

OCTOBER 2002 SESSION
PRISONER REVIEW BOARD
STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	
)	Docket No. \
vs.)	
)	
PATRICK PAGE,)	Inmate No. N-21564
)	
)	

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

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

HEARING REQUESTED

RICHARD A. DEVINE
STATE'S ATTORNEY OF COOK COUNTY

By: LINDA WOLOSHIN
RICHARD STAKE

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I

HISTORY OF THE CASE

Petitioner was indicted for the first-degree murder of John Goodman, as well as residential burglary, home invasion, armed robbery, possession of a stolen motor vehicle, concealment of a homicidal death, and armed violence. Following a jury trial, petitioner was convicted of first-degree murder, armed robbery and home invasion.

The same jury found petitioner eligible for the death penalty based on two aggravating factors: multiple murders and felony murder. The jury subsequently found there were insufficient mitigating factors to preclude imposition of the death penalty. Petitioner was sentenced to death for the murder of John Goodman and to an extended term sentence of 60 years for armed robbery and home invasion.

Petitioner's direct appeal to the Illinois Supreme Court resulted in affirmance of both the convictions and sentences on April 15, 1993. People v. Page, 155 Ill. 2d 232, 614 N.E.2d 1160 (1993) Petitioner's petition for rehearing was denied on June 28, 1993.

On November 15, 1993, the United States Supreme Court denied petitioner's petition for

writ of certiorari. Page v. Illinois, 510 U.S. 981, 114 S. Ct. 479 (1993)

On December 30, 1994, petitioner filed a petition for post-conviction relief and on December 20, 1996, he filed a supplemental petition. On June 27, 1997, petitioner filed a consolidated first amended petition for post-conviction relief, which addressed his convictions for both the Howell and Goodman murders. On August 8, 1997, the petition was denied.

Petitioner filed a consolidated appeal to the Illinois Supreme Court, which affirmed the denial of post-conviction relief on both cases on August 10, 2000. People v. Page, 193 Ill. 2d 120, 737 N.E.2d 264 (2000). On October 2, 2000, the Illinois Supreme Court denied petitioner's petition for rehearing.

On June 4, 2001, the United States Supreme Court denied petitioner's petition for a writ of certiorari. Page v. Schomig, 150 L.Ed.2d 213, 121 S.Ct. 2221 (2001)

On October 1, 2001, petitioner filed a petition for a writ of habeas corpus in the United States District Court for the Northern District of Illinois, Eastern Division. On September 3, 2002, the People of the State of Illinois filed their response. The case is currently pending.

II

FACTS OF THE CASE

(The Crime)

On May 6, 1987, defendant was at his home at 475 Dogwood in Park Forest. (R. 1558) Jerry Feinberg was with him. (R. 1558) They discussed robbing John Goodman (planning only to take his money) and different ways of killing him. (R. 1559, 1560) They planned to either hit him over the head or stab him with a knife. (R. 1559) They discussed the alternatives of burying him or burning him after they killed him. (R. 1560) They decided not to go with burning. (R. 1560)

On May 7, 1987, defendant and Feinberg walked to John Goodman's home. (R. 1562) They again discussed the planned robbery and murder. (R. 1562-1563) They found Goodman at home with another man who left about one-half hour later. (R. 1561, 1562) John Goodman went to the washroom while defendant and Feinberg stood in the kitchen discussing what they were about to do. (R. 1563) Defendant showed Feinberg the knife he had placed in the waist of his pants. (R. 1564) Defendant then walked to the area between the hallway and the washroom. (R. 1564-1565) Defendant asked Goodman about some pictures he had taken of defendant. (R. 1565) Defendant said that Goodman began to laugh. (R. 1565) Defendant stabbed him in the chest four times. (R. 1565, 1566)

Defendant and Feinberg placed the victim's body into the bathtub where it remained for one-half to one hour. (R. 1566-1567) During that time, they wiped fingerprints off the house. (R. 1567) Defendant took the victim's wallet, containing over \$400.00 and credit cards, which he found on a desk in the living room. (R. 1567-1568) The wallet was placed into the glove compartment of the victim's Toyota. (R. 1568-1569)

Defendant and Feinberg wrapped the victim in some sheets and a rug and placed him in the

trunk of the car. (R. 1569) They took a shovel and a gas can to be used for burning the sheet and rug. (R. 1570) They waited about an hour and then got into the car and began to drive north to Wisconsin. (R. 1569-1570) Along the way, they stopped at a gas station off Highway 294 and at a bar somewhere in Wisconsin. (R. 1571) In the bar, they had a couple of drinks, ate a pizza and shot a couple of games of pool. (R. 1572) They drove into Wisconsin for two or three hours to a wooded area. (R. 1572) They dug a hole, put the victim into it and put dirt over him. (R. 1573) On top of that, they burned the sheets and rug, using just a little bit of gasoline so it would look like people had been camping there. (R. 1573) They then returned to defendant's house where they both went to sleep. (R. 1574)

On Friday, May 8, they got up at approximately 12:00. (R. 1574) They picked up defendant's girlfriend, Michelle Kury, and proceeded to the house of her friends, Ann and Denise. (R. 1575-1576) They sat around and drank a few beers before defendant and Michelle took Jerry to his house and returned to Michelle's house where defendant spent the night. (R. 1576) The next day (Saturday), defendant and Michelle picked Jerry up and went to Ann's house where they partied. (R. 1577) After partying, defendant and Jerry Feinberg dropped Michelle off and went to Bob and Donna's. (R. 1577) From there, Feinberg went home and defendant and Mike Naszkiewicz got into the victim's car and drove to the victim's home. (R. 1577) They stole the stereo equipment and just about every electronic thing in there, which they took to defendant's dad's house. (R. 1577)

