

Declaration of Marilyn Wilkens

I, Marilyn Wilkens, under penalty of perjury, state the following to be true and accurate to the best of my personal knowledge:

1. I served on the Arizona Board of Executive Clemency (the "Board") from January of 2010, when I was appointed by Governor Jan Brewer to fill a vacant position, until April of 2012.

2. At that point, I applied for reappointment to my seat on the Board. I had wanted to continue to serve with my Board colleagues and participate with the important deliberative work of the panel. I was scheduled for an interview by the Executive Clemency Selection Committee, ("Committee"). When I arrived for my interview, I learned that it would be conducted in an executive session, rather than in a public forum. This struck me as unusual. Had I been informed and been aware that I could object to the closed-door discussion, I would have expressed my concern and requested that my interview be conducted in a public session.

3. During my reappointment interview in executive session, it was explained that there was dissatisfaction with my vote on a particular commutation of sentence case; I was informed that I had not voted in accordance with the way the Governor's staff (representing the Governor in the interview), had preferred as an outcome on the case, clearly then indicating the Governor's Office displeasure with my vote.

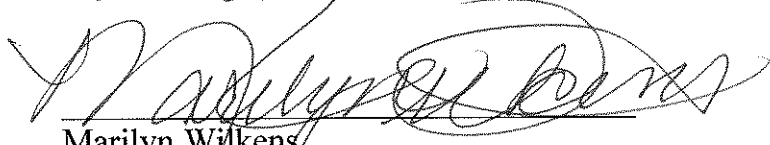
4. Specifically Scott Smith, who at that time was the Deputy Chief of Staff for Governor Jan Brewer, and also a member of the candidate Selection Committee, was displeased that I voted to reduce the sentence of Robert Flibotte, a 74-year first-time male sex offender who had been sentenced to 90 years prison time for possession of child pornography. I explained during my interview, the facts and case history to the Selection Committee members, that I employed in finalizing my decision to vote a recommendation for a reduction in sentence. Mr. Smith was face-to-face with me, with about five inches separating us. He was shaking his finger at me and told me in a raised voice, almost yelling at me, that I voted to let a "sex offender" go. He became very agitated, refusing to accept the tenets of my explanation, which outlined that Mr. Flibotte would be under probation the remainder of his life and also supervised by Gila County Probation Services and would be required to publicly register as a sex offender. This discussion concluded my candidate interview with the Committee.

5. I am comfortable with, and committed to, thoughtfully speaking my mind. This was true for the 34 years I worked as a state employee and the subsequent two plus years I served as a public appointee. When presented with cases, I proceeded to review, deliberate and ultimately vote, commensurate with the facts and records made available to each of us on the Board.

6. In the Flibotte case, the elderly offender had significant support for a sentence reduction from his resident community in Payson, and this was after his case had received substantial ongoing media attention. The Board voted to recommend a sentence reduction for Mr. Flibotte, and the case was subsequently sent to Governor Brewer for a final decision. Governor Brewer denied the Boards' clemency recommendation in the matter of this case.

7. I have concluded that I was not reappointed to continue my service with the Board because the Governor's office does not want to receive clemency recommendations from Board members in high-profile cases. Board recommendations, which obligate the Governor's authority to provide a decision in a publicly visible and hence potentially controversial matter, appear to not be a preferred option in the relationship between the Board and the Executive Branch. That subtlety in desired Board case outcomes, by this Governor, and her current staff, may have been too easily misunderstood by myself and other former and current Board members.

Signed this 26 day of September, 2013, in Maricopa County, Arizona.


Marilyn Wilkens