

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MARION

State ex rel

DOUGLAS R. MARTEENY, District Attorney for Linn County, Oregon, and PATRICIA W. PERLOW, District Attorney for Lane County, Oregon, on behalf of all Oregonians,

) **AFFIDAVIT OF**
) **DOUGLAS R. MARTEENY**
) **IN SUPPORT OF PETITION FOR**
) **ALTERNATIVE WRIT OF**
) **MANDAMUS**
) No.: 22CV02609

AND

RANDY TENNANT, an individual victim; SAMUEL WILLIAMS, an individual victim; AMY JONES, an individual victim, MELISSA GRASSL, an individual victim, Plaintiff-Relators,

v.

KATHERINE BROWN, Governor of the State of Oregon; COLETTE PETERS, Director of Oregon Department of Corrections; OREGON DEPARTMENT OF CORRECTIONS; DYLAN ARTHUR, Executive Director of Oregon Parole Board and Post-Prison Supervision; MICHAEL HSU, Chairperson of Oregon Parole Board and Post-Prison Supervision; OREGON PAROLE BOARD AND POST-PRISON SUPERVISION; JOE O'LEARY, Director of Oregon Youth Authority; OREGON YOUTH AUTHORITY

Defendants-Respondents.

AFFIDAVIT OF DOUG MARTEENY

I, Douglas R. Marteeny, being first duly sworn, state as follows:

I have personal knowledge of the matters set forth herein and say the following to the best of my knowledge.

1. I am the District Attorney for Linn County.
2. In 2020, I was informed by the Oregon District Attorneys Association that the Governor was considering commuting a large number of sentences of criminals currently in Department of Corrections (DOC) custody.
3. Periodically, in 2020 and 2021, I was provided a list of individuals that DOC was considering to recommend to the Governor for commutation. These lists came to be referred to as “rounds” of people to be considered by the Governor. (The term “rounds” was used in my correspondence with the DOC.) **(Ex. 1)**
4. As this new process for commutation consideration developed, I was provided with a form from DOC Entitled “Potential Sentence Commutation Feedback Form” (Feedback Form.) The form had specific fields for me to fill in to provide feedback. **(Ex. 2)**
5. I would receive an e-mail from DOC providing the Feedback Form. In that e-mail DOC would often provide a deadline for me to provide feedback. The timeline for me to provide feedback was usually very short. (For example, in Ex. 2, the deadline was 8 days which included a weekend.)

6. The Feedback Form asked me not to respond “UNLESS YOU HAVE CONCERNS WITH THE POTENTIAL COMMUTATION OF THE ABOVE AIC’s SENTENCE.” **(Id.)**

7. The Feedback Form provided to me did not inquire or request feedback or statements from crime victims. **(Id.)**

8. The DOC requested that all filled out feedback forms be returned to the DOC.

9. My office objected to almost every commutation that the DOC asked for our feedback on.

10. On at least one occasion after one of my objections, the DOC asked for additional information from me to supplement my objection. I provided additional information they requested. **(Ex. 3)**

11. I inquired, and would receive periodic updates from the DOC as to which of the AICs being considered for commutation were ultimately granted a commutation. **(Ex 4)**

12. The process for commutation review described above was followed in 2020 and 2021 at least through May 21, 2021. There were at least 6 rounds of review of AIC names during that time period. These 6 rounds of commutation review were referred to as “COVID related” commutations and “Wildland Firefighter” commutations. COVID-19, and assisting in fighting forest fires in Oregon were the reasons provided as to why these 6 rounds of commutations were made. On July 6, 2021, I was informed by the DOC that the Governor has decided to not move forward with additional COVID related commutations at this time. **(Ex 5)**

13. In those 6 rounds of commutations, Linn County had over 50 AICs sentences commuted.

14. Later in October 2021, I was informed by the Oregon District Attorney's Association that the Governor had granted additional commutations. This time, sentences of juvenile offenders had been commuted. It was identified that there were two rounds of juvenile commutations. The first round of juvenile commutations had already been granted. I was told that this first round of juvenile commutations didn't release the juveniles, but attempted to set up a system where they will appear before the parole board for further review and the Parole Board will ultimately determine whether they will be released early. From what I could tell from the materials provided to me by the Oregon District Attorneys Association, Linn County did not have any offenders on this first round of juvenile offender commutations.

15. I was also informed that there is a second list of juvenile offenders that would be eligible for early release through commutation once they have first served 50% of their sentence. Once 50% of the sentence has been served, they will then be eligible to appear before the Parole Board to be considered for early release. It appears that Linn County has 6 juvenile offenders on that list.

