



EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
WASHINGTON, D.C. 20503

1-10-01

January 8, 2001

MEMORANDUM FOR THE PRESIDENT

CC: JACOB LEW  
SYLVIA MATHEWS  
SALLY KATZEN  
CHUCK BRAIN

*OK*

*copied  
Frampton  
Podesta*

FROM: GEORGE T. FRAMPTON, JR. *GTFjr*

THRU: JOHN PODESTA *JP*

SUBJECT: PENDING NATIONAL MONUMENT PROPOSALS

This cover memorandum summarizes outstanding proposals for national monuments and CEQ's recommendations on them. Tabs A through E contain additional information and analysis.

*Chuck*  
**Babbitt's Seven Recommendations:** In late December, Secretary Babbitt recommended five additional new monuments (these proclamations are currently in OMB clearance); he expects to send two more today. Of the seven, five do not appear controversial (two in the Virgin Islands; Pompey's Pillar in Montana, and one each in Arizona and New Mexico). A sixth, Carrizo Plain in Southern California, is the subject of legislation by Cong. Lois Capps who initially opposed a monument. The Secretary believes she now supports the monument, but we need to confirm.

*✓* The seventh, Missouri Breaks (Montana), which is the only one of the seven that has been actively advocated by the environmental community, is controversial because of the large amount of private land within the monument boundaries. It also contains some oil and gas reserves. On the positive side, this proposed monument has rich historical roots in connection with the Lewis & Clark Trail; Stephen Ambrose has been a strong proponent. Senator Baucus is sensitive about the designation; he will not oppose, but is not eager for a high-profile announcement in Montana, either. Sen. Burns and other state officials will oppose. More information on the first five are at **Tab A**.

*✓* **CEQ Recommendation:** Subject to consultation with Lois Capps, we recommend you go forward with these proclamations, even though the "benefit to cost" ratio in terms of additional protection vs. appearance of last-minute action is thin.

**Arctic National Wildlife Refuge:** Your 1995 veto to protect the Arctic Coastal Plain from drilling was one of your signature environmental actions. As you know, there is a public campaign to convince you to make it a national monument.

Although the Alaska Lands Act of 1980 prohibits drilling in the coastal plain without new legislation (a fact most Americans appear not to understand), it is possible that monument designation likely could confer additional protections now against certain management activities like seismic exploration (see **Tab B**). The main argument for monument protection made by environmentalists is that the symbolic mantle of designation might help influence public opinion in a future legislative debate.

It can also be argued that monument status conveys no more permanent protection than the Coastal Plain now enjoys; could give proponents of opening up the refuge a "process argument" later this year, distracting the public from the real issues; and might encourage an overall attack on the Antiquities Act. (There is also a legal argument that a monument declaration would be subject to the "no more" clause of the Alaska Lands Act, which provides that any "executive action" that has the "effect of a withdrawal" in Alaska expires after one year unless approved by joint congressional resolution.)

However, the argument that designation will provoke an attack on the Refuge and/or the Antiquities Act currently seems less persuasive since the attack has already begun.

*CEQ Recommendation: Monument designation is a very close call. It would help galvanize the debate, but would also be portrayed as a provocation, leaving the ultimate impact difficult to predict. We think Secretary Babbitt's opposition overlooks the potential protection benefits to short-term management. But ultimately the debate will focus on drilling in wilderness.*

*If you do not do a monument, we believe it is imperative that you speak out strongly about the Arctic when you do sign other monument proclamations. You should say that people should understand that monument protection is not needed, because drilling cannot proceed without Congressional legislation, and that you believe this issue should be considered on the merits, and the people demand that a better case be made than has been done to date about whether we need to ruin this magnificent place in order to have a sound energy policy ten years from now.*

**Tab B** outlines two additional actions you could announce about off-shore drilling in the waters adjacent to the Coastal Plain.

**Minidoka, ID, Japanese Internment Camp:** We are preparing and will send to OMB for clearance today a proclamation for a 60-acre monument preserving the core of one of the ten WWII Japanese internment camps. See **Tab C**. CEQ is convening meetings this week in Idaho, and Cong. Mike Simpson will probably support, as will the rest of the delegation although they may be somewhat annoyed about the lack of notice. Sen. Akaka and Sec. Mineta support.

*CEQ Recommendation: This proposal should go forward together with Babbitt's recommendations above.*

**Owyhee Canyons, Idaho:** Since September, environmentalists have been mounting a large-scale effort to promote a 3 million acre monument in the Southwest Corner of Idaho including the spectacular Owyhee, Bruneau and Jacks Creek canyon systems. These canyons underlie airspace of the Idaho Training Range, and a monument proclamation that protects the Air Force's training needs is favored by Air Force Secretary Whit Peters. However, the area includes grazing allotments and constitutes one of the most anti-federal land use counties in the West. There have been meetings, conferences, and extensive media coverage of the proposal, but no agency public process to look at the monument proposal. See **Tab D**.

Former Governor Cece Andrus (who as Interior Secretary did President Carter's Alaska monument withdrawals) has proposed that you declare a "minimalist monument" covering only the canyons themselves which are mostly wilderness study areas (500,000 to 800,000 acres), as a way of beginning a process. This would be analogous to Steens Mountain nearby in Oregon

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*CEO Recommendation: We oppose considering a monument now.*

THE WHITE HOUSE  
WASHINGTON

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January 10, 2001

Robert Trent Jones, Jr.  
705 Forest Avenue  
Palo Alto, California 94301

Dear Bob:

Thank you for your thoughtful note and particularly for your friendship over the years.

I'll ask my schedulers to keep in mind the July event you mentioned. It sounds great. I still would like to play a round with you some time.

Happy New Year, and thanks again for writing.

Sincerely,

BTJ

Robert Trent Jones, Jr.  
705 Forest Avenue  
Palo Alto, California 94301

ROBERT TRENT JONES, JR.

EB

January 5, 2001

Dear Bill,

I just want to say that your record as President has been widely respected but as important, your record as a friend has been steadfast and true, and I offer you my friendship for the future too.

We did miss that game we'd hope to play since last June but hopefully there will be plenty of opportunities for that in the future. I guess my one regret is that we didn't chip and putt together on the White House lawn putting green but I'm glad you had the chance to enjoy it and I assume your successor, who also comes from a golf-loving family, will have a chance to free his mind by chipping and putting there as well.

So, for all those great memories, thanks and good luck to you and your family in the future. We'll have plenty of time in the months and years ahead to enjoy events together on and off the golf course. Perhaps you might enjoy attending this year's late July Bohemian Club's Summer Grove encampment in the Redwood country north of San Francisco among many of your friends? I know former President Bush enjoys it very much.

Good luck in your peace missions; I like the way you are finishing up your Presidential marathon with a hard run to the end.

Best personal regards,

Bob

ROBERT TRENT JONES, JR.  
705 FOREST AVENUE  
PALO ALTO, CALIFORNIA 94301

*Niranjani S. Shah*



CHAIRMAN  
**Globetrotters®**  
Engineering Corporation

300 South Wacker Drive  
Chicago, Illinois 60606  
(312) 922-6400

1-10-00

January 9, 2001

Dear Mr. President,

First, let me thank you for supporting my daughter, Smita N. Shah, in her pursuit of becoming a member of the South Pacific Commission. I assure you she will work very hard.

I understand that the process is almost complete. **However, a "Decision Memo" that has been prepared by Presidential Personnel needs to be signed by you to formally approve her appointment.** After this, Smita may be able to go through an expedited clearance process by White House Counsel with your approval. She actually may have completed this process once before, when she worked in the Chief of Staff's office under Leon Panetta.

Mr. President, I understand that there are a number of issues you are finalizing during the next week. Anything you can do to help in this matter would be greatly appreciated.

Again, thank you for everything. If you need any further information, do not hesitate to contact me at 312/922-5168.

Sincerely,

*Niranjani S. Shah*



**Globetrotters®**

Engineering Corporation  
300 South Wacker Drive  
Chicago, Illinois 60606

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Jan 10  
R*

President William Jefferson Clinton  
The White House  
1600 Pennsylvania Avenue  
Washington, DC

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Croatian Franciscan Custody  
of the Holy Family  
4848 South Ellis Avenue  
Chicago, IL 60615-1703

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The President William J. Clinton  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500

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**January 9, 2001**

**Office of the President  
The President William J. Clinton  
1600 Pennsylvania Avenue, NW  
Washington, D.C. 20500**

**Mr. President:**

The Croatian Franciscan Fathers in the United States, with headquarters in Chicago, are a community of about forty priests that have been serving the Croatian-American ethnic community, as well as Americans of various ethnic and racial backgrounds, for close to a hundred years. Besides the parish work, we are also involved in various other activities, from having a printing press and a publishing house to running several parochial schools that serve children of various religions and ethnic backgrounds. In fact, our St. Jerome School is only a couple of blocks away from the school you are visiting today.

In this *Year of Jubilee*, may we humbly and respectfully ask that you consider pardoning or commuting the sentences of the Croatians listed below, who are incarcerated in Federal Prison. Such acts of pardon during Years of Jubilee, have been part of the Judeo-Christian tradition for millennia.

The Croatian Community in no way condoned the youthful and rash actions taken by these prisoners, even though we understood their misguided zeal. (You, Sir, having dealt with the barbarian regime of the Former Yugoslavia, could, perhaps, find it in your heart to forgive these prisoners for their rash zeal. They simply wanted to free their homeland. Thanks to you, it is now free.)



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If you find it in your heart to show compassion toward them, expel them to Croatia, never to return. The Croatian Community will hold you in even higher esteem than they do now.

Please, Mr. President, show your mercy. We ask it in the name of the holy founder of our Religious Order, St. Francis of Assisi, who was compassion incarnate.

Sincerely,

**Fr. Slayko Soldo, OFM - Custos**

**Fr. Jozo Grbes, OFM - Sec.**

**Mr. Zvonko Busic**  
03941-158  
P.O. BOX 1000-1C  
LEVENWORTH, KS 66048

**Mr. Ante Ljubas**  
89329-024 - AUS  
P.O. Box 15330  
FORT WORTH, TX 76119-5905

**Mr. Ranko Primorac**  
73798-012 - FTO  
P.O. BOX 15330  
FORT WORTH, TX 76119-5905

Mendota

What's that about

~~Be~~

1-10-00

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# Jim Levin

1-10-00

January 8, 2001

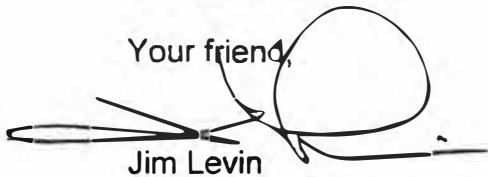
I hope all is well with you. I am writing this with urgency.

I gave you the information for pardon or commuted sentence consideration about 3 weeks ago. I have attempted to follow up with Bruce Lindsey and Merrideth Kabe as you instructed. I have gotten no answers on confirmation or where things are in the process.

This is an urgent matter for me. Mark Zaransky is one of my dearest and closest friends, who is a good honorable decent man with a wife and 2 young children. He made a mistake. Unfortunately he is about to pay for it for a long time.

It would mean the world to me to get this done. With time winding down, I hope you will give this your personal attention. I do not ask much from you my friend, but this I beg of you.

Your friend,

A handwritten signature in dark ink, consisting of a large, stylized 'J' and 'L' that are connected and looped together. The signature is written over the printed name 'Jim Levin'.

Jim Levin

p.s. need to discuss after office projects A.S.A.P.



THE CRESCENT INVESTMENT GROUP, INC.  
450 Lexington Ave, Suite 1820, New York, NY 10017

Summary  
[REDACTED]  
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1-10-00

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### **Coping with Islam: the Carrot or the Stick?**

As America's first lady of foreign policy embarks on her first overseas adventure, the time has come to alter our failed policy of containment for dealing with the myriad of problems America faces in the Islamic world. Whether in war-torn Bosnia, terror-ridden Algeria, nuclear-capable Pakistan or oil-rich Iran, our inability to effectively engage all facets of Islam – the world's fastest growing geopolitical force today – presents one of the most serious vacuums ever in the history of American foreign policy.

The West, led by America, will have to re-engage Iran (as has been artfully stated in these pages recently), use its economic and political weight to resolve the Kashmir dispute in a region that is home to 1.1 billion people armed with nuclear capabilities (and rich economic potential), push for a resolution of the Nogorno-Karabakh problem in Azerbaijan in order that Kuwait-sized oil reserves flow smoothly from the Caspian, and build bridges to Islam's radical fringes residing in places like the Sudan, Turkey and Algeria so we can better understand the genuine threats to our national security.

In re-shaping America's Islamic policy, we should use our considerable economic powers to raise up the disaffected people of the Islamic world so they are not as desperate to tear us down. We, a nation born of religiously persecuted immigrants, often forget that terrorism is born of trampled egos, trampled by our own failed policies.

The failure of America to cope with Islamic rage stems from our inability to understand that the rage is as much directed at Islam's internal failures (tyranny and corruption, to name two) as it is against foreign oppression and western contempt for Islam's traditions and ways of life. Furthermore, we fail to see that Islam's extremists are no different than America's extremists. Both seek to correct what they rightly or wrongly see as society's deviation from their vision of the pure message. Islam's fundamentalist movements, in fact, are capable of producing widely differing results, from the medieval experiment in Afghanistan to the modern, competitive state in Malaysia.

Islamists have even tried their hand at democracy. Take Algeria, for example. In 1992, Islamists legitimately attained power in fairly held elections only to see their victory overturned by the secular military regime after it received a wink from Washington. Had the Islamists been allowed to assume power, one of two outcomes would have occurred: their skepticism of democracy as a legitimate mechanism to express ideas would have been silenced and America's argument that only democracy can provide the necessary framework for economic and social prosperity would have been strengthened; or they might have failed, much as the Iranian revolution has, to deliver much but empty rhetoric. Failure would have demonstrated that democracy as an organizing principle was not at fault. The fault lay in the quality of their ideas.

In a secular western world where separation of church and state are the norm, it is logical to understand our mistrust of a religion that wants to deeply influence matters of state. More logical, however, would be for us to maintain a principled neutrality in all cases where Islamists are trying to use democracy, no matter how poorly, as a mechanism to express their ideas, not just those in which our mortgage interest rates are at stake and where democracy doesn't exist anyway. Failure to implement this policy change is to not see that the aberrant behavior of an Islamist spurned is as dangerous to our national security as the threat of \$50/ bbl oil.

The second component of our Islamic strategy should be to use the considerable global economic influence of our private sector to create economic inter-dependencies in situations that pit Islamic countries against neighbors with differing philosophical views. Three examples come to mind immediately: an overland Oman-India natural gas pipeline that would inextricably link the economic and political fortunes of Iran, Pakistan and India; an overland oil pipeline that would carry Caspian oil from Azerbaijan through Armenia into Turkey, inextricably linking Baku and Erevan together economically; and development of the 200 million acres of arable farmland in the Nile region of the Sudan, possibly even with Israeli agricultural technologies, inextricably linking Khartoum to Cairo, Addis Ababa, Tel Aviv and other neighboring countries as a producer of food.

The Oman-India gas pipeline was originally conceived as a deep-water Indian Ocean project at an astronomical cost of \$11 billion due to the political realities in all three countries which would form its overland route, Iran, Pakistan and India. An overland pipeline would cost less than \$5 billion and provide natural gas to three countries rather than one. Today, we have new governments in both India and Pakistan willing to have another look at their inimical relationship, while Iran's revolutionary fervor, which has produced precious few economic gains for its followers, shows signs of cracking.

The Omani government is willing to finance 30% of the pipeline's cost, while India is willing to bring another 30-35% from private-sector investment to the table. If Pakistan can sort out its mess with the World Bank and IMF, Mr. Sharif's government might also contribute. In any event, there is no shortage of private-sector capital ready to fund Liquefied Natural Gas (LNG) projects if the political will exists to protect such investments.

The collateral benefits for President Clinton if he were willing to put America's political clout behind such an effort would be enormous. Pakistan and India could begin a series of confidence building measures based on economic inter-dependence, much as the Palestinians and Israelis did, to achieve long-term peace, thereby providing American manufacturers with a large new marketplace to peddle their goods. The senseless South Asian nuclear arms race might be put on hold as a pre-condition to realize the massive economic benefits arising from the pipeline's construction and operation. and revenues flowing from it might offer needed capital to re-build war-ravaged Kashmir – in effect, providing South Asia a mini version of the Marshall Plan.

In the moderate Islamic state of Azerbaijan, President Aliiev, once the third most powerful man in the Soviet Union, has made a valiant effort to sell a peace proposal to Armenia over the disputed Nogorno-Karabakh region using his vast oil reserves as an incentive. Caspian oil has three logical export routes: through Russia to the Black Sea on existing pipelines; through Georgia in pipelines needing major repairs; and through a small sliver of southern Armenia into Turkey (our NATO ally), where the oil would be loaded directly at Turkish Black Sea terminals. The optimal alternative for the West would be the Armenian route because it would be the cheapest to construct, would pass through countries already allied with the United States, and would provide needed revenues to our partners for whom we can ill afford massive foreign aid grants at present.

But, to achieve this larger economic gain, America must expend political capital in persuading Armenia to accept the ground reality that Nogorno-Karabakh cannot simply be annexed from within the territorial integrity of Azerbaijan. President Aliiev has already guaranteed full autonomy to Armenians living in the region, as well as a share of the pipeline's revenues if they make peace. For landlocked Armenia, a country with precious few natural resources, the economic upside could dwarf the downside of a prolonged political struggle. The private sector is willing. Canadian and U.S. oil firms with whom I have spoken are prepared to construct such a pipeline if America is willing to put aside the influence of Armenian lobbying (and political donations) for the sake of the greater economic good.

Discovery of oil (up to 3.5 billion barrels of it) in the Sudan also calls for creative American diplomacy. Accused of masterminding the world's Islamic terrorists from Khartoum in the north while enslaving Sudanese children in the south, the fundamentalist government of President Omer El Bashir and Dr. Hassan Al Turabi has thus far survived every effort of the United States and our allies in the region to contain and control it. Reading the House *Republican* Research Committee's Task Force on Terrorism and Unconventional Warfare reports, one can see why we believe so forcefully in Khartoum's guilt – until one goes to the region and sees firsthand what is happening.

The complexities of Sudan's guilt or innocence are too lengthy for discussion here, but whatever their mistakes of the past (and there are many), Dr. Turabi and his young circle of recently appointed western-educated ministers are attempting to create the first modern Islamic state – one that provides an American-style constitution with civil liberty guarantees for Christian, Animist and Muslim men and women alike. Yet rather than let Turabi succeed or fail on the merit of his ideas, we order up \$20 million taxpayer dollars to support guerrilla warfare along Sudan's borders with Eritrea, Ethiopia and Uganda, hoping that Turabi will give up. The more likely result, if the rebels were to succeed with our aid, would be the break-up of Sudan into smaller tribal states (a la Afghanistan), each vying for control of the Nile waters and sending shock waves through Hosni Mubarak's short-wave radio. We have enough problems in the Middle East without Cairo becoming distracted with internal issues like water.

Meanwhile, the economic potential of the Sudan would remain undeveloped. Sudan uses only one-third of its Nile water allocation at present. If America were willing to engage rather than contain Khartoum, Turabi might be persuaded to trade his country's status as a terrorist's safe haven for Israeli and American agricultural technologies. Sudan could become the breadbasket for the whole of northern Africa and the Middle East. Oil revenues from the southern fields, which Turabi would be bound by his new constitution to share, could help finance development of the agricultural sector. Our key Middle East peace ally, Egypt, could purchase oil and food at significantly lower cost and maybe even reduce the level of U.S. taxpayer subsidies.

