

OCTOBER 2002 SESSION
PRISONER REVIEW BOARD
STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)

)

Docket No.

vs.)

)

LATASHA PULLIAM,)

)

Inmate No. B-48640

)

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

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

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HEARING REQUESTED

RICHARD A. DEVINE
STATE'S ATTORNEY OF COOK COUNTY

By: LINDA WOLOSHIN
CATHERINE SANDERS

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I

HISTORY OF THE CASE

Petitioner was arrested on March 21, 1991 after kidnapping, raping and torturing to death six-year-old Shenosha Richard. She was indicted for murder, aggravated criminal sexual assault and aggravated kidnapping. A jury returned verdicts of guilty on all counts of all of the charges, found petitioner eligible for a sentence of death and found no mitigating factors sufficient to preclude a sentence of death. Her co-defendant, who was not present in the apartment when Shenosha Richards was tortured and murdered, received a sentence of natural life. Petitioner's convictions and sentences were affirmed by the Illinois Supreme Court in People v. Pulliam, 176 Ill. 2d 261, 680 N.E.2d 343 (1996) On February 9, 1996, petitioner filed a *pro se* petition for post-conviction relief. The Office of the State Appellate Defender subsequently filed an amended petition on September 18, 1998. The People filed a motion to dismiss the petition on March 19, 1999. On April 28, 1999, petitioner filed a response to the People's motion to dismiss. Arguments were heard on August 18, 1999 and on January 13, 2000. The People's motion to dismiss was granted. Notice of Appeal was filed on February 3, 2000. On May 21, 2001, petitioner filed her

Brief and Argument. On December 19, 2001, the People filed their Brief and Argument. On April 22, 2002, petitioner filed her reply brief. On May 14, 2002, argument was heard before the Illinois Supreme Court. Their decision is pending.

II

FACTS OF THE CASE

(The Crime)

Latasha Pulliam raped six-year-old Shenosha Richards with the handle of a hammer. When she was finished raping Shenosha, petitioner tortured her to death. She then threw the child in a garbage can where she was found by her mother. Prior to these crimes, petitioner had tortured her own baby, by scalding her when she was six months old and by beating, burning and sexually assaulting her before she was fifteen months old. The People begin their Statement of Facts with petitioner's sanitized version of the crimes, damning enough despite her attempts to minimize her culpability.

According to petitioner (hereinafter defendant), on March 21, 1991, at approximately 3:30 p.m., she was at the lots down the alley from her house. (R. 1077-1078) According to defendant, Shenosha Richards called to her and asked if she could come to defendant's house. (R. 1078) Defendant said "yes" and Shenosha went with her willingly. (R. 1078) When they arrived upstairs at her third floor apartment at 6036 South Eberhart, Dwight Jordan was there. (R. 1076, 1078) Defendant lived with Jordan, who was nicknamed Tank. (R. 1077)

Defendant told Shenosha to sit down and watch television, which Shenosha did. Tank was

with her. (R. 1079) Defendant left them and went to finish the rest of her cocaine. (R. 1079) When defendant returned to the bedroom a half an hour later, Shenosha was on the floor crying. (R. 1079) Her white underwear was down to her kneecaps. (R. 1079-1080) Tank was behind her on the floor, taking out his penis, trying to get it hard. (R. 1080) He was unsuccessful. (R. 1080) Tank then took a white shoe polish bottle and inserted it in to Shenosha's rectum, while defendant watched and listened from the front room. (R. 1080-1081) Shenosha cried, asked him to stop and said she wouldn't tell anyone. (R. 1081) Tank told defendant to get the hammer. (R. 1081)

Defendant took the hammer, put saliva on it and inserted the straight end of it into Shenosha's vagina. (R. 1081) At the same time, Tank was inserting the white shoe polish bottle in and out of her rectum. (R. 1081) This continued for about ten minutes. (R. 1082) During that time, Shenosha was still crying, still asking them to stop and still saying she wouldn't tell anyone. (R. 1082) When they stopped, defendant put her hand on Shenosha's mouth. (R. 1082) Shenosha was trying to scream. (R. 1082) Defendant took her hand off Shenosha's mouth and walked to the cabinet in her living room. (R. 1082-1083)

Defendant got a television cord which she put around Shenosha's neck, so that the ends of the cord were in the back. (R. 1083) She started to strangle her, according to defendant for the purpose of scaring her. (R. 1083) They then walked into the empty apartment down the hall and behind defendant's apartment. (R. 1083) Defendant stepped on the doorstep and kicked it. (R. 1084) Shenosha fell into the nail. (R. 1084) [Shenosha would have had to have fallen onto the nail twice since she had two puncture marks to her heart and lung] She was naked. (R. 1084) Defendant took her into the kitchen, where she started a fire to scare her. (R. 1084) It seemed to defendant that she succeeded. (R. 1084) Shenosha said, "don't hurt me. I love you." (R. 1084) She said, "I like the places

you take me to, the things that you buy." (R. 1084-1085) Defendant answered, "I'm not going to burn you or try to hurt you, kill you." (R. 1085) Defendant put the fire out. (R. 1085) She then walked with Shenosha to the back to the apartment. (R. 1085) She led her with the cord that was still around her neck. (R. 1085) Shenosha said she wasn't going to tell anyone but she would have to tell her parents. (R. 1085) Defendant pulled the cord tighter. (R. 1085) She continued to do that for about ten minutes. (R. 1085-1086)

Defendant heard a knocking at the back door of her apartment. (R. 1086) She put Shenosha in a closet in the empty apartment and threw her white gym shoes out of the window. (R. 1086) Defendant saw that Tank was gone. (R. 1086) She went back to the closet and saw that Shenosha wasn't breathing. (R. 1086-1087) Defendant took the hammer she had earlier inserted into Shenosha's vagina and hit her on the head three or four times. (R. 1087) Defendant then picked Shenosha up and put her into the garbage can. (R. 1087) She took a foot long, two by four, and hit her again on the head. (R. 1087) Defendant tried to cover Shenosha up with the garbage. (R. 1088) After doing that, defendant closed both of the doors and started to go outside. (R. 1088)

Tank and Shenosha's mother and sister came up to the apartment, wanting to know where Shenosha was. (R. 1088) Defendant told them she hadn't seen her. (R. 1088) Shenosha's mother and sister looked all over defendant's apartment and then left. (R. 1088) Tank stayed. (R. 1089) Five minutes later, Shenosha's mother and sister returned to the apartment, again looking for Shenosha. (R. 1089) Defendant lied to them again and said she had just seen her in the front. (R. 1089) They went into the front sun den. (R. 1089) Defendant threatened to call the police. (R. 1089) As defendant went out the back door, she heard a scream. (R. 1089) She then ran into the second apartment. (R. 1089) That was petitioner's statement to the assistant state's attorney.

In March of 1991, Emma Richards lived at 6001 South Vernon with her two daughters, Kenosha, who was sixteen years old, and Shenosha, who was six years old. (R. 585, 586, 587, 634-635) Mrs. Richards had known Dwight Jordan for approximately twelve years. (R. 587) She knew that he was with Latasha Pulliam. (R. 588) Mrs. Richards had known Latasha Pulliam off and on for almost a year. (R. 588)

On the evening of March 20, 1991, Mrs. Richards had a conversation with Shenosha shortly before Shenosha went to bed. (R. 589) Shenosha asked Mrs. Richards if she knew Dwight Jordan's girlfriend. (R. 590) When Mrs. Richards said that she did know defendant, Shenosha told her that defendant had taken her to the park, to kiddyland, and that she had a good time. (R. 590) Mrs. Richards told Shenosha that she was not to go anywhere with a stranger. (R. 591)

The next morning, Mrs. Richards took Shenosha and Kenosha to school and then continued on to Olive Harvey where she was in the work-study program. (R. 587, 591, 635) When she returned home, at approximately 2:30 in the afternoon, she saw Shenosha, accompanied by another little girl, on the corner of 60th and Vernon, walking towards the house. (R. 592) Mrs. Richards put Shenosha in the car and took her to the corner where she bought her a pickle and some chips. (R. 592) They then went up to their fourth floor apartment. (R. 593)

It was a nice day and Shenosha wanted to go outside. (R. 593) She said she'd be good and wouldn't go with anybody. (R. 594) Mrs. Richards agreed to let her go out. (R. 594) It was about 3:00 in the afternoon. (R. 594)

Shortly after Shenosha went out, Kenosha came home. (R. 594) She saw Shenosha outside, playing with some other children. (R. 636) About twenty minutes later, Kenosha went outside. (R. 596, 637) She went across the street where she visited with a friend for approximately thirty minutes.

