

Section 10

10. Original Jurisdiction Appeal, 11/1/91
 - 10.1. Supplement to Appeal by Lois Franco, 10/31/91

Ms. Franco, an advocate for Larry, reviewed the arguments of the Parole Commission post-hoc and refuted them point by point. This is a cogent statement of our argument why a lesser sentence was and is justified.

Appeal

United States Parole Commission
Chevy Chase, Md. 20815

Name LAURENCE JOHN LAYTON

Register 20752-053 Institution FBI TERMINAL ISLAND

I received a Notice of Action sent August 29 1991 (and 8/25/91) and hereby appeal that decision:
(Date)

NATIONAL OR ORIGINAL JURISDICTION APPEAL

I appeal to the National Appeals Board - (Full Commission on O.J. cases) to review and reverse or modify the decision.

Harry Kremer
(Witness Signature)

Laurence J. Layton
(Signature)

11/1/91
(Date)

INSTRUCTIONS: All Appeals are decided on the basis of the written record. Appeals may be based on the following grounds. Check one or more of the grounds that are applicable to your case. Explain your basis for appeal on a separate sheet of paper. Use headings so that the Commission can see which of your grounds you are discussing. Address one point at a time.

MAILING INSTRUCTIONS:

NOTE: Appeals (National and Original Jurisdiction) must be mailed to the appropriate regional office within 30 days from the date on the Notice of Action.

- (1) The guidelines were incorrectly applied in my case as to any or all of the following:
 - (A) Offense severity rating;
 - (B) Salient factor score item(s) _____;
 - (C) Time in custody.
- (2) A decision outside the guidelines was not supported by the reasons or the facts as stated in the Notice of Action;
- (3) Especially mitigation circumstances justify a different decision;
- (4) The decision was based on erroneous information and the actual facts justify a different decision;
- (5) The commission did not follow correct procedure in deciding my case, and a different decision would have resulted if the error had not occurred;
- (6) There was significant information in existence but not known at the time of the hearing;
- (7) There are compelling reasons why a more lenient decision should be rendered on grounds of compassion.

(Attach explanation on a separate sheet of paper)

LOIS A. FRANCO
Criminal Justice Consultant

October 31, 1991

National Appeals Board
United States Parole Commission
5550 Friendship Boulevard, Suite 420
Chevy Chase, MD 20815

Re: **LAYTON, Laurence John**
Reg. No. 20752-053
Original Jurisdiction Appeal

Dear Commissioners:

Please accept this supplement and explanation to the enclosed appeal. Mr. Layton and his family have requested my assistance in presenting his appeal and request for modification of the initial Original Jurisdiction decision. It is their hope that after re-examination of the materials previously submitted and consideration of the information presented herein, the National Appeals Board will agree that Mr. Layton's release at a significantly earlier point is fully supported and just.

Because the documentation in this case is already voluminous, I will attempt to be as succinct as possible in setting forth the many reasons compelling an advancement of Mr. Layton's release date. To incorporate information about the many points already made in other materials already submitted, so every point does not have to be repeated in this supplement, I also request that the following documents also be incorporated by reference into this appeal, and reviewed along with this supplement: letter/report submitted by Frank Bell, Esq., dated May 27, 1991, prior to the parole hearing; Mr. Bell's letter to the Regional Commissioner dated June 12, 1991 expressing his concerns and documenting the factual basis for his disagreement with the examiners' recommendation; correspondence submitted to the Commission by Judge Peckham; all other letters submitted on Mr. Layton's behalf by the many who support his request for release; and the transcript of the hearing, previously submitted. Each of these documents strongly supports this appeal and Mr. Layton's early release.

Mr. Layton is very appreciative of the decision of the National Commissioners to depart from the recommendation of the Regional Commissioner, and recognizes that such action is not common. Our request that his case again be considered on appeal is not meant to minimize our recognition of the significance of that action. It is instead based on Mr. Layton's and many others' hopes that the full panel of Commissioners, upon again examining the many complex and mitigating factors involved in this case, and having an opportunity to discuss it among yourselves will, on second review, be able to see that an earlier release is, indeed, warranted.

Commissioner Fechtel's closing notation in his "Findings," that "It is conceivable that on appeal, having the benefit and opportunity of an open discussion with the other Parole Commissioners, that I would vote for a lesser date. . . ." is a welcome indication that it is possible that a new review of the initial decision and an open discussion could lead to Mr. Layton's earlier release.

In my review of the case documents, I noted comments made by the Regional Administrator about the large amount of information in the case, ". . . most of which either minimizes subjects involvement or excuses his behavior. . . ." Because of this skepticism and discrediting of the information presented, and to whatever extent the National Appeals Board has any doubts about the validity of the representations set out in Mr. Bell's report and follow-up letter to the Commission, the National Appeals Board is urged to contact the individual who wrote the PSI. That person, Loren Buddress (who now is Chief U.S. Probation Officer in the Northern District of California), along with the sentencing judge, is probably the single most knowledgeable person about this case and certainly could clarify any concerns the National Appeals Board might have.

