



COURT RULING ON JUVENILE LWOP NOT AUTOMATIC RELIEF

An historic ruling recently by the United State Supreme Court provides some hope and possible help for more than 300 prisoners in California serving a Life Without Parole sentence imposed on them while they were juveniles. By a 5-4 decision the court ruled that mandatory LWOP sentences for those under 18 years of age are unconstitutional under the Eighth Amendment of the US Constitution, banning cruel and unusual punishment.

While not an automatic sentence reduction for those California prisoners, the decision on June 25 none the less signals the finding of the highest court that juveniles are not the same as adults and therefore should be considered under different criteria when sentencing is handed down. The court's decision is aimed directly at the two dozen or so states that require a mandatory LWOP sentence for those convicted of murder, regardless of age.

California law does not require a mandatory LWOP sentence in such cases, although it allows a juvenile to be sentenced to LWOP and more than 300 California prisoners are now serving under those conditions. The state accounts for 12% of the more than 2,500 nationwide juvenile LWOP prisoners, some whose crimes were committed when they were age 14 or younger.

California State Senator Leland Yee (D-San Francisco), author of SB 9, which would allow juvenile LWOP prisoners to petition courts for modification of sentence, noted *"Today's ruling was yet another step towards ending life without parole for juveniles. The Supreme Court recognized once again that children are different from adults, and 'the distinct attributes of youth diminish the penological justifications for imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes.' Considering no other country in the world administers this sentence for kids, the punishment is clearly cruel and unusual.*

“The Supreme Court ruled unconstitutional the mandating of such sentences, which was the issue before them. While LWOP is the presumptive sentence in California, a judge may supersede and provide a lower sentence, and thus our state law is not directly affected by the high court decision.

With that said, the Court’s ruling comports with the rationale of SB 9. “

Yee’s bill passed the Senate but has been stuck in the Assembly, unable to collect the requisite 41 votes needed for passage. A call to Yee’s office after the Supreme Court ruling found the Senator still biding his time until the vote threshold can be reached, but hopeful the ruling might provide some help in that regard.

“SB 9 would ensure a review of these cases once a juvenile offender has grown up, matured and can demonstrate the adult he or she has become. The Supreme Court has clearly stated that we must treat children differently due to brain development and thus I urge the Assembly to immediately pass this legislation,” his statement continued.

Predictably, victims’ rights organizations are incensed by the ruling. California’s Harriet Salarno of Crime Victims United questioning “You’re trying to tell me their brain is not developed enough to know that you don’t murder? What kind of message are we sending out? Particularly to gangs?”

Justice Elena Kagan, who authored the Supreme Court decision, noted “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. It prevents taking into account the family and home environments that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional.

“Children are constitutionally different from adults for purposes of sentencing,” Kagan continued. “Juveniles have diminished culpability and greater prospects for reform.”

Even some who have been required to impose juvenile LWOP find the practice troubling. “A community that’s got a soul has to recognize children are different and we need to treat them as different,” said retired Michigan judge Dennis Kolenda. “Some are incredibly dangerous but we never know with kids how they’re going to develop.”

The consensus among legal minds for those in California serving LWOP imposed as a juvenile is to contact an attorney, but not to be in a hurry. The ramifications of the Supreme Court ruling and its limitations are still being analyzed. And, while no court can overturn or change a Supreme Court ruling, the exact process by which this decision will be implemented has yet to be determined in those states with mandatory LWOP sentences and thus most directly affected.

One of the cases prompting the court’s decision originated in Alabama, where the Equal Justice Institute (EJI) was a prime protagonist in the case. EJI also urges patience until the potential limitations of the ruling are worked out. Further information may be available from the EJI at 122 Commerce St., Montgomery, Alabama, 36104.



FOURTH ANNUAL EX-LIFER SEMINAR & BARBECUE

For All Ex-Lifers and their Families, Attorneys, Special Guests, and Friends

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12 noon till ???

