

OCTOBER 2002 SESSION
PRISONER REVIEW BOARD
STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	
)	Docket No. \
vs.)	
)	
ANTHONY GUEST,)	Inmate No. N-32658
)	
)	

SUBMITTED TO THE HONORABLE GEORGE RYAN, GOVERNOR
OF THE STATE OF ILLINOIS

**PEOPLE'S RESPONSE IN OPPOSITION TO PETITION
FOR EXECUTIVE CLEMENCY**

HEARING REQUESTED

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INTRODUCTION

Petitioner stands convicted of the murder of 25 year old John Geever. Six weeks after this murder, Petitioner killed again. Thus, as a multiple murderer, the only sentences available to Petitioner under Illinois law are the death penalty or natural life in prison without the possibility of parole.

In addition to the two murders, Petitioner stands convicted of 15 other felonies and 5 other misdemeanors. Petitioner also escaped from jail twice, escaped from court once, and eluded arrest after both murders. He was implicated in, and identified as participating in another 11 felonies, but after he was sentenced to death, it was not worth the risk of bringing him to court to obtain further convictions.

For John Geever's murder, Petitioner elected a bench trial and a bench sentencing hearing. The Judge was Maurice Pompey.

Judge Pompey was investigated during Operation Greylord, the federal investigation of corruption in the Cook County judiciary. However, charges were never brought and Judge Pompey retains his status as a retired judge in good standing.

Petitioner does not allege that a bribe was passed in his case. Rather, Petitioner's claim is that Judge Pompey came down hard on him in order to deflect attention from other cases where he allegedly accepted bribes and was overly lenient. Petitioner's claim, however, is nothing more than theory. After seven years in federal court, liberal discovery of the U.S. Attorney's files, and depositions of Operation Greylord's most famous participants, Petitioner does not have one word of evidence to support his claim.

Nevertheless, the People of the State of Illinois have repeatedly offered to vacate Petitioner's death sentence in exchange for Petitioner's agreement to accept a sentence of natural life without the possibility of parole. Petitioner has repeatedly refused this offer. The People have no objection to commuting Petitioner's death sentence to natural life without the possibility of parole.

However, Petitioner is asking the Board and the Governor for a full pardon or, in the alternative, for a sentence of a term of years, preferably time served. The People strenuously object to either of these remedies. The evidence of Petitioner's guilt for John Geever's murder is overwhelming. Also, Petitioner's dangerousness and escape risk have been repeatedly proven.

If released from Illinois, Petitioner has represented that he wants to serve his time in California (15 years – life), then in Missouri (life and numerous terms of years), and then in Tennessee (30-35 years, consecutive to a 20 year sentence). Neither California nor Missouri has an ironclad life sentence like Illinois' natural life without the possibility of parole. Furthermore, both of Petitioner's murders were committed after he escaped after having been sentenced to life imprisonment in Missouri. It seems obvious that Petitioner's intent is to make yet another escape attempt in the midst of all this shuttling around. Absolutely no one can afford to give Petitioner that

chance.

I.

FACTS OF THE CASE

On February 5, 1981, Petitioner shot and killed 24 year old John Geever. John was an employee of a Jewel Food Store located at 5624 West Madison Ave in Chicago. When Petitioner opened fire, John was in the basement of the store, just outside the employee cafeteria where he had just purchased a can of soda.

Moments before the murder, the store security guard, Mr. Ferrice King, caught Petitioner in the act of stealing a toothbrush and some toothpaste. King stopped Petitioner and told Petitioner that he had to accompany the guard to the basement of the store where the security offices were.

King did not search Petitioner before bringing him downstairs. Petitioner entered the office first, followed by King. Petitioner walked into the office, turned suddenly and drew a gun. Petitioner pointed the gun at King's stomach and directed King to back out of the office. Petitioner walked King into an employee cafeteria that was directly across from the security office. There were two women employees sitting at one of the tables.

Petitioner opened fire. Petitioner shot King in the shoulder, temporarily disabling him. The two women turned over their table and dove behind it for cover. Petitioner shot in their direction but missed. King fired at Petitioner, but missed. Petitioner then took off down the hallway, headed for the exit, with King firing after him.

