



## I. INTRODUCTION

1] Coleman has committed three cold-blooded executions in order to steal drugs and drug money and to avoid retaliation for the murders and robberies. The viciousness of the killings is highlighted by the fact they were committed out of greed. This viciousness is exacerbated by the fact that Coleman killed Alex McCullough, his sister's boyfriend, who trusted Coleman and employed him.

2] In return, Coleman not only stole from McCullough, but plotted his murder. Before murdering McCullough, however, Coleman went to one of McCullough's dope houses and gunned down two people there: Lance Hale and Avis Welch. Both were unarmed and shot point-blank in the head after begging for their lives.

3] Days later, as Coleman planned McCullough's murder', he accidentally encountered McCullough at Coleman's sister's home. Coleman opened fire, killing McCullough despite endangering a house full of witnesses, including his sister.

4] Coleman murdered Hale and Welch simply because they were present at that dope house. It was not enough to rob them at gunpoint. Instead of walking away with drugs and cash, Coleman executed these witnesses to his betrayal of McCullough.

5] Coleman bragged that Avis Welch cried and begged for life, asking that Coleman do anything, including rape her, if he would simply spare he life. In response, Coleman shoved her forehead onto the floor and executed her.

Coleman is proud of the fact that he executed helpless people.

6] By murdering three people in one week while on bond for another felony, Coleman has demonstrated that he has no place in society. Commuting his sentence would deny justice to his victims and to the citizens and courts.

1.

## II. HISTORY OF THE CASE

Dedrick Coleman was convicted, following a jury trial, for the offenses of First Degree Murder, Armed Robbery, and Home Invasion of Lance Hale and Avis Welch on July 16, 1990, in the Circuit Court of Cook County under case number 89CR-11750. After waiving a jury for sentencing, Dedrick Coleman was sentenced on December 12, 1990 to Death for the First Degree Murder convictions, thirty (30) years for the Home Invasion of each victim to be served concurrently, thirty (30) years for the Armed Robbery of Lance Hale to be served consecutively to the Home Invasion conviction of Lance Hale, and sixty (60) years for the Armed Robbery of Avis Welch to be served concurrently to the Home Invasion conviction of Avis Welch.

Dedrick Coleman appealed his conviction to the Illinois Supreme Court which affirmed his convictions and sentences on February 3, 1994. Rehearing was denied on April 4, 1994. *People v. Coleman*, 158 Ill. 2d 319, 633 N.E. 2d 654 (1994). (A copy of said opinion is attached hereto as Exhibit 1)

On October 5, 1994 the United States Supreme Court denied Coleman's Petition for Writ of Certiorari. *Coleman v. Illinois*, 513 U.S. 881, 130 L.Ed. 2d 143, 115 S.Ct. 215 (1994).

Dedrick Coleman filed a Petition for Post-Conviction Relief which was dismissed without an evidentiary hearing and filed an appeal of the dismissal to the Illinois Supreme Court.

On October 1, 1998, the Illinois Supreme Court affirmed in part and reversed in part the dismissal of the Post-Conviction Petition and remanded the Petition for an evidentiary hearing regarding claims that the prosecution failed to disclose evidence favorable to the defense and ineffective assistance of trial counsel. *People v. Coleman*, 183 Ill. 2d 366, 701 N.E. 2d 1063 (1998). (A copy of said opinion is attached hereto as Exhibit 2)

An evidentiary hearing was conducted and the Petition for Post-Conviction Relief was denied on February 17, 2000. At that hearing, the recanting witness was severely impeached and the court found her testimony incredible. Similarly, Coleman's other claims were rejected as they were developed, briefed by both sides and argued to the court. Dedrick Coleman filed an appeal from the denial of his Post-Conviction Relief to the Illinois Supreme Court, oral arguments have been heard. That Appeal is currently pending.

### **III. STATEMENT OF FACTS**

Approximately one month prior to the murders of Lance Hale and Avis Welch, Dedrick Coleman had a falling out with a person by the name of Alex McCullough. McCullough was a drug dealer and the boyfriend of Coleman's sister, Fredricka Coleman. Dedrick Coleman worked for McCullough selling

drugs and McCullough believed Coleman had stolen seven ounces of cocaine and \$2,000 from him.

On the evening of April 25, 1989, Dedrick Coleman went to the home of his cousin, Victor Truell. Coleman told Truell he was going to “score” on the dope house of Alex McCullough, who went by the nickname of “Main”. Coleman told Truell he was going to “scope out” McCullough’s drug house located at 43<sup>rd</sup> and Princeton, in Chicago, for the purpose of robbing it. Truell related that Coleman was dressed in all black and was wearing gloves and sunglasses. Truell also related that Coleman was armed with a gun he had seen Coleman carrying in the past.

At approximately 5:30 or 5:45 a.m. on the morning of April 26, 1989, Aldene Lockett was in her bed on the second floor of a two flat building located at 4314 S. Wells in Chicago. Lockett heard people talking downstairs by the back window of the first floor apartment. Lockett got out of bed and heard a gunshot and something fall from the area where the shot had been fired. After a couple of moments passed, Lockett heard two more shots that sounded like they came from the kitchen in the first floor apartment. Ms. Lockett then observed an individual dressed in all black with dark sunglasses on. She described him as between 5’6” and 5”8” in height and dark complected.

At approximately 9:00 a.m. that same morning, members of the Chicago Police responded to that location after receiving a message of a person shot there. Inside the front room of the first floor apartment at 4314 S. Wells, police

discovered the body of Avis Welch. She had suffered a gunshot wound to the top of her head. The bullet had exited the side of her head and was never recovered.

In the back bedroom of the same apartment, police discovered the body of Lance Hale. Hale, who sold drugs for McCullough, was laying face up with a gunshot wound to the left temple. The officers also noted a bullet hole in the window in the same bedroom window. Hale's body was discovered in a direct path from the bullet hole in the window.

In the apartment, the police recovered 3.6 grams of cocaine, alcohol, baking soda and a mirror, which apparently was used to cut, mix, and cook drugs. Police also recovered a strong box that contained handgun ammunition and a small amount of money. The strong box was discovered on top of a refrigerator.

The Cook County Medical examiner performed an autopsy on the bodies of Hale and Welch. Welch suffered a contact gunshot wound to the back of her head. She also had bruising and abrasions on the inside of her lip that were consistent with having had her face pushed into the ground. No bullet was recovered from her during the autopsy.

Lance Hale suffered a gunshot wound to the left side of his head. Around the entry wound, there were small areas of abrasion and superficial lacerations consistent with his having been shot through glass. A bullet was recovered from Hale's head.

That same morning, Coleman asked Victor Truell to go to court with him as Coleman had a pending drug case at the time. While going there, Coleman

told Truell that he had killed two people at 43<sup>rd</sup> and Princeton. Coleman related he got into the house by trying to buy a bag of cocaine for \$8.00. He related he gave the guy \$8.00 and as the guy turned, Coleman shot him through the window. He told Truell the guy he shot worked for Alex McCullough selling drugs.

Coleman related that he then opened the window and entered the apartment. Coleman stated he found the girl in the apartment and she tried unsuccessfully to grab his gun. Coleman stated she told him she only had two dollars and told him he could have it, rape her, or do anything else to her, but begged him not to kill her. While she was begging for her life, Coleman made her get down and shot her in the head.

Coleman stated he took \$400.00, three rings and a gold chain from the male victim and showed Truell the jewelry.

On the evening April 30, 1989, Coleman again went to the home of his cousin, Victor Truell. Accompanying him were his girlfriend and Francisco Rico Balberas (Rico). The four of them went to Coleman's sister Sophia's home located at 821 E. 41<sup>st</sup> Street in Chicago. Also living at that location was Sophia's three children and Coleman's other sister, Laurarence, and her child.

Once at the apartment, Coleman spoke with his two sisters about McCullough. He wanted to know what time McCullough had left, where he parked his car, if he carried a gun on him and how much money he carried. Coleman's sister, Laurarence, asked him if he was planning to kill him and noticed Coleman had a gun with him. As they were getting ready to leave Sophia's home, Victor Truell opened the door and saw McCullough standing

there. Truell attempted to close the door but was unable to do so. McCullough entered the apartment.

As McCullough entered, everyone began to run. At that time, Coleman took out his gun, grabbed Sophia by the neck, and while using her body as a shield, began firing his gun at McCullough. McCullough produced his own gun and began firing at the ceiling, apparently not wanting to shoot Sophia. Coleman shot McCullough who fell to the floor. Coleman subsequently died from his injuries. Coleman and his girlfriend left the apartment. As Rico left the apartment, he kicked the gun out of the hand of McCullough, took it, and put it in a garbage can on another floor.

Later that day, Coleman went to Truell's home with a bottle of Champagne and told Truell that he wanted it said he shot McCullough in self- defense. At that time, Coleman and Truell talked about turning themselves in on the McCullough murder. Truell contacted the police and they responded to his home. After arriving at the police station, Truell told them not only about the circumstances of the McCullough murder, but also about the Hale and Welch murders. The police then went back to the scene of the McCullough murder and recovered a fired bullet.

On May 2, 1989, Aldene Lockett came to the police station where she viewed a line-up that included Coleman. Lockett stated that Coleman looked like the person she saw leave the apartment where Hale and Welch were murdered as he had the same complexion and physical characteristics. The police then requested each participant in the line-up wear a pair of sunglasses and all did,

except Coleman who refused to wear them. Lockett again reiterated that Coleman fit the description of the person she saw leave the first floor apartment immediately after the shootings took place.

On May 4, 1989, while in custody for McCullough's murder, Coleman contacted Rico. Telephone records indicated three calls were placed from the jail in the same tier where Coleman was housed to the home where Rico lived on three successive days. Rico stated Coleman told him he had a job for him and wanted him to "get rid" of the .38 caliber gun he had used in the shootings. Coleman wanted Rico to destroy it by jamming something in the barrel, taking the gun apart and throwing it in the sewer. Coleman told Rico where the gun was and that he would give him "work", meaning drugs, and \$600.

Rico went and got the gun and gave it to his (Rico's) cousin and told him to get rid of it. Two days later, Rico spoke to the police. Rico told the police about the double murder and led them to where his cousin had disposed of the gun. The police recovered the .38 caliber gun.

A firearms examiner compared the bullet from the scene of the McCullough murder with test-fired bullets from the recovered gun and concluded the recovered bullet came from the recovered .38 to the exclusion of all other guns. A bullet recovered from the body of McCullough was also compared to the test fired bullets from the recovered .38 and it was determined that the bullet from McCullough's body came from the recovered .38 to the exclusion of all other guns.

The bullet recovered from Lance Hale's body was compared with test fired bullets from the recovered .38 and it was determined that the bullet from Hale's body came from the same manufacturer, had the same caliber, had the same rifling, same twist and same lands and grooves as the test fired bullet, but due to the amount of damage to the bullet recovered from Hale's body, the firearms examiner was unable to make a positive determination that the bullet from Hale's body was fired from the recovered .38 caliber gun.

In early May of 1989, Coleman made a call to Roscita Balberas, the sister of Rico. During that call, Coleman admitted to killing McCullough. Coleman also related to her about how he had killed a man and a lady at the "spot" and how the lady had begged for her life before he shot her in the head. Coleman then told her to tell her brother Rico to have Rico's brother, "Gator", kill Victor Truell so he wouldn't be able to testify against him.

Herbert Arch was a cellmate of Colemans while the two were in segregation at Cook County jail while the McCullough murder case was pending. They were together for two and a half days. Coleman told him he was locked up for killing his brother-in-law, "Main". Coleman related he had previously gone to prison for his brother-in-law for "ripping" off meat trucks and "Main" was supposed to have paid him \$4600 or \$4700 for that, but never did. Coleman had previously been charged with theft and had been caught by the FBI and Chicago police in a rented truck with 118 cases of stolen beef. In that case, Coleman had told the police he had received \$300 from "Main" (Alex McCullough) for taking the meat from one rental truck and transferring it to

another truck; the same truck that Coleman got caught in by the police with the stolen meat. Upon attempting to learn "Main's" identity, Coleman refused to tell the police "Main's" real name.

