

The Cruel and Unusual Punishment of an Ohio Old-Law Prisoner

Jason Goudlock

In 1993, as an undisciplined eighteen-year-old African-American living in the projects on the east side of Cleveland, Ohio, I fell for the greed-driven allure of money I got from robbing people. During that time I shot a nemesis of mine in the leg, and in another incident I grazed a man with a bullet when my firearm accidentally discharged during a struggle for my weapon. In late November of that year, while I was on the run as a fugitive, my crime spree came to a screeching halt when I was apprehended inside the second-story project apartment where I sold drugs. With the exception of one robbery I didn't commit, for which I was charged, I was guilty of all the crimes I was arrested and later indicted for. Prompted by the coercive advice of my two court-appointed attorneys, who told me I would never get out of prison unless I pled guilty, I accepted the first plea-bargain deal offered, pleading guilty to all my charges in exchange for an indefinite term of incarceration of six to 25 years. In addition, I received nine years of mandatory time for gun-specification enhancement. And I became inmate #A284-561.

I arrived at the Department of Rehabilitation and Correction's inmate reception center in February of 1994. Soon afterwards, I received a notice that my first Parole Board hearing was scheduled for October of 2007, and that's when the reality hit me like a vicious head punch from Mike Tyson in his prime: I was going to serve serious time. I knew a life of crime was not the life for me, but I also knew I'd already made my proverbial bed of life and had to lie in it.

The Enactment of Ohio Senate Bill 2 Sentencing Guidelines

Early in 1996, less than a year after the death of my grandmother, I read an important article in a newsletter while sitting in my one-man cell at the Southern Ohio Correctional Facility in Lucasville. As a result of Ohio's Senate Bill 2, I read, on July 1, 1996, the state was scheduled to enact a new set of sentencing guidelines with the Ohio Revised Code. Widely known as "flat-time" guidelines, they said all criminal offenders who committed a crime on or after July 1, 1996, (except for offenders convicted on murder-related offenses) would no longer have to go before the Parole Board to be released. This was a great advantage to anyone sentenced under SB2, the new law, because the Parole Board had a well-documented history of issuing lengthy sentence continuances, often for arbitrarily contrived reasons.

In addition to not having to go before the Parole Board, new-law offenders' terms of incarceration were significantly shortened in comparison with the terms of old-law offenders like me. For example, under the new law for a first-degree felony, excluding murder-related offenses, new-law offenders could be sentenced to either three years, four, five, six, seven, eight, or nine years, up to a maximum of 10 years, with the sentence being determined by the trial judge. But offenders under the old-law, for committing the same first-degree felony, were sentenced to indefinite terms of incarceration of five to 25 years, six to 25, seven to 25, eight to 25, or nine to 25, up to a maximum of 10 to 25 years, and the minimum (front) portions of our sentences were determined by the trial judge while the maximum portion, the most significant, is determined by the Parole Board. This means an old-law offender can be made to serve up to 15 years longer than a new-law offender for the same crime at the discretion of the Parole Board.

On July 1, 1996, the new-law sentencing guidelines were enacted non-retroactively, as scheduled. The reality that I could now be made to serve years longer than a new-law offender seemed absurd to me. The cruelty of the sentencing disparity seemed to me equivalent to the racist crack-cocaine versus powder-cocaine disparity. If the state of Ohio had enacted the new-law retroactively, old-law offenders would have been spared many years of being punished excessively and unjustly. In addition, the discrepancies between the two laws made serving time more difficult for old-law offenders, who were forced to maneuver delicately around new-law offenders who, because of their exemption from having to go before the Parole Board to be released, could, if they chose, violate any rule without the consequence having any bearing on their predetermined release date. Over time, the unseen chess match maneuvers of old-law offenders became more challenging as the state's prison population changed and new-law offenders became the new majority.

