

Morris D. Davis

October 1, 2016

President Barack Obama
Attn: Neil Eggleston, Senior White House Counsel
1600 Pennsylvania Avenue NW
Washington, DC 20500

Re: Clemency Petition for Private First Class Chelsea Manning

Dear President Obama,

I write to urge you to grant clemency to Private First Class (PFC) Chelsea Manning, who has been in military confinement since May 2010 and is currently serving a 35 year sentence at the U.S. Disciplinary Barracks at Fort Leavenworth, Kansas. I urge you to grant clemency by reducing PFC Manning's sentence to 10 years, which still sends a strong deterrent message consistent with good order and discipline in the armed forces, yet allows PFC Manning an opportunity to earn parole and begin to establish a new life after having paid her debt for her offenses.

I retired from the Air Force as a Colonel in 2008 after serving for 25 years. I was the Chief Prosecutor for the Military Commissions at Guantanamo Bay, Cuba, from September 2005 until October 2007 when I resigned rather than use evidence obtained by torture. I completed my military career serving as the Director of the U.S. Air Force Judiciary where I exercised supervisory authority over the Air Force military justice system, including the Air Force Clemency and Parole Program. I am now an administrative law judge at the U.S. Department of Labor.

I testified as an expert witness in PFC Manning's court-martial in August 2013. Some of the charges against her were based upon the disclosure of detainee assessment briefs (DABs) from Guantanamo Bay. I was familiar with the DABs from my tenure as Chief Prosecutor for the Military Commissions. The defense asked me to review the DABs the prosecution included in PFC Manning's charges and to check on the internet to see how much of the same factual information was available through publicly available resources. My review showed that the vast majority of the information contained in the classified DABs was also available open source and that in some instances the publicly available information was more accurate and complete than the information in the DABs. For instance, some of the DABs the prosecution included in the charges were for detainees from an allied country who had been released years earlier. Those detainees were the subject of a documentary that was far more detailed than the information in their DABs.

It was my experience as Chief Prosecutor that the DABs were unreliable and had little value. While I was not directly involved in the intelligence effort, members of the intelligence community were assigned to the prosecution task force that I led and they had a similar view on the DABs. For example, the DABs assessed most of the hundreds of detainees as high value, high threat

and/or high risk when it was clear from the evidence most were not. History has shown that less than five percent of the hundreds of detainees held at Guantanamo could arguably qualify for "the worst of the worst" label. It was my opinion at PFC Manning's court-martial, as it is now, that the release of the DABs had no significant adverse impact because the information they contained was wildly inaccurate and was mostly available through open sources.

I realize that the DABs were just part of the documents PFC Manning disclosed. While I was not personally involved with all of the other documents, it appears that in the six years since they were released to the public the impact could fairly be described as inconvenience and embarrassment.

I know that some people consider PFC Manning a hero who has been vilified while others consider her a traitor who should have gotten worse. I do not ascribe to either one of the all-or-none characterizations. PFC Manning signed the same security agreements that I did and there are consequences for violating those agreements, but the consequences should be fair, just and proportional to the harm. The primary focus of military justice is the maintenance of good order and discipline, and a key part of that is deterrence. I know of no soldier, sailor, airman or Marine who looks at the six-plus years PFC Manning has been confined and thinks he or she would like to trade places. That is particularly true of the period PFC Manning was incarcerated at Quantico under conditions the U.N. Special Rapporteur on Torture called "cruel, inhuman and degrading" and that led to the resignation of then State Department spokesman P. J. Crowley (Colonel, U.S. Army, retired) after he called PFC Manning's treatment "ridiculous and counterproductive and stupid." Reducing PFC Manning's sentence to 10 years will not cause any service member to think the penalty is so light that it might be worth taking the risk under similar circumstances.

Additionally, there is a long-standing perception in the military of disparate treatment. The phrase I heard repeatedly from the time I joined the Air Force in 1983 until the time I retired in 2008 was "different spansks for different ranks." I know that it is impossible to fairly compare cases, but rightly or wrongly there is a perception that senior military officers and senior government officials who disclose information get sweetheart deals while junior personnel get slammed. There have been high-profile cases since PFC Manning was sentenced that help perpetuate that notion. Reducing PFC Manning's sentence to 10 years will not erase the perception, but it will bring the playing field a little closer to level.

Considering PFC Manning's application for clemency puts you in a position you have been in many time before – damned if you do, damned if you don't. I encourage you to ask yourself where is the right place to strike the balance between too little and too much when it comes to punishing PFC Manning. I trust that you will consider all of the competing interests and make a decision that reflects what you believe is justice.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. D. Davis", with a stylized flourish at the end.

MORRIS D. DAVIS
(Colonel, U.S. Air Force, retired)

STATE OF VIRGINIA

COUNTY OF PRINCE WILLIAM

The foregoing instrument was acknowledged before me on October 1, 2016, by Morris D. Davis.

Notary Public:

Printed Name

My Commission Expires:

