

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

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**CHAD MARKS,**

*Petitioner,*

v.

**UNITED STATES OF AMERICA,**

*Respondent,*

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**MEMORANDUM OF LAW SUBMITTED IN  
SUPPORT OF CHAD MARKS' MOTION MADE  
PURSUANT TO *UNITED STATES v. HALLOWAY***

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK**

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**CHAD MARKS,**

*Petitioner,*

v.

**UNITED STATES OF AMERICA,**

*Respondent,*  
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On March 14, 2019, United States District Court Judge David G. Larimer issued an order directing counsel to file a detailed submission outlining the outstanding achievements that Petitioner Chad Marks has made during the last sixteen years that he has been in the custody of the United States Bureau of Prisons.

**I. THE UNDERLYING CRIME AND SENTENCE**

In 2004, when Mr. Marks was just twenty-four years old, he was indicted and charged with narcotics offenses and two separate firearms offenses pursuant to 18 U.S.C. §924(c). Mr. Marks, unlike his co-defendants, declined a plea offer, elected to go to trial and was convicted. As to the firearms offenses, he was convicted of possessing a shotgun, with a co-defendant, in September 2002, and a rifle two months later in November 2002.

On March 4, 2008, Judge Larimer, feeling constrained by the state of the law at

the time, sentenced Marks to the minimum ten years on the narcotics offenses, five years on the first 18 U.S.C. §924(c) charge and twenty-five years on the second, a sentence that could not be imposed today. All of the sentences were ordered to run consecutively for an aggregate forty-year prison term.

## **II. CHAD MARKS' PERSONAL BACKGROUND**

In order to draw a complete picture of the man Chad Marks was in 2008 versus the man he is today, it is important to understand how his story began. He was primarily raised by a single mother as his father, Charles Marks, a violent man, left the family home when Mr. Marks was just three years old. Charles became a drug addict and was absent from his son's life. As a result, the family lived in poverty. He was actively involved in sports, became the captain of his wrestling team and was a very accomplished amateur boxer.

At the age of fourteen, Mr. Marks' brother committed suicide. This became a turning point in his life as he lost interest in sports, and found himself going down the wrong path and in trouble. Shortly thereafter, he fell in with the wrong crowd and began a journey that would eventually lead to this forty-year prison sentence.

## **III. THE CURRENT MOTION**

The sentence imposed by this Court in 2008 is one that today, in accordance with the First Step Act enacted by Congress on December 21, 2018, could not be imposed.

Unfortunately for Mr. Marks and other similarly situated defendants, although the First Step Act will benefit many, Mr. Marks may not directly benefit because the statute expressly states that the changes, which prohibit the stacking of multiple §924(c) counts in a single indictment, are not to be applied retroactively.

Mr. Marks has now filed the instant motion [Dkt. #491] requesting that this Court ask the United States Attorney for the Western District of New York, James P. Kennedy, Jr., to consent to the vacatur of one of Marks' two Section §924(c) convictions, which would, in effect, remove what this Court has called "the draconian, mandatory 25-year consecutive sentence". Dkt. #493 at p. 2. As noted by this Court, this is "not a typical request". *Id.* Indeed, it is quite rare but, as outlined in detail in Mr. Marks' *pro se* motion [Dkt. #491] it has been done in other jurisdictions.

#### **IV. MR. MARKS' INCARCERATION UP TO NOW**

Mr. Marks went to prison, a place that is, as we all know, rife with difficulties, facing a very lengthy forty-year sentence. However, rather than going down the wrong path, he made the decision to use this time to educate and better himself, while also devoting a great deal of his time to helping his fellow prisoners. He did all of this with the knowledge that he may never be released from prison, and that if he is, he would be well into his sixties.

18 U.S.C. §3553 states, in pertinent part, that one of the factors to be taken into

consideration in imposing sentence is that the sentence should “provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner”. Mr. Marks has taken this factor very seriously and should be considered a textbook example of what all defendants should strive to achieve while incarcerated.

Mr. Marks’ incarceration began at a maximum security prison in 2008. Since that time, based on his conduct and rehabilitation, he dropped in security levels from maximum to medium security, and, in January 2019 remarkably, with many years still remaining on his sentence, he was transferred to a low security prison in Lexington, Kentucky where he is currently housed.

Mr. Marks will tell you that at the top of his list of achievements during his incarceration is the college degree he obtained through Vision International College located in Pomona, California. This is because he understands how critical education is to his future success. While housed at FCI Ray Brook, Mr. Marks attempted to enroll in a college program offered through a local college which was being provided using funds allocated from Congress. Unfortunately, his application was rejected because the program was only offered to those inmates with six years or less remaining on their sentence. Marks had over twenty years remaining on his sentence at that time and, therefore, was deemed ineligible for the program. Unwilling to accept that rejection,

and knowing that he needed a higher education if he was to have any chance of succeeding when/if he was released, Mr. Marks decided to earn his college degree through correspondence. At his own cost, he enrolled in the International School of Ministry. Marks and one other inmate completed the course over a two-year period. All classes were taught using DVDs, and examinations were proctored by prison staff members. After completing more than 900 classroom hours, Mr. Marks proudly earned his degree in July of 2018 [Exhibit A - includes diploma and transcript].

In addition, in 2015, Mr. Marks also enrolled in a business class taught at Ray Brook by then-Warden Langford. Marks was one of just twenty-five prisoners chosen out of approximately nine hundred inmates to participate in the program.

In his efforts to better himself during his incarceration, Mr. Marks has completed nearly one hundred rehabilitative programs. As outlined in the attached BOP Individualized Re-Entry Plan Program Review [Exhibit B], Mr. Marks' efforts to better himself did not only focus on academics. In an effort to become a better man, he also completed many life skills training programs including, *inter alia*: Leadership Training, Criminal Thinking, Anger Management, Leaders Breed Leaders, Personal Development, Thinking For a Change, Problem Solving and Decision Making, Support Systems, Lifestyle Changes, Health and Nutrition, Fair Shake Resources Information, Preparing for Release, Day of Release, Relapse Triggers, Outside the Walls, 7 Habits

of Effective People, Self-study: Good Eats Parts 1 and 2, Advanced Calisthenics, AVP Basic and Advanced, AVP Facilitator, Values and Goal Setting, Victim Awareness and Restitution, Reentry Support Resources, and AIDS Awareness [Exhibit B].

Striving to create a better, more productive future, Mr. Marks has also participated in many programs geared toward finding employment and setting himself up to be financially independent and productive after his release including, *inter alia*: How to Find a Job, Job Application Tips, How to Write Checks, Offender Employment, Job Skills, Certified Electronic Technician, Commercial Drivers License, Banking Classes, Basics of Business Ownership, Employment Skills Course, Job Placement Assistance, Money Management Skills Course, How to Start a Non-profit Organization, How to Incorporate, Owning Your Own Business, Hands on Banking, Typing Classes, Make Your Money Grow, Master Your Money, Insurance Info, Fictional Writing, Scene Writing, Advanced Memoir Writing, Use of Grammar Punctuation and Syntax Course, Consumer Rights, Personal Credit, Job Search Workshop, Mock Job Fair Workshop, Resume Workshop, Teamwork Workshop, Professionalism Workshop, Time Management Workshop, Social Media Workshop, Interview Workshop. [Exhibit B].

Mr. Marks' efforts at rehabilitation have not been simply about himself but also have been deeply rooted in helping others. In addition to working to improve himself,

Mr. Marks, recognizing that in order to better himself he needed to help others, has devoted a great deal of his time to assisting his fellow inmates with their personal growth. When he first arrived at Ray Brook, he committed to helping the men around him learn to read and write. Believing that he had something to offer his fellow inmates, Mr. Marks designed a program that he titled “The 90 Day Fast Track GED Program.” Based on his initiative at the prison, the staff permitted him to use a classroom to implement this program. Miraculously, thirteen students who had been enrolled in the prison’s traditional GED classes for over two years and had been unable to pass the GED exam, all passed the exam within 89 days of taking Mr. Marks’ class. He was successful in motivating these prisoners to believe in themselves and their ability to learn and it worked! This success is something of which Mr. Marks is very proud.

While studying and working toward his own college degree, Mr. Marks consistently found the time to tutor his fellow prisoners who were enrolled in the prison’s college program – the one that he was not permitted to attend – and is proud of the fact that some of those prisoners were his GED students who went on to earn higher academic degrees.

Recognizing the need for additional programs to prepare inmates for reentry, Mr. Marks, along with a fellow prisoner at Ray Brook, helped to write and design a program called R.I.S.E. Marks was the driving force in this initiative and his success

in working in the education department on this program and others was recognized by the prison staff. In a memorandum dated September 4, 2014, his supervisor, education specialist T. Breeyear, wrote of his efforts:

Inmate Marks, C#12010-055 has worked for the education department at FCI Ray Brook since July 2, 2014. Inmate Marks' main responsibility is tutoring other inmates in order to assist them in obtaining their GED in the morning, and by teaching an 'extra help' GED class that is offered for two hours in the evening. Inmate Marks often volunteers his time in the afternoon, which is his time off during each weekday, tutoring his peers as well.

Inmate Marks has spent numerous hours assisting in the creation of the curriculum of the R.I.S.E. (Rehabilitate Integrate Stimulate Educate) program, which is a new reentry program that will be offered to inmates at FCI Ray Brook in the near future. As inmate Marks' supervisor, I'm satisfied with his job performance as it is above that of his peers. Inmate Marks responds well to supervision and instruction, completes tasks without being asked, takes initiative and motivating inmates to obtain their GED, and has an outstanding overall job proficiency.

[Exhibit C].

Having gone to prison when he was a young man, Mr. Marks recognized the crisis of the rising juvenile delinquency and misguided youth epidemic in Rochester. This led him to create the S.T.E.M. (Stimulate, Train, Educate, Mentor) program as well as an Incarceration Prevention Class Curriculum in an effort to help provide training, technical assistance and programs to assist state, federal, and local law

enforcement authorities in high-crime areas in combating crime and creating crime prevention programs, with a particular emphasis on violent crime and juvenile delinquency [Exhibit D]. He has pitched these programs to Rochester's Mayor Lovely Warren, the Rochester City School District, and the juvenile probation department.

Mr. Marks also became a facilitator and taught a class to the inmate population labeled "Leaders Breed Leaders". This course centers on character education and helping other inmates to learn to make the right choices in all situations, both in and out of prison. The course was designed to help the prisoners become real men, real leaders, and real fathers when they are released from prison. During the administration of this program, Mr. Marks' supervisor, in an Inmate Assessment Plan dated May 1, 2015, wrote that he "Has taught the ACE course Leaders Breed Leaders twice for the Education Department. As an instructor he keeps his students engaged and actively learning." [Exhibit E].

In addition to helping other prisoners with their academic pursuits, Mr. Marks also volunteered his time to address another issue close to his heart – suicide. His older brother and role model, Charles Marks Jr., committed suicide when Marks was a teenager, leaving him devastated. When the prison staff was looking for inmates to assist in the Suicide Companion Program, Mr. Marks volunteered [Exhibit F]. That program tasked approximately ten prisoners to look after other inmates who were

placed in observation cells because they were determined to be at risk for suicide. As part of the program, Marks would spend some nights from 10 p.m. to 2 a.m. with at risk inmates and would engage those prisoners who were feeling down, and watch over them to prevent them from harming themselves. Mr. Marks participated in this program for about two years, only stopping when he enrolled in college which required a great deal of his time.

During a reentry-based summit at the prison wherein outside volunteers came to the prison, Mr. Marks was chosen to speak with people from the Alternatives to Violence Project seminar and agreed to be a part of the program if it were brought to the prison. Shortly after that summit, the program was brought to the prison and Mr. Marks, true to his word, became a facilitator for the program (after participating in approximately twenty hours of training) which helped reduce violence at the prison. Marks facilitated over twenty Alternatives to Violence Project Seminars at Ray Brook. Marks was a major contributor to the program after which both staff and prisoners wrote about him on affirmation posters. One staff member wrote about Marks: “You have gone above and beyond all weekend, and it’s been an honor to facilitate with you...” Another staff member wrote, “It has been a pleasure to facilitate with you this weekend! You have great empathy for others...” Inmates wrote, “Great leader, and very helpful person stay strong though your journey.” [Exhibit G].

As a testament to the help that Mr. Marks has provided his fellow inmates over the years, many have written beautiful, heartfelt letters in support of his release detailing the incredible personal support, legal assistance, and leadership Mr. Marks has provided. For example, inmate Christopher Van Stein wrote a letter detailing Mr. Marks' acts of kindness and demonstration of leadership:

When I first came to Ray Brook, Chad Marks extended his hand and welcomed me. He was the one who gave me a toothbrush, toothpaste, soap and other toiletries the government fails to supply adequately. Chad Marks keeps these items, having purchased them from commissary, to give to prisoners such as myself when they arrive with nothing, knowing no one.

In the time I've known Chad I've come to know a leader, not just of the hundred men on our block, but of the 700 men in the jail. The men here all respect Chad as a no-nonsense, fair, responsible individual who holds things together.

People go to Chad as an intermediary. They know he can be trusted to address the person(s) directly and fairly. I have witnessed Chad intervene consistently in situations that otherwise would have gotten ugly. He consistently organizes "interventions" to confront drug-use...

When officers of the BOP have an issue they prefer to deal with by way of a prisoner-liaison, Chad is one of the people they go to...

Chad is not only the go-to-man for all unofficial matters. He is also the number one legal expert on the compound. Chad spends his time helping others with their legal work...

[Exhibit H].

As this court is well aware, one of Mr. Marks' greatest accomplishments while incarcerated has been teaching himself about the law. His self-taught comprehension and analysis of Federal statutes, the Sentencing Guidelines and the Constitution is nothing short of remarkable and surpasses that of some members of the bar. Mr. Marks has used his legal skills to help not only himself, but many of his fellow inmates, sometimes quite successfully. As a testament to his skills, Deirdre D. von Dornun, the attorney-in-charge of the Federal Defender's Office for the Eastern District of New York, sent Mr. Marks a letter commending him for his assistance in drafting a motion made on behalf of a fellow inmate that resulted in a drastic reduction in the inmate's sentence: "...The government agreed to grant the habeas petition you drafted! He told me how much help you gave him, and have given others. I really appreciate all that you do..." [Exhibit I].

Another inmate Mr. Marks helped, Felix Morales, wrote "My parents paid two different attorneys to help me. Chad Marks worked on my case for free, and my sentencing judge reduced my sentence by 8 years. I am grateful for Chad Marks who has been a real friend to me. I never thought a white person would help me for free but Chad did." [Exhibit H]. Another inmate, Bradley Barndt, wrote:

I have been in the same prison with [Chad Marks] for nearly 5 years, and watched him transform into the man he is today. Chad has been an inspiration to me, a motivator,

and an example on how to be a good leader. He has gone out of his way to help me with all of my legal fillings [sic.] in the courts, and a true friend in a place where friends are not common. I really look up to him because he is a good hearty [sic.] man and selfless. He is willing to help anybody at anytime. Chad inspires all of us to be real men, real leaders, and real fathers. He always shares words of wisdom, and simply put he motivates us to be better people. There is no doubt in my heart that if he gets released from prison, that he will do great things with his life. His actions demonstrate who he is as a man.

[Exhibit H].

Another inmate, Jason Belcher, also wrote in support of Mr. Marks' assistance in his legal proceedings, "...[Chad] helped me by writing my appeal in the summer of 2018. The Fourth Circuit granted my appeal and my sentence was reduced by 28 months. Chad is a person that goes out of his way to help others and I am grateful that I met him. His legal writing is the reason that I will be home with my wife and children sooner than was expected." [Exhibit H]. These testimonials say a lot about Mr. Marks and his willingness to use what he learned about the law not just to help himself, but to help others and has done so quite effectively.

In addition, Mr. Marks has used his legal knowledge and studies to educate others and fight for criminal justice reform. His legal writing skills have become so advanced that he was made a staff writer for two legal publications, *Criminal Legal News* and *Prison Legal News*, which are distributed by the Human Rights Defense

Center. The Managing Editor of *Criminal Legal News*, Richard Resch, obviously impressed with Marks' legal knowledge and writing, recently wrote of him:

He is a true asset to our publications. I am especially impressed with his writing skills, professionalism, enthusiasm, and devotion to helping readers of our publications through his writing. Chad has written dozens of articles for us... Chad is a pleasure to work with; he is passionate conscientious, and hardworking. Upon his release from prison, he may continue to write for us if he chooses. If he elects to do something else, I have no doubt that he will be successful in whichever career he pursues.

[Exhibit J]. Mr. Marks' articles include, *inter alia*: "President Trump Signed First Step Act into Law – It's a Good Initial Attempt at Meaningful Reform"; "New York Criminal Defense Attorney Charged with Federal Crimes"; "Grandmother Arrested and Mocked by Federal Agents Awarded \$55,000"; "Federal Judge Certifies Class in Ohio County Jail Debit Card Case"; "Report Outlines Eight Ways To Shorten Excessive Prison Sentences"; "Federal Judge Orders Prison Doctor To Face Deliberate Indifference Claims"; "Challenges, Secrecy Continue to Surround Use of Lethal Injection Drugs"; "High Risk, Low Pay for California Prisoners Who Fight Fires"; "Texas Court of Criminal Appeals Rules Defense Attorney Violated McCoy, Reverses Capitol Convictions and Orders New Trial"; "Nevada Supreme Court Reverses Convictions Where Trial Court Failed to Conduct Third Step of Batson Challenge"

[Exhibit J].

His trustworthiness and hard work also did not go unnoticed by the prison staff. While at Ray Brook, Mr. Marks was one of two prisoners chosen to work as an orderly for the Captain and Lieutenant. This job, given only to prisoners who have demonstrated trustworthiness and have maintained an excellent work history and prison record, required Mr. Marks to work in areas of the prison in which staff stored personal belongings. In a report dated March 4, 2018, Lieutenant St. Louis glowingly wrote, “Inmate Marks has worked as the Lieutenants and Captains Orderly for over one year. As inmate Marks’s supervisor, I am satisfied with his job performance as it is above that of his peers. Marks responds well to supervision and instruction, completes tasks without being asked and has an outstanding overall job proficiency. I would recommend Chad Marks for employment in the work force.” [Exhibit K]. These positive words from a senior federal security staff member speak volumes about Mr. Marks, his work ethic, his trustworthiness, and his potential for success upon reentry.

Also weighing heavily in favor of Mr. Marks’ release is the fact that he has several letters of potential future employment. The most notable of those letters is from Cedric Dean, the President of the organization S.A.V.E. (Safeguard Atone Validate Educate), who has committed to hiring Mr. Marks immediately upon his release from prison based on the tremendous work he has done to help others while incarcerated. In that letter, dated October 22, 2018, Mr. Dean wrote:

I am writing this letter of intent on behalf of federal prisoner Chad Marks, 12010-055, who I am committed to hiring upon day one of his release. Chad has been instrumental with the implementation of our SAVE PROGRAM at United States Penitentiary Lee, in Jonesville, VA, and Federal Correctional Institution Ray Brook, in Ray Brook, New York. Specifically, Chad taught our Leaders Breed Leaders course to federal prisoners and had a major impact on the inmate population at USP Lee, and FCI Ray Brook, according to staff members who supervised his classes. It is our hope that Chad's redemption story and personal commitment to change can provide restorative hope for others who are in similar situations within the criminal justice system.

