

OCTOBER 2002 SESSION
PRISONER REVIEW BOARD
STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	
)	
vs.)	Docket No. _____
)	
STANLEY HOWARD,)	Inmate No. N-71620
)	
)	
)	

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

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

—————
HEARING REQUESTED

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I.

HISTORY OF THE CASE

By Indictment returned in the Circuit court of Cook County, petitioner Stanley Howard was charged with the May 20, 1984 shooting murder of Oliver Ridgell. He was also charged with the attempted armed robbery of the same victim, and of the victim's companion, Tecora Mullen. At the conclusion of a jury trial on April 13, 1987, defendant was found guilty of both murder and attempt armed robbery. Following a comprehensive sentencing hearing, Petitioner was sentenced to death on the murder conviction. He was also sentenced to a prison term of 15 years for attempt armed robbery, that sentence to run concurrently with sentences imposed on him upon convictions for other offenses not related to the instant murder.

On direct appeal to the Illinois Supreme Court, Petitioner's conviction and sentence were affirmed on December 19, 1991. People v. Howard, 147 Ill. 2d 103 (1991). A petition for writ of certiorari was denied by the United States Supreme Court on October 5, 1992. People v. Howard, 506 U.S. 875 (1992).

Howard filed a petition for post-conviction relief on May 3, 1993. An evidentiary

hearing was held on an amended petition on May 23, 1995. The Circuit Court denied Howard's petition, and Howard appealed that denial to the Illinois Supreme Court. A limited remand was granted for an evidentiary hearing on specific issues. Petitioner's post-conviction matter is currently pending in the Circuit Court of Cook County.

II.

FACTS OF THE CASE

Introduction

The dark shadow of Stanley Howard has swept over many lives. His legacy is one of death and human misery. Stanley Howard pursued his victims and pursued opportunities to commit violent crime as zealously as he has pursued an escape from accountability for his evil deeds. Petitioner Howard asks this Board to recommend mercy. The facts surrounding Petitioner's life demonstrate the kind of mercy he showed his victims.

Oliver Ridgell is dead because he parked his car on a public street, not knowing that he had entered Stanley Howard's hunting ground. Juanita Byas was carjacked after attending a funeral because she dared to stop at a Walgreens when Petitioner was on the prowl. Petitioner displayed his neighborliness when he ripped Shirley Young's purse from the shoulder of a woman who had been a guest in his family home. Another of Petitioner's neighbors, Donita Washington, was kidnapped at gunpoint along with her young son and robbed during the course of a nightmarish ride with Petitioner in the driver's seat. In a display of his own special brand of humanity, Stanley Howard threatened to rape Donita in front of her child.

Margaret Hall and Robert Hanley had the audacity to hold a conversation in a parking lot while Petitioner was loose on the streets. They were robbed of their money and police badges,

and were nearly robbed of their lives in a struggle to prevent Petitioner from raping Officer Hall.

Christine Brown will never forget the acts of Stanley Howard's version of mercy. She was kidnapped at gunpoint and forced to take part in a disgusting scenario orchestrated by Petitioner for his own perverse entertainment. Christine, along with her sister-in-law and cousin were subjected to humiliation and sexual torture at the hands of Stanley Howard in the presence of a three-year-old child.

Sixty-three year old Claral Sinese was raped and robbed at gunpoint as seventy-year-old Cecil Bailey sat tied to a chair.

Such are the actions of a man who now cries out for mercy as he tries to portray himself as a victim. The facts surrounding the murder for which Petitioner has been sentenced to die, and the facts in aggravation which proved that he deserves nothing less, reveal not a victim, but rather a heartless predator who fed off the suffering and fear he maliciously extracted from his victims.

The Trial

Oliver Ridgell met his death as the result of a single gunshot wound. The bullet entered his abdomen, traveled forward and downward in his body lodging in the abdomen, and causing massive and fatal internal injuries. The evidence presented at defendant's trial concerning this murder may be summarized as follows.

Tecora Mullen had known the victim, who was the owner of an automobile body shop, for 15 or 16 years at the time of his death. On the evening of May 19, 1984, she was with Mr. Ridgell and others at an American Legion Hall. She left there with the victim between 10:30 and 11 p.m. and the two went to a nightclub where they each had a drink and talked. At around midnight, they left the nightclub and drove to the victim's body shop. There, they listened to the radio, drank some beer,

and talked until about 3:30 a.m. It was now May 20, 1984, the morning of Mr. Ridgell's death. They left the body shop, and Mr. Ridgell drove Ms. Mullen to 92nd Street, where he parked his automobile between Loomis and Ada Streets, just around the corner from the Mullen's home. There they sat and talked until shortly after 4 a.m. Although there was a light drizzle at the time, a city streetlight on the opposite side of the street from where they were parked provided good illumination.

As the two sat talking, the witness was facing Mr. Ridgell and so was in a position to look across the street. She saw a man walking towards them from the opposite side of the street, a man she subsequently identified as the petitioner, Stanley Howard. As Petitioner approached, Mr. Ridgell had his back to him. Petitioner walked up to the car and knocked on the driver's window. The victim electrically lowered the left rear window of the car a few inches, at which time Petitioner asked for a light. Mr. Ridgell answered, "No, man, go ahead." Petitioner then took out a gun, stepped back a few feet from the car, said, "All right, then, goddammit," and shot Mr. Ridgell through the rear left window of the car. Ms. Mullen instinctively dropped to the floor, as the victim told her he had been shot and that she should get help. Petitioner ran off to after firing the shot.

Ms. Mullen first got out of the car, but fearing that Petitioner might still be around, she then returned to it. She started the car and, operating it from the passenger seat, drove to 95th and Ada Streets where she saw a police car. She sounded the horn, attracted Officer Edward Watkins' attention, got out of the car, and told him what had happened. Ms. Mullen was hysterical, telling the officer that her companion had been shot. He went to the car and found the body of Mr. Ridgell slumped over the steering wheel. The officer called paramedics, who arrived within five minutes and took the victim to Little Company of Mary Hospital. He then secured the automobile until other police personnel took over. The location was about 3 and one half blocks from the location where

the victim was shot.

Taken to the police station, Ms. Mullen told police what had happened, describing Petitioner as a man in his twenties, about 5 feet 10 inches in height, weighing around 165 pounds. She had noted at the scene that the rear window of the victim's car had been "shot out." She learned later that same day that Oliver Ridgell had died in the hospital.

Some five months later, on November 2, 1984, she viewed a lineup at which she identified Stanley Howard as the man who had shot and killed Oliver Ridgell.

The immediate aftermath of the shooting was witnessed by Ms. Marilyn McDuffy, who lived in a first floor apartment in the building in front of which the victim had parked his automobile. Before going to bed on the early morning of May 20, 1984, she had noticed an automobile parked at the curb outside her window, in which a man and woman were seated. Shortly after 4 a.m. she was lying awake in bed when a "commotion" outside her window caused her to get up and look out. Although it was hazy outside, she had no difficulty seeing the scene due to a street light directly across the street, and also the lights from the vestibule of her own building. She saw a woman running around shouting that someone had been shot. The witness immediately called police. While she saw no one else on the street, she heard someone running from the scene, moving away at rapid speed.

