The Trial and Incarceration of Andy Dufresne

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I. INTRODUCTION

The Shawshank Redemption had a relatively humble beginning. Stephen King wrote a ninety-page novella, entitled Rita Hayworth and the Shawshank...
Redemption, one of four short stories or novellas, published collectively under the title Different Seasons, in 1982. In terms of movie interest, this novella was not the first choice among the four. Frank Darabont, a then relatively inexperienced screenwriter and director, purchased the movie rights from Stephen King for the grand total of one dollar. The movie was shot over an intense three-month period during the fall of 1993. It was released in 1994 to mixed, albeit generally positive, reviews. While the movie was not initially a box office success, managing only barely to cover the expenses of production, it found a niche in secondary distribution, particularly as a staple on night-time television on Ted Turner's classic movie channel. Together with continued strong word-of-mouth support and growth in DVD sales, The Shawshank Redemption’s reputation grew steadily until, ten years after its initial release, it had become a very popular film. Today, it is ranked by the Internet Movie Database as the most popular movie of all time.

How did this happen? It is a good story, but there are many good stories out there. Why did this one touch so many people so deeply? It has roots in the genre of stories about revenge, including the classic The Count of Monte Cristo by Alexandr6 Dumas. The story connects with a deep-seated sense for righting a cap on what a defense lawyer might be paid in a murder case was one hundred dollars, society marched into the light of just compensation.

Joe was there for that march, but behind his charm were cynical predictions about the future of the law: its unpredictability, its ever-quickening lurch to the right, the seemingly continual denial of fundamental rights, the collapse of the tort system, Joe’s predictions to me all come more true every day. Or, as he would often bluntly put it, “don’t hold your breath, Paddy, the pendulum’s not swinging back in your lifetime.” Perhaps not, but take a deep breath and pause but a moment to remember Joe Butler and hope you can feel the pendulum’s swing slow a little bit.

Id. at 5-6; see also Patrick K. Duffy, Dedication to Robert E. “Mike” Driscoll, 57 S.D. L. REV. i, iii-iv (2012). It is our loss that he did not write more. The memory of his intense pursuit of justice will remain with those whose lives he touched. 1. THE SHAWSHANK REDEMPTION (Castle Rock Entertainment, 10th Anniversary ed. 2004) (1994). Throughout this article, pinpoint citations to specific occurrences in the film are provided in the format of “hours:minutes:seconds.” Movie dialogue or incidences referenced to in the text begin at the cited time stamp.


3. Margaret Heidenry, The Little-Known Story of How The Shawshank Redemption Became One of the Most Beloved Films of All Time, VANITY FAIR HOLLYWOOD (Sept. 22, 2014, 9:10 AM), www.vanityfair.com/hollywood/2014/09/shawshank-redemption-anniversary-story. Director Rob Reiner had read the Stephen King collection, but chose one of the other novellas and made the movie, Stand By Me. Id. After Darabont wrote the screenplay, Reiner then offered $3 million for the right to direct the film, but Darabont turned him down and directed it himself. Id. Reiner, to his credit, did not pull rank on the fledgling director and allowed Darabont to proceed with the picture under the auspices of Reiner’s newly formed studio. Id.

4. Id.

5. Id.

6. Id.


9. ALEXANDRE DUMAS, THE COUNT OF MONTE CRISTO (Bantam Classics 1984) [hereinafter THE COUNT OF MONTE CRISTO]. The book itself played a cameo role in the movie when Andy was sorting through books for the library. THE SHAWSHANK REDEMPTION, supra note 1, at 1:17:16. There are many
wrong. The victim of an injustice eventually escapes to freedom and exacts a measure of revenge against his principal tormentor, a representative of the system. But revenge is not the main attraction. To be sure, revenge is no small part of this story. It is more about redemption, however, as the title suggests. The injustice does not destroy the victim. Rather, it provides the setting through which he becomes transformed. Moreover, it is not just about the victim. It includes at least one other character who becomes redeemed through this experience as well.

The power of story is well-known. Stories help make sense of life; they provide a moral framework for understanding. People think in terms of metaphors, which are actually compact stories. A good story entertains, charms, and inspires. It thereby has the peculiar power to get past our natural resistance to argument. Stories touch deeply-held values of the audience and cause them “to know without knowing that they know.” Stories not only affirm, they can move us to want to be better. We are given the freedom to participate along with the characters as they work through the problems posed in the story. We can judge them without actual recrimination; we can suffer with them without having to undergo the trials they face; we can laugh with and at them as we suspend disbelief and enjoy the wonderful possibilities of human frailties and the spontaneity of life; we can learn from their mistakes as well as applaud them for good choices that we may not have had the understanding or the courage to make; and we can be pulled along to a greater awareness of who we are and who we might be. Allan Bloom

revenge movies, both in dramatic and comedic form. See, e.g., DOUBLE JEOPARDY (Paramount Pictures 1999); THE FIRST WIVES CLUB (Paramount Pictures 1996); HANG ‘EM HIGH (Leonard Freeman Production 1968); HIGH PLAINS DRIFTER (Universal Pictures 1973); THE OUTLAW JOSEY WALES (Warner Bros. 1976); THE REVENANT (Regency Enterprises 2015); SHOOTER (Paramount Pictures 2007); THE STING (Universal Pictures 1973); TRUE GRIT (Paramount Pictures 1969); UNFORGIVEN (Warner Bros. 1992).

10. See generally JIM M. PERDUE, WINNING WITH STORIES: USING THE NARRATIVE TO PERSUADE IN TRIALS, SPEECHES & LECTURES (2006).


13. Id. at 295 (“An effective metaphor’s humor and insight has a way of getting past the normal resistance of a listener. Brevity, humor, creativity, and insight provide great camouflage for the true nature of metaphor, which is argument.”); see also Jonathan K. Van Patten, Themes and Persuasion, 56 S.D. L. Rev. 256, 260 (2011) (In the Bible, the prophet Nathan makes a stealth argument by telling a story about a rich man who stole a sheep from a poor man in order to persuade King David that he had done wrong by taking another man’s wife). To persuade, people must be given respect. They should not be bullied by the argument. Metaphors have a way of giving people space to reach their own conclusion: Most people resist being told how to think. But a good metaphor slips past that resistance without being noticed. If your metaphor reflects a theme, so much the better. A good metaphor is an important exception to the “don’t break the spell of the story by editorializing” rule. It is an outside opinion or commentary on the story, but, like a good-hearted, but mischievous, young boy, the metaphor seems to get away with it nearly every time. Perhaps it is the delight produced by the well-crafted metaphor that provides the license. What is clear is its ability to persuade in ways that direct argument cannot touch. Metaphors are the language of persuasion because they break through (or go around) barriers by touching on the common ground between the teller and the listener.

Storytelling, supra note 11, at 262.

14. ALLAN BLOOM & HARRY JAFFA, SHAKESPEARE’S POLITICS 7 (1964) (“The poet can take the philosopher’s understanding and translate it into images which touch the deepest passions and cause men to know without knowing that they know.”).
captured this in his introduction to *Shakespeare’s Politics*: “What is essentially human is revealed in the extreme, and we understand ourselves better through what we might be. In a way, the spectators live more truly when they are watching a Shakespearean play than in their daily lives . . . .”\(^{15}\)

Director Frank Darabont explained, in part, the success of *The Shawshank Redemption* by noting how people saw themselves in the story:

> The film seems to be something of a Rorschach for people. They project their own lives, their own difficulties, their own obstacles, and their own triumphs into it, whether that’s a disastrous marriage or a serious debilitating illness that somebody is trying to overcome. They view the bars of *Shawshank* as a metaphor for their own difficulties and then consequently their own hopes and triumphs and people really do draw strength from the movie for that reason.\(^{16}\)

While this begins to get at the *Shawshank* phenomenon, this alone cannot explain its overwhelming popularity. There is something deeper. The connection is more than a metaphor for personal experiences. It involves an identification with the moral infrastructure that shapes the story. It triggers our own emotions about injustice and redemption through this story of a man, wrongfully imprisoned, who finds himself as a result. The system failed him in the most fundamental way, and yet, he was not crushed. Hope eventually led to self-discovery and redemption.

I experienced some of this connection when I recently visited what is left of the prison used for filming the movie. On an ordinary weekday in April, there were cars with license plates from all around the country gathered in a parking lot in Mansfield, Ohio.\(^{17}\) Like myself, these people had traveled there to experience a tangible part of this story that had become a part of how they understood themselves. It was indeed a pilgrimage.

This article will tell that story, in shortened form. Because it is a story that has many admirers, one cannot possibly speak about the meaning for all. I will attempt to articulate the meaning of that story for myself, as part of my own journey for understanding. The story is about justice long denied, but eventually delivered. The injustice that put Andy Dufresne in prison became amplified through the almost random imposition of solitary confinement, interspersed with the constant threat of physical assault by fellow inmates. The story of *Shawshank* involves the politics of incarceration, the politics of parole, the politics of corruption, and the politics of freedom.

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\(^{15}\) *Id.* at 9.


\(^{17}\) Although the story was set in Maine, the filming took place at the recently closed Ohio State Reformatory in Mansfield. See *Nancy K. Darby, Images of America: The Ohio State Reformatory* (2016). Preserved for posterity in the movie’s beautiful and haunting cinematic setting, only the administration building remains today. *Id.*
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II. THE TRIAL OF ANDY DUFRESNE

The movie opens on the night of the murder of Andy Dufresne’s wife and her lover. We see Andy, who earlier that night had confronted his wife about her infidelity, now sitting in his car outside of the lovers’ trysting place, drinking and loading a gun. The opening shifts forward and back between this scene and Andy’s eventual trial, where the prosecutor makes a strong case for Andy’s guilt. Although we only see short portions of the trial, the core of the case is delivered through the prosecutor’s cross-examination.