It is fully understood by this writer that the Commission's decision in any case must be the result of it's own considerations and through the implementation of its own rules. However, in a case such as this, where possible concerns about "minimizing" or "excusing" conduct, or other concerns about public sentiment might give the Commission cause to be more than usually concerned about the information it is reviewing or the decision it ultimately makes, inquiry to the originating court or probation office could be useful.

BACKGROUND

Mr. Layton is serving four sentences, one life term and three fifteen (15) year terms, all concurrent with each other. In determining the sentences to be imposed, the sentencing judge, Hon. Robert F. Peckham, had no discretion as to the length of the term to be imposed in Count 2; the statute mandates imposition of a life term. In Counts 1 and 3, the statutory sanction provides for imprisonment "for any term of years or for life," and in Count 4, Judge Peckham had the statutory authority to order Mr. Layton's imprisonment for "not more than twenty years."

In recognition of Mr. Layton's lesser role and the conditions which preceded and led to his offense, Judge Peckham not only ordered Mr. Layton's life term and the three fifteen (15) year terms to run concurrently with each other, but ordered Mr. Layton's parole on eligibility all four sentences pursuant to the provisions of 18 U.S.C. 4205(b)(1), and established his parole eligibility at five

(5) years. Had Judge Peckham intended or wanted Mr. Layton to serve any amount of time longer than five years, he certainly would have permitted the sentences to be served according to the (a) provisions, or ordered the sentences to be served consecutively, to signal the Commission that a lengthy period of incarceration was intended. He did not do so. [The rationale for his sentence and his remarks were provided to the Commission by Mr. Bell in Exhibit A of the May 27, 1991 letter/report to the Commission in support of Mr. Layton's parole, to which you are respectfully referred. I also understand that he directed a letter to the Commission following Mr. Layton's hearing, to which this writer has not been privy. Presumably, the letter also sheds some light on the Court's concerns in this case, thus, your attention also is directed to that letter.]

Larry Layton's initial parole hearing was conducted at FCI Terminal Island on June 4, 1991. After referral as an Original Jurisdiction case and completion of that review, Mr. Layton received his Notice of Action, which is dated August 29, 1991, approximately one month later, on approximately September 25, 1991. The reason for the delay in his receiving the Notice is unknown. We appreciate the National Appeals Board's willingness to accept this appeal by Mr. Layton.

EXPLANATION OF POINTS ON APPEAL

(2) A decision outside the guidelines was not supported by the reasons or the facts as stated in the Notice of Action

Although the reasons stated for the decision delaying Mr. Layton's release date a full 140 months above the guideline threshold are factually correct insofar as the totality of the tragedy at Jonestown, they imply culpability far beyond the specific knowledge and actions of Larry Layton, and his actual role in the conspiracy. The underlying facts regarding Mr. Layton's role and conduct are not reflected in these reasons.

It is critical to any understanding of Larry Layton's actual culpability in the conspiracy that the actual connection made to tie him into the conspiracy at all be understood. For this purpose, the National Appeals Board is respectfully referred to Mr. Bell's May 27 report, pages 4 - 8 and Exhibit B¹, in which The Theory of

¹ Exhibit B is the opinion of the Ninth Circuit Court of Appeal in Mr. Layton's case. The appeal, among other points, challenged the government's assertion that there was any foundation to the allegation that Mr. Layton held any part in the conspiracies to murder Congressman Ryan or attempted murder of Mr. Richard Dwyer. Pages 1397 to 1401 in the opinion address this issue and set

the Prosecution and The Basis of the Charges of Which Larry Layton Was Found Guilty are addressed. Having been a member of the defense team during Mr. Layton's first trial, which ended in a mis-trial, not only is Mr. Bell very familiar with the facts of the case and extent and nature of Mr. Layton's involvement, he is familiar with the argument pursued by the government in its ultimately successful effort to tie Mr. Layton into the conspiracy charges. Mr. Bell's report and the exhibited appellate opinion directly address the issue of the conspiracy theory leading to Mr. Layton's conviction.

As Mr. Bell indicates, the basis of the conspiracy and aiding and abetting charges "revolves around matters far removed from any of Larry's actions at the airport. . . and in actuality his actions were far-removed from any overt action or intent that either party should be harmed, much less murder." Mr. Bell explains, and in fact quotes from the appellate opinion that

"the Government presented sufficient evidence to establish that Jones and Layton were participants in a conspiracy, or common enterprise, to conceal from Congressman Ryan the truth about the conditions at Jonestown . . . the district court found that the petition circulated by Jones and signed by Layton prior to Ryan's arrival constituted prima facie evidence of a common enterprise to conceal the truth about the conditions at Jonestown. . . ."

