

OCTOBER 2002 SESSION
PRISON REVIEW BOARD
STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	
)	Docket No. \
vs.)	
)	Inmate No. N74262
CHRIS DAVIS,)	
)	
)	

I

HISTORY OF THE CASE

Defendant, Chris Davis, is a career criminal whose history of violence and criminality has earned him a rightful place on Death Row. Defendant has victimized both civilians and law enforcement officers repeatedly. Defendant was sentenced to death for the Murder of Chicago Police Officer Gregory Young during an Armed Robbery. Since September, 1985, not a single day has passed that defendant has lived his life free of a judicial order. He has consistently demonstrated a lack of remorse, and incarceration has done nothing to curb his appetite for getting what he wants through the use of violence and intimidation.

In fact, the last time defendant was allowed out of a penal institution, he committed an Armed Robbery within 12 hours of being paroled. Over the next 2 months, defendant committed 2 additional armed robberies and used a gun taken from an off duty police officer to murder Chicago Police Officer Gregory Young during an Armed Robbery. Defendant has illegally possessed guns and narcotics, has stolen cars and participated in the brutal kidnapping and torture of a man named

Gaddis Johnson. Now, someone who is not the defendant's lawyer has chosen to petition the Governor for clemency for this defendant. This petition is before the Prisoner Review Board, and ultimately the Governor, in spite of the fact that defendant REFUSED to sign a petition.

The evidence of defendant's guilt is overwhelming. Defendant was convicted based upon the testimony of 2 eyewitnesses; scientific evidence consisting of DNA linking defendant to the scene and to the murder weapon; gunshot residue evidence which showed that defendant was the shooter, ballistic evidence linking the weapon to the bullet that killed Officer Young and other overwhelming corroborating evidence. Defendant's case is presently before the Illinois Supreme Court.

The following table shows how this defendant's criminal life has evolved from property crimes to violent crimes that rival the worst of the mindless viciousness that is portrayed in some of today's movies. Defendant has been convicted of 7 felony offenses, and evidence of an additional 5 charged felony cases was presented in the aggravation phase of the case for which defendant Davis is now on death row. Granting this defendant clemency will only give him bragging rights in the general population of IDOC and will seriously denigrate the seriousness of this offense and all of those that he has committed in the past. Defendant's petition should be denied.

HISTORY OF DEFENDANT'S JOURNEY TO DEATH ROW

DATE OF OFFENSE	SUMMARY OF INCIDENT
October 15, 1985	Defendant is referred to Juvenile Court for Possession of a Stolen Motor Vehicle. Defendant is allowed to return home and is told to come back to Court on November 20, 1985. (R. 1335-1348)
November 20, 1985	Defendant does not appear in court and is free on the streets while a juvenile arrest warrant has been issued for his arrest. (R. 1335-1348)

- July 8, 1986** Defendant is arrested for another Possession of a Stolen Motor Vehicle case. This time defendant pretends to be an adult. Defendant is given an “I” bond (which is a individual or personal recognizance bond). Defendant skips court on this charge and is indicted for Possession of a Stolen Motor Vehicle and Bail Jumping. (R. 1335-1348)
- September 23, 1987** Defendant is arrested for yet another Possession of a Stolen Motor Vehicle case. This time defendant is held in custody at Cook County Jail. (R. 1335-1348)
- November 9, 1987** Defendant is convicted of the 2 Possession of a Stolen Motor Vehicle cases and of the Bail Jumping case as an adult. Defendant is sentenced to the Illinois Department of Corrections for a term of 3 years. (R. 1347-1348)
- 1988** Defendant is in the Illinois Department of Corrections. Defendant receives 18 disciplinary tickets for offenses that range from insolence to disobeying officers.*
- January 1, 1989** Defendant is placed on Mandatory Supervised Release (Parole)
- March 15, 1989** Defendant commits two Armed Robberies upon neighboring female-owned Korean clothing stores involving multiple victims. (R. 1342-1346)
- March 16, 1989** Defendant is arrested for Unlawful Use of a Weapon by a Felon. Defendant is held in Cook County Jail until May 11, 1989 (R. 1347-1348)
- May 11, 1989** Defendant is convicted of Armed Robbery and Unlawful Use of a Weapon by a Felon. Defendant is sentenced to the Illinois Department of Corrections for 8 years. (R. 1347-1348)
- 1990** While incarcerated in the IDOC, defendant receives 13 disciplinary tickets for the year. *
- 1991** Defendant receives 10 disciplinary tickets this year. *
- *Various** During the course of defendant’s incarcerations, he received over 30 “tickets” for violating Illinois Department of Corrections Rules. These violations included gang activity, intimidation or threats, unauthorized movement and unauthorized property trading. On two occasions, the intimidation charge related to threatening statements the defendant made to correctional officers. (R. 1349-1367)
- September 18, 1992** Defendant is placed on Mandatory Supervised Release.

- 1993 – 1994** Defendant is on Mandatory Supervised Release. During this time defendant is charged with First Degree Murder. Defendant was held in Cook County Jail for the majority of 1993 and 1994. Defendant was found not guilty of this particular murder and released from custody.
- March 5, 1995** Defendant participates in the kidnap and torture of Gaddis Johnson. Gaddis Johnson is brought to a project building controlled by defendant's gang, to defendant's apartment. Gaddis Johnson is placed in a closet. A pit bull was thrown on Gaddis Johnson in order to bite him. Gaddis Johnson is then stripped of his clothing and tied up with duct tape. Defendant's fellow Gangster Stone street gang members proceed to repeatedly burn Gaddis Johnson with red-hot wire hangers, butter knives and clothing irons. Johnson is burned on his arm, his shoulder, his back, his thigh, his buttocks and hip. Defendant turned up the radio so no one could hear Gaddis Johnson's screams. Gaddis Johnson's burns were further aggravated when the Gangster Stones poured bleach and salt on Gaddis Johnson's wounds. Gaddis Johnson was then removed from the apartment and defendant cleaned up the crime scene in an effort to destroy evidence of the crime. Defendant is not identified as one of the offenders until 1999. (R. 1415-1487) *SEE ATTACHED PHOTOGRAPHS.*
- May 25, 1995** Defendant approached Chicago Police Officer Rudolph Booth. Booth at the time was unarmed and leaving the scene where he had been functioning as an under cover officer purchasing narcotics. Officer Booth was walking down the street when defendant Davis recognized him. Officer Booth's investigation had nothing to do with the defendant. Defendant approached the officer as he walked on the street, pulled a gun and threatened to shoot Officer Booth simply because defendant recognized Officer Booth as a police officer. Booth was able to call for help and defendant fled. Defendant hid from the police, and when defendant was found he had successfully hidden the gun but neglected to get rid of some cocaine that he had hidden in his clothing. Defendant was charged with Possession of a Controlled Substance and was released on bond. (R.1495-1502)
- August 21, 1995** Defendant approaches Officer Booth on the Criminal Courthouse steps at 2650 S. California. Defendant again threatened Officer Booth, this time in front of a witness. Officer Booth filed a report with the Chicago Police Department. Due to an administrative mix up, the narcotics case was transferred to the Bridgeview Court house, but defendant did not get charged with the assault, even though it was documented in police reports filed at the time. Officer Booth testified about both the assault and the threat at defendant's capital sentencing hearing. (R. 1502-1513)