16. For the 6 rounds of AIC commutations listed above, and the 2 rounds of juvenile commutations described, I have not received any applications from the offenders themselves, as required by ORS 144.650.

17. After many of the commutations describe above were granted and AICs returned to our communities in Linn County. Some of them returned to committing crimes.

18. I was informed by a representative of the Governor's office that all of the commutations granted were "conditional" commutations and that the Governor maintained the power to revoke the commutations.

19. Subsequent to these commutations, a commutation recipient, shortly after being released, committed new crimes. I inquired with a representative of the Governor's office what the process was for a conditional commutation to be revoked. The Governor's representative responded that they would be happy to discuss a particular case over the phone. (Ex. 6)

20. I prepared a written request to revoke a commutation that had been granted to, Pablo Francisco, a commuted AIC that had committed a number of new crimes shortly after his commutation release. (Ex 7) I have since been informed that Mr. Francisco's commutation had been revoked by the Governor.

21. Based upon the above, I do not believe that the Governor has complied with the commutation process outlined in ORS 144.650.

22. Additionally, by granting juvenile commutations in a manner that sets up a new parole board process not reflected in the original sentence judgments, the Governor has attempted to grant a commutation that adds a penalty process, to wit: Parole Board hearing and oversight that previously had not been ordered. However, ORS 144.649 only allows the Governor's commutation to "remit" a penalty, not add a sanction. The commutation power does not grant the Governor the ability to establish a new alternative penalty of being subject to a Parole Board hearing and oversight. In this way, and the other ways cited above, I believe the

Marteeny, Doug

From: Marteeny, Doug
Sent: Monday, January 25, 2021 10:47 AM
To: Beechert, Robin
Subject: FW: Commutations - ROUNd 4

From: Hansen Jon M <Jon.M.Hansen@doc.state.or.us>
Sent: Friday, January 22, 2021 4:39 PM
To: Marteeny, Doug <dmarteeny@co.linn.or.us>
Subject: RE: Commutations - ROUNd 4

Good Afternoon Mr. Marteeny,

Here is the list of individuals in Round 3 and Round 4 that have been approved by Governor Brown for Linn County. Please let me know if you have any other questions.

AIC Name	id_number	RACE	GENDER	crimety	crime
FRIESE, SHAWN	11482412	WHITE	MALE	STAT	POSSESSION METH
GRAY, KATRINA	14563637	WHITE	FEMALE	STAT	DRIVE SUSPEND/REVOKED FELO NEW
HASTIE, LAREE	10809415	WHITE	FEMALE	PROP	THEFT I
HOUSING, ROGER	12848563	WHITE	MALE	STAT	FAIL TO APPEAR I
JOHNSON, GARY	16585918	WHITE	MALE	PROP	THEFT I
KAMAREC, DAVID	22266898	WHITE	MALE	PROP	BURGLARY II
LOCKHART, HOWARD	5434783	WHITE	MALE	STAT	FIREARM - FELON POSSESS
MCLAUGHLIN, TYLER	20552973	WHITE	MALE	PROP	IDENTITY THEFT
MILLER, TRAVIS	16349153	WHITE	MALE	STAT	FIREARM - FELON POSSESS
NUNN, SHELBI	17181951	WHITE	FEMALE	STAT	DELIV HEROIN
RITTER, ANTHONY	23547218	WHITE	MALE	PROP	IDENTITY THEFT
ROBB, ELIJAH	12984480	WHITE	MALE	PROP	BURGLARY I
SAYLOR, KENNETH	17166524	WHITE	MALE	STAT	POSSESSION METH
STARKS, CLINTON	17173514	WHITE	MALE	STAT	FIREARM - FELON POSSESS
TERWILLIGER, MOLLY	19281470	AMER INDIAN	FEMALE	STAT	FORGED INSTRUMENT-CRIM POSS I
WAGNER, CHRISTOPHER	15667523	WHITE	MALE	STAT	FIREARM - FELON POSSESS
WILCOX, RICHARD	4865160	WHITE	MALE	STAT	DELIV HEROIN

Best,

Jon Hansen
Operations and Policy Analyst 3
Community Corrections Division
Oregon Department of Corrections

503-930-5071 (call or text)

Jon.m.hansen@state.or.us

From: Hansen Jon M
Sent: Thursday, January 21, 2021 9:54 AM
To: Marteeny Doug <dmarteeny@co.linn.or.us>
Subject: RE: Commutations - ROUNd 4

Good Morning Mr. Marteeny,

The Governor approved a majority of the original commutations for Round 4 last Friday. I am working on the list to notify all the DA's and will have it to you by tomorrow.

