

Office of Tennessee Governor Bill Lee
1st Floor, State Capitol
Nashville, TN 37243
Joseph.Williams@tn.gov
clark.milner@tn.gov



1803 Broadway, Suite #531
Nashville, TN 37203
(615) 739-2888
daniel.a.horwitz@gmail.com

Transmitted via UPS and electronic mail

Re: Wayne D. Potee Petition for Commutation

1/8/2020

Dear Governor Lee:

Enclosed for your Office's review please find Mr. Wayne Daryl Potee's application for a commutation. Mr. Potee applies for clemency under Non-Capital Commutation Criterion 1(b). For his non-violent, low-level drug offenses that were inextricably intertwined with, and committed pursuant to, his opioid addiction—offenses for which he is currently serving an aggregate sentence of fifteen (15) years without parole eligibility—Mr. Potee seeks a commutation affording him an effective total sentence of time served.

Mr. Potee's notarized commutation application, his supporting narrative summary, and accompanying Exhibits A–M are attached to this correspondence for your consideration. Consistent with your Office's clemency protocols, a copy of Mr. Potee's application and supporting materials are also being sent simultaneously to the Tennessee Board of Parole for initial review and recommendation.

Very truly yours,

Daniel A. Horwitz, Esq.

Cc: Tennessee Board of Parole
Karen Geer (Executive Clemency Unit)
Rachel A. Hitt (Staff Attorney)
Division of Board Operations
404 James Robertson Parkway, Suite 1300
Nashville, TN 37243-0850
BOP.Webmail@tn.gov
Rachel.Hitt@tn.gov

Enclosures:

- Wayne D. Potee Application for Commutation, Judgment Sheets, and Educational Documents
- Wayne D. Potee Narrative Summary and Supplemental Addendum In Support of His Application for Executive Clemency



Application for Commutation

I, Wayne Daryl Potee, am hereby applying for a commutation of a non-capital sentence, and I understand that I must meet all of the Governor's criteria.

I further understand that meeting the requirements set forth in these guidelines is merely a threshold inquiry in the consideration of commutation relief. The final determination of whether a commutation will be granted lies in the discretion of the Governor after a review of the petition and any non-binding recommendation of the Board. This commutation review process is not intended to serve and will not serve as a review of the proceedings of the trial court or the guilt or innocence of the applicant.

All commutation petitions must be received by the Board by July 1, 2022 to provide adequate time for review and any necessary hearings before the end of the Governor's term.

In order to provide guidance to the Board in reviewing commutation petitions and in making its non-binding recommendations to the Governor, the Governor has established the following criteria:

COMMUTATIONS (NON-CAPITAL SENTENCES)

1. The Governor will give serious consideration to commutation requests where the petitioner has demonstrated that:

a. The petitioner has made exceptional strides in self-development and self-improvement and would be a law-abiding citizen upon release and:

i. Petitioner is suffering from a life-threatening illness or has a severe chronic disability, said illness or disability is supported by appropriate medical documentation, and the relief requested would mitigate said illness or disability; or

ii. Petitioner's parent, spouse, or child has a life-threatening illness, said illness is supported by appropriate medical documentation, and the petitioner is the only person able to assist in the care of such person; or

b. The petitioner has been rehabilitated to an extraordinary degree, relative to the nature of the offense(s) committed, will be a law-abiding citizen and positive contributor to society upon release, and has, to the extent age and health permit, a desire and an ability to maintain gainful employment.

2. Petitioners eligible for medical furloughs are excepted from the guidelines of Section 1(a)(i) and 1(a)(ii) above.

GENERAL INFORMATION

Name: Wayne Daryl Potee List Alias (if any): _____

Date of Birth 01/15/1973 Age 46 Race W Sex M F Social Security Number [REDACTED]

TDOC Identification Number: 00561884 Location: Riverbend Maximum Security Institution

7475 Cockrill Bend Blvd. Nashville TN 37209
 Street Address City State Zip Code

List Telephone Number(s) Where You May Be Reached:

[REDACTED] [REDACTED] [REDACTED]
 Home Day Time Cellular

CRIMINAL INFORMATION

LIST ALL CONVICTIONS FROM ALL JURISDICTIONS, INCLUDING JUVENILE OFFENSES: (Judgment sheets attached)

Offense (s)	Sentence (s)	County & State of Conviction	Year of Conviction
39-17-434/29-12-013 >.5 grams	3 years (30%)	Lincoln County, TN	2/16/2016
39-17-434/39-17-432 Sch. II (DFSZ)	15 years (100%)	Lincoln County, TN	2/16/2016
39-17-434/39-17-432 <.5 g (DFSZ)	8 years (100%)	Lincoln County, TN	2/16/2016
39-17-434 <.5 grams	5 years (30%)	Lincoln County, TN	2/16/2016

Have you ever escaped, or attempted to escape? Yes No If yes, provide date(s): _____

Did you commit any offenses while on escape? Yes No If yes, list what offense(s) below:

Offense (s)	Sentence (s)	County & State of Conviction	Year of Conviction

Do you have any outstanding charges (Detainers/Warrants)? Yes No

If yes, list charging agency: _____

Alleged Offense (s): _____

Do you have any unprocessed sentences?

Yes No

Offense(s)	Sentence(s)	County & State of Conviction	Year of Conviction

INSTITUTIONAL INFORMATION

Custody level: Minimum

Are you earning sentence credits?

Yes No

If yes, monthly credits:

If no, explain:

Drug Free School Zone Act Conviction (served at 100%).

Please list all disciplinary infractions:

Offense	Date	Disposition
None		

List Your Program Participation Below:

Program Name	Completion Date
CIBIP Cognitive Behavior Intervention Program	Nov. 2019
Core Carpentry	Nov. 2019

PAROLE INFORMATION

Have you had a parole hearing? Yes No If yes, date of hearing: _____
Have you ever been released on parole? Yes No If yes, date: _____
Did you violate parole? Yes No If yes, date of revocation hearing: _____
Have you previously applied for a commutation? Yes No If yes, give date and disposition: _____

EDUCATIONAL INFORMATION

Highest level of education attained: Some college

List Any Vocational Training and Dates Attended:

Program Name	Completion Date
CDL School	Oct. 2000
_____	_____
_____	_____
_____	_____

ATTACH COPIES OF YOUR DIPLOMA(S), DEGREE(S), CERTIFICATE(S), OR CURRENT PROFESSIONAL LICENSE(S)

MILITARY INFORMATION

N/A

Branch of Service (N/A if you did not serve) Discharge Date Type of Discharge

List Any Commendations or Decorations Received:

ATTACH A COPY OF YOUR DISCHARGE (DD-214) WITH YOUR APPLICATION

I affirm that I have read, or had read to me, and understand the instructions, questions and statements within this application. I understand that I have an affirmative duty to update all information in this application, as appropriate, in a timely manner, including my contact information. I also affirm that this application has been completed in its entirety; that ALL responses made in the application, or attached to the application, are true and correct to the best of my knowledge; that in my judgment I meet ALL the criteria on which this application is based; and, therefore, I am applying for a Commutation under the criteria noted in this application.

Wayne D. Petree

Petitioner's Signature

STATE OF TN

COUNTY OF HARDEMAN

Before me John K Johnson, the undersigned officer, personally

appeared Wayne D. Petree

known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same for the purpose herein contained. In witness whereof, I hereunto set my hand and official seal.

Witness my hand, this 2 October 20 19



J. Johnson
Signature of Notary

My Commission Expires: 1-24-2023

If this application was completed by someone other than the applicant, the person completing the application must provide their name, address, telephone number, and relationship to the applicant in the space provided below.

Daniel A. Horwitz, Esq.

Name

1803 Broadway, #531

Address

Nashville

City

TN

State

37203

Zip Code

[Signature]
Preparer's Signature

Counsel

Relationship to Petitioner

615-739-2888

Telephone (including area code)

Commutation Application Checklist

Before submitting your Commutation application, be sure you have included or completed the following:

- ✓ Cover letter specifying the requested relief. The following are examples:
 - "I am requesting a commutation of my sentence to time served."
 - "I am requesting a commutation of my sentence to immediate parole eligibility."
 - "I am requesting a commutation to have my sentences served concurrently instead of consecutively."
- ✓ Circle to indicate the criteria you are applying under on page one (1) of the application. Be sure to include supporting documentation for all criteria that you choose.
- ✓ Supporting documentation for your chosen criteria (that is, medical documentation if applying under 1.a.i. or 1.a.ii., or documentation that you have been rehabilitated if applying under 1.b.).
- ✓ Submit all pages of the application.
- ✓ One (1) page narrative summary of your participation in the crime(s) for which you are requesting a commutation.
- ✓ Copies of diplomas, degrees, certificates, and professional licenses (if applicable).
- ✓ Copy of military discharge form DD-214 (if applicable).
- ✓ Ensure that all responses are typed or printed legibly.
- ✓ Page five (5) of the application is signed by the applicant and notarized. You must submit the original, notarized application for review. Each application must contain the applicant's signature unless the applicant is physically or mentally incapable of signing and in that case that must be documented in a cover letter.
- ✓ Make a copy of your application and any attachments for your records. Your application and any attachments will not be returned once accepted for review.

If you have questions about this application, contact your Institutional Probation/Parole Officer (IPPO) or, if not in a TDOC facility, contact our office at (615) 741-1150.

IN THE CRIMINAL/CIRCUIT COURT FOR LINCOLN COUNTY, TENNESSEE

Case Number: 2015-CR-184 Count: 1 Counsel for the State: ANN L. FILER
 Judicial District: 17th Judicial Division: I Counsel for the Defendant: JOHN RICHARDSON
 State of Tennessee vs. Retained Pub Def Appt Private Atty Appt
 Counsel Waived Pro Se
 Defendant: WAYNE DARYL POTE Alias: 18 PM 5 07 Date of Birth: 01/15/1973 Sex: Male
 Race: White SSN: [REDACTED] Driver License #: _____ Issuing State: _____
 State ID #: _____ County Offender ID # (if applicable): _____ TOMIS/TDOC #: _____
 Relationship to Victim: _____ Victim's Age: _____
 State Control #: _____ Arrest Date: 11/20/2015 Indictment Filing Date: 11-17-15

JUDGMENT Original Amended Corrected

Come the parties for entry of judgment.

