

PETITION FOR PARDON

To the President of the United States:

The undersigned petitioner, the Committee to Pardon Jack Johnson (the “Committee”),¹ prays for a pardon and in support thereof states as follows:

I. Personal Information

Full Name: John Arthur (“Jack”) Johnson, the first African-American world heavyweight boxing champion.

Address: Mr. Johnson died in an automobile accident in Raleigh, North Carolina in 1946. He is buried in Graceland Cemetery, Chicago, Illinois.

Telephone Number: The Committee can be reached through its counsel:

John Siegal, Esq.: (212) 969-3342

Social Security Number: Unknown.

Date and Place of Birth: March 31, 1878, Galveston, Texas.

Physical Characteristics:

<u>Sex:</u>	Male	<u>Height:</u>	6’ 2”
<u>Weight:</u>	200 lbs. (approximately)	<u>Hair Color:</u>	Brown
<u>Eye Color:</u>	Brown		

Special Note: Jack Johnson’s physical characteristics are well-known to students of boxing. Films and photographs of numerous of his fights exist and can be supplied upon request.

Citizenship: United States of America

II. Offense For Which Pardon Is Sought

Petitioner’s Conviction: Petitioner was convicted on May 13, 1913 on two counts of violating the Mann Act, 36 Stat. 825 (1910), 18 U.S.C. § 2421, then known as the “White Slave Traffic Act.” He was convicted after a jury trial in the United States District Court for the Northern District of Illinois, Eastern Division, for interstate rail transport of a woman for the purposes of prostitution and debauchery. The first count, for aiding and

¹ The members of the Committee to Pardon Jack Johnson are set forth in the Appendix annexed hereto.

abetting prostitution, was later reversed by the United States Circuit Court of Appeals for the Seventh Circuit. *Johnson v. United States*, 215 F. 679 (7th Cir. 1914). On June 9, 1914, the Seventh Circuit denied the government's petition for rehearing of that dismissal. *Id.* 215 F. at 684-85.

Petitioner's Sentence: Johnson was sentenced to one year and one day in federal penitentiary and fined \$1,000. The sentence was not reduced when the Seventh Circuit vacated the conviction on the first count. Mr. Johnson left the country and lived overseas from June 1913 until voluntarily returning to the country to serve his sentence in 1920. He was incarcerated at Leavenworth in 1920 and 1921. The Parole Board of the Leavenworth prison (consisting of the Leavenworth warden, the prison physician and the Superintendent of Federal Prisons) held a parole hearing in January 1921 and unanimously recommended that Mr. Johnson be paroled. The Justice Department denied parole, however, and Mr. Johnson served his full term.

Special Note: On April 2, 2001, the Texas State Senate passed Resolution No. 620 declaring that the prosecution and conviction of Jack Johnson had resulted from a "contrived charge" and was a product of the political and racial tensions of his time. The Texas House of Representatives adopted a similar resolution, H.R. No. 711, on May 11, 2001, and March 31, 2001 was declared Jack Johnson Day in the State of Texas. (Copies of Senate Resolution No. 620 and H.R. No. 711 are annexed as Exhibit 1 hereto.)

III. Detailed Account of Offense For Which Pardon Is Sought

In order to properly understand this case, it must be placed in its historical context. Accordingly, petitioner presents below a biographical summary of Jack Johnson's life and career leading up to his indictment, a summary of the legal proceedings that led to his conviction and incarceration and the effect his conviction had on his life and times.

Jack Johnson's Life and Career

Jack Johnson was a controversial figure in his time. He challenged racial barriers and taboos. He flaunted his success and his defiance of bigotry. He lived by an ethos – "I am not a slave," "[I] act in my relations with people of other races as if prejudice did not exist" – that was anathema to and feared by many persons in the early 20th Century.

But he was not a criminal. Mr. Johnson was indicted and convicted on what the Texas State Senate has declared to have been “contrived charges,” in a prosecution that is repugnant to today’s standards of justice and racial equality.

Jack Johnson’s Rise To Boxing Fame

During the late 19th and early 20th centuries, boxing was one of the most popular sports in the world. It was enthusiastically followed by people of all races and social classes – the heavyweight championship was considered by many to be the ultimate athletic prize. It was during this time, while just a teenager, that Jack Johnson began his boxing career in his hometown of Galveston, Texas. Before the turn of the century, he had moved on to broader venues, fighting professionally in the heavyweight class, and in 1903, at the age of 25, Mr. Johnson won the Negro heavyweight championship in California.

The “Negro heavyweight championship” was a contrivance by California sportswriters, reflecting the fact that African-American boxers, at least in the important weight classes, were not permitted to compete against white fighters in championship matches. The reasons went beyond the routine Jim Crow segregation of the day. As a symbol of power and prowess, the social ramifications of boxing titles ran deep. Thus, for example, in 1897, a mixed-race boxing match was halted when spectator Henry Long demanded: “The idea of niggers fighting white men. Why, if that darned scoundrel would beat that white boy the niggers would never stop gloating over it and, as it is, we have enough trouble with them.”² The segregation of boxing titles also reflected the

² Dale Somers, *THE RISE OF SPORTS IN NEW ORLEANS, 1850-1900* at 183 *quoting the New Orleans Daily Picayune*.

pseudo-science of the times. It was well-accepted at the turn of the century that blacks and whites were physically very different – blacks were deemed cowardly, had weaker stomachs (in the then-common parlance, had “yellow” bellies), harder heads, smaller brains and less physical endurance.³ These myths were used to rationalize the color line.

Mr. Johnson refused to recognize this color line. Indeed, he declared publicly: I waive the color line myself.⁴ Having gone as far as any African-American boxer of that time could go by 1903, he then tried to go further. Mr. Johnson wanted to fight the then-reigning, undefeated world heavyweight champion, James J. Jeffries (a/k/a the “Boilermaker”). He issued public challenges, but Jeffries refused to acknowledge them, stating that he would not lower himself to defend his title against an African-American man. Johnson’s efforts failed; on May 2, 1905, Jeffries announced his retirement from boxing.

