

Dear Readers,

I'm in the Quarantine Unit with Covid. Prison is a Petri Dish for germs and I'm 67 years old. Covid is the only disease I've failed to avoid. Twice! Aaaaand I've been vaccinated!! It's frustrating to follow the rules and still get knocked down.

You'd think I'd be accustomed to this. After all, that's the reason you're reading this. The State's psychologist told the Parole Board I'm not violent, that I've been nonviolent for 38 years, BUT (she warned in her written report) if the Board releases me from prison (the doctor believed) I'd use the Internet to find evidence that proves my innocence. Therefore, she advised the Board to continue my imprisonment.

Mind you, I never said I'd use the Internet for any reason. She never asked. My Dad has had a website since 2005 and I never contributed to it. I've refused all media interviews since 1994!! The doctor didn't ask if I intended to go on a media campaign (after 30 years of silence!!!). She just assumed I would because she would. She advised the Board to keep me in prison to prevent me from doing what she would do if she was wrongfully convicted and falsely imprisoned for 38 years.

It's important to remember, Oregon Law (ORS 144.228) says the Board SHALL release me when I'm "no longer dangerous". The Law doesn't say Internet use is "dangerous". The Law doesn't allow the Board to deny me parole to prevent me from proving my innocence. I've abided by the rules and the Board actually denied me parole to prevent YOU from learning all the things I've known (and never talked about) for 39 years.

Therein lies the real reason I was denied parole. The lies that put me in prison must be examined before the truth of my innocence can be revealed. That is what the Board fears. Unfortunately, the only way I can challenge the Board's faulty reasoning is to post evidence of the State's corruption on the Internet while I'm still in prison.

The Board had to know I'd respond this way. The doctor had to know I'd do this. Of course they'll deny this, but it honestly seems like someone wanted me to pull the covers off Oregon corruption. Am I wrong? I'm not sure how else to see this.

Whether this was the Board's plan or not, your thoughts encourage me to continue my mission until I leave prison. I'm especially tickled by some of your insightful and down-to-earth comments.

***** Yes, the evidence in the postings titled JUDGE GREGORY FOOTE and INVESTIGATOR RAYMOND J. BRODERICK do pose some "gnarly questions the State won't want to answer". Well said!

***** And another: "What's Oregon hiding"? My question exactly.

***** And yet another: "What about that Pex guy who said you can fire a handgun six times and not get gunshot residue on you or your clothes? I watch all the crime shows and never heard of that before". Good point.

It appears most of you are more interested in the back story for people in this case. I'm more a facts and figures kinda girl, but I think we can meet each other halfway. I'll use State-generated documents to tell the personal story of the people you want to hear about. We'll examine more of what Pex said and did after I get out of Quarantine. All my legal stuff has been secured but I won't be able to access it until I return to my Unit.

Until then I'll only be able to post the document I brought with me. I've been gearing up to file a PETITION TO VACATE SENTENCE ORDER, so I brought the material with me to Quarantine.

CIRCUIT COURT OF OREGON
COUNTY OF LANE

Elizabeth Diane Downs,
Petitioner

v
State of Oregon,
Defendant

Case Number:
ORS 138.510
PETITION FOR POST CONVICTION RELIEF

=====

COMES NOW PETITIONER, Elizabeth Diane Downs, requesting "Vacation of Sentence" and "Resentencing" in the case of OREGON v DOWNS, Lane County Case Number: 10-84-01377.

ORS 138.520 --- RELIEF WHICH COURT MAY GRANT

The relief which a court may grant or order under ORS 138.510 to 138.680 SHALL INCLUDE RELEASE, new trial, modification of sentence, AND SUCH OTHER RELIEF AS MAY BE PROPER AND JUST.

OREGON v COTTON, 240 Or 252, 400 P2d 1022 (1965)

"The court in imposing punishment for a criminal offense is limited to the provisions of the applicable statute, and ANY DEVIATION FROM THE STATUTE in the mode, extent, or place of punishment RENDERS THE JUDGMENT VOID".

ORS 138.530 --- WHEN RELIEF MUST BE GRANTED

(1) Post-conviction relief pursuant to ORS 138.510 to 138.680 SHALL BE GRANTED by the court when

(c) SENTENCE ... NOT IN ACCORDANCE WITH THE SENTENCE AUTHORIZED BY LAW

OREGON v DIXON, 238 Or 121, 122, 393 P2d 204 (1964)

An illegal sentence may be attacked at any time if it is unconstitutional in nature.

Petitioner's 1984 Sentence Order states on its face the Court's intent to order restitution at some future date (Appendix 1).

OREGON v BONNER, 307 Or 598 (1989)

"The judgment contains the sentence, if any. ORS 137.010 (5). Restitution, when it is ordered, is a part of the sentence. ORS 137.106 (1). It follows that, if the final document ... whether denominated 'judgment' or something else, states on its face that the trial court intends to impose restitution at some future date, THAT DOCUMENT IS NOT A (FINAL) 'JUDGMENT' ..."

These laws were ignored in the case of OREGON v DOWNS in 1984. These laws were ignored in exactly the same manner in the cases of BONNER and OREGON v RICKEY, 97 Or App 41 (1989). The Oregon Supreme Court of Appeals concluded there was no final judgment in BONNER. The Oregon Court of Appeals followed the precedent set by the Supreme Court when deciding RICKEY. Both prisoners were returned to their Counties of Commitment for resentencing.

Petitioner's case is no different except her Sentencing Order has never been vacated and she's never been returned to Lane County for resentencing. Oregon Statute and Oregon precedent are well established. The Sentencing Order in DOWNS is void and must be vacated. The Fourteenth Amendment of the United States Constitution says, "No state shall ... deprive any person of life, liberty, or property, without due process of law ". An improper sentence has imprisoned Petitioner for 38 years. Her Constitutional Right to due process is being violated and relief is required. DIXON at 122.

