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MBS ([00:00](#)):

Where do you find your people? I know. I'm still, I think, looking for mine and perhaps you are too. Now, what I've noticed is that what often happens is there's an initial kind of rough sort where you kind of get thrown in with other people with similar labels, and I'm noticing that because it's happened to me a bit recently. I spent time who clustered together in the coaching space. And then, recently I got together with 30 people who are clustered together in the bestselling author space. And then, I'm about to go off to a conference, which is a bunch of people who are in the management thinkers space.

([00:39](#)):

But that's just the start of it. Once you get into that rough sort, once you find the kind of generic people who tick the box, well, now your job is to find your people in amongst those other people. People who... well, what? I mean, how do you know who your people are? I realize that I keep looking for people who



make me think and who make me laugh. So I realized I have to keep setting up conversations. I have to keep finding opportunities to bump into those people and give them the opportunity to make me think and make me laugh. And then, of course, sometimes your people don't actually need to be found. They need to be rediscovered. They're just already there waiting for you to reach out to them and to say hello.

[\(01:34\)](#):

Welcome to 2 Pages with MBS, the podcast where brilliant people read the best 2 Pages from a favorite book, a book that has moved them, a book that has shaped them. Today's guest is a law professor with articles published in the Columbia Law Review, Yale Law & Policy Review, the American Journal of Criminal Law and many more. His full name is W. David Ball, but I know him as my friend Dave, someone I met when we were newly minted Rhodes Scholars at Oxford in the early 1990s. And beyond knowing the secret handshakes and the Mason like rituals that every Rhodes Scholar gets taught, I'm joking by the way, Dave and I share a certain way of showing up in the world.

W. David Ball [\(02:18\)](#):

For good or ill, I'm not somebody who accepts received wisdom that readily, and I think I'm somebody who really values authenticity. And I think that that is what drew me to you is that you and I had deep and very connected conversations.

MBS [\(02:44\)](#):

We'd often grab a baguette at Morton's on the Broad, that's one of the big roads in Oxford, just across from Dave's College and from my college, Hartford as well. It was about this time I was discovering just how great mango chutney is with brie. Oh my goodness, that was a revelation. And Dave and I would hang out and we'd try and figure out who we were and where we were going and who and what mattered in the world.



[\(03:09\)](#):

Now, you arrive at Oxford having played a game to get selected. You have to jump through hoops, you have to be performative in a certain way for people to go, "Yeah, you're a Rhodes Scholar." We'll pick you. And one of the anxieties of some Rhodes Scholars, and I can own up to some of this, is that you feel that you might've peaked in your early twenties and that it's all downhill from here. There's another anxiety, perhaps a deeper anxiety for some of us that you have to keep playing games to keep succeeding.

W. David Ball [\(03:41\)](#):

After getting the Rhodes, I was really depressed because I had expected there to be a sort of outside in, oh, I am going to live up to this thing. And then I found a lot of it actually quite empty. I'm very glad that I did the things that led to people deciding to select me, but that wasn't important to me.

MBS [\(04:03\)](#):

In other words, Dave wasn't up for games. And after leaving Oxford in England, he started down what he refers to now as a bizarre path.

W. David Ball [\(04:11\)](#):

I was an independent filmmaker, I was an improvisational comedian. I really wanted to do that in the way that only I could do that. So for me, that meant making a film in the style of John Cassavetes called Honey that never Went Anywhere, but the biographer of John Cassavetes thought it was brilliant. And he was the one whose book of criticism inspired me to make the movie and he liked it. But that's pretty independent, right? That's like being the Velvet Underground when the Velvet Underground was the Velvet Underground, not when everybody knows that they're R.E.M. and all these other people's favorite bands. I was playing to a crowd of 10 or 15, and that's one way to do it.



MBS ([04:58](#)):

From there, Dave, who is Muslim, worked closely with the ethnically diverse communities of New York City after 9/11. And then after that, his next step was just as unexpected. I couldn't really believe this when I first heard it. He became a law professor.