- July 9, 1996** Defendant is convicted of Possession of a Controlled Substance and is sent back to the Illinois Department of Corrections. (R.1347-1348, 1504)
- June 20, 1997** Defendant is again released on Mandatory Supervised Release. The same evening he was released from prison, defendant committed an armed robbery along with co-defendant Tory Robertson in Douglas Park in Chicago. Defendant Davis threatened to shoot Michael Green and Jacqueline Pondexter unless they surrendered their property. Three months later, defendant would attack Officer Young in the same park, at approximately the same location and under similar circumstances, with the exception of the fact that defendant murdered Gregory Young after Officer Young announced his office. (R. 1043-1069)
- September 14, 1997** Defendant and another man rob the 79th Street Tap. While an older woman was on the floor praying out loud that she would not be shot, defendant Davis pointed a gun at her and threatened to shoot her unless “she shut the fuck up.” During this robbery, defendant took a service weapon from off duty CHA police officer Ellis Anderson at gunpoint. The weapon was loaded with Black Talon bullets. This gun was later used to murder Officer Young. (R.1389-1408)
- September 16, 1997** Defendant approached the Jeep Cherokee containing off duty Chicago Police Officer Gregory Young and Cook County Sheriff’s Deputy Leslie Young. Defendant murdered Officer Young during the commission of an Armed Robbery. (R.482-1266) SEE THE STATEMENT OF FACTS REGARDING THIS OFFENSE.

II

FACTS OF THE CASE

Leslie Adams, a Cook County Deputy Sheriff, was assigned to the Juvenile Detention Center. (R. 482-84) On September 18, 1997, Chicago Police Officer Gregory Young, whom Leslie had dated off and on for eight years, met her at her job. (R. 484, 687) They drove to Garfield Park in Chicago, and Leslie got out of her car and entered Officer Young's jeep which was facing westbound. (R. 484-5, 534) Adams' revolver was in her bag on the floor. (R. 485) Leslie used a revolver in her job and was not qualified on semi-automatic handguns. (R. 482-84) As she sat in the jeep, her attention was drawn outside to a voice that said, "I got a gun." (R. 486) She saw a gun sticking through the window pointed at Officer Young. (R. 486-7) Officer Young picked up his pouch and pushed it out the window. (R. 488) As he did that, he unlocked his door, began to exit, and turned to reach for his weapon handed to him by Leslie. (R. 488) As Officer Young pushed the door open, he said, "I am the police." (R. 488) Leslie heard a shot that was followed by a second shot. (R. 489) The car door was not open all the way when the first shot occurred. (R. 489) After the first shot, Officer Young came out of the car shooting and reached for his pouch. (R. 489-90) Leslie saw Officer Young and the armed defendant go to the rear driver's side of the car. (R. 490) Leslie shouted at Officer Young to get out of there, and Officer Young walked towards the rear passenger side where he collapsed. (R. 490) He told Leslie he had been hit. (R. 490) As Leslie opened her door, she heard a shot come towards the passenger side of the Jeep. (R. 491) The shot came from defendant, who had been shot and was behind the car lying in the

grass.(R. 526) She did not see defendant shoot, but saw a flash from behind.(R. 527, 536) She closed the door, moved to the driver's side, and drove through and out of the park.(R. 491) She yelled for help, pulled her gun out of her bag, and returned to the scene.(R. 491-2) There, she saw police cars, Officer Young lying on the ground, and defendant, the man who shot Officer Young.(R. 492-3)

Chicago Police Officer Lawrence Coleman was conducting a traffic stop with his partner, when his partner told him he heard shots fired in the park. (R. 540-42) They abandoned the stop, and drove toward the park.(R. 542) As they drove, they saw Tory Robertson running north, away from the scene of the shooting.(R. 543-4) They placed Robertson in the police car and drove in the direction from which he had been running.(R. 545-6) Robertson said his cousin had been shot.(R. 546) As they drove into the park, they saw two bodies: one lying between two trees and one lying in the curb under a street light.(R. 546-7) As Officer Coleman approached Officer Young's body, he observed a 9mm handgun lying by his waist.(R. 547) When Officer Coleman looked back at his car, Robertson was outside the car, which is not where he left him, and two officers had Robertson stopped in the doorframe.(R. 549-50) A woman in a sheriff's uniform arrived and was hysterical.(R. 550-1) She ran toward the officers, identified Officer Young, and identified defendant as the man who shot Officer Young.(R. 551) Defendant was taken to Cook County Hospital.(R. 566)

Detective Rodriguez heard gunshots coming from the park, drove into the park, and saw a police car and two people on the ground. (R. 572-77) After Leslie Adams arrived, Detective Rodriguez looked inside the car and saw a revolver on the front seat.(R. 581-83) Six .38 special live rounds were removed, but there were no casings, which indicated the gun had not been

fired.(R. 597) As Detective Rodriguez walked north, which was the direction Robertson had run, he saw a garbage can at the corner of St. Louis and Lake Streets, and on top of the garbage can was a semi-automatic pistol.(R. 580-1, 584-5) The gun had blood on it.(R. 585) Police removed a 9 mm cartridge case from the floor of Officer Young's car (R. 625-6), a blood sample from the grass and one from the pavement (R. 628-30), cartridge cases (R. 631-33), 10 Winchester 9 mm cartridges from the magazine of the gun recovered from the garbage (R. 636), and a single 9 mm cartridge case from the grass.(R. 663-67, 670-1) Gunshot residue tests were performed on defendant and Robertson.(R. 613-4, 656) Officer James Shader observed apparent blood specks on Robertson's shirt and recovered the shirt.(R. 653)

Rhonda Jo Hambrick was in the park on the night of the shooting.(R. 901) She had a prior felony conviction for drug possession and was in the park to get high.(R. 901-3) Before she could use drugs, she heard gunshots and stood up close to a tree.(R. 904) As she peered around the tree, she saw a body on each side of a path.(R. 904) She heard a woman scream for help and the police.(R. 905) No more than a minute later, she saw a young man run towards a body, bend down, pick up something, and run back towards Lake Street.(R. 906) She identified a photograph of Robertson as the person she saw run from the scene.(R. 651-2, 915) The shots she heard sounded like they came from more than one gun.(R. 917) She saw quite a few people run out of the park after the shooting.(R. 918) She only saw one person, Robertson, run from the area where the bodies were and that same person ran towards Lake Street.(R. 920, 924) The man she saw run toward Lake Street, acted like he forgot something, ran back, picked something up, and ran back.(R. 921-2)

Gladis Young, Officer Young's wife, testified she last saw him at 5:00 PM on September 18th. (R. 681) They had one drink of cognac.(R. 682) He left, she paged him at 8:00 PM, and he called her back.(R. 683) She paged him between 8:45 and 9:00 PM, and he never called back. (R. 684) She went to Cook County Hospital, where he was dead. (R. 684)

Dr. Nancy Jones, a Cook County Medical Examiner, recovered a bullet and bullet jacket from Officer Young's body. (R. 701-9) Young had a gunshot entry wound at the front of his left shoulder. (R. 717) Charring around the wound indicated a contact range gunshot.(R. 717-8) The bullet entered his left shoulder, fractured the humerus, penetrated his left chest cavity, and travelled through the upper lobe of his left lung into his aorta.(R. 720-1) It was Dr. Jones' opinion that the wound was consistent with Officer Young being shot while in a seated position.(R. 726) Officer Young could have moved his arm and survived for several minutes after being shot.(R. 728-9) A toxicology test showed Officer Young had a blood alcohol level of .01.(R. 730-32)

