



**Albany Times Union**  
**OPINION**

## **Commentary: Passing Elder Parole bill would be a step toward justice**

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During this year of unprecedented suffering and loss, it has been made starkly clear that our criminal justice system needs to change. More and more people recognize that humane and restorative justice practices achieve much more positive outcomes than the current punitive system that only compounds harm. In light of a national reckoning about criminal justice, it is past time for Gov. Andrew Cuomo to grant clemency to long-serving elders in New York's prisons who do not pose any threat to community safety and who are at serious risk for contracting COVID-19.

One of those elders is my longtime friend, David Gilbert.

I first met David Gilbert in the early 1990s, when he was incarcerated in Great Meadow prison in Comstock and I was publisher of *Kitchen Table: Women of Color* press in Albany, about an hour and a half away. We were introduced by a mutual friend and we started a correspondence. A couple of years after meeting via letters, I visited David for the first time and have visited him every year since the mid-1990s.

What I remember most about our first meeting was David's gentle and unassuming manner. The thoughtfulness, intellectual curiosity, and humor I had observed in his letters were even more apparent in person.

At that time he was a frequent book reviewer, and he wrote about several books published by my press. His reviews of books about women, race, and history were thoughtful essays that made insightful contributions to the subjects he covered.

As a Black woman and a feminist who has been committed to nonviolence throughout my life, I have experienced the many ways in which David is thoroughly committed to nonviolence and peacemaking, which his exemplary disciplinary record reflects. As an author and activist

centering issues of white supremacy, patriarchy, and heterosexism, I am moved by his lifelong commitment to racial and gender justice.

It is now nearly 30 years since we met, and David, one of the kindest and gentlest souls I know, is still incarcerated in a New York state maximum-security prison. At age 76, after 39 years of incarceration, he poses no threat to the community and quite the opposite would increase the community's measure of kindness, generosity and wisdom.

It is time for New York to move past the paradigm of retribution and endless punishment and take a second look at the harsh sentencing laws passed in the early years of the mass incarceration era and still in effect today. David, who is white, is serving a life sentence for his participation with a Black radical group in the 1981 Brinks robbery, which turned tragically fatal with the deaths of a Brinks armored car guard and two Nyack police officers. Although he was unarmed and did not shoot anyone, under New York's felony murder law he was convicted of murder for his role as a getaway driver and sentenced to 75 years to life, a virtual life without parole sentence.

Three other participants in the Brinks robbery have been released over the years. Marilyn Buck was released for medical reasons a month before she died of cancer. Two others, Judith Alice Clark and Kathy Boudin, were paroled. David's only paths to freedom would be gubernatorial clemency or the passage of the Elder Parole bill, currently before the state Legislature, which would allow long-serving elders to be evaluated for release at a parole hearing. These two measures are urgently needed in David's and other elders' cases, not only to prevent more COVID deaths but also to mitigate the harm, primarily to communities of color, done by an overly long, harsh, and retributive sentencing structure.

I urge the Legislature to pass the Elder Parole bill, and I join hundreds of other supporters, including four Nobel Peace laureates and the renowned author Michelle Alexander, in calling on Cuomo to grant clemency to David Gilbert.

*Barbara Smith served on the Albany Common Council from 2006 to 2013. In 2005 she was nominated for the Nobel Peace Prize.*

*An earlier version of this article had an incorrect affiliation for Marilyn Buck.*

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