



## PRISONERS' LEGAL SERVICES OF MASSACHUSETTS

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June 28, 2023

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By Email

Re: Medical Parole Petition – [REDACTED]

Dear Superintendent Marchand and Commissioner Mici,

On behalf of Ms. [REDACTED] I submit this request that the Department of Correction (“DOC”) grant her release on medical parole pursuant to G.L. c. 127, § 119A. Ms. [REDACTED] is permanently incapacitated and physically debilitated due to multiple medical conditions that cause mobility impairment and an inability to complete activities of daily life independently.

Ms. [REDACTED] is a 71-year-old woman currently incarcerated in the Health Services Unit (“HSU”) at MCI-Framingham. She has served over 30 years for her first and only state prison sentence for a murder committed in 1990.

### Medical Condition

In addition to her advanced age, Ms. [REDACTED] suffers from a host of chronic medical conditions that are debilitating, not likely to improve, and that in aggregate render her permanently incapacitated. The physical and mental trauma she suffered at the hands of her multiple abusers prior to her incarceration contributes to her permanent disability.

According to medical records from Wellpath, the DOC’s contracted medical provider, Ms. [REDACTED] suffers from congestive heart failure, atrial fibrillation, obesity, chronic kidney disease, hypertension, hyperlipidemia, hyperparathyroidism, anemia, restless leg syndrome, arthritis, uterine prolapse, vaginal atrophy, urinary incontinence, bilateral lower extremity edema, recurrent dislocations of her right hip,

moderately severe hearing loss, cataracts, chronic dental decay, and chronic back and leg pain. She has had both her hips and knees surgically replaced, which has resulted in chronic pain, leg length disparity, and gait disturbances.

Ms. [REDACTED]'s medical conditions greatly limit her mobility. Her medical records repeatedly note that she is a fall risk, and she had suffered at least two falls since the beginning of 2022—on January 14, 2022, she fell while in her cell, and on February 15, 2022, she fell while attempting to transfer to the commode. The second fall required emergency transport by ambulance to [REDACTED] for evaluation of head and leg injuries. Because Ms. [REDACTED] is prescribed blood thinners for her atrial fibrillation, the risk of death or disability from falls is heightened due to the potential for uncontrolled internal bleeding. In addition to these falls, in November 2022, Ms. [REDACTED] broke her foot while walking, further demonstrating the difficulty she has with basic mobility. Ms. [REDACTED]'s mobility is further limited by her cataracts, which limit her vision, and her hearing loss, which is only partially mitigated by her hearing aids.

Due to her mobility limitations, Ms. [REDACTED] is able to ambulate only short distances using a rolling walker, and her records note that she is restricted from using stairs, that her gait is frequently unsteady, and that she is limited to using only bottom bunks. To travel longer distances, she requires the use of a wheelchair. DOC has also assigned Ms. [REDACTED] a “pusher,” who is another DOC prisoner who travels with Ms. [REDACTED] inside the facility any time she leaves the HSU to push her wheelchair and help make sure she does not fall when she is using her walker.

In addition to limiting her mobility, Ms. [REDACTED]'s debilitation renders her unable to independently complete other activities of daily living. Specifically, her medical records indicate medical staff helping her wrap her legs with bandages to treat her edema, assisting her with getting dressed, and helping her with showering. Ms. [REDACTED] is also unable to sleep on a flat bed due to severe and excruciating muscle spasms in her back; instead, she sleeps in a sitting position on a recliner with pillows for support. Because of her medical condition and the frequent assistance she requires, Ms. [REDACTED] is housed full-time in the MCI-Framingham HSU. Her DOC pusher also assists with activities of daily living by making Ms. [REDACTED]'s bed and cleaning her room in the HSU.

Another recent emergency transport to [REDACTED] highlights Ms. [REDACTED]'s precarious and worsening physical condition. In early March 2023, after she became short of breath, Ms. [REDACTED] was again taken to MetroWest by ambulance where she was admitted for several days and required supportive oxygen due to acute hypoxic respiratory failure and congestive heart failure.