W. David Ball ([05:12](#)):

What I'm working on right now is alternatives to incarceration in Santa Clara County, California. It has 1.5 million people. It's where most of the action occurs in the criminal legal system is at the local level in the United States. It's not prestigious. So most of the stuff that I've been working on that is actually most impactful is least likely to get professional accolades because it's not always true if it's located in a particular time and place. If I wrote a thing about the theory of incarceration, well someone would take that because that will always be cited. But if I'm writing about Northern California in 2023, that's a direct conversation with actual people with actual lived experiences, and I have those conversations with those people. It's not a Rhodes Scholarly thing to do. A Rhodes Scholarly thing to do would be like, let me reinvent or something like that. And I've written those papers too.

MBS ([06:10](#)):

Yeah. Dave, when did you know for the first time that you tended to buck against received wisdom?

W. David Ball ([06:24](#)):

I'm a younger child. Both my parents are from the American South. They are not wholly on board, I would say they're with that, but there is definitely a, because I said so vibe that ran through my childhood and some of the places that I lived. I think that crushed my older brother, but as I think younger children



often do, I picked the lane that was not occupied and I was just like, I'm not going to do that. And I think that I got suspended in elementary school, but I was also really good at taking tests. And so I was the kind of kid who was always in trouble and making good grades. But I also think that I'm not very good at that. I'm not really good at... I don't have a good shit-eating grin, and I think that that's not always great. But sometimes it's great when I say, well, this is bullshit. Why are we doing this? The emperor really has no clothes. And with the US criminal legal system, the emperor is butt-naked, I mean there's no question about that, right? So I would say, yeah.

MBS ([07:50](#)):

Yeah. So how did you decide to play the Rhodes Scholar game? Because there's an extent to which that applying for the Rhodes Scholarship and going for that is conforming to some degree of expectation, some degree of shit-eating grin. So I'm curious to know what was the offer that made you go, I'm going to throw my hat in the ring?

W. David Ball ([08:18](#)):

Believe it or not, I actually researched what the program was and where it was and what I would be doing, right? Because there's always, I sit on the Stanford Rhodes Committee and there's always that question, why do you want to go there? And it's always vague about why they want to do the MPhil in international relations, which is truly the American politico who wants to do it. I was like, I actually do want to study PPE. And I said in my essay, I'm like, "Look, I think this will help me. I'll either go to become a historian, an historian if you prefer. I'll become an artist of some kind. Or I'll be an activist. And I think studying politics, philosophy and economics will help me do that."

([08:58](#)):

There was some of it that was, I'm not ready to join the working world, because I'm not sure that the job that I want really exists and I'm not ready to commit to



that. But my portfolio was I wrote plays that were performed and I wrote a humor column for the daily newspaper and I was an environmental organizer and I was also, I've majored in history. And so I had decided actually that I was going to be me because there was no other way I could fake that.

[\(09:33\)](#):

And I'll tell you one example. At the district interview, they all went around and they asked us questions about what book we would take to a desert island. So we're in Atlanta. So first person says the Bible. Next person says, "Well, I guess I will have to say the Bible." At that point, the people who are running it are like, everyone gets to take the Bible. Move on from that." The person sitting next to me says, "Volume two of George Kennan's memoirs." And I say, "I would pick The Brothers Karamazov," which I'm told is actually the way to pronounce it, "because it's long and I haven't read it." And that was true. That is actually the book that I would take. And lo and behold, I did read that next. I went to Oxford early, I went to the Lake District and I read Brothers Karamazov. But I wasn't going to somebody, be like, "I would take volume two of George Kennan's memoirs." That is the shit-eating grin part. I was like, I can take it one way or the other. If they're like, we want volume two, we'll take that dude. We want the guy who actually said something that is remotely plausible, we'll take that dude. And I could let the chips fall where they may.

MBS [\(10:45\)](#):

It's funny, I'm not sure we've ever shared this story, but I had a similar approach. I was like, I'm going to come a very distant last in this short list. I'm like, I'm just going to be like, there's one through five and then number 12 is Michael and we don't have six through 11.

W. David Ball [\(10:45\)](#):

Right. Right. Exactly.

MBS [\(11:00\)](#):



He's so weirdly different.

W. David Ball ([11:02](#)):

Well, that's why I was saying why is it unexpected, right? It's like you and I have that in common, and I think that for me, there's this punk band that I liked, and still like, called Minutemen, and they would always say, "Let your freak flag fly. You are the dude who made his own shirts." And I was like, yeah, that dude is like... that's a kindred spirit right there.

MBS ([11:26](#)):

Yeah. You talked about when you were applying for the PPE and you're like, you're going to help me whether I become an artist or an activist or an historian. I'm curious to know, and you're a law professor now, so kind of none yet, perhaps all of those things, how do you keep the artistic spirit of you alive?

