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Our Gentlemen's Issue

*MAKAN SHIRAFKAN:
FREE AT LAST!*

LIFE + CULTURE

*THE VERY REV. DANIEL
VÉLEZ-RIVERA: JUST A
STREET PREACHER*

*COMING FULL CIRCLE
WITH MOBILE HOPE*

ARTS + CULTURE

*A PLACE FOR MEN TO
LET THEIR HAIR DOWN*



JUNE 2024
CITYLIFESTYLE.COM

MAKAN SHIRAFKIN: *Free at Last!*



Makan Shows His 'Sixpack'



The 1996 Wanted Poster Hangs Above His Desk

**ARTICLE BY MELINDA GIPSON
PHOTOGRAPHY BY MARY LANAGHAN, MELINDA GIPSON**

Makan Displays Lady Justice in His Office



“He has shown you, O mortal, what is good. And what does the LORD require of you? To act justly and to love mercy and to walk humbly with your God.”

Micah 6:8

In Makan Shirafkan’s office, as in many lawyers’ offices, is a standing statue of Lady Justice. Somewhat unique to Makan’s own display is the replica of The Cyrus Cylinder that lies at her feet.

Makan is a proud Persian, one of many in our region who were part of the diaspora that fled Iran after the fall of the Shah. To Makan and countless others, the Cylinder represents history’s first charter of human rights, as it lays out Cyrus the Great’s post-Babylonian victory proclamation that freed the slaves, declared all people have the right to choose their own religion, and established racial equality. These foundational truths, plus every person’s right to justice under the law, are what guide Makan’s life as a criminal defense attorney.

Another guiding force in his passion for justice was his unjust conviction and subsequent incarceration for a crime he didn’t commit. It’s an injustice that Makan has been fighting for more than 27 years, and his exoneration – received unexpectedly at our deadline on May 3rd – makes for an exceptional story of perseverance against all odds.

Until recently, the only people Makan has told about his background are groups of students that he seeks to inspire about what’s possible if they never give up on themselves. He has been circumspect about his personal struggle for exoneration because he’s wanted his 9- and 11-year-old daughters to hear their father’s story from him first.

Another reason he hasn’t broadcast his past: “I never wanted to shed any bad light on anyone that was involved – particularly the judge, the jury, or the victim in my case.” Too often, that runs counter to human nature; “we all want somebody to be the victim, and somebody to be the bad guy; somebody to be the villain and somebody to be the hero. And, from what I know,

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“I never wanted to shed any bad light on anyone that was involved – particularly the judge, the jury, or the victim in my case.”

that's just not what really happened. I'm no hero and there are no villains in my case. Sometimes life just happens. What happened to me was a mistake that we should hope never happens again.”

The bottom line, he says, is, “I went to prison for something I didn't do. That's why I'm here now. That's why I do criminal defense work and that's all I do. That's what distinguishes me and that's what drives me to do what I do. Every case is not just a case to me. It's a lot bigger. And sometimes that's a pro, sometimes a con. It's a pro because I treat every client like they're me 27 years ago. It's a con because emotionally I get so invested in every single case.”

To understand what happened to Makan, you have to take yourself back to 1996. It was a time when many police practices in use have been disallowed by subsequent court rulings – practices like using a “six-pack” of photos to help victims identify their assailants. When all the mistakes are expunged, detectives appear to have singled out 19-year-old Makan because the color and make of the car he drove was similar to that seen at the scene of a felony assault at a 7-11 in Springfield.

Because he was home with his family when the crime occurred, Makan bent over backward to cooperate with investigators – so much so that he shaved his goatee and combed his hair forward to mask a shock of his white hair at their request – actions that made him more greatly resemble a sketch made of the true assailant. He only discovered years later that the real suspect was seen on the store tape by a policeman who responded to the complaint; a fact never shared

with Makan, his defense lawyer, the judge or the jury. Not knowing the policeman had seen this suspect, Makan's lawyer didn't call him at trial.

The assailant was right-handed; Makan was left-handed. The assailant had no accent and spoke perfect English, but Makan's accent was pronounced and at best spoke broken English. His first trial ended in a hung jury and Makan turned down a plea agreement offering to lessen the charge to a misdemeanor before his second trial. He declined the offer, continuing to maintain his innocence, despite facing a charge that could have put him in prison for up to 20 years. The second jury remained conflicted and so lessened his charges, but still sent him to prison for 14 months.

