

OCTOBER 2002 SESSION  
PRISONER REVIEW BOARD  
STATE OF ILLINOIS

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PEOPLE OF THE STATE OF ILLINOIS

vs.

PAUL ERICKSON

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Docket No.

Inmate No. N33213

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

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**PEOPLE’S RESPONSE IN OPPOSITION TO PETITION  
FOR COMMUTATION OF DEATH SENTENCE**  
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RICHARD A. DEVINE  
STATE’S ATTORNEY OF COOK COUNTY

By: Michael Golden  
Mary Katherine Moore  
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Assistant State’s Attorneys

**HEARING REQUESTED**

## INTRODUCTION

Paul Erickson was twenty-four at the time he bound and gagged fifteen-year-old Elizabeth Launer and raped her. Then, as young Elizabeth begged for her life, Erickson stabbed her in the neck, heart and abdomen. When he was done stealing her innocence and life he tossed her body into a retention pond and set out to establish a false alibi. In the days following the vicious murder, Erickson bragged to his friends about the way he had killed Elizabeth. He was still remorseless for his crimes during his trial testimony when he admitted he helped rape and kill Elizabeth but blamed a fifteen-year-old companion for the killing. Despite the overwhelming evidence of his guilt and his utter lack of remorse for his heinous crimes, Erickson now seeks mercy from the Governor.

In the attachments to his request for clemency, Paul Erickson's friends and sister-in-law describe him as a compulsive liar who manipulates people and hates women. These traits were readily apparent to the judge who sentenced him to death in 1983. The current request for clemency is yet another attempt by this compulsive liar to manipulate the system. Justice demands that his request for clemency be denied.

Initially, the People note that Erickson's request for clemency is premature. In Erickson's Federal habeas corpus case, Judge Manning of the Federal District Court for the Northern District of Illinois held that Erickson is entitled to a new sentencing hearing. This ruling was limited to the second phase of the sentencing hearing and did not effect Erickson's conviction or the finding that he was eligible for the death penalty. Judge Manning stayed the ruling pending appeal to the Seventh Circuit Court of Appeals. Oral arguments for that appeal are scheduled to take place on October 9, 2002. In the event that the Seventh Circuit affirms the

District Court's decision, Erickson will be afforded a new sentencing hearing at which all of the alleged deficiencies on which Erickson bases his current petition could be rectified. On the other hand, if the Seventh Circuit reverses the District Court's decision, Erickson's sentence of death will remain in force. At that time, Erickson would still be permitted to file a request for clemency. A request at that time would permit the Prisoner Review Board and whoever is Governor at that time to devote the attention to this case that Elizabeth Launer and her family deserve. Thus, Erickson's request for clemency at this time is nothing more than a crass procedural ploy designed to prevent the People of the State of Illinois from either enforcing the sentence procured at a fair sentencing hearing; from receiving a fair, new sentencing hearing or; from receiving a fair clemency hearing.

Not surprisingly, the petition contains scant details about the crimes which earned Paul Erickson his death sentence. Nor does Erickson acknowledge that before he raped and murdered Elizabeth Launer he had already raped one woman, attempted to rape another and impregnated two fifteen year-old girls. Rather than let the facts get in the way of his self-serving pleas for mercy, Erickson attempts to shift the blame for his heinous crimes to his attorneys, his parents, John Weliczko and the two fifteen year-old boys he enlisted to aid him in the capital offenses he committed. Because the most important factor in any capital case is the crime defendant committed, the People will provide a recitation of the horrible events of July 30 and 31, 1982.

## EVIDENCE ESTABLISHING GUILT

On July 30, 1982, Elizabeth Launer joined her friends Renee East, Lisa Soderberg, Mike Blanchard and Tom Fairweather at Soderberg's house. At 16, Soderberg was the oldest; Launer, Fairweather and Blanchard were each 15 years old and Renee East was 13 years old. Soderberg began calling people she knew in an attempt to find someone old enough to rent a hotel room they could use for a party. After several people declined her request, she telephoned Erickson, who was 24 years old at the time. Soderberg had known Erickson for approximately 2 years and had dated him prior to calling him on July 30, 1982.

Erickson agreed to rent a hotel room for them. Erickson drove the group of teenagers to a liquor store, where he used money supplied by Fairweather to buy liquor for himself and beer for the others. He then drove to the Rolling Meadows Holiday Inn where he used more money supplied by Fairweather to rent a room. When he filled out the registration card, Erickson supplied false information about his address, the city he lived in, the state he lived in, the make of his car, his license plate number, and the number of people with him.

Once everyone got inside the hotel room, they started drinking and, with the exception of Erickson, smoking marijuana. Later, petititioner drove Launer and East home to get their bathing suits. As he drove them back to the Holiday Inn, Erickson gave each of the teenaged girls two pills which he said were "pharmaceutical LSD."

When they returned to the Holiday Inn, East and Launer changed into their bathing suits and went out to the pool. Erickson, Fairweather and Blanchard later joined them in this portion of the Holiday Inn. Fairweather and Blanchard played ping pong. Erickson stood alongside the

pool, watching Launer and East swim, and told the two girls that they were the "most beautiful girls in the whole place."

After the pool closed, the group went back to the hotel room where they continued drinking, smoking marijuana and watching television. At some point, Erickson asked Fairweather to step outside so they could talk. Once outside, Erickson asked Fairweather if he could keep his mouth shut, "no matter how bad a crime [he] was to witness." Fairweather replied that he could, but asked "why, what do you have in mind?" Erickson said "a rape." Erickson explained to Fairweather that he intended to rape Launer because he went out with her the night before and all she did was "prick tease" him. When Fairweather expressed concern over the possibility that Launer would notify police, Erickson responded by saying "she will never go home again." After Fairweather asked Erickson if that meant he intended to kidnap Launer and hold her for ransom, Erickson informed him that it meant "we are going to have to kill her." When Fairweather again expressed concern over the police, Erickson reassured him that they would not be caught, saying he had previously murdered a 5-year-old child and would be the one to kill Launer.

Erickson then walked over to his car and pulled out a knife and two neckties which he showed to Fairweather. He then put the neckties and knife under the front seat and walked to the trunk where he removed a rolled-up sock which he also put under the front seat. He and Fairweather then walked back into the hotel room.

When they returned to the hotel room, Erickson asked Blanchard to go for a walk. Erickson and Blanchard spent approximately 10 minutes walking up and down the hallway as Erickson asked Blanchard general questions about the school he attended and the grade he was in. When he finished, they returned to the hotel room and resumed drinking. Erickson then

stood up, said "come on, I want to talk to the guys" and motioned for Fairweather and Blanchard to join him outside.

Once they got outside, Erickson initiated, and monopolized, the conversation. He predicted that one of them would have sexual intercourse during the evening and suggested that regardless of who it was, the other two must leave the room. After Fairweather and Blanchard agreed, Erickson said that he found Launer attractive and would like to have sex with her. Fairweather agreed, but asked about the possibility that none of them would have sex that night. Erickson then told them that if Launer did not submit voluntarily, they would "hold her down and take turns" raping her. Erickson added, "if she puts up too much of a fight, we will kill her."

As they walked back to the hotel room, Erickson detailed the manner in which Launer would be singled out. Erickson told Fairweather that before anything else happened, they had to get rid of Soderberg who was dating Fairweather. Erickson urged Fairweather to pick a fight with Soderberg and then order her to leave. Fairweather agreed to this plan and they returned to the hotel room.

Fairweather began arguing with Soderberg only moments after he returned to the hotel room. A short time later, Soderberg left the hotel room, leaving only one female, Elizabeth Launer. (Renee East had already left.) Soon after Soderberg left, the remaining members of the group went for a ride in Erickson's car. When they returned to the hotel room, Launer went into the bathroom. As soon as she closed the bathroom door behind her, Erickson initiated yet another conversation about his plans to rape and murder her. He then produced the materials which would later be used to restrain her.

Erickson threw the two neckties which had been in his car to Blanchard and told him that he should grab one of her arms while Erickson grabbed the other. Erickson also instructed

Blanchard that the neckties should be used "to help me tie her up." Additionally, Erickson threw the rolled-up sock from his car to Fairweather and said "reach up from behind and try to put this in her mouth to keep her quiet." By the time Launer came out of the bathroom, Erickson had completed his instructions to Fairweather and Blanchard. The plan was to proceed as follows: Fairweather was to stuff the rolled-up sock into her mouth, Erickson and Blanchard were to tie her hands, and then all three were to assist in forcibly removing her clothes and raping her. She was then to be killed and her body disposed of.

Erickson began implementing his plan when they left the hotel room and got into his car. Erickson sat in the driver's seat with Launer in the middle and Blanchard in the front passenger seat. Fairweather sat in the back seat, directly behind Launer. The time was approximately 3:00 a.m. on July 31, 1982. They drove to the Carriage Way apartment complex where they parked and began smoking marijuana. The group became concerned when lights were turned on in certain apartments. Fearing that someone would call the police, Erickson drove to a more secluded area of the apartment complex. Ultimately he parked the car between tennis courts and an open field.

