

January 10, 2011

The Honorable Peter Courtney
President of the Senate
S-201 State Capitol
Salem, OR 97310

The Honorable Bruce Hanna
Co-Speaker of the House
H-269 State Capitol
Salem, OR 97310

The Honorable Arnie Roblan
Co-Speaker of the House
H-295 State Capitol
Salem, OR 97310

Dear President Courtney, Co-Speaker Hanna, Co-Speaker Roblan:

Pursuant to ORS 144.660, I am reporting to the Legislative Assembly at its regular session each reprieve, commutation, pardon, remission of penalty or forfeiture granted since the beginning of the previous legislative session.

Since January 12, 2009, I have acted on 319 applications for executive clemency. I received 162 requests for pardon. I granted 13 pardons, and denied or allowed to expire 149 applications. I received 158 applications for commutation of sentence. I granted 2 sentence commutations and denied or allowed to expire 155. One application for commutation is currently pending.

I granted the following pardons:

- (1) **Andrew Henry Adams.** Convicted of Possession of a Controlled Substance (2 counts) on January 30, 1997; and convicted of Possession of a Controlled Substance on May 19, 1997. Sentenced to 15 days jail and 18 months probation, which he successfully completed. I pardoned his convictions on May 21, 2009.

Mr. Adams was a heroin addict at age 19. His addiction continued until the time of these offenses when he was 23 years old, unemployed and homeless. After incarceration Mr. Adams sought help and co-founded the Oxford house a self-run, self-supported addiction recovery house. He attended Portland Community College and the University of Washington, obtaining a Masters in Engineering. His pardon request was supported by his employer, peers and friends. The district attorney had no objection to this request.

- (2) **Amy Rae Moser.** Convicted of Delivery of a Controlled Substance on June 30, 2003. Sentenced to 24 months probation, which she successfully completed. I pardoned her conviction on June 30, 2009.

Ms. Moser has transformed from a young addict to successful business executive. She is a leader in her community involved with the Chamber of Commerce, PTA and volunteers with the Life Center and Meth Action Coalition. Her request was supported by her employers, friends and clients. The district attorney who prosecuted her case stated this is the first pardon application he ever has found to be “worthy.” I determined there was substantial need to warrant this pardon as without it federal law enacted in 2007 would prohibit her from working in her career field.

- (3) **Eros Baca.** Convicted of Trademark Counterfeiting in the Second Degree on December 14, 2007, for selling fake Rolex watches. Sentenced to two days in jail and fines. I pardoned his conviction on October 14, 2009.

Mr. Baca was brought to the United States illegally by his mother when he was four years old. He faces deportation and the possibility of being permanently barred from re-entering the United States. Mr. Baca has obtained an Associate’s degree from PCC and hopes to pursue a Bachelors degree. For the last five years he worked as an emergency room translator. His application was supported by numerous emergency room physicians and medical personnel. I determined there are substantial humanitarian concerns to warrant this pardon.

- (4) **Andrey Vladimirovich Kurochkin.** Convicted of two counts of Failure to Perform the Duties of a Driver on October 9, 2000. Sentenced to 180 days in custody and three years probation, which he successfully completed. I pardoned his convictions on December 3, 2009.

Mr. Kurochkin, while intoxicated, was involved in a race with two other cars on I-5. The result was a crash involving four vehicles in which the passengers were injured. Mr. Kurochkin took responsibility for his behavior and completed substance abuse treatment. He owns and operates a trucking business and is the sole breadwinner for his family.

Mr. Kurochkin is a legal permanent resident and has applied for citizenship but without forgiveness faces deportation to his native Ukraine. His wife's immigration status is dependent on his and she would most likely be deported to her native country. The children, United States citizens would likely follow their parents. One of the victims of this crime supported Mr. Kurochkin's request. The district attorney and one of the other victims took no position. I determined there were substantial humanitarian concerns to warrant this pardon.

- (5) **Clinton Joseph Doyle.** Convicted of two counts of misdemeanor Assault IV, on August 21, 2001. Sentenced to five years probation, which he successfully completed. I pardoned his convictions on December 3, 2009.

Mr. Doyle assaulted one of his teenage children during an altercation. Mr. Doyle expressed sincere remorse for his actions and regrets this incident occurred. Mr. Doyle serves in the Oregon Air National Guard and if he were to deploy overseas he would be issued both body armor and weapons. These convictions bar him from carrying firearms.

Supporting this application were numerous friends, military superiors and the Multnomah County Department of Community Justice. The district attorney was neutral on this application. I determined there was substantial need to warrant this pardon.

- (6) **Benjamin Barr Carleton.** Convicted of Criminal Mischief in the Second Degree and Theft in the Second Degree on January 12, 2005; Pointing a Firearm at Another on January 21, 2005 and Criminal Mischief in the Second Degree on April 24, 2005. He received a sentence that included 18 months of probation, restitution, 80 hours of community service and 10 days jail. Mr. Carleton met his financial obligations and was discharged from probation on July 25, 2005. I pardoned his convictions on August 5, 2010.

