

**Ronald E. Longstaff**  
**Southern District of Iowa**

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*Given the circumstances of Mr. Riley's case, it was difficult for me to impose the required life sentence. To this day it remains the harshest punishment I have imposed as a district court judge. There was no evidence presented in Mr. Riley's case to indicate that he was a violent offender or would be in the future. It gives me no satisfaction that a gentle person such as Mr. Riley will remain in prison the rest of his life.2*

**Appointed by:** President George H.W. Bush, 1991.

**Law School:** University of Iowa, J.D., 1965.

**Prior Legal Experience:** Law clerk, Hon. Roy L. Stephenson, S.D. Iowa, 1965-67; McWilliams, Gross & Kirtley, 197-68; Clerk of the Court and United States Magistrate (part-time), S.D. Iowa, 1968-76; Adjunct Professor, Drake Law School, 1973-76.

**Prior Judicial Experience:** United States Magistrate Judge, 1968-91.

**Background and Reputation in the Legal Community**

Judge Longstaff began his legal career clerking for a federal judge in the Southern District of Iowa. After a brief stint in private practice, he returned to this courthouse as the Clerk of the Court and as a part-time magistrate. He was appointed as a full-time U.S. Magistrate Judge in 1968 and as a federal judge in 1991. Judge Longstaff has been an active participant in bar association activities and committees as well as the author of several law review articles in the Iowa Law Review.

Lawyers consider Judge Longstaff to be "an excellent judge" with a "high level of ability." Although "one of the more demanding judges," lawyers report that "he treats lawyers fairly" and is "very knowledgeable about the law and procedure." Plaintiffs' lawyers surveyed suggest he is conservative but fair. Criminal defense lawyers say that he is "conservative in his approach to criminal law and procedure." With regard to sentencing, there was a range of opinion within the defense bar. Comments ranged from "substantially more conservative than the other judges in the district," to "I put him right in the middle of the guidelines when it comes to sentencing," to "[h]e's actually O.K. when it comes to sentencing."

**Judge Longstaff on Sentencing Policy**

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1

Sentencing Transcript at 54, *U.S. v. James Arionus*, Cr. 93-10 (S.D. Iowa November 4, 1993).

2

February 27, 2002 letter to Roger C. Adams, Pardon Attorney from Judge Ronald E. Longstaff at 1 (copy on file with author).

In a telephone interview prior to *Booker*, Judge Longstaff stated that he has no qualms with long sentences for violent offenders and the kingpins of drug operations, especially when the defendants have a prior record.<sup>3</sup> His complaint is that many of the defendants he sees are lower-rung participants and a significant percentage are only involved because they are addicts, especially in the many methamphetamine cases in his district. While he states he is comfortable with 80-90% of the sentences he imposed under the Guidelines, he struggled with the remaining cases. One example he gave was of a courier who drove a drug-laden car from California to Iowa for a small sum of money. This kind of participant he said, generally has no knowledge of the quantity of narcotics in the vehicle, yet he is sentenced for the entire amount. He was also bothered that higher-level offenders in the same case are sometimes able to cooperate in exchange for a lesser sentence. Although in his courtroom he tries to avoid this type of disparity, he said it cannot always be helped.

Nevertheless, Judge Longstaff stated that he supports sentencing guidelines because they help eliminate some sentencing disparities, and because they protect against the perception by the public that justice depends on which judge a defendant gets. Mandatory minimums, on the other hand, he believes lead to too many unjust results. While he understands that mandatory penalties provide prosecutors with leverage to pressure defendants to cooperate and thus allow them to move up the chain in a conspiracy, he still thinks the “small fries” bear the brunt of these laws. He acknowledged that the safety-valve did a great deal to relieve this problem, but he still gets cases where low-level defendants have minor records that bump them into Criminal History Category II, and hence, out of safety-valve range. He thought there should be a mechanism that allows a judge to reduce the criminal history category back down to Category I to enable the defendant to be eligible for the safety valve when their record overstates the seriousness of their prior criminal conduct.<sup>4</sup>

There were also other areas in which this judge believed sentencing policy needs reform. He stated that he saw no reason for the differential treatment of crack and powder cocaine. In addition, he believed that in appropriate cases where rehabilitation is possible, programs such as intensive home confinement, boot camp and community based corrections such as work release privileges, should be more available. However, he noted these alternative sanctions are not appropriate for crimes of violence.

### **Robert J. Riley**<sup>5</sup>

<b>Charge:</b>	Conspiracy to Distribute LSD.
<b>Sentence:</b>	Life without Parole.
<b>Projected Release Date:</b>	None.

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3

October 29, 2002 telephone interview with author (notes on file with author).

4

As directed by the Feeney Amendment provisions of the PROTECT Act, a 2004 Amendment to the Sentencing Guidelines expressly prohibited this kind of downward departure. *See* U.S.S.G. §4A1.3(b)(30)(B); Appendix C, amendment 651.

5

The government charged him under the name Robert James Arionus, his step-father’s last name, but Robert states that his given name is Robert Riley.

