



RM 242—Recorded 10-15-22

### Is Social Security Fair to Felons and PFRs?

Announcer 00:00

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Andy 00:18

Recording live from FYP studios, east and west, transmitting across the internet. This is episode 242 of Registry Matters. Good evening, sir. How are you?

Larry 00:28

Awesome. How are you?

Andy 00:30

I'm doing very well. Thank you. Just another day in paradise.

Larry 00:35

What do we got going tonight? Oh, you're supposed to ask me.

Andy 00:37

I'm totally going to ask you that. But first, we're going to talk about that we are going to ask people to like and subscribe, and five star and share, and go into your podcast app and make sure you subscribe and do all that stuff. And then I'm going to also do this so you can see it visually on the screen if you're watching. Press like, subscribe, and hit that bell to be notified. There. Now you're happy, right?

Larry 01:00

I'm happy when we're gaining subscribers. I think we're closing in on 500 now.

Andy 01:05

Very cool, man. That's good. But now--yes, you are going to tell me what we are doing this evening?

Larry 01:12

Well, we've got several listener questions. We've got a couple of articles. And I snuck something in that I really don't even want to tell you what it's about. I'll just wait to get to it.

Andy 01:26

Is it gonna make my head explode?

Larry 01:28

It very well could.

Andy 01:31

Okay, I'll wait. (Long pause) What else?

Larry 01:36

Well, let's roll the train.

Andy 01:41

So I guess we'll start with a voicemail question that this guy has written in. I cannot think of his name. He has given us voicemail questions a number of times in the past, and I know that he's from New York. And he didn't say his name. But here we go.

Unknown Speaker 01:54

Hey, fellas. With the recent ruling of Infowars and Alex Jones, who has now had to pay up a million dollars for defamation and a whole bunch of things. The rumor going on about freedom of speech and all this stuff and, and lawsuits and stuff of that nature. Does this kill freedom of speech? And if it does have some type of meaning, as far as somebody says something about you, and you get hurt as a result of it. Can that be applied to persons forced to register against the government or other entities that are using their websites to out us PFRs? And F.Y.P. Thank you.

Andy 02:42

I just want to make a correction in there. He may have said 1 billion, but I just want to make sure it was like \$956 million. He was adjudicated against--is that the right terminology? Larry?

Larry 02:55

Yes, the judgment was almost a billion. It did sound like a million but when you're speaking with that New York accent, sometimes you can't tell. But there are several issues in his question. Freedom of speech is not in any type of jeopardy here. This has absolutely nothing to do with freedom of speech. Mr. Jones can speak all he wants. The government is not in any way trying to impair his ability to speak. The freedom that constitutional provision applies to is government intrusion. There is no government intrusion, and Mr. Jones can speak all he wants. But what this has to do with is a person who chose to deliberately, knowing the truth, to go out and spread falsehoods, disregarding the harm that it might have to the person or families that he was saying untrue things about, claiming that these shootings were a hoax and that they were a false flag. And what really hurt Mr. Jones in the trial process is he did not learn anything from his mistakes. He continued to be

belligerent, constantly confrontational, and he continued to be in denial that he had done anything wrong. He has absolutely a right to continue speaking, as long as he has a billion dollars to pay each time a jury awards against him. Alex, you just go for it, and you speak all you want. But you don't have the right to say false things about people. That's just not a part of freedom of speech that you can do. And he did that. He claimed these families were trying to get rich off of a false flag. That was untrue. He knew it. And he's being punished economically for what he did.

Andy 04:40

Is there any comparison of him making the statements and what the registry websites are? I'm specifically referring to the website. I get that you are guilty, like you are on the registry for second degree child offenses. But is there any comparison between what he is saying, and the registry websites?

Larry 05:05

You could really stretch to get there, because particularly with the leveling system where, rather than using a risk-based, individualized approach, they use the categorical approach. The public doesn't understand that not all those tiers are not dangerous. So they're communicating to the public that a person is dangerous. You could possibly get there that harm is happening. But you're going to run into a whole different problem as a litigant than what the family's ran into in this case. It is conceivable that a jury is going to be sympathetic to families of dead children who were killed in schools, when they were trying to do what they're supposed to do, which is get an education. It is a lot more difficult to imagine a jury being sympathetic to the person who was required to register, even though they might have been flagged under that system with the categorical approach as dangerous in the eyes of the public. I dare say that if I were trying to be a jury consultant, in a case like this, it would be difficult to imagine how we put together a sympathetic jury on this. But perhaps it could be done with someone who's a lot smarter than I am. But you're gonna have a different standard to go up against, because what happened in your life is somewhat true--you do have a sexual offense and your past.

Andy 06:28

Yeah, unless you're one of the very small people who actually are falsely convicted and all that stuff. But so these people lost a child, or the 20, I'm pretty sure it was 20 children that were killed and six adults, if I'm not mistaken. And he repeatedly said that these were crisis actors and stuff. And then they, because of the popularity was program, people were making death threats, and so forth against the parents of the children that were killed, is that the damage that was done?

Larry 06:59

That was part of the damage. Now, I'm not privy to all the details of the case. I didn't follow that closely. But there would have to be a tremendous amount of emotional harm that a jury could easily identify with if you lost your child. And a person is saying that you're a pathological liar, that you're trying to get rich off of this. It didn't happen. And this has created theater. I can't imagine a jury being quite as sympathetic to a person who has been convicted of a sexual offense. I'm just having trouble figuring out how we put that jury pool together.

Andy 07:28

And I just have to ask you this question. You speak of morals pretty often, what do you think of the moral character of someone that would actually make that claim?

Larry 07:37

Clearly, he's devoid of any moral character. He's shown that over and over again throughout the trial with his belligerence, and I would expect him to continue losing trials, because he's not going to change anything. He's one of those who's incapable of learning from anything that he's done.

Andy 07:54

I should have grabbed a clip of it, Larry. I want to say this occurred during the Hillary and Trump debates. I have to tell you that I think it's an amazing level of composure that--maybe was the first debate--when a fly landed on Hillary's head, right on her forehead. And she didn't like swat it as far as I saw. She didn't react to it. But Alex Jones, twisted this all around, like kept slowing it down and slowing it down so this fly's just slowly swirling around and plopping on her face. And he colored her eyes yellow, and he's spewing out that she and Barack Obama are of the devil or something like this, and the flies are attracted them because they smell like sulfur. Those are the things that he would say.

