

EROSION OF THE CONSTITUTION

The Declaration of Independence states: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of happiness."

The request of יהודה בן יהודה to the U.S. Parole commission was to live with His parents in Enid, Oklahoma. His parents agreed and were anxious to have Him return home where He would have a place to stay and gainful employment. His ailing father gathered up enough strength to be interviewed by probation officers and FBI agents. Despite the fact that His parents agreed to abide by the guidelines of the U.S. Parole Commission, the request of יהודה בן יהודה was DENIED.

[\(To see the astonishing reasons why, click here—Document #1\)](#)

Just eight months prior to His mandatory release date, יהודה בן יהודה was notified that His father's health had worsened and that he was near death. On January 29, 2001, יהודה בן יהודה made a request for emergency early release to Norman C. Roettger, the U.S. District Judge who sentenced Him, so that He could be at His 86-year old father's deathbed.

[\(To see formal request of יהודה בן יהודה, click here—Document #2\)](#)

The government ignored the compassionate appeal of the motion of יהודה בן יהודה and advised the Court that it was without jurisdiction to grant His request.

[\(To see government's response in opposition to reduce the defendant's sentence, click here—Document #3\)](#)

While stating that he found the request of יהודה בן יהודה to be reasonable, on February 13, 2001, Judge Roettger DENIED the request explaining that he was without power to act. Roettger directed that יהודה בן יהודה seek his early release through the U.S. Parole Commission, and he let it be known that the Court had no objection to the request of יהודה בן יהודה.

[\(To see the court's directive, click here—Document #4\)](#)

Ironically, יהודה בן יהודה did not receive the Judge's directions until February 22, 2001—two days after He learned that His father had passed.

Knowing how shocked and devastated His 84-year old mother would have been at the passing of His father, יהודה בן יהודה followed the Court's suggestion and filed to reopen His parole request seeking **IMMEDIATE RELEASE ON PAROLE.**

The family of יהודה בן יהודה also made a request to the U.S. Parole Commission to secure the release of their son and brother and to

have Him return home to them. This was a promise they made to their father on his deathbed. The bereaving family's emotional appeal was DENIED.

[\(Click here to read family's letter—Document #5\)](#)

[\(Click here to read motion to re-open request for immediate parole release—Document #6\)](#)

[\(Click here to read motion to re-open denied—Document #7\)](#)

The U.S. Parole Commission took away the unalienable rights of יהוה בן יהוה, which were endowed by His Creator, יהוה, with the unlivable circumstances of His "**onerous**" conditions. [\(To see these conditions, click here—Document #8.\)](#) In these conditions, they showed no sympathy for human communication, no sympathy for the sick and/or dying, no sympathy for the widow, and definitely no sympathy for the elderly. This generation of governmental rule has become heartless, and they manifested this cruelty in the mistreatment of יהוה בן יהוה.

[\(Click here to see a clear example of this cruelty—Document #9\)](#)

DOCUMENT #1

UNITED STATES PROBATION OFFICE
WESTERN DISTRICT OF OKLAHOMA

DAN A. BLASCHKE
CHIEF U.S. PROBATION OFFICER

PLEASE REPLY TO:

SCHAKETT, OKLAHOMA CITY



215 DEAN A. MCGEE
ROOM 201
OKLAHOMA CITY, OKLAHOMA 73102-30
(405) 609-5800

309 UNITED STATES COURTHOUSE
410 SOUTHWEST FIFTH
LAWTON, OKLAHOMA 73501-4628
(405) 353-0387

February 12, 2001

Mr. John Nash
Warden
FCL- Ray Brook
P.O. Box 300
Ray Brook, NY 12977-0300

RE: YAHWEH, Yahweh Ben
Reg. No. 22031-034
Relocation to WD/OK

Dear Warden Nash:

Per your correspondence dated January 5, 2001, please be advised that our district has investigated Mr. Yahweh's request to relocate to the Western District of Oklahoma, specifically Enid, Oklahoma, upon his anticipated release date of August 1, 2001.

Mr. Yahweh's request was discussed at length with two senior detectives of the Enid, Oklahoma Police Department and two Special Agents of the Federal Bureau of Investigation (FBI) (Enid Resident Agency).

It should be noted that both law enforcement agencies vehemently oppose Mr. Yahweh residing in the community for various reasons. Among these being the fact that his notoriety and beliefs would cause considerable discord among the local population. It is important to remember that Enid is a small rural community comprised primarily of Caucasian, traditional Christian individuals who would not subscribe to Mr. Yahweh's highly-publicized religious and social beliefs.

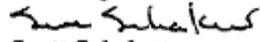
Furthermore, Oklahomans in general are highly sensitive to and offended by individuals who may be perceived as being anti-government in the wake of the April 1995 Alfred P. Murrah Federal Building bombing in Oklahoma City which claimed 168 lives. Both Mr. Yahweh's cable television program and website describe their organization as being at war with the United States Government. The law enforcement community is particularly concerned that if Mr. Yahweh were permitted to reside within our district, not only would his personal safety and that of his followers be seriously compromised, but that the probability for civil disobedience would be high as a result.

On February 8, 2001, the subject's father, Hulon Mitchell, Sr., was interviewed at the proposed residence. During that interview, when asked what Mr. Yahweh would do if he weren't permitted to relocate to Enid, Mr. Mitchell replied "He has other places he can go."

Therefore, based upon the aforementioned information, Mr. Yahweh's request for relocation to the Western District of Oklahoma is hereby **DENIED**.