It was unprecedented for a boxing champion to retire; champions had always been dethroned. But Jeffries determined to leave the sport with his title intact, and participated in identifying the new contenders who would fight it out among themselves to become the new heavyweight champion. Naturally, neither Mr. Johnson nor any other African-American fighter was considered, and Jeffries ultimately crowned a white boxer, Marvin Hart, as the new heavyweight champion of the world.⁵

³ Denise C. Morgan, “Jack Johnson: Reluctant Hero of the Black Community,” 32 *Akron L. Rev.* 529, 533 (1999), Randy Roberts, *PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES*, at 61-62.

⁴ Randy Roberts, *PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES*, at 32, quoting *the Los Angeles Times*, October 1, 3 and 4, 1903.

⁵ Randy Roberts, *PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES*, at 42-3.

Hart's championship was quickly challenged by other white boxers, while Mr. Johnson continued to travel across the country, winning his matches against fellow African-Americans, and those few matches against white boxers he was permitted to fight. When Canadian Tommy Burns took the world heavyweight title from Hart in 1906, Mr. Johnson again saw a chance to prove his merits as an equal in the ring.

Mr. Johnson handily won numerous fights in Australia and on the west coast of the United States, all the while pressing for the opportunity to box a championship bout. Through his sheer talent and ability, Mr. Johnson built such a name for himself that sportswriters of the time began to support this quest. "Jack Johnson is a colored man, but we cannot get away from the fact that he is the greatest living exponent of the art of the hit-and-getaway and as such, he is the outstanding challenger for the title," wrote the *St. Louis Post-Dispatch*.⁶

The sportswriters' calls, and, ultimately, the guarantee of a \$30,000 purse, finally induced Burns to accede to a match. Burns granted Mr. Johnson his chance on the day after Christmas, 1908, in Australia. The match was heavily promoted, not simply as an example of boxing prowess, but also as a racial matter. A letter printed in *The Australian Star* predicted that there was "more in this [Burns-Johnson] fight to be considered than the mere title of pugilistic champion of the world."⁷

Although the *Star* letter proved to be prescient, Mr. Johnson steadfastly refused to view his championship fight as anything but an opportunity to prove his own worth as a fighter. In the same way Mr. Johnson refused to allow race to be a barrier to

⁶ Randy Roberts, PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES, at 50.

⁷ Randy Roberts, PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES, at 58.

achievement, he refused to allow it to identify and define him either. He stated that he had “found no better way of avoiding racial prejudice than to act in my relations with people of other races as if prejudice did not exist.”⁸ Yet despite these brave words, calls of “coon” and “nigger” mixed with the boos and jeers of the crowd when Mr. Johnson stepped into the ring on December 26, as they had throughout his career.

Mr. Johnson’s victory over defending champion Burns was decisive.

Although Mr. Johnson carried Burns into the fourteenth round before the bout was stopped, contemporaneous reports make clear that Mr. Johnson dominated every round, giving the spectators a fight between “a colossus and a toy automaton.” Novelist Jack London summed up the match thusly: “The Fight! – there was no fight!”⁹ Bowing to the inevitable, policemen stopped the fight, and Jack Johnson became the first ever black man to be crowned the heavyweight champion of the world.¹⁰

The Search For A “Great White Hope”

Mr. Johnson took the racial implications of his groundbreaking victory in stride. In his autobiography, he explained: “I did not gloat over the fact that a White man had fallen. My satisfaction was only in the fact that one man had conquered another and that I had been the conqueror. To me, it was not a racial triumph . . .”¹¹ But if it was not

⁸ Jack Johnson, *THE AUTOBIOGRAPHY OF JACK JOHNSON – IN THE RING AND OUT*, at 239 (1992).

⁹ *AFRICAN-AMERICAN LIVES*, (Henry Louis Gates, ed. 1st edition 2004) at 454.

¹⁰ Randy Roberts, *PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES*, at 59-65.

¹¹ Jack Johnson, *THE AUTOBIOGRAPHY OF JACK JOHNSON – IN THE RING AND OUT*, at 58.

a racial triumph to Mr. Johnson, it was certainly treated as one by the rest of the world, and reaction was swift. Some began publicly to question the myths of white physical and mental superiority in the wake of Mr. Johnson's achievement, while others moved to question the legitimacy of Mr. Johnson's title,¹² and to search out a white boxer who could replace Jack Johnson as champion.

In early 1909, almost every American was aware of the search for "The Great White Hope." Like Captain Ahab's search for his own white whale, the search for a white boxer to defeat Mr. Johnson and bring about a racial restoration of the heavyweight crown was all-consuming. Boxing managers and promoters combed the countryside for possible contenders, labeling each one a "Great White Hope," garnering instantaneous press coverage and public attention. Yet few of these boxers had any chance against Mr. Johnson; and the few who even attempted a challenge were roundly defeated.

After Mr. Johnson knocked out Stanley Ketchel, the white middleweight champion, the call went up for former champion, Jim Jeffries, to come out of retirement in order to racially restore boxing's highest title. In a widely-repeated plea published in the *New York Herald*, author Jack London begged Jeffries to "emerge from his alfalfa farm and remove that golden smile from Jack Johnson's face. Jeff, it's up to you."¹³

Jeffries resisted. While he abhorred the idea of an African-American champion, he did not want to come out of retirement. But Jeffries ultimately bowed to

¹² Former boxing champion John L. Sullivan publicly attempted to denigrate Mr. Johnson's achievement, asserting that "present day bouts cannot truly be styled prize fights, but only boxing matches." Randy Roberts, *PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES*, at 65. Others argued that, because Burns had never defeated retired champion Jeffries, any claim to the title based on a defeat of Burns must be illegitimate.