PRAYER FOR RELIEF

Petitioner prays this Court for an ORDER vacating her unauthorized Sentence Order.

[REDACTED]

[REDACTED]

Petitioner lastly prays this Court for an ORDER that Petitioner attend resentencing via Skype.

Respectfully Submitted,

Elizabeth Diane Downs



CERTIFICATE OF MAILING

I certify a true copy of this PETITION FOR POST CONVICTION RELIEF was placed in the mail addressed to the following on 7-02-2022,

Lane County District Attorney
Lane County Courthouse
125 E. 8th Avenue
Eugene, Oregon 97401



Elizabeth Diane Downs W49707
CCWF 512-02-1L
PO Box 1508
Chowchilla, California 93610-1508

#282 FILING FEE ENCLOSED

Parole Board Records

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR LANE COUNTY

THE STATE OF OREGON,)
)
 Plaintiff,)
)
 vs.)
)
 ELIZABETH DIANE DOWNS,)
)
 Defendant.)

Case No. 10 84 01377

SENTENCE ORDER

FILED
AUG 28 1984
COURT ADMINISTRATOR
Circuit Court
BY [Signature]
EUGENE COUNTY JAIL AND PROBATION
DEPUTY
RECEIVED

This matter came on to be heard on the 29th day of August, 1984, the State of Oregon being represented by Frederick Hugi, Assistant District Attorney for Lane County, Oregon, and the defendant, Elizabeth Diane Downs, appearing in custody and by her attorney, James C. Jagger, said defendant having been tried and convicted of the crimes of MURDER, ATTEMPTED MURDER, ATTEMPTED MURDER, ASSAULT IN THE FIRST DEGREE and ASSAULT IN THE FIRST DEGREE before a jury in the above court and cause, and this being the time set for imposing sentence herein, and the Court, having heard testimony and arguments of counsel, and being fully advised; and having advised the Defendant of her right to appeal;

The Court finds that for the purpose of imposing sentence herein, the defendant, Elizabeth Diane Downs, is a dangerous offender, as described in ORS 161.725(1).

The Court further finds that for the purpose of imposing sentence and conviction herein, the crime charged in Count IV of the Indictment merges with the crime charged in Count II; and that the crime charged in Count V merges with the crime charged in Count III.

IT IS HEREBY ORDERED AND ADJUDGED that the defendant, Elizabeth Diane Downs, be, and she hereby is, sentenced to pay restitution in an amount to be determined, and the District Attorney shall have thirty (30) days from the date of entry of this order to submit the restitution information to the Court.

COUNT I
(Murder)

IT IS HEREBY CONSIDERED, ORDERED AND ADJUDGED that the defendant, Elizabeth Diane Downs, be and she hereby is sentenced to imprisonment for a term of life, and she hereby is committed to the legal and physical custody of the Corrections Division of the State of Oregon.

IT IS FURTHER ORDERED that said defendant shall serve not less than five (5) years minimum, pursuant to ORS 161.610.

APPENDIX I

COUNT II
(Attempted Murder)

IT IS ORDERED AND ADJUDGED that said defendant be, and she hereby is, sentenced to imprisonment for a term not to exceed thirty (30) years, of which defendant is to serve not less than fifteen (15) years minimum, and she hereby is committed to the legal and physical custody of the Corrections Division of the State of Oregon.

IT IS FURTHER ORDERED that defendant shall serve not less than five (5) years minimum, pursuant to ORS 161.610, to be served concurrent with the fifteen (15) year minimum sentence set forth above.

IT IS FURTHER ORDERED AND ADJUDGED that the sentence imposed herein on Count II shall be served consecutively to the sentence imposed in Count I.

COUNT III
(Attempted Murder)

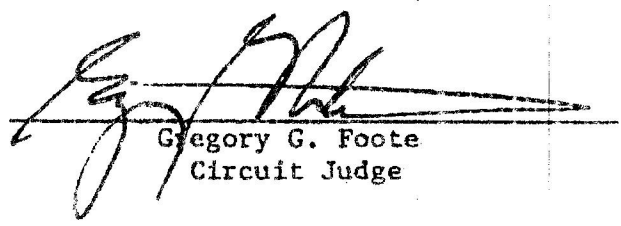
IT IS ORDERED AND ADJUDGED that said defendant be, and she hereby is, sentenced to imprisonment for a term not to exceed twenty (20) years, of which defendant is to serve not less than ten (10) years minimum, and she hereby is committed to the legal and physical custody of the Corrections Division of the State of Oregon.

IT IS FURTHER ORDERED that defendant shall serve not less than five (5) years minimum, pursuant to ORS 161.610, to be served concurrent with the ten (10) year minimum sentence set forth above.

IT IS FURTHER ORDERED AND ADJUDGED that the sentence imposed herein on Count III shall be served consecutively to the sentence imposed in Count II.

IT IS FURTHER ORDERED that the Sheriff of Lane County, Oregon, deliver said defendant to the custody of the Corrections Division of the State of Oregon.

Dated this 28th day of August, 1984.


Gregory G. Foote
Circuit Judge

KAY GATES
Official Reporter
Lane County Courthouse
Eugene, OR 97401

CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL DOCUMENT CONSISTING OF 2 PAGES, WHICH IS FILED IN THIS OFFICE AND OF WHICH I AM THE LEGAL CUSTODIAN.

DATED August 28, 1984
Circuit Court
Lane County, Oregon
By Sharon Storey