

PARDON DOCKET NO. _____

Before the

ILLINOIS PRISONER REVIEW BOARD

April Term 2020

ADVISING THE HONORABLE J.B. PRITZKER, GOVERNOR

In the Matter of

CARL “TAY TAY” TATE

(Cook County No. 98-CR-1160601)

PETITION FOR EXECUTIVE CLEMENCY

Public hearing requested

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I. INTRODUCTION

Carl “Tay Tay” Tate, a 40-year-old transgender woman, has spent the past 21 years incarcerated in men’s facilities. Ms. Tate was sentenced to 55 years in prison for killing a rival gang member when she was 18 years old. She does not deny her involvement in this crime, and has actively expressed remorse and accountability for it. Now, at the age of 40, Ms. Tate has almost six years of her sentence left to serve. Ms. Tate should be granted clemency due to her demonstrated rehabilitation, the horrific abuse she has suffered as a transgender woman in male facilities, and her inability to earn good time in the same manner as cisgender people in custody because she is a transgender woman.

Over the past two decades, Ms. Tate has truly lived up to her potential for growth and change. She has denounced her former gang affiliation, has a relatively clean disciplinary record (especially in recent years), and has become a mentor to other prisoners on conflict resolution and transgender issues. Her reform and leadership demonstrate that Ms. Tate has aged out of committing crime.

Ms. Tate has become a model inmate, in spite of suffering severe sexual, physical, mental, and emotional abuse while in the custody of the Illinois Department of Corrections (“IDOC”). Despite openly identifying as a woman, Ms. Tate has remained improperly housed in men’s prisons. As a result, she has endured extensive and horrific abuse. She has been raped four times by inmates and officers; despite reporting her fears of rape prior to these incidents, IDOC repeatedly failed to protect her. She has been sexually harassed and verbally abused on a daily basis because of her gender identity. She has attempted suicide at least three times while incarcerated, and since 2017 she has been placed on suicide watch at least six times.¹

¹ Ms. Tate has two pending civil rights lawsuits against IDOC officials for the abuse and harassment she has suffered as a result of her gender identity: *Tay Tay v. Baldwin, et al.*, No. 19-cv-501 (S.D. Ill.) and *Tate v. Wexford*

Ms. Tate has also been denied the opportunity to earn good time for participation in programming because she is transgender. Instead of appropriately dealing with Ms. Tate's safety issues and housing her in a women's prison, IDOC has transferred her to different men's prisons at an abnormally high rate. These transfers have prohibited her from enrolling in educational programming that would have allowed her to earn good time credit. She has also been denied access to correctional industry jobs because she is transgender. If Ms. Tate had been allowed to earn good time in the same manner as cis people in custody, she would likely have accumulated enough good time to be released by now or in the near future.

Because of all she has endured, Ms. Tate filed a preliminary injunction seeking transfer to Logan Correctional Center, a women's prison, where she could live free from constant fear of sexual abuse.² The court held a two-day hearing on Ms. Tate's motion for a preliminary injunction on September 25 and October 15, 2019, but has not yet ruled on her motion.

The abuse Ms. Tate has faced demonstrates that IDOC is incapable of keeping her safe. IDOC is ill equipped to manage transgender prisoners like Ms. Tate—even Dr. William Puga, the chair of IDOC's Transgender Care Review Committee, testified in court at Ms. Tate's preliminary injunction hearing that the IDOC has been “very late in the game as far as addressing the particular needs for transgender individuals.” Ms. Tate should not be forced to endure further abuse at the hands of IDOC; she has been tortured enough. For these reasons, Ms. Tate requests commutation of her sentence to time served.

Health Sources, et. al., No. 3:16-CV-00092 (S.D. Ill.). The complaints are attached as Exhibit 1 and Exhibit 2, respectively.

² Ms. Tate's motion for a preliminary injunction is attached as Exhibit 3.

II. STATEMENT OF THE OFFENSE

The following statement is based on Ms. Tate's recollection of events.³ Ms. Tate does not deny her involvement in the crime for which she was convicted. She takes full responsibility for and deeply regrets her actions.

Ms. Tate experienced significant physical and sexual abuse as a child and at the time of her offense she suffered from undiagnosed and untreated post-traumatic stress disorder ("PTSD") and anxiety. During her childhood, Ms. Tate's family moved around frequently to different neighborhoods in Chicago. They often lived in areas with a strong gang presence. Multiple members of her family including several uncles were involved in the street gang Conservative Vice Lords. Growing up, Ms. Tate's physical safety was constantly in jeopardy; members of different gangs often physically attacked her on her way to school and on her way home. Around the age of twelve, Ms. Tate joined the Conservative Vice Lords for her protection, as did most of her friends who lived in the area.