Once Erickson parked the car, he turned to Launer and complimented her on the rings she was wearing. He then put his right arm around her, turned his head to look back at Fairweather and nodded. At Erickson's signal, Fairweather then took the rolled-up sock from his pocket, reached over Launer's shoulder and tried to stuff the sock into her mouth. She struggled and tried to move away, but Erickson grabbed her left hand. Fairweather dropped the sock, so Erickson picked it up and tried to force it into Launer's mouth. When he was unable to do so, he twice slapped her across the face, "very, very hard" with the back of his hand and ordered her to open her mouth. In response, Launer screamed and began crying.

Erickson reached around, grabbed Launer's right arm and turned her around in the seat so that she was facing the passenger side of the car. He then used the neckties to tie her hands behind her back. He took out his knife, placed it between her body and the pair of overalls she was wearing and began ripping downward. Blanchard turned and looked at Fairweather and said that he did not want any part of what was about to occur. Blanchard then asked Fairweather for cigarettes and left the car. Blanchard walked approximately 25 yards behind the car and sat down on the grass with his back to the car. Although the car windows were rolled up, Blanchard could hear Launer crying and moaning.

Inside the car, Erickson stripped Launer of her clothes, grabbed her by the shoulders and laid her across the front seat. Even as Launer was crying and moaning, Erickson positioned himself on his knees, between her legs. Erickson slapped Launer. He then unzipped his pants, removed his penis and began masturbating. Launer warned Erickson that she would get even with him and eventually come back to haunt him. Unmoved by Launer's tears and pleas, Erickson lowered himself onto her as she lay crying and moaning. He then slapped her as he said "open up, bitch."

A few minutes later, Erickson sat up and asked Fairweather "are you going to?" Fairweather replied "yes." Erickson reached behind himself, opened the door on the passenger's side of the car and got out.

Erickson ran toward Blanchard with the knife in his hand. When he reached Blanchard, Erickson pushed the knife in Blanchard's face and asked "what the fuck are you doing?" After Blanchard said "I am just sitting here," Erickson warned him that he "[b]etter keep [his] mouth shut." Even though Blanchard assured him that he would, Erickson threatened Blanchard, saying

"you better keep your mouth shut or I will kill you." After Blanchard reassured Erickson that he would not talk, Erickson turned around and ran back to the car.

When Erickson got back to the car he pulled Launer out by her feet. Her hands were still bound behind her back, the other necktie was tied across her mouth and she was still stripped of her clothes and shoes. After Erickson pulled her out of the car, he ordered Fairweather to pick up her clothes. Erickson grabbed Launer by the arm, pulled her up and then across a road and into some bushes. From where he was sitting, Blanchard could hear Launer "crying and moaning and sobbing" as Erickson pulled her toward a retention pond. Fairweather, who was only a couple feet away from Launer, heard her plead with Erickson, saying "Oh no, you are going to knife me. Please don't knife me."

When they reached the edge of a pond, Erickson grabbed Launer "by the shoulders and lowered her down onto her knees, spun her around, and pulled her legs out from under her body." Her hands were still tied behind her back and she was crying and pleading for her life, saying "please don't do this to me. Don't hurt me. Don't do this. Don't kill me." Erickson was on his knees alongside her stomach. He responded to her pleas by saying "Sorry. It's got to end like this because you had to be such a prick tease." Erickson then ordered Fairweather to turn Launer's head. Erickson raised the knife above her body and as he brought the knife down Elizabeth Launer screamed.

Erickson plunged the knife into Launer's heart. He pulled the knife out and again brought it up over her body. Fairweather released Launer's head and began to walk away. Even though Launer was not moving or making any sounds, Erickson plunged the knife into her body two more times – once in the neck and once in the abdomen. Erickson then removed the necktie from around Launer's neck.

Erickson called Fairweather back to Launer's lifeless body. He then directed Fairweather to grab Launer's arms as he grabbed her feet. The two then swung her motionless body and threw it into the pond. Erickson then directed Fairweather to get rid of her clothes, so Fairweather picked them up off the ground and threw them in the water. They both then ran back to the car, yelling to Blanchard "let's get the fuck out of here."

After they had gotten into the car and started to drive away, Erickson began bragging about how he had raped and stabbed Launer. He joked that she must have been a virgin because "she was all tight," but said he "finally got in." When he described how he stabbed her, he boasted that if she survived, "she will never have kids again" because he had stabbed her in the vagina. He also said he stabbed her in the stomach and the heart, adding that he had "sliced her from heart to throat."

As they approached the entrance ramp for Route 53, Erickson stopped the car in order to dispose of the knife. He used Launer's underpants to wipe off the knife before he threw it out the window. He then drove back to the Holiday Inn. Once inside the hotel room, Erickson and Fairweather went into the bathroom to wash the blood off themselves. The group then gathered the remainder of Launer's belongings, left the hotel room, got into Erickson's car and drove to Elk Grove Village. Erickson told Fairweather and Blanchard that he was going to pick up a girl who would act as his alibi.

As he drove to Elk Grove Village, Erickson disposed of Launer's belongings. He took the jewelry from her purse and threw it out the window as they were driving. He then threw her duffel bag out as they approached a drainage ditch. Fairweather attempted to dispose of a bloody Holiday Inn towel at the same spot. After Fairweather threw the towel out the window, however,

Erickson got out of the car, walked over to the drainage ditch, picked-up the towel and threw it and Launer's purse into a pond of standing water.

They then drove to the home of Mickey Jacksch, a young girl Erickson was dating at the time. Erickson walked up to the house and knocked on Mickey's bedroom window. When Jacksch came to the window, Erickson immediately told her "I killed someone." He then told her it was a girl named Liz or Elizabeth, and that he wanted her to come outside because he needed to talk to her. When Mickey got into his car, Erickson told her "I have just killed somebody. Her name was Liz and I need you to be my alibi." He then detailed the manner in which he stabbed Elizabeth Launer, including the fact that he "sliced her from heart to throat," and added that "if she does live, she will never fuck again."

After telling Mickey that she was the only person he could trust, Erickson told her what to say if she was questioned by police. He told her to say that she met Launer in the hotel room, but that she and Launer got into a fight over Erickson which prompted Launer to leave. He further instructed Jacksch to say that they never saw Launer again. Finally, he gave her a physical description of Launer. After he explained the situation to Mickey, Erickson drove past the apartment complex, looking for police. As he drove past, he told Mickey "she is down there," referring to Launer. He then drove back to the Rolling Meadows Holiday Inn.

When they got inside the hotel room, Erickson again went over the alibi and described the murder, specifically telling Mickey that he "could hear the gurgling" when he stabbed Launer in the chest. He admitted to Mickey that he raped Launer and described the "horrified" look on her face before he stabbed her.

The next morning, Blanchard and Fairweather were the first to awaken. As they were getting ready to leave, Erickson woke up and told Fairweather to take the radio and cassettes which belonged to Launer. Fairweather and Blanchard then left with Launer's possessions.

On August 3, 1982, Erickson talked with Billie Johnson about the party at the Holiday Inn, specifically mentioning Launer. Erickson told Johnson that she was at the Holiday Inn, but said no one had seen or heard from her since that night. Erickson then asked Johnson if he had heard anything about her. Johnson replied that he had not heard anything.

Later that night, Erickson initiated another conversation with Johnson by informing Johnson that he wanted to tell him something, but that he did not want Johnson to repeat it to anyone. He then told Johnson that the reason no one had seen Launer since that Friday night was because Erickson had killed her. Erickson then detailed the events leading up to the murder of Elizabeth Launer. Erickson admitted he cut off her clothes after she was restrained, raped her and stabbed her in the heart. When Johnson expressed disbelief, Erickson offered to prove his story by showing Johnson the body, saying "well, if you don't believe me, I have to go down there anyway, down to the site because I have a tie tied around her arms and its my father's tie. I have to get that tie or if they find her with that tie, it has my dad's initials on it. They could link that to him." Erickson then drove to the apartment complex.

After Erickson parked the car, he and Johnson got out and walked to the pond. When they got to the edge of the pond, Erickson told Johnson to "look for her body." Erickson then pointed to the body in the water and began taking off his socks and shoes, waded into the water and grabbed Launer's floating body by the arm. Even though her body was badly bloated, he pulled her to the shore where he untied the tie which had been used to restrain her arms behind her back.

After he removed the necktie, Erickson shoved Launer's body back into the water and told Johnson that they should leave. When they got into the car, Erickson remarked that the necktie "smelled very bad of death" and held it outside the car window as the car was moving until it flew out of his hand. Erickson then drove to Mickey Jacksch's home. When Mickey got into the car, Erickson told her that he had removed the necktie from Launer's body and that afterward, his hands smelled like "death warmed over." He also described how Launer's body would not sink and that it "smelled really bad."

