

Mandel uses Rodgers tactic in parole plea

By Allegra Bennett
and C. Fraser Smith

Former Maryland Governor Marvin Mandel, raising the same arguments that freed codefendant Harry W. Rodgers III, asked a Florida federal court yesterday to order the U.S. Parole Commission to release him immediately.

Mr. Mandel contended in his court petition that the parole commission unfairly evaluated his offense using parole guidelines that should not have been applied to him.

The former governor, who has served 17 months of a 3-year sentence in the federal prison facility at Eglin Air Force Base in Florida, is expected to be released by May 17 if other efforts do not free him sooner.

Last October, the parole commission determined that Mr. Mandel must serve at least 24 months of his sentence, minus 2 days, because of the "severity" of the crime of which he was convicted.

Mr. Mandel protested in his petition that the commission reached its conclusions by inappropriately applying guidelines created in 1979 while his 1977 conviction on mail fraud and racketeering

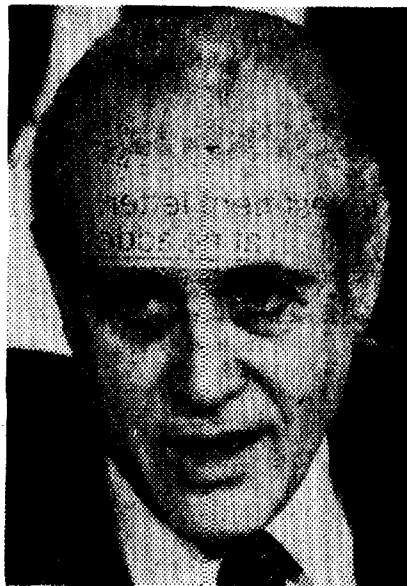


HARRY W. RODGERS III

Rodgers's release from prison spurs similar plea by former Governor Mandel.

was on appeal.

He argued that by applying the new, more stringent regulations, the commis-



MARVIN MANDEL

sion penalized him for exercising his right of appeal. Under the old guidelines, he would have become eligible for parole af-

ter serving 16 months.

Mr. Mandel also argued that the commission's determinations were arbitrary and capricious, and that the panel did not make clear in its written notice of action how it reached its parole conclusion.

His assertions are patterned after arguments raised by Mr. Rodgers in a habeas corpus petition filed in July. Mr. Rodgers was ordered released in August after serving 15 months. U.S. Magistrate Robert L. Crongeyer ruled that the regulations had been improperly applied.

The magistrate found that not only were the commission's conclusions unclear but that they raised the question of whether those conclusions were reached by violating "due process under the notion of fundamental fairness."

The parole commission released Mr. Rodgers under protest and appealed the magistrate's finding. The appeal in the 11th U.S. Circuit Court of Appeals is not expected to be heard until early next year, according to Nicholas P. Geeker, U.S. attorney for northern Florida in Pensacola.

The magistrate's favorable decision in Mr. Rodgers's case gave hope to Mr. Mandel's attorneys who had been watching at

See MANDEL, D4, Col. 5

Mandel tries Rodgers tactic

MANDEL, from D1

it developed.

Arnold M. Weiner, one of the former governor's lawyers, said yesterday that the petition for habeas corpus filed yesterday in Pensacola was filed "in tandem" with a petition for commutation that has been crisscrossing Maryland gathering powerful signatures on Mr. Mandel's behalf.

Knowledgeable sources said the commutation petition would be worthless alone. There is a requirement within the Justice Department, which usually reviews pardons and commutation requests, that all legal avenues be explored before such requests can be considered.

In Washington yesterday, Maryland's two U.S. senators formally joined the effort to have Mr. Mandel released.

In separate letters, the two senators told President Reagan that Mr. Mandel's 17 months in prison is punishment enough. Both men urged Mr. Reagan to employ his executive powers under the Constitution to commute the remaining 7 months of the 2-year sentence.

Senator Charles McC. Mathias, Jr. (R, Md.) said he believes parole officials are, in a sense, doubling a penalty imposed on Mr. Mandel by the trial judge who sentenced him. Because he had been convicted of violating his public trust as governor, the judge's penalty—originally a sentence of four years—was more severe.

Now, Mr. Mathias suggested, parole officials are refusing to release him on the theory that as a public official his crime demands harsher treatment.

Senator Paul S. Sarbanes (D, Md.), offering some of the same arguments, said no further public purpose would be served by requiring Mr. Mandel to complete his sentence.

The two letters, mailed to the White

House yesterday, were drafted after both senators rejected a joint delegation letter prepared by Bruce C. Bereano, one of Mr. Mandel's lawyers, and Abe Pollin, owner of the Washington Bullets, who helped organize an appeal to the president.

Not all members of the congressional delegation agreed to sign the letter, however.

Representative Clarence D. Long (D, Md., 2d) reportedly refused, but his aides did not return several phone calls to confirm this yesterday. Mr. Long reportedly was irritated that he was not informed earlier of the attempt to secure a united delegation appeal to the president.

A more substantive opposition was presented by Representative Parren J. Mitchell (D, Md., 7th).

"It's a matter of equity," Mr. Mitchell said. "Every day I'm working on cases with six more months to serve. They can't even get a hearing," he said. If Mr. Mandel gets this kind of high-level intercession, he said, so should others.

"I have no personal feelings about Marvin Mandel. It's the administration of justice that concerns me, equal treatment," he said.

Though some have argued that Mr. Mandel is suffering more than those who were involved in Watergate—former President Richard M. Nixon, for example, was pardoned—"I don't make that distinction," Mr. Mitchell said.

The letter, with signatures from the remaining Maryland members of the House, is being completed. Mr. Bereano said he expected it to be ready for delivery soon.

He said it would be delivered by Senator Paul Laxalt (R, Nev.), a friend of Mr. Reagan. Neither of Maryland's senators disagreed with the primary purpose of the letter, he said, but each preferred to send his own.