

**Cellblocks to Mountaintops**  
**Video Episode 02: Legal Quagmire**  
**Transcript**

**Ryan O'Connor**  
**Sterling's Lawyer**

I've been a lawyer almost 15 years. I've been representing Sterling for more than half my career. Oregon law on juvenile sentencing is really complicated and convoluted. When Sterling committed the crimes in 1994, the legislature and the parole board, they just basically forgot that there was this category of juvenile offenders who are going to be convicted of aggravated murder, who were going to need some way to be released eventually? It was just an oversight.

And during that time, when there was this gap in the law, there were five kids who were convicted of aggravated murder in Oregon. And those five kids came to be known as the Oregon Five. Three of the Oregon Five are still in prison, and so it's over 25 years of litigation to try to get this release mechanism.

**Aliza Kaplan**  
**Professor, Lewis & Clark Law School**  
**Director, Criminal Justice Reform Clinic**

Someone like Sterling, if he was convicted today, for example, he would have an opportunity after 15 years to prove rehabilitation.

**Ryan O'Connor:** When they were sentenced. It was the height of the superpredator scare, which is this disavowed theory that there were kids who committed serious crimes who would terrorize the population because there was something broken with them in a lot of the language around the super predator theory was racially biased.

**Aliza Kaplan:** What wasn't as known or widespread or studied is during teenage years through parts of the 20s. The brain isn't developed enough to make the same kinds of decisions as an adult brain is. A lot of this brain science research has been a big part of a number of Supreme Court decisions that say that we have to treat youth differently. Oregon passed new juvenile justice laws. That said, it's going to be a lot harder for a teenager to be convicted in, adult court. And even if they are, there's going to be opportunities for them to have hearings to prove rehabilitation. But because sterling was convicted prior and the laws aren't retroactive, we're still holding youth against them.

**Ryan O'Connor:** There are two cases of Sterling's that are still pending. One is a challenge to the criminal judgment and sentence that's on hold in the Oregon Supreme Court. It's on hold because the two other members of the Oregon Five who are still in prison, their cases are pending in the United States Supreme Court. The other case is we asked the federal court to intervene or to tell the state your system's unconstitutional and to make the Oregon state courts give Sterling a release hearing where if he proves he's rehabilitated, he can get released. I don't know which one's more likely to win. And there are lots of ways that Sterling could lose everything. Everything would have to break right for us to win.