

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

Stephanie Bowens, James Corbin, Larry Green,)	
Ernest Jones, Kevin Little, Robert Lozano,)	
Albert Pulido, Denise Smith, Charles Thomas,)	
Percy Mack, Eric Love, and Vonda Wallace,)	
)	
Plaintiffs,)	
)	Case No. 06 C 4915
v.)	
)	Judge Gottschall
Governor Rod Blagojevich,)	
)	
Defendant.)	
)	

AMENDED COMPLAINT AT LAW

Plaintiffs, including new plaintiffs Percy Mack, Eric Love, and Vonda Wallace, for their complaint against defendant Governor Rod Blagojevich, by their attorneys, state as follows:

Statement of the Case

1. This is a civil action for an injunction requiring defendant Governor Rod Blagojevich to act upon the non-binding recommendations of the Illinois Prisoner Review Board (“PRB”) concerning plaintiffs’ and others’ petitions for clemency within a reasonable period of time, pursuant to 730 Ill. Comp. Stat. 5/3-3-13 (and the Illinois Constitution). The Governor’s failure to so act deprived, and continues to deprive, plaintiffs, under color of law, of their rights of due process as guaranteed by the United States Constitution, the laws of the United States, and the laws of Illinois. This action also seeks an injunction requiring Governor Blagojevich to disclose the reasons for and processes used in denying the petitions of eight plaintiffs after they filed this lawsuit.

2. As set forth more fully herein, the purpose of Illinois' clemency review procedure is to provide a redemptive opportunity to individuals who have significantly and positively transformed their lives. Illinois' clemency procedure can enable a rehabilitated convicted felon, in the Governor's discretion, to become a more fully engaged and productive citizen, to the benefit of society and the interests of the State of Illinois.

3. Among other things, Illinois' clemency review procedures can also help petitioners escape the continually punitive nature of a record of a prior felony conviction that impairs their ability to obtain good jobs. In the case of plaintiffs, the felonies for which they were convicted occurred many years, in some cases decades, ago.

4. The Governor has not decided a large number of clemency petitions, including those of new plaintiffs Love, Mack, and Wallace, which have been acted upon by the PRB. To fulfill the purposes of the statute (and Constitution), satisfy the requirements of due process, benefit petitioners and their families and strengthen the social fabric of the State of Illinois, the Governor should be required to act upon petitions for clemency that have been reviewed by the PRB within a reasonable period of time.

Jurisdiction and Venue

5. The Court has jurisdiction of this action under 42 U.S.C. § 1983 and under 28 U.S.C. 1343.

Illinois Clemency Provision

6. Section 12 of article V of the Illinois Constitution provides that the "Governor may grant reprieves, commutations and pardons, after conviction, for all offenses on such terms as he thinks proper. The manner of applying therefore may be regulated by law."

7. The process through which clemency is regulated is set forth in Illinois statute 730 Ill. Comp. Stat. 5/3-3-13. Section 5/3-3-2(a)(6) authorizes the PRB, through a panel of at least three members, to serve in a quasi-judicial capacity, to hear all requests for pardon, reprieve or commutation and to make recommendations to the Governor based on the merits of the individual's request. The PRB's recommendation is not binding on the Governor.

Appropriations for the PRB are established in the current fiscal year by Article 69 of the Public Act 94-0798. The PRB's budget exceeds \$1 million for administrative, notification and contingent expense purposes.

8. The PRB examines the petitioner's circumstances through written application, the gathering of evidence and the taking of testimony. The PRB then deliberates and makes a recommendation based on the weight of the evidence. The PRB decides by majority vote on the petitioner's application and communicates, by written report, its decision directly and confidentially to the Governor.

9. The backlog of pending clemency cases is substantial. Though the Governor has acted in certain cases, on information and belief, as of July 27, 2006, there were approximately 1,947 pending clemency petitions awaiting a final decision by the Governor, including those of certain plaintiffs.

10. The Illinois Prisoner Review Board reaches a decision on each petition quarterly, following each petitioner's hearing. In the case of each plaintiff's petition, the Illinois PRB has made and communicated a recommendation to the Governor.

11. On, February 23, 2007, after this lawsuit was first filed, the Governor granted plaintiff Kevin Little's petition. However, he denied the petitions of plaintiffs Stephanie Bowens, James

Corbin, Larry Green, Ernest Jones, Robert Lozano, Albert Pulido, Denise Smith, and Charles Thomas. He has not yet decided the petitions of new plaintiffs Percy Mack, Eric Love, and Vonda Wallace.

