

CHAPTER 35

FINALE

It did look bad.... 460 years is no walk in the park. I didn't relish the idea of being locked away in prison, unable to go online for the rest of my life. Whether the government knew it or not, they had me hands down for using unauthorized access devices and cloning phone numbers. It's also true that I'd violated the terms of my 1989 supervised release by hacking an agent's voicemail on Pacific Bell and associating with "known computer hackers" (well ... Lewis). But it hardly seemed fair to send me away for almost half-a-millennium for these "evil" crimes. Were there no war criminals left?

Of course, they had also found more than 20,000 credit card numbers on my computers, but there was absolutely no evidence that I had attempted to use any of those credit cards. I have to admit, I did like the idea that I could use a different credit card every day for the rest of my life without ever running out. But I never had any intention of using them. That would be wrong. I just wanted to see if I could get them. Why is that so hard to understand? Hackers and gamers get it instinctively. Anyone who loves to play chess knows that it's enough to defeat your opponent. You don't have to loot his kingdom or seize his assets to make it worthwhile.

It was always strange to me that my captors had trouble grasping the deep satisfaction of a game of skill. Sometimes, I couldn't help but wonder if my motives were so hard for them to understand because they themselves would have found the temptation of all those credit cards impossible to resist.

Even Markhoff, in his *New York Times* article, admitted that I was clearly disinterested in the prospect of financial gain. The worst he could say was that I "allegedly had access to trade secrets worth billions of dollars." Since I was never going to sell them, what they were worth didn't matter to me. So what was the nature of my crime? That I "*allegedly had access*"?

Now that they had finally caught me, prosecutors in several Federal jurisdictions were frantically compiling long wish lists of counts and accusations, but I still had reason for hope. Despite the evidence, the government's case was not air tight. There were legal conflicts that had to be resolved first. Shimomura, for instance, had been working as a *de facto* government agent, which smacked of entrapment. My attorney had also filed a motion claiming the government's search warrant was flawed. If the Court ruled in my favor, all the evidence seized in North Carolina would be inadmissible— in Raleigh or anywhere else.

To John Bowler, the young, up-and-coming Assistant U.S. Attorney, my case must have seemed like a golden opportunity. If he could have me convicted on all counts and slapped with a massive punitive sentence, the media attention alone would've launched his career. But the reality was that Federal sentencing guidelines required the judge to base her sentence on the minimal losses incurred by my victims when I made some free phone calls.

Even though it was unnerving to be in custody again, I tried to reassure my family—that things might not be as bad as they seemed.

And then, after my first court appearance, when I was transported to the Johnston County Jail in Smithfield, North Carolina, the U.S. Marshals ordered my jailers to put me in the one place I feared most: "the hole."

I couldn't believe it was happening. Shuffling toward that door in leg irons and shackles, I resisted every step. Time itself seemed to slow down. I knew then that the main reason I'd been running for three years was my fear of this place. I didn't think I could take it again. Now here they were leading me right back into my nightmare and there was nothing I could do to stop them.

Last time, in 1988, they'd put me in solitary confinement for more 250 days to get me to do what they wanted. As soon as I agreed to plead guilty, they moved me to an ordinary housing unit. The prison officials didn't shove me in this hellhole to protect me from the general prison population or them from me. They weren't even using it for punishment. It was coercion, pure and simple. The message was clear. All I had to do was waive my fundamental rights and they'd be more than happy to let me out.

I wish I could describe the sinking feeling in my gut as I stepped inside. After living in dread of "the hole" for so many years, it took everything I had not to totally lose it when they locked the door behind me. I would've rather shared a housing unit with a tattooed, whacked-out drug dealer than find myself locked up alone like this again.

The rap about computer geeks is that we spend countless hours in small dark rooms, crouched over the glowing screens of our laptops, not even knowing if it's day or night. To a 9:00-5:00er, that might seem like solitary, but it's not.

There's a huge difference between spending time alone and being thrown into a disgusting, dirty, coffin that you never get to leave—by people who are doing their best to make you miserable. No matter how you try to reframe it in your head, being in the hole is grim and depressing 24/7. If it were anything like spending a long time alone, it would not be widely condemned as torture. Even now, the United Nations is working to have it declared inhumane.

Many experts say that, after a few days or weeks, solitary confinement is far worse than water boarding or other forms of physical torture. In the hole, prisoners commonly suffer from severe depression, lethargy, despair, rage, and even mental illness. The isolation, idleness, and lack of structure can easily start to unravel your mind. Without anyone else to interact with, you have no way to reign in your thoughts or keep your perspective. It's far more disturbing than you might imagine.

That's why every study of solitary confinement of more than 60 days has shown damaging psychological effects.ⁱⁱ Sometimes they're permanent. I was afraid of that. It had been 8 years since I was in solitary and it still haunted me. I wanted to get out of there as fast as I could.

ⁱ A Most-Wanted Cyberthief is Caught in his own Web. New York Times. February 16, 1995. <http://www.nytimes.com/1995/02/16/us/a-most-wanted-cyberthief-is-caught-in-his-own-web.html?scp=3&sq=markhoff%20mitnick&st=cse> Accessed August 2, 2010.

ⁱⁱ Results of the "Solitary Confinement Bill" Bring Moral Victory, New Allies. Alysia's Blog. Maine Civil Liberties Union. April 8, 2010. <http://www.mclu.org/node/551> Accessed August 2, 2010.