The era where harsh U.S. rhetoric achieved results in foreign policy has passed. Secretary Albright, a pretty tough talker in her own right, would serve our nation best if she were to use our economic power to engage, rather than contain, the diverse elements of the Islamic world. She might just find willing partners, who behind their outward scorn for America's weaknesses, desperately seek to assimilate American capabilities. In doing so, she will have honored the principles upon which America's greatness was built, reduced the yawning gap between rich countries and poor countries and demonstrated her president's resolve to treat Islam with the respect it deserves.

*Mr. Ijaz is chairman of Crescent Investment Management, L.P., a New York-based investment advisory firm.*

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1-10-00

ANTON CERMAK KERNER

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E-MAIL: AJCK@MSN.COM

CONFIDENTIAL

President William J. Clinton  
The White House  
Washington, D.C.

October 22, 2000

Dear President Clinton,

The ends of justice call upon our nation's chief executive to grant Otto Kerner, Jr. (1908-1976) a full, free and absolute warrant and proclamation of posthumous pardon by reason of innocence pursuant to powers under Article II, Section 2, clause 1 of the Constitution of the United States.

Otto Kerner dedicated forty years of his adult life to public service. In 1934 - after studies at Brown University, Cambridge University, and Northwestern University School of Law - he entered the military where he rose from Private to Major General, serving highly decorated active duty in both theaters of World War II. In 1947, President Truman appointed him U. S. District Attorney for the Northern District of Illinois, and President Eisenhower reappointed him in 1951. Twice elected Cook County Judge in 1954 and 1958, he was also twice elected Governor of Illinois in 1960 and 1964. In 1967, President Johnson appointed him chairman of the national commission that produced the landmark "Kerner Report" on racism in America. In 1968, President Johnson appointed him a judge on the 7<sup>th</sup> Circuit U. S. Court of Appeals.

In 1973, Otto Kerner was convicted in federal court of bribery, conspiracy, income tax evasion, false statements and perjury by a ~~federal mail fraud theory declared invalid in 1987 by the United States Supreme~~ Court in *McNally v United States*. But in 1974, the U.S. Court Appeals affirmed his conviction. That same year,

he appealed to the Supreme Court en banc certiorari, he was incarcerated in federal prison where he served seven months of a three-year sentence until grave illness forced his parole March 6, 1975. May 9, 1976 he died.

At every stage of the case, Otto Kerner challenged the pretense that either mail fraud or any other crime could be established by the claim that he defrauded the State of Illinois of an "intangible right" to "honest and faithful services" while Governor. When McNally established after he died that he was convicted for conduct that did not constitute a crime, his estate appealed to overturn his conviction. But, while other "intangible rights" defendants were granted acquittals under McNally, the otherwise timely Kerner appeal was denied in 1989 because he was dead.

When courts are unwilling or unable to acquit innocent victims of false conviction, the burden falls on the chief executive's pardon power to serve that end and remedy the injustice suffered. As the U. S. Supreme Court said in its 1927 *Perovich* dictum, a pardon is not an act of grace, but a part of the constitutional scheme, vesting final determination of the public's welfare in the President's ultimate authority. The paramount determinant of the public's welfare is justice.

For over sixty years, U. S. Attorneys General and U. S. Pardon Attorneys have held that a pardon given for the specific reason of innocence should have the same effect as a judgment of acquittal, but, absent express reason of innocence, the word "pardon" connotes guilt and neither removes the basic fact of conviction nor the social stigma attaching to it, but merely involves forgiveness.

Justice requires, and Otto Kerner deserves - no less than any other innocent - vindication, not forgiveness.

Presidential pardons have historically been granted not only by reasons of "innocence" and "grave doubt as to justice of conviction," but also by weight of reasons bearing either independently or cumulatively on innocence and justice, including "law held unconstitutional [invalid] - relief provided," "disclosure of new evidence," "irregularities at time of trial," "conflicting testimony," "bad character of witnesses against him" and "doubt as to guilt." All these reasons bear heavily on the accompanying pardon petition prepared on behalf of Otto Kerner pursuant to § 28 Code of Federal Regulations.

The manifest overreaching in the specious federal mail fraud invention against Kerner was but one threadbare stitch in an illusory fabric woven by an abusively ambitious prosecution. Where mail fraud was the novel hook, bribery was the crucial purl. Hung entirely on two witnesses' hearsay brought under cover of the conspiracy count, the bribery count named no briber, but, rather, framed Kerner between perjurious allegations of a suborned and an immunized witness against each other.

New evidence of obstruction of justice by the prosecution relating to prejudicial pre-trial leaks by the prosecution has been the subject of ongoing complaint since 1978. Documents disclosed pursuant to the Freedom of information Act in 1978 and 1979 reveal that the prosecution hid from the Court knowledge that pre-trial leaks against Kerner came from prosecution hands and that they were orchestrated to overcome Kerner's high public regard and the prosecution's low estimate of its case against him. The Office of Professional Responsibility in the U. S. Department of Justice has not responded specifically to the complaint as particularized in writing in 1980 and again in 1999, but has stated only that there seems no basis for criminal investigation. The disclosures nonetheless add basis for vindication.

While the chief executive is uniquely competent to address any and all reasons for pardon, a retrial of the Kerner case is not necessary for purposes of this petition. The Supreme Court's repudiation in *McNally* of his prosecutors' ambitious predicate is sufficient alone to warrant a presidential pardon for Kerner. That he was the victim of a more broadly overzealous prosecution attests further to the enormity of the injustice he suffered, but if investigation of further proofs were to delay unduly the issuance of a pardon deemed readily justified by *McNally*, it would merely extend, not lessen that enormity.

Rather, it is upon proclamation of his absolute innocence through the pardoning power vested in the president's ultimate constitutional authority that mitigation of the great injustice to Otto Kerner truly depends. Nothing less can hope to remove the wrongful stigma of condemnation marring the reputation of this impeccably dedicated soldier and statesman. Indeed, nothing less can hope to begin to restore public confidence so wanting in our system of criminal justice.

In sincere and respectful prayer,

Cc Roger C. Adams  
Pardon Attorney  
U. S. Department of Justice

ANTON CERMAK KERNER  
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CHICAGO, ILLINOIS 60610  
TEL: 312.943.4646 FAX: 312.649.9922  
E-MAIL: AJCK@MSN.COM

President William J. Clinton  
The White House  
Washington, D.C.

**DETERMINED TO BE AN ADMINISTRATIVE**

**MARKING INITIALS:** MI **DATE:** 8/21/19

~~CONFIDENTIAL~~

November 19, 2000

Dear President Clinton,

2019-0680-5

Accompanying are additional affidavits in support of the October 22, 2000 Petition for Posthumous Pardon on behalf of Otto Kerner, Jr. Below is an index of character writings submitted to date:

|                           |                                                                                             |                             |
|---------------------------|---------------------------------------------------------------------------------------------|-----------------------------|
| Blakely, Henry            | Late Poet                                                                                   | Poem 5.12.76                |
| Brooks, Gwendolyn Blakely | Poet Laureate of Illinois                                                                   | Affidavit 10.14.00          |
| Clark, Ramsey             | Former United States Attorney General                                                       | Affidavit 11.14.00          |
| Davidson, John L.         | Lawyer                                                                                      | Letter 9.10.75              |
| Dickerson, Earl B.        | Executive, Supreme Life Insurance Company of America                                        | Letter 4.20.73              |
| Dixon, Alan J.            | Former United States Senator, Illinois                                                      | Affidavit 10.13.00          |
| Downing, Robert J.        | Former Justice, Illinois Appellate Court                                                    | Affidavit 10.11.00          |
| Fettridge, William H.     | President, The Dartnell Corporation                                                         | Letter 2.19.73              |
| Franklin, John Hope       | Professor of History Emeritus, Duke University                                              | Letter & Affidavit 10.18.00 |
| Gingold, Ethel            | Former Member, Illinois Board of Prisoner Review                                            | Affidavit 10.21.00          |
| Heineman, Benjamin W.     | Former President, Northwest Industries; Former Chairman, Illinois Board of Higher Education | Affidavit 10.9.00           |
| Henderson, Earl W.        | Architect                                                                                   | Affidavit 10.31.00          |
| Jenner, Albert E.         | Former Chairman, U.S. Supreme Court Advisory Committee on Federal Rules of Evidence         | Letter 2.20.73              |
| Marovitz, Abraham Lincoln | Senior Judge, United States District Court                                                  | Affidavit 11.7.00           |
| Marshall, Cecelia S.      | Spouse, Former United States Supreme Court Justice Thurgood Marshall                        | Letter 5.21.73              |
| Netsch, Dawn Clark        | Professor Emeritus, Northwestern School of law                                              | Affidavit 10.17.00          |
| Perry, Joseph Sam         | Senior Judge, United States District Court                                                  | Letter 2.19.73              |
| Rock, Philip J.           | Former Senator, Illinois General Assembly                                                   | Affidavit 10.16.00          |
| Ross, Norman              | Retired Executive, First National Bank of Chicago                                           | Affidavit 10.10.00          |
| Siegel, Beatrice S.       | Former Neighbor                                                                             | Affidavit 11.6.00           |
| Shellow, Robert           | Former Assistant Director, United States Commission on Civil Disorders                      | Affidavit 10.18.00          |
| Sullivan, Thomas          | Former United States District Attorney                                                      | Letter 2.23.73              |
| Vlahoplus, Chris          | Retired Journalist                                                                          | Affidavit 10.20.00          |
| Westmoreland, William C.  | Former Chief of Staff, United States Army                                                   | Letter 4.7.73               |

Sincerely,

ANTON CERMAK KERNER  
40 WEST SCHILLER STREET #A2  
CHICAGO, ILLINOIS 60610  
TEL: 312.943.4646 FAX: 312.649.9922  
E-MAIL: AJCK@MSN.COM

~~CONFIDENTIAL~~

President William J. Clinton  
The White House  
Washington, D.C.

December 18, 2000

Dear President Clinton,

Enclosed is a recently obtained 1999 Indiana Law Journal article in further support of the October 22, 2000 Petition for Posthumous Pardon by my sister and myself on behalf of our father, Otto Kerner, Jr. It relates to your February 19, 1999 posthumous pardon of Henry Oliver Flipper that we cited as precedent in our original submission, but are only now able to reference in detail.

While we adopt the Flipper petitioners' argument for *posthumous* pardon, we distinguish our pardon request from theirs in that ours is a request for nothing less than an express finding of *innocence*. Unlike them, we emphatically assert, not merely that Kerner's punishment was unjust, but that he committed no crime. We are particularly mindful of holdings cited in our petition that a pardon not expressly given for innocence implies guilt and connotes forgiveness, a result that would grievously violate the stance Otto Kerner maintained to the day he died.

Like Flipper, Kerner led a highly accomplished life: indeed, so highly accomplished that, were it not for his false conviction, Kerner's forty years of consummate public service would have stood him long ago among recipients of the Presidential Medal of Freedom. We do not doubt that he will one day join his illustrious peers there. Yet, while his impeccable dedication to the commonweal impeaches the accusation that he could have even conceived of betraying the public trust, we cite it to compliment – not supplant – his clear innocence as the essential, indispensable rationale for your pardon of him. We look forward to pardon as the conclusive vindication of his absolute innocence.

Respectfully submitted,

Cc Roger C. Adams  
Bcc John Podesta  
Meredith Cabe  
Senator Richard Durbin

**Fred Eychaner**

---

1-10-00

January 9, 2001

~~GS~~ McAulley  
what's this about?  
B

Dear President Clinton:

Would very much appreciate it if you could look into  
the pardon request of HOWARD MECHANIC.

While I don't know him personally, I strongly believe  
his case is a remaining Viet Nam era relic  
which could easily justify a pardon.

The file is pending with the White House Counsel's office.

Thanks very much!

*Fred*

copies

Cable  
Podesta

ANCO

1-10-00

Mr. President

1-10-00  
cable  
Podesta



**ED H. SMITH**  
ALDERMAN, 28TH WARD

118 NORTH PULASKI ROAD  
CHICAGO, ILLINOIS 60624  
TELEPHONE: 773-533-0900  
FAX: 773-533-6199

**CITY COUNCIL**  
**CITY OF CHICAGO**  
**COUNCIL CHAMBER**

CITY HALL - ROOM 209-14  
121 NORTH LA SALLE STREET  
CHICAGO, ILLINOIS 60602  
TELEPHONE: 312-744-3066  
FAX 312-744-6824

**COMMITTEE MEMBERSHIPS**

HEALTH  
(CHAIRMAN)  
AVIATION  
BUDGET AND GOVERNMENT OPERATIONS  
BUILDINGS  
COMMITTEES, RULES AND ETHICS  
FINANCE  
ZONING

January 8, 2001

1-10-00

Honorable William Jefferson Clinton  
President of the United States of America  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C 20500

Dear President Clinton:

I have served eighteen years as an Alderman in the Chicago City Council. In my capacity, I have worked with many governmental professionals including Attorney Kevin O'Keefe to do very important work.

This letter, Mr. President, is a request for a "Presidential Pardon" for four people, all convicted in Chicago. Three have been credited with time served and have not committed offenses since leaving jail. One is still in jail.

They are:

1. Willie Dunmore, 60 years old. (His package was delivered to your office by Congressman Bobby Rush). His federal charge was fifteen years ago and he has been clean for eleven years.

He runs (J.R. Plaza, Inc.), two Single Room Occupancy Resident Apartments in Chicago at 3001 West Jackson Boulevard and 4507 West Washington Boulevard. He employs over thirty people from the community that would not otherwise have jobs. He is a very productive citizen. He wants a hotel, but his record stops him from becoming an owner.

2. Attorney and former Alderman Larry Bloom was convicted after he left the Chicago City Council and served about four (4) months in jail. He served the city well while in office.
3. Miriam Santos, former City Treasurer, pleaded guilty to two counts, and was set free for time



considered served.

4. Noah Robinson is currently incarcerated and I doubt that holding him in jail any longer will serve he or the community any good. He isn't a threat to society and would in fact be a credit to the city if released.

Mr. President, your kind consideration of this request will be highly appreciated by the families of these individuals and me.

Thank you very much,

A handwritten signature in black ink that reads "Ed H. Smith". The signature is written in a cursive, slightly stylized font.

Ed H. Smith,  
Alderman 28th Ward

**R·L·KAISER**  
**C O M P A N Y**

**WILLIAM H. RENTSCHLER**  
C H A I R M A N

TEL: 847-234-5210 FAX: 847-234-6491  
250 EAST DEERPATH ROAD • SUITE 2  
LAKE FOREST • ILLINOIS • 60045

William H. Rentschler  
250 East Deerpath Road - Suite 1  
Lake Forest, IL 60045

Mcabe

PRESIDENT CLINTON

1-10-00

copied  
Cabe  
Podesta

8

ANTON CERMAK KERNER

40 WEST SCHILLER STREET #A2

CHICAGO, ILLINOIS 60610

TEL: 312.943.4646 FAX: 312.649.9922

E-MAIL: AJCK@MSN.COM

~~CONFIDENTIAL~~

President William J. Clinton  
The White House  
Washington, D.C.

October 22, 2000

Dear President Clinton,

The ends of justice call upon our nation's chief executive to grant Otto Kerner, Jr. (1908-1976) a full, free and absolute warrant and proclamation of posthumous pardon by reason of innocence pursuant to powers under Article II, Section 2, clause 1 of the Constitution of the United States.

Otto Kerner dedicated forty years of his adult life to public service. In 1934 - after studies at Brown University, Cambridge University, and Northwestern University School of Law - he entered the military where he rose from Private to Major General, serving highly decorated active duty in both theaters of World War II. In 1947, President Truman appointed him U. S. District Attorney for the Northern District of Illinois, and President Eisenhower reappointed him in 1951. Twice elected Cook County Judge in 1954 and 1958, he was also twice elected Governor of Illinois in 1960 and 1964. In 1967, President Johnson appointed him chairman of the national commission that produced the landmark "Kerner Report" on racism in America. In 1968, President Johnson appointed him a judge on the 7<sup>th</sup> Circuit U. S. Court of Appeals.

In 1973, Otto Kerner was convicted in federal court of bribery, conspiracy, income tax evasion, false statements and perjury by a federal mail fraud theory declared invalid in 1987 by the United States Supreme Court in *McNally v United States*. But in 1974, the U.S. Court Appeals affirmed his conviction. That same year, after the U.S. Supreme Court denied *certiorari*, he was incarcerated in federal prison where he served seven months of a three-year sentence until grave illness forced his parole March 6, 1975. May 9, 1976 he died.

At every stage of the case, Otto Kerner challenged the pretense that either mail fraud or any other crime could be established by the claim that he defrauded the State of Illinois of an "intangible right" to "honest and faithful services" while Governor. When *McNally* established after he died that he was convicted for conduct that did not constitute a crime, his estate appealed to overturn his conviction. But, while other "intangible rights" defendants were granted acquittals under *McNally*, the otherwise timely Kerner appeal was denied in 1989 because he was dead.

When courts are unwilling or unable to acquit innocent victims of false conviction, the burden falls on the chief executive's pardon power to serve that end and remedy the injustice suffered. As the U. S. Supreme Court said in its 1927 *Perovich* dictum, a pardon is not an act of grace, but a part of the constitutional scheme, vesting final determination of the public's welfare in the President's ultimate authority. The paramount determinant of the public's welfare is justice.

For over sixty years, U. S. Attorneys General and U. S. Pardon Attorneys have held that a pardon given for the specific reason of innocence should have the same effect as a judgment of acquittal, but, absent express reason of innocence, the word "pardon" connotes guilt and neither removes the basic fact of conviction nor the social stigma attaching to it, but merely involves forgiveness.

**R·L·KAISER**  
C O M P A N Y

WILLIAM H. RENTSCHLER  
CHAIRMAN

TEL: 847-234-5210 FAX: 847-234-6491  
250 EAST DEERPATH ROAD • SUITE 2  
LAKE FOREST • ILLINOIS • 60045

William H. Rentschler  
250 East Deerpath Road - Suite 1  
Lake Forest, IL 60045

Mcabe  
PRESIDENT CLINTON

1-10-00

copied  
Cabe  
Podesta

#

ANTON CERMAK KERNER

40 WEST SCHILLER STREET #A2

CHICAGO, ILLINOIS 60610

TEL: 312.943.4646 FAX: 312.649.9922

E-MAIL: AJCK@MSN.COM

~~CONFIDENTIAL~~

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The White House  
Washington, D.C.

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Justice requires, and Otto Kerner deserves - no less than any other innocent - vindication, not forgiveness.

Presidential pardons have historically been granted not only by reasons of "innocence" and "grave doubt as to justice of conviction," but also by weight of reasons bearing either independently or cumulatively on innocence and justice, including "law held unconstitutional [invalid] - relief provided," "disclosure of new evidence," "irregularities at time of trial," "conflicting testimony," "bad character of witnesses against him" and "doubt as to guilt." All these reasons bear heavily on the accompanying pardon petition prepared on behalf of Otto Kerner pursuant to § 28 Code of Federal Regulations.

The manifest overreaching in the specious federal mail fraud invention against Kerner was but one threadbare stitch in an illusory fabric woven by an abusively ambitious prosecution. Where mail fraud was the novel hook, bribery was the crucial purl. Hung entirely on two witnesses' hearsay brought under cover of the conspiracy count, the bribery count named no briber, but, rather, framed Kerner between perjurious allegations of a suborned and an immunized witness against each other.

