



February 11, 2010

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Dear Mr. President,

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As you know and have courageously acknowledged publicly, thousands of individuals, the vast majority of them African-American, remain in prison today because of the notorious “crack-powder disparity”—that is, the substantial difference in federal sentencing law between penalties that apply to crack cocaine defendants and those that apply to powder cocaine defendants. The sentencing scheme that created this disparity was enacted in the mid-1980s amidst a wave of public hysteria over crack cocaine and based on the incorrect belief that crack is stronger and more dangerous than powder cocaine. More than twenty years later, the myths surrounding crack have been debunked, and all three branches of the federal government, the United States Sentencing Commission, and leaders in both political parties have repudiated the crack-powder disparity. But the disparity remains entrenched in federal law and its harsh effects linger on, borne most heavily by those still laboring under the long sentences the law requires.

This is a petition asking you to commute the sentence of one of these people. Her name is Hamedah Hasan.

Hamedah was a young unwed African-American mother fleeing a physically abusive relationship when she became caught up in her cousin’s crack-dealing conspiracy in 1989. Though Hamedah never used violence, had no criminal record, and functioned as little more than an errand girl for the operation, the law prescribed a sentence of life in prison. This sentence was so obviously excessive that both of her sentencing judges have tried (unsuccessfully) to reduce her sentence below what the law requires. One of these judges, the Honorable Richard G. Kopf, took the extraordinary step of publicly urging the commutation of Hamedah’s sentence. Judge Kopf, a George H.W. Bush appointee, stated at Hamedah’s 2002 resentencing hearing that he was “firmly of the view that she doesn’t need to be in prison any longer.”¹

¹ Ex. E.15 (*United States v. Hasan*, No. 8:92CR12, at 12 (D. Neb. Jan. 8, 2002) (transcript of resentencing proceedings)). Hamedah had been in prison for nine years at that time.

Judge Kopf subsequently wrote a letter “vigorously” supporting commutation for Hamedah and declaring that “in this unique case, justice truly cries out for relief.”² Changes in law have brought Hamedah’s life sentence down to 27 years—16 of which she has already served as a model inmate, a woman of faith, a diligent worker, a mentor to at-risk youth, and the best mother she can be under the circumstances to her three daughters on the outside. Had she been sentenced for powder rather than crack cocaine, she would be out by now.

Instead, she still has ten years to serve and all of her appeals have run out. The prison officials and counselors who know her can attest to Hamedah’s character, faith and rehabilitation, but they cannot open the jailhouse gates. The judges who have sentenced Hamedah believe she should be released, but they are powerless to make it so. In fact, in her most recent judicial proceeding just last summer, Hamedah endured the heartbreak of having her sentence reduced to time served and being told she would be home in a week—only to have her judge reluctantly reverse herself and conclude that a reduction in Hamedah’s sentence was barred by law. Although the Supreme Court’s decision in *Kimbrough v. United States* permits a judge sentencing a defendant in Hamedah’s circumstances today to depart downward from the harsh sentence the law prescribes, that power does not apply retroactively to defendants sentenced years ago. Only you, Mr. President, through the executive power of commutation, can free Hamedah, give her daughters back their mother, and take this small but significant step toward righting the historical injustice of the crack-powder disparity.

I. As a result of the law’s disparate treatment of crack and powder cocaine offenses, Hamedah Hasan is serving a sentence that both of her sentencing judges agree is disproportionately long.

In 1989, Hamedah Hasan was a twenty-year-old mother of two, fleeing an abusive relationship in Portland, Oregon.³ Hamedah tried living in various battered women’s shelters in Portland and then in an apartment of her own, but her boyfriend continued to track her down. Finally, on the advice of family members, Hamedah went to live with her older cousin Ahad Hasan in Omaha, Nebraska, to escape the cycle of violence that had engulfed her in Portland.⁴ Ahad recalls: “Her boyfriend was a gang member and his main goal in life was to be the best gang member he could be. He beat Hamedah all the time and he threatened to kill her. She could not hide from him in Portland It was not a good environment for Hamedah to raise her kids in, and it wasn’t safe for Hamedah either. So she came to me in Omaha.”⁵

² Ex. A.1 (Letter from Hon. Richard G. Kopf, sentencing judge, Dec. 15, 2003).