Erickson then drove to a Denny's Restaurant where he, Mickey and Johnson ordered something to eat. While at the Denny's he called a television station and told them that a body was floating in the pond behind the apartment complex.

Dr. Robert Kirschner, a deputy medical examiner, performed an autopsy on the body of Elizabeth Launer. Dr. Kirschner observed three stab wounds. The first was a wound to the left side of her breast, which was just over one inch in length. It was inflicted while Launer was alive and penetrated into her chest and through the left side of her heart, causing extensive bleeding within the chest and around the heart. The second stab wound was to the abdomen, just below the navel. It penetrated the abdominal cavity and perforated the stomach, as well as a portion of a small intestine and bowel mesentery. The third wound was to the left side of the neck and extended approximately two inches.

At the conclusion of the evidence the jury found Erickson guilty of rape, murder and concealment of a homicidal death. The jury was not instructed on the law of accountability. Therefore, in order to convict Erickson, they had to find that he personally committed the acts for which he was charged.

## EVIDENCE PRESENTED AT SENTENCING

On August 2, 1983, the first phase of Erickson's sentencing hearing began before the Honorable Judge Michael Toomin. Judge Toomin took judicial notice of the prior proceedings and evidence which resulted in the convictions. Judge Toomin found the existence of one statutory aggravating factor, namely that Erickson personally killed the victim in the course of committing another felony. The following evidence was presented at the second phase of the sentencing hearing.

In April or May of 1979, Rosalie Blackstock saw Erickson at King Edward's Restaurant in Lombard and agreed to go for a ride in his car. As they were driving, Rosalie lit a cigarette and dropped her matches between the bucket seats. When she reached down to pick them up, she felt something sharp hit the palm of her hand. She looked and saw a sharp metal object with black electrical tape wrapped around the base. Erickson then told her "we are going to go to a motel ... and we are going to fuck and if you don't, I'm going to tell your husband and your mother."

Erickson drove directly to a motel in Glen Ellyn and pulled Rosalie out of the car by her wrist. As he did so, he told her "don't fight it, just don't fight." Erickson forced her into a motel room, to which he already had a key. After he pushed her inside the room, he turned and locked the door. He then told Rosalie to take off her clothes or he would rip them off. He took off his own clothes and then threw her down on the bed. She struggled to sit up after he crawled on top of her, but he grabbed her by the shoulder, pushed her back down, pinned her wrists down and raped her. Just before he raped her, he said "you are going to enjoy this." When he finished raping her, he grabbed her by the hair and forced her head down on his penis. He stopped only

after she got sick, but told her "this is the best you have ever had." After they got dressed, he grabbed her by the back of her shirt and said "don't worry, I'm not going to tell your husband." He then drove her back to the restaurant.

Marge Rader had been introduced to Erickson by her boyfriend in March of 1979. A few days after they were introduced, Erickson drove to the Citgo gas station where Rader worked as a cashier and told her to stop dating her boyfriend. He told her that she should date him instead and promised her that if she did, he would give her an automobile. She refused his offer. Nevertheless, on April 8, 1979, Erickson arrived at Rader's home and invited her to a party, which he said was in progress at a motel. On the way to the party, he stopped at a liquor store and bought a bottle of Peppermint Schnapps. He then drove directly to one of the rooms at the Glen Ellyn Best Western Motel to which he already had the key. As they walked into the room he closed the door behind them. Rader realized that no one else was present. When she inquired about the people who were supposed to be there, Erickson told her that they were just late. He handed her the schnapps, told her to drink it out of the bottle and then drank some himself. After approximately 20 minutes, Rader began to get nervous. Erickson then grabbed her by the wrists, pinned her down on the bed and told her that if she did not have sex with him willingly, he was going to rape her and then go to her parents' home and tell them that she had seduced him. She told him that she did not care what he told her parents and that she was going to scream if he tried to rape her. He then got off her and drove her back home.

Approximately one week later, Rader saw Erickson while she was driving her car. He waved her over to the curb and told her that she was supposed to meet her boyfriend at a particular location. Rader drove to the location Erickson had mentioned. When she arrived, she saw her boyfriend and got out of her car in order to talk to him. She got into her boyfriend's car and drove around with him for approximately five minutes. While she was away from her car, Erickson slashed all four tires on her car with a knife.

About a week later, Rader saw Erickson waiting next to her parked car holding a six-inch knife in his hand. He held the knife to her chest, apologized for slashing her car tires and suggested that he should have slashed her instead. After he "backed off," she got into her car and drove directly to the Lombard Police Station, where she reported the incident.

Erickson also had a history of impregnating underage girls. In March of 1980, Erickson met Joanne Combs, a 14 year old runaway whom he began dating a short time later. Approximately one month later, she became pregnant with his child.

Erickson was 24 years old when he began dating Theresa Moran, who was 15 years old at the time. She would sneak out of her house at night in order to be with him and often times he would buy alcohol for her. On one occasion, he took Theresa, her sister and a girlfriend to the Holiday Inn in Rolling Meadows. After lending his car to Moran's sister and girlfriend, Erickson convinced Theresa to go into the women's bathroom with him, where he took her into one of the stalls. Although she tried to push him away, Erickson "just stayed on top" and forced her to have sexual intercourse with him. Erickson had sex with Moran again approximately one week later in a motel room which he had rented. Despite the fact that he used the room and ordered "a lot of alcohol" through room service, he told Theresa that he had no intention of paying the bill. In fact, when he registered, he gave a false name and address. He also told Theresa that she was not

to tell anyone that they were having sexual intercourse. He told her that if she mentioned it to anyone, he would tell her mother and father that she was having sexual intercourse and staying out late at night. Approximately one month later, Theresa discovered that she was pregnant with Erickson's child. Theresa tried to contact him but he never returned her telephone calls. She later gave the baby up for adoption.

On July 15, 1982, approximately two weeks before he raped and murdered Elizabeth Launer, Erickson suggested another murder to Billie Johnson. The two were driving around and drinking in Erickson's car when Erickson suggested to Johnson that they drive to O'Hare Airport so they could pick up a prostitute. However, he told Johnson that after having sex with the prostitute, they would have to "get rid of her ... so that there would be no evidence." He then produced a knife from under the front seat of his car. Johnson identified the knife Erickson used to kill Elizabeth Launer as the same knife he showed him that night. Although Erickson drove to the airport that night, he did not follow through on his plan.

While Erickson was awaiting trial for Launer's murder, he discussed the details of the crime with Harold Matthews who was a fellow inmate at Cook County Jail. Erickson described to Matthews a sexual experience he had in his army barracks. He told Matthews that the girl was a virgin and that "there was blood all over everything, over her, over the sheets, over the pillow, all over the bed." While in mid-sentence, Erickson suddenly swung his feet off the bed so that he was facing Matthews and began talking about something else. He then told Matthews about the murder of Launer saying "she had blood all over her from head to foot." As he described the stabbing, Erickson had "a sort of smile, but a menacing smile" on his face. After Matthews concluded his testimony, the People rested in aggravation.

Erickson then proceeded in mitigation, introducing the testimony of John Weliczko, a therapist who examined Erickson after his arrest. On direct examination during the voir dire on his credentials as an expert, Weliczko testified that he had received a Bachelor of Science degree in psychology and philosophy from Gordon College; a masters in psychology from Harvard; a masters in human nature and human studies from the Hartford Foundation; and a doctorate in psychology from the University of Chicago. However, on cross-examination, Weliczko admitted that his testimony regarding his degrees was false. Weliczko testified on cross-examination, that he received a masters in theological studies from Harvard Divinity School. In response to a question from the court, Weliczko testified that none of his degrees was in psychology. Therefore, the court refused to qualify Weliczko as an expert.

The court did allow Weliczko to testify as a lay witness. Weliczko testified that in September 1982 Erickson's parents came to him for counseling regarding their reactions to Erickson's arrest. They familiarized Weliczko with their family and provided insight into Erickson's childhood and adolescence. In addition, Weliczko was present in the courtroom throughout the trial and had interviewed Erickson for approximately nine-and-one-half hours.

Based upon his interviews, Weliczko concluded that Erickson suffered from a narcissistic personality disorder. Because of this disorder, Erickson was passive, had low self-esteem and sought approval from others. As a result, Erickson was susceptible to being used by others. Due to his need for approval, he would often exaggerate his accomplishments in an effort to build himself up in the eyes of others. In addition his neurosis caused him to be pre-occupied with fantasies about women. At the conclusion of Weliczko's testimony, Erickson's lawyer requested a continuance to obtain a psychological evaluation. The People objected and the judge denied the request for continuance.

In rebuttal, the People called Dr. Gilbert Bogen of the Psychiatric Institute of the Circuit Court of Cook County. Prior to trial and based upon Erickson's motion, the court had appointed the Psychiatric Institute to perform a psychiatric examination of Erickson to determine his fitness for trial and sanity at the time of the murder. Pursuant to the court's order, Dr. Bogen examined Erickson on May 4, 1983. Dr. Bogen found that he was both fit for trial and legally sane at the time of the offense. Based on this examination, Dr. Bogen was also able to form an opinion that Erickson was not under an extreme emotional or mental disturbance at the time of the offense.

