



**IN THE OFFICE OF THE GOVERNOR
STATE OF IDAHO**

In the Matter of the Pardon)
Application of)
)
ERIC ROBERT HINCKLEY)
_____)

I. INTRODUCTION

The Commission of Pardons and Parole has voted unanimously to recommend a full pardon of Eric Robert Hinckley ("Applicant"). Because the Applicant was convicted of a serious offense, the Commission's recommendation is subject to my approval or disapproval pursuant to Idaho Code section 20-240.¹

On December 10, 2002, the Applicant was charged with trafficking methamphetamine under Idaho Code § 37-2765B(a)(4)(A) in the Seventh Judicial District, Bonneville County. The Applicant initially entered a plea of not guilty. Pursuant to a plea agreement, the Applicant subsequently withdrew his not guilty plea and pled guilty to one count of delivery of a controlled substance under Idaho Code § 37-2732, and one count of aiding and abetting the delivery of a controlled substance under Idaho Code § 37-2732(a)(1)(A) and § 18-204.

For the delivery of a controlled substance charge, the Applicant was sentenced to a minimum of one-and-a-half (1.5) years and an indeterminate period of custody not to exceed four (4) years. With regards to the aiding and abetting charge, the Applicant was sentenced to a minimum of one-and-a-half (1.5) years and an indeterminate period of custody not to exceed five (5) years. Both sentences were to run concurrently and carried a total fine of \$6,639.54. On September 7, 2004, the Applicant was released on parole, successfully completed his drug

¹ Idaho Code § 20-240 provides that the Commission of Pardons and Parole shall have the full and final authority to grant commutations and pardons except for the following offenses: murder; voluntary manslaughter; rape; kidnapping; lewd and lascivious conduct with a minor child; and manufacture and delivery of controlled substance. Under those enumerated offenses, "the Commission's determination shall only constitute a *recommendation* subject to the approval or disapproval by the Governor." *Id.* (emphasis added).

treatment program, paid his restitution in full, and was ultimately granted an early discharge by the Parole Commission on March 3, 2008.

Clemency is undoubtedly one of the most significant and important authorities reserved to a sitting governor. Typically, the power to pardon is used to rectify a miscarriage of justice or to correct an anomaly in the judicial system. The more difficult exercise of this authority arises in situations where the Applicant is attempting to fully rectify a past offense. This second scenario involves carefully weighing the facts and critically reviewing the Commission's recommendation. I believe there must be instances where a pardon is the proper course of action; otherwise, the rehabilitative aspect of our criminal justice system will be perceived as a meaningless exercise.

After a review of the full record before the Commission, and based on the totality of the circumstances, I hereby pardon Eric Robert Hinckley.

II. REQUEST FOR PARDON

The Applicant, age 37, seeks a pardon based on his solid track record as a productive member of society. Since his release, he has committed himself to a crime and drug free life. The Applicant would like to enroll in the physician's assistant program at Idaho State University, which is unlikely without this pardon.

III. HINCKLEY FACTUAL BACKGROUND

The Applicant was arrested after selling methamphetamine to a confidential informant as part of the Idaho Falls Drug Task Force.

IV. ANALYSIS

Because the instant application for pardon does not involve lingering questions of guilt or to address an anomaly in the judicial system, the decision whether to grant a pardon rests on a careful weighing of the record before the Commission. As I have reviewed the Commission's record, three essential factors aided in my decisionmaking process, including: the nature of the crime; likelihood of recidivism; and demonstration of personal rehabilitation. Those factors buttress my conclusion that the Applicant is genuinely penitent and rehabilitated for the crimes committed sufficient to warrant a gubernatorial pardon.

A. Nature of the Crime

As evidenced by Idaho Code § 20-240, the sale and delivery of a controlled substance is a serious offense. Owing to the fact that this particular crime is treated the same for clemency purposes with murder, manslaughter and rape further evinces the gravity of manufacturing and selling drugs.

To this end, nothing in this grant of pardon should be construed as any acceptance of this crime. I do not condone the sale or manufacture of illegal drugs. The instant application requires even closer scrutiny given the dedicated efforts my administration has made toward eliminating the scourge of methamphetamine from our state. Notwithstanding these concerns, there are some mitigating factors that weigh in favor of clemency under the instant application for pardon.

First, nothing in the record indicates the Applicant targeted children or was part of a larger drug operation. To be clear, even without juvenile involvement the Applicant's crimes are still extremely serious. Second, the record indicates that this was the Applicant's first and only arrest. The Applicant also does not contest his guilt and throughout the record expressed remorse for his crimes stating, "I realize the adverse consequences that my actions have had not only on myself, but my family and society, and have made every attempt to rectify those relationships." (Applicant's Pardon Application).

B. Likelihood of Recidivism

Another guiding principle in this analysis is the likelihood of recidivism. There are two important prongs to this consideration: (1) whether the Applicant has successfully completed his rehabilitation, including all necessary requirements for restitution; and (2) whether the Applicant has genuine remorse for the crimes committed.

Here, Mr. Hinckley's solid track record in completing his sentence devoid of any behavioral issues, completing all treatment programs as instructed by his supervising officer, and receiving an early discharge following payment of full restitution were persuasive in my analysis. For example, the Applicant's conditions of parole provide insight into the type of commitments that were necessary for his rehabilitation:

Remain alcohol and drug free. Do not enter any establishment where alcohol is the main source of income. Obtain a substance abuse evaluation at your own expense and as directed by supervising personnel and comply with all directives for treatment/counseling. Pay restitution as determined by the courts. You must make payment to the sentencing court for fines and other assessments, which were ordered at the time of sentencing. Establish and follow a payment schedule as determined by the parole officer. Do not associate with known felons (unless specifically allowed by the Commission or supervising personnel), persons involved in illegal activities, or other persons as identified by supervising personnel.

