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Justice and friendship prevail

When he reversed a three-strikes conviction, Judge Spencer Letts gave Michael Banyard a new life and himself a new mission.

By Kurt Streeter

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First Of Two Parts

The man, a thin and gray-haired federal judge, walked nervously up and down the streets of skid row, past drug dealers, pimps and thugs, past rows of men lying like glass-eyed zombies against concrete walls.

"Excuse me," he said, pulling out a photograph, "have you seen this man?" He was met by blank faces or angry stares. And, always, one word: "No."

He couldn't give up. Down more streets and through urine-soaked alleys. He was the only white person he could see.

To Judge Spencer Letts, then 72, this distinction did not matter. What mattered was that Michael Banyard, an ex-con who had lived much of his adult life in prison, could be in trouble again.

Letts told himself that if he could just find him, Banyard would not run -- even if he were in a drug-induced stupor. Instead, he would peer at the judge through his dreadlocks, smile his sheepish smile and the two would walk a few blocks to an entirely different world -- the judge's chambers inside the U.S. Central District Courthouse. There they would sit, as they so often had, and Letts would try to convince his friend that the troubled man on skid row was not the real Banyard. Not the man the judge believed in.

John Spencer Letts was born in St. Louis in 1934, the privileged son of a vice president at Prudential Insurance. He went to Yale, Harvard Law and, in the early 1960s, to a powerhouse litigation firm in Houston. "As a lawyer," he said, "a lot of times I would fail. But then one case would come up that everyone else was struggling with and I guess I would just look at it in a way that was different. I would find a solution others would look past. And that became my reputation: out of the box."

He took that reputation to Los Angeles, where in 1966 he became vice president at the budding high-tech conglomerate Teledyne. As the company's legal chief, he burrowed deeply into his work, overseeing acquisitions. He provided a life of comfort for his wife, two sons and daughter.

There were country clubs and boarding schools, tennis lessons and summer vacations at a home on a Michigan lake that had been in his family for generations.

He was a Republican but mostly steered clear of politics. He was well-connected, however, with lawyers and businessmen who had ties with the White House, and that paid off. President Reagan nominated Letts for an opening on the District Court.

Confirmed in 1986, Letts proved unusual from the start. At the courthouse, he spoke softly, tended to mumble, was prone to nervous laughter and would launch into asides on such subjects as the nature of time, the age of reason and the essential goodness of man. After long periods of meandering, he'd get back to the legal point and nail it.

Some lawyers hated going to his court. He wasn't just hard to understand, his views and rulings were unpredictable. Others saw him as a refreshing maverick who plowed through all manner of ideas before settling on a reasonable course. "He's a truth teller, unafraid to follow uncommon lines of thought as far as he can go," said veteran defense attorney Michael Proctor. "And that makes a lot of people uncomfortable."

The federal judiciary is stacked with former state judges and prosecutors who have spent years in courtrooms. Because he had always preferred to settle cases as a lawyer, Letts had rarely been in court. At first, there were basic procedures he didn't know. Moreover, he had no experience with many of the kinds of cases he would oversee, which came from a world of gangs, drugs and guns.

"I was terrified, absolutely terrified," he said of his early days as a judge. "Street crime? What did I know about that?"

Meanwhile, he also was confronted with a new federal law that mandated long sentences for the sale or possession of crack, giving judges no leeway.

Unable to consider the context of cases, he grew indignant at being required to sentence wrongdoers to decade-long prison terms when he often felt they deserved far less. His anger intensified when he saw that almost every defendant coming into his courtroom was black, even as statistics showed that most drug users were white.

He was struck by how smart many of them seemed, how driven. Born into different circumstances -- into his circumstances -- some also might have become vice presidents at Teledyne, he figured.

"I began to see that it is all too easy for a judge to just put a C for convicted on a guy's forehead and then to walk away like the guy is, and always will be, nothing," he said. "It hit me -- I am going to try my best, from then on, to extend myself, see their humanity and let them see mine."

He fought hard against mandatory sentences, calling them discriminatory and even unconstitutional, disparaging them in opinions that circulated in legal circles and earned him the ire of federal prosecutors. Required to give a 10-year prison term to a man with no criminal

record who pleaded guilty to mailing a package containing crack, Letts asked for a presidential pardon. The Reagan administration turned him down.