Dr. Bogen testified that Erickson had an anti-social personality disorder with features of narcissism. Dr. Bogen stated that Erickson was not suffering from any neurosis or psychosis and that he was not operating under any mental illness or defect.

After hearing arguments from both the People and Erickson, and weighing all the mitigating factors against the aggravating factors, Judge Toomin found no mitigating circumstances sufficient to preclude imposition of the death penalty. Judge Toomin reiterated his earlier finding that Erickson had personally killed Launer and that he did so in the course of committing the felony offense of rape. Judge Toomin then sentenced Erickson to death.

## I.

### **Defendant's Contention That The Murder of Elizabeth Launer Was Not Sufficiently Aggravating To Even Warrant Eligibility For The Death Penalty Is Contrary To The Law In The State Of Illinois**

Fifteen-year-old, Elizabeth Launer's mouth was gagged, her hands were bound behind her back, and her neck was wound with a ligature. This defendant cut with a knife every stitch of her clothing from her body. While she lay naked and helpless he raped her. Subsequently, she was ordered to march -- still bound, barefoot and naked -- from the scene of her rape to the place of her execution. Elizabeth's tears and pleas for mercy were met with a taunt from the defendant. He stabbed her to death and then threw her body into a pond. Evidently, the defense is of the opinion that Elizabeth Launer's murder was not sufficiently torturous to even consider him as a candidate for the death penalty.

In fact, the defendant claims that he is entitled to clemency because he was found eligible for the death penalty upon what he repeatedly and improperly refers to in his petition as the "discredited course of a felony" aggravating factor. He asserts that since a majority of the Governor's Commission members have recommended eliminating this qualifying factor, the current law, as well as recent decisions by our Illinois Supreme Court, should simply be ignored. The alleged logic for the abolishment of this eligibility factor is that it could allow for "almost" any first degree murder to be capital in nature. However, the Illinois Supreme Court has expressly rejected this contention as being incorrect. People v. Ballard, \_\_\_Ill.2d.\_\_\_, 2002 Ill.LEXIS 376 (No.88885) The Court explained, "there are innumerable examples of first degree murders that do not fit within any of the statute's eligibility factors. Id.

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. It is inconceivable that anyone could suggest that this crime is anything less than deplorable. Or is the defendant actually suggesting that Elizabeth Launer just did not suffer enough to merit the imposition of the death penalty? It is ironic that the defendant bitterly complains of all his missed opportunities to present mitigation evidence “that would have humanized” him to the court, yet his lead argument is to selfishly minimize the crime. Basically, the defendant’s argument is that the combination of rape and murder simply is not a serious enough crime to merit giving anyone the death penalty. He then blatantly commences fantasizing about “what if” the recommendations of the Governor’s Commission were in effect at the time of his trial, then he would not have been eligible for the death penalty. However, the defendant fails to point out that the Commission’s members specifically stated when confronted with rape-murder situations that the “torture” aggravating factor would generally be applicable. Nevertheless, the fact remains the law is the same as it should be to deter and punish those who intentionally kill victims already brutalized by violent crimes.

The defendant also boldly asserts, as if this were an undisputed fact, that the jury as a whole believed that he, the 24-year-old adult, was only the poor, duped accomplice to the cunning and evil, 15-year-old Tommie Fairweather. Interestingly enough, the defendant completely fails to point out that this issue has been addressed and rejected flatly by the sentencing judge, the Illinois Supreme Court and by the United State’s District Court—the very same court that granted the defendant’s request for habeas corpus relief *on other grounds*. But what is most important is that the requisite factual finding as to the defendant’s culpability for purposes of eligibility is to be made by the sentencer—in this case the judge, not the jury.

People v. Erickson, 117 Ill.2d 271, 513 N.E.2d 367,378 (1987) citing Cabana v. Bullock, 474 U.S. 376, 387,106 S.Ct. 689,697 (1986). There can be no question whatsoever from Judge Toomin's ruling that he concluded that the defendant was the killer. The trial court made the following ruling:

“...Elizabeth Launer was actually killed by the Defendant Paul Erickson, not by any other party. He killed her intentionally. There was no mistake about it. It was Paul Erickson who plunged the knife into [Elizabeth Launer's] heart and again into her stomach and in the aftermath gloated about how the blood had spurted from her heart. Bragged to Mickey Jacksch and Billy Johnson of killing a defenseless child. It was Paul Erickson that came into court and in the vernacular put it on Thomas Fairweather, a person wholly incapable of producing such mayhem.”

Notwithstanding the unequivocal ruling by the sentencing court, the defendant continues with his improper attempt to impeach the jury's verdict with the affidavit of one juror. This is nothing more than “a red herring,” as it is the long recognized rule that it is impermissible and improper to take statements by members of a jury (in this case a single member) to alter the meaning or effect of a jury verdict. Id. Nevertheless, the defendant engages in additional fantasies about whether the jury would have actually sentenced him to death, and thus leaps to the conclusion that well established law should be ignored to accommodate his clemency request.

## II

**Erickson's death penalty was the result of his own actions and not those of his attorney.**

In the face of the severe aggravation evidence recounted above, Erickson now attempts to mislead the Board and the Governor by focusing on everything but his crimes. Erickson uses a shotgun approach which casts blame on the prosecutors, his defense attorneys, John Weliczko, Fairweather and his own mother. It seems the only person Erickson holds blameless is himself. The Board and the Governor must not be fooled by the distorted viewpoint put forth on behalf of a compulsive liar.

As the accurate above statement of facts shows, the aggravating evidence in this case was overwhelming. Erickson was twenty-four years old at the time he brutally raped and murdered fifteen-year-old Elizabeth Launer. Erickson planned the crimes over several hours and enlisted the aid of two juveniles to whom he had illegally supplied alcohol. After he killed Launer, Erickson attempted to cover up his role in the crimes by asking other juveniles to lie for him. Following the rape and murder, Erickson showed absolutely no remorse for his brutal crimes. Erickson's deliberate manner in carrying out the attack and his utter lack of remorse are compelling aggravating factors that dictate that his current plea for clemency should be rejected.

Further aggravation came from Erickson's history of sexually assaulting women and his history of sexual assaults against minors. These incidents indicate that Erickson's conduct on the night of July 30, 1982 was not an isolated act of violence on his part, but rather was indicative of his sadistic, misogynistic pattern of behavior.

Any analysis of the alleged defects in Erickson's sentencing hearing must balance these alleged defects against the above aggravation evidence. When such an analysis is done it is readily apparent that Erickson's death sentence should be upheld.

## A

### **The alleged fee dispute between Erickson's attorney and parents played no part in Erickson's trial and does not support his claim of clemency.**

Erickson first attacks his trial counsel by manufacturing an alleged conflict of interest based upon a fee dispute with his trial attorney. As the Illinois Supreme Court found, no such conflict of interest existed. A brief review of the facts will expose this claim for what it is --- an attempt to direct attention away from Paul Erickson's murderous actions and criminal history.

Erickson alleges that his attorney was so worried about getting paid that he threatened not to finish the trial unless Erickson's father signed a promissory note on July 29, 1983. In June 1985, Erickson's attorney filed a lawsuit to collect on the promissory note. Without any further factual support, Erickson alleges that counsel's decision to use Weliczko as a witness and his further decision not to seek additional mitigation evidence was based upon counsel's fear that he would not be paid.

The most telling indication that counsel's decision was not based on a conflict of interest or monetary concerns is the fact that Erickson's attorney requested a continuance to obtain an additional mental examination. This shows counsel's willingness to incur additional expenses, even at the potential risk of diminishing the pool from which his own fees would be paid. In addition, if the continuance had been granted, counsel would have been required to invest more of his time in the case. It is doubtful that counsel would have been so willing to do this if he were afraid he would not be paid for the time already spent on the case.

It is also significant that Erickson's parents suggested Weliczko as an expert witness and that they paid Weliczko directly. There is no evidence that the attorneys were ever aware of the financial arrangements regarding Weliczko. Finally, the fact that counsel waited 18 months beyond

the due date of the promissory note before he filed a lawsuit shows that counsel was patient in his attempts to collect his fees. Thus, it is clear that the decision to utilize Weliczko had no relationship to counsel's fees.

## B

**Although Erickson's mitigation witness John Weliczko lied about his credentials, his testimony did not lead to Erickson's death sentence in 1983 and should not lead to clemency now.**

Although John Weliczko was a fraud trying to pass himself off as a psychologist, he is not the reason Erickson was sentenced to death. There is no doubt that Weliczko initially lied about his credentials. However, it was Erickson's acts of raping and killing Elizabeth Launer combined with his history of violence towards women that resulted in the death sentence.