[Exhibit L]. This letter is a great recognition of Marks' commitment to helping others both inside prison and upon his released. In addition, Mr. Marks has obtained letters of potential employment from Youst Commercial Coatings and Brewster Home Improvement [Exhibit L]. These job offers speak volumes about Mr. Marks' rehabilitation and potential for success upon his release as recognized by well respected members of the community.

Finally, we would be remiss if we did not acknowledge perhaps the most important and most unlikely supporter – Judge Larimer – who has, in no uncertain words, stated that he did not at the time, and still does not, believe that the forty-year sentence that he was forced to impose in this case was appropriate while also acknowledging that Mr. Marks' demonstrated transformation has been nothing less

than remarkable. In his letter submitted in support of Mr. Marks' clemency petition dated October 11, 2018, Judge Larimer could not be more clear in stating his belief that Mr. Marks was a perfect candidate for clemency:

I never would have imposed a 40-year sentence for this type of offender. All of Marks's co-defendants received sentences well below 12 years and have all completed their sentences. The trial established that Marks did use firearms – mostly as a source of protection against rival drug operatives.

As a long-time federal judge and former Assistant United States Attorney, I know that there are, and should be, consequences for criminal conduct, but I also know that there can be redemption and success stories involving inmates who have changed. Chad Mark has changed dramatically. His record of accomplishment while in prison is extraordinary... I believe this man now has the capacity to do good in the community. It would, in my view, be a shame to waste his life serving the balance of a 25-year term for the conduct at issue.

I urge clemency at least to the extent that his punishment is reduced to a 15-year term with a 5 year term of supervised release.

[Exhibit M].

And, in another letter dated, January 21, 2015, Judge Larimer wrote about Mr. Marks' accomplishments during his incarceration: "It is always notable when inmates spend time productively and seek to make the best of their situation. There was never any doubt that you ad talent, intelligence and leadership ability..." [Exhibit N].

And in another letter submitted in support of Mr. Marks' efforts to receive

clemency, Amy Povah, the president of the CAN-DO foundation, who admittedly rarely writes such letters, wrote that “there are a few who stand out as being extremely worthy of mercy and Chad Marks is at the top of that list.” She added that she does not know

... anyone who has worked harder to rehabilitate himself and then apply his hard-earned skills to help others. He learned how to litigate by spending long hours in the law library, then began writing motions on behalf of men he served time with once he determined they were eligible for a sentence reduction. I have received many celebratory emails about another victory he won on behalf of a fellow prisoner, yet his own opportunities for relief have been elusive. Rather than growing bitter, Chad worked harder to add more achievements to his impressive resume.

Ms. Povah then outlined just a few of the legal successes Mr. Marks has had in preparing and filing legal documents for fellow inmates, some of which resulted dramatic sentence reductions and early releases. [Exhibit O].

#### **IV. CONCLUSION**

In his *pro se* motion made pursuant to United States v. Holloway, 68 F. Supp. 3d 310 (E.D.N.Y. 2014), Mr. Marks asked for the “...opportunity under the Holloway Doctrine - an opportunity to simply show the court as well as the U.S Attorney’s Office that he is a changed man, and no longer a threat to public safety. That his 40 year prison sentence demonstrates an unwarranted disparity among co-defendants, as well

as longer-than necessary to achieve the goals of sentencing.” This Court has given him the opportunity to do that and the information provided here clearly demonstrates that the Chad Marks who is asking for this relief is a completely different man than the twenty-four year old Chad Marks who was arrested in this case. He has now taken responsibility for his conduct, admitted his guilt, and acknowledged that he was an immature young man who made many poor choices which led him down the road that resulted in this conviction. He went to prison with little hope of getting out, and if he did at a very old age. Making the wrong choices could have been easy as prison is rife with many difficulties. In fact Mr. Marks’ first prison was one of the most violent in the United States – USP Big Sandy. Marks chose a different path. Rather than giving up and getting involved in all that is wrong with our prison systems, he used his time to better himself, all with the ultimate hope and goal of returning to society with the tools to be a productive citizen and a man who could be respected in the community despite his past mistakes. Along that road, he helped many others to educate themselves, regain their freedom, and become better men. There is nothing left for Mr. Marks to do in prison. The rehabilitation has been done, the programs have been exhausted, the only thing left here is punishment, and a colossal waste of tax dollars to incarcerate a man who no longer poses a threat to society. This is clearly demonstrated by his sincere and tremendous efforts at rehabilitation. Marks has repeatedly said that he appreciates what

the framers found so dear and so worthy of fighting for – life, liberty, and the pursuit of happiness. That is all he wants now is his life, his liberty, and the ability to pursue happiness in the time he has left. And the public should have complete confidence that when someone has shown that they are no longer a threat to public safety that we as a society will see that justice has been done. This is a case where justice would be better served by allowing Mr. Marks a second chance to reclaim his life – a life with which it is clear that he will do great things.

Perhaps the most telling and compelling reason for this motion to be granted came from this Court himself. As this Court asked himself the critical question “Does this defendant, Chad Marks, deserve this remedy?” his unequivocal answer says it all:

In my more than 30 years as a district court judge, I have never known a prisoner to do more to make changes in his life while incarcerated. Marks’ acts and accomplishments while incarcerated for the last decade are truly extraordinary. Marks has obtained a college degree, participated in about 100 rehabilitative programs, has received numerous awards and citations, is engaged as a GED teacher and has mentored other inmates. Marks has recounted many of these accomplishments in his motion (Dkt. #491, page 7). The record reflects extraordinary accomplishments.

Extraordinary cases require extraordinary care and sometimes extraordinary relief. I urge all to review Judge Gleeson’s thoughtful decision in the Holloway case. The criminal “justice” system is about justice and fairness ultimately. Chad Marks was convicted of serious crimes, but I believe that Marks is not a danger and is not now the

person convicted of these charges in 2008, which involved a rather small-scale drug case. All of Marks' co-defendants have completed their sentences.<sup>1</sup>

Dkt. #493 at p. 3. This definitive statement by the learned district court judge with more than 30 years of experience on the bench who presided over Mr. Marks' trial should be taken as a clear signal to the United States Attorney that Mr. Marks is worthy of this rare but, in this case, appropriate relief. Mr. Marks has served more than sixteen years and has more than proven himself worthy of release. As a result, we ask the United States Attorney to take an objective look at all that Mr. Marks has accomplished and all that he intends to do if released and see that the ends of justice would be served not by keeping Mr. Marks in prison, but by acknowledging his amazing transformation and releasing him from a sentence that could not be imposed today in accordance with the First Step Act as Congress has recognized the grave injustice that results from stacking §924(c) charges. Specifically, we ask the United States Attorney to exercise his discretion to dismiss one of the two §924(c) charges which would eliminate the mandatory twenty-five year sentence, which would result in Mr. Marks' release from prison. It is what Judge Larimer, based on Mr. Marks's

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<sup>1</sup> Mr. Marks and his co-defendants were charged with the same crimes. Richard Ross was sentenced to a term of 78 months. Tommy Hardy was sentenced to a term of 151 months. Nathan Brown, the supplier in this case, was sentenced to a term of 181 months. They have been released from prison.

extraordinary accomplishments, believes should happen. It is what is right. It is what is fair. It is what is just. It is what should happen.

Dated: April 2, 2019

/s/ Jillian S. Harrington  
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# EXHIBITS

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## **Index of Exhibits**

- Exhibit A: Vision International University - Associate of Ministry Degree including transcript.
- Exhibit B: Re-Entry Plan setting out Marks achievements and completed education courses. Inmate Education Transcript.
- Exhibit C: Letter from Education Specialist T. Breeyear regarding Marks tutoring of his peers with regard to their G.E.D.
- Exhibit D: Stimulate Train Educate Mentor (S.T.E.M.) – President/Mentor of S.T.E.M. Emails from Marks indicating curriculum in Part 1, 2 and 3 of S.T.E.M.
- Exhibit E: Leaders Breed Leaders Program, Certificate of Achievement as Facilitator for in-depth training (1/27/15). Also included is Staff observation assessment.
- Exhibit F: Certificates of Completion for Suicide Companion Program.
- Exhibit G: Alternatives to Violence Project, Inc. letter attesting to Chad Marks' completion of AVP Facilitator Training Workshop. (3/6/16). Also included the photo of those graduating the course Mr. Marks facilitated and two certificates he received.
- Exhibit H: Letters from Marks' peers attesting to his character, as well as his successful "jail house lawyer" work.
- Exhibit I: October 11, 2016 letter from FPD in Charge Deirdre von Dornum commending Marks on the habeas petition he wrote for one of their clients. The government agreed to grant the motion that Marks wrote.

- Exhibit J: Letter from Criminal Legal News & Prison Legal News Managing Editor Richard Resch praising Marks for his outstanding legal writing and hard work. Also included are articles that were published, including a headlining article for April.
- Exhibit K: Letter from Lieutenant St. Louis regarding Marks working as Lieutenants & Captains Orderly for over a year at Ray Brook.
- Exhibit L: Letter from Cedric Dean, President of S A V E, offering Marks a job upon release. Also included are letters from Samantha Pratt at Youst Commercial Coatings extending an offer of employment; A letter from Hal Brewster from Brewster Home Improvements, also extending an offer of employment upon release.
- Exhibit M: Letter from Judge Larimer recommending clemency.
- Exhibit N: January 21, 2015 letter from Judge Larimer commending Marks on his accomplishments.
- Exhibit O: Letter from Amy Povah, President of CAN-DO Foundation.

**Exhibit A**

Associate of Ministry Degree including transcript.

# Division International University

Upon recommendation of the Faculty  
has conferred on

**Chad Marks**

the degree of

**Associate of Ministry**

with all the rights and privileges thereto pertaining.

In the witness whereof, our signatures are hereunto affixed.



GIVEN at Ramona, California, July 24, 2018.

A handwritten signature in black ink, appearing to read "Fred P. P.", written over a horizontal line.

President

A handwritten signature in black ink, appearing to read "C. J. P.", written over a horizontal line.

Academic Dean

# INTERNATIONAL SCHOOL of MINISTRY

THIS DOCUMENT CERTIFIES THAT

CHAD MARKS

HAS FULFILLED THE REQUIREMENTS OF A

# DIPLOMA OF BIBLICAL STUDIES

USING THE

**INTERNATIONAL CURRICULUM**

ON THIS 24 DAY OF JULY, 2018



*Tom J. Gillan*  
INTERNATIONAL RESIDENT

REGIONAL CENTER DIRECTOR

*Lisa Gilligan*  
ACADEMIC DEAN

SCHOOL DIRECTOR



# INTERNATIONAL SCHOOL of MINISTRY™

## TRANSCRIPT

UNOFFICIAL  
TRANSCRIPT

Student: **Chad Marks**  
Enrolled: 5/1/2017

Graduation Date: 7/24/2018

Foundations of the Faith	RS101	A
Supernatural Living, Part 1	RS217	B-
New Testament Survey, Part 1	BI102	A-
Praise and Worship	RS105	B
Supernatural Living, Part 2	RS217	B-
New Testament Survey, Part 2	BI102	A

Power of Prayer	RS106	A
Jesus Our Healer Today	RS205	A-
Old Testament Survey, Part 1	BI101	B-
Essence of the Gospel	BI201	B-
Ministry of Helps	BI208	B-
Old Testament Survey, Part 2	BI101	B-

Introduction (Mobilize to Multiply)	ED101	A-
Cell Growth and Principle of 12	RS216	B-
Power Evangelism	RS103	C+
Church Based Training	RS314	B-
Leader's Integrity	RS102	C-
Leadership Vision	RS304	B-
Church Planting	PC200	B-
Being Led by the Spirit	RS204	B-

Wilderness Mentalities	RS219	B
Developing Leaders	RS111	B+
Missions and the Harvest	RS305	B-
Personal Evangelism	PC300	B+
Spiritual Warfare	RS110	A
Reconciliation	BI302	B-
Cell Group Leaders	RS216	B-

Christ Connection	RS315	A
Living to Give	PC100	A
Supernatural Faith	RS209	B-
Children and Youth Ministries	ED301	A
Biblical Eldership	RS301	B-
Discipleship	RS219	B-

Signed: \_\_\_\_\_

  
Office of Registrar

Date: \_\_\_\_\_

9/19/18

**Exhibit B**

Re-Entry Plan setting out all that Marks achievements and completed education courses.

Inmate Education Transcript.

**Individualized Reentry Plan - Program Review (Inmate Copy)**

SEQUENCE: 01212777

Dept. of Justice / Federal Bureau of Prisons

Team Date: 11-01-2018

Plan is for inmate: MARKS, CHAD 12010-055

Facility:	RBK RAY BROOK FCI	Proj. Rel. Date:	03-12-2038
Name:	MARKS, CHAD	Proj. Rel. Mthd:	GCT REL
Register No.:	12010-055	DNA Status:	POL03076 / 11-02-2010
Age:	40		
Date of Birth:	08-17-1978		

**Detainers**

Detaining Agency	Remarks
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NO DETAINER

**Current Work Assignments**

Fac	Assignment	Description	Start
RBK	LT COMP PM	LT. AND CAPT. COMPLEX ORDERLY	03-26-2018

**Current Education Information**

Fac	Assignment	Description	Start
RBK	ESL HAS	ENGLISH PROFICIENT	06-26-2008
RBK	GED HAS	COMPLETED GED OR HS DIPLOMA	06-26-2008

**Education Courses**

SubFac	Action	Description	Start	Stop
RBK	C	ASSOCIATE DEGREE OF MINISTRY	10-01-2017	07-24-2018
RBK	C	ASSOCIATE DEGREE OF MINISTRY	10-01-2017	06-02-2018
RBK	C	WRITING ABOUT PLACES	03-28-2018	05-03-2018
RBK	C	CRIMINAL THINKING	06-14-2017	08-30-2017
RBK	C	FICTION WRITING - AIR COURSE	02-14-2017	06-01-2017
RBK	W	SUICIDE COMPANION	01-22-2016	05-26-2017
RBK	C	AVP FACILITATOR	07-15-2016	07-17-2016
RBK	W	0730 BUSINESS WORD 1	01-25-2016	07-07-2016
RBK	C	ANGER MANAGEMENT	02-03-2016	05-18-2016
RBK	C	INFORMATIONAL JOB FAIR	04-24-2016	04-30-2016
RBK	W	SCENE WRITING	03-21-2016	05-03-2016
RBK	C	AVP FACILITATORS	03-04-2016	04-15-2016
RBK	W	ASSOCIATE CERT ELECTRONIC TECH	01-01-2016	03-30-2016
RBK	C	AVP BASIC	12-04-2015	12-07-2015
RBK	C	AVP ADVANCED	01-22-2016	01-24-2016
RBK	C	VALUES,GOAL SETTING, & ACHIEVE	05-26-2015	11-17-2015
RBK	C	REENTRY SUPPORT RESOURCES	05-26-2015	11-14-2015
RBK	C	VICTIM AWARENESS & RESTITUTION	05-26-2015	11-14-2015
RBK	C	BASICS OF BUSINESS & OWNERSHIP	10-28-2014	07-15-2015
RBK	C	MOCK JOB FAIR	09-23-2015	09-24-2015
RBK	C	JOB SEARCH WORKSHOP	08-04-2015	10-06-2015
RBK	C	RESUME WORKSHOP	08-04-2015	10-06-2015
RBK	C	TEAMWORK WORKSHOP	08-04-2015	10-06-2015
RBK	C	PROFESSIONALISM WORKSHOP	08-04-2015	10-06-2015
RBK	C	TIME MANAGEMENT WORKSHOP	08-04-2015	10-06-2015
RBK	C	SOCIAL MEDIA WORKSHOP	08-04-2015	10-06-2015
RBK	C	ANGER MANAGEMENT	05-26-2015	09-29-2015
RBK	C	COUNSELING IND. COMM. REENTRY	05-26-2015	09-29-2015
RBK	C	EMPLOYMENT SKILLS	05-26-2015	09-29-2015
RBK	C	JOB PLACEMENT ASSISTANCE	05-26-2015	09-29-2015
RBK	C	MONEY MANAGEMENT SKILLS	05-26-2015	09-29-2015
RBK	C	PERSONAL DEVELOPMENT	05-26-2015	09-29-2015
RBK	C	PROBLEM SOLVING&DECISION MAKE	05-26-2015	09-29-2015
RBK	C	INTERVIEW WORKSHOP	08-04-2015	08-04-2015
RBK	W	USE GRAMMAR-PUNCTATION-SYNTAX	03-26-2015	05-08-2015
RBK	C	LEADERS BREED LEADERS	01-02-2015	01-27-2015
RBK	C	ADVANCED MEMOIR WRITING	01-08-2015	02-26-2015

