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DYLAN'S JUDGMENT ON JUDGES: POWER AND GREED AND CORRUPTIBLE SEED SEEM TO BE ALL THAT THERE IS

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Cover Page Footnote

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*David M. Zornow**

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INTRODUCTION

I am neither an academic nor a life-long Dylan fan. I am a practicing lawyer (white-collar criminal defense) and a recent convert to the Dylan obsession (after having watched Martin Scorsese’s 2005 documentary *No Direction Home*). But like many late-in-life converts, I have fallen hard (nearly twenty concerts since 2006). When Professor Bruce Green (a former colleague in the United States Attorney’s Office for the Southern District of New York) indulged my mania by inviting me to participate in Fordham Law School’s conference, *Dylan and the Law*, I gravitated toward exploring Dylan’s view of the judge. I had the impression that judges and “judge-like” characters popped up frequently in Dylan’s songs. I was right about that, but on closer examination I was unprepared for Dylan’s unremittingly negative portrayal of the most iconic figure in our justice system. Indeed, it struck me that one way to capture this bleak landscape would be to style my paper in the form of an “Indictment” against judges brought by Bob Dylan, in the role of prosecutor. What follows is that “In-

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dictment” (and an accompanying *Brady* letter). I am not sure this piece fully explains why Dylan relegates judges to such monochromatic tones, when so much of his work captures life’s complexity, nuance, and odd juxtapositions. Perhaps the answer lies in Dylan’s preoccupation with the border between the sacred and the profane, between God on one side and the judge (as the ultimate embodiment of civil society) on the other—the gray area where Dylan performs his magic.

B. Background

3. Judges are empowered by society and by our laws to impose their judgments on their fellow man, but it should be recognized at the outset that no man should relish judging another. “Don’t wanna judge nobody, don’t wanna be judged.”³ The righteous know well the dangers of rendering judgments, such as the lover who is “true, like ice, like fire” and “knows too much to argue or to judge.”⁴

4. In this context, judges have a special responsibility to exercise their powers benevolently, as though they were being judged themselves. The evidence shows, however, that judges repeatedly fail to do so. Instead, they hold themselves apart from the rest of us, cloistered together.

I glanced into the chamber where the judges were talking
Darkness was everywhere, it smelled like a tomb.⁵

5. Too often judges manifest bias and prejudice instead of righteousness and fairness.

The judge, he holds a grudge
He’s gonna call on you
But he’s badly built
And he walks on stilts
Watch out he don’t fall on you.⁶

As a result, too often we must:

Ring them bells for the blind and the deaf
Ring them bells for all of us who are left
Ring them bells for the chosen few
Who will judge the many when the game is through.⁷

6. As set forth in the counts below, judges exalt power, greed, and corruptible seed at the expense of justice, and so “judges will haunt you.”⁸

3. BOB DYLAN, *Do Right To Me Baby (Do Unto Others)*, on SLOW TRAIN COMING (Columbia Records 1979).

4. BOB DYLAN, *Love Minus Zero/No Limit*, on BRINGING IT ALL BACK HOME (Columbia Records 1965).

5. BOB DYLAN, *Day of The Locusts*, on NEW MORNING (Columbia Records 1970).

6. BOB DYLAN, *Most Likely You Go Your Way (And I’ll Go Mine)*, on BLONDE ON BLONDE (Columbia Records 1966).

7. BOB DYLAN, *Ring Them Bells*, on OH MERCY (Columbia Records 1989).

8. BOB DYLAN, *No Time To Think*, on STREET LEGAL (Columbia Records 1978).

C. Count One: Abuse of Power

(Violation of Title 18, Dylan Code, § 1)

7. Judges revel in their power. At the beginning of any court proceeding, a clerk announces the judge with great fanfare:

The Judge is coming in, everybody rise,
Lift up your eyes.⁹

8. Judges likewise have the power to compel. "I was only following instructions when the judge sent me down the road with your subpoena."¹⁰ Or they can deny bail:

And the judge says, "Mona can't have no bond"
And the walls collide, Mona cries.¹¹

9. But time and again, judges abuse their power. For example, in the case of Charles Darwin, who challenged prevailing shibboleths, the judge exercised his power in an arbitrary and capricious manner:

They got Charles Darwin trapped out there on Highway
Five
Judge says to the High Sheriff
"I want him dead or alive
Either one, I don't care."¹²

