

**RECOVERY COURTS AND CHARACTER CHANGES**  
**(How Jail Plays a Role in Recovery)**

*Hope is the companion of power, and mother of success; for who so hopes strongly has within him the gift of miracles.*

-- Samuel Smiles, Scottish author, 1812-1904

*Good things happen to people that do good things.*

-- Judge K. Michael Mayes

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JUDGE K. MICHAEL MAYES  
410th JUDICIAL DISTRICT COURT  
MONTGOMERY COUNTY, TEXAS  
CONROE, TEXAS  
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## RECOVERY COURTS<sup>1</sup> AND CHARACTER CHANGES (How Jail Plays a Role in Recovery)

I am a trial Judge. I preside over criminal cases that involve alcohol and drug abuse. Law school taught me nothing about addiction and recovery. Neither did my 20 years as a lawyer. And yet when I was elected to be a Judge ten years ago I entered a world of addicts and alcoholics and was told that I could try to make a difference in the lives of these Defendants but their ultimate destiny, in all likelihood, was prison. I found out early that my work as a Judge required me to make life changing decisions on a daily basis but I also discovered that I had few answers for those offenders who abused drugs and alcohol.

Oh, yes, probation officers worked alongside me to help with the carnage. These well trained and good hearted people maintained overflowing dockets that filled bulging cabinets. They were overworked and tired. Over the years their youthful optimism had, in many cases, been replaced with an unsatisfied resignation. And, yes, I was entrusted with “judicial discretion.” I was told to use this tool to fashion terms of probation to rehabilitate defendants, but what that meant for addicts and alcoholics was a mystery to me.

I vividly recall one day a decade ago when I sat on my bench and faced a 23 year old. Let’s call him Jake.

“Young man, you are charged with possession of Cocaine.” I started the standard colloquy.

“Yes, Judge. My mom is an alcoholic and my dad died when I was seven. Mom lives on the streets. I know I made a stupid mistake but I promise I learned my lesson. I don’t want to be like them.”

“Really?” I asked.

“Oh, yes, I will never use cocaine again. You can believe me.”

Jake’s face bore stress but was clean shaven. He wore longish hair and an earring that my bailiff had him remove. I could still see the hole in his right ear. He didn’t look like an addict, not that I knew what one looked like. He did look in pain, though, and as we talked, he seemed puzzled about how he got here and what the future held for him. His grandmother stood with him.

“Ma’am, ” I glanced at her. She looked worn. “What do you think about all this?”

“I don’t know, ” she said. That was honest. She continued.

“I watch him close, but he is 23. I can’t be there all the time. ”

I knew the feeling. In one month on the bench I had placed thirty or so defendants on probation. And as I dictated terms of their probation, I knew it was up to them to succeed. Neither I nor the probation officer nor the family that stood next to them could be there all the time. I knew that these defendants probably would violate probation by abusing drugs or alcohol again and I wouldn’t know of it. No one would be there to know of it or to prevent it. It would be just them and their addiction. Naturally, some would be

caught violating their probation and they invariably became the subject of a Motion to Revoke their probation. I had seen some of those already.

And when I saw these violators, I wondered why it had come to this? Why had they violated and why had they been unable to sustain their sobriety? Why had I not seen them before they violated, before they relapsed? And why hadn't they called someone for help, the probation officer or their family or a professional counselor? I didn't like the feeling of hopelessness I experienced when I encountered these cases. I felt out of touch with the lives of these abusers and I wondered if I, as a Judge, could do something different? Were there some tools or answers that the law books failed to teach that would give me more ability to change this pitiful recurring scenario? I was quite sure that other Judges knew more and somehow had answers.

I have since learned that, as a rule, we Judges have little or no training in the realities of addiction or alcoholism, and yet we are called upon to deal with persons who suffer from such maladies and to decide whether to punish these abusers with prison or try to rehabilitate them through probation. We have little or no background to know the answers to the real issues of addiction but we are empowered to sentence addicts and alcoholics who violate the law. We are robed, no doubt, because others saw in us something special, something that generated hope in the justice system, but we are not educated for the task of handling alcohol and drug abuse.

My sense of justice convinced me that options had to exist other than prison time or a standard probation of simply reporting, paying money, completing community service and some general counseling. I believed that if a defendant truly was an addict or alcoholic with a "substance abuse problem," and they were not simply antisocial and criminal, there had to be other answers. I also knew, however, that I would never discover these other answers unless I first understood addiction and alcoholism.

### **ADDICTS<sup>2</sup> THINK ADDICTIVELY**

Much of what we now employ in our Recovery Courts mirrors what I have learned through writings by Alcoholics Anonymous (AA), Narcotics Anonymous (NA) and experts who have spent years treating addicts and alcoholics, like Dr. Abraham J. Twerski. And while our Recovery Courts do not mandate AA or NA for every probationer,<sup>3</sup> the concepts underlying the 12 steps of such support groups are invaluable in the recovery process of these Defendants. In his book "Addictive Thinking" (2d Ed. Hazelden 1997), Dr. Twerski describes in simple but dynamic terms how addicts and alcoholics think, and he explains that "addictive thinking" is another name for what AA and NA call "stinkin' thinkin'." Importantly, Dr. Twerski says that this thinking arises in virtually every instance from the addict's low self esteem (Id., Chapter 5) and is not related at all to their level of intelligence (Id., Chapter 2).

In presiding over Recovery Courts, I have learned that criminal defendants that abuse drugs and alcohol think addictively. They think irrationally and in distorted ways and yet they believe that they think normally. To not recognize this is dangerous for anyone that interacts with an alcoholic or addict, whether you are a Judge, probation officer, counselor, a loved one or simply an acquaintance or friend. Ignoring this reality allows the "other" person to be sucked into the addict's world of deception and manipulation. Once that happens, no recovery is possible because the one wanting to

help the addict has bought into a world of distorted reasoning that leads to irrational and unproductive results.