**Individualized Reentry Plan - Program Review (Inmate Copy)**

SEQUENCE: 01212777

Dept. of Justice / Federal Bureau of Prisons

Team Date: 11-01-2018

Plan is for inmate: MARKS, CHAD 12010-055

SubFacI	Action	Description	Start	Stop
RBK	C	FAIR SHAKE RESOURCES INFO	11-04-2014	11-05-2014
RBK	C	HOW TO START A NON-PROFIT ORG	11-04-2014	12-04-2014
RBK	C	HANDS ON BANKING	11-15-2014	12-02-2014
RBK	C	HANDS ON BANKING	11-15-2014	12-02-2014
RBK	C	THINKING FOR A CHANGE	12-02-2014	12-02-2014
RBK	C	SUPPORT SYSTEMS	12-02-2014	12-02-2014
RBK	C	PREPARING FOR RELEASE: PART 2	12-02-2014	12-02-2014
RBK	C	DAY OF RELEASE	12-02-2014	12-02-2014
RBK	C	LIFESTYLE CHANGES	12-02-2014	12-02-2014
RBK	C	RELAPSE TRIGGERS	12-02-2014	12-02-2014
RBK	C	SUPPORT SYSTEMS	12-02-2014	12-02-2014
RBK	C	OES FACILITATOR TRAINING	10-14-2014	11-05-2014
RBK	C	OUTSIDE THE WALLS	10-14-2014	11-05-2014
RBK	C	OFFENDER EMPLOYMENT	10-14-2014	11-04-2014
RBK	W	7 HABITS OF EFFECTIVE PEOPLE	06-24-2014	07-30-2014
TCP	C	SELF-STUDY: GOOD EATS 2	09-11-2013	09-18-2013
TCP	C	SELF-STUDY: GOOD EATS 1	09-11-2013	09-18-2013
CLP	C	ADVANCED CALISTHENICS	07-11-2012	08-15-2012
CLP	C	TYPING CLASS 1230PM-1530PM	03-06-2012	04-03-2012
CLP	C	RPP HEALTH/NUTRITION #1	10-31-2011	10-31-2011
POM	C	JOB SKILL SHU PRE-RELEASE	03-15-2011	05-05-2011
POM	C	ANGER MANAGEMENT SHU PRE-REL	03-01-2011	03-31-2011
LEE	C	HOW TO INCORPORATE	04-26-2010	07-06-2010
LEE	C	ACE - INCORPORATE II	04-26-2010	07-06-2010
LEE	C	RP2 COMM.DRIVER'S LICENSE	01-13-2010	04-05-2010
LEE	C	OWNING YOUR OWN BUSINESS	01-13-2010	04-05-2010
LEE	C	RPP5 RPP ORIENTATION	03-19-2009	03-19-2009
LEE	C	RPP1 AIDS AWARENESS	03-19-2009	03-19-2009
BSY	C	SHU-ACE MAKE YOUR MONEY GROW	11-02-2008	11-14-2008
BSY	C	SHU-ACE MASTER YOUR MONEY	11-02-2008	11-14-2008
BSY	C	SHU-ACE INSURANCE INFO	11-02-2008	11-14-2008
BSY	C	SHU-ACE CONSUMER RIGHTS	11-02-2008	11-14-2008
BSY	C	SHU-ACE HOW TO WRITE A RESUME	10-20-2008	10-30-2008
BSY	C	SHU-ACE PERSONAL CREDIT	10-20-2008	10-30-2008
BSY	C	SHU-ACE HOW TO FIND A JOB	10-20-2008	10-30-2008
BSY	C	SHU-ACE JOB APPLIC TIPS	10-20-2008	10-30-2008
BSY	C	SHU-ACE JOB HISTORY/INVENTORY	10-20-2008	10-30-2008
BSY	C	SHU-ACE TIPS TO FIND A JOB	10-20-2008	10-30-2008
BSY	C	SHU-ACE CREDIT CARD LANGUAGE	10-20-2008	10-30-2008
BSY	C	SHU-ACE READING	10-20-2008	10-30-2008
BSY	C	SHU-ACE HOW TO WRITE CHECKS	10-20-2008	10-30-2008
BSY	C	YOUR STRATEGIC FUTURE	07-07-2008	07-07-2008
BSY	C	A & P, JOB SKILLS SURVEY	07-07-2008	07-07-2008
BSY	C	ELL ORIENTATION	06-18-2008	06-18-2008

**Discipline History (Last 6 months)**

Hearing Date	Prohibited Acts
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\*\* NO INCIDENT REPORTS FOUND IN LAST 6 MONTHS \*\*

**Current Care Assignments**

Assignment	Description	Start
CARE1	HEALTHY OR SIMPLE CHRONIC CARE	06-12-2014
CARE1-MH	CARE1-MENTAL HEALTH	12-09-2010

**Current Medical Duty Status Assignments**

Assignment	Description	Start
REG DUTY	NO MEDICAL RESTR--REGULAR DUTY	06-12-2014

**Individualized Reentry Plan - Program Review (Inmate Copy)**

SEQUENCE: 01212777

Dept. of Justice / Federal Bureau of Prisons

Team Date: 11-01-2018

Plan is for inmate: MARKS, CHAD 12010-055

Assignment	Description	Start
YES F/S	CLEARED FOR FOOD SERVICE	09-01-2011

**Current Drug Assignments**

Assignment	Description	Start
ED NONE	DRUG EDUCATION NONE	06-12-2014

**FRP Details****Most Recent Payment Plan**FRP Assignment: **PART FINANC RESP-PARTICIPATES** Start: **12-31-2013**Inmate Decision: **AGREED \$25.00** Frequency: **MONTHLY**Payments past 6 months: **\$150.00** Obligation Balance: **\$2,684.76****Financial Obligations**

No.	Type	Amount	Balance	Payable	Status	
1	ASSMT	\$800.00	\$409.63	IMMEDIATE	EXPIRED	
** NO ADJUSTMENTS MADE IN LAST 6 MONTHS **						
2	FINE	\$4,000.00	\$2,684.76	IMMEDIATE	AGREED	
Adjustments:		Date Added	Facd	Adjust Type	Reason	Amount
		10-10-2018	RBK	PAYMENT	INSIDE PMT	\$25.00
		09-11-2018	RBK	PAYMENT	INSIDE PMT	\$25.00
		08-07-2018	RBK	PAYMENT	INSIDE PMT	\$25.00
		07-10-2018	RBK	PAYMENT	INSIDE PMT	\$25.00
		06-12-2018	RBK	PAYMENT	INSIDE PMT	\$25.00
		05-08-2018	RBK	PAYMENT	INSIDE PMT	\$25.00

**Payment Details**

Trust Fund Deposits - Past 6 months: \$4,624.00 Payments commensurate ? Y

New Payment Plan:

\*\* No data \*\*

**Progress since last review**

- Completed Associates Degree of Ministry. 900 programming hours.
- Maintains good work reports as Lt. Capt. Complex Orderly.
- No Birth Certificate on file. Has Social Security card in central file.
- Continues to make all required FRP payments at a rate of \$25/month.
- No money saved in pre-release savings account but maintains a balance of approximately \$1350 in commissary account. Increased this balance by \$200 over the past 6 months.

**Next Program Review Goals**

Rescored as 14/Low. Maintain programming, work reports and clear conduct while Lesser Security transfer is processed.  
Short & Long term goals will be re-evaluated in the event this transfer is denied.

**Long Term Goals**

Rescored as 14/Low. Maintain programming, work reports and clear conduct while Lesser Security transfer is processed.  
Short & Long term goals will be re-evaluated in the event this transfer is denied.  
-Address long term goals as recommended by next unit team.

**RRC/HG Placement**

No.  
Management decision - Will be considered for RRC placement 17-19 months prior to PRD.

**Comments**

\*\* No notes entered \*\*



**Individualized Reentry Plan - Program Review (Inmate Copy)**

SEQUENCE: 01212777

Dept. of Justice / Federal Bureau of Prisons

Team Date: 11-01-2018

Plan is for inmate: MARKS, CHAD 12010-055

Name: MARKS, CHAD  
Register No.: 12010-055  
Age: 40  
Date of Birth: 08-17-1978

DNA Status: POL03076 / 11-02-2010

\_\_\_\_\_  
Inmate (MARKS, CHAD, Register No.: 12010-055)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Unit Manager / Chairperson

\_\_\_\_\_  
Case Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

REGISTER NO: 12010-055  
FORMAT.....: TRANSCRIPT

NAME...: MARKS  
RSP OF: RBK-RAY BROOK FCI

FUNC: PRT

----- EDUCATION INFORMATION -----

FACL	ASSIGNMENT DESCRIPTION	START DATE/TIME	STOP DATE/TIME
RBK ESL HAS	ENGLISH PROFICIENT	06-26-2008 1715	CURRENT
RBK GED HAS	COMPLETED GED OR HS DIPLOMA	06-26-2008 1715	CURRENT

----- EDUCATION COURSES -----

SUB-FACL	DESCRIPTION	START DATE	STOP DATE	EVNT	AC	LV	HRS
RBK	ASSOCIATE DEGREE OF MINISTRY	10-01-2017	06-02-2018	P	C	P	540
RBK	WRITING ABOUT PLACES	03-28-2018	05-03-2018	P	C	P	15
RBK	CRIMINAL THINKING	06-14-2017	08-30-2017	P	C	P	12
RBK	FICTION WRITING - AIR COURSE	02-14-2017	06-01-2017	P	C	P	20
RBK	SUICIDE COMPANION	01-22-2016	05-26-2017	P	W	V	23
RBK	AVP FACILITATOR	07-15-2016	07-17-2016	P	C	P	22
RBK	0730 BUSINESS WORD 1	01-25-2016	07-07-2016	P	W	V	58
RBK	ANGER MANAGEMENT	02-03-2016	05-18-2016	P	C	P	9
RBK	INFORMATIONAL JOB FAIR	04-24-2016	04-30-2016	P	C	P	30
RBK	SCENE WRITING	03-21-2016	05-03-2016	P	W	V	0
RBK	AVP FACILITATORS	03-04-2016	04-15-2016	P	C	P	22
RBK	ASSOCIATE CERT ELECTRONIC TECH	01-01-2016	03-30-2016	P	W	V	86
RBK	AVP BASIC	12-04-2015	12-07-2015	P	C	P	22
RBK	AVP ADVANCED	01-22-2016	01-24-2016	P	C	P	22
RBK	VALUES, GOAL SETTING, & ACHIEVE	05-26-2015	11-17-2015	P	C	P	10
RBK	REENTRY SUPPORT RESOURCES	05-26-2015	11-14-2015	P	C	P	10
RBK	VICTIM AWARENESS & RESTITUTION	05-26-2015	11-14-2015	P	C	P	10
RBK	BASICS OF BUSINESS & OWNERSHIP	10-28-2014	07-15-2015	P	C	P	80
RBK	MOCK JOB FAIR	09-23-2015	09-24-2015	P	C	P	8
RBK	JOB SEARCH WORKSHOP	08-04-2015	10-06-2015	P	C	P	2
RBK	RESUME WORKSHOP	08-04-2015	10-06-2015	P	C	P	2
RBK	TEAMWORK WORKSHOP	08-04-2015	10-06-2015	P	C	P	2
RBK	PROFESSIONALISM WORKSHOP	08-04-2015	10-06-2015	P	C	P	2
RBK	TIME MANAGEMENT WORKSHOP	08-04-2015	10-06-2015	P	C	P	2
RBK	SOCIAL MEDIA WORKSHOP	08-04-2015	10-06-2015	P	C	P	2
RBK	ANGER MANAGEMENT	05-26-2015	09-29-2015	P	C	P	10
RBK	COUNSELING IND. COMM. REENTRY	05-26-2015	09-29-2015	P	C	P	10
RBK	EMPLOYMENT SKILLS	05-26-2015	09-29-2015	P	C	P	10
RBK	JOB PLACEMENT ASSISTANCE	05-26-2015	09-29-2015	P	C	P	10
RBK	MONEY MANAGEMENT SKILLS	05-26-2015	09-29-2015	P	C	P	10
RBK	PERSONAL DEVELOPMENT	05-26-2015	09-29-2015	P	C	P	10
RBK	PROBLEM SOLVING&DECISION MAKE	05-26-2015	09-29-2015	P	C	P	10
RBK	INTERVIEW WORKSHOP	08-04-2015	08-04-2015	P	C	P	2
RBK	USE GRAMMAR-PUNCTATION-SYNTAX	03-26-2015	05-08-2015	P	W	V	6
RBK	LEADERS BREED LEADERS	01-02-2015	01-27-2015	P	C	P	12
RBK	ADVANCED MEMOIR WRITING	01-08-2015	02-26-2015	P	C	P	20
RBK	FAIR SHAKE RESOURCES INFO	11-04-2014	11-05-2014	P	C	P	2
RBK	HOW TO START A NON-PROFIT ORG	11-04-2014	12-04-2014	P	C	P	12
RBK	HANDS ON BANKING	11-15-2014	12-02-2014	P	C	P	6
RBK	HANDS ON BANKING ENTREPRENUERS	11-15-2014	12-02-2014	P	C	P	2

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MORE PAGES TO FOLLOW . . .

*Educational Transcript*

REGISTER NO: 12010-055 NAME.: MARKS  
FORMAT.....: TRANSCRIPT RSP OF: RBK-RAY BROOK FCI

FUNC: PRT

----- EDUCATION COURSES -----

SUB-FACL	DESCRIPTION	START DATE	STOP DATE	EVNT	AC	LV	HRS
RBK	THINKING FOR A CHANGE	12-02-2014	12-02-2014	P	C	P	30
RBK	SUPPORT SYSTEMS	12-02-2014	12-02-2014	P	C	P	2
RBK	PREPARING FOR RELEASE: PART 2	12-02-2014	12-02-2014	P	C	P	2
RBK	DAY OF RELEASE	12-02-2014	12-02-2014	P	C	P	2
RBK	LIFESTYLE CHANGES	12-02-2014	12-02-2014	P	C	P	2
RBK	RELAPSE TRIGGERS	12-02-2014	12-02-2014	P	C	P	2
RBK	SUPPORT SYSTEMS	12-02-2014	12-02-2014	P	C	P	2
RBK	OES FACILITATOR TRAINING	10-14-2014	11-05-2014	P	C	P	4
RBK	OUTSIDE THE WALLS	10-14-2014	11-05-2014	P	C	P	2
RBK	OFFENDER EMPLOYMENT SPECIALIST	10-14-2014	11-04-2014	P	C	P	20
RBK	7 HABITS OF EFFECTIVE PEOPLE	06-24-2014	07-30-2014	P	W	V	4
TCP	SELF-STUDY: GOOD EATS 2	09-11-2013	09-18-2013	P	C	P	4
TCP	SELF-STUDY: GOOD EATS 1	09-11-2013	09-18-2013	P	C	P	5
CLP	ADVANCED CALISTHENICS	07-11-2012	08-15-2012	P	C	P	4
CLP	TYPING CLASS 1230PM-1530PM	03-06-2012	04-03-2012	P	C	E	100
CLP	RPP HEALTH/NUTRITION #1	10-31-2011	10-31-2011	P	C	P	1
POM	JOB SKILL SHU PRE-RELEASE	03-15-2011	05-05-2011	P	C	P	4
POM	ANGER MANAGEMENT SHU PRE-REL	03-01-2011	03-31-2011	P	C	P	4
LEE	HOW TO INCORPORATE	04-26-2010	07-06-2010	P	C	P	10
LEE	ACE - INCORPORATE II	04-26-2010	07-06-2010	P	C	P	10
LEE	RP2 COMM.DRIVER'S LICENSE	01-13-2010	04-05-2010	P	C	P	10
LEE	OWNING YOUR OWN BUSINESS	01-13-2010	04-05-2010	P	C	P	16
LEE	RPP5 RPP ORIENTATION	03-19-2009	03-19-2009	P	C	P	1
LEE	RPP1 AIDS AWARENESS	03-19-2009	03-19-2009	P	C	P	1
BSY	SHU-ACE MAKE YOUR MONEY GROW	11-02-2008	11-14-2008	P	C	P	4
BSY	SHU-ACE MASTER YOUR MONEY	11-02-2008	11-14-2008	P	C	P	4
BSY	SHU-ACE INSURANCE INFO	11-02-2008	11-14-2008	P	C	P	4
BSY	SHU-ACE CONSUMER RIGHTS	11-02-2008	11-14-2008	P	C	P	4
BSY	SHU-ACE HOW TO WRITE A RESUME	10-20-2008	10-30-2008	P	C	P	4
BSY	SHU-ACE PERSONAL CREDIT	10-20-2008	10-30-2008	P	C	P	4
BSY	SHU-ACE HOW TO FIND A JOB	10-20-2008	10-30-2008	P	C	P	4
BSY	SHU-ACE JOB APPLIC TIPS	10-20-2008	10-30-2008	P	C	P	4
BSY	SHU-ACE JOB HISTORY/INVENTORY	10-20-2008	10-30-2008	P	C	P	4
BSY	SHU-ACE TIPS TO FIND A JOB	10-20-2008	10-30-2008	P	C	P	4
BSY	SHU-ACE CREDIT CARD LANGUAGE	10-20-2008	10-30-2008	P	C	P	4
BSY	SHU-ACE READING ADVERTISEMENTS	10-20-2008	10-30-2008	P	C	P	4
BSY	SHU-ACE HOW TO WRITE CHECKS	10-20-2008	10-30-2008	P	C	P	4
BSY	YOUR STRATEGIC FUTURE	07-07-2008	07-07-2008	P	C	P	8
BSY	A & P, JOB SKILLS SURVEY	07-07-2008	07-07-2008	P	C	P	8
BSY	ELL ORIENTATION	06-18-2008	06-18-2008	P	C	P	1

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TRANSACTION SUCCESSFULLY COMPLETED

**Exhibit C**

Letter from Case Manager LaVigne regarding Marks tutoring of his peers with regard to their G.E.D.



U.S. Department of Justice

Federal Bureau of Prisons

Federal Correctional Institution

P.O. Box 300  
Ray Brook, NY 12977-0300

September 4, 2014

MEMORANDUM FOR M. LAVIGNE, CASE MANAGER

FROM: //S//  
T. Breeyear, Education Specialist

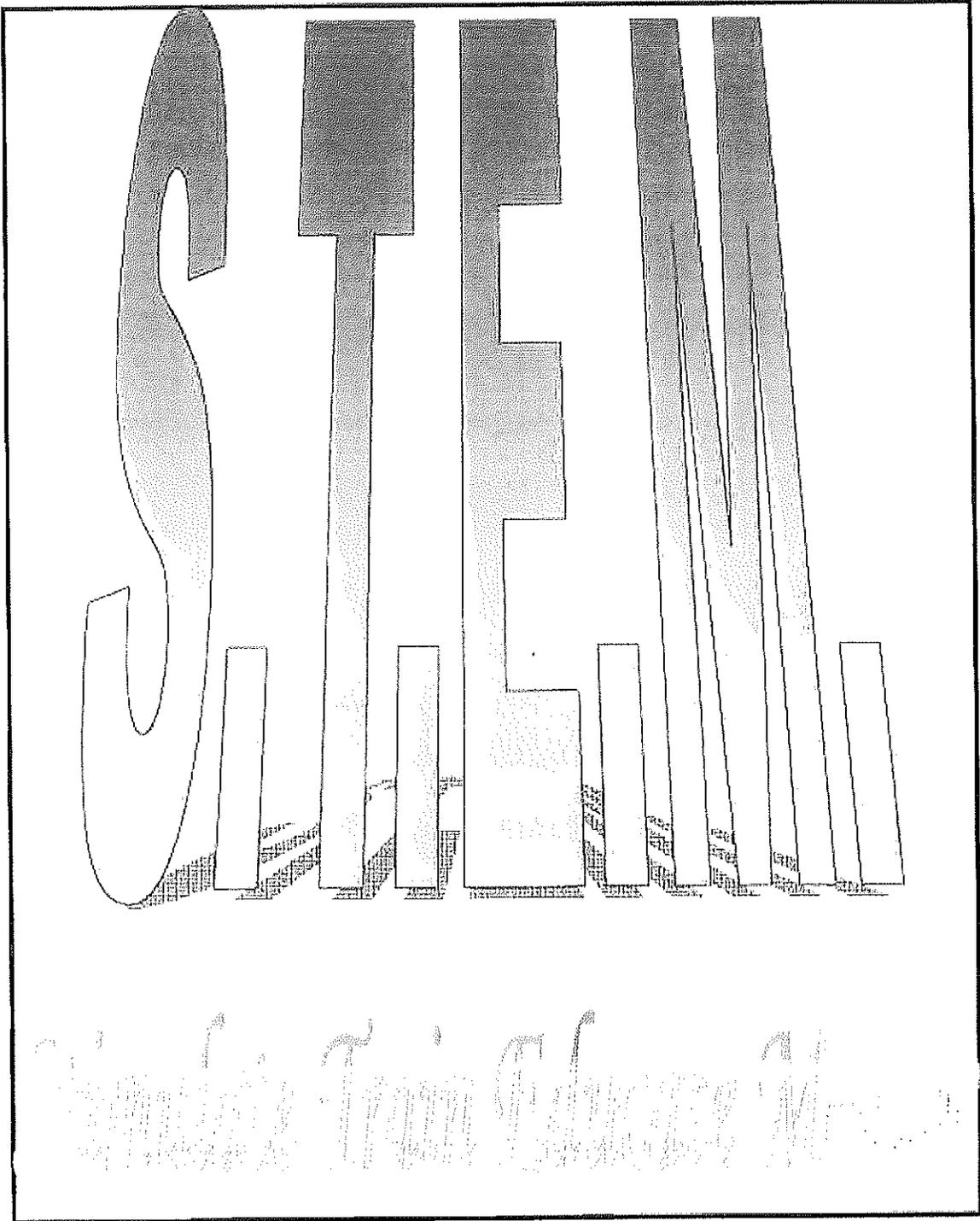
SUBJECT: Marks, C. #12010-055

Inmate Marks, C. #12010-055 has worked for the education department at FCI Ray Brook since July 2, 2014. Inmate Marks' main responsibility is tutoring other inmates in order to assist them in obtaining their GED in the morning, and by teaching an "extra help" GED class that is offered for two hours in the evening. Inmate Marks often volunteers his time in the afternoon, which is his time off during each weekday, tutoring his peers as well.