New evidence of obstruction of justice by the prosecution relating to prejudicial pre-trial leaks by the prosecution has been the subject of ongoing complaint since 1978. Documents disclosed pursuant to the Freedom of information Act in 1978 and 1979 reveal that the prosecution hid from the Court knowledge that pre-trial leaks against Kerner came from prosecution hands and that they were orchestrated to overcome Kerner's high public regard and the prosecution's low estimate of its case against him. The Office of Professional Responsibility in the U. S. Department of Justice has not responded specifically to the complaint as particularized in writing in 1980 and again in 1999, but has stated only that there seems no basis for criminal investigation. The disclosures nonetheless add basis for vindication.

While the chief executive is uniquely competent to address any and all reasons for pardon, a retrial of the Kerner case is not necessary for purposes of this petition. The Supreme Court's repudiation in *McNally* of his prosecutors' ambitious predicate is sufficient alone to warrant a presidential pardon for Kerner. That he was the victim of a more broadly overzealous prosecution attests further to the enormity of the injustice he suffered, but if investigation of further proofs were to delay unduly the issuance of a pardon deemed readily justified by *McNally*, it would merely extend, not lessen that enormity.

Rather, it is upon proclamation of his absolute innocence through the pardoning power vested in the president's ultimate constitutional authority that mitigation of the great injustice to Otto Kerner truly depends. Nothing less can hope to remove the wrongful stigma of condemnation marring the reputation of this impeccably dedicated soldier and statesman. Indeed, nothing less can hope to begin to restore public confidence so wanting in our system of criminal justice.

In sincere and respectful prayer,

Cc Roger C. Adams  
Pardon Attorney  
U. S. Department of Justice

ANTON CERMAK KERNER  
40 WEST SCHILLER STREET #A2  
CHICAGO, ILLINOIS 60610  
TEL: 312.943.4646 FAX: 312.649.9922  
E-MAIL: AJCK@MSN.COM

~~CONFIDENTIAL~~

President William J. Clinton  
The White House  
Washington, D.C.

November 19, 2000

Dear President Clinton,

Accompanying are additional affidavits in support of the October 22, 2000 Petition for Posthumous Pardon on behalf of Otto Kerner, Jr. Below is an index of character writings submitted to date:

|                           |                                                                                             |                             |
|---------------------------|---------------------------------------------------------------------------------------------|-----------------------------|
| Blakely, Henry            | Late Poet                                                                                   | Poem 5.12.76                |
| Brooks, Gwendolyn Blakely | Poet Laureate of Illinois                                                                   | Affidavit 10.14.00          |
| Clark, Ramsey             | Former United States Attorney General                                                       | Affidavit 11.14.00          |
| Davidson, John L.         | Lawyer                                                                                      | Letter 9.10.75              |
| Dickerson, Earl B.        | Executive, Supreme Life Insurance Company of America                                        | Letter 4.20.73              |
| Dixon, Alan J.            | Former United States Senator, Illinois                                                      | Affidavit 10.13.00          |
| Downing, Robert J.        | Former Justice, Illinois Appellate Court                                                    | Affidavit 10.11.00          |
| Fettridge, William H.     | President, The Dartnell Corporation                                                         | Letter 2.19.73              |
| Franklin, John Hope       | Professor of History Emeritus, Duke University                                              | Letter & Affidavit 10.18.00 |
| Gingold, Ethel            | Former Member, Illinois Board of Prisoner Review                                            | Affidavit 10.21.00          |
| Heineman, Benjamin W.     | Former President, Northwest Industries; Former Chairman, Illinois Board of Higher Education | Affidavit 10.9.00           |
| Henderson, Earl W.        | Architect                                                                                   | Affidavit 10.31.00          |
| Jenner, Albert E.         | Former Chairman, U.S. Supreme Court Advisory Committee on Federal Rules of Evidence         | Letter 2.20.73              |
| Marovitz, Abraham Lincoln | Senior Judge, United States District Court                                                  | Affidavit 11.7.00           |
| Marshall, Cecelia S.      | Spouse, Former United States Supreme Court Justice Thurgood Marshall                        | Letter 5.21.73              |
| Netsch, Dawn Clark        | Professor Emeritus, Northwestern School of law                                              | Affidavit 10.17.00          |
| Perry, Joseph Sam         | Senior Judge, United States District Court                                                  | Letter 2.19.73              |
| Rock, Philip J.           | Former Senator, Illinois General Assembly                                                   | Affidavit 10.16.00          |
| Ross, Norman              | Retired Executive, First National Bank of Chicago                                           | Affidavit 10.10.00          |
| Siegel, Beatrice S.       | Former Neighbor                                                                             | Affidavit 11.6.00           |
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| Sullivan, Thomas          | Former United States District Attorney                                                      | Letter 2.23.73              |
| Vlahoplus, Chris          | Retired Journalist                                                                          | Affidavit 10.20.00          |
| Westmoreland, William C.  | Former Chief of Staff, United States Army                                                   | Letter 4.7.73               |

Sincerely,

ANTON CERMAK KERNER  
40 WEST SCHILLER STREET #A2  
CHICAGO, ILLINOIS 60610  
TEL: 312.943.4646 FAX: 312.649.9922  
E-MAIL: AJCK@MSN.COM

CONFIDENTIAL

President William J. Clinton  
The White House  
Washington, D.C.

December 18, 2000

Dear President Clinton,

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Respectfully submitted,

Cc Roger C. Adams  
Bcc John Podesta  
Meredith Cabe  
Senator Richard Durbin

Al Cable  
Look into the Wymer  
case - PC

1-10-00

President Clinton  
from Richard Mayes

copied  
cable  
 Podesta

SENT BY: MAYS, RYRDE ASSOCIATES, P.A.;  
TO: RLH DC501 399 9280;  
AT: 12023471079

JAN-8-01 5:22PM;

PAGE 1/2

**RICHARD L. MAYS**  
**415 MAIN STREET**  
**LITTLE ROCK, ARKANSAS 72201**  
**501-372-6303**

January 8, 2001

The Honorable William Jefferson Clinton  
President of the United States of America  
1600 Pennsylvania Ave.  
Washington, DC

Dear President Clinton:

I passionately support the Presidential pardon requests of Eric Wynn, Jimmy Morris and Jim Guy Tucker. I do so solely because I have faith in their character and believe that their cause is just. Although I recognize that there is a bureaucracy in place to assist you in processing such requests, sometimes the very nature of the bureaucracy undermines the reason for its existence. If no benefit from my request is achieved other than questioning the vitality of an extensive bureaucracy as an exclusive precursor to presidential grace, then the effort remains worthy regardless of the outcome.

You either know or have some knowledge of these gentlemen or their circumstances. They were all convicted of non-violent crimes and have completed the terms of incarceration associated with their convictions. Since their alleged transgressions, they have demonstrated the ability to put their lives back together and move on in constructive ways. Each claims flaws or inequities associated with their convictions which, if valid, would provide independent justification for relief or at least the exercise of grace. Assuming that they have made adequate atonement for their purported misdeeds, the pardon request simply allows their citizenship rights to be restored so that they can again participate in the political processes of our democracy.

Should everyone be given a pardon who falls within this general category of non-violent crimes and appropriate atonement? Why not? But I shall save those arguments for another day. Article 2 of the United States Constitution has entrusted our President with the right to pardon, and I urge with all my soul that such a right be liberally exercised under these circumstances.

Eric Wynn was convicted of securities fraud in 1995 for alleged conduct in 1988, which is now more than twelve years behind him. Is it not enough that he has served a prison sentence for a possibly flawed conviction? It is uncontested that the U.S. Solicitor General and the U.S. Court of Appeals for the Third Circuit acted under a misapprehension of facts when considering his case. Now, at 40 years of age, he has more than atoned for his alleged transgressions and deserves the opportunity to

SENT BY: MAYS, RICHARD ASSOCIATES, P.A.;

501 399 9280;

JAN-8-01 5:22PM;

PAGE 2/2

Page 2

move forward in life without the impediment of a non-violent criminal conviction based on conduct which occurred when he was in his twenties.

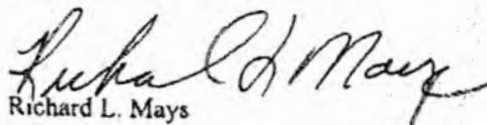
Jimmy Morris, a former Arkansas state policeman, was convicted of drug activities that the State of Arkansas had paid him to pursue as an undercover agent. He served as an undercover agent for an unreasonable period of time, more than six years, and eventually succumbed to the drug culture that he had been paid to monitor as an undercover Arkansas state policeman. He became addicted to cocaine as an undercover agent and subsequently starting selling it to support his habit. Jimmy Morris completed his prison term in 1998 and has been drug free for more than seven years.

Jim Guy Tucker's case is one with which I am sure you are familiar. I urge the granting of his request for a pardon because his prosecution was politically motivated. Most Arkansans still do not fully appreciate or have any understanding of the crimes with which he was charged. There were sufficient legal flaws in the prosecution of his case to give Jim Guy Tucker the benefit of the doubt by wiping his slate clean and granting him a pardon.

I recognize that you are inundated with clemency requests and that responding to them has got to be as challenging as any of your Presidential duties. I simply thank God that you are President and that it is your nature to always give your best. That is certainly all that anyone can ask and probably more than most of us deserve. You have been a great President and I feel especially blessed to have been one of your contemporaries.

With warmest regards, I remain

Sincerely,

  
Richard L. Mays

RLM:dlf:2

SENT BY: MAYO BYRDA ASSOCIATES, P.A.;

501 399 9280;

JAN-8-01 5:13PM;

PAGE 3/3

JIMMY C. MORRIS  
9201 KANIS, APT. 9-D  
LITTLE ROCK, ARKANSAS 72204  
501-221-9485

January 8, 2001

The Honorable William Jefferson Clinton  
President of the United States of America  
1600 Pennsylvania Avenue  
Washington, DC

Dear President Clinton:

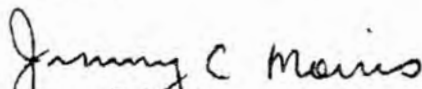
This is to respectfully request a presidential pardon for a federal conviction I sustained in December 1995 for illegal drug activities in 1994. I served approximately 33 months in the Federal Penitentiary and was released from confinement in September 1998.

I worked for the Arkansas State Police for eleven years from 1976 to 1987, the last six of which I worked as an undercover agent in the State Police Organized Crime Unit. Although undercover assignments associated with organized crime activities were usually limited to six months, because of my effective performance, my undercover activities were extended far beyond the usual and customary assignment period. I continued to work undercover until I became a part of the drug culture that I had been hired to monitor. I began to use cocaine, eventually developing a dependency for it.

I have now turned my life around and am currently employed as a Claims Manager/Investigator for Mays, Byrd & Associates Law Firm. I have been drug free for at least seven years. I do not believe restoring my citizenship rights by granting me a pardon would create any risk to society.

Thank you for your consideration of my request.

Sincerely,

  
Jimmy C. Morris

ERIC WYNN  
24 Binnacle Avenue  
West Milford, NJ 07480  
(973) 657-9155

January 8, 2000

Hon. William Jefferson Clinton  
President of the United States  
Washington, DC

Dear Mr. President:

Respectfully I write to request a presidential pardon. In 1983 I engaged in fraudulent conduct. I was wrong. There was no excuse. I was twenty-four years old, with two young children and I paid for my mistake. However, in 1995 I was convicted of charges arising out of events which occurred in 1988 in a case in which the Justice Department has conceded that the Solicitor General misrepresented facts to the Supreme Court of the United States. In those matters, Sir, I respectfully submit that I was not wrong and did not commit a crime.

However, even if this conduct is perceived to be felonious, more than twelve years have passed since it was committed. I believe that during the intervening years my life has developed in ways that warrant my having a fresh start and a clean slate. I therefore respectfully request that a pardon be granted.

Respectfully yours,

  
Eric Wynn

1-10-01

01 JAN 11 PM 12:23

THE WHITE HOUSE  
WASHINGTON

January 9, 2001

*Tape return  
by 1/10/01*

MEMORANDUM TO THE PRESIDENT

FROM: STEPHANIE STREETT  
CAROLINE SELF *[Signature]*

SUBJECT: BARBRA STREISAND AFI AWARD

On February 22<sup>nd</sup>, Barbra Streisand will be honored with the American Film Institute's Life Achievement Award. Streisand will be the 29th recipient of this prestigious award—widely considered the highest honor given for a career in film. The tribute will take place at the Beverly Hilton Hotel and will be broadcast on Fox Television in the spring.

Gary Smith has invited you and Senator Clinton to attend the event. If you are unable to attend the event, he has asked for you and Senator Clinton to tape a brief, informal statement that could be incorporated into the event. This message could be taped either before or after January 20<sup>th</sup>.

Is this something you would like to tape now or wait until after January 20<sup>th</sup> to decide to tape a message or possibly attend?

- ☐ Tape before January 20<sup>th</sup>
- ☐ Wait until after January 20<sup>th</sup> to decide

*copied  
Streett  
Self  
Podesta*

1-10-01

Wednesday, October 04, 2000

1. cc Seal ✓ 11/10  
2. not

MR. PRESIDENT:

Bill Layton, Judge Andrea Roaf's father (and neighbor and longtime friend of the late Bob Squier), wanted me to give this to you. He says you will understand.

He also hoped that you would consider attending the opening/dedication of a Civil War museum in early 2001. It will be located in Fort Colliers, VA - in the Blue Ridge mountains, and site of the third battle of Winchester. Mr. Layton donated thousands of dollars worth of civil war mementos and documents to the museum. (There will be a William Layton collection and a life-size portrait of him, there.)

Janis K.

William Layton  
P.O. Box 101  
Millwood, VA 22646  
(202) 554-3195

for not pres  
miller. keep for 1/20/01  
check out

copied  
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Podesta



~~Original  
unrecorded copy~~

President Bill Clinton

1-10-00

1-10-01

1-10-00

After you have seen,  
we will send to  
Cohen -



cu

January 9, 2001

DEAR MR. President

I, ELIZABETH A. WILCHER, am the mother of MARK A WILCHER, author of the enclosed Report and grandmother of LAMONT A. WILCHER, the victim of a shooting August 20<sup>th</sup>, 2000

To update, LAMONT IS STILL IN Christ hospital and the shooter has fled the state.

We, the family would like to ask for your help. Perhaps the Attorney General's office could investigate. We were told that this is an on-going investigation. 5 months and still we know nothing.

Please excuse this intrusion into your Chicago visit, but we are grasping at straws and desperate For help. This is a family of 5 generations of living Wilcher men.

William A Wilcher, Sr, age 92, of McComb, MS., came to Chicago approximately 65 years ago.

William A. Wilcher, Jr, age 72 of Chicago, IL

Mark A. Wilcher, age 51, of North Hollywood, CA.

Lamont A. Wilcher, age 31, of Memphis, TN.

Lamont A. Wilcher. Jr., age 9 months, of Memphis, TN.

Thank in advance for your cooperation and consideration in this on-going case

Sincerely,

Elizabeth A. Wilcher

cc. Mayor Richard M. Daley  
States Attorney: Dick Devine

## THE WILCHER FAMILY

---

January 9, 2001

The Honorable Mr. Richard Devine  
Cook County States Attorney  
Cook County States Attorney Office  
Chicago, Ill

Dear Mr. Devine,

Mr. Devine, please allow my family to take a moment of your time to explain the circumstances of a case your office is currently investigating. It is the case of Lamont A. Wilcher, Lamont is the victim of a shooting that occurred on August 19, 2000 at approximately 11:30 pm.

The shooting happened at 1400 W. 119<sup>th</sup>, Chicago, Ill at the home of Lamont's cousin, Mrs. Joni Bailey. Lamont was at the home on 119<sup>th</sup> to attend a bachelor party for his brother Christopher I. Wilcher who was getting married on September 2, 2000.

Before I get to the details of the shooting, please allow me to tell you a little about Lamont, the husband, the man, the father, the son and the grandson.

Lamont A. Wilcher Sr., thirty years old, resides in Memphis, Tn along with his wife, Yatosha of four years and their four month old son Lamont A. Wilcher Jr. The couple are first time parents, Lamont Jr. was born on April 29, 2000.

Lamont Sr. attended Jackson State University and plans to complete his degree through their extension program this fall. Lamont is self employed doing contract work for a company that installs office furniture. He is the sole support for his young family.

Yatosha Wilder Wilcher remains at home on continued maternity leave after the birth of their son in April. Mrs. Wilcher received her degree from Jackson State University in Finance and is pursuing a career in that field.

After Mrs. Wilcher's graduation from Jackson State University, Mr. Wilcher moved his young family to Tennessee, purchasing a home in Memphis. This is an educated, community minded couple, who have made a commitment to the city of Memphis, their church and the family values taught to them by their parents.

Lamont A. Wilcher represents all of the good qualities and strong moral behaviors we as parents and civilized society want in our young people.

As of today, September 4, 2000, Lamont is in Christ Memorial Hospital **Fighting for his life.** He is in **Critical Condition** from a gun shot wound inflicted by an off duty Harvey, Ill policeman who was also attending that same bachelor party. Charles Pate is the shooter in this incident.

**Details:**

The details of the shooting are as follows, as the Wilcher family know and understand them. These statements are taken from eye witnesses who were in attendance at the bachelor party when the shooting occurred.

- Date of shooting: August 19, 2000
- Time Approximated of shooting: 11: 30 pm
- Approximate number of attendees at bachelor party: 25
- Participants: Family and close friends
- Reason for gathering: Bachelor Party

The shooter in this case is a Harvey, Ill policeman who was off duty at the time of the shooting and in attendance to the above mentioned bachelor party. Charles Pate is his name, his rank and responsibility with the Harvey Police department is unknown.

**Circumstances:**

The party started at approximately 11:00pm on the evening of August 19, 2000. The majority of the invited guest arrived between the hours of 10:00pm and 11:00pm. The guest were then introduced to one another and the party officially started.

During the above mentioned time line, the shooter, Charles Pate, arrived at the party as an invited guest. He gained access to the residence at 1400 W. 119<sup>th</sup> St. through the rear kitchen door; as had most of the guest.

Upon entering the party he passed by several guest in the kitchen area who were sitting and talking at the kitchen table. All of the individuals in the kitchen have reported that the shooter, Mr. Pate, had a gun tucked in his belt; clearly visible to the people sitting at the table.

In addition, statements by the witnesses in the kitchen indicate no one knew who Mr. Pate was at the time of his entry into the home. This situation caused many of the guest to be very alarmed.

Once inside the home, Mr. Pate immediately proceeded to the cabinets located above the sink area, removing a cup from the shelf belonging to the host. The host of the party, politely asked Mr. Pate to use another cup.

Mr. Pate is reported to have said, "Fuck you lady and your cup". This response was then followed by several other more inflammatory comments by Mr. Pate.

Located in a bedroom just off the kitchen area, the host of the party had placed a large cooler with beer and wine in it for the party. It is in this room the shooting of Lamont A. Wilcher occurred as a result of an altercation between Mr. Pate and Mr. Lamont A. Wilcher.

**Eye witness accounts of the shooting incident:**

Mr. Wilcher entered the kitchen area at or about the same time Mr. Pate entered the bedroom with the cooler placed in it. Mr. Wilcher was then asked to find out who the gentleman was, referring to Mr. Pate.

Mr. Wilcher enters the bedroom area and approaches Mr. Pate asking the man who had invited him to the party.

Mr. Pate responds "Hey man why do you want to know ?"

Mr. Wilcher's response is unclear at this point.

Mr. Pate is heard saying to Mr. Wilcher "Fuck you man, no I'm not giving you a damn thing."

Mr. Wilcher; "then you need to leave the party."

Other words are exchanged and the two men enter into a brief shoving match. They are separated by Mr. Byron McBrine, a guest who comes into the bedroom from the kitchen area.