Mr. Carleton's criminal conduct occurred in a relatively short period of time during his late teens. Like many crimes, abuse of alcohol and drugs was a major contributing factor. In November 2005 he made the decision to turn his life around and joined the Marine Corps. He served honorably, earned numerous service medals, completed three combat deployments and was honorably discharged in November 2009. He is attending community college and seeks employment counseling juveniles.

Mr. Carleton's pardon request was supported by military superiors. The district attorney was neutral on the request.

- (7) **Andrew DeForest Gilbert.** Convicted of Distribution of a Controlled Substance on January 5, 1989. Sentenced to five years probation and 100 hours community service which he successfully completed. I pardoned his conviction on September 23, 2010.

Mr. Gilbert just turned 18 years old at the time of this conviction. He purchased cocaine to share with friends. He is currently the program director of Sun Valley Snowboard Team. He is active in his community and works with youth. He shares with the youth he coaches his past conviction explaining to them how bad choices can haunt and limit their options for decades to come.

The district attorney opposed clemency but Mr. Gilbert's employer and a number of Ketchum city and county supervisors offered their support.

- (8) **Mark Doran Campbell.** Convicted of Delivery of a Controlled Substance II on June 13, 1988. Sentenced to five years probation and ordered to pay fines which he successfully completed. I pardoned his conviction on December 17, 2010.

Mr. Campbell was 23 years old and attending the University of Oregon at the time of his conviction. Mr. Campbell graduated from college and went on to medical school. He has been a practicing physician for over 20 years; first in Washington State and currently as an orthopedic surgeon in Arizona.

Mr. Campbell wishes to return to Oregon to practice medicine but feels his conviction is preventing him from doing so. The district attorney supported Mr. Campbell's request.

- (9) **Hector Chavez-Ruiz.** Convicted of Delivery of a Controlled Substance on March 6, 2001. Sentenced to three years probation which he successfully completed. I pardoned his conviction on January 3, 2011.

Mr. Ruiz has been married for almost 10 years to a U. S. citizen; together he and his wife have two young children. Mr. Ruiz does not have legal status in the United States and could be deported at any time. Normally he would have the ability to become a legal resident because of his marriage to a U.S. citizen. However, according to his lawyer, Mr. Ruiz is ineligible to adjust his status because of his felony conviction.

The district attorney did not support this request. I determined there are substantial humanitarian concerns to warrant this pardon.

- (10) **DaLeesa Yvette Miller.** Convicted of Delivery of a Schedule II Controlled Substance on August 11, 1992. Sentenced to 24 months probation, 120 hours of community service and ordered to complete an alcohol/drug evaluation and treatment which was completed. I pardoned her conviction on January 3, 2011.

Since the conviction Ms. Miller has been steadily employed, currently works as a dental assistant in Oregon and is a single mother and sole financial provider of four children. She sought better paying work with autistic children but was disqualified because of her felony conviction. She has been advised that she cannot work in the State of Washington because of her conviction and worries that if Oregon adopts the same laws, she will be unable to continue working in a dental office. She has no prior or subsequent criminal record and has been a responsible law abiding member of society for over 18 years.

The district attorney opposed this request. I determined there was substantial need to warrant this pardon.

- (11) **Antonio Kalandula Chimuku.** Convicted of Delivery of Marijuana on February 28, 2007. Sentenced to 36 months probation, ordered to perform community service and to participate in a drug evaluation treatment course which was successfully completed. I pardoned his conviction on January 3, 2011.

Mr. Chimuku along with his entire family came to the United States legally in the 1990s as political refugees from Angola. He was granted legal permanent resident status. Deportation proceedings commenced after this conviction but he was granted relief from deportation under the Convention Against Torture (CAT) because the Immigration Judge found that Mr. Chimuku would be tortured if deported to Angola. However, as a recipient of CAT relief from removal, Mr. Chimuku has no entitlement to legally work in the United States and may face deportation to a third party country. His application is supported by friends and family. The district attorney opposed this request. I determined there were substantial humanitarian concerns to warrant this pardon.

- (12) **Michael Owen McQueen.** Convicted of Robbery in the First Degree on July 11, 1973. Sentenced to prison for an indeterminate 10 year term, he was granted parole in 1976 and discharged early from parole in 1979. I pardoned his conviction on January 3, 2011.

At age 22, Mr. McQueen and a co-defendant robbed a gas station with a gun. Upon release from prison Mr. McQueen attended community college and trained as a welder. He married, raised six children and has been employed as a welder for the past 26 years working for the same employer.

Mr. McQueen and his wife have operated an adult foster care home business for the past 16 years. Under HB 2442(2009) Mr. McQueen is disqualified from continuing to live his residence of 22 years before of this conviction. Prior to the passage of HB 2442, waivers were obtained from DHS based on the full circumstances and age of the conviction.

Mr. McQueen's application is supported by friends and his supervisors. The district attorney took no position on this request. I determined there was substantial need to warrant this pardon.