Inmate Marks has spent numerous hours assisting in the creation of the curriculum of the R.I.S.E. (Rehabilitate Integrate Stimulate Educate) program, which is a new re-entry program that will be offered to inmates at FCI Ray Brook in the near future. As Inmate Marks' supervisor, I'm satisfied with his job performance as it is above that of his peers. Inmate Marks responds well to supervision and instruction, completes tasks without being asked, takes initiative in motivating inmates to obtain their GED, and has an outstanding overall job proficiency.

**Exhibit D**

Stimulate Train Educate Mentor (S.T.E.M.) – President/Mentor of  
S.T.E.M. Emails from Marks indicating curriculum in Part 1, 2 and 3 of S.T.E.M



TRULINCS 12010055 - MARKS, CHAD - Unit: RBK-G-A

---

FROM: 12010055

TO: Bachrach, Michael; Gordon, Gordon; Gordon, Jeremy; Hanf, J; Heslep, Thomas; Hopwood, Shon; Jillian, Harrington; Legal, Appeal; Legal, Craig; Pat, Patsy; Prisolog, Prisology; Psp, Psp; S, Shannon; Stewart, Julie; Walls, Dawn

SUBJECT: STEM PART 1

DATE: 03/21/2016 02:04:32 PM

STEM

STIMULATE TRAIN EDUCATE MENTOR

PRISON PREVENTION CLASS

What is in this series and how to use it.

There has never been a series that explored and explained the philosophy that character is everything more clearly and extensively than the STEM model. This is a series that specifically addresses: bullying, peer pressure, anger management, controlling misguided thoughts, and criminal thinking. It was specifically designed to help young people create a more fulfilling life, the life that they deserve, the life that is productive for them and their communities.

The complete series guidance that will help students establish a moment of clarity concerning their purpose in life and establish more positive thought patterns, attitudes, and emotions. They will learn ways to eliminate those negative and destructive feelings and habits that hinder and prevent their progress in living the law - abiding life we want them to have and live. The life - changing concepts in this series are valid and relevant. They form a road map to educate excellence.

President  
Chad Marks

TRULINCS 12010055 - MARKS, CHAD - Unit: RBK-G-A

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FROM: 12010055

TO: Bachrach, Michael; Case, Gun; Gordon, Gordon; Gordon, Jeremy; Hanf, J; Hopwood, Shon; Jillian, Harrington; Legal, Appeal; Legal, Craig; Pat, Patsy; Prisolog, Prisology; Walls, Dawn

SUBJECT: STEM 2

DATE: 03/21/2016 02:07:56 PM

STEM (STIMULATE TRAIN EDUCATE MENTOR)

TRAIN A CHILD IN THE WAY HE SHOULD GO SO THAT WHEN HE IS OLD, HE WILL NOT DEPART FROM IT.

ROCHESTER NEW YORK PRISON PREVENTION CLASS CURRICULUM

1. PURPOSE AND SCOPE. To provide a course outline, herein referred to as "PRISON PREVENTION CLASS," to complement those offered in the Rochester area schools.

- a. Student character education
- b. Decision making involving peer pressure
- c. Occupational education
- d. Abuse issues
- e. Drug Abuse
- f. Gang violence

This class relates to all students from 5th grade to 12th grade, including charter and public schools, and to any private organization or club which provides youth-oriented services. Such students need training and awareness - some technical, some advisory, and some a matter of insightful and informed practice that is essential to public safety.

While classes from public and private schools address the general standards of living applicable to students, this class more specifically addresses situations that are especially applicable to at-risk students. It is designed for prevention and intervention purposes.

2. ACTION. All schools should ensure each student receives and completes this class.

3. Program/ Class objectives. The expected results of this class are:

- a. Students will conduct themselves in a manner that creates and maintains respect for their family, their community, and their general well-being.
- b. Students will avoid situations which involve crime, drugs, gangs and violence.
- c. Students will comply with school rules and regulations.
- d. Students will uphold the laws governing their lives.
- e. Students will immediately report any abuse, or apparent peer pressure to their principal or another appropriate authority.

4. DEFINITIONS. For the purpose of this class, the following definitions apply:

A. Rochester Prison Prevention Class (RPPC). The official name of this course.

B. Money and Drug Addiction (MADA). MADA typically will involve assessment/evaluation, treatment, and monitoring/managing components. The assessment/evaluation component of MADA is non-voluntary. Assessment of at-risk behavior will be completed for all students. Behavior treatment is a voluntary component of MADA. The monitoring/managing component of MADA IS NON-VOLUNTARY.

C. Behavioral Modification Plan (BMP). Students with a disruptive behavior while in school, may be subjected to the development of a Behavioral Management Plan (BMP). BMP's with parental approval, may impose relevant restrictions in the interest of ensuring the good order, discipline and safety of the school, and or to protect the public.

D. Risk Relevant Information (RRI). Risk relevant information obtained from students, or obtained about students during the course of their enrollment, is considered to be confidential. Risk relevant information obtained during a student's enrollment may be documented in students' school record, and reviewed in association with formal evaluation procedures utilized in the determination of whether a student meets criteria for the development of a Behavioral Modification Plan.

E. Conduct During field trips. The time between the beginning and the end of a field trip. The conduct of a field trip begins on the earliest date an authorized official directs that a specific field trip be taken to promote incarceration prevention. These field trips include :

Correctional facilities  
Morgues  
Federal and State Courtrooms  
Hospitals  
Colleges  
Businesses

#### 5. Money and Drug Addiction (MADA)

The Mada program is indefinite intense treatment for students who meet the diagnostic criteria for substance abuse or money addiction. It encompasses an evidence - based therapeutic correctional model which seeks cooperation and self - disclosure from a student participant . Selection of participants is based on risk relevant information. Students who successfully complete the class shall be recommended for peer counseling positions.

#### 6. Behavioral Modification Plan

Disruptive students will be referred to Behavioral Health Specialists for monitoring. Students will be referred for an assessment of risk and treatment and management needs. life coaches will be assigned to disruptive students and the coaches will aid in the development of viable life plans for each student and situation.

#### 7. Occupational Education

Students shall have access to wide range of occupational training lessons which provide the opportunity to obtain lawful market Skills. Course offerings will be based on general crime conditions, community labor force needs, and vocational training needs of each student.

Note: Possible training may include custodial work, which contributes significantly to the operations and Specialists of schools, and community service projects, which provide actual hands - on work experience to the students.

#### 8. Employment Preparation

The employment preparation portion of IPC assists students with specific and broad - based preparation for the labor force. Students can learn resume writing, interview skills, job search and retention skills. Mock Job Fairs will provide realistic experiences for those students nearing graduation or quitting altogether.

#### 9. Field Trips

Field Trips are considered an essential part of the overall objective. IPC's field trips are designated to achieve the following objectives:

1. Alter behavior.
2. Provide for constructive glimpses into the consequences of crime and violence.
3. Promote lawful and productive lifestyles.
4. Introduce new ideas and behavior patterns.
5. Provide an alternative to crime, drugs, gangs, violence, guns, through highly structured classes.
6. To show youth that with good decisions come greater things in life.

#### 10. Measurable Goals

With in several days of assignment in IPC, the students status is reviewed that review the student may attend. After the initial review, every student receives recurring 14 day reviews to ensure all basic necessities are met, including sufficient progression in verbal and nonverbal communication skills. Every 30 days the students status is reviewed at a review the parents may attend.

#### 11. Monitoring

PPC also has several incarceration prevention safeguards in place for students at risk. Beyond the School District training that all school officials complete, officials working PPC will also undergo additional supplement incarceration prevention training to ensure they are well trained on risk factors, warning signs, and appropriate responses to students who engage in risky behavior while enrolled in IPC. Students in these situations will be routinely monitored by all officials for any behavioral changes that might indicate risk.

TRULINCS 12010055 - MARKS, CHAD - Unit: RBK-G-A

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FROM: 12010055

TO: Bachrach, Michael; Gordon, Gordon; Gordon, Jeremy; Hanf, J; Heslep, Thomas; Hopwood, Shon; Jillian, Harrington; Legal, Appeal; Legal, Craig; Parker, Haley; Pat, Patsy; Prisolog, Prisology; Psps, Psps; S, Shannon; Stewart, Julie; Walls, Dawn

SUBJECT: STEM PART 3

DATE: 03/13/2016 03:21:26 PM

STEM

STIMULATE TRAIN EDUCATE MENTOR

1. **PURPOSE AND SCOPE:** To provide cost - effective (sophisticated) live experiences and digital experiences.
2. **SUMMARY OF PROGRAM:** The program includes live and electronic field trips to a courtroom, correctional facility, hospital, morgue, college, and businesses. The broader educational objective is to satisfy universal standards of learning through out the states as opposed to a particular educational objective by one school. Additionally, schools may supplement electronic field trips with corresponding DVD's which simulate virtual tours as well as live tours.
3. **ACTION:** All schools shall ensure each student is able to watch video, ask follow - up questions and discuss the presentation all in one sitting. As to live field trips each student shall be able to ask follow up questions.
4. **PROGRAM OBJECTIVES:** The expected results of this program are:
  - a. Students will conduct themselves in a manner that creates and maintains respect for the school, the community, and the law.
  - b. Students will avoid situations which lead to delinquency and criminal inclinations.
  - c. Students will comply with school rules and the laws of the United States.

**Exhibit E**

Leaders Breed Leaders, Certificate of Achievement as Facilitator for in-depth training (1/27/15). Also included is Staff observation assessment.

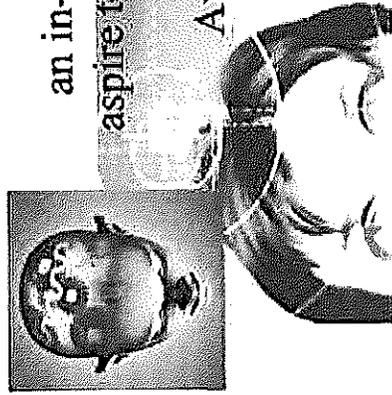
# Certificate of Achievement

This certificate hereby acknowledges

**Chad Marks**

for successfully facilitating each core competency of  
*Leaders Breed Leaders*,  
an in-depth training course designed for men who  
aspire to achieve positions of leadership in their lives.

Awarded on this 27<sup>th</sup> day of January, 2015.



*M. Lavigne*

M. Lavigne, Adult Continuing Education Coordinator

Inmate: MARKS, CHAD | Photo Register Number: 12010-055 Detainer: N Lookup RegNo.:  
Institution: RAY BROOK FCI Age: 36 CMC: Y  
Projected Release: 03-12-2038 Release Method: GCT REL Sentry: [Unknown] | Synch

## Assessment Plan

### Staff Observation

SpellCheck

Save Cancel Reset

Finished

#### Current Staff Observations

Date	Fac	Dept	Observation
05-01-2015	RBK	EDU	Has taught the ACE course Leaders Breed Leaders twice for the Education Department. As an Instructor he keeps his student's engaged and actively learning.

⬆ BACK TO TOP

**Exhibit F**

Certificate of Completion for Suicide Companion Program (1/22/16);

Certificate of Completion for Suicide Companion Program quarterly required training (3/7/16) and Agenda from that Certification;

Certificate of Completion for Suicide Watch (2/19/16) and Agenda from that Certification.

# CERTIFICATE OF COMPLETION



THIS CERTIFICATE HAS BEEN AWARDED TO  
**CHAD MARKS (12010-055)**

FOR SUCCESSFUL COMPLETION OF THE MANDATORY 4-HOUR  
TRAINING REQUIRED TO SERVE AS A MEMBER OF THE SUICIDE  
COMPANION PROGRAM AT FCI RAY BROOK, NEW YORK.

*T. Meisner, Psy.D.*  
T. MEISNER PSY.D., CHIEF PSYCHOLOGIST

*January 22, 2016*  
DATE

# CERTIFICATE OF COMPLETION



THIS CERTIFICATE HAS BEEN AWARDED TO

**CHAD MARKS (12010-055)**

FOR SUCCESSFUL COMPLETION OF 2-HOURS OF QUARTERLY  
TRAINING REQUIRED TO CONTINUE SERVING AS A MEMBER OF  
THE SUICIDE COMPANION PROGRAM AT FCI RAY BROOK, NY.

*T. Meisner, PsyD.*

**T. MEISNER PSY.D., CHIEF PSYCHOLOGIST**

*3/7/2010*

**DATE**

3/4/2016

Federal Correctional Institution Ray Brook  
128 Ray Brook Road  
Ray Brook, New York  
12977

**SUICIDE COMPANION PROGRAM – QUARTERLY TRAINING (2 HOURS)**

- A. Addressing Concerns: Scheduling, Review of Confidentiality & General Inquiries – 5 minutes
- B. Mental Health Diagnoses: Preconceived ideas, myths & biases regarding mental illness– 30 minutes
  - a. Categories of Diagnoses
  - b. Over/Underdiagnosis
  - c. Challenging Stigma
- C. Common Diagnoses Presented during Suicide Watch: Diagnostic Features, Prevalance and Behavioral Presentation -- 50 minutes
  - a. Antisocial Personality Disorder
  - b. Borderline Personality Disorder
  - c. Major Depressive Disorder
  - d. Dysthymic Disorder
- D. Being Aware of your Personal Biases: The effect your personal expereinces has on your interaction with others – 30 minutes
- E. Assigned Reading for the Next Training: Jumpers – 5 minutes

# *Certificate of Completion*

*This Certificate Has Been Awarded to*

*Chad Marks*

*12010-055*

*For successful completion of 2-hours of training  
following a suicide watch at FCOG Ray Brook, New York*

*J. Meisner, PsyD.*

*J. Meisner Psy.D., Chief Psychologist*

*MARCH 17, 2016*

*Date*

3/17/2016

FCI Ray Brook  
128 Ray Brook Road  
Ray Brook, New York  
12977

**SUICIDE COMPANION PROGRAM – DEBRIEFING (2 HOURS)**

- A. Review of Inmate Suicides Since the Last Training – 10 minutes
- B. Issues From Watch - 30 minutes
  - 1. Location/availability of the schedule
  - 2. Punctuality
  - 3. Effective communication with staff and inmates
- C. Taking a Closer Look at Risk Factors and Protective Factors - 30 minutes
  - 1. Importance of history
  - 2. Considering acute and chronic factors
  - 3. Focus on impulsivity, agitation and poor problem solving skills
- D. Log Book Entries from Watch – 45 minutes
  - 1. When you sign in, write and sign your name, include your register number and make an initial observation
  - 2. Make entries at 0:00, 0:15, 0:30 and 0:45 REGARDLESS of when you made your last entry
  - 3. The left column is for the time only
  - 4. Do not skip any lines. There should be an entry on every line of the book
  - 5. Use objective language -- state strictly the facts and your direct observations. Avoid assumptions and/or your own personal assessment
  - 6. If you make a mistake, draw a single line through the error and initial
- E. Addressing Questions, Concerns and Recommendations - 10 minutes

RAY BROOK, NEW YORK •

FEDERAL CORRECTIONAL INSTITUTION

# CERTIFICATE OF COMPLETION

THIS CERTIFICATE HAS BEEN AWARDED TO

**CHAD MARKS**

**12010-055**

FOR SUCCESSFUL COMPLETION OF 1-HOUR OF TRAINING  
FOLLOWING A SUICIDE WATCH AT FCI RAY BROOK, NEW YORK.

*T. Meisner, PsyD*

T. MEISNER PSY.D., CHIEF PSYCHOLOGIST

*February 19, 2016*

DATE

2/19/2016

Federal Correctional Institution Ray Brook  
128 Ray Brook Road  
Ray Brook, New York  
12977

**SUICIDE COMPANION PROGRAM – DEBRIEFING (1 HOUR)**

- A. Addressing Issues from Watch: Notification of Watch, Property Sheet and Scheduling- 10 minutes
- B. Review of the Suicide Watch Log: Appropriate log entries including use of tentative language, making sure all space is accounted for and time requirements – 15 minutes
- C. Speaking with the Inmate on Watch: Knowing Your Role -- 10 minutes
- D. Weighing Risk and Protective Factors: How a “protective” factor might actually be a risk factor – 10 minutes
- E. Review of Inmate Suicides from FY 2016: A look at common trends and concerns – 10 minutes
- F. Suggestions for Future Training – 5 minutes

### **Exhibit G**

Alternatives to Violence Project, Inc. letter attesting to Chad Marks completion of AVP Facilitator Training Workshop. (3/6/16). Also included the photo of those graduating the course Mr. Marks facilitated. Also included are the two certificates he received.



ALTERNATIVES TO VIOLENCE PROJECT, INC.

P.O. Box 6851

Ithaca, NY 14851-6851

Phone and fax #: 800-909-8920 or 315-604-7940

e-mail: info@avpny.org

To Whom It May Concern:

This letter attests to the fact that CHAD MARKS has completed an AVP Facilitator Training Workshop (T for F).

The workshop consisted of approximately 20 hours of experiential learning in the fundamentals of leading an AVP Basic Course Workshop. This workshop has prepared the above named individual to serve as an Apprentice Trainer on an actual AVP workshop team.

Upon completion of an apprenticeship (the length to be determined by local AVP Area Councils), this individual will be conferred as a fully qualified AVP Facilitator through the receipt of a gold-bordered certificate.

6 MARCH 2016  
Date

STEVE BRADLEY  
Lead Facilitator

Jill P. McLellan  
Jill McLellan, President  
Alternatives to Violence Project / New York



EXPECT THE BEST  
RESPECT FOR SELF  
TRANSFORMING  
POWER  
CARRYING FOR  
ASK FOR A NON-VIOLENT PATH  
THINK BEFORE REACTING  
THINK FOR OTHERS

THE  
[Illegible text]

# AVP

THE ALTERNATIVES TO VIOLENCE PROJECT, INC.