Please let me know if you need anything else,

Jon

From: Marteeny Doug <dmarteeny@co.linn.or.us>
Sent: Thursday, January 21, 2021 9:48 AM
To: Hansen Jon M <Jon.M.Hansen@doc.state.or.us>
Subject: Commutations - ROUNd 4

Mr. Hansen,

I am just checking in, have decisions been made on the list of round 4 potential commutations for Linn County?

Thank you for any information you can provide.

Sincerely,

Doug Marteeny

Marteeny, Doug

From: Marteeny, Doug
Sent: Thursday, September 3, 2020 9:53 AM
To: 'Hansen Jon M'
Subject: RE: Potential Commutation for September 28, 2020

From: Hansen Jon M <Jon.M.Hansen@doc.state.or.us>
Sent: Friday, August 28, 2020 1:41 PM
To: Marteeny, Doug <dmarteeny@co.linn.or.us>
Subject: Potential Commutation for September 28, 2020


We are working with the Governor's Office to identify adults in the Department of Corrections' (DOC's) custody that could possibly be considered for sentence commutation due to vulnerability to COVID-19.

Based on initial criteria, the following adult in custody (AIC) has been identified as a potential candidate to release on or about September 28, 2020.

If you have objections to this commutation based on *an unacceptable safety, security or compliance risk to the community*, please:

- Reply to this email no later than noon, on Friday, September 4th.
- Complete the **Responder's Info** in the lower portion of the form. **(in yellow)**

Please **do not** respond to this email unless you have issues or concerns commuting this sentence.



Potential Sentence Commutation Feedback Form

Adult in Custody (AIC) Being Considered for Sentence Commutation			
Name	SCOTT, JASON	SID	15039723
Current Release Date	11/1/2020	% of sentence served	95%
Crime Type	PROP	Crime of Conviction:	UN USE VEH
County	LINN		

DO NOT RESPOND UNLESS YOU HAVE CONCERNS WITH THE POTENTIAL COMMUTATION OF THE ABOVE AIC's SENTENCE

Responder's Info

Name DOUGLAS MARTEENY County: LINN

Email dmarteeny@co.linn.or.us

I am with: District Attorney's Office

Please provide any safety, security, or compliance risk information you have regarding commuting the above AIC's sentence:

This defendant is only 33 years old. However, he has established a reputation for being a safety and compliance risk for our community. In his short life he has been convicted of the following crimes:

Assault-3, with a weapon

Theft-2

Burglary-2

Theft-1

Escape-2

Unlawful Use of Vehicle, Defendant stole someone's motorcycle

Unlawful Use of Vehicle, Stole and A.T.V. and sold it

Burglary-2, Broke into shed and stole someone's ATV and motorcycle

Burglary-1, Broke into home and stole guns and a motorcycle

Unlawful Use of Vehicle, Defendant stole someone's motorcycle

Burglary-2, Broke into a trailer and stole an ATV.

Theft-2, Def. found in possession of property that had been stolen from deceased person.

Assault-4 (felony), In front of 5 yo, Def. strangles, assaults, and threatens his intimate partner with a knife, threatening to kill her.

Poss. Meth

Failing to Appear

Additionally, this defendant has multiple arrests for failing to appear in court as required. He has numerous parole and probation violations as well. His actions have shown he consistently will not comply with the law or supervision. He is a terrible risk to release back into our community early.

Marteeny, Doug

From: Marteeny, Doug
Sent: Thursday, February 11, 2021 2:49 PM
To: Moya Raymond A
Subject: RE: AIC Weis, David #12133604
Attachments: Weis Judgment.pdf

Thank you for the inquiry.

Mr. Weis committed an assault-3 and Robbery back in 2009. I believe he was convicted of that in 2010 That is where he broke into someone's home and robbed them. One perpetrator assaulted a resident with a golf club, the other had a shotgun. That case was Linn County Case 10010173. The conviction for that case is attached here. Mr. Weis has an Assault-4 conviction from 2000. However, it appears that may have been a municipal conviction. I do not have access to those records. The conviction shows up on Mr. Weis' LEDS printout that we ran on him.

Thanks,
Doug Marteeny

From: Moya Raymond A <Raymond.A.Moya@doc.state.or.us>
Sent: Thursday, February 11, 2021 10:06 AM
To: Marteeny, Doug <dmarteeny@co.linn.or.us>
Subject: AIC Weis, David #12133604

Good morning, we are in the middle of the review for the above AIC for commutation. I have the paperwork that you sent in expressing concerns. One of the items you mentioned about was an Assault 4 conviction which I found to be in 2010. I was not able to find any information in E-Court based on this assault so I was thinking this was through Municipal Court. If that is so, would you happen to have at least the information sheet for this case or the indictment that I can get over to our director's office to review.