All Makan could think was, “This is a dream; this this is a dream. This is a nightmare! First, I sank into depression, because I'm like, I didn't do this. What is going on here?” Then he got angry. But he saw what anger did to multiple offenders so he decided instead that he'd turn this story around. He became a trustee, and then a representative for fellow inmates who had disciplinary hearings.

After he'd served his sentence, he was asked in his exit interview by a parole official if he felt remorse. “I told her, I've learned a lot from this experience. But I didn't do it. I just want you to know that I really didn't do this; I have no reason to lie to you.” And I remember her telling me, ‘You will be back. People like you end up coming back to prison.’ Years later, I did go back to that prison, but as a lawyer.”

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*At Justice's Feet Sits
Cyrus the Great's Cylinder*

His road back was arduous. He went to Northern Virginia Community College for his Associate's Degree and then to James Madison University for a business degree, serving as president of student government and making the president's list with a 4.0 GPA – all while working part-time and then full-time, sometimes sleeping in his car to manage the commute from D.C. to Harrisonburg. He worked at Ritz Camera where he met his wife, who at that time was a nursing student at George Mason. A night job as a security guard for a D.C. nightclub turned into a second career in nightclub management.

When he graduated with honors, he initially got interviews, and passed all the preliminary levels of scrutiny from prospective employers prior to an employment offer, but the opportunities always derailed in the face of his conviction. So, for a while, he rode the wave of urban music with nightclub owner Marc Barnes, a leading D.C.-area promoter, making a hefty salary as general manager in a job that afforded him travel to Los Vegas and Miami. “It was absolutely great money and a fun life; it was just a very live energetic atmosphere. But I wasn't happy. I was unsatisfied.” So, Makan told his partner, “I want to become a lawyer so what happened to me can't happen to anyone else.”

Then he began talking to law schools. They lauded his academic record but most said, “You're not going to become a lawyer,” citing his criminal record. There was precedent for a felon passing the bar and becoming licensed, but that candidate had admitted his guilt, something Makan still was unwilling to do. “Because of that, I could get into law school, but I couldn't get a scholarship.”

Finally, Howard University Law School took a chance on him and gave him a scholarship, conditioned on his remaining in the top 10% in his class. He stayed on top. While in school he had a professor named Andrew Taslitz who had done work with The Innocence Project, who told him some 77% of wrongful imprisonment cases are based on mistaken identity. Brandi Harden and

Heather Pinckney, in the D.C. deputy public defender's office for the homicide division, invited him to intern in their department. There he learned the ropes in criminal defense like few of his peers ever could.

Makan passed his bar exam with flying colors on his first try, then faced an uphill battle to receive his license. “As a convicted felon, I couldn't pass a moral fitness test in the first go-round,” he explains, so he hired a lawyer to help him plead his case of first impression in the D.C. Court of Appeals. He made clear to his attorney that he'd rather not become a lawyer than have to lie and admit to something he didn't do – a point he argued before the full D.C. Court of Appeals. “I told them, ‘It would be an oxymoron for me to lie to you in order to show you that I'm fit, so I'm not going to tell you what you want to hear.’ I said, ‘I don't hold grudges against anyone or bear any ill will. It just makes me a different lawyer who can empathize with his clients and their parents. I can tell somebody who sits across from me in inmates' clothes that I've sat in that very chair. When a mother tells me about her kid in prison, I can relate that my mother drove four hours each way every Sunday to South Hampton to see me for 30 minutes.’”

He added, “I've always started 10 steps behind everyone else. It just makes me work harder for where I have to get to. That's it, and all of that should be a positive rather than a negative. I'd rather tell you the truth because that's the whole principle behind *why* I'm trying to become what I'm trying to become.” By this time, he notes, The Innocence Project had issued reports stating that mistaken identity was a significant factor in wrongful imprisonment, so the Appeals Court had that work to reference.

Unanimously, the panel voted that Makan should be allowed to practice, creating a precedent of his own. He began practicing in D.C. in 2009. Then he decided he wanted to return to Virginia and practice law where he was convicted.

“People told me, ‘You're pushing it.’ I said, well, that's what everyone has been telling me all along.”



So, in 2010 he took the Virginia bar exam and passed. One could argue that the fact that giving Makan a license to practice law without an admission of wrongdoing from him could be interpreted to be an admission of error on *their* part.

Then he applied to practice in Federal Court in Virginia and something extraordinary happened. His original defense lawyer in the case where he was convicted, offered to sponsor him to practice at the federal court level. The day he appeared in Alexandria Federal Court, the usual pomp and circumstance ensued, and Makan's friend and advocate began his petition to become a member of the federal bar. "All of a sudden, the judge says, 'Stop.' He gets up, and everyone stands out of respect for the Court, and he comes over to me and says something along the lines of, 'I remember Mr. Shirafkan. I'm a judge in the Eastern District of Virginia. And many people take their hats off to me. I take my hat off to this young man because what he's accomplished is fantastic. We have a lot of catching up to do.'" Then both teared up.

