

## BREAKING FREE FROM “THE DOUBLE BIND”: INTERVIEWS WITH CLIENTS OF THE CRIMINAL RECORDS EXPUNGEMENT PROJECT

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JAVESE PHELPS

Q: How did you first get involved in the criminal justice system?

A: I can go back to 1983, my first year of being arrested for aggravated simple assault. After a while, it became like clockwork; I was getting arrested every other couple months. I would have a lot of fights with my neighborhood girlfriends. Back then, I figured if you fought a neighborhood girlfriend, it was just a fight. But they started getting me locked up. So I was being arrested, and every time I was being arrested, it was for the same offense. So after the five of the same, they told me, you become a career criminal. So, I went to the house of corrections up on State Road and obtained my GED at the house of corrections. I was one of the first people to graduate from there. I think it was 1987 I got my GED. And it wasn't because I was dumb or anything. I went to school; I just didn't get along with people. So, me sitting in jail, I really tried to apply myself in jail just to show the judge I did have a brain, and I was willing to do something to be rehabilitated. It wasn't too much long after that I continued fighting and continued through the system being ridiculed and being judged because my record. Getting finger print process, sitting in a dirty cell with four or five different women and someone has to sleep on the floor. That was horrible. Even when I got locked up and was accused of things that I *know* didn't happen. I was still found guilty on some of them. I'm not going to say I wasn't guilty of some of them. I would sit there and watch my girlfriends get on the stand and testify against me. At the end of the day, I didn't look like I didn't do anything. I always accepted my responsibilities. There are consequences around whatever decisions you made. I made some bad decisions.

What I did find out, that my father died when I was five and I grew up angry and feeling abandoned. So what I would do was I would fight them and I would sabotage my friendships because I felt like they would eventually leave me. I didn't find this out till years later, but meanwhile I made a mess of my life coming up through the system.

I remember the fourth or fifth time getting locked up, sitting in the cell, and wondering, “How the hell do you keep getting locked up and why are you here again? Why do you keep coming to jail?” I’m serious, I think only a fool keeps making the same mistakes over and over again. But I had always been a person who didn’t take nonsense from anyone and so I always fought, but it wasn’t a good thing, but going to jail and not making it to state was a blessing for me. One thing I can say is the system works and the system doesn’t work. It’s always going to be the yays and the nays. The system isn’t going to suit everybody all the time. Sometimes I thought I was unjustly tried, and sometimes I do believe there are things that got me there and I

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have to accept whatever they bring down. But it stagnated my life for a lot of years, I couldn't get employment for a lot of years, no one wants to employ someone with a violent history.

So, welfare was an option for me because I couldn't work anywhere and I had children to raise. I have to suck it up, take this welfare, and hopefully God will think I paid my debt to society and I'm healthy enough and I'm good enough and I'll be able to find employment. I think I've been arrested seventeen times. I remember finding that out when I was trying to apply for a pardon, and I went there to get my record and I called the woman over the phone and asked for my PP number and she said, "You've been arrested seventeen times," and that was the first time I realized I had been arrested seventeen times, because in my mind psychologically I thought I had only been arrested five times. So I went to jail, I did a year. I came home in '87 and I went bad. I was still fighting people in my neighborhood. I kept going back to jail back to jail back to jail.

Q: Was there a large police presence in your neighborhood?

A: They knew me. The police knew me. I remember one time they came to my house. I didn't even know this girl but she was from my neighborhood. She had been jumped and they came to me because I was, they used to call me, the neighborhood protector, like I would fight whoever. I went to her and helped her fight. I remember I got jumped, and a girl kicked me in the face and I lost it. I always fought people one on one – my mother didn't raise me to jump people. So when the girl kicked me in the face, I lost it – I remember grabbing a bottle because I remember at this time it was a house party, and it was chaotic and I was trying to protect myself. I remember taking a bottle and breaking it on the curb and that was the first time I ever attacked somebody with a weapon. I remember fighting her brother. I beat him and that was okay. I still went to jail for it and I remember being found not guilty for that and that bothered me for a lot of years [crying] because I was guilty of that. And that's sometimes when I say the system works and the system doesn't.

I think I have a problem with how you go to court; they aren't not supposed to bring up your past, but they do. They slip it in there some kind of way – they get it in there. We are defiantly the serial type. The district knew me very well. I remember one time the police came to my house to arrest me, and I told the police my son was one year old and I told them, I'm not going anywhere, they would have to kill me, that my son wasn't going to no DHS. I would come willingly if they let me walk my son down the driveway to his godmother's. I would come with them all. They knew me, and they knew I wasn't disrespectful. They cuffed me in the front and put a jacket over my hands, and they walked me down the driveway to take my son to my godmother's. I'm not going to say they were always nasty to me, but there were some who were.