This demographic shift didn't just create problems for old-law offenders. The emerging new majority also posed great challenges to the security and overall operation of the state's prison system as a whole. As Ohio's prisons filled with new-law offenders who weren't concerned about the consequences of committing rule infractions, the atmosphere throughout the system became more volatile. Acts of violence and defiance became more prevalent. Observing an increase in assaults committed against prison employees and inmates and a surge in statewide bedlam, the authorities in the Department of Rehabilitation and Correction overhauled the disciplinary policies, instituting a new behavioral management model.

The new model led to herding unduly processed prisoners into 23-hour lockdown solitary confinement Special Management Units similar to the infamous Special Housing Units used in the California prison system. These disciplinary countermeasures were used by the state of Ohio as one justification for the expensive building and operation of the “supermax,” the Ohio State Penitentiary. Completed in 1998, the OSP cost \$65 million, which amounts to over \$129,000 for each of the 502 cells. The penitentiary initially reported a \$22 million annual budget, which amounts to almost \$44,000 annually for each inmate when the prison is full. In February of 2002 federal Judge James Gwin, responding to a class action suit brought by attorneys Staughton and Alice Lynd, the American Civil Liberties Union of Ohio and the Center for Constitutional Rights, ruled that hundreds of prisoners didn’t meet the legal criteria to be housed in the “supermax.” After making changes in its security classification titles, however, the state prison system appears to have restored its ability to place large numbers of prisoners in isolation at great expense to the incarcerated and unincarcerated citizens of Ohio.

Can I Live?

With the stringent disciplinary reforms the disproportionate gap between incarceration and freedom for old-law offenders expanded even wider, to the extent that the odds of an old-law offender winning the Nobel Peace Prize seemed better than the odds of getting paroled.

In October of 2007, as a Security Level 5B inmate (the most restrictive status), I went to my first Parole Board hearing, aware that I was likely to be given a sentence continuance. As I anticipated, my sentence was continued. For the sum of all my misbehavior over a period of nearly 14 years, as well as for the crimes I was convicted of, I was given a sentence continuance of 36 months. I tried to take “being flopped” in stride by reading inspirational books such as Marcus Garvey’s *Life and Lessons* and starting to write my first novel, *Brother of the Struggle*. In 2010, as a Security Level 5A inmate (a less restrictive security status), I went to my second Parole Board hearing and was given a significantly shorter continuance, 14 months. The Parole Board member who officiated at my hearing acknowledged my positive strides during the course of the first “flop,” and she rewarded my productivity by promising to recommend my release at my next hearing if I stayed out of trouble. In 2011, as a Security Level 4A inmate (a further reduced security status), I went to my third Parole Board hearing and, as promised, I was recommended for release. No words can describe the joy I felt at the conclusion of my hearing.

Three months later I was told the Parole Board’s oversight committee, the Central Office Review Board, had reversed course and given me an increased sentence continuance of 15 months! Denied my physical freedom and the chance to visit the burial sites of my mother and grandparents, whose funerals I was unable to attend in 1995 and 1998, I continued to work towards reducing my Security Level, and I strengthened my resolve to attain my freedom.

In December of 2012, classified now as a further reduced Security Level 3 inmate, I went to my fourth Parole Board hearing, expecting to be released—that is, until I learned one of the Parole Board members, Marc Houk, had been head warden several years earlier at the Ohio State Penitentiary while I was there. His presence posed a significant conflict of interest. As warden at OSP he allowed his officers and staff to physically assault me and take my meals, and I had contacted everyone from elected officials to the NAACP about the abuse he permitted.

My parole hearing took place without any hint that I might be recommended for release. One of the Parole Board members asked me if one of my letters of recommendation, written on my behalf by a college professor, was a forgery, a possibility that could have been investigated months prior to my actual hearing. (It was not a forgery.) The Parole Board’s failure to investigate a matter crucial to the decision-making process reveals that I wasn’t afforded a meaningful hearing, as required by law. Several of the Parole Board members were absent because of bad weather so the hearing was held via closed-circuit video conferencing. For that reason I had to wait about one month to learn the Parole Board had given me a 24-month continuance!

