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Tina M. Hurley
Chair

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Executive Director

IN THE MATTER OF
PHILIP E. HAGAR, JR.
PETITION FOR PARDON
REPORT AND RECOMMENDATION

YOUR EXCELLENCY:

The Advisory Board of Pardons (hereinafter “the Board”) respectfully submits this report and recommendation concerning the pardon petition of Philip E. Hagar, Jr. Mr. Hagar was convicted of Discharging a Firearm within 150 Feet of a Highway on December 30, 1971 in Haverhill District Court, and fined \$35.

On or about March 20, 2019, Mr. Hagar submitted a petition for a pardon. (*Attachment A*). On October 24, 2022, the Board conducted a public hearing regarding Mr. Hagar’s petition. In his petition and at the public hearing, Mr. Hagar requested a pardon for his conviction for Discharging a Firearm within 150 Feet of a Highway, so that he may again obtain a license to possess a firearm. After due consideration, the Board voted unanimously to recommend favorable consideration of Mr. Hagar’s request for a pardon. The reasons for the Board’s recommendations are set forth in the body of this opinion.

PROCEDURAL HISTORY

Microfilm records indicate that Mr. Hagar was fined \$35 after a conviction for Discharging a Firearm within 150 Feet of a Highway on December 30, 1971. He paid the fine on January 7, 1982.

STATEMENT OF THE CASE

No police report was available due to the age of the case. A copy of records from Haverhill District Court is included as *Attachment B*.

PRIOR CRIMINAL RECORD

According to the Massachusetts Board of Probation record and the National Crime Information Center (NCIC) record, both dated August 16, 2022, Mr. Hagar has no other criminal history. (*Attachment C – Criminal History*).

PARDON PETITION OF PHILIP E. HAGAR, JR.

As previously indicated, Philip Hagar, Jr. submitted a petition for executive clemency, in the form of a pardon, for a 1971 conviction of Discharging a Firearm within 150 Feet of a Highway. Through his petition, Mr. Hagar sought a pardon in order to obtain a license to carry firearms. He explained that he has held a license to carry for over forty years without incident, before becoming ineligible as a result of this conviction.

2022 INTERVIEW OF PHILIP E. HAGAR, JR.

At the request of the Advisory Board of Pardons, Mr. Hagar was interviewed on October 14, 2022. A copy of his interview report is included as *Attachment D*.

PROCEEDINGS BEFORE THE ADVISORY BOARD

On October 24, 2022, the Advisory Board of Pardons held a public hearing on Philip Hagar's pardon petition. The hearing was chaired by Board Member Charlene Bonner. Advisory Board of Pardons Members Maryanne Galvin, Tina Hurley¹, and James Kelcourse were present at the hearing. Board Members Tonomey Coleman and Colette Santa were not present for the

¹ Ms. Hurley participated in the hearing prior to her appointment as Chair of the Massachusetts Parole Board.

hearing, but reviewed the record and participated in deliberations. Mr. Hagar was not represented by counsel.

THE BOARD'S INQUIRY

SOCIAL & PROFESSIONAL HISTORY

Upon inquiry by the Board, Mr. Hagar provided information concerning his social and professional history. Mr. Hagar is eighty-three years old. He is married, and the father to three adult children. He has eight grandchildren and nine great-grandchildren. Mr. Hagar served in the Army National Guard from 1956 through 1964. Mr. Hagar is currently retired from a career at United Parcel Service. He has worked a part-time basis at Lyons Funeral Home in Danvers for the past twenty years. Mr. Hagar is a member of the Danvers Fish and Game Club, but cannot participate in many of the club's offerings without a license to carry. He held a license to carry a firearm for over forty years. He enjoys hunting and the outdoors.

GOVERNING OFFENSE

The Board inquired about the offense for which Mr. Hagar seeks a pardon. Mr. Hagar accepts responsibility for the offense. He informed the Board that he went hunting with his father, and fired his weapon at a deer, but did not realize that he was within 150 feet of the highway at the time. He stated that the Boxford Police Department received a complaint about the gunshot, which resulted in his prosecution.

VICTIM IMPACT

No victim impact statements were provided to the Board.

PRIOR CRIMINAL HISTORY

Mr. Hagar has no other criminal history.

COMPELLING NEED FOR A PARDON

The Board made inquiries concerning Mr. Hagar's compelling need for a pardon. Mr. Hagar reported that he has held a license to carry for over forty years, and that he was unable to renew his license in 2019 as a result of this conviction. Apart from the conviction for which Mr. Hagar seeks a pardon, he has had no other issues pertaining to his firearms ownership.