[Prosecutor]: Mr. Dufresne, describe the confrontation you had with your wife the night that she was murdered.

[Dufresne]: It was very bitter. She said she was glad I knew . . . that she hated all the sneaking around. And she said . . . that she wanted a divorce in Reno.

[Prosecutor]: What was your response?

[Dufresne]: I told her that I would not grant one.

[Prosecutor]: “I’ll see you in Hell before I see you in Reno.” Those were the words you used, Mr. Dufresne, according to the testimony of your neighbors.

[Dufresne]: If they say so. I really don’t remember. I was upset.

[Prosecutor]: What happened after you argued with your wife?

[Dufresne]: She packed a bag. She packed a bag to go and stay with Mr. Quentin.

[Prosecutor]: Glenn Quentin, the golf pro at the Snowden Hills country club, the man you had recently discovered was your wife’s lover. Did you follow her?

[Dufresne]: I went to a few bars first. Later, I drove to his house to confront them. They weren’t home, so I parked in the turnout and waited.

[Prosecutor]: With what intention?

[Dufresne]: I’m not sure. I was confused . . . drunk. I think . . . mostly I wanted to scare them.

[Prosecutor]: When they arrived, you went up to the house and murdered them.

[Dufresne]: No. I was sobering up. I got back in the car, and I drove home to sleep it off. Along the way, I stopped and I threw my gun into the Royal River. I feel I’ve been very clear on this point.

[Prosecutor]: Well, where I get hazy is where the cleaning woman shows up the following morning and finds your wife in bed with her lover riddled with .38 caliber bullets. Now does that strike you as a fantastic coincidence, Mr. Dufresne, or is it just me?

[Dufresne]: Yes, it does.
[Prosecutor]: Yet you still maintain that you threw your gun into the river before the murders took place. That's very convenient.

[Dufresne]: It's the truth.

[Prosecutor]: The police dragged that river for three days and nary a gun was found. So there could be no comparison made between your gun and the bullets, taken from the blood-stained corpses of the victims. And that, also, is very convenient. Isn't it, Mr. Dufresne?

[Dufresne]: Since I am innocent of this crime, sir, I find it decidedly inconvenient that the gun was never found.\(^{18}\)

There is no lawyer in sight for the defense. Andy is naïve in his trust. He apparently thinks the truth will be enough. He is even slightly indignant that his story has not ended the matter. “I feel I’ve been very clear on this point.” His testimony only serves to make the prosecution’s case stronger. Whether or not Andy’s decision to testify was against the advice of his lawyer, the testimony, together with the tangible evidence from the crime scene, became the core of the prosecutor’s summation to the jury.

[Prosecutor]: Ladies and gentlemen, you’ve heard all the evidence, you know all the facts. We have the accused at the scene of the crime. We have footprints, tire tracks, we have bullets strewn on the ground, which bear his fingerprints, the broken bourbon bottle, likewise the fingerprints, and most of all, we have a beautiful young woman and her lover lying dead in each other’s arms. They had sinned. But was their crime so great as to merit a death sentence? And while you think about that, think about this. A revolver holds six bullets, not eight. I submit this was not a hot-blooded crime of passion. That at least could be understood, if not condoned. No. This was revenge, of a much more brutal and cold-blooded nature. Consider this. Four bullets per victim. Not six shots fired, but eight. That means that he fired the gun empty and then stopped to reload, so that he could shoot each of them again. An extra bullet per lover. Right in the head.\(^{19}\)

The next scene shows the judge at sentencing, after the jury has returned a guilty verdict for the two murders.

[Judge]: You strike me as a particularly icy and remorseless man, Mr. Dufresne. It chills my blood just to look at you.\(^{20}\)

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19. *Id.* at 04:57. There was no evidence regarding the sequence of the shots, but this is arguably fair comment by the prosecutor in summarizing the case.

20. This is an interesting metaphor. The judge obviously believes he is looking at an “icy” (another metaphor) and “remorseless” murderer when he is imposing the sentence. In a sense, however, he admits to be cold-blooded (“It chills my blood”) himself. The State’s later treatment of Andy Dufresne, in keeping him in the system after evidence of his innocence arises, may be fairly characterized as cold-blooded.
By the power vested in me by the state of Maine, I hereby order you to serve two life sentences, back to back, one for each of your victims. So be it.\(^{21}\)

If Andy Dufresne was innocent, however, it would have been hard to show genuine remorse for a crime that he did not commit. The story at this point compels us, however, to draw the conclusion that Andy did indeed commit these homicides. We only learn, later on, of an alternative narrative for the crime.

III. THE INCARCERATION OF ANDY DUFRESNE

Incarceration is said to serve several purposes, including retribution, deterrence, incapacitation, and rehabilitation.\(^{22}\) Retribution, the most ancient of the goals, transfers the power of revenge from the victim or the victim’s family to the community.\(^{23}\) Retribution is not simply institutionalized revenge, it is tempered by a principle of proportionality, so that the punishment should “fit the crime.”\(^{24}\) While retribution looks at the past offense and imposes a punishment upon the individual who has committed the crime, deterrence looks to how punishment can discourage the same or similar behavior in the future.\(^{25}\) This is a utilitarian justification that justifies punishment on the grounds that it is fostering the greater good of the community.\(^{26}\) Incapacitation is a more extreme (and yet practical) version of deterrence, intended to isolate the offender from the rest of the community.\(^{27}\) Rehabilitation runs in the other direction, as it seeks to reform and make one ready for re-entry in civil society.\(^{28}\) Ascendant among the goals in

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21. THE SHAWSHANK REDEMPTION, supra note 1, at 06:17.
25. Robinson & Darley, supra note 24, at 454.
26. Id. at 454-55.
27. See Rummel v. Estelle, 445 U.S. 263, 284 (1980): The purpose of a recidivist statute such as that involved here is not to simplify the task of prosecutors, judges, or juries. Its primary goals are to deter repeat offenders and, at some point in the life of one who repeatedly commits criminal offenses serious enough to be punished as felonies, to segregate that person from the rest of society for an extended period of time. This segregation and its duration are based not merely on that person’s most recent offense but also on the propensities he has demonstrated over a period of time during which he has been convicted of and sentenced for other crimes. Id.
28. Alschuler, supra note 22, at 8 (In the words of Attorney General Ramsey Clark: “[r]ehabilitation must be the goal of modern corrections. Every other consideration should be subordinated to it. To
the twentieth century, rehabilitation’s influence has begun to recede, caused, at least in part, by the rise of the sentencing reform movement.29

While each goal of the criminal law has a justifiable rationale, together they produce seemingly intractable conflicts. Does retribution help or hinder deterrence or rehabilitation? Is it possible to achieve rehabilitation under conditions that involve a concentration of individuals whose behavior has required their removal from civil society? Does the isolation from society help or hinder the rehabilitative efforts for a return to civil society? The tension between the respective goals of punishment emerge throughout The Shawshank Redemption.

A. “PUT YOUR FAITH IN THE LORD. YOUR ASS BELONGS TO ME.”

When Andy Dufresne arrived at Shawshank prison, he was wearing a suit and tie, although this would soon change. The transition from civilian life as a bank vice-president and husband to prison life was no doubt jarring. The new prisoners were jeered by the inmates, who enjoyed the sport of taunting the newcomers and taking bets on who would break first. Red, the narrator of the story, was at the center of the bet making. Red was not an omniscient narrator, but a wise one. He was mistaken, however, about his first impression of Andy. He bet that Andy would be the first of the newcomers to break. But he was wrong. Andy did not say a word the first night.30

Inside, the new prisoners were lined up for the orientation conducted by the Warden:

This is Mr. Hadley, he’s captain of the guards. I am Mr. Norton, the warden. You are convicted felons. That’s why they sent you to me. Rule number one: no blasphemy. I’ll not have the Lord’s name taken in vain in my prison. The other rules, you’ll figure out as you go along. Any questions?31

One of the prisoners asked, “When do we eat?” Hadley’s profanity-laden response that they would do whatever they were told was followed by a beating to bring home his point.32 Hadley then took his place at Norton’s side. Norton went on, without any comment on what had just happened, “I believe in two things.

rehabilitate is to give health, freedom from drugs and alcohol, to provide education, vocational training, understanding and the ability to contribute to society.”).

29. See Robinson & Darley, supra note 24, at 464 (“The rehabilitationist approach to sentencing has lost credibility, based on the findings of numerous studies indicating that criminal rehabilitation programs, as practiced, do not produce impressive, or often even detectable reductions in recidivism of those who have participated in the programs.”). See also Alschuler, supra note 22, at 6 (“Rehabilitation remained the central professed goal of American criminal justice—at least in most public rhetoric—until the final quarter of the twentieth century.”); id. at 10 (“In 1987, a preliminary draft of the Federal Sentencing Guidelines declared, “[T]o the extent that principles derived from retributive and crime control models conflict, justice for the public is the overreaching goal.”); id., at 10 (“One can discern this new penology in sentencing guidelines and mandatory minimum sentences that allocate punishment wholesale rather than retail.”).

