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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Margaret Colgate Love to Jack Quinn; RE: Recommended Denials of Executive Clemency - 22 Petitions for Pardon (Baldwin to West) [partial] (10 pages)	10/17/1996	b(6)
002. memo	Margaret Colgate Love to Jack Quinn; RE: Recommended Denials of Executive Clemency - 10 Petitions for Pardon (Baron to Tennyson) [partial] (3 pages)	10/17/1996	b(6)
003. letter	Seth Waxman to the President; RE: In the Matter of the Application for Pardon of Harry Erla Fox (4 pages)	05/21/1997	b(6)
004. report	Report to the President Recommending Denial of Executive Clemency for Richard William Streb; RE: Personal [partial] (2 pages)	03/03/1999	b(6)
005. report	Report to the President Recommending Denial of Executive Clemency for Anne Herman; RE: Personal [partial] (1 page)	07/01/1998	b(6)

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FOLDER TITLE:

Misc. [Miscellaneous] DOJ [Department of Justice] Clemency Memoranda [3]

2006-1704-F

db3686

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



U.S. Department of Justice

Pardon Attorney

500 First Street, N.W.
Suite 400
Washington, D.C. 20530

OCT 17 1996

MEMORANDUM FOR: The Honorable Jack Quinn
Counsel to the President

THROUGH: Jamie S. Gorelick 
Deputy Attorney General

FROM: Margaret Colgate Love
Pardon Attorney

SUBJECT: Recommended Denials of Executive Clemency --
22 Petitions for Pardon (Baldwin to West)

The 22 individuals listed below have submitted petitions for pardon. A review of the contents of each petition and other relevant records establishes that each petition is without merit. Therefore, denial of pardon by the President is recommended for each petitioner listed. An appendix containing essential information pertaining to each petition is attached.

96 05 0336	Lawrence Mark Baldwin
96 03 0239	Steven Willer Bernstein
95 09 0575	Charles Clifford Brooks, Sr.
96 06 0364	Charles Clifford Brooks, Jr.
96 04 0289	Adriano Cereneche
96 05 0303	Freddie Day
94 11 0105	Charles Jerry Denton
95 06 0444	Patrick MacDonald Dockery
96 02 0220	Noemi Fernandez
95 04 0309	Norman M. Guthrie
96 04 0267	Ernest Buford Hamm
96 04 0273	William A.S. Heuer
96 03 0227	Adolfo R. Ibanez
95 02 0221	Scott Samuel Monroe
96 05 0318	Robert Earl Perry
96 04 0279	Amy Christine Post

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96 05 0310	Edmund Michael Reggie
95 02 0217	Daniel Joseph Sheil, Jr.
96 03 0223	Gary Lee Sorgea
95 10 0044	Ronald Xavier Spinapolic
95 09 0595	Orben Dale Stills
95 05 0398	James Benton West, Jr.

Attachment

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APPENDIX

Lawrence Mark Baldwin

Relief Sought	Offense/District	Sentence/Date
Pardon	Unlawful use of public funds	Five years' probation; \$719 restitution
	Central Illinois	April 16, 1987

Factual Summary and Reasons for Denial

Between 1984 and 1986, petitioner and his wife misappropriated approximately \$4,800 of postal funds to which they had access as the contracted operators of a U.S. Postal Service Branch Office in Tilton, Illinois. In order to keep their insolvent pet store (now defunct) afloat, they wrote money orders to themselves and failed to record the orders until a later date, falsifying stamp sales records to hide the embezzlement scheme. Petitioner, a former minister, used the money to satisfy bills for his pet shop, which was in the midst of bankruptcy proceedings. (b)(6)

(b)(6) Desires pardon so that he may sell firearms in connection with store duties. Reasons for denial: Offense involved serious abuse of public trust; poor post-conviction adjustment.

[001]

Steven Willer Bernstein

Relief Sought	Offense/District	Sentence/Date
Pardon	Forgery of Customs forms	Five years' probation; \$2,000 fine
	Eastern Louisiana	August 9, 1989

Factual Summary and Reasons for Denial

From 1986 to 1987, petitioner engaged in an automobile importation scheme designed to avoid costly emission control standards imposed by EPA and sales taxes imposed by the State of Louisiana. Petitioner was salesman and part-owner of a company that operated out of his family-owned tire store and imported used BMW's and Mercedes Benz's for resale; because EPA emission control regulations exempted vehicles more than five years old imported by first-time buyers for personal use (not resale), petitioner recruited "straw buyers" to falsify documentation and thereby avoided having to outfit the imported vehicles with costly emission control equipment. He also avoided having to pay twice the state's 9% sales tax. The "straw" buyers were paid \$50 to act as importers of the vehicles and sign the necessary Customs documents; once the autos cleared Customs in the U.S., they were delivered directly to petitioner's company for immediate resale. In his pardon petition, petitioner claims that all the cars were imported legally, but that in a "few cases" the listed (straw) buyer would back out of the deal. He characterizes Customs investigators as "overzealous" and claims that he only forged documents once, and then only because the state changed its sales tax policy "in midstream." (b)(6)

(b)(6) Filed bankruptcy in 1988. Graduated law school in 1993 and seeks pardon to facilitate admission to bar. Reasons for denial: Recent fraud for which petitioner grossly mischaracterizes facts and fails to accept responsibility.

Charles Clifford Brooks, Sr.

Relief Sought	Offense/District	Sentence/Date
Pardon	Aiding and abetting odometer altering	Three years' probation; \$25,000 fine; \$1,500 restitution
	Middle Georgia	October 30, 1989

Factual Summary and Reasons for Denial

In December 1988 petitioner, owner of a Chevrolet dealership (Brooks Motor Company) in Crawford, Georgia, was arrested after two of his employees informed FBI agents that three vehicles driven by him and his son had been resold to customers with their odometers altered and reset. A search warrant executed on the dealership revealed that the odometers had in fact been rolled back by as much as 21,500 miles. Petitioner's son ordered the rollbacks, and petitioner was aware of the odometer alteration on the car he had used as his family's personal vehicle. He cooperated after execution of the search warrant and quickly agreed to plead guilty, after which the government ceased any further investigation of the dealership. Probation terminated early; fine and restitution paid. Now 74 years old, petitioner continues to own the dealership and is a well-known member of the local business community; he seeks pardon to rehabilitate his reputation. The U.S. Attorney opposes pardon, specifically noting that in his application petitioner overstates his cooperation and inaccurately represents that the FBI "investigated every sale conducted by my automobile dealership for the previous five years," when in fact his guilty plea effectively terminated further investigation. The sentencing judge also opposes pardon, agreeing with the U.S. Attorney that because of petitioner's standing in the community and the recentness of the offense, a pardon would "send the wrong message to the community about the seriousness of white collar crime and consumer fraud." Reasons for denial: Relatively recent and serious offense for which petitioner minimizes culpability; absence of either pressing need for relief or meritorious service that might otherwise justify pardon.

Charles Clifford Brooks, Jr.

Relief Sought	Offense/District	Sentence/Date
Pardon	Aiding and abetting odometer altering; odometer resetting (two counts)	Three years' probation; \$10,500 fine; \$3,000 restitution
	Middle Georgia	October 30, 1989

Factual Summary and Reasons for Denial

In December 1988 petitioner, the manager and son of the owner of a Chevrolet dealership (Brooks Motor Company) in Crawford, Georgia, was arrested after two employees informed FBI agents that three vehicles driven by him and his father had been resold to customers with the odometers reset and altered. A search warrant executed on the dealership revealed that the odometers had in fact been rolled back by as much as 21,500 miles. Petitioner ordered the rollbacks, while his father was aware of the odometer alteration on the vehicle which had served as his family's personal vehicle. Petitioner drove the other two vehicles, a Chevrolet Corsica and Beretta, for his personal use. He cooperated after execution of the search warrant and quickly agreed to plead guilty, after which the government ceased any further investigation of the dealership. Probation terminated early; fine and restitution paid. Petitioner has continued as manager of the dealership but seeks pardon so that he will be permitted under General Motors policies to succeed his father as owner of the dealer franchise. Received state restoration of civil rights in 1994. Reasons for denial: Relatively recent offense in which petitioner played more culpable role than father, whose application for pardon is also being recommended for denial (see above); given petitioner's principal reason for seeking pardon, granting clemency at this early date would seriously undermine the deterrent effect of his fraud prosecution on the auto sales industry.

Adriano Cereneche

Relief Sought	Offense/District	Sentence/Date
Pardon	False statements Veterans Administration	Forfeiture of veterans benefits September 4, 1969

Factual Summary and Reasons for Denial

In 1969 petitioner, a veteran of the U.S. Armed Forces of Foreign Employ in the Philippines from 1945 through 1946, lied in an affidavit submitted to the Veterans Administration (VA) on behalf of a friend seeking veterans benefits for a hand injury he falsely claimed was service-related. Petitioner falsely swore that he served with his friend during World War II and saw him injure his hand; petitioner's veterans benefits were administratively forfeited by VA order pursuant to 38 U.S.C. § 3503(a). Board of Veterans Appeals affirmed the forfeiture decision on December 14, 1970. Petitioner applied for U.S. resident alien status in 1986 under amnesty program after residing illegally in U.S. for four years; became U.S. citizen in 1992. Minimizes culpability in pardon petition, stating that he merely signed the affidavit his friend prepared and did not read it thoroughly. Seeks pardon to restore veterans benefits. VA advises that there is no administrative remedy for restoring benefits short of presentation of new exculpatory evidence, and that if benefits were restored, petitioner would likely receive (b)(6) per month for wrist injury he sustained in war (previously rated a 10 percent disability). Now 72 years old, petitioner receives more than (b)(6) per month in government benefits and is eligible for Medicare. Reasons for denial: Failure to accept responsibility for offense; lack of compelling need for relief or showing of undue hardship, and absence of meritorious community service or other achievements that might otherwise justify pardon.

Freddie Day

Relief Sought	Offense/District	Sentence/Date
Pardon	Making a false statement to purchase a firearm; felon in possession of a firearm Northern Georgia	Three years' probation February 16, 1982

Factual Summary and Reasons for Denial

In 1980 petitioner, having been convicted previously of assault with intent to murder, falsely stated on a federal firearms application that he was not a felon, thereby allowing him to purchase a pistol. He again lied in the same manner when retrieving the pistol from a pawn shop the following year. (b)(6)

(b)(6)
(b)(6)
Probation officer advised him to avoid firearms at all cost. Received state restoration of civil rights in 1990. Seeks pardon so that he can obtain firearm "for protection." Reasons for denial: Overall criminal record and nature of instant offenses; evidence that petitioner may use pardon to obtain firearm(s) to commit assault.

Charles Jerry Denton

Relief Sought	Offense/District	Sentence/Date
Pardon	Violation of Food Stamp Act	Five years' probation; \$10,000 fine
	Eastern Tennessee	May 21, 1982

Factual Summary and Reasons for Denial

In July 1981 petitioner, a pawn shop owner and registered firearms dealer in Newport, Tennessee, took \$5,000 in food stamps from an undercover agent as payment for numerous unregistered firearms and merchandise, including: a .357 magnum handgun, five .12 gauge shotguns, a .20 gauge shotgun, a .38 special handgun, a .22 caliber handgun, 10 gold rings, and two diamond earrings. Petitioner then recruited couriers to redeem the food stamps at local grocery stores and markets. Although unable to again get a firearms license in his name due to his conviction, he continued to sell firearms from his pawn shop until 1993 with a license obtained in his daughter's name, who was part-owner and helped manage the store until she married and left the area. Now seeks pardon to regain dealer's license; has retained possession of 27 weapons that had been offered for sale prior to loss of daughter's firearms license in 1993. Recommended for pardon by local sheriff, county judge, and former probation officer. States that he regrets being "entrapped into doing what he did" and now claims he "never received any money." Reasons for denial: Serious offense involving trafficking in unregistered firearms by licensed dealer; minimization and misrepresentation of offense conduct evidences failure to appreciate gravity of offense or to accept responsibility for it.