(R. 638) When she left, she saw the children that Shenosha had been playing with. (R. 638) Shenosha was not with them. (R. 638) Kenosha asked the other children where her sister was. (R. 639) A little girl told her that Shenosha had gone with her auntie to the movies. (R. 639)

When 14-year-old Brian Lynch returned from school on March 21, 1991, he saw six-year-old Shenosha Richards on the corner of 61st and Vernon with some other children. (R. 569, 570) He saw Shenosha go into the little corner grocery store with defendant. (R. 570-571) When they came out, defendant had a bag of chips. (R. 571) They walked across the street to the vacant lot. (R. 572) They were holding hands. (R. 573) Dwight Jordan walked up to them and spoke to them. (R. 573) After Brian reached his home, he saw defendant, Jordan and Shenosha again. (R. 574) They were going up the back steps to the third floor, into the back door. (R. 574)

Kenosha went back to her building and telephoned her mother on the intercom system. (R. 596, 640) Kenosha told Mrs. Richards that Shenosha wasn't outside. (R. 597) She asked her mother if she knew that Shenosha had gone to the movies with her Aunt Vanessa. (R. 640) Mrs. Richards said "no." (R. 640) She told Kenosha to find her. (R. 597, 641)

Kenosha went first to Washington Park, across the street from their house. (R. 641) Shenosha was not there. (R. 641) As Kenosha went back towards her house, she met and spoke with Leslie Moon. (R. 642, 713) Mrs. Moon told Kenosha to go home and tell her mother that she had seen Shenosha with defendant. (R. 714)

Mrs. Richards told Kenosha to go to the corner of 60th and Vernon. (R. 642) At that location, Kenosha saw Dwight Jordan. (R. 642-643) She told Jordan that her mother had told her to get him so he could take her over to his girlfriend's house to get Shenosha. (R. 644) Kenosha went to 6036 Eberhart with Dwight Jordan. (R. 648) They went through the back of the building to the fire escape

entrance. (R. 648) At the third floor, Jordan knocked on the door. (R. 649) Then Kenosha knocked on the door. (R. 649) After a delay, defendant opened the door. (R. 649)

They entered the apartment and Jordan told defendant, "This is Shenosha's sister." (R. 650) Kenosha asked defendant if she had seen Shenosha. (R. 650) Defendant told her that Shenosha had gone on a bike with a boy. (R. 650) Kenosha went back down the fire escape. (R. 650) She walked through the alley toward Vernon where she saw her mother. (R. 599, 651)

Mrs. Richards had dressed and was also looking for her daughter. She had gone to Washington Park, which was divided into kiddyland and a park area. (R. 598) She then met Kenosha in the middle of the block at 60th and Vernon and they went to the back of 6036 Eberhart. (R. 599, 651) They went up the fire escape to the third floor. (R. 600, 651, 716) Mrs. Richards knocked. (R. 600, 652, 717) No one answered. (R. 600, 652, 717) She knocked again. (R. 600, 652) Again, there was no answer. (R. 600) The third time she knocked, Mrs. Richards heard motion in the house. (R. 601) Dwight Jordan came to the door, opening it just a little bit. (R. 601, 652, 717) Mrs. Richards asked where defendant was. (R. 601, 653) Jordan told her defendant wasn't there. (R. 601, 653) Mrs. Richards told him, "she's got my baby". Jordan said he didn't know anything about that. (R. 601)

Kenosha went into the apartment, followed by Mrs. Richards. (R. 602, 653) Defendant was inside, lying on a mattress on the floor with a sheet covering her body. (R. 602) Mrs. Richards had some words with defendant. (R. 654) She asked defendant where her baby was. (R. 603, 654) Mrs. Richards told defendant that she knew defendant had taken her daughter to the park and that she should have knocked on her door or rang her bell to let her know. (R. 603) She told her if she hadn't found her child in five minutes, she would be back with the police. (R. 604) Mrs. Richards and Kenosha went back down the fire escape and walked to the back of the building. (R. 604, 654)

Damien Berry was sitting on a friend's porch next to 6036 South Eberhart when he saw defendant look out the third floor window and drop some baby shoes which fell to the ground. (R. 733, 734, 735)

At the back of the building, Mrs. Richards saw Leslie Moon, who lived at 6041 South Vernon, right behind the house where defendant lived. (R. 604, 655, 704, 721) Mrs. Moon knew defendant. (R. 705) On March 20, 1991, at approximately 4:00 p.m., Mrs. Moon saw defendant with Shenosha, whom she also knew. (R. 707, 711) Defendant was holding Shenosha by the hand and they were walking toward the park. (R. 711) A child skipped up to Shenosha but defendant stopped him before he reached her. (R. 712) They continued walking toward the park until Mrs. Moon lost sight of them. (R. 712)

When Mrs. Richards and Kenosha came down from defendant's apartment, Mrs. Moon told Mrs. Richards that there was only one way out and that she did not see anybody go out. (R. 605, 723) She told Mrs. Richards that defendant put something in the garbage can and that she had better go back up there. (R. 605, 655)

Mrs. Richards and Kenosha went up the steps to the third floor back porch. (R. 605, 724) The stairway was shaking. (R. 606) The door was locked. (R. 606) No one answered Mrs. Richards' knock. (R. 606, 656) She broke in. (R. 606, 656, 724) She saw defendant and Jordan in the kitchen putting out a fire on a baby mattress. (R. 607, 656-657) Defendant was now fully clothed, which she had not been when Kenosha saw her earlier. (R. 658) She and Jordan had just finished pouring water on the mattress and smoke was coming from it. (R. 608, 657) Mrs. Richards asked them what they were doing. (R. 608) Neither of them answered. (R. 608) Defendant told Mrs. Richards that she was going to call the police on her because she broke into her house. (R. 608, 658-659) She also told Mrs.

Richards that Shenosha was downstairs in the front with a boy on a bike. (R. 608, 658)

Mrs. Richards and Kenosha ran through the house to the window, which they opened. (R. 609, 659) Mrs. Richards began calling "Shenosha". (R. 609, 659) She didn't see her. (R. 609) She didn't hear her. (R. 609) She and Kenosha went back through the house and searched everywhere. (R. 609, 659) Mrs. Richards went through her closets. (R. 609) One door wouldn't open. (R. 609) While they were searching, defendant disappeared. (R. 609, 660)

Mrs. Richards asked Dwight Jordan what was going on. (R. 609, 660) Jordan answered that nothing was going on and that he didn't know anything. (R. 609) After searching the house, Mrs. Richards went to the porch. (R. 610, 660) She saw a little elbow in the garbage can that she thought was a doll. (R. 610, 660) She asked Jordan why he was throwing a doll away. (R. 610) He didn't answer. (R. 610) Mrs. Richards went and touched it. (R. 610) It was Shenosha. (R. 610) She was still warm. (R. 610) Mrs. Richards opened up the garbage can and pulled Shenosha out. (R. 610, 661) A cord was wrapped around her neck. (R. 610, 661, 726, 736, 743, 748)

Mrs. Richards picked up Shenosha's body and sat her down. (R. 611) Shenosha had blood coming from the bottom of her body, her chest and the back of her head. (R. 611, 661) She had no shoes on and wore only one sock. (R. 611) Her pants were below her knees. (R. 611, 661) She had no t-shirt or shirt on. (R. 611) There was vomit on her mouth. (R. 611, 743, 748-749) Mrs. Richards asked Jordan what they had done. (R. 611) Jordan was gone. (R. 611)