The next day, defendant, Feinberg and Michelle went to a jewelry store in the Orland Square Mall where Michelle used the victim's credit cards to purchase two diamond rings, clothes and a radio. (R. 1581-1582) The radio was sold for a gram of cocaine which defendant, Feinberg, Michelle, Ann and Denise used. (R. 1582-1583)

Either Tuesday or Wednesday, Mike Naszkiewicz drove defendant in his car while Feinberg

drove the victim's car to the University Park train station. (R. 1583-1584) They left the victim's car there. (R. 1584)

That was what was contained in defendant's court-reported statement. Defendant related that he had been given no promises, had not been struck or threatened and was giving the statement voluntarily and of his own free will. (R. 1584-1585)

The statement was typed, read aloud to defendant, corrected and signed. (R. 1552)

In May of 1987, the victim, John Goodman, worked as a patent attorney for Amoco Corporation, having worked there since 1985 when he left Atlantic Richfield. (R. 938, 945-946)

On May 6, 1987, Juliette Goodman, mother of the victim, spoke with her son on the telephone. (R. 939) He told her that he was to see the doctor the next day for a further check-up on his ulcer. (R. 940) On Sunday, May 10, she made repeated telephone calls to the victim's home to thank him for the Mother's Day gift he had sent her in Atlanta. (R. 941) She got no answer. (R. 941) On Monday, May 11, her son's telephone was answered by a police officer that told her that her son had been reported missing. (R. 942) She never heard from him again. (R. 942)

James Reveliotis, manager of a Toyota dealership, first met John Goodman in 1984 or 1985 when the victim represented him on a traffic violation. (R. 959) Goodman bought a 1986 model from Reveliotis. (R. 962) At approximately 5:30 p.m. on May 7, 1987, Reveliotis went to Goodman's home in Olympia Fields. (R. 963-964) Reveliotis had made arrangements to take the Nissan Z to the shop for pin striping. (R. 964) Reveliotis drove to Goodman's home at 759 Brookwood. (R. 964)

When John Goodman answered Reveliotis' knock on the back door, two unshaven, ungroomed, rough looking men were standing with him. (R. 965-966) Their hair was long and their clothes were worn and scraggly. (R. 966) One of them was defendant. (R. 971) As they all stood in

the kitchen, Reveliotis told the victim that he needed his key so he could take the car to the body shop. (R. 966-967) John Goodman, who looked uneasy, said to Reveliotis, "Why aren't you dressed for dinner," a statement Reveliotis did not understand. (R. 968) He told the victim he would be back in an hour, took the car key, and left in John Goodman's car. (R. 968)

Reveliotis drove to the body shop and found it closed. (R. 969-970) He then drove back to the Goodman house. (R. 970) As he pulled into the driveway, he noticed that the front drapes and the garage door, both of which had been open on his first trip to the house, were now closed. (R. 969, 970) Reveliotis walked around to the front of the house where he saw defendant's companion, who had just walked out the door. (R. 970, 972) Reveliotis asked if the victim was there and was told that Goodman did not want to go to dinner with him. (R. 973) Defendant's companion then asked if Reveliotis had the keys to the Nissan Z. (R. 973) Reveliotis told him that he wanted to give the key to Goodman. (R. 974) Defendant's companion told Reveliotis that Goodman was not there. (R. 975) He then went to the door, looked in and invited Reveliotis to come in. (R. 975) Reveliotis said, "Wait a second, something doesn't seem to be right here" and turned back to his own car. (R. 975) Defendant's companion followed Reveliotis to the car. (R. 975)

Reveliotis drove off, stopping at a public telephone at a Standard station. (R. 975, 988) He dialed John Goodman's house. (R. 975) The voice on the telephone said that Goodman wasn't there. (R. 976) Reveliotis said that he was a neighbor who wanted to see if everything was okay. (R. 976)

Reveliotis hung up and went to the home of Glen Rogers, who had been a friend of John Goodman's since the fall of 1981 and who lived in Chicago Heights. (R. 976, 1004) He told Rogers that something strange was going on at the victim's house. (R. 1006) Reveliotis asked Rogers to phone the victim to see if everything was okay. (R. 977) Rogers' call was answered by Gerald

Feinberg. (R. 1007, 1024) Rogers had met Gerald Feinberg approximately a year and a half before. (R. 1006, 1007, 1025-1026) Feinberg said that Goodman and defendant had gone to get some beer. (R. 1005-1006, 1008, 1016) After speaking on the telephone for five to ten minutes, Rogers told Reveliotis that he knew defendant and his companion and that everything was okay. (R. 977, 1024)

Later that night, Rogers received another call from Feinberg. (R. 1008-1009) He called to say that Goodman and defendant went downtown. (R. 1009) The next day, Feinberg called again to say that he, defendant and Goodman had all gone downtown. (R. 1009-1010) Over the weekend, Rogers tried calling John Goodman between three and five times. (R. 1011) He never got a response. (R. 1011)

When Glen Rogers again tried to telephone John Goodman on Monday, May 11 and again received no response, he went to the victim's home with Greg Wilson. (R. 1011, 1042, 1045-1046) They arrived at the house shortly before noon and first checked the doors to see if they were locked. (R. 1012, 1046) They found nothing amiss. (R. 1012) They then looked through the open blinds and saw that the victim's stereo equipment and television were not in their usual place on the stand in the den. (R. 1012, 1013, 1046)