Mr. McBrine, the eye witness, to the shooting in the bedroom notices Mr. Pate reaching for the gun tucked into his belt and immediately places his own hand over that of Mr. Pate's with the gun still undrawn and in his belt.

Mr. McBrine speaks directly to Mr. Pate stating the following: "there's no need to draw your gun man, this ain't that kind of party."

Mr. McBrine then states, as he backed away from Mr. Pate who was approximately five to six feet from Mr. Lamont Wilcher.

- Mr. Pate draws the gun from his belt and fired once into the stomach area of Lamont Wilcher who was five feet away from him at the time.
- Mr. Pate then walks over to where Mr. McBrine had fallen into a cloths closet, places the gun in Mr. McBrine's face and states, "Do you want some of this too?"
- Mr. Pate then backs out of the bedroom and into the kitchen area where guest are sitting at the kitchen table and states: "Does anyone want a piece of me and I'll be back with two or three of my partners and bring a close to this shit."
- Waving his gun from side to side as he backs out of the kitchen door and onto the backpoarch.
- Mr. Pate leaves the scene of the shooting, returning only after the Chicago police department has responded to the home at 1400 W. 119<sup>th</sup> street. When Mr. Pate returns to the scene he is wearing the Harvey Police Department issued weapon. Holstered and clearly visible to the officers responding to the shooting call. These are eye witness accounts of his appearance.

- Mr. Pate initially claimed Mr. Lamont Wilcher had a gun and he (Mr. Pate) feared for his life. Also Mr. Pate claimed Mr. Lamont Wilcher passed a gun onto the eye witness at the time of the shooting.
- The weapon involved in the shooting is then discovered by the Chicago police department in Mr. Pate's private vehicle wrapped in a bullet proof vest hidden from view. Mr. Pate made no effort to present the weapon to the investigating police on the scene.
- Mr. Pate, a sworn public servant also made no effort to call for medical assistance for Mr. Wilcher who lay possibly fatally injured and certainly critically wounded at the very least.
- Mr. Pate left the scene of the shooting fully aware he had wounded a man and showed no regard for his life.

Mr. Devine, the Wilcher family has been unable to get Any Information on where your office stands in this investigation. We are being kept in the dark on your evaluation of the evidence and the possible charges that may be brought against this policeman from Harvey. Mr. Pate's culpability in this unprovoked shooting and his escalation of a verbal confrontation to the shooting of an unarmed person and citizen warrants your immediate attention.

The family of Lamont A. Wilcher is asking you and your office to respond in person to our requests for justice in this matter. We would like to have a meeting with you or your representative as soon as possible to discuss the elements of this case.

It has been more than two weeks since the shooting and we have not been contacted by your office. The Chicago police department has not contacted the family and we are afraid there will be nothing done on our family member's behalf.

We have patiently waited for the States Attorney's office to conclude their investigation and provide the family with some information. The Wilcher's are asking your office to right this wrong, see where the injustice has been done and make the appropriate decisions within the context of the law.

Mr. Lamont A. Wilcher's family can be reached at the following phone numbers:

**Mrs. Yatosha Wilder Wilcher, Wife of Lamont A. Wilcher**

Home Chicago location: 773 785-8883 Home Memphis, Tn: 901 367-0508

**Mrs. Sharon R. Wilcher, Mother of Lamont A. Wilcher**

Home: 773 785-8883

**Mr. Mark A. Wilcher, Father of Lamont A. Wilcher**

Home North Hollywood, Ca: 818 982-8787 Work California: 213 741-5420

**Mr. Christopher I. Wilcher, Brother of Lamont A. Wilcher**

Home: 708 891-8081 Work: 800 800-9725

Respectfully,

The Wilcher Family

Cc:

Honorable Mayor Richard M. Daley

The Mayor's Office

121 N. LaSalle, Rm. 406

Chicago, Ill 60602

Mr. Terry Hillard

Superintendent of Police

1121 S. State St.

Chicago, Ill 60605

The Chicago Defender

The Crusader

The Chicago Tribune

WVON Radio

Honorable Judge R.Eugene Pincham

9316 So. Michigan Ave

Chicago, Ill 60619

Rev. Paul Jakes

Old Saint Paul M.B. Church

531 No. Kedzie Ave.

Chicago, Ill

## Contacts for Lamont

- REV. JAKES

1411 E. 67<sup>TH</sup> ST

CHICAGO, ILL

POLITICAL ACITIVIST IN CHICAGO

WORKS ON THE BEHALF OF VICTIMS IN CHICAGO

HOME: 773 873-2913

PAGER: 312 514-6783

CHURCH: 773 265-0909

- CHRIS GEVANIS

PRESS CONTACT FOR REV. JAKES

NEIGHBORHOODS AGAINST POLICE BRUILLIYTY

OFFICE: 312 603 4653

E-MAIL CAGEOVANIS AOL.COM

HOME: 312 733-2181

E-MAIL HAMMERHARD AOL.COM

- DETECTIVE ALFINI / DETECTIVE DURKIN

POLICEMAN IN CHARGE OF INITIAL INVESTIGATION

AREA 2 HEADQUARTERS

727 E. 111 ST. CHICAGO, ILL

POLICE STATION 312 747-8272 312 744-4000

HOURS ON DUTY: 12:30AM / UNTIL

- **COOK COUNTY FELONY REVIEW BOARD**

INVESTIGATES POLICE ISSUES

773 869-3020

CONTACT PERSON AT OFFICE: EDIE' ( FEMALE)

DIRECT NUMBER TO EDIE' --773869-3020

- **DORTHY LA BELL**

PUBLISHER OF THE CRUSADER NEWSPAPER

AFRICAN AMERICAN PUBLICATION

6429 KING DRIVE

CHICAGO, ILL

773 752-2500

- **KIESHA CHAVERS / CLIFF KELLEY**

WVON NEWAS RADIO TALK SHOW 1450

3350 SO. KEDZIE AVE

CHICAGO, ILL

773 247-6200 EXT: 233

- **ARTHUR HILL**

**CHIEF DEPUTY STATE'S ATTORNEY**

STATES ATTORNEY OFFICE

CLARK AND RANDOLPH CHICAGO ILL

312 603-5440

- **"JINX"**

SECRETARY TO DICK DEVINE - STATES ATTORNEY

312 603-5106

- **JASON THURMAN**

EYE- WITNESS TO SHOOTING

773 884-1993

773 767-9356

- **LEE PULLIAM**

PULLIAM, BIRGE, O'CONNELL & RASHID

ATTORNEY AT LAW

70 E. LAKE STREET

SUITE 1120

CHICAGO, ILL 60601

312 759-8800

FAX: 312 759-2439

- **MARLIN KIRBY** (INTRODUCED THE FAMILY TO JOHNNY COCHRAN)

ATTORNEY AT LAW

708 848-9279

- **THOMAS C. MARSZEWSKI**

ATTORNEY AT LAW

COCHRAN, CHERRY, GIVENS, SMITH & MONTGOMERY, L.L.C

111 WEST WASHINGTON ST. SUITE 823

CHICAGO, ILL 60602

312 977-0200

FAX 312 977-0209

From: HASSAN CHIHABI

To: president Clinton

Immigration  
Program  
try to help - PX

send to  
Agency  
liaison  
- yes  
- no

1-10-00

CHICAGO 9-1-00

From: HASSAN CHIHABI

To: President Clinton

Hello: My name is Hassan Chihabi. I'm from Morocco, I live in Chicago 2 years and 3 months. My parents live in Morocco. They are old and they need my help. I came to U.S.A to work and help them. Now are sick they want to see me but they can't come here because they're old. I want to see them but my problem I Don't have green card if I go to Morocco I can't return here. I like this country, Now

this is my Contry, I need your help  
Mr president, I need your help Mr president  
to take green card. I live with my Brother  
he has same probleme and my friend  
and her wife and his son he has 2 years  
if he doesn't have green card or  
social secrite, he can't go to skool.  
I'm waiting your answer Mr president  
finally Mr president have good  
future in your life and your family.

Chahally

CHI HABT HASSAN

3408 W FOSTER #3A0 625C  
S. 53584 1018

send to  
Cohen for  
response?

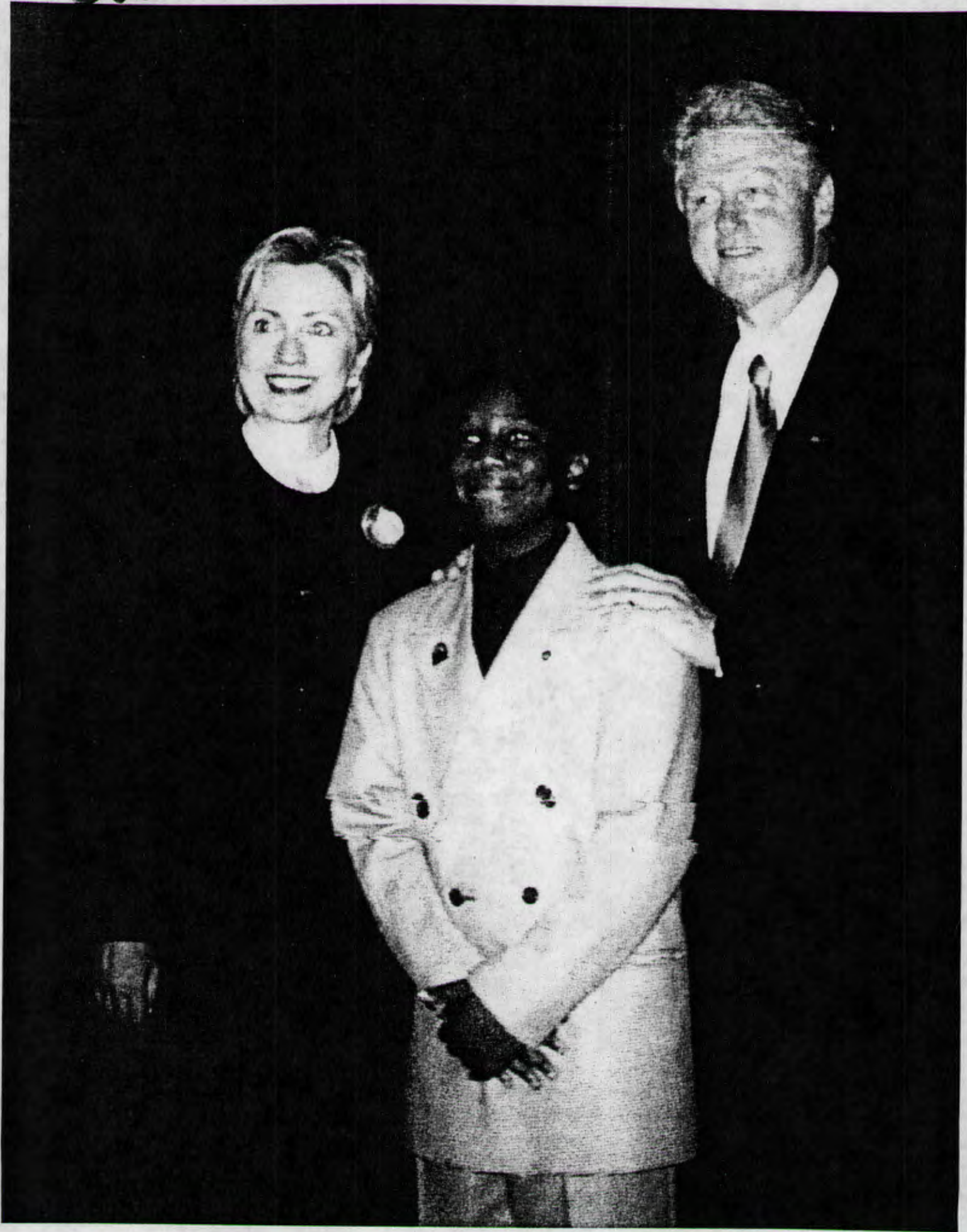
  
- ~~yes~~  
- NO

EGX

1-10-00

Noty to  
Drewman reply  
to his mother's letter  
saying we can help  
if she's stuck and  
R

Love



THE [illegible]

1-10-00

Bill & Hillary Clinton

Do Ty reply

BK

cohen  
for reply  
yes  
- no

EG



January 9, 2001

Greetings, and welcome  
to the Midwest, President Clinton

re: Disease/illness prevention,  
Gulf war syndrome, and Michael J.  
Fox's Parkinson's disease

Might we save tons of money on research with the simple  
cause and effect here (Article attached on Aspartame poisoning:  
"When sodas can kill"?)

\*

You're my favorite president.

I like the way you handled the Elion. Gonzales "hot potato"  
in dealing with Castro.

I like the way you went after the cigarette manufacturers.

I like the way you backed down Saddam Hussein (great poker  
playing).

\*

Monica was stalking fellows, even back in high school.  
(She's brainy with a good sense of humor.)

\*

I think you'd make a great ambassador and head of the  
United Nations (with your superb international finesse)

but get a little R & R first as you've been such a busy  
bee.

Warmest regards to you both,

*Cookie*

1 - 847 - 475 - 8081

MRS CAROL COOK  
1592 Oak Avenue  
Evanston, IL 60201-4234

(One little Cook county election judge  
who's enjoyed 20 trips overseas herself.)



'Nutrasweet, Equal, ...  
ful', is a chemical poison. It is a  
molecule composed of three com-  
ponents: aspartic acid, phenylala-  
nine and a methyl ester. When the  
temperature of Aspartame exceeds  
86 degrees F, the wood alcohol in  
Aspartame coverts to formaldehyde

than 7,000 adverse reactions to  
FDA, ranging from dizziness to  
headaches to seizures."

MONSANTO, the creator of  
Aspartame, knows exactly how  
deadly it is. But, here is the prob-  
lem. There were Congressional

# KILL!

s when Aspartame was  
y included as a sweetener  
fferent products. Since this  
aring, there have been two  
ent hearings, but to no  
othing has been done. The  
id chemical lobbies have  
ep pockets. Now there are  
er 5,000 products contain-  
g this chemical, and the  
**ATENT HAS EXPIRED!!!!**  
ND, MONSANTO funds the  
merican Association, Ameri-  
an Dietetic Association Con-  
ress, and the Conference of  
he American College of Phy-  
sicians. The New York Times,  
November 15, 1996, ran an  
article on how the American  
Dietetic Association takes  
money from the food industry  
to endorse their products.  
Therefore, they cannot criti-  
cize any additives or tell about  
their link to MONSANTO.

At the time of the first con-  
gressional hearing, people  
were going blind. The metha-  
nol in the Aspartame converts  
to formaldehyde in the retina  
the eye. Formaldehyde is  
ouped in the same class of drugs  
cyanide and arsenic - **DEADLY**  
**DISONS!!!** Unfortunately, it just  
kes longer to quietly kill, but it is  
lling people and causing all kinds  
neurological problems.

Aspartame changes the brain's  
hemistry. It is the reason for se-  
ere seizures. This drug changes  
he dopamine level in the brain.  
magine what this drug does to pa-  
ients suffering from Parkinson's  
Disease. Isn't it interesting that  
**Michael J. Fox, who has**  
**Parkinson's Disease was a past**  
**spokesman for Diet Pepsi and**  
**used to drink a 6-pack a day!**

The methanol toxicity (aka As-  
partame Disease/poisoning) mim-

Bank One, Illinois, NA  
Suite IL1 2840  
1603 Orrington Ave  
Evanston IL 60201



Do try

1-10-00

send to  
Cohen

✓ yes

— no

E

FIRST SEVENTH-DAY ADVENTIST CHURCH

1825 DODGE AVENUE  
EVANSTON, IL 60201  
847 475 4475

PASTOR HORTON

JANUARY 6, 2011

SABBATH SCHOOL - 9:15 a.m.

### LESSON DISCUSSION

TOPIC: "THE MODEL PRAY-TR AND THE MODEL PRAY-TR"

Memory Text: "So I say to you, whoever finds me, he will find life and eternal life. For the Son of Man is the Son of Man who seeks and loses the lost. For the Son of Man is the Son of Man who seeks and loses the lost. For the Son of Man is the Son of Man who seeks and loses the lost." (Matthew 18:12-13)

he who seeks finds; and him who  
wears practical  
places mu

## PERSONAL MINISTRIES

ANOT

"Another year  
In working or

Another  
On earth, or

Blessed are the  
merciful & lowly

Hear you speak  
 DIVINE WORSHIP SERVICE  
 DO I "In the  
 WE GATHER  
 the God gabriel  
 long service  
 Announcements  
 Liturgy  
 Call to Worship  
 Invocation  
 #495, "Near to the  
 "and gabriel"  
 Elder  
 Elder  
 AFFIRMATION OF FAITH

For God so loved the world, that he gave His only begotten Son, that whosoever believeth in Him should not perish but have everlasting life. John 3:16  
Moreover also I gave them my Sabbaths to be a sign between me and them, that they may know that I am the Lord that sanctify them. Exodus 31:13

when you speak of *CLC*  
WE FELLOWSHIP  
Greetings and Welcome  
Opening Hymn *#230. \*All Glory Laud and P.*  
Elder Roth *Pr.*

WE STUDY THE WORD

Intercessory Prayer *Prayer* Elder Roth *Prayer*  
 Scripture *Psalm 139* #684, 'Hear Our  
 Musical Selection *in the greeting to the*

History  
Home  
Men's Chapel

WE RETURN

Br. Howard M.  
#660, Glory Be to Thee  
Sr. William C.

#190, Jesus Love Me

King of Meditation *allegation* Br. Andrew  
THE SPOKEN WORD Elder Roth  
Dancing Hymn *allegation* #325, 'Jesus I  
Benediction *allegation* Elder Clive

occasional *Wm. Clinton #65, "God Be With"*  
PLEASE BE SEATED UNTIL USHERED OUT  
*have been in the past*

Le Politicos K. P. N. M. S. M.



The Eli's Cheesecake Company  
6701 W. Forest Preserve Dr.  
Chicago, Illinois 60634-1470

1-10-00  
DETY

William Jefferson Clinton  
President of the United States  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C. 20500

EGT

send to  
cover for reply?  
-Hes  
-no



1-10-00

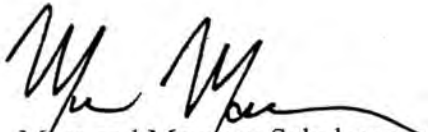
Tuesday, January 9, 2001

William Jefferson Clinton  
President of the United States  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C. 20500

Dear President Clinton:

We can't believe eight years has flown by so quickly. Looking back, one of the highlights of our lives was your visit to Eli's Bakery on the eve of the 1992 Illinois Primary. After meeting you, we were convinced that you would become the next President of the United States. Our prediction came true and the nation's hopes and dreams were fulfilled because of your compassion, intelligence and diplomacy. From the first 2,000 pound Red, White & Bill Cheesecake we baked for the 1993 Reunion On The Mall, to all the cakes on Air Force One, to serving them at The White House and sleeping over, it has been a true honor to know you as President. We look forward to being friends with you and Hillary for many years to come.

Sincerely,



Marc and Maureen Schulman

**The Eli's Cheesecake Company**  
6701 W. Forest Preserve Dr.  
Chicago, Illinois 60634-1470

telephone 773.736.3417  
toll free 800.999.8300  
facsimile 773.205.3801

web [www.elicheesecake.com](http://www.elicheesecake.com)  
email [info@elicheesecake.com](mailto:info@elicheesecake.com)

Doty —

**World's  
Greatest  
Leader**



send to  
Cohen

yes —

no —

EG

1-10-00



*Dear President Clinton:*

*Just a note to thank you for*

*eight wonderful years of*

*putting "Children First". You*

*have made a big difference in*

*the lives of all the little people*

*here at James Ward School.*

*The James Ward School*

*F a m i l y*

*Sharon F. Wilkey*  
*Principal*

*Karen Anderson*  
*Asst. Principal*

THE WHITE HOUSE

1.9.00

Mr. President -

We thought you  
might want to see  
these two letters.

