

“King County Prosecutor Dan Satterberg uses state resources to attack the constitutional rights of youth and prevent reduction of sentences, all while Washington Prisons face rampant COVID outbreaks”

REVERSAL OF IN RE ALI

On December 16th, 2020, in a move that runs afoul of claims of progress & solidarity with impacted communities¹, the King County Prosecuting Attorney's Office (KCPAO) petitioned the Supreme Court of the United States to prevent the reconsideration of sentences where the individual was a child when the crime was committed but was charged as an adult. Under In re Said Ali and In re Endy Domingo-Cornelio, two recent Washington State Supreme Court decisions, individuals sentenced before 2017 became eligible to have their sentences reduced based on their youthfulness and the proportionality to the crime. This decision applied Houston-Sconiers retroactively (to past cases).

Houston-Sconiers was a landmark decision that changed Washington law by now requiring a sentencing court to consider the mitigating qualities of youth when sentencing juveniles in adult court and allows judges complete discretion to impose sentences below the “standard” adult range. Essentially, it gives judges authority to treat children like children even when they are sentenced in adult court. It gives judges power to hear all of the evidence about a particular youth and impose a fair, just and proportionate sentence.

Both cases were decided under the United States Constitution’s Eighth Amendment right against cruel and unusual punishment. They followed prior decisions from the United States Supreme Court that incorporate modern science on adolescent brain development that now informs us that critical brain functions associated with risk taking do not develop until mid-twenties. With respect for the humanity and uniqueness of young people, many of whom survived extreme trauma and poverty, this new law requires sentencing courts to analyze several factors to ensure the sentence is “proportionate to the crime.”

KCPAO wants to reverse what has been hailed as a win for youth, erasing the glimmer of hope that was given to one of our most vulnerable populations—trauma-impacted children.

In the past, Dan Satterberg has recognized that children deserve second chances “Kids today are just like we were. The difference is the adults in my life didn’t give up on me. I don’t think we should be giving up on them.” Satterberg TED Talk (2015). Now, he is seeking to reverse a decision that does just that.

MAINTAINING POWER IN THE PROSECUTION

While the petition claims to seek consistency in the law, KCPAO has ignored the reality of disparate prosecution of BIPOC individuals in Washington, and the prosecution’s role in racialized mass incarceration.

¹ Satterberg Ted Talk, https://www.youtube.com/watch?v=S_6ZojCzNGY (2015).

In Washington, the prosecutor has control over whether to charge and which charges are filed. This includes whether to charge a juvenile in juvenile court, or whether to charge in adult court. The same acts can often constitute different crimes – ranging in severity that can result in auto-decline to adult court or lesser severity that can keep a child in juvenile court. That discretion determines one’s potential sentencing range. Sentence ranges are often used to coerce people in pleading guilty.² It’s no wonder why Satterberg wants to prevent judges from having discretion to impose a sentence below the standard range—he wants to keep all the power in the hands of the prosecution.

Satterberg is aware of the immense power the prosecution has in changing the criminal justice system, stating, “We have the power to shape a system that reflects our best aspirations for ourselves and for our children.” Satterberg TED Talk (2015).

KCPAO has the sole prosecutorial authority in King County. Satterberg has led the office since 2007. During that time, King County has disparately prosecuted Black adults and youth. In 2018, the population of the juvenile detention centers was nearly 50% Black, and the jail population, which cages adults, was 40% Black, despite the County being 6.5% Black. The imprisonment rate of Black adults in Washington was more than 5.3x that of white adults.³

In his TED Talk, Satterberg acknowledged that the racial disproportionality is “undeniable.” Satterberg TED Talk (2015). Despite this, Satterberg and his office have continued to act in ways that perpetuate disparities.

KCPAO has now petitioned for the right to keep people convicted as children, who are disproportionately Black, from having an opportunity to appear before a judge for resentencing, being able to now present all of the factors related to youthfulness, brain science, and criminal culpability, despite what we now know from emerging developments in youth brain science.

IMPACT ON WASHINGTON PRISONS AND COVID

Satterberg’s decision to challenge the possibility of reduced sentences and release comes during a widespread outbreak of COVID-19 in Washington’s prisons. As of December, 3,385 incarcerated people, whom are disproportionately BIPOC, have been infected. There are 2,148 active cases, and 4 deaths. 632 staff have tested positive for COVID.⁴

² <https://www.aclu.org/news/criminal-law-reform/coercive-plea-bargaining-has-poisoned-the-criminal-justice-system-its-time-to-suck-the-venom-out/>

³ <https://50stateblueprint.aclu.org/assets/reports/SJ-Blueprint-WA.pdf>

⁴ <https://www.doc.wa.gov/corrections/covid-19/data.htm>

In 2014, 1 in 34 Black men in Washington were in prison. Although Black adults made up just 4 percent of the adult state population in 2017, they made up to 18 percent of Washington’s prison population that year. ⁵

Emily Gause, attorney for Endy Domingo-Cornelio and Said Ali, shared her thoughts on this decision (with client permission):

“I am disappointed in our prosecutor’s decision to seek to invalidate a well-established law that protects our most vulnerable youth. In doing so, he attempts to strip away a judge’s discretion in these cases. The decision to seek review tells the community that our prosecutor leaders reject clear science on adolescent brain development and wish to take us backward to a time when we believed youth were just as culpable for their actions as a fully-developed adult. This choice should offend and outrage our community.”

⁵ <https://50stateblueprint.aclu.org/assets/reports/SJ-Blueprint-WA.pdf>