That petition was signed by Larry Layton and several hundred of the other residents at Jonestown on November 9, 1978, over a week before the arrival of the congressional party, in an attempt to dissuade them from coming. The petition contained no threats of death or harm, but simply indicated that the visitors were not welcome. The petition statement is found in the opinion as well as on page 5 of Mr. Bell's report.

At sentencing, Judge Peckham stated his conviction that

". . . Significantly, Layton was not himself among the people who actually shot at the Congressman and his party. Furthermore, the Court is not convinced, after hearing the evidence that Layton was himself an active leader in the planning of the murders . . . his role in the conspiracy for which he has been convicted was not as significant as that of many of the other conspirators. . . ." (Exhibit B of May 27, 1991 Bell Report, pp 50, 51)

forth the court's conclusions, quoted in part in Mr. Bell's report and herein.

As limited as it may seem, Larry Layton's part in the conspiracies of which he was found guilty relates to his having signed the petition, which was determined to be part of

"a concerted common enterprise to dissuade Congressman Ryan from visiting Jonestown and learning the truth about the conditions there."

Although there were "multiple victims who were murdered and there were attempted murders of others" as stated in the reasons in the Notice of Action, it is suggested that rationale is not appropriate because it does not speak to events about which Mr. Layton was aware, or over which he had any control. Larry Layton did not know of the intent, or the plans and actions leading to the shooting, deaths and injuries which occurred at and around Congressman Ryan's airplane, until he actually witnessed the event happening. His tie into the conspiracy was only as described above. He admits shooting two passengers and attempting to shoot the third passenger on the smaller plane he had boarded, however, it cannot be ignored that he was prosecuted and acquitted in the Guyanese courts on charges relating to his actions at the airport.

It is understandable that although Mr. Layton's convictions relate to the conspiracies discussed, only, it can be difficult to get past the emotionally over-riding and terrible tragedy of the Jonestown mass suicide. Mental images of that aspect of that tragedy, which occurred shortly after the events at the Port Kaituma airport, spring into one's mind's eye at the mention of "Jonestown." Because the images and horror of that aspect of the tragedy have lingered in the minds of most of us who were exposed to it, it needs to be said outright that Larry Layton's actions and convictions must be separated from those deaths. It cannot be stated strongly enough that he should not be held responsible or accountable to any extent or in any way for those horrific actions, which were effected solely by Jim Jones and his top lieutenants. Indeed, Larry Layton would have been among those victims, had Jones and his lieutenants not assigned him the alternate task at the airport (which also was intended to have resulted in Layton's death).

Reflected on page 57 of the sentencing transcript are the observations of Judge Peckham on this matter:

". . . In the end Jim Jones destroyed any individual will to live that remained in Jonestown, and caused over 900 people to take their own lives and the lives of their children. Although not directly related to the conspiracy for which Larry Layton has been convicted, this final atrocity is essential to an understanding of the

environment in which he lived. . . The Court is convinced that a just sentence also requires consideration of the environment in which Layton and other members of Jonestown were virtually imprisoned. . . ."

In view of the very limited role Mr. Layton played in the conspiracies of which he was convicted, his acquittal in Guyana, and the mitigating circumstances which are presented in the PSI, psychological reports attached thereto, discussed in Mr. Bell's report, and again addressed below in this appeal, it is respectfully suggested that the decision requiring Mr. Layton to serve 20 years prior to parole is excessive, and should be modified to permit Mr. Layton's release to parole in the near future.

(3) Especially mitigating circumstances justify a different decision

Contained within the Commission's file are counter-arguments by Commission members to the numerous psychological reports, and testimony and letters of former Peoples Temple members, survivors, and others who have known Mr. Layton. These individuals know through first hand experience or have extensively studied the "brainwashing" or "mind control" exercised by Jim Jones on Larry Layton and the others. The counter-arguments noted basically reflect how difficult it is for those of us who have strong will, relative control over our lives, and a strong sense of self esteem to believe that anyone could, or would be willing to give control of their lives and permit themselves to be so thoroughly subjugated and demeaned, as Larry Layton did.

The PSI presents many reports and opinions by experts as well as observers of the Peoples Temple which all attribute to the Reverend Jim Jones a phenomenal ability to draw, manipulate, control and destroy people. When Larry Layton joined the Peoples Temple, the Temple was viewed by many in the communities in which it was functional (including San Francisco, Los Angeles, and points east) as a very positive and strong force in the community. Jones and the Temple often received awards and public high praise from politicians and community leaders for the Peoples Temple's activities and contributions. Layton and others who joined felt they were becoming members of a group within which they could, in collective effort, create a significant and positive force in the world. What they did not and could not know was how Jones would gradually control them and change the Peoples Temple's direction.