(Commission Minutes, Mar. 9, 2004).

More importantly, and according to the pardon investigator, "Mr. Hinckley appears to have established himself back into the community as a productive, law abiding individual. I could not find any records indicating that he has been or is involved currently in any illegal

behavior.” (Pardon Investigation, July 2, 2012). This background speaks volumes about his commitment to take the necessary steps to fully conform himself to the strictures of the law.

As stated previously, the Applicant has expressed genuine remorse for his crimes by stating to the Commission that “it was a bad time in my life and feel badly for what I’ve done.” Importantly, he committed to avoiding his friends from the past. (Commission Minutes, Mar. 9, 2004). Based on the evidence, I am convinced that the Applicant’s likelihood of recidivism is virtually non-existent.

C. Demonstration of a Rehabilitated Life

Lastly, the Applicant must demonstrate a commitment to a crime and drug free life. The Applicant demonstrates this through stability in his personal life as well as a show of community support.

The record clearly indicates that Mr. Hinckley has become a solid citizen. He has been married for eight years and is actively involved in raising their six year old son. The Applicant and his wife own their home and participate in their local home owners’ association. (Commission Minutes, Dec. 14, 2012). Stability in the family is crucial in developing the web of support necessary for living a crime and drug free life.

Mr. Hinckley’s work and education history are equally persuasive. Since 2004, the Applicant has been employed with Dale’s Auto Sales. In fact, his employer testified before the Commission stating “he has been a model employee – nine years at the end of this month.” (Commission Minutes, Dec. 14, 2012). Perhaps even more impressive, the Applicant honored his 2004 commitment to the Commission by obtaining a college degree, which he accomplished by graduating cum laude with a bachelor’s degree in health science from Boise State University in 2011. (Commission Minutes, Jan. 17, 2013). This commitment to excelling after facing significant adversity was compelling evidence in my analysis.

It is important to reinforce that the instant application does not in any way diminish my commitment to enforcing the drug laws of our state. There is no such thing as a victimless crime. As stated previously, however, I believe there is a point where the Applicant through his actions should be entitled to a full and fair review of his attempt to close this chapter in his life. Likewise, my expectation is the Applicant will continue to demonstrate a strong commitment to his family and community and enroll in the aforementioned program.

Based on the Commission’s unanimous recommendation, the investigator’s strong recommendation, and my review of the record, I am convinced that Mr. Hinckley has satisfied the demands of justice.

V. DECISION OF GOVERNOR OTTER

Based on the foregoing, the Applicant has met his burden of showing he appreciates the nature of his crime and that he has fully rehabilitated himself. Further, I am persuaded the Applicant has demonstrated a solid track record establishing that he is and will continue to be a productive member of society. I therefore conclude the Applicant has served his time and is entitled to close this chapter in his life.

By the authority vested in me, I, Governor C.L. "Butch" Otter grant Eric Robert Hinckley's application for full pardon.

DATED: April 8, 2013

STATE OF IDAHO
COMMISSION OF PARDONS AND PAROLE

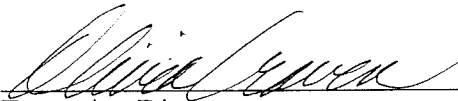
BEFORE THE IDAHO COMMISSION OF PARDONS AND PAROLE, BOISE,
IDAHO

IN THE MATTER OF THE PARDON OF ERIC ROBERT HINCKLEY, APPLICANT.

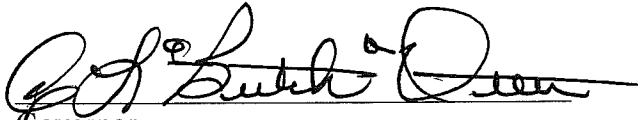
THE IDAHO COMMISSION OF PARDONS AND PAROLE, being fully
advised, completely and unconditionally pardons ERIC ROBERT HINCKLEY for the
commission of the crime of Felony Delivery of a Controlled Substance -Aid and Abet,
Case #CR2002-23118, for which he was sentenced on the tenth day of December, two
thousand and two, in the Seventh Judicial District Court, in the County of Bonneville,
State of Idaho.

SAID PARDON restoring to the applicant all civil, political, and other rights
enjoyed prior to the commission of the crime.

IT IS SO ORDERED this eighth day of April, two thousand and thirteen, in
Boise, Idaho.



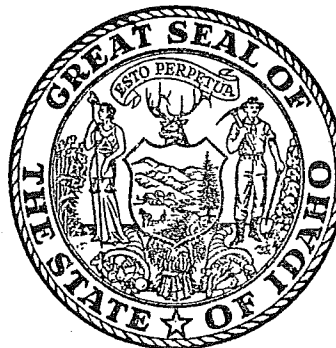
Executive Director
Parole Commission



Governor
State of Idaho



Idaho Secretary
of State



STATE OF IDAHO

COMMISSION OF PARDONS AND PAROLE

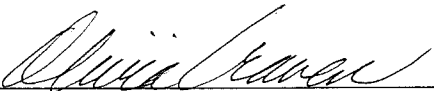
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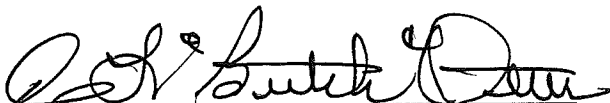
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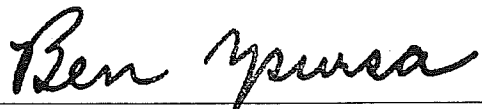
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Executive Director
Parole Commission



Governor
State of Idaho



Idaho Secretary
of State