For a time, Jodie Lee Kelly was also a member of the Conservative Vice Lords, and he and Ms. Tate were close friends. However, sometime in the spring of 1998, when Ms. Tate was eighteen years old and Mr. Kelly was nineteen, Mr. Kelly defected to a rival gang, the Four Corner Hustlers. The Four Corner Hustlers were engaged in a violent conflict with the Conservative Vice Lords at that time. Members of each gang routinely targeted members of the other for assassination.

After Mr. Kelly joined the Four Corner Hustlers, he began regularly making threatening comments about getting Ms. Tate and her family killed because they were now members of enemy gangs. Because of their former friendship, Mr. Kelly knew where Ms. Tate and her

³ Because these events occurred over twenty years ago, Ms. Tate does not have a perfect recollection of all the details of the events, such as certain dates.

family lived and other details of their lives that could put them at risk, such as what types of cars they drove and their daily routines. Mr. Kelly's threats continued for weeks. A few days before Mr. Kelly's death, a group of approximately nine armed men arrived at the apartment building where Ms. Tate's mother lived and kicked in the door of the apartment across the hall from hers. These men all carried guns and made it clear that they were looking for Ms. Tate, although they did not say why. They did not find Ms. Tate or her family at that time because they were mistaken about which apartment was the correct one.

On the day that Mr. Kelly died, either March 21 or 22, 1998, Mr. Kelly came to Ms. Tate's home sometime in the afternoon. While at her apartment, Mr. Kelly joked about the men who had come looking for Ms. Tate, making it clear to Ms. Tate that he was the one who told them where she lived. Mr. Kelly continued to make threatening remarks about how he was going to get Ms. Tate and her family killed. The two left Ms. Tate's home and once outside, Mr. Kelly began arguing with Ms. Tate and physically attacked her. When they walked into an alley, Ms. Tate fatally attacked Mr. Kelly with a knife, while another friend, Richard Starks, stood as the lookout.

Now that she has an understanding of her mental health diagnoses, Ms. Tate believes that her untreated PTSD may have caused her to have the violent reaction that she did to Mr. Kelly's threats, as people with untreated PTSD can lash out violently when they believe someone is going to hurt them.⁴ Although at the time she believed her life and the lives of her family members were in danger, Ms. Tate is deeply remorseful for the way she responded. She even

⁴ Lois Beckett, *The PTSD Crisis That's Being Ignored: Americans Wounded in Their Own Neighborhoods*, ProPublica (Feb. 3, 2014), <https://www.propublica.org/article/the-ptsd-crisis-thats-being-ignored-americans-wounded-in-their-own-neighbor> (Noting that in some cases, people with untreated PTSD may react in violent or aggressive ways. "Very minor threats can be experienced, by what the signals in your body tell you, as, 'You're in acute danger.'").

wrote a letter to the judge telling her side of the story and saying she made a mistake. Ms. Tate was convicted after a bench trial and on May 6, 2002, she received a fifty-five year sentence: forty years for first degree murder and fifteen years for armed robbery. The armed robbery charge arose because the prosecution alleged the motive for the murder was the theft of fifty dollars.⁵ However, Ms. Tate has consistently denied this allegation and maintains that she did not take any money from Mr. Kelly, and that her motive was fear for her and her family's safety. Because Ms. Tate is eligible to serve her sentence at 50%⁶—making her sentence actually 27.5 years—her current projected parole date is August 1, 2025.

III. REASONS FOR GRANTING CLEMENCY

A. MS. TATE HAS REFORMED SINCE ENTERING CUSTODY TWENTY-ONE YEARS AGO AS AN EMERGING ADULT.

During her time in custody, Ms. Tate has not only expressed deep regret for her crime, but has demonstrated true rehabilitation and growth. Ms. Tate was 18 years old when she entered custody. In the 21 years since, Ms. Tate has earned a reputation as a model inmate. She has renounced her gang affiliation. She has a relatively clean disciplinary record in recent years. And she currently serves as a senior mentor to a group of ten inmates in Danville's Building Block program. In this role, Ms. Tate mentors other inmates, teaching them about making positive changes in their lives and consistently checking in with them. Additionally, she recently personally developed and proposed a new class on positive conflict resolution, a proposal that was accepted. She will facilitate a class of 50 inmates on conflict management techniques,

⁵ 2 *From Gang Guilty of Killing 1 of Their Own*, CHICAGO TRIBUNE (Apr. 14, 2002), <https://www.chicagotribune.com/news/ct-xpm-2002-04-14-0204140051-story.html>.