Detective John Keith and Patrolman Leslie Delya of the Olympia Fields Police Department responded to a call concerning the well being of an individual at 759 Brookwood. (R. 1063, 1064, 1394, 1395) They saw no evidence of forced entry. (R. 1064, 1074) They found the Sunday newspaper in the driveway and mail postmarked May 7 in the mailbox. (R. 1065) Following an unsuccessful canvass of the area, they returned to the police station. They then contacted Amoco, learning that John Goodman had not appeared for work that day and that he missed a doctor's appointment the previous Friday, May 8. (R. 1066)

Detective Keith and Officer Delya returned to the victim's home and contacted a locksmith, who drilled the deadbolt lock. (R. 1066-1067, 1074) Entry was made to the house and a cursory inspection of the basement, main floor and garage was conducted. (R. 1067-1068, 1395) In the garage, they found Greg Wilson's car. (R. 1068-1069) The victim's Camry was not there. (R. 1069) Detective Keith and Officer Delya contacted the Cook County Sheriff's Police evidence technicians. (R. 1071) Evidence Technician James Rossi responded. (R. 1082-1083) He and his partner, Evidence Technician Cox, did an initial walk-through of the home, which had the appearance of having been burglarized. (R. 1085, 1116) They found what appeared to be bloodstains on a kitchen cabinet, the front door frame, the floor near the bathroom, inside the guest bathroom, the sink and tub of the master bathroom, the hallway floor and on the living room carpet and coffee table. (R. 1085, 1087, 1090-1091, 1095, 1118, 1119, 1120) Also recovered from the hallway was a hair. (R. 1094-1095) On the couch in the den was a small wood handled knife. (R. 1091) Eleven latent fingerprints were recovered. (R. 1105) The blood samples, latent prints and hair were sent to the Illinois State Crime Lab. (R. 1097)

Brent Cutro, also a forensic scientist with the Illinois State Crime Lab, examined the latent fingerprints and found that two of them were made by defendant. (R. 1384)

In May of 1987, defendant had been Michelle Kury's boyfriend for almost two years. (R. 1173, 1236) On Friday, May 8, he pulled up at her house in Chicago Heights in a maroon Toyota she had never seen before. (R. 1173, 1174, 1175) With defendant was his best friend, Jerry Feinberg. (R. 1173-1174) As the night wore on, a number of stories emerged about the car. (R. 1181) Defendant said something to Ann Marie about his father having won the lottery. (R. 1286) She laughed. (R. 1286) Defendant began pulling credit cards from a wallet in his pocket. (R. 1182, 1286) He passed

them out. (R. 1286) Ann Marie told defendant that she recognized the name John Goodman and had once met him the previous year in his home. (R. 1286-1287) Defendant said he was watching Goodman's house because Goodman was away on a fishing trip. (R. 1181-1182, 1288) Ann Marie asked, "He left you his credit card?" (R. 1289) Defendant said, "No, I found them in his wallet." (R. 1289) Defendant said that the car wasn't really Feinberg's step-father's car -- that it belonged to John Goodman. (R. 1182) He said that he found the credit cards in the middle of the front seat. (R. 1182)

On Saturday, May 9, defendant and Michelle Kury went to River Oaks Mall. (R. 1187, 1244) While in the car, defendant handed Michelle a credit card belonging to John Goodman and told her to say it was her father's card. (R. 1188, 1191) They went into Sears and Michelle used the card to buy a stereo. (R. 1188, 1244) She signed John Goodman's name on the slip. (R. 1189) That same day, using John Goodman's credit card, she bought diamond rings from J.C. Penney's at a cost of \$259.00. (R. 1189-1191)

At 4:00 a.m., defendant and Feinberg was at a party in Park Forest with Michael Naszkiewicz, Feinberg's childhood friend. (R. 1320-1321, 1365) Defendant told Naszkiewicz that he was watching someone's house that had some goods there. (R. 1322) Defendant told Naszkiewicz they would get some money. (R. 1322) Naszkiewicz replied, "Okay. Let's go do it." (R. 1322) Defendant, Naszkiewicz and Naszkiewicz's friend, Jay Matthews, left the party. (R. 1322) They got into a red Toyota Camry Naszkiewicz had never seen before. (R. 1322) They dropped Jay Matthews off and proceeded to the house in Olympia Fields, arriving at approximately 5:00 a.m. (R. 1323) Defendant backed the car into the garage and opened the door with a key. (R. 1323-1324) They loaded a stereo system, a television, two video recorders and miscellaneous items into the car. (R. 1325) Items they had no room for were left in the garage. (R. 1330) They then drove to defendant's father's house on

Greenleaf in Chicago, arriving at approximately 6:00 a.m. (R. 1325) The items were stored in defendant's father's garage. (R. 1326)

On Sunday, May 10, at approximately 9:00 a.m., defendant and Feinberg picked up Michelle in front of her house in the Toyota. (R. 1193-1194) They drove to the Holiday Inn in Matteson. (R. 1196) Before entering, defendant handed Michelle Kury John Goodman's credit card and again told her to say it was her father's card. (R. 1196) Defendant then wandered off while Michelle purchased a room. (R. 1196) Michelle told Cheri Bogdalek, the night auditor for the Holiday Inn, that she was using her father's credit card and asked if that would be okay. (R. 1151, 1156) Ms. Bogdalek told her that it would. (R. 1151) After Michelle filled out an information card; Ms. Bogdalek took a copy of the credit card. (R. 1151) The name on the card was John Goodman. (R. 1151, 1156)