On the morning of May 20, 1984, Chicago Police Detective James Lotito was assigned to the investigation of the Oliver Ridgell shooting. He went to Little Company of Mary Hospital where he learned that the victim was in critical condition and was being prepared for surgery. The victim died that morning at 7:27 a.m. Detective Lotito inventoried the deceased's belongings, including Mr. Ridgell's suit jacket with a bullet hole in the back.

The detective then went to 95th and Ada Streets where he inspected the victim's 1978

Chevrolet automobile. He found a broken window on the left rear side of the car, and a bullet hole through the seat belt shoulder strap on the driver's side of the front seat. The car was "dusted" for fingerprints, but none were found. A light rain had been falling, weather unsuitable for the recovery of fingerprint evidence.

He then went with other officers to 1343 West 92nd Street, the scene of the shooting. There he noted a street light directly across the street from the location of the shooting. From the curb where the victim's car had been parked, he recovered a spent, 9 millimeter, semi-automatic shell casing, which was turned over to the police crime laboratory.

The spent 9-millimeter shell casing was received by Chicago Police Department Firearms Examiner Richard Fournier. The extractor markings on the shell casing indicated that it had been fired from a 9 millimeter, semi-automatic pistol. He also received, from the office of the Medical Examiner, a 9 millimeter lead bullet core taken from the victim's body. The bullet's casing, and any identifying ballistic markings which the gun which fired it might have left on that casing, had been stripped away, leaving a lead fragment with no identifying marks. It was his experience that a bullet passing through the glass of an automobile window might cause the jacket to become separated from the lead core. No comparison could be made between the shell casing and the bullet fragment, and no gun was ever submitted to him for comparison purposes in connection with this case.

Chicago Police Detective Francis Glynn had taken no part in the initial investigation of this case, but was aware of the Ridgell murder. On October 29, 1984, he spoke to a citizen who gave him information concerning Petitioner which did not refer to the instant case. He contacted the Blue Island, Illinois, Police and determined that there was an outstanding arrest warrant for Stanley Howard concerning an offense in that city unrelated to the instant case. He and other officers went

to Petitioner's residence in Chicago, but were unable to locate him there.

On November 1, 1984, the effort to locate Stanley Howard lead Detective Glynn, Detective Anthony Maslanka, and a number of other officers to the residence of Inez West at 8813 South May in Chicago. They arrived at about 5:30 in the evening. A number of officers went to the front of the building, while others went to the rear. Suddenly Detective Maslanka heard someone shout "stop" at the back of the building, and then heard a gunshot fired. He ran to the gangway at the side of the building and saw the petitioner running south through the alley behind the building. From the photograph and description of Howard which he had, the detective recognized him at once. Detective Maslanka ran through the gangway and pursued the petitioner down the alley, as did other officers. Petitioner continued to run, jumped a fence, and went through backyards, pursued by Maslanka. At last, they reached a rear yard on South Aberdeen Street. The rear porch of the particular building was under construction, and the ground was littered with boards, cinder blocks and glass. Shining his flashlight under the porch, Detective Maslanka saw Petitioner lying on his stomach in the clutter of construction materials under the porch. He ordered Petitioner to halt, but instead Howard slithered around on his stomach and crawled rapidly to the other side of the porch. He then got up and began running once more. As they ran, Detective Maslanka saw Howard turn toward him with a shiny object in his hand, and so the officer fired his service revolver at Petitioner. They ran east into the 8900 block of south Carpenter. There, the officer saw Petitioner in a crouched position, peeking around the corner of a building. Maslanka went into the yard of the adjacent building and moved along a fence concealed by shrubbery. He saw Petitioner lying on his stomach in the next yard, jumped the fence, and placed Howard under arrest.

Petitioner was taken to the Area 2 Detective Headquarters on the basis of the Blue Island arrest warrant. There, Detective Glynn noted that Howard fit the description of the man they were

seeking in connection with the Ridgell murder, and contacted officers investigating that case. During November 1 and 2, 1984, other activity relating to Petitioner but unrelated to this case was taking place.

Detective Francis Glynn related to the jury that Petitioner was arrested on November 1, 1984, and was questioned on November 2nd concerning matters unrelated to the instant case. On that day Petitioner participated in six or eight lineups, only one of which had to do with this case. Thus, Petitioner had not simply been in an interview room during the period from the time of his arrest until he was initially interviewed concerning the instant case.

Chicago Police Detective Robert Dwyer testified that he was involved in the initial investigation of the murder of Oliver Ridgell, that he had spoken to Tecora Mullen, and that he had obtained from her a description of the killer. When Petitioner was arrested on unrelated charges on November 1, 1984, the detective became aware of Petitioner's description and the fact that Howard lived within blocks of the murder scene. For these reasons he suggested that Howard be considered a suspect in this case. As a result, a lineup was conducted on November 2, 1984. He was also present when Petitioner re-enacted the crime at the murder scene, and when a transcribed statement was obtained from Howard by an Assistant State's Attorney.

On November 2, 1984, Tecora Mullen viewed a lineup and identified Stanley Howard as the man who shot Oliver Ridgell.

Shortly after midnight on November 3, 1984, Detectives James Lotito and Ronald Buffo arrived at the police station. They learned that Petitioner was in custody and that he had been identified at a lineup. They then interviewed Petitioner in an interview room. Lotito advised Petitioner of his rights, and Howard stated that he understood them. Detective Lotito told Howard that he was under arrest for the murder of Oliver Ridgell, told him where and when that crime had

taken place, and asked if he would discuss it. Petitioner initially responded that he did not know what the officers were talking about. The two detectives then left Petitioner alone in the room for some ten minutes, re-entered, and again asked him about the instant murder. They told him that he had been identified by a witness. At that time Howard told them that he had shot the man, but had not intended to kill him. Howard said that he panicked when he thought that the man might have a gun. Howard stated that on the evening before the shooting he had been at the home of a girlfriend named Terry on south Ada Street, that he left there about midnight, and went to the home of Byron Hopkins where he obtained a 9 millimeter pistol. According to Petitioner, he spent the early morning hours of May 20, 1984 walking around the area looking for someone to rob. At about 4 a.m. he saw a couple in a parked car on 92nd Street. Howard said that he went up to the car, intending to rob its occupants, tapped on the driver's window, and when the driver lowered the rear left window a bit, asked for a cigarette. The driver told him either that he did not have a cigarette, or to get out of there, and Petitioner then asked for a match. Petitioner said the driver made a move which seemed suspicious to him, and Petitioner then backed up and shot the victim through the left rear window of the automobile. He said he then ran back to his girlfriend's house.

Detectives Lotito and Buffo, and Sergeant Byrne then drove Petitioner to the area of 95th and Ada Streets, where they asked Petitioner to guide them to the scene of the shooting. Petitioner directed them to 1343 West 92nd Street, the location at which the victim in this case had been shot. There they met Detective Dwyer. At the scene, Petitioner re-enacted the shooting, which took perhaps thirty minutes, then they returned to the police station where Petitioner was placed back in the interview room. They called for an Assistant State's Attorney who arrived later that morning. Lotito was present when defendant gave a statement to the Assistant State's Attorney and a court reporter, and when defendant read the typed statement and signed it.