⁶ Illinois's "Truth in Sentencing" statute limiting the availability of day-for-day sentence credit for certain types of offenses including first degree murder and armed robbery does not apply to Ms. Tate, as her offense was committed in March 1998 before the implementation of the statute. 730 ILCS 5/3-6-3(a)(2).

particularly on how to manage relationships with other inmates, family, and friends. In addition to her formal leadership experience, at several other facilities, including Dixon and Shawnee, Ms. Tate took an unofficial leadership role in group therapy with other transgender inmates. Ms. Tate led sessions on gender dysphoria, identifying sexual harassment and how to respond to it, as well as informing inmates on how to report it. Ms. Tate's development into a leader and mentor is a testament to her growth and an indication that she has aged out of committing crime during her time in prison.⁷

At the time of her offense, Ms. Tate was only 18 years old. Though Ms. Tate has taken full responsibility for her crime, research has shown that individuals between 18-25 years old are more likely to exhibit poor decision-making skills and higher impulsivity.⁸ After the age of 25, when these areas of the brain have fully developed, individuals are much less likely to break the law.⁹ This growing consensus on young adult brain development has spread to Illinois courts, which have begun to factor emerging adulthood into their sentencing decisions.¹⁰ It is also

⁷ Studies have shown that individuals are less likely to commit crimes as they age and mature. Individuals may age out of crime due to “early individual differences in self-control, brain maturation, cognitive changes, behavioral risk factors and behavioral protective factors (nervousness and social isolation), social risk and protective factors (family, peers, school), mental illnesses and substance use/abuse, life circumstances, situational context of specific criminal events, including crime places and routine activities, neighborhood, justice response.” Rolf Loeber et al., *Bulletin 1: From Juvenile Delinquency to Young Adult Offending (Study Group on the Transitions Between Juvenile Delinquency and Adult Crime)*, 1 NAT'L INST. OF JUSTICE 9 (2013).

⁸ Neuroimaging has depicted the differences in young adult and adult brains, particularly showing that a young adult's prefrontal cortex is not fully developed. This lack of development may explain “a propensity for intense emotions, novelty-seeking and risk-taking behavior, and diminished control over emotional processing.” Monique Ernst & Sven C. Mueller, *The Adolescent Brain: Insights From Functional Neuroimaging Research*, 68 J. DEV. NEUROBIOLOGY 729, 734 (2008).

⁹ Dana Goldstein, *Too Old to Commit Crime?*, THE MARSHALL PROJECT (Mar. 20, 2015), <https://www.themarshallproject.org/2015/03/20/too-old-to-commit-crime>.

¹⁰ *People v. Williams*, 2018 IL App. (1st) 151373 ¶ 18 (finding that a 19 year-old's age was a significant factor in reconsidering his life sentence for first degree murder due to a “growing body of scientific evidence” that a young adult's brain is still maturing at 19 years old); *People v. House*, 2015 IL App. (1st) 110580 ¶ 95 (holding that 18 is an arbitrary marker of adulthood based on neurobiological findings that the brain continues to develop until an individual's mid-20's).

reflected in a recent bill passed by the Illinois state legislature, which will allow people convicted of first degree murder who were under 21 at the time of their offense to seek release after serving 20 years of their sentence.¹¹ Both the courts and legislature are beginning to recognize what is certainly true of Ms. Tate—that individuals have less of a propensity to commit crimes as they mature and develop.

In short, if Ms. Tate re-entered society today, it would not be as the troubled young adult who entered custody 21 years ago. It would be as the reformed and responsible leader she has become in the time since.

B. MS. TATE HAS SUFFERED HORRIFIC ABUSE IN IDOC CUSTODY AND IDOC HAS DEMONSTRATED THAT THEY ARE INCAPABLE OF KEEPING HER SAFE FROM FUTURE ABUSE.

Since entering IDOC custody, Ms. Tate has been subjected to pervasive sexual abuse and harassment as a result of her gender identity. During her time in prison, Ms. Tate has been the victim of four brutal rapes and countless more instances of sexual harassment and verbal abuse. Time and time again, Ms. Tate's complaints of sexual assault and reported fears were met with indifference, at best, and threats of retaliation, at worst. What Ms. Tate has endured in IDOC custody effectively amounts to torture. No human being deserves to live like this for any period of time, let alone 27.5 years.

Ms. Tate's first sexual assault in IDOC occurred shortly after she entered IDOC custody. While housed at Menard Correctional Center sometime between 2002 and 2005, Ms. Tate was sexually assaulted by a correctional officer in the shower. Knowing that she would likely face retaliation and concerned for her safety, Ms. Tate chose not to report the assault to prison officials.

¹¹ 2019 Public Act 100-1182.

In December 2010, at Pontiac Correctional Center, Ms. Tate expressed fears to IDOC officials that a specific inmate was going to sexually assault her. The officials told her that she was bringing it on herself because of her mannerisms, the way she dressed, and her gender identity. Because IDOC took no actions to protect her, Ms. Tate was brutally raped and beaten by the inmate she feared. After the assault, she brought her boxers, which were covered in the inmate's DNA, and her bloodied T-shirt to a lieutenant and an officer as proof of the violation. The officers threatened to take her to segregation and show her what a "real ass kicking is" if she kept complaining. Ms. Tate spent 3-5 days alone in her cell, letting her wounds heal. The IDOC's "investigation" of the assault concluded with a charge of sexual misconduct for the assailant, meaning that IDOC concluded that sexual intercourse occurred but that it was consensual rather than an assault. They took no actions to keep Ms. Tate safe from future harm.

