decades. Charlie Chaplin was one such unfortunate soul whose life would change forever so that the government could prove a point. Mr. Chaplin, like Lucille Ball, had an encounter with the House of Un-American Activities Committee; however, his experience gravely contrasts that of Ms. Ball's.

More than one hundred years after he first found his knack for comedy Charlie Chaplin continues to be a household name. He is considered to be one of the most pivotal stars in the development of the film industry and was essentially the first male movie star. Chaplin's success in the entertainment industry even set the tone for the films that society enjoys today. “To maintain the audience's attention throughout a six-reel film, an actor needed to move beyond

constant slapstick. Chaplin had demanded this depth long before anyone else. His rigor and concern for the processes of acting and directing made his films great and led the way to a new, more sophisticated, cinema”¹⁰⁷. Unfortunately, Chaplin’s great success and fame could not save him from the onslaught he faced during the McCarthy era.

Chaplin was born in 1889 in London, England to Hannah Hill and Charlie Chaplin Sr.¹⁰⁸. He led an extremely troubled childhood. For the first nine years of Chaplin’s life, his father was not around¹⁰⁹. He and his eldest brother Sydney lived with their mother until she contracted neurosyphilis, which drove her insane, eventually landing her in a mental institute¹¹⁰. Life with Charlie Chaplin Sr. was no dream. He spent a majority of his time drinking at the Queen’s Head Pub leaving his children in the care of his wife, Louise, who wanted nothing to do with them¹¹¹. Chaplin would later draw on these experiences to create depth for the characters that he brought to life on the stage and in front of the camera.

Chaplin began his career in the entertainment industry when he joined a troupe called the Eight Lancashire Lads. The troupe included “eight professional child dancers, who tapped out a perfectly synchronized series of complex clog dance steps with lightning speed and perfect coordination, night after night, from London to Scotland to Ireland to Wales and the Midlands”¹¹². Chaplin’s experiences within the industry broadened from this little troupe to receiving parts in traveling plays, including a roll as Billy in “Sherlock Holmes”¹¹³. Chaplin eventually became a member of one of Fred Karno’s troupes, “which were world renowned, his comedy sketches top-of-the-bill”¹¹⁴.

It was during his second tour to America in 1912 with Karno’s troupe that Chaplin was asked to become one of the lead comedians at Keystone Film Studio¹¹⁵. From that point on Chaplin’s career took off. He went on to create film after film for Keystone. Chaplin’s fame

quickly grew and by the 1930's many believed that a political tone was rooted in Chaplin's films¹¹⁶. *Modern Times*, the last silent film Charlie Chaplin made, was theorized to be an attack on capitalism¹¹⁷. "J. Edgar Hoover, head of the Federal Bureau of Investigations (FBI), began compiling a file on Chaplin's activities including his friendship with radicals such as Upton Sinclair, H. G. Wells, Hanns Eisner, Albert Einstein, Clare Sheridan and Harold Laski"¹¹⁸. Continuing with this political theme, Chaplin's next film, "*The Great Dictator* (1940), got [him] into political hot water that ultimately forced him out of the United States permanently"¹¹⁹.

Chaplin was passionately anti-Nazi and felt that he needed to make a statement by using his fame and influence to convince citizens to join in the war efforts. To do this, Chaplin stripped himself of his "traditional pantomime technique and his classic tramp character in order to play two talking parts—Adolf Hitler and a little Jewish barber"¹²⁰. This would be the first time that Chaplin would appear in a talkie¹²¹. While, *The Great Dictator* accomplished Chaplin's goals to get society interested in the war, it also became a focus of the FBI and earned Chaplin the epithet "premature antifacist"¹²². In the 1940's this delineation was a "euphemism for someone with strong left-wing leanings who was not officially a member of the Communist Party"¹²³. Chaplin's political views never changed, unfortunately societies did. As time went by, the fear of communism overwhelmed the nation. The government took Chaplin's left-wing views as a threat, believing that his star stature and his ability to influence the masses would foster a communist view within society.