Should you require any additional information, please do not hesitate to contact me at (405) 609-5834.

Sincerely,



Scott Schakett

U.S. Probation Officer

DOCUMENT #2

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 90-868-CR-ROETTGER
96-2857-CIV-ROETTGER

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

HULON MITCHELL, a/k/a
YAHWEH BEN YAHWEH,

Defendant.

EMERGENCY MOTION TO REDUCE SENTENCE

The Defendant, YAHWEH BEN YAHWEH, a/k/a HULON MITCHELL, through counsel, and pursuant to Rule 35 of the Federal Rules of Criminal Procedure,¹ respectfully requests this Court reduce his sentence of incarceration to "time served" or whatever reduction the Court may feel warranted in order to allow him to spend time with his father before he dies. In support of this relief, YAHWEH BEN YAHWEH would state:

1. YAHWEH BEN YAHWEH is currently serving a 17-year sentence imposed by this Court upon his conviction for conspiracy to violate the Racketeering Influenced and Corrupt Organizations Act (hereinafter "RICO"). He has been in the continuous custody of the Bureau of Prisons since November, 1990.

¹ YAHWEH BEN YAHWEH was sentenced prior to the imposition of the Federal Sentencing Guidelines. Jurisdiction to mitigate a similarly situated defendant, Job Israel, was granted by this Court on October 20, 1999.

2. YAHWEH BEN YAHWEH spent the bulk of his incarceration designated to USP Lewisburg in Pennsylvania. At USP Lewisburg, YAHWEH BEN YAHWEH dedicated himself to teaching. Attached hereto as Exhibit "A" is a letter attesting to his good works as well as his good institutional adjustment. Clearly, YAHWEH BEN YAHWEH agreed to share his knowledge with his fellow inmates at the request of prison officials.

3. In or around April, 1999, YAHWEH BEN YAHWEH was transferred to FCI Ray Brook. In the process, he lost the "extra good time" allowances he had been accumulating at USP Lewisburg. Attached to this Motion as Exhibit "B" is the Affidavit of Wendellyn Rush, Esq., an attorney who has been assisting YAHWEH BEN YAHWEH in recapturing those lost "extra good time" credits.

4. Ms. Rush has been partially successful as evidenced by the fact that YAHWEH BEN YAHWEH's release date is now officially in October, 2001. Attached as Exhibit "C" is a copy of the official Bureau of Prisons assessment of his gain time credits and release date. It is Ms. Rush's contention that restoration of all the "extra good time" credits lost would result in a release date as early as May, 2001.

5. YAHWEH BEN YAHWEH has just learned that his father has a terminal illness. Attached as Exhibit "D" is a copy of a letter from his father's treating physician.

6. With his expected release date coming up, and his father's death imminent, YAHWEH BEN YAHWEH would beseech this Court to reduce his sentence so that he might be released immediately or in a short time. That would enable him to take his rightful place at his father's deathbed, and assume his role as patriarch of his family.

YAHWEH BEN YAHWEH was before the Court for sentencing in 1992. He has almost served his sentence in full as determined by the Bureau of Prisons. Releasing him now to enable him to attend to the family crisis occasioned by his father's terminal illness would be both fair, just and merciful. Acknowledgement of these reasons stated above would not depreciate the seriousness of the charges, but only the acknowledgement that circumstances present themselves where it is appropriate to reduce a sentence.

Respectfully submitted,

CHARLES G. WHITE, P.A.
Counsel for Defendant
2250 S.W. Third Ave., # 150
Miami, Florida 33129
Tel: (305) 856-1211
Fax: (305) 856-0171
Florida Bar No. 334170

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 29th day of January, 2001, to: the U.S. Attorney's Office, 500 E. Broward Blvd., Fort Lauderdale, FL 33301.

Respectfully submitted,

CHARLES G. WHITE, P.A.
Counsel for Defendant
2250 S.W. Third Avenue
Suite 150
Miami, Florida 33129
Tel: (305) 856-1211
Fax: (305) 856-0171
Florida Bar No. 334170

CHARLES G. WHITE, ESQ.

U.S. Penitentiary
Education Department
Lewisburg, PA 17837

Date: June 21, 1996

From: R.W. Deimler/Group Activities Coordinator

To: Whom It May Concern

Through: D. White/M.A.S. Unit Manager

Subject: Yahweh Ben Yahweh #22031-034

I have supervised and observed Yahweh Ben Yahweh on a regular basis for several years. My contact was close, often extended in activities involving Mr. Yahweh. I have seen Mr. Yahweh tutor students in various academic areas, daily, for well over a year.

Through the Adult Continuing Education program, Mr. Yahweh has taught classes and presented several seminars at the request of the Education Department. The classes included: Introduction to Public Speaking, Language Development, Logic and Reasoning and Interpersonal Communication. All classes were well attended and received by the inmate population.

Mr. Yahweh has always been: polite, courteous, pleasant and cooperative. He has displayed good institutional adjustment, has been a positive influence on many younger inmates and an asset to the Education Department.

In my opinion, Mr. Yahweh would be able to resume a productive place in society if paroled.

R.W. Deimler
G.A.C.

