

Due Process Rights

The fifth amendment right to not be a witness against oneself would help to prevent an innocent person from taking a plea deal; as the negotiations for a plea deal will often offer “leniency” for a confession, but if one is innocent their words may be misconstrued as guilt simply for talking. For this reason, one does well to remember the right to remain silent, and to invoke that right after requesting an attorney. The same amendment says that one shall not “be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury” (U.S. Const. amend. V). This helps an innocent person reject a plea deal because the trial will not even happen unless the grand jury decides there is reasonable evidence that the crime was actually committed by the defendant. The right to an attorney from the sixth amendment is important as well, as a good attorney will advise them that they have a strong case for innocence; or even that the burden of proof lies on the accuser. A good lawyer will also help remind their client not to speak, and make sure that other due process rights have been respected. From the same amendment, the right to trial means there is no obligation to make a plea deal, which should also embolden an innocent person to resist one. The right to an impartial jury, granted in the sixth and seventh amendments, should help the innocent person trust that the process will yield justice and thus lead them to reject a plea deal. The Bill of Rights states that “the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed” (U.S. Const. amend. VI). This means the jury should be coming from their own community, and their lawyer will help select it to try to ensure as fair a jury as possible. At the same time, it means that if the accused is held in jail during the trial, it should not extend for an unreasonably long period of time. If the trial is

prolonged, a civil case may perhaps be made by an excellent lawyer against the government for violating the “speedy” clause of the sixth amendment.

Plea Bargaining Process

The plea bargaining process adequately meets the due process rights of the accused. In the normal function of the process, there is no point in which the accused is forced to bargain or make a deal, nor denied a lawyer, nor forced to talk. The forfeiture of a trial only comes when the deal is fully accepted and as with any deal or contract, it is the fair and reasonable responsibility of the accused to understand their rights, what they are giving away, and what they are agreeing to receive in return upon taking a plea bargain. As stated in the textbook, “Plea bargains are considered to be contracts between the defendant and the state” and “The ultimate decision rests with the defendant” (Hager, 2020). Unlike some rights, the due process rights are not inalienable, meaning they can be waived voluntarily in certain circumstances. Usually a plea bargain will involve the waving of the right to remain silent, and will always waive the right to trial, but it is always voluntarily chosen and agreed to by the defendant. The U.S. Supreme Court has also promoted plea bargains, “When handled properly, the court explained that plea bargains might be advantageous to all parties” (Uridia et al., 2023). In view of all of these things, I would confidently say the process meets the rights of the accused, and even often benefits them.

Reducing Plea Deals

In the video, some of the ways they suggested reducing plea bargains were to change the laws (decriminalize), increase resources, or the most commonly supported way was to simply charge less non-violent crimes. For various reasons, none of these are reasonable to put into practice. Starting out with the simplest, decriminalizing behavior simply because there are too

many criminals is not going to improve society; it will just make the chaos worse. Increasing the resources of the justice system enough to charge many more cases is not reasonable either, as it would take an unprecedented amount of increased manpower and money, multiplying the cost of the system by at least 30 times over. This brings us to the last suggestion mentioned, charging less crimes that are non-violent in nature. The problem with this approach is that chaos begets chaos. This has been proven empirically through the broken window theory being tested, “All researchers agree that when a window of a building is broken, and if a new one is not installed, other windows will be broken” (Sakar, 2023). Sakar goes on to write, “It is seen [that] unethical behaviors that are neglected and ignored at first cause problems after a while” (2023). These conclusions are not surprising at all, there is a simple cause and effort relationship at work here. If a small crime is ignored or tolerated, then not only will people be emboldened to commit more of that same small crime, they will gain confidence that a bigger crime will also be ignored. Choosing to not charge small crimes will have the same effect, as people will start to see that they can get away with it and try to get away with larger crimes too. The concept of choosing to charge less crimes is to reduce strain in the system, but in reality it will only lead to more crimes and increase strain in the system. Worse than that, but it will increase crimes that should never be plea-bargained, like murders. We see something very similar happening today, having escalated for the past 4 years. As we read in The Epoch Times, “[Barr] said under these policies the homicide rates for several cities have seen an increase, with Philadelphia’s murder rate reaching its highest point in over a decade, despite a falling nationwide crime rate” (Kan, 2020). The previous Attorney General was talking about “progressive prosecutors,” or District Attorneys who were trying to actualize the plan of charging less crimes. It is plain to see, that the result is simply an increase of crime and more strain on the system.

References

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U.S. Const amend. V

U.S. Const amend. VI

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