

Philip Reinhard
Northern District of Illinois

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Appointed: by President George H.W. Bush, 1992.

Law School: University of Illinois Law School, J.D., 1964.

Prior Legal Experience: Hyer, Gill & Brown, 1967-1968.

Prosecutorial Experience: Assistant State's Attorney & Special Assistant State's Attorney, Winnebago County, 1964-1968, State's Attorney, Winnebago County, Illinois, 1968-1976.

Prior Judicial Experience: Illinois Circuit Court, 1976-1980; Illinois District Court of Appeals, 1980-1992.

Background and Reputation in the Legal Community

After spending two years in private practice, Judge Reinhard became a career state prosecutor. He worked his way up over twelve years from an Assistant State's Attorney to become the Winnebago County's State Attorney. He was then elevated to the state bench, first as a Circuit Judge for four years, and then two years as an appellate judge, before his appointment as a U.S. District Court judge.

Attorneys praise Judge Reinhard for his excellent legal abilities. Lawyers characterize him as "an excellent trial judge" and as very hard working. Judge Reinhard runs a strict and formal courtroom. Civil lawyers characterize him as conservative but also note that he is fair and "has no predispositions." Criminal lawyers find Judge Reinhard to be fair, though at times he "leans somewhat toward the government." Others, however, said he "will hold the United States Attorneys' feet to the fire." When sentencing, he listens and considers defense arguments and "does a good job at exercising the limited discretion he has."

Karl Fort & Marcus Evans

Offense: Conspiracy to Possess with Intent to Distribute Cocaine & Crack Cocaine.

Sentence: Life without Parole.

Projected Release Date: None.

Karl Fort and Marcus Evans, along with at least sixteen others, were part of an extensive conspiracy collectively known as the "Mob," which at its height, was alleged to have distributed over a kilogram of crack and powder cocaine per week, primarily in the Rockford, Illinois area. The conspiracy began as early as 1991 with Karl, his sister and three other men as the founding members. Marcus Evans joined in April 1992 by contributing money he had made from other drug sales.²

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Sentencing Transcript at 150, *United States v. Marcus Evans*, No. 93 CR 20024-09 (N.D. Ill. Oct. 14, 1994) ("Evans Sent. Tr.").

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The PSI indicates that in order to become a member of the core group, an individual had to contribute \$6000 or more to the working capital of the group. All core members were responsible for overseeing

The Mob's cocaine distribution operation was highly organized. Sales took place at various drug houses in Rockford with several levels of management, involving runners, lookouts, and supervisors, as well as a satellite network in Arkansas. The government claimed that all the core conspirators were also members of the Black Gangster Disciples gang and that the "Mob" hired only other gang members as workers or runners to ensure loyalty and security for the operation. Because of the danger involved in drug distribution, all members of the "Mob" owned guns and carried them on a regular basis.³ The Mob continued growing, shifting from powder cocaine distribution to an almost entirely crack operation by the time the police busted the organization in July 1993. According to the government, the group distributed approximately one kilogram of crack cocaine every seven to fourteen days, just during the period of August 1992 through December 1992.

Several members of the Mob cooperated and testified against their fellow gang members. Thirteen defendants, including Karl and Marcus, went to trial in three groups and were convicted. Both Karl and Marcus were convicted.⁴ Due to the length of the conspiracy and the vast quantities of crack cocaine it sold, Karl's Offense Level started at 42, which by itself carried a range of 360 months to life. In addition, he was assessed two additional offense points for possession of a gun and four more points for being a leader of the organization, taking him to an adjusted Offense Level of 48. Since the Sentencing Guidelines Table only goes up to Level 43, at which every defendant is subject to a life sentence without parole, the Guidelines required a life sentence.



Marcus' situation was a little different but the result was the same. He joined the conspiracy somewhat later, in April 1992, according to the government. In addition, he had no prior convictions or arrests⁵ and he was considered only middle management in the organization. Nevertheless, the judge attributed 40 kilograms of crack cocaine to him, which also got him to an Offense Level of 42. Also assessed two points for gun possession and three for his supervisory role, Marcus ended up with an adjusted Offense Level of 47. Thus despite his lack of a criminal record, the Guidelines required a mandatory life sentence without parole for Marcus as well.

