

Transgender woman released from jail after nearly 4 years without trial



by [Gretchen Rachel Hammond](#)

December 17, 2015



Eisha Love is released. Photo by Gretchen Rachel Hammond



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After spending three years and nine months without trial in the maximum security male Division IX of the Cook County Jail on a charge of attempted murder in the first degree, Eisha Love—a 26-year-old transgender woman of color—accepted a plea deal of guilty to a single felony count of aggravated battery on a public way before Cook County Circuit Court Associate Judge the Hon. Alfredo Maldonado Dec. 17.

Taking into account the maximum penalty of five years imprisonment reduced to 50 percent under the Truth in Sentencing Act (TIS), Love will be released this week with time already served.

A second charge of aggravated battery relating to a incident that occurred at Cook County Jail shortly after Love's incarceration has been set for a status hearing on January 20, 2016. Love claims she was attacked by the correctional officer who in turn made the aggravated charge. The officer in question has a history of documented abuse cases.

Meanwhile, Love will be released Dec. 18.

On the morning of March 28, 2012 Love and her friend 19-year-old Tiffany Gooden were involved in an altercation with a man at the Citgo station on the corner of West Madison Street and North Kilbourn Avenue in Chicago's Austin neighborhood, on the Far West Side.

Love stated that the man, whom we will refer to as XX, verbally and then physically assaulted her. Security camera footage from the Citgo indicated that he had struck her. After police were called, XX walked away. Love and Gooden left shortly after in Love's vehicle. Approximately a block away from the gas station, Love drove her car onto the curb at 124 N. Kilbourn, striking XX in the leg.

Terrified, Love and Gooden fled. Love called her mother telling her "Mom, come get me. These boys, they're trying to kill me!"

Fifteen minutes later, her mother drove Love back to the scene of the accident. According to both, there was no sign of XX, no crime scene tape and only one Chicago Police Department (CPD) officer watching Love's car.

In a September 2014 interview with Windy City Times, Love's mother said that six or seven male bystanders began walking toward her truck with Love inside. "They kept staring and saying some shit like 'We're going to get you'," she recalled. "I was thinking they were going to do something to me."

The officer advised Love's mother to go to the District 11 Police Precinct at Harrison and Kedzie. There, Love was questioned for hours by detectives. She eventually told them that she struck XX "deliberately in self-defense."

An April 2012 grand jury indicted Love on "attempted first degree murder without lawful justification with intent to kill" an act which "constituted a substantial step towards the commission of first degree murder" as well as three counts of aggravated battery.

Love said she was informed of the severity of the charges because the incident caused XX to have his leg amputated.

The Cook County State's Attorney's office initially asked for a 10-year sentence—something Love said that her then-public defender encouraged her to accept while reminding her to "think about justice for the poor boy you hit."

XX is currently facing four pending criminal cases including one for possession of firearms.

Two subsequent murders could be related to the 2012 incident. On April 16, 2012—less than a month after Love's arrest—the body of 23-year-old Paige Clay was discovered in an alley in the 4500 block of West Jackson. She had been shot through the head. Four months later, on the second floor of an abandoned building on the corner of South Cicero Avenue and West Jackson Boulevard, the body of Gooden- Love's passenger on March 28, 2012-was discovered stabbed multiple times. Both of the transgender women were friends who looked very much alike.

No arrests have been made. According to the families of the women, Chicago Police Department (CPD) detectives informed them in 2013 that both of the cases had gone cold.

Community advocate and Chicago House TransLife Center Project Coordinator Channyn Lynn Parker also serves as a liaison for the trans-identified population detained at the Cook County Department of Corrections (CCDOC). After meeting Love and hearing her story, Parker wrote an August 2014 letter about the case which she posted on her Facebook page. Shortly after, Chapman University student Addison Vincent saw the post and created a Change.org petition, with the hashtag #FreeEisha.

