COMMENTARY

Jail fits Donald Trump and his crimes

Your Turn
Stephen J. Fortunato
Guest columnist

"Let justice be done though the heavens fall." This 18th-century maxim reminds judges that they are sworn to do justice without consideration of "partisan interests, public clamor, or fear of criticism," to borrow the words of the Judicial Code of Conduct.

A judge imposing sentence on a convicted person must craft it to fit both the crime and the criminal. This is what Judge Juan Merchan must do when he sentences Donald J. Trump on July 11 for 34 felony convictions.

The United States Supreme Court has ruled that at a sentencing the convicted person's entire life is open for scrutiny; the judge must obtain the "fullest information possible concerning the defendant's life and characteristics," examine the "character and propensities of the offender," and then take into account the "circumstances of the offense."

The sentencing of Trump is unique not just because he is a former president and current candidate but because he has publicly condemned the judicial system and scoffed at all efforts to hold him civilly or criminally accountable. However, before considering Trump's character, Judge Merchan must examine the circumstances of Trump's crimes.

Surrounding factors revealed much more than a hush-money scheme designed to silence two women claiming extramarital affairs with the former president. Two of Trump's accomplices – Michael Cohen and Hope Hicks – testified that Trump's 2016 campaign was panicking over the recent airing of a video featuring Trump boasting that his celebrity status allowed him to sexually touch women without their consent. As it was deemed imperative to keep information about Trump's involvement with these two women away from voters, Trump approved the altering and filing of false business records with election officials. So more than a hush-money plot, the facts show this was a scheme calculated to deceive the electorate.

Former President Donald Trump arrives for his criminal trial for covering up hush money payments at Manhattan Criminal Court on May 30 in New York City. MICHAEL M. SANTIAGO/VIA REUTERS

Trump's lawyers will argue that he has no prior convictions and that he is currently a presidential candidate. The prosecution will counter that neither the Constitution nor any legislation protects convicted candidates from the sanctions of the criminal law. One's voluntary candidacy is not a get out of jail free card.

Unfortunately for Trump, his numerous public comments and behavior indicate a deep contempt for the rule of law and the legal system. Judges are keen to know whether a convict accepts responsibility and expresses remorse. Naturally, one who is pursuing an appeal does not have to do so; yet, Trump, instead of simply claiming his convictions are appealable mistakes, has claimed repeatedly in speeches and interviews that President Biden initiated the prosecutions, that the judicial system is corrupt, that Judge Merchan was "conflicted," and the trial was "rigged." No evidence supports any of this.

This is Trump's playbook. Though he was rebuffed in 60 court cases challenging the 2020 election results, he continues to insist the presidency was stolen from him. After E. Jean Carroll won a multi-million-dollar jury verdict against him for defamation, he defamed her the next day. And he has defied judicial gag orders issued to protect the integrity of the legal process and the safety of jurors, witnesses, and court personnel.

No organized crime boss and no criminal of any kind has ever wielded the wrecking ball Donald Trump has been relentlessly and recklessly smashing against the foundations of our judicial system. Monetary fines alone cannot deter his behavior, but time in jail for the thus far unaccountable ex-president will have a sobering effect and will make politicians who wish to follow his example think twice.

Stephen J. Fortunato served for 13 years as an associate justice of the Rhode Island Superior Court.

Rhode Island Gov. Theodore Francis Green signs the Constitutional Convention bill in 1936.
THE PROVIDENCE JOURNAL FILE

Legislature is subverting state's ConCon process

Your Turn
J.H. Snider
Guest columnist

Rhode Island's Constitution mandates that decennially, next on Nov. 5, 2024, the people of Rhode Island can call a state constitutional convention via a popular referendum. It also mandates that prior to that referendum the state legislature must convene an independent constitutional commission to describe the type of constitutional changes that might warrant calling a convention.

In recent decades, the General Assembly has instead used this commission process to attack the convention process; for example, by highlighting a convention's possible cost and risk rather than benefit.

On May 30, the Assembly belatedly introduced a resolution to implement the mandatory constitutional commission. But it doubled down on its past strategy of subverting the framers' intent for the commission process. Rather than creating a genuinely independent process, it created one that is tightly under its control; is not required to have any public hearings (let alone televise them or make them genuine deliberative forums); and ensures the commission lacks adequate time to do its job.

The legislature has always been the convention process's natural enemy because, like the popular initiative (which Rhode Island lacks), the process is designed to break the legislature's monopoly power over the proposal of constitutional amendments. It allows a convention to propose a Pandora's Box of reforms like legislative transparency, legislative term limits, a line-item veto for the governor, and voting reforms to create a more competitive electoral system.

