

Dear President Obama,

This is my second letter to you concerning me (David Banks, BOP reg. no. 36319-013) and my codefendants (Demetrius K. Harper, Reg. no. 36320-013, Gary L. Walker, 36321-013, Clinton Stewart, Reg. no. 36322-013, David A. Zirpolo, Reg. no. 36323-013 and Kendrick Barnes 36324-013) clemency petitions which have been pending since February 2015. I have witnessed great compassion from you granting clemency for over 1000 drug cases and I don't begrudge the relief you have given them. But I continue to ask you what about clemency for me and my codefendants, five African-American businessmen and our white partner and friend who were wrongly-convicted with overwhelming evidence of our innocence and undeniable proof we didn't receive a fair trial. I am putting forth in this letter many more facts you may not be aware of and certainly wouldn't be presented to you by the DOJ pardon attorney. We have the truth on our side and will never stop exposing what has happened to us and we are hopeful that you will listen intently and independently verify the facts I am presenting in this communication.

I am not sure if you have received our clemency applications through a secret clemency process that is controlled by the DOJ, but if you have, I suspect the pardon attorney will not recommend clemency. They want me and my codefendants to feign guilt for a crime we didn't commit and don't want to hold officials accountable for the abuse and/or mistakes they made that resulted in our wrongful-conviction, like what happened in the wrongful-conviction of Senator Ted Stevens (R-AK). You may not be aware of the words of federal appeals judge Andrew Hurwitz of the 9th Circuit Court of Appeals who wrote the following in the June 9, 2014 Arizona Law Review: "To err is human. To make a mistake and stubbornly refuse to acknowledge it -- that's judicial." That is a tragic commentary for the American justice system. I have personally witnessed abject refusal by prosecutors and judges in our case to acknowledge the wrong done in our case, even at the expense of our freedom and pain to wives and children. The judges and DOJ prosecutors would rather wrongly keep me and my codefendants in prison, irrespective of the immense pain and suffering of my family, than to admit they were wrong. That is absolutely cruel. Will you do the same, President Obama? After being wrongly-imprisoned, like many others in our society, I am losing faith and trust in our institutions of government to do the right thing by us, the little people in America. I remember comments from the congressional hearings related to the wrongful-conviction of Senator Stevens, God rest his soul, where member(s) of the committees commented that if not for a courageous FBI whistleblower coming forth to expose the malfeasance of the DOJ prosecutors, Senator Stevens' wrongful conviction would have stood and he would have gone to prison. Is former federal appeals Judge H. Lee Sarokin not a respected whistleblower in your mind?

Judge Sarokin blew the whistle on the wrongdoing in our case. He sent you a letter in November 2015 stating that our case was "mishandled", discussed a gross 5th Amendment violation related to judicial coercion and provided you with what he called "a series of events that cries out for clemency." Judge Sarokin also sent letters to Attorney General Lynch and Senator Corey Booker (D-NJ). Both U.S. Senator Michael Bennet (D-CO), and U.S. Congressman Danny Davis (D-IL) verified you received letters from them about our clemency. President Obama, are you hearing our cries for justice? Have you heard or

even seen Judge Sarokin's letter? Have you seen our clemency applications? If you have, I can't believe wouldn't grant clemency. Injustice is a bipartisan issue and I am so grateful that Republicans are now getting actively involved.

Senator Orrin Hatch (R-UT), after being presented with facts and evidence from advocacy organization A Just Cause, launched an investigation through the Inspector General's Office into our case. Judge Sarokin also spoke to the Washington Post about the case ([www.washingtonpost.com/news/true-crime/wp/2016/07/05/judge-who-freed-hurricane-carter-now-helping-six-imprisoned-men-but-only-obama-can-save-them/](http://www.washingtonpost.com/news/true-crime/wp/2016/07/05/judge-who-freed-hurricane-carter-now-helping-six-imprisoned-men-but-only-obama-can-save-them/)). Hopefully you have read that article and if not you will read it now. "What amazed me about the case," Sarokin said in the Washington Post, "was the theory of the government, that this (software) program they were developing was a scam. ALL OF THE PROOF in the case goes the opposite way." Sarokin echoed those sentiments in the Huffington Post 2014 when he discussed the government presenting this false theory to the jury when the evidence paints a completely different picture. "The government's contention that their business was nothing but a scam defies reality," said Sarokin. Hopefully, President Obama, you find this disturbing as well. Are you aware that court records show that the Department of Homeland Security said during trial that our software had a lot of features that federal investigators "can really use and utilize?" Are you aware that the retired NYPD official came to work for us and stated in court records that our software "was the best software he had ever seen." Are you aware President Obama, that Dr. Michael Brown, Professor of Criminal Justice at Southeast Missouri State University purchased copies of our software to teach criminal investigations? Are you aware that in the search warrant affidavit, Special Agent Melissa McRae from the FBI's Office Chief Information Officer saw a demonstration of our software and stated it was suitable for use in an FBI field office? Are you aware that Lorne Cramer, the Colorado Springs Police Chief and former LAPD commander said that our company, IRP Solutions has "developed an innovative and timely solution" for law enforcement? Are you aware that Sergeant Bob Davis of the San Diego Police Department wrote in the February 2004 edition of Police Magazine that the CILC (Case Investigative Life Cycle) is "powerful enough to become your agency's primary computerized investigative case management tool." Are you aware that in the 2007 college textbook, "Criminal Investigation" (8th Edition), the authors said that CILC "meets the standards described in the [DOJ's] National Institute of Justice tract." These are facts that were presented to the prosecutor in a proffer before trial, which he ignored and then presented our business and software as a scam to the jury. Judge Sarokin, a Harvard graduate, who was nominated and confirmed twice by the U.S. Senate as a district court and federal appeals judge is not just making baseless claims about the injustice in our case. Judge Sarokin has absolutely nothing to gain by speaking on our behalf, which should give great credibility to his opinion. His only motivation is to see that justice is done and that we, innocent men, don't continue languishing in prison for a crime we didn't commit and after not receiving a fair trial. Wouldn't you consider a prosecutor manufacturing an implausible theory to win a case, unfair? Judge Sarokin is not just making this up and he is not alone.