10. While judicial abuse of power can often be more subtle than other forms of official misconduct, it is perhaps more invidious:

Well, the rifleman's stalking the sick and the lame
Preacherman seeks the same, who'll get there first is
uncertain
Nightsticks and water cannons, tear gas, padlocks
Molotov cocktails and rocks behind every curtain
False-hearted judges dying in the webs that they spin
Only a matter of time 'til night comes steppin' in.¹³

Indeed, "false-hearted" judges can do more damage than weapons in the hands of a "rifleman."¹⁴

11. In *Percy's Song*, a man who "wouldn't harm a life/That belonged to someone else," was sentenced to ninety-nine years in Joliet

9. BOB DYLAN, *Nettie Moore*, on MODERN TIMES (Columbia Records 2006).

10. BOB DYLAN, *Angelina*, on THE BOOTLEG SERIES VOLUMES 1-3 (RARE AND UNRELEASED) 1961-1991 (Columbia Records 1991).

11. BOB DYLAN, *I Wanna Be Your Lover*, on BIOGRAPH (Columbia Records 1985).

12. BOB DYLAN, *High Water (for Charlie Patton)*, on LOVE AND THEFT (Columbia Records 2001).

13. BOB DYLAN, *Jokerman*, on INFIDELS (Columbia Records 1983).

14. *Id.*

Prison for manslaughter in the highest degree in connection with an automobile accident in which four people died.¹⁵ The judge failed to reply to a request to be heard by the defendant's friend and then refused to reconsider the excessive sentence when the friend arrived at his chambers.¹⁶ Instead "[t]he judge spoke, Out of the side of his mouth," capitulating to formalism over justice, saying:

Too late, too late
For his case is sealed
* * *
His sentence is passed
And it cannot be repealed.¹⁷

The judge then unceremoniously ejected the supplicant from his chambers:

And at that the judge jerked forward
And his face it did freeze
Sayin', "Could you kindly leave
my office now, please."¹⁸

The judge's eyes "looked funny" and he slammed the door.¹⁹ The judge's "frozen" face and "funny" eyes reflected a cruel exercise of power detached from the merits of the case in the imposition of a grossly excessive sentence.²⁰

12. Similarly, in *George Jackson* the defendant was subjected to an even more absurd punishment:

Sent him off to prison
For a seventy-dollar robbery
Closed the door behind him
And threw away the key.²¹

13. Another example of the corrupt exercise of power by a judge was *The Death of Emmett Till*, a murder case in the Deep South.²² What kind of voir dire did the judge conduct in which the jury was comprised of:

15. BOB DYLAN, *Percy's Song*, on BIOGRAPH (Columbia Records 1985).

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.*

20. *See id.*

21. BOB DYLAN, *George Jackson*, on GREATEST HITS VOLUME 2 (Columbia Records 1971).

22. BOB DYLAN, *The Death of Emmett Till*, on THE BOOTLEG SERIES VOL. 9—THE WITMARK DEMOS: 1962–1964 (Columbia Records 2010).

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[M]en who helped the brothers commit this awful crime
And so this trial was a mockery, but nobody seemed to
mind.²³

As a result, two “smiling” brothers walked free down the courthouse stairs despite having confessed to killing “poor Emmett Till.”²⁴

14. The judge should be a bulwark protecting against the cries for vengeance from the mob armed with its pitchforks. But too often, judges look the other way. In *Drifter's Escape*, the drifter, a defendant accused of unspecified crimes, pleaded with the judge as he was carried from the courtroom, “and I still do not know [w]hat it was that I've done wrong.”²⁵ While the judge feigned regret, he capitulated to the mob:

Well, the judge, he cast his robe aside
A tear came to his eye
“You fail to understand,” he said
“Why must you even try?”
Outside, the crowd was stirring
You could hear it from the door
Inside, the judge was stepping down
While the jury cried for more.²⁶

Only divine intervention saved the day when a bolt of lightning “struck the courthouse out of shape” and “the drifter did escape.”²⁷ Had the judge not cast his robe aside, or in effect abdicated his responsibilities to rein in the runaway jury, the drifter's fate would not have been subject to the vagaries of a bolt from the blue.