Patrick MacDonald Dockery

Relief Sought	Offense/District	Sentence/Date
Pardon	Forgery of a U.S. Treasury check	Two years' probation
	Western Missouri	October 13, 1977

Factual Summary and Reasons for Denial

In 1975 petitioner, then a 26-year-old janitor at an apartment building in Kansas City, forged and cashed a federal tax refund check for \$146 that he had stolen from an apartment where he worked. He was initially placed on pretrial diversion, but was revoked after his subsequent state arrest (1977) for fraudulently cashing another 25 forged checks. Subsequently indicted and pled guilty to original offense involving federal tax refund check. Enlisted in Army in 1966 (b)(6) then honorably discharged; enlisted in Navy in 1969, but was separated (under honorable conditions) the following year for failing to disclose his previous discharge from the Army. (b)(6) Presently operates a pawn shop and serves part-time as a reserve police officer. He denied being a felon on two local permit applications to carry firearms, and he carries a gun in connection with his reserve officer duties. In pardon petition, he fails to disclose state forgery charges (b)(6). Seeks clemency so that he can renew firearms license for the pawn shop he operates. Reasons for denial: Post-conviction falsification of firearm permit applications and lack of candor in disclosing criminal history in pardon petition.

Noemi Fernandez

Relief Sought	Offense/District	Sentence/Date
Pardon	Possession of cocaine; filing a false tax return	Seven years' imprisonment; \$20,000 fine
	Southern New York	October 17, 1987

Factual Summary and Reasons for Denial

In December 1985 federal agents raided petitioner's apartment in New York and seized two kilograms of cocaine and \$64,000 in cash. She claimed the cocaine belonged to her boyfriend, for whom she merely answered the phones. According to her presentence report, the government's evidence showed her to be a large-scale, longtime distributor of cocaine and one of the more culpable defendants in a drug conspiracy that involved approximately 20 defendants. (b)(6) led an extravagant lifestyle throughout the early 1980's, acquiring condominiums, commercial properties worth more than (b)(6) jewelry (b)(6) a collection of fur coats, oriental jade, carpets, and ivory. (b)(6) Despite this apparent wealth and substantial income from commercial properties, petitioner claimed only \$17,000 in income for the 1984 tax year, blaming her misrepresentation on poor advice from an accountant, who allegedly told her that she did not have to report disability income. (b)(6) She also maintains, as she did at sentencing, that she was an innocent bystander to her boyfriend's drug dealing, and "was just dumb to care for someone so much" Released from prison in December 1991, petitioner earned a law degree in June 1996 and has been active in community causes and Latino student organizations; she seeks pardon to improve her legal employment opportunities and specifically cites one instance in which she was denied summer employment by a state prosecutor. Reasons for denial: Recentness of release from imprisonment for serious drug and tax offenses; portrayal of herself as victim and her description of offense conduct is contradicted by government's evidence and shows continued failure to accept responsibility for crime.

Norman M. Guthrie

Relief Sought	Offense/District	Sentence/Date
Pardon	Using hashish; distributing hashish; possession of heroin; using heroin	Two years' imprisonment; forfeiture of all pay and allowances for two years; reduction in rank; and dishonorable discharge
	U.S. Army general court-martial convened at Frankfurt, Germany	December 16, 1983

Factual Summary and Reasons for Denial

In July 1983 petitioner, a sergeant in the U.S. Army stationed in Frankfurt, Germany, was arrested by military police after he sold a cooperating informant 15 grams of hashish for \$300. A search of his apartment revealed 10 packets of heroin (weighing less than one gram total), seven grams of hashish, and drug paraphernalia. According to undercover sources, petitioner was a well-known drug trafficker who recruited other soldiers to deal for him. Pled guilty and served approximately 18 months' imprisonment before being released in June 1985. Frequent

(b)(6)

seeks a pardon to "bring me and my work full circle." U.S. Army opposes pardon. Reasons for denial: Evidence of post-conviction criminal conduct. (b)(6)

(b)(6)

Ernest Buford Hamm

Relief Sought	Offense/District	Sentence/Date
Pardon	Selling firearms without a license	Three years' probation, including two months' community confinement; \$5,000 fine
	Eastern Tennessee	July 12, 1991

Factual Summary and Reasons for Denial

Between September 1989 and March 1990, petitioner, a retired Army sergeant and decorated Vietnam veteran, sold 13 firearms without a license to an undercover officer in Johnson City, Tennessee. The firearms, some of which were unregistered and had no serial numbers, included two sawed-off shotguns and a .357 magnum. He now claims that he obtained the guns as collateral on small loans he gave to patrons of his restaurant, and therefore did not consider himself a firearms dealer. Subsequently convicted on related state charge of possession of a firearm without a serial number, for which he served concurrent term of probation. Voting rights restored in 1996. U.S. Probation Office advises that law enforcement officials involved in instant offense, including FBI and federal prosecutor, were contacted and recommend against pardon. Petitioner seeks pardon based on military service and desire to live as a "free" citizen. Reasons for denial: Recentness and seriousness of offense; absence of either compelling need for relief or meritorious service that might justify pardon.

William A. S. Heuer

Relief Sought	Offense/District	Sentence/Date
Pardon	Possession of illegally taken wildlife in interstate commerce	Three years' probation; \$7,500 fine; \$2,500 restitution
	Montana	September 15, 1989

Factual Summary and Reasons for Denial

In January 1989 petitioner traveled from his home in Pennsylvania to Bozeman, Montana to hunt elk; once there, he illegally purchased another's late-season hunting license for \$350 and shot a six-point bull elk inside a prohibited area. Arrested while attempting to board a plane back to Pennsylvania carrying the elk's cape and antlers; has prior criminal record of hunting violations. (b)(6)

(b)(6)
(b)(6) A successful plumber who has been active in his children's sports activities, petitioner seeks pardon so that he may possess firearms to hunt again. Reasons for denial: Recentness of conviction combined with significant prior history of similar hunting crimes makes pardon inappropriate at this time, especially in view of fact that petitioner requests pardon solely for the purpose of restoring firearms privileges.

Adolfo R. Ibanez

Relief Sought	Offense/District	Sentence/Date
Pardon	Conspiracy to pay voters to vote	Three years' probation; \$2,000 fine
	Southern Texas	June 20, 1983

Factual Summary and Reasons for Denial

During the primary elections in May 1982 in Duval County, Texas, petitioner, then a 58-year-old car salesman, paid cash to individuals to vote for Frank Garcia as county judge. Garcia was the brother of the owner of the car dealership where petitioner worked. Petitioner maintains now, as he did then, that he was simply a "messenger" who "handled the money" for the owner and did not realize the illegality of what he was doing; however, federal prosecutors characterized him as one of two principal organizers of the vote-buying conspiracy, and noted that he admitted buying votes in previous elections. First request for pardon was denied in 1988 because offense deemed "too recent and too serious," and because petitioner's acceptance of responsibility was uncertain. Now 71 years old, petitioner seeks pardon to restore civil rights and to enable him to participate more fully in community affairs. Current U.S. Attorney recommends against granting pardon based on petitioner's failure to accept responsibility and the deleterious impact a pardon would have in his district, where five voter-fraud investigations have been initiated in the past two years. Reasons for denial: Serious civil rights violation for which petitioner has yet to acknowledge culpability.

Scott Samuel Monroe

Relief Sought	Offense/District	Sentence/Date
Pardon	Tax evasion	45 days' imprisonment; five years' probation; \$25,000 fine
	Eastern Texas	December 8, 1988

Factual Summary and Reasons for Denial

For the 1985 and 1986 tax years, petitioner, a self-employed used car salesman in Beaumont, Texas, omitted reporting approximately \$5.9 million in gross receipts and more than \$250,000 in taxable income, resulting in non-payment of over \$104,000 in federal taxes. Pled guilty, cooperated, and paid all taxes owed. Now states that he never kept any books because he lacked accounting experience, but he previously told one pardon reference that he deliberately failed to pay taxes as part of a protest. (b)(6)

(b)(6)
(b)(6) Currently under investigation by U.S. Customs Service for possible drug trafficking. Neighbors describe him and his wife as "secretive," and petitioner drives a Lamborghini automobile with license plate reading "In Cash." Seeks pardon to restore civil rights, including right to possess firearms. Reasons for denial: Recentness and magnitude of tax-evasion offense; contradictory explanations for offense conduct evidence failure to accept responsibility; ongoing drug-trafficking investigation.

Robert Earl Perry

Relief Sought	Offense/District	Sentence/Date
Pardon	False statement to government agency; acceptance of a bribe by a government official Northern Texas	Six months' imprisonment; three years' probation March 6, 1981

Factual Summary and Reasons for Denial

In 1979 petitioner, then a loan officer for the Small Business Administration (SBA), accepted bribes for his assistance in obtaining \$42,000 in low-interest SBA disaster loans for alleged victims of a tornado in Wichita Falls, Texas; one of the bribes was a new Ford Thunderbird. Petitioner denies all wrongdoing in his pardon petition and blames his conviction on alleged perjury by government witnesses. Failed to report on pardon application all but one of his six prior arrests, which include unlawful carrying of a prohibited weapon (1968), forgery (1977), and theft (1978). (b)(6) Now aged 55, (b)(6) Was previously denied presidential pardon in 1991. Renews pardon request because he has "satisfied the penalty imposed" and has led a law-abiding life since his release from prison in 1981. Noting that he attended college for a period of time "to prepare to become a minister," he states "God has forgiven me, I am now waiting for mankind to do likewise." Reasons for denial: Failure to admit guilt, (b)(6) demonstrated by failure to disclose criminal history in pardon application as required, and acknowledged failure to disclose federal conviction on job applications.

Amy Christine Post

Relief Sought	Offense/District	Sentence/Date
Pardon	Conspiracy to distribute cocaine Southern Iowa	14 months' imprisonment (as modified); three years' supervised release October 26, 1990 (modified October 29, 1991)

Factual Summary and Reasons for Denial

Between October 1989 and January 1990, petitioner and her husband sold cocaine and marijuana from their home in Des Moines, Iowa. Agents raided their residence and seized more than 75 grams of cocaine, 350 grams of marijuana, \$1,778 in cash, and a fully-loaded 9mm semi-automatic handgun. Pled guilty and sentenced to 18 months' imprisonment; sentence reduced pursuant to government's Rule 35 motion rewarding her testimony against husband, the primary target of investigation. Released from confinement in November 1991; supervision terminated in January 1994. Has one prior conviction (1990) for possession of marijuana with intent to distribute. Has since divorced husband and resides in Arizona with her eight-year-old son; attends community college and hopes to obtain degree in social services. Now aged 26, she seeks pardon to reward her "personal achievement" and her ongoing rehabilitation. Reasons for denial: In absence of pressing need for relief, recentness of drug-trafficking conviction and discharge from supervision make favorable pardon consideration premature at this time.