W. David Ball ([11:56](#)):

The good news and bad news about legal publications is that second year law students make the decisions in the United States. So there isn't a lot of received wisdom where you have to say, oh, I went against Professor Stanier on this. He's going to be my peer reviewer and he is going to ding me because I rejected his theories about X, Y, and Z. Said. And there's also lots of places where you can get published. And you find your audience. And sometimes you get lucky and a prestigious thing picks you and sometimes you don't.

([12:34](#)):

But my most recent publication was called the Peter Parker Problem, and it really is about the way in which Peter Parker models regret, the guy he could have caught ends up killing his uncle Ben. And I think that that has such a hold on us because it does speak to the behavioral economists Kahneman, Tversky and Thaylor who always talk about endowment and various other things. And I was using that as a way of addressing what I was always seeing in bail



conversations where a judge would say, "Well, if I let this guy out, what if he does something bad?" And I thought, oh, that's basically Peter Parker, right?

[\(13:14\)](#):

So that's a sort of maybe lighthearted example, but there's tremendous room for creativity in most of the stuff that I'm writing. And a lot of it is just like, wait a minute. What's our evidence for that? What's our rationale for that? So there's that. There's teaching, which is I think a very creative process if you let it be and you take it really seriously. I mean, I also do play guitar and I really enjoy that, although my deal with guitar is that I'm like, I'm going to be okay sucking with it. I'm only going to start playing if I'm okay not turning it into a sort of mini job, which I did with photography.

[\(13:53\)](#):

And so it really is, I think the essence of creativity is being in touch with who you are, what you want to say, what you want to say to others, how other people have moved you, right? It is part of that conversation that you're involved with. It's like the most boring epistolary novel, that's what Laurities are. It's like Michael Stanier wrote five years ago about this, that and the other. Here's my 80-page response with footnotes. And then, five years later, you're going to be like, actually David said... So imagine that. That's somehow the way I think about it.

MBS [\(14:31\)](#):

Dave, what have you chosen to read for us?

W. David Ball [\(14:34\)](#):

I have chosen to read Ulysses by Alfred, Lord Tennyson.

MBS [\(14:38\)](#):

Fantastic.





W. David Ball ([14:39](#)):

And the reason I had chosen to read it is because, as Morrissey once sang, although he's a bad person now for other reasons, "Has the world changed or have I changed?" This is one of those ones where I read it and I know that these words have not changed, but my relationship to them has changed dramatically from when I first read it.

MBS ([14:59](#)):

When did you first read it?

W. David Ball ([15:01](#)):

I read it in high school, and there are parts of it that were my senior quote that were very much, some of which I still agree with, that you need to live life to the fullest. But now that I am living in Ithaca and I have two sons, I see a lot of abandonment and a lot of sort of, it's kind of jejune to say, well, I spent 10 years trying to get back to you. This is boring. Let's go back out again, right? I mean, it's said much more artfully than that, but I think as a 17-year-old I was like, yeah, I want to get out of Atlanta. I want to go do other things. I'm around people who are not taking chances. And that part of it spoke to me and still does.

([15:48](#)):

But now I see the restlessness as being related to what you and I have been talking about, this desire for greatness and ignoring the import of the people who are in your immediate vicinity, ignoring the import of human connection, really not valuing the depth that you get with non-heroic activity, or if you want to put it another way, there is heroism in taking care of someone, if you want to keep the frame of heroism. But I don't really want to keep the frame of heroism anymore.

MBS ([16:23](#)):



That's great. I can't wait to talk to you about this once you've finished reading it. But let's hear the excerpt. Are you reading the whole poem or an excerpt from it?

W. David Ball ([16:34](#)):

It is two pages.

MBS ([16:35](#)):

Perfect. Lovely.

W. David Ball ([16:37](#)):

Okay. So I printed it out. I didn't change the font.

MBS ([16:38](#)):

That's fantastic.

W. David Ball ([16:39](#)):

I'm a professor, I don't do that stuff. This is Ulysses by Alfred, Lord Tennyson.

