

# Anatomy of a Frame-Up

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1970?

Floyd Wayne Turner is the perfect patsy: an inarticulate, individualistic young militant in any number of impolitic causes, with little education, a low income, and no protective organizational ties. In addition, Floyd has an emotional affinity to Canadian Doukhobors, which impels him suddenly to disrobe on occasions of ultimate protest—thereby embarrassing his allies fully as much as he disconcerts his enemies. Between Floyd and cops there is undisguised hostility on both sides, but the cops alone have power to implement it; and they arrest him on any pretext or none, for jaywalking, loitering, or just plain "suspicion". The judge before whom he normally appears has become accustomed to the situation. "Two days, suspended", he says almost automatically when Floyd walks into Police Court.

This spring, Floyd drew a different judge.

Just as Floyd Turner's chief interest in life is disrupting the status quo, Judge Evans D. Manolides' mission is to uphold it in all its aspects. One upholds Law and Order, of course, by upholding the police. If the police arrest a man, that man must be guilty.

This spring, Judge Manolides drew Floyd Turner, who wasn't guilty and had witnesses to prove it. Nevertheless, the Judge rose to the occasion. Though another man confessed before him to the "crime" of which Floyd was accused, zealot Manolides sentenced zealot Turner to six months in the King County Jail.

The afternoon of May 12, peace demonstrators had confronted Washington governor Dan Evans' review of the University of Washington ROTC in Seattle. Most were U. of W. students. One demonstrator was arrested for characterizing the Vietnam war with appropriate obscenity, and two were assaulted by pro-war students. That evening, still smarting from these indignities, a number of them formed a recognizable clique at a party unconnected with the afternoon's demonstration. One carried a small American flag, waving it about and urging that it be burned in protest. Few of the people present paid much attention to him. The mood in general was festive and easy-going; everyone was in accord with the students' indignation and an impromptu collection quickly raised the arrested demonstrator's bail, but the flag-waver was ignored for most of the evening. I was at the party, and so was Floyd.

About 10:00 o'clock, when those of us who paid any attention to it were tired both of the flag and the young student's insistence, Stan Iverson (S.I., to Bulletin readers) finally told the boy to quit talking about burning his flag, and led him out the door to get the burning over with. No one opposed the idea; only a few followed them out of doors in mild interest, and Floyd was not

among them. Most people there were not even aware of this incident. No one thought of the act as a "desecration", and only the flag-waver thought of it as a protest; burning is the Flag Code's approved way to get rid of an unwanted flag, after all. A little later, the boy who had carried the flag returned with the burned stick, ignored as before, and the flag-burning was soon dismissed from mind. To realistic Stan, a piece of cloth is a piece of cloth.

The party went on, pleasant but noisy, for the sound of electric guitars had attracted a crowd of neighborhood youngsters and the old house was filled far beyond the sponsors' expectations. The landlord of an apartment house across the street called police to complain of the noise. It got even noisier: an old piano was brought up to the front lawn, and with Floyd counting the beats, enthusiastic kids smashed it to pulpwood. About 11:30 I walked home, happily relaxed in the warm spring night and without a thought for the burned flag. Police investigated the neighboring landlord's complaint shortly before twelve, but found the party breaking up by then. No charges were filed.

Some ten days later, Charles Carroll, King County Prosecutor, unexpectedly charged Turner with "desecration of the flag", a gross misdemeanor under Washington state law (and since, a federal offense). Radio newscasts announced Floyd's arrest before it happened, stating that it grew out of the incident at the May 12th party. Bail was \$1,000. Floyd heard this on the transistor radio he carries with him everywhere, and came to us, his friends, for clarification; he did not understand why he had been charged, since he had left the party to help fetch the piano before the flag was burned and had not returned until afterward. We knew no more than he did. Police arrested him, with quite unnecessary bluster, at our house while we were engaged in efforts to get his bail reduced. His trial was set for June 2nd.

