

WRITTEN TESTIMONY

Elizabeth Paukstis, Post-Conviction & Civil Rights Attorney
The Wrongful Conviction Project
elizabethpaukstis@gmail.com / 202-306-9779

MARYLAND SENATE BILL 291

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Position: FAVORABLE

Good afternoon, Chairman Smith, Vice Chair Waldstreicher, and other distinguished Committee members –

My name is Elizabeth Paukstis. I am a post-conviction attorney, and I would like to explain why I believe that passage of SB 291, the Maryland Second Look Act, is a moral imperative for this state.

Each day, I am honored to represent many of the people that our legal system would prefer to forget. My clients are individuals who were sentenced to extremely long prison terms, usually 20 years or more, when they had barely entered what we call “adulthood.” They are primarily Black men who grew up poor, in neighborhoods where they routinely witnessed violence, and who went to schools where they were often dismissed as future drug dealers. Many of them, when in their late teens and twenties, made mistakes, like many of you did, and I did, and everyone else did in their late teens and early twenties. Sometimes those mistakes deserved harsh punishment. But very often, the mistakes did not justify prison sentences of 20 to 30 to 50 years or more – which these individuals received. Right now, these severe sentences are no more justified than they were decades ago, and yet, because Maryland’s legal system is hostile to the notions of redemption and forgiveness, the law hinders the ability of a convicted person to obtain a reduced sentence, no matter how

rehabilitated he or she is. **Senate Bill 291** would open the door, just a crack, to allow more people to petition for and obtain reduced sentences under certain circumstances.

Because of that, Maryland is morally obligated to enact this bill into law.

To illustrate why, though, I would like to tell you about one of my clients. To protect his privacy, I'll call him William. William is a 41-year-old Black man who was raised by an overworked, underpaid single parent in a neighborhood marked by pervasive gun violence. As a young child, William saw people shot in the street outside his home. In his early youth, William's father was incarcerated. After his release from prison, William and his dad developed a close relationship, trying to make up for lost time. But shortly after that, when William was still a teen, he lost his father again – this time to cancer. Then, at the age of 15, William began self-medicating with alcohol and drugs. Like many people in this country, he suffered from a substance use disorder. But neither he nor his family could afford a treatment program. The availability of treatment for this disease was even more out of reach for poor people than that it is now.

At the age of 20, William hit “rock bottom.” He and a friend robbed some people to support their drug habits. For many people in America with substance use disorder, this is a sad and familiar story – but it is not the end of the story. With treatment, people can pay their debts to society, express remorse, and rebuild their lives. But as far as Maryland was concerned, William did not deserve a chance to do any of that.

William was a young Black man at the mercy of Maryland's legal system. And as far as Maryland was concerned, this was the end of the story for William.

Maryland decided to give up on William, a nonviolent offender, when he had barely turned 21.

I am not exaggerating when I say that the state of Maryland denounced William as irredeemable. The Assistant State's Attorney stood up in court and declared that twenty-one-year-old William was **hopeless and could not be rehabilitated**, and he urged the judge to impose longest prison sentence possible. In response, the judge did what most judges do: exactly what the prosecutor demanded. The judge sentenced William to 75 years. **Seventy-five years of incarceration, with all but 50 years suspended, for a crime that caused no injury or death to anyone.** William was barely an adult when Maryland wrote him off, sending him to state prison for the rest of his adult life.

In the 20 years that followed, however, William proved how wrong Maryland and the Assistant's State's Attorney had been. William more than rehabilitated himself. He seized every opportunity to learn, work, and participate in treatment and vocational programs. He volunteered and mentored younger inmates. He endeavored to make himself, and the lives of people around him, better.

William became my client when I worked for the Maryland Office of the Public Defender, and I wrote a petition asking a three-judge panel to review his sentence. In the letters and certificates that I attached to the petition, William's dedication to personal growth was evident. His instructors and supervisors raved about his superior work ethic and positive attitude. His emotional growth was obvious. He described how he struggled to forgive himself for causing anyone to feel unsafe. He expressed remorse for the pain he caused but spoke of the positive power of self-forgiveness. He became a devout Christian. He remained close to his mother, his partner, and his sister, and he relished being a beloved uncle to his 11 nieces and nephews.

William is one of the kindest persons I know. He is generous, hardworking, and

intelligent. And he is still sitting in a Maryland state prison, after more than 20 years, **for absolutely no reason.**

This is a disgrace. It is not just a waste of money. It is a waste of human potential, and a waste of a human life. And it is a profound injustice, because it has ripped a son away from his mother, and stolen years from a man who has proven himself capable, time and again, of thriving and contributing positively to his community and to the world at large.

The time has come for Maryland to end its infatuation with punishment. Maryland's romantic notions of locking people up to play "tough on crime" has devastated too many families and too many lives. This state's particular fondness for imposing prolonged prison sentences on primarily young Black men is beyond tragic and beyond shameful.

What kind of society gives up on a person who has just turned 21? Especially when much of what transpired in that young person's life resulted from the misfortune of being born poor? With all due respect, I would like to know when more judges, prosecutors, public defenders, and legislators will finally see this state's criminal defendants and acknowledge, at last, *"There, but for the grace of God, go I."*

Right now, William is still waiting for a decision from the panel on his petition. By law, the panel is not required to hold a hearing, but it should have issued some kind of decision within 30 days. It has now been nearly 10 months since I filed William's petition, and we have heard nothing. If SB 291 were enacted, the Circuit Court would be required to hold a hearing and take crucial factors into account when making its decision, including William's age at the time of the offense, the characteristics of his upbringing, any history of trauma, and his growth, maturity, and rehabilitation since committing the offense.

William is just one of my clients – and one of many people – who have waited long

enough. Maryland failed them the first time around – by slapping them with overly long prison sentences, chastising them for their substance use disorders, and condemning them as irredeemable. Now it is Maryland’s chance to take steps to redeem itself and to repair some of the enormous damage that its legal system inflicted.

The late Justice Sandra Day O’Connor once wrote that the sentence imposed on a criminal defendant “should reflect a reasoned *moral* response to the defendant’s background, character, and crime rather than mere sympathy or emotion.”¹

Will Maryland choose reason and morality? Will Maryland’s legal system continue to be guided by cruelty in the name of efficiency? Will it continue to be governed by callousness in the name of finality? Or will it instead choose reason, morality, and mercy, in the interests of justice? I believe that the answer should be clear. This state can do better. I plead with you – and all legislators – to begin by ensuring the passage of SB 291.

/s/ Elizabeth Paukstis

Elizabeth Paukstis, Esq.
Post-Conviction & Civil Rights Attorney
Former Assistant Public Defender, Maryland OPD
Georgetown University Law Center, Class of 2016
<https://www.linkedin.com/in/elizabeth-paukstis/>
Mobile: 202-306-977 (mobile)
Email: elizabethpaukstis@gmail.com

¹ *California v. Brown*, 479 U.S. 538, 545 (1987) (O’Connor, J., concurring) (emphasis in original).