

OCTOBER 2002 SESSION
PRISON REVIEW BOARD
STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS)	
)	Docket No. \
vs.)	
)	
PETER BURTON)	Inmate No. B-70658
)	
)	

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: ALAN H. LYNN
COLIN C. SIMPSON
JON J. WALTERS

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I.

HISTORY OF THE CASE

Petitioner, Peter Burton, shot Evelyn and Frank Gorzelanny, both 74 years old, to death in their Calumet City home. Burton shot them pursuant to a contract with the victim's son, David. Burton had previously been involved in the murder of a man in Indiana. Petitioner pled guilty to murdering the Gorzelannys, and at sentencing, he asked the court to impose the death penalty, saying he would kill again if sentenced to prison. The Honorable Judge Thomas Condon did sentence Burton to death. The Illinois Supreme Court considered Burton's appeal and affirmed both his conviction and sentence of death in People v. Burton, 184 Ill.2d 1 (1998). The Illinois Supreme Court subsequently denied a defense motion for a rehearing. The United States Supreme Court refused to consider an appeal from the Illinois Supreme Court decision in Burton v. Illinois, 119 S.Ct. 1476 (1999).

II.

FACTS OF THE CASE

Petitioner, Peter Burton, was indicted by the Grand Jury on seven counts of first-degree murder, three counts of home invasion, two counts of armed robbery, one count of solicitation of murder, and one count of conspiracy. (C.R. 11-35) Petitioner pled guilty. (R. 206-227) Judge Condon found petitioner eligible for the death penalty under four separate provisions: multiple murders, murder for hire, murder in the course of another felony, and murder committed in a cold, calculated and premeditated manner pursuant to a preconceived plan. (R. 247-255) At the conclusion of the hearing on aggravation and mitigation, Judge Condon found no factors sufficient to preclude the death penalty, and sentenced petitioner to death. (R. 466)

The People and petitioner stipulated to facts as part of the factual basis for petitioner's guilty plea. (R. 225-6) According to petitioner's written statement published as a part of the factual basis, David Gorzelanny approached petitioner in early December, 1992, asked petitioner if he wanted traveling money, and mentioned the figure of \$25,000. (R. 217-8) About a week later, Gorzelanny asked petitioner if petitioner had thought about their prior conversation, and petitioner responded that he had. (R. 218) Gorzelanny explained that he needed someone blown up and related that Gorzelanny would gain a large sum of money. (R. 218-9) Gorzelanny later indicated the money would come from a trust fund and petitioner assumed the trust fund concerned Gorzelanny's parents. (R. 219) At approximately 4:00 p.m. on December 31, 1992, Gorzelanny asked petitioner if he had seen Gorzelanny all day and if petitioner could provide an alibi in court, if necessary. (R. 219) Petitioner stated he would. (R. 219) Sometime after 8 p.m., Gorzelanny informed petitioner that Scott Stodola could not do it alone, which petitioner understood to mean

killing Gorzelanny's parents. (R. 219) After speaking with Gorzelanny, petitioner changed clothes and brought a second set of clothing. (R. 219) Petitioner then entered a van which Stodola drove. (R. 219) While in the van, Stodola handed a gun to petitioner which petitioner placed in his right pants pocket. (R. 219-20) Petitioner knew that Stodola had a switchblade in his possession. (R. 220) Petitioner and Stodola considered tying up Gorzelanny's parents in their basement and using a knife to cut their throats. (R. 220) Eventually, petitioner and Stodola arrived at the Gorzelanny residence under the pretext of waiting for David Gorzelanny. Frank and Evelyn Gorzelanny welcomed them into their living room where they all sat down. (R. 220)

