

## Life sentence reform for juveniles may pass by St. Louis robber serving 241 years



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**ST. LOUIS** • Bobby Bostic won't get much sympathy, given the nature of his crime.

A St. Louis judge certainly wasn't feeling any when she sentenced him to 241 years in prison for a set of armed robberies in 1995.

It was just before Christmas when [Bostic and another young man held up a group delivering gifts to the needy in north St. Louis.](#)

Nobody was significantly injured, although two victims easily could have been killed by shots that were slowed by their heavy winter coats before the bullets broke skin.

Bostic, 16, and his accomplice, Donald Hutson, 18, later kidnapped a woman, put a gun to her head, fondled her, stole from her, then dumped her back on the street.

A jury convicted Bostic of 17 counts ranging from robbery to armed criminal action. Circuit Judge Evelyn Baker stacked jurors' sentencing recommendations one atop another.

"You made your choice. You're gonna have to live with your choice, and you're gonna die with your choice because, Bobby Bostic, you will die in the Department of Corrections," Baker told him.

Across the nation, many juvenile offenders who committed even murder are now getting a second shot at sentencing, thanks to the U.S. Supreme Court decision in *Miller v. Alabama*. It made unconstitutional automatic punishments of life without parole for youths.

Before that, the nation's top court ruled in *Graham v. Florida* that juveniles who commit non-homicides must have "a meaningful opportunity for release" and cannot be sentenced to die in prison at all.

Yet, under the current circumstances, Bostic most certainly will. He first becomes eligible for parole in 2089, at age 110.

Bostic is serving what some say is a de facto life sentence — separated from the lifers only by a legal distinction.

The U.S. Supreme Court has not addressed cases such as his, although some state courts have.

Missouri, which still calls for a minimum of life imprisonment in all first-degree murder convictions, regardless of age, is far behind. The courts and legislature are still grappling with how to manage just the basics of the *Miller* ruling.

The sheer length of Bostic's sentence has drawn attention, though.

Connie De la Vega, a law professor at the University of San Francisco, said it was "the worst" she's seen. Bostic wrote to her while she was supervising a juvenile sentencing project. Struck by his case, she submitted a brief seeking to intervene as an outsider in one of his appeals.

"People with more egregious offenses are getting (rehearings) and he's not" because his penalty isn't called life, she remarked in a recent interview. "It's really quite incredible."

Even one of Bostic's victims, who asked not to be named here out of continuing fear of him, said she was shocked to learn of his 241-year term.

"People who have committed heinous crimes — murder and rape — are getting a lot less of a sentence," she said. "What he did could have been worse, but at the end of the day, you are tried for the crime you committed."

### **SENDING A MESSAGE**

Bostic, barely old enough to drive at the time of his crimes, was certified for trial as an adult. At sentencing, Judge Baker said she intended to send a message to all young people wreaking havoc on the city.

He is serving the longest sentence of any juvenile offender in the state, not counting the 81 murderers who could get reconsideration under the *Miller* ruling.

Joining Bostic in what is in effect a lifelong sentence are youth offenders such as Orlando Fields, also of St. Louis, who was given 227 years for a crime rampage in 2003 that included a murder and multiple carjackings and shootings.

Only two other juvenile offenders in the state are serving more than 100 years. They also are killers.

Bostic is serving a vastly greater sentence than Hutson, his accomplice, who received 30 years and will be eligible for parole six years from now.

Both men were accused of firing guns that night. The only difference: Bostic went to trial and Hutson pleaded guilty.

While state law calls for a mandatory parole review after 75 years in prison, that doesn't apply to Bostic. His two separate crimes, while tried together, were considered separate for parole purposes.

### **CALLOUS ROBBERIES**

In 1997, when Bostic was sentenced, juvenile crime — particularly with violence — had reached alarming levels across the nation.

Just a week earlier, then-President Bill Clinton announced a wide-ranging proposal to crack down on young offenders. Congress was moving toward stringent reforms.

“I remember this horrible shift where so many kids were getting certified (as adults) left and right and judges were really being harsh on those kids if they had jury trials,” said Trisha Harrison, an assistant law professor at St. Louis University who has represented Bostic on appeal.

She said many juveniles still chose trials, because prosecutors were not offering attractive plea deals.

The atmosphere, in and out of court, Harrison said, was “to really be fearful of juveniles and to take a stand and send a message.”

The robberies that sent Bostic and Hutson to prison were particularly callous.

Chris Pezzimenti, 26, handed over \$500 before Bostic fired a bullet into his side, authorities said.

