The insider trading fix and class justice in America

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Every day in America, workers and young people are set upon by the police. On most days, at least one is killed.

Over the seven days between March 27 and April 3, 28 people were killed by police officers across the US. Christopher Prevatt, 38, of Winchester, Virginia became the 28th fatality of the week, and the 298th of 2015, when he was shot and killed in his home at about 5 PM on April 3 by a Frederick County Sheriff's deputy.

The same week, 11 educators in Atlanta, Georgia, including four former teachers, were convicted on state racketeering charges for inflating the results on standardized tests. An investigation by the governor's office had concluded that the educators were threatened with the loss of their jobs or demotion if they failed to meet student achievement targets. Nevertheless, they were led away to prison in handcuffs to face sentences of 20 years or more. The judge denied their requests for bail, vindictively declaring that they had made their beds and now had to lie in them.

Also that week, a judge in Indiana sentenced a 33-year-old woman to a 20-year prison term for feticide. The woman, who had a miscarriage in 2013, was arrested after her doctor informed police that she might have used medication to terminate her pregnancy.

In America, "justice" for the working class and poor is remorseless, brutal and final. Millions are caught up in the vast gulag known as the prison system—the largest in the world. They are overwhelmingly poor and disproportionately black and Latino. According to the American Bar Association, 360 people are serving life sentences for shoplifting in California alone.

Occasionally, workers who have been imprisoned for years or decades on the basis of false evidence are released. Last November, Rickey Jackson, then 57, was exonerated of murder charges after spending more than 39 years in prison, several of them on death row. Such rare exceptions to the rule of permanent entombment for victims of police frame-ups provide a glimpse into the cesspool of injustice and cruelty for millions that is the American justice system.

It is entirely different for the rich and well connected, especially the denizens of Wall Street. On April 3, the last day of Christopher Prevatt's life, the US Court of Appeals for the Second Circuit turned down a motion by the US Attorney for the district covering Wall Street to reconsider the court's December ruling overturning the conviction on insider trading charges of two hedge fund executives.

Legal experts were surprised that the appeals court refused to accept the prosecutor's motion, which included a request that the entire court review the ruling handed down in December by a three-judge panel. They were surprised because the December ruling sharply broke with judicial precedent to impose a novel and highly restrictive standard for prosecuting and convicting financial criminals who use insider information not available to the public to rig the markets for their personal gain.

The court brushed aside the prosecutor's argument that its ruling "will dramatically limit the government's ability to prosecute some of the most common culpable and market-threatening forms of insider trading." The judges knew that, which is precisely why they ruled in the way they did.

The December ruling overturned the convictions of Anthony Chiasson, founder of Level Global Investors, and Todd Newman, a former trader at Diamondback Capital Management. Newman and Chiasson had received prison sentences of four-and-a-half and sixand-a-half years, respectively, after allegedly taking in $72 million by soliciting insider information about technology firms Nvidia and Dell.

In the wake of the December ruling, the Obama Justice Department has already dropped charges against several defendants it had accused of trading on insider information, including some who had pleaded guilty. The department said prosecutors could not prove allegations under the new legal framework.

It is believed that the ruling has set the stage for a reversal of the 2013 jury trial conviction of former SAC Capital Advisors portfolio manager Michael Steinberg. A longtime confidant of the multibillionaire manager of the SAC hedge fund, Steven A. Cohen, Steinberg was sentenced to three-and-a-half years in prison last May.

In 2013, the Justice Department arranged a settlement with SAC and Cohen under which the firm pleaded guilty and paid $1.2 billion in penalties for operating what prosecutors called insider trading “on a scale without known precedent.” No charges were brought against Cohen himself, who was allowed to keep the vast bulk of his $9 billion-plus fortune, obtained, according to the government, by criminal means.

These cases typify American class justice as applied to the financial aristocracy. The parasites who make their fortunes by speculating with other people’s money, playing fast and loose with securities and fraud laws, are shielded from any criminal accountability by the Obama administration, Congress and the courts. The media does its part by covering up or downplaying their crimes.

The new aristocrats, like the lords of old, are not bound by the laws that apply to the lower orders. Voluminous reports have been issued by Congress and government panels documenting systematic fraud and lawbreaking carried out by the biggest banks both before and after the Wall Street crash of 2008.

Goldman Sachs, JPMorgan Chase, Bank of America and every other major US bank have been implicated in a web of scandals, including the sale of toxic mortgage securities on false pretenses, the rigging of international interest rates and global foreign exchange markets, the laundering of Mexican drug money, accounting fraud and lying to bank regulators, illegally foreclosing on the homes of delinquent borrowers, credit card fraud, illegal debt-collection practices, rigging of energy markets, and complicity in the Bernie Madoff Ponzi scheme.

One government-organized settlement has followed another, utilizing “deferred prosecution” deals and other gimmicks to allow Wall Street CEOs to get off scot-free. All the banks have had to do is pay largely fictitious fines, much of the nominal amount written off as tax credits.

Not a single top bank executive has been criminally prosecuted, let alone convicted or jailed, for illegal practices that led to the collapse of the financial system and a global depression. On the contrary, they have been rewarded by their bribed flunkies in government. They have seen their profits and personal fortunes soar on the basis of government bailouts and an endless stream of cash from the Federal Reserve.

Their plundering of the economy has continued unabated, while the working class has been made to pay the cost through layoffs, wage cuts and a ruthless assault on social programs and services.

The same week as the appeals court’s refusal to reconsider its December ruling on insider trading, *Barron’s* magazine emblazoned its March 30 edition with a photo of JPMorgan CEO Jamie Dimon (known as “Obama’s favorite banker”) and the headline “Back on Top.” The caption read: “After five years of regulatory tumult, JPMorgan has emerged as the No. 1 US bank in assets, credit cards, and investment banking. But CEO Jamie Dimon is not finished yet. Why shares could rise 30 percent in a year.”

Describing the bank’s annual investor day event, held in February, the article quoted a banking analyst as saying, “If there was a theme to investor day, it was Taylor Swift’s song, ‘Shake it off.’”