

## Mock Trial: JEFFRIE MURPHY

### *Jeffrie Murphy*



While two separate witnesses in our tribunal hearing, Hampton and Murphy need to be discussed together as they co-authored *Forgiveness and Mercy* which is the relevant work to these proceedings; it is their book which serves as the strong philosophical underpinning of Stuart Wilson's (see below) powerful critique of the TRC in his "The Myth of Restorative Justice: Truth, Reconciliation and the Ethics of Amnesty." Both Hampton and Murphy entertain the idea that retributive thinking can be a "legitimate response to wrongdoing," although Murphy embraces this idea for more substantially than Hampton who has reservations about some forms of retribution and strongly advocates forgiveness and mercy where possible. While it may be tempting to see Hampton as a better witness for the defense, her willingness to acknowledge the legitimacy of some forms of retribution make her potentially an excellent critic of the TRC to the degree that it devalued all forms of retribution. Murphy seems a much more straightforward critic of restorative justice that lacks a retributive component, though he too considers the value of forgiveness and mercy, which is after all the title of their book. Used in tandem with Wilson's essay, they should make a formidable block on the side of the plaintiffs. However, given their overall balanced treatment of the issues involved, there should be plenty of play for the defense during cross which, in my mind, makes them excellent witnesses for the educational purposes of this hearing.

### **ARTICLES:**

Brooks, David. "The Act of Rigorous Forgiving." *New York Times*, Late Edition (East Coast) ed. Feb 10 2015. *ProQuest*. Web. 22 Jan. 2016 .

Dagger, Richard. "Jean Hampton's Theory of Punishment: A Critical Appreciation." *APA Newsletter on Philosophy and Law* 10:2 (Spring 2011): 6-11.

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<http://scholarship.richmond.edu/cgi/viewcontent.cgi?article=1166&context=polisci-faculty-publications>

[Note: This appears to be supportive of Hampton's position in "An Expressive Theory of Retribution"]

Decew, J. W. (2008). The work of Jeffrie G. Murphy. *Criminal Justice Ethics*, 27(2), 29-30. Retrieved from <http://search.proquest.com/docview/209757679?accountid=415>.

Gert, Heather, Linda Radzik and Michael Hand. "Hampton on the Expressive Power of Punishment." *Journal of Social Philosophy* 35:1 (Spring 2004), 79-90. [https://libres.uncg.edu/ir/uncg/f/H\\_Gert\\_Hampton\\_2004.pdf](https://libres.uncg.edu/ir/uncg/f/H_Gert_Hampton_2004.pdf)

[Note: This appears to be a criticism of Hampton's position in "An Expressive Theory of Retribution" and thus useful to the Defendants for cross and to the Plaintiffs in preparing for cross]

Hampton, Jean. "An Expressive Theory of Retribution." *Retributivism and Its Critics*. Ed. Wesley Cragg. Stuttgart: Franz Steiner Verlag, 1992. 1-25.

(NOTE: We do not have a copy at Nathan Hale, but portions of this essay are visible at <https://books.google.com>)

Jeffrie G. Murphy. "Punishment and the Moral Emotions: Essays in Law, Morality, and Religion." *Notre Dame Philosophical Review*. Notre Dame Philosophical Reviews, 2016. Web. 22 Jan 2016. <https://ndpr.nd.edu/news/30990-punishment-and-the-moral-emotions-essays-in-law-morality-and-religion/>

Murphy, Jeffrie G, and Jean Hampton. *Forgiveness and Mercy*. Cambridge: Cambridge University Press, 1988. Print.

(NOTE: Mr. Uhlman has a copy.)

Shemtob, Zachary. "Retribution with Jeffrie Murphy." *Cruel and Unusual: A Podcast on Punishment*. 26 May 2012. Web 16 January 2017. <http://punishmentpodcast.blogspot.com/2012/05/episode-ii-retribution-with-jeffrie-g.html>

Steiker, Carol S. "Murphy on Mercy: A Prudential Reconsideration." *Criminal Justice Ethics* 27.2 (2008): 45-54. *ProQuest*. Web. 22 Jan. 2016. <http://search.proquest.com/docview/209762575/4BCFE2DCAB0D4646PQ/13?accountid=415>

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### **BOOKS:**

Murphy, Jeffrie. Moral epistemology, the retributive emotions, and the "clumsy moral philosophy" of Jesus Christ." In: *The Passions of Law*. New York : New York University Press, c1999. Print. N.p. (available at Seattle Public Library)

### **VIDEO:**

(none available)

### **Brief on Relevancy to Hale Tribunal Hearings (Uhlman):**

In terms of our trial, Hampton and/or Murphy can serve as powerful witnesses for the prosecution in establishing the need for a retributive element to justice, a feature that was lacking in the justice dispensed by the TRC in South Africa. Specifically, their work contends that the dual demands of retribution and forgiveness are not incompatible; retribution need not be of the vindictive variety but rather can and should be carefully thought out, balanced and just; forgiveness does not have to be unconditional but can include just punishment for the perpetrator.

Their co-authored book *Forgiveness and Mercy* serves as the backbone for Stuart Wilson's "The Myth of Restorative Justice: Truth, Reconciliation and the Ethics of Amnesty" (2001), a South African lawyer who widely criticized the effectiveness of the TRC in restoring justice in the post-Apartheid era. Using the work of Hampton and/or Murphy in tandem with Wilson will make for a formidable block of testimony for the plaintiffs; however, if the defense can establish flaws with the Hampton/Murphy thinking, then they simultaneously undermine Wilson: a double edge sword!