

Testimony Dondrae “Choo” Fair

SB 388

February 11, 2019

Chair Prozanski, Vice-Chair Thatcher, Senators, thank you for the opportunity to be here this morning.

My name is Dondrae Fair. Everyone calls me Choo. I live in Portland. I am here today speaking in support of SB 388.

In 1992, when I was 19 years old, I was convicted of Robbery in the First Degree, a Class A felony, for stealing a car by gunpoint.

At that time in my life, my day-to-day existence was focused on money and survival. I’d been on my own since the age of 12, when the crack epidemic hit my neighborhood hard and left me to fend for myself without the care of our mother. I’d found support, stability, and belonging in gang life as a leader of a gang called Loked Out Piru. In the beginning we were all 13 and 14-year-old kids, and we didn’t get into anything worse than stealing food and drinking beer. As we got older, we pushed into more serious crimes. Gang culture got violent, and I started attending more and more funerals.

After serving prison time for the robbery, I continued to go in and out of jail on less serious charges, all tied to my gang life. After I met my wife Terresa and we had our first child, the pull to leave the gang life behind grew stronger and stronger. For a while, I was pulled between the new family I was creating and the old gang family I had relied on for so many years.

I was 27 years old in 2000, when I was shot in the chest and almost died. I remember my wife crying and threatening to leave me if I didn’t leave the gang for good. For the first time I thought seriously about the fact that the gang lifestyle could leave my children fatherless, forcing them to grow up without a dad—like I had done. This was my breaking point: I knew I had to leave gang life for good if I was going to be the parent and the man that I truly wanted to be.

However, finding a job and supporting my family the honest way wasn’t always easy, since my criminal record made most employers reject me outright. I did all sorts of odd jobs and manual labor, but nothing really stuck. But in 2009, that changed. I started volunteering with Volunteers of America, mentoring gang-involved young men. Then after two years, Volunteers of America received a grant that allowed them to hire me full-time. I’m grateful I’ve been able to turn my past mistakes into a rewarding career helping young men build their best lives. Part of the reason why I’ve been so effective in this work is because I have credibility; the kids trust me because they know I’ve lived the same life they are living now. As I gained a reputation in the community, I’ve been offered more and more opportunities to make a difference. For example, I’ve advised the City of Portland and Multnomah County District Attorney’s Office on gang intervention. I’ve even been brought in to help negotiate plea deals.

I was recently able to seal most of my criminal record under ORS 137.225. However, this statute does not allow for the sealing of Class A or B felonies, meaning that I could not expunge my

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Robbery One conviction. This presented a serious threat to my livelihood when the grant for Volunteers of America expired, and the organization was forced to accept a new grant that required background checks for all employees. I knew this conviction would make me unemployable under the new grant, so in 2017, I decided to take a chance and apply for a pardon from Governor Kate Brown. The Criminal Justice Reform Clinic at Lewis & Clark Law School helped me with my pardon application. Pardon is an extraordinary remedy not often given, and I was shocked when the Governor granted my application in February 2018. I am eternally grateful to her.

However, there were still struggles within this process. I quickly learned after the Governor granted me a pardon that Oregon law does not provide a mechanism for Oregonians to seal the records of their pardoned convictions. After a few months of trying different approaches, my attorney Aliza Kaplan and the DA’s office were able to come together on a workaround. While I’m thankful that a solution was hobbled together in my case that allowed me to get the pardoned conviction off my record and keep my job, it took many months and several trips to the courthouse. This ordeal also highlighted a serious procedural problem in the pardon process.

Without a legal way to seal a pardoned individual’s criminal conviction, pardons don’t really help folks like myself who have already served their time and are trying to move forward with their lives. If I didn’t have an attorney working at no cost and willing to try different approaches, as well as a very cooperative DA, I may not have been able to seal the record of my conviction. Then, even with a pardon from the Governor, it would still be on my record today, which would have defeated the entire purpose of the Governor’s executive decision to forgive my conviction. If a pardon is supposed to serve the effect of forgiving the crime, my hope is the legislature will create a mechanism for sealing pardoned convictions.

As an update: I am happy to report that today I am working at POIC, Portland Opportunities Industrialization Center as a Case Manager with its SOAR program. POIC is a nonprofit education management organization that serves over 700 students and work trainees annually. I would not have this job if my old conviction was still on my record.

Therefore, I urge you to pass SB 388.

Chair Prozanski, Vice Chair Thatcher, Senators, Thank you for this opportunity to testify.