On the 16th day of February, 2016, the defendant:

<input checked="" type="checkbox"/> Pled Guilty <input type="checkbox"/> Dismissed/Nolle Prosequi <input type="checkbox"/> Pled Nolo <input type="checkbox"/> Pled Guilty - Certified Question Findings Incorporated by Reference Is found: <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Jury Verdict <input type="checkbox"/> Not Guilty by Reason of <input type="checkbox"/> Bench Trial	Indictment: Class (circle one) 1 st A B <u>C</u> D E <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Indicted Offense Name AND TCA §: <u>39-17-434/39-12-101 - CONSPIRACY TO SELL METHAMPHETAMINE MORE .5 GRAMS</u> Amended Offense Name AND TCA §: <u>NONE</u> Offense Date: <u>On or about a day or days in February, 2015</u> County of Offense: <u>LINCOLN</u> Conviction Offense Name AND TCA §: <u>39-17-434/39-12-103 CONSPIRACY TO SELL METH MORE THAN .5 GRAMS</u> Conviction: Class (circle one) 1 st A B <u>C</u> D E <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Is this conviction offense methamphetamine related? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Sentence Imposed Date: _____
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After considering the evidence, the entire record, and in the case of sentencing, all factors in Tennessee Code Annotated Title 40, Chapter 35, all of which are incorporated by reference herein, it is ORDERED and ADJUDGED that the conviction described above is imposed hereby and that a sentence and costs are imposed as follows:

Offender Status (Check One)	Release Eligibility (Check One)	Concurrent with:	Pretrial Jail Credit Period(s):
<input type="checkbox"/> Mitigated <input checked="" type="checkbox"/> Standard <input type="checkbox"/> Multiple <input type="checkbox"/> Persistent <input type="checkbox"/> Career	<input type="checkbox"/> Mitigated 20% <input type="checkbox"/> Mitigated 30% <input checked="" type="checkbox"/> Standard 30% <input type="checkbox"/> Multiple 35% <input type="checkbox"/> Persistent 45% <input type="checkbox"/> Career 60% <input type="checkbox"/> Agg Rob 85% <input type="checkbox"/> 40-35-501(i) 100% <input type="checkbox"/> 39-13-518 100% <input type="checkbox"/> Agg Rob w/Prior 100% <input type="checkbox"/> Multiple Rapist 100% <input type="checkbox"/> Child Rapist 100% <input type="checkbox"/> Child Predator 100% <input type="checkbox"/> Agg Rapist 100% <input type="checkbox"/> Mult 39-17-1324 100% <input type="checkbox"/> 39-17-1324(a), (b) 100% <input type="checkbox"/> Agg Assault w/Death 75% <input type="checkbox"/> Att 1 st Degree Murder w/SBI 85%	<input type="checkbox"/> 1 st Degree Murder <input type="checkbox"/> Drug Free Zone <input type="checkbox"/> Gang Related <input type="checkbox"/> Repeat Violent Off <input type="checkbox"/> Agg Child Neg/En 70% <input type="checkbox"/> Agg Child Neg/En 85% <input type="checkbox"/> Meth 100%	2016-CR-22; 2015-CR-185; 2015-CR-186; 2015-CR-187 Consecutive to: ANY UNEXPIRED SENTENCE(S)
			From <u>11/20/15</u> to <u>CURRENT</u> From _____ to _____ From _____ to _____ From _____ to _____

Sentenced To: TDOC County Jail Workhouse
 Sentence Length: 3 Years _____ Months _____ Days _____ Hours Life Life w/out Parole Death
 Mandatory Minimum Sentence Length: _____ 39-17-417, 39-13-513, 39-13-514, or 39-17-432 in Prohibited Zone or _____ 55-10-401 DUI 4th Offense or _____ 39-17-1324 Possession/Employment of Firearm or _____ 40-39-208, -211 Violation of Sex Offender Registry or _____ Meth (39-17-434, -417, -418)
 Period of incarceration to be served prior to release on probation or Community Corrections: _____ Months _____ Days _____ Hours
 Minimum service prior to eligibility for work release, furlough, trusty status and rehabilitative programs: _____ % (Misdemeanor Only)
 Alternative Sentence: Sup Prob Unsup Prob Comm Corr (CHECK ONE BOX) _____ Years _____ Months _____ Days Effective: _____
 WAS DRUG COURT ORDERED AS A CONDITION OF THE ALTERNATIVE SENTENCE? Yes No

Court Ordered Fees and Fines: \$ _____ Court Costs <input type="checkbox"/> Defendant <input checked="" type="checkbox"/> State \$ _____ Fine Assessed \$ _____ Traumatic Brain Injury Fund (68-55-301 et seq.) \$ _____ Drug Testing Fund (TN Drug Control Act) \$ _____ CICF \$ _____ Sex Offender Tax \$ _____ Other: _____	Restitution: Victim Name _____ Address _____ Total Amount \$ _____ Per Month \$ _____ <input type="checkbox"/> Unpaid Community Service: _____ Hours _____ Days _____ Weeks _____ Months
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The Defendant having been found guilty is rendered infamous and ordered to provide a biological specimen for the purpose of DNA analysis.
 Pursuant to 39-13-521 the defendant is ordered to provide a biological specimen for the purpose of HIV testing.
 Pursuant to 39-13-524 the defendant is sentenced to community supervision for life following sentence expiration.
 Pursuant to Title 68, Chapter 11, Part 10, the clerk shall forward this judgment to the Department of Health.

Special Conditions

TO SERVE

FOREST A DURARD JR.
Judge's Name

Forest Durard
Judge's Signature

2/16/16
Date of Entry of Judgment

Counsel for State/Signature (optional)

[Signature]
Defendant/Defendant's Counsel Signature (optional)

I, _____, clerk, hereby certify that, before entry by the court, a copy of this judgment was made available to the party or parties who did not provide a signature above.

IN THE CRIMINAL/CIRCUIT COURT FOR LINCOLN COUNTY, TENNESSEE

Case Number: 2015-CR-185 Count: 1 Counsel for the State: ANN L. FILER
 Judicial District: 17th Judicial Division: 1 Counsel for the Defendant: JOHN RICHARDSON
 State of Tennessee vs. FILED Retained Pub Def Appt Private Atty Appt
 Counsel Waived Pro Se

Defendant: WAYNE DARYL POTEE Alias: _____ Date of Birth: 01/15/1973 Sex: Male
 Race: White SSN: _____ Driver License #: _____ Issuing State: _____
 State ID #: _____ County Offender ID # (if applicable): _____ TOMIS/TDOC #: _____
 Relationship to Victim: _____ Victim's Age: _____
 State Control #: _____ Arrest Date: 11/20/2015 Indictment Filing Date: 11/17/15

JUDGMENT Original Amended Corrected

Come the parties for entry of judgment.

On the 16th day of February, 2016, the defendant:

<input checked="" type="checkbox"/> Pled Guilty <input type="checkbox"/> Dismissed/Nolle Prosequi <input type="checkbox"/> Pled Nolo <input type="checkbox"/> Pled Guilty - Certified Question Findings Incorporated by Reference Is found: <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Jury Verdict <input type="checkbox"/> Not Guilty by Reason of <input type="checkbox"/> Bench Trial	Indictment: Class (circle one) 1 st <input checked="" type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Indicted Offense Name AND TCA §: <u>39-17-434/39-17-432 - SALE OF SCHEDULE II MORE THAN .5 GRAMS IN A SCHOOL</u> Amended Offense Name AND TCA §: <u>NONE</u> Offense Date: <u>06/08/2015</u> County of Offense: <u>LINCOLN</u> Conviction Offense Name AND TCA §: <u>39-17-432/39-17-434 SALE OF SCHEDULE II MORE THAN .5 GRAMS/SCHOOL ZONE</u> Conviction: Class (circle one) 1 st <input checked="" type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Is this conviction offense methamphetamine related? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Sentence Imposed Date: _____
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After considering the evidence, the entire record, and in the case of sentencing, all factors in Tennessee Code Annotated Title 40, Chapter 35, all of which are incorporated by reference herein, it is ORDERED and ADJUDGED that the conviction described above is imposed hereby and that a sentence and costs are imposed as follows:

Offender Status (Check One)	Release Eligibility (Check One)	Concurrent with:	Pretrial Jail Credit Period(s):
<input type="checkbox"/> Mitigated <input checked="" type="checkbox"/> Standard <input type="checkbox"/> Multiple <input type="checkbox"/> Persistent <input type="checkbox"/> Career	<input type="checkbox"/> Mitigated 20% <input type="checkbox"/> Mitigated 30% <input type="checkbox"/> Standard 30% <input type="checkbox"/> Multiple 35% <input type="checkbox"/> Persistent 45% <input type="checkbox"/> Career 60% <input type="checkbox"/> Agg Rob 85% <input type="checkbox"/> 40-35-501(i) 100% <input type="checkbox"/> 39-13-518 100% <input type="checkbox"/> Agg Rob w/Prior 100% <input type="checkbox"/> Multiple Rapist 100% <input type="checkbox"/> Child Rapist 100% <input type="checkbox"/> Child Predator 100% <input type="checkbox"/> Agg Rapist 100% <input type="checkbox"/> Mult 39-17-1324 100% <input type="checkbox"/> 39-17-1324(a), (b) 100% <input type="checkbox"/> Agg Assault w/Death 75% <input type="checkbox"/> Att 1 st Degree Murder w/SBI 85%	<input type="checkbox"/> 1 st Degree Murder <input type="checkbox"/> Drug Free Zone <input type="checkbox"/> Gang Related <input type="checkbox"/> Repeat Violent Off <input type="checkbox"/> Agg Child Neg/En 70% <input type="checkbox"/> Agg Child Neg/En 85% <input type="checkbox"/> Meth 100%	2016-CR-22; 2015-CR-184; 2015-CR-186; 2015-CR-187 Consecutive to: ANY UNEXPIRED SENTENCE(S)
			From <u>11/20/15</u> to <u>CURRENT</u> From _____ to _____ From _____ to _____ From _____ to _____