### Risk to Public Safety

Ms. [REDACTED]'s physical debilitation, as detailed above, ensures that her release on medical parole would not present a risk to public safety. Further, her institutional history—including her disciplinary history, DOC program plan, and classification report—reinforces that her release would not pose a public safety risk and that her release would be compatible with the welfare of society.

Ms. [REDACTED]'s disciplinary history is remarkably short, particularly considering the length of her incarceration. Since entering DOC custody in the early 1990s, Ms. [REDACTED] has received just seven disciplinary reports, the most recent of which was over eight years ago in 2015. The few reports she did receive were all for alleged minor, non-violent rule infractions—lending property to other prisoners, possession of non-weapon contraband, refusing an order to clean, and smoking a cigarette inside at a time when smoking was only allowed in the yard. Most of the tickets were either closed administratively, dismissed, or continued without a finding.

According to Ms. [REDACTED]'s August 2020 personalized program plan compiled by the DOC, her Pathways to Change assessment indicated that she presents a low risk of violence and a low risk of recidivism. Both the Pathways to Change assessment and TCU Drug Screen also indicate she presents low risk for substance abuse.

Ms. [REDACTED]'s most recent classification report indicates the only factor weighing in favor of higher security is the nature of her index crime. All other factors—recent convictions, history of escapes, history of institutional violence, disciplinary history, age, and program participation—weigh in favor of lower security. The report's preliminary custody level recommendation is that Ms. [REDACTED] be housed in a minimum or lower security facility, but she remains at MCI-Framingham, a medium security facility, only because of DOC override codes due to her life sentence and the fact that she needs 24-hour healthcare coverage due to her medical needs.

The classification report shows Ms. [REDACTED]'s adjustments have been positive, and that while she has participated in a number of programs and jobs over the years, her program participation has been put on hold since 2016 due to her medical issues. The report notes that she "resides in HSU due to medical needs with limited mobility."

Lastly, research shows that aging is correlated with a sharp decline in recidivism risk. As stated in a Massachusetts DOC 2020 research report, formerly incarcerated people "55 and older, both male and female, recidivated at the lowest rates, consistent with research on age and recidivism."<sup>1</sup> A 2017 Vera Institute of Justice report also noted that "early-release policies are also supported by recidivism research, which demonstrates that age is significant predictor of re-offending: arrest rates drop to just more than 2 percent in people ages 50 to 65 years old and to almost zero percent for those older than 65."<sup>2</sup> At age 71, Ms. [REDACTED] is part of this latter category, which supports that her release would not pose a risk to public safety and would be compatible with the welfare of society.

#### Medical Parole Plan

Given her advanced age, mobility issues, and need for assistance with activities of daily living, Ms. [REDACTED] would likely require placement in a nursing home or assisted-living facility. Ms. [REDACTED]'s preference is for one in the [REDACTED] area, such as [REDACTED], because she grew up in the area and some of her children are still in the area. Ms. [REDACTED] will need assistance from DOC reentry staff to create a complete parole plan. Ms. [REDACTED] would likely be eligible for SSI and MassHealth benefits to cover the cost of her care.

Thank you for your consideration of Ms. [REDACTED]'s petition for medical parole. Selections of Ms. [REDACTED]'s medical records and institutional records are appended to this petition as Exhibits A and B, respectively.

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<sup>1</sup> MA Executive Office of Public Safety and Security DOC, MA DOC THREE-YEAR RECIDIVISM RATES: 2015 RELEASE COHORT 9 (2020).

<sup>2</sup> Aging Out: Using Compassionate Release to Address the Growth of Aging and Infirm Prison Populations 3, VERA INSTITUTE OF JUSTICE (2017), <https://www.vera.org/downloads/publications/Using-Compassionate-Release-toAddress-the-Growth-of-Aging-and-Infirm-Prison-Populations%E2%80%94Full-Report.pdf>.

Sincerely,

/s/ Michael J. Horrell

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