¹³ Randy Roberts, *PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES*, at 68.

public pressure and, in response to the promise of the unheard-of prize amount of \$100,000 in fight film rights, agreed to fight a match – billed as the “fight of the century” – against Jack Johnson in Reno, Nevada, on July 4, 1910.¹⁴

No boxing match could ever have lived up to the level of hype and anticipation surrounding the Johnson-Jeffries fight. The prize fight was portrayed as a battle for racial supremacy, with Jeffries widely asserted to be the decided favorite. Neither Johnson nor Jeffries could make a move in the weeks preceding the fight that was not reported, photographed and widely discussed throughout the nation. Some white people spoke of the risks of racial warfare if Johnson was not defeated, while some African-Americans held prayer vigils for a Johnson victory. Tens of thousands descended on Reno, while crowds gathered outside newspaper offices across the country to receive play-by-play reports of the fight.¹⁵ Before the fight began, a local band reportedly played a rendition of “All Coons Look Alike to Me.”¹⁶ The overwhelmingly white crowd cheered.

Amidst this furor, with the eyes of the nation watching on July 4th, the fight itself was an anticlimax. By many reports, Johnson could have ended the fight early, but chose to give the spectators a good show, landing blow after blow upon an outmatched Jeffries. By the fifteenth round, Johnson accomplished what no other boxer had ever

¹⁴ AFRICAN-AMERICAN LIVES, (Henry Louis Gates, ed. 1st edition 2004) at 454.

¹⁵ See generally Randy Roberts, PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES, at 96-97 and contemporaneous news articles discussed therein. We annex as Exhibit 2 hereto a representative sample of the numerous news reports of the fight and its aftermath.

¹⁶ Randall Kennedy, INTERRACIAL INTIMACIES: SEX, MARRIAGE, IDENTITY, AND ADOPTION, at 79.

done – he knocked Jeffries to the canvas. At the count of seven, the match was called, and the “fight of the century” was over.¹⁷ Johnson’s claim to the heavyweight title could no longer be disputed.

The impact of Mr. Johnson’s Independence Day victory was immediate and far-reaching. African-Americans celebrating Johnson’s victory were physically attacked in cities and smaller towns across the country. For example, a gang of white men attacked a group of blacks who were celebrating Johnson’s defeat of Jeffries in a construction camp outside Uvalda, Georgia, firing upon them, killing three and wounding another five. A white man slashed the throat of a black man in Houston who was cheering Johnson’s triumph; two other blacks were killed in Little Rock as a result of an argument with a group of whites about the match. Other African-Americans were badly beaten or injured in New York City, New Orleans, Baltimore, St. Louis, Cincinnati, Los Angeles, and many other cities. An African-American man in Boston was bound and gagged after publicly predicting that Johnson would defeat the next white challenger, too. While the precise number of dead and injured varies from account to account, it is undisputed that the common trigger of this turmoil was Jack Johnson’s victory over Jim Jeffries.¹⁸

¹⁷ Randy Roberts, *PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES*, at 104-06.

¹⁸ See generally, *AFRICAN-AMERICAN LIVES*, (Henry Louis Gates, ed. 1st edition 2004) at 455. See also, e.g., *Omaha Daily News*, July 5, 1910 at 1, *Chicago Tribune*, July 5, 1910 at 1, *New York Times*, July 5, 1910 at 1, Al-Tony Gilmor, *BAD NIGGER! THE NATIONAL IMPACT OF JACK JOHNSON*, at 65; Randy Roberts, *PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES*, at 108-11; Philip Dray, *AT THE HANDS OF PERSONS UNKNOWN: THE LYNCHING OF BLACK AMERICA*, at 194.

It was in the wake of this triumph, and its far-reaching public effects, that the federal government began an investigation into Jack Johnson's relationships with white women.

The Investigation And Indictment Of Jack Johnson¹⁹

In the Fall of 1912, the United States opened an investigation into the relationship between "the colored pugilist," Jack Johnson, and a "white girl," Lucille Cameron.²⁰ The then-U.S. Attorney in Chicago, James H. Wilkerson, indicated that the investigation was prompted by, among other things, the fact that "public sentiment [had] grown to such an extent that he deemed it advisable in view of the existing conditions to have Lucille Cameron and others brought before the Federal Grand Jury."²¹ Because law enforcement officials feared that Mr. Johnson intended to assist Ms. Cameron in fleeing the jurisdiction prior to her giving her testimony, and at the urging of Ms. Cameron's mother, who disapproved of her daughter's relationship and claimed that she had been brainwashed, Mr. Johnson was arrested on state abduction charges. Although the young Ms. Cameron expressed her love for Mr. Johnson and her desire to marry him, and

¹⁹ What remains of the investigative record – copies of portions of which are annexed as Exhibits 3 through 14 hereto – was retrieved by the Committee from the National Archives. To the extent possible, additional portions of the investigative record can be made available upon request. (N.B.: The age of the record, together with the apparent fact that the materials have been reproduced numerous times, accounts for the generally poor quality of some of the materials annexed as Exhibits hereto.)

²⁰ Quite astoundingly to modern sensibilities, the investigative record is replete with references to various individual's ethnicities and religious persuasions – including but not limited to negro, colored, Jew – with, in a number of instances, credibility determinations having been made on those bases.