Other natural enemies of the convention process are the apex special interest groups in Rhode Island that, by definition, excel at influencing the legislature. During the last few decennial convention election cycles, these groups demonstrated a willingness to spend unlimited amounts, sometimes illegally, to ensure that the convention referendum lost. For them, a convention opens a Pandora's Box that could cause them to lose unpopular advantages.

During most of the 20th century, Rhode Island legislatures loved conventions because the courts allowed them to convene limited conventions, which meant they could limit a convention's agenda to issues favorable to themselves. This changed in 1973 when one of those conventions broke those chains and proposed a periodic convention referendum for popular ratification – which the courts then upheld. Ever since, the legislature and its special interest allies have been implacable convention enemies.

Their track record of success in disparaging the convention process has created a negative feedback loop, as every time one of these referendums fails, it becomes harder to build support for the next one. On the one hand, polls show that the public has remarkably little trust in their government institutions and thinks the system should be fixed. On the other hand, this translates into cynicism, not productive efforts at reforms, because of the public's learned helplessness.

The last era when Rhode Island's legislature so implacably opposed the convention process was in the early 1840s, which led to its famous Dorr Rebellion, arguably the closest thing to an intrastate civil war in American history. Rhode Island no longer needs an armed rebellion to reform its constitution when confronting an obstreperous legislature because it now has the periodic convention referendum. But thanks to the public's increasing ignorance of this institution's history and democratic purpose, combined with its learned helplessness, what the public now predominantly knows about this institution is only what its enemies have told them.

If, as in 2014, the commission releases a biased report, which is then used as the basis for the Secretary of State's voter information handbook heaping scorn on this institution and mailed to all Rhode Island registered voters at taxpayers' expense, the public should keep in mind that the Wizard of Oz orchestrating this process, despite its PR to the contrary, was the General Assembly.

J.H. Snider is the editor of The Rhode Island State Constitutional Convention Clearinghouse.

Providence must divest city funds from the Israelis

Your Turn
Zack Kligler
Guest columnist

A few months ago, I sat down for a difficult conversation with my uncle. Much of our family lives in Israel, and he couldn't understand why I was organizing for a ceasefire and divestment with Jewish Voice for Peace here in Rhode Island. But as we spoke, I saw a new understanding dawn. I explained to him that my organizing is driven by my love. Loving someone sometimes means holding them accountable, it means protecting them from their own worst impulses, it means saying what they need to hear even when they don't want to hear it.

It is out of love for my Israeli family and my Palestinian friends that I am working with fellow Jews to demand an end to the Israeli military's genocidal assault on Gaza and the ongoing occupation. It is out of love for Judaism that I am working to create a world where Jewish prosperity does not come at the expense of Palestinian lives and land. It is out of love for my community here in Providence that I am pushing for our City Council to end its history of investment in militarism and violence and open a new chapter of investment in life and human flourishing.

On June 6, a group of Providence City Councilors introduced legislation, co-written with a group of progressive Providence Jews, which would prohibit investment of city funds in bonds issued by the State of Israel and other states engaged in illegal military occupations. For two decades, Providence has invested millions in these bonds — money that is loaned to the Israeli state with no guardrails against its use for war crimes in Gaza or illegal settlement construction in the West Bank. Now, those bonds have expired, and we have a key chance to prevent our city from buying more.

These investments are not only unethical, they're bad for Providence. Israel's credit rating has been downgraded, its economy has been crashed by constant war on Palestinians, and its far right government is increasingly unstable. By reinvesting in Israel bonds, Providence would be putting its own residents' futures at risk to make a political point in favor of war.

Mayor Brett Smiley and Councilor John Goncalves have both dared to call this legislation antisemitic — a galling and frankly ridiculous accusation against a proposal brought forth by Jewish residents, supported by Jewish Voice for Peace, and co-sponsored by our Jewish Council president.

What I say to them, and to all who would oppose this common-sense ordinance using this rhetorical shield, is this: Jews are not a weapon to wield for your political ends. We are people of Providence, acting on our deeply held Jewish value of *tikkun olam*, repairing our broken world, demanding that never again mean never again for *anyone*. We are enacting the lessons passed down over centuries that the only true promised land is the one we build together.

If our leaders truly love and support Jews, and believe in freedom for all people, they will join us. Join us in holding the Israeli government accountable for its crimes, in showing Palestinian and Muslim neighbors that our city belongs to us all, in protecting Providence's financial future and creating a model for cities across the country to align their investments with their values.

To our city councilors: Reject the fear, hate and violence – join us in this labor of love.

Zack Kligler is a member of Jewish Voice for Peace – Rhode Island and an organizer with the Break the Bonds PVD campaign.