After Frank returned from the kitchen with a can of soda pop for Stodola, petitioner stood up, pulled the gun from his pocket, stepped toward Frank, pointed the gun at his head, and fired. (R. 220-1) The bullet struck the left side of Frank's head. (R. 221) Petitioner then stepped to his left, pointed the gun, and fired twice at Evelyn, who said something like "Oh, no," or "Oh my God." (R. 221) Petitioner saw one of the bullets strike her on the left cheek. (R. 221). With both Gorzelannys dead Stodola tore Frank's front pants pocket, took cash and some identification, and placed them in Stodola's pocket. (R. 221) Petitioner and Stodola entered three bedrooms, pulled out drawers, and turned them over. (R. 221) Petitioner and Stodola left the residence entered a van and Stodola drove to his girlfriend's apartment. (R. 221) Stodola handed petitioner the money taken from Frank, and petitioner counted it and divided it between them. (R. 221) Petitioner changed clothes in the apartment. (R. 222) Petitioner later placed the gun in a boot underneath his bed. (R. 222) After going to a strip joint in Hammond, Indiana, petitioner and Stodola drove to a dark area of Gary, Indiana, and petitioner threw the clothes they had worn out a window. (R. 222)

Petitioner and Stodola eventually returned to the Gorzelanny house. (R. 222) Both

entered wearing gloves. (R. 222-3) Petitioner suggested that they take the television to give the appearance of a burglary, but Stodola told petitioner that David Gorzelanny would come to his parent's house that morning and make the house appear to have been burglarized. (R. 223)

In the early morning hours of January 1, 1993, members of the Calumet City Police Department arrived at the Gorzelanny residence at 308 154th Place, Calumet City, Illinois. (R. 215) The police observed portions of the house in disarray and found the bodies of Frank and Evelyn. (R. 215) In the course of the investigation, both Stodola and David Gorzelanny acknowledged their involvement in the murders. (R. 223-4) David Gorzelanny had approached several people about killing his parents in December, 1992, including Stodola and petitioner. (R. 224) David provided a knife and gun and conspired with petitioner and Stodola to kill his parents.

(R. 224) The police later recovered a gun from petitioner's shoe and petitioner's and Stodola's clothing in Indiana. (R. 224) In addition, the police removed a switchblade knife from Stodola's girlfriend's home and four boxes of jewelry taken from the Gorzelannys, which the police found, intermingled with Stodola's belongings. (R. 224-5) Dr. Nancy Jones performed autopsies on the victims and would testify they died from their gunshot wounds. (R. 216-7)

After admonishing petitioner of his rights and receiving a factual basis, the trial court accepted petitioner's guilty plea on July 7, 1995. (R. 205-227)

Prior to petitioner's guilty plea, the court advised petitioner on February 27, 1995, that the parties could proceed by way of stipulated testimony at a fitness hearing, but that petitioner had the right to call and cross-examine witnesses. (R. 147, 150) Petitioner indicated he understood. (R. 150) On May 15, 1995, the parties proceeded by way of stipulation at a fitness hearing. (R. 177-8) Dr. Roni Seltzberg, a staff psychiatrist at the Psychiatric Institute, would testify that she reviewed pertinent records and she examined and evaluated petitioner. (R. 179)

In her opinion, petitioner was aware of the nature of the charges, the proceedings, and the consequences of a plea, was able to assist his counsel, and was fit to stand trial and to plead. (R. 179-80) Additionally, Dr. Lynn Maskel, employed in the forensic psychiatry program at Loyola University Medical Center, would testify that petitioner no longer had a mental condition which would preclude his understanding the nature of the proceedings or prevent him from assisting in his defense. (R. 180-1) In her opinion, petitioner was fit to stand trial. (R. 181) The trial court found petitioner fit for trial. (R. 182)

On October 3, 1995, the trial court conducted a hearing on the issue of fitness for sentencing. (R. 292, 295, 297) Dr. Seltzberg revealed that as part of her evaluation, she reviewed reports from Cermak Health Services; her own reports of previous evaluations of petitioner; a psychological report; Dr. Maskel's report; police reports; and psycho-social histories provided by petitioner's father. (R. 300-1) Dr. Seltzberg had given an opinion on February 3, 1995, that petitioner was fit to stand trial and was on medication. (R. 302) After evaluating petitioner a second time, on May 5, 1995, Dr. Seltzberg determined he was fit to stand trial and plead, but she did not render an opinion as to petitioner's sanity. (R. 302) She again evaluated petitioner on September 18, 1995, regarding his fitness for sentencing. (R. 303) Petitioner had been prescribed 200 milligrams per day of Zoloft, an antidepressant medication, for at least two years. (R. 304) Zoloft relieves some of the signs and symptoms of clinical depression. (R. 305)