²¹ A copy of the relevant portion of the official investigative record is annexed as Exhibit 3 hereto.

despite the fact that the Government lacked any corroborating evidence establishing the necessary interstate element, the Government pressed its case – the prosecutors determined that “a complaint should be made charging someone with a violation of the Mann Act or conspiracy to do so.”²²

October 12, 1912. The Government’s efforts to unearth sufficient evidence to indict Mr. Johnson for a violation of the Mann Act with respect to his relationship with Ms. Cameron were short lived, however. Only days after the Government began its investigation, in a Memorandum for the Attorney General, a Justice Department official, Acting Chief of the Bureau of Investigation Bielaski, acknowledged the impropriety of a Mann Act charge: “From the facts set forth in [a] telegram [received from a Special Agent in Chicago], and those given in the current newspapers, I do not believe that this is a proper case for the Federal Authorities to undertake. A State charge of abduction is already pending against Johnson in connection with the same girl.”²³ Essentially, the Government felt that its investigation failed to uncover the necessary “interstate features.”²⁴

Yet, despite the acknowledgement from the Acting Chief that the Johnson case was not a proper subject for the Federal authorities to pursue any further, and as the public profile of and scrutiny over the investigation heightened, the Government again continued to press its case – indeed, *any* case. As one agent observed at the time: “There

²² A copy of the relevant portion of the official investigative record (at 3) is annexed as Exhibit 4 hereto.

²³ A copy of the relevant portion of the official investigative record is annexed as Exhibit 5 hereto.

²⁴ A copy of the relevant portion of the official investigative record (at 4) is annexed as Exhibit 6 hereto.

is a great amount of information coming in to the effect that Jack Johnson for the past three years has been taking different white girls on his trips over the country for immoral purposes.”²⁵ In fact, one letter from an anonymous Chicagoan focused the Government’s attention on another of Mr. Johnson’s traveling companions, Belle Schreiber.

October 28, 1912. The anonymous letter began: “Having followed with keen interest the effort of the Government’s staff to gather sufficient evidence against Jack Johnson, negro prize-fighter, in order to indict him under the Mann Act, and appreciating the fact that the sooner the country is rid of him the better protected our women shall be, I am prompted herewith to give you certain facts which I trust shall aid you in your investigation.” After reciting numerous paragraphs of alleged “facts,” referring explicitly to Mr. Johnson’s companions as “victims,” the author, signed only, “A Chicagoan,” concludes with these startling and incendiary remarks: “I sincerely trust I have made this effort as plain to you as I possibly could under the circumstances, and that you shall be able to gather sufficient additional evidence from the above named persons to enable you to send this nigger to jail for the balance of his life.”²⁶ Adding fuel to the fire was information concerning a photograph of Mr. Johnson and Ms. Schreiber that had appeared in a Boston newspaper, bearing the title “Jack Johnson and his pretty white

²⁵ A copy of the relevant portion of the official investigative record (at 3) is annexed as Exhibit 7 hereto.

²⁶ A copy of the relevant portion of the official investigative record is annexed as Exhibit 8 hereto.

wife.”²⁷ Armed with this wispy “evidence,” the Government intensified its investigation.²⁸

November 7, 1912, January 3, 1913 and April 30, 1913. On these bases, and on at least two separate occasions, Mr. Johnson was indicted by the grand jury for various alleged criminal violations of the Mann Act.

February 3, 1913. The United States Supreme Court denies Mr. Johnson’s *habeas corpus* appeal, which had been brought prior to the time that Mr. Johnson was released from custody on the posting of an acceptable bond. It was apparent to the Government that the trial judge had expected the Supreme Court to rule the Mann Act unconstitutional. When confronted with allegations that Mr. Johnson had intended to jump bond by fleeing to a non-extraditable jurisdiction, the judge had pronounced from the bench that if Mr. Johnson were to escape, the punishment through the forfeiture of the bond would be in excess of that contemplated by Congress at the time of the passage of the Mann Act and, therefore, “in a case of this nature it might be considered optional with the defendant if he choose to elect a forfeiture and self-exile rather than respond to the indictment.”²⁹ Language such as this, together with the ease with which Mr. Johnson

²⁷ A copy of the relevant portions of the official investigative record is annexed as Exhibit 9 hereto.

²⁸ In addition, at the same time that the Government proceeded with its Mann Act investigation, it conducted an investigation into Mr. Johnson’s alleged smuggling of a necklace from Europe. Mr. Johnson was not convicted on these charges; the Government’s case evaporated when Mr. Johnson’s brother refused to testify against Mr. Johnson.

²⁹ A copy of the relevant portion of the official investigative record (at 4) is annexed as Exhibit 10 hereto.

eventually left the country, suggests that Mr. Johnson may have received some sort of unofficial assistance in his eventual self-imposed exile.

The Trial And Conviction Of Jack Johnson

In preparing its case for trial during the Spring of 1913, the Government exerted significance pressure on Ms. Schreiber – who was embittered by Mr. Johnson’s December 1912 marriage to Ms. Cameron – going so far as to place her under a form of house arrest to ensure that Johnson had no further contact with her before she testified against him.³⁰ The Government also interviewed a litany of Mr. Johnson’s personal and/or business acquaintances during the previous few years. No stone was left unturned with respect to the events surrounding Mr. Johnson’s life and travels, particularly those events that occurred after he definitively secured his title as heavyweight boxing champion. When the dust settled, however, the eleven-count indictment handed down regarding the Government’s Mann Act charges amounted to the following allegations: (i) that Mr. Johnson had paid Ms. Schreiber’s fare for a train ride from Pittsburgh to Chicago; (ii) that once in Chicago Mr. Johnson provided funds which Ms. Schreiber used to set up a house of prostitution; and (iii) that Mr. Johnson had a sexual relationship with Ms. Schreiber while in Chicago.

³⁰ In a letter dated December 3, 1912, addressed to Ms. Schreiber, the Government “comforted” her with these faintly threatening words: “I don’t wonder at all that you are not altogether happy; your surroundings are so utterly different from those to which you have been accustomed that you are naturally somewhat lonesome, but you have got along finely so far and it is consoling to know that half the battle is over and that *you will soon have rendered your country a service such as few are ever fortunate enough to duplicate and one that will go a long ways towards wiping out those acts of your past which I know you are not particularly desirous of reflecting upon.* So cheer up, and show some of the knockers that you haven’t started something you can’t finish” (emphasis added). A copy of the relevant portion of the official investigative record is annexed as Exhibit 11 hereto.

In March 1913, according to an office memorandum from the United States Attorney's office in the Northern District of Illinois, Mr. Johnson approached that office and offered to plead guilty to the Mann Act charges, so long as any prison sentence could be exchanged for a substantial fine. (He cited numerous precedents for such plea bargaining in connection with Mann Act violations).³¹ The Government stated in the memorandum that Mr. Johnson's proposal was motivated by the concern that "on account of his color it would be impossible for him to secure a fair trial."³² In response, the U.S. Attorney's office advised Mr. Johnson that his offer was "useless," and the trial went forward.

Mr. Johnson was tried before a jury in a proceeding lasting from May 5 to May 13.³³ In its opening statement, the Government promised to establish not only the payments to transport Ms. Schreiber but also that Mr. Johnson engaged in debauchery, including "crime against nature." The Government's witnesses included Ms. Schreiber, her former employer (the owner of a house of prostitution in Pittsburgh), and the dry goods owner from whom Ms. Schreiber had purchased mattresses with the funds Mr. Johnson had provided her. Mr. Johnson took the stand in his own defense.

³¹ A copy of the relevant portion of the official investigative record is annexed as Exhibit 12 hereto.

³² Mr. Johnson's observation was generally consistent with the Government's own observation – when it learned of a planned public gathering to protest Judge Carpenter's release of Mr. Johnson on bond (rather than remanding him to jail without bond) – to the effect that "[p]ublic sentiment is very acute in this situation in this vicinity [*i.e.*, Chicago] at this time, as it is over the country generally," concluding that the planned gathering was "especially dangerous." A copy of the relevant portion of the official investigative record is annexed as Exhibit 13 hereto.

³³ A copy of the relevant portion of the official investigative record, setting forth a general timeline of the events related to Mr. Johnson's trial and subsequent appeal, is annexed as Exhibit 14 hereto.

The evidence indicated that Ms. Schreiber, in financial straits in Pittsburgh, spoke to one of Mr. Johnson's employees by telephone and explained her need. The following day, Ms. Schreiber received a telegram, signed "Jack," sending her \$75 and directing her to go to a hotel in Chicago and to wait for him there. Ms. Schreiber bought a train ticket to Chicago, checked into a hotel, and, shortly thereafter, had sexual intercourse with Mr. Johnson. The prosecutor also adduced evidence that Ms. Schreiber used money Mr. Johnson had provided to open a brothel in Chicago; however, Mr. Johnson asserted that he was unaware of Ms. Schreiber's intended use of the money.

Upon the close of the evidence, Johnson's counsel made several oral motions to exclude all evidence adduced and dismiss the charges, all of which were denied. The court ruled, however, that because the Government had presented no evidence of debauchery or the crime against nature, counts 2, 4, 6 and 11 of the indictments were dismissed. The jury deliberated on the remaining counts for a mere one hour and forty-five minutes before returning a guilty verdict on all charges.

After Mr. Johnson's motion for a new trial was argued and denied on June 4, 1913, the District Court imposed a sentence of (i) imprisonment of a year and a day and (ii) a fine of one thousand dollars (at the time, no paltry sum). Both the prosecutor and judge lauded this heavy sentence in the press coverage. The prosecutor admitted that Mr. Johnson was perhaps persecuted "as an individual," but that it "was his misfortune to be the foremost example of the evil in permitting the intermarriage of whites and blacks."³⁴

United States District Judge George Carpenter justified the imposition of imprisonment

³⁴ "U.S. Jury Finds Johnson Guilty; May Go To Prison," CHICAGO TRIBUNE, May 14, 1913, p.1 (a copy is annexed as Exhibit 15 hereto). This statement is particularly notable because Mr. Johnson's trial nominally had nothing to do with miscegenation or race.

rather than just a fine, stating: “The defendant is one of the best-known men of his race and his example has been far-reaching.”³⁵ Execution of the sentence, however, was stayed in order to permit Mr. Johnson to prepare and file an appeal of his conviction to the Seventh Circuit.

June 24, 1913. Faced with the prospect of months in prison, Johnson left the territorial United States while his appeal was pending. His flight was made under circumstances that called into question the complicity of both the Government agents and the trial judge. Despite the purported watchful gaze of Federal law enforcement officials, Johnson was not stopped in his attempt to leave, nor is there evidence of any serious attempt to extradite him. Johnson did not return to the country until seven years later (according to some, having served his country in Europe during the World War I) to serve out his sentence.

The appellate court ruled on Mr. Johnson’s appeal in his absence, and his appeal was successful in part, although his prison sentence was not reduced as a result. *Johnson v. United States*, 215 F. 679, 681 (7th Cir. 1914). The Seventh Circuit threw out his conviction on the charge that he had solicited or aided or abetted Ms. Schreiber’s employment as a prostitute, finding that the Government had adduced no evidence that Mr. Johnson’s finding of such operation was intentional. The Seventh Circuit invited the Government to retry Mr. Johnson on that charge. It nonetheless affirmed those portions of the conviction based on Mr. Johnson’s paying for Ms. Schreiber to cross state lines for the purpose of engaging in voluntary sexual acts with him.

³⁵ “Year in Cell for Johnson,” NEW YORK TIMES, June 5, 1913, p.1 (a copy is annexed as Exhibit 16 hereto).

