

Titus House Newsletter

Titus House Ministries, PO Box 2376, Tijeras, NM 87059

NOVEMBER
2022

New Mexico Supreme Court Rules on Sex Offender Eligibility for Parole Review Hearings

Author = Ryan Thompson

Source = <https://nmonesource.com/nmos/nmsc/en/item/521383/index.do>



In a split decision by [The New Mexico Supreme Court \(NMSC\)](#), Time served by a Sex Offenders (SO) on “in-house” parole in prison (in accordance with 31-21-10.1 NMSA1978 (2004)) shall count toward eligibility for a hearing to determine whether their parole will continue. NMSC affirmed a ruling ruled by the San Juan County district court that Ryan Thompson was entitled to a hearing in front of the PB because the combined time he had served in the community and in the penitentiary while on parole. A mandatory hearing by the Parole Board (PB) does not guarantee to be released from parole, the PB makes the final decision.

Thompson completed his basic sentence in July 2013. The district court determined in 2020 that Thompson was entitled to a duration-review hearing because he had served a combined six years, eight months, and 24 days of parole in prison and in the community. He filed a petition for habeas corpus in 2018, after the PB director informed him, he was not eligible for a duration-review hearing until successfully serving parole in the community for at least five years.

Parole begins after offenders complete their basic prison sentence. To qualify for a “duration-review hearing” in front of the PB, a SO must initially serve five years. After the initial hearing, hearings occur every 2.5 years thereafter. The Attorney General has the burden of proving by clear and convincing evidence that the SO should remain on parole. New Mexico law imposes an indeterminate requirement for supervised parole for sex offenders – five to 20 years of parole for some sex offenses and five years to life for more serious sex offenses.

Under NM state law, inmates eligible for release to the community must remain in prison if they lack an approved parole plan or refuse to sign-off on the conditions of parole. That time in prison is known as “in-house” parole and the majority pointed out it counts as time served under parole. “In reality, then, parole is sometimes served in institutions, including prison, and not exclusively in the community,” the Court’s majority wrote. The majority found that the “strict application of the statutory definition of parole leads to an unreasonable result, thereby undermining a literal reading of the statutory definition.” The Court analyzed the history of laws enacted concerning parole and the majority concluded “it is unmistakable that the Legislature intended that the duration-review hearing be conducted after the sex offender has served the initial minimum five years of mandatory parole.”

The Court’s majority wrote: “We give effect to the Legislature’s clear intent by recognizing” that the required initial five years of supervised parole for sex offenders “includes all time served during the parole sentence” – whether in prison, in a rehabilitative institution or in the community. The majority found that the “rule of lenity also supports our conclusion.” That rule is applied to resolve ambiguity in sentencing. “Because the tension between the statutory provisions [...] the rule of lenity applies to resolve any doubt in favor of Thompson and, accordingly, the definition of parole adopted by the district court should be affirmed,” the majority held. It ordered the state to provide Thompson with a duration-review hearing “without delay.”



IA: FORMER IOWA CITY SCHOOLS COUNSELOR AWARDED \$12 MILLION AFTER BEING WRONGFULLY IMPRISONED FOR 6 YEARS FOR SEX OFFENSE

Source: Iowa City Press-Citizen George Shillcock

Donald Clark won \$12 million in a lawsuit he filed against the state of Iowa on Thursday, years after being exonerated and released from prison on false charges that he sexually abused a student while working as an Iowa City elementary school counselor.

A jury awarded Clark \$8 million in past emotional distress damages and \$4 million for future damages after he spent six years in prison starting in 2010. He was released in 2016 when his conviction was vacated. That year, the court found that his public defender, John Robertson, was ineffective and declared Clark not guilty, but also “actually innocent,” a legally important finding, according to a news release from Clark’s lawyers at The Spence Law Firm LLC.

The jury found that Robertson, who died in 2013, failed to investigate the prosecution’s case against Clark, and a “substandard trial performance led to his conviction and wrongful imprisonment.”

Mel Orchard III of Jackson, Wyoming, one of Clark’s lawyers, told the Press-Citizen on Friday that Clark was joyous when the decision was rendered. Clark and his lawyers spent five years suing the state since his original 25-year prison sentence was vacated.

“A jury said loudly that the state of Iowa must take responsibility when you hurt somebody. That to (Clark), seeing that verdict, was as therapeutic as any amount of money,” Orchard said. “But money is of course a necessary part of

compensating anyone. That amount of money is a drop in the bucket in terms of what they took from him and what they left him with.”

...

Orchard said as soon as Clark got out of prison, he worked to rebuild his life by living in his parents’ basement for a considerable time because the transition from prison to normal life is difficult.

“No matter your belief in your own innocence, your own innocence doesn’t protect you from what prison does to people,” Orchard said.

