

December 3, 2010

Honorable Charlie Crist, Governor
Office of the Governor
The Capitol
Tallahassee, FL 32399-0001

Honorable Bill McCollum, Attorney General
The Capitol, PL-01
Tallahassee, FL 32399-1050

Honorable Alex Sink, Chief Financial Officer
Office of Cabinet Affairs, PL 11
The Capitol, PL-01
Tallahassee, FL 32399-1050

Honorable Charles H. Bronson, Commissioner
Department of Agriculture and Consumer Services
The Capitol
Tallahassee, FL 32399-0800

Re: Executive Order – Additional RCR Reforms

Dear Governor Crist, Attorney General McCollum, CFO Sink and Commissioner Bronson:

On behalf of the undersigned organizations, we write to urge you to adopt an Executive Order that would immediately restore civil rights to Floridians with past convictions for non-violent offenses. This Executive Order will address the shortcomings of the revisions to the Florida Rules of Executive Clemency that this Board of Executive Clemency (“Clemency Board”) adopted in 2007, and set a strong precedent for meaningful reform for the Clemency Board that will take office in January 2011.

Executive Order Granting Automatic RCR to Non-Violent Ex-Offenders

We recommend that the current Clemency Board adopt an Executive Order that would automatically grant restoration of civil rights (RCR) to all persons with non-violent (Level I) offenses who have completed all non-monetary terms of their sentence or supervision as of the date of the Order. We further recommend that the Executive Order remove restitution as a pre-condition for RCR eligibility for these individuals. This action will not only save taxpayer money and expedite restoration of civil rights (RCR), but, most importantly, it will make the promises of the 2007 Clemency Rule changes a reality for thousands of Florida citizens with no history of violent offenses.

In the close to four years since the 2007 changes, this Clemency Board’s promise of “automatic approval” of RCR requests remains unfulfilled. It is beyond dispute that the 2007 changes have fallen far short of their promised expedited processing for individuals with non-violent offenses. With the proposed Executive Order, the current Clemency Board has an opportunity to fulfill its 2007 promise.

The current RCR process continues to disfranchise hundreds of thousands of Florida citizens. The Parole Commission is overwhelmed, under-resourced, and unable to timely process RCR cases. In a 16 month period, the RCR caseload increased exponentially from under 57,000 pending cases as of July 1, 2009, to almost 90,000 pending cases as of October 1, 2010.¹ Individuals with past non-violent felony convictions now wait up to three years or more to have their civil rights restored.

¹ Florida Parole Commission Monthly Accomplishments’ Report, October 2010, and Proviso Report to the Legislature: A Report on the Status of the Processing of Restoration of Civil Rights’ Clemency Cases for FY 2009-2010, October 1, 2010 (“Proviso Report”), at 3.

The RCR process is costly and time-consuming for the State of Florida to operate. Just as importantly, there is no public safety justification for spending millions of taxpayer dollars each year, especially during this economic crisis, to process cases of the tens or hundreds of thousands of Floridians with no history of violent offenses.

Further, delaying RCR for those who are eligible for “automatic approval” directly and negatively impacts the individual’s re-entry and his/her ability to become a contributing and productive member of the community. In the current economy when Florida’s unemployment rate hovers around 12%, finding employment becomes significantly more difficult if one’s civil rights have not been restored. During these difficult economic times, the state should take steps to remove – not erect - barriers for people who want to work and support their families.

For these reasons, we ask the current Clemency Board to adopt an Executive Order that would automatically restore civil rights to all persons with non-violent (Level I) offenses who have completed all non-monetary terms of their sentence or supervision as of the date of the order. Automatic civil rights restoration would mean that immediately upon the effective date of the order, all persons with “Level I” offenses who have completed the non-monetary terms of his/her sentence, would become immediately eligible to register to vote, serve on a jury, and serve in public office. This action would eliminate most of the backlog in applications now pending for approval, allowing the Parole Commission to focus more of its resources on programs that facilitate re-entry and increase public safety.

