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Three wrongs and no rights

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Only a trained lawyer can make sense of the state's case against David Lee Simmons, because it surpasses the understanding of the rest of us.

Simmons' jaw-dropping legal odyssey offers numerous points of injustice, confusion and outrage, but the oddest is that the state persisted in prosecuting him in the wake of all he's endured at its hands. And because it has, the attorney general, Jefferson County officials and various lawyers now risk an expensive consequence, as a federal court will consider whether the young man's constitutional rights were violated.

Some would argue that it was foolish to bring a rape and sodomy case against a teenager who engaged in sexual activity with a steady girlfriend who was under the age of consent. But because the teens were three years apart in age and she was a minor, prosecutors could make a plausible argument.

But when they brought their case to the grand jury in Jefferson County, the panel of citizens decided against indicting Simmons on those charges because the evidence was insufficient.

That should have ended it. But it didn't.

Somehow, everybody involved failed to notice the grand jury's conclusion. Somehow, everybody, including Simmons' own defense lawyer, failed to see that he was entitled to walk away a free man. Instead, prosecutors carried on in their case as if an

indictment existed, and Simmons eventually pleaded guilty, apologized, served 30 days in jail and was required to register as a sex offender.

Then, a member of the grand jury happened to read a news story about Simmons' release and asked the sensible question: Why was he sent to jail when the grand jury didn't indict him?

So the judge met with the prosecutor and the defense attorney and realized that a legal gaffe sent a teenager to jail and tagged him with the label of sex offender. The prosecutor agreed to vacate the case, and the judge told Simmons it was as if the charges and sentence had never occurred -- a "legal nullity."

That should have ended it. But it didn't.

Instead, the district attorney's office brought charges against Simmons again, except this time they were misdemeanor charges, such as contributing to the delinquency of a minor. And then the attorney general's office took over the case from Jefferson County. And that's where it has been ever since.

Simmons and his new lawyer, Steven Richkind of Sandy, finally sued the state and the parties involved in the bungled case, charging them with violating Simmons' double-jeopardy rights, meaning that he was prosecuted twice for the same offense.

Maybe a trained lawyer has a good answer for all this. Maybe there's some legal formulation that can justify the way David Simmons has been treated so far. But if there is, the law is, as Mr. Bumble said, a ass.