Defendant, Feinberg and Michelle then went to the Denny's Restaurant across the street from the hotel. (R. 1164-1165, 1198) Sharon Jurgenson waited on them and served them steak, shrimp, drinks and desert. (R. 1166, 1198) Michelle paid for the meal with the victim's credit card, signing the receipt Michelle Goodman. (R. 1166, 1169, 1170, 1199, 1240) She added a telephone number under the name that defendant told her was John Goodman's home number. (R. 1199)

The next morning, May 11, 1987, Michelle, defendant and Feinberg checked out of the Holiday Inn. (R. 1157-1158, 1201) Michelle asked Debra Sulkowski, the Holiday Inn clerk who was working at the desk, whether she should sign her father's name. (R. 1157, 1158-1159) She was told to do so.. (R. 1159) Michelle signed the receipt John P. Goodman. (R. 1161, 1201-1202)

Michelle drove with defendant and Gerald Feinberg to her house where she changed clothes. (R. 1202) They returned to the River Oaks Mall in the victim's car. (R. 1203) At K-Mart, Michelle purchased fishing hooks and poles and some discs for the stereo. (R. 1203) She again used John

Goodman's credit card to charge the \$213.67 purchase. (R. 1204, 1205)

Denise, Ann Marie, defendant, Feinberg and Michelle went to the Orland Square Mall. (R. 1208, 1292, 1307) Before entering the mall, defendant gave Denise and Michelle a credit card each, with instructions to use them. (R. 1208, 1293) Defendant and Michelle went into Berman's Leather Coat Store, where they purchased one woman's and one man's leather jacket, a couple of patches and a Harley Davidson shirt. (R. 1209, 1298) Michelle signed John Goodman's name on the credit card slip. (R. 1209-1210) The amount was \$408.00. (R. 1210)

Denise, Ann Marie, and Gerald Feinberg had gone in another direction. (R. 1209, 1293) They went into the Wild Pair where Denise and Ann Marie purchased a purse and boots in white leather. (R. 1294) Denise paid for the items using the victim's credit card. (R. 1294) She signed "Debbie Goodman." (R. 1295)

When the five met up again, Denise, Ann Marie, and Feinberg were carrying shopping bags. (R. 1211, 1297) They left the mall and drove to Aurelio's Pizza in Homewood where they ordered pizzas, again using the victim's credit card to pay for them. (R. 1211, 1212, 1264, 1298) They returned to Ann Marie's apartment where they ate the pizza, drank beer and listened to music. (R. 1213-1214, 1298) Tim, a friend of Ann Marie's, came over. (R. 1299) Defendant asked Tim if he knew where defendant could get cocaine. (R. 1300) He asked if he could trade in the stereo for some. (R. 1300) Tim and defendant left. (R. 1300) When they returned a half hour later, they had a gram of cocaine. (R. 1300-1301) Tim left. (R. 1301) Defendant, Feinberg, Michelle, Denise and Ann Marie used the cocaine. (R. 1301)

On the afternoon of May 12, defendant telephoned Naszkiewicz at his home. (R. 1331) He said that he was calling from Feinberg's house. (R. 1332) He told Naszkiewicz that he had some

credit cards and asked if Naszkiewicz wanted to go with him to Chicago to pick up some merchandise with the credit cards. (R. 1332) Naszkiewicz went to pick up his girlfriend and they went to Feinberg's house, where defendant flashed the credit cards in front of Naszkiewicz's face. (R. 1216, 1320, 1332, 1339) They sat around the television a while longer. (R. 1216) During that time, Feinberg received a telephone call. (R. 1220, 1333) After that call, Feinberg was nervous. (R. 1220) Feinberg went to talk to defendant in the basement. (R. 1333-1334, 1337) When they came out of the basement, defendant told Naszkiewicz that he had to get rid of the Toyota Camry because it was stolen. (R. 1337-1338)

Defendant got into the Toyota with Feinberg and drove to the University Park train station. (R. 1340) Naszkiewicz followed in his car. (R. 1340) At the station, defendant and Feinberg wiped the car down. (R. 1341, 1343) They left the car and got into Naszkiewicz's auto. (R. 1340, 1343) They went back to Feinberg's house in Naszkiewicz's car. (R. 1222, 1343)

Feinberg cracked one or two of the credit cards until they were broken in half. (R. 1223-1224) He then took a paper bag from the kitchen, grabbed a rock from outside and put it in the bag and crumpled it up. (R. 1224)

At 5:00, the group left for Ann Marie's apartment in Naszkiewicz's car. (R. 1225, 1343) As they drove, Feinberg threw something out of the window, which Michelle believed was the paper bag containing the rock. (R. 1225, 1226) After an hour at Ann Marie's apartment, Michelle was dropped off at home. (R. 1226) That was Tuesday evening, May 12. (R. 1226) She did not see defendant and Feinberg again. (R. 1226)

The next day, Wednesday, May 13, in the afternoon, Officers Patrick Miller and James Keith came to the door of Michelle Kury's house. (R. 1227, 1409, 1433) She went to the police station

where she told the officers the events of the previous few days and signed a written statement. (R. 1227, 1233, 1409, 1433) She eventually stood in a lineup where she was identified by Cheri Bogdalek, Sharon Jurgenson and Debra Sulkowski. (R. 1153, 1160, 1167)