John Geever was in that hallway. When the shooting stopped, one of the employees in the cafeteria, Merlean Washington, found John lying on the hallway floor at the foot of the south staircase. He told her he was hurt, but then he got up and climbed the staircase. At the top of the stairs, he collapsed.

John Geever died from a bullet wound that entered the outside of his upper left arm, passed through the arm, and entered the left side of his chest. The firearm's examiner determined that the bullet recovered from John's body had not been fired by the security guard's gun.

Petitioner managed to escape but was seen by three eyewitnesses fleeing from the store immediately after the shooting stopped with his weapon still in hand.

Six weeks later, on March 24, 1981, Petitioner killed again – this time in California. Petitioner and Bee were arguing. Bee told Petitioner: "I don't have your money; I don't have your dope, but you got your gun so go ahead and shoot." (R. 592) Petitioner drew a long silver gun and fired three times. Bee was unarmed.

Petitioner was finally apprehended on April 8, 1981 in Missouri, when he was arrested for theft of three bottles of beer. Petitioner was armed with a loaded .38 caliber Derringer.

Petitioner went to trial on the California murder first. On June 13, 1983, Petitioner was convicted of second degree murder, which was the equivalent of first degree murder with intent to kill in Illinois. People v. Guest, 115 Ill.2d 72, 503 N.E.2d 255 (1987). He was sentenced to 15 years – life.

In John Geever's case, Petitioner waived his right to a jury for trial. Judge Maurice Pompey found Petitioner guilty of murder, attempt murder, aggravated battery and unlawful use of a weapon.

Petitioner waived his right to a jury for sentencing. Judge Pompey found petitioner eligible for the death penalty on the basis of the multiple murder statutory factor. In aggravation, the People introduced Petitioner's criminal history, which spanned more than 20 years and included 2 murders, 15 other felony convictions, 5 misdemeanor convictions, and 5 escapes.

The following is a summary of Petitioner's criminal history.

10-1-64	stealing	90 days	Missouri
10-18-64	burglary, stealing	2 years	Missouri
2-25-65	burglary, stealing, attempt burglary, escape	2years	Missouri
4-20-66	stealing	90 days	Missouri
6-22-67	burglary	3 years	Missouri
5-26-69	stealing	3 years	Missouri
11-14-69	poss. narcotic paraphernalia susp. robbery	9 months	Missouri
2-22-71	stealing	3 years	Missouri
8-31-73	robbery, attempt robbery	8 years	Missouri
8-3-78	robbery	LIFE	Missouri
11-26-78	ATTEMPT ESCAPE		Missouri
1-8-79	robbery	35 years	Missouri
1-8-79	ESCAPE		Missouri
5-28-79	armed robbery, possession of a pistol	20 years	Tennessee
7-30-79	armed robbery	30-35 years	Tennessee
9-9-79	ESCAPE		Missouri

12-15-80	ESCAPE		Tennessee
2-5-81	MURDER	DEATH	Illinois
3-24-81	MURDER	15 years - life	California

Petitioner's attempt escape occurred on November 26, 1978, after Missouri had sentenced him to life in prison. A prison guard stopped Petitioner for carrying a paper bag. The bag contained two hooks and civilian clothes.

Petitioner's first successful escape occurred on January 8, 1979, immediately after Petitioner was sentenced to 35 years for robbery to run consecutive to his life sentence. Petitioner was still in the courthouse when he broke away from the sheriff, ran down the steps, and got away.

Petitioner's second successful escape occurred on September 9, 1979. Petitioner was confined to the St. Louis City Jail and he complained of chest pains. He was taken to the hospital where the treating physician could not find any problem. When the guard walked out of the examining room, three men jumped him, beat him and stole his service revolver. Petitioner was in leg irons and handcuffs, but the three men helped him and he made his escape.

Petitioner's third successful escape occurred on December 15, 1980. Petitioner was in the custody of the Memphis, Tennessee sheriff. Petitioner complained of pains in his shoulder and he was taken to the hospital. His legs and hands were both cuffed, but the restraints were removed so that he could be X-rayed. When the X-ray technician was finished, he pushed Petitioner's gurney into the hallway. When the guard returned, Petitioner was gone.

Petitioner's fourth and fifth successful escapes occurred after each murder when he eluded arrest.