Larry 08:44

Well, you know, the funny thing is, what's sad about it is there's an audience for that. A large one I know, for that type of thing.

Andy 08:49

I know, it's amazing. It's amazing how popular. Anyway, that question came in, I think today or maybe it was yesterday, and I just wanted to make sure we addressed it. Because it's an interesting question. I'm super fascinated by how people follow Alex Jones it beyond entertainment, like we all know, wrestling is fake. It is, like male gymnastics, like they are very fit individuals, but it's all scripted and all this stuff. And this guy is amazing that people beyond entertainment

value, would listen to it, and buy his products, and believe anything that comes out of the guy's mouth. Amazing.

Larry 09:25

I'm not shocked because I think the mentality of the American public has dropped to a low that I never expected to see in my lifetime. So I'm not surprised.

Andy 09:34

Okay, well, I think I can agree with you there. All right. Well, then let's move along. We have a question from Dave in Georgia. He is interested in filing a class action lawsuit. We can stop right there, Larry. You have the most positive opinions about class action lawsuits, don't you?

Larry 09:51

I do. Yes.

Andy 09:52

So he wants to file one against the state of Georgia on behalf of myself and all other PFRs in the state who are impacted by internet bans or restrictions. "I am currently on probation for Sexual Exploitation of a Minor in Georgia and am barred from any access to the internet as a condition of my probation, including use of a computer to search for jobs and use of any internet-connected devices at the workplace. I am an honorably discharged, disabled veteran, with a Bachelor of Science from the U.S. Naval Academy and a Master of Business Administration from Vanderbilt University. I am unable to find employment, as virtually all jobs across all industries require use of internet-connected devices. I am in court-ordered therapy and have discussed the potential of a class-action lawsuit with my therapists." That is a really bad idea." Other clients of theirs who don't face total internet restriction are nonetheless unable to access the internet because they are unable to pay for court-ordered monitoring software to be installed on their personal devices. I am interested to know if NARSOL is aware of any organizations who would be interested in working with me to pursue a class-action lawsuit." There's a bunch there's a whole show of stuff to unpack there, I think.

Larry 11:03

Sure, well, I would say that the first step would be to see if he can get a modification of his conditions of supervision to get the court to do that. Now I'm a little bit unclear if his probation originates in Georgia. If it does, you would go to the same court that impose the probated sentence, even if that's not where you're being supervised. And one would ask for a modification of the terms and supervision to permit monitored access. That would be the first step. Before trying to do any further litigation, you should give the trial judge a chance to fix this. And a good lawyer would understand that. They would give the trial judge a chance to give some access to the internet. It would be the most

bizarre case where they would be able to justify a total ban. But your lawyer would go over with you and say--this is what they're gonna argue in your case. They're gonna say that based on these factors, these conditions were unique to you. And they're imposed because of your behavior and will withstand scrutiny. But it's difficult for me to imagine that a total ban would withstand appellate review. If the trial judge denies that modification and will not issue an order to his probation supervising authorities, then he should consider another route. Yes, in NARSOL I am at the moment still the coordinator of the legal project, and we are interested in that issue. The difficulty we're having is putting together the talent that we need on the legal front in the state of Georgia to do actions that we'd like to do. There are a number of them that we'd like to do. But the lawyers are not beating the doors down to join us because we cannot compensate them for all the time that these actions take. They will take many, many hours. You're looking at 500 to 1000 hours of billable time is going to go into a challenge like this, and we don't have that kind of money. Figure it out--if you're paying somebody 200 bucks an hour, which is low, and you've got 500 or 1000 hours, you can do quick math and see what it would cost. So the attorneys are kind of gun shy about going into these challenges. We have to convince them that the odds are very good on winning these. And this one, the odds are very, very good of winning. But he needs to go through the process first and see if he can get the modification.

Andy 13:26

Because the last one I remember was a West Virginia thing. Maybe that was even 18 months ago where they said you can't do that. There's enough case, whatever precedents and case law, to say that you can't just make an outright ban on the internet.

Larry 13:43

That is correct. And it sounds like the state of Georgia and many of its counties, and the parole department of community supervision they are willy-nilly just imposing these conditions across the board on everyone. And yes, we are interested in that. But part of what you can do is set it up for us. One way you set it up is to get your trial judge to see if they can modify that you've done everything reasonable, and you become more appealing as a plaintiff in an action. And as far as our class action, we're not really interested in doing that. They're too complicated. It's too difficult to get the class certified. It makes it wieldy and unmanageable. We can achieve the same objective by doing a small group of one or two three challenges. We don't need a whole group of people. That's just wishful thinking for people that don't really understand the system and a class action. We can get the same result without a class action. We did the same thing with the Butts County and Spalding County case. We've got a precedent as binding

in the three-state 11th Circuit Court. And we didn't do a class action. We don't need to do that.

Andy 14:43

Sure. And so I'll throw my hat in there about discussing the potential of a class action lawsuit with my therapist. First of all, I think that's a really crappy idea because you're tipping your hand. But two, there's two different kinds of therapists. There are therapists that are into actually treating people to make them better if they have some sort of problem. I had one like that. And he was like, I don't see that you are a threat, so we're gonna just move you through the process. But there are other people that are witch hunt kind of people. And because you're in the class, you are an evil person, regardless of whatever the circumstances were, and they have an axe to grind with you. And if you do that, they're going to make your life much more complicated. They're going to report back to your handlers and so forth. And I think that that will make life significantly more challenging.

Larry 15:32

I would tend to agree with you on your assessment that always see that most of these therapeutic relationships as being nothing more than a collaborative fishing expedition. I don't have a lot of faith in it. Now, there's always the state that has the exception. Their kind of in the DC area. But other than that pure wind driven state, I don't have a lot of faith in the tree. But although I'm a believer in treatment, it's just that it's misused as so many things are in the system.