CERTIFIES

that

*Chad Marks*

has completed a BASIC COURSE in Nonviolent Conflict Resolution

*Stevens Braxton*  
Facilitators  
*Carayn Foltz*

12.6.15

Date

*W. P. M. Lellan*

President  
AVP Board of Directors

# AVP

THE ALTERNATIVES TO VIOLENCE PROJECT, INC.

CERTIFIES

that

Chad Marks

has completed an ADVANCED COURSE in Nonviolent Conflict Resolution

STEVE BRADLEY      24 JAN '16      Carlynn Sautropus      via P. M. Bellam  
Facilitators      Date      Co-President      Co-President  
AVP Board of Directors      AVP Board of Directors

**Exhibit H**

Letters from Marks peers attesting to Marks character, as well as his "jail house lawyer" work that he has done, and won.

January 1st, 2019

To those whom it concerns,

When I first came to Ray Brook, Chad Marks extended his hand and welcomed me. He was the one who gave me a tooth brush, tooth paste, soap and other toiletries the government fails to supply adequately. Chad Marks keeps these items, having purchased them from commissary, to give to prisoners such as myself when they arrive with nothing, knowing no one.

In the time I've known Chad I've come to know a leader, not just of the hundred men on our block, but of the 700 in the jail. The men here all respect Chad as a no-nonsense, fair, responsible individual who holds things together.

People go to Chad as an intermediary. They know he can be trusted to address the person(s) directly and fairly. I have witnessed Chad intervene consistently in situations that otherwise would have gotten ugly. He consistently organizes "interventions" to confront drug-use and recently even took on a young man's several-hundred-dollar debt (allowing him to make payments to Chad for repayment) to avoid what would have been very unfortunate repercussions.

When officers of the BOP have an issue they prefer to deal with by way of a prisoner-liaison, Chad is one of the people they go to. Certainly if they are looking for a leader of the white people.

Chad is not only the go-to-man for all unofficial matters. He is also the number one legal expert on the compound. Chad spends his time helping others with their legal work (appeals, habeas corpus, etc), often doing so for very little or nothing at all, if the person cannot afford to pay.

Recently Chad received a letter from the girlfriend of one of his clients who had transferred to another facility. She

was asking Chad if he could help with some latest facet of her boyfriend's appeal/habeas. Chad said he would do it and I asked why he doesn't ask the girlfriend for a payment. Chad responded that he felt bad doing that because he knew they didn't have much money.

Chad is an inspiration to us all. Despite all he has faced in the past 16 years, he remains positive and hopeful. He often speaks of wanting to continue to help people on the outside. I know Chad has come too far, and has too much to offer the world, for it to be plausible that he would return to an illicit profession. I believe anyone who knows Chad agrees.

Even Chad's own sentencing judge is among those who are presently advocating for Chad's release from an excessively burdensome sentence.

And it is burdensome for more than Chad, alone.

A prisoner's greatest debt to society is to learn the error of his/her ways and to eliminate the possibility of future transgressions; to become "civilized." This ought to be the motivation, and it is the claimed justification of "correctional" facilities. Chad has paid his debt. He, his family, and society deserve to have him go home.

I am among those who pray for his release.

Christopher von Stein

Felix Morales  
FCI Roy Brook  
P.O. Box 900  
Roy Brook, NY 12977

October 8, 2018

My name is Felix Morales and I am from -  
Spring field, Massachusetts. My parents paid two  
different attorneys to help me. Neither attorney could  
help me. Chad Marks worked on my case for free, and  
my sentencing judge reduced my sentence by 8 years.  
I am grateful for Chad Marks who has been a real  
friend to me. I never thought a white person would  
ever help me for free, but Chad did.

I know I am in prison, and maybe it might not  
mean a lot coming from a prisoner, but I know Chad  
is a good dude who will do good things with  
his life if he gets out of prison. This guy helps  
everyone.

sincerely

Felix Morales

Bradley Barnoldt  
#30703-068  
F.C.I. Ray Brook  
P.O. Box 900  
Ray Brook, N.Y. 12977

To Whom it may concern,

I am writing in regards to federal prisoner Chad Marks #12010-055. I have been in the same prison with him for nearly 5 years, and watched him transform into the man he is today. Chad has been an inspiration to me, a motivator, and an example on how to be a leader. He has gone out of his way to help me with all of my legal fillings in the courts, and a true friend in a place where friends are not common. I really look up to him because he is a good hearty man and selfless. He is willing to help anybody at anytime. Chad inspires all of us to be real men, real leaders, and real fathers. He always shares words of wisdom, and simply put he motivates us to be better

people. There is no doubt in my heart,  
that if he gets released from prison,  
that he will do great things with his  
life. His actions demonstrate who he is  
as a man

Respectfully,  
Bradley Barnett  
*Bradley Barnett*

Jason Belcher #08775-088

January 1, 2019

To whom it may concern,

I am writing this letter regarding inmate Chad Marks. I have lived in a housing unit with Chad for nearly two years. He helped me by writing my appeal in the summer of 2018. The Fourth Circuit granted my appeal and my sentence was reduced by 28 months.

Chad is a person that goes out of his way to help others and I am grateful that I met him. His legal writing is the reason that I will be home with my wife and children sooner than was expected.

Respectfully,  
J. Bell  
Jason Belcher

**Exhibit I**

October 11, 2016 letter from FPD in Charge Deirdre von Dornum commending Marks on the habeas petition he wrote for one of their clients. The government agreed to grant the motion that Marks wrote.

**Federal Defenders**  
OF NEW YORK, INC.

One Pierrepont Plaza-16th Floor, Brooklyn, NY 11201  
Tel: (718) 330-1200 Fax: (718) 855-0760

David Patton  
*Executive Director and  
Attorney-in-Chief*

Deirdre D. von Dornum  
*Attorney-in-Charge  
Eastern District of New York*

October 11, 2016

Chad Marks  
Reg. No. 12010-055  
FCI Ray Brook  
Federal Correctional Institution  
P.O. Box 900  
Ray Brook, NY 12977

Dear Chad:

I am writing to let you know some great news and to thank you. Wang Jia Fu was sentenced today to 160 months (to begin running on 8/16/03, so he is done with his federal sentence, and will soon be transferred to immigration custody). That's a 200 month reduction from his original sentence. The government agreed to grant the habeas petition you drafted! He told me how much help you gave him, and have given others. I really appreciate all that you do, and I wish you all the best in your own case.

With thanks, and all best wishes,

A handwritten signature in black ink, appearing to be 'D. von Dornum', with a stylized flourish extending to the right. The signature is written over the printed name.

Deirdre D. von Dornum  
Attorney-in-Charge

**Exhibit J**

Letter from Criminal Legal News & Prison Legal News Managing Editor Richard Resch praising Marks for his outstanding legal writing and hard work.

Also included are a few articles that were published.



# Human Rights Defense Center

DEDICATED TO PROTECTING HUMAN RIGHTS

Richard Resch  
Managing Editor  
Criminal Legal News  
P.O. Box 1151  
Lake Worth, FL 33460

March 19, 2019

To Whom It May Concern:

Please be advised that Chad Marks serves as a staff writer for *Criminal Legal News* and *Prison Legal News*. He is a true asset to our publications. I am especially impressed with his writing skills, professionalism, enthusiasm, and devotion to helping readers of our publications through his writing. Chad has written dozens of articles for us. I've included a sample of his work with this letter.

Chad is a pleasure to work with; he's passionate, conscientious, and hardworking. Upon his release from prison, he may continue to write for us if he chooses. If he elects to do something else, I have no doubt that he will be successful in whichever career he pursues.

Please do not hesitate to contact me at 561-360-2523 or [rresch@humanrightsdefensecenter.org](mailto:rresch@humanrightsdefensecenter.org) should you need any further information or have any questions.

Sincerely,

A handwritten signature in blue ink that reads "Richard Resch". The signature is fluid and cursive.

Richard Resch



## Prison Education Guide BY CHRISTOPHER ZOUKIS

(/adzone/view/32/)

# ☀ President Trump Signs First Step Act Into Law—It's a Good Initial Attempt at Meaningful Reform

Loaded on JAN. 17, 2019 by Chad Marks (/news/author/chad-marks/) published in Criminal Legal News February, 2019 (/news/issue/2/2/), page 14

Filed under: Criminal justice system reform (/search/?selected\_facets=tags:Criminal%20justice%20system%20reform), Rehabilitation/Recidivism (/search/?selected\_facets=tags:Rehabilitation/Recidivism). Location: United States of America (/search/?selected\_facets=locations:998).

by Chad Marks

In December 2018, President Trump signed the bipartisan First Step Act into law. It's the most substantial change in a generation to the tough-on-crime prison and sentencing laws that have cost taxpayers billions of dollars and destroyed countless families, sending many non-violent offenders to prison for decades under grotesque sentencing laws.

There was talk in the waning days of 2018 that this reform would not come up for a vote in the Senate. That is when President Trump stepped in, urging Senate Majority Leader Mitch McConnell (R-Kentucky) to bring the bill up for a vote. Within days, the vote was held, and with it, a historic moment in our criminal justice system took place.

The First Step Act, while not perfect, is a good initial attempt at reform. The legislation does many good things. It prevents incarcerated women in federal custody (except in certain cases) from being shackled when giving birth, expands job training directed at reducing recidivism rates among federal prisoners, and expands early-release programs, allowing some prisoners to earn earlier releases through working and rehabilitative programs, just to name a few.

One of the most important parts of the legislation is sentencing reform. There is a so called "three strikes" law that has sent many non-violent drug offenders to prison for the rest of their lives. That mandatory sentence will no longer be imposed as the First Step Act now replaces it with a 25-year sentence rather than life. Repeat offenders with only one prior conviction will face 15 years rather than the 20 years that was in place prior to the signed legislation.

Many prisoners were happy when there was talk about criminal justice reform being added to the bill as Senator Chuck Grassley (R-Iowa) pushed for it. Weeks before the legislation was approved, there were rumors floating around the federal prison system that there would be compromises to get the bill passed that would eliminate the changes in the law being retroactive for prisoners who were already serving these unduly harsh sentences that the new law addresses. With that news, some prisoners felt deflated. Some of them were prisoners like Bradley Barndt and Mike Saylor, both serving a 20-year term of imprisonment at FCI Ray Brook under the 20-year minimum based on what is called 851 enhancements.

In Barndt's case, the judge lamented that he felt 20 years was unjust, but his hands were tied by the mandatory-minimum laws. Another prisoner who felt let down was Tyrone Hines, who has served over 20 years of a life sentence for his non-violent drug conviction. All three men have said they can only hope that with lawmakers acknowledging these laws are wrong, President Trump will push for a Second Step that will include making the changes retroactive so that they, too, can get a second chance at life.

Former federal judge John Gleeson, who as a prosecutor prosecuted mob boss John Gotti, stated in one case that this law "produces the sentencing equivalent of a two-by-four to the forehead."

### **'Stacking' Nixed**

The First Step Act also changes what was commonly referred to as the "stacking law" of 18 U.S.C. § 924(c). For many years, people have been sentenced to outrageous sentences of hundreds of years under this law. In many cases, those sentences far exceeded a person's life expectancy.

Section 924(c) serves as a triple threat. First, it provides for mandatory sentences, which by definition renders the judge powerless to determine an appropriate punishment at sentencing. Second, it results in onerous 25-year enhancements for each second or subsequent 924(c) conviction. These are not typical recidivism enhancements because the second or subsequent convictions can occur in the same trial. Third, the mandatory sentences required by 924(c) also are mandatorily consecutive to one another and to all sentences in the case. Judge John Gleeson said these sentences "would be laughable if only there weren't real people on the receiving end of them."

In 2011, the United States Sentencing Commission began to ask lawmakers to reform § 924(c) to blunt the harsh impact it mandates in many cases. Congress answered that call with the First Step Act by ensuring that second or subsequent 924(c) convictions resulting in additional 25-year terms for each count cannot be had in the same indictment or trial. But, much like the prior drug felony enhancements, this change does not apply to those currently incarcerated.

### **Fix It to Be Retroactive**

I personally know the disappointment of this change not being made retroactive. Nearly 16 years ago, at age 24, I was arrested and charged with two separate 924(c) counts in the same indictment. I was eventually sentenced to a 40-year federal mandatory minimum sentence. Had this change been made retroactive, my sentence would have likely been reduced to a 15-year term. In October 2018, my

sentencing judge wrote a letter to President Trump urging him to grant my request for clemency by reducing my sentence to 15 years. The judge in his letter referenced my sentence being excessive based on the 924(c) stacking law.

These parts of the sentencing reform not being retroactive from the outset is disappointing and hurtful. A second chance to reclaim my life was so close yet so very far away.

While I was hurt like many other prisoners, I had to realize two very important things: (1) the First Step Act is not just about Chad Marks and those similarly situated; it's about the many men and women it will help in significant ways right now and (2) it is titled First Step Act for a reason. With that in mind, my disappointment has transformed into hope—for a Second Step Act.

One very positive thing that the First Step Act does do is it allows offenders sentenced before a 2010 reduction in the sentencing disparity between crack and powder cocaine to ask the sentencing judge to lower or reduce their sentences. This change could pave the way for nearly 3,000 prisoners to obtain an earlier release. This is a second chance to be fathers, mothers, sons, daughters, and law-abiding citizens. This is something that anyone in prison who understands the hardships we all face should find joy in — for those who now will get their second chance earlier.

As a federal prisoner, I have heard many gripes from other prisoners that the First Step Act does nothing for them, and therefore, it's nothing but nonsense. I simply tell them to see the glass as half full rather than half empty. I am hopeful that this law is just a glimpse of what is to come, and in my opinion, it is not nonsense—it's hope. In life, we all know that every journey begins with a first step; a second step would be impossible absent the first one. That is just a basic concept in life that we cannot forget.

Digesting the fact that the Sentencing Reform was not retroactive with respect to most of the sentencing changes was not an easy thing to do, and I acknowledge that. But I also recognize that lawmakers have said that these laws are unjust, and in doing so, I believe it is only a matter of time before they are.

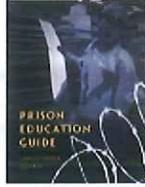
What I see with the First Step Act is that the criminal justice reform debate has shifted in a much more positive direction. When the Senate voted to pass the legislation, it was President Trump who tweeted that the law would, “keep our communities safer, and provide hope and a second chance.” It is our job as prisoners and former prisoners to help change society's perception of prisoners, prison, and our criminal justice system. We can do that by doing everything we can to show that we all deserve a second chance.

We must become the change we seek.

For me, the First Step Act is a reason for prisoners to be rejoicing because change has begun. There was talk of a Second Step before the First Step Act even passed, and there also has been talk of clemency reform. My advice to everyone is do not count further retroactive reforms out or President Trump. If you do, I think he is going to surprise you.

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Chad Marks is a staff writer for Criminal Legal News and Prison Legal News. The views and opinions expressed in this article are his own and do not necessarily reflect those of CLN and PLN.



## Prison Education Guide BY CHRISTOPHER ZOUKIS

(/adzone/view/32/)

# New York Criminal Defense Attorney Charged with Federal Crimes

Loaded on MARCH 5, 2019 by Chad Marks (/news/author/chad-marks/) published in Prison Legal News March, 2019 (/news/issue/30/3/), page 58

Filed under: Attorney Misconduct (/search/?selected\_facets=tags:Attorney%20Misconduct). Location: New York (/search/?selected\_facets=locations:1505).

*by Chad Marks*

Scott Brettschneider, 61, a criminal defense attorney from Queens, New York known by many as “Mighty Whitey,” was arrested on March 26, 2018 in connection with accusations that he falsified documents to get one of his clients an early release from prison. He and three other defendants were charged in a two-count indictment with conspiracy to make false statements and making false statements.

Brettschneider was implicated in a plot that involved submitting false information to the federal Bureau of Prisons (BOP). The documents contended that Brettschneider’s client Richard Marshal had a history of substance abuse and attempts at rehabilitation for his drug addiction. The BOP allows prisoners to earn one year off their sentences for completing a Residential Drug Abuse Program (RDAP). In order to be eligible for that program, prisoners must have a documented history of drug abuse, and Brettschneider and the others who were charged allegedly attempted to provide that documentation to the BOP on Marshal’s behalf. However, Marshal was a drug dealer – not a drug user with a substance abuse problem.

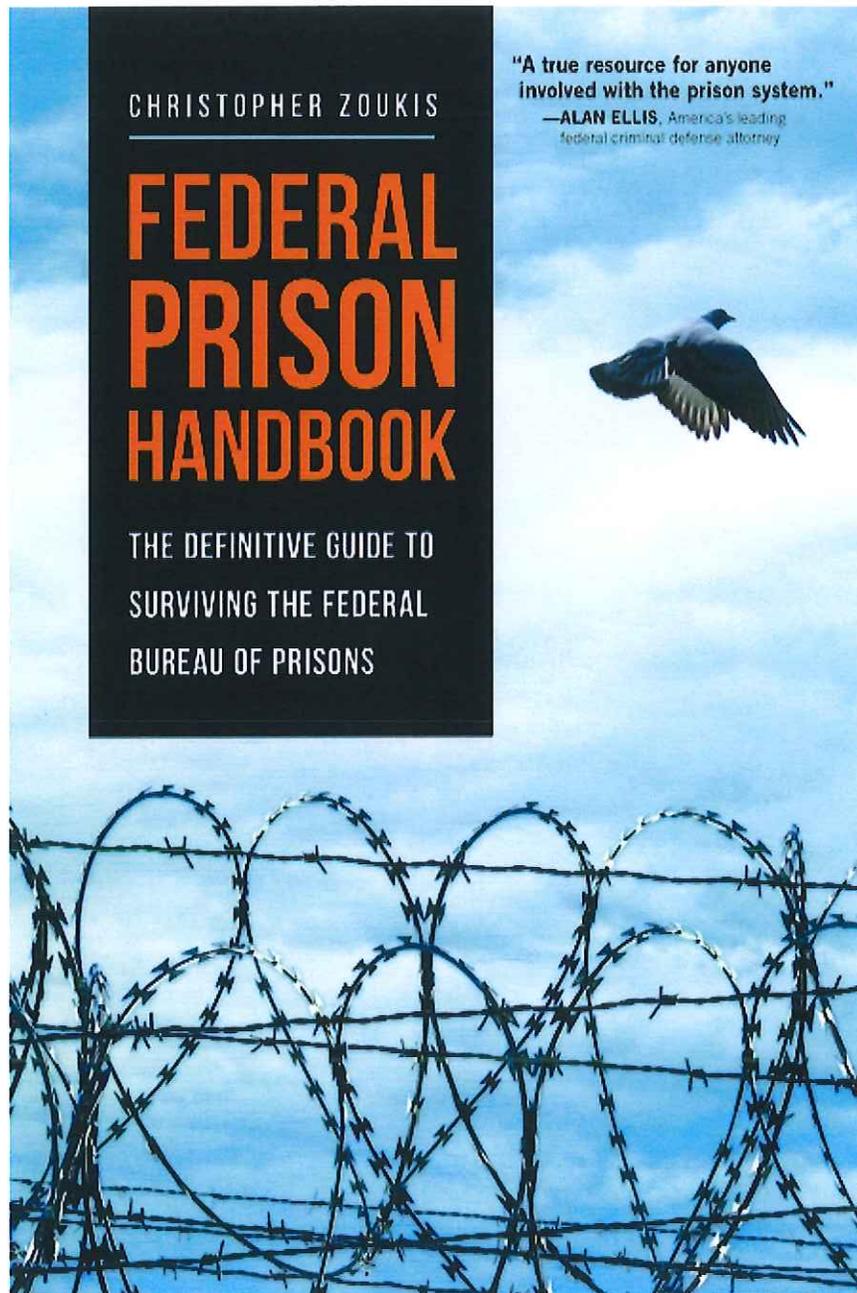
This was not Brettschneider’s only brush with the feds. In May 2018, Brooklyn federal prosecutors said the defense attorney had conspired to stage a phony exoneration in a murder case. There was reportedly a plan in 2014 to get a witness in a murder case to recant his testimony in order to free a convicted murderer. Brettschneider and his legal assistant, Charles Gallman, who had a rap sheet that included murder and robbery, set up the scheme in hopes of landing a wrongful conviction lawsuit.