After hearing all of the above evidence, Judge Pompey sentenced Petitioner to death for

the murder of John Geever. The court also sentenced him to 30 years for attempt murder, which is to run consecutively to his Tennessee and Missouri sentences. The court also sentenced him to 360 days on each count of unlawful use of weapons. People v. Guest, 115 Ill.2d 72, 503 N.E.2d 255 (1986).

II.

HISTORY OF THE CASE

Following a bench trial before Judge Maurice Pompey, Petitioner was convicted of the murder of 25 year old John Geever, attempt murder, aggravated battery and two counts of unlawful use of a weapon. Petitioner waived a jury for sentencing and Judge Pompey sentenced him to death for John Geever's murder. Petitioner was eligible for the death penalty under the multiple murder aggravating factor since he had killed another man in California. Judge Pompey also sentenced Petitioner to 30 years for attempt murder, and to 360 days on each count of unlawful use of a weapon.

Petitioner appealed his convictions and sentences to the Illinois Supreme Court. That court affirmed Petitioner's convictions and death sentence. People v. Guest, 115 Ill.2d 72, 503 N.E.2d 255 (1986). Rehearing was denied on January 30, 1987. The United States Supreme Court denied certiorari on June 22, 1987. Guest v. Illinois, 483 U.S. 1010 (1987). Rehearing was denied on August 26, 1987. Guest v. Illinois, 483 U.S. 1044 (1987).

Petitioner filed a pro se petition for post conviction relief on January 29, 1988. Counsel was appointed and counsel filed an amended petition on September 29, 1989. The trial court dismissed the petition without an evidentiary hearing. The Illinois Supreme Court affirmed on May 18, 1995. People v. Guest, 166 Ill.2d 381, 655 N.E.2d 873 (1995). Rehearing was denied on

October 2, 1995. The United States Supreme Court denied certiorari on March 18, 1996. Guest v. Illinois, 516 U.S. 1176 (1996). Rehearing was denied on May 13, 1996. Guest v. Illinois, 517 U.S. 1204 (1996).

Petitioner filed a petition for writ of Habeas Corpus in the United States District Court on April 16, 1997. That petition is still pending before the Honorable Judge William Hibbler under the caption Guest v. Page, docket number 95 C 5034.

III.

REASONS FOR DENYING THE PETITION

A.

THE PEOPLE HAVE NO OBJECTION TO COMMUTING PETITIONER'S SENTENCE TO NATURAL LIFE WITHOUT THE POSSIBILITY OF PAROLE.

Petitioner asks the Board and the Governor for a full pardon or, in the alternative, for a term of years, preferably time served. For all the reasons that follow, the People of the State of Illinois strenuously object to a pardon or to a sentence for a term of years.

However, should the Board or the Governor choose to consider a sentence of natural life without the possibility of parole, the People would have no objection. Since Petitioner is a multiple murderer, the law in Illinois says that if he is not sentenced to death, then he must receive a mandatory term of natural life. 730 ILCS 5/5-8-1(a)(1)(c)(i). The People have repeatedly offered Petitioner a sentence of natural life without parole and Petitioner has repeatedly refused it. The People have offered Petitioner a new sentencing hearing and he has refused that also, apparently because he knows that the only two options would be death or natural life. Thus, the People have no objection to commuting Petitioner's sentence to natural life without the possibility of parole.

B.

PETITIONER DOES NOT DESERVE A PARDON OR A COMMUTATION OF HIS SENTENCE TO A TERM OF YEARS SINCE THE EVIDENCE OF HIS GUILT IS OVERWHELMING AND HE IS A MULTIPLE MURDERER WHO HAS 15 ADDITIONAL FELONY CONVICTIONS, 5 MISDEMEANOR CONVICTIONS AND 5 SUCCESSFUL ESCAPES FROM LAW ENFORCEMENT AUTHORITIES.