15. Even when dealing with an arguable criminal, judges demean the process by administering justice capriciously. In *Joey*, the police “got” Crazy Joey Gallo on conspiracy, though “they were never sure who with.”²⁸ But when the defendant appeared in court, he was treated with callous disdain:

“What time is it?” said the judge to Joey when they met
“Five to ten,” said Joey. The judge says, “That's exactly
what you get.”²⁹

23. *Id.*

24. *Id.*

25. BOB DYLAN, *Drifter's Escape*, on JOHN WESLEY HARDING (Columbia Records 1967).

26. *Id.*

27. *Id.*

28. BOB DYLAN, *Joey*, on DESIRE (Columbia Records 1976).

29. *Id.*

The sentence imposed became a nasty joke and Joey was left to do ten years in Attica, reading Nietzsche and Wilhelm Reich, “tryin’ to stop a strike” (but ending up in the hole nonetheless) and befriending black men “cause they seemed to understand what it’s like to be in society with a shackle on your hand” (unlike the sneering judge).³⁰

D. Count Two: Greed

(Violation of Title 18, Dylan Code, § 2)

16. Judges often act to perpetuate a class system that permits the entrenched to continue to satisfy their lust for greed.

17. In *The Lonesome Death of Hattie Carroll*, the judge perverted the mantle of justice to enable a young tobacco scion to continue in his realm of wealth and political connections:

In the courtroom of honor, the judge pounded his gavel
To show that all’s equal and that the courts are on the
level
And that the strings in the books ain’t pulled and per-
suaded
And that even the nobles get properly handled.³¹

But hypocrisy in the service of classism won the day as the judge “spoke through his cloak, most deep and distinguished/And handed out strongly for penalty and repentance” (a wildly lenient sentence).³²

18. Similarly, in *Hurricane*, the judge inappropriately put his thumb on the scale in demeaning the witnesses and empanelling an all-white jury:

All of Rubin’s cards were marked in advance
The trial was a pig-circus, he never had a chance
The judge made Rubin’s witnesses drunkards from the
slums.³³

In so doing, the judge perpetuated a system in which:

Now all the criminals in their coats and their ties
Are free to drink martinis and watch the sun rise.³⁴

30. *Id.*

31. BOB DYLAN, *The Lonesome Death of Hattie Carroll*, on THE TIMES THEY ARE A-CHANGIN’ (Columbia Records 1964).

32. *Id.*

33. BOB DYLAN, *Hurricane*, on DESIRE (Columbia Records 1976).

34. *Id.*

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19. Indeed, the system, as implemented by judges, cannot or will not call greed to account. As in *Foot of Pride*, the powerful seem immune to judgment.

They like to take all this money from sin, build big uni-
versities to study in
Sing *Amazing Grace* all the way to the Swiss banks.

* * *

They kill babies in cribs and say only the good die
young
They don't believe in mercy
Judgment on them is something that you'll never see.³⁵

By failing to intervene when they can, judges help stamp the foot of pride.

20. Wrapped in the flag, judges play their unseemly role in protecting truly powerful, rich criminals at the expense of petty ones.

They say that patriotism is the last refuge
To which a scoundrel clings
Steal a little and they throw you in jail
Steal a lot and they make you king.³⁶

21. There are even instances when the judge has been overtly co-opted by greed. In *Lily, Rosemary and the Jack of Hearts*, the “hangin’ judge came in unnoticed and was being wined and dined” by those who presumably wanted no one to pay any mind to bank robbers “drillin’ in the wall.”³⁷ When the backstage manager could feel it in the air that something funny was going on, “he went to get the hangin’ judge, but the hangin’ judge was drunk.”³⁸ Finally, when Big Jim, the owner of the diamond mine, was killed, the judge became the instrument through which revenge was obtained on behalf of wealth. Only in that context was the hangin’ judge sober—“he hadn’t had a drink.”³⁹ Perhaps he was stunned into sobriety by the thought that his meal ticket might be gone.

E. Count Three: Corruptible Seed

(Violation of Title 18, Dylan Code, § 3)

35. BOB DYLAN, *Foot Of Pride*, on THE BOOTLEG SERIES VOLUMES 1–3 (RARE AND UNRELEASED) 1961–1991 (Columbia Records 1991).

36. BOB DYLAN, *Sweetheart Like You*, on INFIDELS (Columbia Records 1983).

37. BOB DYLAN, *Lily, Rosemary and the Jack of Hearts*, on BLOOD ON THE TRACKS (Columbia Records 1975).

38. *Id.*

39. *Id.*

22. Perhaps the most heinous act committed by a judge is the perversion of the justice system for the judge's sexual gratification.