Sentenced To: TDOC County Jail Workhouse

Sentence Length: 15 Years 0 Months 0 Days 0 Hours Life Life w/out Parole Death

Mandatory Minimum Sentence Length: 100% 39-17-417, 39-13-513, 39-13-514, or 39-17-432 in Prohibited Zone or 55-10-401 DUI 4th Offense or 39-17-1324 Possession/Employment of Firearm or 40-39-208, -211 Violation of Sex Offender Registry or 40-39-208, -211 Meth (39-17-434, -417, -418)

Period of incarceration to be served prior to release on probation or Community Corrections: _____ Months _____ Days _____ Hours

Minimum service prior to eligibility for work release, furlough, trusty status and rehabilitative programs: _____% (Misdemeanor Only)

Alternative Sentence: Sup Prob Unsup Prob Comm Corr (CHECK ONE BOX) _____ Years _____ Months _____ Days Effective: _____

WAS DRUG COURT ORDERED AS A CONDITION OF THE ALTERNATIVE SENTENCE? Yes No

Court Ordered Fees and Fines: \$ _____ Court Costs <input type="checkbox"/> Defendant <input checked="" type="checkbox"/> State \$ _____ Fine Assessed \$ _____ Traumatic Brain Injury Fund (68-55-301 et seq.) \$ _____ Drug Testing Fund (TN Drug Control Act) \$ _____ CICF \$ _____ Sex Offender Tax \$ _____ Other: _____	Restitution: Victim Name _____ Address _____ Total Amount \$ _____ Per Month \$ _____ <input type="checkbox"/> Unpaid Community Service: _____ Hours _____ Days _____ Weeks _____ Months
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The Defendant having been found guilty is rendered infamous and ordered to provide a biological specimen for the purpose of DNA analysis.
 Pursuant to 39-13-521 the defendant is ordered to provide a biological specimen for the purpose of HIV testing.
 Pursuant to 39-13-524 the defendant is sentenced to community supervision for life following sentence expiration.
 Pursuant to Title 68, Chapter 11, Part 10, the clerk shall forward this judgment to the Department of Health.

Special Conditions

TO SERVE

FOREST A DURARD JR. Judge's Name Forest Durard Judge's Signature 2/16/16 Date of Entry of Judgment
 _____ Counsel for State/Signature (optional) _____ Defendant/Defendant's Counsel/Signature (optional)

I, _____, clerk, hereby certify that, before entry by the court, a copy of this judgment was made available to the party or parties who did not provide a signature above.

CR-3419 (1/1/15) DATE: 2-11-16 BPA 1167

IN THE CRIMINAL/CIRCUIT COURT FOR LINCOLN COUNTY, TENNESSEE

Case Number: 2015-CR-186 Count: 1 Counsel for the State: ANN L. FILER
 Judicial District: 17th Judicial Division: I Counsel for the Defendant: JOHN RICHARDSON
 State of Tennessee vs. FILED Retained Pub Def Appt Private Atty Appt
 Counsel Waived Pro Se
 Defendant: WAYNE DARYL POTEH 16 11 07 Date of Birth: 01/15/1973 Sex: Male
 Race: White SSN: 2010 16 11 07 Driver License #: _____ Issuing State: _____
 State ID #: _____ County Offender ID # (if applicable): _____ TOMIS/TDOC #: _____
 Relationship to Victim: CIRCUIT/SESSIONS/Victim's Age: _____
 State Control #: _____ Arrest Date: 11/20/2015 Indictment Filing Date: 11/17/2015

JUDGMENT Original Amended Corrected

Come the parties for entry of judgment.

On the 16th day of February, 2016, the defendant:

<input checked="" type="checkbox"/> Pled Guilty <input type="checkbox"/> Dismissed/Nolle Prosequi <input type="checkbox"/> Pled Nolo <input type="checkbox"/> Pled Guilty - Certified Question Findings Incorporated by Reference Is found: <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Jury Verdict <input type="checkbox"/> Not Guilty by Reason of <input type="checkbox"/> Bench Trial	Indictment: Class (circle one) 1 st <u>A</u> <u>B</u> <u>C</u> <u>D</u> <u>E</u> <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Indicted Offense Name <u>AND TCA §: 39-17-434/39-17-432 - SALE OF SCHEDULE II LESS THAN .5 GRAMS/SCHOOL ZONE</u> Amended Offense Name <u>AND TCA §: NONE</u> Offense Date: <u>07/08/2015</u> County of Offense: <u>LINCOLN</u> Conviction Offense Name <u>AND TCA §: 39-17-434/39-17-432 SALE OF SCH. II LESS THAN .5 GRAMS/SCHOOL</u> Conviction: Class (circle one) 1 st <u>A</u> <u>B</u> <u>C</u> <u>D</u> <u>E</u> <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Is this conviction offense methamphetamine related? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Sentence Imposed Date: _____
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After considering the evidence, the entire record, and in the case of sentencing, all factors in Tennessee Code Annotated Title 40, Chapter 35, all of which are incorporated by reference herein, it is ORDERED and ADJUDGED that the conviction described above is imposed hereby and that a sentence and costs are imposed as follows:

Offender Status (Check One)	Release Eligibility (Check One)	Concurrent with:	Pretrial Jail Credit Period(s):
<input type="checkbox"/> Mitigated <input checked="" type="checkbox"/> Standard <input type="checkbox"/> Multiple <input type="checkbox"/> Persistent <input type="checkbox"/> Career	<input type="checkbox"/> Mitigated 20% <input type="checkbox"/> Mitigated 30% <input type="checkbox"/> Standard 30% <input type="checkbox"/> Multiple 35% <input type="checkbox"/> Persistent 45% <input type="checkbox"/> Career 60% <input type="checkbox"/> Agg Rob 85% <input type="checkbox"/> 40-35-501(i) 100% <input type="checkbox"/> 39-13-518 100% <input type="checkbox"/> Agg Rob w/Prior 100% <input type="checkbox"/> Multiple Rapist 100% <input type="checkbox"/> Child Rapist 100% <input type="checkbox"/> Child Predator 100% <input type="checkbox"/> Agg Rapist 100% <input type="checkbox"/> Multi 39-17-1324 100% <input type="checkbox"/> 39-17-1324(a), (b) 100% <input type="checkbox"/> Agg Assault w/Death 75% <input type="checkbox"/> Att 1 st Degree Murder w/SBI 85%	<input type="checkbox"/> 1 st Degree Murder <input type="checkbox"/> Drug Free Zone <input type="checkbox"/> Gang Related <input type="checkbox"/> Repeat Violent Off <input type="checkbox"/> Agg Child Neg/En 70% <input type="checkbox"/> Agg Child Neg/En 85% <input type="checkbox"/> Meth 100%	2016-CR-22; 2015-CR-184; 2015-CR-185; 2015-CR-187 Consecutive to: ANY UNEXPIRED SENTENCE(S)
			From <u>11/20/15</u> to <u>CURRENT</u> From _____ to _____ From _____ to _____ From _____ to _____

Sentenced To: TDOC County Jail Workhouse
 Sentence Length: 8 Years _____ Months _____ Days _____ Hours Life Life w/out Parole Death
 Mandatory Minimum Sentence Length: 100% 39-17-417, 39-13-513, 39-13-514, or 39-17-432 in Prohibited Zone or 55-10-401 DUI 4th Offense
 or 39-17-1324 Possession/Employment of Firearm or 40-39-208, -211 Violation of Sex Offender Registry or Meth (39-17-434, -417, -418)
 Period of incarceration to be served prior to release on probation or Community Corrections: _____ Months _____ Days _____ Hours
 Minimum service prior to eligibility for work release, furlough, trusty status and rehabilitative programs: _____ % (Misdemeanor Only)
 Alternative Sentence: Sup Prob Unsup Prob Comm Corr (CHECK ONE BOX) _____ Years _____ Months _____ Days Effective: _____
 WAS DRUG COURT ORDERED AS A CONDITION OF THE ALTERNATIVE SENTENCE? Yes No

Court Ordered Fees and Fines: \$ _____ Court Costs <input type="checkbox"/> Defendant <input checked="" type="checkbox"/> State \$ _____ Fine Assessed \$ _____ Traumatic Brain Injury Fund (68-55-301 et seq.) \$ _____ Drug Testing Fund (TN Drug Control Act) \$ _____ CICF \$ _____ Sex Offender Tax \$ _____ Other: _____	Restitution: Victim Name _____ Address _____ Total Amount \$ _____ Per Month \$ _____ <input type="checkbox"/> Unpaid Community Service: _____ Hours _____ Days _____ Weeks _____ Months
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The Defendant having been found guilty is rendered infamous and ordered to provide a biological specimen for the purpose of DNA analysis.
 Pursuant to 39-13-521 the defendant is ordered to provide a biological specimen for the purpose of HIV testing.
 Pursuant to 39-13-524 the defendant is sentenced to community supervision for life following sentence expiration.
 Pursuant to Title 68, Chapter 11, Part 10, the clerk shall forward this judgment to the Department of Health.

Special Conditions

TO SERVE

FOREST A DURARD JR.
 Judge's Name

Forest Durard
 Judge's Signature

2/16/16
 Date of Entry of Judgment

 Counsel for State/Signature (optional)

[Signature]
 Defendant/Defendant's Counsel/Signature (optional)

I, _____, clerk, hereby certify that, before entry by the court, a copy of this judgment was made available to the party or parties who did not provide a signature above.

IN THE CRIMINAL/CIRCUIT COURT FOR LINCOLN COUNTY, TENNESSEE

Case Number: 2015-CR-187 Count: 1 Counsel for the State: ANN L. FILER
 Judicial District: 17th Judicial Division: 1 Counsel for the Defendant: JOHN RICHARDSON
 State of Tennessee vs. WAYNE DARYL POTE Retained Pub Def Appt Private Atty Appt
 Date of Birth: 01/15/1973 Sex: Male
 Race: White SSN: [REDACTED] Driver License #: CLERK Issuing State: MISSISSIPPI
 State ID #: _____ County Offender ID # (if applicable): _____ TOMIS/TDOC #: _____
 Relationship to Victim: _____ Victim's Age: _____
 State Control #: _____ Arrest Date: 11/20/2015 Indictment Filing Date: 11/20/15

JUDGMENT Original Amended Corrected

Come the parties for entry of judgment.