Parties

12. All plaintiffs are citizens and residents of the State of Illinois and citizens of the United States, residing in Chicago, Illinois except for plaintiff James Corbin, who resides in Markham, Illinois.

13. Defendant Rod Blagojevich has been, at all times material to this Complaint, the elected Governor of the state of Illinois, except in the case of plaintiff Earnest Jones, who filed his petition in 2002, during the tenure of former Governor George Ryan.

Cabrini Green Legal Aid Clinic

14. All of the plaintiffs' clemency petitions were prepared by Cabrini Green Legal Aid Clinic ("CGLA"), a not-for-profit legal aid clinic serving Chicago's less fortunate citizens. CGLA's intake procedure requires that (i) a prescreening review of each client's Chicago Police Department rap sheet take place, followed by an extensive and detailed interview, that (ii) its clients been convicted of an offense in Cook County or have been released from prison for (in most cases) at least 10 years, that (iii) its clients have no or insignificant intervening arrests, that (iv) its clients have had a significant life change since the conviction and that (v) its clients have specific examples of continuing adverse consequences caused by the conviction. Additionally, each petitioner is asked to present an account of his/her education and employment history, community activity, family history, substance abuse history and a brief statement of fact regarding the offense(s) for which he/she seeks clemency.

Facts Concerning Bowens

15. Stephanie Bowens filed for clemency according to the appropriate Illinois Prisoner Review Board Guidelines and Illinois statutory procedures for Executive Clemency on August 20, 2003. She participated in a hearing with the Illinois Prisoner Review Board in October 2003. In 1996, at age 24, Bowens pled guilty to possession with intent to deliver cannabis and served two years probation terminating in 1999.

16. Bowens, now a 34 year old wife and mother of four, has completed course work in phlebotomy and hopes to find permanent employment in the field of medical technology. However, due to her conviction of 1996, she has been denied certification to become a phlebotomy technician and has been kept from permanent work at both Northwestern Memorial Hospital and Rush Presbyterian.

Facts Concerning Little

17. Kevin Little filed for clemency according to the appropriate Illinois Prisoner Review Board Guidelines and Illinois statutory procedures for Executive Clemency on October 30, 2003. He participated in a hearing with the Illinois Prisoner Review Board in April 2004. In 1991, at age 19, Little pled guilty to possession of a stolen motor vehicle – a vehicle Little was neither riding in at the time of arrest nor had seen before. Little was not an acquaintance of the individuals in the stolen vehicle.

18. In the 15 years since his 1991 arrest, Little, now 34, has received a Bachelor's degree from Northeastern Illinois University in economics, as well as certificates in advanced phlebotomy and cardiovascular technology. He is married and has four children. Little volunteers in his community's church and hopes to work in the Chicago Park District or become

a probation officer, targeting Chicago's youth and less fortunate for mentoring. However, due to his 1991 conviction, he was rejected from or denied advancement in several positions following a background check.

Facts Concerning Thomas

19. Charles Thomas filed for clemency according to the appropriate Illinois Prisoner Review Board Guidelines and Illinois statutory procedures for Executive Clemency on July 28, 2004. He participated in a hearing with the Illinois Prisoner Review Board in April 2004. Thomas pled guilty to aggravated battery despite not being present at the scene of the altercation. Thomas pled guilty to keep his pregnant wife from serving any jail time.

20. Thomas is now a Deacon in his local church and is training to become a licensed minister. He is a husband of 18 years and a father of five. He is also a counselor at "Safer Foundation," a Chicago area organization designed to help former inmates within one year of their release. However, Thomas has also twice lost his job due to his 1982 felony conviction, despite consistently performing and being recognized as a good employee.

Facts Concerning Smith

21. Denise Smith filed for clemency according to the appropriate Illinois Prisoner Review Board Guidelines and Illinois statutory procedures on May 3, 2004. She participated in a hearing with the Illinois Prisoner Review Board in October 2004. In 1982, at age 25, Ms. Smith was convicted of aggravated battery against an abusive partner.

