

CLEMENCY RECIPIENT CAROL RICHARDSON WAS SENT BACK TO PRISON, AND TENS OF THOUSANDS MAY DIE AS A RESULT

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Carol Denise Richardson was one of the 1,715 federal prisoners granted clemency by President Obama. An addict convicted in 2006 along with a husband 37 years her senior and three other men who were her suppliers, she alone received a life sentence. By the time she was released in 2016, her husband had died and the three other codefendants, sentenced after pleading guilty to no more than 48 months, were long out of prison.

But in June 2017, Ms. Richardson was back in prison. The same federal judge who originally sentenced her to life found that she had violated terms of her supervision with a state court conviction of misdemeanor theft of \$60 worth of detergent, an unauthorized changed of address, leaving her job and failing to report to her probation officer. He ordered that she serve 14 more months in federal prison and five years' supervision.

Ms. Richardson's reincarceration was a failure that didn't need to happen. There are treatment programs in prison and reentry support programs outside of prison that could help people make their transition to freedom. Project New Opportunity which I direct is one of those supporting programs. Through no fault of her own, these programs weren't available to Ms. Richardson.

I believe they should be. So far clemency recipients and others receiving supporting services have done well.

But there is more. Ms. Richardson's return to prison provides a lesson that urgently needs to be heard as the nation confronts a massive crisis in opioid addiction and an Attorney General who has instructed all federal prosecutors to file the most serious charge and seek the longest prison sentence possible in every case.

About Ms. Richardson: The *Washington Post* published an article by reporter Amy Wang under the headline, "Obama granted her clemency; less than a year later, she's going back to prison."

The original article and some that followed noted that the Bureau of Prisons hadn't provided Ms. Richards with drug treatment. A Huffington Post op-ed by Amy Povah of Can-Do, an advocacy group that endorsed Ms. Richardson's bid for clemency, provided details of her history as a using addict dependent her co-defendants. Never the less, some news outlets carried a truncated version of the story which omitted this information. More than a few readers who commented used the story to attack President Obama's grants of clemency.

Ms. Wang also quoted Prosecuting Assistant U. S. Attorney Ted Imperato. He placed the blame squarely on Ms. Richardson:

This defendant was literally given a second chance to become a productive member of society and has wasted it.... She has clearly shown a willful disregard for the law and must face the consequence for her crimes and actions.



The truth is, clemency didn't "fail." Ms. Richardson didn't get that "second chance." And she didn't act in "willful disregard for the law."

A grant of clemency is not by itself a "second chance." That comes with the support and assistance necessary to assure a successful transition to a new community after years of incarceration, which wasn't there for Ms. Richardson.

Prior to Ms. Richardson's release on clemency, she was only eligible for the BOP's 40 hour Non-Residential Drug Abuse Program, which is an introductory class to drugs and their side effects rather than a treatment regimen. A participant in more than 50 classes and programs offered by the BOP, Ms. Richardson left prison an untreated addict through no fault of her own.

Even without untreated addiction, leaving prison is a complex transition, the more so for women.

In a May 23, 2017 Truthout article Monica Cosby, previously incarcerated for 20 years in Illinois, eloquently describes the double trauma of leaving a community of "deep, abiding, loving, affectionate, mutually beneficial, supportive friendships and kinships" to return to a community that is "dissolved:" family members are dispersed, children grown and detached, former friends departed, and landmarks upended. What is truly hard to find, wrote Cosby, are the shared responsibilities, caring and connections of a true community. Support from "allies," the agencies and services that may deal with issues such as employment, helps but does not fulfill the need to find a place in a community of one's own.¹

When Ms. Richardson left the BOP, she moved into her mother's house. The transition was not easy. To her family, she was withdrawn, unable to explain herself or her emotions. She did obtain employment --- reportedly three jobs at once -- but lost access to prescription medication that in prison had enabled her to cope with a diagnosed bipolar disorder and depression. Then came a friendly stranger who facilitated her reconnection with illegal drugs. The behavior that led to her recommitment to prison quickly followed.

