

**From Chief Justice Jean Toal's Speech to the South Carolina Supreme Court Institute,  
June, 2007**

“You may have heard of a very infamous case that was just tried recently right here in South Carolina. The Hinson case involving a man who was accused of kidnapping two teen-aged girls, putting them into a underground prison that he had constructed and sexually molesting them. That case was recently tried in another county from the county in which the crime occurred. My cousin Rick Hoefler represented Mr. Hinson in that case by appointment and so of course I followed that case with some added interest.

The case began with the Attorney General of South Carolina making a vitriolic criticism of a judge who had heard the request of the state several years before this incident took place to have Hinson committed as a sexually violent predator. He had served a sexually sex crime sentence. A crime in which there was an allegation of sexual misconduct and his sentence was completed. In South Carolina we have a system where you can be examined by medical doctors and if probable cause is found to have you continue to serve a commitment in a civil facility a sexually violent predator someone who is still a danger to recommit a sexual offense, can be committed. But its - you might imagine that's since that not being put into confinement for any kind of crime but rather a commitment, a medical commitment. There's a rather high standard of proof in the law. Otherwise, due process wouldn't be accomplished and it would be unconstitutional.

Well, we have that system, but it takes having the prosecutor bring forward evidence. Medical evidence of the continued problem that the individual has, so that the individual would continue to be a threat to the community.

A hearing was held on that regarding this gentleman and the judge was presented with the prosecutor who simply read out of a medical textbook but presented no evidence or psychiatric testimony or even a report from anyone who had examined this gentleman to give any evidence in court as to whether he had a continuing problem or didn't have a continuing problem. So the judge denied the petition to keep this person civilly committed and this person then completed his sentence and was then out in the community.

When Hinson was arrested, the Attorney General of this state got on everything from Nancy Grace to O'Neil to you name it just absolutely excoriating this judge. That infuriated me. I got a copy of the transcript of the hearing, I also got a copy of the transcript for Nancy Grace and Greta Van Susteren and all these big shot programs that the AG got on and I called him in and I talked to him.

And I said, you know, I don't play this game in public. If I've got some- uh, a criticism, I'll come to you privately. So I'm not gonna get in a public discussion with you, but if I did and showed the public the incompetence of your staff in putting up this evidence or lack of evidence and then showed them what the judge had to work with, I'd think the story might be a little different story in terms of public opinion.

But, boy, I'm gonna tell ya, my staff said the walls were shaking by the time that little conference was completed.

But the Attorney General then told me well he was gonna solve this problem. He was taking over personal prosecution of this Hinson case. All right. He did that.

Now. I bet some of you are shaking your heads. How in the world could this jury could let that slime ball go. Bet a lot of ya'll are thinking that.

But let me tell you what happened in that trial. Just so you know. What happened in that trial is that after the examination of the witnesses was complete, it turns out there was a great deal of doubt as to whether what the young ladies said happened, actually happened.

None of the physical evidence apparently matched up with the story they told. And in addition to that, witnesses came forward that told of parties, of dope selling and other things that had occurred

The jury was asked to and the jury included and this wasn't any wild, way out, crazy jury, the, the foreperson of the jury was the head of EMS. Several members of the jury were in law enforcement. And there were, I mean this was not one of your way out juries. This is what I would call a very conservative, middle of the road, middle class jury. The kind of jury that throws the book at a defendant in these kinds of cases.

But that jury took its oath seriously because what the jury had to decide was not whether Mr. Hinson was a slime ball. They had to decide whether the state had proved beyond a reasonable doubt that Hinson had committed this offense. And we can all have our opinions on why that didn't happen. Again, the prosecutor I think assumed that all you had to do was say the word sex crime and underground prison and that was going to be it.

And gaps developed. I mean, can you imagine what a defense lawyer would have to work with in a case of this notoriety. Nothing. All you can do is try to look at the state's case and see has the state proved its case. That's what this defense lawyer did. And that jury of some very conservative citizens of South Carolina said you know what and they said this afterwards, they, they talked publicly about it and said, We are all convinced he's a slime ball. We wanted to convict him. But we took seriously what the judge said and we didn't have the evidence to convict him.

Now. Mr. Hinson is still going to be around for many other bouts with the criminal system. He's got other charges pending. So I'm not worried that Mr. Hinson is still going to be out there predateding. But I, I, I can't tell you how much I admire what happened in the process. That a jury in the face of a case where they knew public "approb-blem." People just like you people in this audience saying how in the world could you let that slime ball go. How could you do that? What were you thinking?

And they knew that. They are smart people. They just like y'all sitting here in these chairs. They are like their neighbors who probably said that to them. But they took seriously the constitutional imperatives. They took seriously their oath and their duty.

They weren't examined for months to, to a find out whether Hinson was gonna have an advocate or the state was going to have an advocate [on the jury]. They went through the normal, South Carolina home grown system. And I believe justice prevailed. Because I believe the system prevails.

And the biggest protection we all have is whether or not that system works in the face of a tremendous challenge where public opinion may be all over the block. And where people lose sight of the fact that it's not public opinion that ought to decide a case. It what takes place in the witness chair and what takes place when the judge charges the law. And that is what that jury did. And that wasn't some jury out in California. Some liberal, way out, wacky place. That was a group of plain ole, ordinary, garden variety South Carolinians just like y'all who are sitting in these chairs.

It's a tribute to the common sense of South Carolinians. Now you know that doesn't prevent the Attorney General from getting on Greta and Nancy and all that again and having something to say.

I don't think that will be the first thing in the next political brochure to be mentioned is the Hinson case.