([16:49](#)):

It little profits that an idol king by the still hearth among these barren crags  
matched with an aged wife, I mete and dole unequal laws unto a savage race,  
that hoard, and sleep and feed, and know not me. I cannot rest from travel. I will  
drink life to the leaves. All times I have enjoyed greatly have suffered greatly,  
both with those that love me and alone, unsure and when through scudding  
drifts the rainy Hyades vexed that dim sea. I'm become a name. For always  
roaming with a hungry heart much have I seen and known cities of men and  
manners, climates, councils, governments, myself not least, but honored of  
them all and drunk delight of battle with my peers far on the ringing planes of  
windy Troy.



[\(17:38\)](#):

I am a part of all that met. Yet all experiences an arch where through gleams that untraveled world whose margin fades forever and forever when I move. How dull it is to pause, to make an end, to rust unburnished, not to shine in use as though to breathe were life. Life piled on life were all too little, and of one to me little remains. But every hour is saved from that eternal silence, something more, a bringer of new things and vile it were for some three suns to store and hoard myself, and this gray spirit yearning and desire to follow knowledge like a sinking star beyond the utmost bound of human thought.

[\(18:21\)](#):

This is my son, mine own Telemachus, to whom I leave the scepter and the isle well-loved of me, discerning to fulfill this labor by slow prudence to make mild or rugged people and through soft degrees subdue them to the useful and the good. Most blameless as he, centered in the sphere of common duties, decent not to fail in offices of tenderness and pay meet adoration to my household gods when I'm gone. He works his work, I mine.

[\(18:58\)](#):

There lies the port, the vessel puffs are sail. There gloom, the dark broad seas. My mariners, souls that have toiled and wrought and thought with me, that ever with a frolic welcome to the thunder and the sunshine and opposed free hearts, free foreheads. You and I are old. Old age hath yet his honor and his toil. Death closes all but something ere the end, some work of noble note may yet be done, not unbecoming men that strove with gods.

[\(19:32\)](#):

The lights begin to twinkle from the rocks. The long day wanes, the slow moon climbs, the deep moans round with many voices. Come, my friends, tis not too late to seek a newer world. Push off and sitting well in order smite the sounding furrows. For my purpose holds to sail beyond the sunset and the baths of all the western stars until I die. It may be that the gulfs will wash us down. It may be we



shall touch the Happy Isles and see the great Achilles, whom we knew. Though much is taken, much abides. And though we are not now that strength, which in old days moved earth and heaven, that which we are, we are. One equal temper of heroic hearts made weak by time and fate, but strong in will to strive, to seek, to find and not to yield.

MBS ([20:32](#)):

Man, that was fantastic. Thanks Dave.

W. David Ball ([20:34](#)):

Sure.

MBS ([20:36](#)):

Why does that move you so?

W. David Ball ([20:39](#)):

It's funny, I read it a bunch of times in preparation for our conversation and it didn't make me cry, but I think what that is that he's content to... I mean, this is a new thing for me. He's content to leave his child, his child who did not see him for 10 years, his child who waited to see him. And when I think about the love I have for my children, and I think the necessary difficulties of parenting children and not that combination of recognition and difference where you say, yeah, that's a lot like me, but we're also really different in some ways. And sometimes I overstep my bounds by not understanding just how different we are or I overstep my bounds by not taking their struggles seriously. When I was 17, my struggles meant everything to me. I didn't want to hear from somebody that they didn't matter. They were real. And yeah, my perspective on that is different now,

([22:01](#)):

But I didn't have access to a 52-year-old's perspect... or I think I'm 53, actually. 53-year-old's perspective on that. And so when I think about my sons, I can't



put myself in that mode without thinking about how shut off he is, right? He's going to not only, I mean I actually said it from the child's perspective, but when I was reading it, I will say, and this is part of the issue of reading something that was my senior quote in high school and reflecting on it now, it's like, Ulysses, you are isolating yourself from something beautiful and really meaningful and that sucks. And you don't value that, but you're missing out.

[\(22:54\)](#):

And I think that that has really been a huge difference between maybe the fathers of my generation in the United States. I don't know Australia, you can talk about that. My father works all the time. I didn't really know him until I was about 17 or 18 until I went off to college and I was like, "Dad, I don't give a what your job is. I got a full scholarship to go to college." And I was like, "Dad, quit your fucking job if you don't like it." Because he would always be like, "Well, I have to work so hard because of you." And I was like, "I have my own money now. Quit your fucking job." And we got to know each other as adults. And it was really meaningful to me. But it was a real lost experience where I was like, "Dad, I could have used you. I could have used you. And you actually, I think would've really enjoyed that. You would've been a great dad."