The retaliation against Chaplin was in full swing by 1942¹²⁴. A well-known conservative journalist, Westbrook Pegler initiated the crusade by releasing a few scathing remarks about Chaplin.

“Characterizing Chaplin’s activities in support of our military alliance with the Soviets as pro-Communist and therefore anti-American, he recommended deportation. And with even more vehemence, Pegler also suggested that the actor’s three previous divorces were clear proof of his unpatriotic contempt ‘for the standard American relationship of marriage, family and home’¹²⁵.

Many conservative Hollywood columnists jumped on the bandwagon releasing numerous articles, which accelerated the decline of Chaplin’s reputation¹²⁶.

Behind the scenes the FBI was assisting the attack by frivolously charging Chaplin “under the antiquated Mann Act in spite of abundant evidence of his innocence”¹²⁷. It has also been suggested that the FBI “supplied gossip columnists with information from those files and that the bureau even suppressed, and physically hid, indications of judicial impropriety that, if known, would have forced the federal judge hearing the case to disqualify himself on ethical grounds”¹²⁸. This type of behavior is completely contradictory to how the government should be acting under the political ideology of the United States.

With Chaplin’s reputation already in shambles by the mid 1940’s the House Un-American Activities Committee did not have to do much to convince the nation that he was a communist. “Keeping Chaplin off the witness stand was now the single most effective way to further damage his reputation and impugn his loyalties”¹²⁹. HUAC, as well as the FBI, knew that if Chaplin were to take the stand it would become very clear that he had never been a member of the Communist Party, making it impossible for them to blacklist him. Instead, HUAC subpoena Chaplin in 1947 and then postponed his hearing three times before finally canceling it¹³⁰.

Chaplin, however, was determined not to be intimidated. He attempted to continue to create films and entertain the public. Unfortunately, by the late 1940’s and early 1950’s conservative political pressure groups were able to convince the public to boycott Chaplin’s films¹³¹. These groups were so successful in their endeavors that by the time *Limelight*, the last film Chaplin

created in the United States, came out hundreds of theaters canceled their bookings to show the film¹³².

This crusade against Chaplin finally came to an end in 1952 while he was away on holiday in England¹³³. HUAC had Chaplin's reentry permit revoked "as retribution for his alleged Communist sympathies and dubious moral character"¹³⁴. With his reputation destroyed and the country that he had called home for more than four decades shunning him, Chaplin decided to live out his days in political exile in Switzerland¹³⁵.

Chaplin only returned to the United States one more time, nearly twenty years after his exile. In 1972 Chaplin was awarded the Special Academy Lifetime Achievement Award for his efforts and influence on the film industry¹³⁶. Times had changed since 1952 and society had realized that the government had abused Chaplin to make a stand against communism. While, society had once again accepted him, many former HUAC members refused to acknowledge their mistake. "Richard Nixon—a former HUAC member and one of the most outspoken anticommunists at the time of Charlie's unceremonious departure—was too busy with his own political problems to comment on Chaplin's return"¹³⁷.

Charlie Chaplin was without a doubt treated as a scapegoat for the government. There was no evidence against him other than the fact that he had a few left-leaning beliefs. The government attacked him simply because they were afraid of his fame and influence. Charlie Chaplin is a crucial example of the government using a celebrity's star status as a weapon against them.

Using celebrities as a sacrificial lamb did not end with Charlie Chaplin. In early 2000 the court was faced with another celebrity who had committed, what the court believed to be a

serious crime. It decided to take full advantage of the situation by turning that celebrity into an example for the nation. Martha Stewart made headlines for the accusations of her participation in insider trading in relation to her own company.

Martha Stewart was not always the “lifestyle guru” that society knows her to be. She was born on August 3, 1941 as Martha Kostyra¹³⁸. She grew up in a working-class family in New Jersey and by the age of thirteen she had her first brush with the entertainment industry.¹³⁹ “She worked as a model from the age of 13, appearing in fashion shows as well as television and print advertisements”¹⁴⁰. However, this is not how Stewart achieved her celebrity status. Fame would come later in life. She attended Bernard College earning herself a bachelor’s degree in European and architectural history¹⁴¹. It was during her time at Bernard College that Martha met and fell in love with a Yale law student, by the name of Andy Stewart¹⁴².