However, antidepressant medication can serve to treat an adjustment disorder with depressed mood and a patient need not have significant clinical depression in order to be medicated. (R. 313) Most of the diagnoses in petitioner's Cermak Hospital records are adjustment disorder with depressed mood. (R. 313) Dr. Seltzberg had never personally observed petitioner display any symptoms of clinical depression. (R. 306-7) She noted it would not be

unusual for a prisoner facing the death penalty or a natural life sentence to experience some form of depression. (R. 307) In her opinion, petitioner could have an adjustment disorder which relates to a particular stress upon a person. (R. 312) If the stress is removed, the depression disappears. (R. 312) Petitioner might possibly have a personality disorder. (R. 312)

Petitioner had no formal psychiatric history, meaning, he had never really sought out treatment. (R. 310) Petitioner never had a major depression prior to his current incarceration. (R. 313) Petitioner has never been psychotic. (R. 314)

Dr. Seltzberg questioned whether petitioner still needed to receive Zoloft. (R. 312) However, she suggested that petitioner should continue the medication until after sentencing when it could probably be discontinued. (R. 307-8) If petitioner discontinued taking Zoloft, a good chance existed that petitioner would experience no difference. (R. 313-4) Nothing indicated that petitioner could not maintain a level of fitness, even absent the medication. (R. 314) Since Dr. Seltzberg first saw petitioner in December 1994, petitioner responded coherently, intelligently, and logically every time she had seen him. Moreover, petitioner's medication would not prevent him from understanding the aggravation and mitigation hearing and its consequences. (R. 314) In her opinion, petitioner was fit for sentencing. (R. 307-8) At the conclusion of the hearing, Judge Condon found petitioner fit for sentencing on medication. (R. 321)

On October 5, 1995, the court began a hearing on aggravation and mitigation. (R. 327) Daniel Boucek, assigned to the Naval Criminal Investigative Services of the U.S. Navy, testified that petitioner received an other than honorable discharge from the Navy on June 2, 1989, based on petitioner's desertion in excess of thirty days. (R. 331-36) Russell Oberman, a Lansing police officer, testified that on October 14, 1990, at about 2 a.m., he responded to a call at Kilroy's Pub in Lansing. (R. 339-40) Officer Oberman observed that the rear door and frame had been damaged,

and learned from employees of the pub that, after an employee noticed the broken door, they discovered petitioner standing in the kitchen area. (R. 342, 344) After being caught, petitioner, who was holding some nylon and a pry bar, handed an envelope containing \$460 to the managers. (R. 343-4) Petitioner admitted kicking in the rear door and taking \$460 from a locked cash drawer in the kitchen. (R. 345) The People presented a certified copy of petitioner's conviction under case number 90C6-61285 on June 10, 1991, in which petitioner pled guilty and received 18 months probation and 60 days incarceration. (R. 346-7)

Douglas Wiech, of Hammond, Indiana, testified he was a friend and neighbor of Doyle Matlock. (R. 350-1) Doyle hired petitioner to do some remodeling at Doyle's house. (R. 352) At 4:30 p.m., on February 10, 1992, Douglas saw petitioner and another person exit from the only entrance to the building in which Doyle lived. (R. 353-5) The other person with petitioner turned toward the building and away from Douglas. (R. 355) Petitioner spoke with Douglas, then approached Doyle's truck. (R. 355-6) However, Douglas noticed petitioner had the wrong set of Doyle's keys, so petitioner went to Doyle's apartment and returned with the correct set of keys. (R. 356-8) The second individual with petitioner was Mr. Wood. (R. 360) Later, Douglas saw petitioner back Doyle's Ford truck out of the driveway and did not see the truck again until he recovered it in Lebanon, Indiana. (R. 361-2, 368-9) Douglas became worried after 10 p.m. because he had not seen Doyle and that was unusual. (R. 362-3) At about 12:25 a.m., the next day, he heard the police and went outside. (R. 363-4) He saw the police remove Doyle's body from Doyle's apartment. (R. 365)

