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Views on LIFE is a biannual newsletter published by people dedicated to ending life sentences in Michigan (and ultimately the nation). Our rationale is that life sentences are counter-productive to criminal justice and "correctional" objectives. Ending them is therefore in society's best interest. Given that all members of society have a vested interest in such an important and impactful a goal, *Views on LIFE* seeks to bridge the gap between society and lifers by providing a safe literary space to engage in healthy dialog and debate; a space which must include those whose views differ from our own. For our part, we will provide information on a variety of topics, including ethnographic accounts of challenges unique to lifers (such as our efforts at ethical transformation despite the hopelessness of release); shed a spotlight on Felony Murder; sift through the collateral damage on the families and children of lifers; critique pop culture's portrayal of lifers; and, in the process, dispel the myths, misconceptions, and misunderstandings surrounding people serving life without parole.

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Understanding Mass Incarceration in the US is the First Step to Reducing a Swollen Prison Population
by **JEFFREY BELLIN**

The incarceration rate in the United States fell in 2021 to its lowest levels since 1995 – but the U.S. continues to imprison a higher percentage of its population than almost every other country. The U.S. incarcerates 530 people for every 100,000 in its population, making it one of the world’s biggest jailers – just below El Salvador, Rwanda and Turkmenistan.

The U.S. actually had the greatest percentage of its population imprisoned until 2019. This followed steady growth in prison and jail populations in the 1970s, after a wave of “tough on crime” laws and policies swept the nation.

While there has been a growing recognition of the need to reduce mass incarceration, experts do not agree on what caused the ballooning prison population or the best path to reducing it.

As a former prosecutor and a researcher who studies the criminal justice system, I have found that understanding how the U.S. incarceration rate grew over the last few decades is the key to understanding its root causes – and what it will take to return to lower rates.

As I show in my new book, “Mass Incarceration Nation, How the United States Became Addicted to Prisons and Jails and How It Can Recover,” people tend to talk past one another when they discuss crime and punishment in the U.S. I think the public debate can improve if people develop a better understanding of how mass incarceration arose – and its tenuous connection to crime.

A growing prison population

The growth in mass incarceration began with a crime spike. Homicides, which averaged around 5,000 per year in the 1960s, shot up in the 1970s, reaching over 24,000 in 1991.

The crime spike sparked a bipartisan wave of punitive laws, the hiring of thousands of police officers and a “tough on crime” mindset that permeated every aspect of American criminal law. The system became more punitive, generating longer sentences, especially for repeat and violent offenses, as I show in my book.

Over time, this led to today’s aging prison population and many people being held long past the time they would have been released in other countries and at other times in this country’s history.

The number of people 55 or older in state and federal prisons increased 280% from 1999 to 2016, according to Pew research.

Different kinds of crime

But longer sentences are only one factor in America’s supersized incarceration rates.

There has also been a dramatic expansion of the kinds of crimes for which U.S. courts imprison people.

After the 1970s, more and more people went to prison for drug crimes and other offenses that rarely used to lead to prison time.

Serious violent crime, meanwhile, went back down in the 1990s. The crimes – like armed robbery and murder – that had sparked the march toward mass incarceration plummeted.

But prison populations didn’t drop.

As a prosecutor in Washington, D.C. in the early 2000s, I saw this change firsthand. Our caseloads were increasingly dominated by drug sales, drug possession and gun possession cases – cases which, not coincidentally, are typically the easiest to detect and prove. These changes were happening on a national level.

There was a substantial rise in prisoners serving sentences for drugs and public order offenses – which include gun possession – over these years. Imprisonment for serious violent crime also increased – but at a lower rate.