Windy City Times conducted an investigation into the case in September 2014 questioning why the charges against Love were so harsh and exploring a possible connection between Love's arrest and the murders of Clay and Gooden.

ESPN journalist and renowned transgender activist Christina Kahrl then contacted Clinical Professor of Law at the Chicago-Kent College of Law Daniel T. Coyne.

To that point, Love had an appointed public defender.

An accomplished and celebrated criminal law attorney and instructor, Coyne agreed to represent Love pro-bono and launched his own investigation. By the time Coyne took the case, Love had been in jail for two years and seven months.

Coyne discussed his work on the case with Windy City Times and why the state believed that first-degree attempted murder charges against Love were justifiable.

"The state established it in main through the defendant's statement that she saw [XX] on the sidewalk and decided to intentionally drive over the sidewalk in self-defense and strike him," he said. "There's a body of case law that says if you use that degree of force against someone—that is an automobile to drive over someone—you can infer intent to kill from that."

Coyne stated that, according to medical records, XX's leg was amputated almost a year-and-a-half following the incident.

"That amputation was as a result of numerous infections, reluctance to engage in physical therapy and a request to have it amputated as an elective procedure as opposed to a necessary procedure," he said.

Yet the State's Attorney's office still chose to use the amputation in its charges against Love.

“There’s aggravated battery based on great bodily harm and aggravated battery based on permanent disfigurement,” Coyne said. “Both of those counts were in there.”

In the nearly four years Love spent in jail, her emotions ran the gamut from despair to resignation to joy at the community support she began to receive.

Parker has been meeting with her for the past two years.

“The distress she went through, the weight of incarceration and living in limbo took its toll on her emotional health,” Parker told Windy City Times. “She wanted it to be over even if that meant her going to [state] prison. Hope dwindles fast when it comes to facing the reality of a cell and a bunch of uncertainty about whether you are getting out or not.”

Was the length of time Love spent in jail awaiting trial excessive, particularly given the statutory and constitutional rights under Illinois law to a speedy trial (120 days when in custody)?

“I would think that it’s not normal for a case of this simplicity,” Coyne said. “It is possible to spend an extended period of time in Cook County Jail where there are scientific defenses, where there are other cases that are continuing or if you have multiple murders. When there was still the death penalty in the state, it would not be unusual to spend that amount of time waiting for trial on such a case because of the necessity to get mitigation evidence.”

Owen Daniel-McCarter is a collective member and project attorney with the Transformative Justice Law Project of Illinois (TJLP). He is also the policy and advocacy director for the Illinois Safe Schools Alliance.

He agreed with Coyne that the length of time Love spent in jail was out of the ordinary “but I don’t think it’s unusual for people to wait years, definitely more than 12 months, if they do wish to go to trial,” he said. “We know that 95 to 97 percent of all corrections are the result of a plea, not a trial. It’s a reality not only in the court system in Cook County but the criminal legal system in the U.S. as a whole.”

Love went through three judges throughout the course of her case beginning with Judge Kenneth J. Wadas and then Judge Steven J. Goebel as well as two public defenders. The most recent Assistant State’s Attorney (ASA) assigned to the case was Shelley A. Keane.

On numerous occasions Windy City Times noted that the ASA did not show up to court hearings. There was one day that Coyne had to leave the courtroom and go into the 26th and California building in an attempt to locate her.

“This case came off the regular felony trial division call and was transferred to the supplemental call which is not staffed by anyone except for a judge,” Coyne explained. “When the supplemental call [program] was first begun, the theory was that there would be a group of five judges who would review cases that were lingering too long in the system. However, because of budget cutbacks, neither the State’s Attorney’s office nor the Public Defender’s office was able to staff those courtrooms. So the irony was that you had a judge to hear the case but no staff to present the case. What would happen is that the State’s Attorneys assigned to the courtroom from which the case was transferred would have to follow that case over to the next courtroom leaving their original courtroom unstaffed. So they had to be two places at the same time.”