The best example of a Judge not understanding this concept of addictive thinking is shown by my handling of Jake that I introduced above, one of the first addicts I met on the Bench:

“You are charged with possession of a controlled substance. You want a jury or you want to waive that constitutional right?” I was following the Judge’s book, presenting the standard stipulations and waivers.

Jake teared up, then said, “Yes, sir, I guess I waive that.”

I pushed him a little at that point, “why did you do it?”

“I don’t know. It was a stupid mistake,” he said.

“Is that all you have to say? You don’t have any other excuse?”

“I will never do it again,” Jake promised.

“Of course you won’t, because you will be in prison. You could have stopped had you just said no.” I felt good, parroting the program I remembered from schools in years past.

You know the rest: the formal sentencing, the remand to jail, and the transfer from jail to prison. And, of course, Jake has since been released from prison and he has since used and been arrested again.

What I did not understand at Jake’s sentencing was that Jake thought addictively, and if his thinking did not change he was doomed to continue failing. Expecting Jake or any addict to just say no is not a viable solution because they distort reality and deceive themselves into thinking that their use is not the problem, rather it is something or someone else. Consider a young lady I will call Regina, a pill addict that stood before me with a classic explanation derived from her addictive thinking:

“This indictment alleges that you possessed marijuana.”

“Yes sir.”

“And you are gonna plead guilty today and take 180 days in jail?”

Yes, my attorney told me it was the best way to go.”

“You don’t believe you are guilty?”

“No sir, I don’t abuse it, I simply use it to help me.”

“What else do you abuse young lady?”

“I don’t abuse anything Judge. I don’t have a problem with drugs.”

“Excuse me?”

“No sir, I have a prescription for my Vicodin and since it upsets my stomach I use weed so I can eat. It helps my stomach so I will get hungry.”

“So your marijuana use helps you eat food since the Vicodin ruins your appetite?”

“Yes, sir.”

Once understood, addictive thinking can be addressed. But it cannot be addressed by the addict or alcoholic; it must be confronted by “significant others” in their lives, including those in the judicial system that handle defendants in the criminal arena.

### **ADDICTS HAVE DISTORTED THINKING- COURTS SHOULDN'T**

Addicts have distorted thinking. Part of this “distortion” is that they convince themselves that they think normally. Addicts believe that they need to use drugs and alcohol to ease their pain or to find a feeling of normalcy. Using has become normal and is the path of least resistance. Not finding real solutions is easier for the addict than addressing the underlying issues.

Our judicial system has for years engaged in addictive thinking when dealing with drug offenders. We continue to employ a failed protocol of arrest, probation, violation and ultimately prison because it is easier than the harder work of providing real solutions. It is what has become normal and it makes us feel like we are doing our job, but the fact remains that repeating past errors and expecting different results is symptomatic of addictive thinking. This thinking is a distorted way to address the pandemic of addiction we see in the courts. It provides little or no treatment for the addict, the alcoholic and their families and it provides no preventative solutions for the future victims of those addicts that abuse and injure others. Not finding real solutions is easier than addressing the real issues underlying the addicted defendant’s behavior.

We are not the only profession that has maintained a “close your eyes” protocol in dealing with addiction. The medical profession did not deal with addiction for many years. Ask any older physician who attended medical school in the 50's or 60's and likely you will hear that they were not taught about addiction and there was no treatment for substance abuse. Physicians were simply trained to intervene to sober up these drunks or abusers and send them back out to deal with life as best they could.

The survival of any society is in large measure dependent upon the ability of its judicial system to find solutions to difficult issues. As a consequence, we judges are asked every day by caring people to give them real answers to real world questions. We see individuals with extensive criminal histories involving alcohol and drug abuse, or persons from dysfunctional families or abusive relationships that arise from drug and alcohol abuse, and we are urged to make a difference. We are expected to rehabilitate the abusers while they live in environments where drug and alcohol abuse are prevalent, yet we are given little money and even less training in the area of understanding the whys of addiction and substance abuse.

In the real world of criminal behavior where alcohol and drug abuse permeates the criminal’s existence, we know that prison oftentimes is not a real solution. Prison gives a sense of satisfaction to those who have been harmed by an alcoholic or addict and it is probably deserving where injury to others has resulted directly from such conduct, but in virtually all other cases prison only serves to harden those that are scarred and to crush those that are hopeless. But while our judicial system recently has begun to accept as fact that substance abuse is a disease or syndrome, not a moral failure, our courts have not addressed addiction in a way that honestly treats the disease head on. Unless we as Judges intervene with addicts in a way that is

responsive to the disease that holds them captive, we are wasting our time. The question is how do we do that? How do we provide answers where loss of integrity has joined hands with loss of trust? And is there a real solution to preventing the revolving door of defendants simply serving their time and returning to society unchanged.

I am a trial Judge and I believe there is an answer. The solution is not complex, but it is heart wrenching, it is gut clinching, it is painful and it is difficult. It requires that we first acknowledge that addicts face demons that non-addicts cannot understand without study and reflection. As Dr Twerski and others have explained, these demons include low self esteem, irrational fears, morbid expectations, inability to deal with stress, hypersensitivity, shame, unrelenting guilt, feelings of omnipotence, anger, inability to admit errors, inability to manage feelings, denial of reality, projecting fault onto others, and the list seems endless. The solution requires that we accept the difficult work of truly understanding the individual addict or alcoholic by digging deep with the defendant and helping them discover how they distort their thinking. This solution requires tough choices involving jail time and thereby providing a sober avenue for the beginning of a true recovery. This solution is effective because it teaches the addicted defendant a different way of thinking and a different way to “view” themselves.