Edmund Michael Reggie

Relief Sought	Offense/District	Sentence/Date
Pardon	Misapplication of funds of lending institution Western Louisiana	120 days' home confinement; three years' probation; \$30,000 fine September 23, 1993

Factual Summary and Reasons for Denial

In November 1985 petitioner, as attorney and chairman emeritus of the now-defunct Acadia Savings and Loan Association (Acadia), misapplied Acadia's funds by requiring that \$700,000 of a \$2.5 million loan to a borrower be used to purchase real property from Louisiana Bank, a financial institution of which he was chairman of the board and in which he had a substantial financial interest. In February 1986 he also caused Acadia to lend \$425,000 to a borrower despite the borrower's lack of collateral. He now characterizes offenses as "charged violation(s)" of federal law and refers to "allegations of misapplication of [bank funds]." Found guilty by a jury on one count of misapplication; pled *nolo contendere* to second count. Currently being sued by the Federal Deposit Insurance Corporation for claimed losses of over \$18 million resulting from his self-dealing, conflicts of interest, and other fiduciary breaches which are alleged to have driven Acadia into insolvency. (b)(6) U.S. Attorney opposes pardon. Now aged 69, (b)(6) requests early pardon consideration based on precarious health condition and to provide a "surcease of pain from this awful chapter of [my] life." Reasons for denial: Petitioner's description of offense significantly minimizes culpability and evidences failure to accept responsibility; recentness of conviction and existence of massive, unresolved victim impact and pending tax claims make favorable pardon consideration premature even considering poor health.

Daniel Joseph Shell, Jr.

Relief Sought	Offense/District	Sentence/Date
Pardon	Conspiracy to transfer unregistered machine guns; possession of unregistered machine gun; illegal transfer of unregistered machine gun Southern Florida	Three years' probation; 250 hours' community service; \$25,000 fine March 9, 1990

Factual Summary and Reasons for Denial

Between March and July 1989 in Fort Lauderdale, Florida, petitioner, a private investigator and retired police officer, sold a confidential informant three unregistered firearms for \$5,500: an M-14 rifle (missing property of the U.S. Marine Corps), an M-1 semi-automatic carbine (converted to fully automatic weapon), and an MP-44 submachine gun. Rationalizes in pardon petition that the assault weapons were collectors items and not "guns of choice" for criminals. Convicted after jury trial; completed community service at the Boys Club of Miami; discharged from probation in August 1991. Continues to work as private investigator. Received state restoration of civil rights in 1991 based in part on recommendation of sentencing judge; state firearms disabilities removed in 1994. U.S. Attorney opposes pardon based on recommendation of line prosecutor and nature of the offense. Petitioner seeks pardon based on desire for forgiveness. Reasons for denial: Very serious and relatively recent conviction for trafficking in assault weapons by former police officer.

Gary Lee Sorgea

Relief Sought	Offense/District	Sentence/Date
Pardon	Embezzlement Southern Illinois	One year's probation; \$2,522 restitution; \$1,500 fine February 8, 1985

Factual Summary and Reasons for Denial

Between 1981 and 1982, petitioner embezzled more than \$5,200 of union funds from the Boilermakers Local 482 in Illinois; while president, he charged the union for time he actually spent working at another job as a diesel mechanic. Prosecuted federally after the union forced him to resign office, pay restitution of \$2,747, and agree to a five-year disbarment from all union activities. Pled guilty and paid fine and additional restitution ordered by court. In his pardon application, petitioner superimposed (by xeroxing) a portion of one page of the application onto another page. (b)(6)

(b)(6)

(b)(6) Seeks pardon to permit him to obtain a gaming license, which in turn (he claims) will make him eligible for rehire at his old casino job. Reasons for denial: Pattern of untruthfulness and manipulation. (b)(6)

(b)(6)

Ronald Xavier Spinapolicc

Relief Sought	Offense/District	Sentence/Date
Pardon	Use of mail to receive obscene material (child pornography) New Jersey	Three years' probation; \$2,500 fine June 26, 1989

Factual Summary and Reasons for Denial

In January 1989 petitioner, then a 42-year-old physician, placed a mail order with an undercover agent for three videotapes depicting minor children engaged in sexually explicit acts. Postal agents had targeted petitioner in their undercover "sting" operation based on records showing that petitioner had previously ordered child pornography from a California dealer in 1983. (b)(6)

(b)(6)

(b)(6) reported to FBI agent during background investigation that petitioner minimizes his role in the offense and has yet to "address his personal responsibility for exploiting children." Two malpractice judgments entered against him in 1987 and 1989 totaling \$3 million. Has state medical license but seeks pardon to obtain hospital staff privileges. Reasons for denial: Aggravated nature of offense involving sexual exploitation of minors over extended period of time; apparent unwillingness or inability to fully acknowledge culpability.

Orben Dale Stills

Relief Sought	Offense/District	Sentence/Date
Pardon	1. Assaulting a federal officer; 2. Felon in possession of a firearm 1&2. Western Arkansas	1. Two weeks' imprisonment; \$500 fine 2. Three years' probation; \$250 fine 1. May 29, 1984 2. August 14, 1990

Factual Summary and Reasons for Denial

In June 1983 petitioner, while canoeing down the Buffalo National River, assaulted a federal park ranger who attempted to inspect a .41 caliber pistol he was carrying; although petitioner eventually surrendered the weapon, he did so only after severely bending the thumb of the ranger's hand. In November 1989, petitioner was arrested on felon-in-possession charges while hunting with a .30-06 caliber semi-automatic rifle. (b)(6)
(b)(6) Former employer told FBI agent during background investigation that he believed petitioner falsified injury claim; (b)(6)
(b)(6)
(b)(6) Circuit court judge recommends him for pardon, describing him as a "good old hill boy." Seeks pardon to permit him to carry firearm for hunting purposes. Reasons for denial: Recentness of second federal felony offense (b)(6)
(b)(6) questionable legitimacy of ongoing injury claim.

James Benton West, Jr.

Relief Sought	Offense/District	Sentence/Date
Pardon	Conspiracy to commit larceny; larceny General court-martial convened at U.S. Air Force Academy, Colorado	Dismissal from service; forfeiture of \$300 pay per month for 12 months September 9, 1988

Factual Summary and Reasons for Denial

In April 1988 petitioner, then a 21-year-old cadet at the Air Force Academy, paid \$10 for more than \$260 worth of merchandise at the Cadet Base Exchange (BX); he had befriended a female cashier at the BX and they had planned the undercharging scheme a week earlier. Cashier confessed and cooperated; petitioner gave incriminating statements to investigators at time of arrest, but then denied culpability. Although he tendered a request for resignation in lieu of trial, the Secretary denied his request and convened a general court-martial. (b)(6)
(b)(6)
(b)(6) After his dismissal, petitioner graduated from Georgia Tech in December 1990 (b)(6)
(b)(6) positions as a design engineer, part-time teacher, and retail salesperson. Attended flight school for several months but withdrew in October 1995. (b)(6)
(b)(6) Did not disclose court-martial conviction on at least one employment application. He now denies having planned the undercharging scheme, blaming the female cashier and characterizing his participation as mere acquiescence in illegal conduct she undertook entirely on her own. He explains that he "didn't want to say anything because I knew she would get in trouble," and blames his prosecution on the Academy's desire "to convict a cadet to make a statement." Seeks pardon to become a commercial flight pilot, although he is not currently pursuing flight training. Reasons for denial: Mediocre adjustment as reflected by spotty employment record; continued lack of candor and failure to acknowledge culpability for offense conduct.



U.S. Department of Justice

Pardon Attorney

500 First Street, N.W.
Suite 400
Washington, D.C. 20530

OCT 17 1996

MEMORANDUM FOR: **The Honorable Jack Quinn**
 Counsel to the President

THROUGH: **Jamie S. Gorelick** *[Signature]*
 Deputy Attorney General

FROM: *[Signature]* **Margaret Colgate Love**
 Pardon Attorney

SUBJECT: **Recommended Denials of Executive Clemency --**
 10 Petitions for Pardon (Baron to Tennyson)

The 10 individuals listed below have submitted petitions for pardon. A review of the contents of each petition and other relevant records establishes that each petition is without merit. Therefore, denial of pardon by the President is recommended for each petitioner listed. An appendix containing essential information pertaining to each petition is attached.

95 05 0351	Rose Marie Baron
94 10 0054	Susan Belson Chapman
95 06 0415	Fred Earl Bolden
96 02 0203	Robin Cole
95 05 0370	Lee Rogers Douglas
95 03 0260	Joseph Clide Grier
95 03 0294	Calvin Puckett
95 01 0195	John Lee Robertson
96 05 0306	Montrel August Surgent
95 05 0374	Raymond Charles Tennyson

Attachment

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. memo	Margaret Colgate Love to Jack Quinn; RE: Recommended Denials of Executive Clemency - 10 Petitions for Pardon (Baron to Tennyson) [partial] (3 pages)	10/17/1996	b(6)

COLLECTION:

Clinton Presidential Records
Counsel Office
Meredith Cabe
OA/Box Number: 21453

FOLDER TITLE:

Misc. [Miscellaneous] DOJ [Department of Justice] Clemency Memoranda [3]

2006-1704-F
db3686

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

APPENDIX

Rose Marie Baron

Relief Sought	Offense/District	Sentence/Date
Pardon	Arson in violation of Articles 80, 126, and 134, Uniform Code of Military Justice	18 months' confinement at hard labor; forfeiture of all pay and allowances for 18 months; reduction to lowest enlisted pay grade; dishonorable discharge
	Navy general court-martial convened in Washington, D.C.	September 22, 1983

Factual Summary and Reasons for Denial

In 1983, while serving in the United States Navy, petitioner set fire to bulletin boards at five dormitories at a naval installation in Washington, D.C. (b)(6)

(b)(6) Failed to report in her pardon petition seven of eight prior and subsequent arrests, and has been arrested twice since filing petition for damage to property and disorderly conduct. Now 33, seeks pardon as sign of forgiveness and to alleviate stigma of conviction. Navy opposes grant of pardon. Reasons for denial: Continuing pattern of criminal activity; lack of candor in pardon petition.

[002]

Susan Belson Chapman

Relief Sought	Offense/District	Sentence/Date
Pardon	Failure to pay transfer tax on marijuana	Three years' probation
	Southern Texas	March 13, 1968

Factual Summary and Reasons for Denial

Petitioner reports that in 1968, during a border-crossing check in Laredo, Texas, she and her first husband were found to be carrying two ounces of marijuana. (No official description of offense is readily available.) Has

(b)(6)

(b)(6) She persistently describes her conviction to others as one for evading taxes on souvenirs that she failed to declare. Seeks clemency to aid in prospective employment.

United States Attorney does not object to pardon. Reasons for denial:

(b)(6) unwillingness or inability to accept responsibility for offense.

Fred Earl Bolden

Relief Sought	Offense/District	Sentence/Date
Pardon	Conducting illegal gambling business; aiding and abetting	Two years' probation
	Northern Ohio	February 16, 1988

Factual Summary and Reasons for Denial

In 1984 and 1985 petitioner, while a 23-year veteran of the Cleveland, Ohio police department and owner of a bar, was a bookmaker for an illegal numbers operation run by six associates, who also ran an illegal money lending business. Bragged at time of offense that he had obtained from an associate two interest-free loans (totaling \$3,000), one of which he repaid and the other of which he did not repay because "they never asked." Now 64, petitioner retired from police force in 1986, earned a Ph.D., and currently works for a security company and is self-employed (since 1983) providing alcohol and drug testing at a local racetrack. In pardon petition he minimized his role in offense and failed to disclose his ownership of drug and alcohol testing business. (b)(6)

(b)(6) years. Seeks pardon for forgiveness, to restore right to serve on jury, facilitate community service, and remove stigma for son's sake. Reasons for denial: Significant crimes involving violation of public trust by law enforcement officer; failure to appreciate wrongfulness of his conduct; lack of candor in pardon petition; (b)(6)

(b)(6)

Robin Cole

Relief Sought	Offense/District	Sentence/Date
Pardon	Second-degree theft	One year's probation
	District of Columbia	February 13, 1986

Factual Summary and Reasons for Denial

In 1986, (b)(6) petitioner on several occasions forged \$100 checks from her employer's account. (b)(6)

(b)(6)

Now 34, she seeks pardon to facilitate employment as child care provider. Reasons for denial: Persistent pattern of dishonesty, including falsification of pardon application.