- (13) **Kristine Roseanne Hayes.** Convicted of Manufacture and Delivery of a Controlled Substance on October 14, 1991. Sentenced to 24 months probation, 80 hours of community service and ordered to complete alcohol/drug evaluation and treatment which was successfully completed. I pardoned her conviction on January 8, 2011.

Since completing her probation in 1992, Ms. Hayes has been a law abiding citizen of this State. She has volunteered in her community, received an Early Childhood Education Degree and continues to attend 12 steps meetings. The district attorney and sheriff of Tillamook County supported her request for clemency. I determined there was a need to warrant this pardon.

I granted the following commutations:

- (1) **Andrew Joseph Johnson.** Convicted of Robbery in the Second Degree (five counts) and Kidnapping in the Second Degree on April 1, 2002. Sentenced to a total of 150 months incarceration under Ballot Measure 11 and 36 months post-prison supervision. I conditionally commuted his sentence on July 7, 2010.

Mr. Johnson was 16 years old when he and a co-defendant entered the trailer of neighbors with a gun and the intent to steal money and drugs. Mr. Johnson was incarcerated for over eight of his twelve and a half year sentence at the Oregon Youth Authority. During that time he took full advantage of every educational, treatment and career opportunity available. OYA staff corroborate that he has taken genuine responsibility for his actions. In addition to obtaining his high school diploma in 2007, Mr. Johnson served as a facilitator and mentor in treatment groups and tutored developmentally disabled youth. He obtained a welding certificate and a pet care technician certificate.

The district attorney office opposed commutation. I granted this conditional commutation on Mr. Johnson's twenty fifth birthday when he would have aged-out of OYA and been placed in an adult prison to serve out the remaining four years of his sentence at the Department of Corrections. This conditional commutation was based on numerous affirmative signs that he has taken his own rehabilitation seriously. Because it is a conditional commutation, if Mr. Johnson fails to abide by the conditions I have placed on him, the commutation will be revoked and Mr. Johnson shall be returned to prison to serve out the time then-remaining on his sentence according to the terms of the Judgments of Conviction.

- (2) **Sisi Raufa Fuapau.** Convicted of Robbery in the First Degree, Robbery in the Second Degree (nine counts) and Assault in the Third Degree on February 15, 2001. Sentenced to a total of 180 months incarceration and 36 months post-prison supervision. I conditionally commuted his convictions on January 6, 2011.

Shortly before graduating from high school, Mr. Fuapau, 17 years old, went on a three week crime spree. On four separate occasions he and friends threatened and robbed nine victims, seeking beer money. Mr. Fuapau was under the influence of drugs and alcohol at the time. Five of the victims were physically harmed.

Under Measure 11, Mr. Fuapau received a combined sentence totaling 15 years. He served the first seven years incarcerated at the Oregon Youth Authority. While at OYA, Mr. Fuapau took full advantage of every educational and treatment opportunity. Staff at OYA corroborate that Mr. Fuapau took his rehabilitation seriously. He volunteered to raise money for veterans and people in need and served as an academic mentor to other youthful offenders. He earned an Associate's Degree from Chemeketa Community College. On July 3, 2008 he was transferred to DOC custody. Mr. Fuapau has taken advantage of the opportunities available to him while incarcerated at DOC and had no disciplinary violations in prison.

OYA staff supported Mr. Fuapau's commutation request as did two of the victims. One victim was opposed to commutation at this time as was the district attorney.

I granted this commutation based on the factors that Mr. Fuapau has demonstrated extraordinary progress with considerable evidence of rehabilitation. This commutation is conditional so that if Mr. Fuapau fails to abide by the conditions of the commutation, it will be revoked and Mr. Fuapau shall be returned to prison to serve out the time then-remaining on his sentence according to the terms of the Judgments of Conviction.

In conclusion, I wish to point out that my decisions on the conditional commutations of Mr. Johnson and Fuapau only highlight the need for further reform in the sentencing of juvenile offenders under mandatory minimum sentences.

When I designed the re-write of the juvenile justice system in 1995 with the legislation that created the Oregon Youth Authority, it included the concept of "Second Look" for juvenile Measure 11 offenders. This concept would have allowed judges to review the records of youth convicted of Measure 11 sentences, receive input from the parties and victim and make a decision on whether continued incarceration would be appropriate. I have exercised my commutation authority in a way that is consistent with the intention behind the second look – in order to give a second chance to young people who accepted personal responsibility for their serious crimes and demonstrated rehabilitation.

My commutation decisions are informed by the research that shows that the risk recidivism for juvenile offenders is higher when youth are incarcerated in the adult system. As a state, Oregon has wisely chosen to invest in treatment and education for youth that commit crimes. If our juvenile justice system is going to be one that seeks to accomplish the objectives of accountability, reformation and overall public safety, I believe that the second look concept should be enacted immediately.

Sincerely,

A handwritten signature in black ink that reads "Theodore R. Kulongoski". The signature is written in a cursive style with a large, looping initial 'T'.

THEODORE R. KULONGOSKI
Governor