In commenting on the brainwashing or mind control Layton experienced, the Commission reviewers analogized the circumstances of his involvement to drug addiction or the followers of Hitler during the Third Reich. The conclusions in these analogies are that regardless of the influence of Hitler over his followers, which led

to the massacre of millions of Jews and eventually the prosecution of Hitler's followers at the Nuremberg trials, or the addiction of the drug, the individuals under the influence of these forces were (and are) nevertheless, held accountable for the conduct which occurred, despite the influence of Hitler, or the drug. Therefore, so should Mr. Layton be held fully accountable.

I would respectfully suggest that neither of these analogies is fitting in this case. Larry Layton did not join the Peoples Temple with any awareness that he and others would be subjugated to the brainwashing of Jim Jones. As a pacifist and conscientious objector he never would have joined the Temple had he had any understanding of what the Jones and his methods would become, or if believed he or anyone within the group ever would have been ordered to kill another human being. Larry Layton had no involvement whatsoever in the mass deaths of the Jonestown populace, and only through a fluke remained alive after all was done. Further, his only involvement in the conspiracy regarding the deaths at the airport was peripheral at most, and he did not know about, and had no part whatsoever in planning or implementing the assaults against Congressman Ryan and the party on or close to that plane. In the Third Reich, the top officers, Hitler's "cabinet" members, knew from the beginning what the plan was; they actively supported and enforced his policy of genocide. They were leaders, and had full knowledge and active responsibility for the atrocities which occurred, and seeing that the plan was followed by their subordinates.

By all accounts, and abundantly reflected in the documents in the Commission's file, Larry Layton never was considered a leader within the Peoples Temple. Instead, he was the opposite, the person who was disregarded by most, and abused and humiliated by Jones at every turn, in ways most of us could never even imagine. He cannot in any sense be compared to the top leaders of the Third Reich who, after planning and enforcing the extermination of millions of Jews and others, were tried and punished for their acts. If anything, Larry Layton should be compared to any foot soldier who was sent into the war field on a suicide mission to stop couriers of "front line" security information back to the enemy. But for a miracle, he was not killed, as was planned by Jones.

The drug addition analogy also provides a misleading comparison. Users of drugs either go blindly into a world the rest of us know to be fraught with problems and addiction, or delude themselves into believing they, unlike others who have not been strong enough to keep from becoming addicted, will be able to continue their use without becoming addicted. Larry Layton did not delude himself into believing the Peoples Temple was something it was not. When he "bought into" the Peoples Temple, and committed himself and his life to the Temple as many do to their faith, he had no way of

knowing what it would become or how he would be subjected to the brainwashing of Jim Jones; he had no crystal ball. There was nothing to warn him. Jones' extraordinary skill in brainwashing and gaining control over the members of the Peoples Temple is discussed by several of the experts, whose entire reports are attached to the PSI, and are quoted in it and Mr. Bell's report.

The statements regarding the extent and effect of Mr. Layton's having been extensively and thoroughly brainwashed by Jones aren't contested, even by the experts for the prosecution, and deserve the strong, additional consideration of the National Appeals Board. The only real difference in professional opinion in all of the many reports was regarding whether Mr. Layton should be considered to have been legally sane at the time of the commission of his offense. To hold Mr. Layton accountable through extensive incarceration as the Commission has, as if he freely made choices about remaining within the Peoples Temple and freely permitted himself to be humiliated and demeaned and abused, is not supported by any of the professional documentation available, or by the conclusions of the Court or Probation Officer.

Any effort I would make to further comment or summarize the mitigating aspects of the psychiatric or psychological reports discussed by Mr. Buddress on pages 33 - 46 in the PSI (and attached, in full, in the appendix to the PSI), or to further highlight the statements and opinions of Mr. Bell (pages 8 - 17 in the May 27, 1991 report) would only be redundant, and, frankly, probably inadequate. The National Appeals Board is urged to review these pages and reports because it is the information presented in those pages and reports which, along with the judge's remarks, the jurors' letters, and the letters from the Peoples Temple survivors and victims, so strongly point up the merit of Mr. Layton's early release.

The Commission's Manual gives examples of circumstances and reasons which can be used to describe why decisions below guidelines have been determined to be warranted. Such decisions may be warranted when a case can be distinguished from the "typical" cases for which the guidelines are set. I would like to reiterate Mr. Bell's conclusions in this regard because I believe the facts and circumstances support these conclusions:

We believe that given the facts of this case and the circumstances under which Larry's offense was committed, four of the six examples of Mitigating Offense Factors contained in the Manual apply to Larry Layton's case:

A decision below the guidelines is warranted because of:

1. Mitigating Offense Factors

. . . Larry Layton's offense was less serious than the rated offense would normally be because he was only peripherally involved in the offense. [By all accounts, and as expressed by the Court at sentencing, Larry did not have any direct role in the murder of Congressman Ryan (or of the others killed at the airstrip or in Jonestown), or in the injury of Chief Deputy Dwyer (or the injuries of the others in their area).]