Two years later in 2012, at Western Illinois Correctional Center, Ms. Tate was once again sexually assaulted, this time by her cellmate. Prior to the attack, she reported to a mental health counselor that she feared her cellmate might assault her, but IDOC took no action to protect her. Her cellmate, a 240-pound gang leader, physically assaulted her and forced her to perform oral and anal sex. IDOC officials took no actions to investigate the rape after Ms. Tate reported it. Forced to see her rapist every day and to constantly relive the trauma of the attack, Ms. Tate attempted suicide twice at Western, on January 23, 2013 and April 18, 2013.

In 2015, Ms. Tate was transferred to Centralia Correctional Center, where her living situation did not improve. She faced multiple attempted assaults and constant harassment from her cellmates—one who climbed into her bed to proposition her, one who masturbated over her while she slept, and another who made transphobic and derogatory comments to her. She was the subject of constant degrading remarks from officers.

In 2017, Ms. Tate was raped by her cellmate at Shawnee Correctional Center. Prior to the rape, Ms. Tate had warned several security officials and mental health staff that her cellmate was being aggressive and that she was scared of him. They did not take her reports seriously. One night, her cellmate covered their door with a shirt and forced her to perform oral and anal sex. While an officer was conducting a routine cell check, he noticed the shirt covering Ms. Tate's cell door. The officer opened the cell door, interrupting the rape, and found Ms. Tate on the floor, naked and afraid. The officer told Ms. Tate and her cellmate to leave their door uncovered and moved on with his check without doing anything to help Ms. Tate. After reporting her rape, IDOC investigators conducted an "investigation" and found Ms. Tate's claims of sexual assault unsubstantiated because there were no witnesses or physical evidence. Afraid for her safety and without options for help, Ms. Tate attempted suicide again in December 2017.

At Danville, where she is currently incarcerated, Ms. Tate often skips meals because she is scared to go to the dining hall. She fears inmates who are transphobic that might harm her and officers who have threatened her with abuse. Since her December 2017 suicide attempt, Ms. Tate has been put on suicide watch at least six times, including once in April 2019.

In addition to the ever-present threats of sexual assault and harassment that Ms. Tate faces in IDOC custody because of her gender identity, IDOC has also proven that they are unable to provide her with adequate treatment for her gender dysphoria.¹² Gender dysphoria is a serious mental health condition; when left untreated, it can result in severe adverse consequences including depression, anxiety, suicidal ideation, and suicide attempts. Proper treatment for gender dysphoria often includes therapy, medical treatment such as hormone replacement

¹² Ms. Tate has a pending civil lawsuit against IDOC and Wexford related to the inadequate treatment of her gender dysphoria: *Tate v. Wexford Health Sources, et. al.*, No. 3:16-CV-00092 (S.D. Ill.). The complaint is attached as Exhibit 2.

therapy and gender confirmation surgery, and steps to socially transition, such as wearing gender-confirming clothing.¹³

For many years, IDOC refused to even acknowledge Ms. Tate's identity as a transgender woman, putting her at great risk of mental decompensation. Even after finally receiving a diagnosis of gender dysphoria, it was another three years before Ms. Tate began receiving hormone replacement therapy. After being on hormones for two years, Ms. Tate began expressing concerns about the treatment. These included the fact that IDOC was not properly monitoring her blood levels, as well as safety concerns about feminizing her features and decreasing her strength while in male facilities where IDOC had proven they were incapable of keeping her safe; the hormones made Ms. Tate even more vulnerable to sexual assault. Rather than addressing these concerns, IDOC's doctors chose to discontinue hormone therapy altogether. IDOC has also refused to provide Ms. Tate with the gender confirmation surgery that she needs to feel comfortable in her body. Furthermore, IDOC has never provided Ms. Tate with proper counseling from a mental health professional trained to treat patients with gender dysphoria. In fact, mental health resources for people with gender dysphoria are so inadequate in IDOC that Ms. Tate has frequently been called upon to lead group therapy sessions for transgender prisoners herself. This long history of inadequate treatment has had severe mental health consequences for Ms. Tate, precipitating her multiple suicide attempts.¹⁴

¹³ WPATH *Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People* (7th Version) (2012), available at https://www.wpath.org/media/cms/Documents/SOC%20v7/Standards%20of%20Care_V7%20Full%20Book_English.pdf.

