

**Minnesota Board of Pardons
Annual Report to the Legislature**

2011 Activity

Submitted by Randolph J. Hartnett, Secretary
Minnesota Board of Pardons
1450 Energy Park Drive, Suite 200
Saint Paul, Minnesota 55108-5219
Phone 651/361-7178
TTY 651/643-3589
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2011 LEGISLATIVE REPORT MINNESOTA BOARD OF PARDONS

Background

Pursuant to Minn. Stat. §638.075, the Minnesota Board of Pardons is required to file a written report with the legislature by February 15 of each year, summarizing the actions taken by the Board during the previous year.

The Minnesota Board of Pardons is made up of the Governor, the Chief Justice of the Supreme Court, and the Attorney General. The Board is granted the power, under Article V, Section 7, of the Minnesota Constitution and Minn. Stat. Chapter 638, to grant the following types of extraordinary relief to persons who have been convicted of crimes:

- *Pardon* – an act of forgiveness that exempts the convicted person from the punishment imposed by law.
- *Commutation* – the substitution of a lesser or different type of punishment for that imposed in the original sentence.
- *Pardon Extraordinary* – a statutorily-created relief granted to applicants who have served their sentence. When a pardon extraordinary is granted, the court is directed to issue an order setting aside the conviction and the applicant is no longer required to report the conviction, except in specific limited circumstances. The conviction remains on the applicant's criminal record, but the fact of a pardon extraordinary is also recorded.

2011 Notes

The two meetings of 2011 mark the beginning of Governor Mark Dayton's tenure with the Board of Pardons, as well as the participation of Corrections Commissioner Tom Roy.

Applications Requested

Under the law, the commissioner of corrections is responsible for administering the day-to-day activities of the Board through his or her designated staff. During 2011, administrative staff sent out **32** applications for pardons extraordinary or pardon/commutation, in response to requests. As in the past, when an inquiry for application is made, the staff makes every effort to determine whether the potential applicant meets the eligibility requirements before an application is sent. As a result, the number of applications returned due to ineligibility remains relatively low.

Waiver of Waiting Period: Pursuant to Minn. Stat. § 638.02, there is a waiting period of five years for general offenses and ten years for crimes of violence as defined in Minn. Stat. §624.712, subd. 5. This period is measured from the most recent date of final discharge. Over the years, as the collateral consequences of criminal conviction appear to have increased, there has also been an increase in the number of applicants seeking Waiver of the Waiting Period, which the statute permits upon the unanimous written consent of the Board. As was done last year, these applications were considered by the Board separately.

Decisions

The Board, which met on May 17 and November 9, considered **45** applications for pardons extraordinary and granted **17** during 2011. **Twenty-eight** applications for pardons extraordinary were denied. **Two** additional applicants withdrew or were deferred prior to consideration. **Eleven** additional applications were not considered because the Board declined to set aside the waiting period.

There were **nine** applications for pardon/commutation reviewed under Minn. R. 6600.0500 and, of these, **eight** were deemed to be ineligible for review by the Board based on criteria listed in the rule. As required by law, summaries of the applications and the basis for exclusion were presented to and ratified by the Board. The **one** application for commutation presented to the Board was denied.

Three requests for leave to re-apply were denied in 2011, and **one** was granted. That re-application was subsequently approved for a Pardon Extraordinary.

Other Activities

Board staff continues to do automated records checks in an effort to assist local law enforcement agencies screen potential job applicants. In 2011, staff checked records on **49** police employment and other permit applicants. This was down significantly since last year, reflecting, perhaps, the downturn in public budgets. Staff also responded to approximately **303** telephone inquiries.

APPLICATIONS RECEIVED AND ACTION TAKEN IN 2011

| <u>Type of Relief</u> | <u># of Applications</u> | <u>Not Eligible/Denied</u> | <u>Granted</u> |
|---|--------------------------|----------------------------|----------------|
| Pardon/Commutation Commutation | 9 | 9 | 0 |
| Pardon Extraordinary | 45 | 28 | 17 |
| Pardons Extraordinary Waiver of Waiting Period | 11 | 11 | 0 |
| Leave to Reapply | 4 | 3 | 1 |

PARDONS EXTRAORDINARY GRANTED IN 2011

| <u>Applicant</u> | <u>Offense/Age at Conviction</u> | <u>Date of Conviction</u> | <u>Granted</u> |
|------------------|----------------------------------|---------------------------|----------------|
| Folsom, Cale | 5th Degree Assault/19 | 10/16/1997 | 5/17/2011 |
| Gessner, Michael | Burglary/19 | 11/26/1996 | 5/17/2011 |

| | | | |
|--------------------|---------------------------------|------------|-----------|
| Hiemenz, John | Burglary 3rd Degree/19 | 2/4/1985 | 5/17/2011 |
| | Burglary 2nd Degree/19 | 2/4/1985 | 5/17/2011 |
| | Burglary 2nd Degree/19 | 2/4/1985 | 5/17/2011 |
| | Burglary 2nd Degree/19 | 2/4/1985 | 5/17/2011 |
| Hofstadter, Joseph | Theft by Swindle/36 | 2/11/1975 | 5/17/2011 |
| | Theft by Swindle/43 | 11/16/1982 | 5/17/2011 |
| Johnson, Dale | Aggravated Forgery/22 | 9/6/1983 | 5/17/2011 |
| MacIlravie, Ross | Burglary/18 | 10/13/1982 | 5/17/2011 |
| Peters, Bradley | Fleeing a Police Officer/22 | 2/5/1983 | 5/17/2011 |
| Williams, Angela | Theft/22 | 5/18/1999 | 5/17/2011 |
| Bench, Merle | Theft by Swindle/49 | 6/2/1989 | 11/9/2011 |
| Brandt, Marc | Simple Robbery/20 | 1/5/1995 | 11/9/2011 |
| Burrus, Nancy | Receiving Stolen Property/29 | 9/25/1974 | 11/9/2011 |
| Carlson, Kari | Theft/18 | 9/25/2006 | 11/9/2011 |
| Hawj, Risa | Check Forgery/20 | 2/25/1998 | 11/9/2011 |
| Lambert, Levenice | Drug Consp./Prohibited Acts/28 | 12/27/1993 | 11/9/2011 |
| Lewis, Wayne | Misdemeanor Theft/26 | 4/20/1982 | 11/9/2011 |
| Norbie, Kevin | Felony Theft/24 | 1/29/1991 | 11/9/2011 |
| Potter, Latwain | Illegal Acts/18 | 8/2/2000 | 11/9/2011 |
| | Disorderly Conduct/21 | 5/8/2003 | 11/9/2011 |
| | Furnishing Alcohol to Minors/21 | 9/12/2003 | 11/9/2011 |
| | Disorderly Conduct/21 | 11/26/2003 | 11/9/2011 |
| | Open bottle/Passenger/21 | 5/28/2003 | 11/9/2011 |
| | Failure to Provide Insurance/22 | 2/20/2004 | 11/9/2011 |