



MIKE HUNTER
ATTORNEY GENERAL

February 7, 2018

President Donald J. Trump
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear President Trump,

I write you today to voice my support for a pardon of former Army First Lieutenant Michael Behenna. Nearly a decade ago, Behenna was convicted and sent to prison for shooting a suspected terrorist in Iraq while attempting to track down those responsible for an IED that killed two of the men in his unit. Some of Behenna's actions leading up to the shooting were undoubtedly wrong and condemnable. But that does not mean he deserves the label "murderer," or the lifelong punishment and stigma that come with being a federal criminal. Indeed, there are several critical factors that point toward him deserving a pardon for his conviction.

First and foremost, Behenna's original court-martial was unfortunately handled. All five judges on the U.S. Court of Appeals for the Armed Forces agreed that the trial judge gave an erroneous and confusing jury instruction on Behenna's right to act in self-defense, a key issue at trial. What's more, the government prosecutors failed in their duty to turn over exculpatory evidence to Behenna's defense team in a timely manner—evidence showing that the government's own renowned expert changed his mind and agreed with Behenna (and his two forensic experts) regarding self-defense and how the events on that tragic day unfolded.

Second, it is undisputed that the events in question took place during wartime, when Behenna was serving in Iraq, risking his life to serve our great country, and attempting to track down terrorists responsible for killing two American soldiers under his command. These facts are meaningful, especially when stacked on top of the critical errors made in Behenna's court martial. Simply put, American troops risking their lives in war to protect us deserve a better legal process than the hand that was dealt to Behenna.

Third, Behenna has already paid dearly for his actions leading up to the shooting. Before he was released on parole in 2014, he spent five years behind bars, in the prime of his life. He was an exemplary inmate for that entire time, leading to a parole grant at the earliest date possible. Moreover, he is remorseful for his conduct. This should be taken into account when deciding whether his punishment outside of prison should continue indefinitely.

For these reasons, I believe a pardon for Behenna is deserved. At minimum, I encourage you to take close look at this case, and ask yourself: Does this situation—with incorrect jury instructions on a key issue and unlawfully withheld evidence—really display the type of justice we believe is appropriate for an otherwise outstanding soldier who was attempting to protect his country and his fellow soldiers from terror attacks?

Sincerely,

A handwritten signature in black ink that reads "Mike Hunter". The signature is written in a cursive, slightly stylized font.

Mike Hunter
Attorney General