His fight became personal. Sometimes, Letts would drive to the toughest parts of South Los Angeles, to housing projects and gang-ridden apartments, where he would visit the parents, siblings and cousins of those he had put in prison. He would sit in their living rooms, ask about their lives, tell them he cared and counsel young ones not to run with the tough crowds. When the men he sentenced got out of prison, he would ask a favor: that they keep him apprised of their progress.

"My guys," he came to call them, noting that one became a basketball coach, another a construction worker and another a music producer. "My crack guys."

As proud as he was of all of them, none affected him the way Banyard did.

Michael Banyard was born in Compton in 1967, the son of a truck driver and a beautician. "When I gave birth to Michael he had a 102-degree fever," said his mother, Obie. "I remember the doctors putting him in an ice bath and I remember how terribly worried I was for my child. That was the start."

His mother recalled that young Michael was sweet, shy and deeply affected by what happened around him. When he was 5, gang members broke into the family's home, rampaging through everything. His mother never forgot the look on her son's face when the break-in was discovered: fear, helplessness and anger. They were emotions he could never seem to shake.

His father left the family when Banyard was in grade school. The men he looked up to were gangsters. By 16, he was one of them, a full-fledged member of the Compton Santana Crips who sold crack on the streets. His gang name was Loco Mike.

That was one side of him. The other was the polite, razor-smart, church-going teen who would retreat to his room for hours, hounded by shame for his street life, remembering childhood days when he would fall asleep on his father's chest.

At 17, he turned to the drug he had been selling. It wasn't long before crack owned him. He sold his girlfriend's jewelry to pay for a high. Then he hocked her Chrysler LeBaron to a stranger. He went to a police station and begged to be arrested because he couldn't stop. The cops told him to go home.

In 1988, he was in a minor car wreck and stole \$6 from the other driver. He was arrested and convicted. It was his first time in prison, his first felony. Under California law, his first strike.

When he got out three years later, he fared well for a while, managing his mother's Inglewood beauty shop. But one night he got high. He fought with his girlfriend and she called the police. He pleaded no contest to assault and was placed on probation. It was his second strike.

By 1994, he had lost every vestige of control over crack. His addiction pushed him onto the forlorn patch of downtown streets that is skid row. He was arrested for a string of petty crimes, but mostly the cases were dismissed. When they weren't, he got probation or a few weeks in jail. Then he was back on the streets.

He no longer called his family, even his mother. He smelled of urine, slept on sidewalks and underneath cars. There were times when his clothing was stolen, so he fashioned pants out of large plastic garbage bags, tied at his waist.

One day, he made his way to a freeway overpass and looked down at the cars. He was ready to jump. But at the last moment he thought of his mother and stumbled away.

On Sept. 4, 1996, a stranger approached with crack. Suddenly, cops swooped in. They would later testify that they saw drugs drop to the ground as they approached, drugs Banyard had just bought. It was less than a gram of crack, barely enough to fit under a fingernail. That didn't matter. He was convicted and it was his third felony.

California's three-strikes law mandated that he be sent to prison for at least 25 years. At the end of that time, his release would be subject to approval from a parole board. He could die behind bars.

In prison, Banyard was free from drugs. His mind cleared and his anger softened. He gained a new sense of spirituality and spent almost all his time in the prison law library, preparing appeals. A state court reviewed his case and turned him down. A federal magistrate said his claims lacked merit. The attorney general said he should remain in prison.

By 2002, he was down to one last appeal -- to the U.S. District Court, where his case went to Letts. The judge was approaching 70 then, working less and reflecting on his life. He thought often of his father -- a steady, stealthy drinker late in life -- and of a cousin who became a fervent member of Alcoholics Anonymous. He had empathy for their struggle. He had his own dark bouts with depression and sometimes talked openly about them in court. He understood how it felt to battle despair.

It was against this backdrop that he took Banyard's case.

"I couldn't put my finger on it but it just rubbed me the wrong way," he said. "Twenty-five years, no guarantee of ever leaving, for that amount of cocaine? Something was wrong. Very wrong."

He researched every aspect of the case, work that took 2 1/2 years. Banyard's appeals were well crafted but needed sharpening. The judge took the unusual step of hiring lawyers to help him.

