

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HCR 631 Groveland Four
SPONSOR(S): Judiciary Committee
TIED BILLS: None **IDEN./SIM. BILLS:** SCR 920

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Judiciary Committee		Homburg	Camechis

SUMMARY ANALYSIS

In HCR 631, the Legislature acknowledges that Charles Greenlee, Walter Irvin, Samuel Shepherd, and Ernest Thomas, the Groveland Four, were the victims of gross injustices and that their abhorrent treatment by the criminal justice system is a shameful chapter in this state's history. The Legislature also extends a heartfelt apology to the families of Charles Greenlee, Walter Irvin, Samuel Shepherd, and Ernest Thomas for the enduring sorrow caused by the criminal justice system's failure to protect their basic constitutional rights. Lastly, the Legislature urges the Governor and Cabinet to expedite review of the cases of Charles Greenlee, Walter Irvin, Samuel Shephard, and Ernest Thomas as part of their constitutional authority to grant clemency, including granting full pardons.

The concurrent resolution requires a copy of the resolution to be provided to the Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, and the families of the Groveland Four as a tangible token of the sentiments expressed therein.

This resolution is not subject to action by the Governor and does not have the effect of law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

On July 16, 1949, a 17-year-old white woman and her estranged husband reported to police that she had been abducted at approximately 2:30 a.m., driven about 25 minutes to a dead-end road, and raped by 4 black men after the car in which she and her estranged husband were riding broke down on a rural road outside Groveland in Lake County.¹ Charles Greenlee, Walter Irvin, and Samuel Shepherd were charged with rape, while Ernest Thomas was presumed guilty of the crime.

Charles Greenlee, who was sixteen years old in July 1949, was being detained 20 miles away by two retail store night-watchmen at about the same time as the attack was alleged to have occurred;² the alleged rape victim's husband stated on 2 separate occasions that Mr. Greenlee was not one of the young men present when the car broke down on July 16, 1949;³ and, Mr. Greenlee denied that he and Mr. Thomas ever met Mr. Shephard, Mr. Irvin, the alleged victim, or her estranged husband.⁴

Walter Irvin and Samuel Shepherd, both World War II veterans,⁵ acknowledged that they had stopped by the broken-down vehicle to see if they could assist the couple, but denied any involvement in the alleged rape.⁶

After their arrest that evening, Mr. Greenlee, Mr. Irvin, and Mr. Shepherd were severely beaten in the basement of the county jail. Mr. Greenlee and Mr. Shepherd were coerced into confessing to the crime while Mr. Irvin steadfastly maintained his innocence despite repeated beatings.⁷

Ernest Thomas, understanding the racial realities of the time and the danger he was in, escaped Lake County before law enforcement could locate him.⁸ When he was located by an armed, deputized posse, in the woods of Madison County, Florida, Mr. Thomas was shot as he slept beside a tree.⁹

Charles Greenlee, Walter Irvin, and Samuel Shepherd, were tried and convicted of rape.¹⁰ Mr. Greenlee was sentenced to life imprisonment due to his young age,¹¹ and Mr. Irvin and Mr. Shepherd were sentenced to death.¹² The judge who presided at the men's trial denied their attorneys access to an exculpatory medical report of the alleged rape victim and barred testimony regarding the three men being repeatedly and brutally beaten by law enforcement officers.¹³ Thurgood Marshall, then Executive Director of the NAACP Legal Defense and Educational Fund, appealed the convictions of Walter Irvin and Samuel Shepherd to the United States Supreme Court, which unanimously overturned the judgments on April 9, 1951, and ordered a retrial.¹⁴

Seven months later, on November 6, 1951, as Walter Irvin and Samuel Shepherd were being transported by Lake County Sheriff Willis McCall from Florida State Prison in Raiford to Tavares Road Prison for a pretrial

¹ Gary Corsair, LEGAL LYNCHING: THE SAD SAGA OF THE GROVELAND FOUR 14, 15 (2012).

² Gilbert King, DEVIL IN THE GROVE at 65, 172 (2012).

³ King at 66,67.

⁴ King at 66, Corsair at 85.

⁵ King at 36.

⁶ King at 38, Corsair at 17-19.

⁷ Corsair at 18,19,33.

⁸ King at 73.

⁹ King at 117.

¹⁰ Corsair at 183.

¹¹ Corsair at 186.

¹² *Id.*

¹³ King at 162.