At Karl's sentencing, the government noted the severity of the sentence but claimed it was justified based on the terror the "Mob" had brought to Rockford in the form of drugs, guns, and violence. Karl's attorney responded by noting that no crimes of violence were proven and that whatever these defendants had done, their crimes were local and should have been resolved in state, not federal court. He also suggested that sending Karl to jail for his natural life would not stop drug dealing in Rockford or anywhere else and that the Court should consider that they

the distribution of cocaine. They had to attend regular meetings and a democratic voting process determined the actions of the group.

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Although several gun counts were included in the eventual indictment, there were no charges that the defendants had committed any specific acts of violence as part of this case.

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Marcus went to trial along with Helen Fort, Samuel Tidwell, and Greg Fort. That trial concluded on June 3, 1994. Karl was tried with Horace Joiner, Joseph Tidwell, Reynolds Wintersmith, and Vincent Edwards and that guilty verdict was reached on July 18, 1994.

5

In 1992 and 1993, Marcus was arrested three times, twice for weapons possession and once for a possible shooting. These state charges were dismissed once the federal case was brought.

. . . grew up different from you and me. . . . They grew up poor and black on the West Side of Rockford. They didn't have opportunities. Yes, you can say they turned to a life of crime, but sometimes those are the only opportunities available. This is not to excuse what they have done, but this is to understand the environment they came from. And so, when we sit here and condemn them for what they are doing, it's hard for me to take a harsh approach once you know what's the environment that these young men came from. And they have developed into criminals. That is true. But the penalty which the federal Congress has placed upon them is inappropriate. It will not solve the problem.⁶

Judge Reinhard responded in several ways. He recognized that crime and drug dealing in Rockford would not end with this sentencing, but he did think it mattered that at least this sophisticated and dangerous operation had been taken off the streets. He stated his hope that the severe sentences in this case – Karl and Marcus were two of seven life sentences handed down in this case – would serve as a deterrent to those in the community that were paying attention to the case.

He also commented that Karl and his friends ran a rather sophisticated operation and he wished that Karl “had thought about [his] organizational ability in terms of a lawful means of employment. I think you're smart enough to have done something with your life rather than crime.”⁷ In addition, he noted that there is “probably some good in all people who appear before me, and I think you have some good in you.”⁸

Judge Reinhard then turned to the life sentence which he was required to impose on Karl. He observed that this was the type of sentence “in state court when somebody has killed somebody or you have a repeat felony offender or somebody that just can't be rehabilitated.”⁹ He noted that the severity of the sentence was due in part to the nature of the drugs involved, stating

The court has before commented that this is a severe penalty for the offense you committed in the sense that if this were just ordinary powder cocaine, you would be facing about 20 years' imprisonment under the federal statutes. On the state system, who knows. But because of the differential between crack cocaine and powder cocaine, you have a life sentence.¹⁰

He told Karl that “I expect that sometime in the future that will be reexamined, but at least at this point in time, as I've said before, the court has no alternative but to sentence you to life imprisonment.”¹¹ Finally, Judge Reinhard encouraged Karl to be productive and work while in prison and maintain a hope “that maybe someday the law will change.”¹²

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Sentencing Transcript at 84, *United States v. Karl Fort*, 93 Cr 20024 (N.D. Ill. November 21, 1994) (“Fort Sent. Tr.”).

7
Fort Sent. Tr. at 86.

8
Fort Sent. Tr. at 87.

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Fort Sent. Tr. at 87.

10
Fort Sent. Tr. at 87.

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Fort Sent. Tr. at 87.

12
Fort Sent. Tr. at 90.

At sentencing, Karl said little except to say that the sentence was unfair and to briefly complain about his attorney's performance and the testimony of the cooperating witness.¹³ At the time, he was a twenty-five year old who had dropped out of high school. He had been shot in the back on two separate occasions and fathered five children by different women.

Since his incarceration, Karl seems to be following Judge Reinhard's advice and has taken advantage of numerous educational, vocational and personal development opportunities in prison. He received his GED, taken parenting and anger management courses, as well as theater and business classes. He writes that "I can say that I've [grown] a lot through my situation and also learned through experiences that life is what you make it to be. . . . I know that I was attracted to the things and people in my environment and the status that led me into my situation and believe me . . . when I look at the root of my problem it was the choices I and others made. . . ." ¹⁴ Still, Karl acknowledges that the sentence is taking its toll on him, especially after both his father and mother passed away because they had been his moral support during the first part of his sentence.¹⁵

Karl also continues to fight for his freedom. He has filed several appeals and his case has been heard in the United States Supreme Court. There, he lost his argument there that the jury, not the judge, should have been required to determine the quantity of each type of cocaine that the group had distributed.¹⁶