But what can you do? I'm branded as a career criminal for aggravated assault and simple assault and they look at me like I'm an animal. I don't think I'm an animal, but I think the behaviors the things I done make me look like an animal.

Q: The District Attorneys saw you as a career criminal?

A: The [District Attorneys] make me look like a monster. A monster. They say all kinds of crazy things about me. It's humiliating and embarrassing; you don't get to say anything. They draw these pictures of you. I understand that is their job too, but I think morally it seems to me wrong. You don't know me personally, and don't live up close and personal with me – you can't judge me. I was intimidated by DAs; I don't remember anyone trying to give me any kind of

deal. I was on probation a couple of times and I had violated it a couple of times. I had a wonderful probation officer who believed in me and gave me umpteen chances before they called in a violation. DAs and [public defenders], sometimes I think they work hand in hand. Your life is on the line, and they are doing favors across the table to get another notch in their belt.

I think the system needs to be revised. I think that out with the old, in with the new. I remember a friend of mine went to the Federal Prison in Fort Dix. He went in front of a judge, and I'll never forget what she said. I admired the woman; she was in her seventies or eighties. He was arrested for having a gun in the car. She said to the DA and narcotics agents, "Before the last breath of my body, where people are arrested, I want to document where people are arrested. If they aren't found guilty, it should not appear on their record." I will never forget she said that. So when you have someone who became a federal judge and you say it to attorneys and lawyers that remarkable something you are trying to do before you die, and I look at it like she was tired of seeing it. Because what it does is it destroys your record; people are already prejudging you. [Having my record expunged] is the best thing that could ever have happened to me. I commend [the Philadelphia Criminal Records Expungement Project] for everything [they've] all done; this is the best thing to have ever happened to me. [Crying] I came in for a pardon in 2009, with my record looking like it was before [they] helped me. They denied me; it broke me down. When they denied me, it broke a lot of hope in me.

Q: Did you know when you were first arrested the consequences of having a record?

A: Never. Never. Never. No one told me that the rest of my life I'd be paying for this. Not to say I would never done it again, but at least I would have thought of it and had an option to make a decision. I couldn't work anywhere. When they started doing background checks, I used to lie on the application and I wouldn't go back because I figured if they were going to call me, they would call, but didn't want to go back and be embarrassed and humiliated. I used to lie and say I had never been arrested, even though I knew it would come up. I think the only person who told me that was a probation officer who said, "You are going down the wrong road," and I believe she cared about me, I really do.

Q: What did you do when you could not get work?

A: I was on welfare. I sold clothes. I set up a table and sold clothes. I sold stuff I didn't want no more. I would do anything I needed to do. I would do whatever it took. I would do a flea market on the end of my block. I used to sell some papers. I remember saying, "Lord, is somebody going to give me a chance?"

My record was so ugly, I used to not apply for jobs because I knew they wouldn't even give me a chance. I used to be a CNA. I wanted to be a nurse. You can't be a nurse with a conviction. I worked at three different nursing homes and they all fired me when they got my record back, because you can't be a convicted felon and work in no health system at all.

Q: How did you find out about the Expungement Project?

A: [Through my church.] At this time, I've done my own expungement. I did everything, wrote down everything. It took me two weeks to do it because I had to keep stopping. When I went to [the project] I remember sitting there and thinking, "When they see all this, they

aren't going to help me." I remember when my name was called out – and I saw a couple of my other friends. I went to the table and had my stack of expungements, and he said, "You did all this," and I said yes, only thing left to do is get them notarized , pay the fees and [get them]stamped. He said, "Well, we are going to do it all for you. We are going to do the best we can." I thought this was great.

When they called me, I was like. . . I was like, "Someone from the expungement clinic – this is really royal." Some people sell you reams, but it never happens; when I went to court and I was supposed to get 11 done but the judge only did 8. I remember the judge said he wanted to see me and I was scared to death. When they called me name and he said, "What can I do for you ma'am? What do you want from me?" and I said, "Your honor, I'm a productive member of society, and I've been out of trouble for seventeen years, and I've made a mess of my life and I've spent time cleaning it up. . ." I said, "Your honor, I want to get a promotion, and I can't get a promotion with my record looking like this. He said, "It's done."

Q: Did you get the promotion?