We are hoping to have this ASAP.

Thank you for your time



Raymond Moya

Administrative Specialist 1/Lead Worker
Correctional Services Division | Program & Business Services
Oregon Department of Corrections
2575 Center Street NE Salem, OR 97301
Phone: 503-378-3829 Available by Skype
Work Cell: 503-991-3416



Marteeny, Doug

From: Hansen Jon M <Jon.M.Hansen@doc.state.or.us>
Sent: Tuesday, March 2, 2021 5:01 PM
To: Marteeny, Doug
Subject: RE: Round 5 Commutation Removals
Attachments: Linn County Commutations Rounds 0-4.xlsx

Hello Mr. Marteeny,

I have been working on a tracking sheet for all the DA's. Keeping these straight is harder than I first imagined. I just completed the Rounds 0-4 compilation project yesterday. I have attached the Linn County DA. Please let me know if you find any errors.

Have a great day!

Jon

From: Marteeny Doug <dmarteeny@co.linn.or.us>
Sent: Tuesday, March 2, 2021 3:47 PM
To: Hansen Jon M <Jon.M.Hansen@doc.state.or.us>
Subject: RE: Round 5 Commutation Removals

Thank you for the update.

I have tried to track these as well. Would you be able to let me know whether the following Linn County inmates were commuted from previous rounds:

If they were, would you be able to let me know their release dates.

Alejandro Arciniega (Round 1?)
Jason Scott (Round 1?)
James Moffatt (Round 1?)
Owen Mercier (Round 1?)
Jerome Reynolds (Round 1?)

Raymon Carra (Round 3)
Andrea Gali (Round 3)
Christopher Hurt (Round 3)
Carrie Johnson (Round 3)
Christopher Kaufmann (Round 3)
Isaac Sanchez (Round 3)
Matthew Wood (Round 3)

Thanks
Doug Marteeny

From: Hansen Jon M <Jon.M.Hansen@doc.state.or.us>
Sent: Tuesday, March 2, 2021 3:26 PM

To: Marteeny, Doug <dmarteeny@co.linn.or.us>

Subject: RE: Round 5 Commutation Removals

I missed a few of the identifying cells. My apologies.

Round	Type	id_number	fname	lname	RACE	GENDER	projected_release_date	COUNTY	crime
5	6 month	6994094	STEPHEN	GREGORY	WHITE	MALE	10/22/2021	LINN	FIREAR
5	6 month	14738679	BRIAN	JOHNSON	WHITE	MALE	09/19/2021	LINN	POSS
5	6 month	12725167	KENNETH	LANE	WHITE	MALE	10/25/2021	LINN	UNAU
5	Vulnerable	6907618	RICHARD	OGBIN	WHITE	MALE	10/31/2021	LINN	BURGL

From: Hansen Jon M

Sent: Tuesday, March 2, 2021 3:07 PM

To: Marteeny Doug <dmarteeny@co.linn.or.us>

Subject: Round 5 Commutation Removals

Good Afternoon,

DOC has reviewed the Round 5 Commutations and the list below is the individuals who will not be forwarded to Governor Brown or have been removed from the list for other reasons. (Captured in the Notes column)

lname	RACE	GENDER	projected_release_date	COUNTY	crime	case_number
GREGORY	WHITE	MALE	10/22/2021	LINN	FIREARM - FELON POSSESS	20CR28579/01
JOHNSON	WHITE	MALE	09/19/2021	LINN	POSSESSION METH	20CR23711/02
LANE	WHITE	MALE	10/25/2021	LINN	UNAUTHORIZED USE VEHICLE	20CR39628/01
OGBIN	WHITE	MALE	10/31/2021	LINN	BURGLARY II	19CR32982/01

Please let me know if you have any questions,

Jon Hansen
Operations and Policy Analyst 3
Community Corrections Division
Oregon Department of Corrections

503-930-5071 (feel free to call or text)

Jon.m.hansen@state.or.us

Marteeny, Doug

From: Marteeny, Doug
Sent: Monday, April 19, 2021 2:37 PM
To: Beechert, Robin
Subject: FW: Round 5 Commutation Approvals

From: Hansen Jon M <Jon.M.Hansen@doc.state.or.us>
Sent: Tuesday, March 09, 2021 1:46 PM
To: Marteeny, Doug <dmarteeny@co.linn.or.us>
Subject: Round 5 Commutation Approvals

Good Afternoon,

I wanted to let you know that Governor Brown has approved for commutation individuals from the Round 5 list. Below is the individuals from your county that are approved. Both the type of commutation and the potential week of release is listed on the spreadsheet. Some individuals are still being reviewed by Governor Brown. These are annotated as "Pending Governor Approval."