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A jump in incarceration from 1980-2010

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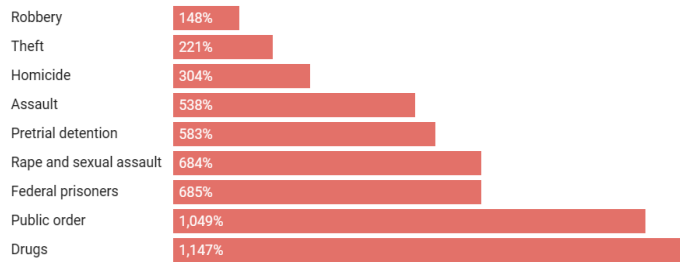


Chart: The Conversation, CC-BY-ND • Source: Jeffrey Bellin • Get the data • Created with Datawrapper

The number of people incarcerated in state prisons for homicide increased by over 300% between 1980 and 2010, reflecting the temporary spike in homicides and longer sentences for those convicted of that offense.

But the scale of the increases for other offenses, like drug crimes, is even larger – rising 1,147% over this time frame.

Speaking the same language

While prison populations are finally starting to go down, progress is slow. At the current rate, it will take decades to reach the low incarceration rates the U.S. had for most of its history.

This dip is partially because of the COVID-19 pandemic, which prompted some states to release prisoners to avoid overcrowding and health risks. It is not clear that these recent reductions in the incarcerated population will continue.

I think that substantially reducing prison and jail populations will require better understanding of the link between incarceration and crime. It is not simply the case that incarceration goes up because people commit crime; instead, the story is much more complicated. That is because we use incarceration for two purposes: to obtain justice on behalf of victims and to try to change people’s behavior.

This distinction results in two kinds of cases flowing into this nation’s criminal courts.

First, there are cases that involve the most serious harm to individuals, like crimes of sexual violence and murder. Second, there are cases like drug offenses and weapons possession, which are not typically about obtaining justice for victims but are supposed to further policy goals like preventing drug use.

Changes in how we treat both kinds of cases contributed to the nation’s sky-high incarceration rate. American mass incarceration is a result of increasing sentence lengths for people who commit serious violent crimes. But it is also a product of a stunning expansion of the system’s reach in the form of more and more crimes leading to prison and jail.

Substantial progress at reducing the incarcerated population will require reversing both trends. First, returning sentence lengths for all offenses, including serious violent crime, to their historical norms. And second, resisting this country’s growing habit of relying on incarceration as a tool for achieving policy goals.

EDITOR’S NOTE:

Jeffrey Bellin is the Mills E. Godwin Jr. professor of law at William & Mary Law School.

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Are Adult Lifers and Juvenile Lifers Really All That Different?
DAVID PAYNE, Staff Writer

Beginning in 2005, four landmark U.S. Supreme Court cases questioned the constitutionality of applying the system's harshest penalties to juveniles: *Roper v. Simmons*, *Graham v. Florida*, *Miller v. Alabama*, and *Montgomery v. Louisiana*. The Court's rationale in these cases has been dubbed the "Juveniles are Different" doctrine.

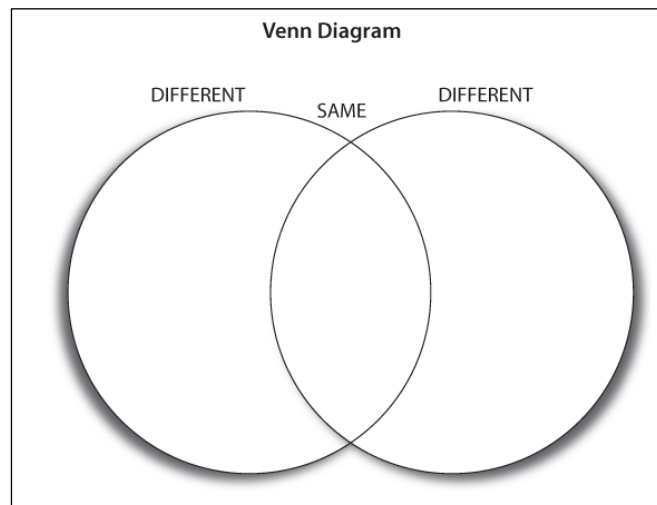
Judicial review determined that juveniles' undeveloped maturity, neurology, and culpability diminishes the moral reprehensibility of their offenses. Employing this rubric, the Court curtailed and eliminated life and death sentences for juveniles respectively, sentences which may still be inflicted on adults. However, a wave of scholars are reacting against what they describe as a narrow judicial application. Law professor Mugambi Jouet is one of them. Jouet, an associate professor at USC Gould School of Law, argues the U.S. "should abolish draconian prison terms categorically" (Jouet 2).