Coleman related to Arch that because his brother-in-law never paid him, he made up his mind that once he got out of the pen; he was going to kill him. Coleman then related that after he got out of the pen, he began selling drugs for his brother-in-law again. Coleman related he had gone to one of McCullough's dope houses one night and told a lady that his brother-in-law said for her to give him (Coleman) seven ounces of cocaine and some money. Coleman said she gave that to him and his brother-in-law was looking for him for ripping him off.

Coleman then stated he was at his sister's house when "Main" came over. Coleman said he grabbed his sister and "Main" didn't exactly shoot at him but that he had his gun out. Coleman related "Main's" shots went up in the air and Coleman then shot "Main" with a .38 that had two or three murders on it. Coleman stated he used the same gun to kill McCullough as the two people at the drug house.

Coleman then told Arch about the drug house murders. He said he went to a drug house on the south side that belonged to his brother-in-law, "Main". Coleman told him how he went to the window and knocked on it to make the guy think he wanted to buy cocaine. Coleman related when the guy reached for the money, he shot him in the face through the window. Coleman stated he lifted up the window and went inside and found the lady. Coleman stated once the lady saw him, she begged for her life. Coleman said he couldn't leave any witnesses

so he made her lie down and shot her in the head. Coleman told Arch he took money, drugs and jewelry and left and that Rico was supposed to have the gun destroyed.

Coleman told Arch that his cousin Victor had told on him, but he wasn't worried, as his father had taken Victor somewhere to make sure Victor never came to court. Coleman related he hated all of his family and when he beat his cases, he was going to kill all of them.

J.C. Hallom, the cousin of Rico Balberas, testified in May of 1989, he took a gun from his cousin Rico. J.C. stated he knew the gun belonged to Coleman and believed the gun had a lot of "stuff" on it and it wasn't good for Rico to have it.

Hallom stated he took the gun to a sewage area and dropped it down. Hallom stated a couple of days later, after the police had picked up Rico, he went back to the sewer and fished out the gun, put it in a bag and told Rico where it was. The police and Rico then came and got the gun.

Coleman was ultimately convicted for the murders of Hale and Welch, as well as armed robbery and home invasion on December 12, 1990. He waived the jury and was sentenced to death. In April of 1994, the supreme court affirmed Coleman's convictions and sentences. 158 Ill.2d 319 (1994). On March 31, 1995, Coleman filed a post-conviction petition which was dismissed without a hearing on June 4, 1996.

Coleman appealed the dismissal and the supreme court used his appeal to clarify that any well-pled facts must be taken as true. Thus, Lockett's affidavit

stating that Coleman did not have the same complexion as the shooter and that defense counsel never tried to contact her was found to be sufficient to order a hearing. If Lockett's affidavit was taken as true then a Brady violation occurred in withholding favorable evidence and defense counsel was ineffective for failing to discover this. Thus, the hearing focused on the credibility of Lockett's recantation.

During the course of post-conviction proceedings, Coleman repeatedly tried to litigate collateral, irrelevant and inflammatory issues. While Coleman did not confess or ever complain of mistreatment, he attempted to obtain discovery from unrelated matters contained in OPS files. While Coleman never complained of jury selection, he branded a prosecutor as being a racist after a newspaper article reported the prosecutor's judicial application did not list a case [totally unrelated to Coleman's murders] that was remanded for a Batson hearing. Coleman persisted in attempting to delve into matters wholly irrelevant to the remanded issues, solely to impugn the integrity of the witnesses who exposed the perjurious nature of Lockett's recantation.

Lockett's recantation was thoroughly impeached with her prior statements to police, prosecutors and testimony at trial. Coleman's trial counsel testified that he tried to interview Lockett who refused to speak to him. Lockett admitted that defense counsel may have spoken to her. The post-conviction court denied the petition finding Lockett's recantation incredible and further found no basis for ineffectiveness. This ruling is now on appeal.