On the 16th day of February, 2016, the defendant:

<input checked="" type="checkbox"/> Pled Guilty <input type="checkbox"/> Dismissed/Nolle Prosequi <input type="checkbox"/> Pled Nolo <input type="checkbox"/> Pled Guilty - Certified Question Findings Incorporated by Reference Is found: <input type="checkbox"/> Guilty <input type="checkbox"/> Not Guilty <input type="checkbox"/> Jury Verdict <input type="checkbox"/> Not Guilty by Reason of <input type="checkbox"/> Bench Trial	Indictment: Class (circle one) 1 st A B <u>C</u> D E <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Indicted Offense Name <u>AND TCA §: 39-17-434 - SALE OF METHAMPHETAMINE LEE THAN 5 GRAMS</u> Amended Offense Name <u>AND TCA §: NONE</u> Offense Date: <u>07/14/2015</u> County of Offense: <u>LINCOLN</u> Conviction Offense Name <u>AND TCA §: 39-17-434 SALE OF METH LESS THAN 5 GRAMS</u> Conviction: Class (circle one) 1 st A B <u>C</u> D E <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor Is this conviction offense methamphetamine related? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Sentence Imposed Date: _____
--	---

After considering the evidence, the entire record, and in the case of sentencing, all factors in Tennessee Code Annotated Title 40, Chapter 35, all of which are incorporated by reference herein, it is ORDERED and ADJUDGED that the conviction described above is imposed hereby and that a sentence and costs are imposed as follows:

Offender Status (Check One)	Release Eligibility (Check One)	Concurrent with:	Pretrial Jail Credit Period(s):
<input type="checkbox"/> Mitigated <input checked="" type="checkbox"/> Standard <input type="checkbox"/> Multiple <input type="checkbox"/> Persistent <input type="checkbox"/> Career	<input type="checkbox"/> Mitigated 20% <input type="checkbox"/> Mitigated 30% <input checked="" type="checkbox"/> Standard 30% <input type="checkbox"/> Multiple 35% <input type="checkbox"/> Persistent 45% <input type="checkbox"/> Career 60% <input type="checkbox"/> Agg Rob 85% <input type="checkbox"/> 40-35-501(i) 100% <input type="checkbox"/> 39-13-518 100%	<input type="checkbox"/> 1 st Degree Murder <input type="checkbox"/> Drug Free Zone <input type="checkbox"/> Gang Related <input type="checkbox"/> Repeat Violent Off <input type="checkbox"/> Agg Child Neg/En 70% <input type="checkbox"/> Agg Child Neg/En 85% <input type="checkbox"/> Meth 100%	From <u>11/20/15</u> to <u>CURRENT</u> From _____ to _____ From _____ to _____ From _____ to _____

Sentenced To: TDOC County Jail Workhouse

Sentence Length: 5 Years _____ Months _____ Days _____ Hours Life Life w/out Parole Death

Mandatory Minimum Sentence Length: 39-17-417, 39-13-513, 39-13-514, or 39-17-432 in Prohibited Zone or 55-10-401 DUI 4th Offense or 39-17-1324 Possession/Employment of Firearm or 40-39-208, -211 Violation of Sex Offender Registry or _____ Meth (39-17-434, -417, -418)

Period of incarceration to be served prior to release on probation or Community Corrections: _____ Months _____ Days _____ Hours

Minimum service prior to eligibility for work release, furlough, trusty status and rehabilitative programs: _____ % (Misdemeanor Only)

Alternative Sentence: Sup Prob Unsup Prob Comm Corr (CHECK ONE BOX) _____ Years _____ Months _____ Days Effective: _____

WAS DRUG COURT ORDERED AS A CONDITION OF THE ALTERNATIVE SENTENCE? Yes No

Court Ordered Fees and Fines: \$ _____ Court Costs <input type="checkbox"/> Defendant <input checked="" type="checkbox"/> State \$ _____ Fine Assessed \$ _____ Traumatic Brain Injury Fund (68-55-301 et seq.) \$ _____ Drug Testing Fund (TN Drug Control Act) \$ _____ CICF \$ _____ Sex Offender Tax \$ _____ Other: _____	Restitution: Victim Name _____ Address _____ Total Amount \$ _____ Per Month \$ _____ <input type="checkbox"/> Unpaid Community Service: _____ Hours _____ Days _____ Weeks _____ Months
--	---

The Defendant having been found guilty is rendered infamous and ordered to provide a biological specimen for the purpose of DNA analysis.
 Pursuant to 39-13-521 the defendant is ordered to provide a biological specimen for the purpose of HIV testing.
 Pursuant to 39-13-524 the defendant is sentenced to community supervision for life following sentence expiration.
 Pursuant to Title 68, Chapter 11, Part 10, the clerk shall forward this judgment to the Department of Health.

Special Conditions

TO SERVE.

FOREST A DURARD JR.
Judge's Name

Forest Durard
Judge's Signature

2/16/16
Date of Entry of Judgment

Counsel for State/Signature (optional)

Defendant/Defendant's Counsel/Signature (optional)

I, _____, clerk, hereby certify that, before entry by the court, a copy of this judgment was made available to the party or parties who did not provide a signature above.

Lincoln County High School

Fayetteville



Tennessee

This is to Certify That

Wayne Daryl Potee

has satisfied the requirements for High School graduation from
the Lincoln County High School as prescribed by the State Board
of Education and is therefore entitled to this

General Diploma

In Testimony Whereof and by authority in us vested, we have affixed
our signatures at Fayetteville, Tennessee
this month of May, 1991

Chas. E. Smith

COMMISSIONER OF EDUCATION

Johnny Womack

CHAIRMAN, BOARD OF EDUCATION

Jimmy L. Buchanan

SUPERINTENDENT OF SCHOOLS

Paulette M. Cason

PRINCIPAL OF HIGH SCHOOL

CERTIFICATE OF COMPLETION

This certificate is awarded to

POTEE, WAYNE 561884

in recognition of completing

CBIP



TENNESSEE DEPARTMENT OF CORRECTION

Valerie Burgess
Rehabilitative Services

11/03/2017

Date

[Signature]
Program Facilitator

Certificate of Completion

This is to certify that

Mr. Wayne Potee

Has successfully completed

PRIVATE PILOT – AIRPLANE Ground School

through

Rocket Aviation, Incorporated

at

Madison County Executive Airport (MD2)

conducted


7 January through 22 April 2002.

Robin H. Lindstrom

Robin H Lindstrom, 2175071 CFI (GS), AGI, IGI
Chief Flight Instructor, Rocket Aviation
Master CFI, National Association of Flight Instructors
Aviation Safety Counselor, BHM FSDO-09

COMMERCIAL DRIVER LICENSE USA
TN

Tennessee
THE VOLUNTEER STATE



DL NO. [REDACTED]

EXP 07/15/2018 DOB 01/15/1973


CLASS AM ISS 06/24/2015

REST NONE END NONE

SEX M HGT 6'-05" WGT 175 LB EYES BRN HAIR BRN

DD [REDACTED] CDL

POTEE
WAYNE DARYL
32 TRIPLE B LN
TAFT, TN 38488-6014



Wayne Potee

SIGNATURE OF MEDICAL EXAMINER <i>Marin P. Garrett FNP</i>		TELEPHONE [REDACTED]
MEDICAL EXAMINER'S NAME (PRINT) <i>Marin P. Garrett</i>		DATE <i>2-13-15</i>
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE <i>19521 TN</i>		<input type="checkbox"/> MD <input type="checkbox"/> DO <input type="checkbox"/> Physician Assistant <input type="checkbox"/> Chiropractor <input checked="" type="checkbox"/> Advanced Practice Nurse <input type="checkbox"/> Other Practitioner
NATIONAL REGISTRY NO. [REDACTED]		<input type="checkbox"/> IntraState Only <input checked="" type="checkbox"/> YES <input checked="" type="checkbox"/> NO
SIGNATURE OF DRIVER <i>Wayne Potee</i>		CDL <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
DRIVER'S LICENSE NO. [REDACTED]		STATE <i>TN</i>
ADDRESS OF DRIVER <i>32 TRIPLE B LN. Taft, TN 38488</i>		MEDICAL CERTIFICATION EXPIRATION DATE <i>2-13-17</i>

ORIGINAL - DRIVER

The Defensive Pistol Academy

Hereby Certifies That

Wayne D. Potee

Has successfully completed the course prescribed and passed the tests provided by the Tennessee Department of Safety for Handgun Safety and Liability administered by the Defensive Pistol Academy, a Tennessee Dept. of Safety Certified School

August 21, 1997

Course completed this day

Tennessee Dept of Safety Certified

School I.D. # 2-18-2

H. Michael Maples

Instructor S.D. # 467-94-0566

Offender Education



Links ▾

Suspend

TOMIS ID Potee, Wayne D.

Status ACTV Location RMS

Reset key fields

- Inquire
- Refresh
- Modify
- Delete

Next Record

FastPath Go

Detail

Comments

Site ID	HCCF	Hardeman County Correctional Facility	
Street	2520 Union Springs Road	P. O. Box 549	
City	Whiteville	State TN	Zip 38075
Course	MRA1	Construction Core	
Start Date	08/19/2019		
End Date	11/15/2019		
Degree	VEC	Voc-ed Certificate	
Create 60 Day Credit	<input type="checkbox"/>	60 Day Credit Status	
Last Updated by	MCDUIR01	Mcduffie, Iris	Date 11/21/2019

Offender Education



Links ▾

Suspend

TOMIS ID Potee, Wayne D.

Status ACTV Location RMS

Reset key fields

Inquire

Refresh

Modify

Delete

Next Record

FastPath

Go

Detail

Comments

School / Site Hardeman County Correctional Facility

Start Date 08/19/2019 End Date 11/15/2019

AS VERIFIED BY INSTRUCTOR BRYANT TOTAL CLASS HOURS: 250, FINAL AVG SCORE: 99, % COMP MASTERED: 100%

ENTERED BY IRIS MCDUFFIE, INSTRUCTOR SUPERVISOR

Bottom Of List



**WAYNE D. POTEE'S NARRATIVE SUMMARY AND
SUPPLEMENTAL ADDENDUM IN SUPPORT OF HIS
APPLICATION FOR EXECUTIVE CLEMENCY**

**DANIEL A. HORWITZ, ESQ.
LAW OFFICE OF DANIEL A. HORWITZ
1803 BROADWAY, SUITE #531
NASHVILLE, TN 37203
(615) 739-2888
daniel.a.horwitz@gmail.com**

January 8, 2020

Counsel for Petitioner Wayne D. Potee

Dear Governor Lee:

Petitioner Wayne D. Potee, through undersigned counsel, respectfully applies to you to commute, to a total of four (4) years served concurrently, his non-capital sentences for low-level, non-violent drug crimes that he committed during the course of—and as a consequence of—his opioid addiction. In support of this application, Mr. Potee represents, in accordance with Commutation Criterion (1)(b) of your Office’s guidelines for commutation requests, that:

The petitioner has been rehabilitated to an extraordinary degree, relative to the nature of the offenses committed, will be a law abiding citizen and positive contributor to society upon release, and has, to the extent age and health permit, a desire and an ability to maintain gainful employment.