As part of an investigation into their conduct, law enforcement observed Brettschneider pick up Gallman in his car, then pick up the witness. Gallman was later heard on a wiretap bragging about the witnesses’ recantation, describing it as “The best recantation I ever heard,” while Brettschneider called the fabricated wrongful conviction a “slam dunk” and “home run.”

Both men were allegedly heard on the wire tap plotting the scheme. They apparently had big money dreams of filing multimillion-dollar lawsuits based on innocence claims after orchestrating their client’s “exoneration.”

While he will be in federal court, Brettschneider won't be appearing as an attorney but rather as a defendant. He has pleaded not guilty. Meanwhile, Gallman pleaded guilty in July 2018 to bribing a witness and trying to coerce the victims in an unrelated firearms case.

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Sources: *justice.gov*, *themarshallproject.org*, *law.com*



(/adzone/view/41/)



# Prison Education Guide

## BY CHRISTOPHER ZOUKIS

(/adzone/view/32/)

## 🌸 Grandmother Arrested and Mocked by Federal Agents Awarded \$55,000 Settlement

Loaded on MARCH 5, 2019 by Chad Marks (/news/author/chad-marks/) published in Prison Legal News March, 2019 (/news/issue/30/3/), page 53

Filed under: Misconduct/Corruption (/search/?selected\_facets=tags:Misconduct/Corruption), Immigration (/search/?selected\_facets=tags:Immigration). Locations: California (/search/?selected\_facets=locations:1476), United States of America (/search/?selected\_facets=locations:998).

by *Chad Marks*

Guadalupe Robles Plascencia became a naturalized U.S. citizen in May 1998, and San Bernardino, California has been her home for nearly 40 years. It's where she raised her five children. It also is the place where she and one of her daughters opened their own business – a beauty salon.

She was living the “American Dream,” but all that changed on March 29, 2017.

Plascencia and her daughter went to the Ontario Police Department to pick up her legally owned firearm that was recovered from the scene of a car accident. That was when her “American Dream” became a nightmare.

The San Bernardino County Sheriff's Department handcuffed the grandmother of 16 and told her she was being arrested for disobeying a court order. Before long, she was in a cell at the county jail being directed to sign a document informing the Mexican consulate of her arrest.

Plascencia explained that she was a U.S. citizen. The sheriff's department had her driver's license, gun registration and other paperwork demonstrating she was a citizen. Rather than being released she spent the night in a cell, and the next afternoon was told she was being freed but had to sign paperwork notifying Immigration and Customs Enforcement.

Rather than allow the 60-year-old woman to leave the jail, she was told to wait in a cell. That was simply a ruse to buy time for ICE to show up and arrest her again – reportedly a common practice for the San Bernardino Sheriff's Department. Before long, Plascencia was arrested again and transported to an ICE field station.

When she again insisted she was a U.S. citizen, officers laughed at her and said, “Here, you are nobody, nothing.”

Plascencia tried to explain her daughter had her passport, and was told by an agent that he could review data accessible through a computer and determine her citizenship status. The agent insinuated he knew she was lying and accused her of identity theft, threatening to deport her. Several requests to call her daughter to bring her passport to the field station were denied. An agent eventually called her daughter, who showed up with Plascencia's passport.

She was eventually released from custody with no apology.

Plascencia filed suit in the U.S. District Court for the Central District of California on December 19, 2017, raising claims of false imprisonment, emotional distress and unreasonable seizure, among others.

It did not take long to settle the case, and Plascencia was awarded \$55,000 in October 2018. The settlement has not taken away her "American Nightmare," though, as she fears being arrested again and threatened with deportation despite the fact that she is a U.S. citizen. See: *Plascencia v. United States*, U.S.D.C. (C.D. Cal.), Case No. 5:17-cv-02515-JGB-SP.

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Additional source: *dailykos.com*

## Related legal case

### Plascencia v. United States

<b>Year</b>	2018
<b>Cite</b>	U.S.D.C. (C.D. Cal.), Case No. 5:17-cv-02515-JGB-SP
<b>Level</b>	District Court
<b>Conclusion</b>	Settlement
<b>Damages</b>	\$55,000



## Prison Education Guide BY CHRISTOPHER ZOUKIS

(/adzone/view/32/)

# Federal Court Certifies Class in Ohio County Jail Debit Card Case

Loaded on MARCH 5, 2019 by Chad Marks (/news/author/chad-marks/) published in Prison Legal News March, 2019 (/news/issue/30/3/), page 49

Filed under: Money/Property (/search/?selected\_facets=tags:Money/Property), Seizure of Prisoner Funds (/search/?selected\_facets=tags:Seizure%20of%20Prisoner%20Funds), Prisoner Property (/search/?selected\_facets=tags:Prisoner%20Property). Location: Ohio (/search/?selected\_facets=locations:1509).

*by Chad Marks*

On November 16, 2018, a federal judge in the Northern District of Ohio granted a motion for class certification in a case where jail staff were accused of issuing unsolicited fee-laden debit cards to prisoners upon their release.

Amber Humphrey was arrested in September 2017. At the time of her arrest, upon being booked into the Lorain County jail, she had approximately \$50 in cash. Those funds were placed in a jail trust account. When she was released, she had \$30 left in the account after using some of the money to purchase products from the commissary. However, rather than returning her cash, jail staff gave her a debit card issued by Stored Bank Cards d/b/a Numi Financial, sponsored by Republic Bank & Trust Company. According to Humphrey, her funds were put into a Republic account without her permission. Within days of her release she was charged service fees, decline fees and transaction fees. She said she never agreed to the debit card fees.

Humphrey moved to certify three classes. The first was a nationwide class under the Electronic Funds Transfer Act (EFTA), for all persons in the United States who were taken into custody at a jail, correctional facility, detention center or other law enforcement facility, and upon release were issued a pre-activated debit card by the defendants to access an account containing any funds remaining in their prisoner trust account, within one year prior to the filing of the complaint and while it remains pending. The other two classes were under Ohio state law and applied to all persons residing in Ohio under the same standards as the nationwide class.

In applying Federal Rule of Civil Procedure 23, the district court noted it must conduct a rigorous analysis to ensure that any class-action satisfies the Rule's requirements, which may overlap with the merits of the underlying claims. After conducting that analysis, the court found Humphrey met all of the Rule 23(a) requirements as well as the Sixth Circuit's requirement of ascertainability – that is, “the class definition must be sufficiently definite so that it is administratively feasible for the court to determine whether a particular individual is a member of the proposed class.”

Accordingly, the district court granted the motion for class certification while also appointing Humphrey as class representative and attorneys Matthew A. Dooley, Ryan M. Gembala and Stephen M. Bosak, Jr. as class counsel. See: *Humphrey v. Stored Value Cards*, U.S.D.C. (N.D. Ohio), Case No. 1:18-cv-01050; 2018 U.S. Dist. LEXIS 195811.

The defendants moved to dismiss and for summary judgment, and the district court denied their motion to dismiss and granted in part and denied in part their summary judgment motion on January 8, 2019. The court held that several of Humphrey's EFTA claims could proceed, as could the Ohio state law claims.

The case remains pending with the parties engaged in settlement discussions. See: *Humphrey v. Stored Value Cards*, 2019 U.S. Dist. LEXIS 3361.

## Related legal case

### Humphrey v. Stored Value Cards

<b>Year</b>	2019
<b>Cite</b>	2019 U.S. Dist. LEXIS 3361
<b>Level</b>	District Court
<b>Conclusion</b>	Settlement



## Prison Education Guide BY CHRISTOPHER ZOUKIS

(/adzone/view/32/)

# Report Outlines Eight Ways to Shorten Excessive Prison Sentences

Loaded on FEB. 5, 2019 by Chad Marks (/news/author/chad-marks/) published in Prison Legal News February, 2019 (/news/issue/30/2/), page 56

Filed under: Prison Reform (/search/?selected\_facets=tags:Prison%20Reform), Sentencing (/search/?selected\_facets=tags:Sentencing). Location: United States of America (/search/?selected\_facets=locations:998).

by Chad Marks

The United States is home to five percent of the world's population and around 25 percent of the world's prisoners. Our incarceration rate is 19 percent higher than Turkmenistan's, 36 percent higher than Cuba's and 57 percent higher than Russia's. There is no other democracy that has a prison system anything like in the U.S., either in terms of incarceration rates or numbers. We spend about \$80 billion a year on corrections alone.

Mass incarceration is a problem that liberals often approach as an issue of economic injustice and structural racism. Conservatives usually see it as a matter of government overspending and overreach. Recently, lawmakers have begun lessening penalties for drug-related crimes and low-level property offenses, resulting in prison populations flattening out.

While those developments have helped in some ways, they are not the answer to the real question, which is how to fix the decades-long practice of sending so many people to prison for far too long.

The Massachusetts-based Prison Policy Initiative (PPI) issued a report in November 2018 titled "Eight Keys to Mercy," which outlines eight ways to help reduce the nation's massive prison population. Jorge Renaud, the author of the report, wrote: "A bolder approach is necessary to truly begin to make a dent in the numbers of individuals who have served and will serve decades behind bars."

The report points out that about 200,000 state prisoners are serving natural life or "virtual" life sentences. In addition, as of the end of 2015, one in every six state prisoners had served at least 10 years. According to the report, the driving force behind the mass incarceration problem in the U.S. is the fact that too many people have been sentenced to extremely long prison terms. Such sentences do little to advance justice, provide deterrence or offer solace to crime victims, Renaud contended.

The report outlines eight ways to shorten excessive prison sentences. At the top of the list is presumptive parole, in which prisoners are released on parole when they first become eligible unless a parole board finds legitimate reasons why they pose a continued threat to public safety. That system is used in states such as Mississippi, New Jersey, Michigan and Hawaii.

Alternatively, states can adopt a policy of universal parole eligibility after prisoners have served at least 15 years.

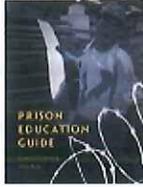
Another tool to help reduce the nation's prison population is second-look sentencing. That approach allows judges to review and modify sentences after a certain amount of time has been served. Other sentence-reduction methods include the retroactive application of sentencing reforms, granting additional good time credits, the elimination of parole revocations for technical violations, compassionate release and commutations.

With respect to commutations, during President Obama's tenure there was a clemency initiative that released nearly 2,000 federal prisoners. [See: *PLN*, Mar. 2017, p.12; May 2016, p.46]. This approach is not just for liberals. When Mike Huckabee, a Republican, served as governor of Arkansas, he granted 1,058 clemency applications – many for people convicted of violent crimes.

If we really hope to scale back our sprawling prison system, Renaud argued, we need legislators, judges and the executive branch of state governments, as well as the federal government, to exercise the political will to enact meaningful reforms. The key to those reforms, as stated in the report, should be rooted in extending mercy to those who have committed crimes. *PLN* managing editor Alex Friedmann consulted with PPI on this report.

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Source: *www.prisonpolicy.org*



## Prison Education Guide BY CHRISTOPHER ZOUKIS

(/adzone/view/32/)

# Federal Judge Orders Prison Doctor to Face Deliberate Indifference Claims

Loaded on FEB. 5, 2019 by Chad Marks (/news/author/chad-marks/) published in Prison Legal News February, 2019 (/news/issue/30/2/), page 57

Filed under: Medical (/search/?selected\_facets=tags:Medical), Systemic Medical Neglect (/search/?selected\_facets=tags:Systemic%20Medical%20Neglect), Eighth Amendment (/search/?selected\_facets=tags:Eighth%20Amendment). Location: Indiana (/search/?selected\_facets=locations:1487).

by Chad Marks

A federal judge in Indiana ruled on June 12, 2018 that prison doctor Paul Talbot must answer a complaint filed by state prisoner Billy J. Lemond.

Lemond was incarcerated at the Pendleton Correctional Facility when he required back surgery. On August 24, 2015, he underwent decompressive laminectomy surgery at an outside hospital. Dr. Gautam Phookan, who performed the procedure, prescribed a 30-day supply of pain medication and physical therapy. Two days later, Lemond was discharged and returned to Pendleton.

Once at the prison, Dr. Talbot, employed by private medical contractor Corizon, changed Lemond's pain medication from Norco to Tramadol, and from 30 days to just five days. He also decided that physical therapy was not needed.

Lemond filed suit arguing that Dr. Talbot had violated the Eighth Amendment's prohibition against cruel and unusual punishment by being deliberately indifferent to his serious medical needs. Specifically, the doctor had failed to provide him with prescribed pain medication and failed to order physical therapy for eight months; as a result, Lemond suffered unnecessary pain and loss of mobility.

Dr. Talbot moved to have the suit dismissed on summary judgment. Summary judgment is appropriate when the movant shows there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law under Fed.R.Civ.P. 56(a). To survive a motion for summary judgment, the non-moving party must set forth specific, admissible evidence showing there is a genuine issue of material fact in dispute. The facts are considered "in the light most favorable to the non-moving party and all reasonable inferences must be drawn in the non-movant's favor."

U.S. District Court Judge William T. Lawrence found there were eight material facts in dispute. Those included whether Dr. Talbot had ever conducted a physical examination of Lemond; whether the doctor prescribed Tramadol "because he was concerned about long-term use of opioid and opioid-like medications"; whether Lemond's pain had been properly treated, including whether

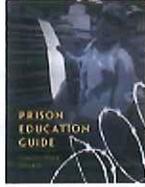
Tylenol was a reasonable substitute for other medications; whether Dr. Talbot believed Lemond continued to have pain or needed physical therapy; and whether Lemond “was adversely affected by the delay in providing of physical therapy.”

Accordingly, Judge Lawrence ordered the claims against Dr. Talbot to be resolved at trial or through a settlement, though the motion for summary judgment was granted as to Corizon’s health service administrator at Pendleton, Aleycia McCullough. Following its order, the court granted Lemond’s request for assistance in recruiting counsel; a settlement was reached in December 2018 but has not yet been finalized. See: *Lemond v. Talbot.*, U.S.D.C. (S.D. Ind.), Case No. 2:17-cv-00113-JRS-DLP; 2018 U.S. Dist. LEXIS 98216.

## Related legal case

### Lemond v. Talbot

<b>Year</b>	2018
<b>Cite</b>	U.S.D.C. (S.D. Ind.), Case No. 2:17-cv-00113-JRS-DLP; 2018 U.S. Dist. LEXIS 98216
<b>Level</b>	District Court
<b>Conclusion</b>	Settlement



## Prison Education Guide BY CHRISTOPHER ZOUKIS

(/adzone/view/32/)

# Challenges, Secrecy Continue to Surround Use of Lethal Injection Drugs

Loaded on FEB. 5, 2019 by Chad Marks (/news/author/chad-marks/) published in Prison Legal News February, 2019 (/news/issue/30/2/), page 42

Filed under: Death Penalty/Death Row (/search/?selected\_facets=tags:Death%20Penalty/Death%20Row), Death Row (/search/?selected\_facets=tags:Death%20Row). Location: United States of America (/search/?selected\_facets=locations:998).

by Chad Marks

Through December 31, 2018, there have been 1,490 executions in the U.S. since the death penalty was reinstated in 1977. Almost 90 percent have been carried out by lethal injection, which is considered more humane than hanging, electrocution or the gas chamber. But executions have not gone without problems. Through 2010, it was estimated that seven percent of lethal injections were blundered, causing pain to the prisoner before he died.

Until 2009 most states performed executions using the same three-drug protocol: a barbiturate as an anesthetic, a paralytic to prevent body movement and potassium chloride to induce cardiac arrest. But one by one, every supplier approved by the federal Food and Drug Administration (FDA) has imposed distribution controls on its products to block their use in executions. As a result, states began to experiment with different lethal injection drugs. [See: *PLN*, June 2017, p.14; July 2016, p.58; Mar. 2014, p.46; Nov. 2012, p.44; June 2011, p.1].

One of those alternative drugs is midazolam. In April 2014, Oklahoma's Department of Corrections (DOC) attempted to use midazolam to execute Clayton Darrell Lockett, 38, who had been sentenced to death for the 1999 murder of 19-year-old Stephanie Neiman. Lockett raped her, shot her twice with a shotgun and buried her alive. Witnesses to his execution watched Lockett struggle in agony before the procedure was aborted. He died 43 minutes later from a heart attack. [See: *PLN*, Sept. 2016, p.52; Oct. 2015, p.44].

In 2017, eleven executions were conducted using midazolam. In seven of those state-sanctioned killings, witnesses reported the prisoners winced, gasped and clenched their fists as they experienced labored breathing, heaving and convulsions. Midazolam is manufactured by New Jersey-based Alvogen and it is distributed in the U.S. by McKesson. The drug is intended for use in anesthesia, though in smaller doses it is also used to treat seizures and even sleeping problems. Neither company wants the drug used in lethal injections.

Alvogen sued the Nevada DOC in July 2018 to prevent it from using midazolam in an execution, claiming the state obtained the drug under false pretenses. A year earlier, McKesson had filed a similar challenge against the Arkansas DOC, which lost the first round of litigation but prevailed on

appeal to the state Supreme Court.

By then, however, Arkansas' supply of the drug was so near its expiration date that Governor Asa Hutchinson tried to rush eight prisoners to execution in ten days before the shelf life of the state's drug supply ran out at the end of April 2017. Four of the eight prisoners were put to death. [See: *PLN*, Feb. 2018, p.24].

In July 2018, Governor Hutchinson put his backing behind a law making its way through the legislature to shield the state's DOC from releasing information about its execution drug protocol. The state has no more executions scheduled, but five death row prisoners have sued to prevent any future use of midazolam.