30. THE SHAWSHANK REDEMPTION, supra note 1, at 19:48.

31. Id. at 13:33.

32. Id.
Discipline and the Bible. Here, you'll receive both.” He held up a Bible. “Put your faith in the Lord. Your ass belongs to me. Welcome to Shawshank.”

The new prisoners were stripped down, hosed, and de-loused, whether they needed it or not. It was like boot camp, making the necessary point that things were going to be different at Shawshank. It is understandable that those in control wanted to establish dominance. The prisoners were convicted felons, and it was important to leave no doubt about who was in charge.

Red watched from his cell and commented,

The first night’s the toughest, no doubt about it. They march you in naked as the day you were born, skin burning and half-blind from that delousing shit they throw on you . . . and when they put you in that cell, and those bars slam home, that’s when you know it’s for real. Old life blown away in the blink of an eye, nothing left but all the time in the world to think about it.

The events of the first night had the feel of ritual, but it went way too far. The inmates placed their bets on who among the newcomers would break first. No problem with that. When the overweight “mama’s boy,” broke first, Hadley reacted with almost routine brutality. The newcomer was dragged from his cell and severely beaten. This was a very jarring introduction to the social morés of the institution. The emotional breakdown of the new inmate was not unexpected. But his murder on the first night at the hands (and feet) of an institutional officer was beyond the pale.

The next morning, Andy ate breakfast in the mess hall. He sat near the group gathered around Red, but was emotionally very much by himself. The ice breaker occurred when he pulled out a maggot from his meal portion. The old man, Brooks, asked if he was going to eat it. Andy did not exactly know how to answer, but gave the maggot to Brooks, who promptly fed it to his pet crow, Jake. Andy was evidently relieved that Brooks was not asking for himself, but for Jake. This established, for Andy, a threshold of normalcy in this otherwise unusual setting and was the beginning of an important relationship between Andy and Brooks.

In the same way, the relationship between Andy and Red began with a simple transaction. “I understand you are a man who knows how to get things.” Andy asked Red if he could obtain a rock hammer. Red agreed, but with a warning,

Folks who run this joint love surprise inspections. They find it, you gonna lose it. If they do catch you with it, you don’t know me. You

33. Id. at 13:57.
34. Id. Although there is a distinction between blasphemy and profanity (later memorably ignored by Captain Hadley), there is a striking contrast between Norton’s sanctimonious speech and what actually goes on at Shawshank. Author King and director Darabont are foreshadowing the theme of hypocrisy here.
35. Id.
36. Id. at 15:00.
37. Id.
38. Id. at 21:10.
39. Id. at 25:30.
mention my name, we’ll never do business again. Not for shoelaces or a stick of gum.\textsuperscript{40}

With that understanding in place, the rock hammer was ordered. The delivery system was simple, but efficient. In through the laundry and out for distribution from Red via the library cart and delivered by Brooks. Free enterprise at work.\textsuperscript{41}

While voluntary transactions among the inmates can ameliorate the harshness of prison life, there are other issues to be reckoned with. Foremost among them is safety. If there is to be rehabilitation, there must be an institutional commitment to protecting inmates from violence (especially from the guards). Warden Norton had asserted confidently, “Your ass is mine.” But this was clearly not so. Institutional control had practical limits. Control at the local level was an entirely different matter. Andy was continuously threatened by a group known as “the Sisters,” with Bogs as the leader. Red commented: “I wish I could tell you that Andy fought the good fight, and the Sisters let him be. I wish I could tell you that, but prison is no fairy-tale world.”\textsuperscript{42} The Sisters kept at him. “Sometimes he was able to fight them off, sometimes not. And that’s how it went for Andy. That was his routine. I do believe those first two years were the worst for him. And I also believe if things had gone on that way, this place would have got the best of him.”\textsuperscript{43} But then, in the spring of 1949, there came an opportunity for change.\textsuperscript{44}

B. “\textit{Salvation Lies Within}.”

It began simply enough, with a roof resurfacing project. There was a call for volunteers, of which there were many, but the drawing was fixed. Six were chosen from Red’s circle of friends. As the inmates were going about the business of tarring the roof, Andy overheard Hadley complaining about the apparent good fortune of an inheritance. Andy audaciously intruded upon the guards’ conversation and offered a solution to the tax problem that had vexed Hadley. Characteristically, Hadley’s first reaction was to threaten violence, but he eventually calmed down and listened. In return, Andy asked only for beer for his friends.\textsuperscript{45}

This was a turning point. The inmates were temporarily transformed in that moment. Reconnecting with simple human pleasures—working outside in good weather, taking a break, and enjoying a beer—made them feel almost free.\textsuperscript{46} As Red put it,

\begin{itemize}
\item[40.] Id. at 25:50.
\item[41.] Id. at 29:00.
\item[42.] Id. at 32:05.
\item[43.] Id.
\item[44.] Id.
\item[45.] Id.
\item[46.] See id. at 37:55. The simple pleasure of enjoying beer on the rooftop that spring day brings to mind the classic line attributed to Benjamin Franklin: “Beer is proof that God exists, that He loves us, and that He wants us to be happy.” For the record, what Benjamin Franklin actually did say was expressed in a private letter to André Morellet in 1779:
\end{itemize}
We sat and drank with the sun on our shoulders, and felt like free men. Hell, we could have been tarring the roof of one of our own houses. We were the Lords of all Creation . . . . As for Andy, he spent that break hunkered in the shade, a strange little smile on his face, watching us drink his beer.  

His satisfaction came from another simple human pleasure—contributing to the happiness of the group. As Red observed, Andy did it just to feel normal again, if only for a moment.

By then, Andy and Red had become close friends. It happened in prison in a way that could not have happened on the outside. Andy was a loner, an outsider, educated and well-read. He was a professional; certainly not used to violence. He was also white. He was a survivor and, quietly, he lived inside his head. Red was the ultimate insider—socially adept, educated on the street, a free-market man, and comfortable with his place within the prison. In a brilliant bit of casting, Red’s character was changed from Irish (in King’s novella) to African-American. Both Tim Robbins and Morgan Freeman accentuated the differences between the two men. In 1949, this was not a prescription for friendship. As Aristotle teaches us, equality in some important sense is a condition for true friendship. The prison setting brought about an equality that allowed Andy and Red to become friends in a way that almost certainly would not have occurred outside of Shawshank.

Andy’s relationship with the other prisoners and the prison staff continued to improve. When Andy wanted rocks to carve into figures for a chess set, this led to collecting efforts on his behalf outside of the prison walls. While waiting for the rocks, Andy used the hammer to carve his initials/name on the cellblock wall. He also made another request to Red for a Rita Hayworth poster. Andy was

We hear of the conversion of water into wine at the marriage in Cana as a miracle. But this conversion is, through the goodness of God, made every day before our eyes. Behold the rain which descends from heaven upon our vineyards; there it enters the roots of the vines, to be changed into wine; a constant proof that God loves us, and loves to see us happy. The miracle in question was performed only to hasten the operation.

WALTER ISAACSON, BENJAMIN FRANKLIN: AN AMERICAN LIFE 374 (2003) (emphasis added). There is a lot of good theology in that paragraph.

47. THE SHAWSHANK REDEMPTION, supra note 1, at 37:55.
48. Id. at 38:40.
49. Later, we see that Andy was comfortable with sorting the new books for the library. For example, he was familiar with Alexandre Dumas’ The Count of Monte Cristo. Id. He also had Wolfgang Amadeus Mozart in his head and heart. Id. Not bad for a banker.

Aristotle states in Book VIII, Chapter 1 of The Nicomachean Ethics: “Between friends there is no need for justice, but people who are just still need the quality of friendship; and indeed friendliness is considered to be justice in the fullest sense. It is not only a necessary thing but a splendid one.” Aristotle bases his conception of justice on a conception of fair exchange, and does the same for friendship. Friendships are balanced by the fact that each friend gives as much as receives. Hence, justice and friendship are closely connected.

Id. (emphasis added).
attacked again and this time he thwarted this attack by threatening force back.\textsuperscript{51} Andy ended up instead with yet another beating, resulting in a lengthy stay in the infirmary. Shortly thereafter, Bogs was beaten severely by the guards, in retaliation for the latest attack on Andy.\textsuperscript{52} This was evidence that Andy now had friends among the guards. When he came back from the infirmary, there was a collection of rocks as a welcome back gift, along with a Rita Hayworth poster.\textsuperscript{53}

The prison administration conducted a semi-regular practice of “tossing the cells,” in search of contraband. After a thin show of picking cells at random, Warden Norton arrived at Andy’s cell. Andy was reading his Bible. Norton took the Bible out of Andy’s hand, commenting, “I’m pleased to see you reading this. Any favorite passages?”\textsuperscript{54} Andy responded: “Watch ye therefore, for ye know not when the master of the house cometh.”\textsuperscript{55} A perfect response, under the circumstances. In a spontaneous duel of Biblical knowledge, Norton quickly gave the cite and then responded with a cite of his own. Perhaps even more surprising was that Andy knew the exact cite for Norton’s verse. Back to the task at hand, Hadley lightly tossed the cell. Norton noted the Rita Hayworth poster, but let it go. After leaving the cell, Norton paused and turned back. “I almost forgot.” He reached through the bars and returned the Bible to Andy. “I’d hate to deprive you of this. Salvation lies within.”\textsuperscript{56}

As Red observed, “[t]ossing cells was just an excuse. Truth is, Norton wanted to size Andy up.”\textsuperscript{57} Red was right. Immediately thereafter, Andy met with the Warden in his office, where he noted a framed needlepoint sampler on the wall, “His Judgment Cometh and that Right Soon.”\textsuperscript{58} Norton decided to transfer Andy from the prison laundry to the library—“something more befitting a man of your education.”\textsuperscript{59} So, just like that, Andy was elevated from the menial laundry job to the upper echelon of prison life. He got distance from the Sisters and had no real duties. When Andy walked in the library, he greeted Jake, the crow, now grown, “Hey Jake, where’s Brooks?”\textsuperscript{60} Both Andy and Brooks were

\textsuperscript{51}. I have left out the details of the threat, trusting that the reader is familiar enough with the story to recall Andy’s version of mutually assured destruction.

