

What's Going On...

First Wave of Inmates Could Be Released This Week After New Crack Guidelines Go Into Effect

By KAREN MATTHEWS
Associated Press Writer

NEW YORK (AP) _ Marsha Cunningham was no drug dealer. But when authorities busted her boyfriend in the 1990s for selling crack and powdered cocaine, they also arrested her on a crack possession charge.

Her sentence: Fifteen years behind bars, only two less than her boyfriend got.

But Cunningham is now one of nearly 20,000 inmates convicted of crack offenses who may see their prison terms reduced under new federal guidelines intended to bring retroactive fairness to drug sentencing.

"Marsha is a really good person," said her aunt, Ruby Jones of Houston. "She got caught up in this behind her boyfriend."

The sentencing guidelines went into effect Monday _ the result of a December decision by the U.S. Sentencing Commission to ease the way the system came down far harder on crack-related crimes than on those involving powdered cocaine.

Previously, a person with one gram of crack would receive the same sentence as someone with 100 grams of the powdered form of cocaine. The disparity has been decried as racially discriminatory, since four of every five crack defendants in the U.S. are black, while most powdered-cocaine convictions involve whites.

"The sentences for crack cocaine have been one of the most corrosive and unjust areas of criminal law," said Michael Nachmanoff, head of the federal public defender's office for the Eastern District of Virginia. "It's really undermined respect for the criminal justice system, not only in the African-American community but throughout the country."

Nachmanoff said four clients of his office were being released under the new guidelines Monday.

About 1,600 inmates are eligible for immediate release this week, but there is no way to know exactly how many will ultimately be freed, since each prisoner has to ask for a reduction and go before a judge. The remainder of the 19,500 crack defendants will become eligible for release over the next 30 years.

"As we do with all sentencing guidelines, the department will apply the new rule as written," Justice Department spokesman Peter Carr said Monday. "We will be urging the courts not to go beyond the limited reduction that the Sentencing Commission has asked for and not to re-sentence defendants from scratch."

The Justice Department said it is more worried about crack defendants set to come up for release later, saying they include a higher share of violent offenders and potential repeat offenders than the first batch.

Attorney General Michael Mukasey told a police group last week that nearly 80 percent of the crack defendants who could apply for a reduction in their sentences have some kind of criminal past.

"This tells us those who are eligible for early release are very likely to commit another crime," Mukasey told the Fraternal Order of Police. "These offenders are often violent criminals who are likely to repeat their criminal activities."

But Nachmanoff said few of the crack defendants are violent criminals.

"These are people who committed crimes and have been punished, and the sentencing commission is trying to ensure that they are not punished excessively," he said.

Cunningham, 37, was sentenced in 1998 and has a projected release date of July 24, 2011. She filed a request last week for a sentence reduction, but it has not been ruled on yet.

Her aunt said two of Cunningham's grandparents have died since she went to prison, and her father is in a nursing home.

"He's hoping that she gets out soon so that he can see her," said Jones, the aunt. "Put his arms around her."

Jones said that in phone calls to her family, Cunningham is upbeat but anxious about when she will be released.

"She's been in there for so long," Jones said. "For so long."



Supermax prison gets new inmate

By [BILL RANKIN](#)

The Atlanta Journal-Constitution
Published on: 10/22/07

Early one morning this summer at a southeast Georgia prison, guards told Jamil Abdullah Al-Amin to pack up and get ready to leave.

Al-Amin, the former 1960s militant once named H. Rap Brown now serving a life sentence for killing a sheriff's deputy, was soon on a cross-country journey to where he now resides: Supermax, the nation's most secure prison in Florence, Colo.

The federal prison is said to be reserved for the worst of the worst. It also houses Centennial Olympic Park bomber Eric Rudolph; Oklahoma City bombing co-conspirator Terry Nichols; and al-Qaida terrorist Zacarias Moussaoui. All are locked in solitary confinement inside their cells and allowed outside only one hour a day.

Al-Amin's lawyers say the transfer was undeserved. "Neither the state nor the feds are talking to us about the sudden snatching of Mr. Al-Amin into the most draconian conditions of confinement in the United States," Atlanta lawyer Linda Sheffield said.

In August, the Department of Corrections disclosed Al-Amin was being transferred to federal custody from Georgia State Prison in Reidsville, but it did not reveal he was moved more than 1,500 miles away to Supermax. The department said Al-Amin was a "high-profile" inmate and supervision of him in Reidsville was beyond what the prison could provide.

Last week, corrections spokesman Paul Czachowski declined to give the reasons for Al-Amin's transfer. "For security reasons, I can't comment," he said.

A. Stephens Clay, one of Al-Amin's lawyers, said that during a recent phone conversation, Al-Amin was calm, thoughtful and attentive.

"But I don't see that he has done anything to warrant this treatment," said Clay, who represents Al-Amin in a case against the state prison system. "There's nothing in this man's history as a prisoner that indicates he should be more severely punished than other prisoners, but that's what's happening."

In March 2005, Al-Amin filed a handwritten lawsuit alleging that mail from his wife, who is an attorney, was improperly opened by prison officials. A federal judge in Statesboro ruled in Al-Amin's favor on this claim. The state appealed to the 11th U.S. Circuit Court of Appeals in Atlanta, which then appointed Clay to represent Al-Amin.

Separately, Al-Amin is challenging his conviction through a civil lawsuit filed in Tattnall County, home to the state prison in Reidsville. In this case, for the first time, Al-Amin took the witness stand and denied having anything to do with the shooting of Fulton County sheriff's deputies Ricky Kinchen and Aldranon English.

On March 16, 2000, Kinchen and English went to Al-Amin's home in Atlanta's West End to serve him an arrest warrant for missing a court date. According to testimony, Al-Amin opened fire, killing Kinchen and wounding English, who later identified Al-Amin as the shooter.

Al-Amin was arrested in White Hall, Ala., four days after the shooting. Nearby, federal agents found Al-Amin's bullet-riddled Mercedes and two weapons that ballistics tests later tied to the West End shooting.

Fulton prosecutors sought the death penalty against Al-Amin, but a jury sentenced him to life in prison without parole.

During a court hearing in February, Al-Amin testified he did not fire the shots. He said on the day of the shootings he returned from eating with his family at Red Lobster, was late for prayers and headed to his mosque. On the way, he testified, he heard gunshots, ducked down low and then heard more shots.

Al-Amin testified he returned to his Mercedes and drove off, only to realize the car had been hit with bullets when the back window collapsed. This made him wonder if teenagers with whom he had a confrontation earlier in the day had come back looking for him, he said, adding that he got in his car and drove off. "I thought maybe it was some kind of retaliation," he testified.

Instead of driving home, he said, he drove to Alabama, calling his wife on the way to say he was OK. He testified he found out the next day on television that Kinchen and English had been shot and also said he soon learned there were warrants out for his arrest.

Fulton County District Attorney Paul Howard said in a statement that Al-Amin is getting what he deserves.

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