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Prime Minister AL  
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Dear Tony

Relevant to the Sinn Fein meeting. I think this is sensible, subject to the views of the Home Secretary.

Prime Minister

**PRISONER ISSUES: SMYTH: TIME SERVED**

10/12

I have previously spoken to you about the application by the republican prisoner James Smyth for the period that he spent in custody in the United States while fighting extradition proceedings to be credited against his sentence. I have received a series of representations on this matter including representations from members of the Irish-American lobby in the United States and from Sinn Fein.

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Smyth was sentenced in December 1978 to 20 years imprisonment for the attempted murder of a prison officer. He escaped from the Maze in September 1983 but was recaptured in June 1992 in the United States. Following protracted legal proceedings he was extradited to Northern Ireland in August 1996.

During the extradition proceedings Smyth spent a series of periods of custody in prison. Both Smyth and his lawyers were informed that the British Government as a matter of policy will not generally give credit against sentence for any such period spent in custody by a convicted fugitive. The nature and extent of that policy is at issue.

I am aware that in the past two years two prisoners extradited from Spain have been given credit by the Home Secretary for the period they spent in custody while fighting extradition proceedings. I am not aware of any English cases in which credit for such periods was refused. Although it may be possible to distinguish the English cases from that of Smyth on the facts, I

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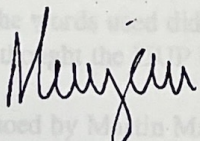




consider that the effect of those cases is to make it more difficult for me to continue to assert that as a general policy time will not be credited, particularly in circumstances in which the only prisoners who appear to be refused credit are republican terrorists. In the circumstances I would intend to give Smyth credit for the periods he spent in custody in the United States and would request your agreement to this course of action.

A decision to give Smyth credit would have implications for other cases, notably that of Joseph Doherty. Doherty was deported from the United States having spent time in custody both in respect of extradition and deportation proceedings. He is also a life sentence prisoner. He was refused credit for the time served in the United States by my predecessor (although Lord Mayhew directed that the Life Sentence Review Board should take account of the period in custody in considering a recommendation for his release). I would wish to consider any fresh application from Doherty for credit for time served on the same basis as the application by Smyth.

I am copying my letter to the Home Secretary and the Foreign Secretary who may wish to comment.

  
MARJORIE MOWLAM

10 December 1997

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SOFS/SMYTH/BB

TOTAL P.02