### **THE ADDICTED DEFENDANT MUST FACE A LIFE CHANGING EVENT**

While there is no one answer to addressing the many issues of addiction, my experience convinces me that for an addicted defendant to obtain and maintain sobriety, they must, like every addict, (1) face a life changing event, (2) have their bodies cleansed of all offending substances and (3) commit **during their abstinence** to a recovery program that requires change in the addict’s character. These events must all occur and they must occur in the order that is listed. Anything less will probably result in relapse and failure. We Judges are in the unique position of being able to set the stage for these events to actually happen in the sequence most favorable for success.

Addicts cannot stop using on their own. Read that again please. Addicts cannot stop using on their own. A recovering addict will admit that when they were actively using they could not have stopped. While actively using, the addicted defendant’s choices are all about the drug or the drink. That is why asking an addict or alcoholic on their first day in jail why they were using is like asking a 3 year old after a “time out” in their bedroom why they stole the proverbial cookie from the cookie jar. They don’t know except to say they just wanted it, they are sorry and they won’t do it again. As a result, telling an addict to “just say no” is useless.

On the other hand, divorce, loss of a job, driving over a child while drunk or waking up in vomit at an unknown location can be life changing events that cause more pain to the addict than the pain they seek to cover with their abuse. When this new pain occurs, the addict’s life is disrupted to the degree that they may stop their substance abuse. If that happens, however, their sobriety will not be lasting unless they also begin to “change” their addictive thinking during their abstinence. A change in thinking is the beginning of a change in character that is required for a lasting recovery. When an addict begins to change their thinking and character during a period of abstinence, they have started a real recovery.

In those cases where the addict does not encounter a life changing event, the event must be brought to them and we Judges can cause that to occur; it is called jail. Not an overnight stay and maybe not even a few days lockup, but jail time that lasts as long as it takes to rid the addict's body of all mind altering drugs or alcohol, and that provides a period of total abstinence away from the triggers of the real world. While an addict is in jail and sober, a judge, probation officer or counselor can employ specific intervention techniques to give the defendant a new beginning from which a change in thinking and character can arise in a positive, effective way. Combining the sobering effects of jail with such things as reading and writing assignments and other reflective work is a true intervention in the therapeutic sense. Used in this manner, jail creates an environment of non-use where the addict can think clearly about themselves and their choices and provides time for an honest journey into the wilderness of their very soul so that a seed of character change can be planted from which a lasting recovery can grow. Used wisely, jail can provide a period of abstinence and renewal that the addict could never create even if they wanted to.

It is critical to understand that the abstinence that jail provides cannot be provided by those that love the addict. This is true because these others love the addict too much and they have no leverage to require the addict to stay sober over time. There are exceptions but as a general rule family and loved ones are too co-dependent on the alcoholic or are too easily manipulated by the addict. Real sustained abstinence, the kind that starts the process of a true recovery, is critical and extended jail time provides just that.

**BECAUSE ADDICTS RATIONALIZE,  
THE LIFE CHANGING EVENT MUST CAUSE  
THE DEFENDANT TO HIT ROCK BOTTOM**

Addicts rationalize their behavior. They truly believe that they think normally and that their daily abuse of alcohol or drugs is needed. The fact is addicts use for one of two reasons, to either (1) ease their pain or (2) make them feel normal. ("Addictive Thinking," *Id.* at Chapter 16). Before an addict will give up their use of drugs or alcohol, they must be confronted with a pain or discomfort that is greater than the pain or lack of self esteem that they are "treating" with their abuse. They must suffer some life altering event that makes them believe that it is not worth using if they must endure this disruption. Dr. Twerski and others call this "hitting rock bottom." The recovering addict will tell you that some event, some disruption or some pain grabbed them so hard and shook them so violently that they were actually willing to stop using to prevent the onslaught of that newer, greater pain.

Of course, when they are actively using, the addicted defendant will claim they can stop whenever they want, and when confronted by a loved one they often promise they will stop because "you have my attention." This is rationalization at its best. These are hollow words only, what families hear every day from addicts who have been confronted and seek forgiveness by those that they love. But it is rationalization, not lying, because the addict believes at that moment that he will stop using.

Rationalization is the most significant symptom of addictive thinking that must be addressed before an addict can learn to stay clean. An addict must learn the difference

between rationalizing their behavior and facing the reality of their addiction. Only by accepting the falsity of rationalized behavior and tackling the tremendous task of changing their thinking can the addict come to terms with the distorted thought processes that fuel their abuse of drugs and alcohol. A life changing event like jail can create an atmosphere in which the addict can begin an acceptance that jumpstarts a recovery that will be lasting.

### **JAIL MUST PROVIDE TIME FOR ABSTINENCE, REFLECTION AND THE BEGINNING OF CHANGE**

When first jailed addicts may show remorse, but their thinking cannot be lucid until their bodies are cleansed of the altering effects of drugs and alcohol. Moreover, remorse alone has no value in recovery unless the addict literally changes their thinking and how they view themselves. That is why, to an active addict, a short stay in jail may not be life changing at all and in fact may be a relief. While actively using, a day or two in jail simply gives the addict some rest at a time when they had none, providing a welcome pause for the tired abuser. "Free food, free bed, away from the nagging family and world? Sign me up." The irrational thoughts that convinced them that the drugs or alcohol were not a problem emanate from the same brain that is telling them they do not need to change. Time is not the enemy but a part of the healing process.

But even with an extended incarceration, abstinence alone is not enough. That is why addicts and alcoholics invariably continue to use when they are released from jail and prison. Addicts who are actively using have no reason or desire to know how to change since their very existence is consumed with using. Given that change comes from a knowing and deliberate decision to be different in thought and actions, there is little chance that the required change can ensue without specific and painstaking work by the addict on their defective thinking patterns and in their emotional reactions to life itself. This change cannot happen quickly and it cannot happen overnight. As I tell defendants very often, "it took you many years to get where you are today; change will not happen quickly or easily. If you truly want to change through a recovery that lasts, you need to take a deep breath and slow down. We are talking about saving your life, not rushing to get you back out in the world where you have been unsuccessful."