\textsuperscript{52}. \textit{The Shawshank Redemption}, supra note 1, at 45:33. Red commented on this turn of events:

Two things never happened again after that. The Sisters never laid a finger on Andy again . . . and Bogs never walked again. They transferred him to a minimum security hospital upstate. To my knowledge, he lived out the rest of his days drinking his food through a straw.

\textit{Id.}

\textsuperscript{53}. \textit{Id.} at 38:50.

\textsuperscript{54}. \textit{Id.} at 49:30.

\textsuperscript{55}. \textit{Id.;} Mark 13:35 (King James).

\textsuperscript{56}. \textit{The Shawshank Redemption}, supra note 1, at 50:59. We later learn that Andy had anticipated the search and had hidden the rock hammer within the pages of the Bible. A wonderful irony is that Norton handed back the Bible, and the hammer, while saying “Salvation lies within.” \textit{Id.}

\textsuperscript{57}. \textit{Id.} at 51:17.

\textsuperscript{58}. \textit{Id.} at 51:29.

\textsuperscript{59}. \textit{Id.} at 51:50.

\textsuperscript{60}. \textit{Id.} at 52:02. There is a delightful aspect to this scene in that Andy (Tim Robbins) had discovered in run-throughs that Jake would caw when Andy came in. So, Andy entered, \textit{waited} for Jake’s \textit{line}, and then said: “Hey Jake, where’s Brooks?” Nice interaction with a crow. \textit{Id.} (Darabont commentary).
mystified by this turn of events. There had never been an assistant in the history of the library. But then Hadley walked in with another guard who needed some financial advice. Ah, there are no coincidences. So, Andy sat down and worked through the financial needs of his first “client.” Off of this success, Andy decided to ask for funds for the library. He did so, but there were no funds coming from the warden. Being resourceful, however, he asked for and received permission to write to the Legislature. The success with the guard’s financial advice led to Andy doing tax work for the guards. The first year, Andy did about one-half of the guards’ tax returns. “The year after that, he did them all, including the Warden’s.” The year after that, they rescheduled the intermural baseball season with other regional prison guards, to coincide with tax season. There was then enough work to justify bringing in Red as an assistant for Andy.

Things were going very well in the library, until Brooks went berserk. Mild-mannered Brooks, who would not hurt a crow, was threatening to slit the throat of another inmate. It turned out that Brooks was afraid of freedom. He had an impending parole hearing and did not want to be turned loose. He was eventually talked out of committing the crime, but everyone had been dumbfounded by this.

What had gotten into Brooks? Red had an answer:

The man’s been in here fifty years. . . . This is all he knows. In here, he’s an important man, he’s an educated man. Outside, he’s nothing but a used-up old con with arthritis in both hands. Probably couldn’t get a library card if he tried. You know what I’m trying to say?

Brooks was paroled, nonetheless. Before he left, he freed Jake. If you understand foreshadowing, you know that this will not turn out well, either for Brooks or Jake. Brooks was befuddled by all the changes that had taken place since he was last on the street fifty years ago. He was completely out of his element. He got a job, but it was not a good fit. He looked for Jake, for solace. But Jake did not come around, in all likelihood because Jake suffered from the similar displacement issues as Brooks. Brooks wanted to go home. So he said: “Maybe I should get me a gun and rob the Foodway [where Brooks worked], so they’d send me home. I could shoot the manager [who was not a nice person] while I was at it, sort of like a bonus.” In the end, Brooks did not commit any

61. Id. at 53:00.
62. Id. at 55:02.
63. Id. at 55:38.
64. Id. at 55:55. Andy wrote the legislature one letter a week for six years until they responded. Id. at 1:06:49.
65. Id. at 56:22.
66. Id. at 55:29.
67. Id. at 55:34.
68. Id. at 57:05.
69. Id. at 59:15.
70. Id. at 1:01:46.
71. Id. at 1:03:33. These are the words of a good man. He truly did not know what to do. He wanted to go home and would like to have done so, with as little fuss as possible. His wry suggestion of taking out the store manager as a means of improving the public good was never seriously acted upon because Brooks was not that kind of man.
crime against any other person. Instead, he killed himself. 72 Whatever he had done before, he had been rehabilitated, in the sense of no longer being a danger to society. You could see it in his actions; you could hear it in his voice. He was ostensibly rehabilitated, yet only for prison life. He was in no way rehabilitated to live in civil society. We can assume that Jake met the same fate. Rehabilitation, in this sense, was turned on its head. Government, reflecting decisions made by those who are caught between rules and common sense, often does not get it right. In this case, it freed the one prisoner who most needed to be kept. 73

And so we move on, back to Shawshank, where Andy received a letter, finally, relating to his many requests for library funding,

Dear Mr. Dufresne. In response to your repeated inquiries, the State has allocated the enclosed funds for your library project . . . [Stunned, he examines the check.] This is two hundred dollars. In addition, the Library District has generously responded with a charitable donation of used books and sundries. We trust this will fill your needs. We now consider the matter closed. Please stop sending us letters. 74

Andy gazed around at the boxes. His eyes misted with emotion. The guard even said, “Good for you, Andy.” 75 Andy, however, did not miss a beat, “Only took six years. . . . From now on, I’ll write two letters a week instead of one.” 76

The success of the library request found Andy in the Warden’s office, going through the inventory that had been sent. Among the donations was a recording of a song from a Mozart opera. On a whim, given the unexpected opportunity of access to the prison PA system, Andy decided to play this duet with two lady singers, and the result was miraculous. In a memorable scene, the inmates stood, transfixed by the sound of the two ladies singing in a language that surely none of them could understand. If you had decided, as a storyteller, to demonstrate the universal beauty of music, you would have been hard pressed to come up with a more compelling example. Although it must be conceded that this scene almost certainly could not happen in today’s prison setting, it nonetheless was a magical moment in moviemaking. Andy reclined in the chair, listening to the music. 77

The effect was rapture, and Shawshank no longer existed for that moment, as Red reflected:

72. Id. at 1:04:21. Before Brooks hanged himself, he carved “Brooks was here” onto the rafter of his apartment. It was a sad epitaph for a good and decent man.

73. The Brooks and Jake storyline was an addition by screenwriter Darabont to the original Stephen King story. In the novella, Brooks was a very minor character. See generally Stephen King, Rita Hayworth and the Shawshank Redemption, in Different Seasons 15, 15-107(1983). One could say that it was a very good addition, and very King-like, particularly in its use of an animal (like the use of the mouse in Stephen King’s The Green Mile) to foreshadow a bad ending. Stephen King, The Green Mile 245-46(1996).

74. The Shawshank Redemption, supra note 1, at 1:06:10.

75. Id. at 1:06:44.

76. Id. at 1:06:49.

77. Id. at 1:07:20.
I have no idea to this day what those two Italian ladies were singing about. Truth is, I don’t want to know. Some things are best left unsaid. I like to think they were singing about something so beautiful it can’t be expressed in words, and makes your heart ache because of it.

I tell you those voices soared. Higher and farther than anybody in a gray place dares to dream. It was like some beautiful bird flapped into our drab little cage and made these walls dissolve away... and for the briefest of moments—every last man at Shawshank felt free. Again, like the beer on the roof on a beautiful day, there was freedom. This is part of rehabilitation—the re-connection of feelings with basic human values.

“Andy got two weeks in the hole for that little stunt.” And he came away from that experience with a very positive outlook:

It was the easiest time I ever did... I had Mr. Mozart to keep me company... It was in here [tapping his head] and in here [tapping his heart]. That’s the beauty of music... they can’t get that from you. Haven’t you ever felt that way about music?

Red admitted that he played a “mean” harmonica as a younger man. No longer, however: “Lost interest in it, though. Didn’t make much sense in here.” Andy responded, “Here [at Shawshank] is where it makes most sense. We need it so we don’t forget... There’s something inside that they can’t get to, that they can’t touch. It’s yours.” Exasperated, Red asked Andy what he was talking about. “Hope,” Andy responded. Red put an end to the conversation with a bitter observation, “Hope is a dangerous thing. Hope can drive a man insane. It’s got no use on the inside.”

Another idea that took getting used to at Shawshank was the absence of women. Apart from the regular showing of movies and the inadvertent “concert” with the two Italian ladies, the female presence existed only at a distance. Same with the posters in Andy’s cell—Rita Hayworth, Marilyn Monroe, and then, Raquel Welch—which marked the passage of time. Very one-sided relationship, or so it seemed. Later, we see that the poster women in fact played an important role in the story.

