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Efia Nwangaza, Executive Director  
Malcolm X Center for Self-Determination  
P.O. Box 16102  
Greenville SC 29607

Re: Veronza L. Bowers, Jr.

Dear Ms. Nwangaza:

I am one of the attorneys representing Veronza L. Bowers, Jr. in connection with a petition for writ of habeas corpus that was filed on his behalf in 2008. You have requested a statement concerning Mr. Bowers' current legal status and matters that have occurred in connection with his request for release on parole. The following information may be of assistance to your organization in having Mr. Bowers' case considered by the United Nations in its Universal Periodic Review ("UPR"). I am informed that this year's UPR will include a review of confinement, release disparities and discrimination by the United States with respect to federal prisoners facing situations similar to Mr. Bowers'.

What follows in this letter is a summary of legal matters contained in the pleading, exhibits and briefs filed on Mr. Bowers' behalf in connection with the petition for writ of habeas corpus. I have also included a summary of the recommendations and findings by parole examiners and of a qualified independent expert who reviewed his eligibility for parole under federal law.

Mr. Bowers is a federal prisoner who has served more than thirty-six years of a federal life sentence, a full six-years beyond his mandatory parole release date under applicable federal law. 18 U.S.C. § 4206(d) provides that Mr. Bowers should have been released on mandatory parole on April 6, 2004 absent specific findings that he was not eligible. However, contrary to that statute, the United States Parole Commission ("Commission"), made up of presidential appointees and authorized by Congress to oversee the federal parole system, refused even to consider Mr. Bowers for parole at the time of his mandatory release date.

In the face of the Commission's intransigence, Mr. Bowers filed an emergency petition for writ of habeas corpus. On October 26, 2004, the U.S. District Court for the Middle District of Florida issued a ruling supporting Mr. Bowers' contention that the Commission had acted improperly. The Commission was ordered to review immediately his request for mandatory parole and to conduct any necessary hearing within sixty days. Instead of deciding the matter promptly, as ordered by the court, the Commission delayed its decision and conducted a series of proceedings and hearings that lasted one year.

Over this one-year period, five different Parole Commission hearing examiners reviewed Mr. Bowers' eligibility for release on mandatory parole. Each examiner recommended that he be released on parole. Based upon the examiners' findings and recommendations, the Commission itself twice ordered Mr. Bowers to be released, but then rescinded its own orders. In the first instance, a few hours before Mr. Bowers was to have stepped outside of the prison walls, where family and friends were waiting, he was notified that the Commission had rescinded its decision granting parole. In the second instance, the full Commission heard the matter and granted his request for release on mandatory parole, but that decision was also rescinded after the unprecedented intervention in the case by then Attorney General Alberto Gonzales.

Support for Mr. Bowers' release on parole during the Commission's yearlong hearing process came from a number of long-serving Bureau of Prison staff and administrators. For some of those who spoke on his behalf, it was the only time they had ever publicly supported an inmate in a parole proceeding. Additional support for his release came from Mr. Hans H. Selvog, M.S.W., L.C.S.W., an independent licensed clinical social worker and Clinical Director of the Augustus Institute (National Center on Institutions and Alternatives of Baltimore, Maryland). Mr. Selvog submitted to the Commission a forensic assessment of Mr. Bowers' suitability as a candidate for parole. His exhaustive evaluation and review consisted of a mental status exam, psychological testing and risk assessment. It also considered Mr. Bowers' behavioral adjustment record while incarcerated. In his 2004 report, Mr. Selvog concluded:

"Veronza Bowers, Jr.'s overall profile does not indicate any significant generalized antisocial tendencies, nor does he show an underlying predisposition to break social rules. . . . Mr. Bowers does not exhibit a criminal-lifestyle thinking pattern. . . . There is little evidence to suggest that he is at risk to recidivate in a violent manner. . . . Mr. Bowers had no prior criminal record. . . . The overwhelming majority of his confinement is without violation while replete with prosocial accomplishment. . . .

"Psychological testing confirmed my clinical impressions of Mr. Bowers as someone who does not suffer from any psychiatric or personality disorders that would prohibit him from maintaining a normal, prosocial way of living and relating. Nor does he harbor a corrupt or criminally oriented style of thinking or perceiving. . . . Actuarial risk assessment provided additional support that Mr. Bowers, should he be granted parole, would in all likelihood continue to engage in a lifestyle that is respectful of himself and others."

Indeed, Mr. Selvog's assessment is consistent with Mr. Bowers' long prison record of self-improvement, compliance with institutional rules, and respect for prison authorities. He has not had an incident report for a single prison rule infraction for more than 25 years, and during this period has received the highest possible salient factor rating available to a federal prisoner; the salient factor rating system is used by the Parole Commission to assess future risk. In all respects, Mr. Bowers has earned the distinction of being a model prisoner and has been acknowledged as such by BOP staff and administrators.