Tracy Gallagher-Reppen, a forensic scientist with the Illinois State Police, had training in DNA analysis and examined blood on the recovered gun. (R. 743-4) She performed restriction fragment length polymorphism (RFLP) DNA analysis.(R. 753) The blood on the gun was consistent with having originated from defendant, and could not have originated from Officer Young.(R. 780-1) She did not find any evidence of multiple DNA donors on the gun.(R. 778-9) The DNA profile would be expected to occur in 1 in 52,000,000 African-Americans, 1 in 100,000,000 whites, and 1 in 33,000,000 Hispanics.(R. 781) The sample from the gun was degraded. (R. 783) Environmental factors could degrade DNA, resulting in an incomplete profile. (R. 779) Her file was subject to peer and supervisory review. (R. 820-1)

Michael DeFranco formerly worked at the Illinois State Police Crime Laboratory as a forensic scientist in the field of forensic biology and DNA analysis. (R. 1013-14) He performed short tandem repeat (STR) DNA analysis on certain items.(R. 1019-29) The blood sample labelled from the grass matched the DNA profile of defendant and did not match the DNA profile of Officer Young or Robertson.(R. 1029-30) A bloodstain on Robertson's shirt matched Davis's profile, and did not match either Officer Young or Robertson.(R. 1031-2) A mixture of DNA profiles was on another bloodstain from Robertson's shirt: one profile matched defendants, and a second profile did not match Officer Young but Robertson could not be excluded.(R. 1032-3, 1039) A third bloodstain from the shirt matched defendant and not Officer Young or Robertson.(R. 1033)

Anastasia Petrunzio, a forensic scientist for the Illinois State Police Forensic Science Center, identified three fingerprints from a 1983 Oldsmobile as being Robertson's. (R. 925-6, 935-6) A set of keys recovered from Robertson matched a car parked near St. Louis and Walnut Streets. (R. 601-4, 678)

Tonya Brubaker, a forensic scientist specializing in firearms identification, testified that a cartridge case found on the floor of the jeep matched Officer Young's gun. (R. 500, 625, 952-3) Of the 9 other recovered casings, 8 were fired from Officer Young's gun and 1 was fired from the Beretta pistol recovered from the garbage can.(R. 953-56) A casing recovered from the grass was not fired from Officer Young's gun, and had the same caliber and hemispherical firing pin as the Beretta.(R. 670-1, 957-8) The breech face of the casing was smooth, and firing with a limp wrist or blood (both consistent with defendant's injuries) on a weapon could obscure the breech face

marking on a casing.(R. 958) The bullet jacket recovered from Officer Young's body was fired from the Beretta.(R. 965-6)

Robert Berk, a trace evidence analyst with the Illinois State Police Crime Laboratory, found the presence of gunshot residue from all four surfaces of defendant's hands. (R. 969-82) The test results for Robertson were inconclusive; plastic bags placed on his hands very likely caused him to sweat and could have removed gunshot residue.(R. 979-82) Based on the area in which gunshot residue was deposited on the victim's t-shirt, Berk opined the weapon was in direct contact with the shirt when it was fired.(R. 973-4, 984) Michael Kopina tested the inside of the plastic bags placed on Robertson's hands and found nothing consistent with gunshot residue.(R. 989-91)

Michael Green testified he met a woman, Jackie, in her car at about 10:30 PM on June 20, 1997, at Garfield Park. (R. 1043-46) Someone came up and announced a robbery. (R. 1047) Mr. Green looked up and saw defendant with a gun.(R. 1047-8) Defendant said, "don't look at me motherfucker, I will kill you, this is a stickup."(R. 1048) Mr. Green looked forward and saw another armed man approach the other side of the car.(R. 1048) After defendant snatched a pendant from Mr. Green's neck and Mr. Green objected to the snatching, defendant told Mr. Green to "shut the fuck up" before he killed him. (R. 1049-50) When Jackie responded, defendant said, "shut up, bitch, before I kill you."(R. 1052-3) Defendant and the other man took jewelry and money. (R. 1050-52) Mr. Green picked defendant's photo out of a group of photos, and identified defendant and Robertson in a lineup.(R. 1055-57)

At the close of all the evidence, the jury found defendant guilty of First Degree Murder and Armed Robbery, and not guilty of the Attempt First Degree Murder of Leslie Adams. (R.

1266) At the eligibility hearing, the court found defendant eligible for the death penalty because the shooting took place in the course of an Armed Robbery.(R. 1319-20)

Lieutenant John Farrell of the Chicago Police testified at the eligibility hearing that he interviewed defendant about 6:20 PM on September 21, 1997, and defendant said he was walking through the park when a man in a jeep get out and shot at him for no reason. (R. 1288-92) When Lieutenant Farrell told defendant a gunshot residue test had been done on him and that his blood was on a gun, defendant said he fired a .22 caliber pistol at 111 N. Wood just to see if it worked. (R. 1292-3) Defendant said he got blood on a gun because, while the man from the jeep shot at him, Robertson threw him a gun which defendant caught and fired at the man firing at him. (R. 1293-4) In an interview the next day, defendant said he went to the park with Robertson, who was armed, and somehow defendant ended up with the gun, approached the man in the jeep, and said something, the man jumped out with a gun, and defendant fired once in self-defense.(R. 1294-96) Defendant dropped the gun, and Robertson picked it up and ran from the park with it.(R. 1296) Defendant said that sometimes he mumbles and the man in the jeep may have thought defendant was trying to rob him.(R. 1296) In an interview the following day, defendant told Lt. Farrell that Robertson did not have the gun, that defendant had bought it three days earlier for \$100.(R. 1300) He and Robertson parked a block or two from the park, defendant was armed, defendant found two people he was going to rob, and he walked up to the jeep just to see who was in it.(R. 1300) Defendant approached the window and said something, the officer started to get out with his gun in his hand and fired, and defendant fired back.(R. 1301) Defendant was not sure who fired first. (R. 1301) Defendant said he knew the man was a policeman by what he said.(R. 1301) Defendant

said he pulled out his gun knowing this was an officer because, “Cop or no cop, [defendant] wasn’t going to get shot.” (R. 1302)

At the hearing in aggravation and mitigation, the People submitted defendant’s two findings of delinquency for Burglary and Possession of a Stolen Motor Vehicle. (R. 1335-37) Defendant’s fingerprints matched fingerprints for Lemont Santiago, Anthony Hackford, Christopher Merlin, and Christopher Daniels.(R. 1339-42) The People submitted evidence of defendant’s convictions for Possession of a Stolen Motor Vehicle and Violation of Bail Bond for which he received a three-year sentence, two counts of Armed Robbery for which he received an eight-year sentence, Unlawful Use of a Weapon by a Felon for which he received a three-year sentence, and Possession of a Controlled Substance for which he received a three-year sentence. (C.R. 145; R. 1347-8) Chicago Police Officer Michael McDermott testified to defendant’s two armed robberies on March 15, 1989, that resulted in convictions. (R. 1342-46) Defendant was the gunman in both robberies of female, Korean-owned clothing stores, and there were multiple victims. (R. 1344-5)