After marrying Andy Stewart and giving birth to their daughter, Martha Stewart decided to work as a stockbroker until 1972¹⁴³. While she was successful in the industry, Stewart changed courses once her family moved to Connecticut and finished refurbishing an old farmhouse¹⁴⁴. Stewart loved gourmet cooking, and after cultivating her skills by reading Julia Child’s “Mastering the Art of French Cooking”, she decided to open her own catering business¹⁴⁵. Stewart “became known for her gourmet menus and unique, creative presentation. Within a decade, Martha Stewart, Inc., had grown into a \$1 million business serving a number of corporate and celebrity clients”¹⁴⁶. This was just the beginning of the fame and fortune that Stewart would receive for being a “life-style” guru.

Stewart’s brand grew exponentially over the following decades. By 1991, her company became known as Martha Stewart Living Omnimedia, Inc.¹⁴⁷. Her “lifestyle empire soon grew to

include two magazines, a checkout-size recipe publication, a popular cable television show, a syndicated newspaper column, a series of how-to-books, a radio show, an Internet site and \$763 million in annual retail sales”¹⁴⁸. By 1999 Stewart decided to return to Wall Street only this time she would be overseeing her company as it made its way through “its initial public offering on the New York Stock Exchange”¹⁴⁹. The decision to return to Wall Street would eventually lead to jail time.

In addition to owning ninety-six percent of the voting shares in Martha Stewart Living Omnimedia, Inc., Stewart also accumulated shares of other expanding companies¹⁵⁰. One such corporation was ImClone Systems Inc.¹⁵¹. In late October 2001 ImClone had asked the Food and Drug Administration to review a new cancer drug they developed¹⁵². On December 26, 2001 the corporation’s founder, Sam Waksal, discovered that the FDA was planning on denying the application for the drug and decided to sell his shares¹⁵³. It is reported that the following day Stewart sold all three thousand nine hundred twenty-eight (3,928) shares of stock that she had owned¹⁵⁴. Stewart was able to sell all of her shares before the shares plummeted 18% on December 28, 2001¹⁵⁵.

This transaction caused the government to become suspicious of Stewart. The government felt that it was highly unlikely that Stewart just happened to sell all of her stocks the day before the FDA announced its refusal to approve the application for the new cancer drug. It was far more likely that Stewart had participated in insider trading¹⁵⁶. Stewart claimed that she had only sold her stocks because she and her broker, Peter Bacanovic, had agree to sell her shares if they fell below sixty dollars¹⁵⁷. Even though Stewart continued to assert her innocence she decided that it would be best to resign from the board of directors of the New York Stock Exchange and stepped down as a chair and CEO of Martha Stewart Living Omnimedia, Inc¹⁵⁸.

Stewart's trial came to a conclusion in February 2004¹⁵⁹. The judge "dismissed the securities fraud charge, but a jury found her guilty of conspiracy, obstruction of justice and two counts of making false statements"¹⁶⁰. The securities fraud charge that was thrown out claimed that Martha Stewart had been deceiving the investors in her own media company by claiming that she had not participated in insider trading but was merely selling her ImClone stocks according to the agreement she had with her broker¹⁶¹. She was sentenced to five months in prison and fined thirty thousand dollars¹⁶². Stewart served the five months in prison and was released on March 4, 2005. She was then placed on house arrest for an additional five months¹⁶³.

This type of treatment to a celebrity is typically done for only one reason, to turn them into an example for society. The court was trying to send a message to the public that it does not matter who you are, if you participate in insider trading, obstruction of justice or make false statements to the government you will be punished. The legal system appears to take these offenses very seriously and they want to deter the public from committing them. Unfortunately for Martha Stewart, she was designated to be the scapegoat.