I. Facts Supporting Clemency

Prior to becoming addicted to opioids, Wayne Potee was a productive, gainfully employed, and beloved member of society. After graduating from high school, taking community college courses at Motlow Community College, completing vocational training, and obtaining his Commercial Driver’s License, *see **Collective Exhibit A***, Mr. Potee worked on power lines and drove a commercial truck for a living, and he paid his taxes annually without exception. Mr. Potee also served as an instructor for developmentally disabled adults, *see **Collective Exhibit B***, where he was cherished as “a valued employee and a shining light[.]” *Id.* at Letter from Nancy Mires. During that time, Mr. Potee also *literally saved a life* by confronting, heroically disarming, and then detaining a man with a loaded gun who had attempted to shoot a developmentally disabled adult in the head. *See **Exhibit C***, Letter from Sherry Carter. As Mr. Potee’s supervisor recounts, a woman’s

husband was angry because she wasn’t being paid and he took a loaded revolver to the group home, held the gun to my client’s head and pulled the trigger. The gun misfired and Wayne confronted him, took the gun away and detained him until police could arrive. Wayne selflessly put his life in danger to save my client.

Id. See also **Exhibit B**, Mires Letter (“Wayne worked some of the time in our homes with the adults and was instrumental in preventing further harm to a client that was being accosted”). While this degree of heroism is uncommon, Mr. Potee had always wanted to help others, and he had trained for such situations. See **Exhibit D**, Defensive Pistol Academy Certificate of Completion. During this time period, Mr. Potee always worked, and he was never on any form of government assistance.

Regrettably, while cutting power lines one afternoon, Mr. Potee fell off his truck and suffered an injury to his rotator cuff that required surgery. After undergoing shoulder surgery, Mr. Potee was prescribed Percocet to manage his pain. Mr. Potee quickly became addicted to prescription opioids, and from that point forward, his life began spiraling out of control.

Mr. Potee’s surgeon initially prescribed him 50 Percocet pills at a time. His surgeon eventually stopped prescribing him pain pills at all, however, causing Mr. Potee to seek out another doctor—Dr. Samuel Ashby—instead. Unrelated to Mr. Potee, Dr. Ashby was ultimately indicted, pleaded guilty, and was sentenced to nine years in federal prison for, among other things, prescribing “Oxycodone, a Schedule II controlled substance, . . . outside the scope of professional practice and not for a legitimate medical purpose,” **Collective Exhibit E**, Information in *United States v. Ashby*, E.D. Tenn. Case No. 4:10-cr-00038, p. 2. See generally **Exhibit E**.

For several years, Mr. Potee sought out Oxycodone from Dr. Ashby nearly every month and paid him for the pills in cash. Mr. Potee never had any difficulty getting his prescription filled. After Dr. Ashby went to prison, however, Mr. Potee was unable to get prescription opioids any longer. Accordingly, Mr. Potee made a serious effort to get clean and checked himself into a methadone clinic, which he attended for approximately a year. Unable to kick his addiction, though, Mr. Potee ultimately began purchasing pain pills again on the street.

In 2012—still making a serious effort to overcome his addiction and get clean—Mr. Potee was prescribed Suboxone, a medication used to treat opioid addiction, by the Southcare Clinic in Huntsville, Alabama. Mr. Potee made only \$30,000 to \$40,000 each year as a commercial truck driver, though, so he was not always able to afford his Suboxone prescription, which was expensive and was not covered by his insurance. Accordingly, Mr. Potee began selling his possessions—including his truck—to pay for his Suboxone

treatment. On a handful of occasions in 2014 and 2015, Mr. Potee also sold extraordinarily small amounts of methamphetamine—approximately two grams at a time, with a street value of no more than \$100 to \$300—to help pay for his addiction treatment.

Two of Mr. Potee's methamphetamine sales were to a government informant—a convicted felon who had multiple convictions of his own and was on community corrections at the time of the sales. They also occurred at Mr. Potee's shop, which, regrettably, was located within 1,000 feet of a school. As such, the sales triggered a severe mandatory minimum sentencing enhancement under Tennessee's Drug Free School Zone Act, even though they took place during the summer and at night and did not involve children or expose children to any harm. For these low-level drug sales to an adult informant during summer evenings, Mr. Potee found himself facing decades in prison.

After being arrested in November 2015, Mr. Potee was unable to make bond and was appointed an attorney. Mr. Potee's attorney came to see him twice—the day he was arrested, and the day before his guilty plea. Mr. Potee accepted full responsibility for his crimes and pleaded guilty to them. Indeed, he would have pleaded guilty even earlier—in December 2015—but his original court date had to be moved because he was rushed to Vanderbilt Hospital for emergency surgery after being jumped by three members of a prison gang who shattered his sinus cavity when he declined to give one of them a cigarette. *See Exhibit F*, Vanderbilt University Medical Center Records. This event caused Mr. Potee to fear for his life in prison if he agreed to serve as an informant, which prosecutors had demanded of him as consideration for a more favorable plea bargain. Accordingly, for his remarkably low-level and non-violent drug sales, Mr. Potee pleaded guilty and agreed to accept an aggregate sentence of fifteen (15) years in prison, served at 100%, for his charges—a prison sentence that exceeds the sentence he would have received for any number of far more serious violent crimes, including Rape and Second Degree Murder.

Since being arrested, Mr. Potee has been a model prisoner. He has never had a write up. He has gotten clean and passed every random drug test that he has been given. As a trustee, Mr. Potee also worked on a road crew and was recognized as a good, hard worker. *See Exhibit G*, Letter from A.J. Williams.

For Mr. Potee, the most difficult part of his incarceration has been being away from his family—particularly his mother, with whom he was extremely close. Sadly, in 2018, Mr. Potee’s mother Linda was diagnosed with cancer. **Exhibit H**, Letter from Dr. John R. Nicholson. The cancer spread quickly; in July 2019, Linda Potee was diagnosed with advanced small cell cancer of the lung. **Exhibit I**, Letter from Dr. J. Fred Ralston. Following your Office’s release of its clemency protocols, Mr. Potee thus began preparing a clemency application under Commutation Criterion 1(a)(ii), governing circumstances when a petitioner’s parent “has a life-threatening illness, said illness is supported by appropriate medical documentation, and the petitioner is the only person able to assist in the care of such person[.]” As his mother’s doctor explained by letter dated July 5, 2019:

Ms. Potee has advanced small cell cancer of the lung. Right now she has suspended treatment because her daughter has used up all her sick/family leave.

An early release for her son [Wayne] on compassionate grounds could make a life or death difference in her cancer treatment.

Thank you,

J. Fred Ralston, Jr., MD MACP FRCP London, Edin

Id.

In light of his mother’s dire condition, I first contacted your Office regarding Mr. Potee’s clemency application on July 22, 2019, and several individuals prepared letters detailing why Mr. Potee’s sentence should be commuted under Commutation Criterion 1(a)(ii). *See, e.g.*, **Exhibit I**; **Exhibit J**, Letter from Kelly J. Bishop; **Exhibit K**, Letter from Ronald E. Potee. Sadly, Linda died on September 14, 2019, before Mr. Potee’s application could be considered by the Board of Parole for a recommendation. *See* **Exhibit L**, Obituary. Linda’s dying wish was that her son be able to come home.

II. Conclusion

Mr. Potee accepted full responsibility for his addiction-related crimes; he has been a model inmate since his convictions; and he has overcome the

addiction that played a central role in his incarceration. Put simply: Wayne Potee has been rehabilitated to an extraordinary degree relative to the low-level nature of the offenses committed, and he will be a law-abiding citizen and positive contributor to society upon release.

Mr. Potee also has both a desire and an ability to maintain gainful employment. Indeed, he has a job offer waiting for him upon his release. *See Exhibit G.* He also continues to enjoy substantial support from his community and his family in light of his long history of law-abiding conduct and good deeds prior to his addiction and incarceration. *See Collective Exhibit M, Letters of Support. See also Exhibit A, Letter from Susan Potee; Exhibit B; Exhibit C; Exhibit G; Exhibit J; Exhibit K.*

In light of these circumstances, Mr. Potee deserves clemency. His sentences should be commuted to a total of four years served concurrently—resulting in an effective total sentence of time served—as a result.