George Doebler
Supervisor of Education

EXHIBIT "A"

COMMONWEALTH OF KENTUCKY

o

o

COUNTY OF KENTON

o

AFFIDAVIT

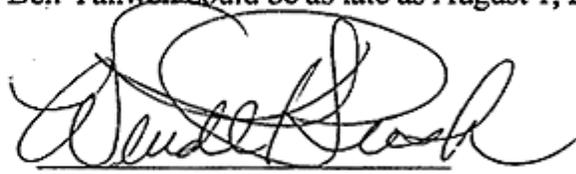
BEFORE ME, the undersigned authority, on this day personally appeared WENDELLYN K. RUSH, who after being duly sworn stated:

"I am an attorney who is licensed to practice in both Kentucky and Texas. I represent Yahweh Ben Yahweh who is currently incarcerated at FCI Ray Brook under Federal Register Number 22031-034, and whose sentence is governed by pre-guidelines procedures.

Yahweh Ben Yahweh was transferred to FCI Ray Brook from USP Lewisberg in April 1999. We discovered in the fall of 2000 that the mandatory release date for Yahweh Ben Yahweh had been changed at or near the time of his transfer from August 18, 2001 to January 4, 2002.

After making this discovery, we took steps to learn why his mandatory release date changed and learned from inmate systems that through either computer or human error the extra good time which had been applied to the calculation of his release date was inadvertently removed.

I have continued to work with Yahweh Ben Yahweh and inmate systems staff at FCI Ray Brook to calculate the correct mandatory release date. The current release date is noted as October 26, 2001 but is subject to change. Upon the application of extra good time and statutory good time the mandatory release date for Yahweh Ben Yahweh could be as late as August 1, 2001 and as early as sometime in May 2001."



Wendellyn K. Rush

SUBSCRIBED AND SWORN to before me, on this 25th day of January 2001.



Notary Public

My commission Expires: 6/30/2001

EXHIBIT "B"

KHMXX 542*22 * SENTENCE MONITORING * 01-25-2001
 PAGE 001 OF 001 * GOOD TIME DATA * 09:26:19
 AS OF 01-25-2001

REGNO... 22031-034 NAME: YANWEH, YANWEH BEN
 ARS 1... RBK A-DES
 COMPUTATION NUMBER... 010
 LAST UPDATED, DATE... 01-22-2001
 UNIT... DEL
 DATE COMP BEGINS... 05-04-1993
 TOTAL JAIL CREDIT... 567
 STATUTORY REL DT... 12-07-2002 SAT
 CURRENT REL DT... 12-09-2001 SUN
 PROJ SATISFACT DT... 12-26-2001 FRI
 ACTUAL SATISFACT DT...
 FINAL STAT GOOD TIME:
 DAYS REMAINING.....

FUNC... PRT ACT DT:
 FACL... RBK CALC: AUTOMATIC
 QUARTERS... 005-203L
 COMP STATUS... COMPLETE
 TOTAL INOP TIME... 0
 EXPIRES FULL TERM DT: 11-05-2008

PROJ SATISF METHOD... MAND REL
 ACTUAL SATISF METHOD:
 FINAL EXTR GOOD TIME:
 FINAL PUBLIC LAW DAYS:

-----EXTRA GOOD TIME EARNINGS-----

INST	TYPE	DATE IN	DATE OUT	PRI/BEN IND
LEN	MGT	04-27-1991	04-23-1999	
RBK	MGT	03-01-2000		
EQT EARNED.....				363 DAYS
BREAK OVER DATE... ..				04-27-1994

-----EXTRA GOOD TIME LUMP SUM AWARDS AND ADJUSTMENTS-----

NONE

TOTAL EST..... 363 DAYS

-----STATUTORY GOOD TIME FORFEITURES, WITHHOLDINGS, RESTORATIONS-----

INFRACTION	DECISION	ACTION	AMOUNT	INPR SEVERITY	PRBO
DATE NO	DATE	TYPE		/RSH FOR ADJ	
PNONE					
NET EQT FORFEITURES, WITHHOLDINGS, RESTORATIONS:				0 DAYS	

GOODS TRANSACTION SUCCESSFULLY COMPLETED - CONTINUE PROCESSING IF DESIRED

EXHIBIT "C"

DOCUMENT #3

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 90-868-CR-ROETTGER

UNITED STATES OF AMERICA,

Plaintiff,

- versus -

HULON MITCHELL, a/k/a
YAHWEH BEN YAHWEH,

Defendant.

GOVERNMENT'S RESPONSE IN OPPOSITION TO DEFENDANT'S
EMERGENCY MOTION TO REDUCE SENTENCE

The United States of America, by and through the undersigned Assistant United States Attorney, hereby files its response in opposition to defendant Hulon Mitchell, a/k/a Yahweh Ben Yahweh's Emergency Motion to Reduce Sentence and states:

PROCEDURAL HISTORY

In a superseding indictment, a federal grand jury charged defendant Yahweh Ben Yahweh and numerous others with RICO conspiracy, in violation of 18 U.S.C. §1962(d) (Count I). Count I listed 19 racketeering acts of murder, extortion and arson. Yahweh and ten other defendants were also charged with a substantive RICO count, in violation of 18 U.S.C. §1962(c) (Count II). Count III charged Yahweh Ben Yahweh and another defendant with extortion, in violation of 18 U.S.C. §1951 (Docket Entry

427).

Yahweh Ben Yahweh was convicted on Count I (RICO conspiracy). The jury was unable to reach a verdict as to Count II (substantive RICO). This Court dismissed Count III pursuant to Fed. R. Crim. P. 29.