22. Smith has been deaf since birth and has been the subject of numerous abusive relationships. She has never received adequate support for her disability. At age 49, now 24 years after her conviction, Smith has freed herself of the abusive relationship giving rise to the

conviction. Smith has remained drug free since 1993, when she graduated from a rehabilitation program. She is now married, is a mother of two and a grandmother of four. Smith believes a supportive, non-abusive relationship and sobriety have helped her turn a corner in her life. Yet her criminal record has kept her from progressing professionally. Smith has on several occasions been separated from employment as a result of her 1982 conviction.

Facts Concerning Pulido

23. Albert Pulido filed for clemency according to the appropriate Illinois Prisoner Review Board Guidelines and Illinois statutory procedures for Executive Clemency on July 30, 2004. He participated in a hearing with the Illinois Prisoner Review Board in October 2004. Mr. Pulido pled guilty to possession of a stolen motor vehicle at age 20 in 1987.

24. Nineteen years later, at age 39, Pulido is a single father of two children. He has also abandoned the gang in which he grew up. Pulido participates in his community's little league baseball and chaperoned local school field trips. However, his 1987 conviction has caused him to lose his job in the Chicago Park District despite good work reviews.

Facts Concerning Corbin

25. James Corbin filed for clemency according to the appropriate Illinois Prisoner Review Board Guidelines and Illinois statutory procedures for Executive Clemency on July 28, 2004. He participated in a hearing with the Illinois Prisoner Review Board in October 2004. In 1987, at age 20, Mr. Corbin was convicted of arson as a result of a plea bargain.

26. Corbin is now 39 years of age. At the time of the 1987 alleged crime, Mr. Corbin was at home, asleep in his bed. Mr. Corbin admits to entering the plea bargain in the arson, despite not being at the scene of the crime, to avoid jail time. Corbin has since completed Bachelor's and

Associate's degrees in Business and started his own company despite being paralyzed from the waist down. Mr. Corbin continues to give his time to volunteer work, speaking out against gangs, speaking to battered women as well as participating in SIFE (Students in Free Enterprise), an organization designed to mobilize university students to create economic opportunity for others in the community. 19 years after his conviction Corbin continues to be turned down from employment, despite his credentials, as a result of his conviction.

Facts Concerning Green

27. Larry Green filed for clemency according to the appropriate Illinois Prisoner Review Board Guidelines and Illinois statutory procedures for Executive Clemency on January 25, 2005. He participated in a hearing with the Illinois Prisoner Review Board in April 2005. In 1991, Mr. Green pled guilty to possession of cocaine with intent to distribute.

28. At the time of his guilty plea Mr. Green, a good high school student, was 17 and living at home with his mother and brother – a known drug dealer. Cocaine was found in the Green household and Green was charged with the above crime. 15 years after his conviction, Green supports his sisters, his disabled mother and his two children. Additionally, Green volunteers at Project Hero, a Chicago organization designed to help at-risk youth and aid recently released former inmates. Green, however, has continued to find his 1991 conviction to be an obstacle to stable and steady employment.

Facts Concerning Jones

29. Earnest Jones filed for clemency according to the appropriate Illinois Prisoner Review Board Guidelines and Illinois statutory procedures for Executive Clemency on October 9, 2002. He participated in a hearing with the Illinois Prisoner Review Board in December 2002. In 1989,

he was convicted of theft and official misconduct and received a concurrent sentence of three years in the Cook County Department of Corrections. Jones was released in January 1992.

30. Jones, now a 54 year old husband, father and stepfather, has received associate degrees from Malcolm X College and the American Academy of Art, a bachelor's degree from Columbia College, and has completed course work in electrical maintenance in the hopes of finding permanent employment in the field of electrical contracting. However, due to his conviction in 1989, he has been denied employment and licenses and performance bonds as an electrical contractor.

Facts Concerning Lozano

31. Robert Lozano filed for clemency according to the appropriate Illinois Prisoner Review Board Guidelines and Illinois statutory procedures for Executive Clemency on September 18, 2003. He participated in a hearing with the Illinois Prisoner Review Board in October 2003. In 1978, at age 18, Lozano pled guilty to robbery and served 210 days in prison and five years probation. In 1985, Lozano pled guilty to manufacture and delivery of a controlled substance and unlawful use of a weapon and served 30 months probation.

32. Lozano, now a 47 year old husband and father of four, wishes to gain employment at the Cook County Sherriff's Department, and has passed both the physical and written examinations to do so. However, due to his convictions of 1978 and 1985, he has been continuously denied a position.