2. Diminished Mental Capacity

. . . Larry Layton had diminished mental capacity to contemplate the seriousness of the offense because of the effects of being exposed to a decade of manipulation, mind control techniques, coercive persuasion, and delusional thought which rendered him unable to independently examine or act in contradiction to the suggestions of Jim Jones and his closest advisors to take the actions which comprise the offense conduct.

3. Duress

. . . There is confirmed evidence that duress was overtly exercised to force Larry Layton to commit the offense. The mind conditioning and coercive persuasion, resulting in Larry Layton's loss of free will and corresponding sole focus on appeasing and pleasing Jim Jones to avoid punishment (physical and emotional) was implemented by Jones in an environment of fear, abuse, and humiliation, deprivation of satisfaction of physical and emotional needs, and peer pressure. The paranoid delusions the Jonestown populace suffered from, that evil outside forces would destroy Jonestown and therefore, the members' world (and Larry's) culminated in extreme duress which, in combination with diminished mental capacity, resulted in Larry Layton's actions and offense conduct.

4. Extreme Provocation

. . . there was extraordinarily severe provocation combined with a diminished mental state, occurring through no fault of Larry Layton. The provocation in this case was the perceived threat, based on paranoia and delusions, that Jonestown would be destroyed if the visitors and "defectors" reached the outside world. Larry Layton's diminished mental capacity rendered him incapable of realizing that the real threat was the very person whose approval he was compelled to seek and whose dictates controlled Larry's actions, including his offense conduct.

Mr. Bell notes the Court's determination that although Mr. Layton must be punished for his actions, he also highlighted the "clear

message" the Court sent "through the type of sentence imposed", which permitted Mr. Layton to be released after serving five years. He asked the Commission "to recognize what was apparent to the jurors, the Sentencing Judge, the professionals and many former Peoples Temple writers of letters and affidavits - that the decade of conditioning and control under Jim Jones had placed Larry Layton under such duress that the seriousness of his actions is mitigated." He further noted that "The psychiatric and psychological factors and the effects of Jones' conditioning, in combination with the period of time Larry has already spent in prison, justify his release now."

We ask the National Appeals Board in its review of this case to reconsider its previous skepticism and limited acceptance of the significance of the impact of the "coercive persuasion", or "brainwashing" or "mind control" on Mr. Layton by Jim Jones. We ask that the Commission accept the effect of this control of Mr. Layton as being the basis for Mr. Layton's actions at the airport in shooting at the three individuals on board the plane he was on, as well as for his peripheral involvement (as described earlier) in the conspiracy of which he was found guilty.

We ask that the 90+ months time Mr. Layton has served thus far be considered in conjunction with the provisions Judge made at sentencing, and that for the reasons given, Mr. Layton be released immediately to parole status.

(4) The decision was based on erroneous information and the actual facts justify a different decision

There are indications throughout the Commission's review that Mr. Layton was either 1) in some way, involved in the tragic suicides at Jonestown, and that he should be held accountable for that terrible atrocity, or 1) directly involved in or knowledgeable about the planning and actions leading to the shootings, deaths and injuries at the Port Kaituma airport. As early as the initial hearing, after all the facts had been discussed, just before Mr. Layton and his representatives were to leave the room, one of the examiners asked Mr. Layton "what are the names of the two people you killed?"

In the Regional Administrator's review, the professional reports and information presented is discounted as attempts to minimize or excuse Mr. Layton's behavior, rather than viewed as statements of fact, personal experience, and professional assessment by the various writers and presenters of the information in the file. If the Commission had given full weight to the volumes of information presented by both the prosecution and defense regarding Mr. Layton's mental condition, rather than expecting him to have been able to rise to the occasion and demonstrate the ability to react

and make rational decisions, it is believed that the Commission would have reached a different decision regarding Mr. Layton's parole. [Indeed, had Mr. Layton been able to exercise rational thought process, he would have left the Peoples Temple and not been involved in this process at all.]

(5) The Commission did not follow correct procedure in deciding Mr. Layton's case, and a different decision would have resulted if the error had not occurred

This case is difficult because of many factors, not the least of which is the need to sort out what precisely was Mr. Layton's actual conduct. The offenses of conviction relate to his involvement in the conspiracies to kill Congressman Ryan and Deputy Chief of Mission, Richard Dwyer. The information above describes how very limited Mr. Layton's involvement in those conspiracies was, and his lack of knowledge or active involvement in what was planned and occurred. There is no evidence to indicate anything to the contrary. The conspiracies against Cong. Ryan and Mr. Dwyer resulted in the deaths of Congressman Ryan, three newsmen and one defector, and the gun injuries to 8 others on board or around Congressman Ryan's aircraft, but were planned and carried out without the knowledge of involvement of Mr. Layton.