Mrs. Richards and Kenosha were screaming. (R. 612, 662, 724-725, 736, 748) Mrs. Richards cleaned Shenosha's mouth. (R. 611) She tried to revive her, to blow breath. (R. 611, 662) A man named Roger came running up the stairs and tried to help Mrs. Richards carry Shenosha down. (R. 612, 662) The stairs were shaking and wouldn't take both of them. (R. 612) Mrs. Richards told Roger,

"I'll carry her down." (R. 612) The police had come. (R. 612) Officer Aaron Cotton came up the stairs. (R. 663, 748) With his assistance, Mrs. Richards got Shenosha to ground level. (R. 612, 736, 749)

An officer asked Mrs. Richards, who held Shenosha in her arms, to let Shenosha lay there until a paramedic or ambulance came. (R. 612) The officer asked to take her. (R. 613) Mrs. Richards told the officer she would hold Shenosha and she would take her to the hospital herself because she could save her. (R. 612-613) They went to the emergency room of Bernard Mitchell Hospital in the back seat of a squad car. (R. 613, 663, 737, 749)

When the police left for the hospital, Damien Berry walked back to the front of the building. He heard a window shattering and then the noise of feet hitting the ground. (R. 737) The noise came from the same building the shoes were dropped from. (R. 738) Damien walked off the porch and looked to see what had happened. (R. 738) He saw defendant in front of the building. (R. 738) She was shaking blood off her hands. (R. 738) She started to walk northbound. (R. 738)

Damien ran around to the back of the building and told the police defendant was getting away. (R. 738-739, 797) Officer Larry Watson heard the crowd say, "there she goes, right there. She's running." (R. 797) Officer Watson went to the front of the building where he saw defendant running from the scene. (R. 797-798) He chased her to a house on Rhodes a block to a block and a half away. (R. 798) Kirk Singleton and his brother also gave chase. (R. 739, 745) They found defendant hiding in a basement entrance, her way blocked by accordion bars. (R. 746, 798-799) Officer Watson placed her under arrest. (R. 746, 799)

At Bernard Mitchell Hospital, Mrs. Richards put Shenosha down on a bed. (R. 613, 663) Doctors were waiting. (R. 614) Dr. Beth Keegstra performed a number of procedures on Shenosha, who arrived at the hospital with no pulse or vital signs whatsoever. (R. 787, 788) She was intubated,

attempts were made to establish intravenous access, CPR was performed and two needles were placed into her chest to decompress her lungs. (R. 787) She had punctures in her chest, bruises across her neck and blood coming from her rectum and her vagina. (R. 790) There was a lot of blood coming from the head area. (R. 790) There were multiple lacerations to her scalp which Dr. Keegstra could feel with her hand. (R. 790) She could hear the bones crushing under her hands. (R. 790) Doctors worked on Shenosha for twenty to thirty minutes. (R. 788) She was then pronounced dead. (R. 789) Mrs. Richards and Kenosha were permitted to see Shenosha one last time. (R. 614-615, 664, 789)

Forensic investigator Sanders processed the scene at 6036 South Eberhart on March 21st at 5:50 p.m. (R. 804) She photographed the scene and collected evidence, including a vial containing blood recovered from the dining room floor, a vial containing blood recovered from a closet, a bed sheet recovered from the sun porch and a pair of shoes recovered from outside the third floor window. (R. 805, 812, 813, 814)

Forensic investigator Thomas A. Reynolds returned to the crime scene on March 22nd at about 7:00 a.m. (R. 849) At the direction of Sergeant Jack Ridges, he photographed and recovered a triangular piece of wood with a nail protruding, a child's sock, Mickey Mouse sweatshirt and blue little flowered undershirt, green and white towel with brownish stains and a white plastic shoe polish bottle. (R. 850, 852, 853, 854)

Criminologist Denise Troche examined the evidence recovered by Officers Sanders and Reynolds, as well as by the Crime Lab. (R. 861) Swabs taken from the vagina, mouth and rectum of the victim were negative for semen and spermatozoa. (R. 863) A black electrical cord received from the Medical Examiner's Office, a blanket, a bed sheet, a vial of blood from the dining room floor, a towel and a hammer were all positive for the presence of human blood. (R. 863-864, 865, 866, 868-

869) On the hammer, the blood was along the neck, approximately an inch or two below the top, and on the bottom of the hammer. (R. 872) A sock, a pair of panties, an undershirt, a sweatshirt and a piece of wood with a protruding nail tested positive for the presence of blood. (R. 864-865, 867-868) The vial of blood taken from the rear porch was positive for the presence of type O blood. (R. 866) Shenosha had type O blood. (R. 862) A sock and shoe polish container were negative for human blood, as were Dwight Jordan's clothes. (R. 867, 868, 872)

Area One Detective Edward Winstead had a conversation with defendant at approximately 8:40 the next morning. (R. 977, 1025, 1040) During that conversation, defendant was coherent, her answers were responsive to the questions asked, she had no difficulty answering any of the questions and she gave no appearance of being mentally retarded or slow. (R. 997-998, 1037, 1042)

Assistant state's attorney Joel DeGrazia arrived at approximately 9:30 a.m. (R. 983, 1046) At 10:30 a.m., both he and Detective Winstead spoke with defendant. (R. 985, 1030, 1040, 1046-1047) Following that conversation, defendant agreed to give a court reported statement. (R. 1051) While awaiting the arrival of the court reporter, the assistant state's attorney spoke with defendant outside the presence of the detective. (R. 1051-1052) During their conversation, defendant was lucid and coherent and her answers responsive to the questions asked. (R. 1052)

Detective Winstead returned to the scene, where he recovered a hammer from behind a radiator in the front room sun porch area. (R. 987, 1040) He then returned to Area One. (R. 991)

At 2:30 in the afternoon, a court reported statement was taken from defendant. (R. 991, 992, 1053-1054) When the statement had been transcribed, defendant read the majority of the first page aloud. (R. 993, 1041, 1055) She read in a normal manner. (R. 1041, 1055) She did not stutter or ask for any help in reading the statement. (R. 1041) She did not ask for any help at any time in explaining

any words in that statement outside of possible corrections for spelling. (R. 1041) She made two corrections and the statement was initialed and signed. (R. 994, 1056-1057) Defendant never appeared to the assistant state's attorney to be mentally retarded or slow. (R. 1058) She had no trouble answering any of his questions. (R. 1058) He had no problem communicating with her. (R. 1064) She had no problem understanding what he was saying. (R. 1064)

(The Injuries)

Assistant Medical Examiner Nancy Jones performed the autopsy on the body of Shenosha Richards. (R. 926) Shenosha, who measured 50 inches and weighed 70 pounds, was received with an electrical cord. (R. 928) A foreign material consistent with vomitus was found in her nostrils. (R. 931) Dr. Jones noted two puncture wounds to her chest (R. 929), abrasions around the puncture wounds, between her breasts, on her right shoulder, in the left shoulder region and down the left side of the abdomen. (R. 932-933) There was a large amount of hemorrhage in the area just beneath her rib cage. (R. 933) The puncture wound on the upper left chest went through the skin and muscle between the ribs through her lung and then penetrated through the sac around the heart and through the coronary artery. (R. 934) The puncture wound on the right side of her chest went through the skin, the muscle between the ribs and penetrated down into the right upper lobe of her lung. (R. 935) Those injuries were consistent with being caused by the board with the nail. (R. 956-957)

There were three lacerations to the left side of her head, which completely penetrated through the thickness of the scalp so the underlying bone of the skull could be seen. (R. 935, 936) Three additional lacerations were present on the right side of her head. (R. 936) Bruises were present on the surface of the brain itself. (R. 938) Those injuries were consistent with having been inflicted with the

hammer. (R. 954) Some would also be consistent with being hit by a piece of wood such as a two by four. (R. 954)