¹⁴ The federal court recently held that the IDOC's provision of health care to transgender prisoners falls short of constitutional requirements. *Monroe v. Baldwin*, No. 18-CV-00156-NJR-MAB, 2019 WL 6918474 (S.D. Ill. Dec. 19, 2019).

In sum, IDOC has repeatedly proven that they are unable to keep Ms. Tate safe or provide her with the treatment that she needs.

C. BECAUSE MS. TATE IS A TRANSGENDER WOMAN, SHE HAS BEEN PREVENTED FROM PARTICIPATING IN PROGRAMS THAT WOULD HAVE ALLOWED HER TO ACCUMULATE PROGRAM SENTENCE CREDIT.

For the over 21 year period that Ms. Tate has been incarcerated, she has been eligible to earn sentence credit that would reduce the total length of her sentence.¹⁵ However, because Ms. Tate is a transgender woman, she has been prevented from engaging in programming or work opportunities that would have allowed her to earn program sentence credit.

Because of IDOC's chronic inability to keep Ms. Tate safe in any male facility and refusal to transfer her to a female facility that corresponds to her gender identity, Ms. Tate has been repeatedly sexually assaulted and harassed, which has resulted in her being transferred between male facilities at an abnormally high rate. During her time in IDOC custody, Ms. Tate has been housed at 14 different facilities and has been transferred to certain facilities more than once, placing her total number of transfers at 25. This number of transfers makes her average length of stay at any one facility less than one year. Because of this, Ms. Tate has frequently been unable to stay at any facility long enough to get off the wait list to participate in programming that would allow her to earn good time.

In addition, because of IDOC's persistent failure to adequately keep Ms. Tate safe, for many years Ms. Tate has been too afraid for her safety to come out of her cell. For long periods since she first transitioned to openly presenting her female gender identity in 2010, Ms. Tate has confined herself to her cell for her own protection and has felt unsafe to participate in such basic

¹⁵ Illinois's "Truth in Sentencing" statute limiting the availability of program sentence credit for certain types of offenses including first degree murder and armed robbery does not apply to Ms. Tate, as her offense was committed in March 1998 before the implementation of the statute. 730 ILCS 5/3-6-3(a)(2).

activities as going to the dining hall for meals. Living in this constant state of fear due to IDOC's failure to prevent her numerous sexual assaults has frequently kept Ms. Tate from even applying to be considered for certain opportunities that would allow her to earn good time.

Ms. Tate earned her GED in IDOC custody in 2017, but only after many years of delays and interruptions caused by her repeated sexual assaults and constant transfers. Ms. Tate first began trying to earn her GED in 2008; it took almost a decade for her to complete the program. Because of this long delay, during that time Ms. Tate was ineligible to participate in other programming that requires a GED. Ms. Tate was also prevented from enrolling in college level courses, yet another opportunity to earn sentence credit, as well as to gain valuable skills that would be useful upon reentry.

Since earning her GED, Ms. Tate has been unable to get off the wait list to get into college level courses at any of the facilities where she has been housed. The person in charge of admission into the college classes at Danville, where Ms. Tate is currently housed, has told her that she cannot participate in college classes until she has less than two years remaining on her sentence. However, other prisoners who have life sentences or eight to nine years left on their sentences, longer than Ms. Tate's six years, have gotten into the classes. Ms. Tate suspects that this differential treatment is because of her gender identity. Inmates who have friends in the classes are often able to use their connections to get into the class, despite not being at the top of the wait list. However, Ms. Tate, who has been systematically ostracized by other inmates because she is transgender, has no such connections. In addition, she believes administrators may be deliberately keeping her out of the classes because they believe the presence of a transgender woman in class will be disruptive.

Even if Ms. Tate is able to get into a college level class, IDOC's failure to protect transgender women from harassment and abuse may prevent her from completing it. While Ms. Tate was working on her GED, she was often met with homophobic and transphobic remarks from both classmates and teachers in IDOC classrooms. Furthermore, inmate tutors were often unwilling to help her because they are concerned about being retaliated against for assisting a transgender person. Because of these experiences, Ms. Tate has frequently felt that even if she were able to get into classes, she would be unable to succeed in them because of the pervasive hostile environment she faces.

In addition to her lack of access to educational opportunities, Ms. Tate has also been denied access to job opportunities that would have allowed her to earn good time. For most of her time in custody, Ms. Tate has not had a job.¹⁶ For almost a decade, she has been applying for correctional industry jobs that would allow her to earn good time, such as recycling and bakery, but she has been consistently denied. At multiple facilities, Ms. Tate has been explicitly told by high-ranking officials including several wardens that she cannot participate in these industry jobs because she is transgender and they believe it would be a security risk to allow her in these types of jobs. She first began hearing these comments in approximately 2011, shortly after she fully transitioned, and has heard them consistently ever since. Multiple courts have recognized that preventing prisoners from accessing job opportunities because of their sexual orientation or gender identity is possibly a violation of the Equal Protection Clause.¹⁷ Regardless of the

¹⁶ Danville recently gave Ms. Tate a job as a laundry porter after she commenced litigation against IDOC. However, only certain types of correctional industry assignments allow prisoners to earn good time and being a laundry porter is not in this category. See 730 ILCS 5/3-6-3(a)(4)(B); Illinois Department of Corrections, "Illinois Correctional Industries," <https://www2.illinois.gov/idoc/aboutus/Pages/CorrectionalIndustries.aspx>.