Lawmakers need to re-examine sex offender registry

Source: The Free Press

When this mother speaks on this particular issue, know that every one of her words is valuable and chosen carefully.

Patty Wetterling lost a son to the actions of a sex offender. But she now has misgivings about a sex offender registry she helped create.

Her concerns are worthy of attention.

Wetterling’s son Jacob was abducted and killed in 1989 in central Minnesota by an area man. After Jacob’s disappearance, Wetterling worked to establish a sex offender registry that would help flag offenders for law enforcement. (The man who 27 years later admitted to Jacob’s abduction and killing would not have actually been on such a registry because he’d never been charged or convicted of a sex crime.)

Today Wetterling has concerns that the registry, drastically changed over the years by the Legislature to aggressively cap-

ture more offenders, has overreached.

Minnesota’s list now includes over 18,000 registrants, including juveniles, some not much older than 11-year-old Jacob when he was kidnapped, the Star Tribune reports.

Wetterling and others are urging the Legislature to consider reforming the registry so it doesn’t cast such a wide net, snagging a high number of juvenile offenders, some who haven’t even had a conviction or had committed more minor offenses, such as public urination.

Wetterling herself has been approached by families who don’t want to report a sexual offense between two child family members because they don’t want the child to end up on a registry. In that scenario, no one gets the help they need, she said.

And getting off the list is difficult. Attorney Jim Fleming, a

former chief public defender in Mankato who now works in Ramsey County, told the Star Tribune that a man in his 30s came to him because he was put on the registry as a 13-year-old. His 10-year period on the list restarted after a disorderly conduct charge, and then again after another unrelated charge. Fleming had to tell the man there was no way to appeal his time on the list.

Teens, who are still in the midst of brain development, have some of the lowest rates of reoffending. Many have the potential and time to change their destructive patterns or learn that their behavior is not acceptable and change it. Wetterling and other child advocates want to make sure those kids get a chance to do that.

The Legislature needs to review the registry and change it so that youth who don’t belong on the list stay off of it.



Finally, Peter Ellis is an innocent man Source Newsroom

Peter Ellis' convictions for horrific child sex abuse crimes set early 1990s conservative Christchurch into a panic. Now, 30 years later and three years after his death, Ellis is exonerated.

After three decades as a convicted child abuser, childcare worker Peter Ellis has posthumously had his name cleared in a landmark Supreme Court decision.

Ellis was convicted on 16 counts of sexual abuse against seven children in his care at the Christchurch Civic Creche in June 1993. The case has been highly controversial, largely thanks to the belief the children's accounts were "contaminated" and that Ellis did not receive a fair trial as a young gay man in a more conservative time.

He spent seven years in jail as a result of his convictions, but maintained his innocence up until his death from bladder cancer in 2019. The Supreme Court granted leave to appeal that same year but Ellis died before the hearing. However, it was ruled the appeal be allowed to continue in 2020 despite his death - a legal first.

In a judgment released today, the Supreme Court quashed all of his convictions,

citing a substantial miscarriage of justice relating to expert evidence given at trial, and the contamination of the complainants' own evidence from outside influences, most significantly direct questioning from the parents involved.

A central figure in this miscarriage of justice is child psychiatrist Karen Zelas, who gave evidence on behalf of the Crown but also supervised the children's interviews and helped police with the investigation.

Zelas was president of the Royal Australian and New Zealand College of Psychiatrists between 1989 and 1991, the body responsible for the training and education of psychiatrists in Australia and New Zealand.

The court found Zelas "exceeded the proper bounds" of the 1908 Evidence Act, namely: she commented on the credibility and the reliability of the complainants' evidence, which wasn't permitted; her evidence lacked balance

in that she didn't present any other possible explanations for the 20 behaviours - many of those common in childhood - she presented as being consistent with sexual abuse and problematically suggested the fact a child had alleged abuse transformed those normal behaviours into symptoms of that abuse.

"The overall effect of Dr Zelas' evidence was to incorrectly suggest to the jury that 'clusters' of behaviours supported a finding of sexual abuse. That impression was compounded by the chart the Crown produced at trial, which was itself an unbalanced and unfair representation of the evidence it purported to summarise."

The admission of her evidence was ultimately found to be an error of law.

Sexual crime conviction in 1999 cancels out 29 years of service to country Source NARSOL

By Captain Charles Munsey . . . Today, October 5, I started out as I routinely do — cup of coffee, morning devotions, a quick breakfast, and then on the road to take care of chores. First, I stopped by my daughter's home in Rockledge to drop off something for her and converse with her and my grandson for a while. Then I set off for Patrick SFB (Space Force Base) to take care of chores there — pick up prescription meds, get a haircut, and then pick up groceries at the commissary. Very routine, the same as I have been doing for years, since March, 2003 when I first moved to Florida and was placed on the Florida registry.

