

Republican Perspective

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Controversial Clemencies

This is a sequel to the July 3 column “Is Trump Abusing His Pardon Power?” That column presented an analysis based on U.S. Department of Justice statistics for the last seven presidencies. The numbers showed that “Trump just isn’t abusing the pardon power, at least not by granting more than his share.”

Now let’s look beyond the numbers at some of the more controversial clemencies (pardons and commutations) granted by Presidents Trump, Clinton, and Obama.

Trump’s first pardon was granted to Joe Arpaio, the hardline former sheriff of Maricopa County Arizona. Arpaio had been convicted of violating a court order to stop profiling Latinos in his efforts to apprehend illegal aliens. A supporter of Trump during the 2016 election campaign, the 85-year old Arpaio was facing a six-month jail term. The ACLU called Trump’s action “a presidential endorsement of racism.” The Tom Steyer web site needtoimpeach.com lists the Arpaio pardon as an impeachable offense.

Clinton commuted the sentences of 16 members of FALN (in English, Armed Forces of National Liberation), a Puerto Rican separatist terrorist group that exploded 120 bombs in the U.S. Convictions included conspiracy to commit robbery, bomb-making, sedition, and firearms and explosives offences. The sentences ranged from 35 to 105 years. The commutation was opposed by the Federal Bureau of Prisons, the Fraternal Order of Police, and victims of FALN terrorist actions. The U.S. Congress condemned the commutations by votes of 95-2 in the Senate and 311-41 in the House. Clinton’s commutation offer required that the recipients

renounce violence. Most of the FALN terrorists accepted the offer. Oscar Lopez Rivera, serving a 70-year sentence, refused it; more about him later.

Hours before leaving office, Clinton pardoned billionaire international financier Marc Rich. Rich had fled the U.S. to Switzerland during his prosecution on 65 criminal charges including 51 counts of tax evasion for \$48-million dollars. Rich had made part of his fortune from illegal international oil dealing, including with Iran during the 1979-1980 hostage crisis. Rich's ex-wife Denise had made substantial donations to both the Clinton library and to Hillary Clinton's senate campaign. No surprise, there was a public outcry. A New York Times editorial called the Rich pardon "a shocking abuse of presidential power." Among the critics of the Rich pardon were former President Jimmy Carter and Clinton allies James Carville and Terry McAuliffe. Congressman Barney Frank is quoted: "It was a real betrayal by Bill Clinton of all who had been strongly supportive of him to do something this unjustified. It was contemptuous."

Clinton's half-brother Roger was convicted of drug trafficking, and served his entire sentence before Bill took office. Nevertheless, on the morning he left office, Bill pardoned his brother Roger. Compared to Rich and FALN, Roger was a relatively low-level criminal. However, his pardon drew public outrage because it reeked of obvious nepotism.

Three days before leaving office, Obama commuted the sentence of Chelsea (nee Bradley) Manning, a military intelligence analyst, who had been convicted of passing to Wikileaks secret diplomatic and military documents about U.S. operations in Iraq and Afghanistan. Manning had served seven years of his 35-year sentence in a military prison. Representatives of the intelligence community said Manning's crime put American lives at risk, and CNN reported that Obama commuted Manning's sentence "over the objections of Secretary of Defense Ash Carter."

Remember Oscar Lopez Rivera, the FALN terrorist who refused Clinton's clemency offer that required he renounce violence? No problem for Obama, who commuted Rivera's sentence without any requirement to

renounce violence or to accept responsibility, or to apologize to his victims, or even to feign repentance. Rivera led a Chicago cell of FALN, where a federal court sentenced him to 55 years in prison for seditious conspiracy, armed robbery, and other firearms and explosives charges. But why should he repent? He even challenged the legitimacy of the court to try him. Once he was tucked into Leavenworth, Rivera and FALN members on the outside devised an escape plan to spring him. Conviction on the escape attempt added 15 years to his sentence. But Rivera never had to complete his 55-year sentence, let alone the added 15. Obama gave him a get-out-of-jail-free card. And he didn't even have to say "Sorry."

When issuing a real stinker of a clemency, presidents tend to grant it in the closing moments of their final term, when they are unconstrained by the consideration of public outcry and re-election politics. Examples above are Clinton's pardon of Rich and brother Roger, and Obama's clemencies granted to Manning and Rivera.

So there you have it. The FALN terrorists' clemencies by both Clinton and Obama. Clinton's pardons of Rich and of his own brother. And Obama's clemency for Manning. Compare those to Trump's "impeachable offense," pardoning Sheriff Joe, the 85-year old so-called racial profiler.