A proper analysis of the impact Weliczko's testimony had on Erickson's sentence must separately consider the obvious lies Weliczko told about his credentials and his opinions about Erickson. Just because Weliczko lied about his credentials does not mean he was wrong when he stated Erickson had narcissistic tendencies.

In an attempt to confuse the issues, Erickson devotes a great deal of his request for clemency reciting various acts of fraud committed by John Weliczko outside the sentencing hearing. Most of these fraudulent acts occurred years after Erickson was sentenced to death and had absolutely no relationship to the sentencing hearing in this case. Erickson does not deserve the mercy he refused to show Elizabeth Launer merely because John Weliczko deserved to be punished for his own fraudulent acts.

It is undisputed that Weliczko lied about his credentials. In fact it was the prosecutors who exposed these lies during cross-examination. Inexplicably, Erickson now faults the prosecutors for reporting Weliczko to the Illinois Department of Professional Regulations. Far from acting unethically, the prosecutors properly fulfilled their duty to protect the public.

Even though Weliczko was not qualified as an expert, he was an experienced psycho-therapist and family counselor who had examined Erickson and concluded that he suffered from a

neurotic disorder. Thus, counsel decided that Weliczko's testimony would be helpful, even after the trial court refused to qualify him as an expert. Counsel's decision was part of his overall strategy to establish the existence of an extreme emotional disorder that could explain Erickson's brutal behavior. Despite Erickson's current position on the issue, the use of lay witnesses to establish this mitigating factor is proper. People v. Coleman, 168 Ill. 2d 509, 526 (1995)("non-experts who have had an opportunity to observe a person may give their opinions of mental condition or capacity based on their observations, and such lay opinions may overcome an expert opinion.").

The strategic decision to use Weliczko as a mitigation witness is even more reasonable when considered in light of Dr. Bogen's prior evaluation of Erickson. Dr. Bogen and Lisa Grossman, Ph.D., a licensed clinical psychologist, had both examined Erickson and found that he was fit for trial and sane at the time offense. Erickson's attorney reasonably predicted that further evaluation by Dr. Bogen, or another independent psychiatrist, would result in a finding that Erickson was not suffering from an extreme emotional disturbance at the time of the offense. On the other hand, given the relationship between Weliczko and Erickson's family, counsel concluded that the risk of such an unfavorable opinion from Weliczko was diminished. For this reason counsel's decision to utilize Weliczko as a mitigation witness was reasonable.

Erickson mischaracterizes Weliczko's testimony regarding the link between Erickson's alleged neurotic disorder and his behavior. Weliczko testified that Erickson suffered from a neurotic disorder that impacted upon his behavior, even though it did not prevent him from functioning on a day-to-day basis. Weliczko elaborated that Erickson's neurosis affected his relationships with women and caused him to constantly seek attention from others. Although Weliczko testified that Erickson had some unfavorable personality traits, he attempted to establish a relationship between Erickson's neurosis and these traits. Thus, the characteristics to which

Weliczko testified were presented as symptoms of Erickson's neurosis. This is similar to the manner in which Erickson's current hired witnesses attempt to explain away his brutal crimes.

Moreover, even before Weliczko testified, these unfavorable character traits had already been clearly established by the evidence at trial and sentencing. For example, Weliczko's testimony that Erickson was a liar and could be violent was clearly borne out by the trial record. It was also clear that Erickson sexually assaulted at least two other women and impregnated two juveniles. Rather than completely disregard this unfavorable evidence, as do Erickson's current hired witnesses, Weliczko attempted to draw a correlation between these traits and Erickson's neurosis. By acknowledging Erickson's unfavorable personality traits, as opposed to ignoring or denying them, Weliczko may have garnered additional credibility for his opinion that these traits were the result of Erickson's neurosis.

## C

**When considered together with all of the other evidence in this case, none of the allegedly mitigating evidence on which Erickson now relies supports a grant of clemency.**

Erickson next blames his attorney for failing to present psychological evidence that, among other things, blames his mother for his murderous actions. The reliability of these reports is severely undermined by the other evidence in this case, much of which these hired current witnesses did not even review. When examined in light of all of the evidence in this case, it is clear that these reports do not justify granting clemency.

Although he testified at trial that he was in control on the night of the murder, Erickson now claims that he suffered from an extreme emotional disorder when he murdered Launer. Apparently Erickson is finally admitting that even his sworn testimony is unworthy of belief. While such an admission is long over-due, his complete lack of honesty was readily apparent to the trial judge.

Erickson now relies on the reports by Brad Fisher and David Randell, two psychologists who examined him in 1990 and opined that he operated under an extreme emotional disturbance at the time of the offense in 1982. Erickson also relies on the report of Dr. Gelbort that Erickson is a “follower” who is easily manipulated by others. The People note that Fisher and Randell never reviewed the trial transcripts or police reports from this case until years after they had already reached their opinions. Even worse, Gelbort has never reviewed this crucial evidence. Further, none of these professional witnesses interviewed any of the people present that night, including Erickson, regarding the events leading up to the rape and murder of Elizabeth Launer. It is difficult to see how these hired witnesses can reach a conclusion about Erickson's mental state at the time of the offenses without even asking him what he was thinking or feeling at the time he plunged his knife

into Launer's body. Erickson's hired experts also refused to consider Erickson's history of sexually assaulting young girls and women. These glaring deficiencies in the hired witnesses' opinions completely undermine the credibility of the opinions contained in the reports.

Although Erickson cites to these opinions as if they are facts, the People note that they are in sharp contrast to the opinion reached by the neutral, court-appointed psychiatrist and psychologist who examined Erickson prior to his trial, namely Dr. Bogen and Lisa Grossman, Ph.D. Both of these mental health experts examined Erickson in 1983 and found that he did not suffer from any mental or emotional deficiencies. Dr. Grossman diagnosed Erickson as having "Mixed personality disorder (strong antisocial, narcissitic (sic) and suspected borderline features. Possible alcohol abuse." (Dr. Grossman report at 6, People's Exhibit #1) She also stated "he tends to feel that laws and rules do not include him unless he happens to agree with them."

It is astonishing that Brad Fisher, one of Erickson's hired witnesses, believes that the sworn testimony of witnesses at trial is too subjective to be reliable. Yet this same witness relies on the self-serving statements made by Erickson, his family and his friends which were not made until years after Erickson's conviction and sentence. It is absurd that *any* of the hired witnesses would take anything Erickson said at face value. As even Randell's report makes clear, Erickson's friends and family describe him as a compulsive liar. Yet this is precisely the approach followed by Fisher and Randell. While a paid witness, whose fees are contingent on a favorable opinion, may have little need to review all of the available evidence before coming to a conclusion, this Board and the Governor must forego such a one-sided methodology.

At a minimum, the hired witnesses should have discussed the crimes with Erickson before rendering their opinions. This is true even though such a discussion would have been unlikely to elicit honest responses from Erickson. Even a cursory review of the records in this

case shows that he told different stories to the police, the court-appointed psychiatrist, the court-appointed psychologist and finally the jury during his trial. If nothing else, Erickson's changing stories should have alerted his paid witnesses to Erickson's history of saying whatever he thinks will help him avoid responsibility for his actions.

Perhaps because they did not talk to Erickson about the incident or read the trial transcript and police reports, the hired experts were unaware that he had planned the rape and murder of Launer over the course of several hours and that he induced two fifteen year old minors to help him. These facts, along with the deliberate manner in which Erickson attempted to conceal his crimes and establish an alibi, show that Erickson was in control of his actions. Thus, the evidence adduced at trial, including Erickson's own testimony, disproves the conclusions reached by his hired witnesses.

Erickson's statements to the investigator who prepared the pre-sentencing investigation report in this case also refute the psychological reports upon which he now relies, (Exhibit #2). According to that report, Erickson denied that he suffered from any mental or emotional disturbances. Erickson stated he was raised in a good home environment by strict parents and that he did not experience any major problems as a child. Erickson also told Lisa Grossman that he was spoiled as a child and was given everything he wanted. When speaking to Grossman, Erickson also denied any "suicidal ideation in the past or present." Once again, Erickson's statements made near the time of the offenses contradict the opinions of his hired experts who claimed that his "abusive" upbringing caused him to attempt suicide and to rape and murder Launer.

The psychological reports of the hired witnesses rely on Erickson's history of voluntary substance abuse as a basis for the conclusion that he was suffering from an extreme mental disturbance when he killed Elizabeth Launer. However, the evidence at trial showed that Erickson

was not intoxicated on the night of the murder. The People also note that Fisher concedes that Erickson's alleged neurological disorders may have been caused by his substance abuse. This is significant because Erickson's voluntary substance abuse could be considered as an aggravating circumstance.

Even after twenty years, Erickson is unable to produce any favorable character evidence from non-paid witnesses, which would justify clemency. Instead of presenting a good candidate for mercy, the exhibits attached to the request for clemency portray Erickson as a compulsive liar who abused drugs and hated women. Far from establishing mitigating factors, these portrayals of Erickson provide additional reasons to uphold the death sentence.