Jouet historically situates the "Different" doctrine as the latest retort in a diachronic "dialectic" on juvenile justice (Jouet 2). The professor argues that the premodern principle of *parens patriae* ("parent of the nation") bleeds into modern British and American practice, allowing the state to adjudicate children free from constitutional meddling. In other words, courts can legally treat children even more harshly than adults. However, in 1967 the Supreme Court rescues juveniles from parents, granting them basically the same constitutional protections as adults (In re Gault, 387 U.S. 1). But the celebration ends in dark irony as the

1980s and 90s "tough on crime" era visits this constitutional sameness on children with a vengeance, slamming them with adult time for adult crimes.

The Court's "Different" doctrine was born out of an emerging national consensus that sentencing children like adults ignores their susceptibility to criminality and rehabilitative potential. Jouet agrees but adds, "Reformers have scarcely called into question the morality or utility of merciless punishments for adults" (Jouet 6). The doctrine's "reliance on behavioral and neurological science demonstrating the immaturity, impulsivity, and malleability of juveniles compared to adults" (Jouet 6) is largely responsible for reformers' myopia. Such a conclusion suggests adult neurology remains irredeemably ossified, hopelessly devoid of evolutionary potential. In other words, old dogs can't learn new tricks. Science, however, "does not support a rigid dichotomy between childhood and adulthood" (Jouet 6).

Long standing empirical studies have established the existence of what's called the "aging-out phenomenon." Here, according to Jouet, "criminality rises in adolescence, peaks around eighteen, and subsequently plummets before becoming flat by the fifties and sixties" (Jouet 6). Ashley Nellis, from The Sentencing Project, points out that these averages hold true for violent offenders and remain consistent "regardless of race or ethnicity, education level, community disadvantage, or income" (Nellis 25). This science is behind Michigan Department of Corrections (MDOC) reentry assessments which make "30-years or greater" a "client strengths" factor in favor of release; it



informs MDOC parole eligibility guidelines, which begins positive scoring at age 31 with the most points awarded to those over 50. Additionally, it is a fundamental precept of justice reform organizations such as MI-Cure, which supports "Second Look" sentencing legislation in Michigan (1).

Overall, ageing-out science invalidates the need to keep adults behind bars because they no longer pose a credible threat to society. Ageing-out science also raises questions as to why American authorities have "chronically ignored" its evidence (Jouet 6). Perhaps science is not the final arbiter on reform in American society after all. Rather, it's whether officials want to consider it and finally release an already slipping grip on its failed "tough on crime" policies (Jouet 6).

In any event, given how ageing-out science proves old dogs can learn new tricks, it seems that juveniles and adults are not so different after all. In light of this revelation, perhaps similar constitutional criticisms against inflicting life sentences on juveniles should apply to adult lifers as well. At least, this is what a consistent and fair administration of justice demands. Even in Michigan.

SOURCES:

Roper v. Simmons (2005)
543 U.S. 551, abolished the death penalty for juveniles.

Graham v. Florida (2010)
560 U.S. 48, abolished life without parole for juveniles in non-homicide cases.

Miller v. Alabama (2012) 567 U.S. 460, ruled life without parole cannot be mandatory in homicide cases for juveniles.

Montgomery v. Louisiana (2016)
577 U.S. 190, made *Miller v. Alabama* retroactive.

Jouet, Mugambi. "Juveniles Are Not So Different: The Punishment of Juveniles and Adults at the Crossroads." *Federal Sentencing Reporter* April 2021, by University of California Press.