Meredith

THE PRESIDENT HAS SEEN  
1-10-01

cc: Arnold with  
to post-plee  
scheduled  
B

copied  
Cabe  
Podesta

ES COURT APPEALS  
5TH CIRCUIT

1-10-01

Christmas Eve

thank you for what you did  
as an act of justice as well  
nothing to deserve being pursued  
in might of the United States.  
case, to do the same for Jack

relieve, in part anyway,  
by an excess of prosecutorial  
character witness for Jack.  
men. To pardon him would  
mercy on your part. If  
be appropriate, thank you.

You have done a magnificent job. Thank you  
for that. Be proud of it! The country is much  
stronger now than it was when you took office.  
Please let me know how to get in touch with you  
after you leave the White House. We need to  
play some golf. I'll be in New York at a seminar  
at N.Y.U. on April 19-21, and would like you

JAN 3 - 2001

1-10-01

UNITED STATES COURT APPEALS  
EIGHTH CIRCUIT

CHAMBERS OF  
RICHARD S. ARNOLD  
~~CHIEF~~ JUDGE

UNITED STATES COURTHOUSE  
600 WEST CAPITOL AVENUE, ROOM 208  
LITTLE ROCK, ARKANSAS 72201

Christmas Eve

My dear Mr. President,

First of all, thank you for what you did for Archie. This was an act of justice as well as mercy. He did nothing to deserve being pursued with all the sovereign might of the United States. May I ask you, please, to do the same for Jack Williams. A pardon would relieve, in part anyway, the burden thrown on him by an excess of prosecutorial zeal. I testified as a character witness for Jack. I believe he is an honest man. To pardon him would be an act of grace and mercy on your part. If you feel this would be appropriate, thank you.

You have done a magnificent job. Thank you for that. Be proud of it! The country is much stronger now than it was when you took office. Please let me know how to get in touch with you after you leave the White House. We need to play some golf. I'll be in New York at a seminar at N.Y.U. on April 19-21, and would like you

to let me take you out to dinner at that time.

You have accomplished much and endured much, and no doubt will do a great deal more so both in the future. It is the endurance that may be the more significant in the long run. In both the good that you have done, and the evil you have endured, you have displayed real character in a way more valuable than any public office.

Respectfully yours,

Richard

5290421

1-10-01

WILMER, CUTLER & PICKERING

100 LIGHT STREET  
BALTIMORE, MD 21202

TELEPHONE (410) 986-2800  
FACSIMILE (410) 986-2828

2445 M STREET, NW  
WASHINGTON, D.C. 20037-1420  
TELEPHONE (202) 663-6000  
FACSIMILE (202) 663-6363

520 MADISON AVENUE  
NEW YORK, NY 10022  
TELEPHONE (212) 230-8800  
FACSIMILE (212) 230-8888

4 CARLTON GARDENS  
LONDON SW1Y 5AA  
TELEPHONE 011 (44) 171 872-1000  
FACSIMILE 011 (44) 171 839-3537

RUE DE LA LOI 15 WETSTRAAT  
B-1040 BRUSSELS  
TELEPHONE 011 (32) 285-4900  
FACSIMILE 011 (32) 285-4949

FRIEDRICHSTRASSE 95  
D-10117 BERLIN  
TELEPHONE 011 (49) 301 2022-6400  
FACSIMILE 011 (49) 301 2022-6500

KURT L. SCHMOKE  
DIRECT (410) 986-2880  
INTERNET KLSCHMOKE@WILMER.COM

December 27, 2000

The Honorable William Jefferson Clinton  
President  
The White House  
1600 Pennsylvania Avenue  
Washington, DC 20500

Re: Kemba Smith

Dear Mr. President:

I just wanted to join with the thousands of people from around the country in thanking you for exercising your pardoning power on behalf of Kemba Smith, a heart breaking victim of the war on drugs.

As you know, I have supported changes in the conduct of the war on illegal drugs. It is my view, joined by many, that the war on drugs should be primarily a public health war rather than a criminal justice war. Objective review of the unforeseen and discriminatory results of the current conduct of the war on drugs should lead to a reevaluation of this war. Harsh mandatory minimum sentences, racial profiling, exploding prison populations are but a few of the consequences of our national policies.

Thank goodness there are understanding and sensitive leaders such as yourself who feel the need for change and who act on their better instincts to relieve undeserved suffering. Kemba Smith and her child now have a new lease on life because of your action. I know they will make the best of this opportunity. Hopefully, the country will also reflect on the saga of this young woman and begin the process that will result in a new national drug control strategy that is both effective and fair.

All the best to you in the years to come.

Sincerely,



Kurt L. Schmoke

JAN 3 - 2001

**FAX**DATE: JAN 9, 2001TO: PAN CICATTIFROM: PAUL BUCHARE: RECEIVEDNUMBER OF PAGES INCLUDING THIS COVER SHEET: 3

IF YOU HAVE ANY PROBLEMS WITH THIS FAX PLEASE CALL 212 355-5200 X229.

*Dear Tom -**Please forward this to the  
Office of President - A FED EX is  
also enroute.**Thanks**Paul*

THE PRESIDENT HAS SEEN

1-10-01



from  
Buddy Bucha  
Via HRC

CONGRESSIONAL MEDAL OF HONOR SOCIETY  
UNITED STATES OF AMERICA

CHARTERED BY THE CONGRESS

Office of The Past President

National Headquarters  
40 Patriots Point Road  
Mt. Pleasant, SC 29464  
(843) 884-8862  
Fax 884-1471

January 9, 2001

President William J. Clinton  
The White House  
1600 Pennsylvania Avenue, NW  
Washington D.C. 20500

*McAleer*  
*Substantive*  
*BR*

*copied*  
*Cale*  
*Podesta*

→ RE: Michael Milken

Dear Mr. President:

In the past months much has been written about Presidential pardons and the various indiv being considered. I would like to add my voice to the support for a Presidential Pardon for Michael Milken.

I have had the privilege of meeting you on several occasions in my capacity as both President and Immediate Past President of the Congressional Medal of Honor Society when you over the objections of some veterans retroactively presented Medals of Honor to servicemen of past wars who had been overlooked by reason of race, ethnicity or simply bad administration. You made the presentations because it was right to do. I thank you for your courage and commitment in correcting these past mistakes.

I have also had reason to contact you and your administration in my capacity as a businessman, specifically as the former Chairman of Wheeling Pittsburgh Steel Corporation. It is from this perspective that I appeal to you to pardon Michael Milken. The rhetoric of the Milken "years" was filled with references to "junk bonds" and "corporate raiders." The true story was the access to desperately needed capital that thousands of companies and communities were given through high yield securities. Were it not for high yield securities and Michael Milken's ability to craft logical and sound financial plans, these companies and the communities they served that were struggling to survive the ravages the "new" U.S. economy had imposed upon their fortunes would have been lost. The companies that sought access to the high yield securities did so in the face of disinterest by traditional capital markets to support their plans for change and survival. Today many of our basic industries from steel to agricultural to manufacturing face similar challenges. So do the communities in which their workers live. Michael Milken has been and is a champion for the forgotten and written-off within our economy. His is a voice that would be heard and listened to, but due to his negotiated sentence he cannot participate. We are left to merely speculate about what innovative ideas might spring from his genius.

Michael Milken has served more than an appropriate and justifiable sentence for the *alleged* wrong. I suggest *alleged* because there is sufficient evidence that the negotiated sentence may not have been achieved had not other members of his family been threatened. Although I have only met Michael Milken on two occasions, I have attended countless functions where he was the keynoter or guest of honor. He is a respected and well liked American. More importantly I have worked with numerous municipal officials and corporate officers and employees who without his creativity and drive would have faced certain economic ruin. Michael Milken has devoted hundreds of hours and millions of dollars to public service, not because he was so ordered, but because it was right to do.

Michael Milken should be pardoned, not because it is required, but because it is right to do.

Your attention to this matter is most appreciated.

Sincerely,



Paul W. Bucha

ROBERT S. BENNETT

1-10-01

1-10-01

Mr. President,

I have been assisting Jason Flom in his humanitarian effort to help these victims of our

1-10-01  
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What about the other nine?

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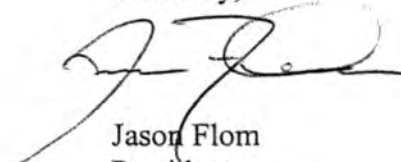
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7/11 - many cases to whom you generously granted clemency before Christmas. The other nine are still languishing in prison, hoping daily that they will get a call from the White House announcing their commutations.

7/11 I have discussed these prisoners' cases with my boss, Gerald Levin, chairman of Time-Warner who shares my enthusiastic endorsement of their clemencies. We implore you to read their petitions before leaving office and grant them the clemency they so deserve. A summary of each prisoner's case is attached, with two additional ones added for your consideration.

Thank you for your leadership during the past eight years. I wish you well in your new life in the private sector.

Sincerely,



Jason Flom  
President

Cc: Gerald Levin

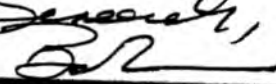
ROBERT S. BENNETT

1-10-01

AS USUAL  
1-10-01

Mr. President,

I have been assisting Jason Flom in his humanitarian effort to help these victims of our draconian sentencing practice.

I am forwarding to you a letter from Jason with relevant material. Sincerely,  


impressed with  
office. I also  
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at I immediately

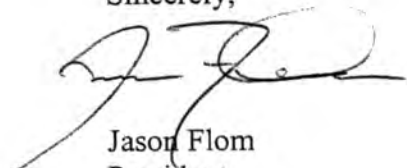
actions. In fact, I was so taken by your commitment to grant commutations that I immediately set out to identify a dozen of the most egregious and sympathetic cases of the thousands that exist.

✓ In early December, we sent Bruce Lindsey a list of 11 cases that meet the criteria of low level, nonviolent first offenders with excessively long sentences who have served at least five years in prison and are deserving of clemency. Two of those cases were Kemba Smith and Dorothy Gaines to whom you generously granted clemency before Christmas. The other nine are still languishing in prison, hoping daily that they will get a call from the White House announcing their commutations.

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Sincerely,

  
Jason Flom  
President

Cc: Gerald Levin



January 9, 2001

The Honorable William Jefferson Clinton  
President of the United States  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C. 20500

Dear Mr. President:

Last September when we met at John Catsimatidis' house, I was very impressed with your pledge to grant commutations to deserving drug prisoners before leaving office. I also enjoyed delivering Amy Pofahl's thank-you note so you could read first hand the impact of your actions. In fact, I was so taken by your commitment to grant commutations that I immediately set out to identify a dozen of the most egregious and sympathetic cases of the thousands that exist.

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I have discussed these prisoners' cases with my boss, Gerald Levin, chairman of Time-Warner who shares my enthusiastic endorsement of their clemencies. We implore you to read their petitions before leaving office and grant them the clemency they so deserve. A summary of each prisoner's case is attached, with two additional ones added for your consideration.

Thank you for your leadership during the past eight years. I wish you well in your new life in the private sector.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. Flom", written over a light-colored background.

Jason Flom  
President

Cc: Gerald Levin

Summaries of prisoners' cases deserving of clemency. Each has submitted a petition for commutation of sentence:

**Mr. Derrick Curry,**<sup>1</sup> at one time a promising high school basketball player with a college sports scholarship, was arrested while serving as a drug mule and charged with conspiracy to distribute crack cocaine. For his minor role in the 28-member conspiracy, he received a sentence of 19 ½ years -- a period of time equal to his age when he was arrested.<sup>2</sup> Mr. Curry's minimal involvement is evidenced by the fact that when arrested he had \$150 in a savings account and had to borrow his mother's 1981 Chevy Citation and even the gas money to drive it around. The Honorable William M. Nickerson stated at sentencing that "if I were sentencing in a situation other than a guideline situation[,] I would not impose the sentence that I am going to impose." Mr. Curry has spent seven years in jail and has 12 more to go.

**Ms. Antoinette Frink** was the owner of a successful automobile dealership when she was approached to engage in a series of sales of cars to another car dealer in Florida named James Callier. Ms. Frink was arrested after a car sold to Mr. Callier by another dealer was found by the authorities loaded with cocaine. Ms. Frink, and a number of other dealers, were charged with conspiracy and racketeering, though she was herself innocent of any knowledge of the uses to which the cars she sold to Mr. Callier had been put. Her lawyer failed her in many ways. For example, he was so inept that he did not make any of the arguments available to reduce her sentence, such as ensuring she received credit for her minimal involvement in the conspiracy, or other arguments that would have removed her from the mandatory minimum scheme. Ms. Frink and Mr. Callier were both sentenced to 15 ½ years, while the other co-conspirators, whose involvement was similar to that of Ms. Frink, received sentences as short as six months and no more than six years. The car drivers received 12 years for their roles and both have been released on parole. Ms. Frink, who lost her only child in 1993 who was returning to college after visiting Ms. Frink in prison, has dedicated herself to serving her fellow inmates with HIV/AIDS education programs, among others. Ms. Frink has served 11 ½ years of her 15 year sentence.

**Mr. Gerard Greenfield** was convicted, with a co-defendant, for his role in serving one time as a drug courier. His co-defendant received 10 years and is due to be released early next year. Mr. Greenfield has served 7 ½ years of a 16 year sentence for his aberrant conduct. As the trial judge, the Honorable David Sam, points out in his letter supporting commutation, Mr. Greenfield was hampered by "less than adequate assistance of trial" by an attorney who refused to allow him to continue plea negotiations with the prosecutor and who was disbarred following the trial. Moreover, as Senior Judge Sam points out, Mr. Greenfield would have been eligible for safety valve relief had it been made retroactive.

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<sup>1</sup> Mr. Curry previously submitted his petition to the U.S. Pardon Attorney. The copy of his petition form attached is identical to that he submitted save for the lack of a date and signature.

<sup>2</sup> A *Washington Post* article discussing, among other things, the disparities between crack and powder cocaine penalties as well as between sentences such as that imposed on Mr. Curry and those served by murderers and rapists and describing Mr. Curry's sentence as "incomprehensibly severe," is attached at Tab F.

Ms. **Jodie F. Israel** and her children were battered by her abusive common law husband. His brutality so pervaded her outlook that she believed she would place herself and her young children in greater danger were she to attempt escape or to defy her husband's efforts to draw her into his drug dealing conspiracy. Even after their arrest and during the trial, she was unable, due to fear, to seek consideration of the abuse she suffered in order to mitigate her sentence. She has served seven years of her 11 year sentence.

Mr. **Billy T. Langston** was charged under the drug conspiracy laws after accompanying a co-defendant who bought chemicals needed to manufacture PCP. Mr. Langston, who neither purchased the components nor knew how to use them, received a sentence of 27 years (later reduced to 22 years), while his two co-conspirators received sentences of five years and twenty-five months. Mr. Langston's sentence was more than three times the length of the sentences of his co-conspirators. Both the judge and the prosecutor in Mr. Langston's case remarked on the severity of the sentence. The judge called the sentence he was required to give "shameful," called a second hearing to explore sentencing options, and stated that, but for the guidelines, he would have sentenced Mr. Langston to fewer years. Mr. Langston, who has served six years, has made important strides while incarcerated, involving himself in programming and educational opportunities, while avoiding receiving any disciplinary reports.

Mr. **Michael Mahoney**, a business owner, purchased a gun to protect himself while he carried his cash receipts late at night. Fourteen years previously, he had been convicted of selling drugs on three different occasions in one month to the same undercover officer. Mr. Mahoney purchased the gun under the mistaken belief that he was barred from gun ownership for only ten years following his convictions. He received a 15-year mandatory minimum sentence from a judge who made every effort to avoid the harsh consequence. Today, Mr. Mahoney, who has served six years of his sentence, suffers severe medical problems which will be compounded by spending another nine years in prison.

Mr. **Cory H. Stringfellow** agreed to plead guilty to conspiracy to distribute LSD. He became alarmed when he learned the potential consequences of his plea to conspiracy and after he began to receive death threats from people against whom he had promised to testify. In a moment of panic, he fled. For that decision he was sentenced to 16 years, more than double the original sentence. Mr. Stringfellow has distinguished himself while imprisoned, going so far as to earn an MBA. His request of the President enjoys broad support, including from the Mayor of Salt Lake City, the Roman Catholic Bishop of Salt Lake and the Honorable Merrill Cook, Republican Congressman for the Second District of Utah, and Senator Orrin Hatch, among others.

Mr. **Kim Willis** submitted his petition to the U.S. Pardon Attorney on August 28, 2000. He was involved in the same conspiracy case as Ms. Serena Nunn, whose Petition for Commutation of Sentence was granted by President Clinton on July 7, 2000. Judge Doty, who wrote, what was for him an unprecedented letter to the President in support of Ms. Nunn's petition supports Mr. Willis' petition as well, writing in the letter attached:

I strongly believe the Mr. Willis' sentence in this case is an example of how the mandatory-minimum sentencing guidelines have not only had an unjust effect on

young women like Serena Nunn, but also on young men like Mr. Willis. Based on all the grounds set forth herein, I strongly support Mr. Willis' Petition for Commutation of Sentence and thus respectfully request that you grant this Petition.

The Honorable Gerald W. Heaney, of the U.S. Court of Appeals for the Eighth Circuit joined Judge Doty in supporting Mr. Willis' petition, citing the wide disparity among the sentences of the conspirators and noting that had Mr. Willis not failed in his effort to secure a plea bargain, he would likely be released shortly as he has served the ten years originally offered to him. His letter is attached as well. (The complete petition is not reproduced here).

**Ms. Loreta De-Ann Coffman** was physically and psychologically abused as youngster by her parents, raped by an adult when she was 13, and thrown out of her house by her parents at 16 for dating an African-American. Not surprisingly, but tragically, Ms. Coffman fell into relationships with batterers, ending up with Michael Wilson, the leader of a gang distributing crack cocaine and marijuana. Seeking both to win his love and avoid his blows, she agreed to assist in his trafficking and eventually was arrested with a number of other co-defendants. Her well-founded fear of Mr. Wilson prevented her from accepting a deal that involved her assistance in his prosecution. Had she accepted the offer, the State of Texas would have prosecuted her, likely giving her a sentence of probation. As it was, she was sentenced to life in prison and a five-year mandatory minimum, to run consecutively. That sentence was ultimately reversed and she was sentenced to the maximum of 85 years. The court found that she suffered from Battered Women's Syndrome, but inexplicably did not find that it caused her conduct. Ms. Coffman has no criminal record; many of her co-defendants received more lenient sentences and have been released. She is unlikely to survive her incarceration.

**Mr. Donald Clark** is a 60-year old farmer, serving a 27-year sentence (reduced from life) for a marijuana cultivation conspiracy from Florida. In 1990, Mr. Clark was arrested with 28 others and charged with cultivating marijuana in a rural Florida county. The defendants were largely country farmers and all of them, except for Mr. Clark, agreed to plead guilty and received sentences of less than 12 years. The most serious offender, according to the government, received a plea agreement of 11 ½ years. Mr. Clark was offered a plea agreement of approximately three years but refused because he felt strongly about his innocence. He was charged with only one count of conspiracy to manufacture and distribute marijuana, went to trial on bad advice from his attorney, and lost. (It was later learned that his attorney had a serious cocaine problem and lost his license to practice shortly after this trial.) Based on a prior state conviction for growing marijuana in 1985 for which Mr. Clark served a short jail sentence, the judge, U.S. District Judge Elizabeth Kavochevich, was forced to sentence Mr. Clark to life in prison. Mr. Clark prevailed on a later motion and his sentence was reduced to 27 years. Mr. Clark has spent over 9 years in prison and has 18 more years to go. He has watched his children and grandchildren grow from behind prison walls. It is unlikely he will live to see freedom even though his more culpable codefendants are out of prison.