The police located Byron Hopkins, but did not locate the murder weapon. Hopkins said he had given defendant no gun, but that defendant often carried a number of handguns concealed on his person.

The Assistant State's Attorney who arrived, at about 9 a.m., on November 3, 1984 to question Petitioner, was Ms. Denise O'Malley. She spoke to several detectives, to Tecora Mullen, and then entered an interview room to speak to Petitioner. With her were Detectives Lotito and Dwyer. When she entered the room, Petitioner was sleeping on a bench. She explained to Petitioner who she was, once again advised him of his rights, and he told her briefly of the shooting at 92nd and Ada. He agreed to give a statement to a court reporter. The court reporter arrived a couple of hours later and with Ms. O'Malley, and Detectives Dwyer and Lotito they again interviewed Howard. Howard gave a statement, it was typed, he read it over and made some changes in it, then signed it in her presence. It was also signed by her and by the two detectives.

The statement read and signed by Stanley Howard showed that he had spoken to Ms. O'Malley earlier and been advised of his rights. At the time of making the written statement, he was once again informed of his rights and stated that he understood them. Petitioner related that on the night in question he was at his girlfriend Terry's house until 11 p.m., then he went to the home of his friend Byron to pick up a gun so that he might "stick up" someone. He obtained the gun from Byron, then went wandering around looking for someone to "stick up." Between 4:30 and 5 a.m. he came upon a couple in an automobile on 92nd and Loomis Streets. Petitioner stated that he walked up to the car and asked the driver for a cigarette, but in reality he intended to rob the people in the automobile. The victim told him he had no cigarettes, and Petitioner stated that he had his own cigarettes and asked for a light. At that juncture, Petitioner reached into his jacket and pulled out his gun rather than a pack of cigarettes. Petitioner said that the victim reached into his pocket, that he

thought Ridgell might have a gun, and that he backed up a few paces and shot the man. He then ran back to his girlfriend's apartment. On the following day, he returned the murder weapon to Byron.

Howard stated that he had been treated fairly by both the police and by the Assistant State's Attorney. He stated that he had eaten and had something to drink, and that no one had threatened him to induce him to make the statement.

For the petitioner, Terry Jones testified that Howard was the father of her child. Until April 1, 1984, she lived at 9133 South Ada, and then she moved to the north side. On Ada Street she had lived with her mother, who would not allow Petitioner to stay the night. Petitioner had come to see her several times after she moved, she had come to visit him two or three times a week.

On cross-examination, the witness stated that she used to stay with Petitioner in his home at 8800 South Loomis, and at his grandmother's home at 5403 South Prairie. Inez West, who lived at 8813 South May (the location at which Petitioner was arrested), was also a girlfriend of his, and the mother of his son, Stanley.

At the conclusion of trial the jury found Stanley Howard guilty of murder and attempt armed robbery.

Sentencing Hearing – Petitioner's Crime Spree

The case then proceeded to a sentencing hearing to determine if Howard should receive the penalty of death on the murder conviction. At the first stage of sentencing the jury determined that Petitioner was over 18 years of age at the time of the murder and was eligible for the penalty of death. The hearing then proceeded into its second stage, aggravation and mitigation.

Police Officer Lawrence Alonzo testified that on May 29, 1983, he responded to a call of a man selling marijuana at approximately 5210 South Prairie Avenue in Chicago. As he approached, the officer saw Petitioner throw a packet of marijuana to the ground. Petitioner was found guilty of

possession of marijuana, sentenced to two days in Cook County Jail and required to pay a fine.

54-year-old Juanita Byas had been to a funeral on the evening of October 28, 1983. At approximately 9:30 p.m. she drove her car into the parking lot of a Walgreen Drug Store, parking directly beneath a large light. The car was still running and her purse was on the seat as she opened the door, at which time she dropped her house keys. As she bent down to pick up those keys, she heard someone running toward her. She looked up and saw the petitioner, who pushed her against another car, jumped into her car, and drove off with her purse. Her payroll check, identification, Visa card, and \$10 or \$12 in cash were in the purse. She called the police, who returned the car to her later that same night. The tail pipe was now broken and there were holes in the leather seats, apparently made by a screwdriver which had been taken from the trunk of the car. That same night, she identified Stanley Howard in a lineup.

Chicago Police Officer Dan Hanserd was on patrol, in uniform and driving a marked police vehicle, when he heard a call concerning the taking of Ms. Byas' automobile. As he drove West on 79th Street, he saw this automobile pass him going in the opposite direction. He looked at the driver, who was Petitioner, and Howard looked at him. The officer started to make a u-turn, at which time Petitioner drove off at a high rate of speed. The officer gave chase until Petitioner and the two men with him abandoned the car on Ellsworth. He then pursued Howard on foot, arresting him at the door of a tavern. Petitioner was charged with strong-arm robbery, was placed on bond, and the case had not yet come to trial at the time of the instant sentencing hearing.

Shirley Young lived in the vicinity of 87th and Bishop Streets. In December 1983, she was returning to her home around midnight, and had entered the gangway to go to the door at the side of her home. She heard footsteps running toward her, looked up and saw Petitioner, a person she had seen around the neighborhood before. Howard ran up to her, at which point she screamed. He

snatched her purse, breaking the strap, and ran across the street. She pursued him until he entered an alley. She later learned Petitioner's name from her daughter, and discovered that she herself knew his parents and had been to their home in the past. She identified Petitioner from a series of photographs. In her purse was \$700 she had won bowling. The petitioner was charged with felony theft, he was placed on bond, and the case had not yet been tried.

On March 13, 1983, Donita Washington lived with her 8-year-old son within walking distance of Petitioner's home. At 10 p.m. she and her son arrived home, she parked her car on the opposite side of the street, and was crossing to her home when she was approached by the petitioner, who was holding a gun. Petitioner then made both of them get back into her car, Petitioner driving, Ms. Washington in the front passenger seat, and the young boy in the back seat. As he drove, Howard took Ms. Washington's money and jewelry. Howard then began talking of raping her, to which she begged that he not do such a thing with her young son in the car. She suggested that she might be able to get money for him from her mother, and they began to drive in that direction. However, suddenly Petitioner saw a young woman getting out of an automobile. He stopped the car and, gun in hand, chased that woman who entered an apartment building before Petitioner could reach her. With her son in the back seat of the car, Ms. Washington had no opportunity to escape before Petitioner returned to the car.

Petitioner then drove to Ms. Washington's mother's home and, leaving the child in the car, forced her to go with him to her mother's apartment. At her mother's door she told her the story concocted by Petitioner, that she wanted money to buy a "hot" television set, but her mother would not open the door. Her mother did pass \$20 out to Ms. Washington, telling her it was all she had. Ms. Washington handed this money to the petitioner.

