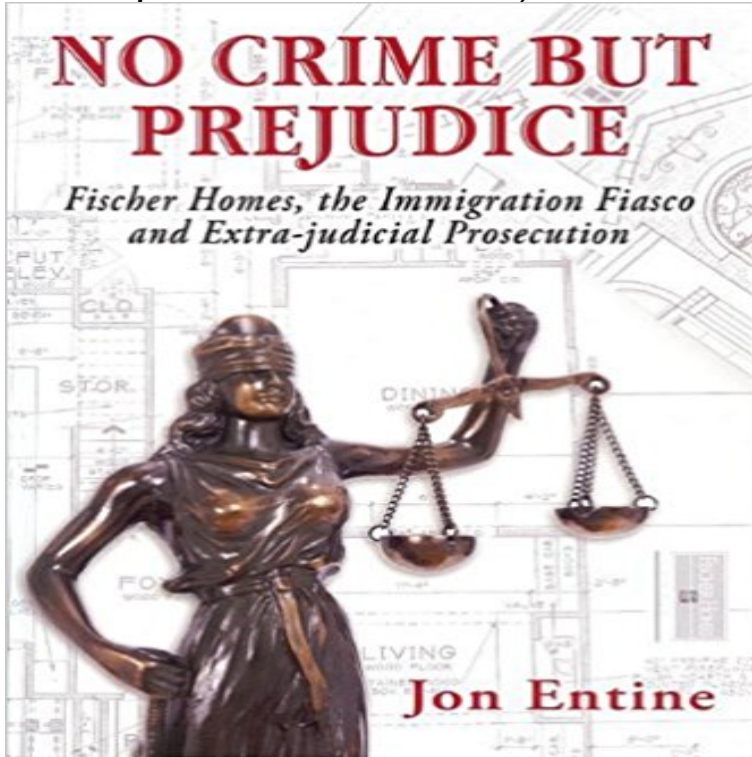


No Crime But Prejudice (Fischer Homes, the Immigration Fiasco, and Extra-judicial Prosecution)



What happens to the lives of the innocent when prosecutors abuse their power to further their careers or cater to political expediency? Think of the Duke lacrosse fiasco, the corruption case against former Alaska Senator Ted Stevens, or the prosecution of the former Arthur Andersen. Henry Fischer, founder and president of the largest independent homebuilding company in the Cincinnati region and one of the 100 largest in the country, knows first hand. In May 2006, with TV crews taping every twist and turn in the case, police helicopters swooped down from the early morning sky, buzzing construction sites in Northern Kentucky overseen by Fischer Homes. Swat teams arrested Hispanic-looking workers. Armed agents targeted Fischer superintendents, handcuffing them at dawn in front of friends and family and dragging them off to jail, accused of harboring illegal aliens. Each faced as much as a \$250,000 fine and 10 years in jail. The company was threatened with a felony indictment and charges under RICO, the racketeering laws designed to go after organized criminals, that would have ruined Fischer Homes and cost the jobs of 500 associates and thousands more subcontracted workers. Thus began a three-year nightmare for Mr. Fischer and hundreds of workers, friends, and business associates of Fischer Homes. With a gun at his head, founder, Henry Fischer was offered a deal: plead guilty, pay \$1 million fine and admit to a felony and your associates would be off the hook. At the same time, prosecutors were pressuring the accused workers to turn against the company in effect to perjure themselves--to avoid the huge fine and likely jail time. The prosecutor's facts were wrong, but that was small solace when facing the enormous power of the justice system, which often depends on extracting plea deals, sometimes even from the innocent and often from supposedly

deep-pocketed businesses. Remarkably, both the workers and Mr. Fischer refused to capitulate. Despite facing public humiliation and possible financial ruin, Mr. Fischer gambled his entire company, spending millions of dollars--far more than the \$1 million fine and guilty plea the government demanded--to fight the strong-arm tactics of politically driven prosecutorial antagonists. And he prevailed, as the charges against his workers were eventually dismissed. The Fischer Homes case is a striking example of the politics of prosecution how and why the government targets individuals and corporations, sometimes recklessly, taking an enormous human toll in the process. Often, there is not even an intention by the government of going to trial. Instead, prosecutors have perfected more powerful tactics: exploiting the threat of business losses and manipulating the media to force capitulation. At what point does the potential public benefits of vigorous prosecution outweigh the actual harm when fundamental legal protections are compromised? Most people find it difficult to hold much sympathy for corporations, often forgetting that we depend on a dynamic, competitive economy for its welfare. The victims of over zealous prosecutors and ambitious government agencies are often workers and their families, including many small and medium sized business owners who have played by the rules and yet now find themselves targets businessmen like Henry Fischer. As Mr. Fischer writes, I hope nothing like this happens to you.

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