

DRUG COURT

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DRUG COURT

Constructing the Moral Identity of Drug Offenders

By

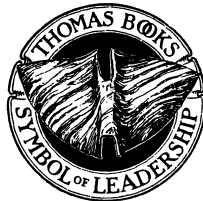
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PREFACE

“All rise,” calls the burly deputy sheriff to those present for drug court on a Tuesday night in the capital city of a southeastern state. A loud knock on the wooden wall behind the judge’s bench accompanies the command, signaling the start of court.

So begins *Drug Court: Constructing the Moral Identity of Drug Offenders*, a richly detailed field research investigation of how drug court professionals work to help drug offenders become drug free and law abiding. Drug courts are the latest approach in America and in other countries for handling problem drug users. More than 1,500 drug courts exist throughout the United States and its territories. They developed out of and continue the shifting emphasis on punishment and treatment of problem drug users in America and elsewhere. Critics caution that with the aim to treat drug offenders, drug courts may not adequately safeguard the rights of the offenders when they are punished.

Based on more than five years of field research in three drug courts in a southeastern state in the United States, in two of which the senior author was the drug court administrator, *Drug Court* explores how the team of drug court professionals transform drug offenders into drug court clients. Judges, administrators, drug counselors, lawyers, and others compose the drug court team. However, “you never know who will make it” successfully through the program, say drug court professionals of the drug offenders.

Drug courts are intended to treat addicts who commit crimes due to their addiction, not primarily criminals who happen to use drugs. Therefore, drug court professionals face the challenge of deciding whether drug offenders are primarily criminals who have little, if any, desire to kick their habit or are drug abusers who will work to go straight. Are the drug offenders appropriate clients for drug courts?

Are the drug court clients participating adequately within the drug court program? Have the drug court clients performed successfully in the program to graduate?

Through their evaluation, interpretation, monitoring, sanctioning, and more, drug court professionals judge the moral worth of drug offenders as they treat and manage the offenders through drug court. *Drug Court: Constructing the Moral Identity of Drug Offenders* is the “behind-the-public-scenes” story of how drug court professionals perform this complex work. It is a story of hope and its loss and of hope once again.

M.B.M.
P.H.

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DRUG COURT

INTRODUCTION

“All rise,” calls the burly deputy sheriff to those present for drug court on a Tuesday night in the capital city of a southeastern state. A loud knock on the wooden wall behind the judge’s bench accompanies the command, signaling the start of court. The fifteen or so men and women who are clients in drug court, sitting and chatting in clusters in the audience, stand as do the half-dozen family and friends who accompany some of the clients. The drug court administrator and treatment providers, sitting at one of the two tables before the bench, and the public defender, sitting at the other table, rise to their feet as the presiding judge in his black robe appears behind the bench and quickly sits. Flanked by the state flag and seal and the American flag, Judge Brook peers down at the crowd in the three-hundred-seat, wood paneled courtroom. The judge looks at the drug court administrator, who begins the call of clients.

“Your honor, I need to inform the court that Mr. Burt Hill and Ms. Betty David have disappeared,” states Mr. Mackinem, previously a long-time drug counselor and now the only continuing professional from when this drug court was established four years earlier. “They have not participated in any services since the last court. Both have a long history of problems in this program. I know Mr. Hill in particular. The public defender has worked extensively with him. Given that they have had problems and have disappeared, the prosecuting attorney’s office is requesting that Mr. Hill and Ms. David be removed from the program.”

After the public defender states her agreement to this action, the drug court administrator continues in a conciliatory tone, “Your honor, if the public defender’s office finds some kind of mitigating circumstances, we would review this matter in the future.”

“Okay,” replies Judge Brook, a respected circuit judge with more than ten years of experience, who volunteered to preside over this and a nearby drug court.

“Your honor, I would like to call Mr. Bernie Brown,” Mr. Mackinem tells the court. As Mr. Brown walks to the front of the courtroom to stand at the microphone before the judge, the drug court administrator continues, “Mr. Brown tested positive for cocaine. He admits it. He knows he did it. I was teasing him earlier that drug court ruined the high for him. It wasn’t any fun; he didn’t enjoy it. He felt guilty about it. We are recommending that Mr. Brown do eight hours of community service.”

“I will accept the recommendation and require you to do eight hours of community service. Let us look for a better report next time. I am glad you did not enjoy it,” Judge Brook replies with a faint smirk. The crowd is quiet as Mr. Brown returns to his seat without making a comment.

“Your honor, I would like to call Robbie Black,” Mr. Mackinem states. “Mr. Black is not in the middle of a horrendous relapse. He is in the middle of a long relapse. He keeps saying that he is trying to get it together. He did sign up for Green Village, which will take him. However, we are very concerned about his traveling, hanging out with women who are using drugs while trying to reconcile with his girlfriend. There isn’t any stability in his life. The recommendation is that he stay in jail until he goes to Green Village. This could be three, possibly four, weeks away. We do recognize that he has financial obligations—his apartment, lights and things. He does work two jobs. We have done what we can do with him. He can’t seem to stop. He has a good attitude. He does not skip meetings. He is not hostile. He is in the middle of a relapse. He thinks addictively. He has a secret fantasy that if he goes somewhere else, the addiction will go away. Nothing bad, your honor, nothing horrible. He can’t seem to stop, and he can’t seem to clean up.”