A: I'm on a list – much more prettier when they look at it. Look much more prettier when they look it. It is God's gift to people who have been locked up. It's hope, it's definitely hope. It's something to look forward to. You want to have a fair shot, and when you have a record, you disqualify yourself. You'll never have a fair shot with a conviction, whether it's a misdemeanor or a felony, and to have people to come in and want to change the system and say help. [The Expungement Project] ask for nothing from us, and who does that? And who does that? People that care, people that want to make a difference.

I can achieve what my goal is or I can become this. When [they] take care of a expungement, [they] give us a new life – so I can walk into a room, and I want apply for this job and not have a problem. Obviously this is outside of the convictions that I have left, but for people who have one or two things that are expunged, that they can walk in and say, "I can apply for this." I can apply for any jobs. I'm so forever grateful. There is no way to explain what [they've] done for me.

I know I made some mistakes, and I'm moving on, but should I be persecuted the rest of my life for my track record? No, I shouldn't, and that's what it is, people are stereotyped and persecuted for what I've done in the past. And if you pay your debt to society, when do they let you off the hook? They have to eventually, but the way the world is today, they don't.

#### CURTIS HOLMES

Q: What was your experience with the criminal justice system?

A: I was arrested when I was seventeen, but they certified me as an adult. I was actually seventeen, but they tried me as an adult.

Q: What happened?

A: Well, not knowing the law, they convinced me to plead guilty. There was a shooting back in the day in what we call a gang area in Philadelphia. What they did, there was a multiple shooting and they told me to plead guilty to one case, to one charge. I was represented by the

public defender, who told me that the best deal I could get was to plead guilty.

Q: Did you know when you pled guilty that there would be consequences beyond your sentence?

A: Not a clue. When I started trying to get jobs, [] I was being turned down. That was the biggest problem; not only does it deny me employment, but lately I have been doing a youth program myself, and it kept me from getting child clearances. It kept me from getting the clearances that I needed. But more important, some of the things that were on my record, I didn't know nothing about. In other words, I got locked up, but things I didn't get no convictions for [were on my record.]

Q: Were you able to find employment?

A: The employment I did find was nothing but four to five hour jobs. Sometimes on the [job] application, when I came to that part [criminal history], then I wouldn't fill out the application no more. I hadn't really worked in 15 years. It kept me in a dead end job so to speak. I didn't have faith in working anywhere. As I got older, I realized I had to go to do work. I realized I had to go back to school, and when I went back to school, people in the school with me were in the exact same situation and met with the same end. I stopped going to school because it was a moot point, because if I was to get through school what was I going to do? Because I wasn't going to get no job. So, I decided to go the self-employment route.

Q: What was the hardest challenge for you?

A: Well, the biggest one is they really hired me at the school and I volunteered there, and I did end up getting the child clearance, and they actually hired me. But the woman in H&R brought to their attention that something wasn't right about my police record and on the very day I was going to get my picture taken. . . . I would say it is a let down, even though I know I'm responsible and I was caught up in the peer pressure. I knew what she was going to say, and it was hurtful and disheartening. I had volunteered with these people for a couple of years, and they believed in me and that's why they were going to give me the job. At the last minute, it was snatched away from me because of my record, and that's forty-some years old, mind you. They didn't take me into the school district with the benefits, a good job and the possibility of moving forward. What they did, they made me a private contractor, so it was a lower paying job – only eight dollars an hour – doing some outreach stuff and things of that nature.

Q: Did you experience jobs you were not applying for because you knew you wouldn't get?

A: Yes, without a doubt. This is later, [the school incident] happened in 2010. They offered me a couple jobs, but I already knew, so I didn't even go through the process. Being a volunteer job with the school district, that's how I got to volunteering in the first place. They offered me things I knew I wouldn't get, so I said, "Nah I'm good, because I'm still self-employed." There were some things that gave me hope when the child clearance came back. I said, "Wow, I got the child clearance, maybe I will get the job."

Q: How old was the charge?

A: About 40 years. 1972.

Q: How did that make you feel?

A: I was disheartened.

Q: How did you hear about the clinic?

A: Being a community activist, [I'm] tied into a lot of organizations. The rest is history.

Q: What was your experience with the clinic?

A: It was a long process; I had to wait for 4-5 hours, but it gave me hope. It was worth everything. When they are sitting there with my actual record in their hand, it is like, wow. . . I mean, I'm a nice guy, but I was in a gang, and I didn't realize then that I would be messing up my life forty years later. The advantages and the blessings I have now; I can tell people, "Don't do it." If they listen to me now, they will save themselves a lot of heartache and trouble. I go down to the school district, and I let them know that thirty years later, I need to work two or three jobs before I can make a decent amount of money.