³ Ex. A.2 (Letter from Ahad Hasan, Dec. 2009); Letter of Hamedah Hasan in Support of Commutation Petition [hereinafter Hamedah Hasan Letter], at 1.

⁴ Hamedah Hasan Letter, at 1-2.

⁵ Ex. A.2 (Ahad Hasan). Ahad’s given name was Tracy Lomax; he changed it for religious reasons.

Unfortunately for Hamedah, Ahad was a drug dealer. After Hamedah moved into a house he rented for her in Omaha, Ahad started asking Hamedah to do favors to assist with the drug operation. Ahad explains: “By the time Hamedah came to Omaha my drug operation had been going on for years and I had gotten good at manipulating people into helping out. . . . She didn’t like what was going on, and she wasn’t a person who would have been involved with drugs if she hadn’t come to me.”⁶ Hamedah knew that the operation was wrong but, still reeling from her abusive relationship and fearful for her safety, felt she had no other environment in which she could care for the needs of her young children. She also felt loyalty to her cousin and—erroneously, she now recognizes—believed she had an obligation to help out if she stayed there.⁷ In Ahad’s words, “Hamedah had nowhere else to go. And I used lots of people because of their problems. Family was no exception. I had people doing things before they realized it, and I often kept people in the dark about what they were doing. That was how I was back then.”⁸ Finally, after a little more than a year, Hamedah summoned her courage and returned with her daughters to Portland, where she started a welfare-to-work program and tried to start a new, clean life.

But in 1992, after less than two years in Portland, Hamedah was arrested for her past involvement with Ahad’s drug operation. Hamedah could not afford to hire an attorney and was appointed an attorney with limited experience in federal criminal matters. The government wanted Hamedah to testify against her cousin in exchange for leniency, but at the time Hamedah felt she could not betray a family member.⁹ In 1993, Hamedah was convicted of conspiracy to distribute cocaine and cocaine base (crack) and related charges.

Although Hamedah, facing a desperate situation, admittedly chose to engage in conduct that was harmful to society,¹⁰ the harshly punitive crack cocaine sentencing laws ensured that Hamedah paid far more of a debt to society than anyone believed was fair—including both of the judges who have sentenced and resentenced her. Under the Anti-Drug Abuse Act of 1986,¹¹ in effect at the time of Hamedah’s sentencing and still in effect today, the penalties associated certain quantities of crack are equivalent to the penalties associated with 100 times as much power cocaine.¹² Hamedah had no criminal record, but the United States Sentencing Guidelines, which were based on the 100:1 ratio and were mandatory at the time of her sentencing, prescribed a sentence of life

⁶ *Id.*

⁷ Hamedah Hasan Letter, at 2.

⁸ Ex. A.2 (Ahad Hasan).

⁹ Ex. A.2 (Ahad Hasan) (“The charges against Hamedah were unfair, her role was so small and for a short time. But she never turned against me. Her biggest trap was that she loved her family.”)

¹⁰ Hamedah Hasan Letter, at 2 (“I am in no way proud of my past bad choices . . .”).

¹¹ Pub. L. No. 99-570, § 1002, 100 Stat. 3207, 3207-2 to 3207-4 (1986).

¹² Compare, e.g., 21 U.S.C. § 841(b)(1)(B)(ii)(II) (500 grams of cocaine), with 21 U.S.C. § 841(b)(1)(B)(iii) (5 grams of crack).

imprisonment. If Hamedah had been sentenced using the low end of the guideline range for powder cocaine her sentence would have been fourteen years.¹³

By 1993, it had already become clear that the disproportionate penalties for crack created an inevitable racial disparity in sentencing due to racial patterns in drug use, as Judge Kopf explained in Hamedah's original sentencing:

The evidence now demonstrates that in excess of ninety per cent (90%) of the persons prosecuted for distribution or possession with intent to distribute crack cocaine or cocaine base are African-American. At the same time, the evidence is clear that the cocaine molecule is the same whether the drug being used is in powder form or in crack form, and is not inherently more dangerous in crack form. . . .

