

Baseball Verdicts

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SPORT AND SOCIETY FOR ARETE
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It ended last week with the jury foreman announcing to the court that the jury had found Roger Clemens "not guilty."

There have been a number of reactions to the decision. Many of the more self-righteous around the baseball world were quick to point out that "not guilty" does not mean "innocent," nor does it mean "drug free." It does however mean "not guilty," and it was clear that for many of these commentators "not guilty" does not mean "not guilty." What they have pointed out is that Clemens was found "not guilty" of lying to Congress when he told them he had never used steroids or HgH. Clemens of course believes that "not guilty" means "innocent" and he didn't do the deed.

The chorus followed, featuring a solo by Dodger manager Don Mattingly, who denounced the government for wasting all that money, estimated between \$3M and \$5M for the two trials. The subtext of this criticism is that no one really cares about the legal niceties of this case, or even about elite athletes doping. So much time has passed, four and half years, since Clemens appeared in Congress that most people have forgotten about it. That view was given some legs by the fact that two jurors were dismissed when they nodded off during the trial. In addition the first trial ended in a hung jury.

Then there are those who denounced the prosecution for botching the case. Their lead witness, Brian McNamee, who said he injected Clemens with the substances in question, was spun like a top by Clemens' lawyer, Rusty Harden. One New York writer, who apparently was fooled by the name "Rusty" and the Texas accent, described Harden as a bumpkin. The writer must not have read the bumpkin's resume. Harden also managed to get Andy Pettitte to back off from his testimony and say he had only a 50-50 certainty of his recollection that Clemens told him he used HgH.

The Clemens Case was the second major whiff by federal prosecutors in recent times. More millions were spent trying to prove that Barry Bonds used performance enhancing drugs. For seven years the Feds tried to get a case on Bonds, and the best they could do was a conviction on one count of obstructing justice. Estimates of the cost of the

Bonds case ranged from \$55M to \$100M. Bonds was sentenced to 30 days to be served at home, and he is appealing the conviction. How much is that per day? You do the math.

These two failures are usually linked with the failure of the two two-year investigation of charges against Lance Armstrong that ended with no charges being pressed. After watching the Feds fail the U.S. Anti-Doping Agency has decided to make another run at Armstrong charging that he has used illegal drugs in the Tour de France. Charging Lance Armstrong with illegal drug use has become so common that it has taken on the character of a mantra.

So in the end what does it all mean?

Clearly someone thinks that the use of steroids, HgH, and other PEDs is an issue that concerns or should concern the public. Maybe it does. It certainly seems to concern sportswriters and commentators who have an endless supply of disgust for these athletes. For many people however the biggest concern seems to be over wasted time and money.

It seems that most people simply take it for granted that there are drug cheats out there, and those who they conclude are cheats are dismissed by the public out of hand. There is no need for anyone to do time, to make public confessions, or to throw dirt on their heads. Sports fans simply discount these suspect athletes and let it go at that. Baseball players like McGwire, Bonds, and Clemens, to mention a few, get no respect from fans and any records they achieved are considered flawed or bogus. That, for many fans is all that matters. They are presumed guilty.

It is assumed that Clemens was injecting, that Bonds was juicing, and that Lance Armstrong and nearly everyone who ever rode in the Tour de France used illegal substances. It really doesn't matter what happens in courtrooms. In a sense sports fans share the viewpoint of Judge Kenesaw Mountain Landis, who after the Black Sox were found "not guilty" said he was not impressed by "the verdict of juries." The judge then banned the players from baseball for life.

At the core of the problem is that all drug use is treated as if it were the same. A blanket ban is a simple and simplistic drug policy. It does not require anyone to make difficult decisions and distinctions. It does not recognize

that in some situations a drug might be useful and perhaps even necessary for an athlete to use. In addition many drugs remain undetectable and new drugs are constantly entering the field of play. Further ambiguity is added by the fact that some drugs are encouraged so that athletes can play with pain.

Pursuing high profile athletes can justify prosecutor's budgets. Testing and punishing athletes can employ thousands of people at the World Anti-Doping Agency and give ex-Olympic officials the feeling of self-importance. Seeking to ban athletes for PEDs offers authorities a chance to demonstrate that they believe in "pure" sport, even if that purity has long since been obliterated by commercial corruption and self-indulgence.

It is, in short, a messy business.

On Sport and Society this is Dick Crepeau reminding you that you don't have to be a good sport to be a bad loser.

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