Injuries on the undersurface of Shenosha's chin were consistent with ligature strangulation. (R. 939) They were consistent with the victim being strangled by the cord received with the body. (R. 955)

A large laceration and smaller lacerations to the skin of her anus were consistent with a traumatic penetration or sexual assault. (R. 943) Hemorrhage was present near the end of the rectum but also extended upward for about eight inches from the anal-rectal verge and of the sphincter muscle. (R. 945) This was again consistent with traumatic penetration of the anus. (R. 946- 947) The penetration was at least eight inches, consistent with insertion with the handle of the hammer or the shoe polish bottle. (R. 959, 960) The victim was alive when those injuries were suffered. (R. 960)

Lacerations were present alongside Shenosha's clitoris and on the inferior surface of the vagina extending all the way to her anus. (R. 947-948) Her hymen was lacerated. (R. 948) The cervix was bloody and granular in appearance. (R. 949) The injuries were consistent with traumatic penetration or sexual assault. (R. 949) They were also consistent with penetration by the straight end of the hammer or a shoe polish container. (R. 957-958) The victim was alive when those injuries were inflicted. (R. 958)

Dr. Jones noted 42 separate areas of injury to the body of Shenosha Richards. (R. 929) Dr. Jones concluded that Shenosha died as a result of multiple puncture wounds to the chest with blunt head trauma and strangulation contributing to her death. (R. 964)

The jury rejected defendant's defense of reduced mental capacity and found her guilty of first-degree murder, both counts of aggravated kidnapping and both counts of aggravated criminal sexual

assault. (R. 1318-1319) Following an eligibility hearing, the jury found defendant eligible for death in that Shenosha Richards was killed in the course of the felonies of aggravated criminal sexual assault and/or aggravated kidnapping and in that Shenosha was under the age of 12 and the death resulted from exceptionally brutal and heinous behavior indicative of wanton cruelty. (R. 1361-1362)

(Petitioner's Additional Sexual Assaults As A Juvenile)

As an adolescent, defendant was assigned to Juliet Brown-Perry, a social worker and supervisor with DCFS. (R. 1384) When defendant was placed in a facility, Ms. Brown-Perry had contact with her on a regular basis. (R. 1385) However, defendant would leave facilities without permission. (R. 1385) She would run away. (R. 1385, 1393)

On December 30, 1985, defendant ran away from her placement home with a young lady named Claudia. (R. 1385) When defendant returned to the placement setting, defendant told Ms. Brown-Perry that when she and Claudia left the group home facility, they went to the home of defendant's mother. (R. 1386) Her mother would not allow them to stay there knowing that they had run away from the facility. (R. 1386)

Defendant said that after a couple of hours with her mother, they left and went to see Victor, who had previously been defendant's boyfriend (R. 1386, 1393) Victor was approximately 27 years old. (R. 1386) Defendant was 14. (R. 1386, 1393) Claudia was 14. (R. 1387, 1393)

Defendant told Ms. Brown-Perry that she had sex with Victor and then assisted Victor in having sex with Claudia. (R. 1387) She accomplished this by helping to hold Claudia down while Victor had sex with her. (R. 1387) Defendant was paid \$20.00 for taking Claudia to Victor's house. (R. 1391) Victor had anal sex, vaginal sex and oral sex with Claudia. (R. 1391) Claudia was forced to

perform oral sex on both Victor and defendant. (R. 1391) After Victor had sex with Claudia, he had Claudia and Latasha have sex with each other while he watched. (R. 1387)

Defendant was eventually returned to DCFS custody and placed in another placement setting. (R. 1387-1388) It was in that setting that defendant told Ms. Brown-Perry what had occurred when she ran away with Claudia. Defendant could not understand why everyone was so concerned with what had happened to Claudia. (R. 1388) Defendant made the statement that she could have taken Claudia to a much worse place where an even worse thing could have happened to her. (R. 1388)

Three years later, defendant was still on Ms. Brown-Perry's caseload. (R. 1388) On March 3, 1988, Ms. Brown-Perry received a call from the Audy Home and was informed that defendant was being charged with possession of marijuana and with illegally detaining an 11 year old. (R. 1388-1389)

On March 23, 1991, Dreszina Jarrett and defendant were in the day room of Cermak Hospital. (R. 1400) As they sat at a table, defendant told Dreszina how she had used a hammer and a shoe polish bottle to have sex with Shenosha in the vagina and anus and that she used a door stopper with a nail in it to poke her in the chest. (R. 1403)

(Petitioner's Scheme to Manufacture an Insanity Defense)

Two days later, after defendant had been to court, she told Dreszina that her family had gotten her an attorney, that she could plead insanity and that she would not have to go to prison. (R. 1403)

(Petitioner's Disciplinary Problems in Cook County Jail)

On September 6, 1992, at 1:20 p.m., Officer Julia Kemons was working at Cook County Jail. (R. 1408) Defendant at that time was in the "exact" part of the jail where inmates who cause problems are isolated. (R. 1408-1409) Inmates in isolation are not allowed to have cigarettes. (R. 1409) Officer Kemons saw defendant with a cigarette and was told to give it to the officer. (R. 1409) Defendant became verbally abusive. (R. 1410)

During the time defendant was under the supervision of Officer Kemon, she was placed in isolation on a number of occasions for different reasons. (R. 1410) Out of four days, she would probably be placed in a room by herself two or three times. (R. 1410)

Through 1991 and 1992, Sheriff Gloria LaFay Anderson saw defendant several times a week. (R. 1416) When defendant first arrived, she was always nervous and concerned about other inmates doing things to her. (R. 1417, 1423) After four or five months, she started to become cocky. (R. 1417) She gained a lot of weight and was intimidating to others. (R. 1417-1418)

(Petitioner's Sexual Assault in Cook County Jail)

During the latter part of 1991, when Sheriff Anderson arrived at work, a lot of inmates ran up to her saying that defendant had forced a young lady to have oral sex with her and had beaten her up and told her she better not tell anybody about it. (R. 1419) Sheriff Anderson asked them to point the girl out. (R. 1419) Sheriff Anderson described her as a real petite little white girl, about 100 pounds with blond hair. (R. 1420) Sheriff Anderson had a conversation with her. (R. 1419) The girl had marks on her neck, face and arm that had not been there the day before and was very timid and nervous. (R. 1419) No report was written because she was too scared to repeat the story to the sergeant and other officers and she was only going to be in jail a little while. (R. 1424, 1425)

Defendant was later moved to another tier where Sheriff Kemons began to have trouble with her. (R. 1420) Defendant would get wild and swear at Anderson and the other officers. (R. 1421)

In the time that Dreszina Jarrett spent with defendant, when defendant told her the facts of the crime and when defendant told of her planned insanity defense, defendant never cried. (R. 1403) In all the time Detective Edward Winstead spent with defendant, defendant never cried. (R. 1397-1398) During the two year period, during which she would see defendant three or four times a week, Officer Kemons never saw defendant cry. (R. 1407) Officer Anderson never heard defendant express concern for the victim in this case. (R. 1422)

(Petitioner's Torture of Her Own Child)

During the time defendant was on Ms. Brown-Perry's caseload, she had two children. (R. 1389) Antoinette was born on October 18, 1986 at Roseland Hospital, when defendant was 15 years old. (R. 1389, 1395) Defendant left her there. (R. 1389) Defendant's father helped place Antoinette. (R. 1395) Defendant's other child was Patrice. (R. 1389-1390) On January 11, 1989, acting on the belief that Patrice might be in danger, a court issued an order of protection against defendant in the interest of Patrice, allowing DCFS to have access to her at all times. (R. 1389-1390)

Dr. Demetra Soter, a pediatrician at Cook County Hospital, became aware of defendant's daughter Patrice on March 21, 1989. (R. 1435) The doctors and social workers in the neonatal unit already knew Patrice. (R. 1441) She had been hospitalized at birth. (R. 1441) She was born cocaine positive. (R. 1441)

