

Official Mercy

Reggie Garcia (JD 85) pulls clemency levers in the state capital

BY RICHARD GOLDSTEIN

It's the job of Reggie Garcia (JD 85) to win for his clients the rights and freedoms that no judge or jury can grant.

Garcia is a clemency lawyer who for 17 years has appeared before three Florida governors and numerous Cabinet members of both parties seeking mercy for clients convicted and sentenced for their crimes.

"There are six general criteria, some rules of procedure, but no rules of evidence," the Tallahassee lawyer explained. "It's half law and half lobbying. It's more about equity and common sense."

Garcia is adept at guiding clients and even fellow state-government insiders through the murky world of Florida clemency, said Steve Bousquet, Tallahassee bureau chief for the *St. Petersburg Times*.

"Any form of advocacy or lobbying relies on the professionalism and the savviness of the person making the case for the client," Bousquet said. "The clemency process in Florida is highly secretive and it has been for a long time and (as a result) an advocate such as Reggie Garcia is even more valuable."

Garcia's role became more public this year with a change in clemency rules promulgated by Gov. Rick Scott and the Cabinet. Garcia's analysis of the rule changes was published in newspapers and a legal journal. But his primary work as a clemency lawyer is winning the restoration of rights and pardons for clients.

At the tail end of Gov. Charlie Crist's term of office, one of Garcia's clients, the chief financial officer of a Florida-based real estate investment trust, wanted a full pardon. Aside from getting out of prison early through commutation, a full pardon is the most difficult form of clemency to obtain and the most sweeping because it includes firearm authority.

In 1992, the then-rowdy teenager — who asked that his name be withheld from this story — ran from police during a drinking party and kicked an officer as he jumped a fence trying to escape. He was charged with resisting arrest with violence. That incident revived a conviction a year earlier when he was put on probation for punching a man during a brawl

PHOTO BY KATRICE HOWELL

outside a St. Petersburg Subway restaurant. The man he punched turned out to be a corrections officer, and the conviction was for aggravated battery. He was placed under house arrest.

Since these run-ins with the law, his record is clean, he has earned two University of Florida degrees and has risen to responsible positions in business. Clemency or not, his felony convictions must be disclosed as his companies offered stock to traders. His goal now was not only to receive a seal of approval from the governor, but to volunteer at his two sons' schools, something the felonies would prevent.

The case, Garcia figured, was ripe for a pardon.

But time was running out in Crist's

clemency board — to put the St. Petersburg-area man on the clemency docket.

Meanwhile, Garcia slipped the governor's cell phone number to his client, who had a 10-minute conversation with the state's chief executive. "He's from this area. He's from St. Pete — he's an FSU grad, but that's OK. ... He could hear it in my voice that I had remorse," said the man seeking a pardon.

Crist and the clemency board granted a full pardon Dec. 10, 2010.

"If he brings me a case and says this is a Rule 17 — I'm going to listen," said Leon County Judge Robert R. Wheeler (JD 88), former general counsel and clemency counsel for Crist. "That's the strength Reggie has. He knows how to evaluate a case and knows the system."

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term and the press of clemency requests meant that Garcia's petition to skip the line was informally rejected by the governor. As the double Gator with a bachelor's degree in journalism says, gaining clemency is about lobbying and lobbying means relationships. Garcia is not shy and he turned to other Cabinet members.

Garcia knew the officeholders toward the end of 2010, but all of them, including Crist, would be out soon after the New Year. There were 90,000 people waiting for clemency of all types and Garcia figured that to avoid a potential five-year wait for a pardon hearing, he better maneuver his client before the outgoing officeholders.

Alex Sink, then the state's chief financial officer, and Charles Bronson, who was agriculture commissioner, listened to the story and both agreed the case had "exceptional merit." Bronson and Sink invoked the seldom-used Rule 17 — which allows such cases to be proposed by the governor or members of the

If Garcia's strength is credibility and knowledge of the system, his nightmare is that one of his clients will commit a new crime after winning clemency.

Garcia said it hasn't happened, but he tries to limit the risk. He requires prospective clients to fill out an extensive questionnaire and submit to an in-depth interview, while Garcia pores over arrest reports and court records.

That question of reoffending, Garcia knows, is also on the mind of the politicians who compose the clemency board because clemency is a political decision as much as a legal one.

"Ultimately, I think the governor and the Cabinet are sitting there trying to give clemency applicants the benefit of the doubt," Garcia said. "But they are also elected officials and sensitive to public opinion, and I think in their gut they're saying is this person going to reoffend? Do we have a public safety issue here? Do we have a political issue here that if we give this person a chance is it going to come back to bite us?"

A quest for dignity delayed?

As director of the Restoration of Civil Rights Project, UF Law Legal Skills Professor Meshon Rawls (JD 98) guides people on a quest.



"It's really about dignity, it's about getting back into society," Rawls said of applicants for executive clemency. "Applicants are searching for a way to get away from the stigma of being a felon."

Have new clemency rules imposed by Gov. Rick Scott and the Florida Cabinet made that quest more difficult? Rawls and groups such as the American Civil Liberties Union of Florida believe so.

"The rule changes as of March are definitely a problem for people seriously seeking to have their rights restored," Rawls said. "It disenfranchises so many people, people who really want to become full-fledged citizens — they're prevented from doing so."

Seeking the restoration of civil rights — the right to vote, sit on a jury and hold public office — requires filing an application and to be crime-free for approval without a hearing. For the 35 most serious offenses, an applicant must be crime-free for seven years and must be approved at a hearing of the clemency board. For a full pardon and restoration of firearm authority, the respective 10- and 8-year waiting periods may no longer be waived. For those seeking prison commutations, at least one-third of the sentence — half the sentence for a mandatory minimum — must be served before commutation is considered.

Meanwhile, a new state law, SB 146, makes it easier for convicted felons to find jobs by allowing them to obtain occupational licenses unless their crimes are directly related to the occupation.

Rawls and Tallahassee Clemency Lawyer Reggie Garcia (JD 85) see the law as a step forward by making it easier for felons to become productive members of society.

But on the clemency rules, they part ways.

Garcia notes that it typically took years for the clemency process to run its course even before the changes.

"I wouldn't characterize it as limiting it; all of the options are still there," Garcia said. "There are just some new eligibility periods where they want to see people demonstrate a track record of rehabilitation to earn the clemency and certainly reasonable people can differ on whether that makes sense."

—Richard Goldstein