Red’s second parole hearing had the same result as the first. Red did a better job presenting his case, but in the end, it was like an ancient ritual in which both sides intoned their lines without delving into the underlying substance. In anticipation of this outcome, Andy obtained a harmonica as a gift for Red. “Had

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78. Id. at 1:09:18.
79. Id. at 1:11:13. When Andy returned, he was chided, mildly, for his selection of music. Id. at 1:11:00. He said he didn’t play any Hank Williams because they broke the door down before he could take requests. Id. Later, however, a Hank Williams record was available for inmates in the library. Id. at 1:17:52.
80. Id. at 1:11:13.
81. Id. at 1:11:55.
82. Id. at 1:12:31.
to go through one of your competitors. I hope you don’t mind. I wanted it to be a surprise.”

Andy continued on his quest for a more useful library. He faithfully wrote two letters a week to the state senate. And it finally worked. The appropriations committee voted to send an annual payment of $500, just to shut him up. This, together with more donations from local groups, helped to transform the once quiet corner of the prison into a center of activity. The value of the library to what was becoming a positive community was demonstrated in the scene showing the new operation. People can be told the truth, but they have to discover it for themselves. The library helps to make this happen. Alexandre Dumas’ The Count of Monte Cristo made its cameo appearance during cataloging, and Red quipped, “Maybe that should go under educational too.”

The end result, as Red also observed, was to turn it “into the best prison library in New England.” Salvation lies within, indeed.

C. “WATCH YE THEREFORE, FOR YE KNOW NOT WHEN THE MASTER OF THE HOUSE COMETH.”

The next major turn in the story came with the implementation of the Warden’s “Inside-Out” project. This involved the use of prison labor for public construction projects. On its face, there was much to be said for the program. It would save taxpayer money because of the relatively low cost of prison labor. It allowed inmates to engage in more meaningful, useful work, unlike the repetitive task of making vehicle license plates. It was intended to keep the inmates on the positive path and to offer at least a basic start on rehabilitation. But it had other consequences, as well. It was the beginning of the personal corruption of the Warden. “Course, Norton failed to mention to the press that ‘bare minimum of expense’ is a fairly loose term. There are a hundred different ways to skim off the top. Men, materials, you name it. And, oh my Lord, how the money rolled in...”

At first, the plan had seemed acceptable, even good. But temptation led to corruption. That temptation came about because the construction projects posed “unfair” competition to other public works contractors and bribes were thus offered to the Warden to not bid certain contracts. The corruption came about because, although the prison had many rules, the rules were for other people, not

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83. Id. at 1:14:20.
84. Id. at 1:17:17.
85. Id. at 1:17:52.
86. Mark 13:35 (King James).
87. THE SHAWSHANK REDEMPTION, supra note 1, at 1:18:08. Norton certainly used the right words: No free rides, but rather a genuine, progressive advance in corrections and rehabilitation. Our inmates, properly supervised, will be put to work outside these walls, performing all manner of public service. These men can learn the value of an honest day’s labor while providing a valuable service to the community—and at a bare minimum of expense to Mr. and Mrs. John Q. Taxpayer!
88. Id. at 1:18:20.
89. Id. at 1:18:47.
for the Warden. The Warden, working as a public employee, could not resist the temptation of the bribe money. Andy was promoted to keep the books for all this. Andy and Red discussed the situation:

[Andy]: There’s a river of dirty money running through this place.
[Red]: And the problem with having all that money is sooner or later you gonna have to explain where it came from.
[Andy]: That’s where I come in. I channel it, filter it, funnel it . . . stocks, securities, tax free municipals . . . I send that money out into the real world. And when it comes back . . .
[Red]: Clean . . . ?
[Andy]: Cleaner. By the time Norton retires, I will have made him a millionaire.89

Andy explained to Red the process that laundered the bribe money through a fictitious person that could not be traced back to the Warden, nor to Andy.

[Andy]: You know the funny thing is, on the outside, I was an honest man. Straight as an arrow. I had to come to prison to be a crook . . .
[Red]: Ever bother you?
[Andy]: I don’t run the scams, Red, I just process the profits. A fine line, maybe. But I’ve also built that library, and used it to help a dozen guys get their high school diploma. Why do you think the warden lets me do all that?
[Red]: To keep you happy and doing the laundry. Money instead of sheets.
[Andy]: Well, I work cheap. That’s the trade-off.90

Andy was not merely biding his time while working for the Warden. Although his experience at Shawshank was not comparable to the complete education Edmond Dantès received under the tutelage of the Abbe Faria at the Chateau d’If, Andy was productive.91 We later learn that Andy patiently and persistently had begun tunneling his way to freedom. His friendship with Red grew stronger and, through conversation and reflection, Andy came to better understand the circumstances that led to his incarceration.

The arrival of Tommy, who had been in and out of prison most of his adult life, proved to be another turning point in the story. Tommy was a popular young man and quickly became part of Red’s circle. Tommy worked with Andy to obtain his GED and, during that process, a friendship with Andy was formed. When Tommy learned Andy’s story, it brought to Tommy’s mind another story that he

89. Id. at 1:21:15.
90. Id. at 1:23:08.
91. See generally The Count of Monte Cristo, supra note 9, ch. 17 (The Abbe’s Chamber). While unjustly prisoned for many years, Dantès, later resurfacing in society as the Count of Monte Cristo, had studied language, culture, and science with the Abbe (aka the Mad Priest), who was actually not mad, but rather, extremely lucid and learned. Id. The Abbe, for example, was able to unravel Dantès’s curious story and explain to him the who, what, how, and why of his wrongful imprisonment without leaving the confines of the prison. Id.
had heard from a prisoner named Elmo Blatch. Connecting the two stories shed light on what happened the night Andy’s wife and her lover were murdered, as told by Blatch:

I got me this job one time bussin’ tables at a country club. So I could case all the big rich p****s that come in. So I pick out this guy, go in one night, and do his place. He wakes up, and gives me s****. So I killed him. Him and this tasty b**** he was with. [Starts laughing] That’s the best part! She’s f*****’ this p****, see, this golf pro, but she’s married to some other guy! Some hotshot banker. And he’s the one they pinned it on!92 [Continues laughing].

When Andy heard the story, he broke from his passive persona and met with the Warden to see if something could be done. After telling him the story told by Tommy, Norton responded:

[Norton]: I have to say that’s the most amazing story I ever heard. What amazes me most is you were taken in by it. . . . It’s obvious this fellow Williams is impressed with you. He hears your tale of woe and quite naturally wants to cheer you up. He’s young, not terribly bright. Not surprising he wouldn’t know what a state he’d put you in.

[Andy]: Sir, he’s telling the truth.

[Norton]: Well let’s say for a moment this Blatch does exist. You think he’d just fall to his knees and cry, “Yes, I did it! I confess! Oh, and by the way, add a life term to my sentence!”

[Andy]: You know that wouldn’t matter. With Tommy’s testimony, I can get a new trial.

[Norton]: That’s assuming Blatch is even still there. Chances are excellent he’d be released by now.

[Andy]: Well, they’d have his last known address. Names of relatives. . . . [Norton shakes his head] It’s a chance. Isn’t it? How can you be so obtuse?

[Norton]: What? What did you call me?

[Andy]: Obsolete! Is it deliberate . . . ? The country club will have his old time cards! Records, W-2s, with his name on them!

[Norton]: Dufresne, if you want to indulge this fantasy, that’s your business. Don’t make it mine. This meeting is over.

[Andy]: Sir, if I were to ever get out, I’d never mention what goes on in here. I’d be just as indictable as you for laundering the money.93

92. Id. beginning at 1:31:08.
93. Naively, Andy had not considered the possibility of an offer of immunity in order to go after a bigger fish, like the Warden.
Andy had been uncharacteristically agitated and emotional at this meeting. He did not foresee, however, how the situation, with the possibility of freedom for Andy, threatened the Warden. Norton no doubt saw how Andy’s leaving Shawshank would be very perilous to his fortunes, both figuratively and literally. At Shawshank, Norton was master of the house, but only so long as certain information—regarding the corruption, the beatings, and the murders—did not go outside of the prison walls. Norton resolved to nip this situation in the bud, before it got out of control. He arranged for a private meeting with Tommy in the prison yard, at night to discuss the matter:

[Norton]: We’ve got a situation here. I think you can appreciate that.

[Tommy]: Yes sir, I sure can.

[Norton]: I tell you, son, this thing really came along and knocked my wind out. It’s got me up nights, that’s the truth. . . . The right thing to do. Sometimes it’s hard to know what that is. You understand? [Tommy nods]. I need your help, son. If I’m gonna move on this, there can’t be the least little shred of doubt. I have to know if what you told Dufresne was the truth.

[Tommy]: Yes sir. Absolutely.

[Norton]: Would you be willing to swear before a judge and jury . . . having placed your hand on the Good Book and taken an oath before Almighty God Himself?

[Tommy]: Just gimme that chance.

[Norton]: That’s what I thought. 95

Norton looked up and then walked away. Hadley proceeded to shoot Tommy several times, in the back. If Warden Norton had merely acquiesced before in the institutional brutality meted out by Captain Hadley, this time he was directly involved in the murder of an inmate. 96 Norton’s piety, it turns out, went only so far.

