A Plea for Justice: The Effect of Plea Bargaining on the American Justice System

SYNOPSIS

THESIS: Plea bargaining bastardizes the American justice system as it leads to infringed rights, false confessions, and lenient punishments.

ARGUMENT 1: Plea bargaining leads to the rights of the American people being infringed upon, and ultimately demeaning the quality of American law.

● The American Constitution specifically guarantees all people the right to a trial by jury.

➢ In all criminal prosecutions, 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, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.¹

● In a plea bargaining situation, details and evidence are rarely made available to the public, often the defendant is also left out of these already informal negotiations.²

● In the 2007 case of Missouri v. Frye,

➢ Frye was charged with driving with a revoked license. His lawyer was offered a deal that the lawyer failed to relay back to Frye, and the plea bargain expired. Frye pled guilty without the benefits of a plea bargain due to the incompetence of his lawyer.³

● Lawyers have too great of an influence in a plea bargain, and have more opportunities for corruption within the sentencing. Lawyers are not objective, as they benefit most when a case does not see public trial.⁴

➢ The most effective method for a lawyer to succeed would be to take a single, high paying publicized case to court each year, and every other case to a plea bargain.⁵


⁵ Ibid.
Plead ‘Em Guilty Fenn is a famous example of a lawyer, living in Philadelphia, who never took any cases to trial.⁶

COUNTER-ARGUMENT 1: The argument against this is that a plea bargain merely provides another option, and in no way eliminates the possibility of trial.⁷ Furthermore, prosecutors argue that sixth amendment rights, including access to competent counsel, is only applicable in a trial by jury and not a plea bargain.⁸

ARGUMENT 2: The plea bargaining system in America has coerced innocent people into pleading guilty to crimes that they have not committed.

The reasoning behind an innocent person pleading guilty is explained in the Prisoner’s Dilemma

➢ The Prisoner’s Dilemma is a hypothetical situation that is used to look at co-operation with authority. Two criminals (who were working together) are arrested and offered the same deal: If Prisoner A betrays Prisoner B, Prisoner A will walk free. If both prisoners stay silent, they will be charged with impeding justice and receive minimum sentences. However if Prisoner A stays silent and Prisoner B betrays him, Prisoner A will receive a maximum sentence. If both Prisoner A and Prisoner B betray each other, they will both be punished, but with a lesser sentence than they would have received for staying silent.⁹

➢ The best option is to take the certainty of the minimal sentence rather than take the risk of a greater sentence, and this is the perspective most people take one - innocent or guilty

➢ The most important aspect of the Prisoner’s is the uncertainty – Prisoner A cannot predict what Prisoner B will do, similarly, in a plea bargain, the defendant is uncertain about the prosecution

➢ Defendants are unaware of the case against them in plea bargaining situations. Furthermore, if exonerating evidence later emerges, a guilty plea may not be revisited.¹⁰

➢ It is entirely up to the court to determine whether or not guilty pleas will be revisited, as established by the precedence United States v. Ruiz. Angela Ruiz was found in possession of

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⁶ Ibid.
marijuana, and was offered a ‘fast track plea bargain’ after being caught. She would have to waive her right to receive new evidence had she taken the plea bargain.

➢ New evidence concerning guilty pleas is ultimately inconsistent between courts
● The ‘West Memphis Three’ was a defining case in innocent conviction
➢ Three teenage boys were convicted of murder, due to a guilty plea (obtained after a 12 hour interrogation) and two were sentenced to life in prison, the other to death row. Over a decade later, DNA testing revealed that the boys were completely innocent. Despite the exonerating evidence, the deal that the court offered the three young men included an Alford Plea.
➢ “In an Alford Plea, the criminal defendant does not admit the act, but admits that the prosecution could likely prove the charge. The court will pronounce the defendant guilty. The defendant may plead guilty yet not admit all the facts that comprise the crime.”
● DNA testing
➢ Peter Neufeld, an expert in innocent convictions, stated “19 of the 261 people exonerated so far through DNA testing had pleaded guilty to crimes they did not commit.”
● 97 percent of drug defendants are convicted by pleas, not trial.

COUNTER-ARGUMENT 2: An innocent person will not falsely condemn themself without reason, and in the event that they do, in all likelihood, they would be found guilty in court as well. Thus, the blame for innocent conviction is not in the system of plea bargaining, but is ultimately inevitable regardless of the means of conviction.

ARGUMENT 3: Plea bargaining enables criminals to be punished more leniently and ultimately defeats the entire purpose of punishment
● Six principles of criminal punishment: to punish the criminal for the act they have committed against society, reduce crime through deterrence, reform the offender so that they will not commit the same

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Crime, protect the public against these crimes, and make reparations towards anybody that the offenders

● Professor George Fischer believes the practice of plea bargaining to be unfair to the victims, and

➢ Plea bargaining, by definition, encourages criminals to plead guilty in order to receive lesser

➢ Rather than deterring repeat offenders, plea bargaining works more in favour for them than first
time offenders. Russell D. Covey illustrates this point with a hypothetical situation of two men
convicted of the same crime and offered the same deal. A first time offender will receive less of
a sentence reduction than the repeat offender in relation to the prison time they would receive in
trial. Four years for the repeat offender can become one year, while two years for the first time
offender will also only be one year. The repeat offender is getting the better deal.

➢ Criminals are not given enough time to be rehabilitated when they are given lenient sentences
through plea bargains: In the United Kingdom, a man assaulted a stranger, killing him with a
punch in the middle of a crowded street. The offender was encouraged to plead guilty in
exchange for a four year sentence, which he took.

➢ Victims are not consulted in the process of plea bargaining. A victim of a crime has a moral
right, as well as a legal right, to see justice carried out.

● Unlike a trial in court, a victim does not have the opportunity to display their voice

COUNTER-ARGUMENT 3: Victims have no place in the courtroom or justice system. Plea
bargaining may not ensure the conviction of the crime committed, but it does ensure a
conviction.

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