As part of that lawsuit, the prisoners subpoenaed information from the Texas Department of Criminal Justice (TDCJ) about its use of pentobarbital in a single-drug execution protocol, which they sought to prove is a more humane alternative to midazolam. The TDCJ refused to release the name of the pharmacy that provides the drug, since public identification of the state's previous source, the Woodlands Compounding Pharmacy, caused so much negative publicity that the company demanded the return of its drugs in 2013.

In August 2018, Texas U.S. District Court Judge Sim Lake ruled in favor of the TDCJ, citing the testimony of "Pharmacy X" that it would stop selling midazolam to the state if its identity were revealed. Lake said that because there were other drugs available to reduce their pain, the prisoners had failed to prove a "substantial risk of serious harm" sufficient to sustain their challenge based on the Eighth Amendment's prohibition against cruel and unusual punishment.

Also in August 2018, Alvogen's lawsuit against Nevada was joined by London-based Hikma Pharmaceuticals after its drug, fentanyl – the primary driver of the current U.S. opioid crisis – was used in an execution for the first time in Nebraska. Like Alvogen, Hikma does not want its drugs used in lethal injections, so it added the Nebraska Department of Correctional Services as a defendant in the suit. By that time, though, Nebraska had withstood two court challenges filed by fentanyl's Germany-based distributor, Fresenius Kabi, which claimed the state had obtained the drug "through improper or illegal means."

On August 14, 2018, Nebraska used fentanyl to execute Cary Dean Moore, 60, who was sentenced to death for killing two Omaha cab drivers in 1979. It was the state's first execution in 21 years, and Moore said he wanted no intervention to delay his death. State lawmakers had voted in 2015 to abolish capital punishment, overriding a veto by Governor Pete Ricketts, but a 2016 ballot initiative largely financed by Ricketts' family successfully reinstated executions.

Calling the companies' lawsuits "guerilla war against the death penalty," Idaho Attorney General Lawrence Wasden joined the top lawyers of 14 other states to wade into the dispute on behalf of Nevada's DOC, after a judge ruled in May 2018 that Idaho's prison system must release details of the drugs it used to execute Paul Ezra Rhoades in 2011 and Richard Leavitt the following year.

Rhoades, 54, was sentenced to death for the 1987 kidnapping and murder of Susan Michelbacker, 34, and Stacey Dawn Baldwin, 21. Leavitt, 53, received his capital sentence for the fatal 1984 stabbing and mutilation of Danette Elg. Idaho has nine prisoners on death row; it has conducted just three executions since 1977, the last being Leavitt's in 2012.

That same year the state switched to a single-drug lethal injection protocol using pentobarbital, but its manufacturer, Lundbeck, has been blocked from selling the drug for use in executions by a law in its home country of Denmark. What drugs the state DOC has on hand for future lethal injections is unclear.

A new trial on the issue was ordered in September 2018 by Ada County, Idaho District Judge Lynn Norton, to whom DOC Deputy Director Jeff Zmuda testified that releasing the drug information would “jeopardize” future executions by placing pharmaceutical companies under “significant harassment and pressure” to block the use of their products in lethal injections.

That was the same argument put forward by Indiana’s DOC, as well as its state House Speaker, Brian Bosma, during a September 2018 hearing in a lawsuit filed by Washington, D.C. attorney A. Katherine Toomey, who challenged a 2017 Indiana law that not only protects information about drugs used in executions but also makes the protection retroactive.

In 2016, Marion County Circuit Court Judge Sheryl Lynch granted summary judgment to Toomey and ordered the release of the lethal injection drug information; that order withstood an appeal and was not taken up by the Indiana Supreme Court. But state officials asked Judge Lynch to review that ruling in light of the new 2017 law. The state has nine prisoners on death row but no scheduled executions.

The Indiana case follows another in Alabama, where Chief U.S. District Court Judge Karon O. Bowdre ordered the state’s DOC in May 2018 to release more information about its execution protocol. That order followed a botched attempt to execute Doyle Lee Hamm, 61, who was sentenced to death for the 1987 murder of Patrick Cunningham, a clerk at a Cullman motel that Hamm was attempting to rob. Hamm survived the procedure and will not face another execution. [See: *PLN*, Dec. 2018, p.36].

Most states have laws to protect the privacy of prison staff who participate in lethal injections. [See. e.g.: *PLN*, Dec. 2007, p.19]. And since 2011, at least four states have passed laws providing civil or criminal penalties for disclosing information regarding executions. Nine other states passed laws to veil executions from the public. Not one state during that time period sought to ensure that witnesses could see or hear the entire lethal injection process, and many states prevent witnesses from viewing most of the process – though there have been some successful court challenges to such secrecy. [See: *PLN*, July 2013, p.48].

Ritchie Eppink, legal director for the Idaho chapter of the ACLU, said the reason why states argue against transparency is “because they’d be disclosing information that the public’s just not comfortable with and that’s why we have the public records act in the first place.”

In 2018, the Death Penalty Information Center argued that by “[obtaining] drugs from questionable sources” and even “swapping drugs with each other” in violation of federal law, states have violated the law and “deliberately induced contract breaches” when they have “lied to or misled” suppliers of the drugs they use for lethal injections. Further, as a result of this lack of transparency, prisoners on death row are denied critical information needed to challenge whether the execution protocol they face is constitutional.

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Sources: *Indianapolis Star*, *Arkansas Times*, [www.al.com](http://www.al.com), [www.boisestatepublicradio.org](http://www.boisestatepublicradio.org),  
[www.courthousenews.com](http://www.courthousenews.com), [www.deathpenaltyinfo.org](http://www.deathpenaltyinfo.org), [www.thecrimereport.org](http://www.thecrimereport.org)

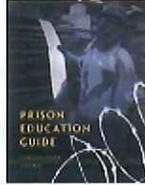
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## Prison Education Guide BY CHRISTOPHER ZOUKIS

(/adzone/view/32/)

# High Risk, Low Pay for California Prisoners Who Fight Fires

Loaded on FEB. 4, 2019 by Chad Marks (/news/author/chad-marks/) published in Prison Legal News February, 2019 (/news/issue/30/2/), page 30

Filed under: Prison Labor (/search/?selected\_facets=tags:Prison%20Labor), Work Conditions/Safety (/search/?selected\_facets=tags:Work%20Conditions/Safety), Workers' Compensation (/search/?selected\_facets=tags:Workers%27%20Compensation). Location: California (/search/?selected\_facets=locations:1476).

by Chad Marks

Since the 1940s, the California Department of Corrections and Rehabilitation (CDCR) has maintained a firefighting corps composed of prisoner volunteers. In late 2018, when the Camp and Woolsey fires destroyed the town of Paradise and hundreds of homes in upscale Malibu, over 1,400 prisoners contributed 15 percent of the firefighting manpower to California's Department of Forestry and Fire Protection (CAL FIRE).

Since 1983, at least six prisoner firefighters have died in the Conservation Camp Program (CCP), including three between 2016 and 2017, when over 16,000 wildfires burned nearly two million acres across the state. Two prisoners were crushed, Shawna Lynn Jones by a falling boulder and Matthew Beck by a 120-foot tree. Jones, 22, was just months away from completing her sentence. Another CCP volunteer, Frank Anaya, sustained a fatal cut to his femoral artery in a chainsaw accident. [See: PLN, April 2017, p.46; June 2004, p.22; Mar. 2001, p.14].

Though no firefighters died battling the two big blazes in 2018, CAL FIRE's "Green Sheet" report for the second week of November that year listed five firefighters who were treated and released from a burn center on the first day of the Camp fire near Paradise. Two prisoner volunteers were among the five. CAL FIRE deputy chief information officer Scott McLean said the injuries were the most serious suffered that week, with all the rest being "usual sprains [and] strains."

According to a November 17, 2018 news report, prisoner firefighters are more likely to suffer work-related injuries. Between June 2013 and August 2018, over 1,000 CCP volunteers required hospital care. They were "more than four times as likely, per capita, to incur object-induced injuries, such as cuts, bruises, dislocations and fractures, compared with professional firefighters working on the same fires. Inmates were also more than eight times as likely to be injured after inhaling smoke and particulates compared with other firefighters," TIME magazine reported. Civilian firefighters were more likely to suffer burns and heat-related maladies.

“Because we’re at a prison camp, they don’t necessarily pay attention to our physical needs as much as they do actual firefighters,” said former prisoner Mathew Trattner, who injured his shoulder while serving 17 months as a CCP volunteer.

Around 4,300 prisoners deemed low security risks volunteer to live in one of the state’s 44 conservation camps, working up to 24 hours without a break in 15-person “hand crews” – that is, they face an oncoming wildfire on the ground armed with hand-held tools, cutting brush and creating fire breaks.

“There’s a lot of fires in California that would not be put out without hand crews,” said Jim Matthias, a CAL FIRE division chief.

In addition to injuries, volunteers face other serious risks. California’s Department of Health reported that 10 prisoners contracted Valley Fever while serving on a fire crew in July 2017. Caused by inhaling fungal spores, the illness can develop into pneumonia or chronic pulmonary infections. Four of the prisoners contracted pneumonia and the illness spread to one prisoner’s lungs, bones, joints and skin, while another had respiratory failure. [See: PLN, Dec. 2017, p.1].

CCP volunteers also face risks when not fighting wildfires. Like other firefighters they sometimes respond to 911 calls to battle house fires or extricate bodies from vehicle collisions. One prisoner volunteer, Anthony Colacino, 33, died during a training hike in April 2018; he was serving a four-year sentence

For their participation in CCP, prisoners are paid \$2.00 per day plus \$1.00 an hour when fighting an active fire. That is far less than the average \$73,860 per year earned by civilian firefighters in California, according to the federal Bureau of Labor Statistics. Civilian firefighters also receive benefits not available to CCP volunteers, including workers’ compensation and health insurance. If a state-employed firefighter gets hurt, he or she does not have to rely on prison staff for medical treatment.

CDCR officials counter that prisoner firefighters receive real-world job experience and training, as well as time out of their cells and the opportunity to earn time off their sentences – two days off for every day they are in the program. Taxpayers also save around \$90 million per year because the prisoners provide three million hours of emergency-response work at deeply discounted wages.

CCP volunteers, however, are usually unable to use their experience and training in firefighting outside of prison. California’s 900-plus local fire departments require employees to have an Emergency Medical Technician (EMT) license that is impossible to obtain for recently-released felons, who must wait 10 years to apply after they leave prison.

The CDCR insists that prisoners can transition from CCP to work as professional firefighters. CCP spokesperson Tracy Snyder acknowledged that EMT certification can be “an issue” in getting hired by a municipal fire department, but said there are jobs at the state and federal levels.

“I’ve seen parolees who are working in the camps now, on the CAL FIRE side,” Snyder remarked. “They can get careers if they choose to, and they want to try, and they want to fight for it. It’s not impossible.”

It is, however, difficult. Due to the EMT licensing requirement, career counselor Ellen Hoeft-Edenfield, who works with recently-released prisoners, advises her clients not to consider firefighting jobs.

“I have to tell people right out – I’m sorry, you can’t do this,” she said. “[EMSA agencies] are just turning people away with felonies, period.”

“EMTs often are entering the homes of vulnerable people – often older widows or older widowers who are at high risk for having things stolen from their home,” explained Samuel Stratton, legislative director for the Association of Medical Directors at the California Emergency Medical Services Authority (CEMSA). “We have a large number of children who are not protected when the EMTs show up. There’s a risk that the child would be assaulted or molested. We really have to have someone who is not prone to anger, who is able to control their emotions.”

The policy of the National Registry of Emergency Medical Technicians, which grants EMT certifications, is to deny people who have felony convictions related to assault, property crimes or sexual abuse. But denials can also be based on the nature and seriousness of any other offenses, plus the length of time since they were committed.

After receiving EMT certification, applicants must also apply for a license from a local CEMSA office, which will deny people who have been convicted of a sex-related offense or two or more felonies, as well as anyone on parole or probation or who has been convicted of a felony within the last ten years.

“If it’s a level one (most serious) felony or others, such as felony child abuse, felony spousal abuse, some of the financial felonies, those individuals generally will not be certified as EMTs because they are considered a risk to the health and safety of the community,” Stratton said.

Applicants with misdemeanor records can receive a probationary license, which allows them to work but is automatically revoked if another offense occurs. Stratton said such licenses are most often granted to people convicted of DUI, marijuana possession or low-level assault.

The EMSA Central Registry includes over 62,000 active EMTs in California, just over five percent of whom have a criminal record. Among EMT license applicants, the percentage denied for having a criminal record varies from one percent in Sacramento County since 2014 to 20 percent in Napa County since 2015. Napa County granted 30 percent of its licenses on a probationary basis.

“I would sincerely hope that all these [emergency medical services] agencies are looking at the fires, are looking at the need, looking at how much work needs to be done, and recognizing it’s not going to hurt to hire people with work experience,” said Vinuta Naik, staff attorney at the East Bay Community Law Center, which advocates for former prisoners.

“If you’re good enough to fight fires while you’re inside, you should be good enough to fight fires when you’re outside,” added Katherine Katcher, executive director of Root & Rebound, a non-profit organization. “They’re doing the life-saving work, they’re earning the skills, and when they get out, they can’t do those jobs.”

In October 2018, outgoing Governor Jerry Brown signed a directive to create an 18-month-long academy run by CAL FIRE, the CDCR and the California Conservation Corps. Held at the Ventura Conservation Camp near Los Angeles, it will provide Firefighter I training to as many as 80 parolees recently released from CCP.

“That’s nothing,” scoffed Naik. “You can help 80 people, but you need to help everybody across the entire state. These are people who need these avenues open to them right now. To give back to the community, and to really build wealth and equality and equity in their lives, we need to open up these jobs,”

In 2018, state Assemblywoman Eloise Reyes introduced a bill to prohibit the denial of EMT licenses based on applicants’ criminal records. The bill ran into opposition from licensing authorities, and when it was eventually passed it simply required better record-keeping on license denials due to criminal convictions.

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Sources: New York Times, Sacramento Bee, TIME, [www.independent.co.uk](http://www.independent.co.uk), [www.theaggie.org](http://www.theaggie.org), [www.earther.gizmodo.com](http://www.earther.gizmodo.com)



## Prison Education Guide BY CHRISTOPHER ZOUKIS

(/adzone/view/32/)

# ☀ Texas Court of Criminal Appeals Rules Defense Attorney Violated McCoy, Reverses Capital Convictions and Orders New Trial

Loaded on JAN. 18, 2019 by Chad Marks (/news/author/chad-marks/) published in Criminal Legal News February, 2019 (/news/issue/2/2/), page 30

Filed under: Attorney Misconduct (/search/?selected\_facets=tags:Attorney%20Misconduct), Appeals (/search/?selected\_facets=tags:Appeals). Location: Texas (/search/?selected\_facets=locations:1518).

by Chad Marks

The Court of Criminal Appeals of Texas ruled that defense counsel's actions conceding guilt against defendant's express wishes during trial violated his Sixth Amendment rights under McCoy.

Albert Turner was charged with the December 2009 killing of both his wife and mother-in-law. His 12-year-old daughter witnessed the murders and identified Turner during a call to 911.

Defense counsel had plans to pursue a trial strategy admitting guilt and focusing on obtaining a life sentence rather than the death penalty. Turner objected to that defense, maintaining that he was innocent. Prior to the trial, he also voiced his desire to take the stand and testify on his own behalf in regards to his innocence.

Despite his client's explicit wishes, during opening statements, defense counsel conceded Turner killed the two victims. Counsel described the death of Turner's wife as a crime of passion and argued that the death of his mother-in-law was accidental. Turner eventually took the stand in his own defense, testifying (contrary to his attorney's opening statement) that he did not kill his wife and mother-in-law and that he was misidentified as the killer by his daughter.

During closing arguments, defense counsel again stated that Turner committed the murders. The jury subsequently returned a verdict of guilt, and Turner was sentenced to death.

Under Texas Code of Criminal Procedure Article 37.071, an appeal to the Court of Criminal Appeals is automatic in cases involving a sentence of death.

The Court began its analysis by noting that the recent U.S. Supreme Court decision in McCoy v. Louisiana, 138 S. Ct. 1500 (2018), governs this case. The McCoy Court held that the Sixth Amendment guarantees defendants "the right to insist that counsel refrain from admitting guilt, even when counsel's experience-

based view is that confessing guilt offers the defendant the best chance to avoid the death penalty.” The McCoy Court further instructed that asserting one’s innocence constitutes an objective of representation and is not simply a trial tactic; the decision to admit guilt is the exclusive right of the defendant, not the attorney. Thus, the attorney may not override the defendant’s decision to maintain his or her innocence.

The Court of Criminal Appeals stated that the similarities between the facts of the present case and those in McCoy “are striking.” The defense attorneys’ strategy in both cases to avoid the death penalty was to admit the defendants killed the victims but argued that they were guilty of lesser crimes, not capital offenses. In both cases, the defendants adamantly objected and testified that they didn’t commit the murders. And the Court observed that both defendants proffered a “difficult to fathom” conspiracy theory defense.

Nevertheless, the Court ruled that Turner, like McCoy, had the right to maintain his innocence and not have his own defense attorney contradict his claim by conceding he killed the victims. This decision along with McCoy serve as notice to defense attorneys that they are required to accede to the wishes of their client with respect to the decision to assert innocence. Defense attorneys are not permitted to act contrary to their client’s decision, even if they believe it’s in their client’s best interests.

The Court concluded that Turner’s defense attorney violated McCoy, which constitutes a structural error, meaning that automatic reversal of conviction is required. The McCoy court explained ineffective assistance of counsel analysis does not apply to this scenario because what’s at issue is “a client’s autonomy, not counsel’s competence.”

Accordingly, the Court reversed his convictions and remanded for a new trial. See: Turner v. State, 2018 Tex. Crim. App. LEXIS 1101 (2018).

## Related legal case

### Turner v. State

<b>Year</b>	2018
<b>Cite</b>	2018 Tex. Crim. App. LEXIS 1101 (2018)
<b>Level</b>	State Court of Appeals



## Prison Education Guide BY CHRISTOPHER ZOUKIS

(/adzone/view/32/)

# ☀ Nevada Supreme Court Reverses Convictions Where Trial Court Failed to Conduct Third Step of Batson Challenge

Loaded on JAN. 18, 2019 by Chad Marks (/news/author/chad-marks/) published in Criminal Legal News February, 2019 (/news/issue/2/2/), page 30

Location: Nevada (/search/?selected\_facets=locations:1501).

by Chad Marks

The Supreme Court of Nevada ruled that a trial court's failure to properly conduct the three-step Batson analysis when a prospective juror is allegedly dismissed on the basis of race constitutes a structural error necessitating a new trial.

Gregory Anthony Williams was convicted of six counts of lewdness and sexual assault with a minor involving his girlfriend's 10- and 12-year-old daughters. After his conviction, Williams appealed arguing, among other things, that the district court erred in denying his challenge that the State improperly struck an African-American woman from the jury panel.

