

Class “justice” in America

Biden commutes sentence of judge jailed in Pennsylvania “kids for cash” scandal

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On December 12, lame-duck President Joe Biden directly pardoned 39 people and commuted the sentences of roughly 1500 more.

Among those receiving an executive commutation is disgraced former judge Michael Conahan, who was serving time for his involvement in the “kids for cash” scandal that took place in Luzerne County, Pennsylvania in the early 2000s.

Conahan and his co-conspirator, former judge Mark Ciavarella, collected \$2.8 million in kickbacks between 2002-2008 by sending children to juvenile correctional facilities. In effect, Conahan and Ciavarella used their judgeships to sell children to for-profit jails.

The scheme took root back in 2000, when one of Conahan’s friends, Robert Powell, expressed interest in opening a private detention center. Ciavarella, another crony, was then brought into the loop as the sentencing judge in juvenile court. Conahan next secured the help of a real estate developer, Robert Mericle, who would help funnel money back to himself and to Ciavarella. Ultimately, two juvenile prisons opened in the judges’ plot, the grossly misnamed PA Child Care and the Western PA Child Care.

In order to make this scheme more lucrative, Conahan, who had control of the court’s budget, stopped financing publicly-owned county juvenile facilities, forcing them to close. This compelled the county to find alternative facilities to house kids caught up in the juvenile detention system.

Using the influence of his office, Conahan, with the help of Mericle, induced Luzerne County to sign exclusive contracts ensuring that any children sent to juvenile detention centers would be specifically sent to the two centers owned and operated by Conahan’s friends, Powell and Mericle.

Payment by the county to facilities was based on a per diem basis—the more kids, the more days they spent in prison, the more money the prisons raked in. The scheme was abetted by the fact that most defendants could not afford legal counsel and were unable to adequately defend themselves in court, according to findings of the Philadelphia-based Juvenile Law Center, which later brought a class-action lawsuit on behalf of the children and their families.

The final piece of the puzzle came in the form of the kickback to the sentencing judges. Mericle, the primary recipient of the funding from the state and county, would give some of this money “back” to Conahan and Ciavarella as “finder’s fees.”

The crooked judges, in sum, had a vested interest in sentencing as many kids as possible to the longest sentences they could.

This authority they used with abandon, jailing literally thousands of children under “tough on crime” and “zero tolerance” sentencing policies—and in the process damaging and ruining young lives. Some of the judges’ punishments included: jailing a 13-year-old to a facility for several days after he failed to appear in court as a witness for a hearing on a fight involving *other* children; sending a 15-year-old to a camp for making fun of an assistant principal on the social media app MySpace; and sending a 17-year-old to a facility, plus five months of mandatory boot-camp, for stealing DVDs at a Walmart.

One particularly tragic case involved 17 year-old Edward Kenzakoski, who was sentenced to several months of detention at one of the facilities for having a drug pipe in his possession. Kenzakoski was particularly distressed by his detention. He would later commit suicide as a result of the effects of his confinement.

By 2009, suspicion had arisen regarding Conahan and

Ciavarella. Conahan was charged with racketeering, fraud, and money laundering while Ciavarella was also charged with the same offenses along with tax violation, extortion, and bribery. In 2011, Conahan was sentenced to 17.5 years in federal prison and was ordered to pay \$900,000 in restitution and fines, while Ciavarella was sentenced to 28 years in federal prison.

That Conahan had his sentence commuted by Biden demonstrates the bankruptcy of his administration and the rottenness of the political establishment. Conahan and Ciavarella are registered Democrats and have close connections to state and local officials within the Pennsylvania Democratic Party—perhaps the state party most loyal to Biden, who was born in Scranton just north of Luzerne County.

Families and survivors expressed outrage at Biden's act.

"I am shocked and I am hurt," Sandy Fonzo, the mother of Edward Kenzakoski, told the *Citizens' Voice*. "Conahan's actions destroyed families, including mine, and my son's death is a tragic reminder of the consequences of his abuse of power. This pardon feels like an injustice for all of us who still suffer. Right now I am processing and doing the best I can to cope with the pain that this has brought back."

Amanda Lorah was 14 when she was unjustly jailed.

"It's a big slap in the face for us once again," Lorah told a local news station. "We had ... time taken away from us. We had no one to talk to, but now we're talking about the president of the United States to do this. What about all of us?"

The 39 individuals pardoned by Biden last week had all been charged with nonviolent offenses, mainly drug-related. The roughly 1500 sentences that he commuted included offenders in minimum security federal correctional facilities who were on house-arrest during the beginning stages of mass infection from COVID-19 in March 2020 as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

A number of those who were on house-arrest and have subsequently had their sentences commuted by Biden's sweeping December 12 pardon are wealthy or have political connections to the Democratic Party. Some of these people include:

- Rita Crundwell, who served as the comptroller of Dixon, Illinois and between 1983 and 2012 embezzled nearly \$54 million to fund a lavish lifestyle.

- Jimmy Dimora, a former Cuyahoga County Commissioner and chairman of the Democratic Party in

Cleveland, Ohio, who accepted over \$166,000 in bribes and used his power as county commissioner to appoint close allies of his to lucrative positions for personal gain.

- Paul Daugerdas, a former lawyer from Chicago, Illinois who ran a tax sheltering scheme at Jenkins & Gilchrist law firm, creating \$7 billion in fraudulent tax deductions from which he pocketed \$95 million.

- Elaine Lovett, of Wayne County, Michigan, used a shell company to defraud Medicare by falsely billing the federal health insurance provider. Lovett stole \$26 million in the scheme.

- James Burkhart, of Indiana, former chief executive officer of healthcare provider American Senior Communities. Burkhart ran a kickback scheme by diverting money from contracts, collecting \$19.4 million in the process. Burkhart also used his wealth to fund various officials in both the Democratic and Republican parties.

Prior to Biden's latest pardons and sentence commutations, he pardoned his own son, Hunter Biden, for any offenses that occurred within the past ten years. Hunter Biden faced possible prosecution for garnering money from firms operating in Ukraine through the manipulation of his father's office when Joe Biden was vice president.

While Biden has busied himself dispensing executive clemency on political cronies, white collar criminals, and his own son, approximately 1 million Americans languish in prison for non-violent offenses, millions of "illegal" working class immigrants face deportation from the incoming Trump Administration and scores of political prisoners and whistle blowers remain behind bars.

Biden's commutations and pardons expose the reality of crime and punishment in America, where justice is anything but blind. There is one criminal justice system for the rich and powerful, and there is another for the working class.



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