

Scott William Faul
Reg. No. 04564-059 K3 Unit
Federal Correctional Institution
P.O. Box 1000
Sandstone, MN 55072



04564-059
Rudy Davis
PO BOX 2088
Forney, TX 75126
United States

Rudy Davis
P.O. Box 2088
Forney, TX 75126



ST 0230 PM '91
MON 24 JUL 2023 04



July 18, 2023

Scott William Faul
Reg. No. 04564-059
F.C.I. Sandstone
P.O. Box 1000
Sandstone, MN 55072

Rudy Davis
P.O. Box 2088
Forney, TX 75126

Re: Case No. 22-cv-2993-MJD-JFD

Dear Rudy,

I pray that this finds you all well and blessed. For your own information, and to use in whichever way you wish, I have enclosed 103 pages of copies of relevant parts of the habeas corpus I submitted back on November 28, 2022. I have not included the government's exhibits, as they show nothing to the point of my claims. If you see any of their exhibit citations that interest you, I can supply copies of those exhibits to you if you wish.

The order of enclosed copies is: my November 28, 2022 PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 (9 unnumbered pages) with "ATTACHMENT TO STATEMENT OF GROUNDS" (7 pp.), the ADMINISTRATIVE REMEDY requests along with their responses, in chronological order, which together formed the basis of this petition (9 pp.), and Exhibit A thru Exhibit C-004 (11 pp.); then, the government's RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 [w/o exhibits] (17 pp.); and then my Petitioner's Reply In Support Of Petition For Writ Of Habeas Corpus Pursuant To 28 U.S.C. § 2241 (11 pp.) with Reply Exhibit A-001 thru Reply Exhibit G (39 pp.) [103 pp. total on 53 pieces of paper, front and back]. I am awaiting the Court's ruling in this matter, and will send to you any further substantive documents as they become available.

I also have another habeas corpus petition, submitted on May 10, 2023, regarding the latest unlawful activity perpetrated by the Parole Commission against me. That has not yet been responded to by the government. When that occurs, and I have replied to their response, then I will send copies of its relevant portions to you also.

Sincerely,


Scott William Faul

Enc: 103 pages, as stated

Decision or Action You Are Challenging

5. What are you challenging in this petition:

How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

Pretrial detention

Immigration detention

Detainer

The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)

Disciplinary proceedings

Other (explain): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: See attached BP-8, BP-9, BP-10, and BP-11.

(b) Docket number, case number, or opinion number: 1110972

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

Improper calculation of sentence: See attached BP-8, BP-9, BP-10, and BP-11.

(d) Date of the decision or action: See attached responses of the BP's 8-11.

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: See attached BP's 8-11.

(2) Date of filing: See attached BP's 8-11.

(3) Docket number, case number, or opinion number: 1110972

(4) Result: See attached responses of BP's 8-11.

(5) Date of result: See attached responses of BP's 8-11.

(6) Issues raised: See attached BP's 8-11.

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court: _____
 - (2) Case number: _____
 - (3) Date of filing: _____
 - (4) Result: _____
 - (5) Date of result: _____
 - (6) Issues raised: _____
- _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court: _____
 - (2) Case number: _____
 - (3) Date of filing: _____
 - (4) Result: _____
 - (5) Date of result: _____
 - (6) Issues raised: _____
- _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: _____
(b) Date of the removal or reinstatement order: _____
(c) Did you file an appeal with the Board of Immigration Appeals?

Yes No

If "Yes," provide:

- (1) Date of filing: _____
(2) Case number: _____
(3) Result: _____
(4) Date of result: _____
(5) Issues raised: _____

- (d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If "Yes," provide:

- (1) Name of court: _____
(2) Date of filing: _____
(3) Case number: _____

- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
- _____
- _____
- _____
- _____
- _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
- (b) Name of the authority, agency, or court: _____
- _____
- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____
- _____
- _____
- _____
- _____
- _____
- _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Improper calculation of sentence.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

See attached "ATTACHMENT TO STATEMENT OF GROUNDS."

(b) Did you present Ground One in all appeals that were available to you?

Yes

No

GROUND TWO:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Two in all appeals that were available to you?

Yes

No

GROUND THREE:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Three in all appeals that were available to you?

Yes

No

GROUND FOUR: _____

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

Yes

No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: WHEREFORE, Petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

November 28, 2022

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: November 28, 2022

Scott William Faul

Signature of Petitioner

Signature of Attorney or other authorized person, if any

ATTACHMENT TO STATEMENT OF GROUNDS

1. In March of 2022, the United States Parole Commission attracted national media attention when Berkeley Law professor Charles Weisselberg revealed that the Commission had lost track of the number of "old law" prisoners (i.e., prisoners sentenced prior to 1984) left in its system. NPR, Morning Edition, March 18, 2022, 5:02 AM ET.

2. If the Parole Commission has lost track of the prisoners in its system, then it stands to reason that the Commission may have also lost track of some of these prisoners' sentences -- particularly prisoners with more complex sentences.

3. Petitioner Scott Faul is an "old law" prisoner with a complex sentence and it appears that the Commission has lost track of his sentence. Faul has served all of the time required by his sentence; indeed, Faul has overserved his sentence. Faul is entitled to immediate release.

4. Faul's position is consistent with Hearing Examiner Samuel Robertson's statements at Faul's December 30, 2002 parole hearing, in which Robertson stated that Faul could expect to be released about ten years from the date of that hearing.

5. Faul's position is established by examining Faul's sentence, interpreting the mandatory parole provision of 18 U.S.C. § 4206(d), and applying § 4206(d) to Faul's sentence.

I. Faul's sentence consists of a life term followed by consecutive terms of ten and five years.

6. Scott Faul is serving the following sentence: (a) two

concurrent life terms; (b) four concurrent ten-year terms running consecutively to the life terms; (c) a consecutive five-year term; and, (d) a five-year term running concurrently with all other terms.

II. The mandatory parole provision of § 4206(d) requires Paul to serve two-thirds of all of the consecutive terms in his sentence or thirty years on any life term, whichever is less.

7. As an "old law" prisoner, Paul is entitled to the "mandatory parole" provision of 18 U.S.C. § 4206(d), which provides in relevant part:

[A] prisoner ... shall be released on parole after having served two-thirds of each consecutive term or terms, or after serving thirty years of each consecutive term or terms of more than forty-five years, including any life term, whichever is earlier....

18 U.S.C. § 4206(d).

8. Thus, Paul is entitled to release after having served the lesser of: (a) two-thirds of each consecutive term in his sentence; or, (b) thirty years on each greater than 45-year consecutive term in his sentence.

III. As applied to Paul's sentence, § 4206(d) requires Paul to serve thirty years before he is entitled to mandatory parole, which he has done, and Paul is entitled to immediate release.

9. In Paul's case, two-thirds of each consecutive term in his sentence (terms of life, ten, and five years) is essentially just a life sentence because two-thirds of a life sentence is still life.

10. On the other hand, for Paul, thirty years of each consecutive term in excess of forty-five years in his sentence is

thirty years, as there is only one term in Faul's sentence in excess of forty-five years, i.e., the concurrent life terms.

11. Under § 4206(d), Faul is entitled to release on parole after serving thirty years in prison because, for Faul, thirty years is the lesser of the two options provided by § 4206(d). This is how Faul was advised by his attorney at sentencing, this is what Faul's case manager and records officer told him when he started his term of imprisonment at Leavenworth, and it is what Faul's sentence computation documents have shown for much of his sentence.

12. Faul completed his thirtieth year in the Federal Bureau of Prisons (and was thus entitled to mandatory parole) on February 14, 2013 -- over nine years ago. Faul has served over 39 years and 9 months of his term of imprisonment. Faul is entitled to immediate release.

IV. Even under the Bureau of Prisons' recent reinterpretation of § 4206(d), Faul is entitled to immediate release.

13. The Federal Bureau of Prisons has recently taken the position that § 4206(d) requires Faul to serve forty years before he is entitled to mandatory parole. The Bureau of Prisons reaches this result by interpreting § 4206(d) to require Faul to serve two-thirds of any consecutive terms less than 45 years AND 30 years on any terms longer than 45 years. Under this interpretation, Faul would be required to serve 30 years on his life term plus ten years (which is two-thirds of the 15 years represented by the remaining 10-year and 5-year terms) for a total of 40 years before he is entitled to mandatory parole.

14. That interpretation should be rejected by the Court because it conflicts with the disjunctive structure of § 4206(d) (i.e., shall be released after having served _____ OR _____, whichever is earlier). The disjunctive structure creates two options for mandatory parole eligibility and the Bureau of Prisons' reinterpretation of § 4206(d) impermissibly combines the two options for release on parole into a single path.

15. That interpretation also renders the "whichever is earlier" language mere surplusage, as it would leave the language without any operative effect.

16. But even under that interpretation, Faul is entitled to immediate release. This is so because the Bureau of Prisons has lost track of the fact that Faul has fully served his ten-year and five-year terms ("15") and has no need to be paroled from those terms. Indeed, Faul cannot even be paroled from those terms; i.e., the clear language in § 4206(d) limits its provisions to any prisoner who "is not earlier released...." See 18 U.S.C. § 4206(d).

17. More specifically, Faul's judgment provides that he first serves his concurrent life terms. Faul was paroled off of his life terms on February 14, 2013, when he served the thirty years on those two concurrent life terms as required by § 4206(d). Then he started serving the consecutive ten-year and five-year terms.

18. Faul has served an amount of time on the ten-year and

five-year terms of his sentence, inclusive of good-time credits, to have completed those terms without resorting to mandatory parole of those two terms. Therefore, § 4206(d) has no relevance to those terms.

19. Beginning on February 14, 2013, upon automatic parole from the life term, Faul became entitled to Statutory Good Time (SGT) credits on the remaining consecutive 15 years at a rate of ten (10) days per month which are deducted from those consecutive terms of his sentence pursuant to 18 U.S.C. § 4161. Thus, Faul would have to serve a total of 10 years of the remaining 15 years if no other good-time credits were earned.

20. Regarding such other good-time credits, Faul's "Sentence Monitoring Good Time Data As Of 11-18-2022" reflects that Faul has accumulated 6 plus years of Extra Good Time (EGT) credits, i.e., precisely 2238 days. See Sentence Monitoring Good Time Data printout, attached hereto as Exhibit A.

21. According to Faul's calculations, the day on which Faul had earned enough EGT to fully serve the ten-year and five-year terms was October 28, 2017, the day on which Faul's accumulated EGT (1936 days) equaled the number of days remaining on those terms after accounting for SGT.

22. Said again, even under the Bureau of Prisons' new interpretation of § 4206(d), Faul was paroled by operation of law off of his life terms to the remaining terms of his sentence and Faul has served an amount of time on the remaining consecutive ten-year and five-year terms, inclusive of good-time credits, to

have fully completed his sentence many months ago.

23. Just as the government has lost track of the number of "old law" prisoners in the federal system, so too has it lost track of Faul's sentence -- and in particular the possibility that Faul could, and did, complete the consecutive ten-year and five-year terms in his sentence by just serving them, inclusive of earned good-time credits, versus needing to be paroled from them.

24. The Bureau of Prisons' systems for tracking the sentences of "old law" prisoners were created in the 1970's and, based on the dwindling number of "old law" prisoners, the Bureau has limited incentive to invest in system updates.

25. However the Court interprets § 4206(d), Faul has significantly overserved his sentence. He is entitled to immediate release.

V. Other considerations.

26. At Faul's 2002 initial parole hearing, Hearing Examiner Samuel Robertson, acknowledging that Faul was not a threat to society, stated:

So, you could serve another 5 to 10 years in custody before the commission will act to release you ... Not because probably you are any kind of threat to the community or any of these other kinds of things ... be like, um, the chances of you doing anything illegal if you were released today is virtually nil. Um, they would probably never hear a squeak out of you again. I'm sure you're not a risk. That's not the issue. It's accountability.

Excerpt from Transcript of 2002 Parole Hearing, Exhibit B attached hereto, at page 004.

27. This excerpt and other excerpts from Faul's 2002 initial parole hearing are summarized on a pamphlet prepared by Faul's son-in-law and daughter. The pamphlet, which helps explain the political context of Faul's imprisonment, is attached hereto as Exhibit B.

28. Attached as Exhibit C are selected letters submitted to the Parole Commission in support of Faul's parole. Those letters were submitted by: Verna Gleason, a juror in Faul's case; Steve Schnabel, a member of the Medina, North Dakota Police Department who was injured during the law enforcement encounter; Darrell Graf, Police Chief of Medina, North Dakota who was also involved in the encounter; and Bernie and Grace Huss, shopkeepers in Sykeston, North Dakota who were familiar with Faul's character. Those letters provide background about this case.

29. Faul has served the additional years that Examiner Robertson said he would serve and many more than that. Faul has significantly overpaid his debt to society. Faul is entitled to immediate release.

(Continued from front)

from my life terms of imprisonment to the remaining ten-year and five-year terms, having served 30 years on my life terms as of 2013. See 18 U.S.C. § 4206(d).

I have served an amount of time on my ten-year and five-year terms to have completed those terms of imprisonment as well. Accordingly, there is no basis for the BOP to continue holding me.

The BOP needs to obtain the parole certificate with respect to my life terms of imprisonment. Based on my understanding and experience in the BOP, obtaining the parole certificate will allow the BOP to perform the sentence calculations which will allow the BOP to confirm what I have stated above.

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From:	Faul, Scott W.	04564-059	K-3	F.C.I. Sandstone
	LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A- INMATE REQUEST As I stated in my BP-8, I am requesting immediate release. I am an old-law prisoner and was sentenced to consecutive life, ten and five-year terms of imprisonment. By operation of law, I am paroled from my life terms of imprisonment to the remaining ten-year and five-year terms, having served 30 years on my life terms as of 2013. See 18 U.S.C. § 4206(d). I have served an amount of time on my ten-year and five-year terms to have completed those terms of imprisonment as well. Accordingly, there is no basis for the BOP to continue holding me. The staff's reply to my BP-8 is unresponsive and contrary to law. The 30-year aspect of § 4206(d) most certainly does apply to my life term of counts 1 and 2 by mandating parole from "each consecutive term ... or after serving thirty years ... including any life term...." Parole from the life term of counts 1 and 2 occurred by operation of law on 2-14-2013 when the Commission did not oppose the presumptive parole. No further parole is being sought by me. I demand to serve all of the remaining counts 5, 6, 7, 8, 9, and 11. Pursuant to Policy Statement 5880.30, the BOP was obligated to calculate my release date by manually adjusting a Date Computation Began (DCB) as of the parole from my life term. When the BOP does so, it will have the correct release date for me - many months ago.

2-17-22
DATE

Scott Faul
SIGNATURE OF REQUESTER

Part B- RESPONSE

FCI Sandstone
FEB 17 2022
Warden's Office

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 1110972-FI
CASE NUMBER: 1110972-FI

Part C- RECEIPT

Return to:	Faul, Scott	04564-059	K-3	SST
	LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

SUBJECT: 131
02-18-22
DATE

[Signature]
RECIPIENT'S SIGNATURE (STAFF MEMBER)



REQUEST FOR ADMINISTRATIVE REMEDY
PART B - RESPONSE

CASE NO.: 111097-F1-F1

This is in response to your Request for Administrative Remedy received February 18, 2022. You indicate that your Life sentence should have expired after 30 years, paroling you to the remaining 10-year and 5-year terms for which you were sentenced. You request your sentence be re-calculated to reflect the expiration of your Life sentence so the United States Parole Commission may grant presumptive parole.

A review into this matter reveals that you appealed this matter with the US Parole Commission on August 14, 2018. The Parole Commission stated, "The National Appeals Board addresses both of your claims that (1) you are eligible for mandatory parole and (2) that there has been an error in computing your sentence together. Under 28 C.F.R. § 2.53 mandatory parole is available to prisoners serving life terms after completion of 30 years of each life term they are serving. You have been sentenced to (1) a term of Life plus 15 years for the offenses 2nd Degree Murder of Federal Officers & Aiding and Abetting and (2) Forcibly Assaulting & Impeding Federal Officer by Deadly Weapon. Your two-thirds date is currently calculated by the Bureau of Prisons as February 14, 2023, and you are not currently eligible to be considered for Mandatory Parole."

Additionally, your sentence computation was reviewed by the Designation and Sentence Computation Center (DSCC). Sentry calculation of your two-thirds date is based upon the term of your sentences, and is not calculated manually. The current two-thirds date of both sentences is February 14, 2023; however, that is not a guaranteed release date. The Parole Commission will make that determination at your two-thirds hearing, which is scheduled to occur approximately 9 months prior to your two-thirds date. At that time, the Parole Commission may grant you a parole date.

In view of the above, your Request for Administrative Remedy is denied. If you are dissatisfied with the above findings, you may submit a Regional Appeal via Form BP-230(13), to the Regional Director, Federal Bureau of Prisons, North Central Regional Office, Gateway Complex Tower II, 8th Floor, 400 State Avenue, Kansas City, Kansas 66101-2492 within twenty (20) calendar days from the date of this response.


J. Fikes
Warden

03-09-2022
Date

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: Faul, Scott W. 04564-059 K-3 F.C.I. Sandstone
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL As I stated in my BP-8, I am requesting immediate release. I am an old-law prisoner and was sentenced to consecutive life, ten and five-year terms of imprisonment. By operation of law, I am paroled from my life terms of imprisonment to the remaining ten-year and five-year terms, having served 30 years on my life terms as of 2013. See 18 U.S.C. § 4206(d). I have served an amount of time on my ten-year and five-year terms to have completed those terms of imprisonment as well. Accordingly, there is no basis for the BOP to continue holding me. The staff's reply to my BP-8 is unresponsive and contrary to law. The 30-year aspect of § 4206(d) most certainly does apply to my life term of counts 1 and 2 by mandating parole from "each consecutive term ... or after serving thirty years ... including any life term..." Parole from the life term of counts 1 and 2 occurred by operation of law on 2-14-2013 when the Commission did not oppose the presumptive parole. No further parole is being sought by me. I demand to serve all of the remaining counts 5, 6, 7, 8, 9, and 11. Pursuant to Policy Statement 5880.30, the BOP was obligated to calculate my release date by manually adjusting a Date Computation Began (DCB) as of the parole from my life term. When the BOP does so, it will have the correct release date for me - many months ago. The non-responsive BP-9 ignores that I demand to serve the "15" portion of my "life + 15" sentence. As I stated, the BOP is obligated to determine my statutory release date for the "15" portion of my sentence by "manually adjusting" its DCB.

3-15-2022

DATE

Scott Faul

SIGNATURE OF REQUESTER

Part B - RESPONSE

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: _____

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: _____

DATE

SIGNATURE, RECIPIENT OF REGIONAL APPEAL



Administrative Remedy Number: 1110972-R1

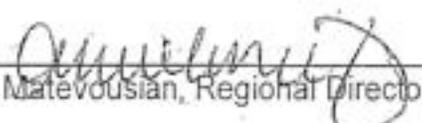
This is in response to your Regional Administrative Remedy Appeal received in this office on March 21, 2022, in which you claim that you are an old law prisoner and sentenced to consecutive life, ten, and five-year terms imprisonment. Additionally, you claim that per Program Statement 5880.30, Sentence Computation Manual/Old Law/Pre CCCA 1984, the Bureau of Prisons (BOP) is obligated to calculate your release date by manually adjusting the Date Computation Began as of the parole from the life term of imprisonment. For relief, you are requesting an immediate release.

We have reviewed your appeal and the Warden's response dated March 9, 2022. Per Program Statement 5880.30, Sentence Computation Manual/Old Law/Pre CCCA 1984, "Any prisoner, serving a sentence of five years or longer [emphasis added], who is not earlier released under this section or any other applicable provision of law, shall be released on parole after having served two-thirds of each consecutive term or terms, or after serving thirty years of each consecutive term or terms of more than forty-five years including any life term, whichever is earlier: Provided, however, that the Parole Commission shall not release such prisoner if it determines that he has seriously or frequently violated institution rules and regulations or that there is a reasonable probability that he will commit any Federal, State or local crime." The Judgment rendered in Case No. C3-83-16-01 on June 24, 1983, indicates a Life sentence with an additional 15 years to be served consecutively resulting in an aggregated term in effect of Life. A Notice of Action on Appeal provided to you on August 14, 2018, indicates due to your Life plus 15 years sentence, your two-thirds date has been calculated by the BOP to be February 14, 2023, and you are not currently eligible to be considered for Mandatory Parole. In your case, the Parole Commission will conduct a review of your case approximately 9 months prior to the two-thirds date, which is May 2022. A Notice of Action provided to you on May 9, 2018, outlines these conditions. You have not paroled from the Life sentence to the consecutive 15-year sentence as you claim. Your sentence computation has been calculated in accordance with all applicable federal statutes and Bureau of Prisons' policy.

Based on the above information, your Regional Administrative Remedy Appeal is for informational purposes only.