Norton broke the news of Tommy’s death to Andy, “I’m sure by now you’ve heard. Terrible thing. Man that young, less than a year to go, trying to escape. Broke Captain Hadley’s heart to shoot him, truly it did.” 97 Andy responded angrily, “I’m done. Everything stops. Get someone else.” 98 Norton begged to differ,

94. THE SHAWSHANK REDEMPTION, supra note 1, at 1:32:08.
95. Id. at 1:36:49.
96. Id.
97. Id. at 1:38:42.
98. Id. at 1:39:05.
Nothing stops! Nothing! Or you will do the hardest time there is. No more protection from the guards. I’ll pull you out of that one-bunk Hilton and cast you down with the Sodomites. You’ll think you been f***ed by a train! And the library? Gone! Sealed off brick by brick! We’ll have us a little book-barbecue in the yard! They’ll see the flames for miles! We’ll dance around it like wild Injuns! You understand me? Catching my drift? Or am I being obtuse?99

Norton was beside himself with rage at this point. He tried to hurt Andy where it counted—his independence, his security, and especially, his library. He gave Andy another month in solitary to think about it.100

In truth, the Warden was not the master of the house. He acted as if he was, but the information brought by Tommy to Shawshank threatened to bring the attention of the real master: the Warden’s employer. The measures taken by the Warden against this threat were not enough. Tommy’s death only strengthened Andy’s resolve. Armed with this new information, Andy was ready to take the next step in his redemption. And the Warden did not see it coming. He was not watching for the time when the master would come and that judgment would follow.

D. “HIS JUDGMENT COMETH AND THAT RIGHT SOON.”

After release from solitary, Andy talked with Red, sitting side by side, in an iconic scene that turned out to be Andy’s “exit” interview:

[Andy]: My wife used to say I’m a hard man to know. Like a closed book. Complained about it all the time. She was beautiful. God, I loved her. I just didn’t know how to show it, that’s all. I killed her, Red. I didn’t pull the trigger. But I drove her away. And that’s why she died, because of me, the way I am.

[Red]: That don’t make you a murderer. Bad husband, maybe. Feel bad about it if you want to, but you didn’t pull the trigger.

[Andy]: No. I didn’t. Someone else did, and I wound up in here. Bad luck I guess. . . . It floats around. It’s got to land on somebody. It was my turn, that’s all. I was in the path of the tornado. I just didn’t expect the storm would last as long as it has.101

Andy was reflecting on the connectedness of events. “I didn’t pull the trigger, but I drove her away. That’s why she died.”102 If she had not been driven away, she would not have had the “bad luck” of being where she was during what had

99. Id. at 1:39:15.
100. Id.
101. Id. at 1:41:03.
102. Id. at 1:41:31.
started out as a burglary. Andy’s sense of responsibility goes way beyond what the law defines as criminal responsibility. This is part of the redemption, the understanding of responsibility beyond who pulled the trigger.

The conversation then turned to what they would do if they got out.

[Andy]: Tell you where I’d go. Zihuatanejo.
[Red]: Zi what?
[Andy]: Zihuatanejo. It’s in Mexico. Little place on the Pacific Ocean. You know what the Mexicans say about the Pacific . . . ? They say it has no memory. That’s where I want to live the rest of my life. A warm place with no memory. Open up a little hotel, right on the beach. Buy some worthless old boat and fix it up new. Take my guests out, charter fishing. . . . You know, a place like that, I could use a man who can get things.103

Red politely declined, on the ground that he couldn’t make it on the outside. He had been in Shawshank most of his life. He was an institutional man, like Brooks was. Andy told Red, “You underestimate yourself.”104

The conversation then moved to Andy’s imprisonment for a crime he did not commit:

[Andy]: I didn’t shoot my wife and I didn’t shoot her lover. Whatever mistakes I made I’ve paid for them and then some. That hotel, that boat, I don’t think that’s too much to ask.
[Red]: I don’t think you ought to be doing this to yourself, Andy! This is just shitty pipedreams! I mean Mexico’s way the hell down there, and you’re in here, and that’s the way it is!
[Andy]: Yeah, right. And so that’s the way it is. It’s down there, and I’m in here. I guess it comes down to a simple choice, really. Get busy living or get busy dying.105

What does it mean to say “get busy living” when one is in prison? It is probably a frame of mind, an outlook, rather than the actual exercise of life choices because those choices are limited in that setting. It means something like take each day as it comes and do not let the past rule the present. One should also not let the future rule the present, but it is okay to live in hope for the future. In fact, it is necessary to live in hope. To not live in hope, is to get busy dying.

Hope in the future was also hinted at with Andy’s specific directions to Red, in the event that Red should get out of Shawshank. Dig underneath the black rock at the north end of the long rock wall by the large hayfield near Buxton, Maine. What did that mean? Later, in the mess hall, Red expressed his concerns. Andy was talking crazy and Red was worried about him. He thought Andy might be

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103. Id. at 1:43:05.
104. Id. at 1:44:32.
105. Id. at 1:45:02.
getting busy dying. When Andy did not emerge from his cell the next morning, Red feared the worst.\textsuperscript{106}

Andy’s cell was empty. Everyone was mystified as to how this could be, until Norton threw one of the chess pieces in frustration at the Raquel Welch poster on the wall. The piece went through the poster and tumbled down a tunnel that was revealed on the other side. And thus, “in 1966, Andy Dufresne escaped from Shawshank Prison. All they found of him was a muddy set of prison clothes, a bar of soap, and an old rock-hammer damn near worn down to the nub.”\textsuperscript{107} Andy also left other tracks for Norton to ponder. When Norton opened his safe to check the ledger, only Andy’s Bible was inside. The title page, inscribed by hand, read, “Dear Warden. You were right. Salvation lay within.”\textsuperscript{108} Inside, Norton found the pages cut out in the shape of a rock-hammer.\textsuperscript{109}

The search for Andy was to no avail because he had too much of a head start. In fact, about the time that Andy’s absence was discovered, he was visiting several banks in Portland, Maine, making withdrawals of the funds that he had been depositing on behalf of Norton. He also mailed off to the local newspaper the ledger that documented Norton’s bribery scheme, as well as the evidence of prison murders that had taken place by Hadley’s hand, with the knowledge and participation of Norton. With the publication of the story of corruption and murder at Shawshank came law enforcement, this time to arrest the perpetrators. Hadley went relatively quietly (except for his sobbing), but Norton took his own life, rather than live under the conditions over which he had presided.\textsuperscript{110}

Life at Shawshank settled back down to normal after Andy’s escape and Norton’s “departure.” Red received a postcard that contained only the postmark where it had been mailed—from the U.S. town on the border with Mexico. Andy had made good on his dream, his hope. Red was happy for his friend, but missed him nonetheless.\textsuperscript{111}

Then, there was Red’s final parole board hearing:

\begin{quote}
[Parole Rep]: Ellis Boyd Redding, your files say you’ve served forty years of a life sentence. Do you feel you’ve been rehabilitated?

[Red]: Rehabilitated? Well, now let me see. You know, I don’t have any idea what that means.

[Parole Rep]: Well, it means you’re ready to rejoin society.

[Red]: I know what you think it means, sonny. To me it’s just a made up word. A politician’s word, so that young fellas like
\end{quote}

\begin{thebibliography}{9}
\bibitem{106} Id. at 1:50:53.
\bibitem{107} Id. at 1:54:33. “\textit{Andy crawled to freedom through five hundred yards of shit-smelling foulness I can’t even imagine. Or maybe I just don’t want to.” Id. at 1:59:13. Andy’s “exodus” from the slavery of prison did not go by way of the Red Sea, but his emergence from the sewer pipe and washing in the rain and river in this iconic scene provided plenty of Biblical imagery. Id.}
\bibitem{108} Id. at 1:02:15.
\bibitem{109} Director Darabont is fond of pointing out the visual joke that the first page of the cutout is from the Book of Exodus. Id. (Darabont commentary).
\bibitem{110} See \textit{The Shawshank Redemption}, supra note 1, at 2:00:00.
\bibitem{111} See id. at 2:04:08.
\end{thebibliography}
yourself can wear a suit and a tie, and have a job. What do you really want to know? Am I sorry for what I did?

[Parole Rep]: Well, are you?

[Red]: There’s not a day goes by I don’t feel regret. Not because I’m in here, or because you think I should. I look back on the way I was then: a young, stupid kid who committed that terrible crime. I want to talk to him. I want to try and talk some sense to him, tell him the way things are. But I can’t. That kid’s long gone and this old man is all that’s left. I got to live with that. Rehabilitated? It’s just a bullshit word. So you go on and stamp your form, sonny, and stop wasting my time. Because to tell you the truth, I don’t give a shit.

This time, the board judged him rehabilitated. And so Red, like Brooks, was finally paroled. Red followed the same path on the outside. The same room, the same job, and the same despair, but not the same result.

Red reflected on the choice he had to make, “Terrible thing to live in fear. Brooks Hatlen knew it, knew it all too well. All I want is to be back where things make sense. Where I won’t have to be afraid all the time. Only one thing stops me, a promise I made to Andy.” Red decided to look for the place in Buxton that Andy had told him about. Red found a letter, left by Andy, inviting him to travel on, together with some money.

Red used the money to break his parole and travel to Mexico. On the bus ride down there, Red expressed his exhilaration over his newly-recovered freedom, “I find I’m so excited I can barely sit still or hold a thought in my head. I think it’s the excitement only a free man can feel, a free man at the start of a long journey, whose conclusion is uncertain.”

Red had broken away from being an institutional man and had become a free man. As the music swells, we see the reunion on the beach and we are left to imagine what lies ahead.
IV. WHAT DOES THIS STORY TEACH US?

