



JEFF GERRITT

Justice makes case for commutations

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With nearly 50,000 inmates and one of the nation's highest incarceration rates, Michigan's 41 prisons hold hundreds of people who could be safely released. Justice and a state budget crisis require Gov. Jennifer Granholm to commute the sentences of every inmate worthy of returning to society. Commutations are the last hope for most inmates serving mandatory life sentences, many of whom have already done 30 years or more behind bars.

Up to now, Granholm has been reluctant to use her commutation power -- or to consider probable innocence in deciding whether to grant one. Among other things, Granholm considers risk to the public, the inmate's age, time served, institutional record, the nature of the crime -- and whether the inmate has accepted responsibility for it. That makes considerations of innocence relevant because the Parole Board and governor typically require an inmate to show remorse before release. But it's hard for an inmate to show remorse for a crime he or she did not commit.

William Milliken, Michigan's governor from 1969-82, commuted 95 sentences, all for first-degree murder.

"I granted a lot of commutations as governor," he told me last week. "The one regret I have is that I didn't grant more."

Always the gentleman, Milliken avoided criticizing Granholm, but he did say that "the current governor has been very timid" about commutations, probably because she doesn't want to be tagged as soft on crime. But a governor, as Milliken said, has the right and moral obligation to commute sentences when warranted. In rare cases, he said, a governor should consider wrongful convictions. "When an injustice occurs," he told me, "a wrong needs to be corrected, and a governor is the one person who can do it."

Gov. Granholm, a former prosecutor, is a very decent and capable person whom I like and admire. But her problem in making commutations -- and on corrections issues in general -- is not only a lack of political courage but also an unbridled faith in the criminal justice system. She has told me more than once that she won't second-guess a jury. But DNA technology, here and around the country, has shown, absolutely and repeatedly, that people are wrongfully convicted.

Unfortunately, such evidence is available in only a fraction of cases. In others, incompetent defense attorneys, jury bias or a prosecutor withholding evidence can lead to a wrongful conviction. As someone who has served on two juries, I also know that many -- perhaps most -- jurors don't understand what, legally speaking, "reasonable doubt" means.

Making matters worse, scandalously low pay for court-appointed attorneys and a lack of state standards and oversight have made Michigan's public defense system one of the nation's worst.

Nor do the state appeals courts and Michigan Supreme Court, which practically rubber-stamp criminal convictions, provide much relief. East Lansing Attorney F. Martin Tieber, one of the nation's leading appellate lawyers, said appellate review in Michigan has become abysmal.

"I've had great cases that I should have won and would have won in the '70s and '80s that don't win now," he told me. "Even the federal courts, increasingly, have concluded that Michigan's appellate courts are unreasonable in ruling on constitutional issues."

A commutation hearing in Jackson last week suggested the Parole Board might now consider whether a conviction was wrongful -- and that's encouraging.

At a packed, nine-hour public hearing for Efran Paredes Jr., conducted by the Michigan Parole Board and attended by nearly 140 people, Paredes' trial and conviction were debated for several hours. If wrongful conviction was irrelevant, why spend that much time rehashing the trial?

Assistant Attorney General Charles Schettler grimaced and grilled Paredes and, as usual, created undue tension by his abrasive and demeaning tone and demeanor. But

Shettler was right in recognizing the importance of determining guilt, even suggesting that questions about Paredes' guilt from his many supporters were largely responsible for the hearing.

In 1989, police arrested Paredes for the shooting death of his boss, grocery store manager Rick Tetzlaff, during a robbery in St. Joseph. His mother said Paredes, then a 15-year-old honor student with no criminal record, was home with his parents. Two other juveniles, who pleaded guilty to the crime, have since been released. In fingering Paredes, who maintained his innocence, they made a slew of contradictory statements and have since said they were coerced by police.

At an age when Paredes was too young to vote, he was convicted by a Berrien County jury and sentenced to life in prison without possibility of parole -- the maximum adult sentence. Illinois investigator Paul Ciolino, who has worked on dozens of wrongful conviction cases, told the Parole Board that Paredes was a classic wrongful conviction case.

I just don't know, even after listening to hours of testimony. With Paredes, however, the Parole Board and governor don't need clear evidence of a wrongful conviction to commute. Now 35, Paredes has served nearly 20 years for a crime he was convicted of as a juvenile. Michigan, to its international shame, is one of the few places in the world where a juvenile can get mandatory life.

In prison, Paredes writes essays and poetry, translates braille and maintains a good institutional record. If released, he wants to continue working with the visually impaired. Despite incarceration, he has become an emotionally and spiritually mature adult. Nothing in this man, either before the crime or since, suggests he would do anything but contribute to society.

But other cases contain overwhelming evidence of wrongful convictions that the governor and Parole Board need to consider. I've written about some of these inmates, including Darrell A. Siggers, 44, and Darryl Jamual Woods, 36. Both men, I believe, were wrongly convicted of murder one. I've profiled two other cases today. In one, a former Michigan Supreme Court justice told me there wasn't enough evidence to take the case to trial.

Granholm has approved 61 commutations -- 43 this year -- mostly for sick and dying inmates. Using her commutation power recklessly would be an injustice to crime victims and the community. But not using it in even one case where it is warranted also creates a grave injustice.

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