

APPLICATION

FOR

Commutation of Sentence

Name MILFRED R. YANT

Number 62140

Prison San Quentin

Filed _____

Action taken _____

Date _____ 19__

Governor's Office

A. P. D. CASE NO. 165-1939

September 14, 1939

State of California
Department of Penology
Division of Pardons and Comutations
ADVISORY PARDON BOARD
Sacramento, California

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In Re:- Application for COMMUTATION OF SENTENCE TO TIME SERVED
Submitted by: MILFRED R. YANT, San Quentin No. 62140(2T)

This applicant, white American, Real Estate Broker, age 40 Years, was convicted by a jury in Los Angeles County on February 24, 1938 for the crime of Criminal Conspiracy to Violate the Corporate Securities Act and Grand Theft and Prior Conviction of Felony; Violation Corporate Securities Act (9 counts) and Prior Conviction of Felony on each count, all counts to run concurrently. He was received at San Quentin Prison on June 28, 1938 under indeterminate sentences of from 1 to 10 Years and 0 to 5 Years (9 counts), all counts to run concurrently. Up to the present time Yant has served about 14½ Months actual time in prison. He will be eligible to appear before the State Board of Prison Terms and Paroles some time during the month of June, 1940 for determination of sentence and parole consideration.

Statement of Crime: Between April 30, 1935 and November 30, 1936 the amount of money or loss involved was \$181,000.00. In connection therewith, applicant was convicted on the charges as noted above which arose out of the sale of real property located in Placerita Canyon near Newhall, Los Angeles County.
(continued on page 2b)

(continued from page "a")

There is no record of any weapon having been used in the commission of this offense.

NOTE: This applicant, as Wilfred Yant, was received at the Utah State Prison as No. 4625 on October 20, 1935 for the crime of Forgery from Salt Lake City, for 1 to 10 Years. He was paroled April 5, 1936.

Recommendations: Sheriff of Los Angeles County (where crime was committed) makes no recommendation; District Attorney opposed to any leniency being shown applicant; Trial Judge recommends unfavorably. No letter from the State Parole Officer inasmuch as Yant is presently confined.

Applicant's conduct and behavior at San Quentin Prison since incarceration, which was June 25, 1933, has been entirely satisfactory according to the record. As of August 15, 1939 he had served a term sentence equal to about 1 Year and 4 Months. In view of the fact that his sentences have not been definitely fixed by the Parole Board, the date his term will expire is not now available.

September 14, 1939

State of California
Department of Penology
Division of Pardons and Commutations
ADVISORY PARDON BOARD
Sacramento, California

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In Re: Application for COMMUTATION OF SENTENCE TO TIME SERVED
Submitted by: MILFRED R. YANT, San Quentin No. 62140 (ST)

CRIME.....See Below	AGE.....40 Now
COUNTY.....Los Angeles	NATIVITY.....Ohio
DATE OF SENTENCE.....Feb. 24, 1939	NATIONALITY.....American
RECD. AT S.C.....June 23, 1938	EDUCATION.....11 Years
SENTENCE.....See Below	Real Estate
(actual time)	OCCUPATION.....Broker
HAS SERVED.....14 1/2 Months	Father, Wife
PAROLED.....NO	FAMILY.....& 3 Children
CONVICTED.....By Jury	HABITS.....Temperate
	HEALTH.....Good

This applicant is not now on parole but presently confined at San Quentin Prison. He will be eligible to appear before the Board of Prison Terms and Paroles some time during June, 1940, for determination of his indeterminate sentences and parole consideration.

CRIME: Criminal Conspiracy to Violate the Corporate Securities Act and Grand Theft and Prior Conviction of Felony.
Violation: Corporate Securities Act (9 counts) and Prior Conviction of Felony on each count, all counts to run concurrently.
SENTENCES: From 1 to 10 Years and 0 to 5 Years (9 counts), all counts to run concurrently.

TRIAL JUDGE.....	Arthur Gram, Los Angeles
DISTRICT ATTORNEY.....	Buren Fitts by H. L. Arterberry,
	Deputy, Los Angeles
DEFENSE ATTORNEYS.....	David Coleman & Eugene Wolver,
	Los Angeles.