On May 14, Michael Naszkiewicz was arrested by Detective Keith and Officer Frank Marsala. (R. 1345, 1350, 1388-1389, 1410, 1435) He took the officers to the University Park train station and pointed out the Camry in the parking lot. (R. 1346, 1389)

That same day, Detective Keith, who had previously learned that a 26" RCA television and two Panasonic videocassette recorders were missing from the victim's home, became aware that additional items were missing. (R. 1396, 1427) Those items were an Onkyo stereo receiver, a compact disc player and a cassette deck. (R. 1397) He obtained serial numbers for those items from the company where the television was purchased and from warranty cards that the victim had in his office at the Amoco Oil building. (R. 1397) Later, Detective Keith got a lead as to where those items could be found. (R. 1397-1398)

The next day, he began surveillance on the residence of defendant's father, Paul Page, at 1636 Greenleaf in Chicago. (R. 1398, 1437) At approximately 2:00 a.m. on Saturday, May 16, Detective Keith observed a 26" RCA television in a car parked in the alleyway at the rear of the residence. (R. 1399) The car was registered to Paul Page. (R. 1399) The television was registered to the victim. (R. 1399)

Detective Keith spoke with Paul Page, who directed the officer to a storage locker in the basement of the building. (R. 1400) Inside was a Panasonic cassette recorder and stereo equipment. (R. 1400) The serial numbers matched the warranty cards taken from the victim's office. (R. 1401-1407)

At approximately 10:00 that evening, defendant was arrested. (R. 1411, 1439)

Defendant told Detective Keith that John Goodman was buried somewhere north of the Burlington, Wisconsin area, possibly along Route 83. (R. 1420-1421) Defendant volunteered to go with police to attempt to locate the body. (R. 1421, 1451) They searched for the grave site without success. (R. 1422) The next day they returned to the same general area, receiving further directions from defendant. (R. 1422-1423) Again, they were unsuccessful. (R. 1424)

On June 25, 1987, seven weeks to the day after the murder of John Goodman, Barbara Multhauf of Waukesha County, Wisconsin, went for a walk near her home. (R. 1493) As she walked toward some wild day lilies, she noticed an odor where her neighbor had often burned branches. (R. 1493-1494) At first, she thought she saw the leg of an animal. (R. 1494) She then saw a black watchband on what seemed more like an arm and a hand. (R. 1494) She went to her home and returned to the scene with her 16-year-old son, who verified what she had seen. (R. 1494)

Deputy Medical Examiner Hibbard and Detective Andree began the two-hour process of excavating the body. (R. 1486) The body was lying face down and was in active stages of decomposition. (R. 1487) It was clothed in a t-shirt, a pair of dress pants which were pulled down around the ankles and a pair of underwear which was partially pulled down. (R. 1487) The pants were removed and inventoried and the body was placed into a body bag and transported to the morgue. (R. 1489-1490)

Milwaukee County Chief Deputy Medical Examiner Jeffrey Jentsen performed the post-mortem examination on the 5'8", 160-pound remains on June 26, 1987. (R. 1498, 1500) The body was caked with dirt and mud-like material. (R. 1500) On the outer portion of the shin were four areas of bruising, inflicted either when the victim was alive or shortly after his death. (R. 1500-1501, 1504)

The upper torso was covered with a t-shirt which had a number of incised or cutting type wounds to the front portion. (R. 1500) Upon removing the t-shirt, Dr. Jentsen found corresponding cutting type wounds to the chest. (R. 1503)

The body was cleansed and the wounds were numbered. (R. 1508) There were a total of nine, all to the left front chest. (R. 1507) Three of the wounds were stopped from entering the heart by ribs. (R. 1513-1514, 1523-1524) Five wounds entered the chest area. (R. 1524) Four penetrated the heart. (R. 1513, 1516) Those took great force. (R. 1525) The cause of death was exsanguination from stab wounds to the heart. (R. 1518, 1521-1522)

Dental x-rays were obtained and compared by Dr. L.T. Johnson, a forensic odontologist, with antemortem x-rays. (R. 1518-1519, 1531) They confirmed the body to be that of John Goodman. (R. 1519, 1532)

The jury returned verdicts of guilty of murder, armed robbery and home invasion. (R. 1743)

(Sentencing)

At the death eligibility hearing, evidence was presented of defendant's conviction in Will County for the murder of Dale Andrew Devine. (R. 1795, 1798) Assistant state's attorney David Sterba testified to the court-reported statement he took from defendant. (R. 1815) In that statement, defendant related that in the fall of 1985, Ken Chaney was purchasing some vials of cocaine from Andrew Devine and Devine apparently "ripped off Chaney." (R. 1818) Andrew Devine was living at defendant's house at the time. (R. 1818) Defendant telephoned Gerald Feinberg and told him that Andy was at his house and to come over. (R. 1819) When Feinberg arrived, he and defendant tied Devine up. (R. 1820) Defendant held him while Feinberg tied his hands behind his back with

extension cord. (R. 1820-1821) Defendant took \$100.00 from Devine's pocket which he later gave to Chaney. (R. 1825) Defendant and Feinberg then telephoned Chaney and told him that Andy was there. (R. 1820) Chaney said he would be over. (R. 1820)

