

## Clemency offers hope to inmates - Some nonviolent offenders may go free under program

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- Author/Byline: By ELAINE SILVESTRINI; Tribune staff; By ELAINE SILVESTRINI; Tribune staff
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- Abstract: p Former St. Pete man serving life on drug charge hopes Justice Department clemency initiative means he will some day be free.

TAMPA — Tim Tyler, a Grateful Dead fan serving life in federal prison for selling LSD to a friend, never thought he would breathe free air again.

But for the first time, the former Pinellas County resident has hope.

“I can hardly comprehend it if I would be released,” he wrote in an email to The Tampa Tribune. “I have been more upbeat, I guess you could say, just thinking that the possibility exists that I could go home one day. I never really considered that happening until the past year.”

Tyler has been behind bars for almost 22 years. For most of that time, he has known his only hope for freedom was a grant of clemency from the president of the United States.

Now, the Obama ad

ministration has begun a program aimed at reducing incarceration among nonviolent offenders. The Justice Department last month invited inmates to apply for clemency.

To be eligible, federal prisoners have to meet six criteria:

? They likely would have received a substantially lower sentence if convicted of the same offenses today.

? They are nonviolent, low-level offenders without significant ties to large criminal organizations.

? They have served at least 10 years of their prison sentence.

? They don't have a significant criminal history.

? They have demonstrated good conduct in prison.

? They have no history of violence.

The Middle District of Florida expects hundreds, maybe thousands, of potential candidates for clemency to apply, according to Rosemary Cakmis, senior litigator at the federal Public Defenders Office, which has started reviewing old files.

“Hundreds and hundreds of people are calling in, and preliminary scans looks like they are probably eligible,” she said. “The whole project isn't up and running. We're probably ahead of the game. We're preparing forms and preparing manuals and training for attorneys to write clemency petitions.”

“It's going to be hitting the fan, I think, in the next month or so,” she added. “And there will be a lot more details and information available.” Not surprisingly, the program is hugely popular among federal prison inmates, who are clamoring to fill out electronic surveys necessary to apply.

“We understand the bureau of prisons has about 15,000 surveys completed and about that number in process by prisoners,” said Tampa lawyer Jim Felman, who is on the board of Clemency Project 2014, which is organizing private lawyers volunteering their services to help the inmates nationwide. “So we're expecting a minimum of 30,000 surveys.”

But that number appears to be inflated and likely to include many people who don't meet the criteria, Felman said. Officials estimate, for example, that there are only between 23,000 and 24,000 federal inmates who have served at least 10 years of their sentences.

“We're not trying to discourage anybody from going ahead and filing their clemency petition,” Felman said. “All we're trying to do is if someone needs a lawyer, we're going to get them one.”

There are a number of questions that have yet to be answered, Felman said. For example, it's not clear whether someone who has

served nine years of a sentence might be eligible to apply next year, and so on. Also, officials haven't said whether the clemency decisions will be announced as each petition is approved, or in a large group.

In any event, officials expect it to take many months before the initiative yields results.

Melissa Saldivar says Tyler meets all the qualifications set down by the Justice Department. She's a law student at the Catholic University of America in Washington, D.C., and is representing Tyler as part of the law school's first Clemency Project. She hopes to have his clemency petition submitted by next month.

Tyler was sentenced to two life terms because when he was arrested, he had two previous drug convictions for which he had received probation. His supporters say he was selling LSD to his friends, one of whom was arrested on marijuana charges and became an informant who asked Tyler to send him larger and larger quantities.

"The best argument he has — and we're going to keep reiterating this in the petition — is his crime he committed was not violent at all," Saldivar said. "He's never had a violent criminal history. We're just going to emphasize the fact that he's the most nonviolent person. He's cooped up with murderers and rapists, and that's just not OK."

The man who was in his early 20s when he was arrested, following the Grateful Dead around the country, selling fried dough to other fans and sending LSD to his friends back home, has captured the attention of sympathizers from the left and right.

He was featured, for example, in a report by the American Civil Liberties Union called, "A Living Death: Life without Parole for Nonviolent Offenses."

Tyler, the report says, "told the ACLU that he 'lost [his] mind' after his first 10 years in prison," the report says. "He has been diagnosed with bipolar disorder, for which he has been periodically hospitalized in mental health institutions since he was a teenager. After more than a decade in prison, he was transferred to Springfield Mental Hospital for treatment for a year; he returned to prison afterward. Despite his mental illness, he has been repeatedly held in isolation. He was recently held in isolation due to a prison-wide lockdown following the murder of a prison guard. As a result of the stress of isolation and being deprived of essential contact with his family, he told the ACLU he suffered a mental breakdown in March 2013, during which he was banging his head against the walls, singing at the top of his lungs while naked, and spreading feces on himself."

Sen. Rand Paul, R-Kentucky, mentioned him in an op-ed in the Washington Times, "The Madness of Mandatory Minimums." "Tyler should have been punished for selling drugs, but he shouldn't have to spend the rest of his life in prison for it," Paul wrote. "Today, Timothy is 45 and will likely spend the rest of his life behind bars, not because a judge thought it was a proper punishment, but because an arbitrary federal law demanded it."

A petition started by his sister, Carrie Tyler-Stoafer, on change.org has received more than 360,000 signatures.

Tyler, who had girlfriends before he was arrested, says he "adapted" in prison and is now bisexual. "I experimented with men because I needed affection, and I was sentenced to never be with a woman again," he wrote in an email.

He recently was approved to move to a medium-security prison, which he says will likely be safer for him because "being gay is no big deal" in most medium-security facilities. "So it is sort of a blessing not to have to walk around looking over your back so much."

Tyler-Stoafer said the clemency program is "wonderful news." Before, she said, she thought her brother had "like a one in 2 million shot" at ever being free. Now, she says, "I think he has a good chance."

"If Obama doesn't let him go after 360,000 signatures, I'm trying my best," she said.

She said her brother is trying to keep an even keel.

"I don't know that he wants to get his hopes up," she said. "I think he's having sort of daydreams that he could get out, which he never had before. So I think he pictures himself doing things on the outside that are fun, like kayaking with me or something. But I don't think he wants to stay in that place (mentally) because he doesn't want to be let down if that doesn't happen."

Asked what he hopes to do if he is released, Tyler wrote, "I really can not imagine freedom. I would love to do so many things such as cleanse my body of all the toxins and eat organic vegan food."

"I wish I could be optimistic but one never knows what life will bring," he wrote. "I have forgiven everyone I ever knew that did me and my family wrong... I would hope that America and the Justice department could forgive me for making and admitting I made a mistake."

Tyler said he's not alone. "I know that there are plenty of people with life sentences that would not violate another law if given the chance. I know I am one of those. If the president gives clemency to a few hundred people that have all served ten or more years and that have life I believe most of them would never be arrested again."

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Clemency

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