“When a case hits its second year in the system it goes up for review in the supplemental call,” Coyne added. “In [Love’s] situation my recollection is that it went up for review once and Judge Wadas said he wanted to keep it because he thought he was going to be able to dispose of it. Six months later, it went up for reassessment. Judge Goebel had it for a time. We were set to go forward on motions and then he got transferred out to the Third Municipal District. I think there’s a recognition that the supplemental call isn’t doing as well as it should be doing. It’s being cut back and cases are being sent back to original courtrooms or assigned to new judges in the building. [Love’s] case was stuck in a situation where there are some systemic problems.”

“It’s a constitutional travesty,” Parker said. “This is a problem with the justice system. Period. When it comes to a prosecuting attorney, they are invested in trials being over with. I’m not hearing of these trials being done properly especially when it comes to those who are disenfranchised or are people of color. They are going to go to prison and that’s it. The system is not invested in justice but in getting people into the prison industrial complex.”

Daniel-McCarter believes that the system is set up in a way that perpetuates its own problems.

“The system is not actually trying to stop crime or violence in our communities,” he said. “Cases like this are moments where the system should be compelled to be reflective and ask ‘how can we make sure that this never happens again?’ There are not enough court-appointed attorneys and they are simply overwhelmed with the amount of work they have. Ideally, we should not have so many people incarcerated. Eisha or any other person would have a different relationship with their case if they were navigating their defense from the outside. Right now, part of what they are trying to do is get out by any means necessary. People might consider options and pleas they would not normally consider if they weren’t incarcerated.”

To both Parker and Windy City Times, Love vehemently maintained that she acted in self-defense against the threat that XX represented. Had she not opted for a plea deal, could she have received a fair trial in the State of Illinois? Can any transgender woman of color?

“Certainly in a bench trial one would expect any defendant to get a fair trial because judges should be above any sort of a bias or prejudice,” Coyne said. “In this particular case, there were a set of circumstances that made a bench trial somewhat untenable. Under the law, this would be an imperfect self-defense case. One cannot avail themselves of self-defense if one is not in immediate harm.”

Coyne added that, since Love was in her car at the time, she could have opted to drive away from her attacker to home or a police station.

“If an individual is in a position to be able to escape safely and does not take advantage of that ability, that’s not really a self-defense case under the law and a judge would more likely than not have found her guilty,” he added. “On the other hand, if she would have elected a jury trial, they may have felt comfortable disregarding the law and say that Ms. Love had been attacked by someone at a public facility, that her emotions were running high and they could understand why she wanted to engage in what some may call ‘anticipatory self-defense’ especially given the fact that she was aware that there had been threats in the neighborhood against her and other transgender individuals.”

“While that’s not a legally tenable basis for self-defense a jury could find, based on all the equities, that it was,” he continued. “But then you have attack the question of whether she would be able to find a jury receptive to that argument. That’s when you come to the more difficult question of her being a Black transgender woman who had a history of being involved in sex work. With a jury of her peers, this would have easily been a not-guilty. However if you had a jury of people representative of a white, suburban high socio-economic status sort of an environment, I’m not quite sure they could have understood or appreciated the environment that Ms. Love was coming from. It is a difficult thing to find a jury that would be receptive to an argument that is not fundamentally a legal defense but rather is an equitable defense.”

“There is something awry in the justice system where trans people are looked at as expendable and justice doesn’t matter,” Parker said. “There’s no real investment in giving them a fair trial or in giving them justice.”

Ultimately, Love accepted the deal because she wanted to be reunited with her family again while trying to reassemble her life.

“I wish I had just drove away that day,” she told Windy City Times in her last jailhouse interview before accepting the plea deal. “But I can’t change that. I just want to make sure that this does not happen to anyone else and that those girls out there now will not have to go through what I went through.”