Lee Rogers Douglas

Relief Sought	Offense/District	Sentence/Date
Pardon	Food stamp fraud	Six months' imprisonment; five years' probation; \$36,000 restitution
	Middle Louisiana	June 17, 1983

Factual Summary and Reasons for Denial

Between April 1979 and May 1981 petitioner, then manager of a Baton Rouge, Louisiana convenience store, and the store's owner, illegally purchased food stamps from individuals for less than face value, and then "cashed" them for full face value through the United States Department of Agriculture (USDA) food stamp program. Considered the largest food stamp fraud in Louisiana up to that time, the estimated loss to USDA was more than \$36,000. Petitioner failed to disclose in his pardon petition a 1973 conviction for selling beer on Sunday and a 1986 arrest for felon in possession of a firearm (he pled to driving while intoxicated and firearm charge was dismissed). When interviewed by FBI during pardon background investigation, he stated that he "forgot to mention" firearm charge, claiming that the gun was not his but that he no longer recalled the name of its owner. Now 44 and steadily employed since conviction as a convenience store manager, petitioner seeks pardon to facilitate obtaining a liquor license so that he may open his own convenience store. United States Attorney takes no position on pardon; sentencing judge does not object to pardon. Reasons for denial: Nature and magnitude of fraud offense; subsequent firearm arrest; lack of candor in pardon petition.

Joseph Clide Grier

Relief Sought	Offense/District	Sentence/Date
Pardon	Conspiracy to import and to possess cocaine	Three years' imprisonment, as reduced
	Middle Georgia	March 13, 1986, reduced on July 6, 1988

Factual Summary and Reasons for Denial

In 1985 petitioner, then sheriff of Marion County, Georgia since 1978, agreed with undercover agent (UC) posing as cocaine smuggler to provide "protection" for importation of 250 kilograms of cocaine for \$50,000. Helped plan delivery, provided walkie-talkies to UC and coconspirator, and threatened to kill UC if he informed on petitioner. Conviction affirmed on appeal. Now 53 and a farmer since his 1989 release from prison, petitioner neither admits culpability nor expresses remorse in pardon petition. His civil rights were restored by State of Georgia in 1991. Seeks clemency to recognize his rehabilitation and to restore "full-fledged" citizenship. United States Probation Officer opposes pardon, expressing concern that petitioner might then seek reelection as sheriff. United States Attorney and sentencing judge declined to comment on pardon. Reasons for denial: Egregious breach of public trust by law enforcement officer; failure to accept responsibility for offense; lack of remorse.

Calvin Puckett

Relief Sought	Offense/District	Sentence/Date
Pardon	False statements before grand jury	Five years' probation; \$5,000 fine
	Northern Florida	January 12, 1989

Factual Summary and Reasons for Denial

In 1983 petitioner, while operations manager of a retail gasoline business operating in Alabama and Florida, falsely denied before a federal grand jury that he had discussed price fixing with competitors; however, substantial evidence showed, subsequent to his false testimony, that he had engaged in price fixing discussions from 1979 to 1982. Prosecutor indicates that petitioner's early, false testimony hindered the investigation, and that the government charged him only with perjury because it already had granted immunity to his more culpable superior to obtain information. Now 72, petitioner continues to assert innocence, and seeks pardon to facilitate his participation in government and community affairs. Reasons for denial: Persistent refusal to acknowledge culpability for perjury and antitrust violations.

John Lee Robertson

Relief Sought	Offense/District	Sentence/Date
Pardon	Conspiracy to distribute marijuana	Four months' home detention; two years' probation
	Western Tennessee	July 23, 1990

Factual Summary and Reasons for Denial

In 1989 petitioner, then band director at a high school in Tipton County, Tennessee, was approached by a former student seeking to buy marijuana and referred him to the school choir director, who sold him 18 grams of the drug. Despite guilty plea, petitioner asserts innocence in his pardon petition, stating that he does not consider his conduct a crime. Now a 35-year-old car salesman, he seeks pardon to regain teaching license. United States Attorney strongly opposes pardon, based primarily on petitioner's abuse of position as teacher and failure to accept responsibility for crime. Reasons for denial: Recent, serious offense, aggravated by abuse of teaching position; failure to accept responsibility or appreciate seriousness of offense.

Montrel August Sargent

Relief Sought	Offense/District	Sentence/Date
Pardon	Violation of civil rights; tampering with a witness Eastern Louisiana	One year's imprisonment; five years' probation; \$167 restitution August 28, 1985

Factual Summary and Reasons for Denial

In April 1985 petitioner, then a police officer with the Mississippi River Bridge Authority, kicked a television station cameraman while trying to confiscate the cameraman's videotape recording of another officer beating a suspect. Convicted by a jury, petitioner claims innocence in pardon petition, stating that he was merely lifting his foot out from under cameraman, who had fallen on it. Has a state conviction for simple battery relating to the instant offense. He left previous employment as a New Orleans Police Department officer (b)(6).
(b)(6) Now 41, (b)(6).
Seeks clemency to restore civil rights, remove firearms disabilities, and enhance employment prospects. Reasons for denial: Persistent refusal to accept responsibility for crime involving violence and abuse of public trust.

Raymond Charles Tennyson

Relief Sought	Offense/District	Sentence/Date
Pardon	Extortion under color of official right Eastern Pennsylvania	One year and one day's imprisonment; three years' probation; \$1,500 fine February 23, 1989

Factual Summary and Reasons for Denial

From August to November 1986 petitioner, a county probation officer, on three occasions took a total of \$200 in bribes from a defense attorney who practiced in county court. Trial testimony indicated that the relationship between petitioner and the defense attorney had existed "for a number of years." Petitioner had responsibility for making bail recommendations for defendants appearing in probation violation hearings, and pursuant to arrangements with the defense attorney took a \$50 bribe from him each time bail was granted for one of the attorney's clients. Employed by county court system for 22 years, after release from incarceration petitioner was a retail sales clerk until retiring in 1992. Now 71, he seeks pardon for forgiveness, to restore civil rights, and to restore Philadelphia City pension which was forfeited upon conviction. Both United States Attorney and sentencing judge oppose pardon, noting seriousness of ongoing, corruption offense. Reasons for denial: Extremely serious, recent crime undermining integrity of judicial system and involving breach of public trust.



U. S. Department of Justice

Pardon Attorney

Washington, D.C. 20530

JAN - 3 2000

Mrs. Muriel E. Gibson
8207 Brookfield Road
Richmond, Virginia 23227

Dear Mrs. Gibson:

This is in response to your letter of March 1999 to the President and Mrs. Clinton concerning a posthumous pardon for your late son, Albert Gibson. I surmise from your letter and its enclosures, that your son was convicted in federal court in New York, in the 1980's, of an offense having to do with false statements in connection with an application for a loan to allow him to attend medical school, and that you believe his conviction was wrongful.

Specifically, it appears that the conviction of your son for two counts of obtaining student loans by fraud and false statements, and two counts of using a false social security number to obtain benefits to which he was not entitled was upheld in *United States v. Gibson*, 770 F.2d 306 (2d Cir. 1985). If this is your son's case, the facts established at the trial were that, as a result of defaulting on a federally guaranteed student loan for \$1,500 in 1974, he became ineligible to obtain more loans. Nevertheless, he applied for further student loans in 1981, and was turned down because his previous default was detected when his social security number was entered into the computer files of the entity that administered these loans. In 1982, he again applied for federally guaranteed loans, this time using the social security number of his deceased father. By these means, he received \$8,000 in loans in 1982, and another \$8,000 in 1983.

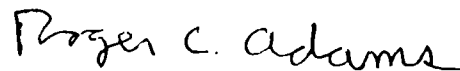
As my predecessor informed you in 1995, the Department of Justice typically has not processed applications for posthumous pardons. While the President did grant such a pardon to Lieutenant Henry O. Flipper in February of last year, that case was unique in several important ways. His supporters argued that his conviction represented a miscarriage of justice in that it flowed from racial segregation and discrimination that prevailed in much of the United States — and particularly in the army — in the early 1880's when he was convicted. A pardon was said to be appropriate as a symbolic gesture to honor the perseverance demonstrated by Lt. Flipper in overcoming these obstacles at West Point and while serving in the army. Thus, I believe that posthumous pardons are likely to be reserved for those rare occasions where a particular conviction or punishment was the product of policies, customs, and mores that are no longer part of our country, or there is at least a widespread perception that such factors were involved in the case.

I should emphasize that, contrary to popular perception, a pardon does not "reverse" a person's conviction or "clear a person's name." Rather, it relieves the offender of all punishments, penalties, and disabilities that flow from the conviction. In the final analysis, a pardon is an act of forgiveness. It forgives any specific remaining punishment, such as part of a prison sentence or payment of a fine, and also stands as official forgiveness of the person for having committed the offense. Thus, persons considering a pardon for a deceased relative should keep in mind that a pardon is more a statement of forgiveness of guilt than an act that vindicates innocence.

Because I am sorry to have to conclude that your son was, in fact, guilty of the offenses of which he was convicted, because I think it unlikely that racial prejudice or other improper motive played a part in his prosecution, and because a posthumous pardon would not provide the declaration of your son's innocence that you seek, I cannot further consider a pardon for your son.

Having conveyed the above, I fully realize my response is not what you had hoped to hear, and I do sympathize with your movingly conveyed thoughts about your son's conviction. I am returning your pictures, and apologize for keeping them so long.

Sincerely,



Roger C. Adams
Pardon Attorney

✓ cc: ~~Beth Nolan~~
~~Counsel to the President~~

Eric H. Holder, Jr.
Deputy Attorney General

Enclosures

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. letter	Seth Waxman to the President; RE: In the Matter of the Application for Pardon of Harry Erla Fox (4 pages)	05/21/1997	b(6)

COLLECTION:

Clinton Presidential Records
Counsel Office
Meredith Cabe
OA/Box Number: 21453

FOLDER TITLE:

Misc. [Miscellaneous] DOJ [Department of Justice] Clemency Memoranda [3]

2006-1704-F

db3686

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]



U. S. Department of Justice

Pardon Attorney

Washington, D.C. 20530

JAN 12 2000

MEMORANDUM FOR MEREDITH CABE
 ASSOCIATE COUNSEL TO THE PRESIDENT

FROM: Roger C. Adams *RCAd*
 Pardon Attorney

SUBJECT: Miscellaneous Pending Cases

In 9 commutation cases pending in the Office of the White House Counsel with a recommendation that the relief requested be denied, the petitioners have been released. In none of these cases did the petitioners seek remission of fine or restitution. Since the primary, if not sole, reason these petitioners sought executive clemency was to be released from prison, it seems appropriate to close these cases without further action. Although many of these persons have a period of supervised release or parole to serve after their release from prison, which technically could be commuted, the unlikelihood of such action coupled with the administrative burden of carrying these cases as "open" indicates that closing them administratively is appropriate. I plan to do so and to inform the petitioners of the administrative closing.

The cases are listed in the attachment, grouped by date of the transmittal memorandum and with the date of release noted. I do not believe that the cases administratively closed need to be physically removed from the various transmittal memoranda. If we are notified of White House action denying clemency for the groups of cases containing the ones that have been administratively closed, we will simply note for our records that the cases in the attached list were administratively closed, rather than denied by the President.