**Peter Ninemire** is 46 years old serving a 24 ½ year sentence for growing 516 marijuana plants. Mr. Ninemire's is a case of poor judgement, clouded by marijuana use, that contributed to his lengthy sentence. Mr. Ninemire was on an appeal bond for a state marijuana charge at the

time of his arrest in 1989. He had a ten-year history of using marijuana and had been arrested twice for it, once receiving probation and the second time his appeal was pending when he was rearrested. After his arrest his despair led him to abscond on the bond and become a fugitive for 15 months. When he was found, the state appeal was automatically waived and his second state conviction was finalized. This allowed federal prosecutors to charge Mr. Ninemire under the Continuing Criminal Enterprise (CCE) statute to which he pled guilty. After never stepping foot in prison, he began a 24 ½ year sentence. He has served 11 years on his sentence and has 13 ½ years left to serve. While in prison, Mr. Ninemire has been instrumental in developing a prisoner program to mentor troubled juveniles in the community. This model program is being considered by the Bureau of Prisons for implementation in each federal prison.

1-10-01

~~PRESIDENT CLINTON~~

Mr. Calve

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Podesta

## ANTON CERMAK KERNER

40 WEST SCHILLER STREET #A2

CHICAGO, ILLINOIS 60610

TEL: 312.943.4646 FAX: 312.649.9922

E-MAIL: AJCK@MSN.COM

President William J. Clinton  
The White House  
Washington, D.C.

October 22, 2000

~~CONFIDENTIAL~~

ANTON C. KERNER

(312) 943-4646

40 WEST SCHILLER STREET  
CHICAGO, ILLINOIS 60610

chief executive to grant Otto Kerner, Jr. (1908-1976) a  
posthumous pardon by reason of innocence pursuant to  
the Constitution of the United States.

Adult life to public service. In 1934 - after studies at Brown  
University School of Law - he entered the military  
serving highly decorated active duty in both theaters of World  
War II. U. S. District Attorney for the Northern District of

Illinois, and President Eisenhower reappointed him in 1951. Twice elected Cook County Judge in 1954 and  
1958, he was also twice elected Governor of Illinois in 1960 and 1964. In 1967, President Johnson  
appointed him chairman of the national commission that produced the landmark "Kerner Report" on racism  
in America. In 1968, President Johnson appointed him a judge on the 7<sup>th</sup> Circuit U. S. Court of Appeals.

In 1973, Otto Kerner was convicted in federal court of bribery, conspiracy, income tax evasion, false  
statements and perjury by a federal mail fraud theory declared invalid in 1987 by the United States Supreme  
Court in *McNally v. United States*. But in 1974, the U.S. Court Appeals affirmed his conviction. That same year,  
after the U.S. Supreme Court denied *certiorari*, he was incarcerated in federal prison where he served seven  
months of a three-year sentence until grave illness forced his parole March 6, 1975. May 9, 1976 he died.

At every stage of the case, Otto Kerner challenged the pretense that either mail fraud or any other  
crime could be established by the claim that he defrauded the State of Illinois of an "intangible right" to  
"honest and faithful services" while Governor. When *McNally* established after he died that he was convicted  
for conduct that did not constitute a crime, his estate appealed to overturn his conviction. But, while other  
"intangible rights" defendants were granted acquittals under *McNally*, the otherwise timely Kerner appeal was  
denied in 1989 because he was dead.

When courts are unwilling or unable to acquit innocent victims of false conviction, the burden falls  
on the chief executive's pardon power to serve that end and remedy the injustice suffered. As the U. S.  
Supreme Court said in its 1927 *Perovich* dictum, a pardon is not an act of grace, but a part of the  
constitutional scheme, vesting final determination of the public's welfare in the President's ultimate authority.  
The paramount determinant of the public's welfare is justice.

For over sixty years, U. S. Attorneys General and U. S. Pardon Attorneys have held that a pardon  
given for the specific reason of innocence should have the same effect as a judgment of acquittal, but, absent  
express reason of innocence, the word "pardon" connotes guilt and neither removes the basic fact of  
conviction nor the social stigma attaching to it, but merely involves forgiveness.

ANTON CERMAK KERNER

40 WEST SCHILLER STREET #A2

CHICAGO, ILLINOIS 60610

TEL: 312.943.4646 FAX: 312.649.9922

E-MAIL: AJCK@MSN.COM

President William J. Clinton  
The White House  
Washington, D.C.

October 22, 2000

Dear President Clinton,

The ends of justice call upon our nation's chief executive to grant Otto Kerner, Jr. (1908-1976) a full, free and absolute warrant and proclamation of posthumous pardon by reason of innocence pursuant to powers under Article II, Section 2, clause I of the Constitution of the United States.

Otto Kerner dedicated forty years of his adult life to public service. In 1934 - after studies at Brown University, Cambridge University, and Northwestern University School of Law - he entered the military where he rose from Private to Major General, serving highly decorated active duty in both theaters of World War II. In 1947, President Truman appointed him U. S. District Attorney for the Northern District of Illinois, and President Eisenhower reappointed him in 1951. Twice elected Cook County Judge in 1954 and 1958, he was also twice elected Governor of Illinois in 1960 and 1964. In 1967, President Johnson appointed him chairman of the national commission that produced the landmark "Kerner Report" on racism in America. In 1968, President Johnson appointed him a judge on the 7<sup>th</sup> Circuit U. S. Court of Appeals.

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For over sixty years, U. S. Attorneys General and U. S. Pardon Attorneys have held that a pardon given for the specific reason of innocence should have the same effect as a judgment of acquittal, but, absent express reason of innocence, the word "pardon" connotes guilt and neither removes the basic fact of conviction nor the social stigma attaching to it, but merely involves forgiveness.

Justice requires, and Otto Kerner deserves - no less than any other innocent - vindication, not forgiveness.

Presidential pardons have historically been granted not only by reasons of "innocence" and "grave doubt as to justice of conviction," but also by weight of reasons bearing either independently or cumulatively on innocence and justice, including "law held unconstitutional [invalid] - relief provided," "disclosure of new evidence," "irregularities at time of trial," "conflicting testimony," "bad character of witnesses against him" and "doubt as to guilt." All these reasons bear heavily on the accompanying pardon petition prepared on behalf of Otto Kerner pursuant to § 28 Code of Federal Regulations.

The manifest overreaching in the specious federal mail fraud invention against Kerner was but one threadbare stitch in an illusory fabric woven by an abusively ambitious prosecution. Where mail fraud was the novel hook, bribery was the crucial purl. Hung entirely on two witnesses' hearsay brought under cover of the conspiracy count, the bribery count named no briber, but, rather, framed Kerner between perjurious allegations of a suborned and an immunized witness against each other.

New evidence of obstruction of justice by the prosecution relating to prejudicial pre-trial leaks by the prosecution has been the subject of ongoing complaint since 1978. Documents disclosed pursuant to the Freedom of information Act in 1978 and 1979 reveal that the prosecution hid from the Court knowledge that pre-trial leaks against Kerner came from prosecution hands and that they were orchestrated to overcome Kerner's high public regard and the prosecution's low estimate of its case against him. The Office of Professional Responsibility in the U. S. Department of Justice has not responded specifically to the complaint as particularized in writing in 1980 and again in 1999, but has stated only that there seems no basis for criminal investigation. The disclosures nonetheless add basis for vindication.

While the chief executive is uniquely competent to address any and all reasons for pardon, a retrial of the Kerner case is not necessary for purposes of this petition. The Supreme Court's repudiation in *McNally* of his prosecutors' ambitious predicate is sufficient alone to warrant a presidential pardon for Kerner. That he was the victim of a more broadly overzealous prosecution attests further to the enormity of the injustice he suffered, but if investigation of further proofs were to delay unduly the issuance of a pardon deemed readily justified by *McNally*, it would merely extend, not lessen that enormity.

Rather, it is upon proclamation of his absolute innocence through the pardoning power vested in the president's ultimate constitutional authority that mitigation of the great injustice to Otto Kerner truly depends. Nothing less can hope to remove the wrongful stigma of condemnation marring the reputation of this impeccably dedicated soldier and statesman. Indeed, nothing less can hope to begin to restore public confidence so wanting in our system of criminal justice.

In sincere and respectful prayer,

Cc Roger C. Adams  
Pardon Attorney  
U. S. Department of Justice

ANTON CERMAK KERNER  
40 WEST SCHILLER STREET #A2  
CHICAGO, ILLINOIS 60610  
TEL: 312.943.4646 FAX: 312.649.9922  
E-MAIL: AJCK@MSN.COM

President William J. Clinton  
The White House  
Washington, D.C.

November 19, 2000

Dear President Clinton,

Accompanying are additional affidavits in support of the October 22, 2000 Petition for Posthumous Pardon on behalf of Otto Kerner, Jr. Below is an index of character writings submitted to date:

|                           |                                                                                             |                             |
|---------------------------|---------------------------------------------------------------------------------------------|-----------------------------|
| Blakely, Henry            | Late Poet                                                                                   | Poem 5.12.76                |
| Brooks, Gwendolyn Blakely | Poet Laureate of Illinois                                                                   | Affidavit 10.14.00          |
| Clark, Ramsey             | Former United States Attorney General                                                       | Affidavit 11.14.00          |
| Davidson, John L.         | Lawyer                                                                                      | Letter 9.10.75              |
| Dickerson, Earl B.        | Executive, Supreme Life Insurance Company of America                                        | Letter 4.20.73              |
| Dixon, Alan J.            | Former United States Senator, Illinois                                                      | Affidavit 10.13.00          |
| Downing, Robert J.        | Former Justice, Illinois Appellate Court                                                    | Affidavit 10.11.00          |
| Fetridge, William H.      | President, The Dartnell Corporation                                                         | Letter 2.19.73              |
| Franklin, John Hope       | Professor of History Emeritus, Duke University                                              | Letter & Affidavit 10.18.00 |
| Gingold, Ethel            | Former Member, Illinois Board of Prisoner Review                                            | Affidavit 10.21.00          |
| Heineman, Benjamin W.     | Former President, Northwest Industries; Former Chairman, Illinois Board of Higher Education | Affidavit 10.9.00           |
| Henderson, Earl W.        | Architect                                                                                   | Affidavit 10.31.00          |
| Jenner, Albert E.         | Former Chairman, U.S. Supreme Court Advisory Committee on Federal Rules of Evidence         | Letter 2.20.73              |
| Marovitz, Abraham Lincoln | Senior Judge, United States District Court                                                  | Affidavit 11.7.00           |
| Marshall, Cecelia S.      | Spouse, Former United States Supreme Court Justice Thurgood Marshall                        | Letter 5.21.73              |
| Netsch, Dawn Clark        | Professor Emeritus, Northwestern School of law                                              | Affidavit 10.17.00          |
| Perry, Joseph Sam         | Senior Judge, United States District Court                                                  | Letter 2.19.73              |
| Rock, Philip J.           | Former Senator, Illinois General Assembly                                                   | Affidavit 10.16.00          |
| Ross, Norman              | Retired Executive, First National Bank of Chicago                                           | Affidavit 10.10.00          |
| Siegel, Beatrice S.       | Former Neighbor                                                                             | Affidavit 11.6.00           |
| Shellow, Robert           | Former Assistant Director, United States Commission on Civil Disorders                      | Affidavit 10.18.00          |
| Sullivan, Thomas          | Former United States District Attorney                                                      | Letter 2.23.73              |
| Vlahoplus, Chris          | Retired Journalist                                                                          | Affidavit 10.20.00          |
| Westmoreland, William C.  | Former Chief of Staff, United States Army                                                   | Letter 4.7.73               |

Sincerely,

ANTON CERMAK KERNER  
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CHICAGO, ILLINOIS 60610  
TEL: 312.943.4646 FAX: 312.649.9922  
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President William J. Clinton  
The White House  
Washington, D.C.

December 18, 2000

Dear President Clinton,

Enclosed is a recently obtained 1999 Indiana Law Journal article in further support of the October 22, 2000 Petition for Posthumous Pardon by my sister and myself on behalf of our father, Otto Kerner, Jr. It relates to your February 19, 1999 posthumous pardon of Henry Oliver Flipper that we cited as precedent in our original submission, but are only now able to reference in detail.

While we adopt the Flipper petitioners' argument for *posthumous* pardon, we distinguish our pardon request from theirs in that ours is a request for nothing less than an express finding of *innocence*. Unlike them, we emphatically assert, not merely that Kerner's punishment was unjust, but that he committed no crime. We are particularly mindful of holdings cited in our petition that a pardon not expressly given for innocence implies guilt and connotes forgiveness, a result that would grievously violate the stance Otto Kerner maintained to the day he died.

Like Flipper, Kerner led a highly accomplished life: indeed, so highly accomplished that, were it not for his false conviction, Kerner's forty years of consummate public service would have stood him long ago among recipients of the Presidential Medal of Freedom. We do not doubt that he will one day join his illustrious peers there. Yet, while his impeccable dedication to the commonweal impeaches the accusation that he could have even conceived of betraying the public trust, we cite it to compliment – not supplant – his clear innocence as the essential, indispensable rationale for your pardon of him. We look forward to pardon as the conclusive vindication of his absolute innocence.

Respectfully submitted,

Cc Roger C. Adams  
Bcc John Podesta  
Meredith Cabe  
Senator Richard Durbin

RICHARD J. DURBIN  
ILLINOIS

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December 4, 2000

The Honorable William J. Clinton  
President of the United States  
The White House  
Washington, DC 20500

Dear Mr. President:

I write to you in support of the posthumous pardon petition by Anton Cermack Kerner and Helena Kerner Stern on behalf of their father, former Governor Otto Kerner Jr. of Illinois.

Governor Kerner lead a life of public goodwill, first as a decorated member of the military, where he rose from Private to Major General before receiving an honorable discharge, and then in government, as a twice appointed U.S. District Attorney for the Northern District of Illinois, a twice elected Cook County Judge, a twice elected Governor of Illinois, and an appointed judge on the Seventh Circuit U.S. Court of Appeals. Governor Kerner is probably best remembered for his chairmanship of the National Advisory Commission on Civil Rights that produced the landmark "Kerner Report" on racism in America.

Governor Kerner remained an appellate judge for the Seventh Circuit until his 1973 conviction in federal court on counts of bribery, conspiracy, mail fraud, perjury, false statements and tax fraud. The bribery convictions were reversed on appeal (*United States v. Isaacs*). The surviving mail fraud counts charged that Kerner used the mails to defraud the citizens and State of Illinois of an "intangible right" to "honest and faithful service" as Governor. This novel concept was declared unconstitutional by the Supreme Court in 1987 in *McNally v. United States*.

As a result of the *McNally* decision, several other political figures in Chicago and elsewhere convicted under the intangible rights doctrine won new hearings. It is widely believed that had Governor Kerner lived, he would have seen his conviction overturned, as did other political figures. Unfortunately, the Supreme Court ruling came eleven years after Governor Kerner's death. Although Governor Kerner's children appealed to the Seventh Circuit in 1990 and tried to expunge his conviction, Judge Daniel Manion ruled, "That interest is personal to Otto Kerner Jr. and cannot survive his death."

Page 2 - The Honorable William J. Clinton

Because of the court's unfortunate ruling, Governor Kerner's name will forever carry the stigma of conviction in the absence of a pardon. His good works as a dedicated public servant will be regrettably overlooked.

Thank you for your attention to this issue. I look forward to hearing from you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dick Durbin", written in a cursive style.

Richard J. Durbin  
United States Senator

# REASONS AT JUSTICE TO PARDON OTTO KERNER, JR.

by  
ANTON C. KERNER

~~Pre-publication Confidential Draft~~

## Introduction

Otto Kerner, Jr. (1908-1976) dedicated forty years of his adult life to public service. In 1934 - after studies at Brown University, Cambridge University, and Northwestern University School of Law - he entered the military where he rose from Private to Major General, serving highly decorated active duty in both theaters of World War II. In 1947, President Truman appointed him U. S. District Attorney for the Northern District of Illinois, and President Eisenhower reappointed him in 1951. Twice elected Cook County Judge in 1954 and 1958, he was also twice elected Governor of Illinois in 1960 and 1964. In 1967, President Johnson appointed him chairman of the national commission that produced the landmark "Kerner Report" on racism in America. In 1968, President Johnson appointed him a judge on the 7<sup>th</sup> Circuit U. S. Court of Appeals.

In 1973, Otto Kerner, Jr. was convicted in federal court of bribery, conspiracy, income tax evasion, false statements and perjury by a federal mail fraud theory eventually declared invalid by the United States Supreme Court. But in 1974, the U.S. Court Appeals affirmed his conviction, the U.S. Supreme Court denied him *certiorari*, and he was incarcerated in federal prison where he served seven months of a three-year sentence until grave illness forced his parole March 6, 1975. May 9, 1976 he died.

Reasons at justice call upon our nation's chief executive to grant Otto Kerner, Jr. a full, free and absolute warrant and proclamation of posthumous pardon pursuant to powers under Article II, Section 2, clause I of the Constitution of the United States.

## Reason I: Necessity

Justice is administered by imperfect humans, and innocent people can be erroneously convicted by carelessness, skullduggery and cruel rigidity of the law.<sup>1</sup> While the falsely convicted are entitled to judicial reversal as well as restitution of fines and compensation for indignity and suffering undergone, American courts hold that judicial judgments should not be forever open to judicial review.<sup>2</sup>

The executive's pardoning power is the innocent's last resort.<sup>3</sup> Necessity, therefore, is the *raison d'être* for pardon generally<sup>4</sup> and for the instant petition on behalf of the late Otto Kerner, Jr.

Posthumous presidential pardon isprecedented,<sup>5</sup> as is presidential pardon by proclamation.<sup>6</sup> The stigma of false conviction survives death of the innocent, and pardon by proclamation of complete and enumerated innocence gives full, requisite notice that the stigma is removed.<sup>7</sup>

Presidential pardons have historically been granted not only by reasons of "innocence" and "grave doubt as to justice of conviction," but also by weight of reasons bearing independently or cumulatively on innocence and justice, including "law held unconstitutional [invalid] – relief provided," "conflicting testimony," "disclosure of new evidence," "irregularities at time of trial," "doubt as to guilt," and "bad character of witnesses against him."<sup>8</sup> These reasons all weigh heavily on the necessity of granting the present petition.

<sup>1</sup> A. Hamilton, *The Federalist*, Number 74, (Random House, ed. 1937) 482; W. W. Smithers, "Nature and Limits of the Pardoning Power," *Journal of the American Institute of Criminal Law and Criminology* (1910), I, no. 4, 550-552; E. M. Borchard, *Convicting the Innocent* (1932) vi et seq.; *The Yale Law Journal* (1942) 699; C. L. Newman, *Sourcebook on Probation, Parole and Pardons* (1958) 45; E. Abramowitz & D. Paget (1964) 160; C. C. Joyner, "Rethinking the President's Power of Executive Pardon," *Federal Probation*, XLIII (1979) 19; K. D. Moore, *Pardons* (1989) 131-137; C. R. Huff, A. Rattner and E. Sagarin, *Convicted But Innocent* (1996) xiv-xv, xxiii, 3-4, 22, 59 et seq.

