

PARDON APPLICATION FOR HENRY McCARTY,
AKA WILLIAM BONNEY and BILLY THE KID

General information:

Applicant Name: Henry McCarty, aka Billy the Kid, William H. Bonney, Henry Antrim, William Antrim, Kid Antrim, Billito, El Chivato

Date of Birth: Precise dob unknown, circa 1859 Soc. Security No. N/A

Address/City/State/Zip Code: Deceased. Buried in Ft. Sumner, New Mexico

Home Phone #: N/A Work Phone #: N/A

Dept. of Corrections Inmate #: N/A

Education: Through the age of 16 in Silver City, New Mexico

Employment:

1874 Age 15-16 – After his mother’s death, worked as a hotel employee, Silver City, N.M. for room and board for a landlord who said he was the only employee who never stole anything.

1875-77 Seasonal ranch hand in Arizona Territory at various ranches

1877- 2/18/78 Ranch hand for John Tunstall at the Rio Feliz Ranch in Lincoln County, N.M., until Mr. Tunstall was killed by a “posse” of armed men sent by Sheriff William Brady on February 18, 1878

March, 1878 Member of a posse called “the Regulators” to capture and arrest the men who murdered John Tunstall. Arrest warrants for the killers issued by Justice of the Peace John Bautista Wilson were withdrawn by Governor Samuel B. Axtell.

Crime Information:

List conviction: Only one of the 6-7 suspected shooters to be tried and convicted of murder in the shooting death of Sheriff William Brady on April 1, 1878, as Brady walked down the streets of Lincoln, New Mexico with 3 other men to inform the assembled grand jurors that the grand jury investigation into the death of John Tunstall was cancelled and would not occur that day. One other man, George Hindemann, was also shot and died. Present in Lincoln to testify as witnesses before the grand jury about the killing of John Tunstall were some of the Regulators, John Middleton, Fred Waite, Frank McNab, Henry Brown, Jim French, William Bonney and Rob Widenmann.

Although 5 men were ultimately indicted for the killing of John Tunstall by the grand jury which re-convened on April 13, 1878 – Jesse Evans, Miguel Segovia, Frank Rivers, James J. Dolan and Billy Mathews – none of these men were ever tried or convicted. Nor was any other person ever tried and convicted of any of the dozens of killings which occurred during the Lincoln County War between February, 1878 and March, 1879.

Sentence: Death by hanging Date sentenced: April 13, 1881

Date(s) probation/parole ended: N/A Shot by Sheriff Pat Garrett on July 13, 1881

List additional conviction(s) on the lines below:

None. However, killed 2 men, deputies Jim Bell and Bob Olinger, during his escape from custody on April 28, 1881, while awaiting imposition of the death sentence at the jail on the second floor of the Lincoln County courthouse. Shot dead by Sheriff Pat Garrett before he could be tried on those crimes.

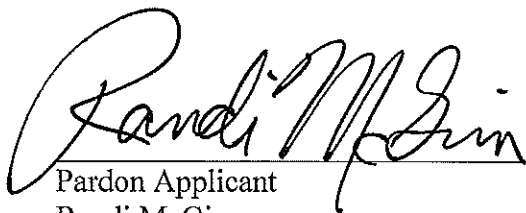
Questions:

Have you met all sentencing requirements? N/A

Are you requesting a restoration of firearms privileges? No State reasons: _____

Additional attachments:

1. Factual Statement of historical basis for gubernatorial pardon and clemency.



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December 14, 2010
Date

Factual Basis to Pardon Billy the Kid

A promise is a promise and should be enforced. It is particularly important to enforce promises and deals made by government officials, law enforcement officers or the governor of a state made in exchange for a citizen risking his life to testify against a criminal who committed murder.

Such a promise was made by New Mexico Governor Lew Wallace to the man known in New Mexico as William Bonney, aka Billy the Kid, at the end of the Lincoln County War. Mr. Bonney kept his end of the bargain by testifying before a grand jury against the men who murdered attorney Huston Chapman on February 18, 1879. Governor Wallace did not keep his end of the deal, which was to pardon Mr. Bonney for all outstanding charges, including the pending indictment related to the death of Sheriff William Brady. This injustice should be corrected.

On February 18, 1879, the first anniversary of the murder of John Tunstall, Mr. Bonney's former employer and mentor, both sides in the year-long Lincoln County War met to negotiate a truce. The new governor, Lew Wallace, who replaced the old, corrupt governor, Sam Axtell, on October 2, 1878, had issued an amnesty proclamation on November 13, 1878, which pardoned all offenses committed during the Lincoln County War, except for those with pending prosecutions. With an indictment pending against him for the April 1, 1878 deaths of Sheriff Brady and Mr. Hindemann, William Bonney was one of the few Lincoln County residents who was not given retroactive amnesty for the dozens of killings which had been committed during the conflict.

Both sides of the Lincoln County War – those on the Dolan/Murphy "House" side and those from the Tunstall/McSween/Chisum side – met after the Governor's amnesty proclamation to negotiate a treaty. The prime mover behind the meeting, the person who wanted peace in Lincoln County, was William Bonney, who sent a letter to the other side proposing a truce. At the meeting, the parties agreed that the fighting would end and none of the parties would testify against any of the others, on pain of death. Unfortunately, after the written treaty was signed, Jesse Evans and Jimmy Dolan broke out whiskey to celebrate and, in short order, there were 20 armed, drunken cowboys stumbling down Lincoln's one street. The only sober one was William Bonney, who did not drink alcohol.

Into this drunken celebration walked a one-armed lawyer named Huston Chapman, who was coming back from a neighbor's house. He was confronted on the street by a drunken Billy Campbell, from the Dolan/Murphy House, who pulled out his pistol, pressed it to Chapman's chest and demanded that he "dance." When Chapman refused, he was shot from the front by Mr. Campbell and from behind by Jimmy Dolan. He was set on fire and burned in the street where he lay.

