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Long Prison Term Is Less So Thanks to Regrets by a Judge

By [ETHAN BRONNER](#)

PROVIDENCE, R.I. — When Denise Dallaire was arrested at age 26 on charges of selling a few ounces of crack cocaine here a decade ago, she was sentenced to prison for more than 15 years. Last month, shackled inside the same court and facing the same judge, she received an apology and was set free.

The reversal by Judge Ronald R. Lagueux highlights how mandatory sentencing guidelines, [though struck down by the Supreme Court eight years ago](#), continue to keep hundreds of small-time offenders behind bars for longer than many today consider appropriate.

Ms. Dallaire was lucky enough to get herself noticed and for a technical flaw in her case to have surfaced. The result was a moment of courtroom drama and human redemption led by an 81-year-old judge eager to make amends for a decision he had long regretted.

“I felt bound by those mandatory guidelines and I hated them,” Judge Lagueux (pronounced la-GUEUR) said from the bench as Ms. Dallaire sobbed quietly and the room froze with amazement. “I’m sorry I sent you away for 15 years.” He urged her to get home quickly to her ill mother but not to run down the court steps as people do in the movies. “Those steps are dangerous,” he told her.

Ms. Dallaire got home for her mother’s final 11 days.

“They were the most amazing 11 days of my life,” Ms. Dallaire said in the kitchen of her mother’s house in Groton, Conn. “I never left her side.”

Like many petty criminals snared by sentencing rules aimed at drug kingpins, Ms. Dallaire had virtually no hope of an early release, even after the Supreme Court’s 2005 decision and subsequent Congressional action reducing prison terms in crack cocaine cases. She got there through an exquisitely rare constellation — her exemplary prison record, Judge Lagueux’s nagging conscience and the interest of another judge who persuaded a top lawyer to volunteer his time to work for her release. Without those, Ms. Dallaire would still be working three jobs at the Danbury federal prison.

“There are a lot of people like Denise doing bone-crushing time under the old sentencing regime, and we need to try to find ways to help them,” said Judge [John Gleeson](#), an outspoken [advocate](#) of innovative treatments for drug cases and sentence

reductions. He said he had been discussing with a number of interested lawyers the idea of setting up a project whereby lawyers working pro bono would seek relief for inmates like Ms. Dallaire. He suggested it be modeled on [the Innocence Project](#), which seeks to exonerate the wrongfully convicted, and perhaps be called the Mercy Project.

It was a chance meeting with Judge Gleeson that started the chain of events that set Ms. Dallaire free.

Judge Gleeson, who sits on the Federal District Court in Brooklyn and teaches a course in sentencing at New York University Law School, takes his students and clerks every year to the Danbury prison. He was inspired to do so by his mentor, the late Judge Eugene H. Nickerson, who urged him to spend time in a prison at least once a year to keep in mind where he was sending defendants.

As part of those visits, inmates tell the group about their cases and their lives behind bars. For the past several years, Ms. Dallaire has been one of those inmates.

“She was the perfect teaching case,” the judge noted in his chambers recently.

Ms. Dallaire’s arrest for selling and possessing crack cocaine was not her first. Seven years earlier she had been arrested on possession of a similar amount of crack and while in college she had thrown a glass in a barroom brawl, causing an injury. The result was that at her third arrest she was a “career criminal” under the guidelines, tripling her sentence.

Judge Lagueux, nominated to the bench by President Ronald Reagan, made clear at Ms. Dallaire’s original sentencing that he was acting against his own better judgment. “This is one case where the guidelines work an injustice, and I’d like to do something about it but I can’t,” he said then from the bench.

Ms. Dallaire, who graduated from Central Connecticut State University in New Britain, says that she was never very interested in drugs, only in the pocket cash that dealing them provided. Her parents had divorced, the local economy had tanked and she had fallen in with a bad crowd.

“I made a lot of stupid and ridiculous decisions,” she said. She declared herself lucky to have been caught and sent to prison — just not for 15 years. “I deserved to go to prison,” she said. “Thank God I got time. I got my priorities straight.”

Ms. Dallaire turned prison into an opportunity to serve others. She made and donated thousands of blankets, hats and pillows to a children’s oncology ward. She organized the inmates to decorate Christmas trees that were auctioned to companies with the proceeds to a cancer charity. She got 600 inmates to march around the prison yard as part of a drive against breast cancer, raising more than \$1,500 from their small earnings.

After his most recent visit to Danbury, Judge Gleeson decided to see if he could get Ms. Dallaire's sentence reduced. He thought the best way would be to seek a presidential pardon, and he called a friend, Jonathan D. Polkes, a partner in the major New York City firm of Weil Gotshal & Manges, and asked if he would be willing to take on the case pro bono.

Mr. Polkes agreed and along with several associates drafted a pardon request of President Obama. They took note of the fact that in 2005, two years after Ms. Dallaire had been sentenced, the Supreme Court declared the mandatory sentencing guidelines unconstitutional, saying they should be considered only advisory. And in 2008 and again in 2011, Congress reduced sentences for inmates involved with crack cocaine.

As part of the pardon process, Mr. Polkes sent the materials to Judge Lagueux to get his signoff. The judge was eager to help. He believed, however, as did the others, that a presidential pardon was unlikely. But he noted a procedural flaw in his original sentence. He told Mr. Polkes that if he could get the case back before him, he would free Ms. Dallaire on time served.

"This was a miscarriage of justice," Judge Lagueux said in his living room in East Providence one recent afternoon. "It stayed in my mind to an unusual degree and I thought justice should be done."

Ms. Dallaire sees her release as nothing short of a miracle. "I didn't believe I would get out," she said. She plans to help people headed for prison to learn about what is ahead. She also wants to involve herself in the planned Mercy Project to gain commutation for some of those serving long sentences. "I would love to do whatever is necessary to help fix the federal system," she said. "My goal now is to repay everyone who has helped me. I just want to be a success story for them."