<sup>2</sup> *The Attorney General's Survey of Release Procedures* (1939), III, 68, 69, 71; H. Weihoffen, "The Effect of a Pardon," *University of Pennsylvania Law Review*, 88 (1940) 178, 192; M. Borchard, *supra* note 1 at vii, xxi, xxiv, 376 et seq.; C. L. Newman, 45, 51; *The Yale L. J.*, *supra* note 1 at 699 et seq.; C. R. Huff, *supra* note 1 at 155-159

<sup>3</sup> *The Attorney General's Survey*, *supra* note 2 at 74; H. Weihoffen, *supra* note 2 at 192; E. M. Borchard, *supra* note 1 at xxi, xxii; C. L. Newman, *supra* note 1 at 45, 50, 53, 54; *The Yale L. J.*, *supra* note 1 at 702 et seq.; W. W. Smithers, *supra* note 1 at 553; M. Morris, "the Overlooked Relevance of the Pardon Power," *Presidential Frontiers*, ed. R. J. Barilleaux (1998) 87, 88; K. D. Moore, *supra* note 1 at 137

<sup>4</sup> C. C. Joyner *supra* note 1 at 19

<sup>5</sup> E. Minor, "West Point Trailblazer to Receive Late Pardon," *The Associated Press*, February 19, 1999 (Henry Flipper); D. W. Jackson, J. H. Smith, E. H. Sisson, H. T. Krassnoff, "Bending Toward Justice: The Posthumous Pardon of Lieutenant Henry Ossian Flipper," *Indiana Law Journal*, 74 (1999) 1251 et seq

<sup>6</sup> Presidential Pardon Proclamation 4311, 39 Fed. Reg. 32601-02 (1974) (R. Nixon); Presidential Pardon Proclamation 11, 13 Stat. 737 (1863); Presidential Pardon Proclamation 4483, 13 Weekly Comp. Of Pres. Doc. 90 (1977); K. D. Moore, "Pardon for Good and Sufficient Reasons," *University of Richmond Law Review*, 27, (1993) 284

<sup>7</sup> *The Attorney General's Survey*, *supra* note 2 at 135, 190-194, 290, 293; H. Weihoffen, *supra* note 2 at 177-179 et seq.; W. H. Humbert, *The Pardoning Power of the President* (1941) 64, 65, 74-77; *Ex parte Garland* (1867) 71 U. S. 333, 380; J. R. Stanish, "The Effect of a Presidential Pardon," *Federal Probation*, XXXXII, no. 3 (1978) 6, 7; K. D. Moore, *supra* note 1 at 98, 136, 177, 195-196, 220; K. D. Moore, *supra* note 6 at 281

<sup>8</sup> W. H. Humbert, *supra* note 7 at 83, 124-125, Tables 5 & 6; *The Attorney General's Survey*, *supra* note 2 at 268

## Reason II: Innocence

Otto Kerner was convicted of conspiracy, income tax evasion, false statements and perjury by a federal mail fraud theory declared invalid in 1987 by the United States Supreme Court in *McNally v. United States*.<sup>9</sup> The keystone of the indictment, bribery under the federal Travel Act, was yanked on appeal.

The remains of the case - 7 of 17 original counts - are propped-up by two invalid mail fraud counts, charging that Kerner defrauded the people of Illinois of an "intangible right" to "honest service" when governor. Invalidity of the two mail fraud convictions invalidates convictions on all the other counts. Not only do the other convictions depend upon the mail fraud predicate, they are irreparably tainted by it.

At every stage of the case, Kerner challenged the pretense that any allegation could be established by use of the mail fraud statute because it did not make an intangible right the subject of mail fraud at the time he was convicted in 1973.

When *McNally* invalidated such overreaching use of the mail fraud statute and established after he died that he was convicted for conduct that did not constitute a crime, his estate appealed to overturn his conviction.<sup>10</sup> But, while other "intangible rights" defendants were granted acquittals under *McNally* (including Maryland governor Marvin Mandel in a case with virtually identical mail fraud charges), the otherwise timely Kerner appeal was denied in 1990 because he was dead.<sup>11</sup>

When courts are unwilling or unable to acquit innocent victims of false conviction, the burden falls on the chief executive's pardon power to serve that end and remedy the injustice suffered.<sup>12</sup> As the U. S. Supreme Court said in its still binding 1927 *Perovich* dictum, a pardon is not an act of grace, but a part of the Constitutional scheme, vesting final determination of the public's welfare in the President's ultimate authority.<sup>13</sup> The paramount determinant of the public's welfare is justice.<sup>14</sup>

For more than sixty years, U. S. Attorneys General, U. S. Pardon Attorneys and other authorities have held: a pardon does not connote innocence unless given for that specific reason; a pardon based on innocence should have the same effect as a judgment of acquittal; and, absent the express reason of innocence, the word "pardon" connotes guilt and neither removes the basic fact of conviction nor the social stigma attaching to it, but merely involves forgiveness.<sup>15</sup>

Justice requires, and Otto Kerner deserves - no less than any other innocent - vindication, not forgiveness.<sup>16</sup>

<sup>9</sup> *United States v. Isaacs and Kerner*, 493 F.2<sup>nd</sup> 1124 (7<sup>th</sup> Cir. 1974) *cert. denied*, 417 U.S. 976, 94 S.Ct. 3183 (1974) Exhibit A; *McNally v. United States*, 483 U.S. 350, 107 S. Ct. 2875 (1987)

<sup>10</sup> *United States v. Isaacs and Kerner*, Petition & Memorandum for Writ of Error *Coram Nobis* (1987) Exhibit B

<sup>11</sup> *United States v. Isaacs*, 895 F.2<sup>nd</sup> 1159 (1989); *United States v. Mandel*, 862 F.2<sup>nd</sup> 1067 (1989)

<sup>12</sup> The Attorney General's Survey, *supra* note 2 at 296, 299, 313; H. Weihoffen, *supra* note 2 at 192; C. L. Newman, *supra* note 1 at 45; Yale L. J. *supra* note 1 at 699 *et seq.*; W. W. Smithers, *supra* note 1 at 553, 555,

560, 561; K. D. Moore, *supra* note 1 at 11, 97, 132; K. D. Moore, *supra* note 6 at 286-287; M. Morris, *supra* note 3 at 87-88; *Prisament v. United States*, 92 Ct. Cl. 434, 434 (1941)

<sup>13</sup> *Biddle v. Perovich*, 274 U. S. 480, 486 (1927); M. Morris, *supra* note 3 at 86; C. C. Joyner, *supra* note 1 at 17

<sup>14</sup> K. D. Moore, *supra* note 1 at 222; K. D. Moore, *supra* note 6 at 281, 284-285

<sup>15</sup> *The Attorney General's Survey*, *supra* note 2 at 293 *et seq.*; *Annual Report of the Attorney General of the United States* (1980) 35 & (1984) 36; J. R. Stanish, *supra* note 7 at 3; H. Weihoffen, *supra* note 2 at 177-179 *et seq.*; *The Yale L. J.* *supra* note 1 at 700 *et seq.*; *Ex parte Garland*, *supra* note 7 at 380-381; C. C. Joyner, *supra* note 1 at 20

<sup>16</sup> *United States v. Isaacs*, *supra* note 10; *The Attorney General's Survey*, *supra* note 2 at 296, 297; E. M. Borchard, *supra* note 1 at vii; C. L. Newman, *supra* note 1 at 44

### Reason III: Accumulated Indications of Innocence

Accumulated indications of innocence are a rationale for presidential grants of pardon.<sup>17</sup>

Miscarriages of justice against innocents owe to government overzealousness through frame-ups, cover-ups, intimidation, manufacture or suppression of evidence, eyewitness error, suborned, immunized or plea-bargained perjuries, prejudicial publicity and community pressure for conviction.<sup>18</sup> Justice especially miscarries when the prosecutor's enormous discretion over life, liberty and reputation is tainted by base personal or partisan motives to target victims rather than crimes.<sup>19</sup>

Otto Kerner's wrongful conviction was won by the combined affect of all these abuses and errors; they are grouped below according to reasons cited for pardons historically.<sup>20</sup>

<sup>17</sup> W. H. Humbert, *supra* note 7 at 83

<sup>18</sup> E. M. Borchard, *supra* note 1 at xiv, xv, xviii; C. R. Huff, *supra* note 1 at xiv-xv, 22, 59 *et seq.*; K. D. Moore, *supra* note 1 at 133-135

<sup>19</sup> R. H. Jackson, U. S. Attorney General, "The Federal Prosecutor," *Journal of the American Judicature Society*, XXIV (June, 1940) 18 *et seq.*; W. H. Humbert, *supra* note 7 at 139-142

<sup>20</sup> W. H. Humbert, *supra* note 7 at 83, 124-125, Tables 5 & 6; *The Attorney General's Survey*, *supra* note 2 at 268

#### A. Conflicting Testimony

The manifest overreaching in the specious federal mail fraud invention against Kerner was but one threadbare stitch in an illusory fabric woven by an abusively ambitious prosecution. Where mail fraud was the novel hook, bribery was the crucial purl.<sup>21</sup> Hung entirely on two witnesses' hearsay brought under cover of the conspiracy count, the bribery count named no briber, but, rather, framed Kerner between perjurious allegations of a suborned and an immunized witness against each other.

The former testified, not that she bribed Kerner, but that the latter extorted her to offer Kerner stock.<sup>22</sup> The latter testified not that he extorted the former, but that the government persuaded him the former sold Kerner stock through him to bribe Kerner.<sup>23</sup>

Immediately after Kerner's bribery indictment, the hypothetical briber employed the prosecution's character reference and representation that she was a "public minded citizen" to secure a conditional horseracing license in California which was subsequently made unconditional despite Kerner's bribery conviction.<sup>24</sup>

Sequestered 17 days with government prosecutors and agents, the hypothetical extorter took immunity two weeks before Kerner's trial was scheduled to begin, recanting nine months' resolute denial that he ever spoke with Kerner about the targeted stock transactions.<sup>25</sup>

At Kerner's sentencing, the trial judge opined that the immunized witness "talked out of both sides of his mouth."<sup>26</sup> Just before Kerner's parole, the immunized witness recanted his trial testimony about Kerner saying, "I don't think he was bribed ... regretfully the jury believed me."<sup>27</sup>

<sup>21</sup> S. K. Skinner, Assistant U. S. Attorney for the Northern District of Illinois and H. E. Petersen, Acting Assistant Attorney General, Prosecution Memorandum re Otto Kerner, et al., November 8, 1971 16-19, 26-28b; *United States v. Isaacs*, *supra* notes 9 and 10; A. Kerner, "Convicted of Bribery - But Why?" *The Wall Street Journal*, February 7, 1991

<sup>22</sup> *United States v. Isaacs*, et al, 71CR1086 Transcript of Proceedings, January 11, 1973 1807-1808 [Everett]

<sup>23</sup> *United States v. Isaacs*, et al, 71CR1086 Transcript of Proceedings, January 17-23, 1973 2846-3875 [Miller]

<sup>24</sup> "Marje Praised for Co-operation" *Chicago Sun-Times*, December 16, 1971 4; N. Papiano, Letter to California Horse Racing Board re Application of Mrs. Marjorie L. Everett, December 27, 1971 2; California Horse Racing Board, Regular Meeting, January 24, 1972; R. Koziol "How U. S. Stopped Race Probe of Mrs. Everett," *Chicago Tribune*, April 12, 1972 2; *United States v. Isaacs*, et al, CR1086 Motion for Evidentiary Hearing on Unlawful Government Inducements or Threats to Witnesses, May 8, 1972; *United States v. Isaacs*, et al, 71CR1086 Transcript of Proceedings, February 9, 1973 6307-6315 [Everett]; "Marje Gets California Racing OK," *Chicago Daily News*, April 2, 1973 20

<sup>25</sup> W. A. Barnett, W. S. Miller Immunity Agreement Letter to J. R. Thompson, U. S. District Attorney, August 15, 1972; J. R. Thompson, W. S. Miller Immunity Agreement Letter to W. A. Barnett, August 15, 1972; *United States v. Isaacs*, et al, *supra* note 23 at 2846-3875

<sup>26</sup> *United States v. Isaacs*, et al, 71CR1086 Transcript of Proceedings, July 9, 1974 15

<sup>27</sup> J. Manning, "Miller Denies Bribing Kerner," *The News-Sun*, February 11, 1975 1, 4A

## B. Disclosure of New Evidence of Irregularities at Time of Trial

Evidence of obstruction of justice by the prosecution relating to prejudicial pre-trial leaks by the prosecution has been the subject of ongoing complaint since 1978.<sup>28</sup> Documents disclosed in 1978 pursuant to the Freedom of Information Act reveal that the prosecution hid from the Court knowledge that pre-trial leaks against Kerner came from

prosecution hands.<sup>29</sup> Whatsmore, the documents suggest that the leaks were orchestrated to overcome Kerner's high public regard<sup>30</sup> and the prosecution's low estimate of its case against him.<sup>31</sup>

The Office of Professional Responsibility in the U. S. Department of Justice has not responded specifically to the complaint as particularized in writing in 1980<sup>32</sup> and again in 1999,<sup>33</sup> but has stated only summarily that there seems no basis for criminal investigation<sup>34</sup>. The disclosures nonetheless add basis for vindication.<sup>35</sup>

<sup>28</sup> A.C. Kerner, oral presentation to Thomas P. Sullivan, U. S. District Attorney for the Northern District of Illinois, September 20, 1978; A. C. Kerner, oral and document presentation to W. F. Conlon, Acting U. S. Attorney, October 2, 1978; W. F. Conlon letter to W. Tyson, Acting Director, Executive Office for U. S. Attorneys, October 6, 1978; A. C. Kerner, telephonic interview with J. A. Davis, Assistant Counsel, Office of Professional Responsibility, March 19, 1979; T. E. Patton, meeting with U. S. Attorneys J. A. Davis and D. Rogers, April 18, 1979; A. C. Kerner and H. K. Stern, meeting with J. A. Davis and D. Rogers, April 25, 1979; J. A. Davis, letter to A. C. Kerner, October 31, 1979; A. C. Kerner and T. E. Patton, letter to J. A. Davis, January 31, 1980; T. E. Patton, letter to J. Reno, U. S. Attorney General, October 5, 1998; R. K. Thomas, Associate Counsel, Office of Professional Responsibility, letter to T. E. Patton, January 10, 1999; A. C. Kerner, letter to R. K. Thomas April 20, 1999; R. K. Thomas, letter A. C. Kerner, June 23, 1999

<sup>29</sup> January 31, 1980 letter *supra* note 26

<sup>30</sup> S. K. Skinner, *supra* note 21 at 2a; F. Ugast, Deputy Assistant Attorney General, Memorandum for the File, November 30, 1971 I

<sup>31</sup> F. Ugast, *supra* note 28 at I, "Mr. Peterson reviewed the nature of the proposed charges and outlined briefly the available evidence. He indicated that the principle weakness in the case was the government's dependence on a single key witness and the fact that Kerner was, in most instances, one step removed from the critical transactions. Mr. Petersen further pointed out that these factors, taken together with Judge Kerner's position in the community, in his opinion made our chances of obtaining a successful conviction about 50/50." R. H. Jackson, *supra* note 19 at 19, "What every prosecutor is practically required to do is to select the cases for prosecution and select those in which the offense is the most flagrant, the public harm the greatest, and the proof most certain."

<sup>32</sup> January 31, 1980 letter *supra* note 26

<sup>33</sup> October 5, 1998 and April 20, 1999 letters *supra* note 26

<sup>34</sup> October 31, 1979, January 10, 1999 and June 23, 1999 letters *supra* note 26

<sup>35</sup> E. M. Borchard, *supra* note I at xviii; C. R. Huff, *supra* note I at 150-159

### C. Doubt As To Guilt: Other Bad Witnesses Against Him

The false statement count (Count XV) pitted Kerner's word against that of two IRS agents who admittedly recreated notes they destroyed to frame the charge.<sup>36</sup> After Kerner died, grave IRS bias and misconduct against him was revealed conclusively.

In tape recorded admissions to a journalist in 1978, one of these agents confirmed that he and another colleague regularly leaked deliberately prejudicial pretrial stories against Kerner to the media.<sup>37</sup> Determined to criminalize transactions Kerner openly disclosed in his

tax returns, these latter two agents tainted government dealings with all principals in the case.<sup>38</sup>

Arguably criminal tax claims against the government's two key witnesses were traded for testimony the government deemed "truthful" against Kerner. After Kerner's conviction, not only did the government's hypothetical briber win her permanent California racing license unimpeded, their hypothetical extortioner won dismissal of all criminal charges and waiver of a \$2,768,644 IRS tax lien used force his co-operation.<sup>39</sup>

The IRS agent central to the case was demoted when caught publicly crowing in a tavern, "Do you know that Thompson (U. S. Atty. James Thompson) even got a call from Air Force I... Nixon has to be happy" and took refuge with the hypothetical extortioner, helping him win the tax-lien's waiver and produce an exculpatory exegesis, disclosing that Kerner's IRS investigators commonly joked their code name, CRIMP, stood for "Corrupt Republicans Investigating Marge's Pals."<sup>40</sup>

<sup>36</sup> O. P. Stufflebeam, Memorandum of Interview with O. Kerner, July 15, 1970; *United States v. Isaacs, et al*, 71CR1086 Transcript of Proceedings, January 30, 1973 4599, 4609-4632, 4658-4669 [Campbell]

<sup>37</sup> S. Skolnik, transcript, tape recorded interview with J. Bone, May 16, 1978 32-35, 38-40, 43-45, 59-60, 66-67, 73; O. P. Stufflebeam, transcript, tape recorded interview with J. Bone, July 24, 1978 20-21

<sup>38</sup> *United States v. Isaacs, et al*, 71CR1086 Transcript of Proceedings, January 30, 1973 4704-4723, 4858 *et seq.* [Stufflebeam & Witkowski]

<sup>39</sup> *United States v. Isaacs, et al*, 71CR1086 Transcript of Proceedings, January 11, 1973 1767-1769 [Everett]; "Marje Cleared In California," *Chicago Sun-Times*, April 3, 1973; *United States v. Isaacs, et al*, 71CR1086 Transcript of Proceedings, January 17-23, 1973 3153-3158, 3818-3832, 3863 *et seq.* [Miller]; *United States v. Isaacs, et al*, 71CR1086 Transcript of Proceedings, January 30, 1973 4845-4866 [Stufflebeam]; "Drop Charges Against Miller for Help as Kerner Witness," *Chicago Daily News*, March 3, 1973; J. M. Walters, Commissioner, Internal Revenue Service, April 14, 1972 (notice to W. S. and C. G. Miller of \$1,845,763 tax deficiency); *William S. Miller and Catherine G. Miller v. Commissioner of Revenue*, Petition, July 13, 1972; *William S. Miller and Catherine G. Miller v. Commissioner of Revenue*, Answer, October 20, 1972; O. P. Stufflebeam, Affidavit, June 18, 1976; U. S. Tax Court Docket No. 5779-72, September, 1976 (\$58,552 tax deficiency settlement)

<sup>40</sup> T. Fitzpatrick, "Stufflebeam Flame Snuffed?" *Chicago Sun-Times*, February 23, 1973 35; B. Wiedrich, "IRS Investigator Gets His 'Reward,'" *Chicago Tribune*, April 18, 1973 22; I. Kupciet, "Kup's Column," *Chicago Sun-times*, November 25, 1974 70; H. Messick, *The Politics of Prosecution* (1978) 4