Patrice was readmitted to Cook County Hospital on March 19th, about 53 days after her original release, with a round immersion burn. (R. 1436) At the time of this admission, Patrice had a

fever of 105 degrees. (R. 1437) She had been put about an inch and a half into scalding water. (R. 1438) Dr. Soter was able to see the water line. (R. 1438) Patrice had suffered a second-degree burn to both buttocks. (R. 1436) Of first, second and third degree burns, second degree is most painful. (R. 1436) It burns through the top layers of the skin but leaves the nerve endings and underneath layers of the skin exposed. (R. 1436)

Dr. Soter learned that the burn had occurred on March 18th about 7:00 in the evening. (R. 1436-1437) According to defendant, she was going to bathe Patrice, she checked the water and put her in and she then realized the water was hot and removed her. (R. 1438) Defendant told Dr. Soter that she was home for 16 hours before taking Patrice to Roseland Hospital, which then transferred her to Cook County Hospital. (R. 1437, 1444) According to defendant, she put cocoa butter on the burn and they went to bed for 16 hours and slept. (R. 1439, 1440, 1444) That, Dr. Soter said, was 16 hours of urine and feces touching a significant second degree burn on a very tender area, the equivalent of pouring acid on a scraped knee. (R. 1439, 1440) Patrice was not discharged until April 17th. (R. 1440) She healed with scarring. (R. 1443) The scarring will be there for life. (R. 1443)

On February 6, 1990, less than a year later, Patrice was once again at Cook County Hospital. (R. 1451) She was examined by Dr. Michelle Lorand, director of the division of Child Protection Services of Cook County Hospital. (R. 1448, 1451) That is the division that deals with child abuse and neglect. (R. 1448)

Patrice had a number of bruises about the head area, most notably on the left side of her head, on the cheek and on the left side of her forehead. (R. 1452) Those injuries were consistent with being hit with a hard object with some type of linear shape, such as a long linear belt buckle, a ruler or something like a two by four. (R. 1455) She had a very well defined linear type bruise with very sharp

edges. (R. 1452) She had a bruise to the left periorbital area, a black eye. (R. 1452) That was consistent with a direct blow to the eye. (R. 1455)

Patrice also had some older bruises. (R. 1452) The right eye was bruised like the other one, only it was a fading bruise. (R. 1452) That injury was consistent with a direct blow to the orbital area. (R. 1456) The right side of the forehead also had some older bruises. (R. 1453) Dr. Lorand could not determine how those bruises were caused. (R. 1455)

On top of the burn on Patrice's buttock, she had some scab abrasions as well as purplish discolor bruising, indicating a blow, probably with an object, to the buttocks. (R. 1453, 1455) She had one cigarette burn under her left arm and another one on her left arm. (R. 1453) They were probably three to four weeks old. (R. 1453-1454) The inner aspects of both thighs had multiple fingernail marks on them. (R. 1454) They resembled an adult finger. (R. 1459) They were hyperpigmented, meaning the skin color was lighter than the rest of her undisturbed skin. (R. 1454) They could not have been self-inflicted. (R. 1456) There were other marks on the inner aspect of both thighs and a few scattered marks on her chest and back. (R. 1454)

Patrice had an abrasion to the left labia majora of her vagina. (R. 1454) It was a fairly fresh abrasion. (R. 1454) She also had two fresh tears on her hymen, at the opening of the vagina. (R. 1454, 1457) This was penetrated or attempting penetrating trauma to the hymen itself. (R. 1457) Those injuries also could not have been self-inflicted. (R. 1457, 1461) Patrice has some cerebral palsy and her legs are fairly stiff and not easy to open. (R. 1461)

Defendant's explanation for the bruises to Patrice's head was that they had been caused when she fell from a high chair to the floor. (R. 1454-1455) None of the injuries observed by Dr. Lorand was consistent with a fall from a high chair. (R. 1455) Defendant had no explanation for the fingernail

marks and the injuries to Patrice's genital area. (R. 1455) It was Dr. Lorand's diagnosis that Patrice had been battered and sexually abused. (R. 1457)

(Petitioner's Torture of Shenosha Richards)

Dr. Lorand also reviewed the protocol prepared by Medical Examiner Nancy Jones. (R. 1462) She determined that when the shoe polish container was inserted into the anus of Shenosha Richards, it would cause significant pain, first because of the shape and hard nature of the object, and also because there were lacerations and hemorrhaging eight inches into the intestine and the rectum sigmoid area. In a physical examination, the scope is very flexible and the patient is given anesthesia for the pain before they push something more than four to five inches into the body. (R. 1464)

The insertion of the hammer into Shenosha's vagina caused a large tear running from the vagina to her rectum and measuring 1.34 inches in depth. It was the equivalent of performing an episiotomy, a surgical procedure, without anesthesia and with a blunt instrument. There were a number of lacerations going around the vagina. There was hemorrhaging and irritation of the cervix, which means the end of the hammer had to have come in contact with it. (R. 1465)

It was Dr. Lorand's opinion that when Shenosha was strangled, the cord was loosened and then she was strangled again, which would have caused Shenosha to feel as though she were drowning or waking up from a nightmare when you're panic stricken, your heart is racing and you can't breathe. (R. 1466)

After Shenosha's death, Mrs. Richards stopped sleeping and lost 50 pounds. (R. 1484) She was always looking around, thinking she might see her child again. (R. 1484) She cries when she sees a child on the street around Shenosha's age. (R. 1484) The pictures of Shenosha around the house

make her cry. (R. 1484) Holidays are worse. (R. 1485) She has nightmares of how Shenosha looked when she got her out of the garbage can. (R. 1484)

After Shenosha's death, her sister Kenosha didn't want to go to school or to go out. (R. 1485) She was withdrawn. (R. 1485) Although she was 16 and 17 years old during this time, Mrs. Richards was afraid for her to go outside. (R. 1485) Kenosha also suffered nightmares and often slept with her mother. (R. 1485)

The jury returned a verdict directing the Court to sentence defendant to death. (R. 1759) Defendant was sentenced to death for the murder of Shenosha Richards, to 60 years and 30 years in the Department of Corrections for aggravated criminal sexual assault, the sentences to run consecutively, and to 15 years for aggravated kidnapping, that sentence to run consecutive to the sentences imposed for aggravated criminal sexual assault. (R. 1827)

III

REASONS FOR DENYING THE PETITION

Petitioner was only fourteen years old when she became a sexual predator. It was at that age that petitioner held down 14-year-old Claudia as petitioner's boyfriend raped Claudia anally, vaginally and orally. Claudia was forced to perform oral sex on both petitioner's boyfriend and petitioner. Petitioner was paid \$20.00.

Three years later, defendant was charged with illegally detaining an 11-year-old.

At the age of 18, petitioner scalded her baby, who was admitted to the hospital with second-degree burns. Baby Patrice was six months old. The scars on her body are permanent.

Less than a year later, Patrice, then fifteen months old, was once again at Cook County Hospital. She had one cigarette burn on her left arm and another cigarette burn under her left arm. She had one healing black eye and one new black eye. She had bruises on her head from being hit with a hard object. She had scab abrasions on top of her burns. There were multiple fingernail marks on her inner thighs. She had a fairly fresh abrasion to the left labia majora of her vagina. She also had two fresh tears on her hymen, at the opening of the vagina caused by penetrating or attempting to penetrate her hymen.

One year after that, petitioner raped the victim in this case, six-year-old Shenosha Richards, with the handle of a hammer. The insertion of the hammer caused a large tear running from the vagina to her rectum. It was the equivalent of performing an episiotomy, a surgical procedure, without anesthesia and with a blunt instrument. Shenosha also suffered lacerations and hemorrhaging eight inches into the intestine and the rectum sigmoid area.

