



STATE OF FLORIDA

BILL McCOLLUM
ATTORNEY GENERAL

February 28, 2007

The Honorable Charlie Crist
Governor of Florida
PL 05, The Capitol
Tallahassee, FL 32399-0001

Dear Governor Crist:

As citizens of the state of Florida, we are privileged to enjoy certain fundamental civil rights, including the right to vote, hold office, serve on a jury, and pursue a chosen profession. Individuals who are convicted of a felony in our state lose those rights. The Florida Constitution provides that those civil rights may only be restored by a grant of clemency from the Governor and two members of the Florida Cabinet.

The Governor and members of the Cabinet collectively are the Clemency Board. Within the confines of our Constitution, if two members of the Cabinet do not object, the Clemency Board by rule now grants restoration of civil rights without a hearing for the great majority of felons who have completed and satisfied all sentences and conditions of supervision.

For these individuals, save for the fact those who were released prior to January 2002 must apply, the restoration of their civil rights is as "automatic" as our Constitution and laws permit. Today when felons have completed their sentences, their names are electronically transmitted to the Office of Executive Clemency for restoration of civil rights. For those qualifying, most have their rights restored without a hearing (except for their right to own or possess a firearm) within six months after processing and background investigations are completed by the staff of the Clemency Board and the Parole Commission. A few may wait as much as a year.

But there are problems. First, until a few years ago felons were not encouraged to apply for civil rights restoration upon release from prison as they are today, and many were unaware of the process. When civil rights restoration gained media attention, a great many felons who long ago had completed their sentences and supervision applied. In this category of applicant, due to a shortage of staff available to conduct required background investigations, there has been a large backlog with a wait time of two and a half years or

more. While progress has been made in drawing down this backlog, the impact of these cases has slowed down the processing of other cases.

Second, certain categories of felons who have committed extremely serious crimes, such as Habitual Violent Felony Offenders, murders, drug traffickers, rapists, and sexual predators, are not eligible under the rule for civil rights restoration without a hearing before the Clemency Board. With a recidivism rate in this state of nearly 40 percent, according to the most recent information available from the Department of Corrections, it is vital we continue to require felons who have been convicted of extremely serious crimes to prove they are worthy of regaining their civil rights when their sentences are completed. While applications in this category naturally take longer to complete background investigations and process, their numbers are comparatively small. But here too there is a backlog of applicants whose cases may need extensive investigation and may not have had their cases investigated and presented at a hearing of the Executive Clemency Board.

These backlogs are unacceptable. The key to getting rid of them and moving the clemency process at a faster pace is providing the Parole Commission with sufficient staff to get their investigations and reports completed on all applicants right away, and for the Clemency Board to hold more frequent hearings until the backlog is worked off. The Chairman of the Parole Commission has advised me that with ten additional temporary personnel the Parole Commission could do its investigations and complete the reports to eliminate the backlogs within a year. At that point the Chairman and the Clemency Board staff believe that, with rare exceptions, no applicant would have to wait more than a year for restoration of civil rights with or without a hearing.

To eliminate the backlog of civil rights restoration applications, to strengthen the list under the Clemency Board rules of those felons convicted of extremely serious crimes who are required to have a hearing, to prevent the revolving door effect of granting civil rights only then to revoke them because of a new conviction for career criminals, and to provide the Parole Commission with the resources to do its principal task of shepherding the successful re-entry of criminal offenders into our society after their sentences are completed, as well as support the Clemency Board, I propose the following:

- 1) Each member of the Cabinet commit two personnel or FTE slots to the Parole Commission for one year to assist in working off the backlog, and at least two other personnel and/or FTE slots be loaned for a year to the Parole Commission for this purpose by the Department of Corrections, the Florida Department of Law Enforcement, and/or the Department of Juvenile Justice. This would provide the necessary temporary personnel without the need for legislative or budgetary action;
- 2) Schedule meetings of the Clemency Board monthly, or more frequently if necessary, until the backlog is worked off;

- 3) Include on the list of those not eligible for restoration of civil rights without a hearing crimes related to child pornography, and clarify that the failure to register as a sexual predator renders an offender ineligible;
- 4) Confirm that the primary mission of the Parole Commission is to shepherd the successful reentry of criminal offenders into our society after their sentences are completed, and advocate and support such measures as may be necessary to legislatively ratify this and attain the resources necessary to fulfill this mission, as well as support the Clemency Board and assure future backlogs in the clemency process do not occur.

I am confident that you share my vision for making Florida a safer place to live, work, and raise a family. That vision includes the successful re-entry of criminal offenders into our society. The appropriate constitutional exercise of executive clemency is an important part achieving this objective.

Governor, I believe the changes I am proposing will result in a process that balances the interests of making Florida safer and allowing qualified offenders the ability to secure a timely restoration of their civil rights. I look forward to working with you and my fellow Cabinet members on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill McCollum". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bill McCollum

BMC/lhj