Looking ahead to freedom after a nearly four-year ordeal during which Love claims she was subjected to verbal abuse from prison staff and fellow inmates, placed in solitary confinement on numerous occasions including once for nine days after protesting when a cisgender male was put in her cell due to overcrowding in Division IX’s two protective custody tiers, she is both overjoyed and terrified.

Her family on the other hand is furious with a legal system they believe both targeted and tortured her.

‘Marian’ is Love’s aunt.

“Over the years that she was gone we were angry,” Marian told Windy City Times. “The way she has been treated is plain unfair. When she turned herself in, they turned this into something way bigger than it actually was and made her sit there all those freaking years. It wasn’t right. It was bogus, underhanded bullcrap and plain torture to see her miss out on all her birthdays and all those Christmases.”

The only joy Love received came through all too brief visits with her family and the knowledge that the community had rallied around her.

Organizations like the TJLP, the Illinois Accountability Initiative, Love & Protect, the Black Lives Matter (BLM) movement and Black and Pink sent representatives who stood in respect and solidarity when Love entered the court room.

She cried tears of elation and shock. “I just couldn’t believe it,” she said. “I’d felt like I was alone for so long. Then the letters started to come and I saw all those people. I’m going to hang on to those memories and the letters. I’m going to pick my life up and justify everybody’s faith in me.”

Marian is still deeply concerned with both Love’s and the family’s safety particularly given the mounting evidence that both Gooden and Clay’s murders may have been retaliatory acts on the part of a local gang.

“It’s been OK for now, because people don’t know her family,” she said. “But when she’s out, for as long as these guys are on the streets, she and we all are in danger.”

However, rather than seeing the end of the Love case as the end of their involvement, the community can do a great many things to help Love get on her feet and create positive change not only for herself but others who find themselves in her situation.

“The hand-outs I have seen that she was using self-defense are emotionally beneficial but legally incorrect,” Coyne said. “If the LGBT community wants to argue effectively for how to best assess people that are similarly situated, they have to first deal with the perspective of what is accurate, otherwise their position is marginalized.”

“Eisha has a lot to contend with and she has a long road ahead,” Parker said. “I hope the community puts their talk into action and they rally and support this woman. I hope that they hold this woman up because, once all this fanfare is over and the gavel drops and the judge says ‘you’re free to go,’ where is she free to go? This could turn around really quickly. This young woman could end up going right back in to survival crimes and ultimately be right back where she was.”

“Society as a whole must find acceptance, first of all for someone who is African American, then for someone who is transgender, then for someone who is a sex worker,” Coyne said. “How do you find acceptance in your heart for that? How is your soul open to that? The LGBT community needs to move in such a way that acceptance of someone similarly situated to Ms. Love is not a challenge to anybody. It should be OK.”

“Fiat justitia ruat caelum. Let justice be done though the heavens fall,” Parker noted. “What justice has been done if Eisha and those like her cannot access the tools to ensure they thrive in their day-to-day lives and don’t return to the penal system?”

There are many unanswered questions. The length of time Love was imprisoned, the charges leveled against her by the State’s Attorney’s office that were still pursued despite its knowledge that XX’s amputation was an elective rather than necessary outcome of the incident on March 28, 2012. The fact that Gooden’s and Clay’s cases remain unsolved.

As Love finally leaves the Cook County Jail to an uncertain but determined future, Parker and others believe it is up to the community and society as a whole to demand answers on her behalf, for those who died and those whose lives remain ignored and undervalued while constantly shadowed by the ever-present threat of violence and death on the streets of Austin.

See here for a text and video interview with Eisha Love: windycitytimes.com/lgbt/In-her-own-words-Eisha-Love-looks-back/53731.html.

Earlier Windy City Times coverage:

windycitytimes.com/lgbt/Trans-woman-claims-self-defense-in-case/49008.html.

windycitytimes.com/lgbt/Mother-of-Eisha-Love-Heartbreak-and-courage/49009.html.

windycitytimes.com/lgbt/One-night-in-the-area-of-Austin/49141.html.