

Human Rights Watch

Children's Rights

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Procedures Allow Thoughtful Review of Harsh Sentences for Youth

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The first person to be [resentenced](#) under recently enacted laws in California relating to child offenders is due to be released the week of March 16, 2015, Human Rights Watch, the University of Southern California (USC) Post-Conviction Project, and the law firm of Irell & Manella LLP said today. Enforcement of the new laws is an indication that the [United States](#) is moving closer to the rest of the world in its approach to sentencing for youth, the groups said.

California officials determined that Edel Gonzalez, who had been sentenced to life in prison with no possibility of parole for a crime he committed in 1991 at age 16, is to be released soon. His more than 20 years in prison with a pristine record and the passage of two new laws have led to his parole.

Instead of locking up teens and throwing away the key, Californias new laws require judges to consider not only that the person was a juvenile offender, but also the choices theyve made since then, said [Elizabeth Calvin](#), senior child rights advocate at Human Rights Watch. Edel Gonzalez is an example of how a young person can completely turn his life around.

In 2012, the US Supreme Court held in [Miller v. Alabama](#) that mandatory sentencing of juvenile offenders to life without parole was unlawful. The California Supreme Court followed suit in 2014, holding in [People v. Gutierrez](#) that sentencing courts must take into consideration a host of factors relevant to the distinct status of juveniles. Among other things the courts recognized that teenagers are still developing in ways relevant to culpability.

US states have struggled with implementing the courts directives. However, Californias recently enacted laws show that a thoughtful process can work, the groups said. Under the new laws, the approval of a judge, parole commissioners, and ultimately, the governor, is required before release is permitted.

A life without parole sentence means that there is no opportunity to ever be released from prison, said Professor Heidi Rummel, co-director of USC Gould School of Law Post-Conviction Justice Project. But a growing body of high-court decisions and scientific opinion weigh against the use of the sentence for people who are under 18 at the time of their crimes.

Gonzalez was the first person whose case was heard under the Fair Sentencing for Youth Act, Senate Bill 9, passed in 2012. In December 2013, a judge gave him a new sentence with the possibility of parole. Once eligible for parole, Gonzalez benefited from Senate Bill 260, which went into effect in 2014, requiring parole commissioners to consider the diminished culpability of youth at the time of their crime.

Human Rights Watch helped lead the campaign to change Californias use of extreme prison sentences for juveniles. Gonzalez was represented pro bono by Irell & Manella LLP on a referral to the firm by the University of Southern California Post-Conviction Justice Project. The project served as co-counsel during the parole process.

Were thrilled and grateful that Governor Jerry Brown, the Board of Parole Hearings, and the Orange County Superior Court each recognized the remarkable transformation that our pro bono client Edel Gonzalez has gone through in the past 24 years from an alcoholic, troubled, and immature youth to a non-violent, addiction-free man of faith, said Bryant Yang, lead counsel for Gonzalez and an Irell & Manella attorney.

Since 2004, through numerous interviews and in-depth data analysis, Human Rights Watch has investigated the use of extreme prison sentences for people under 18, reporting on [conditions of confinement](#) of youth sentenced to life without parole [throughout the United States](#), and in particular states such as [California](#) and [Colorado](#). This research has found that there are stark racial disparities in the imposition of the sentence, with black youth serving life without parole at a per capita rate that is 10 times the rate of white youth.

The racial disparities plaguing life-without-parole sentences for youth, and the harshness of this sentence in light of many youths lack of

criminal history, are important reasons to question its fairness, Calvin said. But the sentence is inappropriate in every case. Both constitutional and international human rights law recognize that children must be treated differently from adults.

No other country sentences people to life without parole for offenses they committed before the age of 18, even for homicide offenses.

Irell & Manella LLP has represented Gonzalez on a pro bono basis for close to two years, obtaining the first resentencing under Senate Bill 9 on his behalf before securing his imminent release from prison. Soon after the enactment of Senate Bill 9, Irell filed a petition to recall and resentence on behalf of Gonzalez. In a December 2013 hearing, the court recalled its original sentence and pronounced a new parole-eligible sentence.

After his resentencing, Irell and the Post-Conviction Justice Project guided Gonzalez through the youth offender parole process. In October 2014, Irell appeared before the Board of Parole Hearings and argued that Gonzalez was suitable for parole, because he did not pose a threat to public safety, he had shown sincere remorse, and uncontroverted evidence established that he has rehabilitated. The parole board and ultimately the governor agreed.

Two years ago, prior to Irells involvement, Edel believed he would spend the rest of his life behind bars despite being a model inmate. Our firm is proud to have helped Edel gain his freedom and is honored that weve helped shaped law and set new precedent, said Yang.

For more than 30 years, USC law students have worked under the supervision of professors to represent state and federal inmates on post-conviction matters. In 2008, PCJP expanded its focus to address the injustice of extreme sentences for youth. Rummel and her law students traveled to Sacramento to testify at hearings and meet with legislators in support of the Fair Sentencing for Youth Act. Students in the project currently represent clients sentenced to life without parole for juvenile offenses at resentencing and youth offenders in the parole process.

Law students learn firsthand that they can make a profound difference for an individual client and that they can change the justice system for the better, said Rummel.

Rummel referred the Gonzalez case to Chris Cowan, who as a law student had taken part in the project and who was then pro bono coordinator at Irell & Manella. Mills, a USC law student, worked alongside Irell lawyers to successfully prepare Gonzalez for his parole hearing.

Days before his release, Gonzalez shared a message for the youth he leaves behind in prison, To those like me who thought at one time there was no light at the end of the tunnel, there is light and hope. Keep the faith.

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