Nellis, Ashley. "No End in Sight: America's Enduring Reliance on Life Imprisonment." *The Sentencing Project: Research and Advocacy for Reform*, Feb. 17, 2021. www.sentencingproject.org

"Second Look Sentencing: What, Why and How?" *MI-Cure News*, Aug. 2021. www.mi-cure.org

What Is Second Look Sentencing? Is It the Right Criminal Justice Reform for Michigan? **BY JAMIE MEADE**

The Second Look Sentencing Act (SLS) is a hybrid plan that allows a trial and sentencing judge to reduce a convicted person's sentence after they have served a set number of years in prison. The judge's decision can be based on the offender's rehabilitation, education, health, age, and prison misconduct history. In Michigan, SLS "would ensure a more effective use of public resources, address the state's high rates of racial disparity in imprisonment, and further reduce the large prison population", according to Co-Director of Research Ashley Nellis, Ph.D. (See The Sentencing Project, February 2023 fact sheet "A Second Look at Long-Term Imprisonment in Michigan".)

SLS is smart, evidence-based criminal justice reform and is right for Michigan. SLS does not open a floodgate allowing violent offenders to escape punishment for their crimes. Instead, it allows for incarcerated people sentenced to life or long-indeterminate years an opportunity to "earn" a second chance after serving a decade in prison. SLS also ensures that those who have not shown signs of rehabilitation, and have continued their criminal behavior, remain in prison.

The SLS legislation being considered in Michigan also has several provisions that either exclude or severely restrict resentencing for individuals convicted of specific crimes. For example, individuals convicted of first-degree premeditated murder resulting from a "mass shooting" where three or more people were killed in front of others causing emotional trauma are excluded from the benefits of SLS. Individuals convicted of criminal sexual conduct (CSC) on someone under 13 years of age, human trafficking, and child pornography, to name a few, must go through specific procedures before a judge can make a decision to reduce their

sentences. Assuring public safety is at the forefront of SLS.

Currently, Michigan has the fifth-largest population of people serving life without the possibility of parole (LWOP) in the United States. (See Ashley Nellis, Ph.D., "No End In Sight: America's Enduring Reliance on Life Imprisonment," *The Sentencing Project*, Feb. 17, 2021.) Michigan spends nearly 2.3 billion annually to keep people in prison. With nearly one-in-seven prisoners serving life sentences state-wide, sustaining the cost of keeping those lifers in prison for decades will continue to rise unless SLS is implemented.

Recently released juvenile offenders, who were originally sentenced to life without parole (LWOP) and who were resentenced under the United States Supreme Court ruling in *Miller v. Alabama*, proves LWOP recipients who have served over 25 years, are the safest people who can be released back into society. In Michigan, 38 percent of prisoners who have served 10 years or more were 25 years old or younger at the time of their crime. With newly established brain science showing that individuals do not attain full neuroscientific maturity until their mid-twenties, we now know that those under 26 years of age are no different than 18 year olds. Providing a second chance for incarcerated people sentenced to life and long-terms who can be released safely back into society, reduces the cost of corrections in Michigan ensuring a more effective use of public resources to be invested in community, education, and job training. SLS is the right criminal justice reform for Michigan.

SOURCES:

Senate Bill 0321 (2023) / House Bill 4560 (2023)

Zero-Sum Justice**By KEN UNCAPHER, Staff Writer**

In the book, *Blind Justice*, Mark Godsey, a former federal prosecutor turned defense attorney, states "No one wins in the criminal justice system." It doesn't matter which side you're on, whether it be the prosecutors or defendants, there are no real wins when a person is charged, tried, and either convicted or acquitted, especially for the victims and their families.

Our adversarial system slants askew in favor of the state in a contest between seasoned trial attorneys on one side and an over-worked, state-appointed defense attorney trying to get his client to take a plea on the other side, resulting in a state-wide prison population of over 30,000, and costing taxpayers billions of dollars every year. To make matters worse, "impartial" jurors routinely believe that if someone is charged, then s/he must be guilty of something and therefore must prove his or her innocence instead of the other way around. And all of this is overseen by an elected judge whose career may depend on their next ruling. But most importantly, the losing party is the victim(s) and their families, who often get pushed to the wayside, and only heard for a short moment after the trial has ended.