If you are dissatisfied with this response, you may appeal to the Office of General Counsel, Federal Bureau of Prisons, 320 First Street, NW, Washington, DC 20534. Your appeal must be received in the Office of General Counsel within 30 days from the date of this response.

5-3-2022
Date


Andre Matevosian, Regional Director

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-229(13) and BP-230(13), including any attachments must be submitted with this appeal.

From: <u>Paul, Scott W.</u>	<u>04564-059</u>	<u>K-3</u>	<u>F.C.I. Sandstone</u>
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

Part A - REASON FOR APPEAL

As I stated in my BPs 8, 9, and 10, I am requesting immediate release. I am an old-law prisoner and was sentenced to consecutive life, ten and five-year terms of imprisonment. By operation of law, I am paroled from my life terms to the remaining ten-year and five-year terms, having served 30 years on my life terms as of February 14, 2013. See 18 U.S.C. § 4206(d). I have served an amount of time on my ten-year and five-year terms, inclusive of the good time earned on those terms after having been paroled from the life terms, to have completed those terms as well. Accordingly, there is no basis for the BOP to continue holding me. The replies to my BPs 8, 9, and 10 are non-responsive and contrary to law. The BP-10 response states that I "have not paroled from the life sentence to the consecutive 15-year sentence," but cites no authority for that statement. That statement conflicts with § 4206(d), which provides that, because the Commission did not meet (or even attempt to meet) its burden of overcoming my presumptive parole, I was paroled from the life terms as of 2-14-2013, having served 30 years on them. The BP-10 further states that I am "not currently eligible to be considered for Mandatory Parole." This statement ignores that I was paroled from my life terms by operation of law as of 2-14-2013 and have served an amount of time on my "15" to have completed that term as well. The concept of "mandatory parole" thus has no relevance to my life terms (already paroled) or my "15" (already served). The BOP may verify my position by manually adjusting a Date Computation Began (DCB) as of the parole from my life terms. See Policy Statements 5880.30 and 5880.28. When it does so, it will have the correct release date for me - many months ago.

5-23-2022
DATE

Scott W. Paul
SIGNATURE OF REQUESTER

Part B - RESPONSE

RECEIVED

JUN 15 2022

Administrative Remedy Section
Federal Bureau of Prisons

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 1110972A1

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____	_____	_____	_____
LAST NAME, FIRST, MIDDLE INITIAL	REG. NO.	UNIT	INSTITUTION

SUBJECT: _____

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL



Administrative Remedy No. 1110972-A1
Part B. Response

This is in response to your Central Office Administrative Remedy wherein you state you are an old law inmate sentenced to life plus 15-year term of imprisonment and you served 30-years of your life sentence as of February 14, 2013. You also claim per the Program Statement 5880.30, Sentence Computation Manual/Old Law/Pre CCCA 1984, the Bureau of Prisons (Bureau) is obligated to calculate your release date manually by adjusting the Date Computation Began (DCB) from the parole date of your life sentence. For relief, you request to be immediately released.

On June 24, 1983, The United States District Court, District of North Dakota, sentenced you to a Life sentence with an additional 15-years to be served consecutive resulting in an aggregated term in effect of Life for Second Degree Murder of Federal Officers and Aiding and Abetting (counts 1&2), Forcibly Assaulting and Impeding Federal Officers by Use of a Deadly Weapon and Aiding and Abetting (counts 5,6,7 & 8), Harboring and Concealment of Fugitive and Aiding and Abetting (count-9), and Conspiracy to Assault (count 11).

On January 16, 2003, (and corrected on February 26, 2003) a Notice of Action (NOA) was issued to you by the United States Parole Commission (USPC) ordering you to continue for a 15-year reconsideration hearing in December 2017. On March 19, 2003, the National Appeals Board affirmed the order. On December 12, 2017, the USPC held a hearing and on March 13, 2018, a NOA was issued to you to continue your 15-year reconsideration until the next available docket. On April 16, 2018, the USPC held a hearing and on May 9, 2018, a NOA was issued to you to continue your sentence until expiration. If the two-thirds date of your sentence (30-years in the case of a sentence of 45-or more) precedes the mandatory release date calculated by the Bureau, the Parole Commission will conduct a record review of your case approximately 9-months prior to the two-years thirds date. On August 14, 2018, the USPC issued you a NOA that the National Appeals Board affirmed the previous decision to continue you to expiration of sentence. Due to your Life plus 15-year sentence your two-thirds date calculated by the Bureau is February 14, 2023.

Program Statement 5880.30, Sentence Computation Manual/Old Law/Pre CCCA 1984, "Any prisoner, serving a sentence of five years or longer [emphasis added] who is not earlier released

Administrative Remedy No. 1110972-A1

Part B. Response

Page 2

under this section or any other applicable provision of law, shall be released on parole after having served two-thirds of each consecutive term or terms, or after serving thirty years of each consecutive term or terms of more than forty-five years including any life term, whichever is earlier:

Provided, however, that the Parole Commission shall not release such prisoner if it determines that he has seriously or frequently violated institution rules and regulations or that there is a reasonable probability that he will commit any Federal, State or local crime."

Furthermore, absent a Court order, the Bureau has no authority to release you from custody before the expiration of the term imposed. Your concerns regarding your parole eligibility date should be addressed with the USPC.

Your sentence has been computed as directed by federal statute, and sons Program Statement 5880.28, Sentence Computation Manual Old Law/Pre CCCA of 1984

This response is for informational purpose only.

07-19-2022

Date

A. Connors
Ian Connors, Administrator
National Inmate Appeals

REGNO...: 04564-059 NAME: FAUL, SCOTT
ARS 1...: SST A-DES
COMPUTATION NUMBER...: 010
LAST UPDATED: DATE.: 05-25-2018
UNIT.....: WEST
DATE COMP BEGINS....: 06-24-1983
TOTAL JAIL CREDIT...: 129
STATUTORY REL DT....: N/A
CURRENT REL DT.....: /
PROJ SATISFACT DT...: 02-14-2023 TUE
ACTUAL SATISFACT DT.:
FINAL STAT GOOD TIME:
DAYS REMAINING.....:

PRT ACT DT:
FACL..: DSC CALC: AUTOMATIC
QUARTERS.....: K32-020U
COMP STATUS.....: COMPLETE
TOTAL INOP TIME.....: 0
EXPIRES FULL TERM DT: LIFE
PROJ SATISF METHOD...: TWO THIRDS
ACTUAL SATISF METHOD:
FINAL EXTR GOOD TIME:
FINAL PUBLIC LAW DAYS:

-----EXTRA GOOD TIME EARNINGS-----

INST	TYPE	DATE IN	DATE OUT	PRI/SEN IND
OXF	MGT	10-13-1983	09-24-1986	
LVN	MGT	11-01-1986	07-22-1991	
OXF	MGT	02-13-1992	07-12-1992	
OXF	IGT	07-13-1992	03-29-1995	
OXF	MGT	04-17-1995	04-16-2007	
SST	MGT	01-24-2008		

EGT EARNED.....: 2238 DAYS
BREAK OVER DATE.....: 10-12-1984

-----EXTRA GOOD TIME LUMP SUM AWARDS AND ADJUSTMENTS-----

NONE

TOTAL EGT.....: 2238 DAYS

-----STATUTORY GOOD TIME FORFEITURES, WITHHOLDINGS, RESTORATIONS-----

INFRACTION DATE	NO	DECISION DATE	ACTION TYPE	AMOUNT	INFR SEVERITY /RSN FOR ADJ	FREQ
NONE						

NET SGT FORFEITURES, WITHHOLDINGS, RESTORATIONS: 0 DAYS

G0005 TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

Introduction

This pamphlet contains excerpts taken directly from Scott Faul's 2002 parole hearing transcripts. The whole hearing can not be fit into this pamphlet, but can be found in it's entirety at ScottFaul.com. What we have included in this pamphlet sheds light on the political nature of Scott Faul's incarceration. It is undeniably a confession of government's willingness to put the well being of the government above the well being of the citizen masses.

This willingness to avoid justice for the advancement of the Federal Government is not unknown to any of us. We have all questioned the motivations and actions of our Federal System at some time and most often a majority of the time. If this were not true, people would vote for a candidate more often than they vote against one.

Introduction

Even before Scott applied for Parole, our belief was that Scott should be released. This belief came from our extensive research of his case and the love my wife holds for her Father.

Credibility is always an issue. It has been difficult to convince others of the merits of Scott's case because, of course, we are Scott's family. This does not, however, negate the facts and terms of his incarceration. Scott is a political prisoner and in this 2002 parole hearing tape, government admits it.

Thank you for taking the time to read this pamphlet. I hope that these excerpts will shed some light on the motivations surrounding this tragedy.

The photo on the cover of this flyer is of the Faul Family taken on 11-23-86. The scripture reminds us that our children will be affected by our decisions. This is one of Scott's greatest fears. He fears that because of his absence his children have not learned all that he was supposed to teach them.



Numbers 14

14 The LORD is slow to anger, abounding in love and forgiving sin and rebellion. Yet he does not leave the guilty unpunished; he punishes the children for the sin of the fathers to the third and fourth generation.'

The Parole

Publicity

Publicity has never been a friend to Scott or any of his co-defendants. The media was so biased in its portrayal of the defendants that the Fargo Forum actually recovered it's entire circulation on February 15, 1983, and reprinted the issue because the government did not approve of one article's portrayal of the US Marshall's arrest tactics. This type of one sided coverage is still slandering Scott's reputation and silencing his pleas for relief.

"Clearly you've served more than 100 plus months. And also, um, you know I wouldn't know, and it's not surprising to you, that, that the case is very notorious, um...I mean they've made television movies and books and, and certainly I'm well aware of many of the co-defendants in this case...we've heard of these individuals. Ah, they have, most of them have appeared before the parole commission I believe, but none the less, it's, it's quite, it, it's a case that got a lot of attention let's put it...even 20 years later, it's still, a lot of discussion and a lot of people

Publicity

still know or recognize this particular incident, which is not necessarily good for you or anybody involved in the incident."

Sam Robertson(SF) - US Parole Commission

Please take note of the first line of this quote. Mr. Robertson is stating that Scott's sentence has a minimum fulfillment of 100 months. At the time of this interview, Scott had already served 238 months. Sam is saying that Scott has fulfilled that requirement.

After There...

This next excerpt starts with Scott(SF) expressing his regrets. In the middle of this, Mr. Robertson cuts him off and concedes that Scott probably could not have done anything different in this scenario. He goes on to state that this is a matter of "you're there" and "you're on the wrong side". Scott was not on any side. He was getting a ride home, after a meeting, from some friends.

After There...

SF: "... Looking back on it, I can, I can see that, ah, you know, I should have done something different that day, you know. And I, ah, I don't know exactly what I could have done or should have done, but I certainly, you know, considered many times how, ah, I wish I would have done something different..."

SR: I don't know, actually, you're right. The way this scenario is, I mean you're involved in some stuff where there's inevitably going to be a confrontation with law enforcement, um, whether you intended to do anything or not, people are armed with firearms and then that shooting occurs. And you're there. And you're on the wrong side when the shooting occurs. So, given that, if anybody takes a bullet, or anybody gets hurt, you've just boughten in, in, and I don't, what you could have done at that point. Probably nothing. I mean, once that scenario developed in terms of your culpability and the fact that being named as a conspirator or contributing

The Parole

Myur There...

to that, um, certainly it, you know, anything that you did after that or continued association or involvement with firearms or firing back. In complicit to that degree would certainly be damning. I don't know if you shot anybody or you hit anybody or any of those other things, but, um, you know, you look at this as a, it's kind of an O.K. Corral kind of thing--this shootout, we all know there was a lot of dead bodies and most of them police officers and marshals, and they take a dim view of that... a REAL dim view. Um, and not to mention the, ah, the issue, um, the underlying issue's here, you know the tax protests. Um, the, the most serious, and you've probably heard this before, but the, you know, the greatest threat to the country is not people with guns, it's people who refuse to pay taxes. And there's nothing that can undermine, you know, your government quicker than people not contributing to funding it, and they are really viewed as a serious threat, and that was just part of it, but then, you know, these other things really got

Myur There...

out of hand. So, um, but I understand how these things can occur, I mean, based on politics and points of view, and whatever, and then unfortunately it escalates into violence, and once it gets to that point, then you're, you're in a highly difficult situation. As you have been, because you've been in prison now for 20 years because of that. "

I would like to point out that Mr. Robertson makes a distinction between people with guns and people that don't pay taxes. The question I am raising is... Was the denial of Scott's parole based on his opinion [that our current system of taxation is unfair and illegal]?

Mr. Robertson is making the assumption that Scott did not pay his taxes. This assumption is wrong and is based solely on the reports that Scott protested taxation. Our right to protest is protected by Article 1 of the US Constitution and protesting is one of our means to assure that our US laws and policies reflect the wishes of the citizens of this great country.

Remember, our country was founded by people who opposed excessive taxation.

The Grudge

In this next quote Mr. Robertson blames Scott for Waco and Randy Weaver. Scott knew none of these people. The only parallel is that in all three of these cases, the Federal Government attacked civilians. In both the Weaver case and in Waco, the actions of the Federal officers were investigated and wrong doings were found. It is of my opinion that the same type of investigation would have been brought against the officers involved in Scott's case had they not lost the shootout they started.

SR: "All right. I said when we started this thing, no surprise to you, in a tough, a notorious case. Um, people on both sides have different views at this point, but [inaudible] when you talk about, there's confrontations with law enforcement and other individuals. You know, there's the Waco, there's the Randy Weaver thing, it goes back to North Dakota and different kinds of things, and it seems to the level of being almost [inaudible] to talking about, which is not necessarily again healthy for you when these things are being bantered about still in the media and people talk about them and they focus on them, and there's also some things in terms of, ah,

The Parole

The Grudge

the individuals involved, and the me memory of this, and, ah, you know clearly it has become an institutional thing. It's like...the, the case involved in, now I can't remember but, the shooting in North Dakota with the FBI agents...Peltier. Um, it's become institutionalized among law enforcement in the community that, you know, that there is no tolerance for people that shoot federal officers or cops or those kinds of things. Um, that's what that Peltier thing's about, and that's what this is about. Um, somebody has wrote in and said, I've read so many letters recently, and they said something that they were sure that the, that the marshal's service, not necessarily the individuals, because a lot of people don't know anything about this stuff. You know, they just mention it, and automatically, you know, they have a grudge or they look at it as, as some kind of an issue, you know. Either you're on the right side or you're on the wrong side, and you're on the wrong side. "

Is Law Enforcement's feelings toward Scott influencing the Parole Commission's decisions?

It's bad as it can get

In this next section, Mr. Robertson acknowledges that Scott is not a threat to society.

"...So, you could serve another 5 to 10 years in custody before the commission will act to release you...**NOT** because probably you are any kind of threat to the community or any of those other kinds of things...be like, um, the chances of you doing anything illegal if you were released today is virtually nil. Um, they would probably never hear a squeak out of you again. I'm sure you're not a risk. That's not the issue. Risk is not the issue with you. It's accountability. Um, how much time should you spend in prison for being involved in this incident. Even though there's nothing to indicate that you were specifically convicted of shooting anybody or killing anybody, that you were not involved in some overt act that led to the death of somebody. As your attorney understood and expressed, and as I said initially, the fact of the matter is you were there, and there meaning

It's bad as it can get

something ensued where at least two marshals ended up dead, and a couple deputies on the ground with bullet holes in them. Um, about as bad as it can get, um, about as bad as it can get. "

"You were there." This is the action that Scott is guilty of? The fact that Scott was at a meeting and getting a ride home from some NID farmer and his family is what Scott is so accountable for?

I know what you are thinking. You're thinking there is more to it than that. You are thinking that it is probably some other action that Scott is accountable for. Well, that might be true, but **this** Parole Commission's reasoning for denial of his release is **because Scott was there!**

If you think maybe Mr. Robertson just misspoke, here it is again worded a little different but with the same meaning.

The Parole

It's bad as it can get

...you're paying for the fact that you were there, and some decisions you made that led you to the point of being there, and some things probably beyond your control. Maybe some decisions the cops made to block the road at that particular date in time and to precipitate a confrontation...perhaps it was all unnecessary, it could have been resolved in some other manner. But, as your attorney said, none of that makes any difference after the shots are fired and the bodies are lying there. They, they don't, really, nobody's really concerned about how this happened, how it could have been avoided, who really contributed to this, what your culpability was, ah, the fact of the matter is that you were there, um, with a couple other guys with weapons in opposition to law enforcement, and shots were exchanged, and law enforcement lost that day in a sense. They lost that day, and then the next day after and, and for the rest of your life you lost, because now you're paying the price.

Opposition

Now we are getting to the real reason Scott is still in prison.

...But, um, it is a tough case and it's still notorious and it's still, there's still a lot of opposition out there to paroling any of you guys involved in this, um, you know, those kinds of prosecutor kinds of sources and law enforcement and those kinds of people. So there's always going to be some opposition to it.

Folks, this is political. No one has ever denied the fact that it is. It was politics before the Medina meeting, during the Medina meeting, leading up to the shootout and after. The trial was political, the sentencing, the appeals, and now... **The Parole.**

Conditions of Parole

§§ 87.18 G RANTING OF PAROLE.

The granting of parole to an eligible prisoner rests in the discretion of the U.S. Parole Commission. As prerequisites to a grant of parole, the Commission must determine that the prisoner has substantially observed the rules of the institution or institutions in which he has been confined; and upon consideration of the nature and circumstances of the offense and the history and characteristics of the prisoner, must determine that release would not depreciate the seriousness of his offense or promote disrespect for the law, and that release would not jeopardize the public welfare (*i.e.*, that there is a reasonable probability that, if released, the prisoner would live and remain at liberty without violating the law or the conditions of his parole).

The Parole

Conditions of Parole

These are the two questions that must be resolved by the Parole Commission.

- 1.) Would the release of Scott Faul **“depreciate the seriousness of his offense or promote disrespect for the law”?**

We expect our Laws to be one dimensional, to be above vengeance, politics, and other outside influences. We expect our Laws to perform one task...to execute Justice. Let me remind you of some of the statements you have read earlier...

“It’s a case that got a lot of attention... which is not necessarily good for you”

“the underlying issue’s here, you know the tax protests...the greatest threat to the country is not people with guns, it’s people who refuse to pay taxes...they are really viewed as a serious threat”

“You know, there’s the Waco, there’s the Randy Weaver thing, it goes back to North Dakota...which is not necessarily again healthy for you”

Conditions of Parole

“Either you’re on the right side or you’re on the wrong side”

“Even though there’s nothing to indicate that you were specifically convicted of shooting anybody or killing anybody...the fact of the matter is you were there”

“you’re paying for the fact that you were there...some things probably beyond your control...some decisions the cops made...it could have been resolved in some other manner”

“nobody’s really concerned about how this happened, how it could have been avoided, who really contributed to this, what your culpability was, ah, the fact of the matter is that you were there”

“there’s still a lot of opposition out there to paroling any of you guys...those kinds of prosecutor kinds of sources and law enforcement and those kinds of people”

Conditions of Parole

Disrespect? How could this kind of reasoning promote disrespect? (I’m being a little facetious here)

“Seriousness of his offense.” Scott has been in prison for 22 years.

- 2.) Would the release of Scott Faul **“jeopardize the public welfare”?**

No. Scott’s release would not jeopardize the public welfare.

“not because probably you are any kind of threat to the community or any of those other kinds of things...be like, um, the chances of you doing anything illegal if you were released today is virtually nil. Um, they would probably never hear a squeak out of you again. I’m sure you’re not a risk”

Anyone who reads this pamphlet, please visit ScottFaul.com and read the whole transcripts of this proceeding. We understand how difficult it is to believe some of the points that we bring before you. It is important that you see, for yourselves, that we have taken great care not to remove from context any of the statements we have cited.

Sept. 26, 2003

Dear Mr. Woodlawn,

I understand that Scott Paul will be coming up for parole hearing in Dec. I was on the jury at the time of his conviction but had nothing to do with the sentencing. I feel so badly that he has had to spend so many years in prison - We KNOW that he did not kill anyone or do any violence. I thought he would get 3 or 4 years maximum. I know of rapists and murderers who spend less than ten.

I pray that you will find it in your heart to grant Scott parole in Dec. He deserves to be let free. He is not a dangerous person. His # is 04564-059.

Sincerely,
Verna Stearns

STEVE SCHNABEL

03 December 2002

Ms. Jill Wendlandt
Attn: Parole Examiner
Federal Correctional Institute
P.O. Box 5000
Oxford, WI 53952

RE: Scott Faul #04564-059

Dear Ms. Wendlandt and Examiners,

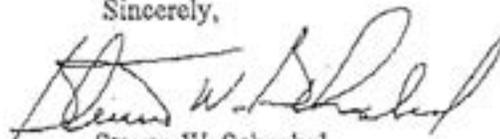
I was a member of the Medina, ND Police Department in 1983, and directly involved in the arrest attempt of Gordon Kahl, which resulted in Scott Faul being arrested and eventually sent to your facility.