¹⁷ *Holmes v. Artuz*, No. 95 CIV. 2309 (SS), 1995 WL 634995, at *1 (S.D.N.Y. Oct. 27, 1995) (denying defendants' motion to dismiss and noting that plaintiff who alleged he was removed from job in prison food service due to his sexual orientation may have "state[d] a claim under § 1983 for violation of his equal protection rights"); *Kelley v. Vaughn*, 760 F. Supp. 161, 163-164 (W.D. Mo. 1991) (denying defendant's motion to dismiss on the ground that a

constitutionality of IDOC's behavior, it is undeniable that IDOC has prevented Ms. Tate from earning good time solely based on her gender identity.

When considering the aggregate effects of Ms. Tate's lack of access to educational programming and job opportunities over the course of a twenty-plus year sentence, it is likely that if Ms. Tate were not transgender she may have already accumulated enough good time to have been released, and at the very least her release date would be much sooner than it currently is. Based on Illinois's recently revised good time statute, if Ms. Tate had been able to complete educational programs or correctional industry assignments, she would have been entitled to 90 days of sentence credit per program.¹⁸ Assuming Ms. Tate would have been able to complete two programs a year dating back to at least 2008 (when she first entered the GED program), she would have earned 180 days of sentence credit for 11 years, totaling 5.5 years of sentence credit. Additionally, if Ms. Tate had been able to complete enough college classes to earn a bachelor's degree, she could have obtained an additional 180 days of sentence credit, as well as another 180 days if she could have gone on to complete a master's or professional degree—totally 6.5 years of sentence credit.¹⁹ In short, if Ms. Tate were not a transgender woman, she would currently have far less time left to serve than the 6 years currently remaining of her sentence, and in fact it is likely that she would have already been released.

gay prisoner, bringing an action against the correctional center's food service manager to challenge his removal from his job as bakery worker, might have a valid equal protection claim); *Johnson v. Knable*, 862 F.2d 314 (4th Cir. 1988) (vacating lower court's summary judgment dismissal of an equal protection claim brought by a gay prisoner after he was allegedly denied a job in the prison's education department because he was gay, and remanding for further proceedings, noting that "[i]f [the plaintiff] was denied a prison work assignment simply because of his sexual orientation, his equal protection rights may have been violated").

¹⁸ 730 ILCS 5/3-6-3(a)(4)(B)-(C) as revised by Public Act 101-440 (effective Jan. 1, 2020).

¹⁹ 730 ILCS 5/3-6-3(a)(4.1) as revised by Public Act 101-440 (effective Jan. 1, 2020).

In summary, the emerging consensus among researchers, courts, and even the Illinois state legislature indicates that because of her youth at the time of her offense, Ms. Tate is not the person she was when she committed her offense at the age of 18, and she should not be serving such a long sentence. She has served over 20 years as a model inmate, all the while encountering horrendous conditions including constant harassment, repeated sexual assault, and woefully inadequate medical care. If not for her identity as a transgender woman, Ms. Tate likely would have accumulated enough good time to be released now or in the near future.

IV. PERSONAL NARRATIVE

Ms. Tate was born on April 18, 1979 in Chicago, Illinois. She is single, has never been married, and has never served in the military. She attended school until approximately the 10th grade. She completed her GED while incarcerated. Because of her long period of incarceration, Ms. Tate does not have significant employment history. When she was about thirteen, Ms. Tate had a summer job at a local fire station where she assisted with activities such as cleaning the fire trucks and the station.

Although she was assigned male at birth, Ms. Tate knew she was female from a young age. She has overcome tremendous adversity to live her truth as a transgender woman. Growing up, her family was not supportive of her gender identity. Her stepfather routinely severely abused her for behaving in feminine ways, such as walking on her toes and playing with dolls; he would punch her, starve her, and whip her with belts and extension cords, calling her “punk” and “sissy” while he did so. Once, her stepfather whipped her so severely that her teachers noticed her injuries and sent her home; when she got home, her stepfather accused her of reporting the abuse to the teachers and beat her even more. Ms. Tate was also constantly sexually abused by an uncle, her older brother, and other people in the streets beginning from the time she was three

years old. Her mother had substance abuse issues and neglected Ms. Tate and her siblings, once leaving them locked outside for an entire day until they were so visibly hungry their landlord gave them food, prompting another beating for accepting charity; Ms. Tate's mother never intervened to stop any of the abuse that Ms. Tate experienced.