23. In *Seven Curses*, which echoes the story of Sweeney Todd and Judge Turpin, Old Reilly was accused of stealing a stallion.⁴⁰ His daughter, having learned "that her father was goin' to hang," rode all night to offer gold and silver for her father's freedom:

When the judge he saw Reilly's daughter
His old eyes deepened in his head
Sayin', "gold will never free your father
The price, my dear, is you instead."⁴¹

Despite her father's entreaties to his daughter to get on her horse and get away, "in the night the price was paid."⁴² And in the end, "the judge had never spoken" to prevent the hanging.⁴³ This tragic tale ended with seven curses being visited "on a judge so cruel":

That one doctor will not save him
That two healers will not heal him
That three eyes will not see him
That four ears will not hear him
That five walls will not hide him
That six diggers will not bury him
And that seven deaths shall never kill him.⁴⁴

24. The *Man in the Long Black Coat* could also have been a judge in his robes who seduced another man's wife despite the fact that "[s]omebody said from the Bible he'd quote."⁴⁵ In truth and in fact, despite their solemn oaths, judges are no different than the rest of us, and "every man's conscience is vile and depraved."⁴⁶ Perhaps when the scorned husband "went down to the river but just missed the boat," he saw "Judge Simpson walkin' around/Nothing shocks me more than that old clown."⁴⁷

40. BOB DYLAN, *Seven Curses*, on THE BOOTLEG SERIES VOLUMES 1-3 (RARE AND UNRELEASED) 1961-1991 (Columbia Records 1991).

41. *Id.*

42. *Id.*

43. *Id.*

44. *Id.*

45. BOB DYLAN, *Man In The Long Black Coat*, on OH MERCY (Columbia Records 1989).

46. *Id.*

47. BOB DYLAN, *Shake Shake Mama*, on TOGETHER THROUGH LIFE (Columbia Records 2009).

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F. Conclusion

25. While judges take their oaths to uphold a system of justice on Earth as mere mortals, “power and greed and corruptible seed/Seem to be all that there is.”⁴⁸ The only refuge for those seeking true justice may be the one that is found in heaven. And so for the judges charged in this indictment we ask:

Are you ready for the judgment?
Are you ready for that terrible swift sword?
Are you ready for Armageddon?
Are you ready for the day of the Lord?⁴⁹

Perhaps the defendant judges in this case ultimately will be comforted that “there are no trials inside the Gates of Eden.”⁵⁰

Bob Dylan, a/k/a
Robert Zimmerman, a/k/a Jimmy
Special Assistant Attorney for the Old
Weird America
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48. BOB DYLAN, *Blind Willie McTell*, on THE BOOTLEG SERIES VOLUMES 1–3 (RARE AND UNRELEASED) 1961–1991 (Columbia Records 1991).

49. BOB DYLAN, *Are You Ready?*, on SAVED (Columbia Records 1980).

50. BOB DYLAN, *Gates of Eden*, on BRINGING IT ALL BACK HOME (Columbia Records 1965).

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UNITED STATES ATTORNEY FOR THE OLD WEIRD
AMERICA
NEW YORK, NEW YORK

April 4, 2011

Honorable Bruce A. Green
U.S. District Court for the
Old Weird America
(Fordham Division)

Re: *The Old Weird America v. The Judges*

Dear Judge Green:

Pursuant to its obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), the prosecution makes the following disclosures to the defendant Judges of information which may be exculpatory:

1. In *Little Sadie* and *In Search of Little Sadie*, “the judge and the jury they took their stand. The judge had the papers in his right hand,” but the defendant Lee in that case confessed to murder and the forty-one year sentence may not have been excessive, unlike the sentences in *Joey*, *Percy’s Song*, and *George Jackson*.

2. In *Brownsville Girl*, the girl went “out on a limb” to testify falsely in support of an alibi defense. “Then when I saw you break down in front of the judge and cry real tears/It was the best acting I saw anybody do.” The judge may not have been at fault if the witness committed perjury.

Very truly yours,

Bob Dylan, a/k/a
Robert Alan Zimmerman, a/k/a Zimmy
Special Assistant Attorneyfor the Old
Weird America