

## Sentenced to life, unintentionally

By Meg Laughlin, Times Staff Writer

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The retired judge lives in the deep woods southeast of Tampa, a quarter-mile down a narrow dirt road. Late in the afternoon, J. Rogers Padgett is brooding on how much he misses the courtroom.

He has heard hundreds upon hundreds of cases over the years, so it's a long shot when he's asked if he recalls an armed robbery case from eight years ago. The defendant was a kid named Kenneth Young.

Yes, the judge says, he remembers it well. Young was all of 14 when he helped a 25-year-old crack dealer pull armed robberies of hotels around Tampa Bay. Young would take down the video surveillance cameras and grab the cash while the boss held a gun on the clerks and barked orders. No shots were ever fired.

Padgett remembers the address of one of the hotels, the pile of videocameras in the back seat of the crack dealer's car when he and Young were arrested, Young's annoying courtroom behavior as he tried to avoid trial. And he remembers sentencing Young to life in prison.

What he does not remember is that it was life in prison with no chance of ever getting out. Padgett ruminates on it a minute and volunteers something extraordinary:

He says he made a mistake. He never meant to send Young away forever.

"I didn't think when I gave Kenneth Young life that it was life without parole," said Padgett. "At this point, I'd sign a clemency petition for him to be considered for release."

The judge's words are like manna from heaven when they are relayed to Young's attorney, Paolo Annino.

A law professor at Florida State University's Public Interest Law Center, Annino and some of his students have crafted a legislative bill that could help Young and about 300 more Florida inmates who got life or hefty sentences when they were kids.

Called the Second Chance Act for Children in Prison of 2009, the bill says that those who were 15 or younger and sentenced to at least 10 years in prison without parole should be considered for release if they've committed no other crime, shown remorse, stayed out of trouble in prison and participated in educational programs.

Kenneth Young is their poster child.

"Remember," Annino says, "this bill is for inmates like Kenneth to be *considered* for release, not necessarily released."

The bill favors children who were "an accomplice to the offense or a relatively minor participant ... or acting under

extreme duress or domination of another person."

The testimony in Young's case made it clear that the crack dealer was running the show, with Young in a subservient role. For his part in the robberies, Young got \$50 cash, a pair of Air Jordans and a six-pack of Heineken.

Former hotel night clerk Michael Traupmann told the *St. Petersburg Times* that it always bothered him that "the boy" got such a harsh sentence. "He was pretty harmless," said Traupmann. "If I could help him, I would."

Now, so would Padgett.

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A few weeks ago, as the sun set behind oaks in the judge's yard, he said that when he came to the bench in the 1970s, a life sentence didn't necessarily mean life. Inmates routinely were granted early release. It was that way through the '80s.

Padgett said he knew that a change in the '90s meant that a life sentence for first-degree murder and sexual battery truly meant life. But he said he thought it was for capital crimes only; he didn't realize it applied when he sentenced Young to life for armed robbery.

"I didn't know he was stuck," the judge said. "I thought corrections officials had the latitude to look at his record down the road and let him out if he did well in prison, which is how it should be."

As it turns out, Young has done well in prison. In eight years, he has stayed out of trouble, cared for sick inmates and taken every class available to him.

Sgt. Kimberly Engleking at Lake Correctional Institution, where Young is incarcerated, described him as "well-behaved, polite, quiet and respectful — never a problem."

The only negative mark in his prison file came on a Sunday morning two years ago, when he didn't make his bed one time. He said he didn't think he was required to on a weekend and was not disciplined.

Annino said he can understand how Padgett missed the change in sentencing guidelines that affected Young. "There wasn't a lot of education going on about parole being abolished for crimes that weren't capital crimes," he said.

"But it takes someone with Padgett's character to admit what he didn't know."

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The Florida Legislature is conservative, not customarily generous with prison inmates of any age.

The bill Annino and his law students were pushing died in a legislative committee last year. But Annino says increased support of Republicans makes him think the bill will fare better this year.

The Senate sponsor is Jim King, a former Senate president and one-time House GOP leader who knows how to get things done in the Legislature.

Serving on the Senate Criminal Justice Committee the past few years, King says he has been bothered by several laws that inhibit the rehabilitation of inmates. He says the bill has a good chance to pass because many lawmakers feel the current system wastes lives.

"A kid under 15 who has been sent to prison could and probably would be a totally different person than they were when they first got sentenced," King said. "This would give them a shot at living a normal life."

The House sponsor is Mike Weinstein, a freshman Republican who has been a prosecutor in Jacksonville for 15 years.

Weinstein says he "thought deeply about it" before he decided to get behind the bill. What made him decide to commit to it was the age of the kids. "If we can't rehabilitate a percentage of kids who were 15 or younger when they committed a crime, we have to ask ourselves if we can rehabilitate anyone," he said.

The bill says that if adolescent offenders are granted parole, they have to complete a two-year re-entry program before being fully released.

Annino and his law students are also working on a clemency petition for Young.

"In a lot of ways, prison has been good for me," Young wrote in a letter a few months ago. "As a kid locked up with a bunch of adult men, I quickly learned what it feels like to be a victim, which made me really understand how the hotel victims felt."

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When Young was to be sentenced for armed robbery in 2001, prosecutor Curtis Allen told Padgett that Young could be sentenced anywhere from 51 months to life. Allen asked for life.

Young's attorney, Mark Reinhold, asked Padgett to sentence Young as a juvenile, to seven years, because of his age, because he had no prior criminal history and because of his secondary role.

Padgett sided with the prosecutor. "I feel you're dangerous," he told Young. "I'm going to take you out of circulation for the rest of your natural life."

Reinhold says that as he and Young left the courtroom, his client asked him what that meant. "I had to tell him he was going to die in prison," Reinhold says, "which made him scream and cry like the child he was."

Now, Padgett says he was talking tough that day to scare Young, but he didn't think he was sending him away to die in prison. He hopes either the legislative bill or a clemency hearing will give Young a second chance.

Said the judge: "Just tell me where to sign."

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