Because addictive thinkers must be taught to think differently, jail time is wasted unless it is filled with interventions in the form of reflective readings, insightful teachings and thoughtful writing assignments that address the distorted thinking patterns that exist in the addict. Working on "addiction" assignments while away from family, friends and other influences, and while in jail **and sober**, can mark the beginning of a real change in the addict's character that will sustain itself when the defendant is released. The approach we employ in our Recovery Courts (and often with defendants who are not assigned to these specialized caseloads) is to treat these addictive thinkers by attacking their thoughts at the basic level of their misunderstanding, within their own thinking, inside their own minds. By doing so we hope to help them change their very character.

This is a noble exercise but a necessary one because the rhetorical preaching of "quit using or suffer the consequences" does not address the addiction nor solve the problem. Consequently we utilize books and writings from many sources, including Dr.

Twerski, AA, NA and others, as required readings and also as texts to use in writing assignments. As one defendant told me after reading and summarizing several resources while in jail, "I had no idea that others had the same thinking I had, or that there were names for how I thought about stuff." Another one, who was required to read and summarize Dr. Twerski's book "Addictive Thinking," wrote that "I am surprised, but being in jail has opened up a whole new outlook to me about my life."

Jail time must also be used to convince the addict that they cannot go it alone when they are released but will need intensive therapy and counseling as well as the support of non-dependent family and friends. Many will require support from AA, NA or other instructive and supportive groups. Some will need continued cognitive behavioral therapy in an individual or group setting. And the defendant and their family must accept the reality that the defendant cannot have any contact with others that use or family members that love the addict in ways that enable them.

I see most inmates by videoconference from the jail to my courtroom and I usually have the family in court with me watching the defendant on our television monitors so they all can see the defendant in jail and he can see them in court with me. Because the defendant is often unmoved at this early stage, usually because he is mad, embarrassed, still numb or unfeeling from the influence of the drugs, or a combination of all for the above, this is as much a "show" for the family as it is a hearing for the defendant. I want these important others to see and feel what their addicted loved one is experiencing. For recovery to really take hold, the entire family must learn to recognize the addictive thinking patterns of the addict and how to react or not react to such behavior. Most family members simply want the defendant out of jail, and most believe he simply has to decide to not use. These loved ones will explain in detail their need for the defendant to return to work, to be helping with the family or to be at home. It is rare that a family member appears in court and is prepared for what they learn, that the defendant is in fact an addict, that they have been enablers of his addiction and one chief reason I do **not** release the defendant from jail is because the family members are co-dependent in their relationship with the defendant.

A week to a month later, when we video again, the addict often is crying like a baby, saying they will do anything to get out of jail and return to their family. It is the crying, the pleading, any emotion, that I am looking for to confirm that they are feeling something again. I know then that their mind is clearing and it is then that I know change is a possibility. At this stage I may release the defendant or they may be given reading or writing assignments to help them learn about and articulate these newly found inner feelings. When they ask the typical question of "when will I be released," I usually tell them that "you will never be released as long as that is a question that you want answered." I remind them that "release from jail is not the issue. Your addiction is the issue and until you address that issue we will continue to meet while you are in jail."

While I want the pain from the incarceration to exceed the gain they feel from using drugs or alcohol, it is imperative that they forget their desire for freedom and focus on what they can do to address their addiction. It is the addiction that caused them to be jailed and the pain from being jailed must create a new passion for living, one that does not include drugs or alcohol. Only then will they have a basis upon which to build a recovery that lasts. Freedom from jail is an unimportant issue when we are dealing with the future life of an addict who has been unable to find a successful sobriety on his own.

When the defendant and family have bought into that philosophy, then release from jail is immediate and it is therapeutic.

This may be the first time in ages that the defendant has had to explore how they felt about anything, much less themselves or their addiction. And this usually is the first time in years they have felt anything at all while sober. On the other hand, it may be the last time that I have enough control to set them on a path to real recovery. I do not want to blow this critical opportunity by rushing a release date. One defendant told me that he was dying in the jail, away from family, away from his job, away from the real world. My answer was swift and direct, "you were dying anyway, Steve; why would I wish to return you to the outside world to face that death. Face yourself here first, find yourself here first, and then you and I can decide together when it is time for you to find yourself out there."

This is a decisive moment for addicts, when they actually feel again, because this is when they can choose whether to be honest with themselves, the Judge and others, or to continue their game of charades, being who they aren't and saying whatever it takes to continue in their addiction. I have often denied release to defendants that claim they have gotten the point but who were unable to discuss with me in intelligent language what their thinking errors were and what their triggers for relapse are. Jail is an ally in most cases, however, because it has the obvious tendency to push an addict to be more honest than they have ever been. But this only occurs when the addict realizes that it is his work while in jail, not his words, that determines when his release date will be. They don't know when they are going to be released and neither do I. They just know that they will not be released until I believe they are ready to be honest, they have accepted the challenge of a real recovery and they have truly started to change their addictive way of thinking.

Nothing less than full, open, brutal honesty that creates an atmosphere of trust will suffice to gain their release, because anything less will be wholly insufficient for them to succeed in recovery and sobriety. When an atmosphere of trust exists, then release from jail is good. If trust doesn't exist, release is a recipe for failure. In my experience, less than 10% of inmates that I have jailed for a relapse and with whom we have engaged with therapeutic interventions while in jail ever face a Motion to Revoke. Those that have been revoked were (1) addicts that refused to accept the reality of their addictive thinking, (2) defendants that had absconded and could not convince me that they would not stop running from their distorted thinking, or (3) defendants that stated that probation in our Recovery Courts was "too hard and I had rather just do the time." These failures are few and far between, however, and when in doubt I invariably lean toward treatment and recovery. As I say to defendants daily, "if you want help to recover, you will be given that chance; if you don't, you won't. You call it."