Once a trial has concluded, that is the end of it, at least in Michigan. Here, the guilty await sentencing and eventual transfer to one of the state's 30-odd prisons, while the victim or their family is left with a gaping emotional wound. There is no real healing. The offender is warehoused for years, learning how to become a better criminal, while the victims try to cope with the pain and emptiness of being marginalized by a system that focuses only on convictions.

There are victim advocate groups that help crime survivors deal with the trauma. I believe these

organizations are necessary in helping people begin the healing process. There is, however, another method of restoration that other states make available to victims and their families. It is known as victim/offender dialogue. These are extremely well-planned and monitored meetings between the victim and the victimizer. The victims are free to say whatever they need to say to begin the healing process, while the offender is allowed to apologize, usually for the first time.

Currently in Michigan, the only time a victim or family member is heard is at the end of a trial during Victim Impact Statements. Friends and family are allowed to say what they need to sometimes bringing about some closure. But the defendant cannot answer their questions about why s/he did what they did, and many times won't apologize or admit any form of guilt because they may feel that what they say may hurt their chance for an appeal. However, victim/offender dialogues usually come years later, after appeals are done and the offender has had time to empathize with their victims and take responsibility for the trauma they caused to many people.

Nevertheless, this may be hard for some to believe, there is something even greater left after many of these dialogues: forgiveness. Maybe it is the act of confronting the one that wronged them, maybe it is because they know they are not forgotten, but many victims are able to shed the enormous weight they had been carrying for years and finally move on. But even if there can never be any forgiveness, at the very least the voices of victims are not forgotten, and maybe some closure can be found. Without addressing both the brokenness of our justice system and the supineness of the victims' voices, there will never be any "winners."

Still Going ... Carlos Juan Nuñez
Interview By RENÉ F. RODRÍGUEZ

Still Going is a section that features lifers holding on to hope that one day they can prove to society that they are much more than the single worst mistake of their life.

Today we feature Carlos Juan Nuñez, who has been incarcerated for 26 plus years. Nuñez was convicted of felony murder for a crime he committed as a 16-year-old (a juvenile). He was waived as an adult and at 17 was sentenced to life without parole.

VoL: What was it like to be sentenced to life without parole?

Nuñez: I felt confused, uncertain of what was going to happen to me, and very scared.

VoL: As a juvenile, what was it like when you first entered the adult prison system?

Nuñez: It was a very scary situation. I remember how everyone seemed to be looking at me. Kind of staring me down, a very eerie feeling.

VoL: Can you expound some more on that?

Nuñez: Here I am, a young kid, and there are these grown older men staring me down in a way that made me feel uncomfortable. Some were yelling, asking me what city I was from, while others were making sexual cat calls, and some were asking what gang affiliation I represented. These were questions I had no idea how to answer. All I can do was keep quiet. Shortly after that the most shocking devastating experience I went through was being forced to take a community shower with these older men. Mentally I was not prepared for that, and it was traumatizing for me to have to experience that.

VoL: Knowing that the rest of your life was going to be spent in that type of environment, how did you spend doing your time?

Nuñez: It was difficult. I found myself isolated most of the time, and I was unsure of myself. This led me to doing a lot of writing. I wrote my niece and nephew a lot. I talked about the consequences of making bad choices. When I had the opportunity, I called my family, and we talked, sometimes cried. Also, how I felt so much regret, and how sorry I was for letting them down. When I wasn't writing I would exercise a lot through sports. I played handball, which is one of the ways I got to know some people in prison.

VoL: Besides exercising and writing, did you do anything else? For example, have you engaged in any educational programming?