[\(23:42\)](#):

So I think that's really why that's some of what's coming up. But sometimes just shit comes up. And one of the things that I'm comfortable with now that I don't think I was when you and I knew each other, although I do remember crying at our male discussion group and I talked about some pretty serious shit there, is that I'm cool crying. That's part of the human experience and I don't want to deprive myself of that. And in my professional life, I think that a lot of the people who end up hurting other people are there because they can't figure out how to express themselves or relate to them. That's the Good Lives Model, which is actually an Antipodean criminologist who has that theory.

MBS [\(24:18\)](#):



Oh, I didn't know that. How do you keep your heart open to the ambiguity and mess and delight of the closest relationships to you?

W. David Ball ([24:38](#)):

It's really hard. I mean, it is an active process for me that isn't... I did not grow up in a family environment where that was welcome. And my parents had their own issues and they grew up in a family environment where that was also true. So this is generational. So it's not like my parents invented it and they did the best they could given what they had. I was told by my dad when I was 13, "You're like me, you don't feel." Which is incredible to anybody who has even a passing familiarity with who I am. And it was also true of my dad. It's like, dad, you're not like that either. But I guess we've all got our roles to play.

([25:34](#)):

There is an outside in, fake it till you make it component to it that has been. There is also, and this is actually part of the odyssey that really moves me, is that when Ulysses dog recognizes him and dies. And you saw that I got choked up about that too because we have two dogs and I had dogs growing up, and dogs are patient loving beings. They're not going to tell you anything. They're just going to be with you and they're going to let you love them, which is a skill that's very difficult. And they're going to love you, which is also difficult. But I think the former is actually in some ways more difficult. It is for me.

([26:32](#)):

And so really concentrating on that and saying, all right, well, wow, this is uncomfortable because of my background or whatever. My family does make it pretty easy for me to love them. And I've also been very clear that they're my sort of north star. And yeah, I guess that's as close as I could... But it's not a thought thing. It is really like, oh, I'm aware of what I'm feeling, nonviolent



communication. And I'm sure about all the techniques about that. So a lot of those have been helpful to me as well.

MBS ([27:16](#)):

One of the things about being a Rhodes Scholar is you kind of get anointed. He's a crown. We expect you to go fight the world's fight, achieve great things, be a great man or a great woman or a great gender-fluid person. And part of what I hear in the poem you've chosen is Ulysses longing to have that adventure again. You know what? I want to fight battles. I may be old, but I've got a heroic heart. Get me out of this tedious court and this idle kingship and let me get going.

W. David Ball ([28:00](#)):

No one's going to write an epic poem about my life as ruler of Ithaca. Yeah.

MBS ([28:05](#)):

That's right. And what I hear you saying is you see the hollowness and the price of that, but I'm curious to know how you sit with ambition?

W. David Ball ([28:22](#)):

I think that framework, and I sort of alluded to this as the sort of the heroism of the everyday, but I don't even like the heroism wrapper. It's not that I'm moving away from, and this is the most I've talked about being a Rhodes Scholar, probably since we were at Oxford. I think that's probably the least interesting thing about me or you at this point, right? I mean, it is a part, hey, I'm a part of all I've met, blah, blah, blah. So it's more moving toward, right? And this is something, again, when my closest colleague at work, her name is Michelle Oberman, so she's the one, whenever I say I talk to people at work about this, it's really just her. She's an amazing person and a really good friend. Is move toward the light.

([29:05](#)):



So I'm not moving away from something because there isn't anything to that. So you're a Rhodes Scholar, so what? I always viewed it as, I did these things and the things that I did are what was important, not the sticker that somebody put on that being like, "Good job." When I grade my students' exams, I release them with my comments that's like, "Here's what I thought about your thoughts." Because studies show that if you give people a grade, they just look at the grade and they don't look at the comments. They probably don't look at my comments anyway, but I'm going to do that because that's how I roll and I want them to know, here's actually the conversation you and I... There's teaching still to be done here. And that just feels so much better to me, that feels so much more like there's real communication going on that feels much more earnest.

[\(29:54\)](#):

And I'll tell you, one of my most prized possessions frankly, I've been to prison a bunch of times, as a visitor, ha, ha, ha. And I went and we did a sort of step up, step back and outside-

MBS [\(30:10\)](#):

A nervous exercise. Yeah.