Howard then drove back to Washington's apartment. He then proceeded to search the

apartment, taking jewelry, a coat, and other property, as well as the keys to her automobile. Before departing, Howard threatened that if she called the police, he would return and harm her. He then left the apartment and drove off in her automobile. She called the police. Later, the automobile was returned to her. Beer or alcohol had been spilled inside it. On November 2, 1984, she identified Stanley Howard in a lineup.

In the early morning hours of March 14, 1983, shortly after Ms. Washington's ordeal at the hands of the petitioner, two off-duty Chicago police officers, Lieutenant Robert Hanley and Officer Margaret Hall, encountered Stanley Howard. The two were seated in Lieutenant Hanley's jeep in the parking lot of a restaurant at 109th Street and Western Avenue in Chicago. Officer Hall's arm was in a brace from a recent automobile accident injury. Officer Hall was about to get out of the car, and so the front door on the passenger side, where she was sitting, was slightly ajar. Suddenly, Petitioner appeared, brandished a gun, forced Officer Hall to move over, and entered the car. Petitioner pointed his gun at Hall's head, demanded money, and took her watch and money. He also took the money clip and watch which Lieutenant Hanley placed on the dashboard. Hanley did not give Petitioner his wallet, which contained his police identification. Seeing an opportunity, Lieutenant Hanley grabbed Howard's gun hand and attempted to twist the gun away from him, but when the muzzle became pointed at Officer Hall, he released Howard's arm. Petitioner then forced Hanley to pull his car out of the parking lot and park on Western Avenue. Petitioner said he thought Hanley was "the man," meaning that he was a police officer, and searched him three times. However, he did not find the gun which the Lieutenant was wearing in an ankle holster.

Petitioner then stated that he was going to take Officer Hall into the back seat, and that Hanley was going to have to watch while Petitioner raped her. Hall told him that her leg had been broken and that he would have to get out of the car, at which time Hanley threw his wallet at

Howard. As Howard bent to retrieve the wallet, Officer Hall kicked him, then ran from the car, while Lieutenant Hanley quickly got out of the driver's side. Officer Hall ran to a nearby building, asking someone to call 911 for help. She heard shots, ran around the front of the building, but found that Petitioner was gone. Meanwhile, Hanley pursued Petitioner, with whom he exchanged gunfire, but Petitioner was able to make good his escape in an automobile which the officer heard but did not see. On November 2, 1984, both officers identified Stanley Howard in a lineup. Howard was subsequently convicted at a trial on charges of armed robbery of the officers.

Christine Brown was a Cook County Deputy Sheriff. In the early morning hours of May 27, 1983, she was dressed in uniform and leaving her home to go to work at the Criminal Courts Building. She did not have a gun. As she was getting into her car, Petitioner approached her on foot, put a gun to her side, and demanded that she move over. He then got into the driver's seat and drove away with her. Howard first drove to a building which he said was the home of his grandparents, then drove around the area near the home of Ms. Brown's sister-in-law, Pharistine Haynes. Petitioner saw a van parked in front of this building and would not go in, but instead drove Ms. Brown back to her own building. Again changing his mind, he did not allow her to go into her home, but drove back to the building in which Ms. Haynes lived. Threatening to blow her brains out, Petitioner forced Ms. Brown at gunpoint into the Haynes' apartment. He ransacked the apartment, taking clothing, jewelry and money. In the apartment, along with Ms. Haynes, were her cousin Cleveland White, and Ms. Haynes' three-year-old granddaughter. Petitioner woke the sleeping Mr. White, and tied him in the bed with a telephone cord. He then forced the two women into the bedroom and made them remove their clothing. For some thirty minutes he then, at gunpoint, raped Ms. Brown, forced both women to perform oral sex on him, and forced Ms. Haynes to perform oral sex on the helpless Cleveland White.

At the end of this ordeal, both women, still naked, were forced at gunpoint by Petitioner to leave the house. Ms. Brown was forced back into her automobile, but Ms. Haynes was able to escape. Petitioner then drove off with Ms. Brown, taking her to a point east of an expressway, where he again raped her. At last, Petitioner released her, driving off in her automobile. She asked someone to call the police. On November 2, 1984, she identified Stanley Howard in a lineup. In April 1986, she testified against Howard in a trial in which he was convicted of offenses arising out of this occurrence.

Ms. Claral Sinese and Mr. Cecil Bailey testified to an encounter with Stanley Howard which occurred on June 21, 1984. Ms. Sinese, 63 at the time of the instant trial, had then lived in Blue Island, Illinois, where she operated a beauty shop business from her home. At 10:30 or 11 p.m. on June 21st, Mr. Bailey, who was 70 at the time of this trial, brought her home from a dinner engagement. Since it was a warm night, they locked the outside screen door, but left the inner door standing open. They watched television in a combination den and office until about 11:30 p.m. when Mr. Bailey prepared to leave. Mr. Bailey entered the washroom. Ms. Sinese stood up and was suddenly confronted by a man who had her yellow scarf over the lower portion of his face, and who was pointing a gun at her. In his other hand, this man held several knives and a cord he had torn from a telephone. She could see that he had been through her purse, which was on a chair in the dining room. Apparently at this juncture Ms. Sinese screamed, at which time Mr. Bailey opened the washroom door and was confronted by the intruder. Since the intruder's makeshift mask slipped down on a number of occasions during these events, both witnesses were able to identify him as the petitioner, Stanley Howard. Petitioner then threw one of Ms. Sinese's own kitchen knives at her, as Mr. Bailey kicked the washroom door closed. Petitioner demanded that Bailey come out or he would shoot the woman. Mr. Bailey and Ms. Sinese were then taken at gunpoint back into the room

where they had been watching television. There, Mr. Bailey's hands were tied behind his back, his head was covered with an afghan, and Petitioner took some \$800 from his person. Also taken were his identification, his credit cards, and the keys to his Ford automobile. Mr. Bailey was taken into the bedroom, placed face down on the bed, and his head was covered with a blanket. Here, he listened as Ms. Sinese was dragged from room to room, begging Petitioner to leave her alone.

Ms. Sinese begged Howard to leave her alone, telling him that she had a heart condition. To this, Howard responded that she would not need a doctor since he was going to kill her. She then heard the gun which was being held to her head by Petitioner click. In the living room, Petitioner threw the woman onto a chair, removed her slacks, and attempted to force his penis into her rectum. Following this, Petitioner returned to the bedroom with her and, seated on the bed, searched through drawers. Throughout this time, he had repeatedly slapped Ms. Sinese and threatened to kill her. Finally, he threw her on the bed, attempted to force her to have oral sex with him and, failing that, forcibly raped her at gunpoint. He then tied her with cord and left, threatening to return and kill them if they moved. Moments later he did in fact return to check on them, then left taking Mr. Bailey's automobile. He also took money and jewelry from Ms. Sinese.

Ms. Sinese was able to work her hands loose and free herself and her companion, then the police were notified and she was taken to a hospital. Mr. Bailey's automobile was subsequently returned to him by police. On November 2, 1984, both witnesses identified Stanley Howard in a lineup.