If ever there were a case which is not a "typical" case, and where mitigating factors are abundantly available for consideration, this is the case. Further, in the General Notes, 28 CFR 2.20, Chapter 13, note 4, the Manual indicates that:

"The prisoner is to be held accountable for his own actions and actions done in concert with others; however, the prisoner is not to be held accountable for activities committed by associates over which the prisoner has no control and could not have been reasonably expected to foresee."

The Commission's consideration and punishment of Mr. Layton's activities within the conspiracy of which he was convicted should be limited only to that peripheral aspect of his involvement addressed above, that is, his common interest with Jones (and the others who signed the petition) to conceal and "prevent the Ryan delegation from discovering the truth about the conditions at Jonestown. . . ." He had no further responsibility for, or even knowledge of the plans and steps that ultimately would be taken against Congressman Ryan and the others who were at his plane. At the time he signed the petition, Mr. Layton had no expectation that any harm would come to any of the Congressman's party, if they arrived, and was not aware of any plans being made to harm anyone in the party. He did not foresee that the attacks were going to take place, and notwithstanding anything else, Mr. Layton had no

control over anyone, especially Jim Jones and his lieutenants, who did plan and direct the attack on the Congressional party. We ask the National Appeals to consider these factors as mitigating and compelling favorable consideration.

In the almost simultaneous action in the smaller aircraft, in which Mr. Layton was involved at Jim Jones and his lieutenant's direction, two defectors were injured, and an attempt to shoot a third was unsuccessful. It is these most serious actions of Mr. Layton which we ask the Commission to consider in conjunction with the many mitigating factors presented herein, as well as in the PSI and Mr. Bell's report and follow-up letter.

(7) There are compelling reasons why a more lenient decision should be rendered on grounds of compassion

Although a copy of the letter to the Commission from Judge Peckham, written after Mr. Layton's parole hearing, has not been made available to Mr. Bell or this writer, it is understood that the letter contained a recommendation that Mr. Layton be released at or near his eligibility date. Mr. Layton has now served approximately 30 months past his eligibility.

This is not a case where a sentencing judge is prevailing upon the Parole Commission to take lenient action after the Court has done its best to look tough by ordering a lengthy sentence. Here is a situation where the court had no flexibility insofar as the life term which was required in the sentence in Count 2, despite his belief that a significantly lesser period of time in custody was warranted. He did take the only action available to him, and imposed the sentence according to the 4205(b)(1) provisions, setting the eligibility date at five (5) years. Through doing so, as well as in his communication to the Commission, Judge Peckham made clear the action he believed appropriate, and hoped the Commission would take.

In addition to the reasons for the Court's sentence, reflected in the sentencing transcript found in Exhibit B of Mr. Bell's report, there are additional considerations factors which support a more lenient decision:

Mr. Layton spent an extremely difficult period of time in Guyanese custody during his trial in that country, prior to his acquittal. As verified by Stephan Jones, who also was held there for three months, the conditions were unimaginably abhorrent, and because of the large number of Jonestown victims who were Black, the predominantly Black population in the Guyanese jail were particularly inhospitable.

The letters from the jurors to Judge Peckham prior to sentencing, expressing their concerns:

Juror Karen Provenza: . . . during the process (of deliberation) I was haunted by the larger moral question, was Larry Layton fully responsible for his actions. My fellow jurors convinced me his state of mind, whether he was brainwashed, coerced or pressured in any other way, was not evidence in the case. We did not know the legal definition of brainwashed and therefore had no framework to test the evidence. That left me with no other choice than to convict Larry Layton. But in my mind he is no different than any other victim of Jim Jones. I can not separate him from those who were found dead in the jungle. The vast numbers of those who died are testimony to the extraordinary power of that evil man. Larry Layton is one of his victims. I feel as though I convicted a child, someone who did not have the capacity to question his authority. The ability to reason right from wrong was stripped away long ago. This is not a man who belongs in jail. He is not a threat to anyone. . . .

Juror Jai A. Huebel: . . . I realize Larry Laton (sic) is guilty of taking part in a horrible crime, but at the same time I believe he was as much of a victim as a participant. . . the thought that Jim Jones is still destroying lives 8 years after Jonestown is infuriating to me. . . .

Juror Johanne Germain: . . . we did not feel that he should be punished severely. Although the defense could not plead insanity, we do feel that the circumstances were almost unbearable. . . .