A by-product of this inordinate disparity [between crack and powder sentences] is that members of the African American race are being treated unfairly in receiving substantially longer sentences than caucasian males who traditionally deal in powder cocaine, and this disparity simply is not justified by the evidence. . . .

The effect of this has been that a segment of minority members of our society are simply not being treated appropriately for the criminal conduct of which they have been found guilty.¹⁴

Nonetheless, Judge Kopf "[r]eluctantly," concluded that circuit precedent did not permit him to depart from the sentencing guidelines on the basis of their disparate impact.¹⁵ Judge Kopf recognized that the sad result was a sentence he found profoundly unfair. He concluded his sentencing opinion in Hamedah's case (referring to her by her given name, Stephanie Lomax¹⁶) with these words:

For whatever value it may have, it is my strongly felt opinion that neither T. Lomax nor S. Lomax ought to spend the rest of their days in prison. However, I have not yet found a principled basis for imposing a lesser sentence under the Guidelines.¹⁷

¹³ United States Sentencing Commission Guidelines Manual § 2D1.1(c)(6) (Nov. 1992) (fourteen years includes an adjustment pursuant to §3B1.1 (a)).

¹⁴ Ex. E.2 (*McMurray*, 833 F. Supp. at 1463 (quoting *United States v. Majied*, No. 8:CR91-00038 (July 29, 1993))).

¹⁵ *Id.* at 1462.

¹⁶ Hamedah changed her name for religious reasons.

¹⁷ Ex. E.2 (*McMurray*, 833 F. Supp. at 1485).

Although Judge Kopf was constrained not to be able to help Hamedah, history has vindicated Judge Kopf's analysis of the crack-powder disparity. In a series of reports beginning in the mid-1990s, the United States Sentencing Commission has determined that the 100:1 crack-powder disparity is flawed in several respects.¹⁸ First, it rests on unsupportable assumptions about the harmfulness of crack and the seriousness of most crack cocaine offenses.¹⁹ Second, it has led to the "anomalous" result that "retail crack dealers get longer sentences than the wholesale drug distributors who supply them the powder cocaine from which their crack is produced."²⁰ Finally, it "fosters disrespect for and lack of confidence in the criminal justice system" because of the "widely-held perception" that it "promotes unwarranted disparity based on race."²¹ Though Congress has yet to amend the crack-powder disparity out of the statutory sentencing ranges, bills that would do so have been introduced last year in both the House and Senate.²² You yourself, Mr. President, your Attorney General Eric Holder, and the Chairman and Ranking Minority Member of the Senate Judiciary Committee have all expressed the view that the crack-powder disparity is unfair and must be eliminated.²³

The Supreme Court, too, has acknowledged that the crack-power disparity as reflected in the Sentencing Guidelines under which Hamedah was

¹⁸ See U.S. Sentencing Comm'n, Report to Congress: Cocaine and Federal Sentencing Policy, at 8 (May 2007), available at http://www.ussc.gov/r_congress/cocaine2007.pdf [hereinafter "2007 Report"]; U.S. Sentencing Comm'n, Report to Congress: Cocaine and Federal Sentencing Policy (May 2002), available at http://www.ussc.gov/r_congress/02crack/2002crackrpt.pdf [hereinafter "2002 Report"]; U.S. Sentencing Comm'n, Special Report to Congress: Cocaine and Federal Sentencing Policy (Feb. 1995), available at <http://www.ussc.gov/crack/exec.htm> [hereinafter "1995 Report"].

¹⁹ See 2007 Report 8; 2002 Report 91, 94, 96, 100.

²⁰ 1995 Report 174.

²¹ 2002 Report 103.

²² See, e.g., H.R. 265, 111th Cong., § 3 (2009) ("Drug Sentencing Reform and Cocaine Kingpin Trafficking Act"); H.R. 3245, 111th Cong., § 2 (2009) ("Fairness in Cocaine Sentencing Act"); S. 1789, 111th Cong., (2009) ("A bill to restore fairness to Federal cocaine sentencing").