Round	Commutated Status	Type	SID	Name	RACE	GENDER	R
5	3/25/2021	Vulnerable	17772653	MARKER, ANTHONY	WHITE	MALE	
5	3/25/2021	6 month	13568377	BAGG, JOSEPH	WHITE	MALE	
5	3/25/2021	Vulnerable	12133604	WEIS, DAVID	WHITE	MALE	
5	3/25/2021	Vulnerable	20178256	PUGH, BRADLEY	WHITE	MALE	
5	3/25/2021	Vulnerable	17910962	CRUME, VEDA	WHITE	FEMALE	
5	3/25/2021	Vulnerable	18780638	GRAY, CHRISTOPHER	WHITE	MALE	
5	3/25/2021	6 month	20226435	RAMIREZ, ANGEL	WHITE	MALE	
5	3/25/2021	Vulnerable	14545932	FRANCISCO, PABLO	HISPANIC	MALE	
5	4/1/2021	Vulnerable	23334283	MATZ, CHERISE	WHITE	FEMALE	
5	4/29/2021	6 month	20195402	HALL, ANTHONY	WHITE	MALE	
5	4/29/2021	6 month	18453368	SIMMONS, JOSHUA	WHITE	MALE	
5	Pending Governor Approval	Vulnerable	21154361	MCGUIRE, DALLAS	WHITE	MALE	

As a reminder, in order to be released on a commutation, the individuals need to have secured appropriate housing approved by the community corrections office. This means that they will stay in prison until appropriate housing is found and accepted OR their normal projected release date occurs and they are released to PPS.

Please let me know if you have any questions,

Jon Hansen
Operations and Policy Analyst 3
Community Corrections Division
Oregon Department of Corrections

503-930-5071 (feel free to call or text)

Jon.m.hansen@state.or.us

Marteeny, Doug

From: HANSEN Jon M * DOC <Jon.M.Hansen@doc.state.or.us>
Sent: Friday, May 21, 2021 7:50 AM
To: DL OACCD Director's and Delegates; Baxter Greg; Haroldson John M; Wentworth John; Brown Ron; jeff.auxier@co.columbia.or.us; Frasier R P; Whiting Wade L; Spansail Joshua; John.Hummel@dcda.us; Wesenberg Rick L; Weatherford Marion; Carpenter Jim; Hughes Ryan; Rasmussen Carrie; Heckert Beth; Leriche Steven; jeastman@co.josephine.or.us; Costello Evelyn; Martin Ted; Perlow Patricia W; Danforth Lane; Marteeny, Doug; Goldthorpe David; Clarkson Paige; Nelson Justin; Schmidt Mike; Felton Aaron; McLeod Wade; Porter William; Primus Daniel; McDaniel Kelsie; Frolander Rebecca; Ellis Matthew; Barton Kevin; Ladd Gretchen; Berry Bradley C; Yung-Jen Wu Michael
Subject: Future Covid Related Commutation Rounds have been paused

Good Afternoon,

The Department of Corrections has been informed that Governor Brown has decided to not move forward with additional COVID related commutations at this time.

Those individuals that have already been approved for Commutation (in Rounds 0-6) will continue to be released on their commutation release date.

The individuals who were identified as part of the Wildland Firefighter Group are still under review by the Governor.

We want to thank you for your cooperation during this endeavor.

Jon Hansen
Operations and Policy Analyst 3
Community Corrections Division
Oregon Department of Corrections

503-930-5071 (call or text)

Jon Hansen
Operations and Policy Analyst 3
Community Corrections Division
Oregon Department of Corrections

503-930-5071 (call or text)

Jon.m.hansen@state.or.us

Using [Microsoft Teams](#)? Click [here](#) to chat with me on Microsoft Teams.

Guyer, Amy

From: GLEIM Kevin * GOV <Kevin.GLEIM@oregon.gov>
Sent: Monday, November 8, 2021 8:04 AM
To: Marteeny, Doug
Subject: RE: Governor Commutations
Attachments: 6.25.21 Clemency Letter.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

DA Marteeny,

I have provided responses below.