Detective Roland Libby of the Blue Island Police Department investigated the crimes committed by Howard at the Sinese residence. Mr. Bailey's stolen automobile was subsequently recovered at a location some four blocks from Petitioner's residence. Both victims identified Petitioner from a photograph, after which an arrest warrant was obtained concerning these offenses.

The Blue Island Police were looking for Petitioner until the time of Howard's arrest in November 1984.

Sometime after midnight on June 20, 1983, Agnes Copeland was asleep in her home when she was awakened by an intruder in a ski mask who held a gloved hand over her mouth and a metallic object against her throat. This person told her that if she screamed, he would kill her. She was wearing three gold chains, including one with her husband's wedding ring on it. The intruder took these, as well as her wedding ring, then began searching a bedside closet. At this time, her husband, Charles Copeland, returned home to find the rear door ajar and his dog outside the house. Entering the kitchen, he saw a man in the bedroom holding a knife to his wife's throat as he rummaged through the bedside closet. As Mr. Copeland entered the bedroom, the intruder jumped out of the window. Mr. Copeland attempted to pursue the man, who was wearing a long black coat and who had discarded the ski mask, but was unable to catch him. Mr. Copeland noted that the man was around six feet tall, slender, in his early twenties, and had medium to dark brown skin. This description he subsequently gave to police.

The occurrence was discussed around the neighborhood. Some time later, two young men described to Mr. Copeland meeting a black-coated man at 92nd and Ashland at around the time the intruder fled the Copeland home. This man asked for a cigarette, then departed. On June 25, 1984, Mr. Copeland was awakened at two in the morning by the same young men who told him that they had just seen the same person enter a tavern at Ashland and 90th Streets. Mr. Copeland called the police and went to the tavern with them. The police obtained a description of the person from the youths, entered the tavern and brought out the petitioner. Petitioner was wearing Mrs. Copeland's chains around his neck, including the one containing Mr. Copeland's wedding ring. These Mr. Copeland immediately identified. Since the Copelands could not positively identify Petitioner as the

intruder in their home, charges against him were dismissed. Petitioner had told the police that he bought the chains from a man on the street.

Other evidence showed that Petitioner, under the name Don Sanders, had been convicted in 1981 of theft and sentenced to one-year conditional release.

Cook County Correctional Officer Kevin Wynn was assigned to Division One of Cook County Jail, where Petitioner was being held in December 1986. On December 11, 1986, shortly after 7:00 a.m. he noted unusual activity around Petitioner's cell and called for other officers. A search of the cell revealed two ounces of marijuana concealed in a chair, and also nearly a gallon of homemade whiskey. Petitioner was given five days segregated confinement from other inmates.

Correctional Officer Frank Tonkovich had come in contact with Petitioner at the time of his initial incarceration in 1984, and had encountered him a number of times since then. He described an incident in December 1984, in which Petitioner and three other inmates were involved in an attempt to "extort commissary" from a prisoner who had just returned from court, resulting in a fight in which Petitioner was involved. Petitioner received ten days in segregated confinement. Other incidents involved Petitioner's having to be escorted to his cell because he refused to voluntarily return to it, and of attempting to have other inmates bring him his food instead of his standing in line for it.

Officer Tonkovich spoke with Petitioner in conversations initiated by Howard concerning his various pending cases. Howard on one occasion told him that he had gotten two police stars as the result of the armed robbery of two off-duty police officers. On another occasion he described his arrest in 1984, and being questioned concerning numerous offenses. Petitioner told him that he had never been beaten or struck by any police officer during this period.

After Petitioner presented his mitigation evidence, and following arguments of counsel

and jury instructions, the jury determined that the defendant should be sentenced to death for the murder of Oliver Ridgell.

III.

REASONS TO DENY CLEMENCY

Introduction

Petitioner Stanley Howard asserts that he is entitled to clemency because he is actually innocent of the crimes for which he has been sentenced to death. Petitioner has asked this Board to recommend a full pardon, or, in the alternative, a pardon conditioned upon the agreement of the People to a new trial, or the commutation of his sentence to one other than death. Petitioner in effect asks that nearly two decades of legal proceedings be ignored and that he be set free without so much as a hearing by this Board. The People object to any form of relief for Petitioner in the most strenuous terms possible.

Petitioner has been represented by legal counsel throughout his numerous proceedings in the criminal justice system. A motion to suppress Petitioner's statement, wherein Petitioner raised the same claims he complains of today, was litigated prior to trial and denied. He was tried before a jury that observed firsthand all of the witnesses and determined that he was guilty beyond a reasonable doubt. After hearing the details of Petitioner's apparent devotion to a life of violent crime against innocent victims, and hearing from Petitioner's own witnesses in mitigation, the jury determined that the only appropriate penalty for Stanley Howard was death.

The facts of Petitioner's case were scrupulously reviewed by the Illinois Supreme Court and Petitioner's conviction was upheld. After reviewing Petitioner's request for a writ of certiorari, the United States Supreme Court declined to further review Petitioner's case.

Even after the aforementioned avenues for relief were exhausted, Petitioner benefited from a post-conviction hearing, where his claims were again found wanting. The Illinois Supreme Court again reviewed Petitioner's case and ordered a limited evidentiary hearing. Those proceedings

continue to remain active today, affording Petitioner yet another opportunity to have his claims addressed in an appropriate forum.

In his request for executive clemency, Petitioner raises no issue which has not already been the subject of judicial review or is not now the subject of court proceedings. Petitioner has been afforded numerous opportunities to have his claims addressed in legal proceedings and still today is awaiting further proceedings in his latest post-conviction matter. Any form of clemency would for this Petitioner would denigrate the lengthy and thorough legal process of which Petitioner has long availed himself.

Stanley Howard is a remorseless predator who preyed not only on innocent strangers, but also on neighbors and even his fellow inmates. Stanley Howard has left in the wake of his life a trail of tears. What this petitioner has taken from his victims is irreplaceable: a sense of security, human dignity and even life itself. Rather than atone for his wrongs or express a flicker of remorse for the swath of destruction he carved into the lives of his victims and their families, Stanley Howard has spent his time in custody impersonating a victim and lamenting the fact that in his case the criminal justice system worked. Petitioner's is a life not worth sparing.

A. Petitioner's Claim of Innocence

1. Alleged New Witnesses

Petitioner alleges that he is actually innocent of the murder from which he now seeks to escape responsibility. Petitioner essentially argues that the jury that found him guilty beyond a reasonable doubt, and the courts of appeal that reviewed his case, were wrong. Any argument by Petitioner that relies upon facts that are already of record should be completely discarded. The

record in this case has been the subject of repeated review and Petitioner's claims based on the record have been repeatedly rejected.

Petitioner relies on statements obtained post-conviction from Earleen White, an elderly woman who resided in the building in front of which Oliver Ridgell was shot. It should be noted that Petitioner has shown no reason why Ms. White could not have testified at his trial. Furthermore, Ms. White has said nothing of such definitive character that the jury verdict should be undermined. According to Ms. White, she was having difficulty sleeping and heard a commotion and certain words through an open window. Ms. White did not see the shooting take place, nor did she identify any individuals who were on the street in front of her building.