I have co-authored a book titled "It's All About Power" which lays out the events leading up to, including and after the arrest attempt in Medina in 1983. While doing our research for this book (published in 1999), we learned many things pertaining to this case, which were not brought up during the trial. Based on our research, I believe that Scott Faul was a victim of circumstance, torn between helping his friends or trusting people he did not know. Scott also knew that there was an All Points Bulletin put out which included a description of his car and his cars license plate number. This APB stated his car was in a particular location on a certain day when in fact, it was not. The accumulation of many events leading up to the main event on February 13, 1983 I believe put Scott Faul where he is today.

Given all that I know about this case, I believe that Scott Faul has paid his debt for the decisions he made that day. I believe that Scott Faul does not pose any kind of threat to our society and if paroled, will cooperate fully with his parole officer and strictly follow the conditions of his parole. I also believe Scott Faul will do whatever it takes to become gainfully employed and be a positive contributor to our society.

Thank you for taking this consideration.

Sincerely,



Steven W. Schnabel

Exhibit C - 002

DARRELL G. GRAF

Ms. Jill Wendlandt
Attn: Parole Examiner
Federal Correctional Institute
P.O. Box 5000
Oxford WI 53952

RE: Scott Faul # 04564-059

Dear Ms. Wendlandt and Examiners;

I was the Police Chief of Medina, North Dakota in 1983, during the time a series of events took place which resulted in Scott Faul being sent to your facility.

The events surrounding the entire case were so absurd for a small North Dakota community, that in many instances opinions were formed prior to the evidence being examined. I was one of those that had unfounded opinions regarding that case and the involvement of Mr. Faul.

During the late 1990's, while writing a book regarding this case, a great deal of evidence surfaced which had been suppressed over the years by emotionally charged individuals and officials. He was indeed at the wrong place at the wrong time. At the time of the event, I believed Scott was a perpetrator. But now I believe he was trying to escape a terrible situation that he was roped into. My opinion is the result of digging and examining evidence for 2 years prior to the publication of the book "It's All About POWER!"

Had this trial been done after the emotions had simmered, I know, and have a signed affidavit from a juror indicating, there would either have been an acquittal or at a minimum, a hung jury.

Based on what I know about Scott Faul, I have the following statements:

1. I do not believe Scott Faul would be a threat of ANY KIND to our free society.
2. I do not believe Scott Faul would be involved in ANY criminal activity if he was to be released
3. I believe Scott Faul would fully cooperate with his parole conditions
4. I believe Scott Faul would become gainfully employed and be an asset to society

Sincerely,

Darrell Graf

Exhibit C - 003

Handwritten notes at the top of the page, possibly a date or reference number.

Sept. 30 2002

Parade Examined

80222 Paul 04564-059

Dear Sir;

I'm writing in behalf of Scott Faulst family, this was one of the best families at the showing, they continued to farm until hard times & bad prices caused the family to give up. It was to meet for his wife with small children. For Scott Faul would come into your business at 4564-059 n. Dec. about once a month.

I was always well known & polite, I know one Tim

I will never forget, as he wrote out a check for \$5.00, when I gave Scott

change I gave him change for \$15.00. He said "Some you make a mistake, as I only should get change for \$2.00 & not \$15.00. He

could never hunt or cause anyone pain. If he did something wrong, I'd be the first to tell him. He has satisfied on all his time for his wrong doing, and should

be satisfied with his

family & maybe still can pick up the pieces. I feel he maybe did wrong, but keeping him in jail longer is wrong and two wrongs do not make a right.

would appreciate your consideration.

Thanks.
Doreen H. Hines
Bernice
Doreen Hines

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 22-2993 (MJD/JFD)

SCOTT MICHAEL FAUL,

Petitioner,

v.

MICHAEL LEJEUNE, Warden,

Respondent.

**RESPONSE TO PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

INTRODUCTION

Petitioner Scott Faul (“Faul”) filed this 28 U.S.C. § 2241 habeas petition requesting release from federal custody based on his allegation that the U.S. Bureau of Prisons (“BOP” or “Bureau”) has misconstrued and misapplied 18 U.S.C. § 4206(d), which governs his mandatory parole date. He claims that since he has served 39 years⁸ and 9 months of his “old law” sentence, he is entitled to be immediately released from custody. The petition should be denied because, pursuant to § 4206(d), the BOP has correctly calculated Faul’s “mandatory” two-thirds parole date and the United States Parole Commission (“USPC” or “Commission”) recently properly denied parole to Faul on the basis that he would likely commit another crime.

BACKGROUND FACTS

I. Faul, Register No. 04564-059, is a Federal Prisoner in the State of Minnesota.

In February 1983, Faul was involved in a shootout in which two U.S. Marshals were killed and one was injured. *See* Certificate of Bernard Desrosiers, Ex. 1 at 1-2. Local sheriff and police officers assisting in this matter were also injured. *Id.*

After being convicted by a jury, on June 24, 1983, the U.S. District Court for the District of North Dakota imposed the following sentence on Faul: (1) two concurrent Life terms for two counts of second-degree murder of Federal Officers and aiding and abetting, in violation of 18 U.S.C. §§ 1111, 1114 and 2; (2) concurrent 10-year sentences, to run consecutive to the Life term, on each of four counts of forcibly assaulting and impeding Federal Officers by use of a deadly weapon and aiding and abetting, in violation of 18 U.S.C. §§ 111, 1114 and 2; (3) a 5-year sentence, to run consecutive to the Life sentence and the 10-year sentence, for one count of harboring and concealment of fugitive and aiding and abetting, in violation 18 U.S.C. §§ 1071 and 2; and (4) a 5-year sentence for one count of conspiracy to assault, in violation of 18 U.S.C. § 371, to run concurrently with all other sentences.¹ See Declaration of Jon McEvoy ¶ 4, Ex. A at 2-3, Ex. B at 1. In effect, Faul was sentenced to a sentence of Life with an additional aggregated 15 years to be served consecutively. *Id.* His conviction was affirmed on appeal. See *United States v. Faul*, 748 F.2d 1204 (8th Cir. 1984).

Faul's "mandatory" two-thirds parole date is February 14, 2023. See McEvoy Decl. ¶ 8, Ex. A at 1. He is currently serving his sentence at the Federal Correctional Institution in Sandstone, Minnesota ("FCI Sandstone"). *Id.*

II. Overview of the Federal Parole System

"The Parole Act of 1976 was the product of nearly a decade of study and evaluation by the executive and legislative branches." *Wallace v. Christensen*, 802 F.2d 1539, 1542

¹ Co-defendant Yorie Von Kahl was convicted of the same charges and received an identical sentence. See *infra*.

(9th Cir. 1986) (citing S. Rep. No. 94-369, 94th Cong., 2d Sess. 1, 16, reprinted in 1976 U.S.C.C.A.N. 335, 338). The Parole Commission and Reorganization Act of 1976 included three principal elements: (1) creation of a United States Parole Commission to promulgate guidelines and render parole decisions; (2) formalization of procedures to govern parole determinations; and (3) establishment of an appeals process. *See* 1976 U.S.C.C.A.N. 336–37. Because the parole system was abolished by the Comprehensive Crime Control Act of 1984, it applies only to prisoners who committed offenses prior to November 1, 1987. *See Romano v. Luther*, 816 F.2d 832, 833-35 (2d Cir. 1987).

III. Types of Federal Parole

Federal inmates subject to the Parole Act may qualify for one of two types of parole: discretionary parole or “mandatory” (now known as two-thirds) parole. An inmate serving a sentence longer than 30 years, including life sentences, becomes eligible for discretionary parole after 10 years. 18 U.S.C. § 4205(a). A prisoner may be released on discretionary parole if the Commission determines that (1) the prisoner has substantially observed institutional rules; (2) release would not depreciate the seriousness of the inmate’s offense or promote disrespect for the law, and (3) release would not jeopardize the public welfare. 18 U.S.C. § 4206(a).

An inmate who is not released on discretionary parole may become eligible for “mandatory” parole under the following statute:

Any prisoner, serving a sentence of five years or longer, who is not earlier released under this section or any other applicable provision of law, shall be released on parole after having served two-thirds of each consecutive term or terms, or after serving thirty years of each consecutive term or terms of more than forty-five years including any life term, whichever is earlier:

Provided, however, That the Commission shall not release such prisoner if it determines that he has seriously or frequently violated institution rules and regulations or that there is a reasonable probability that he will commit any Federal, State, or local crime.

18 U.S.C. § 4206(d). Despite its name, “mandatory” parole is not, in fact, mandatory. *See, e.g., Durfur v. U.S. Parole Comm’n.*, 314 F. Supp. 3d 10, 12 (D.D.C. 2018) (“This case presents the question whether mandatory parole in the federal prison system is mandatory. It is not.”), *aff’d*, 34 F.4th 1090 (D.C. Cir. 2022). Even if an inmate is eligible for mandatory parole, he will not be released if the Commission determines either (1) that the prisoner has “seriously or frequently violated institution rules and regulations” or (2) that there is a “reasonable probability” the prisoner “will commit any Federal, State, or local crime.” 18 U.S.C. § 4206(d).

BOP Program Statement 5880.30, *Sentence Computation Manual/Old Law/Pre CCCA 1984*, similarly states regarding parole eligibility under 18 U.S.C. § 4206(d):

Any prisoner, serving a sentence of five years or longer who is not earlier released under this section or any other applicable provision of law, shall be released on parole after having served two-thirds of each consecutive term or terms, or after serving thirty years of each consecutive term or terms of more than forty-five years including any life term, whichever is earlier: Provided, however, That the Parole Commission shall not release such prisoner if it determines that he has seriously or frequently violated institution rules and regulations or that there is a reasonable probability that he will commit any Federal, State or local crime.

McEvoy Decl. ¶ 10, Ex. G at 70. Due to Faul’s sentence of Life plus 15 years, his two-thirds “mandatory” parole date has been established by the BOP as being February 14, 2023. *Id.* ¶ 8, Ex. A at 1.

IV. Procedures Governing Parole Determinations

Parole determinations are made following three types of hearings: initial hearings, reconsideration hearings, and interim hearings. When an inmate first becomes eligible for discretionary parole, the USPC will conduct an "initial hearing." 28 C.F.R. § 2.13. If parole is not granted at an initial hearing, the examiner will set a "reconsideration hearing" 15 years from the date of the denial, unless the prisoner is to become eligible for "mandatory" parole before the 15 years have elapsed, at which point the USPC is allowed to "continue to expiration" with the understanding that a mandatory parole hearing would be held to reassess the offender's case. 28 C.F.R. §§ 2.12(b). Between an initial hearing and a reconsideration (or mandatory) parole hearing, an inmate is given regular interim hearings. 18 U.S.C. § 4208(h); 28 C.F.R. § 2.14. For prisoners serving terms greater than 7 years, interim hearings are conducted every 24 months. 18 U.S.C. § 4206(h)(2); 28 C.F.R. § 2.14(a)(1)(ii). The purpose of an interim hearing is to consider "significant developments or changes with the prisoner's status" that have occurred since the previous hearings. 28 C.F.R. § 2.14(a).

Parole hearings are conducted by hearing examiners. 28 C.F.R. § 2.23(a). At a parole hearing, the examiner will discuss the prisoner's offense severity rating and salient factor score and will review the inmate's institutional conduct. 28 C.F.R. § 2.13(a). The examiner may consider a wide range of evidence, including official reports of the inmate's criminal record, recommendations from prosecutors and other interested parties, any substantial information regarding aggravating or mitigating circumstances, and any additional relevant information concerning the prisoner, including Pre-sentence Reports

and other descriptions of the underlying offense conduct. 18 U.S.C. § 4207; 28 C.F.R. §§ 2.19(a)-2.19(b)(1). At these hearings, a prisoner may be represented. 28 C.F.R. § 2.13(b). The prisoner's representative may "offer a statement" and may provide "additional information as the examiner shall request." 28 C.F.R. § 2.13(c). Interested parties who oppose parole may also appear and offer a statement. *Id.* At interim hearings, the examiner will only consider evidence regarding "significant developments or changes in the prisoner's status" since his or her last hearing. 28 C.F.R. §§ 2.14, 2.55(b).

At the conclusion of any hearing, the examiner will make a recommendation on the record and prepare a post-hearing summary. 28 C.F.R. §§ 2.13(c), 2.23. The post-hearing summary will be reviewed by an executive hearing examiner, who will make his or her own recommendation regarding parole. 28 C.F.R. § 2.23(b). If the executive hearing examiner agrees with the hearing examiner's recommendation, the recommendation is submitted to the USPC for the final determination. If the executive examiner does not agree, the case will be sent to a second executive examiner until there is a concurrence of two. 28 C.F.R. §§ 2.23(c)-(d), 2.24(a). An inmate will be informed of the USPC's decision through a "Notice of Action."

A prisoner who is dissatisfied with a parole determination may appeal that decision to the National Appeals Board within 30 days of the date of the Notice of Action. 28 C.F.R. § 2.26(a)(2). The appeal must summarize the grounds for the appeal and "concisely explain the reasons supporting each ground. *Id.* The prisoner may also provide additional information for the Appeals Board to consider. *Id.* After considering the appeal, the Appeals Board may affirm, reverse, or modify the USPC's decision or may order a new

hearing. 28 C.F.R. § 2.26(b)(1). A decision by the Appeals Board is final. 28 C.F.R. § 2.26(c).

V. Summary of Faul's Relevant Parole Hearing History

On December 30, 2002, Faul had his initial parole hearing before the USPC. Desrosiers Ex. 2. At that hearing, it was determined that Faul's parole guidelines were a minimum of 100 months with no corresponding upper limit since the offense of conviction involved murder. *Id.* at 4. The Examiner noted that Faul had incurred four Discipline Hearing Officer ("DHO") infractions during his time in prison: Possession of Anything Not Authorized, Assault and Insolence, Refusal to Obey an Order, and Fighting with Another Person. *Id.* at 2. Faul admitted to accumulating those infractions and to the description of the underlying offense conduct, except for the Assault charge. *Id.* The Examiner noted the infractions were all minor in nature and agreed with Faul that the Assault charge did not appear to rise to the level of an assault on a correctional officer. *Id.* The USPC determined that Faul should be continued for a 15-year reconsideration hearing in December 2017, based on the seriousness of his offenses and his lack of clear conduct in prison. Desrosiers Ex. 3. Faul appealed this decision to the National Appeals Board, which affirmed the USPC's decision. Desrosiers Ex. 4.

On July 28, 2004, Faul waived parole consideration for his statutory interim hearing set for the Summer of 2004. Desrosiers Ex. 5. Faul did not reapply for parole until September 2017. Desrosiers Ex. 6.

On December 12, 2017, a hearing examiner presided over Faul's 15-year Reconsideration Hearing at FCI Sandstone. Desrosiers Ex. 7. However, Faul refused to

proceed with the hearing, alleging dissatisfaction with pre-hearing disclosures received. *Id.* The USPC granted his request for a continuance and rescheduled his hearing for the next available docket. Desrosiers Ex. 8.

On April 16, 2018, Faul had his 15-year Reconsideration Hearing. Desrosiers Ex. 9. At this hearing, Faul denied his offense conduct and claimed that his actions were taken in self-defense. *Id.* 1-4. Faul also indicated that he was not lawfully convicted of any of the offense conduct. *Id.* This was a marked reversal from the last hearing that saw Faul admit to his actions and the illegality of them. *Id.* The USPC continued Faul to the expiration of his sentence, finding it concerning that he had begun denying culpability in the murder of the law enforcement officers he was convicted of killing. Desrosiers Ex. 10. In addition, the USPC noted that Faul had failed to participate in any meaningful programming in the 35 years he had been incarcerated. *Id.* The USPC noted that although Faul was continued to the expiration of his sentence, he would have a statutory interim hearing in April 2020 and would be eligible for a “mandatory” parole hearing when he reached the two-thirds date of each consecutive sentence (and 30 years for life sentences). *Id.* Faul appealed this decision to the National Appeals Board, alleging error in the BOP’s calculation of his “mandatory” parole date. Desrosiers Ex. 11. The National Appeals Board found no error in the USPC’s decision. *Id.*

In April of 2020, Faul appeared for his Statutory Interim Hearing. Desrosiers Ex. 12. However, Faul’s representative was unable to attend due to the COVID-19 pandemic. *Id.* Based on that, Faul waived parole consideration and was informed that he would need to re-apply when he was ready to proceed. *Id.*

In July of 2021, Faul requested to re-calendar his statutory interim parole hearing, but noted that said hearing was contingent on “all false information in the Commission’s records being corrected.” Desrosiers Ex. 13. Because it was ambiguous whether Faul was requesting a hearing or not, the USPC erred on the side of caution and placed him on the parole docket for October 19, 2021. Desrosiers Ex. 14. At this statutory interim hearing, Faul began by objecting to the proceeding and to the facts relayed in the Pre-sentence Investigation Report (“PSR”). *Id.* In addition, Faul opined that the Commission would base its mandatory parole decision in February of 2023 on incorrect facts in the PSR. *Id.* The Examiner explained to Faul that this was a statutory interim rather than a mandatory parole hearing, that the Commission is authorized to base its decision on the facts in the PSR, and that if he wished to have facts excised from the official record, he would need to file a motion with the district court that presided over his trial. *Id.* After hearing this explanation, Faul refused to participate and waived parole consideration. *Id.* Honoring his request, the USPC cancelled the hearing and advised Faul that he would need to reapply for parole when he was prepared to proceed. *Id.*

In March of 2022, the USPC received another I-24 parole application from Faul. Desrosiers Ex. 15. However, upon closer examination, it was noted that Faul had modified the form so that it was, again, ambiguous whether he wanted a parole hearing or not. *Id.* The USPC realized that Faul’s two-thirds (previously known as “mandatory”) parole date was fast approaching in February of 2023 and thus decided that Faul would be examined for two-thirds parole slightly early, in May of 2022. Desrosiers Ex. 16. However, the day before his May hearing, Faul communicated through his BOP Case Manager that he

would not be attending the hearing. *Id.* The USPC was forced to notify victims who had planned to travel to the institution for the hearing that Faul waived his hearing. *Id.*

On September 9, 2022, the USPC decided that Faul did not qualify for parole via a record review and that a two-thirds parole hearing was required to be held. Desrosiers Ex. 17. The USPC scheduled the two-thirds parole hearing for December 14, 2022. Desrosiers Ex. 18. At Faul's request, the hearing was rescheduled for January 25, 2023, to allow additional time for him to review requested disclosures. Desrosiers Ex. 19. On January 24, 2023, the day before his hearing, Faul waived parole consideration. Desrosiers Ex. 20.

The USPC, nonetheless, ordered that the hearing be held in his absence. Desrosiers Ex. 21. On January 25, 2023, an examiner presided over Faul's two-thirds parole hearing. *Id.* Though Faul had submitted notice the prior day that he would not participate in the hearing, he did appear briefly to make a statement on the record that he was knowingly refusing to participate. *Id.* at 10-11. The Examiner encouraged Faul to remain and indicated that the hearing was the forum for him to argue the points that he wished the USPC to consider. *Id.* Faul refused this invitation and left the hearing room. *Id.*

After the hearing was concluded, the USPC denied Faul two-thirds parole, finding that, pursuant to 18 U.S.C. § 4206(d) it was likely he would commit another federal, state, or local crime. Desrosiers Ex. 22. In particular, the Commission stated:

After consideration of all factors and information presented, at this time, the Commission is denying your release under the standards at 18 U.S.C. § 4206(d) for the following reasons: The Commission has determined that there is a reasonable likelihood that you will commit any Federal, State or local crime. You were part of a violent anti-government group responsible for the murder and serious injury of several federal law enforcement officers. You continue to deny your

crimes, claim yourself and your conspirators are the victims, and deny the legitimacy of the U.S. Government, law enforcement, and the judiciary. Your own words show that you would not obey the requirements of your release. You have not completed any programming to address your rehabilitation such as victim impact or criminal thinking and have shown no interest in completing such programming, further emphasizing that you see no issues with your history of violence and have no intention of improving your thoughts and behaviors.

Id. The Notice of Action stated that Faul would again be considered for two-thirds parole in January 2025. *Id.* As of February 8, 2023, Faul has not appealed this decision.

ARGUMENT

Faul argues he has overserved his sentence and is entitled to immediate release from federal custody. ECF No. 1 at 10. He alleges the BOP has misconstrued and misapplied 18 U.S.C. § 4206(d), which governs his mandatory parole date. *Id.* at 11-13. The petition should be denied because pursuant to 18 U.S.C. § 4206(d) the BOP has correctly calculated Faul's two-thirds parole date and the USPC has recently properly denied parole to Faul on the basis that he would likely commit another crime.