²³ See Press Release, Obama for America, Barack Obama: Creating Equal Opportunity and Justice for All, at <http://www.barackobama.com/pdf/issues/HowardConvocationFactSheet.pdf> ("Barack Obama believes the disparity between crack and powder-based cocaine is wrong, cannot be justified and should be eliminated."); Press Release, U.S. Dep't of Justice, Remarks as Prepared for Delivery by Att'y Gen. Eric Holder at the D.C. Court of Appeals Judicial Conference (June 19, 2009), at <http://www.usdoj.gov/ag/speeches/2009/ag-speech-090619.html> ("It is the view of this Administration that the 100-to-1 crack-powder sentencing ratio is simply wrong. It is plainly unjust to hand down wildly disparate prison sentences for materially similar crimes."); Sen. Patrick Leahy, Statement at Sen. Judic. Comm. Hearing On "Restoring Fairness to Federal Sentencing: Addressing the Crack-Powder Disparity" (April 29, 2009), at <http://leahy.senate.gov/press/200904/042909f.html>

("We know that there is little or no pharmacological distinction between crack and powder cocaine, yet the resulting punishments for these offenses is radically different and the resulting impact on minorities has been particularly unjust."); Sen. Jeff Sessions, Comment at Sotomayor Hearings, at http://www.huffingtonpost.com/2009/07/16/jeff-sessions-were-going_n_236326.html ("We're going to reduce the burden of penalties in some of the crack cocaine cases and make them fair.").

sentenced was not based on “empirical data and national experience” but merely tracked the now-discredited 100:1 formula that Congress had enacted in the mid-1980s.²⁴ Had Hamedah come up for sentencing today, Judge Kopf could have departed from the sentencing guidelines on the basis of the policy judgments he expressed but could not implement when Hamedah was sentenced.²⁵

In light of problems it has identified, the Sentencing Commission has tried several times to revise the crack cocaine law downward to ameliorate some of the unfairness produced by the crack-powder disparity.²⁶ But Congress blocked the Commission’s first attempt to revise the Sentencing Guidelines in 1995 and refused to act on the Commission’s subsequent recommendations that Congress revise the statutory penalties.²⁷ Finally, when the Commission attempted to amend the Guidelines again in 2007, Congress acquiesced, and the Commission, in an unusual step reflecting the seriousness of the injustice, made its change retroactive.²⁸

Unfortunately, these developments in sentencing law came too late to help Hamedah. Though Hamedah did benefit from a change in the Guidelines after she was sentenced—the result decreased her sentence from life to 27 years (Judge Kopf tried to reduce the sentence much further in light of her extraordinary post-conviction rehabilitation but was reversed on appeal)²⁹—none of the other ameliorative changes to sentencing law applies to her case. For instance, the recent Supreme Court decision *Kimbrough v. United States* would permit Judge Kopf to sentence a defendant like Hamedah to the lower sentence he believed she deserved if she came before him for the first time today,³⁰ but the principles guiding the decision in *Kimbrough* do not apply retroactively.³¹ And when Hamedah tried to avail herself of the Sentencing Commission’s recent revisions to the crack guidelines, she discovered in agonizing fashion that they did not apply to her case: Hamedah’s new sentencing judge, the Honorable Laurie Smith Camp, initially adopted Judge Kopf’s prior findings regarding Hamedah’s extraordinary post-conviction

²⁴ *Kimbrough v. United States*, 552 U.S. 85, 109 (2007) (citation and internal quotation marks omitted).

²⁵ See *id.* at 110 (holding that, in light of the absence of an empirical basis underlying the crack-powder disparity, “it would not be an abuse of discretion for a district court to conclude when sentencing a particular defendant that the crack-powder disparity yields a sentence ‘greater than necessary’ to achieve [the criminal justice system’s] purposes, even in a mine-run case”).

²⁶ See *id.* at 99.

²⁷ See *id.* at 99, 110.

²⁸ See U.S. Sentencing Guidelines App. C, Amend. 706 (2007) & Amend. 713 (Supp. May 1, 2008).

²⁹ See Ex. E.12 (*United States v. Hasan*, 245 F.3d 682, 690 (8th Cir. 2001) (en banc)).

³⁰ *Kimbrough v. United States*, 552 U.S. 85, 110 (2007).