Facts Concerning Mack

33. Percy Mack filed for clemency according to the appropriate Illinois Prisoner Review Board Guidelines and Illinois statutory procedures for Executive Clemency on August 18, 2003. He participated in a hearing with the Illinois Prisoner Review Board in October 2003. In 1971, at age 22, Mack pled guilty to theft after driving a stolen car. He successfully completed his sentence of six months of probation. In 1975, at age 26, Mack pled guilty to contributing to the delinquency of a minor for a relationship with a 16 year-old girl who he believed to be 18.

34. Mack, now 58 years old, is the caregiver for his 16 year-old daughter, whom he has raised as a single parent her entire life. Mack was a boxing trainer for underprivileged children and coached three future Olympians. He has been volunteering for the American Boxing Federation and Chicago Golden Gloves for over 12 years. Mack hopes to give back to the community by starting a boxing program at a youth detention center to encourage young men to get an education and set goals for their future. Mack used to work for the Chicago Park District as a boxing trainer and he would like the opportunity to work there again. However, due to his 1971 and 1975 convictions, he was not rehired by the Chicago Park District.

Facts Concerning Love

35. Eric Love filed for clemency according to the appropriate Illinois Prisoner Review Board Guidelines and Illinois Statutory procedures for Executive Clemency on November 15, 2004. He participated in a hearing with the Illinois Prisoner Review Board in April 2005. In 1986, at age 28, Love was convicted on two charges of manufacturing and delivery of cannabis, during a point in his life when he was using marijuana. Because he could no longer afford the legal fees for defending himself against these convictions, his father had

recently died, and he was trying to support his children while his ex-wife was abusing drugs, he pled guilty and successfully served 18-months probation.

36. Love, now a 49 year old father of three, has been drug free since his arrest more than 20 years ago. He has completed coursework in electrical wiring and electronics. He has received a certificate from ITT Career Training Center. He also has graduated from the Medical Career Institute electroneurodiagnostic (“END”) technician program. Despite these qualifications and credentials, Love’s convictions have prevented him from securing employment at hospitals in an END position, as well as an automotive repair job with the City of Chicago. Because of his conviction, Love cannot find steady employment that would provide health insurance and benefits to he and his daughter.

Facts Concerning Wallace

37. Vonda Wallace filed for clemency according to the appropriate Illinois Prisoner Review Board Guidelines and Illinois statutory procedures for Executive Clemency in 2003. She participated in a hearing with the Illinois Prisoner Review Board in April 2004. In 1992, Ms. Wallace, at age 27, pled guilty to possession and manufacture or delivery of cannabis.

38. It has now been 15 years since the conviction Wallace seeks to expunge. At 41 years of age, Wallace is a recovering drug addict, clean for ten years, and a single mother. However, due to her criminal record, she has been unable to secure consistent employment and has recently been informed by Presbyterian Hospital that her conviction has kept her from being hired into a permanent position.

39. Each plaintiff understands that the clemency process is not an additional avenue for appeal of his/her conviction. However, the circumstances of many of those convictions are suspicious. Many were unaware of the criminal record they would carry for years to come by agreeing to plead guilty, and lacked legal sophistication and adequate legal counsel.

COUNT I
Violation of Due Process Under 42 U.S.C. § 1983 as to All Plaintiffs

40. Plaintiffs hereby incorporate and reallege paragraphs 1-39 of this Complaint.

41. The circumstances of each plaintiff's clemency petition has been screened and vetted twice by entities familiar with the clemency statute, its redemptive intent, rehabilitative process and the interests of the State of Illinois in making convicted felons productive citizens and members of society: once by a private, non-profit organization – CGLA; and again by the board created by the State of Illinois' legislature – PRB. As evidenced by the above, each plaintiff has proven to be a candidate worthy of consideration for clemency by the Governor.

42. The Governor is vested with the authority to make final decisions on clemency petitions submitted according to proper Illinois Prisoner Review Board Guidelines as outlined by the State of Illinois' Constitution and Illinois statutory law. The authority to decide clemency petitions is an act within the Governor's official capacity.

43. The State of Illinois has created a clemency procedure that confers rights on petitioners that are time-sensitive and protectable. The clemency procedures established by the Illinois Constitution and Illinois statutes, by themselves and through application of the Due Process clause, require the Governor to reach a decision on clemency petitions within a reasonable period of time.