Officer Mark Woodard had been employed by the Lebanon Police Department as a patrolman on February 10, 1992, when he responded to a call at Lee's Motor Inn. (R. 371-2) Officer Woodard learned that two men checked in using a credit card, that they misspelled the

name Doyle, and they indicated they arrived in a Mazda, but no Mazda could be found in the parking lot. (R. 373-4) Officer Woodard did see a Ford truck in the lot. (R. 374-5) He and another officer knocked on the men's motel room and William Wood answered the door. (R. 375-6) Wood said he was not Doyle Matlock, but that Doyle was asleep. (R. 376) Wood attempted to wake up petitioner by calling him Doyle. (R. 376-7) After both of them denied having Doyle's credit card, Wood eventually turned the card over to the police. (R. 379) Wood also possessed Doyle's driver's license. (R. 386) Officer Woodard noticed red spots which were possibly blood stains on Wood's clothing. (R. 379-80) Petitioner claimed that he and Wood were driving to Louisiana to meet Doyle for Mardi Gras. (R. 381) The motel attendant told Wood and petitioner to leave the motel. (R. 382) Officer Woodard did not place them under arrest, but told them they could not drive as they both said they had been drinking. (R. 383) Officer Woodard arrested petitioner about an hour or two later when petitioner began driving the truck. (R. 383-4)

The parties stipulated to the Lake County, Indiana, coroner's report which indicated Doyle Matlock died from blunt force injuries to the head with traumatic hemorrhage, and multiple stab wounds. (R. 388)

Detective Walter Piech of the Calumet City Police Department testified to his observations of the Gorzelanny residence on January 1, 1993. (R. 389-91) Frank's pants pocket had been torn and he had a close range gunshot wound to the left side of his head. (R. 392-4) Evelyn had a gunshot wounds to the left wrist and two gunshot wounds to the left cheek. (R. 392) Her wounds also indicated gunshots fired from close range. (R. 394-5) Detective Piech spoke to petitioner that evening and petitioner admitted shooting Mr. and Mrs. Gorzelanny. (R. 395-7) Petitioner appeared smooth and calm and expressed no remorse. (R. 397) Assistant State's Attorney Kevin Kulling obtained a written statement from petitioner. (R. 398-402) The People

published the statement at the hearing. (R. 404-10) Kulling testified that petitioner was calm during their conversation and that petitioner never expressed remorse. (R. 410-11)

After the People rested in aggravation, the trial court indicated it would review the information in the pre-sentence investigation report and documentation tendered by defense counsel, including the report of a mitigation specialist. (R. 414-17) Defense counsel argued in mitigation. (R. 426-438) During allocution, petitioner stated he sought the death penalty because he deserved to die for the murders of Frank and Evelyn Gorzelanny and not because he was suicidal. (R. 452) He also said he might kill again in prison. (R. 456)

At the conclusion of the hearing, Judge Condon found two statutory mitigating factors: petitioner had no significant history of prior criminal activity and petitioner committed the murders under the influence of an extreme mental or emotional disturbance. (R. 466) However, he found the mitigating factors insufficient to preclude the imposition of the death sentence and sentenced petitioner to death. (R. 466-8)

III.

REASONS FOR DENYING THE PETITION

THIS BOARD SHOULD NOT RECOMMEND CLEMENCY WHERE PETITIONER PLED GUILTY AND WAS NOT INNOCENT, AND WHERE PETITIONER HAS EARNED A DEATH SENTENCE FOR HIS MURDERS IN THIS CASE, HIS INVOLVEMENT IN A MURDER IN INDIANA, AND HIS WARNING THAT HE WOULD KILL AGAIN IF SENTENCED TO PRISON.

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. 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.

Petitioner claims his sentence should be reduced because the State's Attorney's decision to seek death was made without uniform protocols to guide his discretion and was not approved by a state-wide review committee. However, "[i]t has long been recognized by the (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, a petitioner does not even allege much less argue that the decision to seek death in his case was the result of an abuse of discretion. Accordingly, it must be rejected.