Yahweh Ben Yahweh was sentenced to 18 years' imprisonment and a \$20,000 fine (Docket Entry 1316). He appealed his conviction, which was affirmed by the Eleventh Circuit Court of Appeals. *United States v. Beasley*, 72 F.3d 1518 (11th Cir.), cert. denied, 519 U.S. 866 (1996). The Supreme Court denied Yahweh's petition for a writ of certiorari on October 7, 1996. Over four years later, on January 30, 2001, Yahweh Ben Yahweh filed an Emergency Motion to Reduce Sentence pursuant to Fed. R. Crim. P. 35.

LEGAL ARGUMENT

Yahweh Ben Yahweh asserts that this Court has jurisdiction under Fed. R. Crim. P. 35 (1987) ("Old Rule 35") to reduce his sentence because it was imposed prior to the enactment of the Sentencing Guidelines. He is mistaken.

Old Rule 35 applies to offenses committed prior to November 1, 1987. That Rule provides:

(a) Correction of Sentence. The court may correct an illegal sentence at any time and may correct a sentence imposed in an illegal manner within the time provided herein for the reduction of sentence.

(B) Reduction of Sentence. A motion to reduce a sentence may be made, or the court may reduce a sentence without motion, within 120 days after the sentence is imposed or probation is revoked, or with 120 days after receipt by the court of a mandate issued upon affirmance of the judgment or dismissal of the appeal, or within 120 days after entry of any order or judgment of the Supreme Court denying review of, or having the effect of upholding, a judgment of conviction or probation revocation. The court shall determine the motion within a reasonable time. Changing a sentence from a sentence of incarceration to a grant of probation shall constitute a permissible reduction of sentence under this subdivision.

Fed. R. Crim. P. 35 (1987).

“The statutory 120-day period within which a court may reduce a sentence is *jurisdictional*, and a court is without power to reduce a valid sentence pursuant to the statute after that time.” *United States v. Rice*, 671 F.2d 455, 459 (11th Cir. 1982) (emphasis supplied). See also *United States v. Orozco*, 160 F.3d 1309, 1313 (11th Cir. 1998) (applying precedential rationale of Old Rule 35 cases regarding jurisdictional nature of operative time period to current version of Rule 35 and holding that time period in which government may file motion for reduction of sentence based on defendant’s substantial assistance is jurisdictional); *United States v. Gonzalez-Perez*, 629 F.2d 1081, 1082-83 (11th Cir. 1980) (Old Rule 35(b) conferring jurisdiction upon district court to reduce sentence when motion is filed within 120 days of order of Supreme Court denying certiorari establishes a jurisdictional time limitation that cannot under any circumstances be extended by the court).

Yahweh Ben Yahweh's Emergency Motion To Reduce Sentence was filed over four years after the Supreme Court denied his petition for certiorari -- long after the jurisdictional 120-day time limit under Old Rule 35(b) had expired. Consequently, this Court is without jurisdiction to grant Yahweh Ben Yahweh's request and his motion must be denied.¹

Respectfully submitted,

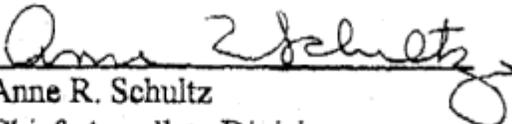
GUY A. LEWIS
UNITED STATES ATTORNEY

BY: 
ANNE R. SCHULTZ
CHIEF, APPELLATE DIVISION
Florida Bar No. 0377252
99 N.E. 4th Street, Suite 512
Miami, Florida 33132
Tele: 305-961-9117
Fax: 305-536-5214
E-mail: anne.schultz@usdoj.gov

¹ The fact that this Court apparently granted a similar motion filed by a co-defendant after the 120-day jurisdictional time limit under Old Rule 35(b) had expired is irrelevant. The government is currently reviewing that order along with the relevant case law to determine if the reduced sentence can be challenged under Old Rule 35(a), which provides that an illegal sentence can be corrected by the Court at any time. Fed. R. Crim. P. 35(a) (1987).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing response was sent by United States mail this 5th day of February to Charles G. White, Esq., counsel for Yahweh Ben Yahweh, 2250 S.W. Third Avenue, Suite 150, Miami, Florida 33129.


Anne R. Schultz
Chief, Appellate Division

DOCUMENT #4

FILED by _____ D.C.

FEB 14 2001

Clarence Maddox
Clerk of the U.S. Dist. Ct.
S.D. of FLA. FT. LAUD.

UNITED STATES OF AMERICA,

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 90-868-CR-ROETTGER

ORDER

V.

HULON MITCHELL, a/k/a
YAHWEH BEN YAHWEH,

Defendant. _____ /

THIS CAUSE is before the Court upon emergency motion to reduce sentence pursuant to Rule 35 of the Federal Rules of Criminal Procedure.

In 1992, defendant Yahweh Ben Yahweh was convicted of violating 18 U.S.C. § 1962 (d). This Court sentenced defendant to a term of imprisonment of 18 years. Defendant exhausted his direct appeal in 1996. In the instant motion, Yahweh Ben Yahweh seeks reduction of his sentence to time served as his father has prostate cancer which has spread and the prognosis for recovery is poor. Defendant represents that his release date is either May or October of this year and requests that he be permitted to be by his father's side.