"[P]rison is no fairy-tale world."118 Indeed. At times, it resembles Thomas Hobbes’s state of nature, where life is said to be “solitary, poor, nasty, brutish, and short.”119 Although there are plenty of rules, the dominant rule, at times, seems to be the rule of the strong. Threats of violence and rape are unfortunately part of the community “norm.”120 Bogs and the Sisters had their way, at least until the guards finally intervened. It is hard to imagine how rehabilitation could possibly take place under such circumstances. Yet, even in this nightmare world, there was a sense of right and wrong. Red did not hold back his opinion about the Sisters.121 What they were doing was wrong and this sentiment was shared among the inmates. This is a start. In fact, it may serve as a practical introduction to discerning justice and injustice.

Whatever the circumstances that brought each inmate to prison, whether it involved violence, theft, or some other serious crime, it was typically the result of self-centered, short-term considerations. In prison, inmates can become victims in the same unpleasant way. The tables are turned. One reaction is to resort back to the rule of the strong, through the formation of alliances. Another function of

118. Id. at 32:13.
119. THOMAS HOBBES, LEVIATHAN: OR THE MATTER, FORME AND POWER OF A COMMONWEALTH ECCLESIASTICAL AND CIVIL 82 (Basil Blackwell 1957). The state of nature was described by Hobbes as a war, every individual against each other. In such a state:

[M]en live without other security, than what their own strength, and their own invention shall furnish them withal. In such condition, there is no place for industry; because the fruit thereof is uncertain: and consequently no culture of the earth; no navigation, nor use of the commodities that may be imported by sea; no commodious building; no instruments of moving, and removing, such things as require much force; no knowledge of the face of the earth; no account of time; no arts; no letters; no society; and which is worst of all, continual fear, and danger of violent death; and the life of man, solitary, poor, nasty, brutish, and short.


121. THE SHAWSHANK REDEMPTION, supra note 1 (Red described the Sisters as sub-human).
an alliance, however, may be to produce a standoff, or a rule of neutrality. A truce among alliances based upon rational self-interest. Red’s alliance of friends (with the exception of Andy early on) seemed to have achieved a position of neutrality—neither predator nor prey. Red’s commercial practice in procuring goods as needed enforced that neutrality. No one wanted to get cut off. As such, it appears more like the operation of Tocqueville’s voluntary associations.\(^\text{122}\) Quite a positive contrast with Hobbes’ state of nature and the rule of the strong.

At Shawshank, there was also the rule of the tyrant. Warden Norton wanted discipline and correction, but the tone was set by the assertion of total domination.\(^\text{123}\) The question at orientation—"When do we eat?"—conveniently set off a profanity-laced tirade by Hadley.\(^\text{124}\) Norton’s acquiescence during this scene spoke volumes. His own assertion of power—"your ass is mine"—was clear enough. The liberal use of solitary confinement was one way of demonstrating this.\(^\text{125}\) Undercutting Norton’s assertion of total power, however, was the cognitive dissonance that resulted from the conflict between his words and deeds. The words attempted to set a high-minded tone, but the deeds achieved much less. For example, profanity was expressly forbidden, but the guards, especially Hadley, were a foul-mouthed group. The new inmates were told they would learn discipline. One important aspect of discipline, however, is self-control, and at times, the guards failed miserably at self-control.\(^\text{126}\) Instead, the lesson taught was the rule of the strong, ironically replicating the very failing that brought the inmates to prison in the first place.

Other unintended lessons were being taught as well. Andy said he had to come to prison in order to learn how to be a crook.\(^\text{127}\) He was not alone. Prison can be a “finishing school” for career criminals. The actual prison at Mansfield, Ohio was named as a “reformatory,”\(^\text{128}\) while others are said to be "correctional

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\footnote{\textbf{122.} ALEXIS DE TOCQUEVILLE, DEMOCRACY IN AMERICA 521-24 (J.P. Mayer ed. 1969).}
\footnote{\textbf{124.} THE SHAWSHANK REDEMPTION, supra note 1. “You eat when we say you eat! You p*** when we say you p***! You s*** when we say you s***! You sleep when we say you sleep. You ******* ******* ******* *******!” \textit{Id.} at 13:43.}
\footnote{\textbf{125.} See Davis v. Ayala, 135 S. Ct. 2187, 2209 (2015) (Kennedy, J., concurring). One hundred and twenty-five years ago, this Court recognized that, even for prisoners sentenced to death, solitary confinement bears “a further terror and peculiar mark of infamy.” The past centuries’ experience and consideration of this issue is discussed at length in texts such as The Oxford History of the Prison: The Practice of Punishment in Western Society (1995), a joint disciplinary work edited by law professor Norval Morris and professor of medicine and psychiatry David Rothman that discusses the deprivations attendant to solitary confinement. \textit{Id.} (quoting \textit{In re} Medley, 134 U.S. 160, 168, 170, 184 (1890) (“A considerable number of the prisoners fell, after even a short [solitary] confinement, into a semi-fatuous condition . . . and others became violently insane; others, still, committed suicide’’)).}
\footnote{\textbf{126.} See, e.g., THE SHAWSHANK REDEMPTION, supra note 1 at 13:33, 45:33.}
\footnote{\textbf{127.} \textit{See id.} at 1:23:08.}
\footnote{\textbf{128.} See OHIO STATE REFORMATORY, http://www.mrps.org (last visited Sept. 23, 2016). The Ohio State Reformatory, also known as the Mansfield Reformatory, was a striking set for the shooting of the movie. \textit{Id.}}
\end{footnotes}
institutions.” Yet the reality may be far different than these aspirational goals. Corrections, rightly understood, is a very difficult task, but it should not fall so far short as to exacerbate the problem it was intended to address. Another practical lesson, unfortunately, was the abuse of power exercised by the prison administration. The assault on the newly arrived inmate that occurred during Andy’s first night was almost “normal,” a part of the real “welcome to Shawshank.” One can measure the veracity of their words during orientation by their deeds immediately thereafter. Similarly, the inmates who volunteered for the outside construction projects were supposed to “learn the value of an honest day’s labor while providing a valuable service to the community,” but there was no evidence that this was anything more than window-dressing on the practice of exploiting prison laborers and thereby promoting cynicism among them. In other words, hypocrisy attended much of Warden Norton’s administration of the prison.

If the decision maker knows that someone will be reviewing in a meaningful way, the decision will usually reflect more deliberation and care. Unreviewable discretion may be prescription for abuse of that discretion. Norton acted as if there was no master above him, that is, that no one was watching. He meted out punishment in the form of solitary confinement on a regular basis. Of course, there are not very many options available to impose additional punishment when the inmate is already incarcerated. Revocation of privileges only goes so far. But the continued use of solitary confinement to deal with prisoner issues seems to have had a corrupting influence on Norton. It reinforced his “I’m in charge here” mentality, and this ultimately was not good for him. Unreviewable exercise of power affects all, including those who exercise that power.

It is a well-known maxim that power corrupts and, sure enough, corruption followed Norton. It started simply enough with some cash accompanying a gift from another contractor. The temptation to continue accepting payments proved

A key goal of the [Department of Corrections] is to reduce recidivism, which is the percentage of offenders that are convicted of new crimes after they finish their sentences. The DOC is fully committed to an expanded reentry philosophy that aims to cut repeat crime. We work toward this goal by implementing evidence-based practices that have been shown to be successful in reducing the number of prisoners returning to the state correctional system.

130. THE SHAWSHANK REDEMPTION, supra note 1, at 15:00.

131. Id. at 1:18:08.

132. It is a familiar maxim that character can be measured by how one behaves when no one is looking. See THOMAS J. VESPER, UNCLE ANTHONY’S UNABRIDGED ANALOGIES: QUOTES, PROVERBS, BLESSINGS & TOASTS FOR LAWYERS, LECTURERS & LAYPEOPLE 141 (2d ed. 2010) (Lord Macauley: “The measure of a man’s real character is what he would do if he knew he would never be found out.”).

133. THE SHAWSHANK REDEMPTION, supra note 1, at 1:09:18. Recall also that Andy received two weeks in solitary for the “stunt” of playing Mozart over the PA system. Id.

134. Lord Acton Quote Archive, ACTON INST. FOR THE STUDY OF RELIGION & LIBERTY, (Sept. 22, 2016, 12:21 PM), http://www.acton.org/research/lord-acton-quote-archive (“Power tends to corrupt and absolute power corrupts absolutely. Great men are almost always bad men, even when they exercise influence and not authority; still more when you superadd the tendency of the certainty of corruption by authority.”).
to be irresistible and soon Norton needed the services of Andy, who was familiar with financial accounting, in order to keep track of and launder the bribe money. It was ironic that the Warden, who had lectured newly admitted inmates about the virtues of discipline and the Bible, would lack the discipline to resist bribery. And the bribery led to other moral failings, as eventually Norton was complicit in the murder of Tommy. This crime had become necessary to prevent the release of Andy, who sought a new trial based on Tommy’s new evidence. “Oh! What a tangled web we weave, when first we practice to deceive.”

A couple of iconic scenes point to a way out of the darkness. First was the beer break on the roof, where the inmates felt like “lords of all creation.” It was not the alcohol (although it did not hurt); it was the sense, if only for a moment, of freedom. And more than freedom, it was a sense of what “normal” life could be, in its beautiful simplicity. They were re-connecting, in a positive way, with what it means to be human. The Mozart scene was beautiful in a different way. With Andy’s quirky sense of humor, there was, without warning, a musical performance that stopped everything, except the guards trying to end the impromptu concert. No one knew what they were singing, but it felt right. “I like to think they were singing about something so beautiful it can’t be expressed in words, and makes your heart ache because of it.” Surprised by joy. A re-connection with something fundamental that was already there.

