



November 22, 2021

Sent via E-Mail to Brandon Flood, Secretary (bflood@pa.gov)

The Honorable John Fetterman
Lieutenant Governor of Pennsylvania
Chair, Pennsylvania Board of Pardons
333 Market Street, 15th Floor
Harrisburg, PA 17126

Re: Recommendation of PBA On Pennsylvania Pardon Process

Dear Chairman Fetterman:

I write as President of the Pennsylvania Bar Association, which has over 20,000 members drawn from every county in the Commonwealth. As our bylaws state, our mission is “to serve as the organization most broadly representative of the members of the bar of this commonwealth.” Our mission also includes this important charge: “to support and promote the equal administration of justice for all and that no one on account of poverty be denied their legal rights.” It is in furtherance of both these missions that I write this letter to you.

Last week, our Association acting through its Board of Governors and House of Delegates, endorsed a Recommendation submitted by our Legal Services to the Public Committee that advocates for changes to the process utilized by the Pennsylvania Board of Pardons in considering applications for clemency submitted by low-income persons. In particular, the Recommendation *calls on the Pennsylvania Board of Pardons, the Lieutenant Governor, and the Governor to cease requesting, investigating, or considering outstanding fines, court costs, and/or fees in the consideration of an application for executive clemency by individuals without the ability to pay and, in particular, making the full payment thereof a condition precedent to obtaining a Merit Review hearing on such applications.*

Since February 2019, the pardon process in Pennsylvania has been almost completely reformed thanks to your efforts. Changes in the form and the procedure have made the process far more accessible, and lawyers from around the Commonwealth are now providing pro bono service to help low-income individuals apply for the second chance that only a pardon can provide. We applaud and thank you for your vision and many actions that have so improved the pardon system.

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The enclosed Recommendation addresses the decision of the Board of Pardons to use unpaid court fines, fees and costs from an applicant's underlying criminal court convictions as a criterion in deciding if or when to allow the hearings necessary for clemency. It stands in direct opposition to all your, and our, efforts to separate poverty from punishment, and to all other actions of the Board of Pardons to accelerate clemency for those who have clearly demonstrated that they have turned their lives around and deserve a second chance.

We acknowledge that, earlier this month, you removed from your website the notice that **“the full balance [of such unpaid fines, fees and costs] must be paid prior to the scheduling of your Merit Review Hearing”** [emphasis in the original], which had been posted eight months ago. But removal of a notice was not our objective; rather, we seek the commitment that the Board will always perform its duties in ways that will not prejudice anyone because of their poverty. Put simply, indigency should never be used to slow, restrict, condition, or deny any person the ability to present their case to any tribunal that has the power to “do justice” in our Commonwealth.

The Recommendation I present to you today received very broad support from our Association. Before its final consideration, after being submitted by the legal Services to the Public Committee, it was endorsed by the Family Law Section, the Commission on Women in the Profession, the Civil and Equal Rights Committee, the Corrections System Committee, the Judicial Administration Committee, and the Minority Bar Committee. It was then approved unanimously by our Board of Directors and by over 87% of our House of Delegates, which is the body charged with setting the policy of our Association.

On behalf of our whole Association, I thank you for your consideration of this Recommendation and the single voice of so many with which it is presented to you.

Sincerely,

A handwritten signature in blue ink that reads "Kathleen D. Wilkinson". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Kathleen D. Wilkinson

KDW/dkt

c: Honorable Tom Wolf
Honorable Josh Shapiro
Honorable Harris Gubernick
Honorable John P. Williams, MD
Honorable Marsha H. Grayson