Today was different, as I was to find out. At the gate my ID card was questioned, so I went over to the visitor's center to find out what the problem was. It is the same ID card that I have used for years. At the ID card office, I was informed that because I am on the Florida Sex Offender Registry, I no longer have access to the base — after all these years, years during which I was on the registry and welcomed on base. My meds were waiting to be picked up, blood pressure and cholesterol. My primary care provider is Dr. Botardo

who is assigned to the Patrick Med Facility. Basically, all of my retired military benefits have now been removed because of my being on the Florida registry. My offense was in Virginia 24 years ago, eight years after my retirement from the U.S. Navy. I paid my debt to society in Virginia and sold my home in Virginia Beach to move to Florida because of my father's bad health and my mother needing assistance. Without ever committing an offense in Florida, I was added to the Florida registry. I was transferred to Florida on an interstate compact which allowed me to serve the period of probation in Florida. I was removed from probation 11 years early. I live in a peaceful neighborhood and get along well with my neighbors. I am no longer on the Virginia registry, where my failure took place after my wife's death.

So now, as of today, with no reason whatsoever, my retirement benefits on base, my ability to even go on base, have been removed with absolutely no facts to explain or justify the removal other than false fear and paranoia. My 29 years of service mean absolutely nothing. The victim, my daughter, forgave me and we were reconciled years ago; she and her

family now live in Rockledge, FL. I have been living a perfectly normal life until today when the commander of the space force base fell victim to false information about registered citizens. As those in the 'know' know, in Florida, once on the registry, always on the registry. Not even sainthood, departure from Florida, or death is justification for removal from Florida's registry or even consideration of it. The registry is a 'money maker' for Florida and neither justice/forgiveness/restoration is reason for removal. I belong to an organization that is trying to educate those in leadership positions, but in some cases, stupid/greed/lack of knowledge is hard to fix. I pray that someday, soon hopefully, I will have my retirement benefits restored and that I can go on living a normal life. A copy of this has been mailed to Brig. Gen. Stephen Purdy, commander of the 45th Space Wing at Patrick. God save America, Charles Munsey Jr. Capt USN Ret

P.S. In the meantime, my prescription drugs wait to be picked up. As my neighbor's wife told me — he is a retired NYPD officer — I'd be better off if I had murdered someone.



Titus House Ministries

PO Box 2376
Tijeras, NM 87059

Phone: (505) 286-8807
Alice's Cell (505) 259-0867
Don's Cell: (505) 315-7940

Email: donmagicjohnston@gmail.com

We're on the Web
titushouseministries.org

Hebrew 13:3 - Continue to remember those in prison as if you were together with them in prison, and those who are mistreated as if you yourselves were suffering.

Remember if you change your address you need to let us know if you want to continue to receive this newsletter

REVERENDFUN.COM COPYRIGHT G4, INC



LEPERS ... I HEAL LEPERS

From this side of the fence

By Don Johnston

As I sit by my fireplace here in the mountains and drink my coffee and wonder what I could write to my brothers and sisters in prison. Most people want to know how they can make it on the outside once they are released. My answer to them is it is only through the saving power of Jesus Christ am I to be free. This freedom started with me while I was still incarcerated. Jesus said in the Bible that He would set me free and I would know the truth. Read it in John 8:32. The freedom that Jesus offers is a spiritual freedom from the bondage of sin- that is, release from the lifestyle of habitual lawlessness. I know in my old life there was a pile of sin that I was heaping on. However, it was through God that I was able to have victory and freedom from sin that easily entangled me. No way am I perfect, I still need the cleansing power of the cross. If you

can have freedom while you are still incarcerated you can have freedom when you are out. Nevertheless, when you get out you need to follow the system and laws of the land. However, you can have freedom in Christ. Yes, the pressures of law and order are hard, but Jesus said He would never leave or forsake you, and He won't, but there has to be true repentance and a personal relationship with Jesus Christ. Yes, my brother and sister we hurt when we are in and when we are out. This is a choice we have made and we are paying the consequence for it. And it does not seem fair but what is fair the lives we have impacted because of our choices were also a penalty for all those who are involved. Our victims are the weight of our bad choices. We need to pray for each of them.



Circle of Concern has gone **ZOOM**

Circle of Concern is aimed at breaking down isolation and fear by providing a safe place for registrants and their loved ones to get together, build community, and learn ways to step out and take charge of their lives and overcome the stigma they face. The Circle of Concern is a group of concerned registered citizens, family and friends that meet together on the 3rd Sunday of each month. We are meeting this month on **November 20, 2022** at 3 pm—4 p.m. MST. We will meet on Zoom. We encourage and try to help each other. It is a safe place to share our strengths and struggles. We hope you will join us. If you are planning to attend call Don at (505) 315-7940.. He will send you the link to join by computer or phone. You can contact him at the number above or email him at

donmagicjohnston@gmail.com