Makan immediately realized this was the same judge who presided over his criminal trial. "I never planned this. I never meant this. The judge in my own case, who sent me to prison, is now here, admitting me into the federal court! I try not to say anything because I knew I would start bawling. The judge returns to his chair and says, 'We need a recess,' and tells me, 'I want you to come to chambers.'" As he began to follow, a reporter told Makan, "I've seen judges do a lot of things. I've seen them yell, I even saw one throw a stapler, but in all my years I've never seen a judge demonstrate the respect of the Court like that. Whatever you've done, keep doing it." Makan replied, "I'm just trying to put one foot in front of the other to survive, that's it!" Said the reporter, "Just keep doing it."

Essentially, he has. In the years since he's been practicing law, Makan had the opportunity to meet with his accuser and reiterate his innocence, and petitioned Governor McAuliffe for a pardon. Makan's judge wrote supporting the petition saying that he has great respect for

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the jury system and the integrity of a jury verdict, but believes the jury's verdict in Makan's case was erroneous and may have been affected by the inherent unreliability of eyewitness identification and the process that was used.

Because no DNA was collected in the case, the best the governor could grant was a "simple pardon and commutation of sentence," and he did so. But as Makan has continued to fight to claim his citizenship, on May 3, 2024 after 27 years of fighting to seek justice, Honorable Judge, Steve Shannon of Fairfax Circuit Court exonerated him.

"This incident definitely changed my life," Makan says. He thanks God that he was able to turn this story around from where it was headed or could have ended. "But at some point, you just want the truth. It sounds obsessive, but being punished for something you didn't do is so much harder when you already have an acute sense of right and wrong." After he received the news on May 3rd, he texted us: "After 27 years of fighting, this morning the Circuit Court of Fairfax finally dismissed my case. I didn't even know nor expect it to happen today. So now I'm finally free! Next, we go for citizenship. That's when we'll have the party."

Throughout the ordeal, Makan has stood up for the rights of immigrants and people accused of wrongdoing, with the original wanted poster from the 7-11 hanging over his shoulder on his office wall. "I don't want to forget why I'm here, in this chair, in this office, and why someone is hiring me."

For him, justice involves defending and protecting anyone accused of any criminal wrongdoing. "Step one is asking what evidence is there? Can the case be legally proven? Step two is, what are the mitigating factors?" Whether or not someone may be guilty of something, justice most often happens in the space between doing something illegal, and whether the proposed punishment is justified in that person's circumstances, he maintains.

"If the case can be legally proven, it doesn't end there. Now we need to talk about what is the right thing to do. I don't think Justice is only 'guilty,' or 'not guilty.' Once a person has been

accused of a crime and their Constitutional protection has been satisfied, and a case can be proven, then we get to the question of what to do when a person admits they've made a mistake. *Then*, what is just? That's a lot harder question to answer than just guilty or not guilty."

To impart justice, one must consider the individual. "Why did they do it? How can the problem be fixed so it doesn't recur? What effects does it have on this person and others? Will our determination make this person better or worse for our community? How can we find a balance between what is fair for the victim, what ensures the safety of the community, and what allows this individual to move forward to become a productive member of our community? Not everyone needs to go to jail."

True Justice takes the long view, in other words, and Makan's sense of mercy stands alongside his love of justice. It's a quality most prevalent in people who have suffered.

When he speaks to kids in school, in juvenile halls and those in trouble. He does so, not to align with them in some sense that he was dealt a bad hand, but to make them question their response to adverse circumstances. "You may have gotten handed some cards in life that you may not agree with. You may have come up in a bad neighborhood or from a broken home. You may have come up with a mother who has a drug problem or a father who was never there. These are things that life kind of hands us without us controlling it. But the right question is, what do you do in reaction to it? I've had clients myself, who were found guilty of a felony and they sit there and say, 'Well, my life is over now.' But then I say, 'Why? Just because you were pronounced a felon?' And that's when I tell them it is *never* over because, guess what? I'm sitting here an example of why you don't give up."

"If I can use my story and save two people or 20 people, just by telling my story, well, then, we have made a positive out of something negative that happened." He shares his story now, as the judge in his case told him, because "we got this one wrong. Let's do it right now."

"Life is worth living and cherishing no matter what ups or downs we face," he says.