W. David Ball [\(30:11\)](#):

Yeah. Outsiders, insiders. And a step forward was I've murdered someone. And I looked at the gentleman across the way from me and I did not break eye contact and I did my best to see him as not the worst thing that he's ever done, as understanding that there's a whole person inside there. And that includes somebody who was traumatized, who has remorse. And then, we handed out these cards and it was like, you're the most blah, blah, blah. And that dude handed me most compassionate. And the world's color means nothing compared to that. Nothing. Nothing. And I'm not the central figure in that dude's





life, but that moment I channeled all my fucking dog energy and I was just like, "I'm here with you. I am here with you. We're having this experience together."

[\(31:24\)](#):

And so it's not hard. It's like saying, well, why do you want to eat good food? Why do you want to fall in love? Why do you want to listen to great music? Because that is all that matters. And I think the sort of illusion, Ulysses is like, "Hey bro, you know what? An arch where through gleams that untraveled world whose margin fades forever and forever when I move." i.e., you're never going to get there. And every time you get something, you're like, what about that?

[\(31:57\)](#):

And then what I've really tried to do a lot of times, this is from a guy who was in the City Slickers movie, a guy named Bruno Kirby, he's a totally C-list actor. He's now dead, may he rest in peace, sorry, Bruno Kirby's family. But he was always like, "I look at the people above me on the ladder and I'm like, why not me? But then I look at the people below me on the ladder and I think, why me?" And I really try to bear that in mind. It's like, well, I don't need to be something else. I need to be cool with the things that I'm being. I have standards. I have aspirations. When I write, I write well and I put my heart and soul into it.

[\(32:38\)](#):

But the perception of it is not what I'm doing it for. It's to reach the people who want to be reached in the way that I myself was reached by all the shitty indie bands that were never pop... Never heard of Minutemen. I told you, they're my favorite band. But it's true that if I could say, "Hey, do you like Minutemen?" And someone says, yes, I know that I like them. That's still true.

MBS [\(33:00\)](#):

Yeah. Dave, when you think of your work around incarceration, and it's a bigger industry in America than anywhere else in the world, how do you keep going with something that feels so systemically overwhelming?



W. David Ball ([33:23](#)):

So my wife, as you know, has worked a lot on human rights stuff, torture, work with torture survivors, and I could not do that work. And she finds my work, she wouldn't want to do that. And I think, and this is what I usually say to my students, there's secondary trauma throughout the criminal legal system. There's primary trauma throughout the criminal legal system. And it's okay if it's debilitating for you because the way that most people have dealt with it have just been to become alcoholics. And I'm not saying that lightly or as a joke, there's huge substance abuse in the legal profession in the United States generally, but I would say among public defenders and death penalty lawyers, it's really significant. For whatever reason, I have calluses, not calluses in the sense where I don't feel, but calluses in which my skin is not being burned off by holding something that is still hot. And she has that with torture and I could not do that.

[\(34:34\)](#):

And the reason I mentioned that is just because, I mean, I think my wife hung the moon, but it's just different, right? It's different. I could not work in... And there are lots of other... Like children's cancer ward. Working with people who are fleeing from domestic violence. Working with kids who've been sexually abused. There's lots of pain in the world. And I picked the one where it's like, I think I have some insights. I'm not going to lose sight of the humanity of the people who are incarcerated. I'm pleased to say actually my co-chair of the Corrections Committee, and I did not write this. It was a woman named Lynn Brand. I remember we got some help from India Thusi and Anna Roberts on this proposal. My co-chair on the committee is Carament Ryder, but we proposed person first language for the American Bar Association, which is the largest group of lawyers, and that just means people with felonies, people who've been arrested, but they're people. And that just passed.

MBS ([35:38](#)):



Oh, congratulations.

W. David Ball ([35:39](#)):

It got crapped on last year, it was ridiculed. And then it passed unanimously.

([35:49](#)):

So I really try not to do... You do have to be open to the humanity of the people you're dealing with. You have to deal with the very real suffering that these folks who are incarcerated usually caused. But there are so many ways in which our system is just completely illogical that we are not getting to the close cases in the United States. As I say to my students, we incarcerate in the United States, more people than any society at any point in human history. We can quibble about enslaved persons, et cetera. I mean, there were different ways of dealing with crimes and banishment and all that stuff. But either we know something that everybody else who's ever lived doesn't or we need to justify our system.