Dr. Alan Bean, Executive Director of the Friends of Justice, who conducted a six month investigation into our case, interviewed over 100 witnesses, and issued a report (<http://bit.ly/2gGWGue>), concluding, "The IRP case departs from the typical failed-scam scenario for the simplest of reasons: the government's case can't stand up to scrutiny. The fraud alleged in the indictment is a mirage." The

mirage Dr. Bean speaks about is evident from the voices of staffing companies in FBI interviews. The core government charge in the indictment was that we made false statements about having "current or impending" contracts which induced staffing companies into doing business with us. I first refer to the FBI interview (<http://bit.ly/2iSPpYT>) with Jennifer Stephens from the Spherion, a multi-million dollar staffing company. Stephens says I told her we were "trying to secure a contract with New York City Police Department." Now take a look at another FBI interview with Ron Brennan of Productive Data Commercial Solutions (<http://bit.ly/2iXNX7V>) where he said I told him we were "negotiating" with the New York City Police Department and Department of Homeland Security. Next, I refer you the Feb. 12, 2005 Colorado Springs Gazette Telegraph Newspaper article (<http://bit.ly/2iSRZhg>) concerning the raid on our business. The Gazette reported information directly from the mouth of the FBI and Colorado U.S. Attorney's Office: "[t]he agencies were told that temporary labor was needed to develop software that WOULD BE SOLD to the Federal Bureau of Prisons, Department of Homeland Security, the New York Police Department and other agencies."

Former legal counsel Ron LeGrand who had a long career with both House and Senate judiciary committees and as a federal prosecutor said on A Just Cause's Internet radio program that our case was a civil matter: "IF! Big IF! If there was a case at all it was a civil case and should have been handled as such," asserted LeGrand. "As a former federal prosecutor I am hurt. I am really, really disappointed at how this case was handled," lamented LeGrand. This is consistent with Judge Sarokin's conclusion on the Huffington Post that we were indicted and prosecuted for "failing to pay corporate debts." This is consistent with a letter from the head of the FBI in Denver who stated the matter would "best be handled civilly." This is consistent with trial records that show that on November 19, 2010 and October 13, 2011 the lead FBI agent said that if we had sold our software and PAID OUR DEBTS there would not have been a criminal case. This is consistent with the statement from a grand juror in the FIRST grand jury who said: "But if I don't pay somebody for the work they've done, that's not a federal crime."

The final critical fact and evidence I want you to view are emails from the City of Philadelphia, both the Philadelphia Police Department and the Philadelphia Office of the Inspector General which we had an IMPENDING CONTRACT with five months before being indicted. Unfortunately, Assistant United States Attorney Matthew T. Kirsch interfered with and scuttled our business with Philly, making it impossible for us to pay our debts by telling a Philly official that "an indictment was coming" before saying a word to a 2nd grand jury. These emails (<http://bit.ly/2fOxbEJ>) show communications between me and top Philly officials, including the Director of Information Technology who stated in an FBI interview: CILC "looked exactly like what PPD was looking to purchase" and stated the PPD "was very close to having the product installed...prior to discovery of the IRP investigation." Standing alone, these emails show we had no reason to engage in criminal activity and if not for government interference, our bills would have been paid.

Judge Hurwitz went on to say that "confession (of mistakes by judges) is not only good for the soul, it also buttresses respect for the law and increases the public's understanding of the human limitations of the judicial system." Our system of justice is limited by human error and human vices. Special

Prosecutor Henry Schuelke said that prosecutors in the Ted Stevens case had a "win-at-any-cost" attitude that motivated them to hide exculpatory evidence. The same is true in our case. I ask you in your final 10 days in office to evaluate the facts and evidence that I have presented here, which are not exhaustive by any means. I ask you to take Judge Sarokin's letter seriously, compare to the facts herein and in my first letter. I believe you can draw only one conclusion, that we are innocent and are the victims of a gross miscarriage of justice worthy of clemency. I also ask you to view the attached video rendition of Judge Sarokin's play where professional actors portray us discussing the series of events Sarokin wrote that cries out for clemency. I also ask you to read other articles Sarokin wrote related to our injustice including "The Guilty Have a Better Chance for Parole or Pardon Than the Innocent (<http://huff.to/1NTnspa>) and "The Company Small Enough to Prosecute (<http://huff.to/29Qvi6F>).

If you don't grant us clemency, maybe Trump as a businessman and other business-oriented Republicans will see this travesty of injustice. I hope to don't turn your back on us as everyone else has done. If you don't trust a federal appeals judge as a whistleblower, our institution of justice is really doomed.

Sincerely,

David Banks, BOP reg. no. 36319-013