Mr. Johnson had argued that the Mann Act should not apply to consensual sexual behavior. At the time of Mr. Johnson's conviction, the Mann Act had been law for only three years, having been enacted in 1910 as a reaction to widespread public agitation over the supposedly prolific big-city practice of forcing innocent women (including European immigrant women) into prostitution – the so-called “white slave” traffic.³⁶ Mr. Johnson's trial marked the first time that the Mann Act was invoked to invade the personal privacy of two consenting adults and criminalize their consensual sexual behavior – a purpose nowhere to be found in the legislative history of the Mann Act. Nonetheless, the Seventh Circuit rejected Johnson's argument and held that the statute covered all sorts of “sexual immorality, and that fornication and adultery are species of that genus.” *Johnson*. 215 F. at 683.

On the Government's rehearing motion, the Seventh Circuit rendered an opinion adhering to the decision it had previously rendered.

August 7, 1914. A new trial was set for October 1914 on the count reversed by the Seventh Circuit. That trial never took place, however; accordingly, the sole basis for Johnson's conviction remained (and remains to this day) the sexual intercourse/debauchery count.

Prior and Subsequent Criminal Record: There is no record that Mr. Johnson was convicted of any significant charge other than the offense at issue in this pardon request. In the period between his crowning as world champion and his conviction on Mann Act charges, however, there is evidence that Mr. Johnson was arrested repeatedly

³⁶ Copies of the House and Senate Committee reports are annexed as Exhibit 17 hereto.

for various minor offenses, including, for example, driving in New York with Chicago license plates on his car. Labeling this a campaign of petty harassment, Mr. Johnson stated: “Next thing, somebody’ll arrest me for being a brunette in a blond town.”³⁷

IV: Biographical Information

Marital Status: Mr. Johnson was married three times, each time to white women. His first wife committed suicide. Mr. Johnson’s second marriage was to Lucille Cameron, the very woman the Chicago District Attorney’s office had attempted to use as a complaining witness to convict Johnson. Not only did Ms. Cameron refuse to testify against him (and find herself held in jail for weeks without charge as a result), she immediately upon her release found Mr. Johnson and they were promptly married.³⁸ After Ms. Cameron and Mr. Johnson divorced (in 1924), Mr. Johnson then married a white woman named Irene Pineau.

In response to Americans who were outraged by his interracial marriages, Mr. Johnson told reporters: “I am not a slave . . . I have the right to choose who my mate shall be without the dictation of any man.”³⁹

Children: There is no record that Mr. Johnson ever had any children.

³⁷ Randy Roberts, *PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES*, at 125-26 (1983).

³⁸ In the year following Mr. Johnson’s second, well-publicized marriage, white politicians invoked that marriage as the basis for dozens of anti-miscegenation bills introduced in state legislatures and in Congress. Randy Roberts, *PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES*, at 159.

³⁹ “Champion Jack Johnson Denies Charges Against Him in the Daily Newspapers,” *Chicago Defender*, October 26, 1912 at 1 (a copy is annexed as Exhibit 18 hereto).

Residences: Because of the nearly five decades that have passed since Mr. Johnson's death, the exact addresses of his residences until his death are unknown. Immediately following his conviction, Mr. Johnson traveled extensively throughout Europe and Latin America. After he served out his sentence, Mr. Johnson traveled throughout the United States, first in an attempt to rebuild his boxing career, and later as an entertainer and a would-be trainer for up-and-coming athletes.

Employment History: Prior to his conviction, Mr. Johnson was a world-famous professional boxer and, at times, an entertainer on the vaudeville circuit. He attempted to continue his boxing career following service of his sentence, but had effectively been ostracized (both in and out of the boxing world). Although lacking education and shut out of the only career he had known, it appears that Mr. Johnson supported himself through various show business jobs (such as nightclub greeter in New York), and as a boxing trainer when possible. He remained self-sufficient.

Substance Abuse and Mental Health Information: There is no record that Mr. Johnson ever used, sold or distributed any illegal drugs, nor that he ever sought or participated in any drug or alcohol related counseling or mental health related counseling. There is evidence that Mr. Johnson sometimes drank to excess, and that he could behave in a boisterous or rowdy manner when intoxicated.

Civil and Financial Information: Because of the passage of time, it is difficult to locate definitive records regarding Mr. Johnson's civil and/or financial information. Anecdotal evidence indicates that, prior to his conviction, Mr. Johnson had financial

disputes with some purported creditors, but the Committee has found no records of any civil judgments against Mr. Johnson.

Military Record: Mr. Johnson was not a member of the United States military. Some anecdotal evidence indicates, however, that Mr. Johnson may have provided assistance to the United State military efforts in both World War I and World War II. According to Resolution No. 620 of the Texas State Senate,⁴⁰ Mr. Johnson was in Spain when the United States entered World War I, and immediately became involved in United States military intelligence. (N.B.: This intelligence work on behalf of his country was performed at a time when that country had already convicted, and sought to imprison, Mr. Johnson.) The Texas State Senate credited Mr. Johnson's work with helping to prevent German submarine crews from landing on the Spanish coast.

Mr. Johnson again stepped forward to assist his country's military efforts in World War II, after he had served his sentence. He encouraged citizens to purchase U.S. war bonds, and engaged in exhibition boxing matches to promote the war-bond cause.⁴¹

Civil Rights and Occupational Licensing: After his release from prison, Mr. Johnson was denied boxing licenses in several states where the sport was particularly popular, including Ohio, Pennsylvania, New York and New Jersey.⁴² This denial

⁴⁰ Copies annexed as Exhibit 1 hereto.

⁴¹ Randy Roberts, PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES, at 224-25. For example, in connection with a war bonds rally held in New York City on November 27, 1945, Mr. Johnson (then age 67) fought opponents Joe Jeannette and John Ballcort in two one-minute rounds.

⁴² Randy Roberts, PAPA JACK – JACK JOHNSON AND THE ERA OF WHITE HOPES, at 221.

effectively prevented Mr. Johnson from continuing his U.S. boxing career at the professional level at which he had previously competed.