#### IV. REASONS FOR DENYING THE PETITION

Coleman does not contend that he has evidence of innocence. Coleman relies upon boilerplate arguments against the “system.” Coleman also relies upon arguments that have been rejected by the trial court and which are totally unsupported in fact or law. The denial of Coleman’s post-conviction petition after an evidentiary hearing is pending on appeal. The Illinois Supreme Court has heard oral arguments and an opinion is imminent.

A brief history of post-conviction proceedings is necessary to expose the specious nature of Coleman’s unsupported assertions. Prior to 1998, there was confusion in post-conviction litigation on the standard necessary for post-conviction petitioners to be entitled to an evidentiary hearing. The Supreme Court used the appeal of the dismissal of Coleman’s first post-conviction petition to clarify the standard. 183 Ill.2d 363.

In Coleman, the court held that all well-pled facts must be taken as true, and that even though Lockett had testified that Coleman looked like the shooter having the same height, build and color, that her subsequent recantation must be accepted. This acceptance is only used to determine whether subsequent hearings are necessary to explore the recantation’s veracity. Accordingly, a hearing was held, Lockett waffled, retracting much of her recantation and the trial court found her recantation incredible.

Prior to this hearing, a newspaper article stated that the trial prosecutor, recently appointed judge, had failed to include on his judicial application, the fact that another case had been reversed for a Batson violation. The ARDC

ultimately had a hearing and the prosecutor was cleared of any misconduct. After the article ran, however, Coleman's counsel came to court with a 1401 petition for a new trial. The alleged basis for the 1401 petition was that since the other, unrelated jury was selected in violation of Batson, the prosecutor must have discriminated in Coleman's jury selection. The post-conviction court denied this petition.

Similarly, one of the detectives who conducted the line-up testified, impeaching Lockett. After his testimony, Coleman's counsel asked to discover documents concerning alleged coerced confessions by police working in Area 2 in the 1980's. The court found these documents were irrelevant to Coleman's case. Coleman never confessed nor alleged any misconduct on this detective's behalf until after he had testified at the post-conviction hearing and after someone "brought to his attention" the materials concerning Area 2.

Thus from unrelated matters that have nothing to do with Coleman or his cases, his attorneys have culled irrelevant allegations designed solely to assassinate the character of the police and prosecutors with no basis in good faith, law or fact. Further, Coleman makes these bald assertions to the Board without conceding the many rulings against when trying to inject these inflammatory, unsupported allegations into the proceedings.

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. Moreover, petitioner ignores the fact that every court which has examined the proceedings in his case determined that they were fundamentally fair and that he was not unduly prejudiced in any manner.

### Supreme Court Rules

Petitioner asserts that he is entitled to clemency because the new Supreme Court Rules governing capital cases were not applicable to his proceedings. However, the Illinois Supreme Court has clearly held that the amendments to its rules are not retroactively applicable. Hickey, 2001 Ill. LEXIS 1080 at \*65.

### Adequate Funding

Petitioner asserts that he is entitled to clemency because he was denied adequate funding to investigate the case and/or to retain the necessary expert witnesses. However, despite the creation of the Capital Litigation Trust Fund, there is no indication that any capital defendant in Illinois, particularly those prosecuted in Cook County has ever been deprived of the necessary funds to investigate or retain appropriate experts. Rather, courts have denied various requests which are deemed unreasonable or unnecessary, the same standard which applies for funds under the Capital Litigation Trust Fund. 725 ILCS 124/15(c). Also, the Cook County Public Defender has significant resources available for capital litigation. Therefore, the mere fact that the Capital Litigation Trust Fund was not created until 2000 is irrelevant.

### Videotaping

Petitioner also seeks clemency because his statement where he inculpated himself was admitted into evidence even though it was not videotaped, and points out that under the Governor's Commission's proposals both statements and the interrogations leading up to them should be videotaped.

What petitioner fails to recognize is that neither the Commission nor the governor himself call for the suppression of a statement simply because it was not videotaped. Rather, even under the Governor's proposed legislation (HB3717 & HB2058), such statements will still be admissible if the trial court finds that it was voluntarily made after considering the totality of the circumstances.

