

Panel #4E

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May 8, 2008

Rockefeller Drug Law Assembly Hearings

From: Cheri O'Donoghue

My name is Cheri O'Donoghue. I am the mother of a Rockefeller Drug Law victim. In fact, I consider everyone in my family, victims as well. I say victim because these laws are racist, cruel and inhumane and we have suffered greatly as a result of them. They destroy individuals, families and whole communities, specifically targeting African American and Hispanic communities. I am also a Steering Committee member of F.R.E.E. (Families Rally for Emancipation and Empowerment). And this is my son: Ashley O'Donoghue's story.

In the Fall of 2003, Ashley sold a small amount of cocaine to two Hamilton College students: Peter McEaney and Preston Kraus, who in turn, were selling it on their school campus. It's important to note that Peter's father is Kevin McEaney, Executive Vice President of Phoenix House, one of the largest drug treatment programs in the country. We didn't know that Ashley was selling drugs. We found out when Ashley got arrested. Eventually word got around to the school officials that two of their students were selling drugs at school, so they called in the Oneida County police. The police took the students aside and told them that if they wanted to help themselves out, they needed to do "the right thing" and help set up the person they bought the cocaine from. They also told them that they had the DA's ear, and their help would go a long way. They agreed to help set up the Sting Operation. The police instructed Peter to call Ashley again, and to ask specifically for 2.6 ounces, so that they could arrest him on an A1 felony, which carried a 15 years to life sentence. They did, and unfortunately Ashley took the bait. On the morning of October 5, 2003, he took the Metro North train up to Utica to meet Peter. When he got to the station, he called Peter. Peter was hiding in the back of the police car. He told Ashley that he was out front and to come out and meet him. As soon as Ashley stepped out of the train station, the police arrested him.

Ashley was charged with an A1 felony. The thought of the sentence was unbearable and unbelievable to me. We hired lawyers to fight the case. We paid \$35,000.00 in lawyers fees. Mostly money borrowed from family and friends. At first the judge would not set bail, but eventually he did. Bail was set at \$100,000.00. We didn't have it of course, so we had to put up my mother and father's house in San Francisco, as collateral, plus give the bailiff \$6,000.00, which we would not get back. We didn't have \$6,000.00 either, so we had to take out a loan. Finally we were able to bail Ashley out, but it was only for two months. When Ashley returned to court in April of 2004, the District Attorney offered him a Plea deal: 7 years to Life. Our lawyer continued to argue for a lesser sentence, or some alternative program like a Drug Treatment program, because even though he wasn't an addict, he needed treatment if he was doing things like selling drugs. He told the DA and the judge (even though the judge has no power in a Rockefeller Drug case), to please take into consideration that Ashley was only 20 years

old at the time the crime was committed, he had no prior record, this was a non-violent felony, Ashley was basically a good kid who'd made some bad choices, which he was wholeheartedly sorry for, he obviously came from a good, supportive, upstanding family, he was not a drug kingpin by any stretch of the imagination, plus the other two young men involved in the case were just as guilty, yet they were treated vastly different. But all of this was to no avail. Finally the D.A. brought the sentence down to 7 to 21 years, and that was as low as he'd go. It was take it or leave it. Ashley had no alternative. It was either that or go to trial. If he went to trial, which we couldn't afford anyway, we were told he would surely loose and he would definitely get the 15 to Life sentence. We couldn't take that chance.

After the sentencing, Ashley was sent to Clinton Correctional facility, a place so far upstate that it's on the border of Canada. We'd have to leave the house at 4am, in order to make it there in time for visiting time. It was a five and a half hour drive, one way, from where we were living at the time.

Our lives have been altered forever. We have spent thousands of dollars for lawyers, bail, gas, food packages to take on our visits to prison, and collect phone calls. The financial toll has been enormous. The emotional toll is beyond measure. We lost four years of our lives.

Today, Ashley is 25, and thankfully through a tremendous amount of work on his part, and ours, about 6 weeks ago, he was released to a Work Release facility in the Bronx. He is not completely free yet. He lives in a sort of halfway house, where he is allowed to leave to go to work. On weekends, he is now allowed to come home. At the end of August when he completes the program, he will come home to live full time, and he will no longer be in prison, however, he will be on Parole. This would not have been possible without the help and support of people like Randy Credico and Anthony Papa, co-founders of the New York Mothers of the Disappeared, Assemblyman Jeffrion Aubrey, Senator Thomas Duane and Senator Stephen Saland, Gabriel Sayegh of the Drug Policy Alliance, and countless others. We are eternally grateful to so many people who helped us and continue to help us. We are thankful that Ashley made it into the Work Release program, but it's not enough. We feel that Ashley has served his time, and deserves to eventually have his record sealed, because until he does, the reality is that he will face barriers to getting jobs with decent salaries, student loans, voting, housing, and a host of other important things that are vital to his future.

There are alternatives to incarceration and for the sake of humanity, we should consider them first, leaving prison as a last resort. Peter and Preston got a second chance, which allowed them to escape a prison sentence, plus get their records sealed, so that their futures wouldn't be destroyed. I want that for my son, Ashley. Ashley deserves a second chance, he's as special to me as Peter and Preston are to their families, and I'm going to make sure that it happens, because until it does, justice has not been served. I am not only fighting for justice for Ashley. I am fighting for the thousands upon thousands of unfairly incarcerated people, (which includes their families), under the Rockefeller Drug Laws. Thank you.