Andy 15:56

Yeah, the sex offender industrial complex. I don't know if it's used anywhere else. But I remember hearing it here fairly early in our relationship and doing the podcast. Absolutely. All right. And then we will move over to one question from Carl. He writes, "Larry and Andy, I think there was a relatively recent decision somewhere regarding incarcerated people being held past their sentence expiration dates. Can't remember exactly where or when. In that vein, I correspond with a man in a county facility in Tennessee who has just passed his flat date (sentence expiration) and he is not being told when or if he will be released. He was not paroled, he served his entire sentence, which I believe (not entirely sure, I can't always remember) was a failure to register-type thing. What I know about county places is, they are mostly staffed by people who are only lightly trained, mostly unprofessional and mostly unsympathetic regarding the people they hold. So what can be done for him? Any ideas? I believe he has contacted the public defender and his paid attorney but gained no traction from either. By the way, love the podcast, I am a (minor) contributor." Well, thank you very much for being a patron Carl very, very much. It helps

everybody that even just \$1. It's amazing that people do this.

Larry 17:13

What I would say in response to this is if he has described the situation accurately, if the guy has maxed out his industrial date, that usually means he has served every day of the sentence, if he maxed out his number, then what he would need to do is file a petition for a writ of habeas corpus. And that is the all-purpose vehicle to use to get your custodian, which sounds like the county sheriff, to come into a court and explain why you're holding a person who's flattened out their number. They would need to produce evidence of some sort of detainer, where they're being held from another jurisdiction, or probation hold or something. But if he's without any lawful authority, he's got a good habeas action, and possibly, depending on the state of the law, he might have economic damages for being held in custody. But certainly he needs to file an action challenging his detention, and the most appropriate vehicle generally is a writ of habeas.

Andy 18:18

All right, that's pretty clear cut. I got nothing else that we should touch there either. And we will move on to a question from Eugene. "I lived in Florida a few years ago in Lee County, Fort Myers area to help my mom. I think, I think God recently punished them for their hatred and cruelty." I remember reading this one "I think God recently punished them for their hatred and cruelty. While there, I understood per ordinance number 11-05 that I could not go to the library, beach, swimming pool, YMCA, etc. Lee County did have a special program where disabled persons like mom could check out library books online and they would be sent by mail. So I ordered books (for Mom, of course), and postal fees were paid for by the county. I just listened to your show. And you stated that a PFR could not be prevented from using the libraries. Did I interpret the 11-05 ordinance correctly?" And he provided a link to the ordinance: <https://www.leegov.com/bocc/Ordinances/11-05.pdf>

Larry 19:12

I took a quick glance at the ordinance. I didn't read it because it had too many strike throughs. But I can say the same thing I've said so many times through the years. They can do anything until they are stopped. What he's referring to is I made a comment about the Albuquerque Public Library system having a complete ban some number of years ago and about a challenge going to federal court and up to the 10th Circuit. And the 10th Circuit slapped Albuquerque down and said you just can't have a total ban. Now the 10th Circuit is not going to be binding in Florida. But it's persuasive authority. But until someone brings a cause of action challenging that ordinance, Lee County can do it until they're stopped. And perhaps it is time for

someone who feels that they paid their taxes, and they should have that right to initiate a cause of action, challenging a total ban and see what happens. But the 10th circuit is not binding. But it's very persuasive in terms of how well the ACLU of New Mexico actually litigated that, and they did a very good job. It's well-briefed, and the decision was well-written. And it would be persuasive, even in the 11th Circuit.

Andy 20:22

So since the 10th Circuit is one away from 11, does that make it more persuasive? Since it's closer?

Larry 20:30

Not at all.

Andy 20:34

I couldn't resist asking a completely dumbass question. And then moving over to a question from patron Chris. "I am on Federal Supervised release for receipt of CSEM. I have had two technical violations in the past year for having access to a cell phone and a laptop. Once I was reprimanded, and the second time I was sent to the halfway house for 120 days. My question is does this count as recidivism? I did not get a new charge, just technical violations. Thanks. To clarify, I am wondering how violations compare to a new charge when it comes time to apply for getting off a registry. I would hate to think a violation without a new charge would sink me." Now look, if we use super patron Mike as an example, his crime was like 100 years ago, and he had a very minor technical violation before he was even aware of the law, which they had just brought into place. And that has taken his ability to get off of their registry, which he is in the tiny little sliver of people that could, but that violation could tank him.

Larry 21:41

Well, there are unknown things about this. But if he's going to be filing in one of the states that has a removal process, and typically you file those in your, in your court of conviction unless you're from out of state, and then you file it typically in of the county where you live. If I'm the prosecutor in that county, and I have an angry public that wants me to be harsh on crime. In most counties, that's what prosecutors are facing. That's why we elect them to be tough on crime. Very few counties say, I'll tell you what, I'm gonna vote for you, you're gonna have to be lenient on crime. That's the rarest of situations. The prosecution is typically who responds to the petitions. And I would just about guarantee you that they will use that if they intend to sink your removal petition. Because as he says, in his email, the technical violations seem to be related to the actual offense. So if I were the prosecutor, here's what I'd argue, I'd say, Well, yes. He has served his time. Yes, he's done all these things. And no, he hasn't violated the registry. Per se,

he's been compliant. But during the period of supervision, he had difficulty adjusting to the requirements of supervision. And they reprimanded him once or twice, then they put him on house arrest. And he just seemed to want to skate around and not do what he's supposed to do, which suggests that he presents an elevated risk to the community. So your honor, I would ask that he not be removed from the registry, because this is our last stand between having no way to track him. And this person seems to have the desire to avoid complying with what the requirements were. Therefore, please deny that. That's what I would come up with just spontaneously. If I can think of that, I'm fairly confident they can think of that as well.

Andy 23:40

And they got to have almost like a spinner wheel that you would see at the fair with, we could use this excuse, this excuse, this excuse. They already have them already laid out, identified. And they could just pull one out of the hat and use this one or that one if they want to be clever and creative.

Larry 23:59

Well, in terms of recidivism, it doesn't really count as recidivism, in terms of the literal calculation. There is no new crime, but it could very well sink is the registration petition.