Attachment

MEMORANDUM SUBMITTED JANUARY 21, 1999

NAME	CASE NUMBER	RELEASE DATE
Barbara Gail Harrison-Philpot	1999-02-0270	October 13, 1999

MEMORANDUM SUBMITTED APRIL 12, 1999

NAME	CASE NUMBER	RELEASE DATE
Marcos Chavez-Casarez	1999-02-0315	October 14, 1999
Steven Emile Holloway	1998-09-0567	December 10, 1999
Sergio Jordan	1997-08-0554	November 2, 1999
Deborah Suzanne Kolodner	1998-10-0050	October 15, 1999
Carlos Monje-Torres	1999-20-0344	October 22, 1999
Benjamin Rey	1997-09-0619	November 10, 1999
Octavio Solis-Sotelo	1999-03-0359	December 23, 1999

MEMORANDUM SUBMITTED AUGUST 16, 1999

NAME	CASE NUMBER	RELEASE DATE
Toni Carol Crabtree	1999-04-0559	December 8, 1999



U. S. Department of Justice

Pardon Attorney

Washington, D.C. 20530

JAN 13 2000

John P. McLaughlin
Field Representative to
the Honorable Tom Allen
234 Oxford Street
Portland, Maine 04101

Dear Mr. McLaughlin:

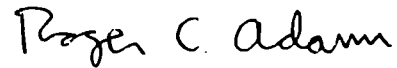
Meredith E. Cabe, Associate Counsel to the President, has forwarded to me a copy of her January 6, 2000, letter to you responding to your request on behalf of Air Force Staff Sergeant Jerold Tilton for information on executive clemency. Ms. Cabe also forwarded to me a copy of your letter, with the attached correspondence from Staff Sergeant Tilton and others writing on his behalf. It appears that SSG Tilton was convicted by an Air Force general court-martial, and currently is serving a sentence of confinement under military jurisdiction for that conviction.

Ms. Cabe informed you that individuals seeking executive clemency should file an application with this office. However, clemency in military cases is handled by military authorities insofar as it involves commutation (reduction) or adjustment of a sentence, which is what SSG Tilton appears to be seeking. SSG Tilton should contact military authorities where he is incarcerated to determine the procedure for applying. In this regard, I note that the defense counsel for SSG Tilton appears to be aware of the procedure for seeking commutation of a military sentence. Included in the documents you forwarded to the White House was a memorandum to you from Captain Paul W. Hurcomb, Air Force Defense Attorney. In the memorandum, Captain Hurcomb suggested that any letter in support of clemency for SSG Tilton be addressed to the appropriate military authority, and submitted to him for inclusion in the clemency filing.

For your additional information, clemency in military cases is handled by this office insofar as it involves pardon. Pardon is considered an act of mercy and forgiveness; however, an individual convicted of a federal offense (civilian or military) is not eligible to apply for a pardon until a minimum of five years after release from confinement. Consequently, SSG Tilton is not eligible to apply for a pardon at this time, and this office can be of no assistance to him.

I hope this information is helpful. Please feel free to contact me or Kathleen G. Hatton, of my staff, at (202) 616-6070 if we can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "Roger C. Adams". The signature is written in a cursive, slightly slanted style.

Roger C. Adams
Pardon Attorney

A small, rectangular stamp with the letters "cc:" followed by a small, illegible mark.

Meredith E. Cabe
Associate Counsel to the President



U. S. Department of Justice

Pardon Attorney

Washington, D.C. 20530

July 1, 1999

MEMORANDUM FOR MEREDITH CABE
ASSOCIATE COUNSEL TO THE PRESIDENT

FROM: Roger C. Adams RCA
Pardon Attorney

SUBJECT: Miscellaneous Pending Cases

In 36 commutation cases pending in the Office of the White House Counsel with a recommendation that the relief requested be denied, the petitioners have been released. In none of these cases did the petitioners seek remission of fine or restitution. Since the primary, if not sole, reason these petitioners sought executive clemency was to be released from prison, it seems appropriate to close these cases without further action. Although many of these persons have a period of supervised release or parole to serve after their release from prison, which technically could be commuted, the unlikelihood of such action coupled with the administrative burden of carrying these cases as "open" indicates that closing them administratively is appropriate. I plan to do so and to inform the petitioners of the administrative closing.

The cases are listed in the attachment, grouped by date of the transmittal memorandum and with the date of release noted. I do not believe that the cases administratively closed need to be physically removed from the various transmittal memoranda. If we are notified of White House action denying clemency for the groups of cases containing the ones that have been administratively closed, we will simply note for our records that the cases in the attached list were administratively closed, rather than denied by the President.

Attachment

MEMORANDUM SUBMITTED AUGUST 6, 1998

NAME	CASE NUMBER	RELEASE DATE
Eduardo Robinson-Munoz	1998-01-0208	June 30, 1999
Jackie Keith Steele	1998-02-0295	April 2, 1999

MEMORANDUM SUBMITTED OCTOBER 7, 1998

NAME	CASE NUMBER	RELEASE DATE
Isiah Evans, III	1997-04-0343	March 4, 1999

MEMORANDUM SUBMITTED FEBRUARY 18, 1999

NAME	CASE NUMBER	RELEASE DATE
Guadalupe Gonzalez-Gaona	1998-12-0181	June 23, 1999
German Grandos-Silva	1998-12-0158	April 23, 1999
Ricardo Maldonado-Balderas	1998-12-0162	May 28, 1999
Jose Ornelas-Gonzalez	1998-10-0027	June 22, 1999

MEMORANDUM SUBMITTED FEBRUARY 23, 1999

NAME	CASE NUMBER	RELEASE DATE
Jose Gerardo Martinez	1998-12-0147	June 21, 1999
Arturo Reynosa-Ortiz	1999-01-0229	April 22, 1999

MEMORANDUM SUBMITTED MARCH 5, 1999

NAME	CASE NUMBER	RELEASE DATE
Ivan Gonzalez	1998-05-0432	April 7, 1999
Winston Dermot Sharpe	1997-12-0147	April 26, 1999

MEMORANDUM SUBMITTED MARCH 18, 1999

NAME	CASE NUMBER	RELEASE DATE
John Addison Ballis	1995-01-0155	March 10, 1999

MEMORANDUM SUBMITTED APRIL 12, 1999

NAME	CASE NUMBER	RELEASE DATE
Jesus Godinez-Morales	1999-02-0308	June 15, 1999
Ardon Hernandez-Burgos	1999-02-0346	May 28, 1999
Emery A. Minnard	1999-01-0216	May 7, 1999
Bobby Graydon Sanders, Sr.	1998-03-0323	June 7, 1999
David A. Shafer	1998-02-0257	June 30, 1999
James Edward Walker	1998-06-0470	April 28, 1999

MEMORANDUM SUBMITTED FEBRUARY 18, 1997

NAME	CASE NUMBER	RELEASE DATE
Karlton Halbert	1996-10-0044	May 7, 1999

MEMORANDUM SUBMITTED MARCH 19, 1997

NAME	CASE NUMBER	RELEASE DATE
Wiley Hollon, Jr.	1994-08-0707	May 16, 1997
Vidolfo Satizabal	1994-06-0600	April 22, 1999

MEMORANDUM SUBMITTED OCTOBER 9, 1997

NAME	CASE NUMBER	RELEASE DATE
Robert Barnwell Clarkson	1997-06-0440	April 26, 1999
Donnell James Mobley	1997-06-0451	March 25, 1999

MEMORANDUM SUBMITTED NOVEMBER 17, 1997

NAME	CASE NUMBER	RELEASE DATE
Frederick Louis DeRatto	1997-02-0228	July 17, 1998

MEMORANDUM SUBMITTED DECEMBER 12, 1997

NAME	CASE NUMBER	RELEASE DATE
Dario Picasso	1996-09-0482	April 29, 1999

MEMORANDUM SUBMITTED MAY 20, 1998

NAME	CASE NUMBER	RELEASE DATE
Walter Arteta	1997-03-0298	June 11, 1999
Frank Edward Cardenas	1997-09-0647	April 15, 1999
William Howard Carvell	1996-11-0076	May 26, 1999
Jose Chaipa-Lopez	1998-02-0261	April 2, 1999
Christopher Leroy Jackson	1998-01-0199	April 16, 1999
Carlos Jimenez-Gonzales	1997-09-0676	April 21, 1999
Mark Floyd Johnson	1997-11-0142	May 20, 1999
Jose Emilio Martinez	1997-10-0052	April 30, 1999

MEMORANDUM SUBMITTED JUNE 25, 1998

NAME	CASE NUMBER	RELEASE DATE
Harry Harold Brill, III	1997-04-0345	May 17, 1999
Felipe Gandarilla-Medina	1998-01-0202	June 4, 1999
Ralvyn Harris	1998-01-0228	May 27, 1999



U. S. Department of Justice

Pardon Attorney

Washington, D.C. 20530

March 3, 1999

MEMORANDUM FOR: **The Honorable Charles F.C. Ruff**
 Counsel to the President

FROM: **Roger C. Adams** *RC A*
 Pardon Attorney

SUBJECT: **Recommended Denial of Executive Clemency --**
 One Petition for Commutation of Sentence

Attached is a report signed by the Deputy Attorney General recommending denial of executive clemency in the form of commutation of sentence for the following person:

98 10 0024

Richard William Streb

no. 1

Attachment

REPORT TO THE PRESIDENT
RECOMMENDING DENIAL OF EXECUTIVE CLEMENCY FOR
RICHARD WILLIAM STREB

Offense: Illegal reentry on military reservation in violation of prior exclusion order.

Sentence: Six months' imprisonment; \$3,000 fine.

Date: November 19, 1997.

District: Middle Georgia.

Relief sought: Commutation of sentence and remission of fine.

Summary of essential facts:

On November 16, 1997, petitioner was one of 612 persons arrested on the Fort Benning, Georgia, Army base following a march by the group onto the base in which the demonstrators carried signs, banners, crosses, and petitions protesting the presence on the installation of the School of the Americas ("SOA"), a subordinate unit of the United States Army Infantry School.¹ Earlier in November, an attorney for the protest group, known as the SOA Watch,² had sought permission from the Commandant of the SOA to present several speeches to interested observers outside the school on the base grounds, but the request had been denied by the Acting Commander of Headquarters, United States Army Infantry Center, acting upon the recommendation of the Chief of the Administrative and Civil Law Division of the Office of the Staff Judge Advocate. Citing the fact that Fort Benning's primary mission is the training of

¹Located in Columbus, Georgia, Fort Benning is a 184,000-acre installation supporting approximately 21,000 active duty soldiers, 50,000 dependents, 6,800 civilian employees, and 19,000 military retirees. The post is composed of elements of the Forces Command, the Special Operations Command, and the Training and Doctrine Command. The Army Infantry School, which is part of the third command, trains soldiers and infantry units in military tactics, techniques, and procedures. On a typical day, Fort Benning trains an average of 3,200 new infantry soldiers, 2,100 soldiers in other infantry disciplines, and 200 foreign students. The SOA, which conducts its courses in Spanish, has trained approximately 59,000 Latin American military personnel, policemen, and civilians since it was first formed in the Panama Canal Zone in 1946. Moved to Fort Benning in 1984, it defines its mission as "to provide doctrinally sound, relevant military education and training to the nations of Latin America; to promote democratic values and respect for human rights; and to foster cooperation among multinational military forces."