As his attorney noted at the sentencing, Karl grew up in Rockford, Illinois as the youngest of four children in a poverty stricken neighborhood and he had several run-ins with the law at a young age. He writes that has a good prison record because he stays focused on fighting for his freedom and because "my kids need me, to be there and sometimes I must show them a clear example of being peaceful. . . ." ¹⁷

When it was time for Marcus to be sentenced, Judge Reinhard appeared more troubled by the life term he was required to impose. In addition to no criminal history and a lesser role in the offense, Marcus had graduated from high school, and by all accounts, had a trouble free youth despite the fact that his father had died when he was young. He had entered the military after high school and had served two years, receiving a general discharge before returning to Rockford. He never married before his incarceration and had fathered no children. While he smoked marijuana and occasionally drank, neither appeared to be a problem for him. Prior to his gang involvement, Marcus had worked off the books at his stepfather's gas station and at a cleaning service.

In light of this record, Judge Reinhard could not say that there was no potential in Marcus for rehabilitation or that his crime was so heinous that it merited a life sentence without the possibility of parole. Thus, at the sentencing hearing, Judge Reinhard stressed that the life

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Fort Sent. Tr. 75-77.

14

January 28, 2003 letter to the author at 1 (on file with author).

15

August 10, 2005 letter to author at 1 (on file with author).

16

See United States v. Edwards, 523 U.S. 511 (1998). While the Court later recognized this principle as a Sixth Amendment right in *Apprendi*, *Blakely* and *Booker*, no court has yet applied this decision retroactively to cases that were final in 1998. In full disclosure, the author served as Karl's co-counsel in the Supreme Court litigation.

17

August 10 letter to author at 2.

sentence was the result of the Sentencing Guidelines and the disparity between crack and powder cocaine

. . . you have received a sentence that has been set by the Sentencing Guidelines. These Guidelines are mandatory. They take the discretion . . . from me in this case under the facts once the Guidelines are calculated. . . . The United States Supreme Court has upheld life imprisonment for distribution of certain amounts of crack cocaine, [y]et I believe there is some validity to the fact that crack cocaine and powder cocaine should not have that great a disparity. In this case, for the amounts that you have been found to be responsible for, if crack and powder carried the same sentence, you would be facing a 20-year sentence. That still is a long sentence. It still is a great punishment, but there is a disparity. That's what the law is. That's what I'm obliged to follow.¹⁸

Judge Reinhard also noted that the penalty also seemed severe in contrast to the penalties for drugs in state courts where most drug cases are prosecuted. The judge noted that most states, including Illinois, did not have mandatory sentencing provisions and that Evans "would not have faced the same penalty had this prosecution been brought in state court."¹⁹ More importantly, Judge Reinhard felt that the life sentence itself fit neither the crime nor the offender, stating

I have been on the bench and participated in criminal cases in other capacities for almost 30 years, and a life sentence is generally reserved for someone who's killed somebody else or severely injured somebody or tortured somebody or for a person who's committed many violent acts. . . . I've looked at your background. . . . It just seems to me that the consequences that you face are rather severe for a boy who's 23 years old, graduated from high school, went into the military, got out of the military, and got involved in this organization for a period of one year and now faces a sentence for the rest of his life, unless the laws change. And I am concerned over that, but I have not choice in the matter.²⁰

As in Karl's case, Judge Reinhard concluded his remarks by emphasizing the dangers of crack cocaine and his hope that this sentence would send a message to the community from which they came of the danger of getting involved in drugs.

Marcus said very little at the hearing except to complain that the testimony of a cooperator had been believed and to remark that he didn't expect a fair sentencing because he didn't get a fair trial. About the crack powder disparity he said, "A hundred to one ratio? That's the most biased law you all got in this country. You should call it the black law instead of the crack law."²¹

Of the defendants who went to trial, seven received life sentences without parole. The rest received sentences ranging from 120 months to 480 months. In contrast, the cooperating co-defendants received sentences of just 60 months, 70 months, 84 months, and 132 months for helping the government convict the others.

18

Evans Sent. Tr. at 148-49.

19

Evans Sent. Tr. at 149.

20

Evans Sent. Tr. at 150.

21

Evans Sent. Tr. at 148.

Compiled from Sentencing Transcripts, PSI, inmate letters, PACER docket sheet, appellate opinions.