Andy 24:11

A question from someone in chat asked if violations are felonies? No. And I was saying that they're depending on what it is. I mean, if they say you can't have alcohol, which would be sort of like a general probation kind of thing, then you drinking alcohol as an adult is not illegal, but it could get you in trouble if you're drinking and your probation people find it.

Larry 24:36

Unless you commit a new crime.

Andy 24:39

Right, like failure to register things are felonies. That's the only one that I can think of that being in this situation then puts you in a unique class of having that apply to you as being a felony.

Larry 24:52

Well a new criminal act, if it's sustained with a conviction, would be recidivism. Whether it's a felony or misdemeanor, that's still recidivism. But technical violations where you've been ordered not to do something that a normal citizen has the right to do when they're not paying their debt to society, those are just technical violations. That's not recidivism in the literal sense, but it does often result in a readmission to prison.

Announcer 25:21

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Andy 26:16

All right, well, then I guess, Larry, you people must be losing your mind. When I looked at the program outline, I was shocked and have no idea what you've been smoking. You want to talk about Social Security. We talked about Social Security Disability not long ago. And I'm just shocked. I don't want to talk about so security on the Registry Matters podcast. So I titled this little segment "The Social Security Matters Podcast." So you want to talk about social security here.

Larry 26:16

I do. Yes.

Andy 26:29

So what have you been smoking? You got your medical marijuana card, didn't you?

Larry 26:48

I do, but I don't smoke it. I chew it.

Andy 26:53

We talked about Social Security disability not too long ago. And this podcast focuses on issues to the registry, as I recall. I mean, it is called Registry Matters. But you have some clever reason for why you want to use up FYPs valuable time and are going to talk about security tonight?

Larry 27:11

Well, I was hoping I could sneak this out without you going ballistic. It sounds like you've gone ballistic anyway. So I have been smoking some good wacky weed, but I have not forgotten this is the Registry Matters podcast. But on a serious note, the reason is that Social Security just announced the cost-of-living adjustment or cola for 2023, which is 8.7%. The Social Security system by its design penalizes those who have been incarcerated in the benefit calculation formula. that's reason number one. Reason number two is that I have strategies to help people maximize their benefits. And reason three is that many

people have misconceptions about the program, and I want to dispel at least some of the misinformation.

Andy 28:01

All right. Well, before we dig into the security program too deeply, tell the audience what you mean when you say the formula works against those who have been incarcerated? Do I have to get out some sort of like chart to do math on the screen for people?

Larry 28:16

Well, Sure. It does that by the very essence of how one's benefits are calculated. Your individual benefit is determined by looking at your Social Security contributions over your lifetime. They base your benefit on your Average Indexed Monthly Earnings (AIME) looking at the 35 highest years.

Andy 28:38

Can that just be simplified? You just said some mumbo jumbo? What about average indexed monthly earnings? What is that?

Larry 28:46

Well, they index all of your earnings prior to your 60th birthday to present day value. For example, a person who earned 24,000 in 1979 would have had a pretty good job but comparing it to today's earnings, that person would almost be in poverty. They inflation adjust the 1979 earnings to today's value. That's what average indexed monthly earnings is.

Andy 29:08

But technically if you won the lottery, you have a massive increase in earnings that month. Does that count?

Larry 29:17

That does not. You're not paying Social Security on that.

Andy 29:21

All right. And so I see where you're heading with this. What happens if you've been in prison for 15 years, and you only have 20 years of earning history when you reach retirement? Does that mean you have a whole bunch of goose eggs in your formula?

Larry 29:34

Well, yeah, that's the easiest way to explain that would be to answer your question with a question. What happened to your grade in a particular class, you had 35 graded assignments, and only 20 were turned in? We've got a professor that listens here sometimes. What would having received zero for the missing assignments do to your grade point average if you had 20 missing out of 35 assignments?

Andy 29:54

God. The funny thing is Larry, is I could get my kid to answer a lot of this because he might have 35 graded assignments and he only turns in 20 and he wonders why he's got a shitty grade. Are you telling me that a person's AIME is calculated with a whole bunch of goose eggs with 15 zeros?

Larry 30:09

You're correct. That's precisely what happens. What 15 zeros would do, even if you'd had decent earnings before going to prison?

Andy 30:18

Yeah, I mean, it's amazing how bad zero effects on average. It would be devastating for sure. In the pre-show you mentioned another problem PFRs face. Can you elaborate on what problem that is?

Larry 30:32

Sure, as a result of being on the PFR list, many registrants are unemployed or underemployed. This means that their AIME takes an additional hit, which screws them at retirement. I mean, you're working, but you're earning \$21,000 when you should be earning \$67,000 if you were fully employed to your capability.

Andy 30:53

Before we get into the Larry-Strategy to maximize your benefits, what was the hot news that was just released by the Social Security Administration?

Larry 31:02

Well, the hot news is that all Social Security beneficiaries will receive a COLA cost of living adjustment of 8.7% with their January payment.

Andy 31:12

You know, it's funny every time you say COLA, I think of the military, which is the cost-of-living allowance where they give you bonus money for living in San Diego versus living in you know, Oklahoma. That's why whenever you say COLA, I think of that instead of cost-of-living allowance. And how do they determine what the COLA adjustment is?

Larry 31:31

It is determined by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Former President Richard Nixon signed the Social Security Amendments of 1972 into law, allowing COLA to be adjusted annually according to changes in the CPI-W, beginning in 1975.

Andy 31:55

From a bunch of podcasts that I've listened to and other research, there are a number of major spending categories with dozens upon dozens of subcategories, each with their own respective weightings (shelter costs having the largest individual weighting). The purpose being to measure the year-over-year change in price for each subcategory, major category, and the CPI-W index as a whole. Why do seniors object to this formula?

Larry 32:22

Well, they feel that it doesn't accurately represent a typical senior citizen's spending which has a much higher healthcare component than a younger person. I personally do not fully agree with that for a couple of reasons. First, many senior citizens have homes that are fully paid off and they are not subject to the ever-escalating rent expense that younger workers face. Second, a significant part of their healthcare is covered by Medicare. My personal belief is that the current COLA adjustment does a pretty good job of keeping purchasing power constant.

