



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

Fujita: Right verdict, wrong outcome

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It comes as no surprise that Nathaniel Fujita has been found guilty of murdering Lauren Astley. The physical evidence was overwhelming and, besides, the defense never contested that the young man had killed his former girlfriend.

The defendant's only available strategy was to attempt the insanity defense, a defense that had almost no chance of succeeding. Not only are successful insanity claims exceptionally rare -- particularly in high-profile murder cases like this one, but the lack of prior and persistent psychiatric history was no small hurdle to overcome. Most successful insanity claims come through a plea agreement between the prosecution and the defense, and there would be no such arrangement possible in this closely watched case.

Many people with whom I've discussed this trial expressed a certain degree of sympathy for Fujita (although, of course, not anywhere as profound as the sentiment for Astley's family). After all, who has not experienced the devastation of lost love? And when you're young, it can feel absolutely catastrophic. I heard from many folks who hoped that the pursuit of justice for Astley could be tempered with compassion for Fujita.

Frankly, I half expected that the jury might convict Fujita on a lesser charge -- murder in the second degree. Despite the evidence of planning, this is a far cry from the act of a ruthless, heartless sociopath. Juries have been known to bend the law when circumstances seem compelling.

In this instance, the jury did its job well. It stayed true to the cold hard facts of the case, finding sufficient evidence that Fujita had premeditated the murder. Regrettably, the other cold hard fact is that the trial judge had no options in sentencing the defendant -- no leeway for showing any compassion for Fujita's youth and emotional state that had contributed to his crime.

In Massachusetts, all defendants convicted of first degree murder are sent away to prison for life without the possibility of parole, regardless of any mitigating circumstances surrounding the offense or the offender. By contrast, two dozen states having life without parole on the books include it among a group of alternative sentences depending on the circumstances of the offense and the offender.

As one of the states that prohibits parole for first degree murderers, Massachusetts ranks high on the list in terms of the percentage of its incarcerated population having no hope of ever walking free (except for the very remote possibility of executive clemency). As of 2008, according to statistics compiled by the Sentencing Project in Washington, D.C., 8.7% of the Massachusetts state prison population was under a life without parole sentence, a level that ranked third (behind Louisiana and Pennsylvania) and was four times the national average.

If the most severe punishment is to be reserved for the "worst of the worst," then life without parole makes sense for serial killers, mass murderers, certain repeat violent offenders, and those who rape or torture victims before murdering them. However, in Massachusetts, life without parole eligibility is mandatory for cases of felony murder, even though homicide may not have been part of the plan. It is also mandatory for those convicted in joint ventures, even if they were not the one to pull the trigger or plunge the knife. And it is mandatory for first time offenders, like Nathaniel Fujita.

Many other states allow for parole eligibility as a sentencing option for murder, if the circumstances warrant it. Included among the states that allow penalty short of life without parole are Mississippi and Texas, but not Massachusetts.

So maybe it is time for Massachusetts to infuse some flexibility into sentences for first degree murder by permitting parole consideration after, say after 30 years, in those cases where mitigation outweighs aggravation. Such factors as being a first offender or as suffering from psychological conditions that fall outside of the narrow definition of legal insanity would be high on my list of justifications for lesser sentences or parole eligibility.

So it is about time to reintroduce rationality into the sentencing process, even for murder. Not all murders are the same in severity, and not all murderers are the same in dangerousness. So while life without the possibility of parole is justifiable for some first-degree murderers (e.g., Thomas Mortimer, Michael McDermott, Henry Meinholz, Jr., to name but a few of our state's worst offenders). But life without parole is not appropriate for all and may that include Nathaniel Fujta. I'm not suggesting that Fujita should necessarily ever be paroled, but only that such a decision be postponed until another day, one several decades in the future.

4:30 PM POSTSCRIPT: I ask the many of you who disagree with life with parole eligibility after 30 years (a penalty that many states utilize as a sentencing option for first degree murder) if you would have been surprised and outraged had the jury returned a 2nd degree murder conviction (which would have carried a sentence of life with parole eligibility after 15 years).