It was the same with Leo J. Matthew, 21, who was shot by Hutson after surrendering his wallet.

It was pure luck that the bulk of their winter coats protected them from more than the cold. Both walked away with barely a nick.

An hour later, the duo put guns to the head of a woman, 28, also delivering gifts, about a block away. Bostic drove her car while Hutson kept his gun on her. At one point, according to court records, Hutson reached into the woman's pants, purportedly searching for money. Finally, at Bostic's urging, they released her.

Defense attorney David Bruns, who represented Hutson, recalled, "It was rather notorious at the time because these people were just out delivering Christmas gifts to underprivileged people when they were assaulted and robbed." he added, "I think, as defendants, these two were very much hated."

### **A DEAL DECLINED**

The late Richard Moran, Bostic's attorney at the time, was known for getting good deals from prosecutors.

The offer to Bostic: He could plead guilty and serve a so-called "baby life" sentence, which amounts to 30 years.

Bostic refused, thinking he couldn't get worse at trial.

When Baker sentenced Bostic, she remarked on his missed opportunity to accept guilt.

She noted his history of arrests: assault, for which he was on probation, and an array of juvenile offenses that had not been prosecuted. She reminded him that had the bullet strayed right or left, he might have been facing a death sentence, then still possible for juveniles.

Baker scolded him: "You don't listen to anyone. You write me these letters. It's the victims' fault. It's the police's fault. It's your mother's fault."

She sternly corrected Bostic: "It is your fault. You put yourself in the position to be standing in front of me facing 241 years in the Department of Corrections. You did it to yourself."

Bostic pleaded with her, saying he had learned his lesson. His attorney urged that the jurors' mix of 15- to 30-year sentences be calculated to run concurrently, to make the defendant eligible for parole in his mid-40s.

The prosecutor, Jeffrey Hilliard, now deceased, asked for the absolute maximum.

The judge, known for her forgiving sentences on many crimes, wasn't feeling forgiveness this time.

"I feel nothing for you. I feel the same thing for you that you apparently felt for those victims and you feel for your family," she said. "Everything is about Bobby. Bobby, Bobby, Bobby."

Baker is now retired. Repeated attempts failed to reach her for comment.

Today, Bostic's accomplice, Hutson, has trouble making sense of his friend's sentence. Hutson took the same plea deal that Bostic turned down.

In an interview, Hutson admitted being the aggressor and instigator that night. He said he felt guilty because, "I put him in that predicament in the first place."

Hutson said that if either of them should be serving a greater sentence, it should be himself.

“She went beyond making an example of him,” he said of the judge. “She took his life away.”

### **ROBBER’S REMORSE**

Bostic now doesn’t blame anyone but himself.

**VIDEO: [Bostic talks about his sentence.](#)**

He agreed to an interview recently from the Crossroads Correctional Center, in Cameron, Mo., where almost 20 years into his sentence he has spent more time inside the bars than outside.

“You can’t blame anyone else. You have to face it,” he said. “You can change all you want, but you still did what you did.”

He acknowledged the good fortune that nobody was killed. Bostic said he thinks about it a lot.

“Those people didn’t deserve to be robbed like that,” he said. “... I regret that more than anything.”

Bostic grew up in north St. Louis, one of four children whose paths split. His older brother and sister were the good ones; not so for him and his younger brother, now deceased.

Bostic first used marijuana at age 10 and PCP a couple years later, according to court records. He started with alcohol at 12.

He had dropped out of school the year before the robbery, after a juvenile drug arrest. About the same time, his younger brother was shot and paralyzed in an apparent gang turf war.

Bostic’s family lived off welfare and food stamps.

“My mother, she tried, but at my age, I wouldn’t listen,” he said.

Childhood was a natural progression from small-time thefts to joyrides in stolen cars. The money went toward drugs. A gun was a necessity, for protection.

He and Hutson were not looking to rob anyone on the night in question, Bostic said. But then there was a car, loaded with gifts. And the victims were easy targets.

He said he shot Pezzimenti reflexively, partly out of fear. But he emphasized that was no excuse.

And he acknowledged that if he hadn’t caught, there would have been other crimes.

“Getting locked up, it didn’t save me but it taught me a lesson that I needed to be taught,” he said.

Still, he wishes he had taken the plea deal.

### **KILLER GETS REVIEW**

Ledale Nathan grew up in the same crime-ridden part of the city as Bostic. He also was a juvenile when he made a life-altering decision to join an accomplice in robbing a home in 2009. They killed a mother of two and grievously wounded two others.