³¹ See *Schriro v. Summerlin*, 542 U.S. 348, 358 (2004) (holding *Ring v. Arizona*, a forerunner of *Kimbrough*, does not apply retroactively); *Never Misses A Shot v. United States*, 413 F.3d 781, 783-84 (8th Cir. 2005) (per curiam) (holding *Booker v. United States*, a forerunner of *Kimbrough*, does not apply retroactively).

rehabilitation and issued a dramatic downward departure to 12 years,³² but five days later she ruled that the change in law did not apply to Hamedah and reversed her own order “with profound regret and sincere apology to the Defendant, Hasan.”³³

The recent roller coaster of judicial decisionmaking, which took place this past June, has been its own form of punishment. When Hamedah was first informed she would be released, she and her community in prison responded with “screams of uninhibited joy,” with “laughter and music and dancing.”³⁴ But the celebration was short-lived. Hamedah’s daughters describe the anguish of learning one morning that their mother was days away from freedom only to be informed five days later that she would not be released after all: her youngest daughter Kamyra, who has never known her mom outside of prison “had been imagining [Hamedah’s release] for years. . . . Then to find out that it wasn’t going to be happening anymore just broke me down.”³⁵ Hamedah’s eldest daughter Kasaundra, herself now a mother, asks, “How do you explain to a 3-year-old girl anticipating her [grandma’s] arrival, that she isn’t coming home anymore[?]”³⁶ Hamedah’s daughter Ayesha described the moment as simply “heart breaking.”³⁷

Thus, Hamedah’s sentence, which two different sentencing judges have concluded is unfair, and which would not have been issued to a defendant in Hamedah’s shoes today, is nonetheless unredressable through the courts. Only the President, through the power of commutation, can stop Hamedah’s harsh sentence—imposed by reluctant judges under a racially discriminatory law that history has condemned and federal elected officials and judges have repudiated—from running its long course.

II. Hamedah is particularly deserving of commutation because of what both her sentencing judges have recognized as “extraordinary” rehabilitation during her long incarceration.

Hamedah’s response to her prosecution and sentence has been incredible. In 1993, Hamedah had just been sentenced to life imprisonment for no more than a middling role in a drug operation to which she had become exposed when she sought refuge from an abusive, stalking ex-boyfriend. Most painful of all, she had been cut off from her three young daughters, having just given birth to her youngest at the beginning of her imprisonment. Just about anyone in those

³² Ex. E.18 (*United States v. Hasan*, No. 8:92CR12, at 12 (D. Neb. June 19, 2009) (transcript of resentencing proceedings)).

³³ Ex. E.19 (*United States v. Hasan*, No. 8:92CR12, at 5 (D. Neb. June 24, 2009) (sentencing order)).

³⁴ Ex. A.21 (Letter from Lynne Meredith, fellow inmate, Nov. 2009).

³⁵ Ex. A.7 (Letter from Kamyra Hasan, Hamedah’s youngest daughter, Feb. 2010).

³⁶ Ex. A.3 (Letter from Kasaundra A. Lomax, Hamedah’s eldest daughter, Feb. 2010).

³⁷ Ex. A.5 (Letter from Ayesha Murray, Hamedah’s middle daughter, Feb. 2010).

circumstances might well have responded with anger, bitterness, frustration and withdrawal.

Not Hamedah. Even though it would be six more years before she was offered even so much as the possibility of eventual release, Hamedah accepted responsibility for her crime, became a model inmate, diligently pursued her education, studied and deepened her faith, raised three daughters long-distance, and threw herself wholeheartedly into good works. She took all these steps with the goal, in her words, of “redeem[ing] myself for my past transgressions by learning and demonstrating what it means to be a community asset versus a liability.”³⁸

Housed at several federal penal institutions since 1993, Hamedah has a record free of disciplinary infractions, and has clearly accepted responsibility for her criminal conduct.³⁹ Several chaplains of various faiths have commended Hamedah’s “character, behavior . . . maturity and integrity,”⁴⁰ her willingness to help serve her own religious community as well as assisting Chapel Clerks of other faiths,⁴¹ and her positive influence as a role model for her peers.⁴² She has tried hard to parent her three daughters even from prison.⁴³ She has taken more than a dozen different courses on skills and topics ranging from drug education to parenting to word processing to accounting.⁴⁴ Reverend Ronald Richter and Unit Coordinator Tina Stocking of the Federal Correctional Institute (FCI) at Dublin agree that “[u]pon her release from incarceration she will be a productive member of society”⁴⁵ and “a valuable asset to her family and the community.”⁴⁶