Those living within 50 miles may bring potluck salad or dessert

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Walnut, CA 91788
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Come catch up with old friends, meet the people working for lifers and enjoy the companionship

BPH COMMISSIONERS; 2 OUT, 3 NEW FACES

It's official—Board of Parole Hearings commissioners Michael Prizmich and Gilbert Robles are gone.

LSA, which vigorously opposed confirmation of both, has been hearing rumors for several months that neither man would be called before the Senate Rules Committee (SRC) for a confirmation hearing, the first step in securing required legislative approval of governor's appointees. Each appointee must be confirmed by the Senate within 365 days of appointment, a process which begins with an appearance before SRC for interview by the committee Senators as well as input from those members of the public both in favor of and opposed to the appointees. While no official announcement regarding the non-confirmation and departure of Prizmich and Robles was made, the July 6 announcement of three new commissioner appointees by Gov. Brown's office puts paid to the tenure of the two. There was one additional vacancy on the 12 member board.

Prizmich was a hold-over reappointment from the Schwarzenegger administration, while Robles was appointed last summer by Brown. Both the reappointment of Prizmich and first term of Robles had until Aug. 11 to be confirmed. But such is not to be. Official biographies of the newest appointees are below. All commissioner positions pay \$111,845 per year.

Marisela Montes, 58, of Sacramento, has been appointed to the Board of Parole Hearings. Montes has been a consultant at the California Prison Industry Authority since 2011. She served in multiple positions at the California Department of Corrections and Rehabilitation (CDCR) from 2006 to 2009, including deputy director of adult institutions and chief deputy secretary of adult programs. Montes was deputy director of administration at the California Department of Transportation from 1999 to 2006. She worked at CDCR from 1984 to 1999 in multiple positions, including chief of correctional planning and research, deputy director of parole and community services, assistant deputy director of parole and community services, associate warden at the California State Prison, Solano, assistant deputy director of administration, assistant director of affirmative action and staff services manager in peace officer testing and standards. Montes is registered decline-to-state.

Brian Roberts, 59, of Santee, has been appointed to the Board of Parole Hearings. Roberts has served as deputy commissioner at the Board of Parole Hearings since 2006. He served in multiple positions at the San Diego County Sheriff's Department from 1975 to 2006, including commander, captain, lieutenant and sergeant. Roberts is a member of the California State Sheriffs' Association and the Peace Officers Research Association of California. Roberts is a Republican.

Ali Zarrinnam, 37, of Encino, has been appointed to the Board of Parole Hearings. Zarrinnam has served as deputy commissioner at the Board of Parole Hearings since 2009. He served as a panel attorney at the California Parole Advocacy Project from 2004 to 2009, as partner at the Law Offices of Zarrinnam and Chakur from 2003 to 2007 and as an attorney at Finnegan and Diba from 2002 to 2003. Zarrinnam earned a Juris Doctorate degree from Southwestern Law School. Zarrinnam is a Democrat.

ECHO (5) YARD AT AVENAL—OUR NEW HEROS

Many thanks to the lifers on Echo (5) Yard at Avenal State Prison, who recently sent a group donation of over \$230 to Life Support Alliance. Not the result of a food sale, these funds came directly from the trust accounts and sincerity of the men, and while we greatly appreciate any and all donations, those from prisoners are especially meaningful to us.

Increasing the numbers of lifers who receive parole grants and improving their conditions of confinement while awaiting their successful hearings is our mission, and the funds from the men on Echo yard are a real boost to our efforts. Echo yard is still in a celebratory mood following a recent week which saw 3 lifers from that one yard receive dates from the parole board.

Great thanks again to the men of Avenal's Echo Yard; your largess is a great boon to LSA and continuing proof of the real character of lifers.