V: Charitable And Community Activities

As noted above, Johnson appears to have served his country during times of national crisis, both after his conviction, and after serving his sentence. The Texas State Senate recognized Johnson's aiding American military intelligence in World War I, and stated that information Johnson provided helped to prevent German submarine crews from landing on the Spanish coast. In World War II, Mr. Johnson again heeded his nation's call, performing in boxing exhibitions and encouraging Americans to purchase war bonds to help American military efforts.

Other opportunities to provide community or civic assistance, however, were denied him. As a result of Johnson's conviction, and the publicity it engendered, Johnson was ostracized by many in both the boxing world and society at large, severely constraining his ability to maintain involvement in community activities. Although he attempted to work as a trainer and advisor, assisting younger African American boxers with the benefit of his knowledge and experience, these fighters and their managers were wary of associating with the former champion. Most notably, the up-and-coming champion Joe Louis and his management team actively shied away from Johnson, and Louis reportedly took pains to distinguish himself from Johnson, refusing his guidance.

VI: Reasons For Seeking A Pardon

The Committee respectfully submits that Jack Johnson should be pardoned because his conviction was the result solely of "contrived charges" reflecting attitudes and mores that America has long since outgrown.

America no longer questions the right and ability of racial minorities to compete equally in athletic endeavors.

And America no longer prosecutes and punishes women and men who choose to marry or date persons of other races, religions or national origins.

Increasingly, although yet imperfectly, this is becoming a nation of equal rights under law, and a pardon of the first African-American heavyweight champion, whose reputation and memory has been tarnished by a prosecution that never should have occurred, on charges that never should have been criminalized, for what was openly acknowledged by the Federal officials involved to have been the purpose of sending a message to African-Americans not to challenge the prevailing racial divide and taboo of the time, would be an occasion for America to celebrate its not inconsiderable progress.

Justice requires that a pardon be granted to Jack Johnson – not because Johnson, long since deceased, will derive personal benefit from such a pardon, but because the American people will. The public interest and public welfare is the applicable standard, and a pardon of Jack Johnson meets that standard for at least five reasons.

First, Jack Johnson was prosecuted for the “crime” of fraternizing with white women because he was a flamboyant symbol of the hopes and aspirations of black Americans. He should be pardoned now for the same reason, as a symbolic recognition at the highest level that America no longer seeks to stanch the hopes and aspirations of black Americans, even those who are flamboyant, defiant or controversial.

Second, pardoning Jack Johnson is necessary to expunge from the annals of American criminal justice a racially-motivated abuse of the Federal government’s

prosecutorial power. All phases of the criminal justice process were infected with illegitimate, discriminatory racial considerations. Indeed, the anonymous letter that sparked the continued criminal investigation of Mr. Johnson clearly displayed a strong racial animus: “I sincerely trust . . . that you shall be able to gather sufficient additional evidence . . . to enable you to send this nigger to jail for the balance of his life . . .” Equally repugnant to modern sensibilities, the prosecuting attorney and sentencing judge admitted that Mr. Johnson was convicted to “send a message” to African American men by convicting “one of the best known men of his race.” Thereafter, Mr. Johnson was denied parole that had been recommended by his prison’s Parole Board after the Justice Department sent a letter based on wholly false and unsubstantiated charges, identifying him as a “colored” man who engaged in “propaganda” on behalf of his race. One historian has described Jack Johnson as “the central sexual and racial scapegoat of his era.”⁴³ The racial animus underlying the prosecution of Jack Johnson is to be condemned, and expunged through a pardon.

Third, petitioner contends that Jack Johnson should be pardoned because of his historical significance, and that the public interest is served by consideration of this pardon application notwithstanding Johnson’s death. The Presidential pardon power extends to posthumous pardons and there are compelling reasons for its exercise here. As set forth in Article II, § 2 of the United States Constitution and further explicated in 28 C.F.R. § 1 *et seq.*, a Presidential pardon is “in our days not a private act of grace from an individual happening to possess power [but rather] part of the Constitutional scheme.”

⁴³ Kevin J. Mumford, *INTERZONES: BLACK/WHITE SEX DISTRICTS IN CHICAGO AND NEW YORK IN THE EARLY TWENTIETH CENTURY*, at 4, quoted in Randall Kennedy, *INTERRACIAL INTIMACIES: SEX, MARRIAGE, IDENTITY, AND ADOPTION*, at 81.

See Biddle, Warden v. Perovich, 274 U.S. 480, 486 (1927). Thus, it is not necessary that the person for whom the pardon is sought personally bring the application. The Supreme Court has stated that the public welfare, not the pardonee's consent, determines what shall be done.

Indeed, under similarly compelling circumstances, a posthumous pardon was previously granted by the President in February 1999 in response to the application brought on behalf of Army Lieutenant Henry Flipper.⁴⁴ The Office of the Pardon Attorney recognized that Lt. Flipper's application warranted this pardon because it was "the product of policies, customs and mores that are no longer part of our country."⁴⁵ Likewise, Jack Johnson's conviction resulted from a "contrived charge," the prosecution of which was the product of policies, customs and mores that this country has long since recognized as anathema to our guiding principles of equal justice and freedom. Mr. Johnson's pardon application represents an opportunity for our President to declare that such racially discriminatory policies, customs and mores are no longer part of our country or its system of justice. The President cannot rewrite history, but he can repair it to symbolize our society's ability to overcome its divisions, fears and failures.

Petitioner recognizes that not every past act of racial discrimination can be rectified or pardoned. But the Department of Justice should not fear that allowing a posthumous pardon for Jack Johnson will open a floodgate for other posthumous applications because Mr. Johnson's case is unique. No other racial pioneer was

⁴⁴ Annexed as Exhibit 19 hereto is a copy of a law review article prepared by the attorneys who represented Lt. Flipper, setting forth the legal bases from which the Office of Pardon Attorney draws its authority to grant posthumous pardons.