The analysis of Judge Kopf at Hamedah’s first resentencing in 1999 is notable for its effusive praise of Hamedah’s rehabilitation:

[W]e now have a record of more than five years of a sustained commitment to employment, vocational education, personal growth, and religious and cultural study. In addition, we have an unequivocal expression of shame for her criminal conduct. For example, the defendant has consistently worked and presently

³⁸ Letter from Hamedah Hasan, at 2.

³⁹ Ex. E.8 (*United States v. Hasan*, 41 F. Supp. 2d 1004, 1012 (D. Neb. 1999)).

⁴⁰ Ex. A.29 (Letter from Rasheed Shabazz, Muslim Chaplain at FCI-Dublin, Dec. 16, 1998); see also Ex. A.14 (Letter from Ruby J. Habeebullah, Visiting Volunteer Coordinator for FCI-Dublin, Nov. 27, 1998); Ex. A.12 (Letter from Reverend Ronald Richter, Religious Services Supervisor for FCI-Dublin, Jan. 17, 1998); Ex. A.11 (Letter from Tina Stocking, Unit Counselor for FCI-Dublin, Feb. 15, 1999).

⁴¹ See Ex. A.12 (Rev. Ronald Richter).

⁴² See Ex. A.12 (Rev. Ronald Richter); Ex. A.11 (Unit Counselor Tina Stocking); Ex. A.20 (Letter from Donna Willmott, friend of Hamedah Hasan and former inmate, Nov. 25, 1998).

⁴³ Ex. A.7 (Hamedah’s daughter Kamyra); Ex. A.3 (Hamedah’s daughter Kasaundra); Ex. A.5 (Hamedah’s daughter Ayesha).

⁴⁴ Ex. E.8 (*United States v. Hasan*, 41 F. Supp. 2d 1004, 1012 (D. Neb. 1999)).

⁴⁵ See Ex. A.11 (Unit Counselor Tina Stocking).

⁴⁶ See Ex. A.12 (Rev. Ronald Richter)

holds a responsible position as the payroll clerk for over 260 inmates. She has completed more than 180 hours of vocational education classes such as word processing and accounting. She has taken numerous classes to assist her in parenting and related life-skills. She attends 12-step drug abuse programs. She studies Arabic. She takes classes to better understand her Islamic faith. She is a hard working volunteer for her religion. Both in her testimony . . . and in her letter to the court, she has admitted culpability for the drug conspiracy and she has expressed shame for her conduct, including her remarks at sentencing. . . .

In summary, . . . [Hamedah's] performance in prison has been extraordinary.⁴⁷

Since Judge Kopf wrote those words, Hamedah's commitment to transforming her life has only deepened. Her 2001 Bureau of Prisons Report describes her as "an extremely mature person" who in her prison work as a street cleaner, beauty shop operator, and photographer "consistently puts extra effort into any work assignment," turns out "meticulous" and "outstanding" work, and "rarely needs supervision."⁴⁸ She has volunteered in the community, including speaking at high schools about crime prevention and working in cooperation with local high school students to produce a video entitled "Youth at Risk" designed to deter youthful offenders from crime.⁴⁹ Mike Pannek, the director of one of the facilities where Hamedah was previously incarcerated, reports that her "conduct was excellent overall" and that in speaking to local students she was "very persuasive in assisting young people to make appropriate life choices."⁵⁰ An independent filmmaker who worked with Hamedah since 2001 found her to be "a person of faith, deeply committed to leading a spiritual and ethical life," a "devoted mother to her three daughters," and "one of the finest human beings I have ever met."⁵¹

The glowing reports continue unabated since her move to her current location, the federal prison camp in Victorville, California. Her work evaluations describe her as an "outstanding worker" and a "huge asset" who is "very dependable" and "always willing to help others" and in general "accomplishes any task that is given to her in a professional manner."⁵² Tamara Jones, a Victorville inmate who has worked with Hamedah reports that Hamedah "performs one of the key positions that keep the warehouse functioning . . . with a degree of professionalism that I have only seen equaled

⁴⁷ Ex. E.8 (*United States v. Hasan*, 41 F. Supp. 2d 1004, 1019-20 (D. Neb. 1999)).

