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A 'Good Kid' Gets a Day in Court, Again and Again

By JOHN ELIGON
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By the cold math of his police record, Yiskar Caceres already had at least three strikes against him. In seven months, he had been arrested three times on cocaine charges and had pleaded guilty to each one. And that came after four arrests for marijuana.



Yiskar Caceres's drug arrests contrasted with school transcripts, friends' praise and his family life. The penalties were mild, until the latest put family and judge in agony.

But the judge saw something different when he looked over Mr. Caceres's school transcripts and read the letters praising him as an intelligent, promising, family-oriented young man ready to change his ways.

The judge told Mr. Caceres that if he completed a rehabilitation program and stayed out of trouble for six months, he would avoid prison and his record would be virtually wiped clean.

"I have every confidence that you will not let your family or yourself down in this and complete the program, and it will work out well for you," the judge, Justice Thomas Farber of State Supreme Court in Manhattan, told Mr. Caceres that day in January.

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Three months later, Mr. Caceres was back in jail. The police had caught him with cocaine again.

Recidivism is as common to the justice system as orange jumpsuits and iron bars. Mr. Caceres's case will not make any law journals, but it seemed to be more than the customary New York City criminal case.

In court on Thursday, the judge was struggling to decide what to make of the young man before him. It was hard to tell who was in more pain, Mr. Caceres, his weeping mother or the judge.

"There is not a day that transpires that I don't think about this case," the judge said. "This case is profoundly upsetting to me because I gave you every chance I could."

Mr. Caceres, who is 19, does not easily fit the mold of a habitual defendant. He is articulate and affable, and he had no lack of positive role models. Except for his time in jail, he has lived in only one place, with his family in a fifth-floor walkup on Broadway near 138th Street. The judge who handled his case before it passed to Justice Farber wrote a note in his file: "A good nonviolent kid from a good background."

"It was dumb," Mr. Caceres said in an interview last week on [Rikers Island](#). "I had the best chance. It couldn't be put better for me. I didn't have to spend a day more in jail."

Ultimately, Mr. Caceres said, his greed, desire for extravagance and weakness under peer pressure did him in.

"Once you come out of jail, people are expecting you to do the same things, to buy the same bottles, to keep living the life you're used to living," he said. "You're going to fall back and do what people want of you, not what you want of yourself."

During the 90-minute interview, Mr. Caceres provided a window into the thinking of a repeat offender.

His path to prison started on a spring day in 2005, when he was a freshman at the Manhattan Center for Science and Mathematics. At lunchtime, he said, a classmate asked him if he wanted to smoke marijuana.

He smoked his first blunt that day, and he was too high to return to class. He enjoyed the feeling.

By his sophomore year, he said, he was spending \$100 a week on marijuana and smoking daily. Around September 2005, he sold marijuana for the first time, making about \$30 in three hours. Just days later, he was arrested for the first time for possession of marijuana.

“All I was thinking about in my head is how much everybody’s going to disapprove of what I’d done,” he said.

No one in his immediate family had ever been arrested, he said. His father, Rafael, is an electrician, his mother, Rosa Maria Peña Cordero, a home health attendant. Both are from the Dominican Republic.

His oldest brother, Osvaldo, 25, is in the Army. Another brother, Joel, 24, received his bachelor’s degree in communications from [Marist College](#) in 2005 and now works for a publishing company, and his sister, Glenda, 15, is about to enter her junior year of high school.

His parents have been divorced since 2001. He was close to his father, and Ms. Cordero thinks the loss may be related to her son’s turn toward drugs.

“I gave him so much advice,” she said on Wednesday. “The thing is that Yiskar is a little hard-headed.”

Mr. Caceres had three more marijuana arrests, but he spent no more than a night in jail each time, and the most serious charge was a violation, which is not a crime. At the time, he said, a few nights in jail were worth the benefits of dealing drugs: money to buy the coolest clothes and respect from the “in” crowd.

Joel Caceres had warned his brother when he started high school.

“I told him that it was O.K. for him to be one of the cool kids,” Joel said during a recent interview. “But also be a smart kid and be academically successful.”

In January 2007, Mr. Caceres faced his first felony charge, for cocaine possession, and realized it was serious “when I finally heard the word ‘bail,’ ” he said.

Still, he was released without bail and was arrested for selling cocaine less than a month later. That time, he was out on \$1,000 bail, but a few months later, in July, he was arrested a third time on a felony cocaine charge. Finally, Mr. Caceres said, he realized he was in big trouble.

“I pleaded to my mother for help,” he said.

His family hired a lawyer, Mark I. Cohen.

Justice Farber kept Mr. Caceres at Rikers Island for six months while he deliberated on his decision. Prosecutors were asking for prison time, while Mr. Cohen sent the judge letters from people who knew Mr. Caceres personally, asking for mercy.

In January, when Justice Farber offered Mr. Caceres the deal of his life, he said, “If I commit this defendant to state prison at this point, we’ve completely written him off, and it cannot possibly make him a productive member of society.”

He told Mr. Caceres that he had no margin for error and added, “You better be scared.”

Mr. Caceres said he left the courthouse that day thinking, “I’m going to make my mother proud.”

He was off to a promising start, enrolling at Bronx Community College and receiving a favorable first report from the treatment program he entered. (He never completed high school but got his G.E.D. while at Rikers.)

His mother began rushing home from work to make dinner so he would have a reason to be home. She lifted her restriction on bringing girlfriends to the apartment, hoping that would prevent him from staying out late. “If you want to have girls here — one at breakfast, one at lunch, one at dinner — bring them here!” she told him.

But on April 22, Mr. Caceres was arrested for having cocaine outside a building on 193rd Street, just two blocks from where his previous three cocaine arrests took place.

“I began crying like I had gone mad,” his mother said. “I knew he wouldn’t get out now.”

Mr. Cohen said he considered no longer representing Mr. Caceres. “Why bother with you?” Mr. Cohen recalled thinking.

As Mr. Caceres walked into Justice Farber's courtroom on Thursday, his mother wore a brave expression. She had not smoked for five days, hoping it would help as she asked God for a light sentence for her son.

She breathed deeply, looked the other way, and laced her fingers with her son Joel's. Then she began to cry.

Justice Farber talked about his earlier decision and his lack of options now. "If I give you another chance you will deal drugs," he said. "I know I am hurting you, I know I am hurting your parents. I know I am hurting every person who comes before me in your position asking for leniency."

Even so, the judge gave him one more opportunity to help himself. He told Mr. Caceres to come back to court in two months to explain his behavior and "tell me what it's like to be you." Though he is facing about eight years in prison, the judge suggested that his answer could shave a bit of time from the sentence.

Mr. Caceres had made it clear before that he was not expecting such a gesture.

"Nobody should feel sorry for me," he said last week. "Not even the judge."

Annie Correal contributed reporting.