### **JAIL SHOULD BECOME AN ALLY AND A FRIEND**

Jail should become an ally to the court and a friend to the addicted defendant. I remember a 45 year old alcoholic that had drunk for years. Call him Rodney. I knew his wife and she asked me to talk to him soon after he was placed in our jail. His wife had refused to bail him out when he was arrested for DWI. That alone had gotten his

attention and the jail time had started him to thinking about a real recovery. I talked to him by video conference from the jail to my courtroom.

“Well, Rodney, where are you?” I asked.

“I am in jail,” he said.

“No, I mean, where are you?” I repeated.

“Well,” he began, “I’m tired. I don’t know if my wife will let me back home and I don’t know if I have a job. I am lost.”

“You want out of jail?”

“I will do anything to get out of here.”

“Anything?”

“Anything.”

“Even stay in jail until I say you are ready to go home, until I say you have found your new beginning?”

“Yes.”

“Then I say you stay in there until we can get you an appointment with a professional counselor out here. We will talk again before the appointment and we will decide if you are really ready. In the meantime, write a letter to your wife and talk about what is in your heart. Write your kids and tell them too. Not short letters, but ones from your heart that clean the slate about who you really are.”

“Who I am?”

“Yes, you are an alcoholic. Tell them. And tell them you are not leaving jail until you are ready. And don’t ask me when that time will be. I don’t know. But trust me; we will both know when that time is here.”

This man saw his assigned Judge a week later, and that Judge, not knowing about our conversation, told him he was going to release him on bond since he already had served more time than most DWI defendants serve for their first offense. But when he was told this, Rodney refused.

“Judge,” Rodney said, “I have committed to Judge Mayes and to my family to stay in jail until I am really ready. I am not ready. Please do not release me yet.”

Rodney stayed in jail a full 21 days. When he was released, he started on a recovery that is still strong today. While in jail, he found a sense of needing to stay there, to prove to himself and to others that he could keep his word and that he had earned the right to be given a chance at recovering. He wrote the letters and he read assignments on addiction and spirituality. After 21 days he and I agreed that he was ready and he was released from jail.

This type of acceptance is not uncommon among drug abusers, old and young alike, when they are jailed and especially once their bodies have been cleaned out through a forced abstinence. One teen I will call Carl had a video session with me from jail. I asked him to begin working on his addiction through reading and writing. At first he refused since he was still mad for being detained over his relapse with Xanax pills. But just a few days later, after time for reflection and writing assignments that required him

to delve deep into his inner emotions, Carl was brought before the regular Juvenile Court Judge. He asked the Judge to let him stay longer because he needed to work on his thinking and be truly ready to confront the world outside.

These were not persons with unusual fears; these were addicts who began to accept that they were eaten up with their own rationalizations. Jail became a friend through which they rediscovered what was important to them. They realized while in jail that they needed time to gain strength through knowledge so they could face the world and its challenges in an honest way. They also were addicts who came to healthy realizations, ones they never would have reached if they had not been jailed long enough to clear their thoughts from the cloud of chemicals. It was as if they needed a hiatus from the real world, the world that was so painful to them, so they could stay sober long enough to begin thinking rationally and not addictively.

Rational thinking does not come to an addict overnight, it takes time. Rational thinking does not come from jailhouse conversion experiences, though that may also happen with some. What I observe in Recovery Court cases are realizations by the addict or alcoholic that they have not been thinking normally but in a distorted way. This realization only happened when life brought them a life changing event (jail) that literally knocked them off their feet. If that had not occurred, recovery would not have begun. And until the reality of their addictive thinking was understood after they became sober while in jail, recovery could not have been sustained.

### **THE ADDICTED DEFENDANT'S CHARACTER MUST CHANGE**

While there are many facets of an addict's character that may need changing, there are four specific character flaws that I see repeatedly, character issues involving manipulation, trust, the fear of living sober and spirituality.

#### **MANIPULATION**

Addicts specialize in manipulation. Their very essence reeks of manipulation. Their primary thought each day, the one that drives them and their motives, is how they can use and avoid the consequences. Their singular drive is how to gain access to their drug of choice and it doesn't matter who they step on in the process. Manipulating others to gain their desired goal is second nature.

As a Judge I am always wary of the addict's manipulations, not only as it affects me but also as it affects the addict's family and loved ones. These significant others usually have no idea that they are being manipulated and that it is happening to them daily. Often these family and friends unknowingly play the same game with me and our staff.

"Who are you, please?" I asked the young lady standing next to a participant in our Sap Recovery Court who had relapsed on cocaine the week before at his home. I will call him Craig. Craig had invited over a friend who brought the powder that they both snorted off the kitchen table in Craig's house.

"I am his wife," she answered. "I am 5 months pregnant and my 5 year old boy is at home with my sister. We really need Craig home because I can't work and our rent is due."

She had already begun the manipulation. She wanted me to buy into her needs before Craig was ready to accept his needs in recovery. I first had Craig tell in painstaking detail the full story of how he used their kitchen table to snort his drug, and how he and his friend had done this when the wife had taken their little boy shopping.

"Do you love Craig?" I asked the obvious.

"I sure do, and so does his boy at home." She continued the manipulative comments. Would I bite?

"How much do you love him?" I inquired. "Do you love him to death?"

"Yes, I really do. I would do anything for him."

"Anything?" I asked.

"Yes." She cried hard.

"Do you love your child at home and your unborn baby too?" I dug deep. It sounded cruel.

"Yes." She was blubbing now.