Petitioner similarly argues that the testimony of Katherine Johnson in a post-conviction proceeding shows that Tecora Mullen knew the murderer of Oliver Ridgell. Again, Johnson's statements are based upon words allegedly heard through an open window, this time across the street. As is the case with Ms. White, no showing has been made as to why Ms. Johnson could not have testified at trial. Johnson's testimony was insufficient to sway the Circuit Court at a time when she was subject to cross-examination. This Board should not now come to a different conclusion without the benefit of having heard the testimony firsthand.

2. Eyewitness Testimony

Petitioner goes on at some length in criticism of the testimony of the surviving victim, Tecora Mullen. This portion of Petitioner's request for relief may be addressed quite simply. The Petitioner boldly asks this Board to negate the conclusions of a jury, the Circuit Court and the Illinois Supreme Court solely because Petitioner disagrees with those conclusions. That suggestion belittles some of the most basic principles of American law established in the span of

over two centuries.

The jury that convicted Petitioner did so after observing Ms. Mullen testify subject to cross-examination by Petitioner's defense counsel. They weighed her credibility and sufficiency of her testimony after hearing arguments by attorneys that focused a good deal of attention on her testimony. In finding Petitioner guilty beyond a reasonable doubt, the jury obviously determined that Ms. Mullen's testimony was not unbelievable.

The Illinois Supreme Court in its original review of Petitioner's case, including a complete transcript of record of the trial, agreed that Petitioner had been proven guilty beyond a reasonable doubt and affirmed his conviction. No subsequent proceeding has yet shaken those findings.

It is entirely unreasonable to ask this Board to conclude that Tecora Mullen's testimony is not credible when this Board did not observe her testify and has not reviewed the transcripts of trial. Our system of justice is based upon the right of an accused to confront and cross-examine his accusers and to be judged by a jury of his peers. Beyond a reasonable doubt is a high burden of proof to be met by the prosecution. Stanley Howard has been given the benefit of all the rights accorded by our justice system and has been duly and correctly convicted of murder. It would be a grave injustice for this Board to now second-guess the findings of many unbiased individuals that Tecora Mullen was a credible witness.

3. Stanley Howard's Confession

Petitioner alleges that his court-reported confession to the murder of Oliver Ridgell was the product of police torture. This allegation has also been addressed in court proceedings on numerous occasions. In addressing this particular case, the People point out that a motion to

suppress Petitioner's statement was litigated prior to his trial. In that motion, Petitioner raised the same allegations of which he now complains. The Circuit Court heard testimony and arguments centered on Petitioner's accusations that he was deprived of his constitutional rights, and that he was bagged, beaten and kicked by police officers. Petitioner's confession was found to be voluntary, a finding which has withstood review by the Illinois Supreme Court.

Petitioner offers in support of his allegations a report by O.P.S. Investigator Leutie Lawrence completed a number of years after the events in question. Petitioner chooses to disregard the fact that his accusations were the subject of an investigation by the Office of Professional Standards begun in November 1984. That investigation did not sustain the charges made by Petitioner. While some of the decisions made as a result of the original O.P.S. investigation were changed years later, it should be noted that the subsequent investigation by Leutie Lawrence did not involve the number of personal interviews conducted in the months following Petitioner's arrest. In addition, the report of Investigator Lawrence contains numerous references to contact between Petitioner's attorney and herself as her investigation proceeded.

Petitioner also fails to recognize that his claims of torture were investigated by the Federal Bureau of Investigation, as indicated in the report of investigator Lawrence. No federal prosecution of police officers has ever resulted from Petitioner's claims.

Petitioner also attempts to introduce "evidence" of torture by way of statements made by medical personnel, a psychologist and an alleged eyewitness who never testified on behalf of Petitioner. If this Board had the opportunity to review the transcript of record of Petitioner's suppression hearing and trial, it would find that the same allegations raised now were addressed and any questions involving injuries to Petitioner were resolved. Petitioner's request for clemency is redundant in light of the opportunities for complete hearing that he has already

received.

4. Pattern of Torture at Area 2

Petitioner asks this Board to consider Petitioner's plea for clemency in light of complaints made by other individuals about police misconduct at Area 2. Essentially, Petitioner asks this Board to adopt a standard of guilt by association as applied to the police officers, prosecutors, court reporter and other personnel involved in his case. Numerous individuals testified at various proceedings in Petitioner's case. Their testimony was found to be credible under much stricter scrutiny than is applied in this proceeding.

Allegations concerning a pattern of police misconduct at Area 2 as they related to a post-conviction proceeding were addressed by the Illinois Supreme Court in People v. Maxwell, 173 Ill. 2d 102, 670 N.E.2d 679 (1996). Maxwell holds that a defendant is required to make a substantial showing that his constitutional rights have been violated to warrant the overturning of a finding by a trial court after a hearing that the defendant was not physically abused. This Board should take a similar approach.

The Circuit Court heard Petitioner's allegations and found that he had not been abused by the police. The Illinois Supreme Court upheld that finding on direct appeal. A post-conviction matter is still pending wherein Petitioner seeks to litigate the very same issues raised here. This proceeding is not the appropriate forum to explore the issue of pattern abuse. Petitioner has consistently failed to establish that **he** was abused by the police. Therefore, this Board should not apply the claims of other individuals to a case where the petitioner has failed to show that those claims relate to the particular facts of his case. To do so would completely eliminate the concept of review of a case on its individual merits and would require an overly broad decision

made without the type of evidentiary hearing and review process from which Petitioner has already benefited.

5. Alleged Contradictions

Petitioner argues that his confession is in conflict with the facts of the case. This argument again asks this Board to overlook the fact that a jury heard the facts of the case and resolved any conflicts which there may have been. Petitioner asserts as fact a number of theories that Petitioner has developed during the course of post-conviction proceedings. Petitioner improperly asks this Board to draw conclusions which contradict the actual record of proceedings in this case, or which involve issues that are still pending in the Circuit Court. The People maintain that drawing such conclusions is wholly inappropriate in this forum.

6. Effectiveness of Defense Counsel

Petitioner repeats a number of his allegations in the context of his argument that his defense counsel at trial was ineffective. While pointing out alleged deficiencies in his attorney's performance, Petitioner ignores the strenuous efforts made by his attorney which fill the trial record and which are referred to by the Illinois Supreme court in its opinion on the direct appeal of this case. This Board is not in a good position to re-evaluate the performance of an attorney whose performance was not challenged on direct appeal.

Trial counsel's decision not to call various witnesses may well be considered legitimate trial strategy. In addition, no amount of speculation over what those witnesses may have said at trial can overcome the testimony of Tecora Mullen or Petitioner's own confession. Those elements of the prosecution's case were found to credible by the jury and withstood scrutiny on

appeal.

Petitioner argues that his trial attorney was ineffective for failing to resist the prosecution's motion to bar testimony concerning the nature of Tecora Mullen's relationship with Oliver Ridgell. A review of the Illinois Supreme Court opinion in the direct appeal of this case reveals that the aforementioned motion was the subject of a hearing during which Petitioner's attorney argued against the prosecution's request. To imply that defense counsel did nothing is simply untrue.