I. The Petition Should Be Denied Because Faul's Claims Lack Merit.

The BOP, not the USPC, has been delegated authority to calculate federal sentences. *See United States v. Wilson*, 503 U.S. 329, 335 (1992); 28 C.F.R. § 0.96. The BOP's sentence calculation for Faul established a two-thirds parole date of February 14, 2023. *See McEvoy Decl.* ¶ 8, Ex. A at 1. His two-third parole date was established in accordance with 18 U.S.C. § 4206(d), which requires that prisoners serve an aggregate of two-thirds of all *consecutive* terms before being eligible for a "mandatory" parole hearing. As such, the aggregate 15-year consecutive sentence set to run at the expiration of Faul's Life

sentence should yield an additional two-thirds term equal to 10 years. Thus, Faul is required to serve 30 years on his life sentence plus another 10 years on the consecutive 15-year sentence, resulting in a 40-year term of imprisonment before mandatory parole eligibility.

Faul eschews this interpretation of § 4206(d) and insists that the mandatory parole date is the lesser of 30 years *or* two-thirds of each consecutive term, *whichever is earlier*, thus resulting, he argues, in a mandatory parole date of February 2013, after 30 years of service. ECF No. 1 at 11-12. Faul's interpretation is incorrect; indeed, this exact argument was advanced by Faul's co-defendant Yorie Von Kahl in recent litigation and was dismissed by both the district and circuit courts. *See Von Kahl v. Segal*, 19 F.4th 987 (7th Cir. 2021). Von Kahl and Faul were sentenced to identical terms of imprisonment for Life plus an aggregated consecutive 15-year term. As the Seventh Circuit found, § 4206(d) is unambiguous and requires 30 years to be served on a life sentence, with two-thirds of all remaining consecutive sentences of less than 45 years being also served consecutively before an inmate reaches his mandatory parole date. In so finding, the Seventh Circuit wrote:

This leads to the question whether the Bureau has read § 4206(d) correctly, and it has. The statute says that a life term is treated the same as a 45-year term, so anyone sentenced to life is presumptively released after 30 years. But the statute also says that, unless paroled earlier, a prisoner must serve two-thirds or thirty years of "each consecutive term or terms." Von Kahl is serving three consecutive terms: life, ten years and five years. Thirty years for the life term, plus two-thirds of each term of years, adds to 40 years, running through February 2023, just as the Bureau concluded. Von Kahl wants us to collapse his sentences, to say that life plus 15 years "really" is just life, so the limit must be 30 years. True, he won't serve time in prison after his death, but there remain three distinct legal penalties, and the statute

calls for the aggregation of limits under “*each* consecutive term or terms” (emphasis added). That comes to 40 years, no matter how you do the math.

Id. at 989-90.

Numerous other courts have addressed this same argument (although none with facts as directly applicable as *Von Kahl*) and all have held the same. See *Hackley v. Bledsoe*, 350 F. App’x 599 (3d Cir. 2009) (holding prisoner has to serve 30 years for a life term *plus* another 20 years for the 3 consecutive 10-year terms that were are all run consecutive for § 4206(d) purposes); *Williams v. Warden*, No. 17-cv-528, 2019 WL 346428 (W.D. Va. Jan. 28, 2019) (holding a life term and two 10-year terms all run consecutive); *Jorgenson v. O’Brien*, No. 11-cv-174, 2012 WL 1565292 (N.D. W.Va. Mar. 19, 2012) (holding two 50-year sentences run consecutive to a 25-year sentence); *Shaw v. Young*, No. 16-cv-00033-RWS, 2018 WL 3081005 (E.D. Tex. June 22, 2018) (holding Petitioner must serve two-third of the life sentence *and* two-thirds of the consecutive 21-year sentence). Each of these cases is nearly identical to Faul’s case, and each expressly disavowed the interpretation advanced by Faul. Indeed, *Shaw v. Young* unambiguously addressed Faul’s exact argument when that court stated:

Petitioner contends that the inclusion of the disjunction “or” in § 4206(d) renders the statute divisible. He asserts the “or” in § 4206(d) divides the statutes into two distinct clauses, with the first clause making an inmate eligible for release after two-thirds of each consecutive term and the second clause making an inmate eligible for release after serving 30 years of each consecutive term of more than 45 years, including any life term, whichever is earlier. Petitioner states that as he was sentenced to a term of life imprisonment plus three consecutive term of years sentences, his situation is governed by the second clause. He contends that under this clause, he became eligible for mandatory release after serving 30 years because he has only one term of imprisonment longer than 45 years.

Id. at *2. The Court rejected this interpretation:

House Conference Report on § 4206(d) provides in relevant part that, “. . . In calculating two-thirds of a term, *all sentences imposed consecutively should be considered separately and the time on each sentence added together.*” (H.R. Conf. Rep. 94–838, 99, *as reprinted in* 1976 U.S.C.C.A.N. 351, 360) (emphasis added). While the legislative history demonstrates that Congress intended the section to provide more liberal criteria for release on parole for prisoners with longer sentences, *each consecutive sentence (including life sentences) should be considered separately, and then added together to calculate the eligibility date.* The Court agrees with the Magistrate Judge’s reasoning in the Report. To hold otherwise would make Petitioner’s consecutive term-of-year sentences irrelevant to the calculation of his mandatory release date. Moreover, the legislative history of § 4206(d) provides that “all sentences imposed consecutively should be considered separately and the time on each sentences added together.”

Id. at *2-3.

Faul’s request for § 4206(d) to be read in the disjunctive runs counter to congressional intent, the plain reading of the statute, and other circuit and district court decisions. Respondent urges the Court to deny Faul’s request to do so here, as this chorus of courts have prudently done.

In addition, Faul misapprehends the phrase “mandatory parole release date,” and, thus, has no grounds to allege that he has overserved his sentence. As has been explained above, Faul was ordered to serve a Life term with the possibility of parole. Although § 4206(d) grants a presumption of parole suitability after a mandatory parole date is reached, that presumption may be overcome if the USPC finds that the prisoner has either seriously or frequently violated the rules of the institution or that there is a reasonable probability that he would reoffend if released. *See* 18 U.S.C. § 4206(d). Faul refused to participate in his mandatory parole hearing. The USPC examined the record and found that there was

a reasonable probability that Faul would reoffend if released. *See* Desrosiers Ex. 22. Based on this, the USPC properly complied with § 4206(d) which states that the USPC “shall not release such prisoner” if it makes such a determination. *Id.* Again, in regard to Faul’s co-conspirator, as relayed by the Seventh Circuit in language very applicable to the case at bar:

So Von Kahl’s presumptive release date is February 12, 2023. The Bureau must let him go then unless the Commission acts under the statutory proviso and “determines that he has seriously or frequently violated institution rules and regulations or that there is a reasonable probability that he will commit any Federal, State, or local crime.” The onus of making such a finding is on the Commission. We mention the possibility here only to clarify that February 12, 2023, is a presumptive parole release date, not an outer limit to his custody. The outer limit is the end of his life.

Von Kahl, 19 F.4th at 990. Because Faul was sentenced to a Life term plus an aggregate consecutive 15 years, and because the USPC has recently found that he is likely to reoffend if released, the presumption of parole suitability was properly extinguished and Faul continues to be held lawfully.

Finally, Faul cannot now vaguely attack prior decisions denying parole, because the USPC’s newest parole denial in January of 2023 is under the much more permissive structure of § 4206(d) and moots any previous decision. In addition, as of February 8, 2023, Faul has not properly appealed the January 2023 decision to the National Appeals Board, thus prohibiting this Court from examining the validity of that decision. *See Merki v. Sullivan*, 853 F.2d 599, 600-01 (8th Cir. 1988) (finding federal prisoner’s challenge to USPC decision premature due to prisoner’s failure to appeal to the National Appeals Board). Any attempt to achieve judicial relief when Faul failed to appeal to the National

Appeals Board should result in dismissal of his petition.

In closing, Faul has failed to state a claim upon which *habeas* relief may be granted. Far from “losing track” of Faul, ECF No. 1 at 15, the USPC has worked to accommodate Faul’s requests over the last two years. The USPC has also forwarded to him multiple Notices of Action, demonstrating the USPC’s awareness of him as a prisoner and a potential parolee. While those decisions have not been to Faul’s liking, they are legal exercises of the discretion granted by Congress to the presidentially appointed Commissioners, and Faul has fallen far short of providing a justiciable cause of action against said decisions. *See Langella v. Anderson*, 612 F.3d 938, 940 (8th Cir. 2010) (“[Courts] have jurisdiction to review a prisoners claim only insofar as it properly alleges that the Parole Commission exceeded the scope of its discretion, violated the Constitution, or reached decisions so arbitrary and capricious as to amount to a violation of due process. The agency’s fact-finding process and relative weight it places on the facts is a discretionary matter that is not subject to our review.”) For all these reasons, Faul’s habeas petition should be denied.

II. An Evidentiary Hearing is Unnecessary Because the Matter May Be Resolved on the Record.

A petitioner is not entitled to an evidentiary hearing if the petitioner’s allegations are frivolous, where the relevant facts are not in dispute, or where the dispute can be resolved on the basis of the record. *Wallace v. Lockhart*, 701 F.2d 719, 729-30 (8th Cir. 1983). In a habeas corpus proceeding, an evidentiary hearing is appropriate only where material facts are in dispute. *Toney v. Gammon*, 79 F.3d 693, 697 (8th Cir. 1996); *Ruiz v.*

Norris, 71 F.3d 1404, 1406 (8th Cir. 1995). An evidentiary hearing is not required where the question is what conclusion can properly be drawn from the undisputed facts. *See id.*; *see also United States v. Winters*, 411 F.3d 967, 973 (8th Cir. 2005).

Respondent has provided sufficient facts based on the declarations and exhibits filed in this case. An evidentiary hearing is unnecessary because this matter can be resolved on the basis of the record.

CONCLUSION

Faul's petition should be denied, because his claims lack merit for all of the foregoing reasons.

Dated: February 10, 2023

Respectfully submitted,

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Scott William Faul,
Petitioner,

Case No. 22-CV-2993 (MJD/JFD)

v.

Michel Lejeune, Warden,
Respondent.

Petitioner's Reply In Support Of Petition For Writ
Of Habeas Corpus Pursuant To 28 U.S.C. § 2241

The Court should order Petitioner Scott Faul's immediate release to parole because Faul has served his sentence. The Government's response does not show otherwise. *

I. Introduction.

On February 13, 1983, the U.S. Marshal's service, aided by several local law enforcement officers, attempted to execute a misdemeanor probation violation warrant on Gordon Wendel Kahl - an experienced gunman and decorated World War II veteran who is reported to have publicly stated on several occasions that he would not peaceably return to federal prison. Regrettably, Petitioner Scott Faul was with the Gordon Kahl family when the marshals attempted to execute their warrant. The marshals ambushed the party that was traveling down the rural country road in Medina, North Dakota. It was clear that something bad was going to happen. Faul attempted to escape the standoff, but he

was cut off by Marshal Wigglesworth, who probably mistook Faul for Gordon Kahl. Faul was pinned into the kill zone when a shot rang out. A blaze of gunfire erupted over the next 15 seconds. When the smoke cleared, two marshals were dead, one was grievously injured, two local law enforcement officers had suffered gunshot wounds and Gordon Kahl's son, Yorie Von Kahl, was grievously injured. Faul rushed Yorie Kahl to the hospital and then fled the area to avoid further threats or violence. Gordon Kahl disarmed the surviving law enforcement officers and then fled. Faul self surrendered the next day after negotiating a peaceable surrender. Gordon Kahl stayed on the run until he was found and killed in Arkansas.

For forty years, Faul has maintained his innocence while acknowledging the deep tragedy of the events of February 13, 1983. Faul agrees with then Chief Eighth Circuit Judge Lay's dissent in his appeal, in which Judge Lay concluded that Faul "did not and could not receive a fair trial in the District of North Dakota." See United States v. Faul, 748 F. 2d 1204, 1223 (8th Cir. 1984). See Reply Ex. A. Faul agrees with Bud Warren, former U.S. Marshal for the District of North Dakota, who contributed to a lawmen's report concluding that, "aside from the violation of orders from superiors, had the U.S. Marshals used proper **basic** arrest policies and tactics, the arrest of Kahl most probably could have been carried out without a violent confrontation." See Reply Ex. B. Faul agrees with Steve Schnabel and Darrell Graf - local law enforcement officers, one of whom

suffered gunshot wounds that day - who have concluded that Faul was more a victim of regrettable circumstances than a culpable individual. See Reply Exs. C and D. Faul agrees with and appreciates the many letters of support he has received over the years in support of his release.

Faul was 30 years old on February 13, 1983. He is now 70 years old. Faul has served the time required by our law. It is time for him to go home.

II. Argument.

According to the Government's response, the Government's position is that Faul is eligible for mandatory parole after serving 40 years on his sentence. As of the date of this response, Faul has done so. Faul is thus entitled to parole. The Parole Commission's recent action is legally insufficient to prevent Faul's parole.

The Court can and should go further. Faul's § 2241 petition demonstrates that the Bureau of Prisons has overlooked the possibility that Faul served his sentence irrespective of any further parole. Faul was paroled by operation of law from the life terms of his sentence after serving the 30 years on them required by § 4206(d). Faul has served an amount of time on the remaining "15" of his sentence, inclusive of good time credits, to have served that term as well. The government does not address this position and should be deemed to have conceded it.

The Court can and should go further still. Faul's § 2241 petition demonstrates that the plain text of § 4206(d) provides

that Faul was paroled from his entire sentence after having served 30 years on it. Section 4206(d) creates two mutually exclusive paths for reaching mandatory parole. On February 13, 2013, Faul completed the path which required Faul to serve 30 years on any consecutive terms in his sentence greater than 45 years (including life). In addition to being non-binding, the authorities cited by the government are unpersuasive because they render the "whichever is earlier" provision of 18 U.S.C. § 4206(d) mere surplusage.

A. Faul is entitled to immediate release on parole because he has served 40 years on his sentence and the Parole Commission's recent action is legally insufficient to block Faul's mandatory parole.

Faul is entitled to immediate release on parole because he has served 40 years on his sentence and the Parole Commission's recent action is legally insufficient to block Faul's mandatory parole. The Government's position is that Faul is entitled to mandatory parole after serving 40 years on his sentence unless the Commission determines that Faul has "seriously or frequently violated institution rules and regulations or that there is a reasonable probability that he will commit any Federal, State or local crime." Resp. at p. 12. The Government calculates that Faul will have served 40 years on his sentence as of February 14, 2023. Resp. at p. 11 (citing Declaration of Jon McEvoy ¶ 8, Ex. A at 1). It is thus uncontested that, as of the date of this response, Faul has served 40 years on his sentence.

The remaining issue is whether the Commission has made a

determination that blocks Faul's mandatory parole. Under § 4206(d), Faul is entitled to parole unless the Commission determines that Faul "has seriously or frequently violated institution rules and regulations or that there is a reasonable probability that he will commit any Federal, State or local crime." 18 U.S.C. § 4206(d). The Commission has not made this determination. The closest the Commission has come to making this determination is the determination in its January 31, 2023 Notice of Action that there is a "reasonable likelihood" that Faul will commit any federal, state or local crime. "Reasonable likelihood" is not the same as "reasonable probability."

First, "likelihood" and "probability" are different words. Section 4206(d) specifies that the Commission must determine a "reasonable probability" of recidivism and leaves no room for alternative determinations. Given the stakes here - forcing a 70 year old man (who has spent the past 40 years in prison) to spend the rest of his life in prison - it is not too much to require the Commission to make the determination required by law.

Second, the Commission could not plausibly determine that Faul has a "reasonable probability" of recidivism, given that the Attorney General has determined ten times over the past four years that Faul has a "minimum" probability of recidivism. The First Step Act of 2018 mandated the Attorney General to develop a tool for assessing federal inmates' probability of recidivism: the PATTERN assessment tool. See 18 U.S.C. § 3632. The PATTERN assessment tool weighs such factors as age, criminal history,

overall history of violence, institutional disciplinary record, programming efforts and other similar factors, and assigns a score which falls in one of four ranges: minimum, low, medium, or high. Faul has received a "minimum" PATTERN score in each of his assessments. See FSA Time Credit Assessment, Reply Ex. E. Faul's institutional record provides support for the Attorney General's assessments. According to Faul's institutional record:

Inmate Faul earned his high school diploma prior to his incarceration in the Bureau of Prisons. He has completed two educational classes during his current term of incarceration, and has also completed two Release Preparation Program (RPP) classes (see above listed classes). In addition to the above listed classes, inmate Faul has certificates of completion for the following classes: Nutritional Health II, Personality & Goal Setting, Principles For Success, Introduction to Community Skills, Communication Part II, and Personality and Stress Control. Faul has been awarded "cube of the week" on two occasions for his extraordinary cleanliness and sanitation standards. He has also been awarded for his "Outstanding Work Performance" for his superior work performance while employed in UNICOR and for assisting in stripping and waxing floors in the AW Complex area. Faul has at least 20 work performance ratings where he was given bonus pay for exceeding work standards, and being a good worker. He is on the waiting list for the Release Orientation Preparation pre-release seminar, and FSA Money Smart for Older Adults, and FSA Anger Management. It is expected that he will continue to program and complete additional educational classes prior to his release.

See Progress Report, Reply Ex. F. Faul's case manager, Jacob Anderson, answered an INMATE REQUEST TO STAFF on April 26, 2022 stating:

I don't see anything [in your central file] that would indicate you would be a security risk or have any evidence that you would commit any crimes. I intend to submit you for 12 mths RRC placement when I am allowed to.

See Reply Ex. G. Any finding by the Commission that Faul has a

"reasonable probability" of recidivism would conflict with the Attorney General's determination that Faul's probability of recidivism is "Minimum."¹

Faul is entitled to immediate release on parole because he has served 40 years on his sentence and the Commission's recent action is legally insufficient to block Faul's parole.

B. Faul is entitled to immediate release because the Government does not contest Faul's showing that the Bureau of Prisons overlooked the possibility that Faul could simply serve the consecutive "15"-year term of his sentence instead of being paroled from it.

Faul is entitled to immediate release because the Government does not contest Faul's showing that the Bureau of Prisons overlooked the possibility that Faul could simply serve the consecutive "15"-year term of his sentence instead of being paroled from it. Faul's § 2241 petition demonstrates that Faul completed his sentence on October 21, 2017, the day on which Faul's Extra Good Time credits equaled the number of days remaining on Faul's ten-year and five-year terms ("15") after accounting for Statutory Good Time. See § 2241 Petition at ¶¶ 13-25. The Government's failure to respond to this claim should be

1 The Government's response contains extensive records from Faul's parole proceedings and material errors of fact about them. For example, the Government inaccurately describes Faul as reversing his position on his guilt or innocence. In fact, Faul has consistently maintained his innocence, while also acknowledging the tragedy of February 13, 1983, for everyone that day affected. For the sake of this § 2241 petition, it is sufficient to note that the Commission did not make the finding required by § 4206(d). Faul also respectfully disagrees with the Commission's recent and historic findings of fact, but those disagreements will be addressed via the statutorily prescribed channels.

treated as a default and the Court should order Faul immediately released. The Commission's January 31, 2023 action has no relevance to this claim. Faul is entitled to immediate release.

C. Faul is entitled to immediate release because he has served the 30 years required by the plain text of § 4206(d) to reach mandatory parole on his sentence.

Faul is entitled to immediate release because he has served the 30 years required by the plain text of § 4206(d) to reach mandatory parole on his sentence. Faul's § 2241 petition demonstrates that the plain text of § 4206(d) creates mutually exclusive paths by which an "old law" prisoner can reach his mandatory parole date. These paths are: (1) serving two-thirds of each consecutive term; or (2) serving 30 years of each consecutive term exceeding 45 years. 18 U.S.C. § 4206(d). Section 4206(d) provides that a prisoner is entitled to parole when he completes "whichever is earlier." Id. See also § 2241 Petition at ¶¶ 7-16. Faul completed the earlier path on February 14, 2013, and was entitled to release then.

The Government resists this conclusion. The Government's resistance consists of citations to decisions in which other courts have rejected the interpretation Faul advances here. The first point to be made about these decisions is that they are non-binding. The second point to be made about these decisions is that they are unpersuasive, as they fail to address the "whichever is earlier" language from § 4206(d). Neither the Government's response nor the cases cited in it explain what function this language serves if not to create two mutually

exclusive paths for reaching the mandatory parole date. One fundamental rule of statutory construction is to avoid interpretations that create surplusage. See Duncan v. Walker, 533 US 167, 174 (2001) (holding that "[i]t is our duty 'to give effect, if possible, to every clause and word of a statute.'"). The Government's proposed interpretation renders the "whichever is earlier" language mere surplusage, whereas Faul's interpretation gives the language operative effect.

Notably, the government does not contest Faul's factual assertion, that as he began his sentence and served much of it, the Bureau of Prisons told him he would serve 30 years before reaching his mandatory parole date. To the extent that the Government discusses the Bureau of Prisons' Program Statements or legislative history, not only are those sources ambiguous regarding the issue before the Court, but they cannot override the plain text of § 4206(d). See United States v. O'Driscoll, 761 F. 2d 589, 598 (10th Cir. 1985) (stating that the word "or" can never be interpreted as meaning the conjunctive "and" if the effect would be to increase the punishment).