#### D. Other Grave Doubt As To Justice of Conviction: Partisan Zeal

Federal overreaching to criminalize Kerner's local and civil conduct reaches back to his accusers.<sup>41</sup> In President Nixon's Oval Office tapes, Attorney General Mitchell, the nation's chief prosecutor is heard to complain two weeks before he called Kerner before a June, 1971 Grand Jury, "Now he's out talking about his Kerner Commission Report when he should be keeping his damn mouth shut as a judge."<sup>42</sup>

Kerner, whose 524,252 vote gubernatorial landslide in 1960 swept Kennedy to an 8,858 victory over Nixon in Illinois, was outspoken about Nixon's first-term inaction on problems of racism highlighted in the "Kerner Report."<sup>43</sup> Even before it was released, Nixon had been the report's first critic.<sup>44</sup>

Early in 1969, Mitchell - doubling as Nixon's campaign manager - began to implement a racist 1972 re-election strategy to split-off regional white Democrats put-off by national Democratic civil rights initiatives of the 1960's, and after the November 1970 congressional elections, Nixon, Mitchell and cohorts met to sharpen their divisive attack.<sup>45</sup> When the meeting turned to carving-up Illinois Democrats, the nation's chief prosecutor announced - just before he convened Kerner's January 1971 grand jury - "There's an investigation going on, and they won't be so powerful when the grand jury gets through with them."<sup>46</sup>

From the Kerner investigation's outset in early 1970, Washington superiors wholly superseded the Chicago U. S. District Attorney<sup>47</sup> who told them they were "crazy" when they eventually informed him of it.<sup>48</sup> Three weeks before Mitchell ordered Kerner's indictment, Nixon elevated the skeptical local prosecutor to a federal judgeship and appointed a previously uninvolved recruit to fetch the indictment December 15, 1971.<sup>49</sup>

<sup>41</sup> R. H. Jackson, *supra* note 19 at 20; A. Petacque, "Decision up to Nixon," *Chicago Sun-Times*, September 26, 1971 5, 40; R. Koziol, "Draft Kerner Indictment," *Chicago Tribune*, November 21, 1971 1-2; J. Anderson, "Nixon's Revenge?" *Illinois State Register*, March 9, 1973

<sup>42</sup> J. Warren, "Plenty of Gold Nuggets Kicking Around in Nixon Tapes," *Chicago Tribune*, October 17, 1999;

<sup>43</sup> M. Kilian, "Kerner Rips Nixon Failure to End Racism," *Chicago Tribune*, March 5, 1970 6; "New Racial Disorders Possible, Kerner Warns," *St. Louis Globe Democrat*, May 26, 1971 4A

<sup>44</sup> R. B. Semple, Jr., "Nixon Scores Panel for 'Undue' Stress on White Racism," *The New York Times*, March 7, 1968 1, 33; "Nixon Calls Riot Report Misleading," *Chicago Tribune*, March 7, 1968 8

<sup>45</sup> D. Rather and G. P. Gates, *The Palace Guard* (1974) 26, 188-189, 194-195, 208-213, 263, 287-292

<sup>46</sup> C. Colson, tape recorded interview with A. C. Kerner, March 1, 1976

<sup>47</sup> R. H. Jackson, *supra* note 19 at 18

<sup>48</sup> W. Barnhart and G. Schlickman, *Kerner: The Conflict of Intangible Rights* (1999) 273-276, 277-278, 279-308

<sup>49</sup> R. Koziol, *supra* note 41

#### Reason IV: Justice

While the chief executive is uniquely competent to address any and all reasons for pardon,<sup>50</sup> a retrial of the Kerner case is not necessary to render verdict on the petition in his behalf. The Supreme Court's repudiation in *McNally* of his prosecutors' ambitious predicate is sufficient alone to merit his pardon. That he was the victim of a more broadly overzealous prosecution attests further to the enormity of the injustice he suffered, but if

investigation<sup>51</sup> of additional proofs were to delay unduly the issuance of a pardon deemed readily justified by McNally, it would merely extend, not lessen that enormity.

Rather, it is upon proclamation of presidential pardon by reason of his manifest innocence that mitigation of the great injustice to him truly depends. Nothing less than the ultimate authority's declaration that he was convicted of acts that the law did not make criminal can hope to remove the wrongful stigma of condemnation marring the reputation of this impeccably dedicated soldier and statesman. Indeed, nothing less can hope to begin to restore public trust so wanting in our system of criminal justice.

On the day he was sentenced to prison, Otto Kerner foretold his eventual vindication:

*I shall not offer here any false repentance . . . I do, however, most humbly disagree with the verdict . . . I am neither apologetic nor defensive of my conduct. The ultimate verdict on me will be rendered in future years, and I know that that verdict will establish that I was always an honest man and a faithful governor.*<sup>52</sup>

Reasons at justice now make that vindicating verdict long overdue.

<sup>50</sup> *The Yale L. J.* *supra* note 1 at 701-702; *The Attorney General's Survey*, *supra* note 2 at 72 *et seq.*; W. W. Smithers, *supra* note 1 at 553 *et seq.*; C. C. Joyner *supra* note 1 at 18-19

<sup>51</sup> W. W. Smithers, *supra* note 1 at 557

<sup>52</sup> *United States v. Isaacs*, CRI086 Transcript of Proceedings, April 19, 1973 133

# Perspective

SUNDAY, MARCH 19, 2000 • SECTION 2



Anton Kerner (left) and his father, Otto, in March 1975 after the former Illinois governor was released from prison.

## Kerner on Kerner

Otto Kerner's son defends his father's reputation

By Anton Cermak Kerner

The warden stood to leave our brief family orientation. "I'll give you a moment to say goodbye," he said, stepping to his office door. When it shut, my sister and I turned to our father. His soldier's face fell, vanquished and vulnerable; once sky-blue eyes clouded with sadness and bewilderment. As we left the prison, I said to my sister, "I just saw Dad die." She replied quietly, "I know."

Within six months, cancer forced his early release from prison. Less than a year and a half later, in the still, dark, early morning of May 9, 1976, my father, Otto Kerner—retired U.S. Army major general, former U.S. district attorney for the northern district of Illinois, former

**IN BOOKS:** A review of "Kerner: The Conflict of Intangible Rights" appears in Section 14.

Cook County judge, former governor of Illinois, former chairman of the U.S. Commission on Civil Disorders, and former judge on the U.S. Court of Appeals—surrendered his last breath.

The next day, Illinois' poet laureate, Gwendolyn Brooks, penned the opening stanza of a remembrance titled "Otto Kerner":

*He was a man extensive and extending  
But we do not love largeness very long.  
We look with narrowing littleness  
on largeness.*

SEE KERNER, PAGE 5

## Kerner

CONTINUED FROM PAGE 1

Brooks' husband, Henry Blakely, elaborated her insight with these closing lines of his poem "Of Otto Kerner":

*and his was the soldier's error,  
knowing  
but not deeply believing  
any who followed the flag  
could be enemy.  
And so  
he was flanked, taken,  
and then beheaded,  
the fate, sometimes, of princes.  
And I will be remembering  
murders  
and old kingdoms dead  
because of great men killed.  
Little has since been written*

about Otto Kerner, save occasional reference to his chairmanship of the 1968 commission that produced the so-called Kerner Report and his incongruous 1973 federal conviction and imprisonment. The first biography of him, "Kerner: The Conflict of Intangible Rights," by Chicago Tribune columnist Bill Barnhart and retired Illinois legislator Republican Gene Schlickman, fills a great void. It is a vital account of a man that Tom Wickler's dust jacket blurb aptly proclaims "an admirably dedicated public servant, later victimized by partisan prosecution."

The Kerner Report's finding that "Our nation is moving toward two societies, one black, one white, separate and unequal" and that "white society is deeply implicated in the ghetto" is a landmark. Its insufficiently heeded calling to make good the promises of American democracy to all citizens urban and rural, white and black, Spanish-surname, American Indian, and every minority group still resonates today.

The new biography digs deeply into the wellspring that fed Kerner's work on the commission and his 40-year career in public service. The story of his Czech forebears' passion for civil liberty and his parents' struggle that took his father from unskilled laborer to attorney general of Illinois and judge on the U.S. Court of Appeals is authoritatively drawn from unpublished private—as well as public—documents. Fresh materials enrich the portrayal of his boyhood, education and early dual careers in the military and the law.

Regrettably, a dark caricature reveals none of the joy in his 39-year marriage with the youngest daughter of Anton Cermak, the Chicago mayor killed in 1933 by an assassin's bullet intended for President-elect Franklin Roosevelt. But accounts of his prosecutorial, judicial and gubernatorial years and his work on the Civil Disorders Commission are valuable.

His 1958 judicial struggle with the Catholic Church over adoption reform and his gubernatorial initiatives in mental health, statewide open housing and economic development are warmly celebrated. Research into his work on the

commission is enlightening, especially the unearthing of a commission background document, "The Harvest of American Racism," likening 1967's urban black activists to Colonial revolutionaries.

While the collective effect of these vignettes is somewhat impressionistic, what is missing is mostly implied in the whole. For example, readers may well wonder how Kerner achieved consensus from rival Illinois legislators and contentious commission members. Nowhere detailed was his capacity to sublimate tactics, strategy and ego to substantive objectives. His quietly efficacious leadership was a respected alternative to the politics of noisy confrontation and blatant self-promotion that sold newspapers, but accomplished little.

The book might also have done well to delve into Kerner's view of class in America as it informed his public life. It was a view reinforced by the career of Anton Cermak, benefactor of Kerner's father and creator of the pan-ethnic, labor-based, anti-Prohibition Cook County Democratic Party that heralded Franklin Roosevelt's 1932 presidential election sweep.

Growing up in a neighborhood of laborers, Kerner appreciated the role of the corner tavern. As a child, he carried buckets of beer on a pole over his shoulder to workmen for small change. He and his neighbors ate for free in the beer garden where adults drank and socialized in the Old World custom before radio, television and movies. He recalled that the tavern's only neighborhood safe was where laborers put their wages at day's end and that the tavern was where they went to borrow for their first home rather than face formidable lenders downtown.

What Kerner understood—and what Cermak capitalized on politically—was that threadbare, ethnic laborers felt disenfranchised by Prohibition in ways never grasped by well-clad, white-collar managers who could afford expensive, illegal Canadian liquor and who felt at home in the city's imposing, marbled halls of commerce. Prohibition sensitized Kerner to the deep-seated political, economic and social misunderstandings between the haves and have-nots and anchored his belief that we must try harder to do unto others as we would have them do unto us.

The Kerner Report was as much a watershed for America's civil liberty as it was for Kerner's. In January 1969, Richard Nixon—the nation's first critic of the Kerner Report—was sworn in as president, and his campaign manager, John Mitchell, launched his masquerade as attorney general. The intangible civil rights of minorities advanced by Kerner were set on a collision course with a specious theory of intangible rights invented by Mitchell's prosecutors to allege Kerner failed to give citizens of Illinois "good and faithful services" as governor. With Kerner's conviction, Nixon and Mitchell managed to destroy one of

America's most respected civil rights advocates.

In a disturbing and poignant account, Barnhart and Schlickman accurately report that, when the U.S. Supreme Court overturned the Justice Department's over-reaching theory 11 years after Kerner died, surviving defendants were granted reversals, while an otherwise timely appeal to reverse Kerner's conviction was denied because he was dead.

But the book fails to relate this injustice to the broad pattern of misconduct by Kerner's prosecutors who made him their target, not crime. Absent are incontrovertible proofs of his assertion that he was convicted by witnesses the government induced to lie. Missing is the revelation that the government's keystone bribery count named no briber or quid pro quo. Omitted is the government's obstruction of justice in hiding its campaign to ruin his reputation through prejudicial, pretrial leaks to the press of confidential grand jury proceedings and IRS information. Ignored is the government's admission that original IRS notes were destroyed and recreated to frame the perjury allegation he steadfastly denied. Uncritically repeated is the government's cover story that its investigation was inspired—within a year of Kerner's 1968 U.S. Senate confirmation to the U.S. Court of Appeals—by a faded moll's yarn that he was connected to the mob. Neglected is the story that government agents on the case commonly joked that their code acronym, CRIMP, stood for Corrupt Republicans Investigating Marj's Pals, Marj referring to Marjorie Everett, a key government witness.

The authors fail to recognize the enormity of the injustice Kerner suffered when they dismiss strong evidence of the political inspiration behind his prosecution. They recount the famous November 1970 meeting in which Nixon, Mitchell and cohorts plotted their 1972 re-election campaign strategy to attract southern and northern white Democratic voters disgruntled by their party's national civil rights and integration initiatives of the 1960s. They also repeat Mitchell's boast that Illinois Democrats wouldn't be so powerful after his grand jury got through in Chicago. They even admit that Mitchell's Justice Department officials had briefed Chicago prosecutors about Kerner only a month earlier, in October 1970. But they doubt that Mitchell's boast pertained to Kerner because no grand jury was then convened, overlooking the Kerner grand jury Mitchell seated in Chicago just a month after the 1970 holidays. To whom do they think Mitchell was referring, if not Kerner?

Kerner's U.S. appellate court opinions in defense of civil liberty and his persistent advocacy of Kerner Report recommendations were widely known to frustrate, embarrass and enrage Nixon and Mitchell. Not only did he block their draconian approach to law

## The Kerner Report was as much a watershed for America's civil liberty as it was for Kerner's.

and order, he called them to task for impeding racial progress. In Nixon's Oval Office tapes, Mitchell is heard complaining about Kerner just two weeks before he called him in front of the June 1971 Grand Jury: "Now he's out talking about his Kerner Commission Report when he should be keeping his damn mouth shut as a judge." The question is not whether Nixon and Mitchell possessed the motive, means and opportunity to get Otto Kerner, but whether a smoking gun eventually will be found in the Nixon tapes.

Long before my father's trial and 10 years before he died, my sister, Helena, and I sat alone with him at dinner in the governor's mansion. "I may not leave you much materially when I'm gone," he said, "but you will have something that will open more doors than all the money in the world: You will have a good name."

His reputation was the heart of his being, and his conviction proved a fatal wound. At his trial in 1973, he testified, "This suit, this action is so very important to me. It's my life."

When his good name was taken, he felt a cherished door to great public service shut forever. This inspirational story of his life may prove him wrong about that. It strengthens faith that the legacy of his good works will eventually overwhelm the calumny of his enemies. It renews hope that he will be exonerated, his injuries remedied and his name restored—and that similar injustice may yet be thwarted. In this context, "Kerner: The Conflict of Intangible Rights" is a good place to learn how we might more fully realize our great capacity for genuine nobility as human beings.

Anton Cermak Kerner is a Chicago real estate broker.

## Letters to the Editor

**Convicted of Bribery—But Why?**

Your Jan. 3 page-one article "Horse Play" touched upon Marjorie L. Everett's role in the federal government's prosecution of my father, Otto Kerner, former governor of Illinois, former chairman of the presidential commission that authored the so-called "Kerner Report" on racism in America, and former judge in the U.S. Court of Appeals.

Of the 17 counts in his indictment in December 1971, 16 counts rested on one key-stone, and that was the bribery count. And, at the time of his indictment, the government's case rested on one key witness, and that was Marjorie L. Everett. Presumably, since this was a bribery case, the government would name a briber, but this was never to be.

At the time of my father's indictment, Mrs. Everett had already committed the bulk of her fortune to ownership in Hollywood Park Turf Club and was, as its largest shareholder, seeking a seat on the board of directors of that horse-racing enterprise. Like every other director in California, she needed a license from the California Horse Racing Board to be seated.

The month following my father's indictment, the racing board was set to begin its inquiry as to Mrs. Everett's fitness for a license. Given all the publicity attendant to the bribery allegations against my father and Mrs. Everett's role as the government's key witness, the racing board wanted to ask Mrs. Everett whether she was a briber.

Pertinent as this question was, then U.S. Attorney General John Mitchell ordered his newly appointed U.S. District Attorney, James R. Thompson (and later governor of Illinois), to inform the California Horse Racing Board that the Justice Department would sue to prevent any inquiry involving Mrs. Everett's role in the Kerner case, whereupon Mr. Thompson and his assistant, Samuel K. Skinner (now U.S. Secretary of Transportation), flew out to California where they conveyed Mr. Mitchell's threat to that state's attorney general and its racing board, and, describing Mrs. Everett as a "public-minded citizen," they not only succeeded in blocking the inquiry, but, on the strength of their character references, they helped her secure a temporary license from the racing board and, thereby, a seat on the board of directors at Hollywood Park Turf Club.

Subsequent to my father's conviction, the same California Horse Racing Board granted Mrs. Everett her permanent license. You correctly noted that "it didn't hurt her that Ronald Reagan was governor of California at the time" but neglected to mention that two of Mr. Reagan's three Racing Board members (namely Messrs. Newman and Simpson) who gave Mrs. Everett her licenses wound up receiving directorships themselves from Mrs. Everett at Hollywood Park Turf Club. And, while you accurately related that Mrs. Everett testified in court that she was extorted to offer stock to my father in her Illinois horse-racing enterprises by then Illinois Racing Board Chairman William S. Miller, you neglected to mention that Mr. Miller denied her charge in his testimony.

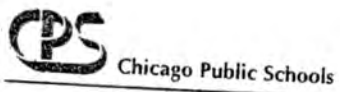
You stated that "the U.S. Court of Appeals, in later affirming Mr. Kerner's conviction, said that Mrs. Everett had offered stock to Mr. Kerner with 'a corrupt intent.'" What the U.S. Court of Appeals actually said was, "The government contends, and the jury by its verdict must have found, that the evidence established that Mrs. Everett and Miller offered the stock with corrupt intent . . ." (emphasis added). You would have readers conclude that our U.S. Courts of Appeals are finders of fact, when that duty rests with the U.S. District Courts and their juries. The jury convicted my father on the bribery count without reconciling Mrs. Everett's testimony that she was extorted by Mr. Miller against Mr. Miller's testimony that Mrs. Everett was a briber and that he never extorted her.

Incredibly, Messrs. Thompson and Skinner both vouched for these witnesses' truthfulness in court. That they asserted and that the jury held that my father was guilty of bribery based on testimony of a "truthful" witness who never testified that she bribed or intended to bribe him is a crucial anomaly in his case. Despite the fact that these witnesses could not have both been telling the truth, the government deliberately presented their testimony to the jury with the cynical argument that it was the jury's job to decide who was telling the truth, not the government's.

Your article at least suggested two vital questions arising out of Mrs. Everett's involvement in my father's conviction 18 years ago: If Mrs. Everett was a briber, why did the California Horse Racing Board grant her the licenses? If she wasn't a briber, why was Otto Kerner convicted of bribery?

ANTON C. KERNER

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S.O.B  
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Beth Sagett  
Principal

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Blumenthal  
Podesta

Mr. Clinton -  
A pleasure  
meeting you!

Sydney  
Blumenthal  
is my  
1st cousin

Copied  
Blumenthal  
Podesta

Cherry  
to the letter  
to the letter  
to the letter

President Clinton

1-10-00

Copied

Cherry

Palasta

Counsel/506c.



MRS. Celia Gomez  
1424 MORTON Street  
Lake Odessa, Michigan 48849  
January 9, 4th 2001

Dear President Clinton

Thank you very much for helping me  
and my <sup>Late</sup> husband Eliel Gomez become  
American Citizens.

Also, please try to pass legislation  
to put monitors <sup>in rooms</sup> to help patients/residents  
in nursing homes who cannot communicate  
(due to illnesses) to ask for help.

Could you also help my late husband  
get justice. A person driving under  
the influence of drugs rear-ended  
my husband's car. This is what led  
to his death.

Again, thank you very much to you &  
your staff for helping us become  
American Citizens. It was A Beautiful  
Dream that came true for us.

Sincerely,  
Celia R Gomez  
and Gomez Family