

The Great Atty. Howard Moore, Jr. on the Cosby case. Are Black men being singled out?

Ishmael Reed: First question. People are applauding the conviction of Bill Cosby but should they be concerned about how it's done?

Howard Moore: They should always be concerned about how it's done because how it's done is a line of demarcation that protects freedom for all of us. They should always be concerned about how it's done.

Ishmael Reed: How about some of the unsealed testimony that was supposed to remain sealed?

Howard Moore: That's a devilish question. Whether that question is raised in that case or not, I don't know because the judge who unsealed that testimony was a California judge.

Ishmael Reed: Didn't they say, originally that they wouldn't bring charges if he confessed that he offered her drugs?

Howard Moore: It raises very interesting questions but the judge who unsealed it was a California judge and once it became unsealed the Pennsylvania judge admitted it into evidence and the question is whether or not the 5th Amendment was violated by doing that and whether he had been tricked or misled into waiving his 5th Amendment right.

Ishmael Reed: The D.A. ran on a ticket saying that he was going to convict Cosby like the Old Confederacy when they said they were going to lynch and burn this coon. The Ex-Confederate officers after the troops were withdrawn in the South, went on a coon hunt, removing blacks from office and violating their rights.

Howard Moore: Well I don't think the D.A. said he knew he was going to "get this coon."

Ishmael Reed: Well I'm just putting it in plain words.

Howard Moore: He did say he was going to get Cosby.

Ishmael Reed: That's in the back of their minds, though. A coon hunt. The majority of the jury were white men. They convicted Cosby, another mostly white male jury allowed the killers of Emmett Till to walk.

Howard Moore: It could be a bias against Cosby but the bias was the prosecutors.

Ishmael Reed: Okay, the defense complained about the jury selection. They kept out Black people.

Howard Moore: The defense complained about the jury selection and it seems as though that Black people made about 50% of the jury composition and they're some 9.2% of the population. It could be greater than that

depending on how you use the statistic. There was another junction in the case where the prosecution struck a potential African American juror and when that was a challenge. They didn't give a neutral, non-discriminatory reason, so that may raise an issue. But what complicates the whole matter is that two African Americans actually served on the jury that convicted Cosby and there were three African Americans among the six alternate jurors. That's going to complicate any attack on the jury.

Ishmael Reed: What about seven White men? Don't they have the urge to be like Captain America or Indiana Jones and save the minority women from this Coon, this demon? Jumping out there in their capes?

Howard Moore: That may be an issue but in this case it's much more complicated and one of the avenues of attack, and I can't say if it's going to be a rival one or not, is the judge allowing the expert witness to testify and allowing the expert witness to be the first witness to testify. Ordinarily a judge can control the order of proof, but in this case, by doing so, did an unduly prejudice against Cosby in the presentation of his defense and did an unduly bolster of the prosecution to allow this witness to testify. Secondly, it's that type of defense testimony that is scientifically established that the techniques and the opinions expressed by the witness has been used in other cases. If not it shouldn't be used as evidence and the judge who is supposed to be the gatekeeper of this type of evidence beforehand that is the proper foundation of education of the evidence. Secondly, expert testimony is never required in the case unless it will be of assistance to the jury. In this particular case Cosby admitted he had sex with her

Ishmael Reed: But then she kept in contact with him. She called him up and asked for tickets to his concerts.

Howard Moore: What is the value of expert testimony on a sex victim's continued relationship with the alleged assailant? The accused? If it's only on the question of reasonableness, it should have been invented at all because lay people...it's not something outside the understanding of lay people. I think that should have been a very serious attack on the admission of the expert testimony and it should have been a very serious attack on the order of proof because if the first witness to testify is the expert witness who explains everything then when the witnesses come out to testify the jury is determining whether or not they value the testimony.

Atty. Jane Moore: There's still no evidence of her being an expert.

Howard Moore: She was an expert.

Jane Moore: There was nothing for her to testify to the jury.

Howard Moore: Her being an expert witness.

Jane Moore: I said that the expert witness was there, but there was no one else to testify. That's the prejudices of the jury.

Ishmael Reed: One expert for defense said that she didn't receive drugs.

Howard Moore: It's going to be very complicated, but what's the next question?

Ishmael Reed: Why was the testimony of the Temple official who said this woman was trying to frame a celebrity in order to get money not used during the first trial? It seems like that would be relevant. But they left it out.

Howard Moore: To Cosby's defense he wanted it in and that's a questionable defense tactic in this case. I was somewhat disappointed because I had high regard for Thomas Mesereau as one of the best lawyers in the country. But in this particular case I requested the wisdom of the defense they put on.