Thank you,
Kevin

Kevin Gleim | Public Records and Special Projects Attorney
Office of Governor Kate Brown
(503) 378-6246

From: Marteeny, Doug <dmarteeny@co.linn.or.us>
Sent: Wednesday, November 3, 2021 4:02 PM
To: GLEIM Kevin * GOV <Kevin.GLEIM@oregon.gov>
Subject: Governor Commutations

Mr. Gleim,

Thank you for fielding our questions today. You provided your e-mail address to follow up with my questions. Thank you. The questions I have are as follows:

- 1) May I be provided with a copy of the report that the Governor provided to the legislature reporting on how many commutations the Governor has provided?
Attached is the letter that the Governor sent to the legislature. I also provided this document to Michael Wu.
- 2) Since January 2020, how many commutations are not reflected in that report? This will help me answer the questions that I receive locally which are: how many commutations has the Governor handed down.
The attached report to the legislature answers your question in part, because it includes all commutations through June 2021. Our office compiles this clemency information and prepares a similar report at the end of each legislative session, so we will have additional information that we can send you early next year. I'd be happy to send that information your way, if it would be helpful.
- 3) You mentioned that the commutations are conditional and can be revoked. How do we submit a request that a particular commutation be revoked?
If either now or later you have a question about a particular case from Linn County, I am happy to discuss with you by phone.
- 4) You indicated that you are aware of the instances when commuted individuals commit new crimes. May I also receive a list of how many of these commuted individuals have committed new crimes?

I can look into getting information for you. In the meantime, if you have a question about a particular individual from Linn County, I would be happy to discuss specifics with you over the phone.

Thank you for your assistance.

Doug Marteeny

Marteeny, Doug

From: GLEIM Kevin * GOV <Kevin.GLEIM@oregon.gov>
Sent: Friday, November 12, 2021 4:43 PM
To: Marteeny, Doug
Subject: RE: Governor Commutations

Thank you. I will let you know as soon as a decision is made. I appreciate you promptly passing this along.

Have a good weekend,
Kevin

Kevin Gleim | Public Records and Special Projects Attorney
Office of Governor Kate Brown
(503) 378-6246

From: Marteeny, Doug <dmarteeny@co.linn.or.us>
Sent: Friday, November 12, 2021 2:49 PM
To: GLEIM Kevin * GOV <Kevin.GLEIM@oregon.gov>
Subject: RE: Governor Commutations

Mr. Gleim,

Here is my formal request to revoke Mr. Francisco's commutations in entirety.

Thank you for your consideration.

Doug Marteeny

From: GLEIM Kevin * GOV <Kevin.GLEIM@oregon.gov>
Sent: Wednesday, November 10, 2021 10:08 AM
To: Marteeny, Doug <dmarteeny@co.linn.or.us>
Subject: RE: Governor Commutations

Thank you for your message. Given that Mr. Francisco committed a new crime and is back in custody as a result, the Governor is already considering revoking his conditional commutation. Please send the correspondence directly to me so I can make sure it is timely considered in this process.

Kevin

Kevin Gleim | Public Records and Special Projects Attorney
Office of Governor Kate Brown
(503) 378-6246

From: Marteeny, Doug <dmarteeny@co.linn.or.us>
Sent: Wednesday, November 10, 2021 8:05 AM

To: GLEIM Kevin * GOV <Kevin.GLEIM@oregon.gov>
Subject: RE: Governor Commutations

Thank you.

I left a message on your phone message regarding Mr. Pablo Francisco who was commuted on UUV charges. I am asking that his conditional commutation be revoked in its entirety. Mr. Francisco got out and committed another UUV. I'll follow up with a letter providing the details.

Doug Marteeny

From: GLEIM Kevin * GOV <Kevin.GLEIM@oregon.gov>
Sent: Monday, November 8, 2021 8:04 AM
To: Marteeny, Doug <dmarteeny@co.linn.or.us>
Subject: RE: Governor Commutations

DA Marteeny,

I have provided responses below.

Thank you,
Kevin

Kevin Gleim | Public Records and Special Projects Attorney
Office of Governor Kate Brown
(503) 378-6246

From: Marteeny, Doug <dmarteeny@co.linn.or.us>
Sent: Wednesday, November 3, 2021 4:02 PM
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Subject: Governor Commutations

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Attached is the letter that the Governor sent to the legislature. I also provided this document to Michael Wu.

- 2) Since January 2020, how many commutations are not reflected in that report? This will help me answer the questions that I receive locally which are: how many commutations has the Governor handed down.

The attached report to the legislature answers your question in part, because it includes all commutations through June 2021. Our office compiles this clemency information and prepares a similar report at the end of each legislative session, so we will have additional information that we can send you early next year. I'd be happy to send that information your way, if it would be helpful.

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If either now or later you have a question about a particular case from Linn County, I am happy to discuss with you by phone.

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Thank you for your assistance.

