

WAIVER REQUEST
FOR
EXECUTIVE CLEMENCY

1) Fairly Wayne Earls

2) Date of Birth, 08-28-1953

3) Social Security, 345-46-5425

4) Type of Clemency Requested

(X) Pardon (X) Reprieve (X) Commutation

5) Have you applied for eligibility rule waiver before

(X) No

6) Reason why Waiver is Requested

~~(X) you are currently incarcerated~~

7) Mailing Address: Fairly W. Earls 369129
Columbia Correctional
P.O. Box 900
Portage, WI. 53901

~~8) Home Address: Same~~

9) Phone Number

Home: no Work: no Cell: no

10) Crimes for which you will receive Executive Clemency if Waiver is Granted:

A) Crime: Wis.Stat. 946.49 bail jumping, 10 counts, consecutive to any

Date of Conviction: 08-07-2012 Case No. 05-cf-419

Date of Sentence Completion: 08-07-2072

Sentence Length: 60 Years

B) Crime: Wis. Stat. 948.02(1) contact, 3 counts, consecutive to any

Date of Conviction: 02-12-1999 reversed 08-16-2004

Retried and Convicted: 11-16-2012 with sentence credit of 2976 days.

~~Date of Sentence Completion: 08-07-2192~~

~~Sentence Length: 120 Years~~

11) Describe the crime, explain the circumstances surrounding the crime,
The bail jumping crime is non-violent where I failed to advise the court
that my Driver's License had a different address than the bail/bond and
I failed to appear at a status conference court date that my Lawyer said
he was attending and I did not have to attend, that's two count's and
eight more count's of the same statute for violating conditions of my
bail agreement. All counts are consecutive to each other and have the
same elements, the counts by Law should have been ran concurrent because

they have the same elements and therefore violates the double jeopardy clause of the Constitution. If the bail jumping sentence is corrected than i would only have to serve 3 years imprisonment and three years supervision. I have with the sentence credit a total of 9 years in on the sentence. The Crime of contact is three counts and it is a touching over the cloths of a 7 year old child. I had 14 eye witnesses who testified that I did not touch the child. The event where it was alleged was at a camp site and party where I had my wife and numerous others present when this alleged touching over the cloths took place and the witness said along with the prosecutor that the touching was only for a few seconds and in the blink of an eye. The Seventh Circuit court of appeals said the following when the case was reversed the first time. quoting "There was no physical evidence of abuse and no witnesses who corroborate the victim's version of the events. The lack of witnesses is especially distrubing given the fact that two of the events were said to have occurred when there were numerous others present". The same premise is true on these counts as the previous sentence, all three of these counts are the same elements and a violation of the Double Jeopardy clause of the 5th Amendment. If the Law was applied the correct way the counts would be ran concurrent, then it is 20 year imprisonment and 20 years supervision. I have a Total of 17 years in prison for a crime that I did not commit and in turn I would be eligible for parole with no major conduct reports in the entire prison term.


12) The Extraordinary Circumstances that you believe warrant a waiver:

I would be removed from Harm's way because Im one of the most vulerable inmates because of age and preexisting Health Conditions including Copd. I am Sixty Seven (67) years old and I have Coronary Artery Disease. I have had a Triple-by-Pass Open Heart Surgery. If the counts according to the Law of the same elements test for double jeopardy were applied correctly to my case and is deservent I would have satisfied the correct conviction and be out of prison on parole/supervision. All of my family live in another state and I would be asking to be released to that state. I would not be a burden on this state. I am also rated a Low Risk in every Compas Section.

I certify that the information in this application is true and correct.

Date: 03-30-2020

Sincerely,


Fairly Wayne Earls 369129
Columbia Correctional
P.O. Box 900
Portage, WI. 53901