

Testimony of Ned Winterbottom before the House of Representatives Corrections & Institutions Committee on Senate Bill 18.

Thank you for the opportunity to testify on Senate Bill 18. My family and I support this bill. We want to thank the Committee for being open to reconsidering the application of Earned Time. We want to especially thank Attorney General T.J. Donovan for his support and integrity, Commissioner Jim Baker for truly listening to us and Senator Sears for sponsoring and supporting this bill.

While we recognize the need for prison reform, we strongly object to the application of Earned Time to rapists, murderers and pedophiles in the Vermont prison system. We can understand and even support some of the goals of Justice Reinvestment. The more we learn about this subject the more we understand that these are complicated issues and that sometimes in trying to solve one problem, perhaps inadvertently another one is created. We appreciate the fact that there is willingness at this time to listen to victims' voices and to revisit the issues associated with Earned Time keeping in mind the perspective of victims.

Our daughter Laura Kate Winterbottom was kidnapped, raped, and brutally murdered in Burlington on March 8, 2005 by Gerald Montgomery. Because of the brutality of the crime, he was charged with aggravated murder, which carried a sentence of life without parole.

A plea agreement was negotiated under which he would plead guilty to 1st degree murder and receive a sentence of 43 years to life. The prosecutors informed us that, if the plea agreement was not acceptable to us, they would pursue the charge of aggravated murder at trial and that, because of the DNA and other overwhelming evidence, their case was solid. We were advised that a trial would involve making public all the graphic details of the brutality inflicted upon Laura and also our enduring the ordeal of listening to Montgomery's counsel's attempt to defend his savage, indefensible crimes against her.

We were assured that 43 years was the minimum Montgomery would have to serve before becoming eligible for parole and that he would have to successfully complete a course of treatment for sexual assault offenders before he could be eligible for parole. We were not told about Earned Time since it did not exist at the time. We obviously were not told that fifteen years later the 43 year minimum would be retroactively changed without adequate notice to potentially dramatically reduce it.

This was a very painful and difficult time for us and we were in deep and profound grief over Laura's death. We relied very heavily on the representations of the State's Attorney's office and the Burlington PD, both of whom we trusted were seeking justice for Laura and acting in our best interests. After much deliberation and, based on those representations, we agreed to accept the plea agreement.

The rape and murder of our Laura were savage crimes and, in deliberately committing them, we believe that Montgomery forfeited his right to any reduction whatsoever of his sentence. We learned during the course of hearings that he had previously sexually assaulted at least two other women. When he took Laura's life, he permanently changed the lives of everyone in our family in profoundly irreparable ways. The loss of Laura is something we all will have to live with for the rest of our time on this earth.

There is no such thing as healing from the death of a child, especially a death like Laura's. Life is never the same but you carry on. It was, however, very important for us to know that Montgomery was safely behind bars for at least 43 years and, therefore, we could focus not on him but rather on preventing the type of crimes he committed. This certainty helped us in establishing the Laura Kate Winterbottom Memorial Fund, Inc. (LKW Fund), a VT based foundation, with a mission of ending sexual violence and

helping survivors. To date, with the support of thousands of people, the LKW Fund has raised and donated over \$225,000 to Vermont organizations and programs which support that mission

From what we can determine from a review of the legislation and the DOC report to the legislature entitled "Availability of Good Time" dated 12/15/2019 there are two primary reasons advanced for the retroactive application of a "earned good time" system that alters the sentences and plea bargains for currently incarcerated offenders: 1) The claim that "increased participation will have a greater impact on prisoner morale and behavior" and 2) A need to avoid an "increased administrative burden." We submit that neither reason is adequate to justify a system which effectively alters the plea bargained minimum sentence of a brutal murderer and has the potential to release a violent repeat sexual predator and murderer back into the population 7 years short of his minimum sentence. The reports of the US Sentencing Commission to Congress from 2016-2019 for federal prisoners show that violent criminals and those with a serious criminal history are at significant risk of repeated crimes with a recidivism rate of over 80%. A Bureau of Justice study has shown that 10% of released murderers in 30 states commit another crime within 6 months of release and 48% commit another crime within 5 years of release. The 2019 US Sentencing Commission report on recidivism among violent federal offenders shows that even released offenders over 50 years of age with a serious criminal or violent history have a 37% chance of committing another crime within 5 years of release. This means that during the 7 years that Montgomery could potentially be released earlier than his minimum sentence there is an over 37% chance he will commit another crime. Give his history of violent sexual assaults and murder, there is a significant risk that he will rape or possibly murder another woman. That is a risk we are not prepared to sanction on the basis of "prisoner morale" or "avoidance of an administrative burden" and we don't think the State of Vermont should either.

While we understand the goal of making the criminal justice system more fair and the correction system more humane, we also believe that there are offenders in the correction system, such as rapists murderers, and pedophiles, whose criminal thinking, history, and propensity for violence make them a danger to society and a significant risk for future crimes. Many such offenders are violent psychopaths or sociopaths, people for which psychologists tell us, there is little, if any, possibility of significant positive change. We have heard Senator Sears at a previous hearing of the Joint Legislative Justice Oversight Committee say that we should "lock up people who are dangerous, not those who are a pain in the neck." We assert that the corollary to this statement is that we shouldn't release early, before they have completed their full minimum sentence, those offenders who are truly dangerous, like Gerald Montgomery. He must be made to serve his full sentence because that is as it should be considering the severity and barbarity of his crime. Justice for Laura and a genuine concern for the protection of society demand nothing less.