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

Petitioner next falsely contends that his sentence was not subject to proportionality review, and thus, was disproportionate, where neither of petitioner's co-defendants was sentenced to death. As a matter of fact, the Illinois Supreme Court considered and rejected this argument. As the Supreme Court said in its review of the evidence in aggravation and mitigation:

In the instant case, the circumstances surrounding the commission of the murders constituted strong aggravating evidence. Defendant shot and killed two defenseless, elderly individuals, who had invited him into their home. Defendant was offered money to commit the killings. After being invited into the home, defendant shot Frank Gorzelanny in the head in an execution-style manner. Defendant then ruthlessly shot Evelyn Gorzelanny twice in the head. After the shootings, defendant acted in a deliberate manner to dispose of clothing and other possible evidence and to give the appearance of a burglary. There was no indication that defendant was acting under the influence of alcohol at the time of the killings. These circumstances show that defendant acted in a planned and calculated manner. . . . Although the circuit court considered mitigating evidence, the circuit court was justified in finding that such evidence was not sufficient to preclude imposition of the death penalty when balanced against the aggravating evidence. People v. Burton, 184 Ill.2d at 36.

While Stodola received a sentence of sixty years, he did so on a plea agreement in which he agreed to testify truthfully against his co-defendants. Stodola did testify at Gorzelanny's jury trial. Gorzelanny, who was not present at the actual murder scene, was sentenced by Judge Condon to Natural Life. Only Burton shot the victims. Only Burton was involved in a separate murder. Only Burton warned he would kill again. The Illinois Supreme Court wisely rejected the same argument petitioner raises now, and this Board should not give it any more credence when petitioner has misled this Board about whether his claim has previously been considered.

Finally, petitioner raises three other groundless claims in his petition. First, petitioner falsely claims that he was taking prolixin at the time of his guilty plea, that the parties merely stipulated to petitioner's fitness, and that the psychiatrists did not address whether petitioner would be fit while on medication. All of these claims are untrue. While petitioner may have been taking prolixin almost a year before his guilty plea, the evidence from the record before the Illinois Supreme Court, which included psychiatric evaluations, shows that petitioner was taken off prolixin in early September of 1994, almost a year before his guilty plea. (Supp. C.R. 396, 397, 413; R. 303-7) While petitioner was taking the anti-depressant Zoloft, Dr. Seltzberg testified that if petitioner discontinued taking Zoloft, there was a good chance there would be no difference, and that taking Zoloft did not prevent petitioner from understanding. (R. 313-4) Nothing contradicted Dr. Seltzberg's expert testimony.

The parties did not merely stipulate to petitioner's fitness. Two hearings were held on petitioner's fitness. Prior to the first, the court advised petitioner that he had a right to call and cross-examine witnesses, and the court heard the stipulated testimony of two experts. (R. 147, 150) By that time, petitioner's own expert witness, who knew of petitioner's medications, had concluded that petitioner no longer had a mental condition, which would preclude him from being fit, and that medication had most likely resolved his major depression. (C.R. 75) This hearing was held two months before petitioner's guilty plea. A second hearing was held three months after petitioner's guilty plea. As discussed above, Dr. Seltzberg was called to testify at this hearing, and she testified without contradiction as to petitioner's fitness and the minimal, if any, effects of petitioner's medication.

Petitioner's claim that the psychiatrists did not address whether petitioner would be fit while on medication is false as shown by Dr. Seltzberg's testimony. Moreover, the Illinois

Supreme Court explicitly rejected any notion that the psychiatrists did not consider the medication in reaching their opinions that petitioner was fit. People v. Burton, 184 Ill.2d 1, at 14-16. This Board should not have had its precious time wasted by false and inaccurate claims presented by this petitioner.