²The United States Attorney for the Middle District of Georgia indicates that this group, which advocates closure of the School of the Americas because group members believe that the SOA is responsible for human rights abuses committed by some of its graduates, has protested against the SOA's continued existence since 1983.

soldiers, the Commander expressly informed the group's attorney that the base "is not a public forum and is not an appropriate venue to express political or partisan views."³ Thereafter, on successive days preceding November 16th and on that day itself,⁴ attorneys from the Office of the Staff Judge Advocate read aloud a proclamation to the SOA protesters and their sympathizers when they gathered at the entry to Fort Benning, warning that they were not authorized to engage in any march, demonstration, or other organized political activity on the base, and that they would be subject to fines and imprisonment if they entered the installation for such a purpose. Nevertheless, 612 persons ignored the warnings on November 16th and marched onto the base, where they were arrested after they had walked approximately one-quarter mile into the reservation's grounds.

All of the 612 marchers were bussed to a processing area,⁵ where each violator was checked against Fort Benning records to determine whether he or she was a first time or repeat offender. Petitioner and 24 others, who were found to have previously been issued exclusion letters by the base commander prohibiting reentry onto Fort Benning's grounds, were then charged by the United States Attorney for the Middle District of Georgia with one count of illegal reentry onto a military reservation.⁶ This Class B misdemeanor offense carries a maximum penalty of six months' imprisonment and a \$5,000 fine. See 18 U.S.C. §§ 1382, 3559(a)(7), 3571(b)(6). The first offenders were not prosecuted, although they could have been charged with criminal trespass under 18 U.S.C. § 1382.

³The Chief of the Administrative and Civil Law Division, Office of the Staff Judge Advocate at Fort Benning has been employed at the base since 1976 and reviews for the base commander all requests made by organizations seeking to operate on the reservation, including political and activist groups. He has indicated that since 1976, no approval has been granted for any individual, group, or organization to demonstrate or engage in any kind of political activity on the post's grounds. Instead, any persons engaging in such activity uniformly have been escorted off the post and charged with criminal trespass or illegal reentry into the base. See United States Army Infantry Center Regulation 210-5, ¶ 44.

⁴A protest near in time to November 16th has been held annually at Fort Benning since 1990, according to petitioner's attorney. The SOA Watch has chosen that date because on November 16, 1989, six Jesuit priests, their housekeeper, and her daughter were killed in Latin America by a group of Salvadoran soldiers, some of whom apparently had been trained by the SOA.

⁵The expense of processing such a large number of demonstrators was substantial. The United States Attorney for the Middle District of Georgia estimates that the federal government spent \$4,000 for food and drink for the demonstrators and at least \$2,000 for overtime for Department of Defense police, that the military police response entailed the equivalent of 650 soldier days, and that other significant sums were expended to pay for rental of buses and portable toilet facilities.

⁶Petitioner admits in his clemency application that he had previously been barred from Fort Benning by the base commander. According to the United States Attorney, petitioner was excluded from the installation by letter of the commander dated May 1, 1997, based upon his participation in a demonstration at Fort Benning against the SOA held on November 16, 1996. Besides the 25 defendants noted above, three other repeat offenders arrested at Fort Benning in November 1997 were also charged with illegal reentry, but the United States Attorney later dismissed the charge against them because of evidentiary problems proving their receipt of the exclusion letters and knowledge of their barrings from the base.

On November 19, 1997, the 25 codefendants, accompanied by an attorney advising the group, appeared before United States Magistrate Judge William L. Slaughter for arraignment. On the invitation of the defendants, local and national news media members were in attendance. Following an explanation of the charge, maximum penalty, and the defendants' constitutional rights, petitioner and two of his codefendants entered pleas of nolo contendere. Before accepting their pleas, Magistrate Judge Slaughter permitted petitioner and his two companions to make lengthy statements about any matters they wished him to consider before imposing sentence, including their personal histories, their reasons for committing the offense, and the views they held of the SOA. Neither the pleading defendants nor the attorney advising the group requested that presentence reports be prepared. The court then sentenced each of the three defendants to six months' imprisonment and a \$3,000 fine,⁷ noting that each was a repeat offender,⁸ and continued the cases against the other 22 codefendants for the trial the group had requested.⁹

Immediately after these proceedings, the group of 25 conducted a press conference on the steps of the federal courthouse. According to the United States Attorney, at that time they

announced that the sentences would serve to invigorate their cause, and . . . vowed that their message would resonate from the confinement facilities where they served their sentences. Further, they expressed surprise that the government had proceeded against as many as twenty-five of them, and stated that in November 1998, they would return to Fort Benning in even greater numbers, and that the government would simply not be able to respond to them in that greater number.^[10]

⁷One of the codefendants who pled nolo contendere and was sentenced with petitioner was Anne Herman, who is the subject of a separate report recommending denial of her petition for commutation of sentence and remission of fine. The report on petitioner Herman was forwarded to the Counsel to the President on July 1, 1998. Ms. Herman was released from prison on July 27, 1998, thereby rendering moot her request for commutation of sentence, but her fine had not been paid as of the time of her release, and so far as is known, it remains unpaid. The third defendant who pled nolo contendere did not seek executive clemency and was released from prison in July 1998.

⁸In cases in which restitution is not required to be imposed, the court may dispense with the preparation of a presentence report if it explains on the record the basis for its finding that the information of record is sufficient to permit the court to exercise its sentencing authority in a meaningful way. Fed. R. Crim. P. 32(b)(1). Apparently, however, Magistrate Judge Slaughter did not make any findings on the record as to why he found that presentence reports were unnecessary.

⁹The 22 remaining codefendants were found guilty after a bench trial before the Honorable J. Robert Elliott and were sentenced on January 21, 1998, to the identical punishment of six months' imprisonment and a \$3,000 fine. Like petitioner and his companions who had entered pleas, the trial defendants were permitted to make lengthy statements before sentencing regarding their personal histories and political views. None sought leniency and many promised that upon serving their sentences, they would return to Fort Benning, after which they expected to appear again before the court. All of these individuals are now appealing their convictions and sentences.

¹⁰On November 22, 1998, the SOA Watch held its most recent demonstration at Fort Benning. Press reports estimated that approximately 2,000 people crossed onto Fort Benning grounds in violation of warnings not to do so. However, according to the Office of the United States Attorney for the Middle District of Georgia, the

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004. report	Report to the President Recommending Denial of Executive Clemency for Richard William Streb; RE: Personal [partial] (2 pages)	03/03/1999	b(6)

COLLECTION:

Clinton Presidential Records
Counsel Office
Meredith Cabe
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Misc. [Miscellaneous] DOJ [Department of Justice] Clemency Memoranda [3]

2006-1704-F
db3686

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

The Bureau of Prisons thereafter notified petitioner to surrender to begin service of his sentence on February 17, 1998. Although he did not appeal his sentence to the United States Court of Appeals for the Eleventh Circuit, in December 1997, petitioner wrote letters to the President, the Attorney General, and others contending that the fine imposed upon him was excessive and that the May 1, 1997, barring letter he had received from Major General Ernst had stated that the maximum fine he could receive for illegally reentering the military base was \$500 (rather than \$5,000).¹¹ In January 1998, petitioner retained counsel and filed a motion to vacate and correct sentence with the district court, challenging the legality of his sentence on the ground that Magistrate Judge Slaughter had failed to order the preparation of a presentence report, to make factual findings as to why such a report was unnecessary, or to inform petitioner that the report was required absent such findings. In addition, the motion informed the district court that petitioner's wife was scheduled to undergo surgery (b)(6) at the time he was required to begin serving his sentence, and that he was needed at home to care for her during the post-operative period. Petitioner subsequently withdrew this motion when the government agreed to delay his prison reporting date. On September 21, 1998, petitioner reported to the Federal Prison Camp at Beckley, West Virginia, to begin serving his sentence. [004]

Grounds for clemency:

Petitioner is a 73-year-old retired teacher and professor of social studies¹² who received his doctoral degree in education from Teachers College of Columbia University. He served for three years in the United States Navy during World War II, receiving numerous decorations, and among the several books he has written is one about his Navy experiences. Petitioner has been active as a human rights advocate throughout his adult life and has participated in a number of humanitarian projects in Nicaragua and Mexico. He and his wife, (b)(6) reside in Roanoke, Virginia, near their daughter.

Petitioner has no known prior convictions, but was arrested for trespass at Fort Benning on November 16, 1996 (as a result of which he was barred from the base), and for refusing to quit the Rochester, New York, office of a congressman while protesting the Gulf War (petitioner does not indicate when this occurred, but represents that the charge was dismissed). He is cleared for regular duty with no medical restrictions while in the custody of the Bureau of Prisons, and is projected for release in March 1999. He has not yet paid any of his fine, but is

Department of the Army has not requested that these individuals be prosecuted for trespass. Instead, the demonstrators were loaded onto buses, removed from the base grounds, and released.

¹¹In his letters to the President and the Attorney General, petitioner also requested that he be pardoned. The Pardon Attorney subsequently informed petitioner by letter that he was ineligible to seek a pardon because of the five-year waiting period after completion of sentence of confinement that applies to such requests for clemency, 28 C.F.R. § 1.2, but that he would be eligible to seek commutation of sentence once he had completed all judicial challenges to his conviction and reported to prison to begin serving his sentence.

¹²Petitioner taught high school until 1978, when he retired (b)(6) he returned to education for another nine years as a professor at Teachers College of Columbia University.

scheduled to begin making \$25 quarterly payments toward it and the \$10 court-imposed misdemeanor assessment fee in December 1998 through the inmate financial responsibility program.¹³ Petitioner estimates that he and his wife receive a combined monthly income from pensions and Social Security payments of approximately (b)(6) and indicates that they own assets (b)(6). He seeks commutation based upon his record of community and military service, his belief that he was "exercising [his] constitutional right" by participating in the protest at Fort Benning, and his desire to care for his infirm wife. He seeks remission based upon his complaint that the \$3,000 fine imposed upon him exceeds the \$500 fine listed in the barring notice he received prior to his arrest.

The Department of Justice has received approximately 1,000 letters and petitions containing thousands of signatures protesting the sentences of petitioner and his 24 codefendants as unjust and excessive, criticizing the sentencing judges, and supporting executive clemency for all of the so-called "SOA 25."¹⁴ (Many of these letters also espouse the position that the School of the Americas should be closed because it contributes to human rights abuses.) In addition, the following Members of Congress have written to the Department of Justice requesting that the President give serious and expedited consideration to clemency for petitioner and his 24 codefendants: Joseph P. Kennedy II,¹⁵ William D. Delahunt, Edward J. Markey, James P. McGovern, John Joseph Moakley, and John W. Olver of Massachusetts; George E. Brown, Jr., and Pete Stark of California; Jim McDermott of Washington; James A. Barcia, John Conyers, Jr., David E. Bonior, and Debbie Stabenow of Michigan; Bruce F. Vento of Minnesota; Michael R. McNulty of New York; Glenn Poshard and Sidney R. Yates of Illinois; Melvin L. Watt of North Carolina; and Ron Kind of Wisconsin. In April 1998, SOA Watch supporters held a vigil in Washington, D.C., opposing continued operation of the School of the Americas and supporting the 25 convicted trespassers.

Official comments:

The United States Attorney for the Middle District of Georgia "strongly oppose[s] commutation of sentence for any of the [SOA 25] defendants." She points out that the refusal of Fort Benning officials to permit the defendants to demonstrate at the installation was based upon

¹³At sentencing, the court ordered that petitioner's fine be paid no later than May 19, 1998.