“Alright, any idea about what is going on?” the judge addresses Mr. Black, who now stands at the microphone before the bench, staring at the floor, with deputies flanking him.

“I do not want to be in jail, your honor,” replies Mr. Black. “I have a lot of bills to catch up on. I guess I have been hanging with the wrong people. It has caught up with me. Since my girlfriend moved out, I need the extra money to pay the bills. She made a lot more money than I did, judge. I don’t plan on doing it again.”

“If you go to Green Village, will you lose your job?” Judge Brook asks.

“No, sir.”

“I will not put you in jail at this time. The next time we have court, if you have another positive test, I am going to do it. Not jail time to punish you, but jail time to protect you from yourself,” the judge

explains to Mr. Black.

“Your honor, in the last month, Robbie has received no punishment for his positive drug tests, for his missed tests,” interjects Mr. Mackinem, knowing that this client is slipping by without the usual sanctions. “We had hoped that Green Village would come along. I would recommend that some type of sanction be given. He has received nothing.”

“Alright, no question,” responds the judge to the administrator’s explanation. “What I will give him is 48 hours in jail. When do you want to do it, Mr. Black?”

“Anytime, your honor,” replies the drug court client.

“You need to go to jail this weekend. Next time you will get more jail time,” chastises the judge.

“Friday night at 6, your honor?” questions Mr. Mackinem as he fills out the court order.

“Friday at 6 P.M. till Sunday at 6 P.M.,” replies Judge Brook.

As the drug court clients and their family members and friends stir in their seats, the drug court administrator continues to call clients forward to stand before the judge.

“Your honor, I would like to call Mr. Mike Gray. Mr. Gray is no longer at the halfway house. There was some interpersonal conflict,” explains the administrator, having been told by the client that some of the residents had accused him of being gay, which reportedly created too much conflict for the client to take. “It could not be resolved, and Mr. Gray returned home. He went to the emergency room last night. We decided to do a drug test because Mr. Gray always goes to the emergency room right after he uses or when he is using in order to cover it up. We did do a drug test. Mr. Gray voided into the cup and then put cold water in the cup in an attempt to fake his test. The counselor found out that it was cold. Mr. Gray then confessed to having used crack cocaine.”

Exasperated, Mr. Mackinem continues, “Your honor, we have sent Mr. Gray to Green Village. He has done jail time. And we have tried the halfway house. Frankly, we are at our end. However, we just found him to be positive right before court and would like to have a little more time to reflect before we make our final recommendation. I recommend jail now. He has no job.”

“I do have a job,” interrupts Mr. Gray. “I’m a telemarketer.”

“Our recommendation is for very significant jail time,” the administrator presses on, “from today until the next court session or every weekend until the next court.”

“Mike, do you have any idea about what is going on at this point?” Judge Brook addresses the client.

“Yes, sir. Well, quite frankly, I got weak and relapsed. I was going through stress. I started calling someone, and I went ahead and used. I do have a pretty good job. There is no excuse for what I did. I used,” Mr. Gray admits softly.

“What I am going to do is, you will spend the next two weekends in jail,” declares Judge Brook to the drug court client. “That will allow you to continue to work during the week. If you come back with another report in the same fashion, we are going to talk about something a little more serious. It sounds like to me, and I don’t want to misinterpret it, you may be on the verge of being booted out of the program.”

“Absolutely!” Mr. Mackinem agrees.

“Well, if that by itself doesn’t get you motivated to do it, then you got a bigger problem. With your record, it looks like you have a good chance for jail time. It looks like you either clean yourself up or go to prison. I think I know which one I would pick,” warns the judge.

“You honor, I see Ms. Epps in the courtroom. I had not seen her earlier. She was supposed to graduate tonight. Instead, I am recommending that she do four hours of community service because she tested positive for marijuana,” the drug court administrator tells the court, disappointed that this college senior had not yet cleared her record so she could become a teacher.

“Sorry,” responds Judge Brook, “you got to the point you were ready to graduate. I will accept the recommendation and give you four hours of community service. Don’t let it slow you down.”

“I won’t,” replies Ms. Epps, head down, disheveled.

“If I were perfect, I would give you a hard time, but I am not. Just work past it,” the judge gently admonishes the client. “Keep working toward where you are going. I know you can get there. Let’s look for a better report next time.”

“Thank you,” Ms. Epps replies softly, her eyes puffy.

“Your honor, I would like to call Holly Burke,” Mackinem informs the court. “Miss Burke is charged with a drug crime. We all are recommending that she be admitted to the drug court program.” The administrator was deliberately vague about her drug habit, because he feared that since the client was in the middle of a custody fight, any of her drug court records could end up in divorce court.

“Good. It’s good to have you in the program,” Judge Brook tells the client, who stands before him. “I think you will find, I know you will find, that everyone in this room wants you to succeed. No one wants you to fail.” Pointing toward the administrator and the treatment providers, the judge continues, “They have done this with a lot of people. They know what they are doing. They will have recommendations