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Judge Denounces Mandatory Sentencing Law Courts: Jurist gives first-time drug offender a 10-year term but calls system that imposes the federal guidelines 'barbaric.'

Author: Newton, Jim

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Abstract (Abstract): Under the law, [J. Spencer Letts], a Republican appointed to the federal bench by President Ronald Reagan in 1985, had no choice but to sentence Johnny F. Patillo to at least the mandatory minimum of 10 years in federal prison for Patillo's role in trying to ship a package that contained 681 grams of crack cocaine. Letts' criticisms reflect a widespread and growing discontent among federal judges and defense lawyers regarding the mandatory sentences, particularly those that deal with crack cocaine offenses.

Although some evidence suggested that Patillo, who had no prior criminal record, had been involved in mailing other packages, the government never proved that, nor did the law require it. Prosecutors needed only show that Patillo's package contained crack. Patillo admitted knowing that the package contained drugs but said he did not know it was crack until it was opened by investigators.

As Letts spoke, Patillo's mother wept and his brother struggled to comfort her. Patillo, dressed in a jail work shirt and trousers, sat emotionless next to his lawyer, Milton C. Grimes. When the hearing ended, Patillo was led away in handcuffs and shackles to begin serving his term.

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Full text: A federal judge in Los Angeles reluctantly sentenced a first-time drug offender to 10 years in prison Friday, but he used the occasion to launch a blistering attack on the law that forced him to hand out that punishment.

"Since the days when amputation of the offending hand was routinely used as the punishment for stealing a loaf of bread, one of the most basic precepts of criminal justice has been that the punishment fit the crime," U.S. District Judge J. Spencer Letts said. "This is a principle which, as a matter of law, I must violate in this case." Under the law, Letts, a Republican appointed to the federal bench by President Ronald Reagan in 1985, had no choice but to sentence Johnny F. Patillo to at least the mandatory minimum of 10 years in federal prison for Patillo's role in trying to ship a package that contained 681 grams of crack cocaine. Letts' criticisms reflect a widespread and growing discontent among federal judges and defense lawyers regarding the mandatory sentences, particularly those that deal with crack cocaine offenses.

"I am no longer willing to apply this law without protest," Letts said, speaking firmly to the courtroom, interrupted only by the sounds of sobbing from some of Patillo's friends and family members.

Coming from a respected federal judge, Letts' remarks were an unusually vehement denunciation of the law, and they won praise from critics of the sentencing system. "I certainly agree with the judge," said Rep. Don Edwards (D-San Jose), who has introduced legislation that would abolish the mandatory minimum sentences. "It's a real flaw in our system. It's so unfair."

Federal sentencing laws mandate minimums for many offenses, but they are especially tough on crack offenders, who are usually black. Under those laws, each gram of crack is considered the equivalent of 100 grams of powder cocaine for sentencing purposes. Thus, five grams of crack is enough to warrant a mandatory five-year prison sentence, while it takes 500 grams of powder to qualify for the same punishment.

Had Patillo, 27, possessed the same amount of powder cocaine, he would have faced a minimum sentence of five years. That is true even though crack and powder cocaine are readily convertible into one another on a gram-for-gram basis. Defenders of the mandatory minimums argue that they are needed to prevent lenient judges from allowing prisoners to escape with unfairly light sentences. The minimum sentences have historically

enjoyed support in Congress, where members have been eager to take strong action against drugs. But critics say the laws are so broad and so severe that they prevent judges from exercising meaningful discretion.

Although some evidence suggested that Patillo, who had no prior criminal record, had been involved in mailing other packages, the government never proved that, nor did the law require it. Prosecutors needed only show that Patillo's package contained crack. Patillo admitted knowing that the package contained drugs but said he did not know it was crack until it was opened by investigators.

"I'm sorry for committing the crime that I did commit," he said in court Friday. "For a long time, I knew it was not the right way to go. For whatever reason, I made the wrong decision that day."

Letts is no soft touch when it comes to drug crimes, and he reminded his audience that "I am not among those who advocate giving up the attempt to rid our society from the evils of drug use. To me, it seems naive to suggest that drug crimes are victimless crimes."

Nevertheless, he said the Patillo case forced him to make the "most difficult choice I have yet faced-between my judicial oath of office, which requires me to uphold the law as I understand it, and my conscience, which requires that I avoid intentional injustice." He told lawyers for both sides that he searched long and hard for a way to sentence Patillo to a shorter term. But the federal sentencing laws leave judges very little leeway.

Under the laws, it would make no difference "if the day before making this one slip in an otherwise unblemished life, Johnny Patillo had rescued 15 children from a burning building or had won the Congressional Medal of Honor while defending his country," Letts said.

As Letts spoke, Patillo's mother wept and his brother struggled to comfort her. Patillo, dressed in a jail work shirt and trousers, sat emotionless next to his lawyer, Milton C. Grimes. When the hearing ended, Patillo was led away in handcuffs and shackles to begin serving his term.

Grimes had filed an extensive motion with the judge in an effort to suggest a way for a lighter sentence to be imposed. In it, he argued that Patillo had performed a minor function in the drug trade, acting as the equivalent of a "mule," employed by large-scale drug traffickers.

Citing newspaper articles and other studies, Grimes noted that the vast majority of crack defendants are black and reminded the judge that federal laws punish those offenses far more severely than powder cocaine charges.

"Surely there comes a time when we cannot and must not close our eyes when presented with evidence that certain laws, regardless of the purpose for which they were enacted, discriminate unfairly on the basis of race," Grimes wrote. Letts called the brief "remarkably eloquent," and added: "It's really hard not to agree with everything you've said there."

But the law is clear, Letts said, and it offered no way for him to sentence Patillo to anything less than 10 years. In fact, the federal sentencing guidelines called for imprisonment of between 12 and 15 years, but Letts departed from the guidelines as far as he legally could.

Even that left him disturbed and frustrated.

"It is hard to imagine that there is any other nation in which Mike Tyson, a convicted rapist with a long and unsavory history of prior misconduct, could be sentenced by the judge who presided over his trial to a sentence which will make him eligible for parole in a little more than three years," Letts said, "while Johnny Patillo, a first-time offender with a spotless prior record, stands to be sentenced by a Congress that has never seen him and never judged him to from 12 years, 7 months to 15 years."

Such a system, Letts said, "is worse than uncivilized, it is barbaric."

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