MY STRUGGLE FOR FREEDOM IN THE MIDST OF VIRGINIA'S ABOLITION OF PAROLE LAW

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(A.K.A. Brian Lee Rowe)



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I am a 38-year-old Black male from the city of Richmond, Virginia who has been incarcerated in the Virginia Department of Corrections for twenty (20) consecutive years. I am serving a ninety-three (93) year prison term without the possibility of parole for my participation in a robbery that resulted in the deaths of two innocent people. Faced with overwhelming evidence of my guilt, I entered a "blind" plea to two counts of 2nd degree murder, robbery, and three counts of use of a firearm during the commission of a felony. Little did I know, my fate was sealed.

Taking into account the fact that I was not the triggerman, me being barely eighteen years old at the time of the crime, and my having no previous adult felony record or history of violence, the sentencing guidelines in my case recommended a maximum prison term of thirteen (13) years. The sentencing judge at the time, James B. Wilkinson, ignored the guidelines, however, and sentenced me to an aggregate prison term totalling 93 years.

Having exhausted all available post-conviction remedies in the state courts, there are very few avenues for relief where I can regain my freedom.

Under Virginia Code §19.2-303, a

defendant can motion the sentencing court for a reduction or modification of his/her sentence, but this motion must be filed before a defendant is transferred to the Virginia Dept. of Corrections. Once a defendant is transferred to the V.A. Dept. of Corrections, the sentencing courts loses its jurisdiction to entertain such motions. Because most lawyers don't exercise this option in a timely manner, §19.2-303 offers little relief for prisoners like me who has already been incarcerated within the V.A. Dept. of Corrections for decades.

Under Virginia Code §§19.2-327.2 and 19.2-327.10, a prisoner may petition both the V.A. Supreme Court and the Court of Appeals of V.A., respectively, for a writ of actual innocence based on biological and non-biological evidence. In both instances, however, in order to qualify for relief under these Codes, a prisoner must have entered a plea of not guilty during his/her trial. As a result, neither of these Codes offer relief for prisoners like me who plead guilty and admitted guilt.

Virginia Code §53.1-40.01 provides for the early release of geriatric (elderly)

prisoners. This Code states:

> "Any person serving a sentence imposed upon a conviction for a felony offense, other than a Class 1 felony, (i) who has reached the age of sixty-five or older and who has served at least five years of the sentence imposed or (ii) who has reached the age of sixty or older and who has served at least ten years of the sentence imposed may petition the Parole Board for conditional release."

As you can see, this Code doesn't take into account the age of the prisoner at the time he/she was sentenced. For instance, prisoners like me who was only 18-years-of-age at the time of receiving a lenghthy sentence will have to serve a minimum of 42 consecutive years in prison- when he/she has reached the age of sixty- before he/she can petition the V.A. Parole Board for conditional geriatric release. Even then, conditional geriatric release is not guaranteed as petitions filed under this Code are routinely denied. Between 1994 and 2010, only 15 elderly prisoners were granted conditional geriatric release.

Believe it or not, despite the current decades long political climate in which "tough on crime" rhetoric is still the order of the day, the only realistic chance for prisoners like me is through an act of clemency by Democratic

Virginia Governor Terence (Terry) McAuliffe.

Article V, Section 12 of the V.A. Constitution and V.A. Code §§53.1-229 through 53.1-231 grants Governor McAuliffe inherent power and authority to grant clemency to prisoners in the form of conditional pardons or commutation (reduction) of sentences. While clemency petitions are rarely granted, I do have a compelling case which greatly increases the odds that my clemency petition will be favorably heard.

Of obvious benefit is the fact that I have a broad network of individuals/organizations who support my clemency request. I have the support of attorney James B. Craven, III, who agreed to draft and file my clemency petition on a pro bono basis. My clemency petition has been pending since June, 2014. Well-known V.A. state delegates Jennifer L. McClellan and Joseph D. Morrissey have each written a letter to Governor McAuliffe urging him to grant me clemency. Although delegate Morrissey is experiencing his own legal troubles right now, he is still a great advocate and a true servant of members in the disadvantaged communities. In addition, Julia B. Hebner from the Richmond C.U.R.E. chapter here in V.A., Laura Magnani from the American Friends Service

Committee-San Francisco branch, and Earl Woodlen, Jr. from the Harriet Tubman Safe House in Wilmington, Deleware have all written letters to Governor McAuliffe urging him to grant me clemency. A host of family and friends have all signed and filed an independent "joint" petition with Governor McAuliffe's office supporting my clemency request.

All of my supporters agree that my 93-year-sentence, which is eighty years outside of the recommended guidelines, is excessive and represents an egregious abuse of judical power and discretion. A 93 year prison sentence without the benefit of parole is tantamount to a de facto (practical) natural life sentence. I will die in prison before my scheduled release date of May 15, 2076 comes to fruition. Certanly the facts of my case shows that I am undeserving of such a fate.

WHY NO PAROLE?