As part of this recommendation, we request that the Executive Order remove restitution as a pre-condition for RCR eligibility for individuals with “Level I” offenses who meet the eligibility criteria as of the date of the order. We do not suggest that restitution obligations be waived. However, given the link in Florida between employment licensing and RCR, the restitution pre-condition makes it harder for individuals to secure employment that will put them in a better financial position to fulfill their restitution obligations. Accordingly, removal of the restitution pre-condition for RCR eligibility will actually benefit – not harm – victims who are entitled to restitution.

In short, the action we propose would strengthen our democracy, enhance public safety, and increase fiscal responsibility.

Legacy of the Current Clemency Board / Laying a Foundation for the Incoming Board

We will lobby the incoming Clemency Board for additional reforms to make the RCR process in Florida truly automatic for *all* previously convicted persons who have completed their sentences - notwithstanding the nature of the offense - as was the case under the 1975 clemency rules. Not only is this comprehensive reform good for our democracy, and an important aspect of successful re-entry that enhances public safety, but it would also put Florida’s policies in line with those of the majority of states in the United States and most other democracies around the world.

Ending the term of this Clemency Board with an Executive Order that restores voting rights to citizens with no history of violent offenses will create an enduring legacy for this Clemency Board, and Florida will finally realize the changes envisioned, and promised, by the Clemency Board in 2007. This final action of the current Clemency Board will establish a foundation upon which the incoming Clemency Board members can build future and enduring changes.

For the foregoing reasons, we strongly urge the Clemency Board to adopt an Executive Order that would make RCR automatic upon completion of non-monetary terms of sentence or supervision for all individuals with Level I offenses who meet the eligibility criteria as of the date of the Executive Order, without the need for case-by-case approval. This request includes removing the restitution pre-condition for individuals.

If you would like to discuss the proposal outlined above, please do not hesitate to contact Muslima Lewis (786-363-2729 or mlewis@aclufl.org).

Sincerely,

ACLU (American Civil Liberties Union) of Florida

Howard Simon, Executive Director; and
Muslima Lewis, Sr. Attorney and Director of Racial Justice and Voting Rights Projects

**The Brennan Center for Justice
at New York University School of Law**

Erika Wood, Deputy Director, Democracy Program

Collier County Branch, NAACP

Diane Haynes, Rhonda Cummings, Dianna Perryman, David Hinds, Laurel Paster, Lisa Cannon,
Irene Williams - Members

Homeless, Formerly Homeless Forum, Inc.

Desmond Meade, Chairman, HFHF Rights Restoration Committee

The Florida Chapter of CURE (Citizens United for the Rehabilitation of Errants)

Patrick Finn-Schultz, Co-Chair; and
Tom Johnson, Co-Chair

Florida Justice Institute

Randall C. Berg, Jr., Esq., Executive Director

Florida State Conference NAACP (National Association for the Advancement of Colored People)

Adora Obi Nwese, President

NAACP National Voter Fund

Beverlye Colson Neal, State Coordinator

National Congress of Black Women, Orlando Chapter

Beverlye Colson Neal, Chapter Chair

Orange County Branch, NAACP

Carla Cabil, Criminal Justice Chair

Progress Florida

Mark Ferrulo, Executive Director

The Sentencing Project

Marc Mauer, Executive Director

Additional signatories (added after December 3):

A Philip Randolph Institute, Central Florida Chapter

Phyllis Hancock, President

Re-Entry Cooperative of America, Inc.

Quinton Robinson, President

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cc: Tena M. Pate, Chairman, Florida Parole Commission

Drew Atkinson, Clemency Aide, Executive Office of the Governor

Kent Perez, General Counsel, Office of the Attorney General

Rob Johnson, Director of Cabinet Affairs, Office of the Attorney General

Robert Tornillo, Chief Cabinet Aide, Office the Chief Financial Officer

Cathy Giordano, Clemency Aide, Office of the Commissioner of Agriculture and Consumer Affairs