An Athletes Fame Can Cause Negative Effects

Just like with positive treatment, negative effects are not only saved for actors, actresses and wealthy entrepreneurs. Athletes can also be used as pawns in the justice systems game. The circumstances surrounding Michael Vick's conviction in 2007 is an excellent illustration of the judicial system using a celebrity's faults to prevent others from participating in undesirable activities.

Vick was born in Newport News, Virginia on June 26, 1980¹⁶⁴. Vick's home was placed in one of the tougher areas of town, which was overwhelmed by drugs and gangs¹⁶⁵. He proved

to be a talented football player at a very young age and by high school he was “considered one of the top high school quarterbacks in the country”¹⁶⁶. Vick continued honing his skills at Virginia Tech, however by his sophomore year the NFL was preparing to draft him¹⁶⁷. In 2001 Vick was drafted to be the Atlanta Falcons new star quarterback¹⁶⁸.

It was around the time that Vick signed on with the Falcons that “he and three associates—Purnell Peace, Quanis Phillips and Tony Taylor—began a dogfighting operation named ‘Bad Newz Kennels’ at a property purchased by Vick in Surry County, Virginia”¹⁶⁹. The group set up the property to train, breed, and host dogfights¹⁷⁰. This operation continued for six years during which time Peace, Phillips and Vick executed eight dogs that they believed were performing poorly¹⁷¹. These miserable animals were tortured and tied up on a daily bases in hopes that they would win fights that lasted for hours making the group thousands of dollars¹⁷².

It wasn’t until the beginning of 2007 that this horrific occurrence came to light. Vick’s cousin was arrested for drug charges and he used the properties address as his own¹⁷³. When the authorities searched the property they discovered fifty-three dogs with scares and injuries, a bloodstained fighting arena, documents outlining their involvement with these dogfights, and performance-enhancing drugs for the animals¹⁷⁴.

“Vick initially placed blame for the dogfight enterprise on family members who lived at the property, and he claimed that he never visited the property”¹⁷⁵. However, by August 27, 2007 Vick, Peace, Phillips, and Taylor had been indicted by a federal grand jury and they had all pled guilty. Vick had admitted to “funding the dogfighting operation and the associated gambling operation”¹⁷⁶. Typically, under similar circumstances, a first time offender would never receive jail time.

“However, Cuck Rosenberg, the U.S. attorney who prosecuted the case described the behavior of Vick, Peace and Phillips as ‘heinous, cruel and inhumane’, so he required that they accept a provision in the plea agreement that they ‘understated the severity of their conduct and that a sentence substantially above what would otherwise be called for by the guidelines would be appropriate’¹⁷⁷.

The attorney recommended that the judge place Vick in jail for a minimum of twelve to eighteen months¹⁷⁸. The judge took this recommendation under advisement but felt the sentencing was a little to light. Instead Vick was sentenced to spend twenty-three months in prison, three years probation, pay a fine of five thousand dollars (\$5,000) and was ordered to pay nine hundred twenty-eight thousand seventy-three dollars (\$928,073) as restitution for the fifty-three dogs that he had tortured¹⁷⁹. In addition Vick was suspended from the NFL without pay, however, this was only in place until he was released from prison¹⁸⁰.

Vick’s celebrity status seems to have played a role in his sentencing. If Michael Vick had not been a celebrity, it is likely that he would have received the typical sentence of a first time offender, probation. Similar to Charlie Chaplin and Martha Stewart, Vick’s power and influence made it easier for the government to target him as the sacrificial lamb, using his experiences to hopefully deter potential dogfighting operations from springing up.

It is difficult to deny that celebrity status plays a role in decisions made by the court system. The cases presented above clearly show that, whether it works in the celebrities favor or to their disadvantage, it is an extra-legal factor that the court should be aware of. Once the key players in the court system (e.g. judges, lawyers, and juries) become aware of how this factor is affecting the outcomes of trials, they can begin to correct the unequal treatment that it presents. Celebrities should not be afforded any type of special treatment because of the effect that the entertainment industry has on society.

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