On receipt of this motion, the court requested a response

from this government.¹ The government opposes defendant's motion on the grounds that this Court lacks jurisdiction to reduce defendant's sentence. Motions pursuant to Rule 35(b) must be filed within 120 days after entry of any order or judgment of the Supreme Court denying review of, or having the effect of upholding, a judgment of conviction. This limit is jurisdictional and designed to allocate responsibility for consideration of requests by defendants between the sentencing court and the parole commission. U.S. v. Counter, 661 F.2d 375, 376 (8th Cir. 1981). While this court finds defendant's request reasonable, it is without authority to act.² Accordingly, it is

ORDERED AND ADJUDGED that the emergency motion to reduce sentence is hereby DENIED. Defendant must pursue his request before the parole

¹ The Court made this request as Assistant United States Attorneys in this district disregard the time periods poor filing responses provided in Rules 7.1 and 88.9 of the Local Rules for the Southern District of Florida with alarming frequency. Such cavalier attitude towards the conduct of litigation is a disservice to the government's position in this as well as other cases.

² In its response, the government notes that it is reviewing this court's order granting a Rule 35 motion with respect to defendant Richard Ingraham to determine if the reduced sentence can be challenged. In so doing, the government would be well served to consider that Ingraham's motion was filed in September 1998. The motion was granted in October 1999. During the year in which the motion was pending, the government never deigned it necessary to respond. Despite the clear language of Local Rule 7.1C which provides that a motion may be granted by default for failure of a party to oppose the motion within ten days, the government did nothing for over a year. In fact, no direct challenge has been made – only a passing mention over two years after the motion was filed in a footnote in a response on another defendant's motion. Such dereliction of its responsibilities under the rules of the court generally is not to be rewarded by further review. See U.S. v. Braasch, 542 F.2d 442 (7th Cir. 1976); and U.S. v. Olds, 426 F.2d 562 (3rd Cir. 1970).

DOCUMENT #5

Dear Commissioners:

It is our most sincere desire to put forth into your honorable and worthy hands, our single and unified clear voice request for the commutation of the federal sentence to time served and immediate release of our Brother, Hulon Mitchell, Jr., also known as Yahweh Ben Yahweh.

With the untimely death of our family Patriarch, Reverend Dr. Hulon Mitchell, Sr., of Enid, Oklahoma, on February 20, 2001, the inescapable task has befallen us to step up and fulfill our father's deathbed wish to make sure our mother is taken care of and to secure the release of our Brother, Yahweh Ben Yahweh. It was entrusted to each one of our brothers' siblings to hereby make ourselves responsible for the custody arrangements for our beloved brother.

First to have him set free forthwith by release for the funeral and interment of our Father, Reverend Dr. Hulon Mitchell, Sr., on Saturday, February 24, 2001. This is done to lessen the devastating impact, shock, and grief of our elderly 84-year old mother and to increase her emotional support.

It is crucial that she be supported by each of our father's surviving children. Our mother has been faced full square with her own mortality and besieged with the notion that she may also be denied the opportunity to touch the warm loving hand of her first child before her own passing, by virtue of his being alive somewhere on this planetary sphere yet (is) unable to bless her with his presence due to his incarceration, but impending release.

It is our understanding that our dear brother is too tenuously close to being paroled that our Father, the Reverend Dr. Hulon Mitchell, Sr. (prior to his untimely death) and our mother, Dr. Pearl O. Mitchell, had prepared room, board, employment, and custodial care for Hulon Mitchell, Jr., Yahweh Ben Yahweh. Our parents were interviewed mere days before our father's death by a team of Parole Board officers. Indeed, he notified each of his remaining

children of this activity and the good feeling he got from the Parole Board team members.

As executors and survivors of our father's estate and the support system of our mother, we are empowered with the authority and goodwill to continue to extend the same offer to our Brother, Hulon Mitchell, Jr., Yahweh Ben Yahweh, that being: room, board, employment, and loving custodial care.

Each of us, therefore, united both individually and together do hereby make ourselves responsible for carrying out the deathbed wish of our father: responsible for the continuing familial custody arrangements set in motion by our father and ask that you remand Hulon Mitchell, Jr., Yahweh Ben Yahweh, to the custody of his mother, Dr. Pearl O. Mitchell and his brothers and sisters.

This united act by the Mitchell Family is a great testament to the power of our almighty God. We are anti-crime, law-abiding, gainfully employed American citizens. Among us are business owners, internationally known musicians, nurses, aircraft management personnel, ex-policemen, and retired peace officers.

We beseech upon you to grant us this extended wish and for you to make good use of your noted honesty, fairness, integrity, and good judgment to exercise your goodwill and authority to release our beloved eldest son and sibling.

We anxiously await your expeditious response to our plea.

DOCUMENT #6

UNITED STATES PAROLE COMMISSION
CHEVY CHASE, MARYLAND

In Re: PAROLE APPLICATION OF)	
)	
YAHWEH BEN YAHWEH)	
REG. NO. 22031-034)	MOTION TO REOPEN:
F.C.I. RAY BROOK)	REQUEST FOR IMMEDIATE
)	PAROLE RELEASE

Now comes Prisoner, Yahweh Ben Yahweh, Federal Register Number 22031-034, by and through counsel¹, and pursuant to 28 C.F.R. 2.28(a)², respectfully requests the Commission to reopen his application for parole, to modify the decision ratified by the Commission on August 27, 1996, and to grant him immediate release on parole. In support of this request, Yahweh Ben Yahweh would show as follows:

I.

Yahweh Ben Yahweh is currently serving a 18-year sentence imposed upon conviction for conspiracy to violate the Racketeer Influenced Corrupt Organizations Act (RICO). He has been in continuous custody of the Bureau of Prisons since November 7, 1990. He is presently incarcerated at FCI Ray Brook.