Respectfully submitted,

By: 

DANIEL A. HORWITZ, ESQ.
LAW OFFICE OF DANIEL A. HORWITZ
1803 BROADWAY, SUITE #531
NASHVILLE, TN 37203
(615) 739-2888
daniel.a.horwitz@gmail.com

Counsel for Petitioner Wayne Potee

Exhibit A

Lincoln County High School

Fayetteville



Tennessee

This is to Certify That

Wayne Daryl Potee

has satisfied the requirements for High School graduation from
the Lincoln County High School as prescribed by the State Board
of Education and is therefore entitled to this

General Diploma

In Testimony Whereof and by authority in us vested, we have affixed
our signatures at Fayetteville, Tennessee
this month of May, 1991

Chas. E. Smith

COMMISSIONER OF EDUCATION

Johnny Womack

CHAIRMAN, BOARD OF EDUCATION

Jimmy L. Buchanan

SUPERINTENDENT OF SCHOOLS

Paulette M. Cannon

PRINCIPAL OF HIGH SCHOOL

Certificate of Completion

This is to certify that

Mr. Wayne Potee

Has successfully completed

PRIVATE PILOT – AIRPLANE Ground School

through

Rocket Aviation, Incorporated

at

Madison County Executive Airport (MD2)

conducted


7 January through 22 April 2002.

Robin H. Lindstrom

Robin H Lindstrom, 2175071 CFI (GS), AGI, IGI
Chief Flight Instructor, Rocket Aviation
Master CFI, National Association of Flight Instructors
Aviation Safety Counselor, BHM FSDO-09

COMMERCIAL DRIVER LICENSE

USA TN
Tennessee
 THE VOLUNTEER STATE



DL NO. [REDACTED] DOB 01/15/1973
 EXP 01/15/2018 ISS 06/24/2015
 CLASS AM END NONE
 REST NONE
 SEX M HGT 6'-05" WGT 175 LBS EYES BRN HAIR BRN
 DD [REDACTED] CDL

POTEE
 WAYNE DARYL
 32 TRIPLE B LN
 TAFT, TN 38488-6014

Wayne Potee

SIGNATURE OF MEDICAL EXAMINER <i>Marin P. Garrett FNP</i>		TELEPHONE DATE 2-13-17
MEDICAL EXAMINER'S NAME (PRINT) Marin P. Garrett		<input type="checkbox"/> MD <input checked="" type="checkbox"/> Advanced Practice Nurse
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE 19521 TN		<input type="checkbox"/> DO <input type="checkbox"/> Physician Assistant <input type="checkbox"/> Other Practitioner
NATIONAL REGISTRY NO. [REDACTED]		<input type="checkbox"/> Chiropractor
SIGNATURE OF DRIVER <i>Wayne Potee</i>	INTRASTATE ONLY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	CDL <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
DRIVER'S LICENSE NO. [REDACTED]	STATE TN	MEDICAL CERTIFICATION EXPIRATION DATE 2-13-17
ADDRESS OF DRIVER 32 TRIPLE B LN. Taft, TN 38488		

ORIGINAL - DRIVER

Susan A. Potee

[REDACTED]

Letter on behalf of Wayne Potee #561884
Hardeman County Correctional Facility
P.O. Box 549
Whitesville, TN 38075

August 2, 2019

To Whom It May Concern:

My name is Susan Potee. I am Wayne Potee's stepmother and have known him for 15 years. I retired in 2010 as a teacher at Chapman Middle School (2006 Reuben Dr. NE, Huntsville, AL 35811). I taught for 27 years and worked for 3 years as a tutor since my retirement.

Wayne is a high school graduate and has earned his Commercial Driver's License (CDL). Since I have known him, he has worked as a commercial truck driver. I have heard him talk about previously teaching classes to others seeking their CDL and how much he enjoyed that.

Wayne has been respectful and loving to me from the first time I met him. During our visits with Wayne, he has expressed how he made a terrible mistake, and that he accepts responsibility for his criminal action. He has never stated to me that his mandatory 15-year sentence was unfair. He has accepted his punishment without blaming anyone but himself. However, he has expressed deep concern for his mother's health and profound regret that he is not able to help with her care.

I feel confident that Wayne can be safely released back into the community. He would have housing provided by his mother and would certainly have our love, encouragement and support. Yet we feel strongly that Wayne should be held accountable. His father and I believe that his time served has been long enough and has given him determination to make a clean future for himself.

Sincerely,

Susan A. Potee

Exhibit B

August 4, 2019

To Whom It May Concern:

My name is Nancy Mires, and I am retired from Skills Development Services, a state-funded program for developmentally delayed adults, where I was employed for twenty-three years as Director of Operations.

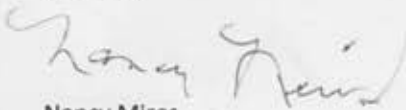
I had known Wayne for some time and hired him as an employee. He was very good with the clients, and they all liked him. He was kind, caring, funny, and always smiling. He was a plus for our organization.

Wayne worked some of the time in our homes with the adults and was instrumental in preventing further harm to a client that was being accosted by another employee.

Wayne was a valued employee and a shining light for us.

Please assist Wayne in whatever he is endeavoring to do.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nancy Mires".

Nancy Mires

9-4-19

To Whom It May Concern:

It is an honor for me to write this letter for Wayne Peter. I have known Wayne for 20+ years; he and my son were friends and I worked with Wayne at a center for developmentally disabled adults. Wayne was always laughing and happy. He was very good with the clients that we served; he was patient and kind. Wayne went with my family on a couple of vacations and was always well-behaved and helpful with my elderly mother.

If Wayne is given the opportunity to be released, I know he has the ability to turn his life in the right direction. I will continue to pray for Wayne and his family.

Sincerely,
Sherry Carter, BSW

08/02/2019

To Whom It May Concern:

This letter is in regards to Wayne Potee, who is now serving a 15 year sentence. Currently he has served approximately 3 and ½ years for a non-violent crime. He has always demonstrated a kind and caring nature in my presence. In my job in the nursing home industry he often came to visit his mother who was employed there. The residents loved him. He displayed a loving nature and disposition, while visiting there. I have also known him for many years and can say he is of good character, but has made mistakes in judgement resulting in his presence situation. Please give consideration for time served and good behavior.

He is desperately needed at home now to assist his mother who has been diagnosed with a terminal illness.

Thank You


A handwritten signature in cursive script, appearing to read "Carolyn Atchley". The signature is written in dark ink and is positioned below the typed text "Thank You".

Exhibit C

2/30/19

To Whom It May Concern:

I have known Wayne Patee for at least 20 years. I was the workshop supervisor at an agency in Fayetteville that served developmentally disabled adults and I worked with Wayne then Wayne was always even-tempered, easy going and kind to the clients. He was a good employee and a hard worker.

I left that job to become a case manager for a mental health agency in Fayetteville. One of my clients lived in a group home and Wayne was one of the house parents. My client accused another house parent of sexual misconduct and she was placed on leave. Her husband was angry because she wasn't being paid and he took a loaded revolver to the group home, held the gun to my client's head + pulled the trigger. The gun misfired and Wayne confronted him, took the gun away and detained him until police could arrive. Wayne selflessly put his life in danger to save my client.

Sincerely,

Sherry Carter

Exhibit D

The Defensive Pistol Academy

Hereby Certifies That

Wayne D. Potee

Has successfully completed the course prescribed and passed the tests provided by the Tennessee Department of Safety for Handgun Safety and Liability administered by the Defensive Pistol Academy, a Tennessee Dept. of Safety Certified School

August 21, 1997

Course completed this day

Tennessee Dept of Safety Certified

School I.D. # 2-18-2

H. Michael Maples

Instructor S.D. # 467-94-0566

Exhibit E

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT WINCHESTER

FILED

2010 SEP 24 P 3:06

UNITED STATES OF AMERICA)

vs.)

SAMUEL M. ASHBY, M.D.)

) Case No. 4:10-cr-38

) Judge Collie / Lee

U.S. DISTRICT COURT
EASTERN DIST. TENN.

BY _____ DEPT. CLERK

INFORMATION

COUNT ONE

The United States Attorney charges that, on or about September 12, 2007, in the Eastern District of Tennessee, the defendant, SAMUEL M. ASHBY, M.D., aided and abetted by others, did knowingly and intentionally dispense, and cause to be dispensed, a quantity of a controlled substance, *i.e.* Oxycodone, a Schedule II controlled substance, to a patient with the initials T.G., outside the scope of professional practice and not for a legitimate medical purpose; in violation of Title 21, United States Code, Sections 841(a)(1) and (b)(1)(C), and Title 18, United States Code, Section 2.

COUNT TWO

The Scheme to Defraud

The United States Attorney further charges that, from about January 2007 through on or about April 9, 2008, in the Eastern District of Tennessee, the defendant, SAMUEL M. ASHBY, M.D., did knowingly and willfully devise a scheme to defraud TennCare, a health care benefit program as defined in Title 18, United States Code, Section 24, whereby SAMUEL M. ASHBY, M.D., prescribed medically unnecessary controlled substances for drug-seeking patients, and thereby caused pharmacies filling these prescriptions to submit claims to the TennCare program for payment and reimbursement pursuant to the scheme to defraud.


The Execution of the Scheme to Defraud

On or about September 12, 2007, in the Eastern District of Tennessee, for the purpose of executing and attempting to execute the scheme to defraud and to obtain money by false and fraudulent pretenses and representations, the defendant, SAMUEL M. ASHBY, M.D., did cause a pharmacy to obtain money from the TennCare program, a health care benefit program as defined in Title 18, United States Code, Section 24(b), by causing the pharmacy to file claims for filling a prescription for a Schedule II controlled substance, *i.e.*, Oxycodone (Percocet), issued by SAMUEL M. ASHBY, M.D., to a patient whose initials are T.G., which prescription was false and fraudulent in that it was not based on medical necessity, but issued outside the scope of professional practice and not for a legitimate medical purpose, and thus unauthorized for reimbursement to the pharmacy by TennCare, in violation of Title 18, United States Code, Sections 1347 and 2.

COUNT THREE

The United States Attorney further charges that from on or about January 1, 2000 through on or about April 9, 2008, in the Eastern District of Tennessee, the defendant SAMUEL M. ASHBY M.D., did willfully attempt to evade and defeat the payment of a large part of the income tax due and owing by him to the United States for calendar years 2000, 2002, and 2003 in the amounts of \$2,753; \$36,750; and \$37,357, respectively, by concealing and attempting to conceal from the Internal Revenue Service the nature, sources, and extent of his income and assets, principally by dealing only in cash and cash equivalents; in violation of Title 26, United States Code, Section 7201.

GREGG L. SULLIVAN
ACTING UNITED STATES ATTORNEY

By: 
John P. MacCoon
Assistant United States Attorney

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
at WINCHESTER

UNITED STATES OF AMERICA)
)
)
) Case No. 4:10-cr-38
v.) MATTICE / LEE
)
)
SAMUEL M. ASHBY, M.D.)
)

ORDER

Magistrate Judge Susan K. Lee filed a report and recommendation recommending the Court: (1) accept Defendant's plea of guilty to the Bill of Information; (2) adjudicate Defendant guilty of the charges set forth in the Bill of Information; and (3) defendant has been released on bond under appropriate conditions of release pending sentencing in this matter without objection [Doc. 11]. Neither party filed a timely objection to the report and recommendation. After reviewing the record, the Court agrees with the magistrate judge's report and recommendation. Accordingly, the Court **ACCEPTS** and **ADOPTS** the magistrate judge's report and recommendation [Doc. 11] pursuant to 28 U.S.C. § 636(b)(1) and **ORDERS** as follows:

- (1) Defendant's plea of guilty to the Bill of Information is **ACCEPTED**;
- (2) Defendant is hereby **ADJUDGED** guilty of the charges set forth in the Bill of Information;
- (3) Defendant **SHALL REMAIN** on bond under appropriate conditions of release pending sentencing in this matter which is scheduled to take place on **Monday, March 21, 2011 at 9:00 a.m. [EASTERN]** before the Honorable Harry S. Mattice, Jr.