⁴⁵ Roll Call, April 8, 2004 *quoting* John Nowacki, spokesman for the Justice Department (a copy is annexed as Exhibit 20 hereto).

prosecuted, convicted and incarcerated on Federal charges after such a dogged and bigoted effort to contrive charges against him. Johnson was the first black heavyweight champion, and the first American athlete to so prominently break through the color line. And he was the first person prosecuted under the Mann Act due simply to the race of his consenting partner.⁴⁶

Although his reputation was tarnished and he has often been excluded from the annals of American history, his pioneering athletic accomplishments, the racial animus they engendered, and his defiance of the segregated system in which he lived make Jack Johnson unique. American history includes few if any such stories, and the Department of Justice need not fear creating a precedent that will elicit many more applications, for Jack Johnson was and remains unprecedented.

Fourth, pardoning Jack Johnson will demonstrate that this nation, at the highest level, can make amends for the problems of its past. The conviction for which a pardon is now sought occurred not despite Johnson's athletic achievements, but because of those achievements and the actual and potential power and prowess of African-Americans that they demonstrated. Johnson's crowning as world heavyweight champion sparked racial riots in cities across America, and led to a nationwide public search for a "Great White Hope," a white man who could defeat Johnson in the boxing ring and restore white superiority. It was only after such a Hope could not be found that the United States government began its criminal investigation of Johnson for conduct – intimate interracial acts – in which he had been engaged for years.

⁴⁶ Randall Kennedy, *INTERRACIAL INTIMACIES: SEX, MARRIAGE, IDENTITY, AND ADOPTION*, at 79 ("No individual in American history has created more commotion through his choice of marital partners").

We recognize that it is not the purpose of a pardon application to overturn a finding of guilt. In determining whether the public interest is served by pardoning Mr. Johnson, however, it is relevant that even the appellate court of his time acknowledged the “atmosphere of prejudice” that pervaded the trial. Indeed, although Johnson was nominally charged with violation of the Mann Act, a race-neutral statute which prohibited the transportation of females across state lines for immoral purposes, the prosecutor, the sentencing judge and the media of that time all found it significant that Johnson’s supposed “victim” was a white woman, and that Johnson himself was African-American. With the benefit of distance and more enlightened racial views, the Texas State Senate recognized in its Resolution No. 620 that the charges against Johnson were “contrived.”

The Texas Senate Resolution also recognized Johnson’s significant contributions to society, both before and after his conviction. Johnson’s contributions to the American war effort in both World Wars should be given significant weight in determining the level of Johnson’s contribution to the public welfare, and are all the more significant in that they were offered even while Johnson was living as an expatriate, avoiding a sentence he believed to be unjust.

Fifth, and finally, Jack Johnson should be granted a pardon in recognition of his historical and groundbreaking significance as the first African-American heavyweight champion of the world. Our country, with its admiration for individual excellence, honors those persons who break ground in their chosen fields. Due to his Mann Act prosecution, Jack Johnson has been denied his due honor and acclaim. Jack Johnson blazed a trail for other great African-American boxers, athletic pioneers and national

heroes, men such as Joe Louis, Jackie Robinson and Muhammad Ali, among many others. Yet, while those and others were celebrated in their times and venerated today, Jack Johnson faded toward obscurity due to his felony conviction. This injustice, to history and memory, will be remedied by a pardon.

As recognized by the Texas State Legislature in designating March 31, 2001 as “Jack Johnson Day,” Johnson deserves to be recalled with recognition and respect. We respectfully request that the United States grant such recognition on a national level by issuing a pardon of Jack Johnson.

WHEREFORE, the Committee to Pardon Jack Johnson respectfully requests that a pardon be issued pursuant to Article II, § 2 of the United States Constitution and 28 C.F.R. § 1 *et seq.* pardoning John Arthur (“Jack”) Johnson.

Dated: July 12, 2004

Respectfully submitted,

THE COMMITTEE TO PARDON JACK JOHNSON

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Appendix

The members of the Committee to Pardon Jack Johnson are:

Ken Burns, documentary filmmaker including the forthcoming “Unforgivable Blackness: The Rise and Fall of Jack Johnson” scheduled for national broadcast on the Public Broadcasting System in January 2005

Chuck D, hip-hop artist

Lou DiBella, former head of HBO Sports

Honorable David N. Dinkins, former Mayor of New York City

Len Elmore, former NBA player, former prosecutor and current analyst for ESPN and CBS

Vernon Forrest, former world welterweight boxing champion

Professor Henry Louis Gates, Jr., Chair of the African American Studies Department, Harvard University

Pete Hamill, journalist/author

Norman Horton, boxing publicist

Bernard Hopkins, world middleweight champion

Honorable Jesse Jackson, Jr., Member, United States House of Representatives

Samuel L. Jackson, actor

Honorable Eddie Bernice Johnson, Member, United States House of Representatives

Honorable Edward M. Kennedy, Member, United States Senate

Sugar Ray Leonard, former Welterweight, Junior Middleweight, Middleweight, Super Middleweight and Light Heavyweight World Champion and Olympic Gold Medalist

Wynton Marsalis, musician/composer

Honorable John McCain, Member, United States Senate

Denise Morgan, Professor of Law, New York Law School

Jack Newfield, journalist/author

Honorable Charles Rangel, Member, United States House of Representatives

Randy Roberts, author of Papa Jack – Jack Johnson and the Era of White Hopes

John Ruiz, WBA heavyweight champion

Hon. Eliot Spitzer, Attorney General of the State of New York

Bert Sugar, editor/author

Kelly Swanson, Chief Executive Officer, Swanson Communications

Geoffrey C. Ward, historian, writer of the screenplay for “Unforgivable Blackness: The Rise and Fall of Jack Johnson,” and author of a newly-published biography of the same title