As to recording Lockett's statements, her identification was always tentative and her testimony set the time and gave some circumstances of the double murder. This testimony corroborated testimony from Coleman's associates to whom he bragged of the killings. Where the recommendations do not advocate suppressing a defendant's unrecorded confession, certainly they do not intend to suppress tentative identifications of circumstantial witnesses.

#### Line-up Procedures

Around 5:30 a.m. or 5:45 a.m. on April 26, 1989, Aldene Lockett, who lived above the drug house at 43d and Princeton, heard voices coming from the drug house. Shortly thereafter, Lockett heard a shot and something fall. Lockett later heard two more shots and then a door open. At this time, Lockett looked out her window and saw a young man around 5 feet 6 inches to 5 feet 8 inches tall dressed in black and wearing sunglasses.

Lockett viewed a line-up and tentatively identified Coleman as being the same build and color as the shooter. At trial, she was asked open-ended questions about the line-up and never stated that there was any suggestion. In fact, she herself, described Coleman as being the same "color" as the shooter.

Coleman's assertion that the line-up was suggestive, is simply false, as are the rest of his self-serving, inflammatory allegations.

Thus, the complaint that the line-up was not videotaped is baseless where this matter was fully explored at trial and at post-conviction hearing. If Coleman's position is adopted then all convicted felons must be given clemency as none of them ever had their line-ups recorded. This argument conveniently ignores the wealth of other evidence provided by other witnesses concerning Coleman's guilt and the fact that Lockett's identification was always tentative.

Similarly, the fact that the line-up was conducted by a detective familiar with the case, that there was not a "sequential" presentation; that the witness was not informed that the suspect might not be in the line-up; or that a statement of "confidence" was not recorded are simply reiterations of procedure and evidence routinely adduced when line-ups are considered at motions or trial.

Here, Lockett's identification was recorded as tentative with details of similarities given. Thus, her confidence level was recorded. The line-up was recorded photographically so its sequence and conformity could be analyzed. Lockett was simply told to view the line-up and was not suggested to in any manner. Therefore, the proposal cited by Coleman does not affect his case and certainly is not grounds for clemency.

Despite the fact that these allegations were denied by the post-conviction court, Coleman asserts them here without any acknowledgement of that fact. Coleman simply offers a list of inflammatory assertions with no support whatsoever. The post-conviction court found the recantation to be a recent-

fabrication. The ARDC cleared Jack Hynes of any misconduct and there never was any good-faith basis for the insulting character assassination launched by Coleman against him.

Similarly, Coleman's counsel was present when a representative of the city brought Maslanka's records into court. Counsel was present when this representative reported that Maslanka had no major blemishes in his lengthy employment. Counsel was certainly aware that the court found this area of discovery wholly irrelevant and collateral when he denied it.

As to ineffectiveness, Coleman was present when Lockett testified that defense counsel might have spoken to her. He was also present when defense counsel described his attempts to speak to Lockett, including visiting her home. Yet, in utter disregard of this sworn testimony, these matters are totally misrepresented in the petition.

#### Written Confirmation of Discussions with Witnesses

Yet again, Coleman makes a bald assertion with absolutely no basis in fact. The record is replete with evidence that witnesses against Coleman were fully cross-examined regarding any interest or motive they might have had. Further, defense trial counsel testified that he knew Lockett wanted to be relocated out of her of retaliation and that attempts were being made to find her a new home. Defense counsel was not only aware of witnesses' criminal history and or pending cases, but also testified about making strategic decisions on how much of this he would elicit in front of the jury. Where the jury was fully informed about the circumstances of witness cooperation, and courts have never

previously required that the details be in writing [only that they be disclosed], Coleman has no basis for clemency.

#### Forensic Evidence

Coleman simply states that forensic evidence used against him was not analyzed by an independent lab. True to form, Coleman simply states this with no analysis or support. There never was or has ever been any contention that any evidence analyzed was mishandled. Furthermore, the only forensic evidence in Coleman's case was ballistics comparisons. Coleman always had the ability to hire his own experts. Therefore, this recommendation would not affect Coleman's convictions.