A federal law known as the Violent Crime Control and Law Enforcement Act of 1994 (VCCLEA), included a provision called the Violent Offender Incarceration and Truth-in-Sentencing incentive grants (VOITIS), which provided funds in the form of grants to state and local correctional systems to expand their

capacity to incarcerate violent offenders and to impose longer and more determinate sentences. This law, codified at Title 42, U.S.C.S. §13704, was sponsored and introduced by former Representative Jack Brooks (TX-9) and signed into law by then President Bill Clinton the following year. (The Violent Crime Control and Law Enforcement Act of 1994, Pub. L.No. 103-322, §20102, 20103, 108 Stat. 1796 (1994)).

Before a state could qualify for grants under VOITIS, states were required to pass truth-in-sentencing legislation abolishing parole and mandating prisoners convicted of a felony to "serve not less than 85 percent of the sentence imposed (without counting time not actually served, such as administrative or statutory incentives for good behavior)."

This federal law providing financial incentive grants inspired Virginia to adopt its own legislation abolishing parole and requiring prisoners to serve a minimum of 85 percent of the sentence imposed. This legislation (House Bill No. 5001) was passed and signed into law on October 13, 1994, during a special session of the Virginia General Assembly and codified into law as V.A. Code §53.1-165.1 (Acts 1994, Sp.S.II, c.1, eff. October 13, 1994; Acts 1994, Sp.S.II, c.2, eff. October

13, 1994).

Between 1996 and 1998, 28 states that enacted truth-in-sentencing laws received over $680 million dollars in truth-in-setencing incentive grants (See Office of Justice Programs, U.S. Dept. of Justice, Violent Offender Incarceration and Truth-in-Sentencing Incentive Program; http://www.ojp.usdoj.gov/cpo/voitis). During this same period, Virginia alone received a total of $11,201,786 of taxpayers' money which was put towards the construction of four new prisons (two supermaxes and two maxes): Red Onion State Prison, Wallens Ridge State Prison, Sussex 1 State Prison and Sussex 2 State Prison. All four of these prisons began accepting warm bodies in 1998, many of them from out of state.

Even though Blacks and Latinos collectively make up less than 30% of the U.S. population, we account for over 60% of the total U.S. prison population. Laws like VCCLEA, VOITIS, and states' abolition of parole laws disproportionately affects people of color, represents a gross racial injustice hidden in plain sight within America's system of legal jurisprudence, and is a prime example of human lives being traded and destroyed in exchange for capital to expand an already massive prison industrial complex.

Since 1995, The Virginia Dept. of Corrections' yearly operating budget has grown to consume $1 Billion of Virginia taxpayers' money. These tax dollars would be better served funding early childhood (pre-k) education, repairing inner-city school buildings, pay raises for under-paid teachers, community-based drug treatment and prevention programs, building or repairing existing inner-city community recreational facilities, community-based domestic and gang violence intervention and prevention programs, building or repairing existing inner-city community recreational facilities, community-based social programs that feed the hungry and house the homeless, and community-based reentry programs that train and assist newly released prisoners in transitioning from anti-social attitudes and behaviors- which often leads to crime- to becoming pro-social, constructive, contributing members of the community.

WHAT YOU CAN DO TO HELP ME

a) Write a letter to Virginia Governor Terry R. McAullife on my behalf urging him to grant my request for clemency. You can begin the letter by stating: "I am writing this letter in support of Brian Lee Rowe's (A.K.A. Uhuru Baraka Rowe) petition for a commutation of his

sentence which has been pending with your administration sine June 2014." You can personalize your letter after this; you can mention all of the concerns raised within this pamphlet, including the fact that I've earned my G.E.D., diplomas in Autobody Repair and Cabinet Making, and certificates in Anger Management, AVL (Employability Skills), Preventing Recidivism by Educating for Parole Success (P.R.E.P.S.), and Breaking Barriers treatment programs. Your letters should be mailed to: Governor Terry R. McAuliffe, c/o Secretary of the Commonwealth, P.O. Box 2454, Richmond, Virginia 23218. Letters can also be emailed to Governor McAuliffe at: socmail@governor.virginia.gov. You can follow your letter up with a phone call to Governor McAuliffe at: (804) 786-2211. *Please send me copies of all support letters for my own personal files*

b) create and maintain a GoFundMe.com account for the purpose of raising funds for my legal defense. Such funds will assure that costs associated with the clemency process will not operate as a drain on already limited resources donated by my attorney.

c) create and maintain a personal web page, facebook account, and change.org petition for the purpose of raising international awareness and support for my clemency request and to publicize my struggle for freedom.
d) make as many copies of this pamphlet as you can and pass them out to members in your community, your co-workers, your friends, comrades, or even scan it and post it on the internet as a link on your social media accounts, website, etc. I need maximum exposure and support.

Anyone who is reasonably skilled in any of these areas, and is willing to donate your time and resources, please contact me. I desperately need your help. If you need additional info, you can contact me at: Uhuru B. Rowe #1131545, Buckingham Correctional Center, P.O. Box 430, Dillwyn, Virginia 23936. You can also contact my attorney, James B. Craven, III, at: (919) 688-8295, or by email at: jbc64@mindspring.com.

When writing your support letters, please reference my old name (Brian Lee Rowe) as an A.K.A. (Also Known As) along with my new name as stated on the front of this pamphlet.

I thank you in advance for your love and support.

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