The affidavit of Ron Yurcus provides no mitigation at all. According to Yurcus' affidavit, he was Erickson's fourth grade teacher some time between 1966 and 1969. Yurcus apparently had no contact with Erickson from that time until after Erickson was sentenced in this case. Yurcus claims that Erickson was not a discipline problem and that Erickson was not allowed to go on a field trip because he did not complete a class assignment. It is insulting to Elizabeth Launer to suggest that Erickson should have his death sentence commuted because he missed a field trip in fourth grade. Nor is the fact that Erickson was a good student in fourth grade a sufficient basis for clemency.

Erickson's reliance on the affidavit of Lawrence Hart is equally unpersuasive. Mr. Hart stated that he knew Erickson to be a "very nice kid" who "seemed to get along well with his classmates." This depiction of Erickson as a well-adjusted high school student contradicts Erickson's current theory that he was emotionally disturbed due to his upbringing. Further, Hart's description of Erickson as a non-violent person was thoroughly refuted by the evidence presented both at trial and sentencing.

While the affidavits of Yurcus and Hart do not establish sufficient mitigation to commute the death sentence, they do show that Erickson was a well-adjusted student. This evidence contradicts Erickson's claim that due to his allegedly dysfunctional family he was emotionally and psychologically scarred as a child. If Erickson's upbringing caused such emotional trauma to him then presumably Yurcus and Hart would have noticed some of the detrimental effects. It is highly unlikely that neither Yurcus nor Hart would have noticed any problems, especially given the large gap between the times they taught Erickson.

Virtually every of piece of evidence referred to in the request for clemency contains aggravating factors that outweigh the mitigating effect. For example, Erickson's sister-in-law, a licensed clinical social worker, stated that she "know[s] why he hates women." The reason Erickson hates women is far less important than the manner he chose to express his hatred. Elizabeth Launer, Rosalie Blackstock, Margaret Rader, Joanne Combs and Theresa Moran all experienced Erickson's hatred of women. There is nothing mitigating about this aspect of Erickson's personality.

Similarly, the fact that many of Erickson's acquaintances thought he was a compulsive liar only adds to the aggravating weight accorded to the perjury he committed during his trial testimony. Moreover, the fact that Erickson is a compulsive liar lessens the credibility of his hired experts at least to the extent that they relied upon Erickson's self-serving statements to render their opinions.

## D

**Erickson's claim that his attorney conceded his eligibility for the death penalty is just another example of the lies he will tell to avoid responsibility for his crimes.**

Erickson's assertion that trial counsel conceded his eligibility for the death penalty is patently false. At the sentencing hearing, the People proceeded under three statutory aggravating factors: Section 9-1(b)(6) the defendant actually killed the victim during the course of another felony; 9-1 (b)(7) the victim was under sixteen and the death was exceptionally brutal; and 9-1(b)(8) the victim was a witness in a prosecution against Erickson. Erickson's trial counsel successfully argued that the last two of the three aggravating factors did not apply.

Counsel also contested the factor upon which Erickson was found eligible for the death penalty. At the eligibility phase of the sentencing hearing, all of the evidence adduced at trial was admitted, including the evidence which defendant now relies upon to establish that he was not the actual killer. Thus, there was no reason for counsel to recall witnesses to establish this point. Moreover, at trial, counsel argued that Fairweather was the actual killer, but the jury rejected this argument. Counsel did not concede eligibility merely because he did not repeat this losing argument at the eligibility phase.

Although he did not specifically address whether Erickson was the actual killer in his closing argument at the eligibility phase, counsel did raise the issue several times during that phase. When the certified copy of defendant's convictions were introduced into evidence, counsel objected to introduction of the verdicts as evidence that defendant was convicted as the principal.<sup>1</sup> In further support of this argument, counsel attempted to introduce the testimony of two jurors who would have allegedly testified that the jury convicted defendant on the basis of accountability. The trial court properly rejected this evidence because it was an attempt to impeach the jury verdict. As

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<sup>1</sup> During the pendency of this case, 9-1(b)(7) was amended to change the victim's age to thirteen. Thus, the Court did not find the crime was not exceptionally brutal and heinous.

previously stated, the jury was not instructed on the theory of accountability and, therefore, the verdict necessarily was a finding that Erickson personally killed Launer. During discussion of this proposed testimony, counsel again argued that defendant was not the actual killer. In addition, when the judge announced his finding that Erickson was eligible for the death penalty, counsel again raised the issue. Given all of these instances in which counsel argued that Erickson was not the actual killer, it is clear that counsel did not concede that Erickson was eligible for the death penalty.

During the second phase of the sentencing, counsel again argued that there was reasonable doubt that Erickson was the actual killer. In doing so, he specifically recalled the blood evidence, which Erickson again relies on here. Counsel also argued that Erickson was easily manipulated by the teenagers present in the hotel room on the night of the murder.

Following counsel's argument, the trial court made the following findings:

"The Court did find, I believe I will in fact at this time make further findings to amplify that the victim here, Elizabeth Launer, was actually killed by the Defendant Paul Erickson, not by any other party. He killed her intentionally. There was no mistake about it." It was Paul Erickson who plunged the knife into [Elizabeth Launer's] heart and again into her stomach and in the aftermath gloated about how the blood had spurting from her heart. Bragged to Mickey Jacksch and Billy Johnson of a killing of a defenseless child. It was Paul Erickson that came into court and in the vernacular put it on Thomas Fairweather, a person wholly incapable of producing such mayhem."

Far from conceding the existence of an aggravating factor, counsel for Erickson vigorously, but unsuccessfully fought on his behalf. Counsel cannot be faulted merely because the judge and jury did not believe the self-serving testimony of a compulsive liar. The Board and the Governor should also not be fooled by this murderer.

### III

**Because the sentencing court only considered Weliczko's testimony as a lay opinion, the sentence was not based upon "junk science."**

Erickson next alleges that his sentence was based upon "junk science". Erickson bases this argument on Weliczko's testimony and report. Because the sentence in this case was based upon all of the evidence and because the sentencing judge considered Weliczko's testimony as a lay opinion, there was no junk science involved in the sentencing decision.

Because this argument addresses the substance of Weliczko's testimony and report, the focus must be on the reliability of his observations rather than the lies he told about his credentials. The fact that Weliczko lied about his credentials does not mean that his observations regarding Erickson were necessarily incorrect. Although Erickson claims that the information contained in Weliczko's testimony and report was false and unreliable, most of this information is corroborated by documents contained in the trial and post-conviction records. For example, Weliczko's testimony that Erickson was concerned about being treated unfairly is mirrored by Dr. Bogen's observations that Erickson "was somewhat put out" that Fairweather received a plea bargain. Similarly, Weliczko's observation that Erickson lied and manipulated others is supported by David Randall's report.

Erickson's assertion that Weliczko's report was not the report of a competent psychologist adds nothing to a discussion of the Weliczko's observations. Dr. Conroe's affidavit is limited to his opinion regarding the way in which Weliczko presented his findings and does not touch upon the validity of those findings. In fact, Dr. Conroe apparently did not examine Erickson to determine whether Weliczko's conclusions were correct. It is irrelevant that Dr. Conroe, a psychiatrist, examined Weliczko's report and found that it was not the report of a competent psychologist. This

is especially true because the trial court refused to qualify Weliczko as an expert and did not treat his report as an expert's opinion. Parenthetically, the People note that Dr. Conroe's affidavit does not address Dr. Bogen's diagnosis in any way.

Further, the sentencing decision was not based upon Weliczko's testimony. In making this argument, Erickson places great emphasis on the fact the sentencing judge considered Weliczko's testimony and report. This consideration of Weliczko's report was not only proper, it was required under the federal constitution. Lockett v. Ohio, 438 U.S. 586, 604, 57 L.Ed. 2d 973, 98 S. Ct. 2954 (1978) and Eddings v. Oklahoma, 455 U.S. 104, 71 L.Ed 2d 1, 102 S. Ct. 869. Under Lockett and Eddings the sentencing court was required to at least consider Weliczko's testimony and report. Moreover, as previously stated, the Illinois Supreme Court has held that lay opinion testimony may overcome even an expert's opinion to establish a mitigating factor of extreme emotional distress.

The fact that the sentencing court considered Weliczko's testimony does not mean, as Erickson suggests, that he accorded aggravating weight to this evidence. Rather, it merely means that the sentencing judge properly weighed all of the evidence before him and concluded that the mitigating evidence presented did not preclude imposition of the death penalty. The sentence was based upon evidence and not junk science.

#### IV

**In the three times the Illinois Supreme Court considered Erickson's appeals, the Court considered and rejected on the merits presented in this request for clemency.**

Erickson's assertion that the Illinois courts refused to consider his additional mitigation evidence is demonstrably wrong. Not surprisingly, this claim is based upon a selective and incomplete recitation of the procedural history in this case which is designed to mislead the Board and the Governor. A complete reading of the history of this case shows that Erickson is not on death row because of a "Catch 22" as he claims, but rather because of his history of sexually assaulting and abusing teen-aged girls which culminated in the rape and murder of Elizabeth Launer.