On Oct. 4, 2004, Letts issued a 32-page ruling. Banyard was in his cell at the San Luis Obispo Men's Colony when he received the manila envelope. As he opened it, his hands began to tremble. He was so nervous, his cellmate had to read the ruling to him.

Letts wrote that the \$6 robbery was "outside the heartland of serious felonies that normally

constitute . . . strikes under the Three Strikes Law."

He said Banyard's pre-appeal lawyers had let their client down and dismissed as irrelevant Banyard's history of petty crimes and arrests for which he was never prosecuted. He said second-degree murderers, rapists and those guilty of voluntary manslaughter received lighter sentences than Banyard had.

Most important, he ruled that in Banyard's second strike, there had been a serious mistake: The state court recorded it as an assault with a gun, but Banyard had actually pleaded no contest to simple assault. "That," Letts wrote, "did not constitute a felony for purposes of the Three Strikes Law."

"Banyard's sentence," the judge wrote, "is grossly disproportionate to his offense and constitutes cruel and unusual punishment, in violation of the 8th Amendment."

Michael Banyard was freed.

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THE JUDGE AND THE ADDICT

The enduring bond

As a former convict struggles with his demons, he has an unexpected ally.

By Kurt Streeter

Second Of Two Parts

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The e-mail was to the point: *Mr. Banyard, Judge Letts would like to see you in his chambers.* Michael Banyard's stomach churned with fear.

He was living at his sister's ranch house in Rialto -- free after eight years in prison -- and he was keeping the vow he had made to stay away from crack cocaine, which had put him behind bars. Now, when he opened his e-mail on this morning in early 2005, his mind raced.

Just what, he wondered, did Judge Spencer Letts want?

Banyard, then 38, an ex-Compton Santana Crip recovering from a terrible drug addiction, owed the judge everything. Convicted of a felony in 1996 for possessing a small amount of crack cocaine, he'd been serving a minimum sentence of 25 years to life under California's three-strikes law.

After state courts and a federal magistrate rejected Banyard's appeals, Letts, who had been appointed to the U.S. District Court by President Reagan, was his last hope. In October 2004, the judge issued a precedent-setting order: Banyard must be released immediately on grounds his lengthy sentence violated the ban in the U.S. Constitution against cruel and unusual punishment.

Now the judge was asking for a meeting.

Banyard was terrified. Had the ruling been reversed? Would his freedom be taken away?

A few days later, he walked through the doors of the judge's large, well appointed chambers in downtown Los Angeles. He'd never been in a room like that, with its mahogany paneling, antique furniture and heavy shelves stacked with old law books.

"Judge Letts," he said, extending a hand. "I'm Michael Banyard."

"Michael," the judge said, "it's such a complete pleasure to meet you."

They would remember their meeting this way:

For a while, they made small talk, sizing each other up. Two men could not have been more different.

Letts wore a gray suit, button-down shirt and a tie. Banyard wore a long, flowing, yellow and black African dashiki, hoping it would signal how much he'd changed.

Letts, then 70, was thin and moved carefully. Banyard was barrel-chested from lifting weights in prison. He had the look of a retired football player.

The judge spoke quietly, rambling in a way that was sometimes hard to follow: He asked about Banyard's family, opined that truth can't really be pinned down, probed for Banyard's thoughts on welfare, then circled back to questions about Banyard's family.

When Banyard spoke, he was so nervous he practically bellowed. His words bounced off the law books and through the room. "Was there some mistake?" he asked. "Is your ruling being challenged? Am I going back?"

"No," the judge said. "No mistakes. That's not why I wanted you to come. I wanted to meet you because I want to tell you in person how proud you should be. Your perseverance won the day, Michael. You've just had a miracle, and I wanted to tell you that when something like this happens in life, don't kick that in the face. You have another chance. You might never get one again."

"I know," Banyard said, "And I promise you I am going to do some good things in life. What I don't know is why you did what you did. Why did you take so much time to consider my case?"

"To think you were going to be in prison for 25 years, at minimum, for what you'd done, that

simply was not justice," the judge said. With that, both men relaxed. The judge leaned back in his chair and asked Banyard about his plans.

