Leslie Aponte #1

Lenient sentencing for juveniles being debated

High court ruling prompts changes elsewhere

BY SUSAN HAIGH
ASSOCIATED PRESS

SUFFIELD — When Nicholas Aponte recalls the night in 1995 that sent him to prison, he describes an immature 17-year-old who told himself he was tough but in reality lacked the nerve to say no to a cousin he admired for being a troublemaker.

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Sitting with a group of boys on a porch, playing cards and drinking, the cousin said he needed to "do a robbery" and asked if Aponte wanted to tag along.

"I said, 'OK, we'll do the robbery or whatever,'" Aponte said. "It was spur of the moment."

The plan failed. A 28-year-old sandwich shop assistant manager was killed during the robbery. Aponte was later arrested, as was his cousin, younger brother and a friend. Even though Aponte didn't fire the gun, prosecutors considered him the ringleader. He was treated by the courts as an adult and sentenced to 38 years without parole. That means he will be 55 when he's freed.

"All this time was hard to perceive, for somebody so young," Aponte said in a prison interview this week. Now 35, with more than half his life spent in Connecticut prisons, Aponte dreams of finishing his bachelor's degree, becoming a nurse and spending time with his family, including a son who was an infant when he was imprisoned.

Aponte is among an estimated 2,100 so-called juvenile lifers across the country — inmates sentenced to lengthy prison terms without parole — who hope for a reprieve in the wake of a 2012 U.S. Supreme Court ruling, Miller v. Alabama, which determined such sentences are cruel and unusual punishment and therefore unconstitutional. The court ruled, 5-4, that the proportionality of the sentence must take into account "the mitigating qualities of youth," such as immaturity and the failure of young people to understand the ramifications of their actions.

In part to head off an avalanche of expected appeals, at least 10 states have changed laws to comply with the ruling.

IN JUNE, DELAWARE GOV. Jack Markell signed a bill eliminating mandatory life sentences without parole for juvenile killers, who are also ineligible for the death penalty. The new law requires juveniles convicted of first-degree murder to serve at least 25 years in prison while still allowing judges the discretion to impose a sentence of life without parole. Juvenile offenders convicted of first-degree murder are also allowed to petition for a sentence modification after serving 30 years.

Wyoming Gov. Matt Mead signed a bill in February specifying that juveniles convicted of murder would be eligible for parole after serving 25 years in prison. Last fall, Pennsylvania Gov. Tom Corbett signed legislation giving judges options other than life in prison when sentencing juveniles in murder cases. Other states with new juvenile sentencing laws include Arkansas, California, Montana, Nebraska, North Carolina, South Dakota and Utah, according to data collected by the National Conference of State Legislatures this summer.

IN CONNECTICUT, WHERE Aponte is among about 200 inmates who could be affected by the high court's ruling, a proposal that would have allowed parole hearings for teen offenders who've served at least 12 years or 60 percent of their sentence died this year. There are plans to resurrect the bill next year.

But the prospect of possibly shortening sentences has been met with mixed reaction from relatives of crime victims.

"If you can't believe a judge's final decision in a courtroom, who can you believe?" asked John Cluny, whose wife and teenage son were shot to death in 1993 by his son's 15-year-old friend, Michael Bernier. Bernier was sentenced to 60 years for the murders. Cluny calls him "a cold-blooded killer."

Despite good behavior in prison and years of reflection and maturity, Cluny questions giving such killers another chance at freedom.

"You're in prison for what you did, not for what you've become," he said.

AT A RECENT HEARING ON CONNECTICUT'S BILL, John J. Horan, whose son was killed in the robbery that Aponte was convicted in, sat silently, listening to Aponte's mother speak about how her son has become a man any mother would be proud of. He has matured, sought to improve himself by reading and earned his associate's degree and certification as a nurse's aide to work in the prison infirmary. He's also a hospice volunteer who tends to dying inmates, she said, adding that Aponte has tried to raise his own son from prison, sending money and playing a positive role in the boy's life.

After listening to her, Horan said Aponte's cousin, gunman Jason Casiano, who was 16 years old at the time of the robbery, doesn't deserve a parole hearing, but he was more willing to buy such an argument for Aponte.

"They should loosen up on the nonviolent offenders," said Horan. "It was just a terribly bad move by Aponte."

But Horan, 82, is skeptical about some of the reasoning behind the Supreme Court ruling, in which Justice Elena Kagan wrote that mandatory life without parole for a juvenile "precludes consideration of his chronological age and its hallmark features — among them, immaturity, impetuosity and failure to appreciate risks and consequences."

Teens still know right from wrong, Horan contends, when it involves "something so fundamental as killing and not killing."

APONTE SAYS HE CAN RELATE to Kagan's argument. When he recalls his youth leading up to the robbery, Aponte describes beatings he suffered and a world where guns were commonplace. Yearning for a male role model, he admired his cousin, who had just moved to Connecticut.

"When I think about it now, I was definitely a follower in a lot of areas," he said. "I should have had more courage to stand up, and I didn't."

Aponte acknowledges he was in denial about the crime at first, focusing more on trying to survive in prison. But three years after the robbery, Aponte said he read letters from his victim's family, including one from Horan, who wrote about the grief of losing a son and how he hoped Aponte would make something of his life. Aponte said that changed him.

He still has the appearance of a fresh-faced kid, but Aponte speaks with the wisdom of a prison elder who has spent time thinking about why he wound up incarcerated and how to make the best of it.

"I never thought I'd be able to see life the way I see it now," he said. "I don't even recognize that other person."

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