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BALTIMORE, FRIDAY, DECEMBER 4, 1981

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Reagan orders Mandel released as of Dec. 20

By C. Fraser Smith

Washington Bureau of The Sun

Washington—President Reagan yesterday ordered former Governor Marvin Mandel freed from federal custody as of December 20, reducing his sentence for political corruption by five months and allowing him to spend the holidays at home.

Exercising his presidential power to grant clemency, Mr. Reagan signed an order that calls for Mandel to be transferred immediately from federal prison in Florida to a community treatment center in the Baltimore-Annapolis area.

Mr. Reagan also commuted the sentence of W. Dale Hess, one of the five codefendants convicted along with Mr. Mandel in 1977. Hess, who was released Monday from federal prison in Alabama to participate in a work-release program in Baltimore, also will be freed as of December 20.

Hess was the only other defendant still serving time.

The president's action follows a Department of Justice recommendation that Mandel's sentence be commuted—and a well-publicized effort by the former governor's attorneys to win his release.

The decision, announced late yesterday by the Justice Department, "was based primarily on the fact that Mandel, having received from the trial judge the same three-year sentence as three other codefendants, would have been required to serve nearly four months more than the others."

Attorney General William French Smith observed, in a press release, that the president's action was recommended by the former U.S. attorney responsible for the case, the director of the Bureau of Prisons, and the Justice Department's pardon attorney.

The Department of Justice recommended that Mandel's sentence be com-

muted because the prison time already served by him constituted a "substantial punishment and had achieved as much deterrent effect as possible."

"The Department also concluded," according to the press release, "that it would be unduly harsh to require Mandel to serve the maximum sentence."

In addition, according to the Justice Department, decisions by the U.S. Parole Commission had created an unwarranted disparity between Mandel and those codefendants who received identical three-year prison terms after trial.

Mandel and his five codefendants were convicted in August, 1977, on charges of mail fraud and racketeering. The former governor was charged with receiving \$350,000 in gifts from friends and codefendants who were attempting to increase the value of their stock in the Marlboro race track.

After the trial, the presiding judge handed down four-year sentences for Mandel, Irvin Kovens, Harry W. Rodgers III and Hess. Later, sentences for all four of those men were reduced to three years.

William A. Rodgers and Ernest N. Cory, Jr., the other two codefendants, originally were sentenced to 20 months and 18 months respectively, but later those were reduced to a year and a day for Mr. Rodgers and 18 months probation for Mr. Cory.

Subsequently, the Parole Commission set a May 14, 1982, release date for Mandel and Harry Rodgers, requiring them to serve no less than two years of their sentences. The commission required Hess to serve at least 20 months before parole.

As for Mr. Kovens, the commission ordered his release for medical reasons after he served six months.

The Justice Department observed yesterday that the Parole Commission's deci-

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sion regarding Mandel appeared to disregard the trial judge's imposition of a sentence providing for immediate eligibility for parole.

"Although Mandel was supposed to be eligible for parole immediately," the department said, "he was in fact almost entirely denied parole."

Mandel's defense attorney, Arnold Weiner, and other supporters of early release for the governor had been making similar arguments in the court for many months to little avail.

The Justice Department noted yesterday that the commission's May 14 release date would have freed him only 17 days earlier than he would have been required to serve after "good time" was subtracted from his original three-year sentence.

A penalty of four months' prison time

was being added, in effect, to his term when it was compared to the other defendants.

The effort which finally has resulted in commutation of Mandel's sentence began in late summer. Bruce C. Bereano, one of the former governor's lawyers, and Abe Pollin, owner of the Washington Bullets basketball team, began to inquire about the possibility that President Reagan might intervene.

Mr. Pollin first approached Representative Jack Kemp (R, N.Y.), his neighbor in Bethesda and an acquaintance of long standing. At that point, further legal efforts to get Mandel's sentence reduced appeared to be fruitless.

"They were helpless," according to a spokesman for Mr. Kemp. "They said, 'We've got this guy who's been beaten into the ground. It doesn't make sense to keep him in jail,' " he said.

Mr. Kemp agreed, the spokesman said,

to ask Edwin Meese III to gauge the potential for action by the White House. It was Mr. Kemp's personal view, the spokesman said, that "justice should be tempered with mercy."

At about the same time, Mr. Bereano and Mr. Pollin sought the assistance of Senator Paul Laxalt (R, Nev.), a close friend of Mr. Reagan. He, too, was encouraging, but urged them to produce a demonstration of bipartisan support for Mr. Mandel's release.

At Mr. Laxalt's suggestion, Mr. Bereano began to seek the support of Maryland's 10-member congressional delegation, some of whose members had already been supportive of his efforts on Mandel's behalf.

Most of the delegation members signed the letter. The state's two senators, Democrat Paul S. Sarbanes and Republican Charles McC. Mathias, Jr., wrote separate letters setting out their belief that Mr.

Mandel had been sufficiently punished.

A number of other Marylanders, including many Republicans, also signed the original letter to the president, asking for clemency.

Political observers suggest that Maryland politicians now believe the Mandel matter is important to a relatively small group of individuals—a portion of whom firmly believe he should never have been jailed in the first place and another portion which feels he should serve every minute of his sentence.

The great majority of voters, however, are probably neutral on the issue—and therefore, these observers believe, compassion is a politically safe course to take.

Finally, however, the White House decided to put a measure of distance between the president and his action yesterday by having the presidential action announced at the Justice Department. The White House did not offer any of the thinking upon which Mr. Reagan made his decision, and efforts to elicit comment from the White House were unsuccessful.

At the time the petition of support was being circulated among members of the Maryland delegation, Representative Barbara A. Mikulski (D, Md., 3d) said she thought further incarceration would tend to push the case from the arena of justice into one of revenge. It would be "vindictive," she said, not to release him now.

Ultimately, it was felt by many of those who have watched the commutation effort unfold, that the president would agree that "enough is enough," as Mr. Bereano has said repeatedly. Mandel has been stripped of his right to practice law and has encountered various health problems since the days of his trial.

Mandel was expected to fly into Baltimore sometime today. It could not be learned last night what prerelease center he would be assigned to.

Reporter Allegra Bennett contributed to this article.