In spite of the overwhelming evidence establishing his suitability for release on parole

and a final decision by the full Commission granting him a parole release date, Attorney General Gonzales personally intervened in Mr. Bowers' case after he was implored to do so by Commissioner Deborah A. Spagnoli. When the full Commission granted parole over her protests, she covertly sent a 14-page memorandum to the Attorney General setting forth her views opposing Mr. Bowers' release on parole and advising the Attorney General that his intervention would curry political favor with the law enforcement community and other political allies of the Bush administration. In Ms. Spagnoli's secret memorandum, she also informed the Attorney General that she would participate in the Commission's consideration of any appeal he might file in the case. Neither Commissioner Spagnoli nor the Department of Justice disclosed her memorandum to the other Commissioners—much less to Mr. Bowers or his attorneys. Instead, it was kept secret until September 2007; two years after the Commission's 2005 proceedings were completed.

Eight days after receiving Commissioner Spagnoli's covert communication, Attorney General Gonzales intervened and personally requested that the Commission reconsider the case and "render a new decision." The Attorney General had no authority to seek further review of a case that had already been decided by the full Commission. Nevertheless, the members of the Commission—including Commissioner Spagnoli—immediately voted to reopen Mr. Bowers' case, an action contrary to Commission's enabling statute, its own promulgated rules and regulations and the due process clause of the Constitution.

On October 6, 2005, the full Commission held a closed-door meeting to consider the Attorney General's request for reconsideration. The Commission's staff only presented arguments for denying mandatory parole and ignored, without explanation, the findings of the examiners who had interviewed Mr. Bowers, their written reports explaining the basis on which they had recommended Mr. Bowers for release on parole, the testimony of BOP staff and the assessment of Hans Selvog.

Based on this one-sided presentation, the Commission members, including Ms. Spagnoli, voted to deny Mr. Bowers parole. No explanation was provided for this switch in position; no new evidence was adduced which might have warranted the Commission's reconsideration of its actions, nor did the Commission explain the basis for its apparent new interpretation of the Parole Act—an interpretation inconsistent with its prior and subsequent decisions. These egregious actions on the part of the Commission and rogue Commissioner Spagnoli were clearly and without question, politically motivated, improper and unprecedented in the history of the Commission.

On June 23, 2008, in an effort to redress the Commission's arbitrary and illegal actions denying Mr. Bowers' right to mandatory parole, a petition for writ of habeas corpus was filed on his behalf in the Northern District of Georgia challenging the October 6, 2005 decision. The matter was fully briefed by the government and Mr. Bowers' attorneys and submitted to Magistrate Judge Susan S. Cole to whom the case had been assigned. She issued a carefully reasoned 63-page Report and Recommendations that thoroughly examined the relevant facts and

legal issues involved in the case. Magistrate Judge Cole determined that Mr. Bowers should be released on parole immediately based on the following conclusions:

"In sum, the Commission's October 6, 2005 decision was the product of an ad hoc review procedure not authorized by statute or regulation that was infected by the bias of Commissioner Spagnoli and shaped by the Attorney General's contention that Petitioner's 1979 escape attempt more than 25 years earlier disqualified him from mandatory parole under § 4206(d), an interpretation of the statute that the Commission has since chosen not to apply in other cases. . . . The undersigned finds that the Commission's October 6, 2005 decision denying Petitioner mandatory parole was an abuse of discretion because it resulted from the Commission's failure to comply with the statutes and regulations governing it, because it was based on impermissible considerations—including the biased presentations of Commissioner Spagnoli and the undue influence of the Attorney General who singled out Petitioner's case for review and, among other things, urged an interpretation of the mandatory parole statute that disqualified Petitioner from parole but has not been adopted by the Commission in subsequent cases—and because it was not rationally based. Accordingly, that decision cannot stand." (*Report and Recommendations of Magistrate Judge Cole*, pp. 56-57.)

The Magistrate Judge's Report and Recommendations were forwarded to Senior District Court Judge Charles Moye, Jr. to whom the case had been assigned for decision. Judge Moye, a senior judge who no longer hears a full load of cases, issued a cursory two-page decision dismissing the petition for writ of habeas corpus. The part of the decision discussing the merits of the case is only a paragraph long, does not cite any law, and does not address any of the findings of fact or conclusions of law upon which Magistrate Judge Cole issued her Report and Recommendations. The decision of Senior Judge Moye will be appealed to the U.S. Court of Appeals for the Eleventh Circuit.

Some background on Mr. Bowers' past political activities may shed light on why a parole decision by the Commission in a case involving an inmate who is regarded by prison authorities as a model prisoner resulted in the extraordinary, unprecedented and personal involvement of the Attorney General of the United States. In addition, the following background information may be helpful in understanding the basis of Mr. Bowers' steadfast claim since the time of his conviction in 1974, that he is innocent of the crime for which he was convicted and is a political prisoner.

