

C. Factors to Consider for Sentencing

1. Effects of Imprisonment on “Emerging Adults”

Mr. Hancock has spent all but two years of his adult life in prison. He first entered prison at the age of 19 in 1975, and remained in prison until he was paroled at the age of 52 in 2007. Mr. Hancock’s conduct in this case took place in August of 2008, resulting in his immediate return to prison. As a result, the vast majority of Mr. Hancock’s life experiences between the ages of 19 and 52 took place within the confined walls of Ohio penal institutions. During that time, Mr. Hancock lived with other inmates, ate with other inmates, and worked with other inmates. He spent the whole of his days and nights with other inmates. The only friendships Mr. Hancock could make in prison were friendships with fellow inmates. The only relationships Mr. Hancock could establish in prison were relationships with fellow inmates.

Researchers have studied the negative environmental impact imposed upon incarcerated young adults between the ages of 18 and 25. This age group has been termed “emerging adults.”¹ The data indicates the brain of emerging adults continues to mature until at least the age of twenty-five, particularly in the areas of judgment, reasoning, and impulse control.² Thus, “[w]hen a highly impressionable emerging adult is placed in a social environment composed of adult offenders, this environment may affect the individual’s future behavior and structural brain

¹ Jeffrey Jensen Arnett, *Emerging Adulthood: A Theory of Development from the Late Teens Through the Twenties* [hereinafter “*Emerging Adulthood*”], 55 *Am. Psychologist* 469 (2000).

² Melissa S. Caulum, Comment, *Postadolescent Brain Development: A Disconnect Between Neuroscience, Emerging Adults, and the Corrections System* [hereinafter “*Postadolescent Brain Development*”], 2007 *WIS.L.REV.* 729, 731 (2007) (citing Craig M. Bennett & Abigail A. Baird, *Anatomical Changes in the Emerging Adult Brain: A Voxel-Based Morphometry Study* [hereinafter “*Anatomical Changes*”], 27 *Human Brain Mapping* 766, 766 (2006); Jeffrey Jensen Arnett, *Emerging Adulthood*, 471-73)).

development.³ While the research on emerging adults “does not necessarily indicate that all emerging adults should be held less responsible for their actions,” there are significant implications in the justice and correction systems due to “[t]he fact that brain development – particularly in the areas of reasoning, judgment, and impulse control – continues beyond the age of eighteen.⁴ This “[c]ontinued brain development in areas that implicate moral culpability suggests that rehabilitation efforts in corrections systems should look very different for emerging-adult offenders.”⁵ The system of sentencing emerging adults is therefore strongly encouraged to “rely more on individual, developmental, and maturation information rather than only on traditional adult punishment and incarceration.”⁶

Mr. Hancock was the quintessential emerging adult when he was imprisoned at the age of 19. Mr. Hancock was then very much an impressionable youth amidst adult offenders and exposed to the influences of those older offenders around him. As Mr. Hancock matured and his cognitive development continued, it was those older offenders who influenced and helped shape Mr. Hancock’s judgment, reasoning, and impulse control. He had no one else to look to for guidance, assistance, or support.

When Mr. Hancock was paroled in 2007, he entered a society he had not been a part of for 32 years. A lot had changed in Mr. Hancock’s absence. He had no money; he had no job; and he had no home to call his own. He was able to live with his mother and brother – both of whom suffer

³ Caulum, *Postadolescent Brain Development*, at 731-32 (citing generally Bennet & Baird, *Anatomical Changes*).

⁴ Caulum, *Postadolescent Brain Development*, at 732.

⁵ *Id.*

⁶ *Id.* at 733.

from the residual effects of strokes and cannot care for themselves. Mr. Hancock had substantial difficulty finding a job and had to rely upon his ailing mother for financial support. Mr. Hancock substantially aided his mother and brother by cooking and cleaning for them, but the only full-time job Mr. Hancock could secure was at McDonalds – a job he held until he was arrested in the instant case.

When Mr. Hancock committed the conduct underlying the firearm charge in this case, the PSR indicates he did so for the purpose of assisting someone to escape from prison. The person he wanted to assist was an inmate he had lived with in prison for many years and someone he considered a close friend.

Perhaps the first question to ask when someone violates the law within a year after being released from a 32-year prison term is “why?” Why would someone risk long awaited freedom? When the offender is someone who was imprisoned between the ages of 18 and 25, the answer must necessarily consider the negative effects of placing the impressionable, still developing offender, *i.e.*, the emerging adult, amongst older offenders for the entire six years of his emerging adulthood.

This is not to say offenders who were emerging adults when first imprisoned cannot be successfully released from prison. Rather, this is to say that offenders who were emerging adults when first imprisoned are in need of additional assistance than perhaps most other offenders when released from prison. Notably, the additional assistance needed to retool an offender’s judgment, reasoning, and impulse control should not be deemed a deterrent to release. One of the lauded goals of imprisonment is rehabilitation. Rehabilitation is, by its nature, an individualized function. Some offenders require rehabilitation to overcome drug addiction. Some offenders require rehabilitation to treat mental illness. Some offenders, like Mr. Hancock, require rehabilitation to overcome the negative cognitive development that occurred during emerging adulthood. Further, rehabilitation

should not end at the prison steps. Rehabilitation necessarily includes assistance with re-entry – re-entry which is understandably more difficult when someone is imprisoned as long as Mr. Hancock has been imprisoned.