After graduating high school in 1971, Robert Riley joined the Army for three years, but served less, leaving to immerse himself in the subculture of the Grateful Dead. During this fifteen year period, Robert was regularly using, sharing, and sometimes selling drugs. He also sometimes got caught. In this period he pled guilty to four separate state charges involving very small amounts of marijuana, hashish, and amphetamines.<sup>6</sup> Each conviction resulted from activities outside Grateful Dead shows. He spent short periods in county jails in California and Wisconsin for two of these convictions.



In 1993, Robert was charged in federal court in Iowa with Conspiracy to Distribute LSD and two counts of using the mails to facilitate a drug transaction. The case involved allegations that Robert had mailed or otherwise delivered LSD and mushrooms to other Deadheads from 1982 to 1992, and that some of the LSD ended up in Iowa. Robert claims that one of his co-defendants, Evan Rotman, escaped a life sentence by cooperating with the government against him.<sup>7</sup> The government also had the testimony of the recipient of the mailings who stated that Robert was the source. At trial, however, Robert was acquitted of the two mail counts but convicted of conspiracy.

However, because the government filed statutory enhancement papers based upon two of his prior drug felony convictions, Riley was subject to a mandatory life sentence on the conspiracy count once the court found more than 10 grams of a “mixture or substance” containing LSD was involved. Under the Supreme Court’s interpretation of the drug statute,<sup>8</sup> this quantity calculation had to include the “carrier medium,” in this case the paper on which the LSD doses were impregnated (and not just the weight of the actual drug). Without the statutory enhancements based upon his priors, Robert reports that his Guidelines range in this case was 27-34 months.

At the sentencing hearing, Robert’s attorney tried to exclude the drug quantities testified to by the cooperating witness and the quantities from the mail counts on which he was acquitted.<sup>9</sup> Judge Longstaff noted that he was obligated to apply a preponderance of the evidence standard, even to the drugs that underlay the acquitted counts. He also ruled that the amounts testified to by the cooperating counted as relevant conduct for this case, and therefore, even excluding the acquitted conduct, there were at least 39 grams and perhaps as

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Robert notes that his state drug convictions involved the following quantities by type of drug: marijuana (1 3/4 grams & 5 1/4 grams), hashish (3 grams), and amphetamines (\$25 worth).

7

See November 20, 2003 letter to author, at 2 (commenting about the “fella that gave his life sentence – to me.”)(on file with author).

8

See *Neal v. United States*, 516 U.S. 284 (1996); *Chapman v. United States*, 500 U.S. 453 (1991).

9

At trial, a government witness, Rotman, apparently testified that Robert had provided him with 110.5 grams of psilocybin mushrooms and 34.02 grams of liquid LSD. Sent. Tr. at 6. The government also alleged that the two mailings included blotter paper impregnated with LSD weighing 5.7 grams and 7.2 grams each, and there was evidence that Robert’s fingerprint was on the 7.2 gram mailing. Sent. Tr. at 7, 12.

much as 46 grams of LSD that counted towards whether the mandatory minimum threshold had been crossed.<sup>10</sup>

Having lost the quantity battle, Robert's defense attorney then tried to argue that the prior state convictions were part of the conspiracy on which he was convicted, to distribute and use marijuana and LSD as part of the Grateful Dead touring experience. If that were true, he argued, these convictions should not be counted as distinct criminal acts for enhancement purposes.<sup>11</sup> Judge Longstaff ruled, however, that this argument "would turn everything upside down and certainly pervert the intended effect of the act."<sup>12</sup>

With this ruling, the stage was set for the application of the mandatory life sentence but not before Robert's attorney addressed the question of fairness and proportionality. He first noted that of the many defendants he had represented in federal court, some had committed serious crimes, yet none received a life sentence. In comparison, he noted that Robert's record was relatively minor in comparison and certainly non-violent.

I've had folks that have wielded guns, shot up houses, wounded other people, transported huge quantities of money and drugs across the country, back and forth, and have not received life sentences. . . .

I look at his prior convictions. They aren't robbery convictions. They're possession of a controlled substance, marijuana, back in the mid-70s . . . or possession with intent to distribute. . . . I won't call these without victims, I won't call these harmless matters; but in the whole hierarchy of crime, for a person to be sentenced to life it seems to be grossly, grossly inequitable.

I've had four homicide people I've represented on homicides in Polk County District Court in the last three years and not one of those is serving life. There's something wrong with our system."<sup>13</sup>

Robert told Judge Longstaff first about his state of mind. He said "[M]y will is not shattered. Today I will see the remainder of my life stand in forfeit. It's the honor and love held within a kind spirit that sustains me as I stand awed by the laws of man and not the laws of our God."<sup>14</sup> He then went on to question the war on drugs, particularly the war on drugs such as "l.s.d."<sup>15</sup> He told the court that he believed that LSD and marijuana were not harmful and

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Sent. Tr. at 11-12.

11

He also unsuccessfully argued that Robert did not have counsel for his 1982 conviction in San Diego, California for transportation and selling of marijuana. Sent. Tr. at 15, 30-32.

12

Sent. Tr. at 40.