Doug Marteeny



LINN COUNTY DISTRICT ATTORNEY

County Courthouse, Fourth & Broadalbin Streets
Post Office Box 100, Albany, Oregon 97321
Telephone (541) 967-3836 • FAX (541) 928-3501

DOUG MARTEENY
District Attorney

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COLEEN E. GERDA
JONATHAN CROW
CONOR MCCAHILL
MICHAEL PAUL
LINDY BROWNBACK
JESSICA L. COONEY
RYAN LUCKE
ALEX OLENICK
DOUGLAS R. PRINCE

Victim Services
541-967-3805

November 10, 2021

Governor Kate Brown
C/O Kevin Gleim, Special Projects Attorney
Office of Governor Kate Brown
900 Court Street NE, Suite 254
Salem, OR 97301

Director, Colette Peters
Department of Corrections
2575 Center Street NE
Salem, OR 97301

Governor Brown and Director Peters,

Mr. Pablo Sebastian Francisco was sentenced on January 15, 2020 on two separate cases involving Unauthorized Use of a Vehicle. Between those two cases, he was sentenced to serve 30 months in Department of Corrections (DOC) custody. Unfortunately, Mr. Francisco was granted a commutation over my objection (Ex. 1.) Within a short while after his release from DOC custody, Mr. Francisco committed the same crime again. Additionally, he drove 50-60 mph in a 25 mph residential neighborhood, blowing through stop signs, all while intoxicated. When caught and put into a jail cell, he smeared his own excrement on the jail cell walls. I have included a copy of the P.C. Affidavit for this newest case. (Ex 2.)

Mr. Francisco has now been convicted for those new crimes and has been sent back to prison. Because Mr. Francisco's commutation was a conditional one, I am requesting that you now revoke his previously granted commutation in its entirety requiring that the previous sentences not run concurrent with his newest one. Additionally, with this letter, I am asking that the DOC also revoke and deny Mr. Francisco all reduction in sentence calculations. The evidence presented here shows that Mr. Francisco is not worthy of those reductions and they should not be granted to him.

If you have further questions, or would like to discuss this further, please do not hesitate to inquire.

Sincerely,

Doug Marteeny
District Attorney, Linn County

Enclosures

PLEASE DO NOT RESPOND UNLESS
YOU HAVE CONCERNS TO SHARE WITH THE GOVERNOR'S OFFICE
REGARDING THIS POTENTIAL COMMUTATION

We are collecting information for the Governor's Office to identify adults in the Department of Corrections' custody who may be considered for sentence commutation due to vulnerability to COVID-19 or are within six months of release.

Based on initial criteria, the following adult in custody (AIC) has been identified as a potential candidate to release on or about .

If you have a direct objection to the commutation based on a specific community safety concern related to the criminal case or specific supervision issues, please complete the Responder's Info in the lower portion of the form (in yellow) and return the form by reply email.



Potential Sentence Commutation Feedback Form

Adult in Custody (AIC) Being Considered for Sentence Commutation

Name Pablo Sebastian Francisco SID 14545932

Current Release Date 9/14/2021 Proj. Week of Commutation 3/25/2021 # Days Releasing Early 173

Crime(s)

PROP	164135	UNAUTHORIZED USE VEHICLE
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**DO NOT RESPOND UNLESS YOU HAVE CONCERNS
WITH THE POTENTIAL COMMUTATION OF THE ABOVE AIC's SENTENCE**

Responder's Info

Name Douglas Marteeny County: Linn

Email dmarteeny@co.linn.or.us

I am with Community Corrections District Attorney's Office

Please provide community safety concerns related to the criminal case or specific supervision issues.

A consideration of Pablo Francisco for commutation must include a review of the crimes for which he has been convicted previously: Robbery in the Third Degree (Probation Revoked), Assault in the Fourth Degree (Probation Revoked), Assault in the Fourth Degree, Menacing, Felon in Possession of a Firearm (Sentenced to Prison), Tampering with Physical Evidence, Burglary in the First Degree, (Sentenced to Prison), Attempted Assault of a Public Safety Officer, Unlawful Entry Into a Motor Vehicle, Computer Crime, Reckless Driving, Reckless Endangering Another Person, Reckless Endangering Another Person, Assault in the Fourth Degree, Unauthorized Use of a Vehicle (Sentenced to Prison – Currently Under Consideration for Commutation), Unauthorized Use of a Vehicle (Sentenced to Prison – Currently Under Consideration for Commutation). The result of the defendant's criminal conduct is he is an "A" on the

Oregon Administrative Rules Sentencing Guidelines. That is the most aggravated posture a defendant may have in terms of prior criminal history. The case in which Mr. Francisco is currently under consideration for commutation is his third prison sentence. Eight of his fifteen criminal convictions are for crimes against other people. One of those cases for which he has been convicted, but where it is not a person crime, is an instance where he broke into his parent's neighbor's home to steal property. His mother had to call the police to report his crime after she physically tried to get him to stop the theft. He's serving the present prison sentence after, in two separate and distinct incidents, driving and using in vehicles recently stolen from two separate victims. He is 36 years old. Mr. Francisco, at this point in his life, poses a risk to the community that could otherwise be avoided if he were to finish out the remainder of his sentence.

