

Executive Department

State of California

SHIRLEY REE SMITH COMMUTATION OF SENTENCE

Shirley Ree Smith has applied for executive clemency. In December 1997, she was convicted in the Los Angeles County Superior Court of the crime of assault on a child causing death and sentenced to 15 years to life. (Penal Code, § 273ab.)

While incarcerated, Ms. Smith challenged her conviction in state court, and then in federal court. In 2006, the Ninth Circuit Court of Appeals concluded that there was insufficient evidence of guilt. In overturning her conviction, the court explained that the evidence presented at her trial, "is simply not the stuff from which guilt beyond a reasonable doubt can be established, especially in the face of all other circumstances, . . . making the crime unlikely." (*Smith v. Mitchell* (2006) 437 F.3d 884, 890.) The court determined that "there has very likely been a miscarriage of justice in this case." Based on that determination, Ms. Smith was released from prison after serving eight years and six months.

Ms. Smith has been free from custody since 2006 while numerous federal judicial proceedings evaluated whether her conviction should be reinstated. On October 31, 2011, the United States Supreme Court issued its final opinion and ordered her conviction to be reinstated. But in doing so, a majority of the Court acknowledged that "[d]oubts about whether Smith is in fact guilty are understandable" and that Ms. Smith's case may be appropriate for executive clemency "to help ensure that justice is tempered with mercy." (*Cavazos v. Smith* (2011) 132 S.Ct. 2, 7.)

When Ms. Smith was convicted, she was 37 years old and had no criminal record. Now, she is 51 years old and has been law-abiding since her release in 2006.

From my review of the information before me, including materials from the Los Angeles District Attorney's Office, it is clear that significant doubts surround Ms. Smith's conviction. In light of the unusual circumstances in this particular case, the length of time Ms. Smith has served in prison, and the evidence before me that Ms. Smith has been law-abiding since her release from prison, I conclude that reducing her sentence to time served is appropriate.

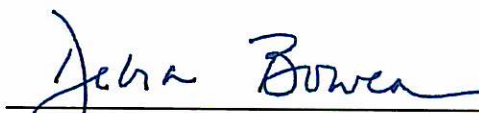
THEREFORE, I, Edmund G. Brown Jr., Governor of the State of California, pursuant to the authority vested in me by the Constitution and statutes of the State of California, hereby grant to Shirley Ree Smith a commutation of sentence to time served.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 6th day of April, 2012.




EDMUND G. BROWN JR.
Governor of California

ATTEST:


DEBRA BOWEN
Secretary of State