Even knowing the deck was stacked against me because of Marc Houk’s participation in the Parole Board’s deliberations, I was devastated. And when I saw that the Parole Board Decision Sheet erroneously credited me with having served five months less time than I’d actually served, it seemed obvious that I had not been afforded a meaningful parole hearing. In addition, the reasons offered for my 24-month continuance made no sense. I had been given two minor Conduct Reports, the first for “verbal disrespect to an officer,” for which I was given a verbal reprimand. The second was for “disobeying a direct order” to take paper out of my window while I was using the bathroom, for which I was given a 30-day commissary restriction. Their conclusion was that I had “impulse anger control issues.” But during my 15-month continuance my Security Level had been reduced, a shocking response if I had been giving evidence of “impulse anger control issues.”

I would like to see the Parole Board explain on national television, perhaps on the 50-yard line during halftime at the Super Bowl, how they could give me a 24-month continuance at my fourth parole hearing on the basis of two minor Conduct Reports after granting parole in 2006 to another old-law offender, Roger Snodgrass, who was serving two indefinite sentences of five to 25 years. While serving the first of those sentences Snodgrass pleaded guilty to the stabbing death of an inmate during the 1993 prison uprising in Lucasville, Ohio.¹ After receiving the second indefinite sentence of five to 25 years, Snodgrass was paroled.

My once unshakable resolve has been damaged by an incident that took place on April 12, 2013. Unprovoked, a squad of Mansfield Correctional Institution officers attacked me, probably because I refused to give them any information about the theft of an inmate's television set, about which I knew nothing. After the attack I was issued a Conduct Report accusing me of "disobeying a direct order," which was later modified to "physically resisting a direct order." Soon, I was found guilty of rule infractions, a result consistent with the Rule Infraction Board's conviction rate, which is virtually 100%. Because I committed no rule infractions and because the incident was, to some extent, captured on a pod surveillance video, on May 31, 2013, I filed a federal lawsuit in the United States District of Ohio, seeking monetary relief in the sum of \$250,000 (Civil Case No. 1:13CV1215). If the economically stressed state of Ohio wants to threaten unconstitutionally my existence and unjustly keep me confined in a cell until I have been (Nelson) Mandelitized in terms of time, the bill for my excessive pre-Senate Bill 2 incarceration is going to be costly.

Today, as I sit inside a cell on the fifth day of summer in 2013, I can't help but think of the positive strides I could be making if the Parole Board had released me at my last hearing. While living at a halfway house, I might be dividing my time between working a job and spending time at the library preparing to launch one of my entrepreneurial ideas in tandem with promoting the book and soundtrack of the novel I've completed. I might even have met the woman of my dreams by now. I know for sure my life would be more significant than it is today. The mental anguish I deal with day after day is an excruciating pain that makes euthanasia seem almost attractive. I don't want to die though. I want to live my life as a physically free human being instead of being three-fifths of a human commodity inside a system more corrupt than Halliburton.

I can't go back to right the wrongs I've done. If I could, I would. But I can attempt to make amends and atone for my past deeds. After serving nearly 20 years, I should have the chance to make amends to the best of my ability. To do so, I need to be freed. I've paid my debt to society. Many so-called enemy combatants have been released from Guantanamo Bay after allegedly committing terrorist acts against the United States. They have been given a second chance. An assailant who shot President Reagan has been given a second chance by way of mental health treatment. The time has come for countless old-law offenders, including me, to be given a second chance.

Ohio, will you give me a chance to live? Better yet, will you let us all live?

Jason Goudlock is a progressive writer embedded in the struggle against the repressive United States prison industrial complex. If you would like to offer him support on his quest to attain justice for Ohio old-law prisoners, you can contact him at the following:

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Learn more about Jason Goudlock and his struggle for freedom at freejasongoudlock.org.

¹ Cleveland Plain Dealer, September 4, 2006, National Section; page A1; John Caniglia.