

TESTIMONY OF CONNECTICUT PROFESSORS

H.B. 5546, An Act Concerning Sentence Modification of Juveniles

Committee on the Judiciary

March 23, 2012

Dear Senator Coleman, Representative Fox, and distinguished members of the Judiciary Committee:

My name is Linda Meyer, and I am a law professor at Quinnipiac University School of Law. This testimony regarding H.B. 5546, An Act Concerning Sentence Modification of Juveniles, is submitted on behalf of professors in Connecticut who have taught or researched in the areas of criminal law, juvenile law, child development, international human rights, or constitutional law, or who have been involved in teaching in or analyzing the prison system. We support the Connecticut Sentencing Commission's recommendation to allow a parole board or court to take a "second look" at long adult sentences imposed on those convicted for crimes they committed as children, after a portion of the sentence is served.

The United States Supreme Court, in *Graham v. Florida* (2010), recognized that children under 18 are categorically less culpable than adults and more capable of rehabilitation. As a result, the Court struck down life-without-parole sentences for children convicted of non-homicide crimes as unconstitutional "cruel and unusual" punishment. Locking a child away for life without a "meaningful chance of release," the Court said, was unjustified, because at the time of sentencing, the child's brain and character were still maturing. Relying on its earlier decision in *Roper v. Simmons*, the Court said: "[i]t is difficult even for expert psychologists to differentiate between the juvenile offender whose crime reflects unfortunate yet transient immaturity, and the rare juvenile offender whose crime reflects irreparable corruption." It is possible the Court will expand this holding as it considers two cases this term involving 14-year-olds sentenced to life without parole in homicide cases.

Connecticut currently has 191 people serving sentences of more than 10 years for crimes based solely on crimes they committed as children. Ninety-seven people are serving sentences of 20 years or more without the possibility of parole for crimes they committed as children. Thirty-two people are serving sentences of 50 years or more for crimes they committed as children. The over-representation of African-American and Latino prisoners in these populations is greater than in the prison system as a whole, and increases by length of sentence.

Most of these sentences are the result of policy choices made in the late 1990s, when academics predicted a juvenile crime wave and legislatures responded

by treating kids as adults. Despite the demographic “teen boom,” however, the juvenile crime rate fell, and it fell at roughly the same rate both in jurisdictions that adopted tougher sentencing policies and those that did not. In short, the predictions were wrong, and as a result, many children grew up behind bars, often hopeless and suicidal. Now we have the advantage of hindsight and better brain science, and we know that juvenile impulsivity, peer-sensitivity, and lack of judgment can disappear with maturity. We should take a second look at those sentences, just as we are taking a second look at the science that generated them.

A sensible and fair approach to the issue is to allow a limited opportunity for someone with a long sentence for a juvenile crime to make the case to a parole board or court that she has matured and reformed. Such a procedure would provide no guarantee that the offender would receive any reduction in her sentence, and no endless appeal process. It would, however, provide a “meaningful opportunity” at a second chance. Creating a “second look” procedure will satisfy the courts and more accurately reflect the current “best practices” of penal policy and brain science, rather than the discredited ones of twenty years ago.

Sincerely,

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