After raping Shenosha, petitioner led her around the room with a cord she later used to

strangle her. The medical examiner described how, when Shenosha was strangled, the cord was loosened and then she was strangled again, causing Shenosha to feel as though she were drowning or waking up from a nightmare when you're panic stricken, your heart is racing and you can't breathe.

In addition to strangling Shenosha, petitioner hit her in the head with the hammer she used to rape her and with a board and punctured her heart and lung with a board with a protruding nail. The medical examiner noted 42 separate areas of injury to Shenosha's body. There were so many lacerations to Shenosha's scalp that when the doctor felt it, she heard the bones crushing her hands.

When she was done torturing Shenosha, petitioner threw her body into the garbage can where the child's mother found her.

While awaiting trial, petitioner raped another inmate in Cook County Jail.

Petitioner is undeserving of clemency.

(Petitioner's Claims)

Mental Retardation

Petitioner alleges that his death sentence should be commuted in light of Atkins v. Virginia, 122 S. Ct. 2242 (2002), because she is mentally retarded and that, therefore, the imposition of the death sentence violates the Eighth Amendment's prohibition against cruel and unusual punishment. Although the Court in Atkins noted that mental retardation is characterized as having a significantly subaverage general intellectual functioning and significant limitations in adaptive functioning in at least two skill areas with the onset prior to age 18 (122 S.Ct. at 2245 n.3), the Court expressly stated that it was not adopting a definition of mental retardation and left it

to the various states to adopt a definition of mental retardation and delineate procedures for determining whether or not a particular defendant is mentally retarded. Id. at 2249-50. Because Illinois has not yet adopted a definition of mental retardation nor has it crafted the appropriate procedures, petitioner's claim is premature and should not be considered by the board at this time.

More specifically to this case, as petitioner's chart demonstrates, from the age of eleven petitioner's I.Q.s were all above the standard set out in the Diagnostic and Statistical Manual of Mental Disorders (an I.Q. 70 or above) until the I.Q. taken by the psychologist hired by the defense, which just happened to be one point below the standard set for mild mental retardation. Any claim that petitioner suffered "significant limitations in both intellectual functioning and in adaptive behavior" is contradicted by the facts of this case.

On March 25, 1991, after petitioner had been to court, she told Dreszina Jarrett that her family had gotten her an attorney, that she could plead insanity and that she would not have to go to prison.

Petitioner's own psychiatrist, Dr. Teich, called petitioner a malingerer who feigned mental illness. He described one occasion during his examination when petitioner talked to herself, saying, "you get away from the door. You stop that." Dr. Teich told her to stop it. **Dr. Teich agreed with the report of Dr. Reifman from the Psychiatric Institute that "Her symptoms are so exaggerated and so inconsistent with psychoses that I find her to be malingering."**

Those were the same tactics petitioner employed with Dr. Fauteck, senior staff psychologist at the Psychiatric Institute of the Circuit Court of Cook County, who testified for the People. **Dr. Fauteck also classified petitioner as a malingerer.** As soon as petitioner entered Dr. Fauteck's

office, she announced that she was hearing voices and acted as though she were talking to an invisible person. She kept saying things like, get away, leave me alone. She said that she saw crack cocaine all over the floor of Dr. Fauteck's office. She told the doctor that if she had a pipe, she would pick it up and smoke it. Except for those theatrics, petitioner responded appropriately when asked a question.

Dr. Fauteck testified that to be mildly mentally retarded, one's I.Q. has to be under 70 and that is the very top end of it. According to DSM III-R, the bible of his profession, if you must have an absolute cut-off, that cut-off is below 70 for even mild mental retardation. An I.Q. in the seventies is considered borderline. (S. R15) It is a little bit below the below average range but it is not into the mild mental retardation range. (S. R15)

Petitioner, despite her claims, would use fairly well educated language. **For example, petitioner announced at one point "you see I am illiterate, all I know how to read is my name."** Because she claimed she was unable to read and because her reading comprehension was lower than one would expect of a good student who attended school regularly and was learning at a normal speed, Dr. Fauteck administered the MMPI verbally. During that test, petitioner answered true to the question, "I like to read newspaper stories about crime, true or false".

Petitioner's own psychologist, Dr. Moulthrop, testified petitioner's answers were appropriate to the questions she was asked when she gave her court reported statement, and that her answers were sensical, logical and sequential. Dr. Moulthrop also admitted that petitioner's story had "a rehearsed and self-enhancing quality. She tended to put the most positive light on reports of her behavior." He knew that, unprompted, petitioner told forensic psychologist Dr. Fauteck, "I am illiterate", a word not likely to be used by a mentally retarded

illiterate but in reaching his conclusion, Dr. Moulthrop did not consider the report of Dr. Fauteck, made only months after the crime was committed.

Dr. Fauteck concluded that petitioner was not suffering from a mental disorder at the time she committed this crime. He based that conclusion on the fact that the behavior described during the offense was relatively well organized, that defendant responded to things that were happening in the environment in a reasonable fashion, that she had the presence of mind to throw the shoes out the window, that she gave a number of different stories to the police, always from the outset excusing herself and tending to shift blame from herself to Jordan, and that each one of these stories was coherent and well organized.

Dr. Teich relied on **the July 17, 1986 report of the Institute for Child and Adolescent Psychiatry** but did not rely on the section that **stated that defendant's responses to the Rorschach showed evidence of good imaginative and creative resources; adequate, affective responses and indications; and, "this is a young woman who is able to utilize cognitive resources to moderate the affective or subjective components of her experiences."**

(Conclusion)

Petitioner was intelligent enough to gain the trust of this child the day before she kidnapped her. When another child skipped up to the victim, petitioner had enough intelligence to keep him away. Petitioner was intelligent enough to hide Shenosha from her mother when her mother came looking for her. Petitioner was intelligent enough to send Shenosha's mother and sistern on a wild goose chase, telling them that Shenosha had gone off with a boy on a bicycle, thereby delaying

detection of Shenosha's body. Petitioner was intelligent enough to get Mrs. Richards and Kenosha out of her house and away from the spot where she had hidden Shenosha's body. Petitioner was intelligent enough to dispose of the victim's shoes so the evidence of the crime would not be in her apartment. Petitioner was intelligent enough to plot an insanity defense although not intelligent enough to fool a professional. Petitioner was not so limited in her adaptive functioning that she was not able to protect herself. When Dwight Jordan abused her, she filed charges. She was intelligent enough to take care of herself quite well. She was literate enough to be able to say "I am illiterate" when attempting to feign mental illness. Petitioner is not mentally retarded by any definition. There is no mitigation.

Physical and Sexual Abuse

Petitioner begins this claim with the same lie she was taken to task for by Chief Justice Harrison of the Illinois Supreme Court when this case was argued before that Court in May, that being that "The jury received very little information that Latasha Pulliam had been the victim of abuse as a child." [Petition 10] In fact, the Illinois Supreme Court said in their earlier opinion:

**In mitigation, defendant offered evidence that her parents and other adults physically and sexually abused her as a child.
[176 Ill. 2d at 273]**

While this issue is presently with the Illinois Supreme Court, the People will respond to petitioner's allegations here as they did there.

Ample evidence that defendant was physically and sexually abused was presented to the jury. The jury heard from Linda Sobotka that when petitioner was twelve or thirteen, she was raped by one of her mother's boyfriends. Ms. Sobotka testified that she received that information from Renee Pulliam, petitioner's mother, and it was also in one of the Hargrove Hospital reports. She testified that Joseph, petitioner's father, was unaware of the rape for a while because Renee told petitioner not to tell her father. When Joseph found out, he took petitioner to Wisconsin to live with him and his girlfriend. A few months later, petitioner was brought back to Chicago and examined at Michael Reese Hospital after she complained of a swollen vagina.

Linda Sobotka testified that petitioner related that her mother began sexually abusing her when she was five or six years old. Petitioner said that her mother performed oral sex on her and she had to perform oral sex with her mother. Petitioner explained that her mother would bring men over to the house and make petitioner watch them have sex. When her mother was out of the house one of her mother's boyfriends raped her and threatened to kill petitioner if she told. Petitioner reported that she eventually did tell her mother, who did not care.