* * *

Under date of April 11, 1939 the Governor's Office officially referred this application for Commutation of Sentence to Time Served to the Advisory Pardon Board for consideration and recommendation to the Governor. This action was authorized by a letter of transmittal signed by M. Stanley Hook, now Assistant Secretary to the Governor, dated April 11, 1939 which accompanied the file, now known as A.P.B. Case No. 165-1939.

There is no record of any weapon having been used in the commission of this offense.

THE CRIME (As furnished this Board by the Board of Prison Terms and Paroles):

"Between April 30, 1935 and November 30, 1936 the amount of money or loss involved was \$181,000.00. The jury convicted the defendant on one count of Conspiracy to commit grand theft and to violate corporate securities act and nine counts of violation of corporate securities act."

The State Division of Criminal Investigation furnished this Board with subject's complete criminal record which is copied below:

" <u>Milfred Rene YANT</u> ALIAS: Milford R. YANT; Milfred T. YANT	AS: YANT; Forgery. 1-10 yrs.
"1935 - Salt Lake City, Utah	AS: Milford YANT; Forgery, from Salt Lake City for 1-10 years. Paroled 4-6-36.
"10-26-35 Utah State Pen. 4685	AS: YANT; Petty Theft, Dismissed.
"10-9-35 Los Angeles	AS: YANT; Forgery, Conspiracy to Cheat and defraud and obtaining money by false pretense. 12-29-36, commuted to evidence sustained and discharged.
"11-19-36 Philadelphia, Pa. 166866	AS: Milford R. YANT; WANTED for Grand Theft and Violation of Calif. Corporate Security Act, a Felony. (Bail \$10,000.) Cancelled, apprehended in Washington, D.C.
"4-5-37 Los Angeles Co. Let.	AS: YANT; Fugitive from Los Angeles. Received 9-15-37 at Asylum and Jail Washington.
"9-11-37 Washington, D. C.	AS: Milfred R. YANT; Grand Theft and Violation Calif. Security Act.
"10-14-37 Los Angeles Co. 261395	AS: Milfred R. YANT; Criminal Con. to Violate Corp. Sec. Act. and Grand Theft, and Prior Conviction, Felony Vic. Corp. Sec. Act, 9 etc., and prior conviction, Felony (on each count), from Los Angeles Co. for 6-5 yrs, 10 etc., CC 1-10 yrs., all CC."
"6-25-38 San Quentin 62140	

This formal application for Commutation of Sentence to Time Served is dated March 7, 1939. The applicant, Yant, included with this petition a supplemental statement in behalf of his case which was signed by his attorney, Eugene Wolver, Insurance Exchange Building, Los Angeles.

"GROUNDS UPON WHICH APPLICATION IS BASED:

(1) That specific intent to violate the law is totally lacking.

In this connection it must be borne in mind that Applicant was acquitted of all counts charging the commission of the substantive crime of Grand Theft. In other words, the jury, without any evidence whatsoever from the applicant, felt that there was no proof that applicant unlawfully took any money or property belonging to any person. This case leaves no doubt that applicant stands convicted of technical violations of the law, involving the construction of the Corporate Securities Act of this state. The underlying theory of applicant's business project was that of selling real property; that was the basis of his plan and that was the reason why he followed the procedure of and submitted to the rules and regulations of the Real Estate Department of this state. At this point it should be stated that the indictment in accusing applicant of a violation of the Corporate Securities Act charged that he "did issue, execute and sell...a certain certificate of interest in an oil and gas mining title and lease..." What constitutes "a certificate of interest in an oil and gas mining title and lease" is in the nature of things a matter of construction and definition by the Courts of this state. It was applicant's position that his sales of real property by way of Grant Deed were not the sales of certificates of interest in an oil and gas lease, but were sales of specific parts of real property. This particular type of transaction had not and was not considered nor decided by the Appellate Courts of this State until after the conviction of applicant, and it would seem that the Corporation Commissioner's office in its tacit acquiescence with applicant's mode of operations was not convinced that he was violating the law.