Mark Franklin, the record officer supervisor at Stateville Correctional Center and keeper of records at Stateville, testified to defendant’s approximately 30 violations of Illinois Department of Corrections Rules.(R. 1349-67) Defendant was cited for, inter alia, theft, unauthorized property trading, gang activities, intimidation or threats, and unauthorized movement.(R. 1352-67) On one occasion, defendant approached an officer and asked to speak to a sergeant or lieutenant, and when the officer told defendant he would have to know the subject matter, defendant said it had to do with someone getting hurt.(R. 1362-3) When the officer asked who, defendant said, “I guess it’s you.”(R. 1363) On another occasion, defendant told an officer, “just wait until I see you on the

street.” (R. 1364) Defendant previously violated parole.(R. 1370-72; C.R. 145) A psychological evaluation of defendant in November, 1989, showed no psychological problems.(R. 1371) Defendant did not express a desire to pursue educational or vocational training. (R. 1372) Another psychological evaluation from July, 1996, indicated defendant was street sophisticated and criminally oriented with no history of depression or psychiatric problems.(R. 1373) Defendant signed a parole agreement on June 20, 1997, that he would not own, possess, or use firearms, and that he would obey the law. (R. 1375) Defendant was not given extra prison time for any of his violations, many of the disciplinary actions were loss of commissary, and he was dropped to B grade which is only slightly less than the top grade. (R. 1381-2) Defendant might have had two placements in segregation.(R. 1382) Defendant was denied work release during his first incarceration due to his marginal or negative adjustment. (R. 1383)

Ellis Anderson was an officer for the Chicago Housing Authority in September, 1997. (R. 1389-90) On September 14th, he was off duty and armed with his Beretta service weapon as he sat in a club. (R. 1390-92) Defendant entered the bar followed by another man two minutes later. (R. 1392-3) The second man tried to close the front door, then came out of the washroom and put a gun to Mr. Anderson’s head.(R. 1393) Mr. Anderson pushed the gun away and swung around, and the man put the gun to Mr. Anderson’s chest.(R. 1393) Defendant got up, moved to the door, had a shiny object in his hand, and stood by the door in a threatening manner.(R. 1393) The gunman ordered Mr. Anderson to the floor, and someone took Mr. Anderson’s weapon. (R. 1394) The gunman demanded money from the barmaid. (R. 1394) When someone ran out and yelled police, the gunman fired at least twice. (R. 1394)

Aspinwslin Odom worked at the club that night. (R. 1401) He heard someone yell, “give me the gun,” and saw a man with a gun holding it on the officer. (R. 1402) Eventually, the officer let them get the gun.(R. 1403) Mr. Odom saw someone who looked like defendant in the corner of the bar with an automatic pistol.(R. 1403-4) A woman started praying, and the man who looked like defendant came up to her with the gun and told her to shut up.(R. 1403-4) Mr. Odom crawled out the back door and yelled that the police were coming.(R. 1406) The gunman behind the bar fired twice at him.(R. 1407) Mr. Odom later saw them outside getting into a car. (R. 1407) Mr. Odom could remember the face of the man by the door because he looked right into Mr. Odom’s face after he told the woman to lie down. (R. 1408)

Officer Rudolph Booth testified that, as he was walking on his way to meeting his partner, he saw defendant sitting on the porch with another man.(R. 1495-97) Defendant put a .45 caliber pistol about 2½ to 3 feet from his face.(R. 1498) When Officer Booth asked what was going on, defendant said, “Shut the fuck up. I ought to blow your ass away.”(R. 1498) When Officer Booth identified himself as a police officer, defendant said, “I don’t care. I should shoot you anyway.” (R. 1499) Officer Booth backed away, and was going to disarm or shoot defendant. (R. 1500) When Officer Booth turned, he saw defendant in a kneeling position with his gun pointed at the officer.(R. 1500) Defendant said, “Go ahead. Try it.” (R. 1500) As Officer Booth backed away, defendant said, “Fuck you. I should shoot you anyway.”(R. 1500) When Officer Booth felt he was out of range, he alerted his partner.(R. 1500) He began a foot pursuit of defendant and found defendant in hiding two blocks away.(R. 1501) Defendant had narcotics in his possession at the time of his arrest.(R. 1501) Later, Officer Booth checked defendant’s rapsheet and saw he had arrested defendant for gang loitering a month before.(R. 1502)

Officer Booth came to court on August 21, 1995, to testify against defendant. (R. 1502) Outside on the steps, he heard someone call his name and saw it was defendant. (R. 1503) Defendant said, "I like the way you did that shit in court. I'm gone fuck you up for that. Don't come around my house no more. That ain't shit." (R. 1503-4) Defendant started yelling threats. (R. 1504) Officer Booth made out a police report at the Sixth District Police Station, as he did not think it was safe to take action at the building. (R. 1504) Defendant was convicted of narcotics possession, but there was a finding of no probable cause on the gun case. (R. 1504, 1512) Officer Booth arrested defendant at the Bridgeview Courthouse for threatening him. (R. 1510) He never heard anything else about it. (R. 1510)

Brannen Nelsen was with Officer Booth on August 21, 1995, when defendant said, "I like the shit you did in court, Booth. I liked the way you kicked in my mom's door, Booth. I'm gone fuck you up." (R. 1513-15) Defendant pointed and made threats. (R. 1515) Brannen went to the police station with Officer Booth to fill out a report. R. 1515)

The prosecution submitted transcripts of Gaddis Johnson's testimony in the case of People v. Henry Brown, 95 CR10687. (R. 1415) Gaddis Johnson died of unrelated causes prior to the trial in this case. Gaddis testified that he was taken at gunpoint to an apartment in the Henry Horner Homes. (R. 1417-25) Henry Brown asked for money Gaddis' brother allegedly took from the gang. (R. 1425) Brown ordered someone to get a stew pot with which to boil Gaddis' feet. (R. 1426) When none could be located, Brown ordered someone to get a pit bull which bit Gaddis. (R. 1426-7) Brown ordered men to strip Gaddis, place duct tape on his mouth, and tape his wrists, arms, and ankles. (R. 1428) A hanger and knives were heated on a stove and then were used to burn Gaddis. (R. 1429-334) Gaddis was burned on the forearm, back, shoulder, buttocks, thighs,

and calf.(R. 1434) Brown called Gaddis' sister and said they would torture and kill Gaddis if they did not get their money back.(R. 1430-1) Brown ordered salt placed on Gaddis' wounds, and another man threw bleach on his wounds while salt was placed on his shoulder.(R. 1435-6) Gaddis was taken to another location and left in a closet all day.(R. 1439-41) Brown threatened to shoot Gaddis.(R. 1442) Gaddis later escaped from a car in which he had been placed. (R. 1443-45) SEE: Attached photographs of the injuries to Gaddis Johnson.