On direct appeal to the Illinois Supreme Court, Erickson complained that the trial court erred by denying him a continuance to obtain an expert witness. In making this argument, Erickson argued that his trial attorney reasonably relied upon the Weliczko's claims that he was a qualified psychologist. The Court considered and rejected this argument. People v. Erickson, 117 Ill. 2d 271 (1987).

In his first post-conviction petition, Erickson alleged that his sentence was based upon Weliczko's unreliable testimony. He also claimed that his trial attorney was ineffective for not verifying Weliczko's credentials, for presenting Weliczko's testimony and for failing to present other available mitigation evidence. The Illinois Supreme Court held that Erickson was procedurally barred from raising the claims regarding Weliczko's credentials and testimony because they could have been raised on direct appeal. Nevertheless, the Court considered the additional mitigation evidence presented with the post-conviction petition, which included among other things the reports of Fisher and Randell. The Court held that even if this additional

mitigation evidence had been presented there was no reasonable probability that the sentence would have been different. People v. Erickson, 161 Ill. 2d 82 (1994).

Erickson filed a second post-conviction petition in which he raised the same arguments as in the first petition, but also claimed that his appellate counsel was ineffective for failing to raise the Weliczko issues on direct appeal. The Illinois Supreme Court considered and rejected Erickson's claims that he was denied a fair sentencing hearing by his attorney's failure to verify Weliczko's credentials and that he was prejudiced the introduction of Weliczko's testimony. The Court refused to reconsider its prior ruling with respect to the additional mitigation evidence, finding that its earlier holding was res judicata. People v. Erickson, 183 Ill. 2d 213 (1998).

As the above procedural history shows, the claims that the Illinois Supreme Court found "procedurally defaulted" were at some point considered and rejected on the merits by that same court. At most, Erickson can show that the Illinois Supreme Court refused to reconsider its earlier rulings each time Erickson raised them in later filings. Ironically, Erickson seeks to avail himself of the new procedural recommendations of the Governor's Commission adopted nearly twenty years after he raped and murdered Elizabeth Launer. Yet, he simultaneously castigates the Illinois Supreme Court for applying its long-established procedural rules to his case. This is another example of what court-appointed psychologist Lisa Grossman, Ph.D., described as Erickson's "feel(ing) that the laws and rules do not include him unless he happens to agree with them." (Lisa Grossman at p. 6)

V

**Petitioner's claim that he was somehow prejudiced because he did not have the criminal background of a peripheral aggravation witness is without merit and was flatly rejected by the United States District Court.**

Petitioner next alleges that the trial prosecutors contributed to the “problems afflicting” the death penalty in this case by failing to disclose the identity and criminal background of Harold Matthews, despite a constitutional requirement to do so. What petitioner conveniently neglects to inform this Board is that this contention was considered by the United States District Court which granted his petition for writ of habeas corpus and was flatly rejected. Erickson v. Schomig, 162 F.Supp. 2d 1020 (N.D.Ill. 2001). In the District Court, petitioner claimed that there existed a reasonable probability that the outcome of the sentencing hearing would have been different had defense counsel been able to impeach Harold Matthews’ testimony with evidence of his prior criminal record. However, petitioner had never raised this claim in any of his three state court appeals. The District Court, accordingly, dismissed the claim as defaulted, and, even assuming that he could show cause for his default, it held that he could not show prejudice, inasmuch as the Matthews testimony was cumulative and was overshadowed by other evidence in aggravation. Id.

In an in-depth analysis of petitioner’s claim, the District Court held as follows:

“According to Erickson, the State relied on Matthews’ testimony to establish that Erickson was the actual killer and showed no remorse. Erickson also claims that he was prejudiced by the State’s failure to disclose Matthews’ plea agreement with the State. Erickson contends that the suppressed evidence is material, and argues that there is a reasonable probability that he would not have been sentenced to death if he had been able to more thoroughly impeach Matthews. We disagree.

First, the State’s failure to disclose Matthews’ full criminal history did not prejudice Erickson. The sentencing judge noted during sentencing that Erickson devised the plan by which to sexually assault and murder Launer,

produced the sock, tie, and knife; transported Launer to the site of the crime; bound Launer; cut off her clothes; and “plunged the knife into her heart and again into her stomach and in the aftermath gloated about how the blood had spurting from her heart.” The court also found that Erickson’s attempt to shift the blame to Fairweather was unpersuasive because Fairweather was “wholly incapable of producing such mayhem.”

In addition, the court held that Erickson had demonstrated no remorse or contrition and that his testimony was “so deficient and so lacking and so incredible as to tax the gullibility of the credulous.” The court then briefly summarized each of the witnesses produced by the State in aggravation, making only a cursory mention of Matthews’ testimony, and briefly summarized Erickson’s evidence in mitigation. In short, a careful review of the record fails to show that it is reasonably probable that Matthews’ testimony was the straw that broke the proverbial camel’s back with regard to the imposition of the death penalty and fails to establish that Erickson’s sentence is not worthy of confidence.

We also note our disagreement with Erickson’s claim that Matthew’s testimony played an important role in the court’s finding that Erickson was the actual killer. As noted above, the trial court flatly rejected Erickson’s version of events and expressed his agreement with the jury’s finding, during the guilt phase of the trial, that Erickson murdered Launer. Similarly, we disagree with Erickson’s claim that Matthews’ testimony was essential to establish Erickson’s lack of remorse. The court stated, “I heard and listened to the Defendant’s explanation of this horrible event as he testified before the jury ... there was no remorse.” Thus, Matthews’ testimony during sentencing was merely cumulative.” *Id.* at 1053.

Petitioner’s characterization now of Harold Matthews as a “key aggravation witness” clearly exaggerates the importance of his testimony. As the District Court so aptly pointed out, he was merely a “peripheral witness.” *Id.* Other evidence presented in aggravation established that prior to his brutally raping and butchering Elizabeth Launer, he had already raped one woman, attempted to rape another and impregnated two fifteen year old girls. It is preposterous that petitioner demands clemency for such an evil and horrific crime because he did not have Harold Matthews prior convictions for purposes of impeachment at sentencing.

## VI

**Petitioner's claim that the alleged partial "recantation" of Michael Blanchard somehow undercuts a critical portion of the People's case ignores the overwhelming evidence of his guilt and is grossly misleading. Blanchard has never recanted the fact that petitioner is the individual who actually bound, raped, and butchered young Elizabeth Launer.**

Petitioner next suggests that he is entitled to have his death sentence commuted because the prosecution relied in part on the accomplice testimony of Michael Blanchard, which has now been recanted. It should first be noted that Michael Blanchard was never charged as an accomplice in the rape and murder of Elizabeth Launer, but was charged only in a juvenile petition of concealing a homicide.

When first questioned by police less than a week after witnessing the gruesome rape and murder committed by petitioner, Michael Blanchard initially denied knowing in advance what petitioner was planning and denied being party to a conversation in which petitioner instructed he and Tommy Fairweather on how his plan was to be carried out. He did however admit to being present when petitioner bound, raped and murdered young Elizabeth Launer. He further told police of how petitioner bragged and laughed afterward, saying she must have been a virgin because of how "tight she was, but (he) finally got it in", and how if she lived she would "never be able to fuck again" because of the way he stabbed her. He further told police of how petitioner graphically described how Elizabeth's body jumped and blood spurted out when he plunged the knife into her heart.

At trial, however, Michael Blanchard admitted to knowing in advance of petitioner's intentions and to abiding by his instructions up until the point that the actual attack on the victim occurred. When petitioner began to savagely beat Elizabeth, binding her hands behind her back, Blanchard fled from the car. On cross-examination, Blanchard admitted that he had not come forward to the police, or to his mother, because of his feelings of guilt over what had happened to

Elizabeth. He further testified that he knew that by coming forward and testifying to the whole truth he was further implicating himself in the rape and murder. Contrary to petitioner's assertion that Blanchard's testimony was "plea-induced", Blanchard testified that while he was told he was being charged as a juvenile, no guarantees had been made as to whether he would or would not be incarcerated.

It is important to remember that Michael Blanchard was a fifteen-year-old boy at the time, as was Tommy Fairweather, and that they were under the control and direction of petitioner, a twenty four year old man. It is humanly understandable that he would initially deny knowing in advance the horrors that Elizabeth would ultimately be subjected to. Petitioner now submits an affidavit, clearly authored by his defense attorney, and allegedly signed by Michael Blanchard, some eighteen years after this brutal crime. If the affidavit of Michael Blanchard is what it purports to be, then it is the partial "recantation" of a man who, after eighteen years, still cannot live with the guilt and remorse he suffers after knowing the horrors Elizabeth Launer was about to endure, and doing nothing to stop it. Michael Blanchard has never recanted the fact the petitioner is the individual who actually bound, raped and butchered the young girl.