13

Sent. Tr. at 43-44. Judge Longstaff responded by saying, "You're not telling me anything I don't know, and you're not telling me anything I don't agree with." Sent. Tr. at 44.

14

Sent. Tr. at 45.

15

Robert prefers the lower case representation, "l.s.d." He notes that capitalization is undeserving and only serves to "ossif[y ] its position as a social evil along with insanity, witch-hood,

he distinguished these drugs from cocaine, heroin, and methamphetamine which he felt were potentially more dangerous. But more generally, he told Judge Longstaff

This nation's drug war is unwinnable because it concerns the inalienable right of the freedom to choose. As a body, you cannot legislate victimless, nonaggressive behavior concerning the freedom to choose by engaging mandatory sentences that reflect acts of governmentally sanctioned, personalized terrorism. . . . Hopefully after my death, someone will want to read this. I stand before this Court today with no choice but to promise to allow the Federal Government of the United States to spend freely, and unendingly, the money of the taxpayers, in my case, \$20,808.00, that they will spend each year to protect and isolate the American people from me. . . . I will continue to work to end the strangulation of a free society, and urge our leaders to change the laws that engulf our courts with drug cases that waste the taxpayer's money, that would be better spent ensuring jobs, and hope, and the ability of people to protect and provide food and clothing. . . .<sup>16</sup>

Judge Longstaff responded to Robert in two ways. On one hand, he said "it disturbs me that you're obviously still a strong advocate of the LSD culture, and you will be, I predict, until the day you depart us. And I fear that if you do get out some day, I'm afraid you're still going to be an advocate of that culture; and I think it may lead to further problems unless somehow you reach back and step back from your full support of that culture."<sup>17</sup> On the other hand, the Judge stated that

The mandatory life sentence as applied to you is not just, it's an unfair sentence and I find it very distasteful to have to impose it. . . . I agree with one thing you said. . . .

about the laws of Congress [] keeping me from being a judge right now in your case, because they're not letting me impose what I think would be a fair sentence. . . .<sup>18</sup>

The Judge told Robert, that if he could revisit the sentence some time in the future, "I promise you that I will try to achieve a more equitable sentence in your case, substantially less than the rest of your life. You may think it's still going to be too long, but you give me the opportunity and I will not let you down."<sup>19</sup> Robert was unsuccessful on appeal and he

Heresy. . . So there is a need to be . . . gentle." *See* November 20, 2003 letter to author at 1 (on file with author).

16

Sent. Tr. at 44-45, 46-47. Robert also said a few words in support of his co-defendants who also were sentenced to prison terms much shorter than life, and he took "some part of the blame for [their] fall." Sent. Tr. at 48-49.

17

Sent. Tr. at 54.

18

Sent. Tr. at 54-55. Judge Longstaff also stated that he had "been a federal judge now for about two years and I've seen a lot of defendants in Mr. Riley's chair, and I haven't said this about any of them, but I'm going to say it about Mr. Riley and I'm going to mean it: I like Mr. Riley. You know, he may be a character, but maybe I like characters; and I do like him, and that's what makes this sentence rather distasteful to the Court. . . . I don't like what he has done, but I like him as an individual." Sent. Tr. at 41.

19

Sent. Tr. at 54-55. Judge Longstaff also tried to help with Robert's prison placement, stating that "[E]ven though this is a life sentence, I want it made clear to the Bureau of Prisons that it was a

did not offer substantial assistance to the government. He did file a petition for commutation and Judge Longstaff wrote a letter on his behalf that said

Given the circumstances of Mr. Riley's case, it was difficult for me to impose the required life sentence. To this day it remains the harshest punishment I have imposed as a district court judge. There was no evidence presented in Mr. Riley's case to indicate that he was a violent offender or would be in the future. It gives me no satisfaction that a gentle person such as Mr. Riley will remain in prison the rest of his life.

I am uncertain as to what information you consider when reviewing applications for commutation of sentence. I would support such a commutation, however, and would be pleased to discuss these circumstances further. . . .20

Riley's correspondence reflects that he remains a complex and thoughtful person. Although he continues to fight for his freedom and is an active correspondent, he refers to himself in letters as a "dead man" because of his life sentence. He also is still convinced, as the judge predicted, that the benefits of LSD outweigh its harms. Nevertheless, despite his disagreement with the judge on this point, his respect for Judge Longstaff remains unwavering. He wrote recently

It must be noted . . . that all during the proceedings I had the greatest respect for the Judge – its strange of course to have these sentiments seeing from the outset of the consequences upcoming, which were laid out for me by my lawyer at our 1<sup>st</sup> meeting . . . "you're going to get a life sentence Mr. Riley . . . ."21

*Compiled from Sentencing Transcript, inmate letters, and correspondence and telephone interview with Judge Longstaff.*

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very – it's one the Judge was very dissatisfied in imposing. And Mr. Riley is not a threat in terms of violence". Sent. Tr. At 55.

20

February 27, 2002 letter to Roger C. Adams, Pardon Attorney from Judge Ronald E. Longstaff a 1 (copy on file with author).

21

November 23, 2003 notes to author on previous draft of profile at 4 (on file with author).