When Chaney arrived, he had a hypodermic needle and some barbiturates with him. (R. 1820) Chaney took the needle, put it on a spoon and melted some barbiturates. (R. 1821) He then shot Devine "in the behind" with the needle. (R. 1821) Chaney told Devine, "you're going to pay for ripping me off." (R. 1821) Devine said, "I'll give you your money back, don't do this." (R. 1821)

Defendant, Feinberg and Chaney got the keys to defendant's brother's car and put Devine into the car. (R. 1821-1822) They drove to the Coal City, Wilmington area. (R. 1822) There, they went into a woody field area where they took Devine out of the car. (R. 1822)

Chaney asked Devine how he wanted to die -- either by being stabbed or shot with the needle. (R. 1822) Devine said, "shoot me with the needle." (R. 1822) Chaney shot Devine in the arm with air in the needle five or six times. (R. 1823) When he saw that Devine did not die, he took the knife and slit his throat. (R. 1823) Chaney then told defendant and Feinberg to stab Devine in the chest, one time apiece. (R. 1823) Each of them did that. (R. 1823-1824) As Devine was being stabbed, he was telling Chaney not to do it, not to kill him, that he'd pay the money back. (R. 1824)

Defendant, Feinberg and Chaney went to Chaney's house where they sat around and partied with marijuana and beer. (R. 1826)

Two days later, defendant and Chaney drove Michelle Kury's car back to the murder scene. (R. 1827) Chaney poured some gasoline on Devine and lit it on fire. (R. 1827)

L.W. Blum, coroner's physician of Will County, pronounced Dale Andrew Devine dead on November 2, 1985. (R. 1838) The external examination of the autopsy revealed a portion of a Cubs t-

shirt charred and possibly cut, torn blue jeans with the zipper down and underwear showing evidence of recent burning, decomposition of the chest and skeletonization of the pelvis to the upper thighs, the right arm to the wrist and the left arm to the elbow with the presence of putrefaction. (R. 1838-1840) The internal examination revealed an incision into the chest, the absence of lungs and organs of the abdomen due to decomposition and putrefaction, decomposition of the heart and numerous maggots in the pelvis. (R. 1840-1841) The cause of death was a stab wound to the chest. (R. 1841) Antemortem and post-mortem dental records were examined by forensic odontologist James Rasmussen who identified the body as that of Dale Devine, age 22. (R. 1842-1843)

Olympia Fields Sergeant Frank Marsala testified that on May 19, 1987, he was present for oral and court-reported statements given by defendant. (R. 2017-2018) Those statements recounted how defendant and Gerald Feinberg killed Chuck Howell in the fall of 1985 because they were afraid Howell would find out that they and Chaney had killed Andy Devine. (R. 2028-2029)

Defendant related that he and Feinberg planned in advance to stab Howell. (R. 2030) The plan was to tell Howell that they were going to the woods to get some "pot" from some guys and kill him there. (R. 2030) They also had a plan to bury the body. (R. 2030) They drew a map with magic marker in the middle of the floor of the basement of defendant's house which showed an area of the woods in Park Forest where they would bury him. (R. 2030-2031) The spot was 100 feet from the bike path by the black bridge. (R. 2031-2032) Captain Maeyama subsequently discovered defendant's brother and sister attempting to scrub the map off the basement floor with bleach and water. (R. 1946-1947) He traced the markings with onion skin paper and turned it over to Detective Keith. (R. 1947, 1948)

An hour after drawing the map, defendant and Feinberg went out to the woods and dug a hole

3 feet by 6 feet with shovels taken from defendant's house and from defendant's neighbor's house. (R. 2032-2033) They then contacted the victim and told him to come out and party with them. (R. 2033) They went to the woods. (R. 2033) Once there, defendant stabbed Howell once in the chest. (R. 2033) Howell said to defendant, "why are you doing this." (R. 2034) Defendant answered, "'cause you're an asshole.'" (R. 2034) Feinberg said, "you deserve it." (R. 2034) Howell tried to run. (R. 2033) Feinberg picked up a stick the size of a baseball bat and beat him in the head with it ten to fifteen times. (R. 2033-2034) Defendant checked Howell's pulse. (R. 2034) He was dead. (R. 2034)

Defendant and Feinberg carried the victim into the hole and buried him, filling the grave with dirt. (R. 2034-2035) When the hole was completely filled, they placed branches on top of it and started a little fire with lighter fluid defendant got from a neighbor's house. (R. 2035)

Defendant and Feinberg left and went to defendant's house where they sat around and smoked some pot. (R. 2036) They then cruised around in the victim's car. (R. 2036) Defendant kept Howell's car for three or four days and then sold it to a junkyard for \$50.00. (R. 2039) Defendant spent the \$50.00 on beer. (R. 2040)

On May 19, 1987, Detective Keith went to Thorncreek Woods with defendant in an attempt to locate the gravesite of Chuck Howell. (R. 2006, 2014) They were unsuccessful. (R. 2007) On July 1, 1987, Detective Keith returned to the forest preserve. (R. 2005-2006) He and other officers began to dig in an area they were led to, approximately 75 to 100 feet from where defendant had taken them on May 19th. (R. 2007, 2009, 2015-2016) While digging, Sergeant Winters struck something hard and pulled out his shovel. (R. 2007) On the end of the shovel was hair. (R. 2007) The officers ceased digging and contacted the Cook County evidence technicians, who took over exhumation of the body. (R. 2007-2008) They removed various bones, body parts and clothing. (R. 2008) They pieced the

body parts together on top of a body bag. (R. 2008)