Further, petitioner ignores the overwhelming evidence in this case that he was in fact the one who masterminded and orchestrated this horrific crime. He ignores the unimpeached eyewitness testimony of Tommy Fairweather. He ignores the testimony of Mickey Jacksch, the sixteen year old girl he attempted to recruit to be his alibi, and to whom he detailed how he raped and stabbed Elizabeth Launer, including describing the "horrified" look on her face before he plunged the knife into her heart and how he could hear "gurgling" once he'd done so. He ignores the testimony of Billy Johnson, to whom petitioner also gave a detailed account of the rape and murder, specifically claiming responsibility for cutting off Elizabeth's clothes after he

bound her and stabbing her in the heart. Johnson then recounted for the jury the grisly scene when, three days after the murder, petitioner dragged the bloated and mutilated body of Elizabeth Launer from the retention pond where he had discarded her, to prove to Johnson he had done it.

In light of the overwhelming evidence of petitioner's guilt in this case, the fact that Michael Blanchard may now be in denial that he knew in advance what petitioner intended to do is irrelevant. His partial "recantation" is clearly not a basis for granting petitioner clemency.

## **VII.**

**The Defendant's Wished-for Changes to the Illinois Capital Sentencing System Are Not the Law and Would Not Alter the Defendant's Sentence in Any Event.**

**A.**

**The Defendant's Claim that the State's Attorney's Decision to Seek Death Requires the Existence of Uniform Protocols to Guide Prosecutorial Discretion and the Approval by a State-Wide Committee is in Clear Conflict With the Illinois Law and Constitution.**

The Defendant asserts that his death sentence should be commuted because the decision to seek death was not made by a state-wide review committee. Moreover, he complains that there are “no standards or criteria for the prosecution to follow, or even consider,” when deciding to seek death. However, if the defendant would stop fantasizing about hypothetical rules long enough to review the actual law in the State of Illinois, including its Supreme Court decisions and its Constitution, he would not make such a frivolous allegation. “It has long been recognized by the Illinois Supreme Court that the State’s Attorney is endowed with the exclusive discretion to decide which of several charges shall be brought or whether to prosecute at all. A prosecutor’s discretion extends to decisions about whether the death penalty should be sought. People v. Jamison, 197 Ill.2d 135, 161-162, 756 N.E.2d. 788 (2001). Therefore, any attempt to mandate such review would constitute an impermissible restriction on the independence of the various State’s Attorneys under the Illinois Constitution.

Additionally, the decision to seek death in this defendant’s case was clearly warranted. The very nature and savagery of the crime standing alone, calls for the death penalty. However, apart from the rape and murder, the aggravating evidence established the defendant as a rampant sexual predator with an undisputed history of assaulting and intimidating young girls. Aside from his earlier, ridiculous claim that rape-murder should not qualify anyone for the death

penalty, not even the defendant suggests that the decision to seek death was the result of an abuse of discretion. Accordingly, this basis for clemency must be rejected.

## **B**

### **The Defendant Was Afforded the Opportunity to Allocute and Declined to Do So**

The allegation that defendant was not allowed to allocute is beyond frivolous, as it is completely and utterly false. The People direct the panel to the following exchange that took place between the judge and the defendant following the completion of all the testimony and arguments at sentencing:

THE COURT: Mr. Erickson, the law affords you the opportunity to address the Court on your own behalf if you so choose.

Is there anything you wish to say before I pass judgment?

MR. ERICKSON: No, your honor. (R.2491)

In spite of the fact that the record plainly bears out that the defendant was given the opportunity to allocute and declined to do so, the defendant cites as basis for clemency that he was not given the opportunity to express his remorse. The defendant deliberately sets out, once again, to mislead this Board. The only alternative explanation is that his counsel carelessly added boiler-plate “Governor’s Commission” arguments to his clemency petition and the defendant failed to correct this inaccuracy. In either event, this demonstrates the obvious bad faith under which both parties operate.

## **C**

**The Illinois Supreme Court Specifically Addressed the Proportionality of This Defendant's Death Sentence and Deemed it to be Appropriate.**

On direct appeal to the Illinois Supreme Court, the defendant challenged his sentence as being inappropriate and excessive when considering the juvenile accomplice's sentence in the case. People v. Erickson, 117 Ill.2d 271, 513 N.E.2d 367,382 (1987). The defendant also raised the general claim that the death penalty statute is unconstitutional because it does not provide a procedure to ascertain whether the sentence is proportional to the penalty given in similar cases. Id. Both arguments were evaluated and rejected.

The latter argument calling for the death penalty statute to be held unconstitutional for failure to require a proportionality review regarding similar cases has been thoroughly reviewed by the Illinois Supreme Court. People v. Walker, 109 Ill.2d 484, 508, 488 N.E.2d 529 (1985); People v. Salagy, 101 Ill.2d. 147, 161, 792 N.E.2d. 415 (1984); People v. Williams, 97 Ill.2d 252, 266 (1983); People v. Kubat, 94 Ill.2d 437, 502-503 (1983). Moreover, this argument has been recognized as not being constitutionally required by the United States Supreme Court. Pulley v. Harris, 465 U.S. 37, 44-51, 104 S.Ct. 871 (1984). The defendant's proposed review would require the collection of data in all murder cases in the State for a comparison between cases in which the death penalty was imposed and those in which it was not. Our Illinois Supreme Court pointed out in Kubat that the appellate review process in all capital cases ensures that the death penalty is appropriate and proportional to other cases when it is affirmed. Additionally, it would unnecessarily extend already lengthy opinions to detail the distinguishing facts of every single murder conviction in the State that did not result in a death sentence, as well as death penalty cases which were reversed. Kubat at 503-504. The defendant's request is as absurd as it is untenable.

In addition, the Illinois Supreme Court did evaluate the appropriateness of the defendant's death penalty sentence. The Court expressly stated that given the ample evidence adduced at trial it was clearly established that the defendant conceived of the plan that resulted in the rape and killing of the victim, that he actively sought out and involved the juvenile accomplice, that he supplied the murder weapon, and orchestrated the efforts to conceal the body and of dispose of the evidence. Erickson at 381. Moreover, the Illinois Supreme Court has demonstrated in the past that it 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 (1987); People v. Blackwell, 171 Ill.2d 338, 665 N.E.2d 782 (1996). Since it is eminently clear that the Illinois Supreme Court did consider whether this defendant's death sentence was disproportionate, excessive or otherwise inappropriate, this argument for clemency must fail.

## **CONCLUSION**

Although it has been nearly twenty years since petitioner was sentenced to death for the brutal rape and murder of young Elizabeth Launer, the words of the Honorable Judge Michael Toomin still ring clear and true today:

“In weighing the factors, statutory, non-statutory, which have been introduced here both in aggravation and mitigation, the Court must also consider the basis for the death penalty, legal, moral, perhaps philosophical. Mr. Vishny has made certain references to the lack of empirical data, which would support the concept that the death penalty acts as a deterrent and perhaps this is true. There is, however, another basis, a basis which Justice Potter Stewart referred to in the series of cases (defense counsel) referred to which upheld the death penalties of Texas, Florida, Georgia and why they struck down the death penalty of North Carolina in 1976.

I refer to the concept of retribution, not to be confused with revenge, but retribution being an expression of society’s moral outrage at particularly offensive conduct. As Justice Stewart observed in Gregg v. Georgia (cite omitted), he observed that “the decision is that, Capital punishment may be the appropriate sanction in extreme cases, is an expression of the community’s belief that certain crimes themselves are so grievous an affront to humanity that the only adequate response may be the penalty of death.” The case at bar in this Court’s opinion typifies the kind of case to which Justice Stewart’s comments were addressed. Premeditated in design, brutal and savage in furtherance of design, and cold- blooded in its execution.”

The People of the State of Illinois respectfully request, and justice demands, that petitioner’s request for clemency be denied.

Exhibit #1 for the People of the State of Illinois

Reports of Dr. Gilbert Bogen, Psychiatrist and  
Lisa Grossman, Ph.D.

The Psychiatric Institute  
Circuit Court of Cook County

# Exhibit #2 for the People of the State of Illinois

## Petitioner's Pre-Sentence Investigation Report

# Exhibit #3 for the People of the State of Illinois

## Illinois Supreme Court Opinions

PEOPLE v. ERICKSON, 117 Ill. 2d 271 (1987)

PEOPLE v. ERICKSON, 161 Ill. 2d 82 (1994)

PEOPLE v. ERICKSON, 183 Ill. 2d 213 (1998)

Exhibit #4 for the People of the State of Illinois

Illinois Department of Corrections  
Disciplinary Reports for  
Sexual Misconduct with  
Death Row Inmate Larry Eyler

Exhibit #5 for the People of the State of Illinois

Elizabeth Launer in life, ages four through the year  
she was raped and murdered by petitioner

# Exhibit #6 for the People of the State of Illinois

## Elizabeth Launer in death Scene photographs