Similarly, Petitioner's assertion that defense counsel failed to present evidence that Petitioner's confession was the product of torture is unfounded. The circumstances surrounding the confession were the subject of a great deal of testimony. The very allegations complained of in this proceeding were heard by the trial court and found to lack credibility.

7. Alleged Misconduct by the State

Petitioner alleges that the prosecution failed to provide the defense with what essentially concerns alleged evidence that a pattern of torture occurred at Area 2. Petitioner offers no basis to demonstrate knowledge on the part of the prosecution that he was tortured or that a pattern of torture existed. The People reiterate their argument that such evidence would not even apply where Petitioner has failed to demonstrate that he was the victim of torture.

Petitioner also alleges that the prosecution interfered with the appearance of Byron Hopkins at trial. Petitioner offers nothing more than the affidavit of Mr. Hopkins which contradicts Petitioner's confession. Petitioner ignores the fact that **he** claimed to have obtained the murder weapon from Mr. Hopkins. The jury was informed via stipulation that Mr. Hopkins denied supplying the weapon. Assuming *arguendo* that Mr. Hopkins had testified at trial, his

testimony would have been self-serving and would not have impeached the credibility of Petitioner's confession.

B. The System for Administering Capital Punishment

Petitioner asserts that he is entitled to clemency because he did not receive the benefit of the changes to the Illinois capital sentencing system which have recently been adopted, proposed or enacted. By relying upon a laundry list of new Supreme Court Rules, statutes and proposals from the Governor's Commission on Capital Punishment which were not available at the time of his trial, Petitioner claims that his trial (as well as that of every other capital defendant in Illinois) was by definition fundamentally unfair. However, the Illinois Supreme Court has **expressly rejected** the claim "that every capital trial has been unreliable and that all appellate review has been haphazard" (People v. Hickey, ___ Ill. 2d ___, 2001 Ill. LEXIS 1080 at*57 (No. 87286 September 27, 2001)). Rather, the Court held that the additional safeguards included in its rules governing capital cases are not retroactively applicable because they "function solely as devices to further protect those rights given to defendants by the federal and state constitutions" and that "[a] violation of procedures designed to secure constitutional rights should not be equated with a denial of those constitutional rights." Id. at *63, 64.

Thus, the fact that the Court, the General Assembly and the Governor's Commission have endeavored to improve the process does not mean that an injustice would result simply because the recent changes were not applied retroactively to petitioner's case. Instead, a true injustice would only result if it were reflexively determined that petitioner's trial was fundamentally unfair without any examination of the proceedings themselves. It is telling, however, that petitioner has not even attempted to demonstrate how the recent changes would have affected the outcome of the

proceedings. Moreover, petitioner ignores the fact that the Illinois Supreme Court has thoroughly examined the proceedings in his trial and determined that they were fundamentally fair and that he was not unduly prejudiced in any manner. In remanding Petitioner's post-conviction matter for further proceedings, the Supreme Court has afforded Petitioner yet another opportunity to be heard.

1. Supreme Court Rules

Petitioner asserts that he is entitled to clemency because the new Supreme Court Rules governing capital cases were not applicable to his proceedings. However, the Illinois Supreme Court has clearly held that the amendments to its rules are not retroactively applicable. Hickey, 2001 Ill. LEXIS 1080 at *65. While Petitioner states that his attorneys had not previously acted as lead counsel in a capital case, he does not point to any deficiency in his representation which would have been remedied by the new rules. Petitioner makes an assumption that inexperience on the part of Judge John Mannion and the prosecutors in his case "misled" the jury regarding their role in the sentencing process. However, Petitioner has failed to offer any support for his suggestion that the judge and prosecutors were inexperienced, much less any support for his supposed insight into the minds of the jurors. The record and Illinois Supreme Court opinions show that Petitioner was not hampered by the inability to obtain discovery or interview witnesses. In addition, there is no indication that Petitioner was taken by surprise that the prosecution would seek the death penalty, especially where the crimes charged statutorily allowed for the imposition of the sentence of death.

2. Adequate Funding

Petitioner asserts that he is entitled to clemency because he was denied adequate funding to investigate the case and/or to retain the necessary expert witnesses. However, despite the creation

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

3. Videotaping

Petitioner also seeks clemency because his statement wherein he inculpated himself was admitted into evidence even though it was not videotaped, and points out that under the Governor's Commission's proposals both statements and the interrogations leading up to them should be videotaped. What petitioner fails to recognize is that neither the Commission nor the governor himself call for the suppression of a statement simply because it was not videotaped. Rather, even under the Governor's proposed legislation (HB3717 & HB2058), such statements will still be admissible if the trial court finds that it was voluntarily made after considering the totality of the circumstances. Because the trial judge expressly found that Petitioner's statement was voluntarily made when it denied his motion to suppress statements, it is clear that the failure to videotape his statement had absolutely no effect on the fairness of his proceedings. Moreover, because the jury was instructed pursuant to Illinois Pattern Instruction 3.06-3.07 to consider all the evidence when determining whether or not Petitioner made the statement and how much weight it should be given, petitioner cannot complain that he was prevented from asserting at trial that his statement was unreliable and should not be considered.

4. Single Eyewitness

Petitioner incorrectly states that the testimony of Tecora Mullen was uncorroborated. Petitioner's own confession was introduced at trial. Additionally, it has long been established that flight from the police may be used to show consciousness of guilt. Petitioner led police on a lengthy foot chase before he was finally arrested. It can hardly be said that Petitioner's conviction was the result of the uncorroborated testimony of one witness.

5. Counsel at Police Station

Petitioner claims that he is entitled to clemency because he requested a lawyer while he was being interrogated but was not appointed an attorney until he appeared in court. He points out that under the Governor's Commission proposals, the public defender would be allowed to represent any suspect in a potentially capital case who requests to speak to a lawyer during an interrogation. However, petitioner fails to mention that the trial court expressly found that he did not unequivocally request an attorney during his interrogation. Therefore, even if this proposal had been in effect at the time of petitioner's arrest, it would not have applied to him.

6. Recording of Witness Statements

Petitioner makes note of the fact that witness interviews conducted by the police were not electronically recorded. However, Petitioner makes no assertion that he was deprived of any of his rights or that his defense was significantly hampered as a result of that fact. All witnesses were subjected to cross-examination and impeachment at trial and the jury was properly instructed as to how they should consider the testimony of the witnesses. Petitioner has failed to show any manner in which electronically recorded witness interviews could have so changed the outcome of his trial that this Board should now override the findings of the jury and the Illinois Supreme Court.

7. Line-up Procedures

Petitioner complains that the line-up procedures employed in his case “ran afoul” of the recommendations made by the Governor’s Commission. Petitioner’s argument is deceptive in that it ignores the obvious fact that Petitioner’s case pre-dates the Commission’s report by more than a decade. Furthermore, Petitioner had ample opportunity to challenge the identification procedures at trial. Petitioner has not demonstrated that any prejudice resulted from the well established and properly executed procedures used in his case.