"Then why would I let Craig out of jail so he could use cocaine around you and your kids? Why would I let you love him to death when I have the ability to let you love him sober and love him when he is alive? If you love him and you want the best for him and your family, let me keep him where he is safe and where he can find out what is really important to him. I know what is important to you, but I do not know yet what is important to him. "

"But the baby? I know he will change for our new baby." She cried loud now. I could feel her co-dependence in the heat of her pleas.

"His having a new baby is the reason I will not let him out. It is not a reason I would ever release him. I will release Craig when he is ready to change, not when you are ready for him to change and not when you and the family are ready to have him back. His work in jail will let me know when he is ready and able to be the father you want him to be, and the dad you need him to be."

"What will we do?" She was desperate.

"You will do fine, ma'am. In fact you will do better than you have before, because you will be without an addicted husband and father who is actively using."

"I am ready now, Judge," Craig weakly chimed in, knowing that it was only manipulative rhetoric, the kind he had used before, not a true feeling of commitment to his sobriety.

"No you aren't, Craig. You are not even close. But we will get there if you are willing. Deputy, he is yours."

I ended the hearing abruptly to make my point. We had work to do and it wasn't going to happen in court that day. This would take awhile. A few weeks later, after Craig had completed some reading assignments, and after he had written a letter to his wife and another letter to his unborn baby, I released Craig and ordered that the letter to his unborn baby be taped to the kitchen table where he had snorted his drugs. I ordered that it was to remain there until the baby was born, right next to the sonogram picture of his baby that his wife had just brought home.

Prior to his release, Craig finally said to me by videoconference and to his family in writing what I wanted to hear and what they needed to learn. He stated that he was the addict, not them, and he was the one that made the choices that had damaged their relationships, not them. He admitted that he was the problem. He said he had begun to work on changing his addictive thinking and he fully understood why the month in jail was necessary to begin that process. He did not ask me to be released but left that decision in my hands. He knew and agreed that I would arrest him again if he relapsed again. He had begun the hard process of not rationalizing his abuse of drugs and not manipulating me or his family, but rather facing his addiction head on.

## TRUST

I tell all probationers that until they build trust with me and their treatment team “we” will not succeed. And if they are in jail, I tell them in no uncertain terms that until trust exists on every level between them on the one hand and me and our staff on the other hand, they will not be released. There are no statistics but it is well accepted that addicts lie about many facets of their lives and I suspect that close to 100% of addicts who are active in their use also actively lie about their use to everyone they come into contact with. That is how they survive in the world that expects them to be sober and most have engaged in this distrustful conduct for years. To expect an addict to begin to change their distorted character trait of trust over a weekend or even a few days in jail is not realistic.

Trust is a foreign concept to most addicts. Addicts don't even trust themselves much less another person. They only trust the drug or the alcohol that gives them immediate relief from their pain. Substance abuse is an easy and quick fix for inadequate feelings relating to trust. And the concept of a Judge, probation officer or a counselor actually discussing this concept with them at a time when they have relapsed and are suffering the direct consequences of incarceration is difficult and unnerving to an addict. Defendants may voice that “I understand what you mean about trusting me,” but in virtually every case where a defendant has been arrested for substance abuse, they do not understand. Not yet.

We discuss the concept of trust with all probationers who are in jail for violating their probation or the protocol of our Recovery Courts. I know this is done daily in probation offices, but discussing trust with a Judge from the jail by video takes on a whole new meaning. And if the addict believes that the judge will not release him until the defendant finds a new beginning based on trust, the discussions carry a whole new importance. The addict or alcoholic will literally drop the parroting of words that they think I want to hear to real words that reflect what is in their heart.

If an addict will ever believe they are on their last leg, this is the time. If an alcoholic will ever believe that truth will set them free, this is the time. In our court we use videoconference daily to talk to these defendants from the jail. The video itself suggests to the defendant that they have not even earned the right to see the Judge in person. Trust becomes something they want to gain badly, if for no other reason than to be released. And wanting trust for this reason is a good thing.

It is as if they realize that nothing else is going to work at this point, especially when it becomes very apparent that they will not be released until the I and the staff

believe they are ready. Every now and then one of our Recovery Court defendants questions our staff or counselors about this “floating jail release” concept:

“Why did I have to stay in jail for 45 days and that other fellow was released in 20 days?” They will whine.

Our staff explain, “Time in jail for any one defendant is not related at all to your underlying charge, your prior record or anything other than the Judge’s and staff’s perception of when we believe you are truly ready to make a change in your life and in your addictive thinking.”

And so it becomes quite obvious that they might as well try building trust with the Judge since nothing else is going to work anyway. And since they are in jail and they know that I will be made aware of their attitude and conduct while there, there is little reason to whine, complain or do anything other than constructive work on themselves and their thinking. What a novel concept, this trust thing!

But this “come to honesty” realization does not happen overnight. It may not happen in a week or even a month. Like so many issues of character change with an addict, it takes time for the pain of the incarceration to work its way through the toughened veneer of the addict or alcoholic and it never happens while they are still under the influence of drugs or alcohol. Once the addict is clean and understands that nothing they say will gain their release but rather the hard work of soul searching through reading, writing and discussion assignments is their only ticket out, then they can accept that their fate is based on a character change involving trust.

As important, the addict must believe that they can trust the Judge and staff. This is most difficult especially if there has been a history between the staff and the defendant. And in our Recovery Courts this difficulty of earning the defendant’s trust is evident every time I see one in jail. Regardless, since trust must start somewhere, I often tell these inmates that they really have no choice but to trust us, “who else is here for you at this moment, other than us?” I frequently remind them that their trust in us should be easy to accept since we had lived up to our promise to them that “we would save them from their addiction by jailing them if they relapsed or had a positive or even a diluted UA.” This was a negative consequence to be sure but it was one that we had promised them and it was a promise that we had fulfilled.