⁴⁸ Ex. D.2 (Bureau of Prisons Progress Report, July 3, 2001).

⁴⁹ Ex. D.2 (Bureau of Prisons Progress Report, July 3, 2001); Ex. C.3 (*Speaking with Conviction*, Spokane Spokesman-Review, Nov. 13, 2000); Ex. A.9 (Letter from Mike Pannek, Former Director of Spokane County Geiger Corrections Center, Sep. 5, 2003).

⁵⁰ See Ex. A.9 (Fmr. Dir. Mike Pannek, Geiger County Corr. Center).

⁵¹ Ex. A.18 (Letter from Melissa Mummert, filmmaker, 2003).

⁵² Exs. D.4 – D.12 (UNICOR Work Performance Evaluations, 2003-2009).

never bettered.”⁵³ Lynne Meredith, the Inmate Law Clerk at Victorville, remarks upon Hamedah’s “solid connection to God and boundless love for her family.”⁵⁴ Loretta Guzman, a fellow inmate at Victorville who has since been released, notes that Hamedah “do[es] more for herself within the walls than others for their sel[ves] out here” and that as a result Hamedah “will be a positive role model for not only her kids but for others as well.”⁵⁵ Emma Gonzalez, another fellow inmate who has been released, recalls that Hamedah “was the one person I looked up to” at Victorville.⁵⁶ In the judgment of Salah Habib, Hamedah’s spiritual advisor at Victorville, she is “a successful case of a person who over paid for a crime committed at a very young and immature age.”⁵⁷

Throughout her incarceration, she has done all that she could to parent her three daughters despite having seen them only a dozen times in nearly seventeen years.⁵⁸ Her daughters describe her as having taught them “self-respect” and “honesty,”⁵⁹ and as having given “the best motherly guidance that a woman can give her child.”⁶⁰ Hamedah’s daughter Kasaundra remembers that her mom would “make us send her our report cards” and “teach us valuable lessons about life.”⁶¹

Thus, Judge Camp, at Hamedah’s most recent resentencing last year, found herself in complete agreement with Judge Kopf’s judgment from ten years ago that Hamedah’s extraordinary rehabilitation and lack of criminal history made her current sentence unreasonable and excessive.⁶²

Judge Kopf himself took the unusual step of urging the President to commute Hamedah’s sentence. He wrote to the Justice Department in December 2003 that he “vigorously” supports commutation despite having never supported such a request in any other case; in Judge Kopf’s words, “justice truly cries out for relief.”⁶³

If released today, Hamedah would have a lot to come back to—most importantly, her daughters, now aged 16, 21, and 26, who would love to have

⁵³ Ex. A.17 (Letter from Tamara Jones, fellow inmate, Nov. 2009).

⁵⁴ Ex. A.21 (Letter from Lynne Meredith, fellow inmate, Nov. 2009).

⁵⁵ Ex. A.22 (Letter from Loretta Guzman, fellow inmate, Nov. 2009); *see also* Ex. A.26 (Letter from Wynde Grey, friend, Jan. 2010) (noting “countless volunteer efforts”).

⁵⁶ Ex. A.25 (Letter from Emma Gonzalez, fellow inmate, Jan. 22, 2010).

⁵⁷ Ex. A.31 (Letter from Salah Y. Habib, Muslim Chaplain at FCC-Victorville, Feb. 3, 2010).

⁵⁸ Hamedah Hasan Letter, at 3; Ex. A.24 (Letter from Michael Fesser, friend, Jan. 20, 2010); Ex. A.27 (Letter from Linda Switzer, friend, Jan. 30, 2010); Ex. A.22 (Loretta Guzman).

⁵⁹ Ex. A.7 (Hamedah’s daughter Kamyra).

⁶⁰ Ex. A.5 (Hamedah’s daughter Ayesha).

⁶¹ Ex. A.3 (Hamedah’s daughter Kasaundra).