By the time she was ten years old, Ms. Tate was perpetually suicidal as a result of the constant abuse and the fact that she was forced to conceal the fact that she was transgender. She recalls wishing she could be a dog or a bird because they seemed to have a better life than she did. Despite the risks, around the age of twelve or thirteen she began sneaking to Boystown, where she felt she could be herself, express her female gender identity, and spend time with other transgender women. Whenever she returned home, she was forced to once again hide who she was. Although doing so has resulted in relentless harassment, discrimination, and sexual assaults, Ms. Tate chose to openly identify as female around ten years ago while in IDOC custody.

Despite the perpetual torment Ms. Tate has faced both before and after entering IDOC custody, she has grown to become a leader and a role model in her community. She is an inspiration to many people locked up and in the free world. Inside, she has served as both a formal and informal mentor through Danville's Building Block program and by assuming a leadership role among other transgender prisoners. She has taught introductory classes for the Building Block program and will soon begin teaching a class she personally developed on positive conflict resolution. Renaldo Hudson, a co-founder of the Building Block program, recently wrote about Ms. Tate:

Tate ha[s] become one of the shining stars among the inmate population within the program. Knocking down walls of foolish thinking is not easy. Yet they are the first

transgender to teach and facility within a homophobic environment, courageously with taste and grace. Not allowing the fears of rejection to stop her from standing strong.”²⁰

In the free world, Ms. Tate has a strong network of community-based activist groups and transgender and LGBTQ friends in Chicago and nationwide that have supported her throughout her time in IDOC and can continue to provide her support moving forward.²¹ She also has a strong relationship with her sister, Prestina Tate, who has agreed to provide Ms. Tate with free, secure, and stable housing upon her release. When she is released, Ms. Tate will have the support of her sister and friends, as well as Marjorie Moss, the Social Work Supervisor at the Bluhm Legal Clinic of Northwestern Pritzker School of Law, in finding employment, enrolling in college, and achieving her career goals.²²

Ms. Tate dreams of one day founding a non-profit organization that will work with troubled teens, especially LGBTQ youth, to try to prevent them from making the same mistakes she did and provide them with hope that they can have a future. She wants to create a center that can provide LGBTQ youth with a safe place where they can meet other LGBTQ people, be free to express themselves, learn to love themselves, and find resources and support. The center would include a mentorship program so young people always have someone to talk to and a way to find the proper help if they are being bullied or harassed, or if they are suicidal or have been kicked out of their homes. This center would also provide classes on topics such as filling out job applications, setting healthy boundaries in relationships, and self-defense. Ms. Tate has learned from the mistakes of her youth and can use her experiences to reach young people who

²⁰ Renaldo Hudson’s Letter of Support for Ms. Tate is attached as Exhibit 4.

²¹ Gabriel Stonoha’s Letter of Support for Ms. Tate is attached as Exhibit 5 and E Ornelas’ Letter of Support is attached as Exhibit 6.

²² A comprehensive Re-entry Plan for Ms. Tate is attached as Exhibit 7.

may be on the verge of going down a similar path before it is too late. If released, Ms. Tate would be a force for good in her community and would work tirelessly to interrupt the cycles of abuse and violence that led to her long and painful period of incarceration.

V. CRIMINAL HISTORY

All of the following occurred in Cook County. Ms. Tate's official arrest record from the Chicago Police Department and arrest record from the Evanston Police Department are attached as Exhibit 8.

On July 15, 1996, Ms. Tate was standing on a street corner with a group of friends near a store that had been robbed earlier that day. When the police questioned her and her friends and they didn't know anything about the robbery, the police arrested them all for "mob action." After taking them to the station and fingerprinting them, the police let Ms. Tate and her friends go. The disposition was *nolle prosequi*.

On August 14, 1996, Ms. Tate was homeless and living in an unfamiliar neighborhood because she was trying to get away from gang life. She was charged with manufacturing or delivery of a controlled substance after selling ten dollars' worth of cocaine to an undercover police officer. She pleaded guilty to the charges and, after explaining her circumstances to the judge, was sentenced to two years of probation.

On November 16, 1996, Ms. Tate was at the home of a friend who she attended an alternative school with; very few black people lived in the neighborhood where her friend's house was located. A large group of white and Latino young men physically attacked Ms. Tate and her friend. Before and during the attack, they used racial slurs and said things like, "why do you have n****rs over at your house?" indicating that the attack was motivated by racism. Ms. Tate used a boxcutter to attempt to defend herself. She was arrested and charged with

aggravated battery. She pleaded guilty to the charges and was sentenced to six months in the Cook County Department of Corrections and thirty months of probation.