From the staff’s perspective also, this trust building concept can be hard to understand. Consider the case of one of my Recovery Court staff who was told by a participant while he was in her office that he had relapsed on alcohol. Knowing my standing rule of “immediate” jail sanctions when we learn of a relapse, the probation officer did not tell the defendant that he should turn himself in right then, thinking he would run. When I learned later that day that he had left her office without being told to wait for a deputy to come handcuff him, she explained her predicament.

“I called your office for an Order of Arrest, Judge, but before I could get it back with a warrant he left,” she said.

“Did you tell him he was being arrested and that he should turn himself in before the Judge issued an order for his arrest?” I asked.

“No, sir, I thought he would run out the door,” she said.

“So?” I asked. “Let him run. Remember, our Recovery Court is based on trust between the participant and us. If he wants to run then let him. When we find him and arrest him he will suffer consequences more severe than if he simply turned himself in. Leave the choice to him. But be honest with him, especially now. He has been honest in admitting a relapse and we owe him an honest response. Besides, we need to see how he handles your request when you ask him to wait for the deputy.”

“I like that.” She admitted. “I always feel strange not telling them what is coming. It is like playing that game of hide the ball.”

Dr. Twerski explains that addicts must have reason to believe they will not be misled, that their welfare is the prime goal of treatment and that nothing will deter the staff’s goals. “Addictive Thinking,” (Chapter 19, Addictive Thinkers and Trust.) This is absolutely true with Recovery Court participants, and it includes the reality of immediate jail sanctions when they relapse. They should expect this, both for themselves and for others in the program who relapse. When it does not occur we have failed in earning their trust. When viewed from this honest perspective, jail sanctions become a treatment modality that is part of the recovery process that the addict can believe in. If they can’t trust their treatment team to make the hard choices, how can the team expect them to?

Let me give a more vivid example. One addict in our SAP Recovery Court, Jeanine, was a 35 year old female that had struggled for years in her methamphetamine addiction. She had sold herself for drugs and was literally dying a slow death on the streets. After entering our Recovery Court program, and after working months with our staff, she became very invested in her recovery. She had new and better friends and she was working. She appeared before me one day on a status hearing docket and she looked fabulous, well dressed, hair done up, and all smiles. She had a new boyfriend that she introduced in court. We were elated.

A few days later her probation officer called to report that she had missed an appointment and word on the street was she had relapsed. I immediately issued an order of arrest, but before she could be picked up she was found by others and she was dead. I think of her every day and often mention her story in court. I believe that if we had been able to arrest her before her fatal end we could have kept her safe until she again found sobriety and re-started our program or we entered her in another program. Although it was out of our hands, we failed her because we were unable to act quickly enough. When we have the ability to detain a defendant who has knowingly relapsed, our profession demands and their lives may well depend on our immediate action. Anything less is inexcusable.

The participants who are succeeding in our Recovery Courts fully understand and appreciate the concept of trust, both with its positive and negative consequences. They understand the need for jail when one of them is actively using. While they do not like it nor want it, most of them expect to be immediately arrested if and when they relapse, and in fact have come to “trust” the threat of jail sanctions as an integral part of their recovery. It may well be the life changing event that forces them to change, or begin anew in their recovery process. This form of reciprocal trust is at the heart of the recovery process.

## **THE FEAR OF LIVING SOBER**

One of the most engrained traits of an addict is what Dr. Twerski calls "morbid expectations." I call this the fear of living sober. When a defendant enters one of our Recovery Courts, I worry that during the latter phases of the Program the addict will succumb to their fear of success and as a result will sabotage their recovery. Self destructive behavior allows the addict to avoid the responsibilities that they face when they have earned independence. It is difficult to live life sober when you have habitually used drugs and alcohol in an attempt to feel good about yourself or to ease emotional pain.

The concept that a person would do something to derail their success may sound strange but remember we are dealing with an addict. An addict that has succeeded at any program, and especially one that was in house or institutionalized, will still have the propensity to view the world through the lenses of their addictive thinking. The problem with most addicts is that while many can handle the stress and problems of life while inside a facility or during intensive phases of treatment, once they are removed from the walls of the facility or the supervision of staff and counselors, they come face to face with their inadequacies at living life in the real world. The confinement was safe and the immediate interventions of staff prevented meltdowns. Outside and independent, however, they face day to day issues without the comfort of that support and that is very frightening.

In our SAFPF Recovery Court, one alcoholic, call him Phil, had successfully completed 3 phases of our 5 phase program and was on his way to graduation. He had struggled initially after leaving the SAFPF institution, and I previously had kept him in jail for approximately 3 months after one relapse. Thereafter, with the strong support of several of other participants, Phil had successfully obtained a job that also gave him a free place to live. This was a man that previously had lived on the streets. He was exuding confidence and he was feeling good about his sobriety. He looked happy and he had even begun to smile a lot. He was succeeding for the first time in decades. Phil had even begun to help others in the program and we believed he was truly in a stable place emotionally.

Phil had not yet seen a graduation in our program and it just so happened on a certain court date that we graduated a young woman that had completed all her requirements. As is our custom, all participants in the program were present at the graduation. Immediately following the graduation we began to hear from Phil's employer that he was slacking and there were even hints he had begun drinking on the job, even drinking hot beer in his recently repaired truck that he now used for deliveries. Soon, Phil quit his job and moved out of his place. I jailed Phil as soon as I realized he had relapsed, and before the relapse worsened or he injured himself. When confronted, Phil claimed that "I could not do it anymore. Everything had begun to spiral downwards for me."

To the non-addict, there would have been nothing that had changed, but to Phil he had seen success up close and personal and he could not imagine that he could do that. To graduate meant he would be alone, doing sobriety without the support of our program, without the judicial policing, and without the group and Recovery Court team. His irrational fears created morbid expectations that led him to sabotage his success.