¹ Attached as Exhibit "F" is a privacy act waiver executed by Yahweh Ben Yahweh on August 24, 2000 acknowledging the attorney/client relationship.

² In conjunction with the reasons stated under 28 C.F.R. 2.15, i.e., an emergency, hardship, or existence of other extraordinary circumstances.

II.

On January 29, 2001, Yahweh Ben Yahweh filed an Emergency Motion to Reduce Sentence with the United States District Court for the Southern District of Florida based upon the news that his father had been stricken with a terminal illness and requesting that he be released to be by his father's deathbed and to assume his role as patriarch of his family.

As part of the support for his request for commutation of sentence to time served, Yahweh Ben Yahweh outlined that his current projected mandatory release date of October 26, 2001 is on review and is subject to change. The new projected release date could be as late as August 17, 2001 or as early as May, 2001. A copy of the Emergency Motion to Reduce Sentence is attached as Exhibit "B." Also attached, as Exhibit "C" is a memorandum to Yahweh Ben Yahweh from Inmate Systems Manager, James Cochran explaining the current projected release date.

III.

Yahweh Ben Yahweh learned on February 21, 2001, that the Court had issued its decision concerning his motion on February 13, 2001. While denying his motion solely because of lack of jurisdiction, Judge Norman C. Roettger, Jr. made the following comment on the merits of Yahweh Ben Yahweh's request:

"While this court finds defendant's request reasonable, it is without authority to act."

Judge Roettger directed that Yahweh Ben Yahweh should pursue his "reasonable" request for immediate release before this Commission, and further stated:

“...the parole commission is hereby advised that the court has no objection to this request subject to verification of the medical condition of defendant’s father.”

A copy of the court’s ruling is attached as Exhibit “A.”

IV.

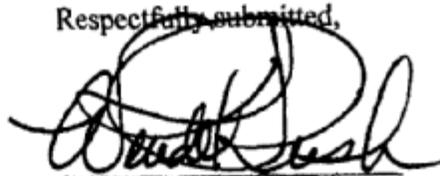
Unfortunately, Yahweh Ben Yahweh’s father, Rev. Dr. Hulon Mitchell, Sr., died on February 20, 2001. An instant release would allow him to attend the funeral services for his father scheduled for Saturday, February 24, 2001. Yahweh Ben Yahweh’s immediate release would also enable him to attend to the family crisis occasioned by his father’s death and afford his aging mother and family the presence, stability, and comfort of the eldest son. Attached as Exhibit “D” is a copy of a letter from the family in support of this request³. Also attached is Exhibit “E:” a death notice from the online version of the *Enid News and Eagle Newspaper*.

V.

Investigation into suitability of Yahweh Ben Yahweh’s parole plan has already been initiated. As seen from reading the family’s letter, that plan includes being permitted to reside at his parents’ home.

For the reasons stated herein, and such other and further compelling reasons consistent with the fair and proper administration of justice, it is respectfully prayed that the Commission modify its decision ratified on August 26, 1996, urgently consider the new information of substantial significance favorable to Yahweh Ben Yahweh, as stated herein, believed to be reasonable to the sentencing court, and grant an immediate and instant effective release date for Yahweh Ben Yahweh.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Wendellyn K. Rush". The signature is stylized with large, overlapping loops and a prominent initial "W".

WENDELLYN K. RUSH
Counsel for Yahweh Ben Yahweh
P.O. Box 771
Seguin, Texas 78156
(830) 303-0390 facsimile
State Bar Number 17401620

¹ The original of the family's letter has been mailed to the Commission under separate cover.

DOCUMENT #7



U.S. DEPARTMENT OF JUSTICE
United States Parole Commission

5550 Friendship Boulevard
Chevy Chase, Maryland 20815-7201

Telephone: (301) 492-5990
Facsimile: (301) 492-5307

March 2, 2001

Ms. Wendellyn K. Rush
Attorney at Law
P.O. Box 771
Seguin, Texas 78156

Re: Yahweh Ben Yahweh
Reg. No. 22031-034

Dear Ms. Rush:

The Commissioner has reviewed your Motion to Reopen request dated February 22, 2001 in this case. After reviewing your motion and the file materials, the Commissioner denied the request to reopen this case.

Sincerely,

Patricia L. Denton
Case Services Administrator
U.S. Parole Commission

PLD

DOCUMENT #8

United States Parole Commission
5550 Friendship Boulevard
Chevy Chase, Maryland 20815-7201

Name: YAHWEH, Yahweh Ben

Register Number: 22031-034

Institution: Ray Brook FCI

RECEIVED

In the case of the above-named, the following parole action was ordered:

JUN 01 2001

No change in continuance to expiration.

FCI Ray Brook
Record Office

You shall not associate or have any contact with members of the Black Hebrew group. This includes direct or indirect contact through any means, to include internet, television, radio, phone, written form or in person. This includes residence, employment, social or other activities, without the prior written approval of your U.S. Probation Officer.

In addition, you shall make a diligent effort to pay your outstanding fine and you shall provide such financial information as may be requested by your U.S. Probation Officer relevant to the payment of the obligation to include all personal and business financial records. If you are unable to pay this obligation in one sum, you will cooperate with your U.S. Probation Officer in establishing an installment payment schedule.

In addition, you shall be precluded from employment provided by members of the Black Hebrews or the group itself or associated in any manner with group members without prior written approval of the U.S. Probation Officer.