44. The Governor did not and, in the case of Love, Mack, and Wallace has not, rendered a timely decision on plaintiffs' clemency petitions. Plaintiff Ernest Jones filed his clemency petition in October 2002; plaintiff Vonda Wallace filed her petition in 2003; plaintiffs Stephanie Bowens and Percy Mack filed their petitions in August 2003; plaintiff Robert Lozano filed his petition in September 2003; plaintiff Kevin Little filed his petition in October 2003; plaintiff Denise Smith filed her petition in May 2004; plaintiff Eric Love filed his petition in November 2004; plaintiffs Charles Thomas, Albert Pulido, and James Corbin filed their petitions in July 2004; and plaintiff Larry Green filed his petition in January 2005. As set forth above, each plaintiff has suffered, and continues to suffer, measurable, identifiable harms because of the undue delay in waiting for a decision.

45. The Governor's actions violate plaintiffs' Due Process rights, protected by the Fifth and Fourteenth Amendments to the Constitution of the United States, the Constitution of Illinois, Illinois statutory law and 42 U.S.C. § 1983.

46. As already stated (*see supra* ¶ 11), on February 23, 2007, Governor Blagojevich denied the clemency petitions of plaintiffs Stephanie Bowens, James Corbin, Larry Green, Ernest Jones, Robert Lozano, Albert Pulido, Denise Smith, and Charles Thomas. These plaintiffs continue to maintain viable Due Process claims on the basis of the "capable of repetition, yet evading review" doctrine.

COUNT II
Violation of Due Process Under 42 U.S.C. § 1983 as to Plaintiffs
Bowens, Corbin, Green, Jones, Lozano, Pulido, Smith, and Thomas

47. Plaintiffs hereby incorporate and reallege paragraphs 1-46 of this Complaint.

48. After this lawsuit was filed, Governor Blagojevich denied the clemency petitions of plaintiffs Stephanie Bowens, James Corbin, Larry Green, Ernest Jones, Robert Lozano, Albert Pulido, Denise Smith, and Charles Thomas.

49. The circumstances of Governor Blagojevich's denials of these petitions, and prior correspondence from Deputy General Counsel Matthew Ryan evincing official hostility to CGLA's request for action on clemency petitions, raise questions whether the denials were in retaliation for these plaintiffs' exercise of their Due Process rights in this lawsuit, as plaintiffs believe.

50. Governor Blagojevich's denials of these petitions in this manner violated plaintiffs' Due Process rights.

RELIEF REQUESTED

a. Plaintiffs demand judgment against Defendant Governor Rod Blagojevich for an injunction requiring him to act on clemency petitions within a reasonable period of time, including the petitions of Plaintiffs Mack, Love, and Wallace;

b. Plaintiffs demand judgment against Defendant Governor Rod Blagojevich for an injunction requiring him to disclose the reasons for and processes used for denying the petitions of Plaintiffs Bowens, Corbin, Green, Jones, Lozano, Pulido, Smith and Thomas to determine if they are appropriate and consistent with the Due Process clause;

c. Plaintiffs demand their attorneys fees and costs of this action; and

d. Plaintiffs demand all other relief as the Court deems just and equitable.

Dated: April 2, 2007

Respectfully submitted,

Stephanie Bowens, Denise Smith, Kevin Little,
Larry Green, Charles Thomas, Albert Pulido,
James Corbin, Ernest Jones, Robert Lozano,
Percy Mack, Eric Love, and Vonda Wallace

By: /s Charles C. Jackson
One of the Attorneys for Plaintiffs
Charles C. Jackson
Gregory P. Abrams
Ticole T. Miller
Christopher Rizzo
MORGAN, LEWIS & BOCKIUS LLP
77 West Wacker Drive
Fifth Floor
Chicago, Illinois 60601
Phone: (312) 324-1000
Fax: (312) 324-1001
Firm ID No. 40417

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that a true and correct copy of **PLAINTIFFS' AMENDED COMPLAINT** was served via the Court's CM/ECF (Electronic Cases Filing)

System on:

Peter Chadwell Koch
LeeAnn Richey
Office of the Attorney General
100 West Randolph Street
Chicago, IL 60601
(312) 814-7203

on this 2nd day of April, 2007.

s/ Gregory P. Abrams
Gregory P. Abrams