¹⁴ Corsair at 221.

hearing, the sheriff pulled over on a dirt road and shot both men, claiming the handcuffed men were trying to escape. Samuel Shepherd died at the scene as a result of his wounds.¹⁵

During an interview with an investigator sent by then Governor Fuller Warren, Walter Irvin stated that, after he had been shot twice by the Sheriff, Deputy Sheriff James L. Yates shot him through the neck as he lay on the ground handcuffed to the deceased Samuel Shephard.¹⁶ The FBI later discovered a .38-caliber bullet directly beneath a blood spot marking where Walter Irvin lay, providing forensic corroboration of Mr. Irvin's statement that he was shot while lying on the ground.¹⁷ Walter Irvin, who pretended to be dead, survived despite a delay in treatment caused by the hospital's refusal to transport him in an ambulance due to his race.¹⁸ Mr. Irvin was retried and convicted a second time for the alleged rape and was sentenced to death, despite the fact that a former FBI criminologist stated that he believed forensic evidence had been manufactured by law enforcement.¹⁹ Mr. Irvin's sentence was commuted to life in prison in 1955 by then Governor LeRoy Collins after the prosecuting attorney, who twice convicted Mr. Irvin, stated in a letter that not only was a life sentence more appropriate, but that Mr. Irvin maintained his innocence even after being shot when he believed himself to be dying.²⁰

Walter Irvin was found dead in his car while visiting Lake County for a funeral in 1969, 1 year after being paroled by then Governor Claude Kirk.²¹ Charles Greenlee, who was paroled in 1960 at the age of 27, died in April 2012 at the age of 78.²²

Clemency Powers

The Florida Constitution grants the power to pardon to the Governor, with the consent of at least two Cabinet members.²³ Except in cases of treason and cases in which impeachment results in conviction, the Governor may, by executive order filed with the Secretary of State, suspend collection of fines and forfeitures, grant reprieves not exceeding 60 days, and with the approval of two members of the Cabinet, grant full or conditional pardons, restore civil rights, commute punishment, and remit fines and forfeitures for offenses.²⁴

In Florida, the Supreme Court has long held that the Governor's power to commute and pardon sentences tracks with that of the President of the United States under the United States Constitution.²⁵

The language of Florida's Constitution today is substantially the same as the language was in Florida's Constitution in 1872, specifically in Article V Sections 11 and 12 relating to pardons. The only difference then was that the Governor could only pardon "after conviction." No such limitation exists today.

It is well settled that the President has the power to grant pardons prior to convictions. Cases can be found as far back as the Civil War, when President Johnson issued a pardon for a former Confederate Officer never convicted of a crime, and as recently as when President Ford pardoned President Nixon for any offenses that he "committed or may have committed or taken part in."

In 2004, Justice Anstead of the Florida Supreme Court, arguing that the majority opinion limited the Constitutional authority of the executive branch improperly, said that the decision "restricted the authority of the

¹⁵ Corsair at 242.

¹⁶ King at 242-244.

¹⁷ King at 254.

¹⁸ King at 236,237.

¹⁹ King at 310-314, 329.

²⁰ King at 349, 354.

²¹ King at 358, 359.

²² Barbara Liston, Families Seek Exoneration in Florida Rape After 63 Years, CHICAGO TRIBUNE (Sept. 7, 2012), http://articles.chicagotribune.com/2012-09-07/news/sns-rt-us-florida-rape-rapebre8861er-20120907_1_groveland-four-groveland-four-charles-greenlee

²³ Art. IV, s. 8(a), FLA. CONST.

²⁴ Section 940.01, F.S.

²⁵ *In re Executive Communications*, 14 Fla. 318 (Fla. 1872).

executive to grant a full pardon *after* conviction, while leaving undisturbed the executive's authority to grant a full pardon *before* conviction."²⁶

EFFECT OF PROPOSED CHANGES

In the concurrent resolution, the House and Senate:

- Acknowledge that Charles Greenlee, Walter Irvin, Samuel Shepherd, and Ernest Thomas, the Groveland Four, were the victims of gross injustices and that their abhorrent treatment by the criminal justice system is a shameful chapter in this state's history;
- Extend a heartfelt apology to the families of Charles Greenlee, Walter Irvin, Samuel Shepherd, and Ernest Thomas for the enduring sorrow caused by the criminal justice system's failure to protect their basic constitutional rights; and
- Urge the Governor and Cabinet to expedite review of the cases of Charles Greenlee, Walter Irvin, Samuel Shephard, and Ernest Thomas as part of their constitutional authority to grant clemency, including granting full pardons.

The concurrent resolution requires a copy of the resolution to be provided to the Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, and the families of the Groveland Four as a tangible token of the sentiments expressed therein.

B. SECTION DIRECTORY: Not applicable

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None
2. Expenditures: None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None
2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None

D. FISCAL COMMENTS: None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

²⁶ *R.J.L. v. State*, 887 So.2d 1268, 1282 (Fla. 2004)(emphasis in original).
STORAGE NAME: pcs0631.JDC
DATE: 4/4/2017

1. Applicability of Municipality/County Mandates Provision: Not applicable

2. Other: None

B. RULE-MAKING AUTHORITY: None

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A