¹⁴Petitioner and Anne Herman, see note 7, *supra*, are the only SOA 25 defendants who have applied for commutation and remission. Besides petitioner, one other defendant wrote to the Attorney General seeking a pardon, but was informed by the Pardon Attorney that he was not then eligible to request such relief, since the five-year waiting period after release from confinement had not elapsed. *See* 28 C.F.R. § 1.2. Thereafter, petitioner's attorney, who chairs a Seattle, Washington-based Committee for Clemency/Pardon of the SOA Protesters, contacted the Office of the Pardon Attorney requesting commutation of sentence and remission of fine on behalf of all 25 defendants. Counsel was advised, however, that 22 of the 24 individuals convicted with petitioner were ineligible to seek these forms of clemency because they were appealing their convictions. *See* 28 C.F.R. § 1.3. The only other individual who pled *nolo contendere* with petitioner and Anne Herman and did not file an appeal elected not to seek executive clemency. See note 7, *supra*.

¹⁵Congressman Kennedy also wrote directly to the President to request that the sentences of the SOA protesters be commuted.

the application of a content-neutral military regulation prohibiting any demonstration or political activity on the base “which could interfere with or prevent the orderly accomplishment of the installation’s mission or which present[s] a clear danger to the loyalty, discipline, or morale of the troops” See note 3, *supra* (no individual or group has been granted an exception from the general ban imposed by the regulation since at least 1976). This regulation, the United States Attorney explains, reflects “the Supreme Court’s recognition that a military reservation is not a public forum, and that Fort Benning may therefore restrict partisan political activities within its borders.” See *United States v. Albertini*, 472 U.S. 675, 684-689 (1985); *Greer v. Spock*, 424 U.S. 828, 834-839 (1976); see also *Ethredge v. Hail*, 56 F.3d 1324, 1326-27 (11th Cir. 1995). Thereafter, the United States Attorney notes, her office exercised its prosecutorial discretion in restrained fashion by filing charges only against those demonstrators — including petitioner — who were repeat offenders at Fort Benning, rather than against all of the participants in the illegal demonstration, as could have been done.

Furthermore, the United States Attorney opines, the sentences imposed upon petitioner and his comrades were not harsh, given that each of them had violated the same law one or more times before and that their “calculated” crimes were

designed to garner publicity and sympathy for a political cause. A cursory glance at the “SOA Watch” web page underscores the fact that members of this organization take pride in and publicize the fact of their convictions. (Citation omitted). They portray themselves to the press, to the public, and in court as martyrs, so convinced of the nobility of their purpose that they are willing to suffer the consequences of violating the law for it. The very fact that I am responding to a request for commutation shows that such a characterization is not valid. Both Judge Slaughter and Judge Elliott gave the defendants what they wanted: another forum for their political advocacy. Each defendant took advantage of the judges’ offer to describe themselves and their motivation for the crime which they committed, and those explanations were considered by these jurists before sentences were imposed. I believe that six . . . months imprisonment and a \$3000 . . . fine was a measured response, tailored to these defendants and to the crime which they willfully committed. That carefully crafted sentence met all five aims of sentencing: specific deterrence, general deterrence, retribution, punishment, and rehabilitation.

Moreover, the prosecutor notes, despite the error in the barring letter that was sent to petitioner erroneously listing the maximum fine as \$500 rather than \$5,000, at the group’s initial court appearance, Magistrate “Judge Slaughter orally advised Defendant Streb of the correct maximum penalty before entertaining and accepting his nolo contendere plea” Finally, the United States Attorney cautions that “[c]ommuning these sentences would . . . set a dangerous precedent in the Middle District of Georgia,” which encompasses four sizable military installations where her office has exclusive criminal jurisdiction. As she explains, “We are committed to enforcing

the rule of law at these installations. To dilute the sentences which these twenty-five defendants received, after having enjoyed the full benefit of due process, would . . . impede our ability to do so effectively.”

Because the sentencing judge has been the target of personal attacks by SOA Watch supporters as a result of the sentences he imposed on petitioner and the defendants who pled nolo contendere with him, we did not seek his views regarding petitioner’s clemency request. However, in a letter responding to critics of the sentences, the Chief Judge of the United States District Court for the Middle District of Georgia¹⁶ has expressed the view that the punishments were appropriate:

[E]ach protester knew the law regarding trespass, knew the penalty if the law was violated and decided that the cause of the perceived victims of the School of the Americas was greater than the obligation of each of us to obey the law. A disinterested observer might well call such an act in the face of certain punishment courageous, . . . but, for the act to be truly courageous, each protester must pay a price or the act would be meaningless, thereby trivializing the very wrong that caused the act. . . . I don’t know enough about the case to say whether the sentence was harsh, but I do know that each was a repeat offender. I know nothing about the School of the Americas, and have no opinion on its merits or demerits, but quite possibly the attention the protesters directed toward the school will eventually achieve the desired end and the school be closed. You cannot have it both ways, however. One cannot deliberately violate the law, no matter how noble the cause, and expect there will be no consequences.

Noting “the lack of remorse or atonement by all of these repeat offenders and the stated intent of many of the defendants to again trespass at Fort Benning after completing their sentences,” the Department of the Army, speaking through the Acting Assistant Secretary for Manpower and Reserve Affairs, “opposes granting any measure of clemency to [petitioner and his codefendants].” In so doing, the Acting Assistant Secretary stresses that “[t]he commander’s authority to maintain good order and control of his installation must be upheld. Military installations, such as Fort Benning, must not be permitted to become public forums for partisan political activity.”

Reasons for denial:

Petitioner has a long and laudable record of service to his country and community. By his own admission, however, he has repeatedly violated criminal trespass laws and has never suffered a meaningful penalty for such activity. His motivation for committing offenses like the one for which he is now serving his sentence may indeed be a matter of conscience. Nevertheless, there can be no question but that his decision to enter Fort Benning in violation of

¹⁶This letter was quoted by the United States Attorney in her comments on petitioner’s clemency request.

the prior order excluding him from the base in order to participate as a member of the group demonstrating against the School of the Americas was premeditated and calculated to draw attention to the cause he and his comrades espouse. Given petitioner's pattern of repetitive criminal conduct and the lack of remorse he and his companions have displayed, the court reasonably concluded that it was necessary to impose a significant penalty upon him in order to serve the goals of general and specific deterrence as well as punishment. As the United States Attorney cautions, commutation of petitioner's prison sentence or remission of his fine would undercut these legitimate sentencing aims, and would likely undermine the credibility of prosecutions against other demonstrators who seek to disrupt military installations or other nonpublic venues in order to attract publicity and support for their causes, despite the availability of other, appropriate forums for the expression of their views. Given the relatively short sentence imposed, neither petitioner's age nor the medical condition of his wife outweighs these considerations.

Petitioner's claim that the \$3,000 fine should be remitted because he was informed by the barring letter that the maximum fine he faced was \$500 likewise does not constitute a compelling basis for a grant of clemency. Irrespective of the error in the barring notice, it is clear that petitioner was made aware before the demonstration that a significant fine could be imposed as part of any sentence, and it appears that the magistrate judge correctly informed him of the maximum fine before he entered his plea of nolo contendere. While payment of the fine may entail some amount of sacrifice on petitioner's part, he appears to be financially capable of meeting this obligation. Moreover, the fact that he made no payments toward the fine during the ten months between his sentencing and the start of his prison term evidences his failure to acknowledge the criminality of his conduct and militates against granting him this form of clemency. Given all of these circumstances and the strong opposition of the United States Attorney and the Department of the Army, I recommend that you deny petitioner's request.

Respectfully submitted,

A handwritten signature in black ink, appearing to be "Susan H. ...", written over a horizontal line.

Deputy Attorney General

Date: March 3, 1999



U. S. Department of Justice

Pardon Attorney

Washington, D.C. 20530

JUL - 1 1998

MEMORANDUM FOR: **The Honorable Charles F.C. Ruff**
 Counsel to the President

FROM: **Roger C. Adams** *RC A*
 Pardon Attorney

SUBJECT: **Recommended Denial of Executive Clemency --**
 One Petition for Commutation of Sentence and Remission
 of Fine

Attached is a report signed by the Deputy Attorney General recommending denial of executive clemency in the form of commutation of sentence and remission of fine for the following person:

98 06 0443

Anne Herman

Attachment

REPORT TO THE PRESIDENT
RECOMMENDING DENIAL OF EXECUTIVE CLEMENCY FOR
ANNE HERMAN

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Sentence: Six months' imprisonment; \$3,000 fine.

Date: November 19, 1997.

District: Middle Georgia.

Relief sought: Commutation of sentence and remission of fine.

Summary of essential facts:

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All of the 612 marchers were bussed to a processing area,⁵ where each violator was checked against Fort Benning records to determine whether he or she was a first time or repeat offender. Petitioner and 24 others, who were found to have previously been issued exclusion letters by the base commander prohibiting reentry onto Fort Benning’s grounds, were then charged by the United States Attorney for the Middle District of Georgia with one count of illegal reentry onto a military reservation.⁶ This Class B misdemeanor offense carries a maximum penalty of six months’ imprisonment and a \$5,000 fine. See 18 U.S.C. §§ 1382, 3559(a)(7), 3571(b)(6). The first offenders were not prosecuted, although they could have been charged with criminal trespass under 18 U.S.C. § 1382.

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⁵The expense of processing such a large number of demonstrators was substantial. The United States Attorney for the Middle District of Georgia estimates that the federal government spent \$4,000 for food and drink for the demonstrators and at least \$2,000 for overtime for Department of Defense police, that the military police response entailed the equivalent of 650 soldier days, and that other significant sums were expended to pay for rental of buses and portable toilet facilities.

⁶Petitioner admits in her clemency application that she had previously been barred from Fort Benning by the base commander. According to the United States Attorney, petitioner was excluded from the installation by letter of the commander dated May 1, 1997, based upon her participation in a demonstration at Fort Benning against the SOA held on November 16, 1996. Besides the 25 defendants noted above, three other repeat offenders arrested at Fort Benning in November 1997 were also charged with illegal reentry, but the United States Attorney later dismissed the charge against them because of evidentiary problems proving their receipt of the exclusion letters and knowledge of their barrings from the base.

On November 19, 1997, the 25 codefendants, accompanied by an attorney advising the group, appeared before United States Magistrate Judge William L. Slaughter for arraignment. On the invitation of the defendants, local and national news media members were in attendance. Following an explanation of the charge, maximum penalty, and the defendants' constitutional rights, petitioner and two of her codefendants entered pleas of nolo contendere. Before accepting their pleas, Magistrate Judge Slaughter permitted petitioner and her two companions to make lengthy statements about any matters they wished him to consider before imposing sentence, including their personal histories, their reasons for committing the offense, and the views they held of the SOA. Neither the pleading defendants nor the attorney advising the group requested that presentence reports be prepared. The court then sentenced each of the three defendants to six months' imprisonment and a \$3,000 fine, noting that each was a repeat offender,⁷ and continued the cases against the other 22 codefendants for the trial the group had requested.⁸ Petitioner at that time informed the court that she would have difficulty paying the fine, but did not thereafter appeal her sentence.

Immediately after these proceedings, the group of 25 conducted a press conference on the steps of the federal courthouse. According to the United States Attorney, at that time they

announced that the sentences would serve to invigorate their cause, and . . . vowed that their message would resonate from the confinement facilities where they served their sentences. Further, they expressed surprise that the government had proceeded against as many as twenty-five of them, and stated that in November 1998, they would return to Fort Benning in even greater numbers, and that the government would simply not be able to respond to them in that greater number.[⁹]

⁷In cases in which restitution is not required to be imposed, the court may dispense with the preparation of a presentence report if it explains on the record the basis for its finding that the information of record is sufficient to permit the court to exercise its sentencing authority in a meaningful way. Fed. R. Crim. P. 32(b)(1). Apparently, however, Magistrate Judge Slaughter did not make any findings on the record as to why he found that presentence reports were unnecessary.