LIFE AFTER MURDER: FIVE WHO MADE IT HOME

LSA Directors Vanessa Nelson and Gail Brown recently had the rare and delightful opportunity to meet and talk with nearly a dozen released lifers, all surrounded by happy and supportive friends in a festive atmosphere. The event was the launch party for National Public Radio reporter Nancy Mullane's eloquent and perceptive book, *Life After Murder*.

Held in an intimate San Francisco art gallery, the two hour party was a celebration not only of Mullane's incisive prose, but of the rehabilitation, release and redemption of this sampling of former lifers. Five of those who were present are the focus of Mullane's book; Ed Cronk, Jesse Reed, Rich Rael, Ed Hernandez and Phil Seiler, all paroled from San Quentin over the last 7 years after each served more than 20 years inside and all having suffered reversal of parole grants by former Governors Davis and/or Schwarzenegger. The rest of the cadre had been free anywhere from 4 years to 56 days.

Mullane's book is an excellent telling of the struggles of these men, symptomatic of so many other lifers, to achieve parole not only through the Board of Parole Hearings but also overcoming the final hurdle of the governor. She follows the men through their first few months and years of freedom, chronicling their assimilation into a society very different from the one they last knew, the unexpected joys and bittersweet moments as well as the heart-stopping stumbles. It's a great read for those waiting for loved ones to come home and a cautionary tale for those still seeking the chance to begin again.

But the most striking thing about the evening was the confluence of activists, attorneys, family, friends and lifers. And while the mood was celebratory, always on the minds of everyone were those still in prison who should be home and for whom each parole hearing is another nerve wracking chance at the brass ring. The five men featured in Mullane's book each spoke movingly not only of their own efforts to rehabilitate and achieve parole but of the friends still behind the wire, as ready as they to reenter the world but still imprisoned by a political climate and system unwilling to consistently follow its own rules.

For the LSA staff the evening was a reaffirmation of why we continue to battle the inequities in the parole system and CDC. The numbers of lifers yet to be paroled aren't just numbers, but men and women ready and eager to contribute, not take from society. It was a poignant evening, part homecoming, part remembrance and all gratifying.

Life After Murder is a work many lifers can identify with and take inspiration from. Mullane has done a superlative job of capturing the world of California lifers in real yet understanding terms. Though not yet available in paperback (we will inform our readers when the paperback version is available) we highly recommend this chronicle of lifers' saga and are proud to be noted and quoted in its pages.



From left, LSA Director Gail Brown, reporter Nancy Mullane and LSA Director Vanessa Nelson

REHAB PROGRAMS MORE IMPORTANT THAN PRISONER MOVES

Prof. Joan Petersilia, colleagues speak at DC conference

The efforts of many states, most notably California, to reduce their prison populations in an effort to save money may all be for naught if those efforts at lowering population numbers are not combined with effective and available programs and treatments, Stanford University Criminal Justice Center's Dr. Joan Petersilia told a gathering at the National Institute of Justice in Arlington, Va. recently.

"We've got to stop overselling community corrections -- and under-delivering," said Petersilia, adding that while the numbers of those in prisons may initially decrease as states try to reduce prison spending in a still-reeling economy, once the economy recovers the results of community corrections lockup with no treatment may lead to another upsurge in prison populations. Merely changing the location of incarceration without providing accompanying treatment may be less than effective.

Her colleague, Dr. Robert Weisberg, echoed her concerns. In an interview with Huffington Post, Weisberg noted: "The most important things are drug rehab programs and mental health treatment. A lot is going to depend on whether some of the money that can be taken out of prison funding can be put into rehabilitative services, at least in the short term."

Weisberg also noted the impact of aging prisoners on the prison system and state finances. "You have thousands of elderly prisoners in American prisons who may, by some retributive purposes, deserve to be in prison, but the costs become exponentially greater," he said.

He pointed to a recent report by the American Civil Liberties Union that noted state and federal entities expend more than \$16 billion each year to retain custody of aging inmates, in spite of overwhelming evidence that individuals over 50 years of age pose very little risk of recidivism.