Further, you shall be prohibited from use of the internet as a means of communication with members of the Black Hebrews. You shall not possess a computer with internet access either personally or as part of any employment unless approved in writing by your U.S. Probation Officer.

Furthermore, you shall be required to report in person to the U.S. Probation Officer at the U.S. Probation Office, a minimum of once per week in order to ensure compliance with all conditions of mandatory release.

REASONS:

Retroactivity does not apply. Neither your recalculated severity rating (old Category Eight; new Category Eight) nor your recalculated salient factor risk category (old Category Very Good, old score 10; new Category Very Good, new score 10) is more favorable. This statement means that a finding has been made by the Parole Commission at your hearing that no regulatory or procedural changes have been made by the Parole Commission since your last hearing which would positively affect your case in terms of Offense Severity or Salient Factor Scoring.

The above is an original jurisdiction decision, and is appealable to the Commission under 28 C.F.R. 2.27. You may obtain appeal forms from your caseworker or U.S. Probation Officer and they must be filed with the Commission within thirty days of the date of this Notice.

Date: May 31, 2001

Clerk: mdd

Copies of this Notice are sent to your institution and to your U.S. Probation Officer. In certain cases, copies may also be sent to the sentencing court. You are responsible for advising any others you wish to notify.

cc: U.S. Probation Office
Southern District of Florida
U.S. Courthouse
300 N.E. 1 Avenue
Room 315
Miami, FL 33132-2126



DOCUMENT #9

**PAROLE COMMISSION
INTERVIEW
WITH
YAHWEH BEN YAHWEH
May 2, 2001**

Let's start again, you are Mr. Yahweh, is that correct?

YBY: Yes, sir.

Mr. Yahweh, my name is Mr. Kostbar, I am an examiner with the Parole Commission. I am here today to provide you a statutory interim hearing. The purpose of the statutory . . . Are you familiar with the purpose of the statutory hearing? The purpose of the statutory interim hearing is to review your case since the last hearing to see if any changes have occurred in our statutes or our regulations, which will benefit you in terms of changing the offense severity or the guidelines in your case. If something has changed to benefit you, we would apply that. If it hasn't, then your guidelines would remain the same as previously ordered. We will also look at your institutional adjustment, if there was some reason to advance your decision, which, in your case, was continued to expiration, such an advancement for superior program achievement or for cooperation with the government, could be ordered; although I do note that--and before you came in I checked your file, and, in fact, I know that pretty soon you are going to have a mandatory release date of August 17, 2001.

YBY: I understand.

So that's coming real quick. That's probably hardly time to even process your case to tell you the truth because we're running—usually we get our notice of action out within 21 days, we are running up to like 90 days now. So probably by the time this notice of action even comes back to you, you may actually be out in the community. So, therefore, you don't have to have today's hearing if you don't want to. But if you want today's hearing, I'm going to give it to you, but the result may not even come back until you're gone.

YBY: Alright, I want it, I want it.

Okay, fine.

That is the scope or the purpose of today's hearing. In addition to that, I have the ability to recommend special conditions of mandatory release or of parole that can be applied to your case, and I have that ability to make recommendations relative to that issue. I don't think I need to go back into your crime in particular, that has already been decided and you've appealed that decision to the national appeals board. Your guidelines are 100 plus months. As of October, you would have served 132 month to your mandatory release date. But that is being advanced a couple of months so it will be about 130 months, right?

YBY: I guess.

I figured it out. Your plans are, you want to live with a friend in Miami, correct?

YBY: Yes, sir.

You have a balance on your fine still.

YBY: Yes, sir.

You have been medically unassigned since 1998, received good work reports, had a number of jobs. You have a master's degree you earned before incarceration. Is there anything that you would like to tell me today? And by the way, your guidelines are not going to change. Your guidelines are going to remain the same; there have been no changes in our rules and regulations. Okay, what would you like to say today?

YBY: Alright. I have two concerns: You know I am under the old law.

Uh huh.

YBY: And from my understanding, you max out at two-thirds, which is 12 years, if that's correct.

Unless you get out before, which you're going to get out before. You don't max out.

YBY: You don't max out. Okay. I'm just using the term because I don't know.

Your two-thirds date won't even apply in your case. It has nothing to do with your case any more. Once you get all that good time, you go out on mandatory release, and then you are responsible for supervision until 2008—11/5/2008.

YBY: Well I calculated that the extra good time came to 1200 days for the 10-year period that I've been in. Is that subtracted from the 12 years? Is that how you do it?

It is subtracted from the max date —2008.

YBY: 2008. Okay. That helps me to understand that part. Since I've been here at Ray Brook, I was due 240 days good time, and due to a glitch or whatever, when I got off the bus, they didn't put me back on the computer.

So you were working and not getting . . .

YBY: I was working and not getting my good time.

That is up to them, the warden at any institution can—if that's cleared up, usually what happens is . . . what you're saying is that you were working here but nobody realized that you should have been getting your good time and they didn't put you in.

YBY: Right.

If that's cleared up, and I am sure you brought it up to your unit team, then the unit team has the authority—I'm just talking about the Bureau of Prisons guidelines--to write a memo to the warden, if that's the case, they have the authority to then tell the warden, yes, we confirm he was working and doing a good job but the supervisor just forgot to put it in, give it to him in a lump sum, and the warden has that authority, but it's up to the warden, it's up to the Bureau of Prisons. I am sure you know that policy.

