

AT WHAT POINT IS JUSTICE SERVED ?

WHY TERMINALLY ILL PRISONERS ARE LEFT TO DIE BEHIND THE WALLS OF THE MASSACHUSETTS STATE PRISON SYSTEM

Factoring in all of the medical expenses and security cost, the last few years in the life of Nick Montos cost Massachusetts tax payers in excess of one million dollars. At the expense of the Commonwealth, Mr. Montos had received triple by-pass surgery, the implantation of a pace maker, cancer treatment, and medical services for a host of age-related illness, not to mention emergency life ending care. Mr. Montos, who at the time of his death on November 30, 2008 was 92 years of age, and barely able to walk without the assistance of other prisoners, surely could not have posed any threat to public safety.

For the past thirteen years, Mr. Montos had been a convicted armed robber, serving a sentence of 33 to 40 years at the Massachusetts State Prison in Norfolk. His passing brought to a close a colorful life of crime that began back in 1930 during the great depression.

During the last six months of his life, the sister of Mr. Montos, Sophie Walton of Port Richie, Florida, and a number of Massachusetts based advocacy groups and organizations fought the bureaucratic red tape that all but precludes the release of terminally ill offenders. Contacted by several national organizations including the Tennessee based Jeff Dick's Medical Coalition, aided by several local groups like, End The Odds Coalition and the State Wide Harm Reduction Organization, several hundred Massachusetts tax payers petitioned both the state Parole Board and Massachusetts Governor, Deval Patrick for executive clemency on behalf of Mr. Montos. Their plea noted his rapidly deteriorating medical condition.

Despite calls for justice tempered with mercy, Mr. Montos was left to die with the distinction of being the oldest prisoner in Massachusetts. At the time of his death, Mr. Montos still bore his prison issued identification number W-60835.

Unlike 36 other states, that include Connecticut, New Hampshire, New York and Vermont, states that provide for the release of terminally ill offenders, Massachusetts, once in the forefront of criminal justice policy, now finds itself isolated from the main stream with no such plan.

What separates the case of Mr. Montos from many similar situations, is that a few months before his passing, his sister Mrs. Walton, had submitted a notarized affidavit to the Governor of Massachusetts agreeing to guarantee payment for all relevant financial obligations associated with his release, immediate air transportation to Florida, and daily medical care at her Port Richie home. Mrs. Walton's offer, had it been accepted, would have saved the state hundreds of thousands of dollars and displayed the compassion usually associated with the Christmas season. In a state like Massachusetts with its financially strained and severely overburdened correctional system, refusing to act on such a plea hardly serves the best interest of tax payers and undoubtedly, encourages waste of valuable public safety resources. In their defense, Massachusetts Public Safety spokesman Terrel Harris stated "state Parole Board officials were in the process of gathering documents about the request for executive clemency that had been filed on behalf of Mr. Montos" at the time of his death. In Massachusetts, State Parole Board members also act as the Governor's Advisory Board of Pardons, charged with reviewing all applications for executive clemency.

A

DISMAL RECORD

When it comes to the issue of executive clemency, Massachusetts has a dismal record. Available statistics from the State Parole Board indicate that during 2007, 62 such petitions were received from convicted offenders. Only one resulted in a favorable recommendation by the Advisory Board of Pardons. That recommendation was denied by Governor Deval Patrick shortly before Christmas, 2008. In fact, Massachusetts officials have not granted a single request for executive clemency in over twelve years. In a state with well over 11,000 prisoners, the oldest now being 85, and with at least another 92 state prisoners already surpassing the age of 70, tax payers can expect even higher medical cost associated with end of life care for the incarcerated.

**ENACTING LEGISLATION THAT ALLOWS FOR THE RELEASE
OF TERMINALLY ILL OFFENDERS WILL SAVE MILLIONS AND WILL
REESTABLISH MASSACHUSETTS TO ITS RIGHTFUL PLACE
IN THE FOREFRONT OF SMART CORRECTIONAL POLICY.**

Being penny wise and pound foolish is not the way to go in a state that already has been forced to cut jobs because of severe budgetary shortfalls. Legislation is called for in Massachusetts that would expedite the release of offenders deemed terminally ill. State political leaders should look at similar legislation and programs enacted in the other thirty-six states for guidance. No one here is suggesting that prison doors be flung open, what we are suggesting is that a compassionate policy allowing for due consideration for the release of those offenders deemed terminally ill and who, like Mr. Montos, would no longer pose a threat to public safety, be afforded the dignity of spending their last few

days, weeks or months, free of confinement. While at the same time, freeing the public of the financial burden of extremely expensive end of life care.

As for the sad case of Mr. Montos, we can feel nothing but shame for those responsible for their inaction, and the embarrassment caused by allowing the death of a 92 year-old infirm man in custody.