Ishmael Reed: Where they called her a con artist?

Howard Moore: Yes, yes. Because if you pay a witness of the accuser \$4.5,000,000, reasonable people would conclude that maybe she's right, you did do something wrong. Then there's almost no conclusion to overcome the nature that believe you did something wrong.

Ishmael Reed: If that's the case then he paid them because he didn't want to drag before a majority white jury that in history has conspired with the criminal justice system to beat up on Black defendants.

Jayne Moore: But this was a criminal case. No matter what, she accepted it.

Ishmael Reed: Michael Jackson's was a criminal case. He settled because he didn't want it to go to trial before a kind of white suburban jury that O.J. got in Santa Monica jury. They had an all -White jury and the Goldman's lawyer tried to keep Black people out. Is this a pattern? The way to get a Black man is to move to the suburbs and get an all White jury like the old days?

Howard Moore: Yes, but this happened in the jurisdiction where it was tried so it was appropriate to have it there. I suppose there was a motion to change the venue. They may have wanted to change the venue because the chance of getting Black jurors might have been worse in another jurisdiction but this is a very, very complicated case in terms of psychological aspects and it really required very deep thought and analysis as how to pitch the defense because the defense in this case was that she had consented. There's no question about what happened. But from my reading of the accounts of the case that her account of what happened is the same as Cosby's. So it had to be a very hard-sharpened psychoanalysis of who should be on this jury. Now I don't know how much money Cosby spent on the jury analysis and jury

preparation, which was key to the case because he could have won the case by saying, “Well, I’ll have a White man and a Black man, I’ll have women and so and so.” It’s very, very complicated. So you need to spend a lot of money on analyzing the psycho dynamics in such a case and then a lot of money on what type of jurors to pick. I don’t know if Cosby did that or not. But he should have done that. With his resources there would be no excuse for not doing it. Plus they should have had a focus juror in which you pick different angles of defense and see which one will resonate with laid people. I don’t know if that was done. Now you read about the \$3.7,000,000 verdict against the City of Oakland? (Inaudible) the lawyer in that case, he had a focus juror. I mean we were over in the Alameda County Library in the conference room and we had people from the community who paid \$15 an hour for (inaudible).

Ishmael Reed: Mesereau didn’t do that?

Howard Moore: I don’t know, but it should have been done.

Ishmael Reed: What about the five women they brought forth even though their case was beyond the statute of limitations?

Howard Moore: That’s a serious question, the statute of limitations, that case. But prosecutors are allowed to introduce evidence of a similar crime to prove motive and intent. It’s questionable as to whether these five women should have been allowed to testify.

Ishmael Reed: One of these women had a criminal record.

Howard Moore: Did it include a crime of moral turpitude?

Ishmael Reed: That’s all I read.

Howard Moore: If it doesn’t involve a crime of moral turpitude they’re relevant because it only goes under the question of relativity.

Ishmael Reed: Isn’t it contradictory for the feminist movement to support these women? Weren’t they hurting her sister Camille by partying with a married man? I mean they’re all “me too” and for feminist solidarity but Camille is the victim because they’re out there partying with a married man asking for theater tickets and drinking with them and getting high and everything?

Howard Moore: That’s a serious question.

Ishmael Reed: What do you think about that Jayne?

Atty. Jayne Moore: Every case involves such things and usually men have other women in some places so you could never prosecute them. Often a woman would be harmed.

Howard Moore: I think that there is a distinction and recognition has to be made between rape, which is a form of sexual harassment and assault and other types of sexual harassment. I don’t know if the movement draws in

any type of distinction between that. Some people say there is no distinction, but until I hear differently I think there is.

Ishmael Reed: Are they singling out Black men? I mean feminists are out there at that courthouse picketing, but you don't see them in front of the White House, or you don't see them in front of Harvey Weinstein's house, or Charlie Rose's or all the rest of those men who have been charged with sexual aggression toward women.

Tennessee Reed: Tom Brokaw.

Ishmael Reed: Matt Lauer-

Howard Moore: Well they made that point. One of their points is to demonize the Black man as the ultimate sexual predator and therefore people will live in fear of Black men.

Ishmael Reed: The New York Times seems to always be pro prosecution when it comes to a Black celebrity is accused of mistreating women. *The New York Times*, which was pro-prosecution during the O.J. Simpson case, was the publication that put out the lie that that the gloves in the O.J. case fit, their reporter didn't even witness the demonstration.