Nuñez: It is very difficult to get into educational programming. This is because the administration normally offers such programs to incarcerated individuals who are getting close to being released from prison. As a result of a life without parole sentence, I am not eligible to participate in such programs. However, I did get lucky and was able to enroll in a vocational trade in Food Technology and Hospitality, which I loved. But it was because there were not enough students to fill in the seats, and as a result I was granted permission to take the course. In addition, I have taken some peer-sponsored courses that are taught by other inmates.

These are educational courses that are not really recognized by the Michigan Department of Corrections, however, they are helpful because you learn some things about yourself, like how to channel your thoughts and emotions in a positive way.

VoL: You have been incarcerated for 26 years, have you thought about your crime, the victims, and its impact?

Nuñez: Yes! I think about them all the time, especially when my family comes to visit me. At the end of the visit when we say our goodbyes, I see the hurt and pain in my family's eyes when they have to leave. It is then when I think about my victim's family. The pain and suffering they are going through when they visit their son's grave. The fact that I am responsible for that suffering weighs heavy in my heart.

VoL: The United States Supreme Court came out with a ruling in *Miller v. Alabama* 567 US 460 (2012), which made it unconstitutional to sentence a juvenile to mandatory life without parole without first considering mitigating factors. You had an opportunity to be resentenced. What happened during that court hearing?

Nuñez: First, I was so happy knowing that I had another opportunity for a second chance. I was hopeful and very nervous. Since [I was] 17, I was told that I would die in prison, and I came to believe that this was my destiny. But here I was with a second chance, which I thought I was going to get. My family, friends, and people who came to support me in court thought I was going to get a second chance. However, that was not the case. The judge resentenced me to life without parole again. I was devastated, my family was devastated, and everyone that was there was shocked.

Being sentenced a second time with life without parole at age 38 was much harder than it was when I was 17. Because I know and understand now the significance of what I have done. The irreparable harm I've caused the victim, and the pain and suffering I unleashed on the victim's family, my family, and the community. I know with certainty that I would never ever hurt another person in my life, and I know that I am not a threat to society. But the judge thought otherwise. I just think that the judge got it wrong, and it is sad that there is no way I can prove that I am no longer a threat.