Because the Government's interpretation of § 4206(d) renders the text "whichever is earlier" mere surplusage, the Court should reject it in favor of Faul's interpretation, which gives effect to all of the statutory text and is consistent with how the Bureau of Prisons interpreted § 4206(d) for much of Faul's sentence.

Faul is entitled to immediate release because he was paroled

by operation of law from his sentence on February 14, 2013 after having served the 30 years required by § 4206(d). The Commission's January 31, 2023 action has no relevance to this argument.

III. Conclusion.

Faul is entitled to immediate release for at least three independent reasons: (1) he has served 40 years on his sentence and the Commission did not make the determination required by law to block his mandatory parole; (2) it is uncontested that Faul served his sentence irrespective of any further parole; and, (3) Faul's interpretation of § 4206(d) is more persuasive because it gives effect to § 4206(d)'s entire text. Faul is entitled to immediate release.

Respectfully submitted,

Date: February 17, 2023

Scott William Faul
Scott William Faul

Affidavit And Certificate

I, the undersigned affiant, certify under the penalty of perjury that all the facts and circumstances in the foregoing instrument are true and correct. I further certify that I served one copy of this instrument on the Clerk of this Court, to be served through the ECF system, on this 17th day of February, 2023, by placing with the AM legal mail officer a copy for mailing with first class postage prepaid.

Affiant

Scott William Faul

Scott William Faul
Reg. No. 04564-059
F.C.I. Sandstone
P.O. Box 1000
Sandstone, MN 55072

United States of America, Appellee, v. Scott Faul, Appellant; United States of America, Appellee, v. Yorle Von Kahl, Appellant; United States of America, Appellee, v. David Ronald Broer a/k/a, David Ronald Brewer, Appellant
UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT
748 F.2d 1204; 1984 U.S. App. LEXIS 16912
Nos. 83-1912, 83-1913, 83-1914
November 7, 1984, Decided
May 14, 1984, Submitted

Counsel

Warren C. Sogard, Irvin B. Nodland & Ralph A. Vinje, for Appellant.
Lynn E. Crooks, AUSA, for Appellee.

Judges: Lay, Chief Judge, Ross and Fagg, Circuit Judges. Lay, Chief Judge, dissenting.

Dissent

Dissent by: LAY

LAY, Chief Judge, dissenting.

I respectfully dissent. The record amply demonstrates the defendants did not and could not receive a fair trial in the District of North Dakota. At the time of trial there existed in that district "so great a prejudice against the defendants that [they could] not obtain a fair and impartial (748 F.2d 1224) trial at any place fixed by law for holding court in that district." Fed. R. Crim. P. 21(a).

The issue on review of a district court's ruling on a motion to change venue is whether the trial court has abused its discretion. *E.g., Rizzo v. United States*, 304 F.2d 810, 817 (8th Cir.), cert. denied, 371 U.S. 890, 9 L. Ed. 2d 123, 83 S. Ct. 188 (1962). The district court in the present case, however, failed to rule on the defendants' venue change request. The usual deference to a district court's determination that a change of venue was unnecessary is thus not warranted in this case.

Regardless of whether the district court ruled implicitly(1984 U.S. App. LEXIS 57) or merely denied de facto a change of venue, the majority's analysis focuses incorrectly on constitutional principles. In federal court, a federal defendant's right to an impartial jury is protected under our supervisory authority.

The Supreme Court has considered in several cases the question of whether a trial court denied a defendant his due process rights in refusing to grant a change of venue. *See Murphy v. Florida*, 421 U.S. 794, 95 S. Ct. 2031, 44 L. Ed. 2d 589 (1975); *Sheppard v. Maxwell*, 384 U.S. 333, 16 L. Ed. 2d 600, 86 S. Ct. 1507 (1966); *Estes v. Texas*, 381 U.S. 532, 14 L. Ed. 2d 543, 85 S. Ct. 1628 (1965); *Rideau v. Louisiana*, 373 U.S. 723, 10 L. Ed. 2d 663, 83 S. Ct. 1417 (1963); *Irvin v. Dowd*, 366 U.S. 717, 6 L. Ed. 2d 751, 81 S. Ct. 1639 (1961). Each of these decisions, however, was a review of a state criminal prosecution. Because each defendant alleged a violation of his fourteenth amendment rights, the Court's analysis was necessarily constitutional in scope. In determining whether a state criminal procedure is constitutionally defective, federal courts give great deference(1984 U.S. App. LEXIS 58) to the state tribunal's evaluation. A federal court generally will not interfere unless the factual context and trial procedure were so egregious as to demonstrate an inherent denial of due process. The Supreme Court presumed such due process denials in the *Sheppard*, *Estes*, and *Rideau* cases. *See also Murphy*, 421 U.S. at 798-99.

A more stringent standard governs the review of a federal district court's refusal to grant a change of venue under Fed. R. Crim. P. 21(a). Appellate evaluation of a denied change of venue request in a federal prosecution is based on "the exercise of [its] supervisory power to formulate and apply

proper standards for enforcement of the criminal law in the federal courts,' and not as a matter of constitutional compulsion." *Murphy*, 421 U.S. at 797, quoting *Marshall v. United States*, 360 U.S. 310, 313, 3 L. Ed. 2d 1250, 79 S. Ct. 1171 (1959). Cf. *Marshall*, 360 U.S. 310, 3 L. Ed. 2d 1250, 79 S. Ct. 1171 (reversing, in the exercise of its supervisory power, defendant's federal criminal conviction where jurors were exposed to information detailing defendant's previous convictions).

{1984 U.S. App. LEXIS 59} As the Supreme Court recognized in *Murphy*, criteria developed under federal supervisory powers to evaluate the fairness of a defendant's trial do not apply to the due process review of state criminal trial procedures. See *Murphy*, 421 U.S. at 798. 1

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See also *Murphy v. Florida*, 421 U.S. 794, 803-04, 44 L. Ed. 2d 589, 95 S. Ct. 2031 (1975) (Burger, C.J., concurring) ("Although I would not hesitate to reverse petitioner's conviction in the exercise of our supervisory powers, were this a federal case, I agree with the Court that the circumstances of petitioner's trial did not rise to the level of a violation of the Due Process Clause * * *"); *United States v. Provenzano*, 620 F.2d 985, 995-96 (3d Cir.), cert. denied, 449 U.S. 899, 101 S. Ct. 267, 66 L. Ed. 2d 129 (1980); *United States v. Haldeman*, 181 U.S. App. D.C. 254, 559 F.2d 31, 145-50 (D.C. Cir. 1976) (MacKinnon, J., dissenting), cert. denied, 431 U.S. 933, 97 S. Ct. 2641, 53 L. Ed. 2d 250, reh'g denied, 433 U.S. 916, 97 S. Ct. 2992, 53 L. Ed. 2d 1103 (1977); cf. *Rideau v. Louisiana*, 373 U.S. 723, 728, 10 L. Ed. 2d 663, 83 S. Ct. 1417 (Clark, J., dissenting) ("If this case arose in a federal court, over which we exercise supervisory powers, I would vote to reverse the judgment before us. * * * It goes without saying, however, that there is a very significant difference between matters within the scope of our supervisory power and matters which reach the level of constitutional dimension.") (citations omitted).

{1984 U.S. App. LEXIS 60} Under the more protective federal standard, "jurors' assurances that they could {748 F.2d 1225} maintain impartiality in spite of the news articles[,] "*Murphy v. Florida*, 421 U.S. 794, 797, 44 L. Ed. 2d 589, 95 S. Ct. 2031 (1975), does not, alone, answer a federal defendant's allegation that he or she could not have obtained a fair trial in a particular district. Rather, venirepersons' exposure to "information with a high potential for prejudice," *id.*, in combination with other factors discussed below, may justify a new trial or reversal of a defendant's conviction. This test is not a subjective evaluation by either the trial or the appellate court. The determination of potential prejudice under federal supervisory powers is an objective appraisal of many factors -- not merely a post hoc analysis of the voir dire examinations.

Although Fed. R. Crim. P. 21(a) does not provide clear guidelines for evaluating prejudice in a federal prosecution, certainly the Rule presumes prejudice in extreme cases where "the totality of circumstances [indicates] that petitioner's trial was not fundamentally fair." *Murphy*, 421 U.S. at 799; Cf. *Marshall v. United States*, 360 U.S. 310, 311-12, 3 L. Ed. 2d 1250, 79 S. Ct. 1171 (1959){1984 U.S. App. LEXIS 61} (using its supervisory power to grant a new trial where jurors were exposed to news articles containing information previously ruled prejudicial and inadmissible). The majority, however, limits its evaluation of juror prejudice to the voir dire examinations and the district court's admonitions of fairness to the prospective jurors. 2 Where heightened emotions related to the crime pervade the general community, voir dire evidence of impartiality is not a sufficient guarantee of a fair trial. See *Murphy*, 421 U.S. at 799. Given the sensational character of the facts of this case, the jurors' indications that they could act as neutral fact finders are not an adequate assurance that the defendants Faul, Kahl, and Broer received a fair trial in the District of North Dakota. As the First Circuit Court of Appeals observed in *Delaney v. United States*, 199 F.2d 107, 112-13 (1st Cir. 1952):

One cannot assume that the average juror is so endowed with a sense of detachment, so clear in his introspective perception of his own mental processes, that he may confidently exclude even the unconscious influence of his preconceptions as to probable guilt, {1984 U.S. App. LEXIS 62} engendered by a pervasive pre-trial publicity.

Contrary to the majority's method of evaluation, the voir dire examination is not a factor of greater weight than other considerations. Indeed, factors such as community size and extent of publicity may reveal the unreliability of voir dire testimony. See American Bar Association Project on Standards for Criminal Justice, *Standards Relating to Fair Trial and Free Press* 127 (1968). Review of the voir dire examination is but one factor in a review of a district court's denial of a motion for change of venue. Other factors should also be considered, such as the extent of circulation of publicity concerning the event in the community, the severity and sensationalism of the offense, the familiarity of the jurors with the individuals involved, the length of time between the publicity and the trial, the prospective jurors' exposure to the publicity, the connection of government officials with the release of the publicity, and the character and size{1984 U.S. App. LEXIS 63} of the district from which jurors will be selected. 3 Applying {748 F.2d 1226} these considerations to the circumstances that led to the prosecutions of defendants Faul, Kahl, and Broer, I find it impossible to conclude that the defendants could have received a fair trial in the District of North Dakota.

State courts considering motions for changes of venue employ similar factors. Voir dire results are not the sole element in an analysis of the existence of potential juror prejudice. In *Houle v. N.D. Dist. Court, Burleigh County, S. Central Judicial Dist.*, 293 N.W.2d 872, 873 (N.D. 1980) (citations omitted), the Supreme Court of North Dakota stated:

Thus, the ultimate question to be decided by the court is whether or not it is possible to select a fair and impartial jury. The explanatory notes to Rule 21, N.D.R. Crim. P., list four factors to be considered by the Court in determining whether or not pretrial publicity renders it impossible to select a fair and impartial jury: (1) whether or not the publicity was recent, widespread, and highly damaging to the defendant; (2) whether or not the prosecution was responsible for the objectionable material, or if it emanated from independent sources; (3) whether or not an inconvenience to the prosecution and the administration of justice will result from a change of venue or continuance; and (4) whether or not a substantially better panel can be sworn at another time or place.

This Court recently added four more factors to assist in judicial determinations of whether or not pretrial publicity warrants a change of venue. These additional considerations are: (1) the nature and gravity of the offense; (2) the size of the community; (3) the status of the defendant in the community; and (4) the popularity and prominence of the victim.

See also *State v. Engel*, 289 N.W.2d 204, 206 (N.D. 1980); *State v. Fallis*, 205 Neb. 465, 288 N.W.2d 281, 284 (Neb. 1980); *Olson v. N.D. Dist. Court, Richland County, Third Judicial Dist.*, 271 N.W.2d 574, 579-80 (N.D. 1978); cf. *State v. Thompson*, 266 Minn. 385, 123 N.W.2d 378, 380 (1963) (per curiam) quoting *State ex rel. Warner v. Dist. Court*, 156 Minn. 394, 194 N.W. 876, 878 (1923) ("... (sic) It is not necessary that * * * the ends of justice require the change. It is sufficient that they would be 'promoted.'" (emphasis in original)). The same factors should be considered in evaluating venue change motions under our federal supervisory powers. Cf. *St. Paul Fire & Marine Ins. Co. v. Commodity Credit Corp.*, 474 F.2d 192, 198 (5th Cir. 1973) ("For guides to the 'law of independent federal judicial decision,' * * * we look principally to federal decisions in nondiversity cases, but without blinders to persuasive analogies from state law.") (citation omitted).

{1984 U.S. App. LEXIS 64} The deaths that occurred during the February 13, 1983, confrontation were needless and tragic. 4 Outpourings of sympathy for the losses suffered by the families of the deceased Marshals came from across the nation. The issue in this case, however, is whether the living defendants, Scott Faul, age 29, Yorie Von Kahl, the 23 year-old son of Gordon, and 43 year-old David Broer received a fair and impartial trial. This question requires a recounting of the historical facts leading Gordon Kahl, his family, and followers to the bloody February 13 gun battle.

The violence and killings did not end on February 13, 1983. Gordon Kahl and a local law enforcement officer were killed a few months later in another armed confrontation in Arkansas. See *United States v. Udey*, 748 F.2d 1231 (8th Cir. 1984).

Gordon Kahl was a "tax protester" and a member of an extremist organization known as the Posse Comitatus. Kahl was convicted in 1977 in the federal district court for the Western District of Texas (1984 U.S. App. LEXIS 65) on two counts for failure to file income taxes. Kahl served a one-year sentence in Leavenworth Federal Prison and was placed on probation for five years. After serving his sentence, Kahl apparently returned to his North Dakota farm in 1979. In 1980, Kahl was summoned to appear in federal court on a charge that he had violated his probation in failing to file required monthly probation reports. In March of 1981, the United States Marshal for the District of North Dakota received a parole warrant from a district of Texas indicating that Kahl was in violation of his parole. After learning from Texas authorities that Kahl could be dangerous, the Marshal arranged a meeting with Kahl to attempt to resolve the matter peacefully. 5 The Marshal testified that he did not attempt to arrest Kahl at this "meeting of the minds." The meeting did not convince Kahl to submit voluntarily to the Marshal. 6

5

The Marshal also sought out Kahl at a church meeting, but, deciding that the "circumstances were not [right]," did not attempt to arrest Kahl.

6

Deputy United States Marshal Harold C. Warren testified that Marshal Muir told him that Muir had been instructed by his superiors in Washington, D.C. to cease attempting to apprehend Gordon Kahl. Kahl's minor violation was not deemed worth the expense and time necessary to execute successfully the warrant for his arrest.

(1984 U.S. App. LEXIS 66) On February 13, 1983, Gordon Kahl, the three defendants, and others were peacefully assembled at the Medina Medical Clinic in Medina, North Dakota. The group noticed that they were under surveillance. Scott Faul became uneasy, because he had information that an all points bulletin (APB) had been issued on his car. This APB was later determined to be an attempt to locate a car believed to have been used by Gordon Kahl. The group left the Clinic in separate cars, and soon encountered a roadblock created by unmarked police vehicles. When the defendants attempted to turn around in a driveway, they were blocked by a Ram Charger. Faul testified (748 F.2d 1227) on direct examination that he did not recognize either the truck blocking his car as a police vehicle or the persons in the truck as police officers. Faul further testified "someone started screaming at us and the man that had the shotgun pointing at me yelled, 'your [sic] going to die,' and I was waiting and my head was pounding kind of like I could feel every heart beat and I thought everyone [sic] would be my last one." Transcript of Proceedings, Volume XIII at 175-76. Yorie Kahl gave similar testimony. Faul denied connecting (1984 U.S. App. LEXIS 67) the armed barricade with the outstanding warrant on Gordon Kahl. The gunfire began shortly thereafter. From February 14, 1983, to March 29, 1983, the Fargo *Forum*, circulation 56,500, printed 68 news stories and 22 pictures related to the criminal matter in issue. Approximately one-third of these articles and pictures were on the front page. Television and radio coverage was extensive. Descriptions of Gordon Kahl's fanaticism, the violent and unique nature of the crime, and feelings of sympathy for the dead United States Marshals created feelings of hostility against the defendants. Marshal Muir was one of the most respected law enforcement officers in the area. Deputy Marshal Cheshire was also well-liked and respected. According to two news articles, a total of over 1100 people attended the funeral services of the Marshals. The cold-blooded killing of Cheshire heightened the agitation, not only in the small peace-loving farm community, but throughout the state. The Governor of North Dakota directed that all state, county, and local flags be flown at half-mast in remembrance of the two deceased Marshals. Funeral eulogies and editorials

condemning the killings and paying{1984 U.S. App. LEXIS 68} tribute to Muir and Cheshire were printed in the district's largest selling newspaper. Anger and shock thus spread across the entire District of North Dakota.

Much of the publicity linked the defendants with Gordon Kahl's fanaticism and ruthlessness. Many news articles focused on Gordon Kahl's association with the radical Posse Comitatus, and left an impression that all the defendants were involved with the Posse Comitatus. Pre-trial Fargo *Forum* articles included in the record clearly demonstrate the media-created connection between the defendants and Gordon Kahl:

2/14/83: "Two U.S. marshals were killed *** while trying to arrest a probation violater [sic]. *** Gordon Kahl ***. Police said they had arrested Kahl's son, Yorie ***."

2/15/83: "Emotionally charged meeting of civil liberty advocates *** some members *** headed into a shootout ***. One of the fugitives *** Scott Faul. *** Gordon Kahl *** the other fugitive is known to have headed more formally organized posses ***. Broer *** drove away from the scene ***"

2/15/83: "**Hunt for fugitives.** *** Gordon Kahl *** a tax protestor [sic] and parole violator, and{1984 U.S. App. LEXIS 69} *** Scott W. Faul. *** Kahl's 23-year-old son, Yorivon, also is in government custody. *** [A] known enclave for the tax protestor [sic] group that Kahl and the others are presumed to be members."

2/15/83: "[A] violent end to a trial that had led them astray of the law before, mainly because of their unconventional views about taxes. Both Gordon Kahl, 63, and Scott Faul, 29, have been found guilty of tax evasion. Acquaintances said Kahl and Faul threatened to turn violent ***."

2/15/83: "**They're still shooting out here . . . We need help'** *** Yorie Kahl, 23, who had bullet wounds in the stomach and arm *** 'How can this happen in little Medina, North Dakota?' ***"

2/16/83: "An assault *** by about 100 heavily-armed law enforcement officers *** to find 63-year-old fugitive Gordon Kahl ***. Just hours after another suspect in the slayings, Scott W. Faul *** surrendered to authorities. *** The one suspect not being held in the jail is Kahl's 23-year-old son Yorivon, who was wounded ***"

2/16/83: "**Kahl house in shambles after search** *** Kahl is wanted in connection with a roadblock shootout with government {1984 U.S. App. LEXIS 70} {748 F.2d 1228} officers *** Kahl's son Yori, 23, [was] wounded ***"

2/16/83: "**Shootout said to resemble TV gun battle** *** [a local law enforcement officer] Kapp observed a car known to be driven by Gordon Kahl ***. [The officers] spotted a car belonging to David Broer *** 'The first shot fired, [stated the affidavit of one officer] was from Yorivon Kahl, which appeared to have hit Deputy U.S. Marshal Cheshire.' *** Faul *** assisted Yorivon Kahl into Schnable's squad car ***"

2/16/83: "Law enforcement officers, equipped with an armored personnel carrier and automatic weapons, were preparing to make a sweep of the Kahl farm to determine if the 63-year-old fugitive wanted in the slayings of two U.S. marshals was hiding somewhere on the property. *** Yori Kahl, 23, suffered two bullet wounds in the abdomen in the shootout ***"

2/17/83: "**Slain U.S. law officer eulogized.**"

2/17/83: "**Sources say Kahl takes blame in letter** *** Suspects being held *** are *** David R. Broer ***. Kahl's son, Yorivon *** remains under armed guard at the Jamestown hospital. The 63-year-old Kahl, who has been characterized as a{1984 U.S. App. LEXIS 71} 'fanatic' anti-tax protestor *** The letter surfaced with Scott W. Faul *** another suspect in the slayings *** Kahl *** has been described as being a member of a paramilitary group called Posse Comitatus ***"

2/16/83: "Mrs. Kahl, wife of Gordon Kahl, the remaining fugitive among six people charged with the deaths of two federal marshals, broke into tears when she referred to her 23-year-old son, Yorivon, who was wounded in the incident."

2/18/83: "Two lawmen are dead and others in the Medina, N.D., shootout lie in hospitals, some

seriously wounded. The region and the nation are in shock over what happened last Sunday *** Who would have thought that an attempt to serve a warrant on a man wanted for probation violation in a federal tax case could result in such havoc." (Forum editorial).

