



Crime & Punishment

James Alan Fox on criminal behavior and the justice system

COURTS AND SENTENCING

Odgren decision: Sentencing reform needed

For those, like me, who felt that justice wasn't well served by the life without parole sentence given John Odgren for murdering James Alenson, today's decision by the trial judge not to reduce the penalty was disappointing, but not a surprise. So-called Rule 33 challenges for sentence reduction are rarely successful. When juries speak, judges rarely undermine their consensus.

One might believe that the jury was swayed by emotion. After all, it would be difficult for anyone not to be shocked by the senselessness of the crime or not to be moved by the innocence of the young victim. Of course, proving that emotions overruled reason would be impossible.

The real problem in this case is not so much with the jury's decision-making, but the legal parameters that guided outcome. The Massachusetts murder statute, as it applies to juveniles, provides absolutely no latitude. All those 14 and over charged with murder must be tried as an adult and, if convicted, must be punished as an adult. The only sentencing option for juveniles convicted of first degree murder, including felony-murder, is life without parole eligibility.

Massachusetts is one of only two states that both mandates an adult trial for juveniles charged with murder and mandates a life sentence without parole eligibility if convicted in the first degree. The remaining 48 states provide discretion over which youngsters shall be transferred to adult court for prosecution and/or discretion over whether a life sentence without parole is appropriate given the particular circumstances. Passed in the wake of the high-profile Eddie O'Brien case, the legislature fashioned a bill with the worst case scenario in mind. But in its iron-clad rigidity, the law fails miserably when applied to the typical case. Punishment should fit the crime, but also the criminal. Such factors as youthfulness, lack of a criminal record and mental health issues should be considered as mitigators.

In her decision not to reduce John Odgren's sentence, Middlesex Superior Court Judge S. Jane Haggerty boldly stated her concerns with the prevailing Massachusetts law:

As a judge, one troublesome issue in this case lies not in the verdict but in the sentence. I have some concern with the statute that mandates that the defendant and other juveniles fourteen or older be sentenced as adults for first degree murder. □

Despite her position and recognition of Odgren's special circumstances, Judge Haggerty was, however, understandably reluctant to legislate from the trial bench. She concluded her deliberative 12-page decision with an implicit call for legislative reform:

"If changes to the Commonwealth's youthful offender laws are to be made, a verdict reduction pursuant to rule 2S(b)(2) is not the appropriate vehicle for doing so! Thus, there is tragedy in a sentence of imprisonment for life without the possibility of parole for a sixteen year old offender in the circumstances of the defendant. However, this does not diminish the justice of this verdict for the murder of James Alenson."

It is time for a change. Most states allow some form of discretion or altogether prohibit the use life without parole for juveniles. Other states, including Texas, have recently abolished life without parole for juvenile offenders in recognition that youngsters simply do not have the same level of maturity and thus the same degree of culpability as adults. To be sure, juvenile murderers deserve to be punished severely, but not to the same extent as their older counterparts.

Consistent with Judge Haggerty's sentiment, there are many citizens of the Commonwealth who wish to see Massachusetts more in line with the rest of the country and who are distressed that our state, once recognized as a model for juvenile justice, is now the harshest on young murderers. If you agree that the Massachusetts juvenile murder statute needs to be infused with discretion and that life without parole eligibility makes little sense for youthful offenders, then contact your legislators once they are chosen come November. Hopefully, you will join with me and several statewide organizations to push for a fairer and more rational approach to prosecuting and sentencing of juvenile murderers.