After a high-profile trial, Nathan was convicted of first-degree murder and sentenced to automatic life without parole for the crime.

Last month, Nathan was in front of a St. Louis jury for a redo.

He was the first in the state to get a resentencing hearing after the Miller ruling. New jurors heard about his childhood abuse, homelessness and relatives' drug habits. They were asked to consider the influence of his older accomplice. A neuropsychologist testified of his diminished mental state.

At the end of it all, the jury was deadlocked. So a judge reduced the conviction to second-degree murder, and Nathan ended up with a series of 30-year terms. He may get out in 75 years.

So far, there have been only two other resentencings in Missouri under Miller, both prompted by unique procedural issues. Anthony Williams, of St. Louis, is free after 20 years in prison on time served for second-degree murder. Javon Adair, of St. Louis County, saw his first-degree murder sentence reduced to a 25-year sentence on second-degree murder.

Nathan's case received quick consideration because his initial appeal options had not yet been exhausted when the Miller decision came down.

But there are still dozens of others awaiting a decision from the courts and legislature on whether the Miller ruling should apply to old cases too.

It's a legal debate that is playing out across the country, and one of two challenges Bostic faces in his quest to have his sentence reconsidered. He also needs to convince a court that his 241 years are in effect no different from life in prison.

Bostic tried to make this argument in 2011, under the Graham decision, but the Missouri Supreme Court denied the petition without a hearing. Harrison said, "It was very frustrating and very shocking."

State courts have been divided on whether the Graham and Miller decisions apply to cases such as Bostic's. The U.S. Supreme Court has not provided any clarification.

### **'CHANGED PERSON'**

Joe Brozovich is a retired engineer from Springfield who got to know Bostic through a chess club. Bostic says Brozovich, whom he described as a law-and-order type, is an unexpected ally.

Brozovich said he didn't see a distinction between Bostic's plight and that of the juvenile lifers: "The Supreme Court decided it was cruel and unusual punishment. Well, so is this."

"He deserves to be punished for what he did, and he has been," Brozovich said. "For 19 years he's been in prison. It seems like they should take into account his age when he was convicted and his behavior since he's been in."

Bostic, now 35, has used his time in prison to take several college-level courses and has mentored new prisoners. It helps him to remain hopeful.

He said he liked to think about what he would do if he ever got out. He says he wants to start a nonprofit, led by former lifers, focused on mentoring youth.

He also would like to speak to his victims.

What would he say? "That I'm a changed person and I hope one day they can forgive me."

Bostic refused to speculate on what would be a just sentence for himself. He said he just wanted the same shot as others.

"I deserve to be punished for the crime — I'm guilty of the crime," he said. "But I feel I should be getting a second chance."

The victim who was reached by the Post-Dispatch said she had mixed feelings about Bostic and his 241 years.

"Do I think that number is fair? No," she said, adding that she was "shocked" at the sentence's length. "If other juveniles are being afforded that opportunity based on a Supreme Court decision, he should absolutely be afforded that opportunity."

Still, she can't shake a vivid image she has of Bostic in court, pretending to point a gun at one of the victims during his sentencing.

"He had already been in and out of juvenile system; he was a repeat offender," she said. "The question for me is if he's released and all he knows is crime, and almost all his life he's been incarcerated and lived among criminals, if he gets out, what choices does he really have?"

### **How the Miller decision is playing out across the country**

- Approximately 2,500 people have been sentenced as juveniles to life without parole.
- Five states have abolished life without parole through new laws: Delaware, Hawaii, Texas, West Virginia and Wyoming. Massachusetts did it through the courts.

- Five states have eliminated it in certain categories: California, Florida, North Carolina, Pennsylvania and Washington.
- Six state supreme courts have ruled that Miller v. Alabama should apply retroactively: Iowa, Massachusetts, Mississippi, Texas, Illinois, and Nebraska.
- Seven federal courts have held similarly, although some of those rulings are being appealed.

Source: Campaign for the Fair Sentencing of Youth

[http://www.stltoday.com/news/local/crime-and-courts/life-sentence-reform-for-juveniles-may-pass-by-st-louis/article\\_f2c41a67-e3a0-55d4-a560-6a187d467370.html](http://www.stltoday.com/news/local/crime-and-courts/life-sentence-reform-for-juveniles-may-pass-by-st-louis/article_f2c41a67-e3a0-55d4-a560-6a187d467370.html)