When AUSA Imperato asserted that Ms. Richardson was acting in "willful disregard" of the law, he was repeating a fiction, that an addict's drug use is an act of free will, a matter of choice. He is not alone: American jurisprudence rarely acknowledges the power of addiction when it is a factor in a crime or probation violation.

There are exceptions. Just two weeks after Ms. Richardson was recommitted to prison, a Maine court uniquely acknowledged the power of addiction.

Christopher Poulos began misusing alcohol and drugs at the age of twelve. He came to use cocaine as intensely as Ms. Richardson. He also spent 33 months in federal prison. But on June 16, 2017, he was in court in his home town of Portland, Maine, not as a defendant in a drug case but to be formally sworn into the Maine state bar.

¹ Monica Cosby, On Leaving Prison: "A Reflection on Entering and Exiting Communities" Truthout 23 May 2017.

On his way to becoming a lawyer, Poulos held an internship at The Sentencing Project and the Obama White House. In Maine, he worked as an advocate for drug law reform and chaired a government subcommittee tasked with designing and implementing criminal justice reform measures to better address Maine's opioid epidemic. He also advises United States Senator Angus King on related matters. Before all that, he was also actively addicted to drugs.

Poulos helps us understand what a person like Ms. Richardson undergoes battling addiction, because he publicly and at times painfully documented his own struggles as a person recovering from a substance use disorder. His path took him through periods of self-doubt and depression, moments when the outcome seemed less than certain. Until he accepted intense treatment, his actions were not the product of free will but of obsession and active addiction. Poulos himself feared failure, often found himself on the edge of the precipice, consumed by the challenge of overcoming addiction, pulled from disaster by a grandmother patrolling his haunts to grab him by the shoulders and take him home.

The Portland Press-Herald reported Poulos' success: "Former Portland man triumphs over addiction, convictions to become attorney."²

The power of Ms. Richardson's addiction was just as strong as it was for Poulos. Her actions were no more "willful" than were his when in the grip of addiction.

Poulos had resources, which dramatically assisted his ability to break away from the grip of addiction. Richardson, without resources, has yet to do so. The incongruity is that she is punished with prison for her "willful disregard" of the law by the same system that denies her resources with which to regain control of her life while Poulos is quite properly praised for having overcome his addiction, the power of which he painfully documents.

If winning out over addiction is like climbing a mountain, then the comparison between the reactions to Ms. Richardson and to the newly-minted Attorney Poulos is like that between the celebratory reception given a climber after a successful ascent of Mt. Everest while treating those who fail at the same difficult climb as if they had voluntarily abandoned a day-hike along the Appalachian trail.

This is a lesson we need to learn, and not just for the sake of Ms. Richardson's and the thousands of others incarcerated for years for drug crimes. A terrible opiate crisis is gripping many of the more economically distressed sections of the country. People already down on their luck are left to climb their own Mount Everests without adequate help and are failing. Fatalities from drug overdoses now exceed those from car accidents and shootings.

As *The New Yorker's* Margaret Talbot vividly described in "The Addicts Next Door,"³ in small towns in West Virginia desperate people who are struggling with addiction are disregarding not only the law but the norms of human behavior to the point that parents are overdosing at their children's little league games rather than at home, where alone they would likely die, and while

² <http://www.pressherald.com/2017/06/16/former-portland-man-triumphs-over-addiction-problems-federal-convictions-to-become-attorney/>

³ *The New Yorker*, June 5 & 12, 2017 p.74.

driving cars in which their own children are passengers. Other than Attorney General William Sessions, who can possibly believe for a minute that addiction with this power will yield to the threat of prison sentences or to the reincarceration of Ms. Richardson?

For Ms. Richardson, the “second chance” clemency promised has yet to materialize. She needs access to treatment and assistance in reentry. For the rest of us, we need to heed her lesson. As long as the Trump administration, Attorney General Sessions and the prosecutors under him respond to addiction with bromides about the “willful disregard” of the law and by imposing long sentences to prison, people are going to needlessly die.

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