Officer Ann Chambers spoke to defendant, who admitted affiliation in street gang known as the Black P. Stone Nation and having the apartment where Gaddis Johnson was tortured. (R. 1476-80) Defendant also admitted turning the music up louder in his apartment so people could not hear Gaddis Johnson's screams.(R. 1481) Defendant said Gaddis was naked and tied up in the closet.(R. 1481) When he went to look at Gaddis, Gaddis had red whip-like marks, and a pit bull had been brought in.(R. 1481-2) Defendant was alone in the apartment when he went to see Gaddis.(R. 1482) After Gaddis was taken from the apartment, defendant took the telephone and caller ID unit and hid them on a shelf behind some clothes.(R. 1482) Officer Chambers learned that Gaddis identified a picture of defendant as being the occupant of the apartment.(R. 1484-5)

Gladis Young, Officer Young's wife, read from her victim impact statement that Officer Young grew up in the Cabrini Green and Ogden Courts housing projects, graduated high school, and earned a college degree, and did so "without gangs, robbing or stealing." (R. 1519-22) She described her family's life as "changed forever," "torn apart," "every day a struggle," and "uncertain." She also stated that her son no longer feels safe and secure and feels that a part of his heart was cut out of him, and that her daughter has suffered, and had surgery due to stress.(R. 1524-26) Mrs. Young concluded her statement as follows: "My family and I have been victimized

and all we did was love someone who was killed by persons who didn't care about human life. We didn't break the law, so why are we suffering the consequences?"

Kenneth Daily, defendant's father, testified in mitigation that he was 13 years old when his son Kenny was born and 14 years old when defendant was born. (R. 1534-5) He pled guilty to Possession of a Controlled Substance in November, 1999. (R. 1535) Defendant's mother, Velma Daniels, was about 16 or 17 when defendant was born.(R. 1535-6) They never married. (R. 1536) They lived next door to each other, and lived together for about six months.(R. 1536-7) He stopped having contact with them when Velma moved in with another man.(R. 1537) Defendant's brother Kenny lives in Minnesota, works, and planned to get married.(R. 1539) Prior to moving to Minnesota, Kenny got in trouble, but since he moved he has had no problems. (R. 1543-4) Velma was nice until she was angered.(R. 1540) Mr. Daily never saw her display her temper with defendant.(R. 1541) Velma often left and did not return until the next morning.(R. 1541) The longest she left was for 14 or 18 hours.(R. 1541) Velma smoked marijuana from time to time, had cocaine, and used to drink wine and wine coolers. (R. 1542)

Percy Rogers, defendant's stepfather, began living with defendant's mother when defendant was about six years old, and Percy raised defendant. (R. 1545) Percy worked at a steel mill for 20 years before he was injured in an 1979 explosion that closed the mill.(R. 1545) Velma would go out all night and sometimes would not return for days or weeks.(R. 1546) Velma carried a gun for five or six years and shot a couple of times at him.(R. 1547) After she stopped carrying a gun, she carried knives.(R. 1547-8) She pulled knives on him without cutting him, and threw things at him.(R. 1548-9) Velma died in 1998.(R. 1548) She used cocaine, reefer, heroin, speed, and illegal Prozac.(R. 1550) She saw a psychiatrist at Cook County.(R. 1550) Velma said she

saw things that were after her, and heard voices that said they would get her.(R. 1551) Velma was mean.(R. 1552) He remembered DCFS taking Chris away, but could not remember what year that happened.(R. 1550-1) Percy basically raised defendant and set down the rules.(R. 1552) He whipped defendant, but did not beat him often or sexually abuse him.(R. 1552-3) Velma beat the boys all the time.(R. 1553) Kenny (defendant's brother) lived with them and did not go to prison for committing armed robberies or holding guns on people.(R. 1553) DCFS took responsibility for defendant when he was getting charged with juvenile delinquency cases.(R. 1553-4) Percy did not know about a call from the Audy Home to pick up defendant. (R. 1554) He did not know that DCFS started to offer defendant services.(R. 1554) Percy spoke to a social worker about defendant and talked about how important it was to say what a bad life defendant had, stress how much trouble Velma gave defendant, and talk about all the bad things Velma did: the woman he chose to stay with for all those years.(R. 1555) Percy was there for the children all the time. (R. 1557) Percy did not rob or shoot people.(R. 1557)

LeShawn Rule, defendant's cousin, testified that, when he picked up defendant upon his release from prison in June, 1997, defendant talked differently, i.e., about getting married and having children.(R. 1557-59) That night, defendant's mother cooked dinner, and later, was high and had a knife.(R. 1562) Defendant's mother would get high, grab knives, and talk crazily. (R. 1559-60) Defendant knew about his mother's prostitution.(R. 1562) Defendant wanted LeShawn to help find him a job, but LeShawn was unsuccessful because of defendant's background.(R. 1560) LeShawn knows of June Bug.(R. 1563) June Bug was a leader of the Blackstones and a heroin addict. (R. 1564) He was powerful and did whatever he wanted.(R. 1564) People were

intimidated by June Bug; he killed and tortured people.(R. 1565) Everyday, people shot at defendant's house.(R. 1565-6)

LeShawn testified he last saw defendant on June 20, 1997, at about 9:30 or 10:00. (R. 1569) Defendant talked to him about being charged with murder, an armed robbery in Douglas Park, and an armed robbery of a police officer, but not about committing an armed robbery in the park the day of his release from prison on June 20, 1997.(R. 1570-72) Defendant never complained that evidence of an armed robbery committed on the day of his release from prison was coming in as evidence against him.(R. 1577) LeShawn was convicted of a felony drug offense, but did not go to prison. (R. 1580)

Tammisha Johnson was defendant's girlfriend and fiancée before he committed the instant murder. (R. 1582-3) They have remained friends.(R. 1583) She knew defendant's mother and had an "okay" relationship with her. (R. 1584) Velma would talk to Tammisha often because she used to say she did not have a daughter. (R. 1584) Velma used drugs and alcohol.(R. 1585) Defendant despised his mother's use of drugs.(R. 1587) Defendant felt he loved his mother and felt she loved him, but felt like a middle child.(R. 1587-8) Defendant said his mother whipped him with an extension cord once and another time hit him in the head with a skillet.(R. 1589) Tammisha never saw Velma hit defendant.(R. 1589) While defendant was in the penitentiary, Tammisha found religion, and four weeks later, defendant decided to look into going to church in prison.(R. 1591) When he was released, he came to live with her.(R. 1591) She was not working and was receiving worker's compensation benefits.(R. 1591) The time they lived together was not too good as bills piled up.(R. 1592) Defendant asked his family and friends for money, and unsuccessfully sought work.(R. 1592) June Bug would often knock on their door or

send someone.(R. 1593) Defendant knew how violent June Bug was, and told Tammisha to say he was not there.(R. 1593) One time a man came with a long gun and accused defendant of not participating.(R. 1593-95) Neither she nor defendant called the police when the man came to their home with a gun.(R. 1604)

The fact that defendant had troubles with his mother did not stop him from taking her to his mother's house. (R. 1598) Defendant went to church with her about three times after his release from prison.(R. 1605) Defendant was not abusive and did not hit Tammisha or his mother. (R. 1608-9) She never saw him be violent with his stepfather or father.(R. 1609) Defendant helped pay rent with money from his stepfather.(R. 1600) She had no knowledge of defendant ever committing an armed robbery. (R. 1601) Tammisha never saw defendant with a gun.(R. 1597) She did not know what gang defendant belonged to, but knew he had a B.P.S.N. tattoo and that the last part stood for Stone Nation.(R. 1602) Tammisha did not know if that organization performed any criminal acts.(R. 1602) Defendant said they needed to move to get away from the Stones, and stopped associating with them after they moved. (R. 1609-10)

Dwayne Rogers, defendant's brother, hardly saw defendant growing up, and became "kind of close" to him in Dwayne's teenage years. (R. 1612-13) He described defendant as his best buddy and only friend.(R. 1613) Defendant's relationship with their mother was tight.(R. 1614) Their mother got angry and often argued. (R. 1614) Velma left everyday, and Dwayne saw her use drugs.(R. 1615) His father and mother always took care of him.(R. 1616) His mother would leave, but would always come and bring him something to eat if she had it.(R. 1616) They were poor and his father was on disability.(R. 1616) One time his mother left Kenny, the oldest brother, with him, but Kenny left.(R. 1617) A fire started, and defendant came to the door. (R.