Phil was, of course, thinking addictively, and this addictive thinking led him to relapse by drinking. Nothing had actually changed in Phil's life, but his distorted perception of who he was and that he couldn't possibly do what would be expected of him after graduation, led him to jump off the "emotional cliff" so he did not have to face this "dreamed up" failure

We started Phil over at a phase in the program where he could ground himself again in feelings of worth. From there he will work the program again and our goal is for him to gain more insight and confidence in his recovery so that he can believe that he can succeed at the ultimate task of sobriety. It took Phil 40 years to become the alcoholic that he is, and it may take many relapses and re-starts for Phil to change this character trait of fearing a life of sobriety. His thoughts are instinctively addictive and fearful by nature, not healthy and realistic, and until he changes how he views himself and life in general, he will continue to relapse. In prison, he would never find recovery; in our Recovery Court he has a much better chance.

Non addicts know that normal life is one challenge after another. Addicts, on the other hand, believe that when they have to continually face challenges they must be doing something wrong. Non addicts know that life is never ending in its daily adventures and challenges, and that life has its successes and failures. Addicts think that having to face daily challenges means they are a failure. This fear of living sober is a symptom of addictive thinking. That is why Phil relapsed in his recovery.

## **SPIRITUALITY**

I do not preach religion in court and I do not require a defendant to attend church. While I have a strong faith personally I do not force feed my beliefs in any addict's recovery and I do not require any defendant to believe in God. On the other hand, I believe that an addict or alcoholic is much more likely to succeed in their recovery if they have a spirituality that is based upon a strong faith. Put conversely, an addict without a deep felt faith is most likely to fail in their recovery.

Some call spirituality a belief in a Higher Power and some call it a faith in God, both being an acknowledgement in someone or something that has more power than them. Regardless of the name or the approach, it is clear that spirituality plays a large role in the lasting nature of any recovery. Some addicts find peace in a faith, some find strength in others around them and some even claim that they feel a magic in what is transpiring during their recovery. Whatever it is called and whatever it does for an addict, this spirituality clearly solidifies the commitment the addict feels in their recovery.

The separation of church and state prohibits a Judge from infringing on a defendant's religious beliefs. But there is no constitutional impediment to a judge or Recovery Court staff encouraging an addict to accept the conviction that faith in a power greater than them is a strong component of a lasting recovery. AA and NA writings speak of spirituality, as does Dr. Twerski, saying that an addict or alcoholic can maintain spirituality without religion ("Addictive Thinking", Chapter 20). The distinction is a fine one, I must admit, but if that distinction provides an avenue through which a defendant "buys into" a Higher Power or God that they can trust and with whom they can deposit their worries and distorted thinking, then I say more "power" to them.

The concept of powerlessness that AA and NA teach is really nothing more than the “giving up the fight” to someone or something more powerful than the addict. It does not mean, however, that the addict is not doing anything in their recovery. On the contrary, the concept of powerlessness in the context of recovery is akin to what the Serenity Prayer teaches:

God grant me the serenity  
to accept the things I cannot change;  
courage to change the things I can;  
and wisdom to know the difference.

In truth, convincing an addict to search for a source of power greater than them should be fairly straightforward. When an addict acknowledges that they have lost control over their addiction and that the addiction is in fact controlling them, they will accept this powerlessness concept. This becomes especially evident to the addict who is in jail. There they literally have no control over their tomorrow and taking life one day at a time is not only easier, it is their only choice. Accepting things that they cannot change is not difficult either since they have no control over the most important thing in their lives at that time, freedom from jail. Confinement in jail convinces them that their “imagined” power over their addiction was and is impotent. Jail is a wonderful tool to persuade the addict to let go of their sick need to control, what Dr. Twerski calls their distorted feelings of omnipotence. Giving up the fight in this way liberates them from their irrational belief that they somehow were able to fight the battle alone.

In the end, whether it is an AA/NA group, a counselor, the probation officer, the Judge or God is not as important as the fact that the addicted defendant must accept that alone they have no power over their addiction. They must find that someone or something to whom they can and will look for support in their recovery. In recovery, faith by any name is better than none at all. Encouraging defendants to find a spiritual solace by whatever means possible is critical to a successful and lasting recovery. What that other thing is doesn't matter as much as the fact that it must be found and trusted. I encourage our participants to rely upon their spirituality to help them find a peaceful relinquishment of the “demons” that stalk them. In the process of finding spirituality the addicted defendant's character changes in a positive and productive way.

## **CONCLUSION**

My job as a Judge is not to save the world, but to implement justice in a court of law. Helping the addicted defendant find a recovery that changes their character does just that.

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<sup>1</sup> I preside over 3 Recovery Courts (previously called Drug Courts). These are:

- SAP Adult Recovery Court (<http://www.co.montgomery.tx.us/410dc/sap.shtml>) for Defendants that originate from my criminal caseload in the 410<sup>th</sup> District Court,
- SAFPF Reentry Program/Recovery Court (<http://www.mcdecsc.org/Default.aspx?tabid=70>) for defendants that originate from the caseloads of 4 of Montgomery County's District Courts and who have successfully completed the inpatient portion of the Texas Department of Criminal Justice's Substance Abuse Felony Punishment Facility, and
- MC POWER Juvenile Recovery Court (<http://www.co.montgomery.tx.us/410dc/mcpowercourt.shtml>) for cases that originate from Montgomery County's Juvenile caseload.

<sup>2</sup> In this paper, the term "addict" includes alcoholics and those that abuse prescribed medications.

<sup>3</sup> For example, the SAP Program Requirements provide that a participant may attend "a cognitive based/life skills program approved by the Court or CSO." (<http://www.co.montgomery.tx.us/410dc/SAPREQUIREMENTS.PDF>).