⁸The 22 remaining codefendants were found guilty after a bench trial before the Honorable J. Robert Elliott and were sentenced on January 21, 1998, to the identical punishment of six months' imprisonment and a \$3,000 fine. Like petitioner and her companions who had entered pleas, the trial defendants were permitted to make lengthy statements regarding their personal histories and political views before sentencing. None sought leniency and many promised that upon serving their sentences, they would return to Fort Benning, after which they expected to appear again before the court. All of these individuals are now appealing their convictions and sentences.

⁹The director of SOA Watch, Carol Richardson, who pled nolo contendere with petitioner and is presently serving her sentence, recently announced through the group's Internet web site that the goal for the planned November 1998 demonstration at Fort Benning is to have 1,000 people cross into the base's grounds and risk arrest.

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
005. report	Report to the President Recommending Denial of Executive Clemency for Anne Herman; RE: Personal [partial] (1 page)	07/01/1998	b(6)

COLLECTION:

Clinton Presidential Records
Counsel Office
Meredith Cabe
OA/Box Number: 21453

FOLDER TITLE:

Misc. [Miscellaneous] DOJ [Department of Justice] Clemency Memoranda [3]

2006-1704-F
db3686

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Grounds for clemency:

A retired 64-year-old mother of six grown children and the holder of a Master's degree, petitioner is active in human rights causes including welfare rights, Native American rights, and domestic violence issues. She currently lives and volunteers at a Catholic Worker House in Binghamton, New York, that serves as a shelter for women and children. (b)(6)

(b)(6)

[005]

Petitioner began service of her prison term on January 30, 1998, and is projected for release in late July 1998.¹¹ She maintains regular duty status with the single restriction of assignment to smoke-free living and working areas. Currently, she is assigned to the grounds maintenance detail at the federal prison camp where she is incarcerated. Petitioner has paid her mandatory \$10 court assessment but has paid nothing toward her \$3,000 fine, although she recently informed the Bureau of Prisons that she would make a single \$50 payment toward that obligation in June 1998.¹² In her clemency application, petitioner represents that she receives (b)(6) per month in Social Security benefits, has no other assets, and owes debts of approximately (b)(6)

In seeking clemency, petitioner maintains that her arrest and conviction violated her First Amendment rights and resulted from selective prosecution based upon her opposition to the School of the Americas, challenges her sentencing without the benefit of a presentence report, and complains that the court did not consider her ability to pay a \$3,000 fine prior to pronouncing sentence. The Department of Justice has received nearly 1,000 letters and petitions containing approximately 3,250 signatures protesting the sentences of petitioner and her 24 codefendants as unjust and excessive, criticizing the sentencing judges, and supporting executive clemency for all of the so-called "SOA 25."¹³ (Many of these letters also espouse the position

¹⁰The criminal records of the Federal Bureau of Investigation do not reveal the dispositions of petitioner's prior arrests.

¹¹Petitioner's application for clemency was filed with the Office of the Pardon Attorney on June 4, 1998.

¹²At her sentencing, the court ordered that petitioner's fine be paid in full by May 19, 1998.

¹³Two of the defendants convicted of illegal reentry in connection with the November 16, 1997, demonstration wrote to the Attorney General seeking pardons, but were informed by the Office of the Pardon Attorney (OPA) that they are not presently eligible to request such relief, since the five-year waiting period after release from confinement has not yet elapsed. See 28 C.F.R. § 1.2. Thereafter, petitioner's attorney, who chairs a Seattle, Washington-based Committee for Clemency/Pardon of the SOA Protesters, contacted OPA requesting commutation of sentence and remission of fine on behalf of all 25 defendants. Counsel was advised, however, that

that the School of the Americas should be closed because it contributes to human rights abuses.) In addition, the following Members of Congress have written to the Department of Justice requesting that the President give serious and expedited consideration to clemency for petitioner and her 24 codefendants: Joseph P. Kennedy II,¹⁴ William D. Delahunt, Edward J. Markey, James P. McGovern, John Joseph Moakley, and John W. Olver of Massachusetts; George E. Brown, Jr. and Fortney Pete Stark of California; Jim McDermott of Washington; James A. Barcia, John Conyers, Jr., David E. Bonior, and Debbie Stabenow of Michigan; Bruce F. Vento of Minnesota; Michael R. McNulty of New York; Glenn Poshard and Sidney R. Yates of Illinois; Melvin L. Watt of North Carolina; and Ron Kind of Wisconsin. In April 1998, SOA Watch supporters held a vigil in Washington, D.C., opposing continued operation of the School of the Americas and supporting the 25 convicted trespassers.

Official comments:

The United States Attorney for the Middle District of Georgia “strongly oppose[s] commutation of sentence for any of the [SOA 25] defendants.” Disputing petitioner’s claim that her group was singled out for prosecution because of its opposition to the SOA, the prosecutor points out that the refusal of Fort Benning officials to permit the defendants to demonstrate at the installation was based upon the application of a content-neutral military regulation prohibiting any demonstration or political activity on the base “which could interfere with or prevent the orderly accomplishment of the installation’s mission or which present[s] a clear danger to the loyalty, discipline, or morale of the troops” See note 3, *supra* (no individual or group has been granted an exception from the general ban imposed by the regulation since at least 1976). This regulation, the United States Attorney explains, reflects “the Supreme Court’s recognition that a military reservation is not a public forum, and that Fort Benning may therefore restrict partisan political activities with its borders.” See *United States v. Albertini*, 472 U.S. 675, 684-689 (1985); *Greer v. Spock*, 424 U.S. 828, 834-839 (1976); see also *Ethredge v. Hail*, 56 F.3d 1324, 1326-27 (11th Cir. 1995). Thereafter, the United States Attorney notes, her office exercised its prosecutorial discretion in restrained fashion by filing charges only against those demonstrators — including petitioner — who were repeat offenders at Fort Benning, rather than against all of the participants in the illegal demonstration, as could have been done.

23 of the 24 individuals convicted with petitioner are presently ineligible to seek these forms of clemency because they are either appealing their convictions or have not yet begun serving their sentences. See 28 C.F.R. § 1.3. The only other individual convicted with petitioner who now is eligible to seek commutation and remission has not filed a petition for such relief.

¹⁴Congressman Kennedy also wrote directly to the President to request that the sentences of the SOA protesters be commuted.

Furthermore, the United States Attorney opines, the sentences imposed upon petitioner and her comrades were not harsh, given that each of them had violated the same law one or more times before and that their “calculated” crimes were

designed to garner publicity and sympathy for a political cause. A cursory glance at the “SOA Watch” web page underscores the fact that members of this organization take pride in and publicize the fact of their convictions. (Citation omitted). They portray themselves to the press, to the public, and in court as martyrs, so convinced of the nobility of their purpose that they are willing to suffer the consequences of violating the law for it. The very fact that I am responding to a request for commutation shows that such a characterization is not valid. Both Judge Slaughter and Judge Elliott gave the defendants what they wanted: another forum for their political advocacy. Each defendant took advantage of the judges’ offer to describe themselves and their motivation for the crime which they committed, and those explanations were considered by these jurists before sentences were imposed. I believe that six . . . months imprisonment and a \$3000 . . . fine was a measured response, tailored to these defendants and to the crime which they willfully committed. That carefully crafted sentence met all five aims of sentencing: specific deterrence, general deterrence, retribution, punishment, and rehabilitation.

Finally, the United States Attorney cautions that “[c]ommuting these sentences would . . . set a dangerous precedent in the Middle District of Georgia,” which encompasses four sizable military installations where her office has exclusive criminal jurisdiction. As she explains, “We are committed to enforcing the rule of law at these installations. To dilute the sentences which these twenty-five defendants received, after having enjoyed the full benefit of due process, would . . . impede our ability to do so effectively.”

Because the sentencing judge has been the target of personal attacks by SOA Watch supporters as a result of the sentences he imposed on petitioner and the defendants who pled nolo contendere with her, we did not seek his views regarding petitioner’s clemency request. However, in a letter responding to critics of the sentences, the Chief Judge of the United States District Court for the Middle District of Georgia¹⁵ has expressed the view that the punishments were appropriate:

[E]ach protester knew the law regarding trespass, knew the penalty if the law was violated and decided that the cause of the perceived victims of the School of the Americas was greater than the obligation of each of us to obey the law. A disinterested observer might well call such an act in the face of certain punishment coura-

¹⁵This letter was quoted by the United States Attorney in her comments on petitioner’s clemency request.

geous, . . . but, for the act to be truly courageous, each protester must pay a price or the act would be meaningless, thereby trivializing the very wrong that caused the act. . . . I don't know enough about the case to say whether the sentence was harsh, but I do know that each was a repeat offender. I know nothing about the School of the Americas, and have no opinion on its merits or demerits, but quite possibly the attention the protesters directed toward the school will eventually achieve the desired end and the school be closed. You cannot have it both ways, however. One cannot deliberately violate the law, no matter how noble the cause, and expect there will be no consequences.

Noting "the lack of remorse or atonement by all of these repeat offenders and the stated intent of many of the defendants to again trespass at Fort Benning after completing their sentences," the Department of the Army, speaking through the Acting Assistant Secretary for Manpower and Reserve Affairs, "opposes granting any measure of clemency to [petitioner and her codefendants]." In so doing, the Acting Assistant Secretary stresses that "[t]he commander's authority to maintain good order and control of his installation must be upheld. Military installations, such as Fort Benning, must not be permitted to become public forums for partisan political activity."

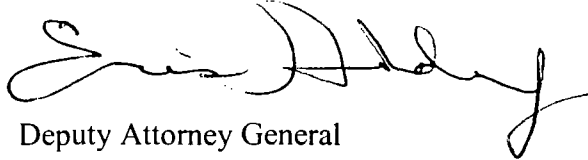
Reasons for denial:

By her own admission, petitioner has repeatedly violated criminal trespass laws over the last 15 years without ever having suffered a meaningful penalty for such activity. Her motivation for committing crimes like the one for which she is now serving her sentence may indeed be a matter of conscience. Nevertheless, there can be no question but that her decision to enter Fort Benning in violation of the prior order excluding her from the base in order to participate as a member of the group demonstrating against the School of the Americas was premeditated and calculated to draw attention to the cause she and her comrades espouse. Given petitioner's pattern of repetitive criminal conduct and the lack of remorse she and her companions have displayed, the court reasonably concluded that it was necessary to impose a significant penalty upon her in order to serve the goals of general and specific deterrence as well as punishment. As the United States Attorney cautions, commutation of petitioner's prison sentence or remission of her fine would undercut these legitimate sentencing aims, and would likely undermine the credibility of prosecutions against other demonstrators who seek to disrupt military installations or other nonpublic venues in order to attract publicity and support for their causes, despite the availability of other, appropriate forums for the expression of their views.

Petitioner's legal claims that the magistrate judge erred in sentencing her without a presentence report and failed to consider adequately her financial resources in imposing the \$3,000 fine do not readily lend themselves to decision in the context of a clemency request and would more appropriately be raised on appeal, an option petitioner chose to forgo. Even assuming these claims are meritorious, however, petitioner's failure until now to make any payment toward her fine evidences her failure to acknowledge the criminality of her conduct and

militates against granting her this form of clemency. Furthermore, if petitioner is truly indigent and incapable of paying the fine, she retains the option of demonstrating this fact to the prosecutor so as to support a government motion to the court for modification or remission of the fine under 18 U.S.C. § 3573. Given all of these circumstances and the strong opposition of the United States Attorney and the Department of the Army, I recommend that you deny petitioner's request.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric Holder", written over the printed name of the Deputy Attorney General.

Deputy Attorney General

Date: July 1, 1998