([36:40](#)):

And that is fundamentally what animates a lot of my writing. Okay, prove that prison works. We actually don't have evidence that prison works. Prove that prison works at all, prove that prison is the most efficient use of our resources. I've written a series of papers about that, what's known as the Correctional Free Lunch and if folks are interested, whatever, they could read it. So one of those papers is called *Why State Prisons?* Because someone was like, well, if this doesn't make sense, why do we have state prisons? I'm like, huh, let me write a paper about that. So et cetera, et cetera.

MBS ([37:13](#)):

You said you chose this work. I'm curious to know how you figure out what to choose? How do you find the pain in the world where you're like, I have callouses, I can bear the heat in a way that other people might not be able to bear the heat? Was there a moment you knew or did it kind of emerge as the thing that might call you forth?



W. David Ball ([37:41](#)):

I was very fortunate to have amazing professors in law school. I loved law school. I'm one of the few people, it was actually my favorite educational experience ever. I unfortunately lost one of my mentors, Joan Petersilia, same year that my dad passed away. It was the same year a lot of terrible things happened. That's just the tip of the iceberg. And also Bob Weissberg. And those were folks who I was lucky in that they took my ideas seriously, which is really huge. And that's what I try to pass on to my students. I try to take their ideas seriously. I was outraged. So I wouldn't say that it was very calm. I was just so outraged by how much suffering there was and how callous people are and just how racist the system is. I didn't feel like I could abide that.

[\(38:37\)](#):

And I also will tell you that in law school, as with any of the other educational experiences we've talked about, when I went on the job market, people were like, "Yeah, our sort of non-bright students go into criminal law." It's not sexy. You want to be a litigator or constitutional lawyer, who gives a shit about crime? That's for people who want to work in state government. Forget that. And I was like, great, you're zigging. I'm going to zag. So I wouldn't say that I had built up calluses to it. I found the problems morally compelling and I also found the problems to be intellectually compelling. And my first paper, I clerked for a judge, John Noonan, also has passed away, but he really supported me. He was like, "What can you do with this?" And this was a guy who had been denied parole eight times. He was given a life sentence with the possibility of parole and he was denied parole based on his commit benefits.

[\(39:38\)](#):

And in the paper I wrote about this, I refer to this as the five easy pieces life with the possibility of parole, hold the possibility of parole. And that just seemed completely unjust to me. If what he did was so irredeemable, don't tell him that he can get parole only to deny him based on what he did. So that had a sort of clarity to it, I'm like, well, this is clearly wrong. And it's clearly false in the



intellectual sense, but it's also not right in the moral sense. It's not what we say we are doing. It seems hypocritical.

[\(40:13\)](#):

And that really sort of sent me down the path of pulling at the string of saying, wait, what evidence do we have that prison works? We talk about criminal penalties deter people, what evidence do we have about that? What evidence do we have that criminalizing cannabis ever did anything to stop kids from using it? So those are questions that have a moral component to them, but some of it frankly is just my feeling like, hey, wait a minute, this is really an emperor has no clothes kind of moment.

MBS [\(40:45\)](#):

Yeah. Dave, what's so interesting and wonderful about you is three things. This kind of intellectual rigor that you bring, this ability to think systemically and look at that bigger picture, but I would call it a foundation, which is this kind of commitment to being present to a whole person. Martin Buber's philosophy, there are two types of relationships I-it and I-thou relationships. And what I hear you saying is the system makes everything I-it. You keep pulling us back to I-thou, and it's like this is a full person. They're not the worst thing that they've ever done. How have you learned to hold that space to see the whole person? That is rare and it's hard.

W. David Ball [\(41:40\)](#):

I mean, I think probably my main influence is my wife and she is able to take on someone else's perspective without losing her own. The sort of metaphor that I use now in my therapy is that I think, and this is true of sort of Rhodes and also true of most hierarchical society, there's a pyramid. I'm on top, Michael, so you're right below me. And I want to see things as being on a mesa. We're all on this level together and you know what? You have a different experience and I



have a different experience and I can understand your experience and have a different one.