YBY: Alright. That's what we've been working with. I've been trying to get it straight. So I can go ahead . . . Now I've gotten two lumps from the warden already. But it's not going to be enough. In other words, if I got my

240 days that I've already earned, I've been here 24 months—this is the 25th month—and if I got it all . . .

You'd be out.

YBY: I'd be out. And I would like to get out.

We can't give you that time. So if that's what you're looking for, we can't give it to you. We don't give good time.

YBY: Well, he has the authority . . . or the board has the authority to give it to me. I earned it.

That's right. The Bureau of Prisons has the authority to give you good time up to the maximum earnings under the statutes in which you are incarcerated, and that's up to them.

YBY: So while you are sitting here, what can I do to go ahead and get out?

He knows that.

Second Person: We're in the process of working on rectifying the problem, when he got here from Lewisburg, it's not the earning rate that you were getting, that is why we're giving you lump sum awards. That's why I told you that when it comes up to the last lump sum, which will be this month, to kick it back to that originating date of projection that they gave in Lewisburg, August 17, 2001. The other issue about good time, though, that you need to talk to Mr. Cochran about. And I thought that was self-explanatory, when we wrote you back when you were initially asking about this. But, again, you have to write Mr. Cochran and find out what the specifics and the perimeters are.

YBY: Okay.

We are correcting what we had on the form(?)

YBY: Up here. . . thus far . . .

As of the middle of this month, May, or have it to August 17.

YBY: It will be up to that . . .

Those are issues you can take care of via Bureau of Prisons. Is there anything else that you wanted to add?

YBY: As it stands now, then I'll go to Miami.

Well, that's the issue I was going to talk to you about. As it stands right now, you're going to go to Miami. Of course, the probation officer probably at this moment down there doesn't even know you're coming, you know. They have the ability to try to--specifically because also--you are a high profile case, and I'm not telling you anything new, you've been involved in this group, they can try and get you out of their district, you know, they do that with the Parole Commission, and they can say, Look, there is no way we want this man down here, we are going to send him to northern Florida or relocate him to Georgia or whatever, I mean, they can do that. Generally, that's not done, however, what is done, in other high profile cases, as an example, let's take mafia cases, who are high profile, they are in New York, they come from New York, they generally go back to New York, but they have special conditions placed on them--no association with whatever crime family they came from. And then they are monitored, and that means no association whatsoever --not on the phone, not on the computer, not on the streets talking, no social clubs, etc. These are regular extra conditions that the Parole Commission puts on. They're called special conditions on certain cases. My guess is that you are going to, in your situation, is going to qualify for those same kinds of special conditions which is going to be very onerous on you, it's going to be very tough on you, but you will probably have those kinds of special conditions on you. You will probably have the special conditions that you are not going to be able to have employment provided by members of the Black Hebrews or group associated with them, or any contact with any members of the Black Hebrews--I mean, these are things that are probably going to be placed on you as special conditions as well as intensive supervision. Down in Florida, they have intensive supervision specialists that make you come in so many times a week and are constantly visiting you out in the community. You'll probably be prohibited from . . . We have now new guidelines for Internet--for special conditions for Internet that you won't be able to . . . I know your group has Internet capability. There will probably be prohibition on that for use of the Internet as means of communication with members of this group. There will probably be a special financial after care condition on you also, so that all

your financial records--and again these are things that apply not only to your type of a case but also to mafia as a standard kind of thing or other organized crime groups that we deal with in the community. So I am just kind of fore warning you to expect that.

Basically, what the Commission is going to expect you to do on mandatory release or on parole is to go out and get a regular job—

YBY: At 66?

A regular job, whether that's McDonald or Burger King—I'm just telling you the truth now. I'm just being real honest with you. Your probation officer is going to look at you and say, Go out and get a regular 9 to 5 job, 40 hours a week, it could be McDonald, Burger King, or whatever, give me your financial records, I want to see that check, and you are not to have any association with these people. And that's going to be very difficult for you to do, but that's the way in which you are going to be able to remain in the community. Otherwise, the Commission, the probation office, will likely issue a warrant on you for association, and they'll bring you back into custody, and that will be your future.

YBY: My future being to serve what?

Till 2008.

YBY: 2008.

And that's what you're facing.

YBY: Alright.

You're facing the same situation that other people go out that we put these conditions on. That's why I was trying to explain this to you.

YBY: Okay. In my case, that's denying me the right to practice my faith, and my religion.

Well, I'm just telling you that's likely what's going to happen to you. You know, that's going to be your argument. But I'm going to tell you that's likely what's going to happen to you. So I wanted to forewarn you, but you

probably knew this anyhow or had a good guess, you're an educated guy, that that would be the position of the government.

YBY: Okay.

That's probably something like that is which you can expect is going to happen in your case.

YBY: Alright, now, when I'm released, how much time do I have to get to where I am going?

I can't remember what it said on the mandatory release certificate, if it's 48 hours or 72 hours—I think it's 72 hours.

Second speaker: Plus he is going to Florida so we have transportation available.

You will know all of that soon enough.

YBY: Alright. Okay, well then that's all.

The Parole Commission may also, you know, work, out . . . the general certificate says 72 hours for reporting in, however, they know you are being put on . . . how do you usually send them to Florida, in a plane out of New York?

Second speaker: Bus.

Bus?

The Parole Commission has been known in certain cases to work with the Bureau of Prisons to where they haven't wanted a person to have 72 hours to not report, to work out other arrangements.

Second speaker: Physical constraints, we can accommodate.

I thank you very much.

YBY: Thank you, sir.

END OF TAPE