1617-18) Dwayne was three or four years old.(R. 1618) Defendant was outside and told his brother to get a chair from the kitchen, put it by the door, get on the chair, and unlock the door. (R. 1618-19) Dwayne did that, and defendant “busted” in the door.(R. 1619) The Fire Department was there and the house was in flames.(R. 1619) Dwayne remembered a time when they sat on the porch and a car drove by and shots were fired at them.(R. 1619-21) Dwayne was never left alone by his mother for a long time without some adult being around.(R. 1622) DCFS was never called on his mother and Dwayne was never taken out of the home. (R. 1622-3)

George Savarese, a licensed clinical social worker, has never had any relationship with a criminal case other than testifying for the defense in capital cases. (R. 1624-33) His master’s degree and doctorate is in social work.(R. 1628) His hourly fee is \$50, and he had worked approximately 150 hours on this case.(R. 1635) He had interviewed about fifteen of defendant’s friends and family.(R. 1638) Some of the key issues that Dr. Savarese thought relevant to understanding defendant’s development included his parents’ youth, his exposure to violence inside and outside the home, the mother’s depression and psychotic symptoms, her abandoning the family, and her dependence on drugs and alcohol.(R. 1639-40) These experiences led defendant to be mistrustful and suspicious, and to be prepared for the world to be violent.(R. 1640) His separation anxiety made him easily drawn to gangs.(R. 1640-1) As a result of defendant’s experiences, Dr. Savarese opined that defendant fully met the threshold for Post-Traumatic Stress Disorder (PTSD). (R. 1642) Dr. Savarese felt that two important stressors on defendant were present at the time of the murder: problems in his relationship with his girlfriend due to his financial situation, and his mother’s problems and defendant’s fear about her declining health.(R. 1643-44) Robbery was a logical way for defendant to ease his financial problems, although his

judgment was extremely poor.(R. 1645) Defendant overreacted to Officer Young because he perceived the situation through his PTSD. (R. 1646)

Dr. Savarese did not write a report in this case.(R. 1647) He recalled being cross-examined extensively in the Steven Smith case about the fact that large portions of his reports for three different capital defendants were virtually identical.(R. 1647) Dr. Savarese stated that, for the most part, abuse is abuse and it has a certain impact on individuals.(R. 1649) Yet, thousands of people are abused or live in poverty and become productive adults.(R. 1649) Defendant had virtually no employment history to examine.(R. 1650) Dr. Savarese considered defendant's incarceration to be important, as defendant, in 13 years, had spent 8 years in the Department of Corrections and 3 years in Cook County Jail.(R. 1651) He was aware that defendant declined educational or vocational training during two different incarcerations.(R. 1652) Dr. Savarese said that withdrawing from opportunities is consistent with PTSD. (R. 1652)

Defendant maintained in the pre-sentence investigation that he was raised by his mother and described his upbringing as good. (R. 1653) He also indicated he did not experience any physical, sexual, or mental abuse, neglect, or DCFS involvement.(R. 1653) Dr. Savarese said there is tendency in PTSD to minimize past experience.(R. 1653) Dr. Savarese stated it was a misconception that defendant's two brothers grew up in virtually the identical environment. (R. 1654) He opined that defendant's older brother did not grow up in the same environment because he left home at 15; defendant also left home at 15.(R. 1654-5) PTSD was not really relevant to defendant's turning up a radio to cover the screams of a man being tortured.(R. 1656) Dr. Savarese did not interpret that as a cold-blooded act, but as a result of defendant's judgment formed by the way he was raised and the behaviors exhibited.(R. 1656-7) The fact that Officer

Young identified himself as an officer may have had something to do with the shooting.(R. 1658-9)

PTSD had nothing to do with defendant's conduct towards a praying woman three days before shooting Officer Young.(R. 1660-1) Defendant's other conduct is a result of the intimidation, aggression, and violence normalized in his upbringing.(R. 1661) Dr. Savarese believed that defendant's committing the armed robbery the day he was paroled and the armed robbery in the tavern were explained by his intent, but ultimate inability, to get his life together coming out of prison.(R. 1664-5) Savarese stated that defendant had more problems than just a problem with police officers. (R. 1665)

The court inquired of Dr. Savarese whether defendant acknowledged remorse for his actions and in what manner. (R. 1666-7) Dr. Savarese indicated defendant expressed remorse for the officer and survivors.(R. 1667) Dr. Savarese stated that other prisoners would not be at risk as a result of defendant's disorder because of the structured, disciplined environment in prison.(R. 1667) According to Dr. Savarese, defendant could function much better in that environment than out on the street.(R. 1667) Dr. Savarese was ambivalent about the death penalty; he had seen pretty heinous cases, and yet was not convinced killing someone was a solution.(R. 1667-69) The prosecution represented that Dr. Savarese had testified on behalf of other defendants in capital cases, all in an effort to spare them from a death sentence.(R. 1670) Dr. Savarese acknowledged that defendant committed multiple violations in prison, including possession of other inmates' property and intimidation of guards.(R. 1671) The possibility existed that defendant used force or intimidation to obtain other prisoners' property.(R. 1671) While the stresses defendant was under would always exist, Dr. Savarese opined that they would be more controlled in a prison environment.(R. 1672) Defendant's ability to intimidate others would be different than it would

be outside of prison.(R. 1672) Defendant still struggled with the same emotional issues as when he intimidated guards and other inmates.(R. 1672) Gangs are active in prison, and Dr. Savarese could not say whether defendant actually left the gang. (R. 1673)

In allocution, defendant expressed sympathy for the victim's family, saying that he knew what it was like to lose someone that he loved and cared about very much, including his mother followed by other friends and relatives. (R. 1681-2)

After arguments, the court made several findings. The court noted that the evidence of defendant's guilt was wholly overwhelming.(R. 1713-14) The court noted that defendant started out life with barely a father.(R. 1719) The court accepted what it heard from witnesses concerning Velma Daniels; she was an excitable, angry woman with a short temper who would lose her temper and act erratically from time to time.(R. 1719) The court also noted that the people that spoke of her also spoke about her in an affectionate tone.(R. 1719) Defendant, himself, when talking about his own losses first mentioned his mother.(R. 1719) She was obviously a person he had a capacity to love, and he felt that he received love in return.(R. 1719) Percy Rogers took on the role of defendant's stepfather.(R. 1720) He was a decent, working man, knew right from wrong, and provided structure for defendant.(R. 1720) Percy Rogers' parenting skills were validated by the other children raised in the household.(R. 1720) Defendant's older brother, Kenny, has had a successful law-abiding life, and his younger brother, Dwayne, is a decent young man.(R. 1720) They were all raised in the same environment and had Velma and Percy as parents.(R. 1720) Defendant came out dramatically different from his brothers. (R. 1720)