If anyone needs proof of Weisberg's comments we would refer them to CDCR's own statistics which show the cost of incarceration for an inmate over 55 years of age is nearly three times that for the prisoner of average age 38. It should also be noted here that lifers as a group, by virtue of their lengthy sentences, make up a large proportion of older prisoners in the system, and correspondingly, their recidivism rate is less than 1%.

WHEN YOU WRITE TO US...

Life Support Alliance welcomes correspondence from all our readers and makes every effort to respond as quickly as possible. In order to help us answer mail appropriately and quickly we ask that those writing us include their name and complete mailing address, including housing assignment, in the body of the letter, as envelopes can become separated from letters.

Because LSA recently assumed publication of *California Lifer Newsletter* (CLN), it is important that you identify whether your letter is regarding LSA activities and *Lifer-Line* or CLN. If you are requesting to be added to the mailing list for *Lifer-Line* we will be glad to do so; however, if you have a friend or family member on the outside who can receive the newsletter via email to send to you, please have them contact us at lifesupportalliance@gmail.com. If that isn't an option for you, we will add your name to our mailing list. Though it is not necessary, we do appreciate donations of stamps, preferred over SASE, which are more cumbersome to deal with.

Many of our readers receive both CLN and *Lifer-Line*, so it is especially important when sending a change of address to identify which publication, or if both, you are writing about. It is not necessary to send separate correspondence to address issues to both LSA and CLN, just please be sure to clearly identify which publication you are writing about. *Lifer-Line* is published monthly and is free. CLN is published every other month and is by subscription only. It is not necessary to subscribe to CLN in order to receive *Lifer-Line*.

We ask your forbearance in receiving replies; the quantity of correspondence has greatly increased and our volunteer staff is limited. In order to facilitate a quick reply please note our change of address, applicable to both *Lifer-Line* and CLN, to PO Box 277, Rancho Cordova, Ca. 95741.

VNOK HEARING SURVEY

Life Support Alliance is beginning a new survey of lifers' experiences at parole hearings, this time aimed at gathering information on hearings at which victims or their representatives appeared.

Preliminary indications from several sources have produced contradictory findings as to whether or not VNOK (Victims Next of Kin) hearings result in greater rates of denials than hearings at which no victims appear. Since 2008 and the enactment of Marsy's Law victims have had increased prominence in parole hearings and subsequent gubernatorial actions regarding parole grants. While other organizations are looking into the raw numbers in this situation, LSA has another objective in mind. Toward that end we are asking lifers who been through a hearing where victims appeared to complete the survey below.

In the course of this research we may contact individual inmates for further information on their individual experiences. Please feel free to contact LSA with questions or comments and please provide as many details as possible in your responses. LSA, PO Box 277, Rancho Cordova, Ca. 95741

NAME _____ CDC NUMBER _____

HEARING DATE _____ COMMISSIONER _____

DENIED/GRANTED/STIPULATED INITIAL/SUBSEQUENT PRIVATE/STATE ATTORNEY

EVER FOUND SUITABLE/WHEN _____ IF SO, VNOK AT THAT HEARING? _____ REVERSED? _____

VNOK@ANY PREVIOUS HEARING? _____ NUMBER OF VNOK@THIS HEARING _____

ACTUAL RELATIVES OR 'REPRESENTATIVES?' _____

DID VNOK CONTACT GOVERNOR W/LETTERS, PETITIONS? _____

DID DA SIGNIFICANTLY INTERACT WITH VNOK? _____

DID VNOK BRING UP ANY FALSE INFORMATION ABOUT CRIME OR YOU? _____

PLEASE PROVIDE DETAILS OF VNOK AND DA, COMMISSIONER COMMENTS, DID VNOK ADDRESS BOARD OR INMATE, HOW LONG DID VNOK SPEAK?