On July 2, 1987, Cook County Chief Medical Examiner Robert Stein conducted a post-mortem examination on the remains of the body. (R. 1918, 1919) The victim was almost completely skeletonized. (R. 1920) The chest, abdomen, upper and lower extremities, breast plate, sternum, lung and heart were absent. (R. 1920) The clothing, which was covered with dirt, was washed and then examined. (R. 1922) Four or five incised wounds in the front of the shirt and seven in the back panel were found. (R. 1923-1924) The cause of death was multiple stab wounds and the manner of death was homicide. (R. 1926, 1928) X-rays were obtained and compared with the teeth present in the body. (R. 1925) It was identified as the remains of Charles A. Howell. (R. 1919, 1925)

From June, 1977 through October, 1980, Captain Robert Maeyama was a detective juvenile officer for the Village of Park Forest. (R. 1933, 1949) During that time, he had approximately eight contacts with defendant. (R. 1933) They involved three batteries or aggravated batteries, two burglaries, one theft, one auto theft and one disorderly conduct. (R. 1933)

On June 5, 1977, he investigated a burglary of a Sears and Roebuck store in Park Forest. (R. 1934, 1954) Defendant and Feinberg were arrested. (R. 1934-1935) Defendant admitted his participation and turned over some of the proceeds. (R. 1936, 1955)

One month later, on July 7, 1977, Captain Maeyama investigated the theft of a wallet from a woman who had the wallet in a baby stroller. (R. 1936, 1955) The investigation led to defendant, who subsequently returned the wallet. (R. 1936, 1955)

One year later, on July 16, 1978, Derrick Sweat was in Murphy Park when he was approached by defendant, who showed him a bag containing marijuana. (R. 1937-1938, 1956) When Derrick indicated that he wanted nothing to do with the contents of the bag, words were exchanged and

defendant struck him, causing a cut lip and a blackened tooth. (R. 1938)

One month after that, on August 13, 1978, the investigation of a burglary at Marshall Field's in Park Forest resulted in the recovery of latent fingerprints matching defendant's. (R. 1938-1939, 1956-1957) Taken were two television sets. (R. 1939, 1957)

Ten days later, defendant was involved in a battery in which he grabbed a 17 year old off a bicycle and threw him to the ground. (R. 1940-1941, 1942, 1958)

One month later, police were called to the Wildwood School where they found five teachers trying to restrain defendant. (R. 1942-1943, 1959) Defendant struck one teacher in the face with his fist, pulled the hair and injured the eye of another and kicked a third in the groin. (R. 1943)

Each of those cases was referred to Juvenile Court. (R. 1936, 1937, 1938, 1939, 1943, 1954, 1956, 1957-1958, 1962)

Captain Maeyama worked closely with defendant, counseling him and trying to get him back on the right track. (R. 1944) He worked with defendant's mother trying to keep defendant in school. (R. 1944) He was not successful in any of his endeavors. (R. 1944)

The People presented certified copies of defendant's seven prior convictions for burglary, for which he was sentenced to five years in the Illinois Department of Corrections in 1982. (R. 1966)

Defendant was received at Logan Correctional Center on September 16, 1982. (R. 1978) In May of 1983, he was sent to Community Correctional Center, in Chicago, where inmates lived and received assistance in finding a job or going to school or a training program before their release. (R. 1969, 1970, 1978) Debbie Felt, a supervisor for the Salvation Army, was assigned as defendant's counselor. (R. 1971)

On December 5, 1983, defendant signed out for work in the morning. (R. 1971) He was to

return at 7:00 p.m. (R. 1971) He did not. (R. 1971) Two hours later, he was placed on escape status. (R. 1972) On January 2, 1984, defendant turned himself in. (R. 1972) He said he did not return because he had gotten drunk and fallen asleep. (R. 1973) Since he knew he would be placed on escape status anyway, he decided to stay out for the holidays. (R. 1973) At a disciplinary hearing, where defendant's nine major disciplinary reports were also reviewed, it was recommended that defendant lose 360 days community good time and be returned to a major correctional facility. (R. 1972, 1974) The supervisor ruled that only 30 days would be lost. (R. 1975) Defendant was sent to Joliet for one month and then returned to Logan in February of 1984. (R. 1978, 1981)

Between September 16, 1982 and May of 1983 when he went to work release, and February of 1984 and his parole in April of 1984, defendant received 27 disciplinary tickets, a number well above average. (R. 1978, 1983, 1995) Some were for failing to go to school, six were for either physical or verbal altercations with other inmates, a few were for insulting behavior toward the staff and possession of contraband. (R. 1979, 1993-1994) All of them resulted in findings of guilty. (R. 1979)

While defendant was a disciplinary problem throughout his incarceration, his behavior the last two months resulted in nine or ten of the reports against him, including two of the Grade B or more serious tickets. (R. 1980, 1994)

The jury found no mitigating factors sufficient to preclude imposition of the death penalty. (R. 2372) Defendant was sentenced to death for the murder of John Goodman and to 60 years concurrent for armed robbery and home invasion. (R. 2419)

III

REASONS FOR DENYING THE PETITION

Petitioner is a serial killer. He murdered his first victim as a favor to a friend. After committing that murder, petitioner sat around with his friends and partied with marijuana and beer.

Petitioner murdered his second victim because he was afraid that victim would find out about his first murder. After committing that murder, petitioner and his co-defendant sat around petitioner's house and smoked some pot before cruising around in the victim's car.