Mr. Bowers was a member of the Black Panther Party from 1969 to 1971, during which time the FBI was engaged in its Counter Intelligence Program against the Black Panthers known as "COINTELPRO." *See, e.g., Jones v. FBI*, 41 F.3d 238, 240-241 (6<sup>th</sup> Cir. 1994); *Hobson v. Wilson*, 737 F.2d 1, 9-11 (D.C. Cir. 1984); *Hampton v. Hanrahan*, 600 F.2d 600, 608-09 (7<sup>th</sup> Cir. 1979), *rev'd in part on other grounds*, 446 U.S. 754 (1980). When Mr. Bowers' residence was searched in 1973, it was clear that the FBI was well aware of that he was a former member of the Black Panther Party and they already had a "file" on his political activities. *See United States v.*

*Bowers*, 534 F.2d 186 at 188, n.2 (quoting search warrant affidavit).

With respect to his trial in 1974, Mr. Bowers was convicted principally on the basis of the testimony of Alan Veale and Arthur White. Mr. Veale, who was charged as a co-defendant in the murder of the Park Ranger, the crime for which Mr. Bowers would eventually be convicted (RT 725), received immunity for his testimony against Mr. Bowers (RT 727). A heroin user at the time (RT 891-892), Mr. Veale had been convicted of armed bank robbery just prior to the Bowers' trial and hoped to reduce his 12-year sentence for that conviction (RT 795). He had testified about the murder of the Park Ranger at two separate trials involving the bank robbery without mentioning that Mr. Bowers had been involved (RT 794-795). It was only the week before he testified against Mr. Bowers—he was about to stand trial on the same murder charges as Mr. Bowers and was offered a deal by the prosecutor to drop all charges—that Mr. Veale identified Mr. Bowers as being complicit in the crime (RT 823-824).

Mr. White was an admitted “drug dealer” (RT 1283) with an extensive criminal record. (RT 1284-1286). While awaiting sentencing on his latest drug conviction, he approached the prosecution in the Bowers' case with his alleged knowledge about the Park Ranger's murder (RT 1287-1288). Initially, he refused to testify (RT 1289), but when the prosecutor told him about a \$10,000 reward and promised to assist him with his pending sentence, he changed his mind. (RT 1292-1293; RT 1361-1362). (Copies of the transcript pages cited here are attached to this letter as Attachment 1).

It is for these reasons and others, that Mr. Bowers has stated his belief that because of his membership in the Black Panther Party he was targeted and eventually convicted of a crime he did not commit. While four decades have passed since COINTELPRO was in its prime, Mr. Bowers' belief that he was targeted on account of his Black Panther Party membership resonates strongly with findings in the final report of the U.S. Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities: The FBI'S Covert Action Program to Destroy the Black Panther Party (April 23, 1976). The Senate Committee concluded:

“Although the claimed purpose of the Bureau's COINTELPRO tactics was to prevent violence, some of the FBI's tactics against the BPP were clearly intended to foster violence, and many others could reasonably have been expected to cause violence. . . . This report focuses solely on the FBI's counterintelligence program to disrupt and “neutralize” the Black Panther Party. It does not examine the reasonableness of the basis for the FBI's investigation of the BPP or seek to justify either the politics, the rhetoric, or the actions of the BPP. This report does demonstrate, however, that the chief investigative branch of the Federal Government, which was charged by law with investigating crimes and preventing criminal conduct, itself engaged in lawless tactics and responded to deep-seated social problems by fomenting violence and unrest.”

Cf. <http://www.icdc.com/~paulwolf/cointelpro/churchfinalreportIIIa.htm>

Unfortunately, Mr. Bowers remains a casualty of this time whose plea for justice, after 36

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years of incarceration, remains unrequited.

In summary, Mr. Bowers claims he has been a political prisoner since the time of his original conviction in 1974 and that he continues to be a political prisoner to this day. His claim is reinforced by the extraordinary actions of the Parole Commission and the Attorney General of the United States in 2005 to block his release on parole over the recommendations of the Commission's own hearing examiners and Hans Selvog. The Commission's actions were found by Judge Magistrate Cole, in her carefully reasoned Report and Recommendations, to have been "an abuse of discretion because it resulted from the Commission's failure to comply with the statutes and regulations governing it, because it was based on impermissible considerations—including the biased presentations of Commissioner Spagnoli and the undue influence of the Attorney General who singled out Petitioner's case for review. . ."

Further background on Mr. Bowers' case and the unprecedented actions of the U.S. Parole Commission are documented on a web site set up by his supporters and in three articles published by the Washington Post from December 2005 to June 2009. These investigative reports and the web site can be accessed on-line at the following URLs:

<http://www.washingtonpost.com/wpdyn/content/article/2005/12/17/AR2005121701224.html>

<http://www.washingtonpost.com/wpdyn/content/article/2009/05/25/AR2009052502357.html>

<http://www.washingtonpost.com/wpdyn/content/article/2009/06/05/AR2009060503576.html?hpid=sec-nation>

<http://www.veronza.org>

Respectfully Submitted,



Bryan Gaynor

cc. Veronza L. Bowers, Jr.