The court wanted to afford Dr. Savarese the opportunity to explain all of his testimony in as much detail as he wanted, and listened carefully to him.(R. 1721) Judge Linn made inquiry

himself to ensure he looked hard at any factors that might exist in mitigation.(R. 1721) The court was at somewhat of a loss to understand how Dr. Savarese could come to the conclusion that defendant suffered from the symptoms he suffered from, and yet the brothers, raised in the same environment, suffered no such debilitation.(R. 1721-2) The court found this testimony unacceptable.(R. 1722) Defendant had positive relationships in his life; he had people who had tried to love him and had not abandoned him. (R. 1722) Despite having good people around him, he turned out differently than his brothers. (R. 1722)

The court considered defendant's criminal background.(R. 1724) In 1984, he was found delinquent for burglary.(R. 1724) Four arrest warrants were issued before the case was terminated unsatisfactorily.(R. 1724) Defendant was sent to the Juvenile Department of Corrections in 1986 for a stolen car case. (R. 1724) Under the name Anthony Hackward, defendant was sent to prison for another Possession of a Stolen Motor Vehicle case, and his sentence ran consecutive to a violation of bail bond. (R. 1724-5) Under the name Christopher Mullen, defendant had another Possession of Stolen Motor Vehicle conviction and was paroled in 1988.(R. 1725) Under the name Chris Daniels, he was convicted of Unlawful Use of a Firearm by a Felon in 1989 and received a three-year sentence.(R. 1725) Using that same name, he was convicted of two Armed Robberies of Korean clothing stores and sentenced to eight years' imprisonment.(R. 1725) After release from prison, defendant was involved in a narcotics case, Armed Robbery cases, and an aggravated kidnapping and heinous battery case.(R. 1725-6) Defendant's turning up the radio so the victim's screams could not be heard in the kidnapping was sadistic, cruel, and wholly merciless. (R. 1726-7) Defendant had a problem with Officer Booth.(R. 1727) The boldness with which defendant would assault a Chicago Police Officer was wholly remarkable.(R. 1727) The

court also found remarkable defendant's boldness in assaulting and threatening to kill Officer Booth at court. (R. 1727-8) The court heard the testimony that defendant held a gun to people at the tavern and threatened to kill them if they did not shut up.(R. 1728)

The court saw an unrestrained meanness and lack of civility in defendant that was shocking and frightening. (R. 1728)

In reviewing the statutory mitigating factors, the court found that the lack of prior criminal activity did not apply.(R. 1730) Defendant was a career criminal, who for the 16 years leading up to his sentence, was either awaiting a trial, serving a sentence, having an arrest warrant issued for him, or serving probation or parole.(R. 1730) Defendant was hardly acting under an extreme mental or emotional disturbance.(R. 1730) The court considered everything Dr. Savarese said about PTSD, but found defendant did not have PTSD when he acted in the cold-blooded, premeditated manner of arming himself and deciding to rob someone.(R. 1731) No passion or stressors were involved in that decision.(R. 1731) It was inevitable given the way defendant lived his life that someone was going to get killed.(R. 1731) The court considered all of Dr. Savarese's testimony and rejected it.(R. 1731) The murdered individual was not a participant and did not consent to the shooting.(R. 1731) Defendant did not act under a compulsion or threat.(R. 1731-2)

Defendant was personally present.(R. 1732) No statutory mitigating factors existed at all, let alone, were sufficient to preclude imposition of a death sentence. (R. 1732)

In considering non-statutory factors in mitigation, the court did notice the people who cared and had affection for defendant. (R. 1732) The court considered that defendant had the capacity to be loved by others and show some kind of affection in return.(R. 1732) That was the only factor in mitigation the court found.(R. 1732) The court found that defendant committed his

crime despite growing up in the same household as his brothers.(R. 1732) Defendant is inherently evil.(R. 1732) The court found no mitigation to preclude imposition of a death sentence.(R. 1732-3)

Finally, the court sentenced defendant to death. (R. 1733) The court denied a motion to reconsider the sentence. (R. 1737-8)

III

REASONS FOR DENYING THE PETITION

PETITIONER, A DANGEROUS CAREER CRIMINAL WHO WAS CLEARLY GUILTY AND WHO KILLED OFFICER GREGORY YOUNG DURING A ROBBERY, IS UNDESERVING OF CLEMENCY WHERE HE HAS NOT EVEN BOTHERED TO SIGN HIS CLEMENCY PETITION AND WHERE HE HAS RAISED FRIVOLOUS CLAIMS BEFORE THIS BOARD.

Petitioner, who has not even signed his petition, has raised cookie cutter claims that have no merit or application to this case. In fact, there is no question of petitioner's guilt or the appropriateness of the death penalty in this case.

The Petition for Executive Clemency filed by attorneys Lawrence Marshall, Thomas Mattson, and Judith Royal on behalf of defendant, among others, is an improperly filed petition and should be returned by both the Governor and Prison review Board as improperly filed. 730 ILCS 5/3-3-13(a) permits petitions to be filed only if signed by the defendant seeking clemency or "a person on his behalf." There is no statement whatsoever that petitioner has acknowledged that this petition could or should be filed on his behalf. There is no such affidavit, and in fact, the petition itself specifically states that petitioner has declined to sign a clemency petition. It is thus clear that he has refused to sign and does not acknowledge that this petition is signed on his behalf.

The clemency application statute contains a more general provision that nothing in section 5/3-3-13 shall be construed to limit the power of the Governor under the Constitution to grant a reprieve, commutation of sentence, or pardon. But, this provision cannot be read to permit

consideration of unsigned petitions in capital cases. It is the Constitution itself that provides both the Governor's power to grant clemency and the legislature's power to regulate the manner in which clemency must be applied for. Thus, subsection 13(e) specifically contemplates that the Governor will act only "under the constitution," i.e., that his power would be cabined by any restrictions upon the application process constitutionally enacted by the General Assembly. To read subsection 13 (e) to permit the Board or the Governor to act on an unsigned petition would render meaningless all the previous subsections of 5/3-3-13, as well as the language in Article 5, section 12 of the Constitution authorizing legislative regulation of the manner of applying for clemency.

The signing requirement for capital cases was plainly enacted under the constitutional power of the legislature to regulate the manner of applying for clemency. It represents a requirement that is entirely concerned with that procedure, and does not attempt to limit the Governor's power to grant clemency to any inmate or category of inmates based on any substantive distinction, or even any procedural distinction other than one of form. More critically, it does not implicate the real subject of subsection 13 (e), which was the preservation of a governor's discretion to decide whether and to what extent to grant clemency to a person who qualifies for it and has complied with proper application procedures.

Based on these provisions, enacted under the legislature's constitutional power to regulate the manner in which clemency is applied for, this petition is invalid.

