

Guilty Until Proven Innocent?

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Every criminal defendant arrested in this country is presumed innocent. We've all heard that one before. And I'm sure most of us believe that a person wrongly accused of a crime shouldn't have to endure the humiliation and expense to clear his name in a court of law. But how committed are we to this presumption of innocence? In our hearts, don't we often presume guilt?

On April 17, 2010, young men from local chapters of the Boy Scouts of America gathered with their families on the grounds of a west Eugene church. Troops hosted informational booths, and members of the Kiwanis served food. Highlights of the day included a Webelos graduation ceremony and a pinewood derby.

Shortly after noon, a two-year-old boy wandered away from the church's playground equipment while his mother was distracted tending to another child. Moments after she realized the child was missing, he was spotted standing next to an unidentified young man near a line of parked cars. Another parent quickly grabbed the child and reunited him with his mother. The young man got into his car, which

was parked close by, and drove off. When the police stopped his vehicle a short distance away, the young man, Azoulas Yurashunas, was wearing what looked like a black overcoat, unusual attire for a warm day. When asked if he was carrying any weapons, he noted the 3" folding knife in his pocket and the hatchet on his belt.

Mr. Yurashunas was arrested and charged with second-degree kidnapping, a felony carrying a mandatory 70-month prison sentence. The state's theory was that he had attempted to lure the child into his car. This paper ran the headline, "Toddler's Kidnapping Stopped, Suspect Arrested." The AP picked up the story, and, for a time, this thwarted kidnapping was the stuff of national news.

But consider a few additional details, known to the police but reported belatedly, if ever, by the media. Mr. Yurashunas is a 23-year-old Eagle Scout whose only prior contacts with the law were two speeding tickets. He was at the Scout function at the invitation of a troop master to discuss the possibility of a future demonstration on woodland survival techniques. As for his attire, Mr. Yurashunas attended the function dressed as a woodsman, wearing a black duster and with survival tools on his belt.

Consider also that, during questioning both before and after his arrest, Mr. Yurashunas' story remained unchanged: He was trying to *help*, not *kidnap*, the child. As he walked to his car, Mr. Yurashunas saw the child, unaccompanied by any adult, strike his head on a sign and wander into the parking lot in apparent distress. He walked next to the child for a few seconds, looking in vain for the child's parents. Only once the child was rushed away did Mr. Yurashunas get into his car and begin the drive home to his family's farm near Veneta. Mr. Yurashunas told the very same story when he passed a polygraph examination two weeks later.

On June 3, justice was served. The prosecutor dismissed the case against Mr. Yurashunas.

But to Azoulas Yurashunas, it feels like partial justice. Or, at best, justice delayed. His name is now – and perhaps always will be – associated with the attempted kidnapping of a child. Since his release on a substantial bond, Mr. Yurashunas has been under house arrest in the cramped living space he shares with his parents. He wore electronic monitoring devices on his ankles. He and his family have received death threats. And for 47 days, Mr. Yurashunas has lived with constant fear

and uncertainty about whether he will have to go to trial to prove his innocence.

Ironically, Mr. Yurashunas was relatively fortunate. His family had the means to post bond. And in the end, the prosecutor dismissed the case. So, in one sense, our criminal justice system succeeded in separating the innocent from the guilty.

But when simply *charging* Mr. Yurashunas leaves his life and reputation in tatters, how well did the system really "work"? How can Mr. Yurashunas, branded a child predator in the court of public opinion, move on with his life when the allegation is permanently searchable on Google? At a minimum, this case is a cautionary tale about the very real consequences of charging someone with a heinous crime when no crime has been committed, even if the case is ultimately dismissed.

Suspicion is not fact. Speculation is not proof. An arrest is not a conviction. We must leave room for the possibility that the next person arrested on serious charges we read about on-line, or the next grim mug shot we see during the local newscast, might just be someone who is innocent.