⁶² Ex. E.18 (*United States v. Hasan*, No. 8:92CR12, at 12 (D. Neb. June 19, 2009) (transcript of resentencing proceedings)).

⁶³ Ex. A.1 (Letter from Hon. Richard G. Kopf, sentencing judge, Dec. 15, 2003).

their mother back and would benefit enormously from her presence.⁶⁴ She also has several new skill sets (including accounting and word processing), and several different types of experience (including mechanic work, food service, and payroll) that would help her find a job.⁶⁵ Her entire extended family in Portland stands ready to support her upon release—with a place to come home to, transportation, and other resources, as well as a “family who’d be right there to offer so much love and support.”⁶⁶

During her time in prison, Hamedah has been actively planning to make a positive contribution to society upon release. As detailed in her personal release plan, she plans to complete her associate’s degree with an emphasis on business and nonprofit-related coursework so that she can fulfill her ultimate goal of starting an organization to support children with incarcerated parents.⁶⁷ The organization she envisions, called “Family Village,” would assist children with a variety of issues, from practical matters like travel so that they can visit and maintain connections with their incarcerated parents, to education and empowerment programs designed to help children choose alternatives to gangs and drugs, manage the self-esteem and stress issues that often manifest in children with incarcerated parents, and set and achieve personal goals.⁶⁸ It is unsurprising, then, that everyone from Hamedah’s sentencing judge, to prison officials who have worked with her, to individuals on the outside who have met Hamedah while she was incarcerated, agrees that Hamedah will be a productive member of society upon release.⁶⁹

In sum, since conviction Hamedah has gone above and beyond what anyone could have expected in terms of rehabilitating herself, taking responsibility for her actions, and setting herself up to lead a law-abiding and productive life. Hamedah is not simply the kind of person that her community can support; she is the kind of person her community needs.

⁶⁴ See Ex. A.3 (Hamedah’s daughter Kasaundra) (describing a “family that NEEDS her”); Ex. A.5 (Hamedah’s daughter Ayesha) (“She is the root to our family.”); Ex. A.7 (Hamedah’s daughter Kamyra) (“There is nothing in this world that I want more than my mom home.”).

⁶⁵ Ex. B.3 (Hamedah Hasan’s Current Resume, Dec. 2009).

⁶⁶ Ex. A.8 (Joint Family Letter in Support of Hamedah Hasan, Feb. 2010).

⁶⁷ Ex. B.1 (Hamedah Hasan’s Release Plan and Goals, Dec. 2009); Letter from Hamedah Hasan, at 4.

⁶⁸ Ex. B.2 (*Family Village* outline, business plan for a non-profit organization that would assist children of the incarcerated, Dec. 2009).


⁶⁹ Ex. E.8 (*United States v. Hasan*, 41 F. Supp. 2d 1004, 1012 (D. Neb. 1999)); Ex. A.11 (Letter from Tina Stocking, Unit Counselor for FCI-Dublin, Feb. 15, 1999); Ex. A.12 (Letter from Reverend Ronald Richter, Religious Services Supervisor for FCI-Dublin, Jan. 17, 1998); Ex. A.18 (Letter from Melissa Mummert, filmmaker, 2003); Ex. A.27 (Letter from Linda Switzer, friend, Jan. 30, 2010).

Conclusion

Rarely does a commutation petition offer the President the chance to redeem not just one person but also a larger aspect of our nation's justice system. Hamedah Hasan's is such a petition. No one—including you, Mr. President—thinks the laws under which Hamedah was sentenced are fair. Take this opportunity to correct the grave injustice done to Hamedah. Restore dignity and significance to the commutation power—a power that has been deployed with saddening stinginess by recent administrations and which your administration has not yet exercised at all,⁷⁰ despite its critical importance in a nation whose system of laws seeks to temper justice with mercy. Finally, take the lead in showing Congress and the American people that it is time to end the crack-powder disparity and restore fairness to federal sentencing law. Granting Hamedah's petition today will show the nation that you are committed to ensuring fair sentencing and justice for all the Hamedahs who come into our justice system in the years to come.

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Respectfully Submitted,



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⁷⁰ Presidential Clemency Actions by Administration: 1945 to Present, at http://www.justice.gov/pardon/actions_administration.htm#obama.