By then, Stanley Stapp, publisher of a community weekly in Seattle's North End, and Mrs. Stapp had seen Turner's picture in a newspaper article about the arrest. They had witnessed the incident, realizing that the wrong man had been arrested, they volunteered their testimony to the defense. At the trial they and another eyewitness, Walter Charnley, testified that Floyd Turner was not among the group participating in the burning. All three described the youth who earlier had waved the flag about as being the one who held it for burning—the specific act of which Floyd was accused. He is, as all three testified, stocky and dark, of Asian descent; Floyd is slight and blond. Richard Beyer, with whom Floyd had gone to fetch the piano, told the approximate times of their departure and return; clearly, they were away from the party throughout the burning, the time of which was fixed by other witnesses. Stan appeared, to add what should have been the clincher; he testified that he himself had ignited the flag, and that Floyd was not present either as a participant or as a spectator in the small group surrounding him.

The prosecution's sole witness to the flag-burning was Louis Scott, the neighbor who had called police on the night of the party. He testified—without seeming to observe that spectators found his behavior puzzling—that he had watched the party through binoculars from the time the first people arrived to prepare for it, at about 5:30 p.m. He said that Turner, whom he identified from a photo shown him by police after the party, was moving nervously through groups of people outside the house, carrying the flag, for most of the evening; and that after the piano had been demolished and shortly before the party broke up, Turner had held the flag while another man (whom he could not identify even with Iverson present in the courtroom) set it alight. His testimony was in direct contradiction to that of all other witnesses (and to my own knowledge) that the flag was burned at least an hour before the piano was broken up. No other witness—and some of the people we have questioned since—had seen Floyd holding the flag at any time,

though all were in and about the house where the party was held. Scott said that the flag was ignited with a cigarette lighter; Iverson, that he had used matches. At one point, Scott stated that he could see a raised emblem on the lighter; at another point, that the night was so dark at the time of the burning he could scarcely distinguish light clothing from dark. Questioned about the inconsistencies and contradictions, Scott took refuge in religious witness: the judge would have to believe him, because he was a God-fearing man. The judge did.

Other prosecution witnesses were police officers who testified that at another demonstration a week later they had heard Floyd brag of having burned a flag and announce his intention to burn another. This they construed as a "confession", though Floyd's habit of exaggerating his activities is well known to police and was explained to the court. A news cameraman present on that occasion corroborated the policeman's testimony.

The prosecutor was nonplused by Stan's voluntary avowal of the flag-burning, and Judge Manolides stepped into the breach. He questioned Stan extensively about his reasons for burning the flag, and the philosophy that activated them. Stan explained that he was an anarchist, and regarded all governments as tyrannical, and national flags therefore as symbolic of tyranny. In addition, he felt that the flag of the United States was at the moment a symbol also of militarism and the oppression of weaker nations; but in any case a symbol only, not to be confused with the real thing—his act was simply a negation of flag-fetishism. Asked how he, as an anarchist, felt about obedience to law, he replied that those laws which did not conflict with the dictates of his conscience he obeyed without question, because the behavior enjoined by them was that enjoined by his own morality. On occasion, he said, obedience or non-obedience became a matter of expediency—for example, sometimes deliberate disobedience was the only way to force the test of a law's constitutionality. On other occasions, a law might be in irreconcilable conflict with his moral principles, in which case he would be bound in conscience to disobey it. When Judge Manolides asked specifically about the flag-desecration law, he answered that at the time he burned the flag he was not aware that burning constituted desecration, and still doubted it; but that in any case the law was of dubious constitutionality. The judge then asked whether he felt bound to obey perjury laws. Stan explained that though he questions the efficacy of putting people in jail for lying, he considered it highly immoral to bear false witness or to be untruthful in any matter of substance.

