

LAW WEEK

COLORADO

'A Mysterious Black Box'

Two Denver attorneys submitted successful federal clemency bid amid president's push for overhaul of sentencing laws

BY HANNAH GARCIA
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Two Denver attorneys, while behind the scenes, were part of the headline-generating clemency push by the Obama Administration and the most recent round of commutations earlier this month.

Kevin Bell and Lane Womack, respectively an associate and a department attorney with Kilpatrick Townsend's Denver office, found out June 3 their client was one of 42 inmates whose clemency petitions were granted with a presidential commutation specifically aimed at making right harsh sentences that came with the decades-long War on Drugs by the federal government.

Garrie Samuels, originally from Groveport, Ohio, was sentenced to life imprisonment to a federal prison with 10 years' supervised release on April 8, 2003, according to a White House press release. His convictions included charges of conspiracy to possess with intent to distribute a quantity of cocaine base, aiding and abetting distribution of more than 50 grams of cocaine base and aiding and abetting distribution of more than five grams of cocaine base. Arrested in 2002 and in detention ever since, he was tried in a federal court in the Western District of Texas.

Like Samuels, about half of the 42 inmates on the list were sentenced to life for nonviolent drug offenses. Samuels is set to be released Oct. 1, 15 years after his initial incarceration.

Bell and Womack worked on Samuels' clemency petition as part of Kilpatrick Townsend's partnership with Clemency Project 2014, a collaborative groups of lawyers and experts that launched in January 2014 as a response to a call from Deputy Attorney General James Cole to the legal profession to provide



PRESIDENT BARACK OBAMA MEETS WITH FORMER INMATES WHO HAVE RECEIVED COMMUTATIONS AS PART OF HIS CLEMENCY CAMPAIGN, IN WASHINGTON, D.C., MARCH 30.

PHOTO: WHITE HOUSE, PETE SOUZA

Both she and Bell work in the firm's intellectual property practice, not criminal procedure. They also had the benefit of a steering committee, including criminal law experts and law professors, to shepherd them through the drafting process.

"The work they do is impressive," Womack said. "They did all the prescreening work to determine viable candidates for clemency, and it trickled down to us."

The pair was told about Samuels' successful petition the same day the news was announced as White House attorneys made rounds of calls so the representatives could tell their clients about the news, and Bell and Womack were able

to stay as neutral in crafting the petition as possible. "When we spoke, he was a very nice articulate man. He was incredibly appreciative."

The attorneys submitted the petition in April and said they were surprised by the quick turnaround. Along with a focus on the fact Samuels had already served five years longer than current sentencing guidelines dictate had he been sentenced today, Bell and Samuels focused on the federal inmate's lack of violence — both in his convicted offenses and during his time in prison — and a comprehensive reentry plan.

The petition also outlined his rehabilitative efforts, largely a self-initiated regime of drug classes and other education, according to the attorneys.

"There is a piece of the process that is luck, which is not how we want our criminal justice system to work," Womack said when asked for her thoughts on the fairness of the process. "Filing the petition was like feeding it into a mysterious black box. Even though he was an excellent candidate for clemency, we really didn't know if he would be one of the relative few that were granted."

Bell said there was a bit of personal frustration with ratio of successful petitioners and the large volume of nonviolent drug offenders that will likely never see release. According to the latest numbers from the Federal Bureau of

Prisons, there are 85,124 prisoners with drug offenses, more than 46 percent of all federal inmates.

"When you compare the number of granted petitions and the number of inmates with drug offenses who might be just as worthy, it does look more symbolic rather than substantive," Bell said.

As of June 3, President Barack Obama has granted 348 commutations for federal inmates, more than the previous seven presidents combined. The White House said the president plans to continue the commutations until his last term ends in January.

"Despite these important efforts, only legislation can bring about lasting change to the federal system," White House counsel Neil Eggleston wrote in the June 3 announcement. "There remain thousands of men and women in federal prison serving sentences longer than necessary, often due to overly harsh mandatory minimum sentences. That is one reason it is critical that both the House and the Senate continue to cooperate on a bipartisan basis to get a criminal justice reform bill to the President's desk." •

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Lane Womack, Kilpatrick Townsend attorney

pro bono assistance to federal prisoners who would have received shorter sentences under current schemes.

Womack said the organization acts as a sort of clearinghouse and provides comprehensive training for the lawyers working on the petitions.

to speak with Samuels during a brief call from the North Carolina-based federal correctional facility where he is serving his sentence.

"I honestly learned more about him personally after we submitted the petition," Bell said, citing advice from Clemency Project 2014

KILPATRICK TOWNSEND