It thus appears that applicant finds himself convicted of technical charges based upon acts, the criminality of which was in doubt at the time of their occurrence.

It is submitted that because of the lack of specific intent to violate the law, because of the undefined state of the law at the time the acts were committed and because of applicant's reliance on the lack of interference by the Corporation Commissioner, that this case furnishes the precise situation where Executive Clemency should be exercised.

(2) Applicant has been subject to an excessive penalty or imprisonment by reason of his conviction in this case.

This statement is based upon the following facts:

In 1926 applicant pleaded guilty to a charge of forgery in the State of Utah. He was sentenced to the Utah State Prison where, after having served a term of five (5) months, the sentence was terminated in April, 1926, as appears from (continued on page four)

(continued from page three)

"the certified statement of the Warden of the Utah State Prison, which is attached hereto. Approximately thirteen (13) years later applicant was convicted on the indictment which we are asking for Executive Clemency on now.

In this case, applicant received an indeterminate sentence of from 0 to 5 years and from 1 to 10 years on the counts on which he was convicted, running concurrently, but Section 1168, Subdivision 2-4 of the Penal Code of this State provides that for a person previously convicted of a felony, five (5) years shall be the minimum term of sentence and imprisonment unless sooner terminated by the Governor and Subdivision 4 of the same Section provides that a person having served a previous sentence in a state prison may not "be paroled until he has served at least two (2) calendar years". If your applicant had not been convicted of the prior felony, his minimum sentence would have been only one (1) year. Now by reason of the prior conviction upon which applicant served only five (5) months he must serve a minimum sentence of four (4) years additional for a crime which was committed thirteen (13) years ago where another state found that after imprisonment for only five (5) months applicant had paid his debt in full. He now must pay again for that first offense a larger penalty than was exacted by the original state wherein it occurred.

(3) Applicant has demonstrated his rehabilitation:

In a sincere effort to aid in the reform of the conditions under which he himself was convicted, applicant after his conviction, voluntarily assisted the District Attorney's office of Los Angeles County and gave them valuable information regarding these conditions. He remained in the Los Angeles County Jail approximately four (4) months for this purpose. This appears in his personal statement attached hereto.

It would seem apparent that we do not have here a case of a vicious criminal, but an individual who stands convicted of offenses arising out of the complex economic and business background of our present society.

It is respectfully submitted that Executive Clemency should be granted applicant, and that his sentence should be commuted to time served."

NOTE: The following memorandum was prepared by this office in connection with the correspondence on file with the Division of Corporations, State Building, Los Angeles, relating to this applicant, Milfred Yanté

On March 11, 1936 this applicant and his wife called upon Herbert V. Walker, Deputy Corporation Commissioner, State Building, Los Angeles, advising him that they had received an order from the State Real Estate Commission suggesting that an opinion from the Division of Corporations be secured to determine whether or not Yanté's business activities constituted the sale of securities which required a permit from the Corporation Commissioner.

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Deputy Walker informed applicant that it was his opinion that a permit was necessary to carry out the transactions as carried on by him and, further, that he had apparently misrepresented the facts to the Division in securing a permit for the Yant Petroleum Corporation which was granted on July 10, 1935.

On March 12, 1936 Yant wrote the Corporation Commissioner a letter setting forth statement of facts for determination as to whether or not the Commissioner had jurisdiction in the matter. In closing, it was Yant's contention that his actions were not within the jurisdiction of the Corporation Commissioner.

On March 14, 1936 the Corporation Commissioner, by Deputy Walker, wrote Mr. Yant advising him that from the facts reflected in his letter of the 12th and the facts contained in the file of the Yant Petroleum Corporation in the Commissioner's Office, it was the opinion of the Division that applicant was engaging in the business of selling a security.