On October 6, 1997, Ms. Tate's mother was being physically attacked by her boyfriend when Ms. Tate stepped in to protect her mother, resulting in a physical altercation between Ms. Tate and her mother's boyfriend. Her mother was pregnant at the time. The police arrived and arrested Ms. Tate, charging her with battery for defending her mother. The judge dismissed the charges.

VI. REQUIRED INFORMATION

1. Name: Carl Tate
Aliases: Tay Tay, Tayvia, Tony M. Hill, Tony Hill, Karl L. Hill
Social Security Number: [REDACTED]
State Prisoner Number: R12529
Mailing Address:
 Carl "Tay Tay" Tate
 c/o Vanessa del Valle
 MacArthur Justice Center
 Bluhm Legal Clinic
 Northwestern Pritzker School of Law
 375 E. Chicago Ave.
 Chicago, Illinois 60611
2. Ms. Tate has not previously petitioned for clemency.
3. Offense for which clemency is being sought: First Degree Murder, Armed Robbery
Case number: 98-CR-1160601
Date of arrest: March 25, 1998
County: Cook
Conviction as a result of a bench trial.
Sentencing Judge: Marcia Orr
Date sentenced: May 6, 2002
Sentences imposed: 40 years + 15 years at 50% = 27.5 years (10,037.5 days)
Time served: 21 years, 9 months, 29 days (7,974 total days)
Current anticipated date of release: August 1, 2025

VII. CONCLUSION

For the foregoing reasons, Carl “Tay Tay” Tate respectfully requests that Governor Pritzker grant her commutation of her sentence in this case to time served.

Respectfully submitted,

CARL “TAY TAY” TATE

By: /s/ Vanessa del Valle
One of her attorneys

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VERIFICATION AND CONSENT

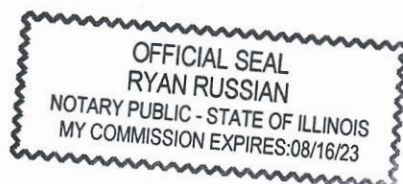
I declare under penalty of perjury that all of the assertions made in this petition are complete, truthful, and accurate.

Carl J
Carl "Tay Tay" Tate

Mf Tay-Tay

SUBSCRIBED AND SWORN TO BEFORE ME
this 2/5 day of January, 2020.

Ryan Russian
NOTARY PUBLIC



AFFIDAVIT OF MAILING

I, Vanessa del Valle, attorney for Carl "Tay Tay" Tate, declare under penalty of perjury that, on January 22, 2020, I mailed copies of the above Petition for Executive Clemency to the following persons, by placing the aforesaid copies with FedEx, priority overnight shipping.

The Honorable Marcia B. Orr
Circuit Court of Cook County
Second Municipal District
5600 Old Orchard Rd., Rm. 219
Skokie, Illinois 60077

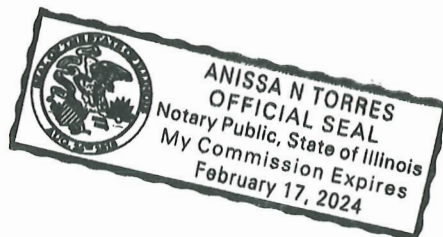
Cook County State's Attorney's Office
Attn: Clemency Unit 11C50
2650 S. California
Chicago, Illinois 60608

Vanessa del Valle

Vanessa del Valle

SUBSCRIBED AND SWORN TO BEFORE ME
this 22nd day of January, 2020.

Anissa N. Torres
NOTARY PUBLIC



WITNESS LIST

The witnesses Ms. Tate plans to call to testify at the public hearing include:

Marjorie Moss
Northwestern Pritzker School of Law
375 E. Chicago Ave.
Chicago, IL 60611

George Richard Brown, M.D., DFAPA
549 Miller Hollow Road
Bluff City, Tennessee 37618-4103

Dan Pacholke
303 Kenyon Street NW 2-F
Olympia, WA 98502

EXHIBITS

- Exhibit 1: First Amended Complaint, *Tay Tay v. Baldwin, et al.*, No. 19-cv-501 (S.D. Ill.)
- Exhibit 2: Third Amended Complaint, *Tate v. Wexford Health Sources, et al.*, No. 16-cv-92 (S.D. Ill.)
- Exhibit 3: Plaintiff's Motion and Memorandum in Support of a Preliminary Injunction, *Tay Tay v. Baldwin, et al.*, No. 19-cv-501 (S.D. Ill.)
- Exhibit 4: Renaldo Hudson's Letter of Support
- Exhibit 5: Gabriel Stonoha's Letter of Support
- Exhibit 6: E Ornelas' Letter of Support
- Exhibit 7: Re-Entry Plan
- Exhibit 8: Tate Chicago Police Department RAP Sheet and Evanston Police Department Arrest Report