



U. S. Department of Justice

Pardon Attorney  
WHB 431389

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Washington, D.C. 20530

**JAN 21 2005**

Mr. George C. Hook  
1802 Camden Drive  
Glenview, Illinois 60025

Dear Mr. Hook:

The package you sent to the Attorney General containing your undated letter to the President requesting a pardon, with its various attached tabulated documents, was forwarded to this office for our consideration and appropriate action. Another copy of your letter and the attachments was forwarded to us by the White House for response. Your letter asks to have your conviction pardoned based on innocence and to have your criminal record expunged "pursuant to the President's plenary constitutional powers . . . under Article II, Section 2" of the Constitution, notwithstanding the clemency regulations, which set forth a five-year waiting period before an application for pardon may be filed. You also seek a pardon for your codefendant Carmen Viana.

As we understand your situation, you were released from the confinement portion of your sentence on July 26, 2004. Under the rules governing executive clemency set forth in the regulations, you would not become eligible to file an application for pardon until at least July 2009. While I appreciate that you do not believe a person claiming innocence should be required to wait five years to apply for a pardon, I must advise you that President Bush has followed the five-year waiting period set forth in the regulations. Requests to file an application that does not comply with the requirements set forth in the regulations are treated as requests for a waiver of those requirements. We are therefore considering your letter as a request to waive the five-year waiting period for applying for a pardon. I must advise you that waiver requests are very rarely granted.

I should also advise you that pardons based on innocence are rarely granted. Because a pardon is an act of forgiveness, it is ordinarily granted in recognition of the applicant's acceptance of responsibility for the crime, as well as his or her established good citizenship for a significant period of time after conviction or completion of sentence. Pardoning authorities generally accept as an established fact the guilt of the applicant and do not attempt to retry the case. If you decide to pursue a pardon based on a claim of innocence or miscarriage of justice, you should be prepared, if requested to do so, to submit a transcript of the trial proceedings, and to demonstrate that the evidence upon which you rely to establish your innocence was not considered, and could not have been considered, by the trial or reviewing authorities. To the

extent an applicant's claim of innocence depends on contesting the interpretation of the law applicable to his case by the courts, he should be prepared to overcome a presumption of correctness of the interpretation, since the judiciary is generally designated as the branch of government responsible for ruling on questions of law and is experienced in making such determinations.

Finally, I should advise you that even a full and unconditional pardon would not result in the expungement of your record. Expungement of the judicial records of an adult federal conviction, to the extent it is available, is a judicial remedy, and it, too, is very rarely granted. You may wish to review the court's opinion in *United States v. Noonan*, 906 F.2d 952 (3d Cir. 1990), which sets forth this view and is the case we frequently cite on this point.

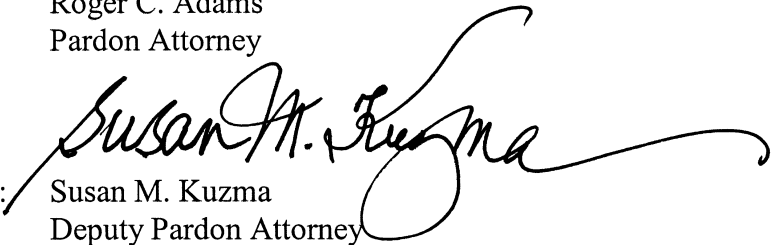
With respect to your request for a pardon for Ms. Viana, I must advise you that third-party requests for clemency are not entertained, nor are requests for pardon before conviction. Ms. Viana has not applied for a pardon. In addition, because she is facing charges in the case but has not been convicted, she would not be eligible to apply for a pardon at this time in any event. If she is convicted in the future, she would be faced with the five-year waiting period as well.

We will notify you when a final decision is made on the matter of waiver of the five-year waiting period.

Sincerely,

Roger C. Adams  
Pardon Attorney

BY: Susan M. Kuzma  
Deputy Pardon Attorney

A handwritten signature in black ink, reading "Susan M. Kuzma", with a long, sweeping flourish extending to the right.