Juror John Littrell: . . . we had to find him guilty as charged since the Defense did not plead insanity. I plead leniency because he spent years in a closed environment that revolved around Jones and the Peoples Temple. Laton (sic) did what seemed right in his world.

Juror Germain also expressed her continuing concerns about the length of time Mr. Layton would be required to continue in prison in her letter dated May 30, 1991, to the Commission:

". . . At the time of Mr. Layton's sentencing, I wrote Judge Peckham. . . I indicated that I had strong thoughts and feelings about Mr. Layton's sentencing and the punishment he would suffer. I continue to hold these strong feelings.

Although we, the jury, did reach a verdict of "guilty" on the charges against Mr. Layton, and did feel that he should be

punished, we did not feel that he should be punished severely. The basis for our feeling was that we felt that Mr. Layton had played only a very small part in the conspiracy.

Through the evidence and testimony presented by the prosecution, we also learned of the appalling and almost inconceivable circumstances endured by Mr. Layton and other members of the Peoples Temple in Jonestown, and before. Being involved in a situation like what they were in understandably created an environment where almost anyone, any of us, would have given in. Jonestown was another world, a nightmare. The brainwashing and total subjugation and enslavement of these people and particularly Mr. Layton, to the control and manipulations of the Reverend Jim Jones was obvious.

. . . I, along with several of the other jurors with whom I did discuss this, did not believe that Mr. Layton would have participated, even in a very small way, if he had been in relatively normal circumstances, or not under Rev. Jones's total control.

Along with the other jurors, I did feel that, at the time of the trial in 1986, Mr. Layton had already paid and suffered a great deal. We also felt that he will continue to pay by carrying the nightmare of Jonestown and all that Rev. Jones did to him, for the rest of his life.

I continue to feel what I expressed to Judge Peckham. I feel that the prison time Mr. Layton has served, which is about 7 years altogether now, is more than enough to punish him for his minimal role in what happened in Jonestown and at Port Kaituma. As I mentioned to Judge Peckham, my verdict of guilt only came with a feeling of justice if the sentence given was minimal. I had hoped that the sentence would have been less than what was ordered, and was surprised and disappointed to learn that Judge Peckham was required by law to impose the life terms. I was pleased to learn that by ordering that Mr. Layton would be eligible for parole after he had served five years, Judge Peckham ensured that Mr. Layton could then be released without having to serve more time.

I write to recommend and request that your Commission take that action. I certainly do not believe that Larry Layton is a threat to society. He has more than paid for his crimes . . . it is time, I believe, to permit Mr. Layton to be back with his family and to try to re-establish his life in a normal world. He has been in one form of prison or other since he joined Peoples Temple.

Please consider this recommendation for Mr. Layton's release."

Victims at the airstrip, including the individuals at whom Mr. Layton personally shot at, have written letters or made statements to the Court. These letters are contained in Appendix 4C to the PSI, and are quoted by the Court in the sentencing transcript. One of the victims of Mr. Layton, Monika Bagby wrote:

"I feel that the action being taken to single out Larry Layton is unjust. . . My personal feelings are of no animosity or antipathy for Larry Layton. I guess if the saying ever applies; ya had to be there to understand."

Another of Mr. Layton's shooting victims stated "I don't feel he is a threat to anyone." Other victims, and many Jonestown survivors and former Peoples Temple members strongly and very emotionally urge Mr. Layton's release, begging that the Court (letters in PSI) and the Commission (letters with May 27 report or received separately) to let Larry Layton get on with his life.

Notwithstanding his criminal actions and the convictions in this case, and in no way trying to minimize his wrongful and very serious actions, Larry Layton is a victim. Furthermore, by virtue of his having escaped death by poison or in an airplane crash as was Jones' mission for Mr. Layton, he continues to be victimized by Jim Jones. The victimization will continue as long as Mr. Layton remains in prison, and beyond that, for as long as he can remember his subjugation to Jim Jones.

There is no attempt by Mr. Layton, or any of us working with him to avoid the reality that Mr. Layton must be punished formally for his actions. We do hold hope that the Commission will see that he already has been severely punished through his loss of family and friends at Jonestown; his extremely difficult incarceration while in Guyanese custody; the guilt he does bear for his actions; and the lengthy period of time he has spent in custody thus far (90+ months).

As was noted in Mr. Bell's submission and highlighted at the hearing, Mr. Layton's institutional conduct has been fully outstanding in every manner possible. He contributes in every conceivable and manageable way to the lives around him, whether they be free or incarcerated individuals. The two enclosed Certificates of Completion, for Kairos #3, and the comprehensive training course in Hospital Visitation, Hospice Companion and Wellness Volunteer Program, and the extremely laudatory memorandum of recommendation from Chaplain Bill Nadeau reflect that Mr. Layton continues to participate in self-improvement activities and to give of himself to others.