Andy 32:54

And you said that we're going to discuss how formerly incarcerated individuals can maximize their benefits. And so can we go into that, please. So what do I do? What do I say, hey, Boss, give me a raise, or I'm gonna punch you in the face. Is that one of my ways to get a pay raise?

Larry 33:08

Well, there's a few steps. If you do not have an online SSA account, set one up right away. And that means you go to ssa.gov website and you go through all the Kabuki stuff that they put you through it to make sure that identify you and you set up an account. And once you do that, and they confirm you, take a look at your lifetime earnings history and see--1) if the reported earnings appear to be accurate, and 2) count how many years of earnings you have. Remember the magic number is 35. If you do not or will not have 35 years of earnings to the system by the time of your retirement, they will insert zeros for those missing years.

Andy 33:47

And if a person has zeros, you can't make up the years that you were gone and fill out tax returns to not have zeros. The only way would be to work longer, Larry.

Larry 33:58

That's correct. Go out, get a job, and contribute to the system. Any amount of earnings is preferable to having zeros in the equation.

Andy 34:05

And so I see what you're saying there. So do you recommend just go get a 20,000 or even a minimum wage making 15 grand a year instead of having zeros?

Larry 34:15

Well, I mean, I'm not a mathematician, but I tend to think that 15 to 20 thousand is better than zero. You're a mathematician. Tell me--is 20,000 better than zero?

Andy 34:23

Last time I checked, I would rather earn 20. (Laugh track). Can you quickly tell me does if you are on some sort of have the means tested benefits? If you claim that you're disabled in collecting a check from the government. Does that count as earnings?

Larry 34:39

Oh, well, it does not. Oh disability. Disability is not means tested in terms of your assets. If you're on social security, disability is tested in terms of your earnings. You can have untold assets, and it doesn't affect your disability payments. SSI is the one that is impacted by your assets.

Andy 34:59

Okay, um, so then sometimes in some private conversations, you've mentioned that there are exceptions when zeroes do not count. And I'm guessing that one exception should be when you are incarcerated because there is no reasonable expectation that a person be gainfully employed unless you work in one of those prisons where you're making like, eight cents an hour, right. So you should be gainfully employed?

Larry 35:28

No, unfortunately, it doesn't work that way. Being incarcerated does not count as a valid excuse from being absent from the workforce. But being disabled does.

Andy 35:44

How can they not? Like literally I'm asking this question how can they not count that as being not qualified? You are unable to work? I mean, I guess it's your fault. You did the crime, blah, blah, blah, whatever. How can they not exclude those from your calculation?

Larry 36:04

It's not in the law, they can't give you a benefit. That's not in the law. I suggest you contact a bunch of Republicans that serve in Congress--they're the party of compassion--and suggest to them that people who have been incarcerated for--let's pick a number for five years or longer--that that period should be excluded from the 35 and see how much traction you get.

Andy 36:27

So there was this guy that I knew. We called him turtle. And you can imagine that he was a very hefty young lad. And he had done 17 years, and didn't have a GED, and refused to go get one. And so he was reasonably coming up on his departure date. And I'm like, 17 years, that's basically half of the 35 years you're talking about? So what does being disabled do in terms of security, then?

Larry 36:55

Well, we could easily spend an entire program on disability because there are many things that it does. The most important of those is that the zeros in your earnings history do not count against you, because the Social Security Administration does not expect you to work when you're disabled. I mean, can you imagine that they actually don't expect you to work while you're disabled.

Andy 37:14

I would argue that being in prison would be a disability and restraint. Larry, I would argue that that would make be a true statement.

Larry 37:22

But it has to be a medical disability.

Andy 37:26

All right, well, then let's do a hypothetical for a disability disabled person. A person had an industrial accident at age 44 and collected benefits for the next 15 years. Through advances in medical science, their injury was treated, and the person felt able to work again. Are you people saying that the person should go back to work?

Larry 37:47

Absolutely, yes, I'm saying that for several reasons. First, disability benefits are very low, and a person can generally earn more than what he or she receives on disability. And you see, there's a fancy chart that shows what the average disability payment is, which was just shy of \$1,400 in 2022. And it's going up to over a little over \$1400 2023. So that is reason number one. The second one--the person's work would increase their monthly benefit upon retirement.

Andy 38:19

How so?

Larry 38:24

Well, remember I said being disabled is acceptable 35-year rule. So that worker and the hypothetical receive benefits for 15 years. And that period is referred to as a disability freeze. This means that those years do not count in the benefit computation formula. If the person works for several years, their benefit will increase because their AIME would be higher. This means that those years do not count

in the benefit computation formula. If the person by the time you did your calculation of 59, if that person works for several years, if they managed to make it to their full retirement age, which depending on your birth could be 65,66, 67. Or somewhere between those numbers. They would have the opportunity to advance their average indexed monthly earnings. Because say that they get a good job being that we have such a shortage of workers right now. They get a good job, and they earn at a good rate. And those five years that they work are at a higher level than what they their average index earnings were at the time they're on disability, they get a brand-new computation. So yes, if you if you go work, you're gonna get more money.

Andy 39:21

All right. I got to think, Larry, it's easy for you to sit there and tell people to go back to work. How scary it would be for a person like this guy, Turtle, 17 years in prison. There are some people that were in prison long enough that when they get out and they go, so you're saying I have this card and I can go to this machine, and I punch in some numbers, and it spits out money. Like they have no idea what an ATM machine is. That is terrifying to me that people would do that. All the technology that's changed. You're not exactly the most like you're not excited about technology. I would call you a technophobe, Larry. So technology has changed, and they risk losing their Medicare coverage. My understanding is those on disability receive Medicare coverage regardless of age.

Larry 40:02

You are correct. But they do have, there's a program for that. First, the person is entitled to a nine-month trial work period where there is no earnings limit and still receive their full benefit. Second, SSA has a Ticket to Work and Self Sufficiency program where they pay for job training and other necessities to help you get back to work. Third, you are allowed to keep Medicare for 93 months after your disability ends by paying the monthly premium directly. Medicare is relatively inexpensive. The monthly premium is currently \$170.00 and will decrease to 164.00 in 2023. So therefore, if you can earn \$60,000 a year, and you're being paid \$1,400 a month, I would dare argue that you could afford to pay the \$164 in Medicare coverage, and you would still come out ahead because you earn more money, you'd have more spendable income, and you would increase your future benefit.