The jury heard from Dr. Teich that petitioner's father reported that she had been used by her mother's boyfriend as well as by her own mother. One day, petitioner's mother's boyfriend forced petitioner to have sex with him and in the process, he gave her herpes genitalis.

Dr. Teich reported that, according to the Hargrove social history report of September 4, 1984, petitioner was at the hospital because her father said she stole money from the family and a friend, used the money to buy clothes and candy and had gone to Wisconsin to stay with Donna, one of her father's friends. The reason for staying with Donna was petitioner's mother's poor influence on petitioner, the alleged rape of petitioner by her mother's boyfriend and petitioner contracting herpes.

Her father reported that petitioner was exposed to sex acts. On one occasion, petitioner was dropped off at her mother's boyfriend's house while her mother went out.

A psychological evaluation from September 11th, 12th and 13th refers to petitioner living with her father's friend in Wisconsin following an alleged episode of sexual abuse of her mother's boyfriend. Petitioner's father also reported that defendant had a child who was the product of sex with petitioner's mother's boyfriend. Petitioner's father reported that her mother used her for purposes of prostitution.

Joseph Pulliam testified that petitioner was raped by Renee's boyfriend, Al. When Mr. Pulliam found out that Renee was allowing petitioner to be involved with Renee's boyfriends, he and Renee divorced.

Petitioner also again reprises the canard that defense counsel did not obtain petitioner's records from Michael Reese Hospital. Petitioner's mitigation expert clearly was in possession of the Michael Reese records. Linda Sobotoka testified that she reviewed numerous documents from DCFS, Hargrove Hospital, Cook County Jail, the Chicago Board of Education and, as she put it, "[I]t goes on and on". In recounting the sexual abuse of petitioner, she referred to Michael Reese Hospital records. (Supp. R. 1505)

Petitioner cites the Michael Reese Hospital records. With the exception of one note of a "perineum rash", which could alternatively be described in lay language as diaper rash, and long, thin scars on both legs and genital area, explained by the fact that Renee admitted beating petitioner with a belt, the five pages of medical entries quoted by petitioner from that hospitalization deal with physical, and not sexual, abuse. The "alarming inconsistencies in the parents' explanations" do not convert evidence of physical abuse into evidence of sexual abuse.

Defendant directs this Court to the report of Dr. Janice Ophoven, in which she concludes that petitioner was the victim of severe sexual abuse. (R. C462) With the exception of the two findings listed above, evidence of that abuse was heard by the jury in mitigation.

Defendant believes, however, that had the jury heard about the rash and genital scars, they would have understood that what petitioner inflicted on her own daughter was only what was inflicted on her. In fact, what was inflicted on Patrice was far greater abuse than even Dr. Ophoven contends was inflicted on Patrice. Patrice, at age sixteen months, had an abrasion to her left labia majora that was fairly fresh. She also had two fresh tears on her hymen, at the opening of the vagina to the outside. This was penetrated or attempted penetrated trauma to the hymen itself.

The jury also heard, from petitioner's father, how, after the death of petitioner's baby brother, Renee began drinking and became very violent in her discipline of petitioner. Joseph testified that when petitioner was ten years old, there was a lot of turmoil in the house and Renee was continuously beating petitioner.

Dr. Teich, petitioner's psychiatrist, testified that petitioner's father spoke to him about petitioner's mother beating her and that he used a brush handle and shoes. A report indicated that the school reported bruises on her back and swollen hands and possibly a swollen knee. Mr. Pulliam reported that Renee kept petitioner from going to school because she was trying to hide that her hands were all puffy from being hit.

Dr. Teich found that petitioner was reared in a violent and unpredictable home, that there was sufficient evidence that she was physically and sexually abused and that there was no effective support system whatsoever.

There were records from the Chicago Board of Education that they noticed many old scars,

bruises or lacerations on petitioner's face and arms. One report indicated that petitioner showed a social worker a hole in the wall at the house where her mother banged her head against the wall.

As she did in the Illinois Supreme Court, petitioner again misrepresents that the People's theory "was that the meager evidence of abuse was fabricated in order to concoct a defense." In light of the extensive evidence, of course, the People never referred to an meager evidence. In fact, the People recognized that there was evidence of abuse and argued:

Is that an excuse for what she did to Shenosha Richards? Wouldn't an abused person know the pain that you go through when you get abused? Wouldn't an abused person know the suffering that you go through? That is not an excuse for what she did to Shenosha Richards. (Supp. R. 1714)

Petitioner again argues, as she did in the Illinois Supreme Court, non-existence evidence that she suffered lead poisoning when she was a young child. Petitioner cites to a publication of the Center for Disease Control and Prevention that levels of lead are associated with decreased intelligence and impaired neurobehavioral development. Such evidence, she says, indicates that she was in greater need of medical evaluations, with special attention to neurologic examination and psychosocial and language development. Petitioner's argument ignores the discharge diagnosis, which, along with the medical records, never indicate the possibility that petitioner suffered from lead poisoning. Even if there had been lead poisoning, according to petitioner what is required was "medical intervention". There was. And, following that medical intervention, two days after admission petitioner as discharged "in perfect condition, with no signs or symptoms." In any event, petitioner's experts testified to the tests that the Chicago Board of Education conducted on a regular

basis.

Statutory Mitigating Factors

Petitioner complains that her jury was not instructed to consider as statutory mitigating factors the fact that she had a history of extreme emotional or physical abuse and that she 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.

Videotaping

Petitioner also seeks clemency because her statement where she inculpated herself 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. Because the trial judge expressly found that petitioner’s statement was voluntarily made when it denied her motion to suppress statements, it is clear that the failure to videotape her statement had absolutely no effect on the fairness of her proceedings. Moreover, because the jury was instructed pursuant to Illinois Pattern Instruction 3.06-3.07 to consider all the evidence when

determining whether or not petitioner made the statement and how much weight it should be given, petitioner cannot complain that she was prevented from asserting at trial that her statement was unreliable and should not be considered.

In yet another gross misrepresentation, she tells this Court that this evidence was the difference between petitioner receiving a sentence of death and her co-defendant receiving a sentence of natural life. She neglects to tell this Board that the co-defendant was not even present in the apartment when Shenosha was murdered.

Petitioner also lies about the strength of the evidence against her. According to her, the confession was the only evidence that it was she who killed the victim. Nothing could be farther from the truth. Petitioner was seen taking the child into her apartment. This six-year-old was found in petitioner's garbage can. Shenosha's blood was in the apartment. Petitioner was shaking blood from her hands when she fled the scene.

Interrogation of the Mentally Retarded

Petitioner also asserts that there was noncompliance with Recommendation 9 which would require police to determine the suspect's mental capacity before interrogation and if a suspect is determined to be mentally retarded, would require them to ask nonleading questions and avoid implying they believe the suspect is guilty. **That's exactly what they did.**

After her arrest, Area One Detective Edward Winstead had a conversation with petitioner. During that conversation, petitioner was coherent, her answers were responsive to the questions asked, she had no difficulty answering any of the questions and she gave no appearance of being

mentally retarded or slow.

Assistant state's attorney Joel DeGrazia also spoke with petitioner. During their conversation, petitioner was lucid and coherent and her answers responsive to the questions asked.

When petitioner's court reported statement had been transcribed, petitioner read the majority of the first page aloud. She read in a normal manner. She did not stutter or ask for any help in reading the statement. She did not ask for any help at any time in explaining any words in that statement outside of possible corrections for spelling. She made two corrections and the statement was initialed and signed. Petitioner never appeared to the assistant state's attorney to be mentally retarded or slow. She had no trouble answering any of his questions. He had no problem communicating with her. She had no problem understanding what he was saying.

Petitioner's confession, which is attached, shows that her responses were to non-leading questions and that she volunteered information even when not questioned about it.