The death of the lawyer, Chapman, finally convinced Governor Wallace to travel to Lincoln, which he did 2 weeks after the shooting. Although the federal troops at the Governor's disposal were quickly able to capture Campbell, Dolan and an accomplice, Jesse Evans, and hold them in the fort, he could not find anyone to testify against them. It was then that the Governor received a letter from W.H. Bonney stating that Mr. Bonney had been present and was an eyewitness to the shooting of the lawyer, Chapman and, despite the risk of death, was willing to testify against the killers if the Governor would annul the pending charges against him, including the indictment for the murder of Sheriff Brady.

Governor Wallace wrote back to Mr. Bonney and asked him to meet him alone at a private residence, indicating that: "I have authority to exempt you from prosecution if you will testify to what you say you know."

Mr. Bonney came to the private, night time meeting. At that meeting, after representing that he had the power to give him absolute protection, Governor Wallace promised Mr. Bonney that, if he testified fully against Billy Campbell and the other shooters before the grand jury meeting in 2-3 weeks, "In return for your doing this, I will let you go scot free with a pardon in your pocket for all your misdeeds."

Several hours after this meeting and agreement, Jimmy Dolan, Jesse Evans and Billy Campbell "escaped" from the Fort Stanton guardhouse. After the escape, Mr. Bonney wrote another letter to Justice of the Peace John Wilson, where the governor was staying, asking him to find out whether, now that the prisoners had escaped, the governor was still interested in their deal. Governor Wallace responded:

The escape makes no difference in arrangements. To remove all suspicion of understanding, I think it better to put the arresting party in charge of Sheriff Kimball, who shall be instructed to see that no violence is used. This will go to you tonight.

Mr. Bonney wrote back:

Sir: I will keep the appointment I made but be sure and have men come that you can depend on. I am not afraid to die like a man fighting but I would not like to be killed like a dog unarmed. Tell Kimball to let his men be placed around the house and for him to come in alone; and he can arrest us. All I am afraid of is that in the fort we might bekilled through a window at night. But you can arrange that all right....It is not my place to advise you, but I am anxious to have them caught, and perhaps know how men hide from soldiers better than you."

Based on the plan devised with Governor Wallace to protect the safety of their eyewitness, Sheriff George Kimball made a mock arrest of Mr. Bonney on March 23, 1879. Shortly thereafter, Mr. Bonney kept his word and testified before the grand jury which, with an eye witness, indicted Billy Campbell, Jimmy Dolan and Jesse Evans for the murder of lawyer Huston Chapman.

Despite his promise, Governor Wallace returned to Santa Fe without granting William Bonney a pardon. After getting the testimony he needed for the indictment, the local District Attorney William L. Rynerson did not enforce the governor's promise and immediately pressed the prosecution of his eyewitness, William Bonney, even changing venue out of his hometown, Lincoln, where he was well liked by much of the citizenry. Mr. Bonney was out of jail at the time the indictments were returned in another county and was never pursued by Sheriff Kimball, who knew firsthand of the Governor's broken promise. Over the next 21 months, while the local and national press gave him a catchy nickname, Billy the Kid, and built him into a Western legend, Mr. Bonney started a small ranch near Portales, New Mexico.

On December 13, 1880, Governor Wallace announced a reward of \$500 for the capture of the man now known as Billy the Kid. By December 24, 1880, Sheriff Pat Garrett and his posse had tracked William Bonney to Stinking Springs, near Ft. Sumner, where he was captured and taken into custody.

On January 1, 1881, William Bonney wrote the governor from jail asking him to come and see him. When there was no response to that request or a second note on March 2, he wrote a third letter on March 4, 1881:

Dear Sir:

...I expect you have forgotten what you promised me this month two years ago, but I have not, and I think you had ought to have come and seen me as I have requested you to. I have done everything that I promised you I would, and you have done nothing that you promised me.

...I am not treated right by (his jailer). He lets every stranger that comes to see me through curiosity in to see me, but will not let a single one of my friends in, not even an attorney. I guess they mean to send me up without giving me any show...

There was no response to that or a fourth letter. By that time, because the story of "Billy the Kid" had captured public attention and there was political pressure not to pardon an "outlaw," the governor did not keep his promise.

One month later, on April 8, 1881, Mr. Bonney was put on trial for the murder of Sheriff Brady with a recently appointed public defender, Colonel A.J. Fountain, who had just quit his job as a newspaper editor. He was convicted on April 13, 1881 and sentenced to death.

The Old West wasted no time in carrying out death sentences and there was no appeal. Three days after his sentence, Mr. Bonney was moved to Lincoln to be hanged. There, he was held in custody in the building owned by "the House," the powerful business faction behind the killing of his former boss, rancher John Tunstall. Shortly before he was to be executed, on April 28, 1881, while Sheriff Pat Garrett was out of town, William Bonney escaped, in the process killing the 2 deputies, Jim Bell and Bob Olinger, who were left to guard him.

On July 13, Sheriff Pat Garrett carried out the death sentence when he tracked Mr. Bonney to where he was hiding at the Maxwell house near Ft. Sumner and shot him. William Bonney was dead at age 22.

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Sources of Historical Information:

Joel Jacobsen, "Such Men as Billy the Kid"

Frederick Nolan: "The Billy the Kid Reader," "The West of Billy the Kid"

Mark Lee Garner, "To Hell on a Fast Horse"

Pat F. Garrett's, "The Authentic Life of Billy the Kid" (additional author – Frederick Nolan)

Interview with Drew and Elise Gomber

Review of Historical records, visits to scene and museums.