2/18/83: "Dozens of heavily-armed law enforcement officers swept into Ashley, N.D., Thursday morning in another futile search for fugitive Gordon Kahl *** Kahl was active in a group called Posse Comitatus *** The wounded suspect, 23-year-old Yorivon Kahl, Gordon Kahl's son, was removed from the critical list ***."

2/19/83: **"Search for shootings' fugitive{1984 U.S. App. LEXIS 72} continues ***** Five people with Kahl when the shootings occurred, including his wife and son, have been arrested."

2/19/83: **"Hearing for five suspects in shooting tentatively set ***** The five suspects include fugitive Gordon Kahl's *** 23-year-old son Yorivon *** Scott W. Faul *** and David R. Broer *** A sixth suspect, Gordon Kahl *** remains at large ***"

2/20/83: "Kahl has claimed to be a member of the paramilitary tax-protest group, Posse Comitatus * * * Five people with Kahl, including Yorivon *** were arrested on murder charges. The other three [include] Scott Faul *** and David Broer ***"

2/21/83: "The task of finding fugitive Gordon Kahl, a tax protester accused in the slayings of two U.S. marshals, has settled into routine investigative work *** Kahl has been hunted since a brief gunbattle near Medina following a meeting of people sharing similar beliefs as Kahl, *** David Broer and Faul have been charged with murder."

2/22/83: "Kahl, a tax protester and probation violator, is the subject of a search in several western and midwestern states ***. Five other people are in custody in connection with the slayings, {1984 U.S. App. LEXIS 73} including *** his critically wounded son, Yorivon Kahl *** David Broer *** and Scott Faul ***."

2/23/83: **"Faul accused of 'executing' deputy marshal ***** during a 15-second gun battle with tax protester Gordon Kahl and five other suspects ***"

2/23/83: "Law enforcement officers found themselves at a tactical disadvantage just (748 F.2d 1229) prior to the shootout on Feb. 13, near Medina, N.D., with tax protester Gordon Kahl and five other suspects. *** Reardon said Faul then walked over to the vehicle where Cheshire lay wounded and upon reaching it, fired two shots at Cheshire."

2/24/83: **"Yorie Kahl formally charged in Jamestown hospital room ***** Kahl is the son of fugitive tax protester Gordon Kahl *** Preliminary hearings for four other defendants *** [Including] Scott Faul *** and David Broer ***"

2/24/83: "Kahl, whom federal law enforcement officers have identified as a key figure in the formation of posse units in central North Dakota, is being sought for the slaying of two U.S. marshals during a Feb. 13 shootout near Medina, N.D."

2/28/83: **"Manhunt for fugitive Kahl enters third week ***** His 23-year-old{1984 U.S. App. LEXIS 74} son Yorie is hospitalized *** and awaits a preliminary hearing on a murder charge. Four persons are in jail ***"

3/1/83: "No new developments in the search for fugitive Gordon Kahl *** Being held without bond are Scott Faul, 29, and David Broer ***. Gordon Kahl's 23-year-old son, Yorivon, remains under protective custody ***"

3/2/83: **"Yori Kahl moved to Clay County jail ***** Kahl is the son of fugitive Gordon Kahl, 63, a tax protester from Heaton, N.D. Gordon Kahl still is being sought by federal and state authorities."

3/3/83: **"Court delays hearing for Yori Kahl ***** Kahl, 23, is the son of fugitive tax protester Gordon Kahl *** The search for Gordon Kahl is in its third week. The U.S. Marshal Service has offered a \$25,000 reward for information leading to his arrest."

date *: **"Details of alleged Kahl letter revealed ***** Kahl also praised the actions of his 23-year-old son Yorie Von Kahl and Scott Faul, during the gun battle."

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Indicates the date of the article was not found in the record.

{1984 U.S. App. LEXIS 75} 3/10/83: "Yorie Von Kahl, admitted he may have fired the first shot in the gun battle between tax protesters and law enforcement officers on Feb. 13 *** Kahl, the son of fugitive Gordon Kahl *** Two others facing the murder charges *** are Scott Faul, *** and David Broer *** Kahl's father also has been charged with murder and remains the subject of an intensive manhunt."

3/12/83: "Grand jury indicts Kahl, five others *** The 11-count indictment charges Kahl, 63, his son Yorie Von, 23, and Scott Faul, 29, with the murders *** David Broer, 43, on lesser charges ** *."

3/13/83: "One month after a shootout that left two U.S. marshals dead, tax protester Gordon Kahl is still at large, and investigators blame his freedom on factors including sympathy for the 63-year-old fugitive. Kahl and five other people were indicted Friday *** Of the five indicted, only Kahl *** is still at large."

3/15/83: "Medina shooting suspects arraigned *** Yorie Von Kahl *** Scott Faul *** and David Broer *** A sixth suspect, Gordon Kahl, *** also has been charged with murder. He remains the subject of an intense manhunt ***."

3/19/83: "A{1984 U.S. App. LEXIS 76} federal judge in Texas had issued a warrant for Kahl's arrest in March 1981, and it was that warrant marshals unsuccessfully attempted to serve on Kahl nearly two years later. Instead of an arrest, a 15-second gunfight erupted, leaving two marshals dead and four others, including Kahl's 23-year-old son, Yorie Von Kahl, wounded."

3/19/83: "Both Faul and the younger Kahl were arrested shortly after the incident and have been charged with murder. The elder Kahl also faces murder charges but remains a fugitive."

3/24/83: "Description of [Gordon] Kahl's car released *** Three others have also been charged with murder in the slayings of U.S. marshals *** They were cut down by bullets as they tried to serve an arrest warrant on Kahl ***."

3/26/83: "Radio conversations transcribed by authorities have left a chilling record of the minutes preceding the Feb. 13 shootout *** The officers were trying to arrest fugitive Gordon Kahl *** Kahl's {748 F.2d 1230} vehicle was spotted outside the Medina Medical Clinic, where an informal group of so-called 'constitutional activists' was meeting *** Kahl, 63, his son Yorie, 23, and Faul, 29, all of Heaton, have been{1984 U.S. App. LEXIS 77} indicted by a federal grand jury on two counts of murder."

3/26/83: "Judge asked [by prosecutor] to bar some subjects at shootout trial *** Evidence concerning membership in anti-government, anti-tax or anti-law enforcement groups, such as Posse Comitatus *** by Gordon Kahl or any other defendants. *** [Yorie] Kahl and Faul have been charged with the murders of [Cheshire and Muir] *** The three other defendants who have been charged with lesser offenses [include] *** David Broer *** A sixth suspect, who also facing murder charges, Gordon Kahl *** remains a fugitive. *** [The prosecutor] acknowledged he may be premature in anticipating what evidence the defendants will attempt to offer at the trial. But he noted that several of the defendants have been portrayed in news media accounts as being tax protesters and members of vocally anti-government and anti-tax groups such as Posse Comitatus *** In particular, [he] noted a 16-page statement purportedly written by Gordon Kahl in which Kahl claims a religious right to resist arrest for any tax-related offenses. *** Public news stories indicate that perhaps several of the other defendants{1984 U.S. App. LEXIS 78} may share at least some of Gordon Kahl's views.' ***"

3/27/83: "Posse leader says 'task force' investigating shootout cover-up *** Although Kahl is still at large, federal authorities have arrested five others in the case."

The origin of and responsibility for the February 13 armed confrontation was a significant issue in the case. 7 Although reasonable jurors could and did find that Faul, Kahl, and Broer were guilty of second degree murder, assault, and conspiracy, the evidence was not overwhelming. I accept the

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factual findings of the jury. I believe, however, that those findings were tainted by prejudice that prevented the defendants from receiving a fair trial in the emotion-charged District of North Dakota.

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Two witnesses, a husband and wife who drove through Medina on February 13, testified that a police officer pulled them over and told them "there was going to be a shoot-out and this time the police were in the wrong." Transcript of Proceedings, Volume XIII, at 66, 85. Another witness, a local Medina man who was near the scene of the shootout, verified that a law officer told him, "there is a tax evader up there and now they are going to shoot him." Transcript of Proceedings, Volume IX, at 212-13.

{1984 U.S. App. LEXIS 79} The majority admits the news coverage was widespread but characterizes the media treatment as "largely factual in nature." This ignores the totality of circumstances. The emotionalism running through this rural district caused even "factual" reporting to fan the flames of the community's shock and anger. In this case the violence of the crime, the small town character of the community, and the connection made between all of the defendants and extremist protest groups should have been considered in the evaluation of whether the defendants received a fair trial. 8 As the American Bar Association Project on Standards for Criminal Justice observed:

There are * * * difficulties with [a court denying a motion for change of venue {748 F.2d 1231} where a jury meets prevailing standards of impartiality]. Many existing standards of acceptability tolerate considerable knowledge of the case and even an opinion on the merits on the part of the prospective juror. And even under a more restrictive standard, there will remain the problem of obtaining accurate answers on *voir dire* -- is the juror consciously or subconsciously harboring prejudice against the accused resulting from {1984 U.S. App. LEXIS 80} widespread news coverage in the community? Thus if change of venue * * * [is] to be of value, [it] should not turn on the results of the *voir dire*; rather [it] should constitute [an] independent [remedy] designed to assure fair trial when news coverage has raised substantial doubts about the effectiveness of the *voir dire* standing alone. American Bar Association Project on Standards for Criminal Justice, *Standards Relating to Fair Trial and Free Press* 127 (1968).

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As a factor in our supervisory review of the district court's denial of the defendants' motion for change of venue, an examination of the *voir dire* testimony reveals the impact of the pre-trial publicity concerning this case. Explaining why he had followed closely the news reports of the Medina incident, one excused venireperson testified:

Well, you know, you hear about this in other states and, but North Dakota it's unusual and I just couldn't believe something like that would happen. Transcript of Proceedings, Vol. II, at 125. A second *voir dire* examination, typical of the testimony of those excused, further demonstrates the influence of the extensive media coverage:

Q: Is there anything about the report of these cases, this case, that caused you to have a special interest in it and thereby to follow news reports relating to it?

A: It was big news, crime against the federal agent.

Q: You considered it to be big news and as such, and because of the nature of the incident, it is something that --

A: Yes.

Q: -- caused you to follow the reports relating to it?

A: Yes.

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Q: Has anything that you have heard or read about this case in following these reports caused you to form an opinion as to the innocence or guilt of any of the defendants in the case?

A: Yes, sir. It's a very strong opinion.

Q: You feel if you were selected as a juror in the case it would be very difficult for you to set aside or disregard the opinion that you have formed?

A: Yes, sir. *Id.* at 171-72.

Each of the chosen jurors also was exposed to the extensive news coverage. Several of the jurors actually subscribed to the *Forum*. One of the selected jurors admitted that at an earlier date his "mind [was] pretty well set," *id.*, at 91, although he did not claim to have any opinion at the time of the voir dire examination. Another selected juror also testified that he had formed an opinion, albeit "nothing that I would consider a strong opinion." Transcript of Proceeding, Vol. III, at 165.

The majority's statement that only 27% of the jurors attributed their partiality to media coverage is misleading. The majority admits that of the 114 original venirepersons, twenty-eight were excused before voir dire on the basis of hardship. Another venireperson was excused for hardship later in the proceeding and four others were never considered. Seventy-eight prospective jurors actually underwent voir dire. Thirty-nine, or one-half, were excused as potentially partial due to pretrial publicity or knowledge of persons involved in the prosecution. This statistic should be a factor considered in an evaluation of defendants' request for a change of venue. Indeed, even if the analysis was limited to a review of the voir dire examinations, a 50% partiality rate sufficiently demonstrated the need for a change of venue in this case.

{1984 U.S. App. LEXIS 81} "Substantial doubts" have been raised about the effectiveness of the voir dire examinations as a barometer of jury impartiality in this case. Under any standard of review, the district court wrongly failed to grant the defendants' request for a change of venue. In the exercise of this court's supervisory powers, the defendants' convictions should be vacated and a new trial should be granted in a district remote from that of North Dakota.



March 29, 1995

The Honorable Mr. Edward Reilly, Chairman
U. S. Parole Board
5550 Friendship Blvd.
Chevy Chase, Maryland 20815

Dear Chairman Reilly,

I am writing to you on behalf of a number of American police officers, attorneys, judges, public officials and others to ask you to read the following Criminal Justice Professionals Affidavit pertaining to the investigation of the 1983 Gordon W. Kahl case. We, the undersigned, feel the enclosed information will be of assistance to you in the upcoming parole hearing relating to federal prisoner, Yorie Von Kahl.

We wish to thank you in advance for taking the time to read the accompanying affidavit of our investigation.

Yours sincerely,

Officer Gerald J. McLamb, Ret.
Executive Director
American Citizens & Lawmen Association

Reply Exhibit B-001

Mailing Address: P. O. Box 8712, Phoenix, Arizona 85066

Telephone: (602) 237-2533

AFFIDAVIT OF CRIMINAL JUSTICE PROFESSIONALS
(The Gordon W. Kahl Case)

The following is a recap of the police officer investigation into the Medina, North Dakota, police action which involved the U.S. Marshal Service and Gordon W. Kahl, and occurred on February 13, 1983. Phoenix, Arizona Police Officer Gerald J. McLamb was the chief investigator until August 1990. Mesa, Arizona Police Officer A. Rick Dalton has taken over as chief investigator.

My name is Gerald J. McLamb and I am now retired from the Phoenix Police Department. We officers at the American Citizens & Lawmen Association have been asked to assist in tendering this report in support of the paroling of Mr. Yorie Von Kahl by numerous private citizens, police and public officials, from across the nation. Please find that several of those present active and retired government officers have signed and/or have lent their names to this affidavit in support of the parole of Mr. Kahl. We have taken this course of action because we have come to understand, through much investigation, i.e. statements from those directly involved, investigative leads, testimony, reviewing evidence, police reports, and court transcripts of the case, that a serious injustice has been done, and continues, in this case.

An independent police investigation into this case was launched in June, 1986 because of information received from criminal justice professionals and the private sector that there were problems with the official reports on the events surrounding the Kahl case. I, then, Police Officer Gerald J. McLamb, was assisted initially in this investigation by 10 fellow U.S. law enforcement professionals from 9 separate states. The initial group of police/attorney investigators from federal, state and local jurisdictions, represent professional experience as Police Chiefs, U.S. Marshals, Sheriffs, Deputy Sheriffs, Police Investigators (Detectives), Police Academy Teachers, Patrol Officers, District/government attorneys, private attorneys. These initial professionals who joined the investigation and research, have a combined experience of over 180 years in law enforcement and other areas within the criminal justice system. Of those police/attorney professionals who joined our independent, 9 state, investigative team, only one had any prior knowledge of, or had met, the homicide suspect known as Mr. **Gordon W. Kahl** (Mr. Yorie Kahl's father.) That officer was the former U.S. Marshal for North Dakota, Bud Warren. He stated that the reason he joined our investigative team was because he was convinced that an injustice had been done to the Kahl family. He knew Mr. Gordon W. Kahl and family in a official capacity, before and up to, the tragic events that transpired in February 1983. After the initial months of the investigation, other professionals within the criminal justice field joined our investigative team.

YEAR OF INCIDENT - 1983 Similar investigations were begun by police academy instructors, such as myself, across the nation because of the loss of life of police officers due to the Kahl shootout in North Dakota. It is standard procedure to review how officers in our nation become disabled or lose their lives, so that police academies may instruct new recruits to any threat or needed change in

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procedure that will stop or lessen the chance of a recurrence.

After much review, the officers involved in the investigation into the shootout in North Dakota have discovered some of the causes of the violent confrontation involving Gordon W. Kahl and the U.S. Marshals in North Dakota.

THE REPORT

ABOUT THE INVESTIGATION: Our initial duty is to find out why any police action evolves into violence and to conclude if there was a way that it could have been avoided. There is no valid reason for police academy investigations into the loss of life of police officers or private citizens to focus on if a particular subject was violence-prone or why any subject that is violence-prone commits violence. That is generally left to the psychologists. Our main concern is the protection of the public and police personnel, i.e. - Were there any tactical or judgement errors on the part of the police officers involved that did, or might have, lessened, curtailed, or exacerbated the violence?

Most of the time in such investigations, because of the very thorough training that all police officers (federal, state and local) receive, we find that the officers used good judgment, followed proper training and tactics, and that the violence could not have been avoided. This is the case with a high number of such "cause of death" investigations involving police officers. Our investigation of the Kahl case has led investigators to believe that this is **not** one of those cases.

Our findings based on the known facts brought out in the investigation show that at the least, misjudgment and errors of federal agents were the main cause of the violent confrontation. Several of those errors and misjudgments are delineated here for your information. However, before listing some of the police errors found in the Kahl arrest scenario, the following must be understood by any non-law enforcement persons reading this report.

LAW ENFORCEMENT TRAINING

All law enforcement officers are well trained in performing arrests of non-violent and violent subjects. Much of the civilian population is unaware that law enforcement is no longer handled in the OLD WEST style of policing where each lawman "made it up as he went along" when it comes to police operations. For at least the last 20 years police arrest policies and tactics have been standardized for the most part throughout the profession. If officers were not well trained with long practiced and accepted tactics and policies, that work to eliminate or reduce the likelihood of violence, there would be many more deaths and injuries to law officers and private citizens during the many thousands of arrests that are successfully completed every day across the U.S..

Through the normal course of daily law enforcement activity, which requires regular use of those basic policies and tactics, an officer is unable to forget this training. These tactics become a reflexive response. The officers are also trained to understand that when these basic policies and tactics are

ignored or violated by arresting officers, the likelihood of violence and injury is increased. Most importantly it should be understood that in cases where it is obvious, after investigation, that officers did not follow basic policies and/or tactics of arrest, it is logical to conclude that the investigation will show that the explanations or reasons for these breaches of policies and tactics will be something **other than** improper training or forgetfulness.

INVESTIGATIVE FINDINGS

Investigation has determined the following in regards to the police action plan and implementation of said plan, involving the North Dakota incident of February 13, 1983:

1) **FEDERAL OFFICERS VIOLATED ORDERS FROM WASHINGTON HEADQUARTERS:** Per facts and documents brought out in testimony, at trial and per North Dakota Assistant U.S. Marshal Bud Warren's testimony, a 1981 teletype from Washington D.C. U.S. Marshals' headquarters, Enforcement Branch, instructed that the **misdemeanor** warrant for Gordon W. Kahl "is to be put away and not served on subject Gordon W. Kahl" -(See trial testimony of U.S. Marshal B. Warren.) Federal officers violated this direct order from superiors putting in motion the police action that would lead to the confrontation with subject Kahl.

2) **PROPER NOTIFICATION OF POLICE ACTION :** No marked or recognizable police vehicles were used in the police road block. Under orders from Asst. U.S. Marshal Ken Muir, the only officer (Medina police officer Steve Schnabel) who tried to display his badge, just before the execution of the roadblock, was told to remove it before the service of the warrant was attempted. Basic arrest policy and procedures for U.S. police agencies dictate that on any warrant arrest at least one police officer will be in full police uniform or marked police units (cars) will be used so that the subjects to be arrested, and the local public, will be put on lawful notice of the police action. This basic policy also allows for there being no misunderstanding, and no excuse, for not obeying the arresting officers who are conducting a lawful arrest.

3) **PLANNING:** No normal pre-arrest planning meeting was held prior to the attempted service of the misdemeanor arrest warrant on subject Kahl. This violation of policy and tactics caused a serious tactical disaster.

A. NO SERVICE OF WARRANT: If there had been a pre-arrest planning meeting before the attempted arrest, there would have most probably not have been an attempt to serve the warrant. At such a meeting the Marshals would more than likely have decided not to violate orders of supervisors in Washington in regards to serving the Kahl misdemeanor warrant.

B. TIME, PLACE AND TACTICS: If it were decided to go forward with the violation of orders, such a planning meeting would have provided a serious look at **basic** policies and procedures that demand more secure and sound methods, time and place, to affect the arrest of Kahl. For example, it was known that Kahl was often seen walking by himself, in town, at the grocery store, hardware store, and working alone in the farm field , etc.. The type, time and place of this police action

unnecessarily threatened the lives of police personnel and innocent civilians.

C. INSUFFICIENT MANPOWER: A planning meeting would have reminded officers that basic policy and procedure requires that superior manpower and arms are to be used if it is believed that there is the potential for violence in any warrant service or arrest. If a pre-arrest planning meeting had been held, the attempted service could have been called off due to insufficient manpower. After the incident, officials testified that the reason Kahl had to be taken that Sunday was that "he had been spotted at the clinic". The idea is to make a reasonable defense for our deceased fellow officers by making the situation sound like the police action had to be accomplished at that very moment, ...that Kahl could not have been arrested at any other time. Our investigation points to the fact that the warrant was over 2 years old. Each U.S. Marshal in North Dakota would have known about the warrant for those years. As we listed in "B" above, during those years Kahl was seen regularly in and around town, in the fields working, etc.,. There was not exigent circumstances to arrest Kahl on that day in February 1983.

