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**By**[**Maria Cramer**](https://www.bostonglobe.com/staff/cramer)**, September 24, 2017**

The first time Julie Eldred violated her probation by using drugs, the judge gave her a break, sending her to a treatment program instead of the women’s prison in Framingham.

But soon after her release, the need to use overwhelmed her, and she relapsed again. Her next court-ordered drug test came up positive — for opiates.

She wrote the judge to apologize, and thanked him for the compassion he had shown her before. But when she stood before him in Concord District Court, he crumpled up the letter and threw it aside.

“This is just a bunch of excuses,” he told her.

As she stood there, stunned and humiliated, the court officers handcuffed her. Placed on probation for stealing, she was being sent to jail for using drugs. A similar series of events would unfold again three years later, in 2016, with Eldred again unable to remain drug free on probation.

Eldred now alleges that the court violated her constitutional rights by ordering her to remain drug free, arguing that her substance use disorder makes it virtually impossible for her to control her drug use through sheer will.

Early next month, her case will come before the state’s highest court, an unusual challenge that could force major changes in how the probation department treats addiction in criminal defendants amid an opioid crisis that has claimed thousands of lives and shows little sign of abating.

“Drug addiction, we now know, is a chronic brain disease whose hallmark feature is an inability to exert control over the impulse to use drugs despite negative consequences,” Eldred’s lawyers, Lisa Newman-Polk and Benjamin H. Keehn, wrote in a 39-page brief. “Punishing relapse is ‘clinically contradicted.’ As this case makes clear, it is also morally indefensible.”

The case carries enormous implications for the courts, which regularly order defendants to remain drug free as a condition of their probation. That requirement, prosecutors say, is critical to protecting the welfare of defendants and the public.

Lawyers in Attorney General Maura Healey’s office said the judge may have saved Eldred’s life by sending her to jail, sparing her from a potential overdose.

In a brief to the Supreme Judicial Court, they asserted that the comparison of substance use disorder to such chronic diseases as hypertension, cancer, or asthma is inaccurate because those illnesses are almost always controlled by treatment, not an act of will.

“The drug free and testing conditions of probation are constitutional because they are based on the proven assumption that most people with drug addiction retain the ability to exercise choice,” Assistant Attorney General Maria Granik wrote.

That argument appears to be at odds with a statement Healey made in 2016 to the Washington Times about addiction, a discrepancy Eldred’s lawyers highlighted in one of their briefs to the SJC.

“Addictions are a chronically relapsing medical condition, not a lack of willpower,” Healey said, according to the article. “Our efforts must open the doors to treatment, rather than incarceration.”

*‘I wish they could spend one night in [MCI] Framingham, all the people who think it’s a good idea to send us there.’*

*Julie Eldred, who was sent to jail for using drugs while on probation*

Healey declined to comment directly on the case. Her spokeswoman, Emily Snyder, wrote in an e-mail that “for some, the court system can be an important part of their recovery journey.”

“Research shows that drug-free testing can help probationers reach recovery goals, and testing can help defendants remain engaged in treatment and avoid long-term incarceration,” she wrote.

Probation is a period of supervised release often imposed on criminal defendants in lieu of jail time. The probation department does not keep track of how many defendants are asked to remain drug free as part of their supervised release, but lawyers say judges regularly require it as a condition for defendants whose crimes involved drug use.

The high court, which two years ago relied heavily on science in its ruling that juveniles are less culpable of crimes than adults because they are developmentally immature, may again turn to medical research to decide Eldred’s case.

Doctors for both sides have weighed in on the case, filing briefs that reveal a sharp divide between medical specialists who maintain addiction should be viewed like other medical disorders and psychiatrists who say that position remains highly contested.

Where the court lands will have broad repercussions, specialists say.

“We’re in this moment in time where everyone is using language about how this is a public health crisis,” said Sarah Wakeman, medical director of the Substance Use Disorders Initiative at Massachusetts General Hospital who filed an affidavit supporting Eldred’s claim. “And yet in our criminal justice system, we continue to see cases like this where people are in prison for a symptom of their illness. We need to change that approach and this case has the potential to be a step toward that.”

Most doctors and medical organizations, including the Massachusetts Medical Society and the American Medical Association, say the science is established — addiction is a chronic illness that, like diabetes and heart disease, is caused by a combination of behavioral, environmental, and biological factors and cannot be willed into remission.

But three psychologists and one psychiatrist who filed a 57-page brief supporting the probation practice said that if the SJC agrees courts should not impose staying drug free as a condition, that could make it impossible to hold people accountable for drug use.

“The threat of being incarcerated, or re-incarcerated or sanctioned in some way, gives the addict an extremely powerful incentive to stay clean,” they wrote.

One of those doctors, Sally Satel, a Washington D.C.-based psychiatrist who works part time at a methadone clinic, said people with addictions can and do respond to consequences and reason.

“Everyone who comes into my methadone clinic came in because someone said, ‘I’m going to fire you or I’m going to leave you,’ ” said Satel, a resident scholar at the American Enterprise Institute, a conservative think tank in Washington D.C. “They’re all pressured. They just finally feel that they are so demoralized, so beaten down by the life that they’re leading that they decide to come in. And that’s a decision.”

Four years after the judge crumpled up her letter, Eldred cries at the memory.

“Just the feeling that no one cared, no one understands me, and I was going . . . to jail,” she said, shaking from her sobs.

Eldred said she never believed that her drug addiction was a matter of choice. She believes she was genetically predisposed to addiction through her biological parents, whom she has never met.

She began taking prescription drugs in high school. She was popular, a cheerleader whose adoptive parents showered her with affection. But she was painfully shy.

It was only when she and her friends began getting high that she finally felt comfortable in her own skin.

“It made me feel like I could fit in wherever I wanted,” she said. But unlike her friends, Eldred began using drugs almost every day, becoming so addicted that she would suffer sleepless nights, sweating and shivering, if she were sober for long.

In her 20s, Eldred began using heroin after she went into a detox program where she met people using the drug. By the time she was 25, she was stealing to get opiates.

After violating her probation in 2013, she spent two months in MCI-Framingham, then enrolled in a treatment program. For three years, she maintained sobriety. She enrolled at North Shore Community College and began taking classes in animal behavior. She started dating a nice man.

But in time, she stopped going to Narcotics Anonymous meetings and drifted away from the recovery program that had helped her get off drugs. Two years ago, at 27, she started using again. She was arrested for stealing jewelry to buy drugs and again was sentenced to probation. Repeating the cycle, she tested positive for fentanyl. She served 10 days behind bars while her lawyer searched for an opening in a treatment program.

Now 29, she completed probation last month, is sober and hopes to start a career in animal care. She credits her recovery to several factors — a rescue dog she adopted, counseling, and a doctor who prescribed her suboxone, a drug that helps suppress the urge for heroin.

Eldred said jail, where drugs were often available and she once witnessed an overdose, only undercut her recovery.

“I wish they could spend one night in Framingham, all the people who think it’s a good idea to send us there,” Eldred said. “It’s so degrading. It’s so dehumanizing. If [judges] could experience it, they would not send people there at all.”