Second, petitioner claims that his actions followed heavy alcohol abuse and that a thorough investigation was needed concerning his mental state. Contrary to petitioner's claims, the Illinois Supreme Court, as discussed above, found no indication petitioner was acting under the influence of alcohol at the time of the killings. People v. Burton, 184 Ill.2d at 36. The Illinois Supreme Court also rejected the claim that an investigation into petitioner's mental state was required, and found that the records were insufficient to trigger an inquiry into sanity. People v. Burton, 184 Ill.2d at 28-9. Further, petitioner was fit to plead guilty and waive an insanity defense as he so chose. People v. Burton, 184 Ill.2d at 27. In addition, a material factor in determining sanity is whether a defendant had a plan for the crime and tried to prevent detection. See People v. Gilmore, 273 Ill. App.3d 996, 1000, 653 N.E.2d 58 (1st Dist. 1995). The evidence in this case revealed a definite plan and abundant efforts to avoid detection. Petitioner contemplated the contract killing for some time before the murders. (R. 218-9) On the night of the murders, he brought an extra set of clothes to change into before leaving Indiana to commit the murder. (R. 219-20) He and an accomplice considered tying the victims and slitting their throats. (R. 220) Petitioner and co-defendant Stodola wore gloves. (R. 220) After the murder, they changed clothes, hid the gun, and disposed of their clothes in a dark area in Gary, Indiana. (R. 222) Petitioner and co-defendant Stodola even returned to the murder scene where petitioner suggested they take a television to give the appearance of a burglary, but Stodola informed petitioner that co-defendant Gorzelanny would arrange that. (R. 223) In light of the vast evidence of premeditation

and concealment, no insanity defense would have been viable. This was, quite simply, a cold and calculated murder.

Petitioner's third and final claim rests solely on an alleged lack of investigation of mitigating evidence that the Illinois Supreme Court has rejected. People v. Button, 184 Ill.2d at 29-31. The fact is that petitioner chose not to have mitigation presented because he decided to ask for the death penalty. Despite this fact, petitioner's attorney presented hundreds of pages of mitigation material to the court and the trial court considered this information. This information included a 33-page report prepared by a mitigation specialist, hired by the defense, and petitioner's mental health records and alcohol treatment records. People v. Burton, 184 Ill.2d at 30-31. Prior to sentencing, Judge Condon stated only a handful of attorneys had more death penalty litigation experience than Defense Counsel Rago. Defense Counsel Rago told Judge Condon that since 1982 his assignments have been capital and homicide litigation. The judge at sentencing noted petitioner's alcoholism and troubled life, and even found two factors in mitigation. People v. Burton, 184 Ill.2d at 31. Therefore, the Illinois Supreme Court rejected any idea that defense counsel or the trial judge had not done enough to investigate possible mitigation. People v. Burton, 184 Ill.2d at 29-31.

Despite this evidence in mitigation, and despite petitioner's claim that he deserves clemency, the truth remains that petitioner was guilty of these murders and deserved his death sentence. The court found that the People proved beyond a reasonable doubt the existence of four aggravating factors: (1) petitioner murdered two people; (2) he committed these murders pursuant to a murder for hire scheme; (3) he murdered the Gorzelannys in the course of another felony - - armed robbery; (4) he committed these murders pursuant to a preconceived plan in a cold, calculated, and premeditated manner. (R. 255-6) Petitioner killed two defenseless, elderly

people who had extended nothing but kindness to him. Frank Gorzelanny had just returned with a can of soda pop for Stodola when petitioner shot Frank. (R. 220-1) Petitioner had been involved in a murder in Indiana, he had deserted from the Navy, and he had a prior conviction. Judge Condon gave petitioner the opportunity to address the court, a privilege not automatically given to death penalty defendants. Petitioner then brazenly told Judge Condon he might kill someone in prison. (R. 456) Based on the real facts of this case, this Court should reject petitioner's claims, many of which are simply false, and recommend that the Governor reject this petition for clemency.

CONCLUSION

Peter Burton executed Frank and Evelyn Gorzelanny, two defenseless seventy-four year olds, as part of a murder for hire scheme. After attempting to sanitize evidence, petitioner and his accomplices went to a strip club, showing petitioner's utter lack of human feeling. He did not deny his guilt in this case, but instead, pled guilty. He had been involved in another murder and threatened to kill again. He even asked for the death penalty. Having heard all the evidence, the judge sentenced petitioner to the only appropriate sentence--death. The Illinois Supreme Court has affirmed that decision.

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

Respectfully submitted,

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ATTACHMENTS

1. PEOPLE V. BURTON OPINION
2. UNITED STATES SUPREME COURT DENIAL OF CERT
3. CRIMINAL HISTORY
4. LETTERS IN OPPOSITION
5. PETER BURTON'S CONFESSION