

Changing Lives through Pro Bono Pardon Advocacy

By SUE GARTEN

Greater Hartford Legal Aid (GHLA) hosted a one-day pardon clinic at its Asylum Avenue office on Saturday, October 19, 2019. The clinic gave 56 Hartford-area residents who had changed their lives a chance to erase their criminal records and get a fresh start. Attorney Ling Ly, part of The Travelers volunteer team, said, “We were inspired by the applicants’ stories of overcoming hardships and dedicating themselves to living better lives.”

At the GHLA clinic, 80 lawyers, law students, and staff from The Hartford, The Travelers Companies, Shipman & Goodwin, Robinson+Cole, and the University of Connecticut School of Law joined GHLA to work with the pardon applicants. GHLA’s community partners—the Urban League of Greater Hartford, the Center for Latino Progress, Community Partners in Action, and Capitol Workforce Partners—had recruited and pre-screened applicants to determine whether they might be successful pardon candidates.

GHLA organized the clinic to address a major problem: about one million adults in Connecticut have a criminal record. Having a criminal record creates a significant barrier to finding a good job and a decent home because employers and landlords routinely do background checks.

“It’s been very hard that the bad choices I made when I was young are used to deny me opportunities even though I have become a much better person. I was so happy that lawyers at the clinic listened to me, treated me with respect, and helped



me tell my story on the pardon application,” explained clinic participant Tasha J.

Connecticut is fortunate to have a system for expunging state criminal records that is professionally managed and politically independent. The state Board of Pardons and Paroles has the authority to erase an individual’s criminal record for convictions in Connecticut state courts, enabling the person to move forward in life without being forever judged by a criminal history. The Board has granted full pardons to about 70 percent of eligible applicants in recent years.

The only legal requirements for getting a full pardon are that three years must have passed since the applicant’s last misdemeanor conviction and five years must have passed since the last felony conviction. The Board considers a number of factors when evaluating a pardon petition, including:

- How many offenses the applicant committed and how much time has passed since the last offense

- How serious the offenses were
- How long the applicant has been clean and sober if drugs or alcohol played a role in the criminal conduct; Whether the applicant accepts responsibility for his or her actions
- What contributions the applicant has made to family and the community since committing the crimes

Representing a pardons applicant is an excellent opportunity for a pro bono attorney to do life-changing work with a limited investment of time. No prior experience doing criminal defense work is necessary. The pro bono attorney can learn the essentials of the pardon process within two hours, can interview the client and prepare the application in one meeting (though the client and attorney

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Supreme Deliberations

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the appropriate supervision ratio for an elementary school playground based on the unique circumstances of that setting is not a simple issue with which every adult would be automatically familiar.”

Certainly, reasonable minds can differ regarding whether the supervision of large numbers of children is a task within the “common knowledge of a layperson.” But perhaps the most intriguing thing about *Osborn* to us appellate nerds was the starkly different ways that the majority and the dissent viewed the record; in particular, the testimony regarding the existence of a policy concerning the appropriate supervisor to student ratio. The principal testified that the board had a policy of “1 staff to 125 students” and that the policy was included “in the handbook for policies and procedures.” It was this testimony upon which the dissent based its argument that the plaintiffs needed an expert to establish that the defendants had violated the applicable standard of care *notwithstanding their compliance with the written policy*.

But as the majority pointed out, the dissent’s use of the principal’s testimony seems contrary to how reviewing courts

typically view the evidentiary record. The trial court, after all, did not make a finding regarding the existence of a policy or what the policy entailed, and the written policy itself was not admitted into evidence at trial. Thus, how do we know that the trial court found the principal’s testimony credible? And doesn’t the principle that an appellate court should read the record in the light most favorable to sustaining the judgment require the reviewing court to assume that the trial court did *not* find the testimony regarding the policy credible?

Perhaps the takeaway is that trial court judges in civil cases would be well advised to include a footnote in their written opinions that states something like the following: “any...evidence on the record not specifically mentioned in this decision that would support a contrary conclusion, whether said evidence was contested or uncontested by the parties, was considered and rejected by the court.” *State v. Diaz*, No. CR-17-0176287, 2018 WL 4955690, at *1 n.1 (Sep. 24, 2018) (*Vitale, J.*). Some judges in criminal cases have been dropping such a footnote over the past few years and, to our knowledge, none of the decisions containing the footnote has been subject to the scrutiny employed by the dissenters in *Osborn*. ■

Pro Bono

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will need to gather supplemental documentation, such as police incident reports and probation letters), and may appear at just one brief hearing before the Board of Pardons and Paroles. The legal services programs can mentor pro bono attorneys who are interested in this work, which can be done with an individual referral outside of a clinic context.

The assistance and support of a compassionate attorney goes a long way to helping men and women with criminal records complete the pardon application process. The pardon process requires all applicants to revisit their criminal past. They must write a personal essay about why they want a pardon and how they

have changed since their criminal activity. For many, writing the essay is an intensely painful and emotional experience, as they relive the years of addiction, victimization, mental illness, and troubled relationships. And in order to get the required references they must disclose their full criminal history to people who now know them as trustworthy co-workers, fellow congregants, or neighbors. Many people simply do not complete the application process because of the emotional pain involved.

Everyone who is granted a pardon will tell you that it is liberating to be unburdened by their criminal record, able to work and live without fear of being judged and obstructed for mistakes in their past. General Counsel David Robinson of The Hartford stated: “The Hartford was thrilled to

Remote Deposition

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ing available support staff for potential troubleshooting; and exhibit chain of custody, which should be the same as at a traditional deposition.

A growing number of attorneys have started to use remote deposition technology to enhance their practice and save time and money. If you have been considering it and the above benefits align with your practice’s needs, then remote deposition technology may be right for you. ■

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support GHLA’s first Pardon Clinic and help members of our greater Hartford community, who have paid their debt to society, move forward to lead productive lives without the often debilitating limitations of a criminal record.”

GHLA will follow up the success of our first pardon clinic with a second in the fall of 2020. We welcome inquiries from attorneys who would like to participate in our next clinic, plan a clinic, or begin a pardon project in their region. Let’s use our legal skills to secure pardons for more men and women who have profoundly changed their lives.

E-mail sgarten@ghla.org if you are interested in learning more about how you can help individuals get a pardon. ■