

3-17-2011

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## Recommended Citation

Roger Williams University School of Law, "Newsroom: Horwitz: Woodmansee and the Constitution" (2011). *Life of the Law School (1993- )*. 279.

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# Newsroom

## Horwitz: Woodmansee and the Constitution

Dean Andrew Horwitz weighs in on the controversial Michael Woodmansee case, arguing for "level-headed discourse" over "vigilante justice."

*In the **Providence Journal**: Associate Dean of Academic Affairs and Professor **Andrew Horwitz** on ["Woodmansee and the Constitution"](#)*

**\*\*\*\*UPDATE, MARCH 24, 2011: Dean Horwitz** has been interviewed about Woodmansee by a number of publications over the past few days. To see all the latest articles, visit the **RWU Law [Newsroom](#)**.



**March 17, 2011:** The principle that makes me proudest to be an American is that we are a society governed by laws and by the beautifully constructed U.S. Constitution, a document that assures equal treatment under the law and protection for all against government overreaching.

Sadly, these concepts sometimes seem to get lost when they are put to their hardest tests. The case of Michael Woodmansee seems to be the latest example of this troubling phenomenon. And those sources that we should be able to count on for level-headed discourse are letting us down the most.

Woodmansee was convicted of a heinous crime almost three decades ago — killing young Jason Foreman. Woodmansee entered a guilty plea and was sentenced to serve a term of 40 years. No

participant in that proceeding — not the judge, not the prosecutor, not Woodmansee or his lawyer — believed at that time that Woodmansee would actually serve 40 years in prison. All of the participants understood that with “good time” he would be released some time well before that date.

Now that the date is near, the public is in an uproar. People are asking why we can’t just keep him in jail beyond his sentence. Some, including the victim’s father, have publicly threatened to impose “vigilante justice” if he is released.

Thankfully, we live under a constitution that lets the government punish us once — and only once — for a given crime. When that sentence is completed, the government no longer has the ability to impose further punishment. We do not change the rules in the middle of the game.

One would hope that Rhode Island Atty. Gen. Peter Kilmartin, the state’s chief law-enforcement official, would be out front condemning those who threaten violence and lawlessness. Instead, Mr. Kilmartin’s initial proposal was to explore whether Woodmansee’s “good-time” credit could be reduced retroactively to extend his sentence. When his staff advised him that such a move would violate the Constitution, he responded “I’m cognizant of the Constitution, but my job is to protect the citizens of this state. We’re trying to look at different options.”

In fact, Mr. Kilmartin’s job, first and foremost, is to protect and preserve the U.S. Constitution. A true leader would explain to the public that following the law can sometimes be painful and difficult, but must always be the path that we take as a society of laws.

The *Journal* has not served us much better under these difficult circumstances, penning a March 11 editorial entitled “Keep this killer in jail.” At least the editorial, in lukewarm language, suggested that “vigilante justice” was not appropriate, though not because it is unlawful or morally wrong, but rather because it “promises greater tragedies for anyone involved.” The editorial board’s call to manipulate our laws in ways that they are not intended just to get to a desired result in this case was just as strong as that of Mr. Kilmartin.

Was the sentence imposed upon Woodmansee too lenient given the severity of his crimes? Should he have faced life in prison without the possibility of parole? It seems that such a sentence would have been far more appropriate in this case. There are certainly many reasons why a prosecutor and a judge will agree to the certainty of a disposition reached by agreement before trial. Can we fix that problem now? Not without sacrificing the core principles that make me most proud to be an American.

The calls to revisit our “good-time” provisions based upon this one alarming case are misguided. They bring to mind the school that decides to permanently cancel a successful annual activity because one child misbehaves on one occasion, or the governmental entity that imposes an oppressive regulatory scheme because one actor has behaved poorly.

That is no way to govern, and Mr. Kilmartin knows as much, having voted on a bill to expand “good-time” credits in his last term as a legislator. He understands that allowing “good time” is sound fiscal and correctional policy, encouraging inmates to seek counseling and rehabilitative treatment and to behave while incarcerated, while also saving a lot of money by allowing for early release.

I hope is that we, as a society, will not be tempted by very upsetting facts to twist and distort our legal and constitutional principles to get to a desired end in the Woodmansee case. If that occurs, while some may enjoy the short-term satisfaction of some sort of “victory,” in the longer term we will all be the losers.

*Andrew Horwitz is president of the Rhode Island Association of Criminal Defense Lawyers and associate dean for academic affairs at Roger Williams University School of Law.*

Providence Journal Editor’s note: The editorial said: “We must have fair and orderly administration of the law.”

To read the full article, click [here](#).