This is not a prescription for Mozart, much less alcohol, in prison. What seemed almost believable at that time and place surely would not be effective today. The importance here is not on the particulars. What worked, albeit in fiction, at one time and one place, does not necessarily translate well to another time and place. It takes judgment to figure out what will connect “in the moment,” to bring out those feelings of what it means to be truly human. It may be as simple

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135. SIR WALTER SCOTT, MARMION: A TALE OF FLOODEN FIELD 346 (Edinburgh et al. 1855).
136. THE SHAWSHANK REDEMPTION, supra note 1, at 38:03.
137. Andy did not need any beer to feel that same freedom. Neither did Red, when he was traveling on the bus on the way down to Mexico. “I think it’s the excitement only a free man can feel, a free man at the start of a long journey, whose conclusion is uncertain.” Id. at 2:17:08. He had to be weaned off of following orders, like a child, and to grow to manhood, where making good choices was exciting, but uncertain.
138. Their re-reconnecting was a bit like attachment therapy. See, e.g., Adult Attachment Disorder & Treatment, EVERGREEN CONSULTANTS IN HUMAN BEHAVIOR (Sept. 22, 2016, 2:34 PM), http://attachmenttherapy.com/adult.htm; Adult Attachment Relationships, AM. ASSOC. FOR MARRIAGE & FAMILY THERAPY (Sept. 22, 2016, 1:36 PM) http://www.aamft.org/iMIS15/AAMFT/Content/Consumer_Updates/Adult_Attachment_Relationships.aspx.
139. It should be noted that, among the general prison population, even the guards stood in awe of the music, another example of the universality of the moment.
140. THE SHAWSHANK REDEMPTION, supra note 1, at 1:09:18.
as a picnic in the backyard, with kids running around playing fetch with the dog. It may be a concert, or it may be any number of other things. It is not that hard to enjoy the simple pleasures of everyday life outside of prison, if you do not mess it up and let personal issues get in the way. Within the confines of a prison, it is clearly more difficult, but not impossible. The famous prison performances by Johnny Cash, Willie Nelson, or a contemporary equivalent, may serve as an example that simple pleasures are still available to prisoners. Drinking beer on the roof on a sunny spring day or being caught up in the unexpected moment of a Mozart duet are reminders that God loves us and wants us to be happy. Now, that is rehabilitation.

Music also appears in another key scene. When Andy was discussing his time in solitary confinement for the impromptu Mozart concert, he said it was the easiest time he ever did. Why? Because he was not in solitary, he had someone with him, “[Mozart] was in here [tapping his head] and in here [tapping his heart]. That’s the beauty of music . . . they can’t get that from you.” There are limits to tyranny. Individuals whose souls have not been crushed have inner resources that cannot be touched by the state. These resources are a reminder that “there is a small place inside us they can never lock away.” Music, literature, history, religious faith, or whatever else that supports the ongoing conversation in the mind, aids us in drawing, from our inner resources, the strength to believe that evil, injustice, and other misfortunes are not permanent conditions—that there is another way. This is the importance of hope.

We must also consider the library. The story within a story is the transformation of the prison library from essentially a delivery system for Red’s commercial empire to an important center for what was becoming an actual community. The slightly off-key but enthusiastic singing of a Hank Williams tune in the library was evidence of that transformation. Even more important are the books. A good book has the power to instruct, to inspire, or to reform. It is an opportunity to learn from the mistakes of others, as well as from the successes of others. The availability of the Alexandre Dumas classic, The Count of Monte Cristo, is reason enough to believe that salvation lay within the Shawshank library. And then there are movies. Teaching right and wrong through stories is a great opportunity to nurture, in most cases, what is already there, although perhaps deeply buried: that bullies are evil and that justice is good. Encouraging good habits of the heart should be the goal of a reformatory.

142. JOHNNY CASH, AT FOLSOM PRISON (Sony Legacy 2008); JOHNNY CASH, AT SAN QUENTIN (Sony Legacy 2006); JOHNNY CASH & WILLIE NELSON, Folsom Prison Blues (Live) on VH1 STORYTELLERS (Am. Recordings 2002).

143. THE SHAWSHANK REDEMPTION, supra note 1, at 1:11:13.


145. THE SHAWSHANK REDEMPTION, supra note 1, at 1:11:13.

146. It also has the ability to remind one of fundamental values. “We need it so we don’t forget. . . . That there are places in this world not carved out of stone. That there’s a small place inside of us they can never lock away, and that place is called hope.” THE SHAWSHANK REDEMPTION, supra note 1, at 1:11:55.

147. At this point, it is pertinent to provide a very personal list of some movies (stories) which may assist prisoners in their rehabilitation: THE COUNT OF MONTE CRISTO (Touchstone Pictures 2002); DIE
Another important story within the story is Red's attempt to gain his freedom through more orthodox means, that is, through parole. Red's maturation is reflected in his evolving responses to the basic question: are you rehabilitated? The question is not one of respect for authority. On that scale, his attitude appears to get worse, going from obsequiousness early on to open disdain by the end. What seems to matter is his recognition of responsibility:

There's not a day goes by I don't feel regret. Not because I'm in here, or because you think I should. I look back on the way I was then, a young, stupid kid who committed that terrible crime. I want to talk to him. I want to try and talk some sense to him, tell him the way things are. But I can't. That kid's long gone and this old man is all that's left. I got to live with that. 148

His regret is the right kind. There are those who say they are sorry, when what they really mean is they are sorry they got caught. Red's regret is not borne of adopting the company line, a kind of "if you say so, boss" approach, which characterized his earlier statements to the parole board. No, it is a heartfelt recognition about the truth of that "young, stupid kid who committed that terrible crime." Of course, he cannot go back in time and talk to his earlier self. But he can recognize what was wrong with that kid and live with the regret that will shape his choices from now on.

Rehabilitation requires making better choices. Many bad choices are a product of self-centeredness, an inability to consider the interests of others. I once worked with a man who became livid if a tenant missed a rent payment, but who was completely unaffected by his own failure to pay his debts. He had no ability to put himself in the shoes of another, and he had no sense of shame. And yes, he eventually wound up in prison for making some very bad choices. Many bad choices are the product of short-run calculations, to the detriment of long-term considerations. Self-control, through a well-functioning moral compass, cautions one to delay gratification when appropriate. Many bad choices concerning alcohol and sex reflect the triumph of the short-run. Alcohol, in particular, distorts judgment, and often not for the better. Rehabilitation will happen when the conditions that produce so many bad choices are addressed in an honest self-evaluation. Taking responsibility, as Red truly did, is an essential part of that self-study.

Institutionally, rehabilitation has proven to be very difficult to achieve on a consistent basis. The Shawshank Redemption illustrates many of the competing forces that work against rehabilitation. The prison is filled with individuals whose conduct has necessitated removal from civil society, and this unnatural concentration together cannot be the basis of a well-ordered community. Although the task is inherently difficult, one cannot simply "throw away the key"

and give up. If conditions within are allowed to simulate the “state of nature,” then replication of criminal behavior will become a self-fulfilling prophecy. Personal safety must be valued, as much as institutionally possible. Opportunities for reform, through meaningful education, vocationally-oriented employment, sensible recreational options, and regular “contact” with the outside, will help to shape the development of making better choices. Better choices make for a better life. We should live as if we are accountable. “His Judgment Cometh and that Right Soon.” Good words for all of us.

V. CONCLUSION

“You know what the Mexicans say about the Pacific? They say it has no memory. That’s where I want to live the rest of my life. A warm place with no memory.” This is a remarkable statement by Andy, who had just seen his bid for freedom smashed by the Warden. We saw him in the Warden’s office, agitated and accusative, “How can you be so obtuse?” But later, talking with Red, he is at peace. Instead of being bitter about what had been unjustly taken and what he must live with each day, he is content to look for what is ahead. “Get busy living.” And he says this while still at Shawshank. Of course, he has a plan at this point. “Salvation lies within,” meaning the rock hammer had provided an exodus that the law had denied.

We cannot totally escape from memory. The past is always with us; it is not even past. We will never be able to completely leave our memories, our grudges, our prejudices, our mistakes, our failures, our defeats, and our wrongs behind us. Perhaps only in heaven will we be freed from the part of memory that pulls us back down to bitterness and recrimination. Forgiveness, when truly done, is a form of memory loss. And Andy had taken that path. He would not be ruled by a past that had denied him justice, which is a form of dying. He would get busy living, instead. In this story of injustice, survival, and forgiveness, Andy Dufresne was more than rehabilitated. He was redeemed.

149. Id. at 1:43:05.
150. Id. at 1:32:08.
151. Id. at 1:45:02.
152. Id. at 50:59, 1:02:15.
153. See GREG ILLES, THE QUIET GAME 270 (2000): Einstein said the arrow of time flies in only one direction. Faulkner, being from Mississippi, understood the matter differently. He said the past is never dead; it’s not even past. All of us labor in webs strung long before we were born, webs of heredity and environment, of desire and consequence, of history and eternity. Haunted by wrong turns and roads not taken, we pursue images perceived as new but whose provenance dates to the dim dramas of childhood, which are themselves but ripples of consequence echoing down the generations. The [daily] demands of life distract from this resonance of images and events, but some of us feel it always.

Id. (emphasis added).