Eligibility Factors

Petitioner asserts that she is entitled to clemency because she was found eligible for the death penalty based upon an aggravating factor other than those factors which the Governor's Commission has recommended be retained. Specifically, the Commission concluded that the current list of 20 factors is overly expansive and therefore unconstitutional. Accordingly, it was suggested that the list be reduced to just five factors: (1) murder of a peace officer or fireman; (2) murder of any person in any correctional facility; (3) multiple murder; (4) murder accompanied by the intentional infliction of torture; and (5) murder of a witness, prosecutor, defense attorney, juror, judge or investigator.

In the most outrageous of petitioner's lies, petitioner says she doesn't fit into any of those five categories. Raping a six-year-old child with the handle of a hammer, causing incredible damage to her body, leading her around the room with a cord around her throat, beating her in the head with a hammer and a board, strangling her with the cord, releasing it and then strangling her again does not qualify as "murder following the infliction of torture!" The People understand petitioner's counsel's opposition to the death penalty. They cannot, however, comprehend her willingness to compromise the truth.

Even if that were not the case, the Illinois Supreme Court has expressly rejected the Commission's logic and held that Illinois' death penalty statute satisfies the constitutional mandate because it "genuinely narrows the class of individuals eligible for the death penalty and reasonably justifies imposition of a more severe sentence on those defendants compared to others found guilty of first degree murder." People v. Ballard, ___ Ill. 2d ___, 2002 Ill. LEXIS 376 at *73 (No. 88885 August 29, 2002) (citing Zant v. Stephens, 462 U.S. 862, 877, 103 S. Ct. 2733, 2742 (1983)). As the Ballard court explained, "there are innumerable examples of first-degree murders that do not fit within any of the statute's eligibility factors" and A [e]ach provision is narrowly tailored to fit a specific set of facts and circumstances." Id., 2002 Ill. LEXIS 376 at *74.

Moreover, each of the aggravating factors represents a determination by the General Assembly that certain types of murders are so deplorable that the death sentence may be imposed. Each one is intended to ensure that the most helpless members of our society (such as children, the elderly or disabled) are protected against violence or to provide a strong disincentive for the offender to kill the victim. Similarly, murders in the course of another felony such as rape or home invasion are properly death eligible to help deter the defendant from killing the victim. Given these

important policy considerations, petitioner's request must be rejected.

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, A[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.

(Additional Commission Recommendations)

Introduction

Petitioner asserts that she is entitled to clemency because she 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 her trial, petitioner claims that her 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 the Illinois Supreme Court which has examined the proceedings in her case determined that they were fundamentally fair and that she was not unduly prejudiced in any manner.

Supreme Court Rules

Petitioner asserts that she 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.

Independent Forensic Testing

Petitioner now asserts that there should have been forensic testing by an independent laboratory. With her usual lack of candor, she neglects to say that she did not make that request in the trial court and that the reason she did not make that request in the trial court is that none of the forensic evidence tied her to the murder.

Lack of Certification of Attorneys and Judges

Of course, petitioner does not allege, much less give examples, of how Judge Crilly was incompetent to try this case. She points out that petitioner's lead counsel is now a member of the Capital Litigation Bar but that her other attorney is not. Yet again, she does not point to any errors on his part that point to a wrongful conviction. She notes that Assistant State's Attorney Catherine Sanders is now a member of the Capital Litigation Bar but that her partner, Neal Goodfriend is not. Mr. Goodfriend is now longer an assistant state's attorney. Mr. Goodfriend no longer practices law. And again, there is nothing provided by petitioner that gives the slightest clue that he would not be qualified if he were to apply to the Capital Litigation Bar. Nor, despite the false statements produced en masse in this petition and her citation to those bastions of fairness, Steve Mills and Ken Armstrong of the Chicago Tribune, she does not allege that any evidence was withheld or manipulated in her case.

Meaningful Discovery

Added to her kitchen sink of complaints, petitioner says she was denied meaningful discovery and that depositions of the interrogating officers and state's psychologist would have

been helpful. What meaningful discovery is missing, we apparently are not entitled to learn. As for depositions of interrogating officers, she got it. At the motion to suppress her statement, every officer who questioned petitioner testified, under oath on the record. As for the psychologist, certainly there is no indication that he ever refused an interview by defense counsel. Yet again, petitioner's assertions lack merit.

Allocution

Petitioner also claims that clemency is appropriate because she was denied the opportunity to make a statement in allocution at her sentencing hearing. However, as 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 was free to testify under oath at her sentencing hearing to explain why she should not be sentenced to death, but chose instead to rely upon her witnesses in mitigation and her attorney's closing argument. Therefore, she was given every opportunity to present herself to the trier of fact before she was sentenced.

Sufficient to Preclude

Petitioner asserts that clemency is warranted because the statutory language and corresponding jury instruction that after considering all of the evidence that "there is no mitigating factor sufficient to preclude the imposition of a death sentence" led the jury to mistakenly believe that the death penalty is mandatory. However, both the Illinois Supreme Court and the federal

courts have consistently rejected any claim that the statute is confusing and might lead a jury to believe that the death penalty is mandatory. See People v. Mitchell, 152 Ill. 2d 274, 346, 604 N.E.2d 877 (1992); Silagy v. Peters, 905 F.2d 986, 998-99 (7th Cir. 1990). Moreover, because both the prosecution and the defense argued to the jury about the appropriateness of the death sentence in petitioner's case, any confusion in the language of the instruction was negated by the closing arguments.

When the Illinois Supreme Court addressed this question on direct appeal, they agreed that the jury's question was not expressing confusion over the jury instructions but rather was inquiring into what would occur factually, not legally, if they declined to impose a death sentence.

Instruction on Alternative Sentences

Petitioner believes that her death sentence should be commuted because the jury was not instructed as to all the possible alternative sentences, including that she could have been sentenced to as little as 20 years imprisonment. However, except in cases where the only alternative is mandatory natural life, such a rule would actually serve to prejudice the defendant. If a jury is told that the defendant could be sentenced to as little as 20 years (even though such a sentence is highly unlikely), the jury might determine that the death penalty is necessary to ensure that she is never released into society. It is for this reason that current Illinois law requires that juries be instructed not to concern themselves with sentencing issues. Illinois Pattern Jury Instructions 1.01 & 7C.05 The only exception to this rule is that the jury must be informed where natural life imprisonment is the only available option. People v. Gacho, 122 Ill. 2d 221, 522 N.E.2d 1146 (1988). Accordingly, despite the Governor's Commission's recommendation, the fairness of petitioner's sentencing

hearing was ensured by not instruction the jury on the available sentencing options.

Judicial Override

Petitioner asserts that her sentence should be commuted because the judge was not given the opportunity to override the jury's decision to impose the death penalty. Petitioner is wrong, however, because Illinois judges have long had the inherent authority to grant a new trial or sentencing hearing (or even enter a judgment notwithstanding the verdict). Because the trial judge at petitioner's trial denied her post-trial motions, it is clear that the judge would not have overridden the jury's verdict.

Supreme Court Review

Petitioner also claims that she is entitled to clemency because the Illinois Supreme Court failed to consider whether her death sentence was disproportionate, excessive or otherwise inappropriate. However, because the Illinois Supreme Court has demonstrated that it will address comparative sentencing arguments whenever they are raised by defendants in capital cases (see People v. Emerson, 189 Ill. 2d 436, 727 N.E.2d 302 (2000); People v. Palmer, 162 Ill. 2d 465, 491, 643 N.E.2d 797 (1994)) and will vacate a death sentence if it determines that it is excessive in light of the facts of the case and the defendant's background (see People v. Smith, 177 Ill. 2d 53, 685 N.E.2d 880 (1997); People v. Blackwell, 171 Ill. 2d 338, 665 N.E.2d 782 (1996)), it is clear that the only reason the Illinois Supreme Court did not review petitioner's sentence in such a manner is because she did not ask the Court to do so.

CONCLUSION

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

Respectfully submitted,

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By LINDA WOLOSHIN
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