

A small fish in drug ring rises above sentencing injustice

On May 6, Serena Nunn, 36, will graduate from the University of Michigan Law School. Armed with a law degree, she will be in a better position to challenge draconian federal drug laws that six years ago had her serving a 15-year, eight-month sentence for a first-time non-violent drug offense committed when she was 19.

But as Nunn came to know, even federal judges have been powerless to mete out just punishments under the federal mandatory-minimum sentencing system, first legislated by Congress in 1986.

Be clear on this: Nunn broke the law. After she dropped out of college, she took up with the wrong boyfriend, a drug dealer — known as Monte — whose father (Plukey Duke) was believed to be the leader of the biggest cocaine ring in Minnesota. After Monte tried to buy cocaine from a government informant, the feds charged 24 people involved in the ring, including Serena, on felony charges involving cocaine distribution.

At trial, prosecutors established that Nunn drove Monte to drug deals and phoned people who owed Monte money. They found 6.5 grams of cocaine and 4 grams of crack stashed in her bedroom. A jury found Nunn guilty on all three counts.

Meanwhile, prosecutors had offered a sweet deal to repeat offenders who testified against others. Mandatory-minimum sentences were supposed to guarantee that drug kingpins serve hard time. Yet the feds allowed the coleader of this drug ring, Marvin McCaleb, to serve seven years — despite prior convictions for major drug dealing, rape and manslaughter.

I know some readers who will say that Nunn deserved her 15-year sentence; they only regret that prosecutors didn't sentence the kingpins to harder time. They fail to recognize that this system routinely sacrifices small fish of the drug trade — who don't have much information to trade — while enabling the big fish to reoffend.

In December 1997, the Minneapolis Star Tribune reported that McCaleb was living free in Long Beach, Calif., while Nunn would not get out of prison until 2003. Sam Sheldon of San Diego had been a lawyer for a week when he read the story. He was one year younger than Nunn, but already she had



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spent eight years behind bars. Sheldon offered to take on her case pro bono.

Thanks to Sheldon's efforts, President Bill Clinton commuted Nunn's sentence in July 2000. It helped that one of Nunn's prosecutors and then-Gov. Jesse Ventura of Minnesota wrote letters for Sheldon. The most breathtaking argument came from the sentencing judge, David A. Doty, who wrote an eight-page letter that ripped the mandatory minimum system to shreds.

In 1990, his heart went out to Nunn because of the lengthy sentence he was required to impose on her, while others in the drug ring were sentenced to as little as one

year. Doty wrote, "If mandatory-minimum sentencing did not exist, no judge in America, including me, would have ever sentenced Ms. Nunn to 15 years

in prison based on her role in the conspiracy, her age and the fact that she had no prior criminal convictions before the instant offense."

On the phone Monday, Nunn told me of the frustration she faced after spending more than a decade behind bars — and wanting just one chance to turn her life around — while watching "someone who gets those opportunities, not once, not twice, but even three times" reoffend and return to prison.

Nunn looks back on her old life and realizes how the drug ring "harmed our communities" and "helped destroy families." And: "I am a firm believer in people being punished for things they do when they break the law."

But when societies over-punish small-change offenders and underpunish kingpins — when 19-year-old kids serve sentences that exceed a decade, while career thugs do shorter time — you end up with expensive injustice.

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Serena Nunn