8. Eligibility Factors

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

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

circumstances.” Id., 2002 Ill. LEXIS 376 at *74.

Moreover, each of the aggravating factors represents a determination by the General Assembly that certain types of murders are so deplorable that the death sentence may be imposed. Each one is intended to ensure that the most helpless members of our society (such as children, the elderly or disabled) are protected against violence or to provide a strong disincentive for the offender to kill the victim. For example, cold, calculated and premeditated murders are properly death-eligible because they are limited to situations where the defendant has carefully planned the murder over an extended period of time, and the availability of the death penalty may be the only thing which prevents these defendants from deciding to actually kill their victims. As the Illinois Supreme Court stated “a defendant who contemplates a murder for a substantial period of time, yet still commits it, is set apart from other murder defendants in a meaningful way.” People v. Williams, 193 Ill. 2d 1, 36, 737 N.E.2d 230 (2000). Similarly, murders in the course of another felony such as rape or home invasion are properly death eligible to help deter the defendant from killing the victim. Given these important policy considerations, petitioner’s request must be rejected.

9. Decision to Seek Death

Petitioner claims his sentenced should be reduced because the State’s Attorney’s decision to seek death was made without uniform protocols to guide his discretion and was not approved by a state-wide review committee. However, [i]t has long been recognized by th[e Illinois Supreme C]ourt that the State's Attorney is endowed with the exclusive discretion to decide which of several charges shall be brought, or whether to prosecute at all. A prosecutor's discretion extends to decisions about whether or not the death penalty should be sought.” People v. Jamison, 197 Ill. 2d 135, 161-62, 756 N.E.2d 788 (2001). Therefore, any attempt to mandate such a review would constitute an impermissible restriction on the independence of the various

State's Attorneys under the Illinois Constitution.

Petitioner characterizes his case as a random act of street violence. Not only does this characterization misrepresent the prosecution's theory of the case, it contradicts the evidence. In Petitioner's own words as documented by a court reporter, this was clearly an act of planned violence. Petitioner described his plan to hunt the streets for victims to rob. Petitioner explained the steps he took to obtain a weapon. To in any way imply that the murder committed by Petitioner was the result of sheer spontaneity totally distorts the facts of the case and turns a blind eye to the true character of Stanley Howard as demonstrated by the unmitigated evil he unleashed on the many other victims who were forced to recall the horror of their encounters with him during the aggravation phase of this trial.

10. Jury Instructions

Petitioner complains of several jury instructions that were used in his trial, during both the guilt and sentencing phases. The instructions given were established I.P.I. instructions developed through long and thoughtful consideration by a committee of experienced attorneys and judges. Petitioner has argued no actual harm that may have come to him because a recently proposed new instruction regarding eyewitness testimony was not used.

Petitioner believes that his death sentence should be commuted because the jury was not instructed as to all the possible alternative sentences, including that he could have been sentenced to as little as 20 years imprisonment. However, except in cases where the only alternative is mandatory natural life, such a rule would actually serve to prejudice the defendant. If a jury is told that the defendant could be sentenced to as little as 20 years (even though such a sentence is highly unlikely), the jury might determine that the death penalty is necessary to ensure that he is never released into society. It is for this reason that current Illinois law requires

that juries be instructed not to concern themselves with sentencing issues. Illinois Pattern Jury Instructions 1.01 & 7C.05. The only exception to this rule is that the jury must be informed where natural life imprisonment is the only available option. People v. Gacho, 122 Ill. 2d 221, 522 N.E.2d 1146 (1988). Accordingly, despite the Governor's Commission's recommendation, the fairness of petitioner's sentencing hearing was ensured by not instructing the jury on the available sentencing options.

Petitioner asserts that clemency is warranted because the statutory language and corresponding jury instruction that after considering all of the evidence that "there is no mitigating factor sufficient to preclude the imposition of a death sentence" led the jury to mistakenly believe that the death penalty is mandatory. However, both the Illinois Supreme Court and the federal courts have consistently rejected any claim that the statute is confusing and might lead a jury to believe that the death penalty is mandatory. See People v. Mitchell, 152 Ill. 2d 274, 346, 604 N.E.2d 877 (1992); Silagy v. Peters, 905 F.2d 986, 998-99 (7th Cir. 1990). Moreover, because both the prosecution and the defense argued to the jury about the appropriateness of the death sentence in petitioner's case, any confusion in the language of the instruction was negated by the closing arguments.

11. Statutory Mitigating Factors

Petitioner complains that his jury was not instructed to consider as statutory mitigating factors the fact that he had a history of extreme emotional or physical abuse. However, although the jury was not expressly instructed to consider these factors, it was instructed that mitigating factors include "any reason why the defendant should not be sentenced to death" and that it should consider all mitigating evidence even if it does not pertain to one of the enumerated factors. Illinois Pattern Jury Instruction 7C.06.

12. Allocution

Petitioner also claims that clemency is appropriate because he was denied the opportunity to make a statement in allocution at his sentencing hearing. However, as the Illinois Supreme Court stated long ago, “an unsworn statement to the sentencing jury [to be] consider[ed] along with testimony given under oath and the arguments of counsel would at the least confuse the jurors, and might also impair their ability to weigh the aggravating and mitigating factors.” People v. Gaines, 988 Ill. 2d 342, 380, 430 N.E.2d 1046 (1981). Moreover, petitioner was free to testify under oath at his sentencing hearing to explain why he should not be sentenced to death, but chose instead to rely upon his witnesses in mitigation and his attorney’s closing argument. Therefore, he was given every opportunity to present himself to the trier of fact before he was sentenced.

13. Judicial Override

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

14. Supreme Court Review

Petitioner also claims that he is entitled to clemency because the Illinois Supreme Court failed to consider whether his death sentence was disproportionate, excessive or otherwise inappropriate. However, because the Illinois Supreme Court has demonstrated that it will address comparative sentencing arguments whenever they are raised by defendants in capital

cases (see People v. Emerson, 189 Ill. 2d 436, 727 N.E.2d 302 (2000); People v. Palmer, 162 Ill. 2d 465, 491, 643 N.E.2d 797 (1994)) and will vacate a death sentence if it determines that it is excessive in light of the facts of the case and the defendant's background (see People v. Smith, 177 Ill. 2d 53, 685 N.E.2d 880 (1997); People v. Blackwell, 171 Ill. 2d 338, 665 N.E.2d 782 (1996)), it is clear that the only reason the Illinois Supreme Court did not review petitioner's sentence in such a manner is because he did not ask the Court to do so.

IV. CONCLUSION

Stanley Howard is a remorseless killer and a sadistic sexual predator. His efforts to masquerade as a victim himself are the lowest form of insult to the judicial system and serve only to re-victimize the people whose lives he has already destroyed enough. Stanley Howard has been a curse on society for two decades. His crimes show that he was relentless in his quest for sadistic pleasure and the possessions of others. His petition for clemency shows that he is equally relentless in his quest to blame his circumstances on everyone but the person on whom blame entirely lies – himself. Petitioner must not now be allowed to rob his victims and society of what they have endured untold suffering to earn – justice.

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

Respectfully submitted,

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