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YEAR ENDER

Associate helps client in parole case started in law school

By L.J. Williamson
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Three years after her graduation, Laura Donaldson, now an associate at WilmerHale, is still working on a project she began in law school. With any luck, it will have the governor's signature by February.

As a student, Donaldson was part of the Post-Conviction Justice Project Clinic at USC Gould School of Law, overseen by professor Heidi Rummel. At the clinic, Donaldson took on the case of Ellis C. Curtis, who was sentenced to life without possibility of parole for a murder that occurred when he was a minor. Curtis didn't pull the trigger, but was sentenced to life for his role in the armed robbery that led to the killing, and spent years in prison assuming he had no hope of release.

Now 40, Curtis has been granted parole and awaits Gov. Jerry Brown's signature approving it. That may make Curtis a free man in a matter of weeks.

It was Donaldson who oversaw an extensive mitigation investigation in the case and served as co-counsel for the two-day resentencing hearing where Curtis was given a sentence eligible for parole.

Curtis "had a history of childhood trauma and abuse that left me speechless," Rummel said, "unlike anything in all my years of representing people in this situation that I could imagine someone could survive. Truly, truly."

Curtis had grown up in a household beset by "unspeakable" domestic violence, Rummel said. There were 18 to 24 children living with two dysfunctional adults who



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Laura Donaldson of Wilmer Cutler Pickering Hale and Dorr LLP

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sold drugs to survive — "the worst possible setting to bring a child up in." His life was so deeply gang involved, Rummel explained, Curtis recalled that when he was in kindergarten, he didn't know the difference between family members and members of the Bloods gang around which his entire identity revolved. She said Curtis recalled as a child wanting to draw the ocean, but feeling forbidden to use the blue crayon.

Rummel said the robbery that landed Curtis in prison, which ended in the shooting of a neighborhood pot dealer, was committed without planning or forethought, but on an adolescent whim in a moment of peer pressure.

Despite his dysfunctional childhood, Rummel said Curtis' greatest shame was not disclosing that he grew up in a criminal family, nor disclosing the sexual

abuse he suffered, but admitting the fact that he never learned to read or write.

After nearly a decade in prison, Rummel said, Curtis reevaluated his life. He decided to sever his ties with the gang and make literacy a priority. The Post-Conviction Justice Project took on Curtis' case as part of its work obtaining new sentences for criminals convicted as juveniles.

The clinic litigates under a California law that allows qualified candidates to get resentencing hearings after serving 15 years. The state measure was buoyed by the U.S. Supreme Court's 2012 ruling in *Miller v. Alabama*, 567 U.S. 460 (2012), which held that mandatory sentences of life without the possibility of parole are unconstitutional for juveniles.

Donaldson started working on Curtis' case in 2013 and continued throughout her time at the clinic.

Working with Donaldson "didn't feel like working with a student, it felt like working with another lawyer," Rummel said. After she graduated, Donaldson took the case with her to WilmerHale as a pro bono project.

Curtis' first parole hearing was in 2016, and his final one was in September. Donaldson said Curtis' was the most interesting criminal case she's worked on, because it highlights many very recent changes in the law since her client was first sentenced.

Now, in the post-*Miller* era, courts must take into account "the hallmark features of youth" as part of sentencing, which include impulsivity, recklessness, peer pressure and the science of brain development, Donaldson explained.

Prior to the *Miller* decision, Donaldson said, the presumptive sentence for many crimes was life without parole, and "that was behind legislative pushes for reform in the juvenile justice arena," she explained.

Working at the clinic on the cusp of such historic changes in law, Donaldson said, was the most instructive experience of her time in law school, even more than her classes.

"I was lucky enough to have a wonderful client," Donaldson said. "When I first met him, he had been in prison 22 years and had no hope of release. It was scary for him to be too hopeful. We started working with him, and he couldn't believe his sentence was going to change until it happened."

When Donaldson first met Curtis, he was in a high security lockup, but as his sentence changed, he was moved to a lower security facility, which meant he

had access to programs. Though he entered prison illiterate, Curtis will leave having learned to read, earned his GED certificate, and taken a few college-level courses, Donaldson said.

He also completed a poetry course and began writing poems about his own experience, Donaldson said, which she and Rummel both described as extraordinarily moving.

Rummel credits Donaldson's extensive preparation of her client as the key factor in his successful petition for parole.

Most of the preparation process involved helping Curtis to understand what would be asked of him during the parole hearings, Donaldson said. "Half the battle is understanding what the question is," she explained, especially for someone with a background like Curtis'.

A parole hearing is "kind of an intense situation" where the client

is in a small room facing two people at a table, Donaldson said, and victims may be present along with a prosecutor.

"Your client isn't used to talking about personal aspects of their life, what led to the crime, where they were in life," she said. "It's not something you really talk to other people in prison about, because it's more talking about your feelings. ... Building up trust with your client and helping them be more comfortable talking about those things is the best preparation."

In a parole hearing, lawyers also don't get to speak on their client's behalf, aside from asking clarifying questions and give a closing statement. That means Donaldson could do little more during the hearing than sit silently by as the board spent hours questioning her client about his comprehension of his life and his crimes.

"It's the hardest part, being in the hearing, because you are unable to interject too often," Donaldson said. "Lawyers like being able to speak to the judge, but here, most of the work is done before parole hearing. You're prepping your client; then it's almost out of your hands."

Harder still was stepping back into the holding cell to wait while the parole commissioners made their decision. It took 30 to 45 minutes, Donaldson said, "but it seems like forever."

"The judge said, 'Usually these cases are hard, but this one is easy,'" Rummel said. "The hearing was so good, everything fell into place. The DA cross-examined him for a long time, and he did great. That was her preparation."

The moment the board decided to grant Curtis parole eligibility felt unbelievable, Donaldson said. "Being with a client who had a

sentence since they were 17, and now he's a 40-year-old man, going from no hope to a moment where you could be getting out in the near future — it's pretty surreal."

Donaldson said Curtis was so nervous, he told her that when the parole board announced their decision, he couldn't be sure if he'd heard it correctly. "I think he was in shock for part of it," she said. "He was definitely in shock, but extremely happy."

"The day he was resentenced was one of the highlights of my legal career," Rummel said. "Laura has been the one who has been primarily responsible for connecting with him in a way he could share his pain and growth and invest in the process of trying to get resentenced. And her lawyering abilities — she's just an excellent writer, researcher. She's got great judgment. She's the full package and so committed to the case and the work."