Continued incarceration will serve no purpose but punishment. It is respectfully suggested that no further punishment is warranted or required.

CONCLUSION

An earlier release than presently ordered is, in this writer's opinion, fully justified, based on the extremely strong mitigating circumstances, the punishment already served, and the extraordinary support for an early release from the Court, the victims, the jurors, and the various survivors and former members of the Peoples Temple. To fail to significantly modify the original decision would leave the decision in this case in a category which would require Larry Layton to serve more time than many of the most egregiously serious offenders heard by the Commission. The circumstances of this offense and Mr. Layton's conduct do not justify such extremely punitive action.

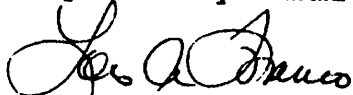
As Mr. Bell's letter covered so thoroughly in his report, pages 24 - 28, Larry Layton has met the parole determination criteria set forth at 18 USC 4206 in every way. (In the interest of conserving space in this already lengthy statement, and rather than repeating those points here, the National Appeals Board reviewers are urged to again review these pages because of the relevance of the points made, and their significance to this appellate decision.)

There is enormous justification and support which has been presented to the National Appeals Board through the official channels of the court as well as through Mr. Layton's representatives. The totality of the information is ample basis for Mr. Layton's immediate release, or a release no later than at the bottom of the guidelines, 100 months.

The National Appeals Board is urged to take such action.

Thank you.

Respectfully submitted,



Lois A. Franco

Enclosures as noted

UNITED STATES GOVERNMENT
F.C.I. - TERMINAL ISLAND

M E M O R A N D U M

DATE: Mon - September 30, 1991

REPLY TO: Father Bill Nadeau, Chaplain

SUBJECT: INMATE RECOMMENDATION- LAYTON, Laurence 20752-053

TO: "G" Unit Team

It is with pleasure that I write this memo concerning LAYTON, Laurence, 20752-053 who I have grown to know since his arrival here at Terminal Island, back January 1987.

Larry is a reserved and quiet person. He maintains a low profile and carries himself in an unassuming fashion. I find him very thoughtful, courteous, sincere and dependable. He gets along well with his peers and the staff. He has a healthy self-image and recognizes his own weakness and strengths. He does not assert himself on others. He maintains a cheerful outlook, regardless of the present situation.

Larry has utilized his time in this facility wisely not only by staying out of any trouble, but most importantly he has assisted and participated in many of the Institutional Programs. He is extensively involved in the program dealing with Attitudinal Healing and is one of the original members of the "inmate hospital volunteers." Currently he is a active member of the Christian community and faithfully participates in their daily mediation services.

Larry is not afraid of hard work and seems to be most generous in helping others. He is quick to volunteer his time and talents to assist those less fortunate than himself. He works very conscientiously and devotedly to meet the needs and expectations of others. He is thorough and painstakingly accurate in whatever task he performs, as well as, resourceful and diligent.

Larry's father who is 77 years old and in very poor health and lives alone, is a major concern of his. He stays in constant contact with his father, and is pre-occupied about his father's health.

He is to be commended for his efforts to enhance the Pastoral Care Department by his generous assistance and diplomatic suggestions. He is also sensitive to the hurts and pains of his fellow inmates and will assist them in whatever way possible.

Certificate
of
Completion

May it be known that this Certificate has been presented to

LARRY LAYTON

for Successful Completion of

KAIROS #3 F.C.I. TERMINAL ISLAND

PRESENTED THIS
14TH DAY OF
OCTOBER, 19 91

Neill Sullivan

NEILL SULLIVAN, RECTOR

Fr. Bill Nadeau

FR. BILL NADEAU, CHAPLAIN



Federal Bureau of Prisons
 Western Regional Referral
 Medical Center
 San Pedro, California



Certificate of Completion

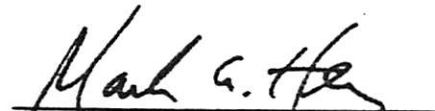
This is to certify that

LARRY LAYTON

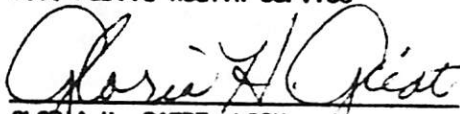
has completed the comprehensive training course in Hospital Visitation,
 Hospice Companion and Wellness Volunteer Program.

Further, that this certificate is hereby issued this 18 day of
OCTOBER, 1991.


 WILLIAM P. EMERLING
 Chief, ED D
 U.S. Public Health Service


 MARK A. HENRY
 Warden
 Federal Correctional Institution


 FR. WILLIAM NADEAU
 Program Advisor


 GLORIA H. GIEDT, LCSW
 St. Mary Medical Center
 Long Beach, California


 IMAM ABDUL HAFIZ
 Program Advisor