SO ORDERED.

ENTER:

/s/Harry S. Mattice, Jr.
HARRY S. MATTICE, JR.
UNITED STATES DISTRICT JUDGE

United States District Court Eastern District of Tennessee

UNITED STATES OF AMERICA
v.
SAMUEL M. ASHBY, M.D.

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Case Number: 4:10-CR-38-001

Myrlene Marsa
Defendant's Attorney

THE DEFENDANT:

- pleaded guilty to count(s): One, Two, and Three of the Information
 pleaded nolo contendere to count(s) ___ which was accepted by the court.
 was found guilty on count(s) ___ after a plea of not guilty.

ACCORDINGLY, the court has adjudicated that the defendant is guilty of the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
----------------------------	--------------------------	-----------------------------------	----------------------------

See next page.

The defendant is sentenced as provided in pages 2 through 7 of this judgment and the Statement of Reasons. The sentence is imposed pursuant to the Sentencing Reform Act of 1984 and 18 U.S.C. §3553.

- The defendant has been found not guilty on count(s) ____.
- Count(s) ___ is are dismissed on the motion of the United States.

IT IS ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and the United States attorney of any material change in the defendant's economic circumstances.

3/21/2011
Date of Imposition of Judgment

/s/ Harry S. Mattice, Jr.
Signature of Judicial Officer

HARRY S. MATTICE, JR., United States District Judge
Name & Title of Judicial Officer

3/24/2011
Date

DEFENDANT: SAMUEL M. ASHBY, M.D.
CASE NUMBER: 4:10-CR-38-001

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
21 U.S.C. §§ 841(a)(1) and (b)(1)(C) and 18 U.S.C. § 2	Distribution of Oxycodone, Aiding and Abetting	9/12/2007	One
18 U.S.C. §§ 1347 and 2	Health Care Fraud	4/9/2008	Two
26 U.S.C. § 7201	Income Tax Evasion	492008	Three

DEFENDANT: SAMUEL M. ASHBY, M.D.
CASE NUMBER: 4:10-CR-38-001

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 108 months.

Term consists of 108 months on each of Counts One and Two and 60 months on Count Three, to be served concurrently.

The court makes the following recommendations to the Bureau of Prisons:

The Court will recommend that the defendant be designated to a federal medical facility for service of his sentence.

The defendant is remanded to the custody of the United States Marshal.

The defendant shall surrender to the United States Marshal for this district:

at ___ a.m. p.m. on ___.

as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

before 2 p.m. on 4/20/2011.

as notified by the United States Marshal.

as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: SAMUEL M. ASHBY, M.D.
CASE NUMBER: 4:10-CR-38-001

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 3 years.

Term consists of three years on each of Counts One, Two, and Three, such terms to run concurrently.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

- The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, destructive device, or any other dangerous weapon. (Check, if applicable.)
- The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: SAMUEL M. ASHBY, M.D.
CASE NUMBER: 4:10-CR-38-001

SPECIAL CONDITIONS OF SUPERVISION

The defendant shall make payments toward his tax obligation.

DEFENDANT: SAMUEL M. ASHBY, M.D.
CASE NUMBER: 4:10-CR-38-001

CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 6. The assessment is ordered in accordance with 18 U.S.C. § 3013.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 300.00	\$	\$

The determination of restitution is deferred until __. An Amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.

The defendant shall make restitution (including community restitution) to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, if the United States is a victim, all other victims, if any, shall receive full restitution before the United States receives any restitution, and all restitution shall be paid to the victims before any restitution is paid to a provider of compensation, pursuant to 18 U.S.C. §3664.

<u>Name of Payee</u>	<u>*Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
TOTALS:	\$ _	\$ _	

If applicable, restitution amount ordered pursuant to plea agreement \$ _

The defendant shall pay interest on any fine or restitution of more than \$2500, unless the fine or restitution is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).

The court determined that the defendant does not have the ability to pay interest, and it is ordered that:

The interest requirement is waived for the fine and/or restitution.

The interest requirement for the fine and/or restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18, United States Code, for offenses committed on or after September 13, 1994 but before April 23, 1996.

DEFENDANT: SAMUEL M. ASHBY, M.D.
CASE NUMBER: 4:10-CR-38-001

SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A Lump sum payment of \$ 300.00 due immediately, balance due
 not later than __, or
 in accordance with C, D, or E or F below; or
- B Payment to begin immediately (may be combined with C, D, or F below); or
- C Payment in ___ (e.g., equal, weekly, monthly, quarterly) installments of \$ _ over a period of _ (e.g., months or years), to commence _ (e.g., 30 or 60 days) after the date of this judgment; or
- D Payment in ___ (e.g., equal, weekly, monthly, quarterly) installments of \$ _ over a period of _ (e.g., months or years), to commence _ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E Payment during the term of supervised release will commence within 0 (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F Special instructions regarding the payment of criminal monetary penalties:

Unless the court has expressly ordered otherwise, if this judgment imposes a period of imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. Unless otherwise directed by the court, the probation officer, or the United States attorney, all criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, shall be made to **U.S. District Court, 200 S. Jefferson St., Room 201, Winchester, TN 37398**. Payments shall be in the form of a check or a money order, made payable to U.S. District Court, with a notation of the case number including defendant number.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant Name, Case Number, and Joint and Several Amount:

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s):

The defendant shall forfeit the defendant's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) community restitution, (6) fine interest (7) penalties, and (8) costs, including cost of prosecution and court costs.

Exhibit F

039714159 POTE, WAYNE (01/15/1973 - then 42YO M)

Clinic Note 2015/12/04 13:10 Created by: **Wesley Thayer, MD** (Last modified by Thayer, Wesley Paul)
Electronically signed by: **Thayer, Wesley Paul (attending physician)** (thayhh0) on 2015/12/10 22:19

WAYNE POTE
039714159
12/04/2015

Mr. Potee reports back after an assault, he had a traumatic injury to his left face. He has a ZMC fracture and involves the orbit. His occlusion is intact. His left infraorbital nerve is out. He has a depression and swelling and a hyphema all on the left. I have reviewed his CT scan before this visit, I am recommending that he have surgical intervention to repair the fractured bones where we put plates and screws to align the bones back up. The risks of back surgery are bleeding and pain, scarring, infection, and possible need for more surgery. There is slight risk that the eye could scar and the lower eyelid could pull down called ectropion. There are other risks of permanent loss of sensation, as it is he already has some sensation loss. Hardware like that can become infected, but it is rare. Typically the bones of the face heal but there is a chance that they would not and we would have to do an additional surgery - that would be very rare. He could have a deformity or asymmetry that would be noticeable. It is also possible that the vision in the left eye could be affected by this surgery. The chances of that are very small. We plan on setting this up over the next week to 10 days.

Wesley Thayer, MD

DD: 12/04/2015 1:36:00 PM
DT: 12/04/2015 5:49 PM
WT/11064

JOB#: 2015120400005046

Vanderbilt University Medical Center

Release of Information (615) 322-2062

039714159 POTE, WAYNE (01/15/1973 - then 42YO M)

Plastic/Cosmetic Surgery New Patient Consultation 2015/11/28 23:34 Created by: Tokin, Christopher
Electronically signed by: Tokin, Christopher (physician) (toki3b5) on 2015/11/28 23:41:31

Reviewed by: Thayer, Wesley Paul on 12/01/2015 11:53

Vanderbilt University Medical Center Potee, Wayne
Plastics and Cosmetics Surgery New Patient Consult MR# 039714159

Date of services: Saturday, 11/28/2015 23:34

New Patient/Clinic Consult
615-343-2887

Primary Care Provider: . ED

Referring Physician: ED

Reason for Visit:

42 year old male seen as a consultation at the request of ED for evaluation of multiple facial fractures .

History of Present Illness: 42 y/o M jail pt presents to ED after trauma to the face, block hit face in jail about 6 hours ago. CT scan performed at outside hospital reveal left lateral and inferior orbital wall fractures and zmc fracture. He does have some eye pain, states that it feels like someone is pressing on his eye. And he has some pain with looking up. He denies diplopia or blurry vision. He does state that his upper lip and lower eyelid feel numb.

Past Medical History/Problem List
. denies

Previous Operative Procedures:
. . denies

Current Medications:
- hydromorphone inj: dilaudid 1 mg iv 1st stat q1h prn

Allergies:
- No known allergies

Review of Systems:

per HPI

PHYSICAL EXAMINATION:

VITALS: P: 61 RR: 8 Temp: 36.61 deg C Wt: 97.52 Kg

Date	BP
11/28/15 22:13	137/88

nad
nonlabored breathing
significant left sided periorbital echymosis and swelling
perri, eomi
left subconjunctival hemorrhage
ttp left lateral face and maxilla
moderate swelling, no obvious deformity
no midface instability
no malocclusion
no septal hematoma

STUDIES:

Exhibit G

T&W Machine INC

[REDACTED]

[REDACTED]

To whom it may concern,

During the time that Wayne was incarcerated in Lincoln County jail he was a trustee from July 2016 to November 2016.

Being a trustee he worked out on the county doing repairs and painting different community buildings and the jail itself.

I own a machine shop in Fayetteville and have known Wayne and his father for 20 number of years.

I knew Wayne had a good work history and I was looking to hire another employee and thought of Wayne. I had hired work release inmates in the past and knew that was a possibility. I was going to pay

him 8.50 an hour. Twenty of this would go toward his room and board at the jail and the other toward his court costs and fines. I was able to provide his transportation to and from the shop, but he was still denied.

Thank you

A.J. Williams



T&W machine INC

O:9314333372

C9316520379

Exhibit H



The Cancer Center of Huntsville, P.C.

Ali B. Hachem, M.D.

Diplomate
American Board of Internal Medicine
Board Certified in Hematology
and
Medical Oncology

Rachel C. Kruspe, M.D.