Mr. Hagar submitted documentation from the Topsfield Police Department indicating that he was denied a license because of his 1971 conviction.

SUPPORT

TESTIMONY

No individuals testified in support of Mr. Hagar's petition.

LETTERS

The Board reviewed four letters of recommendation submitted in support of his pardon petition. *Attachment A*, pages 12-15.

Topsfield Selectman A.R. Grant

Selectman grant described Mr. Hagar as a "responsible, trustworthy resident," and expressed his support for Mr. Hagar's pardon petition.

David M. Johnson

Mr. Johnson stated that Mr. Hagar is "a hardworking, decent, fair, upstanding member of the Town of Topsfield," and added that he believes Mr. Hagar "will continue to be a safe and responsible owner of firearms."

Michael J. Allain

Mr. Allain, a friend of Mr. Hagar, wrote to praise Mr. Hagar's responsible firearm ownership, and knowledge of firearm safety.

Craig D. Weaver

Mr. Weaver wrote a letter on Mr. Hagar's behalf to attest to his "unquestionable character," as well as his responsible firearm ownership.

OPPOSITION

TESTIMONY

No individuals testified in opposition to Mr. Hagar's petition.

LETTERS

No letters were submitted in opposition to Mr. Hagar's petition.

OPINION OF THE ADVISORY BOARD

FAVORABLE RECOMMENDATION

After careful review and consideration, it is the opinion of 6 of the 6 voting members of the Advisory Board of Pardons that a favorable recommendation for a pardon be sent to the Governor on behalf of Philip Hagar.

Governor Charles D. Baker's Executive Clemency Guidelines, issued on February 21, 2020 ("Guidelines"), establish the grounds upon which a pardon may be granted and provide assistance to the Advisory Board of Pardons in making recommendations to the Governor on clemency petitions. The Guidelines state that a pardon is "an extraordinary remedy which has the effect of treating the petitioner as if the offense had never been committed." The Guidelines further provide that "[pardons are] intended to remove the barriers that are sometimes associated with a criminal record, thereby facilitating the reintegration of the petitioner into his or her community." The Guidelines state that the nature and circumstances of the offense and the character and behavior of the petitioner are the two "paramount considerations in deciding whether to grant clemency."

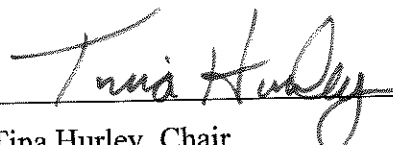
Under the Governor's Guidelines, a person who petitions for a pardon bears the responsibility of demonstrating, by clear and convincing evidence, that:

- (a) The petitioner has clearly demonstrated an acceptance of responsibility for the offense for which the petitioner is seeking clemency;
- (b) the petitioner does not have any pending appeals or challenges to a conviction or sentence;
- (c) the petitioner has made full restitution to his or her victims, in the event of economic injury;
- (d) the petitioner has made exceptional strides in self-development and self-improvement and would be a law-abiding citizen;

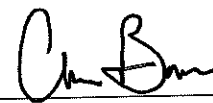
- (e) the petitioner has provided substantial assistance to law enforcement in the investigation or prosecution of other more culpable offenders;
- (f) the petitioner has contributed to society through the military or public service, or through charitable work;
- (g) the petitioner has demonstrated a period of good citizenship by “leading a responsible and productive life and contributing to [his or her] community in a positive manner” for more than ten years following a felony conviction, “without the structure provided by government supervision,” such as probation or parole;
- (h) there is no alternative remedy available to the petitioner.

Mr. Hagar is seeking a pardon for an offense that occurred in 1971. He held lawful license to carry for forty years without incident. Mr. Hagar’s offense appeared to result from a misunderstanding of his proximity to the highway during a hunting trip and has otherwise been a responsible gun owner. He served honorably in the Army National Guard and has a long history of good citizenship. The Board notes he has significant community support.

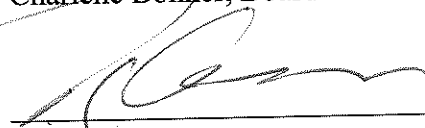
For the six members of the Advisory Board of Pardons respectfully recommending favorable consideration, signed on this the _____ of November, 2022:




Tina Hurley, Chair



Charlene Bonner, Board Member



Tonomey Coleman, Board Member



Maryanne Galvin, Board Member



James Kelcourse, Board Member



Colette Santa, Board Member