OTHER KNOWN FACTS (Before police action of 2-13-83): It was believed by the Marshals in command that there would be a violent confrontation in the arrest of Kahl on the misdemeanor warrant, per testimony of Medina Police Chief Daryl Graff. He stated that when asked to participate (on the day of the shootings) by U.S. Marshals Muir and Cheshire, he was told that there was going out to be a shoot-out with Kahl, and "would he like to come along".

In addition, per testimony of former North Dakota U.S. Marshal Bud Warren, he was told by Marshal Ken Muir that they expected violence when they (U.S. Marshals) went out to "arrest" Kahl. He too, was asked if he would like to come along? Both of these law enforcement professionals refused to "go along" on the confrontation, and stated that they warned Ken Muir and Cheshire not to attempt to serve the misdemeanor warrant at that time or in that manner. In addition, U.S. Marshall Bud Warren reminded Marshal Muir that orders from Washington Headquarters were to **not serve the misdemeanor warrant on Kahl.**

Both lawmen, U.S. Marshal Warren and Police Chief Darrel Graff, after the shoot-out, stated that the reason they did not "go along" was because they knew that the Marshals not only expected, but inferred in their words and attitudes, that they intended to push for a violent confrontation with Kahl. The testimony of these two lawmen (Warren and Graff) as to why the Marshals wanted a violent confrontation with Kahl, was that U.S. Marshal Muir and others considered Kahl a "big mouth" and disagreed with Kahl's outspoken political views which were contrary not only to their own political beliefs, but also to those of the current political and judicial leadership in North Dakota, and the then current federal government administration. (These same feelings were also expressed to members of our investigative team by the two police officials.)

As to the insufficient manpower: Before the federal officers initiated the felony stop they were made aware by Sheriff Deputy Bradley Capp that there would be six private citizens in the group which they intended to stop at the roadblock. The federal officers decided to effect the stop with only six law officers. This is a violation of accepted arrest policies and tactics. If the officers had followed well defined and long practiced arrest policies and tactics, they would have called off the attempted arrest

of Kahl until superior manpower could be mustered.

D. IDENTIFICATION OF KAHL: According to basic training and tactics, at any pre-arrest planning meeting, each member of the police action team would have been provided with a picture ID of Kahl. (Photo was on file with federal government.) This is important, since it is necessary that each officer know, for sure, who it is that they are attempting to arrest. According to interviews and trial testimony, in the Kahl arrest attempt, only one of the officers (Deputy Bradley Capp) could recognize Kahl. The others did not know which one of the six people they had stopped at the roadblock was Kahl. During the confrontation several officers called out, "Which one is Kahl?" It is noted that Kahl's son was shot twice by officers and Gordon Kahl was not hit. Pictures of the arrestee in the hands of all officers are basic policy before such police action.

E. SERVICE OF WARRANTS WHEN SUBJECT IS ARMED: No arrest would have been attempted since pre-arrest intelligence given out at the planning meeting would have determined that Kahl had a gun with him that day. Without **exigent circumstances** basic policy and tactics dictate that if a subject is armed or has the availability of weapons, another time and place is to be chosen for attempted service of a warrant, a time when the subject may not be able to attain a weapon before officers can affect the arrest. This does not mean that on attempted service, if a person runs for a gun, that the police are to withdraw and attempt the arrest another day. What this basic policy and tactic means is that there are always choices as to time, place and circumstances when choosing a plan for service or arrest. In the case of the Kahl arrest attempt, the officers knew before hand that Kahl was armed. In fact, it was known in advance that several other people in the Kahl party were armed. This is, at the very least, a serious lack of good judgment on the part of the federal officers. At the very least, this is poor judgment and against all training, policy and tactics to try to arrest Kahl when he and others had the availability of weapons. There being no exigent circumstances for affecting the arrest of Kahl at such a time, the police action would have been called off.

F) SERVICE WHEN SUBJECT IS WITH FAMILY OR PEERS:

Policy and tactical procedures dictate that we do not place in jeopardy, any other members of the public, during a **planned** service of a warrant. If this were not basic police policy and procedures, it would be "basic common sense" that when there are no exigent circumstances, no attempted service of a warrant will be conducted when the subject to be arrested is with family, friends or associates. There are several valid reasons for this, but we will list only two of them here:

A). No service of warrant when innocent civilians may be put in harm's way.

B). No service of warrant when subjects of the arrest has the ability to summon family, friends or associates to their aid.

4) ELEMENT OF SURPRISE: Basic policy and tactics state that if the element of surprise is lost,

the service of the warrant is to be rescheduled. According to testimony of Sheriff Deputy Bradley Capp, he advised federal Marshals by radio before the roadblock was initiated, that he had been spotted by some of Kahl's friends in attendance, surveiling the group with binoculars and that the group had reacted to the knowledge of the surveillance. Again, according to basic policy and tactics the operation would have been called off, lacking any exigent circumstances, at that moment and place since the subjects, if they were so inclined, would have had time to prepare and attempt to counter any police action.

5) **UNNECESSARY PROVOCATION:** Testimony of those at the scene speaks to the use of demeaning, threatening and provocative language by federal officials toward the subjects stopped at the roadblock.

In their academy training, Police officers are given training in basic psychology in how to handle different types of suspects. The reason for this is that an understanding of basic psychology saves lives. For example, if one is to address a Biker, gang member, or hard core ex-con, and hopes to get that type individual to obey orders, it may require the language such as was used on the 63 year old decorated war veteran, church-attending, farmer named Gordon Kahl, his wife, son and friends. Officers are also trained as to what problems can arise from using such strong, offensive language on the average, religious, family oriented, idealistic - type Americans. (Testimony of the federal law enforcement officers who knew Kahl and family for a number of years assessed him and his family as we have described them above, i.e. average, church-going, family oriented, idealists.) It is basic psychology instruction that when such tactics are used on the above described type of American it tends to unnecessarily provoke the subject. If a known quantity, a type such as this man Kahl, was ever to stand up, be tough, and exercise his "family honor" machismo, it would be when officers yell epithets in front of family and friends, such as "God damn it, we're going to blow your fucking heads off!" (actual quote from officers at scene), or "We will kill you SOB's!", or other sundry inflammatory, and denigrating names and terms.

What we are expressing is that we teach officers that under certain circumstances, the type of aggressive, demeaning, authoritarian address that Marshals Muir and Cheshire used on Kahl, family and friends, is appropriate and works very well used on the right personality profile, i.e. Bikers, gang members, hardened ex-cons, etc. . . However, officers are trained well to understand that psychodynamics such as "family honor", "peer pressure", etc. come into play when such tactics are used in the **wrong circumstances**, such as the Kahl family. The training of these officers would have been such that they would have known this method of communicating would not only fail in getting Kahl to comply with their orders, but would very likely press him to stand up and "challenge authority" in front of his family and friends, and thus exacerbate the already tense situation at the roadblock.

THE ROGUE OFFICER: Our point in bringing this up is that the technique used by the U.S. Marshals at the roadblock is classic, and is recognized by seasoned officers as one commonly used when rogue officers have decided, for whatever reason to become "punitive". "Punishment" by law enforcers, being completely outside police officers' lawful scope of authority, is never spoken of "officially" in law enforcement circles. Officially, it does not happen. But, between those officers

who make such bad decisions, it is sometime called an "attitude adjustment". To give an example, sometimes such rogue officers will determined that the subject of their unlawful attention, "needs to go to jail", "needs a ass whipping", etc., etc.. To accomplish either one of these ends, one such "technique" would be applied thusly: The **wrong** psychological approach is purposely applied to a **known class** or type of individual, or group, and the astute rogue officer expects the resultant reaction - before hand. Probably the classic and simplest analogy is the rogue, provocateur, officer using racial epithets, or a variety of other "motivator" to get the desired reaction. In other words, it is a technique that exceptionally bad officers use when they wish to provoke a confrontation that results in the confronted subject recoiling in the reaction the officer(s) hoped for, that allows them to take a certain desired action, i.e., physically abuse, take the person to jail on a charge of disturbing the peace, fighting/assault on officers, etc. . As disturbing as it is to mention, this technique will at times also be used to give some officer(s) a "valid" reason to kill the subject of their unwarranted attention. (A good example of this would be out of **retaliation** or **vengeance** when a suspect is captured or cornered, who is suspected of killing a fellow police officer.)

This police officer investigative team, with over a combined 180 years of police experience, (at the federal, state and local levels), believes that the command officers at the roadblock understood that their using the improper psychological, authoritative approach, on a known quantity, such as subject Gordon W. Kahl, might result in a violent reaction.

CONTROLLED POLICE POWER:

What is largely unknown to the civilian population is that the application of Police Power is a known, long understood and practiced SCIENCE, seldom accomplished by happenstance. To make this point, one will take notice that all of the herein listed, **misapplied**, or **ignored**, police policies, procedures and tactics are based on basic psychology and common sense and have been used successfully for decades nationwide to effect safe police operations. As we have stated before, they are basic training in virtually every police academy across the nation.

CASE SUMMATION:

It is always difficult for police investigators to find and/or admit fault on the part of themselves or their peers. It is especially difficult to find it necessary to lay fault at the feet of fallen fellow officers. However, we understand that critique of successful and unsuccessful police operations is vital to the future welfare of both the law enforcement officer and the private citizen. After much consideration and study of the documented facts surrounding the Medina, North Dakota police action involving the Kahl family, the following facts are known:

It is the conclusions of these criminal justice/police officer investigators:

- That the loss of life and injuries to all parties were caused in the main by police officer error in judgment and/or misconduct. Certainly, if not for the violations, the confrontation of Feb. 13, 1983 would not have occurred.

- That according to decisions made in the Washington D.C. headquarters of the U.S. Marshals Service,

the Kahl warrant had been set aside and the North Dakota Assistant U.S. Marshals Bud Warren and Kenneth Muir had been advised that the warrant was not to be served.

- That Marshal Kenneth Muir acted in violation of orders of superiors when he made the decision to attempt to serve the Kahl warrant.

- It is further concluded that, aside from the violation of orders from superiors, had the U.S. Marshals used proper **basic** arrest policies and tactics, the arrest of Kahl most probably could have been carried out without a violent confrontation.

The most critical examination of this police action caused investigators to conclude the following: Since all of the participating federal officers were known to be experienced, well trained and practiced in basic policies and tactics of arrest, and chose to knowingly violate such policies, or fail to apply them, it is probable that said officers had motives other than the peaceful arrest of the subject known as Gordon W. Kahl on February 13, 1983.

POLITICAL CASE:

From the beginning, until the present, all of the persons we have interviewed - - many who testified at the trials in North Dakota, several jurors, and various others who knew the Kahl family or our fellow police officials involved in the incident - - all have agreed on one thing: This was, and still is, a politically sensitive case. After thousands of combined hours of investigation, our investigators completely agree. To re-state: In the view of these police investigators, we know most assuredly that, from the aforementioned, alleged arrest scenario, to the utterly astounding biased "trial by jury" of the Kahl family and friends by the governmental and judicial friends of the deceased U.S. Marshals, to the alleged "shootout" between lawmen and federal fugitive Kahl in Arkansas on June 3, this is an exceptional and uniquely handled, **POLITICAL** case.

A BRIEF CRITIQUE OF THE TRIAL OF KAHL RELATIVES AND FRIENDS

INVESTIGATIVE FINDINGS

Our investigation of the North Dakota trials is of a cursory nature as it is not the purview of police academy instructors to critique the judiciary. This is one reason that it was exceptionally good to have those with criminal law/trial experience as part of the team. It is out of our concern for justice that we list several areas of concern that troubled this police officer/attorney investigative team.

1) U.S. Marshal (for North Dakota) Bud Warren, in August of 1987, stated to the investigative team, of which he, himself, was a part, that because of the political nature of this case, the close friendships between the judge, prosecutor and the dead Marshals, the defendants in the Kahl case could not, and did not, get a fair trial. Several of the officers/attorney investigators, were witness to Marshal Warren's statements. The Chief Judge of the 8th Circuit Court of Appeals, in his dissenting opinion, backs up Marshal Warren's assessment of the prosecution and trials of the Kahl case defendants: "The record amply demonstrates the defendants did not, and could not receive a fair trial in the District of

North Dakota." - U.S. v. Faul, 748, F.2d 1204 (1984).

Judge Benson and the deceased Marshals, Muir and Cheshire, were good friends and were brother members of same local fraternity.

It is a matter of record that Judge Benson was the person most responsible for getting Marshal Ken Muir the job as United States Marshal of North Dakota. He had personally requested that Muir be given the position.

It is also a matter of record that: Judge Benson, Marshals Muir and Cheshire were members of the same local fraternity.

The U.S Attorney, prosecutor Lynn Crooks and the two slain Marshals were good friends, and members of the same local fraternity. Mr. August Pankow, Jr. (juror) was a long-time personal childhood friend of Prosecutor Crooks. This was not brought out during voir dire of the jury, during or after the trial, and was not made a matter of the court record.

This is only a small part of the irregular, and unfair judicial history in regards to this case that continued to perplex these police investigators. Few of us, in all of our years of police service, have encountered such abuses by government and judicial officials of the criminal justice system, as we have in this case. Due to these and other known facts, it is the conclusion of this police officers' investigative team that the defendants in the Kahl case did not, and could not have received a fair trial.

KAHL CASE MOTION PICTURE/DOCUMENTARY

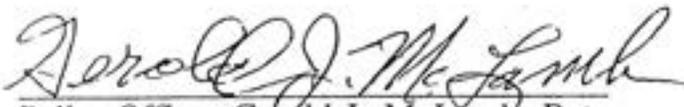
Our police officer investigative team was responsible for technical and other assistance in the development of the documentary, full-length motion picture on the Gordon Kahl case entitled **DEATH AND TAXES**, released in August, 1994. This film is a valuable reference, laying out many of the facts and actual statements of government agents, prosecutors and witnesses who were involved in this tragic political case. We suggest that all who would wish to have for themselves a fair and well-rounded assessment of this case, and come to know those who were a witting or unwitting part of it, should write and acquire a copy of this motion picture, **DEATH & TAXES**. It may be ordered from ACLA P.O. Box 8712, Phoenix, AZ. 85066. The cost is \$33.00 which includes P&H.

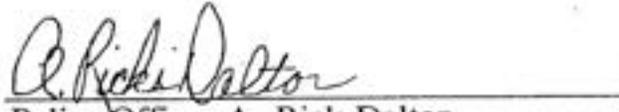
Mr. Edward Reilly, it is those who have added their names to this document, desire that Mr. Yorie Kahl be given every consideration for parole in 1995. Your experience in the criminal justice system, like ours, grants you the knowledge that individuals who have been convicted of murder are incarcerated less then ten years. The national average according to FBI crime report of 1993 is 3 years. It is our combined professional opinions, due to our investigative findings that Mr. Yorie Kahl is not guilty of the crimes he was incarcerated for. However, regardless of guilt, after serving over 12 years on his sentence, we ask that you find in favor of his parole.

Mr. Reilly, it is our hope that we have been of some assistance to you by issuing this affidavit of some of the facts from our lengthy investigation into the most unusual Gordon Kahl case. We would also like to affirm that none of the law officers involved in this investigation, with the exception of U.S. Marshal Bud Warren, knew any member of the Kahl family or the other persons involved in this case at the time the incidents occurred.

We were, of course, not entirely unbiased in our investigation, since we, as present and past members of the criminal justice system ourselves, truly desired, if at all possible to find no fault and in favor of our deceased fellow officers. It is unfortunate, that this was not the case. It is the desire of our investigative team that you understand that you can call on us to assist you in any further investigation into this case. Our team of criminal investigators stands ready to testify to the facts considered in reaching the conclusions herein stated. If we may be of further assistance please contact the American Citizens and Lawmen Association, 4131 W. Roeser Rd. Phoenix, AZ. For mailing address use The American Citizens & Lawmen Assoc. P.O. Box 8712, Phoenix, AZ. 85066. Phone (602)237-2533, FAX (602)237-2444.

Signed, this date, the 29th of March, 1995.


Police Officer Gerald J. McLamb, Ret.
Phoenix Police Dept. Arizona


Police Officer A. Rick Dalton,
Mesa, Arizona.

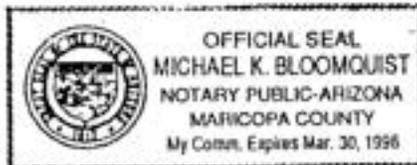

Senator Wayne Stump
Former Arizona State Senator


Judge Kenneth C. Chatwin, Ret.
Maricopa County Superior Court, AZ.

Subscribed and sworn to before me this 29th day of March, 1995.


Notary Public

My Commission expires:



The below listed U.S. law enforcement, judicial and public officials have joined this effort to appeal for the parole of Mr. Yorie Kahl.

(See included signed card.)

Justice William Goodloe, Ret.
Washington State Supreme Court Justice

(See included signed card.)

Police Chief Gary Hibbard
Hermitage, AR.

(See included signed card.)

Sheriff Bill Spence
Orange County, VA.

(See included signed card.)

Police Capt. Rudolph P. Blaum, Ret.
New York Police Dept., NY.

(See included signed card.)

Police Officer Timothy Berfield
Parma, Ohio

(See included signed card.)

Police Officer Gregory A. Bopp
New Haven, Miss.

(See included signed card.)

Police Officer Fred H. Clark, Jr.
Centerville, VA.

(See included signed card.)

Sheriff Deputy Fred O. Davideit

Hillsboro, New Hampshire

(See included signed card.)

Police Officer Gary DeKorte
Kerby, OR.

(See included signed card.)

Police Officer Dan Fritchley
Normal, Ill.

(See included signed card.)

Police Officer Tony Fusco
Schwenksville, PA.

(See included signed card.)

Police Officer Ralph Garrabrantz
Phoenix, AZ.

(See included signed card.)

Police Officer Ronald Gass
West Frankfort, Ill.

(See included signed card.)

Police Officer Paul E. Gregg, Jr.
Humble, TX.

(See included signed card.)

Police Officer John W. Hammos, Ret.
Las Vegas, NV.

(See included signed card.)

Police Officer Fredrick S. Hochmann
San Antonio, TX.

(See included signed card.)

Police Officer Charles Ingalls
Chesterfield, MI.

(See included signed card.)

Police Detective Gary P. Leeder
Meridian, ID.

(See included signed card.)

Police Officer Mike Miller, Ret.
St. Cloud, Minn.

(See included signed card.)

Police Officer Randolph E. Morris
Lakewood, CO.

(See included signed card.)

Police Officer Tony Petro
Finksburg, MD.

(See included signed card.)

Police Officer George L. Rollins

San Jose, CA.

(See included signed card.)

Police Officer Donald R. Sanchez
Albuquerque, NM.

(See included signed card.)

Police Officer Duane E. Schlottke
Muskego, Wisconsin

(See included signed card.)

Police Officer George Stallings, Th.D.
Virginia Beach, VA.

(See included signed card.)

Prison Corrections Officer Gary Stephens
Ceres, CA.

(See included signed card.)

Sheriff Deputy Haschal D. Thompson
McCalla, AL.

(See included signed card.)

Police Officer David C. Vines
Mililani, HI.

(See included signed card.)

Sheriff Deputy Michael T. Wade
Sterling, Ill.

(See included signed card.)

Police Officer Joe L. Walterscheidt
Port Townsend, WA.

(See included signed card.)

Police Officer Ronald W. Wheeler, Ret.
Redmond, OR.

(See included signed card.)

Sheriff Deputy Duane Whitmer
Safford, AZ.

(See included signed card.)

Police Sgt. Ronald E. Wilburn
Baldwyn, Miss.

(See included signed card.)

Police Officer George Williams
Las Vegas, NV.

(See included signed card.)

Police Det. Fred Willoughby, Ret.
Los Angeles, CA. / Utah State Guard.

(See included signed card.)

Deputy Sheriff Paul F. Wood
Paradise, CA.

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Signature Donald R. Sanchez Date 3-13-95

Officer
Donald R. Sanchez
Albuquerque, New Mexico

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Signature Tony Petro Date 19 March 1995

Officer
Tony Petro
Finksburg, Maryland

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Signature Edward Schlottke Date 03-22-95

Officer
Edward Schlottke
Duane ~~St.~~ Schlottke
Mustkego, Wisconsin

Yes, I join my fellow Lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Officer Signature George L. Rollins Date 3/16/95

Officer
George L. Rollins
San Jose, Calif.

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

[Signature]
Signature

Date 3/14/95

[Signature]
Officers (Ritual)
MIKE MILLER
MARJANE MILLER
St. Cloud, Minnesota

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

[Signature]
Signature

Date 3/18/95

Office:
RANDOLPH E. MORRIS
Lakewood, Colorado

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

[Signature]
Signature

Date 3-13-95

Officer
CHARLES INGALLS
Chesterfield, Mich.