No transcript is kept of Justice Court trials in King County, so the exact words of Judge Manolides' summation are tragically lost. In essence, it was as follows: All defense testimony other than Iverson's is irrelevant. The person described by defense witnesses as having held the flag is not present in this courtroom, hence cannot be presumed to exist. (Malthusians take note: the population problem has just been conjured away.) Iverson's testimony is utterly worthless: the man is an admitted anarchist, with no respect for law by definition; therefore he cannot be expected to co-operate with legal procedures, nor feel bound by the law against perjury. Disapproving of the flag-desecration statute, he would go to any lengths, including false confession, to obstruct efforts to gain a conviction under it. Nothing he says can be believed. Mr. Scott, on the other hand, is a devout, respectable man, deeply troubled by the sacrilegious act he witnessed at close range, in ample light, with fine binoculars. His truthfulness is attested by his religiosity; defense witnesses, most of whom took secular oaths, did not so establish theirs. The defendant himself confessed, in the presence of police officers, whose veracity is unquestionable. There is far too much flag-burning going on in this country. Freedom is not the right to do as one wills, but the freedom to do what is right. There are two reasons, and two reasons only, for sentencing

wrongdoers: wrongdoing must be punished, and potential wrongdoing must be deterred by the example of stern punishment. Floyd Turner will burn no more flags for six months. Let others contemplating such acts observe that they will be punished by the maximum sentence allowable.

While a bewildered Floyd was asking his attorney why the police didn't turn him loose and arrest Stan, Manolides added a \$500 fine to his jail sentence and set the appeal bond at \$3,000. Iverson was not charged, either with flag-desecration or with perjury.

Notice of appeal was filed immediately. When the Superior Court received jurisdiction, Floyd's attorney, Ed Wood of the Legal Services Center, asked for reduction of bail. In denial, Superior Court Judge Mifflin cited the adverse publicity he feared would accrue, should he reduce bail in a case of such emotion-charged nature—thereby admitting an intimidation that clearly violates judicial ethics. In that, Evans Manolides set his ample precedent. Apparently James Mifflin intends to follow it.

Floyd, therefore, remains in King County Jail, for whether or not a person is guilty of any other crime, that of Being Without Money is itself heinous enough to warrant incarceration. Last week, one of the jail trustees held a note to the window of Floyd's tank, to inform his patriotic fellow-prisoners that Floyd Turner is a flag-burning nigger-loving-jew-communist-peace-rat, and Floyd was beaten twice before guards removed him from the bullpen and placed him in a one-man cell for his belated protection.

Because Floyd's plea of innocence did not raise issues within its scope, the American Civil Liberties Union was unable to enter the case until after his flagrantly unjust conviction. It has associated itself with the appeal, and ACLU attorneys are working with Ed Wood, continuing efforts to get bail reduced or, failing that, to secure a speedy re-trial. In the normal course of events, the appeal can probably not be heard until the full session of Superior Court. Floyd may well serve the whole jail sentence from which re-trial will absolve him—too late.

LC

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Floyd is my friend, and he's a kid who has troubles enough without a jail term, so it hasn't been easy to write with even relative objectivity about what's happening to him. That had to be done, though, as a sort of fact-sheet on his case. The question that remains is: Why? Why was it Floyd who got framed, when by any familiar standards, the more effective revolutionary (for whom no frame would have been necessary: he did burn the flag) would be the one to put behind bars? True, Floyd is more vulnerable than Stan, precisely because he has been ineffective and hence without much support; and true, cops hate him. These are reasons enough for his being arrested, but not for the bullheaded insistence on convicting him despite all credible testimony, on a charge certain to elicit every bit of the support he does have. Nor for the Superior Court's refusal to lower a bond designed solely to assure his remaining in jail while appeal is pending. Knowing Floyd, it's hard to believe he could be dangerous enough to deserve such concern. Stan, it seems without question, could be; yet Stan was allowed to walk away from the courtroom in which he had just confessed under oath to the same "crime". Perhaps it is just because Stan is an articulate, self-assured, conscious revolutionary capable of defending the act (even when he did it casually and without full intent) that he has not been charged; Stan uses a courtroom in the classic Haymarket tradition, as Manolides observed and as others may remember from earlier encounters.

I'm not immune from the common tendency to fear what I do not understand, though, and my spine prickles at the tenacity with which the State holds onto Floyd Turner. I suspect it knows what it's doing, that the chaotic, disoriented, unpredictable militancy I'd already taken to describing locally by the adjective "floydian" is precisely what it's most intent on curbing. If so, that's what it estimates as the greatest threat. It should know. Let's take its estimate as a working hypothesis, and try it out in the lab. LC

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