On February 5, 1981, Petitioner gunned down 25 year old John Geever while John walked down the hallway of the grocery store where he worked. Petitioner was a fugitive from a life sentence in the state of Missouri. Petitioner was stopped by the store security guard for shoplifting toothpaste and a toothbrush. Thus, the bottom line is that John Geever is dead because Petitioner could not bring himself to conform with the law in any way – not even to *buy*, rather than *steal* toothpaste. This was a senseless murder. Shooting John was not necessary for

Petitioner's escape. Petitioner had already wounded the security guard and was successfully running to his freedom. Shooting John was just an opportunity, apparently too easy to pass by, to commit another hateful, evil act.

When Petitioner was stopped for shoplifting, he probably panicked, knowing that he was a fugitive from a life sentence in Missouri, and that he had 15 felony and 5 misdemeanor convictions. Petitioner was the essence of the desperate criminal – so desperate that he was a menace to everyone who crossed his path. He felt so hunted that he was incited to murder without even any cause. Obviously, John Geever paid the price.

The evidence of Petitioner's guilt for murdering John is overwhelming. Petitioner was identified by Ferrice King, the security guard, and the two women employees in the cafeteria. Petitioner and King were the only people shooting in the basement of that Jewel store. The bullet that killed John Geever did not come from King's service revolver. Three more eyewitnesses saw Petitioner running out of the store after the shooting. They said Petitioner was carrying a gun. Thus, there can be no question but that we have the right man. Petitioner has never even claimed innocence.

Furthermore, if John's murder stood in isolation, it would be damning enough. But John's murder is just one more crime in an uninterrupted spree that spanned 20 years. Six weeks after killing John, Petitioner killed again when he shot James Bee in California. During the 20 years before that, Petitioner had been convicted of 15 other felonies and 5 misdemeanors. He has been identified in and implicated in a total of 33 crimes.

And, if this were not bad enough, Petitioner has proven, on five different occasions, that he cannot be contained by traditional law enforcement measures. Twice, he escaped from jails.

Once he escaped from the courthouse immediately after sentencing. He even attempted an escape from a penitentiary. He eluded arrest after each of his murders. His escape record tapered off only after he was put on death row.

But even on death row, Petitioner continues to threaten. He has received at least four tickets for threatening guards, most recently in June of 2002. (See Exhibit 2)

Petitioner has said, in federal court, that he would like a term of years in Illinois and then he would like to serve his time in Missouri, California and Tennessee. His defense team has insisted that this plan is acceptable since Petitioner has a life sentence in Missouri and a sentence of 15 years to life in California. However, Petitioner's escape record speaks for itself. Obviously, his ploy is to plan yet another escape while he is being shuttled around the country.

Petitioner is a danger to everyone he meets. He will kill without reason. He will kill for convenience. He cannot be contained. He does not deserve a pardon. Furthermore, because he is a multiple murderer, the law forbids a sentence that is a term of years.

C.

CONTRARY TO PETITIONER'S DIATRIBE, THERE IS NO PROOF THAT JUDGE POMPEY WAS CORRUPT. BUT EVEN IF THERE WERE, THAT WOULD NOT BE ENOUGH TO REQUIRE VACATING PETITIONER'S CONVICTION AND SENTENCE SINCE THE UNITED STATES SUPREME COURT HAS HELD THAT PETITIONER MUST SHOW *ACTUAL CORRUPTION IN HIS CASE.*

Petitioner regales the Board and the Governor with tales of Judge Pompey's corruption. But Petitioner does not present proof – and with good reason – since there is no proof. The U.S.

Attorney never indicted Judge Pompey. Judge Pompey was never tried and never convicted of anything. Judge Pompey retains his status as a retired judge in good standing.

Petitioner does not allege that a bribe was passed in his case. Rather, Petitioner argues that Judge Pompey came down hard on him in order to deflect attention from the other cases where alleged bribes had induced the judge to be overly lenient.

The United States Supreme Court has addressed a situation similar to Petitioner's. In Bracy v. Gramley, 117 S.Ct. 1793 (1997), the Court said that a defendant making a claim like Petitioner's, must show that the judge was actually corrupt and that there was actual corruption in that case.

Petitioner fails on both counts. He has not been able to prove that Judge Pompey was actually corrupt. Nor has he been able to prove actual corruption in his trial or sentencing hearing. Thus, under the law, Petitioner has no case.