Committed 3-25-21

STATE OF OREGON)
) SS.
COUNTY OF LINN)

PROBABLE CAUSE AFFIDAVIT

I, the undersigned police officer, after first being duly sworn upon oath, do hereby affirm that the following information is true to the best of my knowledge and belief:

Arrestee: Francisco, Pablo Sebastian Date of Birth: 08/01/1984
Master ID#: 139724

Alleged Crime(s): Felony Elude in Vehicle(ORS 811.540(1A), Misdemeanor Elude on Foot(ORS 811.540(1B), Unauthorized Use of Motor Vehicle(ORS 164.135), Possession of Stolen Vehicle(ORS 819.300), Reckless Driving(ORS 811.140), Reckless Endangering(ORS 163.195), Criminal Mischief II(ORS 164.354), DUII(ORS 813.010), DWS Misdemeanor(ORS 811.182)

Date of Crime: 05/16/2021

Location of Crime in Linn County: 1122 2nd Avenue Southeast, Albany, Linn County, Oregon

Victim of Crime: Massingale, John Lee DOB: 06/13/1961, Albany Police Department

Arresting Agency: Albany Police Department

Albany Police Case Number: 21-03115

Arresting Officer: D. Hofmann

Arrest Date & Time: 05/16/2021 0244 hours

Booking Date & Time: 08/03/2020 0317

Submitted by: David Hofmann  Date: 05/16/2021

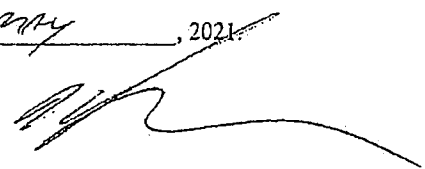
Summary of Probable Cause: On 05/16/2021, at approximately 2019 hours, I was dispatched to a Attemptt to Locate DUII call on Santiam Highway and Goldfish Farm Road in Albany, Linn County, Oregon. Dustin Smith reported there was a small white vehicle swerving all over the road. Dustin reported the vehicle almost went off the road several times and he was concerned the vehicle was going to hit someone head on. Dustin reported he was unable to keep up with the vehicle because it was now speeding at approximately 70 mph. The area Dustin was reporting this was a posted 45 mph zone. Dustin reported he lost site of the vehicle as it crossed over the Interstate 5 overpass east on Santiam Highway. Dustin provided the license plate which was Washington plate BIE210. Albany Police Dispatch advised this came back to a stolen Ford Fiesta white in color. Dispatch later confirmed the vehicle was stolen.

I located the vehicle eastbound on Santiam Highway and it turned north onto Waverly Drive. The vehicle failed to maintain lane and it would slow down and speed up. I followed it for several blocks and observed the vehicle continue to vary its speed. I activated my emergency lights in attempt to stop the vehicle and it continued at a low rate of speed and the driver would act like he was going to pull over then take off again. The driver took off northbound on Geary Street towards Salem Avenue at approximately 50 mph.

The driver blew through the stop sign at the intersection of Geary Street and Salem Avenue and almost hit a truck that was eastbound on Salem Avenue. The driver then turned westbound on 2nd Avenue and blew through several stops signs at approximately 50 to 60 mph in a residential neighborhood which is a 25 mph zone. The driver then turned into a driveway near the 1100 block of SE 2nd Avenue and bailed from the car and ran on foot. The driver tried to run into the front door of 1120 Salem Avenue SE but the door was locked. The driver was taken into custody and identified as Pablo Francisco. Pablo's eye's were bloodshot and watery and his speech was slurred. Officer Corbett advsied me that he could smell an odor of an alcoholic beverage coming from Pablos's person as he was trying to interview him. Sgt. Corbett also advised me that he observed Pablo's speech was slurred and his eyes were bloodshot and watery. Pablo was not compliant when transported back to the Albany Police Department. Pablo was placed in a holding cell. While in the holding cell, Pablo was wiping feces from his groin area and throwing the toilet paper all over the floor and walls of the cell. I have probable cause to charge Pablo with the above listed crimes.

SUBSCRIBED AND SWORN to before me this 16th day of May, 2021.

Release Officer / Notary Public for Oregon, my commission expires



FINDINGS

October 20, 2023

{ } I find probable cause exists to believe the arrestee committed the following crime(s).

CHARGES:

{ } I find insufficient probable cause exists based upon the information provided herein.

Judge: _____ Date: _____ Time: _____

