



Unbusted

Why Frank Eiras will get out of prison 300 years early

Ever since California voters approved the so-called Three Strikes initiative seven years ago, thousands of nonviolent offenders—most of them drug addicts—have been sentenced to 25 years to life for crimes as pathetic as stealing a slice of pizza.

Former Newport Beach resident Frank Eiras did a lot more than steal pizza, but he never hurt anybody, and he was never even accused of committing a violent crime. But thanks to three Florida burglaries he committed in the late 1980s, Eiras received what must be the longest prison sentence ever handed down to a nonviolent offender in the annals of California justice: 315 years to life for a string of Orange County thefts.

According to his family, Frank Eiras was a bright kid with a burgeoning career as a real-estate agent whose life began to fall apart when he became addicted to cocaine. After a brief stint in a Florida prison during the late 1980s, Eiras settled in Newport Beach, where his drug habit got worse. In June 1996, Eiras broke into a Huntington Beach mobile home and stole some jewelry. He befriended a couple in Aliso Viejo in August and stole their car, ditched it in a parking lot near the San Diego airport, and made off with a laptop computer and several compact discs. Then in November, Eiras broke into the condominium of a Rancho Santa Margarita couple who lived near his estranged wife, stole some checks and went on a week-long bad-check-writing spree.

After he was arrested at the Westin South Coast Plaza Hotel, the Orange County district attorney's office offered Eiras a deal: plead guilty and receive a six-year prison sentence. Eiras opted for a jury trial, which he lost. But long before the trial finally began in 1998, prosecutors had discovered Eiras' Florida record. They argued that each of his three prior offenses there should count under the Three Strikes law. Orange County Superior Court Judge Frank Fassel agreed. On Sept. 11, 1998, he sentenced Eiras to prison for 315 years to life.

Crawford outside his Orange office

Photo by Nick Shou

Even Fassel seemed aware how counterintuitive such a sentence—about five to six times the length of the average human life—seemed, especially given that Eiras hadn't molested, raped or murdered anyone.

"I'm not giving you short shrift on this, Mr. Eiras," Fassel explained. "You're facing one heck of a lot of time here, but it's not the court's idea. That is what the Legislature has deemed to be appropriate. . . . The amount of time may appear to be excessive, but, again, I don't see where this court has any discretion whatsoever."

Eiras appealed his long sentence and got it reduced—by 25 years, to 290 years to life. That's when his stepfather, Jack Burthe, a retired lawyer and physicist who now lives in Palm Springs, hired James Crawford, the Orange-based defense attorney whose last client, George Lopez, saw his armed-robbery conviction reversed by county prosecutors last month after another man confessed to the crime.

Crawford took one look at Eiras' prison sentence and couldn't believe his eyes. "This guy never should have been sentenced under the Three Strikes law," he said. "He has never hurt

anybody in his life. He's never committed a violent crime in his life. He's never used a weapon—a gun or a knife—or ever had any history of violence."

After looking into Eiras' Florida robbery convictions, Crawford was convinced that he could prove they didn't qualify as legitimate "strikes" under California law—and that any responsible defense lawyer could have done the same during Eiras' trial. In Florida, you can be charged with robbery just for breaking into someone's home without actually stealing anything. In California, that's called breaking and entering and doesn't qualify under Three Strikes. Late last year, Crawford filed a writ of habeas corpus, requesting Eiras' sentence be recalculated without the Florida convictions, thereby bringing his sentence down to 10 years and eight months. Perhaps impressed by his well-researched, 51-page legal brief, prosecutors didn't even bother to object, and in December, Fassel signed the paperwork letting Eiras out of prison in October, about 300 years early.

"He's pretty happy now that he's getting out of jail," Crawford said. "He's trying to find a job, an apartment, a way to get his life back together."

Sheryl Eiras, his mother, was unable to comment for this story because of a medical emergency, but Burthe, who helped raise Eiras, said his stepson—like thousands of other nonviolent convicts—never should have been sentenced to life in prison in the first place.

"Violent criminals should stay in the joint," Burthe said. "But the law makes no sense unless you can discriminate between violent criminals and guys like Frank who are basically dope addicts. Thirty years ago, we had six prisons in this state, and they were all half-full. Now we have more than two dozen prisons, and they are filled to capacity. If you steal 10 avocados from a field, you can go to prison for 300 years. The whole thing would make Kafka happy."

By: Rock Schou