Yes, I join with my fellow Lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

[Signature]
Signature

Date 3-14-95

Detective
GARY P. LEIDER
Meridian, Idaho

Yes, I join my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.



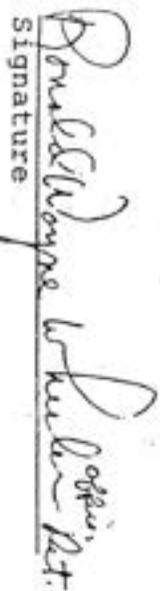
Signature

Date

3-17-95

Deputy DAVE WHITMER
Safford, Arizona

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.



Signature

Date

3-13-95

Officer, Retired
RONALD WAYNE WHEELER
Redmond, Oregon

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.



Signature

Date

March 14 1995

Deputy
MICHAEL T. WADE
Sterling, Illinois

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.



Signature

Date

3/14/95

Officer - Joe L. WALTERS
Port Townsend, Wash.

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorlie Kahl.

George Stallings, Th. D.

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorlie Kahl.

Michael D. Thompson

Signature

13, MARCH 1995

Date

Deputy
HASCHA | D. Thompson
McCalla, Alabama

George B. Stallings Th. D.

Signature

3-15-95

Date

Elwood Re. Center Chaplain
V.B.P.D., V.B. Beach Va.
Pres. The Foundation for Applied Christianity Inc.
Admitted Baptist Minister
Sanford, N. Carolina

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorlie Kahl.

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorlie Kahl.

David Q. Vines

Signature
Officer

3-16-95

Date

DAVID Q. VINES
Miliiani, Hawaii

Gay Stephens

Signature

3/14/95

Date

Corrections Officer

GAAY STEPHENS
Ceres, Calif.

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorle Kahl.

George Stallings, Th. D.

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorle Kahl.

Michael D. Thompson
Signature

13, MARCH 1995
Date

Deputy
HASCHA / D. Thompson
McCalla, Alabama

George B. Stallings Th. D.
Signature

3-15-95
Date

Edward R. Coleman Chaplain
VBPD, Veterans VA
Pres. The Governor's Applied Community Inc.
Admitted Baptist Minister
Sanford, N. Carolina

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorle Kahl.

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorle Kahl.

David Q. Vines
Signature
Officer

3-16-95
Date

DAVID Q. VINES
Miliiani, Hawaii

Gary Stephens
Signature
Corrections Officer

3/14/95
Date

GARY STEPHENS
Ceres, Calif.

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Fred Willoughby
Signature
NATIONAL Guardsman
FRED Willoughby
Murray, Utah
Date 17 Mar 95

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

OFC. George Williams
Signature
LUMPID
NEVADA
OFFICER
George Williams
Las Vegas, Nevada
Date MAR, 14, 1995

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Ronald E Wilburn
Signature
Sgt.
Ronald E Wilburn
Baldwyn, Miss.
Date 3-18-95

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Paul F. Wood
Signature
Deputy Sheriff
Deputy Prisoner (Ret.)
Sheriff-Retired
PAUL F. WOOD
Paradise, Calif.
Date 3-13-95

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Ronald Gass
Signature

01-11-95
Date

Officer Ronald Gass
West Frankfort Police Dept
101 E. Nolen St.
West Frankfort, Illinois 62896

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Paul E. Gregg, Jr.
Signature

3-24-95
Date

Officer Paul E. Gregg, Jr.
Humble, Texas

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Tony Fusco
Signature

3-13-95
Date

Officer Tony Fusco
Schwenksville, Penn.
has sent letters to P.D. in Schwenksville, Penn.

Reply Exhibit B-019

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Ralph S. Yanobrantz
Signature

March 17, 1995
Date

RALPH GARRABRANTZ
Phoenix, Arizona

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Quentin Wm C Jordan
Signature

3-14-95
Date

No problem, Jack.

Reply Exhibit #021

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl

Gregory A Bopp
Signature

3-14-95
Date

Cpl.
Gregory A. Bopp
New Haven, Missouri

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Richard P Blum
Signature

Mar. 14, 1995
Date

Richard P. Blum
(Captain, NYCPD (ret.))

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Timothy Barber
Signature

3/13/95
Date

Timothy Barberfield
Sgt. Waserman
Parrish, Miss. 39126
City of Memphis, Tenn. 38102
Police Capt.

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

[Signature]
Signature

Deputy
Fred O. Davideit
Hillsboro, New Hampshire

March 13/95
Date

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

[Signature]
Signature

GARY DeKORTE
DeKORTE
P.O. Box 134
Katy, OK
97531

3/13/95
Date

Reply Exhibit B-022

BLOOMINGTON IL 61701 03-20-95 17:40

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

[Signature]
Signature

Officer
Dan Fritchley
Normal, Illinois

3-19-95
Date

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

[Signature]
Signature

Officer
Fred H. Clark, Jr.
Centerville, Virg.

3/21/95
Date

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Yes, I join my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Signature _____ Date 3-13-95
Chief Signature

Gary Hillard
Hermidage, Arkansas

Signature _____ Date 3-11-95
Off. John W. Hammes Ret.
Las Vegas, Nevada

FIRST CLASS MAIL

Yes, I join with my fellow lawmen in petitioning for the 1995 parole of federal prisoner, Yorie Kahl.

Signature _____ Date 3-18-95
Richard S. Heilmann
Signature: S. Heilmann (Rick)
Sam Antonio, Texas

*Federal Officers,
Sorry this is late. Don't give up and
wait your back. I am with you!
RKH*

STEVE SCHNABEL

03 December 2002

Ms. Jill Wendlandt
Attn: Parole Examiner
Federal Correctional Institute
P.O. Box 5000
Oxford, WI 53952

RE: Scott Faul #04564-059

Dear Ms. Wendlandt and Examiners,

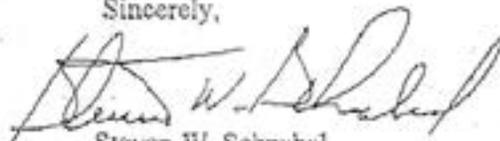
I was a member of the Medina, ND Police Department in 1983, and directly involved in the arrest attempt of Gordon Kahl, which resulted in Scott Faul being arrested and eventually sent to your facility.

I have co-authored a book titled "It's All About Power" which lays out the events leading up to, including and after the arrest attempt in Medina in 1983. While doing our research for this book (published in 1999), we learned many things pertaining to this case, which were not brought up during the trial. Based on our research, I believe that Scott Faul was a victim of circumstance, torn between helping his friends or trusting people he did not know. Scott also knew that there was an All Points Bulletin put out which included a description of his car and his cars license plate number. This APB stated his car was in a particular location on a certain day when in fact, it was not. The accumulation of many events leading up to the main event on February 13, 1983 I believe put Scott Faul where he is today.

Given all that I know about this case, I believe that Scott Faul has paid his debt for the decisions he made that day. I believe that Scott Faul does not pose any kind of threat to our society and if paroled, will cooperate fully with his parole officer and strictly follow the conditions of his parole. I also believe Scott Faul will do whatever it takes to become gainfully employed and be a positive contributor to our society.

Thank you for taking this consideration.

Sincerely,



Steven W. Schnabel

Reply Exhibit C

DARRELL G. GRAF

Ms. Jill Wendlandt
Attn: Parole Examiner
Federal Correctional Institute
P.O. Box 5000
Oxford WI 53952

RE: Scott Faul # 04564-059

Dear Ms. Wendlandt and Examiners;

I was the Police Chief of Medina, North Dakota in 1983, during the time a series of events took place which resulted in Scott Faul being sent to your facility.

The events surrounding the entire case were so absurd for a small North Dakota community, that in many instances opinions were formed prior to the evidence being examined. I was one of those that had unfounded opinions regarding that case and the involvement of Mr. Faul.

During the late 1990's, while writing a book regarding this case, a great deal of evidence surfaced which had been suppressed over the years by emotionally charged individuals and officials. He was indeed at the wrong place at the wrong time. At the time of the event, I believed Scott was a perpetrator. But now I believe he was trying to escape a terrible situation that he was roped into. My opinion is the result of digging and examining evidence for 2 years prior to the publication of the book "It's All About POWER!"

Had this trial been done after the emotions had simmered, I know, and have a signed affidavit from a juror indicating, there would either have been an acquittal or at a minimum, a hung jury.

Based on what I know about Scott Faul, I have the following statements:

1. I do not believe Scott Faul would be a threat of ANY KIND to our free society.
2. I do not believe Scott Faul would be involved in ANY criminal activity if he was to be released
3. I believe Scott Faul would fully cooperate with his parole conditions
4. I believe Scott Faul would become gainfully employed and be an asset to society

Sincerely,

Darrell Graf

Reply Exhibit D

FSA Time Credit Assessment

Register Number:04564-059, Last Name:FAUL

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Register Number....: 04564-059
 Inmate Name
 Last.....: FAUL
 First.....: SCOTT
 Middle.....:
 Suffix.....:
 Gender.....: MALE
 Start Incarceration: 06-24-1983

Responsible Facility: SST
 Assessment Date.....: 01-19-2023
 Period Start/Stop...: 12-21-2018 to 01-19-2023
 Accrued Pgm Days....: 0
 Disallowed Pgm Days.: 0
 FTC Towards RRC/HC...: 0
 FTC Towards Release.: 0
 Can Apply FTC.....: No

Start	Stop	Pgm Status	Pgm Days
12-21-2018	01-19-2023	ineligible	0

FSA ineligible

Facility	Category	Assignment	Start	Stop
SST	FSA	FTC INELIG	11-30-2019 1527	CURRENT
SST	FSA	INELIG AUT	12-17-2019 1248	CURRENT

#	Start	Stop	Status	Risk Assignment	Risk Asn Start	Factor
001	12-21-2018	06-19-2019	PRESUMPTIVE	FSA R-MIN	04-28-2021 1209	10
002	06-19-2019	12-16-2019	PRESUMPTIVE	FSA R-MIN	04-28-2021 1209	10
003	12-16-2019	06-13-2020	PRESUMPTIVE	FSA R-MIN	04-28-2021 1209	10
004	06-13-2020	12-10-2020	PRESUMPTIVE	FSA R-MIN	04-28-2021 1209	10
005	12-10-2020	06-08-2021	ACTUAL	FSA R-MIN	04-28-2021 1209	10
006	06-08-2021	12-05-2021	ACTUAL	FSA R-MIN	04-28-2021 1209	10
007	12-05-2021	03-05-2022	ACTUAL	FSA R-MIN	04-28-2021 1209	15
008	03-05-2022	06-03-2022	ACTUAL	FSA R-MIN	12-10-2021 1228	15
009	06-03-2022	09-01-2022	ACTUAL	FSA R-MIN	05-30-2022 1407	15
010	09-01-2022	02-14-2023	ACTUAL	FSA R-MIN	05-30-2022 1407	15

Reply Exhibit E



Summary Reentry Plan - Progress Report

Dept. of Justice / Federal Bureau of Prisons
Plan is for inmate: PAUL, SCOTT 04564-059

SEQUENCE: 00292507
Report Date: 03-07-2022



Facility: SST SANDSTONE FCI
Name: FAUL, SCOTT
Register No.: 04564-059
Quarters: K31-005U
Age: 68
Date of Birth: 07-28-1953

Custody Level: IN
Security Level: LOW
Proj. Rel Date: 02-14-2023
Release Method: TWO THIRDS
DNA Status: OXF00286 / 01-09-2003

Contact Information

Release contact & address

Scott Faul, ADULT SON
404 Burke Ave., Harvey, ND 58341 US
phone (home) : 701-324-5263

Offenses and Sentences Imposed

Charge	Terms In Effect
2ND DEGREE MURDER OF FEDERAL OFFICERS & AIDING AND ABETTING(CT 1&2)-T18USC1111/1114/2	LIFE
FORCIBLY ASSAULTING&IMPEDING FEDERAL OFFICER BY DEADLY WEAPON & A&A(CT5,6,7,8); HARBORING & CONCEALMENT OF FUGITIVE & A&A (CT9); CONSPIRACY TO ASSAULT (CT11)-T18USC111/1114/2/1071/371	15 YEARS

Date Sentence Computation Began: 06-24-1983

Sentencing District: NORTH DAKOTA

Days FSGT / WSGT / DGGT	Days GCT or EGT / SGT	Time Served	+ Jail Credit - InOp Time
0 / 0 / 0	2197 0	Years: 39 Months: 0 Days:	+129 JC -0 InOp

Detainers

Detaining Agency	Remarks
NO DETAINER	

Program Plans

Inmate Faul arrived at FCI Sandstone on April 17, 2007. He is serving a life sentence for 2nd Degree Murder of Federal Officers & Aiding and Abetting (CT 1 & 2), Forcibly Assaulting & Impeding Federal Officer by Deadly Weapon & A&A (CT 5,6,7,8), Harboring & Concealing of Fugitive & A&A (CT9), and Conspiracy to Assault (CT 11). He has a projected release date of February 14, 2023, via two thirds. While incarcerated at FCI Sandstone, the Unit Team has recommended that he obtain a work assignment and receive good or better work evaluations; maintain clear conduct; and participate in educational, mental health, and recreational programming.

Current FSA Assignments

Assignment	Description	Start
FTC INELIG	FTC-INELIGIBLE-REVIEWED	11-30-2019
INELIG AUT	FTC-INELIGIBLE OFF CODE - AUTO	12-17-2019
N-ANGER Y	NEED - ANGER/HOSTILITY YES	01-17-2022
N-ANTISO R	NEED - ANTISOCIAL PEERS REFUSE	01-17-2022
N-COGNTV R	NEED - COGNITIONS REFUSE	01-17-2022
N-DYSLEX N	NEED - DYSLEXIA NO	05-30-2021
N-EDUC N	NEED - EDUCATION NO	01-17-2022
N-FIN PV N	NEED - FINANCE/POVERTY NO	01-17-2022
N-FM/PAR N	NEED - FAMILY/PARENTING NO	01-17-2022
N-M HLTH N	NEED - MENTAL HEALTH NO	01-17-2022
N-MEDICL N	NEED - MEDICAL NO	01-17-2022
N-RLF N	NEED - REC/LEISURE/FITNESS NO	01-17-2022
N-SUB AB N	NEED - SUBSTANCE ABUSE NO	01-17-2022
N-TRAUMA R	NEED - TRAUMA REFUSE	01-17-2022
N-WORK Y	NEED - WORK YES	01-17-2022
R-MIN	MINIMUM RISK RECIDIVISM LEVEL	12-10-2021

FSA Comments

Inmate Faul has been assessed under the Bureau of Prisons PATTERN scoring tool and is a Minimum Risk Recidivism level. He is not



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eligible for Federal Time Credits. He has been placed of the waiting list for several FSA classes based on his needs assessment.

Current Work Assignments

FacI	Assignment	Description	Start
SST	ED REC EVE	RECREATION EVENING 6:00 - 9:30	06-27-2017

Work Assignment Summary

Inmate Faul is currently assigned to the Education/ Recreation work detail where he is responsible for the general maintenance of the recreation building, including snow removal and cutting the grass. Although there is no current work evaluation, his last work evaluation was a "good" rating.

Current Education Information

FacI	Assignment	Description	Start
SST	ESL HAS	ENGLISH PROFICIENT	12-18-1991
SST	GED HAS	COMPLETED GED OR HS DIPLOMA	06-01-1991

Education Courses

SubFacI	Action	Description	Start	Stop
SST	C	AMERICA'S NATIONAL PARKS II	10-08-2019	12-22-2019
SST	C	FOOD FOR THOUGHT: THE FOOD IND	04-08-2019	06-24-2019
SST	C	RPPS UNIT PRE-RELEASE	04-23-2008	12-27-2012
SST	C	RPP1 POWER WALKING	07-07-2008	09-15-2008

Education Information Summary

Inmate Faul earned his high school diploma prior to his incarceration in the Bureau of Prisons. He has completed two educational classes during his current term of incarceration, and has also completed two Release Preparation Program (RPP) classes (see above listed classes). In addition to the above listed classes, inmate Faul has certificates of completion for the following classes: Nutritional Health II, Personality & Goal Setting, Principles For Success, Introduction to Community Skills, Communication Part II, and Personality and Stress Control. Faul has been awarded "cube of the week" on two occasions for his extraordinary cleanliness and sanitation standards. He has also been awarded for his "Outstanding Work Performance" for his superior work performance while employed in UNICOR and for assisting in stripping and waxing floors in the AW Complex area. Faul has at least 20 work performance ratings where he was given bonus pay for exceeding work standards, and being a good worker. He is on the waiting list for the Release Orientation Preparation pre-release seminar, and FSA Money Smart for Older Adults, and FSA Anger Management. It is expected that he will continue to program and complete additional educational classes prior to his release.

Discipline Reports

Hearing Date	Prohibited Acts
03-27-2006	305 : POSSESSING UNAUTHORIZED ITEM
03-28-1995	201 : FIGHTING WITH ANOTHER PERSON

Discipline Summary

Inmate Faul has maintained clear conduct in the Bureau of Prisons since March 2006. The Unit team has recommended he continue to maintain clear conduct throughout the remainder of his current sentence.

ARS Assignments

FacI	Assignment	Reason	Start	Stop
SST	A-DES	TRANSFER RECEIVED	04-17-2007	CURRENT
	A-DES	MOVEMENT NOT TRACKED	07-22-1991	04-17-2007
	A-DES	MOVEMENT NOT TRACKED	06-26-1991	07-12-1991
	A-DES	MOVEMENT NOT TRACKED	09-24-1986	06-26-1991
	A-DES	MOVEMENT NOT TRACKED	09-27-1983	09-18-1986
	A-DES	MOVEMENT NOT TRACKED	07-08-1983	09-09-1983

Current Care Assignments

Assignment	Description	Start
CARE1	HEALTHY OR SIMPLE CHRONIC CARE	05-03-2007
CARE1-MH	CARE1-MENTAL HEALTH	07-06-2010

Current Medical Duty Status Assignments

Assignment	Description	Start
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Assignment	Description	Start
C19-RCVRD	COVID-19 RECOVERED	12-22-2020
PAPER	LEGACY PAPER MEDICAL RECORD	04-08-2019
REG DUTY	NO MEDICAL RESTR-REGULAR DUTY	05-03-2007
YES F/S	CLEARED FOR FOOD SERVICE	05-03-2007

Current PTP Assignments

Assignment	Description	Start
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NO ASSIGNMENTS

Current Drug Assignments

Assignment	Description	Start
ED NONE	DRUG EDUCATION NONE	05-04-1994

Physical and Mental Health Summary

Inmate Faul is currently assigned to regular duty, with no medical restrictions. He is a Care level 1 inmate, requiring only simple chronic care. He presents no history of drug or alcohol abuse.

FRP Payment Plan

Most Recent Payment Plan

** NO FRP DETAILS **

Financial Responsibility Summary

Inmate Faul has no FRP obligation. He was not assessed a cost of Incarceration Fee.

Release Planning

Inmate Faul's projected release date is February 14, 2023, via Two Thirds. Upon completion of his current sentence, he plans to secure housing in North Dakota. The Unit Team has recommended he obtain a copy of his birth certificate prior to his release from incarceration. If approved for parole, Unit Team would promptly submit for RRC placement, as Faul has been reviewed under the 2nd Chance Act and has been recommended for 12 months RRC placement.

General Comments

Inmate Faul was sentenced in the District of North Dakota and is subject to a life term of supervision to follow his current sentence.

SEP 98

INMATE REQUEST TO STAFF

U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF PRISONS

TO: (Name and Title of Staff Member) Mr. Anderson, Case Manager	DATE: April 26, 2022
FROM: Scott Faul	REGISTER NO.: 04564-059
WORK ASSIGNMENT: Rec PM	UNIT: K-3

SUBJECT: (Briefly state your question or concern and the solution you are requesting. Continue on back, if necessary. Your failure to be specific may result in no action being taken. If necessary, you will be interviewed in order to successfully respond to your request.

This request is in regard to the upcoming parole hearing scheduled for May 5, 2022. In advance of that hearing, please conduct a thorough review of my entire central file in all sections to identify any evidence that I will commit any Federal, state or local crime in the future.

If there is anything that could even remotely be considered to be such evidence, please inform me of what it is prior to the parole hearing.

Thank you. *Scott Faul*

(Do not write below this line)

DISPOSITION:

You have maintained clear conduct since March 2006. I don't see anything that would indicate you would be a security risk or have any evidence that you would commit any crimes. I intend to submit you for 12 mths RRC placement when I am allowed to.

Signature Staff Member <i>J. Anderson</i>	Date 4-26-2022
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Record Copy - file; Copy - Inmate
(This form may be replicated via WP)

This form replaces BP-148.070 dated Oct 86
and BP-S148.070 APR 94

FILE IN SECTION 6 UNLESS APPROPRIATE FOR PRIVACY FOLDER

SECTION 6

Reply Exhibit G



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Current PTP Assignments

Assignment	Description	Start
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NO ASSIGNMENTS

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