

Restoration of Civil Rights: Voting, Serving on a Jury & Getting Jobs

by Reggie Garcia

A disproportionate number of ex-felons are minorities (mainly African American and Hispanic) but also are working poor from rural areas, small towns and every city in Florida.

With nearly 101,000 inmates in state prisons in Florida, approximately one-third will return to society in the next 12 months. Another 145,000 felons are on “community supervision” more commonly known as probation. Probation can be instead of or after prison. And with thousands more inmates leaving federal prison and county jails every year - you get the picture: we as citizens, taxpayers and lawyers should help these felons get jobs and transition back to being law-abiding citizens.

Almost every clemency applicant I have represented in 20 years is a business owner or professional who had a prior felony conviction, usually as a young adult, and now they have a roadblock to obtaining state or federal licenses, security clearances, government contracts, better jobs and even volunteer opportunities with non-profits. Clemency is the ultimate second chance, where the state’s highest officials recognize that someone has turned their life around. It’s an incredible achievement in the fourth-largest state to say the governor and Florida Cabinet granted me restoration of my civil rights. You almost have to be there to see it. The people openly weep when they are successful because in many cases they’ve devoted years of their life, their blood, sweat and tears, to redeeming themselves.

Restoration of Civil Rights (RCRs)

Convicted felons lose the rights to vote, serve on a jury and run for elected office. In order to get these rights restored, a person must file an application for “restoration of civil rights” (RCRs) and be crime-free for at least five years to be eligible for approval “without a hearing,” and for the 35 most serious offenses be crime-free for seven years and must be approved at a hearing. These waiting periods were approved by the governor and Florida Cabinet, serving as the “Board of Executive Clemency” (Board).

Clemency approval by the Board could be of valuable assistance to obtain certain jobs, business or professional opportunities, state licenses, bonds, government contracts and/or security clearances. Recent data suggests that approximately 375,000 felons have obtained RCRs.

Convicted felons also lose the right to own, possess or use firearms but RCR does not restore that right. Restoration of firearm authority is a separate type of clemency.

RCRs “Without a Hearing”

Rule 4.I.G. governs Restoration of Civil Rights which “restores to an applicant all of the rights of citizenship – voting, serving on a jury, and seeking elected office – in Florida enjoyed before the felony conviction, except the specific authority to own, possess or use firearms.” Rule 9.A. establishes who is eligible for restoration of civil rights without a hearing.

In March 2011, Governor Rick Scott and the Board made major rule changes which **create two distinct categories of RCRs eligibility:**

- Most significant, the rules now require the applicant to wait five years after conclusion of prison or probation to be eligible and the person must actually submit an application.
- In addition, felons convicted of 35 of the most serious crimes are *ineligible* for approval without a hearing. As before, the applicant must complete their sentence and conditions of supervision, pay restitution, have no outstanding detainers, and not have any new arrests or convictions during the five-year waiting period.

RCRs “With a Hearing”

The Board meets quarterly and considers approximately 350-400 clemency cases per year.

Per Rule 10.A. there is a new seven-year waiting period for 35 of the most serious Florida crimes and any offense committed in another

jurisdiction — whether an out-of-state or federal conviction — that would be an offense listed in Rule 9.A. just as if that offense had been committed in Florida

The 2011 rules will result in more hearings but applicants will still have an open path to demonstrate rehabilitation and earn the opportunity for RCRs.

The board will consider these six factors when determining whether to grant an applicant clemency: the nature of the offense; whether the applicant has any history of mental instability, drug or alcohol abuse; whether the applicant has any subsequent arrests, including traffic offenses; the applicant's employment history; whether the applicant is delinquent on any outstanding debts or child support payments; and support or opposition letters.

As before, the applicant must complete his or her sentence and conditions of supervision, pay restitution, have no outstanding detainers, and not have any new arrests or convictions during the five-year waiting period.

Getting State Licenses

While voting and serving on a jury are very important civic duties, most felons want clemency RCRs because it helps to get a state license and increase opportunities for better paying jobs.

In 2011, the Legislature passed a bill to “de-couple” state licenses from RCRs unless the felony conviction is “directly related” to the desired license. CS/SB 146 (Ch. 2011-207, L.O.F.) by Sen. Chris Smith (D-Ft. Lauderdale) and Rep. Dwayne Taylor (D-Daytona Beach) provides, in part, “a state agency may not deny an application for a license, permit, certificate, or employment based on the applicant’s lack of civil rights.” The legislation would not apply to a concealed weapon or firearm. Without this change in the law, most felons are denied state licenses if their crimes involve “moral turpitude” or another common law or specific statutory disqualifier.

The key is how state agencies implement this recent law—which is appropriately named after the late Senate President Jim King of Jacksonville to help felons “get to work.”



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Mr. Garcia is a Florida AV-rated lawyer and an FJA member and lobbyist. Described by the media as an “expert in clemency and parole cases,” he has visited 27 state prisons. He is a frequent public speaker and has appeared on national network and cable TV news programs, and on Florida broadcast affiliate TV stations. He graduated from the University of Florida Levin College of Law where he was the president of Florida Blue Key.