

IN THE CIRCUIT COURT OF THE STATE OF OREGON

FOR THE COUNTY OF MARION

State ex rel)	AFFIDAVIT OF
)	PATRICIA W. PERLOW IN SUPPORT
DOUGLAS R. MARTEENY, District)	OF PETITION FOR ALTERNATIVE
Attorney for Linn County, Oregon, and)	WRIT OF MANDAMUS
PATRICIA W. PERLOW, District)	
Attorney for Lane County, Oregon, on)	No.: <u>22CV02609</u>
behalf of all Oregonians,)	

AND

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

Plaintiffs-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 PATRICIA W. PERLOW

I, Patricia W. Perlow, being first duly sworn, state as follows:

1. I have personal knowledge of the matters set forth herein and, if called as a witness, can competently testify thereto.

2. I am the District Attorney for Lane County.

3. As to her clemency order dated October 20, 2021, Governor Kate Brown provided no notice to me or my staff, as required by Oregon law.

4. I learned of the Governor's October 20, 2021 Commutation Order from the media.

5. Prior to the issuance of the October 20, 2021, Commutation Order, I was not, nor was any person in my office, notified in the customary clemency application manner, as set out in ORS 144.650. As such, I was not able to provide notice to the victims, nor was I able to participate in the clemency process, as I customarily do.

6. The individuals listed in the October 20, 2021, Commutation Order were granted clemency without any input from me or my staff. Seven of the individuals listed in the order were convicted in Lane County of violent crimes committed in Lane County.

7. I became the Lane County Chief Deputy in 2009 and was appointed District Attorney August 1, 2015. From 2009 until late 2019, I, or my staff, routinely received clemency applications directly from applicants in accordance with ORS 144.650. We were notified by the Governor's staff as to those applications where the Governor was considering clemency, well before clemency was granted to an applicant.

8. If my office had an ongoing relationship with the victim of any applicant for clemency, or the victim requested all updates on any activity, we would make contact to advise

the victim that the application had been received, but that we had not heard from the Governor on whether she was considering the application and seeking input. If we did not have that ongoing relationship with the victim, we would wait to contact the victim until we had an indication from the Governor's office that she was actually considering clemency and seeking input. In that case, we would then notify the victim, by letter, of the opportunity to provide input to the Governor, also by letter. My staff and I would provide police reports and a letter on our position to the Governor directly, often after a phone call with a member of the Governor's staff. The Governor's assigned staff person and my office conferred regularly to have property offenders evaluated for appropriateness for an intense supervision program as a condition of clemency.

9. Grants of clemency were a relatively rare event until late 2019.

10. In early 2020, I observed a trend began where my office was not notified of all clemency actions in the customary manner as in the years 2009 to 2019. I also observed a remarkable increase in clemency orders from the Governor, not only for property crime offenders, but for violent offenders as well.

11. In the 2020 to 2021 commutations referred to as the "COVID-19 vulnerable" adults in custody (AIC), there were several AICs commuted by Governor Brown without the traditional notifications my office and I rely upon. Because most felons categorized as "COVID-19 vulnerable" did not submit clemency applications, my office did not receive applications. Additionally, the Governor's office did not notify me or my staff that the Governor was considering clemency actions, before she made her decision, as was done in previous years, and as required by law. As a result, there were several AICs commuted without the necessary input

from my office and the affected victims. Notifications came after commutations were already ordered.

12. There are several AICs from the “Firefighter Commutations” ordered in 2021 that were convicted in Lane County. For these AICs, my office did not receive proper notification and opportunity to provide input to the Governor before she granted commutations.

13. I object to the continuing failure of the Governor to adhere to the laws protecting transparency and processes which afford law enforcement officers and victims the opportunity to inform the Governor, case-by-case, as to the nuances of each convicted felon’s circumstances and impact in the community. As to the early release of several of the “COVID” and “Firefighter” felons, I object on the basis that law enforcement officers and victims were not heard and because several felons released present a continuing danger to our communities.

14. On December 28, 2021, the Department of Corrections Post-sentence report writer, Jean Bergen, sent a letter to me requesting my input to the Oregon Department of Corrections, Post-Sentence Report, for the Board of Parole and Post-Prison Supervision (Board) pursuant to ORS 144.185 and ORS 144.397; however, those statutes do not apply to the AIC in question because he was convicted of a violent crime he committed on October 10, 2000. The statute DOC referenced does not apply to crimes committed before January 1, 2020.

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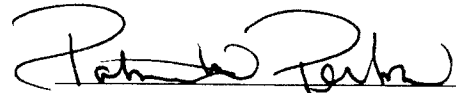
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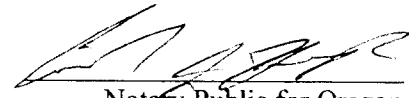
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THIS CONCLUDES MY AFFIDAVIT.

DATED: January 18, 2022.


Patricia W. Perlow
District Attorney, Lane County

SUBSCRIBED AND SWORN to before me, Connor J. Harrington,
a Notary Public, this 18th day of January, 2022.


Notary Public for Oregon

