

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

2005 Activity

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2005 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.

Applications Requested

Under the law, the commissioner of corrections is responsible for administering the day-to-day activities of the Board through her designated staff. During 2005, administrative staff sent out **42** applications for pardons extraordinary and **14** applications for 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. Moreover, the number of completed applications returned is substantially lower than the number sent out.

Decisions

The Board, which met on March 30 and October 21, granted **fourteen** pardons extraordinary during 2005. **Two** applications for pardons extraordinary were denied, and **two** applications were not brought forward because additional convictions were disclosed during the course of investigation.

There were **ten** applications for pardon/commutation reviewed under Minn. R. 6600.0500 and, of these, **eight** were deemed to be ineligible based on criteria listed in the rule or preliminary review by the Board. As required by law, summaries of the applications and the basis for

exclusion were presented to and ratified by the Board. The Board heard **two** applications for pardon/commutation, including an application for commutation from an individual serving a life sentence and one for a general pardon from an applicant currently serving a long period of probation. Both were denied.

There were no requests for leave to re-apply in 2005.

Minn. Stat. §152.18 Case

One unique case presented a legal issue for the Board in 2005. An applicant who was a foreign national had been adjudicated under Minn. Stat. §152.18 for a minor drug offense. Because the applicant had successfully completed probation, the adjudication was deemed to not be a conviction under the statute and had been dismissed. In this case, however, the admission to the underlying facts required for §152.18 adjudication was deemed sufficient to form a basis for deportation by immigration authorities. The Board was presented with the problem that its constitutional and statutory authority is limited to granting clemency for “convictions.” The applicant was granted a pardon extraordinary conditional on a determination that the Board had the authority to grant clemency in this case. Ultimately, the Office of the Attorney General issued an opinion that the Board did have the authority under these unique circumstances and the applicant was granted a pardon extraordinary.

Change in Board Membership

In 2005, it was learned that the membership of the Board would change in 2006 with the retirement from the bench of Chief Justice Kathleen Blatz. Chief Justice Russell Anderson will join the Board for the new meeting.

Other Activities

Board staff continues to do automated records checks in an effort to assist local law enforcement agencies screen potential job applicants. In 2005, staff checked records on **645** police academy and other permit applicants. Staff also sent out **180** items of written and electronic correspondence in response to inquiries sent directly to the Board or referred by the Office of the Governor or commissioner of corrections; and responded to **381** telephone inquiries.

APPLICATIONS RECEIVED AND ACTION TAKEN IN 2005

<i>Type of Relief</i>	<i>Number of Applications</i>	<i>Not Eligible/Denied</i>	<i>Granted</i>
Pardon/Commutation Commutation	10	8/2	-0-
Pardon Extraordinary	18	2/2	14

PARDONS EXTRAORDINARY GRANTED IN 2005 (total of 14)

<i>Applicant</i>	<i>Year of Conviction</i>	<i>Crime(s)/Age at Conviction</i>	<i>Granted</i>
Ashley, Andrea	1999	Theft (misd.)/age 19	3/30/05
Bilderback, Roger	1985	Damage to Property (misd.)/age 24	10/21/05
Brikova, Rita	1997	5th Deg. Possession of Cocaine/age 18	3/30/05
Dottenwhy, Kevin	1976	Burglary/age 19	3/30/05
Haile, Mesfin	1996	Solicitation (misd.)/age 45	10/21/05
Kadi, Samar	1999	Theft (misd.)/age 45	10/21/05
Khan, Jameer	1998	Harassment (gross misd., 2 counts)/age 42	3/30/05
Lanhart, Paul	1983	Theft/age 22	3/30/05
Letofsky, Harold	1979	Drugs-Prohibited Acts/age 25	3/30/05
Ngo, Quang	1994	Check Forgery/age 18	10/21/05
Paulus, Mark	1989	Aggravated Robbery/age 37	3/30/05
Ruff, Rockford	1983	Burglary/age 19	10/21/05
Thurber, Danny	1976	Burglary/age 20	10/21/05
	1976	Burglary/age 20	“
	1976	Escape from Custody/age 21	“
Van Cleve, William	1970	Theft (petty)/age 18	10/21/05
	1972	Burglary (misd.)/age 19	“