Even assuming for argument's sake that this petition were valid, it raises no meritorious claim for clemency. Petitioner asserts that he is entitled to clemency because he did not receive the benefit of the changes to the Illinois capital sentencing system which have recently been adopted,

proposed or enacted. By relying upon a laundry list of new Supreme Court Rules, statutes and proposals from the Governor's Commission on Capital Punishment which were not available at the time of his trial, petitioner claims that his trial (as well as that of every other capital defendant in Illinois) was by definition fundamentally unfair. However, the Illinois Supreme Court has expressly rejected the claim "that every capital trial has been unreliable and that all appellate review has been haphazard" (People v. Hickey, ___ Ill. 2d ___, 2001 Ill. LEXIS 1080 at *57 (No. 87286 September 27, 2001)). Rather, the Court held that the additional safeguards included in its rules governing capital cases are not retroactively applicable because they "function solely as devices to further protect those rights given to defendants by the federal and state constitutions" and that "[a] violation of procedures designed to secure constitutional rights should not be equated with a denial of those constitutional rights." Id. at *63, 64.

Thus, the fact that the Court, the General Assembly and the Governor's Commission have endeavored to improve the process does not mean that an injustice would result simply because the recent changes were not applied retroactively to petitioner's case. Instead, a true injustice would only result if it were reflexively determined that petitioner's trial was fundamentally unfair without any examination of the proceedings themselves. It is telling, however, that petitioner has not even attempted to demonstrate how the recent changes would have affected the outcome of the proceedings.

Petitioner next raises a series of complaints that either lack merit or have no application to his case. First, petitioner claims his sentence should be reduced because the State's Attorney's decision to seek death was made without uniform protocols to guide his discretion and was not approved by a state-wide review committee. However, "[i]t has long been recognized by th[e

Illinois Supreme Court that the State's Attorney is endowed with the exclusive discretion to decide which of several charges shall be brought, or whether to prosecute at all. A prosecutor's discretion extends to decisions about whether or not the death penalty should be sought.” People v. Jamison, 197 Ill. 2d 135, 161-62, 756 N.E.2d 788 (2001). Therefore, any attempt to mandate such a review would constitute an impermissible restriction on the independence of the various State’s Attorneys under the Illinois Constitution. Moreover, petitioner does not even allege much less argue that the decision to seek death in his case was the result of an abuse of discretion. Accordingly, it must be rejected.

This proposal by the Governor’s committee would vest the power to make a decision in a death case on an individual or group of individuals who have absolutely no connection or nexus to the county wherein the crime occurred. An analogous proposal would be for the elected officials of the adjacent states to review any proposed decisions of the elected officials of this state. The personal representative of the People of the State of Illinois in the respective counties is the elected State’s Attorney of that County. His or her powers and duties are clearly set forth in the relevant Illinois Statutes. His or her duties do not include the review of the actions or decisions of any other elected or appointed States Attorney.

Second, petitioner falsely claims that he was not given the opportunity to make a statement in allocution. In fact, petitioner did address the sentencing judge in allocution. This Board should not have its limited time wasted by false and baseless claims.

Third and finally, petitioner complains that the Illinois Supreme Court did not consider certain factors in reviewing petitioner’s sentence on direct appeal. This claim is also thoroughly baseless. The Illinois Supreme Court is only now considering petitioner’s direct appeal. If the

Court does not address these factors when it reaches its decision, it will only be because petitioner has not raised these issues for the Court's consideration. Once again, petitioner has done nothing but waste this Board's limited time.

The fact is that petitioner is guilty beyond any doubt, and he deserved to be sentenced to death. The trial judge concluded that the evidence of guilt was "wholly overwhelming." In addition to the eyewitness testimony of Cook County Deputy Sheriff Leslie Adams, petitioner's DNA was on the murder weapon, gunshot residue was found on all four surfaces of petitioner's hands, petitioner had committed a similar robbery in the same park on the very night he was paroled from prison, and the physical evidence, including the location of spent ammunition casings and the expert testimony that Officer Young was shot in a seated position, substantially corroborated the overwhelming evidence of guilt. Furthermore, petitioner is a career criminal with a habit of sticking guns in peoples' faces. He used a gun to rob two different female business owners, he committed the armed robbery mentioned above on the night he was paroled, he threatened people in a tavern with a gun and told a woman who was praying while lying on the floor to shut up as he held a gun near her head, and he threatened Officer Booth with a gun and later on the very steps of the Criminal Courts Building. Among his thirty violations of Illinois Department of Corrections regulations, he twice threatened correctional officers. Petitioner also permitted the brutal torture of another human being to take place under his roof, and even turned up his radio so that the screams of the victim could not be heard. After hearing the evidence at sentencing, the judge found that petitioner had an "unrestrained meanness" and that he was "inherently evil." It was this inherently evil man that killed Officer Young as Officer Young tried to put a stop to this dangerous criminal. Justice demands that the death sentence be carried out in

this case.

CONCLUSION

Chris Davis is not seeking clemency. He refused to sign the petition filed on his behalf, and has not sought the remedy contemplated by the individuals who filed the petition without his consent.

Assuming, for argument's sake, that an analysis of defendant's case and history is appropriate under these circumstances, the petition for clemency should be denied. Defendant has done nothing worthwhile with his life, and in fact, the impact he has made on the community he lives in is nothing but violence, destruction and despair. While in prison, he victimized other inmates and correctional officers, and repeatedly declined any vocational or rehabilitative services offered. While on Mandatory Supervised Release, he continued to commit crimes and those crimes escalated in violence and intensity, culminating in the Murder of a Chicago Police Officer. This killing was as a result of an effort to avoid returning to the Department of Corrections from which he had so recently been paroled. A close look at the crimes committed by defendant demonstrates his callousness, and disregard for those he victimized and from whom he took property, always at gunpoint. Consider some of the defendant's statements to his victims:

Officer Rudolph Booth: "Shut the fuck up, I ought to blow your ass away."

When Booth identified himself as a police officer: "I don't care, I should shoot you anyway. Fuck you, I should shoot you anyway."

On the steps of the Criminal Courthouse: "I like the way you did that shit in court, Booth. I'm gone fuck you up for that. Don't come around my house no more. That ain't shit."

Michael Green: "Don't look at me motherfucker, I will kill you, this is a stickup."

Jackie Pondexter: "Shut up bitch, before I kill you."

Older woman praying she would not be shot: "Shut the fuck up."

Lt. John Farrell: (About Gregory Young) “Cop or no cop, I wasn’t going to get shot.”

Gaddis Johnson: In response to Johnson’s screams, defendant turned up the radio so that no one would hear or help the victim.

Defendant has not lived a single day since 1985 without some court order, be it an arrest warrant, bond, Mandatory Supervised Release, or incarceration. His life is a string of those victimized in deference to whatever impulse defendant chose to satisfy on any given day. If he wanted money, he robbed or stole. If he wanted to feel important, he intimidated and victimized, be it a civilian, a police officer or correctional officer. Defendant stands convicted of 7 felony offenses and evidence of an additional 5 charged felony offenses was presented during the capital sentencing hearing. Chris Davis has earned his place among the most notorious criminals in the State of Illinois. He committed a brutal murder during the commission of an Armed Robbery, and in so doing, took the life of a police officer. Davis has done nothing to deserve consideration or clemency, and to change his sentence would be to denigrate the seriousness of his crimes, to ignore the violence done to his victims and to abandon the careful consideration given to this case both by the jury at trial, and the trial judge at sentencing.

For all these reasons, the People of the State of Illinois respectfully request that this Board and Governor Ryan deny executive clemency to Chris Davis.

Respectfully submitted,

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