The two men were tied together: The case was enshrined in law journals. But this was about more than that. The judge was impressed by Banyard's humility and eagerness and thought he clearly wanted to change. He just needed a guide. Banyard's smiling face looked so different from the hardened, scowling faces he often saw in court.

They talked for three hours.

"Michael," Letts said at the end, "from now on I want you to check in with me, tell me how you are doing, and come to me for advice. Know that if you call me, I will return your calls. If you show up at my courtroom, even unannounced, I will do everything I can to see you. I am behind you now. I want you to know that and not doubt it. You have a friend in me."

There were stumbles during his first few years of freedom, but Banyard mostly did well. Before prison, he'd been a high school dropout. Now, based on the work he had done on his appeals, he got an internship at a law firm. He enrolled in community college.

The judge admired how bent on redemption Banyard was. Letts would tell strangers about his new friend and how quickly he learned. "Better than a lot of lawyers," he said.

Banyard called the courthouse almost every day. When Letts wasn't there, he talked to the judge's longtime assistant, Nancy Webb, who became another counselor, almost a second mother. Sometimes he'd go to the courtroom and sit quietly in the gallery, watching the proceedings. Other times, he and Letts would sit in chambers, eating turkey sandwiches, talking. Webb could see how important the meetings were to both men, the bond growing between them. "Almost," she said, "like a father and a son."

But as close as they became, Banyard had a hard time talking freely about his guilt and shame, his shaky sense of self-worth, the trouble he was having getting through each day without the discipline of prison. He was too embarrassed.

One night in 2007, a woman he dated surprised him by pulling out a vial of cocaine. Just one snort, he thought, figuring he could handle it.

He did not return to his sister's house that night. He trolled the streets of Los Angeles for crack, tearing himself up inside because he was wasting his miracle -- and risking a return to prison for life. He could die.

Unable to reach him, Letts realized how deeply he was invested in Banyard's future. Depression hit. He couldn't sleep. He stopped laughing. Sometimes, he sat in his chambers, face buried in his right hand, wondering about Banyard. "I was frozen," he recalled. "Sometimes for an hour."

So one summer afternoon, the judge placed his watch and wallet on his desk, changed into a T-

shirt and old pair of khakis, picked up a photograph of Banyard and headed off to the only place he thought he might be.

"I have to find him, Nancy," he said as he left. "I just have to."

Alone, the judge walked every block of skid row, showing the photo and asking one question: "Have you seen my friend?"

It was always "no." Sometimes the answers were threatening.

"Old man," someone barked. "Who the hell do you think you are coming down here? This is no place for you. Get out of here."

But Letts kept going. "If someone is going to shoot me," he thought, "then just shoot me. . . . Have to find him, have to bring him back."

One hour passed. Two, three.

Months went by.

One day, Banyard left the judge a voice-mail message. He was at the Cider House drug treatment center in Norwalk.

Banyard said he had been walking for miles in search of a high. The soles of his shoes had worn through.

He had been arrested for stealing a pair of sneakers to replace them. Because petty theft was no longer prosecuted as a third strike in Los Angeles County, a court had ordered him to rehab.

Letts and Webb went there immediately. When the door opened at the treatment center and they walked in, Banyard's knees buckled and he wept.

"I messed up again," Banyard said, as he and the judge hugged. "I fell off the wagon. I'm so ashamed. What's wrong with me?"

Letts stepped back and looked at Banyard. He saw the same eagerness, the same hope he had seen before.

"Michael," he said, "there's only one thing left for you to do: Get back on your feet again. Get back on your feet, and know that I am behind you. I will always be."

Nothing will ever be certain in Banyard's life. He completed treatment and seemed to be getting better. But last June, after succumbing to crack again and being convicted of stealing vitamins from a Rite-Aid, he was sentenced to another treatment house. He lives there now.

Through Letts, he met Le'Chein Taylor, a former gang member who works with at-risk kids.

Banyard volunteers with Taylor three days a week, warning kids not to follow his path. He also spends hours at a San Fernando Valley library, trying to educate himself.

Whenever he can, he takes the subway to the federal courthouse and sits in the mahogany paneled chambers with Letts.

They talk about troubles and fears. They laugh, eat turkey sandwiches and discuss hope and the future.