[\(42:27\)](#):

But I've really, really struggled with that because I don't feel like I grew up with that. So I would just say she has taught me that. My children have taught me that. A lot of my students have taught me that. And I've learned these lessons the hard way where I'm like, oh, you know what? I'm doing to people what I really didn't like, what was done to me as a kid. When I was told what I thought and felt and not taken seriously, I really hated that and I just did that to someone and that's really, really, really painful.

[\(43:00\)](#):

And so I have made and will continue to make a ton of mistakes about that, but it's those glimpses of life's sweetness. It used to be where I couldn't read letters from my students saying, "You were a real mentor to me." I literally could not read them. They were like holy water, and I did not feel holy. I felt like I was going to burn me. I couldn't. And that's sort of why I made that not joke to you about the reverb is it's very, very important. It completes the circuit. If someone's like, "I love you," don't freak out about it. Just say, "Hey, I accept your love." That's why I said the thing that dogs do that I cannot do is accept love. So that's all been part of this journey that I think started with art and has continued through my personal life, but I'm learning. This is really much more like doing sit-ups or doing some kind of daily exercise.

MBS [\(44:05\)](#):

Yeah, I agree.

W. David Ball [\(44:06\)](#):

I'm never going to be done with that out.

MBS [\(44:10\)](#):



Dave, it's been such a great conversation. As soon as we hang up here, I'm going to call you so we can find another time to keep going-

W. David Ball ([44:18](#)):

Okay. Yeah.

MBS ([44:19](#)):

... because I have to go for another conversation and I wish I wasn't stopping this one, but can I ask you a final question?

W. David Ball ([44:28](#)):

Sure.

MBS ([44:29](#)):

What needs to be said that hasn't yet been said between us today?

W. David Ball ([44:33](#)):

Here's what I want to say. I'm so glad you're my friend.

MBS ([44:39](#)):

Thank you.

W. David Ball ([44:39](#)):

I feel so fortunate that I know you and I wish we saw each other more often.

MBS ([44:46](#)):

Thank you. I feel the same.

W. David Ball ([44:50](#)):



And the reason why I want to say that, yes, there are problems in the world and I'm happy to talk to anybody. Everyone should email me about the problems of the world. But I just feel like if this were everyone's orientation, it would make everyone feel better and the world would be better. So I want to lift that up with, hey, my relationship with you means a great deal to me and I'm really thankful for it. And I have the opportunity to tell you that now. And I'm telling you, and I'm going totally off script. I'm being the 12th place Rhodes Scholar out of five, right? This is not [inaudible 00:45:29] to hearing, but this is my thing, this is the song I playing.

MBS ([45:39](#)):

When Dave talked about his work, that small, anonymous grinding work of trying to dismantle the prison industrial complex in California, this is before he read the poem, he said that work was not prestigious. This is the small daily anonymous work of the activist. And I so appreciated that humility. I appreciated his willingness to interrogate what it means to not be a hero, particularly when, and this is a line from the poem he read, I am become a name. When you get that label, Rhodes Scholar, there is a certain pressure to become a name. Maybe you've already feel you've become a name. And for Dave to...

([46:25](#)):

Well, I guess it's this. What I see in Dave is this idea of Gandhi's, of being the change you want to see in the world. And if that change is an inversion of how power works, and maybe I'm just projecting because this is something I think about a lot, if it's an inversion of how power works and if you've been granted the throne and the scepter and the crown, well, it can mean that you have to put those things aside and that's not an easy thing to do. This is the paradox. How do you use your power to give up your power and to give or invite others to take that power?

([47:04](#)):





If you enjoyed my conversation with Dave, it certainly was one of my favorites, I've got two possible guests for you, past interviews to listen to. The first is Arthur Brooks, *The Search for Purpose*, and the second is Dr. Robyne Hanley-Dafoe, which is a conversation entitled *Getting Better At Falling Apart*. Thank you so much for listening. I appreciate your presence. I appreciate you giving me your time. I appreciate 2 Pages with MBS being one of your favorite podcasts and you taking the time to listen to it. It's certainly a boon for me to do this podcast. If you've liked it and you loved it, please give it a review. Give it a shout-out. If you liked an episode in particular, feel free to pass it on to a friend of yours who you think might enjoy it because we certainly grow by word of mouth. And thank you. Also, for those of you who bought my new book, *How to Work With Almost Anyone*. It's the success of books like that that allow me to do podcasts like this. You're awesome and you're doing great.