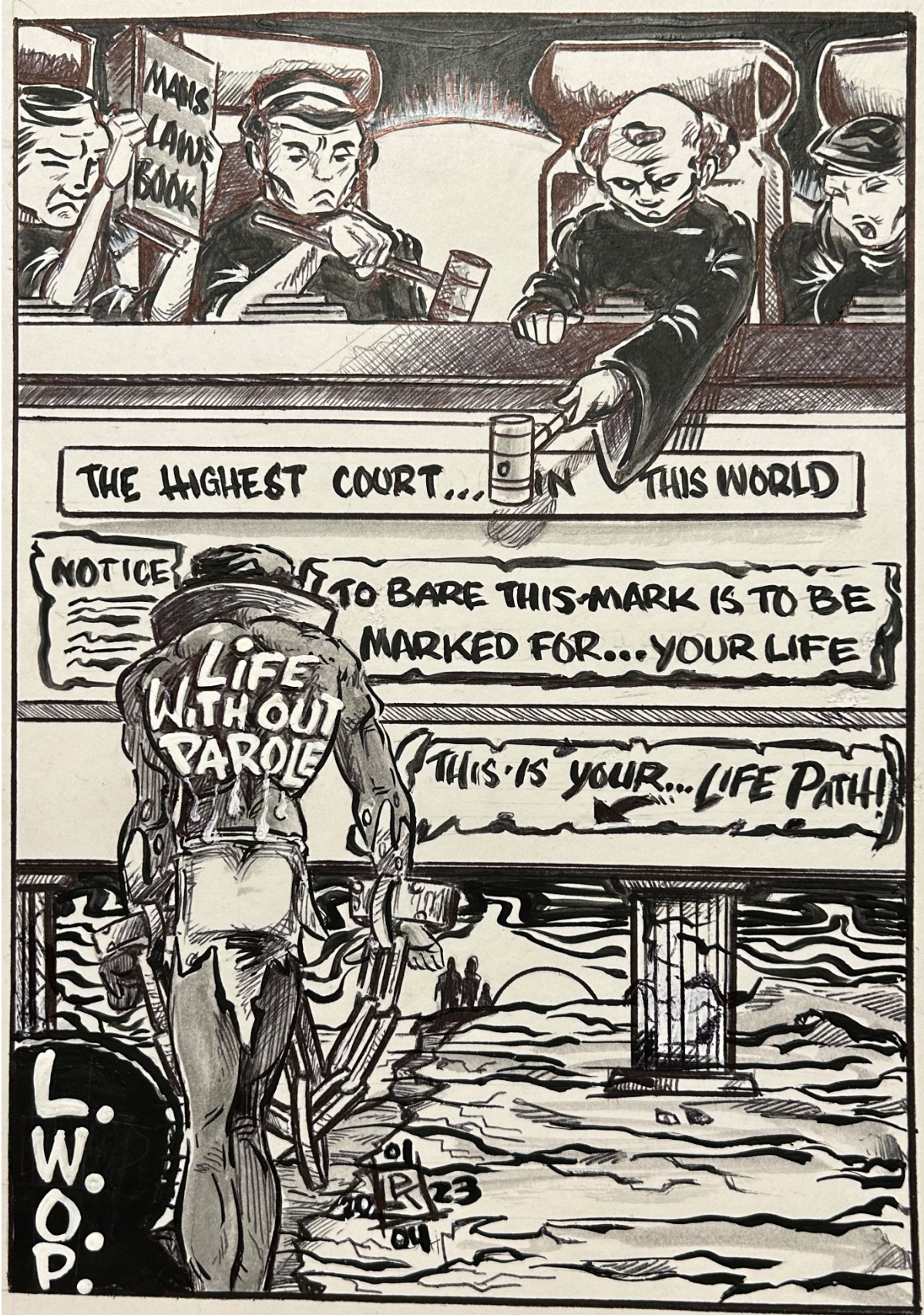
VoL: How are you coping with knowing that life without parole was reinstated in your case?

Nuñez: I am hopeful that things will change. I hang in there with the love and support of my family. And I'm hopeful that my appeal will give me a second chance.

VoL: Last question. Is there anything you would like people to know about you?

Nuñez: I want people to know that I am not the same 16-year-old kid who did not value life. I respect and value people, and I want to do good. I want to help my community, especially with troubled youth who may be misguided by bad influencers. I believe that I can help them make better decisions, by using my story as a way to show them what could happen when you make terrible decisions.

Editor's note: Since the interview, Nuñez was notified that a second sentencing hearing was scheduled for May 2023. We wish him and his family the best while sending our condolences to the victim's family. There is a lot of hurt and healing that needs to be done.



Art by: Loren Preston Key



René F. Rodríguez, Founder and Editor-in-Chief

Rodríguez hopes to use this platform as a positive outlet for those serving a life sentence, giving them a place to share their thoughts and views on politics, arts, culture, and everyday life with the purpose of engendering meaningful conversations. Learn more about Rodríguez and the work he engages in by visiting his website www.viewsonlife.org

Rodríguez holds a bachelor’s degree from Calvin University.



David Payne, Staff Writer and Contributor, Arts and Culture

Payne writes on a variety of topics, but he especially enjoys analyzing cultural pieces such as films and their portrayal of lifers. Through this lens and with his writing, he hopes to widen people’s perspective by dispelling myths and misconceptions about those currently serving life sentences.

Payne holds a bachelor’s degree from Calvin University.



Ken Uncapher, Staff Writer, Contributor, and Social Media Specialist

Uncapher hopes to engender conversations about America’s use of excessive punishment by opening dialogues to discuss its impact, allowing for different views with the hope of gaining a better understanding of both ends of the spectrum.

Uncapher holds a bachelor’s degree from Calvin University.

Outside Consultant:

José A. Giralt, Consulting Editor

ANNOUNCEMENTS:

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