Diplomate
American Board of Internal Medicine
Board Certified in Hematology
and
Medical Oncology

Rosa M. Michel Ortega, M.D.

Diplomate
American Board of Internal Medicine
Board Certified in Oncology
Board Eligible in Hematology

John R. Nicholson, III, M.D.

Diplomate
American Board of Internal Medicine
Board Eligible in Hematology
and
Medical Oncology

Blackwell Medical Tower
201 Sivley Road
Suite 200
Huntsville, AL 35801

Tel# (256)265-1822
or
(256)265-1TCC

Fax# (256)265-1825

www.tcchsv.com

June 28, 2019

RE: LINDA POTEE
DOB: 09/07/1948

RE: ASSISTANCE FOR ADL

Ms. Potee is currently under my care for a diagnosis of Lung Cancer. She is very frail and requires live in assistance for ADL care, transportation, and close monitoring.

If additional information is needed please feel free to contact my office.

Sincerely,

John R. Nicholson M. D.

JRN/jj

Exhibit I

J. Fred Ralston, Jr. MD MACP
HHPC-Fayetteville Medical Associates
207 Elk Avenue South
Fayetteville, TN 37334
Fax:
931-438-3447
If urgent during office hours call 931-433-2551

07/05/2019

Re: Linda Potee
DOB: 09/07/1948

Ms. Potee has advanced small cell cancer of the lung. Right now she has suspended treatment because her daughter has used up all her sick/family leave.

An early release for her son on compassionate grounds could make a life or death difference in her cancer treatment.

Thank you,

J. Fred Ralston, Jr. MD

J. Fred Ralston, Jr. MD MACP FRCP London, Edin

Exhibit J

Kelly J. Bishop

[REDACTED]

Letter on behalf of Wayne D. Potee #561884
Hardeman County Correctional Facility
P.O. Box 549
Whiteville, TN 38075

August 5, 2019

To Whom It May Concern:

My name is Kelly Bishop. I am Wayne Potee's only sister and we have no other siblings. I am writing this letter on behalf of my brother due to the fact he is currently incarcerated and my mother, Linda Potee, was diagnosed with terminal small cell lung cancer in April of 2019.

In 2015, after my brother was arrested, my mother listed her home for sale and purchased a home in 2016 approximately three minutes from my home. In September of 2017, my mother was diagnosed with non-small cell lung cancer, upon which she received chemo and radiation and did very well. She was near finishing her one-year treatment of immunotherapy in April of 2019, when they discovered her cancer was back and it was more aggressive and was now small cell lung cancer. We were in the process of going through chemo and were due to start radiation but my mother had become so sick and weak, she decided to cease all treatment. I have been her only caretaker throughout all these appointments and hospital stays. I am either at her house or she is with me at my house or my job. I assist my mother with medications, house cleaning and cooking, bathing, grocery shopping and caring for her seven cats. My husband, who also works full time, maintains her outside property.

I know my mother's health will be declining and I have exhausted my vacation time. I work for a small propane company as a Customer Service Representative. FMLA is not an option and I am not financially able to quit my job to care for my terminally ill mother full-time.

For this reason, I am writing this letter asking for your consideration for early release of Wayne. He will have a home with our mother. Wayne will be a great help in caring for our mother. My mother and I desperately need his help.

Sincerely,



Kelly J. Bishop

Exhibit K

Ronald E. Potee

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Letter on behalf of Wayne Potee #561884
Hardeman County Correctional Facility
P.O. Box 549
Whitesville, TN 38075

August 18, 2019

To Whom It May Concern:

I am Wayne Potee's father. I served 10 years in the Marine Corp and retired in 2011 as Information Technology (IT) Director in the Huntsville City Schools.

Wayne has been incarcerated for almost 4 years for a drug related crime. I believe he is ready to return to society and become a productive citizen.

Upon Wayne's release his mother, step-mother, and I will provide him with the moral support necessary to get him back on his feet and keep him on the right path.

Currently his mother is terminally ill with cancer. If Wayne could be released, he could help his mother while living with her.

I would appreciate anything that you can do to get Wayne released.

Sincerely,



Exhibit L

Sign In



Linda Sue Potee

September 7, 1948 - September 14, 2019

Recommend 0

Share Obituary:



(sms:?

&body=https://www.moorecortner.com/obituaries/Linda-

Sue-

Potee?

obId=7260894)



Tribute Wall

Obituary & Events

Obituary

Linda Sue Potee, age 71 of Huntland formerly of Fayetteville, passed away on Saturday, September 14, 2019 at her daughter's home from complications of lung cancer surrounded by those who love her. Linda was born on September 7, 1948 in Huntsville, Alabama to the late Gordon Cagle and Mary Frances Frame. Linda was a LPN for forty-five years and retired from Lincoln Medical Center where she had been in charge of Employee Health. She loved her job and the people she worked with. She enjoyed cooking, gardening, and spending time with her family and beloved pets. In addition to her parents, she was preceded in death by her brother, Gene Cagle; and half-brother, Morris Bates. Linda is survived by her daughter, Kelly (Jeff) Bishop of Huntland; son, Wayne Potee of Taft; grandson, Cody Bishop of Winchester; sister, Fran Rollins of Fayetteville; brothers, Marvin Cagle of Taft and Louis (Paola) Cagle of Fayetteville; and several nieces and nephews. A special thank you to everyone at Lincoln Medical Home Health and Hospice for assisting the family at this time. Moore-Cortner Funeral Home, 300 First Ave NW, Winchester, TN 37398, (931)-967-2222, www.moorecortner.com.

To plant a beautiful memorial tree in memory of Linda Sue Potee, please visit our **Tribute Store**. (<https://tree.tributecenterstore.com/?old=7260894&tag=&mtph=1>)

Hide ^

Share a memory

Plant a tree (<https://tree.tributecenterstore.com>)

Exhibit M

To whom it may concern,

I'm writing this on behalf of Wayne Potee, an inmate in a west Tennessee prison.

I grew up with Wayne. My children have spent time around him. He is not a dangerous person. He doesn't have a violent bone in his body.

I know he is serving time for drug charges and he is supposed to serve one hundred percent of his sentence. To me, his punishment doesn't fit his crime. There are violent criminals that have harmed one or multiple people and they are being released after serving only part of their sentence.

Wayne Potee is a good person. I truly believe he has been rehabilitated. I believe that if he was released he could go back into society with a different outlook and do good things with his life.

8-13-19

Alicia Jennings

Lincoln Health System; Registration Clerk

August 8, 2019

To whom it may concern:

I am writing this letter on behalf of Wayne Potee (TDOC#561884).

Wayne and I were cell mates from about March 2018 to February 2019. He was always very respectful and considerate of me, characteristics that have continued since that time.

On numerous occasions, Wayne has expressed his responsibility concerning his legal situation, and his willingness and intention to comply with all requirements if he were to be granted an early release.

I believe that Wayne has the desire, knowledge and skills necessary to enable him to be successful upon his release, and that consideration should be given to his request.

Sincerely,

Daniel Hunter

To Whom It May Concern

9-4-19

I would just like to say that I been a friend of Wayne Potee for over 26 years. Wayne is a great person and the kind of guy that would do anything to help anyone out if needed, he'd give you shirt off his back. That's just the kind of person he is. When Wayne and I worked at Skills Development together he always went above and beyond in helping people who were disabled.

If there is an opportunity or possibility that Wayne could be released I have no doubt that he will choose the right path and be the man I've always known him to be

Sincerely
Chad Carter


08/02/2019

To Whom It May Concern:

This letter is in regards to Wayne Potee, who is now serving a 15 year sentence. Currently he has served approximately 3 and ½ years for a non-violent crime. He has always demonstrated a kind and caring nature in my presence. In my job in the nursing home industry he often came to visit his mother who was employed there. The residents loved him. He displayed a loving nature and disposition, while visiting there. I have also known him for many years and can say he is of good character, but has made mistakes in judgement resulting in his presence situation. Please give consideration for time served and good behavior.

He is desperately needed at home now to assist his mother who has been diagnosed with a terminal illness.

Thank You

A handwritten signature in cursive script, appearing to read "Carolyn Atchley". The signature is written in dark ink and is positioned below the typed text "Thank You".

Lisa Sut

August 7, 2019

To Whom It May Concern,

This letter is regarding your consideration of release of Wayne Potee from prison. Wayne is currently serving a 15 year prison sentence for a nonviolent crime. He is a first time offender.

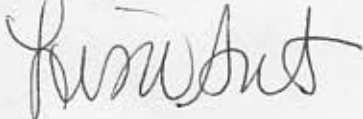
I have known him for over 20 years. Wayne has always been a kind person to me. During his incarceration, I have spoken to him on several occasions, and he has spoken to and written to my children, ages 10 and 12. Every time I speak to him, he has nothing but kind words. Despite his own personal situation, he has continued to show compassion to me during the recent death of my father.

I truly believe that he has paid for his mistakes. I do not feel that being in prison will make him a better person. In fact, I worry about his survival while there since he is not a hardened criminal. He has a terminally ill mother and an aging father. I know that they both would benefit from his being back home.

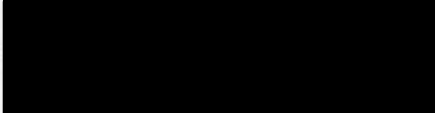
Please give him consideration for his good behavior and time served in prison. I do not make that request lightly. If I felt that Wayne would be a menace to society, I would not ask that he be released.

Sincerely,

Lisa Sut



John Sut


Substation Electrician, 21 years

August 7, 2019

To whom it may concern,

This letter is in regards to Wayne Potee who is serving a fifteen year sentence for a nonviolent crime. He has served almost 4 years and has had very good behavior while in prison. I have known Wayne for 40 plus years now. He has always been a good person while in my presence. Over the years he has met my wife and two young children and has been kind to them as well. We have kept in touch over the years and also when he became incarcerated. We talk and write letters. He also talks to and writes my children. I have visited him in prison, but it is a long trip from Indiana. I would not be writing on his behalf if I thought he was a bad person. I also would not let him talk to my children. He has made mistakes in judgement and is paying for them now. Please give him consideration for release for his good behavior and time served so he can help take care of his terminally ill mother at home.

Thank you.

Sincerely,
John Sut