The Supreme Court of Nevada agreed, paving the way for a new trial. In ruling in favor of Williams, the Court relied on the United States Supreme Court's decision in *Batson v. Kentucky* 476 U.S. 79 (1986), which ruled that the use of a peremptory strike to remove a potential juror on the basis of race is unconstitutional.

The U.S. Supreme Court in *Batson* and the Nevada Supreme Court in *Kaczmarek v. State*, 91 P.3d 16 (Nev. 2004), have both instructed that once a Batson challenge is made, the district court must engage in the following three-step analysis: (1) the opponent of the peremptory strike must make a prima facie showing that the challenge was based on race, (2) upon such a showing, the proponent of the peremptory strike must provide a race-neutral reason for the strike, and (3) the court must hear arguments to determine whether the opponent of the strike has proven "purposeful discrimination" on the basis of race.

The Court in Williams' case found that the district court never conducted the inquiry required by step three. Rather than doing so, the district court simply said, "I don't find the State based it [peremptory strike] on race," after it heard the State's purported reason for striking the juror. The Court also found

fault in Williams having to ask the district court to perform step three of the Batson analysis so that he could respond to the State's proffered race-neutral explanation. It explained that he should not have had to request the district court to perform step three.

Based upon the district court's mishandling of the Batson challenge analysis, the Court concluded that the lower court "clearly erred in denying Williams' Batson challenge." Furthermore, the Court ruled the error constitutes a structural error and thus requires the reversal of his conviction and a new trial.

In sending a message to other courts, the Supreme Court admonished: "district courts continue to shortchange Batson challenges and scrimp on the analysis and findings necessary to support their Batson determinations. We take this opportunity to, yet again, urge district courts to follow the three-step Batson procedure."

Accordingly, the Nevada Supreme Court reversed the judgment of conviction and remanded the case to the district court for further proceedings consistent with its opinion. See: *Williams v. State*, 429 P.3d 301 (Nev. 2018).

## Related legal case

### Williams v. State

<b>Year</b>	2018
<b>Cite</b>	429 P.3d 301 (Nev. 2018)
<b>Level</b>	State Supreme Court

**Exhibit K**

Letter from Lieutenant St. Louis regarding Marks working as Lieutenants & Captains  
Orderly for over a year at Ray Brook.



**U.S. Department of Justice**

Federal Bureau of Prisons

Federal Correctional Institution

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P.O. Box 300  
Ray Brook, NY 12977-0300

March 4, 2018

FROM: R.St.Louis, Lieutenant

A handwritten signature in black ink, appearing to be "R. St. Louis", written over a horizontal line.

SUBJECT: Inmate Chad Marks

Inmate Marks has worked as the Lieutenants and Captains Orderly for over one year. As inmate Marks's supervisor, I am satisfied with his job performance as it is above that of his peers. Marks responds well to supervision and instruction, completes tasks without being asked and has an outstanding overall job proficiency. I would recommend Chad Marks for employment in the work force.

### **Exhibit L**

Letter from Cedric Dean, President of S A V E offering Chad a job upon release.

Also included in this document are letters from Samantha Pratt at Youst Commercial Coatings extending an offer of employment to Chad;

Also a letter from Hal Brewster from Brewster Home Improvements, also extending an offer of employment upon release.



SAFEGUARD ATONE VALIDATE EDUCATE – *We make children job-ready instead of jail-ready.*

October 22, 2018

To whom this may concern:

I am writing this letter of intent on behalf of federal prisoner Chad Marks, 12010-055, who I am committed to hiring upon day one of his release. Chad has been very instrumental with the implementation of our SAVE program at United States Penitentiary Lee, in Jonesville, VA, and Federal Correctional Institution Ray Brook, in Ray Brook New York. Specifically, Chad taught our Leaders Breed Leaders course to federal prisoners and had a major impact on the inmate population at USP Lee and FCI Ray Brook, according to the executive staff members who supervised his classes.

It is our hope that Chad's redemption story and personal commitment to change can provide restorative hope for others who are in similar situations within the criminal justice system.

I have attached the job description for the position I would like to offer Chad.

If you have any questions, please feel free to contact me at any time.

Thanks in advance for your time and consideration.

Respectfully Submitted,

Cedric Dean, SAVE President

//s//

704-492-5509

[www.AboutSave.org](http://www.AboutSave.org)

Safeguard Atone Validate Educate, 3108 Prosperity Church Road, Unit C, Charlotte, NC 28269,  
704-492-5509  
[www.AboutSave.org](http://www.AboutSave.org)



SAFEGUARD ATONE VALIDATE EDUCATE – *We make children job-ready instead of jail-ready.*

## **SAVE Reentry Specialist**

### **Who We Are**

Safeguard Atone Validate Educate is a 501(c)3 non-profit organization, formed exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code including, but not limited to, advancing education, relief of the poor, distressed, and underprivileged, and lessening the burdens of government. Safeguard Atone Validate Educate's primary function is to develop, organize, and/or streamline services in conjunction with government agencies, service providers, non-profits, faith-based organizations, community partners, colleges and universities, and formerly incarcerated individuals that desire to establish or improve reentry processes to reduce recidivism across the United States. Safeguard Atone Validate Educate will actively examine and develop solutions to overcome the current reentry indicator barriers that greatly impact successful transitioning from incarceration to free persons. Safeguard Atone Validate Educate will operate under and share best practices, which means that it will remain in a continuous learning mode.

### **Job Summary**

This position is responsible for the successful implementation of any reentry related software a County or State agency retains the Foundation to project manage. This encompasses training justice agencies and community partners on the setup and maintenance of the software. Additionally, this position is responsible for facilitating activities with local stakeholders, the state agency responsible for reentry, and with the returning citizen population. To accomplish this, the SAVE Reentry Specialist must utilize their topical knowledge and structure of reentry processes nationally, at the state and county level and they must utilize a technical knowledge on the installation, monitoring, and customization of the system(s). 70-75% of the services will be provided in the community.

### **Core Functions and Knowledge Areas**

- Working knowledge of case management/discharge planning as it relates to reentry activities
- Working knowledge of programming principles, standards, and best practices at the Federal, State, and Local levels
- Consulting and collaborating with community members/groups, including outreach/engagement

### **SAVE Reentry Specialist**

- Assessing/evaluating and documenting community needs to develop configurations that support business processes
- Defines and executes on delivery and implementation plans
- Provide training and end-user support during and after the implementation process. Assist with preparing user manuals/documentation

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704-492-5509

[www.AboutSave.org](http://www.AboutSave.org)



**SAFEGUARD ATONE VALIDATE EDUATE – *We make children job-ready instead of jail-ready.***

- Managing complex issues with multiple partners that may include political consideration
- Ensure that service standards and quality measures of agency/community/client needs and demands are established, implemented and monitored
- Establishing and maintaining positive relationships with agencies and community partners

### **Qualifications and Skills**

- Ability to work effectively under pressure of deadlines, and within budget constraints
- Ability to work in a team environment, while also working independently
- Demonstrated capacity to handle multiple tasks, projects and meet deadlines
- Excellent public relations, community organizing, negotiation, mediation, conflict management and meeting facilitation skills
- Knowledge of community resources and their interactions with the incarcerated/formerly incarcerated population pre- and post- release
- Demonstrated ability to maintain confidentiality with sensitive information
- Demonstrate the ability to inspire community participation and build coalitions
- Must have strong administrative and organizational skills including budget development, management, and reporting

### **Additional Requirements**

- Knowledge of the criminal justice system
- Ability to travel up to 20% of the time nationally (conferences, strategic planning sessions, etc).
- Ability to read, analyze, and interpret general business periodicals, professional journals, technical procedures, and regulatory standards.
- Ability to effectively present information and respond to questions from Managers, Clients, and the general public
- Ability to define problems, collect and manage data, establish facts, and draw valid conclusions
- Ability to develop and maintain an effective work relationship that is sensitive to the individual differences and diverse population
- Advise internal/external customers on program issues
- Experience working with reenter/ex-offender population highly desired
- Must have solid writing skills to satisfy project documentation requirements

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SAFEGUARD ATONE VALIDATE EDUCATE – *We make children job-ready instead of jail-ready.*

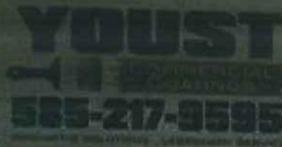
## **SAVE Reentry Specialist**

- Flexible and non-structured work hours
- Experience working with Microsoft Office

### **Education/Experience**

- BS in Social Work, Business, Criminology, Corrections, Law, Psychology, Information Technology, Human Rights, Nonprofit Management, Public Administration etc. (not required if formerly incarcerated)
- 3 – 5 years of community outreach or reentry experience
- Demonstrate excellent verbal and written communication skills
- Knowledge of the criminal justice system

Safeguard Atone Validate Educate, 3108 Prosperity Church Road, Unit C, Charlotte, NC 28269,  
704-492-5509  
[www.AboutSave.org](http://www.AboutSave.org)



November 5<sup>th</sup>, 2018

To Whom This May Concern:

We at Youst Commercial Coatings are writing this letter in regards to Chad Marks. With the Hopes that he will receive an early release we will be more than happy to Interview Chad for a Position here at Youst Commercial Coatings upon his release. We are a family based company That is more than willing to give chances to those eager to work and we know Chad is. We will interview him, and if hired he will not only have a position here but also many benefits As well such as life Insurance, 401k and Health Insurance just to name a few. Please take this information into consideration as you consider Chad for an early release.

Thank you, please feel free to contact me with any questions.

Samantha Pratt

Youst Commercial Coatings

Office Manager/Human Resources

1347 Harris Rd

Webster NY, 14580

(585)217-9595

# Brewster Home Improvements

659 Jay Street Rochester New York 14611  
585-563-7785

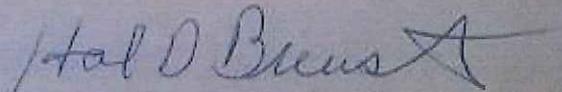
November 13, 2018

To whom it may concern,

I would like to take this opportunity to inform you Mr. Chad Marks will have employment with my company upon his release. He will be brought on board as a Laborer. I believe he will be an excellent addition and we look forward to him joining our team.

Please feel free to contact our office if you have any questions. Thank you.

Sincerely,



Hal Brewster

**Exhibit M**

Letter from Judge Larimer expressing his recommendation of clemency for Marks.

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK**

2500 U.S. Courthouse, 100 State Street  
Rochester, New York 14614-1387  
(585) 613-4040; Fax (585) 613-4045

**HON. DAVID G. LARIMER  
U.S. DISTRICT JUDGE**

October 11, 2018

Larry Kupers, Deputy Pardon Attorney  
Office of the Pardon Attorney  
145 N. Street N.E., Ste. 5E  
Washington, DC 20530

Re: Chad Marks  
BOP #:12010-055  
Clemency Case File Number: C277016

Dear Mr. Kupers:

I write to urge you and the President to favorably consider clemency for Chad Marks. I urge that his sentence be reduced to an aggregate term of 15 years plus a 5 year term of supervised release.

I am the federal trial judge who presided over Marks's trial in 2006 and I imposed the present aggregate 40-year term of imprisonment on March 4, 2008. In my over 30 years on the federal bench, I have never before written to urge clemency, but I believe this man deserves careful consideration.

The Chad Marks that went to trial in 2006 was a low-level drug dealer in the Rochester, New York area. He was a 28-year old young man who made many bad decisions, including going to trial. Some would describe him as a "street punk" who greatly overestimated his own cleverness.

The sentence I imposed was mandated. The three relevant charges carried mandatory minimum sentences: 10 years for a drug conspiracy; 5 years consecutive for possessing a firearm; and 25 years consecutive for possessing a second firearm. This "stacking" provision under 18 U.S.C. § 924(c)(1)(C) has caused this excessive sentence.

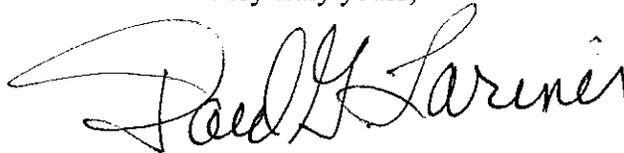
I never would have imposed a 40-year term for this type of offender. All of Marks's co-defendants received sentences well below 12 years and have all completed their sentences. The trial established that Marks did use firearms – mostly as a source of protection against rival drug operatives.

As a long-time federal trial judge and former Assistant United States Attorney, I know that there are, and should be, consequences for criminal conduct, but I also know that there can be redemption and success stories involving inmates who have changed. Chad Marks has changed dramatically. His record of accomplishment while in prison is extraordinary. Others can describe the particulars, but I know he has obtained a college degree and has taken successfully over 70 rehabilitative programs and courses. He appears to be a leader for good in the jail environment, which, of course, is rife with difficulties.

I believe this man now has the capacity to do good in the community. It would, in my view, be a shame to waste his life serving the balance of a 25-year term for the conduct at issue.

I urge clemency at least to the extent that his punishment is reduced to a 15-year term with a 5 year term of supervised release.

Very truly yours,

A handwritten signature in black ink, reading "David G. Larimer". The signature is written in a cursive style with a large, sweeping initial "D".

David G. Larimer  
United States District Judge

DGL:pr

**Exhibit N**

January 21, 2015 letter from Judge Larimer commending Marks on his accomplishments.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK  
UNITED STATES COURTHOUSE  
100 STATE STREET, ROOM 2500  
ROCHESTER, NEW YORK 14614-1324

CHAMBERS OF  
DAVID G. LARIMER  
DISTRICT JUDGE

(585) 613-4040  
FAX (585) 613-4045

January 21, 2015

Chad Marks  
12010-055  
F.C.I. Ray Brook  
P.O. Box 900  
Ray Brook, New York 12977

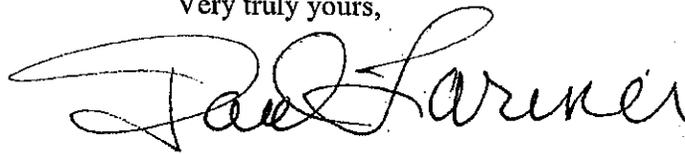
RE: UNITED STATES V. CHAD MARKS - 03-CR-6033L

Dear Mr. Marks:

I have your letter dated January 4, 2015, and I was impressed with it. It is always notable when inmates spend time productively and seek to make the best of their situation. There was never any doubt that you had talent, intelligence and leadership ability; those talents, though, were misdirected and focused on criminal activity.

I commend you for your efforts in this new chapter of your life.

Very truly yours,



David G. Larimer  
United States District Judge

DGL/ea  
PC: Robert Marangola, AUSA

**Exhibit O**

Letter from Amy Povah, President of Can-DO Foundation

**CAN-DO FOUNDATION**  
P.O. Box 6468, Malibu, CA 90264

January 2, 2019

President Donald J. Trump  
1600 Pennsylvania Ave  
Washington, D.C. 20530

RE: Clemency for Chad Mark Reg: #12010-055

Dear President Trump,

As President and Founder of the CAN-DO Foundation I rarely write a letter supporting someone's clemency because it's my job to advocate clemency for select individuals we vet and profile on the CAN-DO website. That being said, there are few who stand out as being extremely worthy of mercy and Chad Marks is at the top of that list.

We put Chad on the CAN-DO Top 25 men who deserved clemency during the Obama administration and worked with Yale law students who vetted his case and included him in an Op Ed they wrote that was published in Mic (copy included) spotlighting who should receive clemency by President Obama. Sadly, like Alice Marie Johnson, who was #1 on the CAN-DO Top 25 women, Chad was shockingly denied.

I have communicated with Chad through the institutional email system for several years and I don't know anyone who has worked harder to rehabilitate himself and then apply his hard-earned skills to help others. He learned how to litigate by spending long hours in the law library, then began writing motions on behalf of men he served time with once he determined they were eligible for a sentence reduction. I have received many celebratory emails about another victory he won on behalf of a fellow prisoner, yet his own opportunities for relief have been elusive. Rather than growing bitter, Chad worked harder to add more achievements to his impressive resume. Here are just a few:

1. Chad designed a fast track G.E.D. program to help other prisoners get their G.E.D.'s in 90 days. He was able to take all the students who had been in school for at least a year and motivated them to learn and retain information the right way. Within 89 days his last student earned his G.E.D.
2. He designed a re-entry program at FCI Raybrook entitled RISE (Rehabilitate Initiate Stimulate Educate). Prison staff praised him and wrote a memo outlining his work. (see enclosure)
3. Chad facilitates the Alternative to Violence Project Seminar at FCI Raybrook. Prisoners and staff have acknowledged his ability to help reduce violence at the prison as evidenced by the enclosed affirmation poster.
4. Chad also works as a Suicide Companion, volunteering his time to help those in need.

As to Chad's legal skills, he has won many cases for other inmates. Here are a few:

1. In the summer of 2018 he assisted Eric Rivera in getting his time computation corrected and Mr. Rivera was given back 9 months of his life due to Chad's legal assistance. He did the same for inmate Jesse Stark who was credited with 24 months of his life back.
2. In 2016 Chad wrote a clemency petition for inmate Tyrone Grimes who was granted clemency by Obama, sadly the same day that that happened Obama denied Chad's petition for himself.

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3. Chad prepared a 2255 motion for Wang Jia Fu who received a 200 month reduction off of his sentence. Mr. Fu is now home with his family due to Chad's hard work and perseverance. The enclosed letter is from the Federal Defenders Office in New York thanking Chad for his work on the Fu case.

4. In 2018 Chad wrote and prepared a legal appeal brief for Jason Belcher who's sentence was reduced by 28 months.

5. In 2016 he filed an administrative remedy for fellow inmate Brandon Meriwether who was serving 10 years due to a Federal Prison time computation that was incorrect. Due to Chad's work he was given 10 years of his life back.

6. Chad's work in 2016 also worked to the benefit of Marcus Sykes who was wrongly sentenced and he had his sentence reduced by 8 years and is now home with his family.

7. Felix Morales was in the same position and went to Chad for help in 2017 he was credited over 7 years of his life back due to another misapplication of time credit by the Federal Prison system. The prosecutors office fought the case in court and was rebuked the sentencing judge due to Chad's work on that case.

8. Ramon Cruz in the summer of 2018 was taken back to court for a hearing in his case after Chad wrote and filed his 2255 petition.

9. Chad filed a petition for Khem Un to get the court to grant him permission to file a second 2255 which is very difficult to do and the court granted that motion.

This is just a sample of what this highly intelligent man has done with his time. He turned a negative into a positive for others and taught himself the law much like Shon Hopwood did while in prison. The only difference is Chad will not have the chance to put those skills to work, flourish and achieve his goals, absent clemency. Almost daily, he asks what more he can do to regain his freedom. That's why I'm writing this letter and enclosing a letter from Chad in addition to more support letters and documents verifying Chad's impressive skills and rehabilitative efforts.

I hope you will find Chad worthy of mercy. He will most definitely honor and cherish such an opportunity for giving him a second chance. Needless to say, he will also champion your kindness and be forever grateful. He's chomping at the bit to come out and do great things. Lesson learned!

Respectfully,

**Amy Ralston Povah**

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