Petitioner murdered his third victim because he had money that petitioner wanted. After placing this victim in the trunk of his car, petitioner drove to Wisconsin. Along the way, with the victim in the trunk of the car, he stopped at a bar, had a couple of drinks, ate a pizza and shot a couple of games of pool.

Petitioner has never denied these crimes nor has he ever defended against them on the grounds that he did not murder these three people.

Prior to his arrest, petitioner was the leader of a satanic cult engaged in devil worship. Petitioner's history of violence includes beating up a young man who wanted nothing to do with the marijuana petitioner was trying to sell him. It includes attacking teachers, striking one in the face with his fist, pulling the hair and injuring the eye of another and kicking a third in the groin.

Between September of 1982 and May of 1983, while in the penitentiary after pleading guilty to seven burglaries, and between February of 1984, when he was returned to the penitentiary for escaping from work release, and his parole in April of 1984, petitioner received 27 disciplinary tickets, a number well above average. (R. 1978, 1983, 1995) Six were for either physical or verbal altercations with other inmates, a few were for insulting behavior toward the staff and possession of

contraband. While defendant was a disciplinary problem throughout his incarceration, his behavior the last two months resulted in nine or ten of the reports against him, including two of the Grade B or more serious tickets. (R. 1980, 1994)

Petitioner is a remorseless killer. He snuffs out lives as carelessly as if he were squashing an annoying bug. The families of his victims went months and even years not knowing if their loved one was dead or alive – not having at least the closure of a burial until their children’s decomposed remains were finally uncovered. Clemency should not be a consideration.

(Petitioner’s Claims)

Introduction

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.

Depositions

Petitioner asserts that he did not receive pre-trial discovery in the form of depositions for which there would have been good cause. Illinois Supreme Court Rule 416 provides that depositions are permitted only upon leave of court. The Supreme Court grants to the trial judge the

discretion to balance the interests of the parties to “insure that depositions are not being interposed for any improper purpose”. Petitioner here does not name the persons he would have deposed or what the good cause would have been for deposing them.

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). Furthermore, petitioner presented at trial the testimony of Dr. Gerard Girdaukas, a clinical psychologist, who was hired by the Office of the Public Defender. He presented his finding, that petitioner had impairment in his left brain function, to the jury which found it insufficient mitigation to preclude the imposition of the death penalty. Certainly, the jury’s decision could have been aided by Dr. Girdaukas’ opinion that petitioner’s preplanned murders were impulsive because, according to Dr. Girdaukas, the most impulsive crimes are those that are preplanned. The jury’s decision could also have been aided by the testimony of petitioner’s father, presented in mitigation, that contrary to Dr. Girdaukas’ finding, petitioner never had a learning disability.

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. Because the trial judge expressly found that petitioner's statement was voluntarily made when it denied his motion to suppress statements, it is clear that the failure to videotape his statement had absolutely no effect on the fairness of his 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 he was prevented from asserting at trial that his statement was unreliable and should not be considered.

Public Defender at the Police Station

Petitioner claims that he is entitled to clemency because he requested a lawyer while he was being interrogated but was not appointed an attorney until he appeared in court. He points out that under the Governor's Commission proposals, the public defender would be allowed to represent any suspect in a potentially capital case who requests to speak to a lawyer during an interrogation. However, petitioner fails to mention that the trial court expressly found that he did

not unequivocally request an attorney during his interrogation. Therefore, even if this proposal had been in effect at the time of petitioner's arrest, it would not have applied to him.

Electronic Recording of Witness Interviews

Petitioner asserts that he challenged the testimony of one or more significant prosecution witnesses whose police interview had not been recorded. Again, petitioner does not name these significant prosecution witnesses. In fact, petitioner never denied the crimes, claiming only that, on the Goodman murder, his confession established that he acted in the heat of passion and claiming only that, in the Howell murder, the contents of his confession were unreliable. In fact, as to his confessions, he not only had earlier recording of witness interviews by a court reporter, he was able to cross-examine them as well. Indeed, every witness to his confessions testified when the court litigated petitioner's motion to suppress statements.

Organic Brain Damage

Petitioner takes a recommendation dealing with mental retardation and employs it in his claim that he has organic brain damage. 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). Because petitioner is not mentally retarded and has never, even at this point, claimed he was, and because his claim of organic brain damage was justifiably rejected by the jury, petitioner's claim is inapplicable. Furthermore, petitioner confessed to murders of which the police were unaware. He could hardly have been led into those confessions.

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.

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 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. 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 his sentencing hearing to explain why he should not be sentenced to death, but chose instead 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.

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.

Judicial Override

Petitioner asserts that his 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 his post-trial motions, it is clear that the judge would not have overridden the jury's verdict.

Supreme Court Review

Petitioner also claims that he is entitled to clemency because the Illinois Supreme Court failed to consider whether his death sentence was disproportionate, excessive or otherwise inappropriate. That is untrue. In People v. Page, 193 Ill. 2d 120, 737 N.E.2d 264 (2000), the Illinois Supreme Court discussed in detail why petitioner was deserving of the death penalty when his co-defendant was not. Specifically, the Court pointed out that in the Goodman case, it was petitioner who originated the plan to rob and kill him, it was petitioner who stabbed Goodman in the chest four times while co-defendant Feinberg inflicted no injuries whatsoever, that petitioner had a substantial criminal history and Feinberg had no criminal convictions. Id. at 155-156. Omitted from the Illinois Supreme Court's discussion is the fact that co-defendant Feinberg also had a previous history of mental illness.

CONCLUSION

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

Respectfully submitted,

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