After applicant was sent to San Quentin, he inquired of Deputy J. A. Metzler of the Division of Corporations, or to be exact, on April 22, 1936, asked if the Corporation Commissioner ever issued an order that he (Yant) stop selling the land for which he was convicted. Mr. Metzler, on April 26, 1936, advised applicant by letter that a "Desist and Refrain" order as defined in section 5 of the Corporate Securities Act had not been issued and directed to him; however, reference was made by Mr. Metzler to the letter sent Yant at 318 West 9th Street, Los Angeles, on March 14, 1936 by Deputy Walker, which stated that it was the Division's opinion applicant was engaging in the business of selling a security.

On May 1, 1936, Yant, from San Quentin Prison, wrote the Commissioner of Corporations at Los Angeles, requesting a statement from him that a "Cease and Refrain" order had never been directed against him and that this fact also be included in the reply.

On May 17, 1936, Deputy Metzler in a separate letter, advised applicant that a "Desist and Refrain" order had never been issued against the applicant. However, in another letter of the same date addressed to Yant, Mr. Metzler also called applicant's attention to his visit with Deputy Walker and Walker's letter to Yant dated March 14, 1936, both being in effect that it was necessary for applicant to obtain a permit from the Division of Corporations inasmuch as it was the Division's opinion applicant was engaged in the business of selling a security.

E. W. Hissailuz, Sheriff of Los Angeles County (by V. E. Gray, Captain, Bureau of Investigation) On August 21, 1936 wrote this Board the following letter regarding this applicant:

"File No. 15920

Subject: YANT, Milfred R.

Your No. S. G. 68140

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"In reply to your letter of August 16, 1939, regarding above subject, I do not desire to express any views or make any recommendation in the matter of his parole, commutation of sentence, or pardon."

District Attorney Buren Fitts of Los Angeles County (by R. T. Brain, Deputy) on August 22, 1939 and by the following letter addressed to the Advisory Pardon Board, recommended against the granting of leniency to Yant:

"Responsive to your communication of the 16th inst., concerning MILFRED R. YANT, San Quentin No. 62140, convicted in this County of the crime of Conspiracy to Violate the Corporate Securities Act and to commit Grand Theft; Violation of Corporate Securities Act, on February 24, 1935, and now applying to His Excellency, the Governor, for Commutation of Sentence to Time Served.

Applicant was convicted by a jury on above counts, but acquitted on all counts of Grand Theft. Amount of money involved was \$181,000. Has a prior for Forgery in 1925, serving time in the State Prison in Utah.

Because of applicant's prior record and the short time he has been in prison, we are opposed to any leniency being shown him at this time."

The Trial Judge in this case, Honorable Arthur Cram, Judge of the Superior Court of Los Angeles County, recommended unfavorably to the Advisory Pardon Board by the following letter dated August 29, 1939, to the effect that a Commutation of Sentence be not granted this applicant:

"In Re: Milfred R. Yant, S. Q. No. 62140.

I recommend that a commutation of sentence be not granted to the above subject. In my opinion he should be required to serve his sentence."

There is no letter of recommendation on file from the State Parole Officer inasmuch as this applicant is presently confined. Yant's conduct and behavior at San Quentin Prison since incarceration, which was June 25, 1938, has been entirely satisfactory, according to a "Certificate of Conduct" dated August 15, 1939. As of the latter date Yant has served a term sentence equal to about 1 Year and 4 Months. In view of the fact that his indeterminate sentences have not been definitely fixed by the Parole Board, the date his term will expire is not available at this time.

This applicant, Milfred R. Yant, from San Quentin Prison, on August 18, 1938, advised this Board that he had not paid money to any person to obtain Executive Clemency for him, or that he had entered into any agreement to pay money to any person in the event he was successful in obtaining a Commutation of Sentence from the Governor. In this connection, however, attention is called to the "additional remarks" submitted by the applicant, which are copied (continued on page seven)

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as follows:

"Work done on this matter by attorney Eugene L. Welter for me was done without charge by him and no agreement was made for any payment of any sum to him for his services in this matter. I do intend to pay him a reasonable sum for the work done upon my release from Prison."

PHOTO OF APPLICANT:



COMPILED BY:

PAUL YARWOOD, SECRETARY
ADVISORY PARDON BOARD

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