Andy 41:00

Just to make sure we all have this scenario going correctly. At the age of 59, the person is in the hypothetical impact to work and work for the next six years. How would that increase their monthly benefits?

Larry 41:14

Let me explain that any work has the potential to increase a person's benefit. Remember that they are calculating your best 35 years. For a disabled person they are doing the same minus the period of disability. This means that if they have six good years of earnings, their AIME could go up considerably. But working has the potential to increase any person's benefit as well.

Andy 41:39

Right. So can you dig into that more?

Larry 41:44

Okay. Well, so the Social Security system--and you, being the techno genius that you are--they have this massive computer system that monitors everyone that is receiving benefits because it needs to be able to contact you. And it's constantly looking at if you're on benefits, and you're working, it's matching those earnings up each year. So after they get your income information and tax documents, Social Security will take a take a look at any work for that tax year. And they'll figure it into your benefit calculation. And that benefit calculation members based on your 35 best paid years, if your most recent year, makes it into the top 35. They will delete the lower year; they will insert a newer year at the most recent year. And they will recalculate your benefit. And they will increase your monthly benefit to reflect that higher amount.

Andy 42:39

Is that process automatic?

Larry 42:42

Absolutely. It's automatic. Social Security has 60,000 employees and have 60, almost 70 million beneficiaries. So you can see they don't have a whole lot of time to work on each person's. So the computer is constantly doing that. The computer does the calculation, and they notify you of an increased benefit. In addition, they make it retroactive to the first of the year. For example, any adjustment that's made result of 2021 earnings is paid retroactive to January 2022. So the recalculation generally occurs in the second half of the year, after the wages and tax returns, that make their way to Social Security and the computers has done its calculations. They sent you a letter saying we have adjusted your benefits, you will receive a direct deposit for \$960 record, which represents an extra \$84 a month for whatever number of months before that and your benefit going forward is this amount.

Andy 43:39

There certainly an issue with our people. I've mentioned a friend of mine that lives in Augusta when he first got out, he's fairly technically literate. I mean, that's what he's doing. Now, if he was like hauling pipe, steel pipes around a

factory, because like that was the job and he was making roughly minimum wage near saying that people should do that in the face of rampant discrimination, your invite your advice is to work, if possible.

Larry 44:04

My advice is to get rid of every zero you can get rid of.

Andy 44:10

Do you think that the job market is more favorable for people with PFR type background issues because of the labor shortages that we are experiencing in the country?

Larry 44:25

Yes. I don't forget that people that have these kinds of convictions do face discrimination and the issue of underemployment. I do get that. But I'm telling you, you're better off to have earnings in the system. You're better off working at our lesser paid job. And if you believe in America as much as I do, people may recognize your skill and you may get elevated to a higher salary very quickly. If you're good and reliable. You know we still have somewhat of a meritocracy in this country. And so I encourage people to work. I'm not oblivious to the challenges, but there are employers that are needing bodies right now. And I think that, despite all the challenges, that almost anyone who wants to work can work.

Andy 45:21

Before we get out of here, can you tell me we want to go back to the COLA formula? Are you telling me that you would oppose a more generous COLA adjustment. If you are receiving Social Security yourself?

Larry 45:39

Well, I am beginning to receive benefits and I would not oppose a more generous COLA if we could figure out how to pay for the additional expense. Remember that COLA adjustments compound on adjustments made in previous years. Social Security is running a deficit and has been for a number of years. To simplify what I'm saying, the system is paying out more in benefits than it receives in revenue. The result is that the accumulated Trust Fund is being depleted.

Andy 46:06

Explain what happens when an if the trust fund is depleted?

Larry 46:10

Well, the accumulated trust fund, we've come on that question. If the trust fund is depleted, then we would be down to a pay-as-you-go system, or we'd be working on the income we have. In other words, the benefits that would be payable would have to match the income that's coming in. Was that surplus that has been accumulated in last 30 plus years is gone. And that, at that point, the actuaries estimate

that the incoming revenue would cover 75, 77, 78% of benefits that are owed. Truthfully, like we're still a decade away from the depletion of the trust fund. And those kinds of projections are difficult because we don't know what kind of economic change is going to occur. What we do know is that change is rarely rapid, because of technological changes. We've learned in this pandemic that a lot of people can work off the premises. This doesn't bode well for high paid earners. Because I hate to tell you high paid workers out there. The companies learned in Silicon Valley that you can work from home now. They also can figure out that people can in India can also do your job at a lesser cost than the six figures they're paying you. So your job may evaporate. That would have a terrible impact on the trust fund of the income stream if all of a sudden 20 million jobs are offshored that are currently onshore. We won't be collecting Social Security from those. They'll be paying that to the Indian government or to whatever government we're that those jobs are offshore shore to. So these projections are nothing more than guesses.

Andy 47:55

Can you clarify one point though. Fill in the gaps for me. When it was created, it was approximately 10 workers paid in for every one drawing from it. And now it's like two or three are paying in. And obviously people are living significantly longer than they were back when the 30s or 40s when this was created.

Larry 48:16

You're correct. I think the ratio of workers was even greater than 10. In the earlier days, and now the ratio of workers is less than three for every person collecting. And with our low birth rate and our hostility to immigration, we're just dead set against having people come in and work even though we have 10 million open jobs. I don't know how we're going to plug the gap of that. And our system as it's currently designed, depends on revenue being contributed from people who are working. It does not rely on general fund revenues for Social Security. It is strictly the taxation that is paid by workers.

Andy 48:59

Specifically that line item that you see on your pay stub is what funds the Social Security. And usually it's 50% from the employee and 50% from the employer. Right?

Larry 49:11

That is correct. When you look at that number on the social security component, the employer is matching that. On Medicare you never max out on that. You can pay it on all your earnings. On the Social Security side, it's going up to 160,200 I think, for 2023 where they stop collecting it. But still there's a lot of wages that are not subject to Social Security. People earn a lot of money out there--professional

athletes, executives, on and on earn lots of wages, and then they have creative ways to avoid wages. A lot of executives take their compensation and stock dividends and cash payouts, which are subject to only capital gains taxed at a very favorable rate of only 15%. And they don't pay any social security on that. So the system has challenges. And then we have the whole new gig economy where a lot of the people who are earning decent money, they're not contributing anything into the system, but yet they're earning money. And that's one of the things that those 87,000 new IRS agents are going to try to figure out-- how to capture some of that unpaid tax from the gig economy.

Andy 50:22

How much money--Rocky asked the question in chat--how much money did the government borrow from social security? Isn't that a misnomer? Isn't that not the truth that there's IOUs in there. Wasn't a total amount borrowed--19-point, 17 point, 5 billion is what he says.

Larry 50:36

No, that is not true. The government borrowed every penny of the trust fund because that is what they're required to do with it. Just like when you take your money to the bank, and you give it to the bank, which is a form of either a short-term demand deposit or a long term, or even short-term certificate of deposit, you lend it to the bank, you have no more control over it. So the Social Security system has lent the US government just shy of \$2 trillion. And the Social Security system is collecting interest on that from the Treasury obligations that are yielding somewhere around 2 to 3%. And that is a revenue stream that also helps fund social security. But as social security needs that money the hand the IOU to the government. And they say we need to cash these; in the same thing you would do when you need your certificate of deposit. That is complete bunk, Alex-Jones-type of bunk. The Social Security system is only allowed to deposit their surplus into US Treasury obligations by statute. If you don't like that system, then you need to encourage Congress to change the investment options. But right now, they lend every dollar of surplus to the United States government and the full faith and credit the United States government is standing ready to make those IOUs good. When they cashed him, those were those treasury obligations, and they have cashed in a number of them. They've actually been drawing down that fund for a few years now. The interest they were collecting from 2010, that's when the Social Security system started not collecting enough money. For several years, the interest that they were earning on the Trust Fund was enough to make up for the difference. And they are still okay. But now they've gone and started going into the trust fund itself because the interest is not enough. And as you withdraw from the trust fund, the amount of interest declines, as you have left less money in the bank, you get less interest as a general rule

unless interest rates are going up dramatically. So we have the challenge of the fact that the trust fund is being spent now.

Andy 52:32

So for a bajillion years, I've always heard that like, oh, it's gonna run out of money, blah, blah, blah. So what will likely happen? What do you think will happen if the trust fund does go broke?

Larry 52:42

Well, it will, barring any changes in financing, it will run out of money, I don't see anything that was stop that. But I do not believe that Congress will permit complete depletion. We've gone through this path before. In the late 1970s, after the big giveaway when they gave a 20% increase in '72, which they couldn't afford. By the late 70s, when Jimmy Carter was president, they had to increase the payroll withholding rate. And they had to increase the wage base subject to taxation. Again, in 1983, when we were in the deep recession in the Reagan administration, they had to go ahead and roll some of those tax increases forward that had been passed in 70 and 77 and 78. And I don't believe that as we approached, that brink of depletion, that Congress is just going to sit back and let 10s of million people turn on them and say, Why are you cutting my benefits? I just don't see that happening. They didn't let it happen in 77, they didn't let it happen in 83, they're not gonna let it happen in 2034. With approximately 70 million people receiving benefits, that's a powerful bloating voting bloc, and rather than facing the wrath of millions of angry voters by reducing benefits across the board, they're going to find a way to fund social security by either raising the taxes or looking for new revenue sources of some kind. But they're not going to let it deplete. People, you can spend your time worrying about something, but this is not what you need to spend a lot of time worrying about, because they're not gonna let that happen.

Andy 54:10

Anything else? Let me see if there was another question. Paul was asking a question. Let me see. I want to try and figure out the way that he was asking this. Doesn't the employer tax go to the state the employee, or the employer is in or the country the company is in, regardless of the employee's country? I'm thinking that the offshore workers they're going to be there. I mean, they're not going to be 1099. But that would be the equivalent. They're going to send an invoice to the foreign country. So the company is not paying for Social Security, and there's no headcount inside the United States that you are an employee in that country.

Larry 54:49

Well, I've never professed to be an expert in this, but I'm assuming that if you go into the country of India, and you hire people in India, they are probably not subject to US Social Security.

Andy 55:00

Last time I checked, they're probably not going to be.

Larry 55:03

So, therefore, the Apple Computer Corporation will probably not withhold Social Security for an Indian employee. And I don't mean that as in terms of an American Indian here in our country, I'm talking about a person in the nation of an Asian-Indian.

Andy 55:16

The nation of an Asian Indian.

Larry 55:19

I don't see that that would be an issue. If they offered jobs, the whole reason for offshoring jobs is to get cheaper labor, and less benefits.

Andy 55:32

And that goes to the same thing with a gig economy. If you are a 1099 employee, then the company has now moved you from the like the liability common column, and now you're at an expense. And if I'm not mistaken, they write that off as one of their expenses, you you're getting paged at \$10 an hour, whatever that is.

Larry 55:52

Well, that is correct. Now, the 1099 is slightly different because you as an individual, you could report that income, and you could pay the Social Security on it. The problem is nobody does. What I mean, very few people do. They say, well, let me try to figure out what some good business expenses because I got this 1099 for \$64,000. And I have to figure out some way to bring the number down, so I don't have to pay because you have to pay both halves because you're the employer and you're the employee. So all of a sudden, your Social Security went from a combined rate of 7.65 to a total rate of 15.3. And you don't want to pay that. But you could do that. You could achieve the same goal by just loosening up your purse strings and reporting it as self-employment income. And you could pay that tax, and you could get the same benefit and social security system. But people don't think about that when they're 27 years old. They're thinking about living as best I can now peg their high rent in Los Angeles. They're not thinking about when they're 6566 years old are not thinking that far out.

Andy 56:56

I understand anything else here? I think we've done enough. So security for the Registry Matters podcasts that we can do for one night.

Larry 57:04

Well, I'm hoping that our transcriptionist will put all those abbreviations that I painstakingly spoke in the transcript so that people will know what we're talking about.

Andy 57:15

Well he is on notice because he is here listening. There are a few articles that you want to cover, and we have fiveish or so minutes to cover.

Larry 57:25

Maybe we can do one. Which one would you like to do?