Furthermore, from an objective point of view, Petitioner's trial and sentencing hearing were fair. Petitioner was identified as the shooter by the security guard, Ferrice King, as well as the two women employees in the cafeteria. Although King was shooting, the bullet that killed John Geever did not come from King's gun. And three eyewitnesses saw Petitioner carrying a gun as he ran out of the store immediately after the shooting.

As for the sentencing hearing, Petitioner's background justifies the death sentence. Petitioner shot and killed John Geever. Petitioner shot and killed James Bee. When he was arrested for the last time, for stealing bottles of beer, he was armed with a loaded .38 caliber Derringer. We know that he would not have hesitated to use that gun.

Furthermore, both murders were committed while Petitioner was a fugitive from a life sentence in Missouri. In addition to the murders, Petitioner was convicted of 15 other felonies and 5 other misdemeanors. He was identified in and implicated in 11 more felonies. He had escaped from jail twice. He escaped from court once. He eluded arrest after both murders. Thus, Petitioner had proven time and again that he had no regard for life, no regard for the law and that he could not be contained. There was only one sentence appropriate for a defendant who escaped from a life sentence and then committed multiple murders. That sentence was death.

Thus, Petitioner cannot meet the legal burden placed on him by the United States Supreme Court. He has not proven that Judge Pompey was corrupt. He has not proven that there was actual corruption at his trial. Furthermore, the evidence of Petitioner's guilt was overwhelming and, by all objective standards, the sentence of death was appropriate. He does not deserve a pardon. Furthermore, because he is a multiple murderer, the law forbids a sentence that is a term of years.

D.

WHERE PETITIONER'S COUNSEL WAS FACED WITH OVERWHELMING EVIDENCE OF PETITIONER'S GUILT, PLUS A CRIMINAL HISTORY OF TWO MURDERS, FIFTEEN OTHER FELONY CONVICTIONS, FIVE MISDEMEANOR CONVICTIONS AND FIVE ESCAPES, COUNSEL DID NOT HAVE A LOT TO WORK WITH. PETITIONER WAS CONVICTED AND SENTENCED TO DEATH BECAUSE OF HIS OWN ACTIONS, NOT BECAUSE OF COUNSEL'S REPRESENTATION.

Petitioner claims that his trial counsel was not adequate. Petitioner complains that counsel essentially conceded his guilt and that he did not challenge the People's case.

The Illinois Supreme Court held that counsel's performance was constitutionally adequate. That court held:

When faced with overwhelming evidence, counsel faces a difficult task. Here, counsel pursued a strategy consistent with defendant's pleas of not guilty to murder and felony murder. Counsel challenged the State's case based on the State's alleged loss of physical evidence and failure to meet the burden of proof. Although counsel's motions and defense theory were unsuccessful, counsel subjected the State's case to meaningful adversarial testing.

People v. Guest, 166 Ill.2d 381, 655 N.E.2d 873, 880 (1995).

The Illinois Supreme Court was right. In Petitioner's case, counsel had absolutely nowhere to go. The evidence of guilt was overwhelming. The security guard and two women employees identified Petitioner as the shooter. Although the security guard was shooting also, the bullet that killed John Geever did not come from his service revolver. Three eyewitnesses saw Petitioner immediately after the shooting, holding a gun, and running away.

As for sentencing, Petitioner essentially sentenced himself to death. Two murders. 15 other felony convictions. Five other misdemeanor convictions. Five escapes. 11 more felonies in which Petitioner was identified and implicated. Petitioner was not sentenced to death because he was poorly represented. One look at Petitioner's rap sheet and anyone can see that he deserved the death penalty.

E.

**THE NEW SUPREME COURT RULES AND THE
RECOMMENDATIONS OF THE GOVERNOR'S**

**COMMISSION APPLY TO DEATH PENALTY
CASES. SINCE THE PEOPLE AGREE THAT
PETITIONER SHOULD BE SENTENCED TO
NATURAL LIFE WITHOUT THE POSSIBILITY OF
PAROLE, THESE RULES AND
RECOMMENDATIONS ARE IRRELEVANT.**

CONCLUSION

For all these reasons, the People of the State of Illinois respectfully request that this Board and Governor Ryan commute Anthony guest's death sentence to natural life, but deny is request for pardon or commutation of his sentence to a term of years or time served.

Respectfully submitted,

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