

**TESTIMONY OF SHELTON MCELROY**

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**SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY**

**U.S. HOUSE COMMITTEE ON THE JUDICIARY**

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**“The Administration of Bail by State and Federal Courts: A Call for Reform”**

Good morning Chairwoman Bass, Ranking Member Ratcliffe, and members of the Subcommittee. I am Shelton McElroy, and I am the National Director of Strategic Partnerships at The Bail Project, which is a non-profit organization working to combat mass incarceration.

At 18 years old, after spending the last 15 years in foster care, I found myself in jail. My bail was set at \$500, which was the same as a million dollars for an unemployed homeless teen.

My crime — I’m certain you are curious — burglary in the second degree. Hungry, impulsive and somewhat inebriated, I decided to break into the home of a person I knew to steal weed. In a fit of hunger, I microwaved some of her family's leftovers while helping myself to some alcoholic beverages. I walked her brother, and my caper ended in a chase outside of the home through a field and to the nearby middle school. The police had received a call about me trespassing at the high school earlier, so they were in the vicinity and soon showed up.

My whole life I had spent in and out of institutions — Home of the Innocents, group homes, 30-day housing shelters, temporary foster parents, even a juvenile detention center once for a couple of days.

However, nothing could have prepared me for this. Jail is hell on earth. The 16-man dorm I was placed into was almost two times over capacity, and I found a place under the metal tables where we ate to unroll my mattress. I endured the frigid temperatures, inedible food and the violence spawned by conditions of habitat.

My foster mother, Virginia Rogers, was still living at the time. I called — the phone call costing her \$5.65, a humongous amount for a 70-year-old whose only money was Social Security insurance and \$90 a month that she earned as the minister of music for First Baptist Church. Her insulin and prescription oxygen typically exceeded her income, causing her to obtain reinforcements from her adult children. Nevertheless, she answered the call and we talked. She prayed for me, and when I mentioned \$500 bail, she groaned, “Boy that's a lot of money. Don't nobody have that. Now you just hold on to the Lord's unchanging hand.”

And that's just what I did. I held on when Mr. Donnie, one of her fellow church members, and Rev. Mackey, a former minister at her church — the only visitors I ever had — came to tell me that Momma (Miss Virginia) had died. "When are the services?" I must have gasped. "Already passed," they informed me. And away they went, as did everything outside of jail for me.

The crime I was charged with carried a one- to five-year sentence. The prosecutor proposed a deal for me to take four years. The public defender assigned to my case carried the message. I had been inside for months by now, had become accustomed to the doors opening and shutting. I was resigned to pleading guilty, I mean I had done what I was accused of, only I hadn't taken the VCR, TV and several other items out of the house, which the homeowners had claimed. I took the deal offered, and ultimately served that sentence.

More than 20 years later — as the national deputy director of operations for The Bail Project, a charitable nonprofit organization that pays cash bail on behalf of indigent clients — I look back on this experience and wonder what a difference it would have made had I not been incarcerated pretrial. What if I would have been able to have afforded \$500 bail, or what if the judge would have released me on my own recognizance? Would the outcome have been different in sentencing? Would the impact that jail and prison had on me emotionally and mentally been lessened? So many unanswerable questions.

Hindsight being 20/20, I regret the day I violated the homeowners' space and unlawfully entered their property. However, today I know that my imprisonment spurred on by my inability to pay cash bail and defend myself adequately, benefited no one and ultimately cost taxpayers more than \$35,000 a year for four years.

Whenever we trounce on rights, such as the presumption of innocence, we manifest the reduction of rights such as cruel and unusual punishment, and ultimately create injustice in our criminal justice system.