Linda Deutsch of *The Associated Press* who witnessed the glove demonstration said they didn't fit. The prosecution said that it was because the gloves shrank. But an expert said that they hadn't. I mean that's key. But here *The New York Times* seems to take the side of the prosecution when it comes to the Cosby case and as in other cases made Cosby a symbol of mistreatment of women. Said that this case was "a turning point." So why is a Black male being in a scandal always provides "a turning point," "a movement going forward," or "me too." For white middle class feminism, Clarence Thomas is still the symbol of sexual harassment. What Clarence Thomas alleged to have done is mild compared to Bush I grabbing women by the butt. Or what Weinstein, Trump, Charlie Rose, Bill Clinton or NBC and ABC executives have done.

Howard Moore: But he wasn't proved guilty.

Ishmael Reed: But Bush I is grabbing people by the butt. I didn't hear that at the funeral for his wife.

Jane Moore: That's true.

Ishmael Reed: Let me ask you this. Bob Teague published "Live and Off- Color" in 1981 where he talked about rampant sexual harassment at NBC. The women, some of whom like Melissa Harris Perry were used to out Black men almost weekly. She didn't know about the sexual mistreatment of women by her patriarchal employers? These women

reporters like the rest of the bourgeois feminists kept quiet because they wanted to keep their jobs. That's why they vented on Black men.

Ishmael Reed: Carole Simpson wrote *Newslady*. She had to self publish and the feminists didn't come to her aide. She said that she was assaulted sexually by some white men who run the networks, the men who put up surrogates that blame black men for misogyny. I mean they're saying Gretchen Carlson was the first one to expose harassment. himself. Matt Lauer gave Carole Simpson a tough interview about her bringing charges against the networks. I was left as a literary road kill in this country because I said that Black men can be very cruel to women but they're not the only ones. They've been singled out.

Jane Moore: The other thing though is that how can you be sympathetic to Cosby? He's not-

Ishmael Reed: He gave \$10,000,000 to Spellman College.

Jayne Moore: They probably didn't use that.

Ishmael Reed: That's ridiculous.

Jayne Moore: Which is why they gave it back.

Howard Moore: He gave them \$20,000,000.

Ishmael Reed: They were fools to return it. They must have been pressured by white trustees. A stealth white jury. Do you think that charities and schools endowed by Tom Brokaw will give his money back? Tom Brokaw's in a #me too scandal now. He's up there now; two or three women have accused him

Howard Moore: Let me just say that Cosby has an uphill battle because he has to show that an error was committed. Not only does he have to show that an error was committed but that the error was (inaudible). By that standard it means he would have to show if that error had not been made there would have been a different outcome. So it's very, very difficult.

Ishmael Reed: He's going to die in prison?

Howard Moore: He may not go to prison. I doubt it.

Ishmael Reed: I got a picture of the Clarence Thomas hearings. I was in Washington and I took a picture of the crowd outside the courthouse. It was like a lynch mob.

Jane Moore: I dislike Clarence Thomas in all types of ways. I would never defend him for anything.

Ishmael Reed: Well Nina Totenberg who was the one who lied and lured Anita Hill into pointing him out because she wanted to remain anonymous. Nina Totenberg said she didn't know which one to believe and when there was a case of sexual discrimination at NPR she said it was a great place to work. That's what I call feminist Uncle Tomism.

She was the one who helped identify Clarence Thomas as an alleged predator, yet when it came to her job she said it was a great place to work. NPR. They just fired a sexual predator.

Clarifications

On page 1, regarding the deposition (per my email yesterday), it was Judge Eduardo Robreno – who is a Senior United States District Judge of the United States District Court for the Eastern District of Pennsylvania, not a California judge who unsealed the deposition. That is a story in itself: <https://www.hollywoodreporter.com/thr-esq/appeals-court-adds-an-interesting-919499?platform=hootsuite>

On page 3, you ask about the testimony of Ms. Jackson, the Temple employee who was told by Ms. Constand that she could accuse a famous, rich man in order to get money. Ms. Jackson was not allowed to testify at the first trial because Ms. Constand claimed she didn't know who she was. By the time the second trial rolled around, she had to admit that she did as it was proven that they certainly had known each other and had roomed together on several away games of the Temple Women's basketball team, so Ms. Jackson was allowed to testify. Tom Mesereau was not the lawyer in the first trial (Brian McMonagle of McMonagle Perri McHugh & Mischak in Philadelphia was) – only the second trial. The answer from Mr. Moore doesn't make that clear.

In the section following that, the settlement in the civil case was \$3.8 million – this was the civil case in 2005/6 – this has nothing to do with the criminal case. In the criminal trials in 2017 and 2018, Ms. Constand is a witness – there are no monetary settlements in a criminal case – the plaintiff is the Commonwealth of Pennsylvania.

On the last page, 6, the Cosbys gave \$20M to Spellman College (not \$10M).