

SDSC 1

IN THE
SimDem Supreme Court

IN RE CLEMENCY PETITION ACT 2025

On Petition For Judicial Review

BRIEF *AMICUS CURIAE* OF BENBOOKWORM

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INTEREST OF THE *AMICUS CURIAE*¹

As a certified attorney and public defender, Benbookworm, Esquire has a strong interest in the preservation of the rule of law, separation of powers, and compassion for rehabilitated criminals.

SUMMARY OF THE ARGUMENT

The impetus behind the Clemency Petition Act 2025 is noble. Granting a body power to review sentences does not disturb the separation of powers, and could be established under any branch of the government. However, the SimDem Constitution does not provide an avenue for clemency besides appeal and prosecutorial discretion. Existing case law makes clear that parole exists, but no clear procedure has been established.

ARGUMENT

I *Amicus Curiae* Briefs

The ability to submit *amicus curiae* briefs to the SimDem Supreme Court has been previously established:

- *In re 42nd Presidential Election* [2020] SDSC 14
- *In re Removal of Votes in the 2nd Parliamentary Election* [2020] SDSC 18
- *In re Replacement of KingRed31* [2020] SDSC 21
- *In re 9th Parliamentary Election* [2021] SDSC 3

¹None of the parties to this case nor their counsel authored this brief in whole or in part. No person or entity made a monetary contribution specifically for the preparation or submission of this brief.

II Judicial Review

The SimDem Supreme Court has the authority to review the Clemency Petition Act 2025. The power of judicial review is explicitly granted by the SimDem Constitution Article 9§3:

The Supreme Court as represented by the Chief Justice may grant or decline petitions for but not limited to any of the following:

§3.1. Judicial reviews, which allow the Supreme Court to invalidate, reverse, and issue judicial remedies for any actions, omissions, orders, or laws which are incompatible with a higher authority...

Even before this version of the constitution, the power of judicial review has been firmly established in the case law. *In re Restraining Order Act* [2019] SDSC 1 initially establishes the power of the SimDem Supreme Court to review legislation for constitutionality. *In re 38th Presidential and 38th Senatorial Elections* [2020] SDSC 10 establishes that judicial review can void unconstitutional parts of a law, instead of rendering the entire legislation of no effect. This was reaffirmed by *In re Article 56, s4 of the Criminal Code* [2020] SDSC 12 and *In re Article 10, s2 of the Trial and Pre-Trial Procedures Act 2020* [2020] SDSC 13.

III Existing SimDem Clemency

The SimDem President has no pardon power; this was been directly held by this court *In re Executive Orders 23 & 23-A* [2022] SDSC 1.

While the SimDem case law mentions parole, details are remain unclear. *SD v WholockA113* [2019] Crim 4 says that under common law, an *ad hoc* parole commission could decrease the sentence issued. *SD v Dick_head68* [2020] Crim 2 revoked parole for Dick_head68. The sentence levied under *SD v Kamray23* [2020] Crim 5 could be "be appealed or paroled following standard pro-

cedures”; although those procedures are not readily apparent. While some of the previous cases (or contemporaneous ones with the same defendant) have been appealed, no appeals court has addressed parole.

IV Mundane Reviews For Clemency

Outside of SimDemocracy, many governments have established methods for reviewing criminal sentences to make recommendations on commutation and pardon. The United States federal government has established the [Office of the Pardon Attorney](#) that forwards recommendations to the US Department of Justice; the President then grants or denies the requests. This is similarly the case in various American states that have boards within the executive branch to recommend requests for clemency to the governor (who holds ultimate authority in the matter), including: [Arizona](#), [Arkansas](#), [New York](#), [Pennsylvania](#), and [Washington](#).

However, the pardon power is not universally held by the chief executive. The [Georgia State Board of Pardons and Paroles](#), has been an independent agency since 1943; even though they act under executive power, the office of the governor no longer holds any pardon power. Under the Alabama state constitution, complete and final authority on parole is vested in the [Alabama Bureau of Pardons and Paroles](#); it had previously been stripped from the executive and judicial branches. This is similarly the case in various American states that have boards within the executive branch to recommend requests for clemency to the governor (who holds ultimate authority in the matter), including: [Arizona](#), [Arkansas](#), [New York](#), [Pennsylvania](#), and [Washington](#).



CONCLUSION



The Clemency Petition Act 2025 should be **voided**, and a constitutional amendment recommended to best meet the stated desires of the legislature.



Respectfully submitted,
Benbookworm, Esquire
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