Andy 57:29

Well, you put in here that you'd really like to cover this one. Nearly half of the approximately 3,000 people sitting inside the overcrowded Fulton County Jail in Atlanta have not been formally charged with a crime, according to a new analysis by the national American Civil Liberties Union and the ACLU of Georgia. What's wrong with this? Larry, I don't see a problem with this.

Larry 58:02

The problem is the county has decided to pay for housing up to 700 people at the Atlanta City Detention Center—but the ACLU says the data shows significant numbers of people inside the Fulton County Jail can instead be released. And they are presumed innocent under our system. So released them, Fulton County.

Andy 58:28

What was the next part of that? Oh, yeah. So 45% of the people to paint detained in the jail have not been indicted, even though Georgia law requires that a person who is arrested and denied bail must either have their case heard by a grand jury within 90 days or be granted bail. If you haven't been indicted, how are you...? You're being granted bail on because we...Like how does that even come about if you don't get indicted with anything?

Larry 58:56

Well, you've got an arrest, or you've got a complaint that's been filed against you. There's been an affidavit for an arrest and a person has gone to Georgia to a magistrate judge in Georgia and sworn under penalty of perjury that you've done these things, and they're holding you under that. But that same law also says if a person has held more than 90 days without indictment, the incarcerated person can petition the court to have bail set. Now the correct way to make this system work would be to have the law

mandate that they be released if they've not been indicted within 90 days. That's our process here in New Mexico. And amazingly, they find a way to indict people within the timelessness.

Andy 59:36

This is just--we want to hold them because we're angry at them because someone said they did a bad thing. And they haven't done their side of it. Is this a financing side that they don't have enough manpower to look into the individual to see if there's anything where they're going to the grand jury? Is that a manpower thing?

Larry 1:00:00

I think not. I think it's probably a lot to do with the COVID pandemic and the way the court system got backlogged. People started working from home. And despite all the protestations, they're not as productive when they're working at home. Trust me, I've tried it. I mean, people work from home, they take it as an opportunity to work on their personal affairs. They somehow don't believe that they're supposed to be giving every moment of their time when they're on the clock to you. I have a feeling that that they work at home crowd has decided that they don't have the ability to function. And trying to move the backlog and get these cases done is just an impossible undertaking. But it seems like to me that the way to move it forward is to release the people. And they will find a way to keep the people in custody that really need to be in custody that are a threat to the community. But the way it is now, there's no incentive because you can file a motion for bail. And they'll schedule a hearing when it's convenient.

Andy 1:00:59

Riddle me this, sir. Pretty much everyone that is involved in this process, puts their hand on that Bible, as you would say. Can you say that word for me?

Larry 1:01:08

(In deep Southern accent) They put it on that Bible.

Andy 1:01:10

Thank you. Everyone has to drink now. They all swear to uphold the Constitution, all that stuff? And isn't this a violation of their civil liberties? Like in the truest sense, most pure form, that they are having their civil liberties violated by being held without being charged with anything without being granted bail? Like all that?

Larry 1:01:29

Yes. But it would be an amazing, elected prosecutor that would say, I'll tell you what, Your Honor, if we can indict these people in conformance with the requirements of law is that they will be released. Can you see that happening?

Andy 1:01:41

I somehow, I actually can maybe I'm just super naive. But I mean, a judge is there also like reading the text on a fairly regular basis. Maybe the prosecutor is not. He's looking on the other side of the law to see what he can prosecute people for. The judge seems to be on the other side, upholding those kinds of values.

Larry 1:01:58

What I'm saying can you see a prosecutor making that argument that our office has failed to be able to do that. I hope you can show me when one does.

Andy 1:02:11

Okay, so maybe I'm being naive and Pollyanna. All right. Okay, so this sucks. People are being held, hey, you were felony jaywalking, and you are just being like, looked poorly upon and you can't get bail or anything. And meanwhile you're losing your house, your car, your girlfriend or boyfriend and job and all that stuff, right?

Larry 1:02:35

And the sheriff's solution is to ask for more money for jail space. He says we need a bigger jail. But in the meantime, I just need money to house people in other jails.

Andy 1:02:44

Maybe we should take like the old Atlanta Braves stadium and use that to house people because there's just a bunch of empty seats there. Well, we should support that one. Um, anything else before we go? Can you plug next week? What are we doing next week.

Larry 1:03:04

Hopefully, it's going to turn out to be a great podcast next week. We have a guest named Ashley. But it's not the regular Ashley that people are familiar with. It's the spouse of a person who is serving time in Fort Leavenworth and the Joint Regional Correctional Facility. Whatever it is anyway, there. They were there in Fort Leavenworth, the military prison that has a very high percentage of people that have sexual related offenses. And hopefully, we're going to be revealing some of the atrocities, and I'm using that loosely. But I consider some of the stuff that I'm hearing to be atrocities in terms of what we expect of our criminal justice system. We'll probably spend the most if not all the episode, talking to Ashley, about what goes on in that facility. And we're hoping that maybe our podcast will get shared with others because we're trying to enlighten the community. This is one of those things where people always say thank you for your service, you're such a patriot. But then all of a sudden, forget all about your spectacular service and your awards. Once someone accuses you of one of these offenses, they throw all that out the window, and you're presumed guilty because the person made the

accusation against you. We're gonna dig into that hopefully next week.

Andy 1:04:20

Very good. As we do just about every Saturday, we record this at around 7pm Saturday in Eastern Time. And from there, you can find the show notes over at registrymatters.co or FYP education.org. Leave voicemail at 747-227-4477. We'll play it if it sounds right. And email registrymatterscast@gmail.com. And of course, for those that support us on Patreon, thank you so much for the support. And there are some other folks that donate through FYP Education. We had a whole bunch of people in chat, and it was very, very, very chatty. And thank you all very much for coming. Those are patrons and I love you all so very, very, very much and you can support us

over@patreon.com/registrymatters even for as little as a buck a month. We're just trying to have a bunch of numbers of people that support us, even if it's a buck. That's all I'm asking for. And without anything else, I bid you adieu, sir and I hope you have a fantastic evening, and I will talk to you soon. Good night.

Announcer 1:05:18

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