#### Decision to Seek Death

Petitioner claims his sentenced 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 C]ourt 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.

#### Informant testimony

Coleman was fully apprised of the circumstances of Herbert Arch's evidence and Arch's background. The cross-examination conducted during Arch's testimony reveals that this proposal would not affect Coleman's case. Petitioner alleges that clemency should be granted because a jailhouse informant testified at his trial even though there was no pre-trial hearing to determine the reliability of such a witness. However, such a claim ignores the fact that both the trial court (and the Illinois Supreme Court) determined that the evidence was relevant and probative before admitting the testimony into evidence. Petitioner also ignores the fact that the trier of fact heard the evidence, and after considering the credibility of the witness and all the attendant circumstances deemed the testimony reliable.

#### Eyewitness Expert and Instruction

Coleman contends that his jury did not receive an instruction regarding eyewitnesses as proposed by the Ryan Commission. Current instructions are totally sufficient and the proposed instruction improperly highlights a single type of evidence.

As to an eyewitness expert, proposed testimony of this type can only invade the province of the jury. This is especially true where it is well within the ken of a layman to use his own experiences in adducing the ability to observe.

The only true purpose in presenting an “eyewitness expert”, hired by a criminal defendant, would be to tell a jury that the witnesses could not see what the witnesses testified that they did see. Clearly, the jury and only the jury, must weigh this type of evidence.

#### Benefits for testimony

Coleman alleges that clemency should be granted because discussions concerning witness benefits were not reduced to writing. Again, Coleman ignores the fact that any benefit [such as relocation] were fully disclosed to the defense. Such a claim also ignores the fact that both the trial court (and the Illinois Supreme Court) determined that the evidence was relevant and probative before admitting the testimony into evidence. Petitioner also ignores the fact that the trier of fact heard the evidence, and after considering the credibility of the witness and all the attendant circumstances deemed the testimony reliable.

#### Statutory Mitigating Factors

This boilerplate argument is wholly inapplicable to Brooks who is simply a cunning, vicious street criminal. Petitioner complains that his jury was not instructed to consider as statutory mitigating factors the fact that he had a history of extreme emotional or physical abuse and/or that he suffers from reduced mental capacity. However, although the jury was not expressly instructed to consider these factors, it was instructed that mitigating factors include “any reason why the defendant should not be sentenced to death” and that it should consider all mitigating evidence even if it does not pertain to one of the enumerated factors. Illinois Pattern Jury Instruction 7C.06.

### Allocution

Petitioner also claims that clemency is appropriate because he was denied the opportunity to make a statement in allocution at his sentencing hearing. This allegation is totally false as demonstrated by the record. Coleman **was** granted the opportunity and did address the sentencing court prior to pronouncement of the sentence. Therefore, Coleman was given every opportunity to address the court. This is true even though the Illinois Supreme Court stated long ago, “an unsworn statement to the sentencing jury [to be] consider[ed] along with testimony given under oath and the arguments of counsel would at the least confuse the jurors, and might also impair their ability to weigh the aggravating and mitigating factors.” People v. Gaines, 988 Ill. 2d 342, 380, 430 N.E.2d 1046 (1981). Moreover, petitioner not only was allowed to address the sentencing court, but was able to rely upon his witnesses in mitigation and his attorney’s closing argument. Therefore, he was given every opportunity to present himself to the trier of fact before he was sentenced.

### Statutory Mitigating Factors

Petitioner complains that his jury was not instructed to consider as statutory mitigating factors the fact that he had a history of extreme emotional or physical abuse and/or that he suffers from reduced mental capacity. However, although the jury was not expressly instructed to consider these factors, it was instructed that mitigating factors include “any reason why the defendant should not be sentenced to death” and that it should consider all mitigating evidence

even if it does not pertain to one of the enumerated factors. Illinois Pattern Jury Instruction 7C.06.

### **CONCLUSION**

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

Respectfully submitted,

RICHARD A DEVINE  
State's attorney of Cook County

Celeste Stewart Stack  
John Dillon