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Law Gives Battered Inmates in California New Hope

By Sandy Kobrin, WeNews correspondent

LOS ANGELES (WOMENSENEWS) – Lorrie Sue McClary knows very little beyond prison life, having been being convicted of first degree felony murder at 16.

Some 30 years later, McClary is now able to entertain the possibility of experiencing life on the outside.

Last Friday, California Governor Arnold Schwarzenegger signed legislation in the state assembly that gives real hope of release to battered women (and men) who can prove their abusers coerced them into committing violent crimes. The law will also allow new legal opportunities for women involved in an attempted murder or a felony with their abusive partner and convicted before August 29, 1996, if they can show proof of battery or domestic violence that would have affected the outcome of their trial.

It will allow legal teams to do whole new investigations to ascertain what difference the testimony of an expert on battering would have made in the outcome of the trial.

The new law is an important addition to the California Penal Code that allows incarcerated battered women who were convicted of killing their abusers prior to 1992 to submit a petition for new trial or reduced sentence if expert testimony on “battering and its effects” was not presented in their criminal case and they were prejudiced by its absence.

“We are thrilled about this and we’re starting the screening and outreach program almost immediately,” said Olivia Wang, a lawyer for Legal Services for Prisoners with Children, a division of Free Battered Women in San Francisco. “There must be at least a couple of hundred women who will benefit under this bill, but we will know exact numbers as soon as we start screening. We are going to go about it carefully and deliberately as it will take at least six months before we even start the processes.”

Wang noted that McClary is only one of the many women imprisoned before 1992, the year that California state law began permitting testimony on battered women’s syndrome to be brought in as part of a defense. Ten year later, the state updated the law, and permitted the testimony to be included in cases brought before 1992 yet limited the right to the defense to battered women who killed their abusers. Women such as McClary, who

says she was with her abuser when he committed the crime, had no legal right to bring in testimony about their experiences. Until now.

Seven Years to Life

In September 1975, 16-year-old McClary and her then-boyfriend, 23-year-old Fred Eugene Wilson III, were arrested in the rural area east of Los Angeles and charged with the murder of 79-year-old Anna Mills.

Wilson, who admitted shooting Mills, went to the police; plea bargained and was convicted of second degree murder. He received a sentence of six months to life. McClary, at age 16, was deemed emancipated, tried as an adult and convicted of first degree murder. She received a sentence of seven years to life. Wilson was paroled in 1980. McClary remains in the state prison in Chowchilla, Calif.

“Lorrie is one that will most certainly benefit from this law since they extended the scope,” Dot McClary, her mother and a strong advocate for her release, told Women’s eNews. She added her daughter was approved for parole by the Board of Prison terms in 1998, but denied release by the then-governor, Pete Wilson.

After parole was denied, Dot McClary was contacted by Lattice Marie Morgan, the intake counselor at juvenile hall where Lorri McClary was first brought in. Morgan offered detailed information about the violence in McClary’s relationship with Wilson, a former Marine.

Dot McClary and her daughter’s legal team now believe Morgan’s testimony would have made a difference in the outcome had it been allowed at the trial. Expert testimony on battering could have influenced the outcome as well.

“This is the kind of case that this law can help,” Wang added. “There are a number of women like Lorrie whose battering affected what happened and no expert was allowed to testify at trial. Lorrie has been a model prisoner, too. She’s never has any disciplinary action and at her parole hearing the warden wrote letters for her. Don Mills, the 83-year-old son of the woman who was killed, spoke in her behalf.”

Pleading Guilty for a Softer Sentence

Before the “battered women’s syndrome” came into effect as a defense, many women were told to plead guilty to crimes committed with an abuser so that they might get a softer sentence. Many experts believe that these admissions landed women in prison for doing what their abusers insisted they do.

“The argument could be made that evidence of battering could have something to do with the crime and that an expert would have testified to the abuse, limited options, what were the circumstances and being forced into a no-choice situation,” Wang explained.

Once the prisoners are able to have their cases reopened, they can seek a new trial, a lesser sentence, a release based on their sentences being reduced to the time they have already served or even an order setting aside their convictions.

Intimate Partner Battering

The law also applies to men. Sponsored by state senate President Pro Tem John Burton, a Democrat from San Francisco, it replaces “battered women syndrome” in the state’s penal code with “intimate partner battering and its effects.”

Women’s groups are lauding the passage of the bill.

“Women’s rights have a major victory with the signing,” said Helen Grieco, executive director of the California National Organization for Women. “It is unconscionable that women who have been victims of domestic violence were victimized by the judicial system as well. Our hope is that women who have been imprisoned get a second chance.”

Sandy Kobrin is a Los Angeles based writer who specializes in writing about women’s issues and criminal justice.

For more information:

Legal Services for Prisoners with Children: <http://prisonerswithchildren.org/>

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