

OCTOBER 2002 SESSION
PRISONER REVIEW BOARD
STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	
)	Docket No. \
vs.)	
)	
WILLIE THOMPkins,)	Inmate No. N-22898
)	
)	

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

RICHARD A. DEVINE
STATE'S ATTORNEY OF COOK COUNTY

By: CHARLES BOSKEY
JOAN F. FRAZIER

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INTRODUCTION

Willie Thompkins' petition for clemency is premature and not properly before the Board because he does not currently have a sentence pending against him.

In June, 1982, Willie Thompkins was convicted for executing two men and was sentenced to death. In June, 2000, however, the Illinois Supreme Court ruled that Thompkins' defense counsel was ineffective at his sentencing hearing. People v. Willie Thompkins, 191 Ill.2d 438 (2000). The Court vacated Thompkins' death penalty and ordered the trial court to hold a new sentencing hearing. That hearing is still pending.

The Illinois Supreme Court has defined "commutation" as the change of punishment to which a person has been condemned to a less severe one. People ex rel. Smith v. Jenkins, 325 Ill. 372 (1927). Since Thompkins does not have any sentence pending against him at this time, there is nothing for the Board to commute. Thompkins' petition should be denied on that basis alone.

There are two other significant points the Board should know about Willie Thompkins' case. First, the Board should be aware that Thompkins is a vicious and cold man with a violent criminal history, who in this case tied up Gerald Holton and Arthur

Sheppard and executed them by shooting them in the head. He disposed of their bodies by dumping them in an open field in Markham.

People close to Thompkins were frightened of him: Shortly after the murders, Pamela Thompkins (defendant's sister-in-law), told a friend what happened because she was afraid Thompkins might kill her. Another witness to the murders fled the state until Thompkins was arrested, and still another witness asked to be relocated.

Thompkins has never taken responsibility for the murders he committed, nor has ever expressed one iota of remorse. In fact, several months after the double murder, police found Thompkins driving around in a stolen car, armed with a sawed-off shotgun. (Tr. 1214-1216)

These were not Thompkins' first shootings, either. In the 1960's, Thompkins was the founder and leader of the first street gang in Markham, the Kingston Green Black P Stone Rangers. (Tr2. 124;P3. 2244) In the summer of 1970, Thompkins came to suspect that a family friend named Michael Weaver was informing on gang activities to the Markham police. (Tr. 1183) Thompkins and several other men brought Weaver to an unincorporated area in Markham, where Thompkins kissed Weaver on both cheeks, and then shot him point-blank three or four times. (Tr. 1184) As he shot, Thompkins put his hand over his chest and said, "All power to the People," or "all power to Black P Stone." Weaver somehow survived his execution, but he was paralyzed from the waist down. (Tr. 1184)

Thompkins was convicted for this offense in 1971 and was sentenced to serve a 15 to 20 year term of imprisonment. (Tr. 1186-1187) Unfortunately, he did not serve out his sentence, but instead was paroled from prison in 1975 after less than four years confinement. (Tr. 1205) Thompkins' subsequent murder of Gerald Holton and Arthur Sheppard shows that

the extension of leniency to him was a terrible mistake.

The next point the Board should know about Willie Thompkins is that he has been represented for years by a team of attorneys from the Chicago law firm of Jenner and Block. The lead attorney representing him is a litigation partner from Jenner and Block who is a certified member of the Illinois Capital Litigation Trial Bar.

Thompkins' assertion that he has never had a fair airing of his claims in the appellate court is therefore absurd. His team of attorneys have left no stone unturned in scrutinizing his trial, and have raised dozens of allegations of error in post-trial proceedings in the trial court and in the Illinois Supreme Court. In fact, the Illinois Supreme Court has issued four opinions in this case. The upshot of it all is that although petitioner has been granted a new sentencing hearing, his convictions have otherwise been affirmed on each and every review. Most of the allegations of police and prosecutorial misconduct Thompkins now raise before the Board have been rejected in the Illinois Supreme Court; the rest are just lies.

Therefore, because the Illinois Supreme Court has never budged on the fairness of Thompkins' convictions, and because Thompkins was granted parole before and then turned around and murdered two men, there is utterly no reason for the Board to recommend that the Governor pardon him or otherwise commute his sentence.

HISTORY OF THE CASE

Willie Thompkins was tried by a jury in 1982 and convicted of the murders of Gerald Holton and Arthur Sheppard, conspiracy to commit armed robbery, armed robbery of Gerald Holton, armed robbery of Arthur Sheppard, obstructing justice, concealment of homicidal death, conspiracy to commit murder, and solicitation to commit armed robbery.

Thompkins waived a jury for sentencing, after which the trial court concluded there were no mitigating factors sufficient to preclude imposition of the death sentence. The court also sentenced Thompkins to concurrent sentences of 60 years' imprisonment on each armed robbery conviction, 10 years for each conviction of concealment of homicidal death, and 6 years for obstruction of justice.

Thompkins' conviction and sentence were affirmed by the Illinois Supreme Court on January 25, 1988. People v. Willie Thompkins, 121 Ill.2d 401 (1988). His petition for rehearing was denied on April 5, 1988, and the United States Supreme Court denied his petition for writ of *certiorari* on October 3, 1988. Thompkins v. Illinois, 488 U.S. 871 (1988).

In 1990, Thompkins filed in the Circuit Court of Cook County a petition for post-conviction relief raising 34 issues. The trial court dismissed the petition in its entirety. On direct appeal, the Illinois Supreme Court affirmed the trial court's dismissal of Thompkins' claims, with the exception of his contention that he was denied effective assistance of counsel at sentencing. People v. Willie Thompkins, 161 Ill.2d 148 (1994). The Court reversed for an evidentiary hearing on that claim.

The trial court ruled after a hearing that Thompkins was not denied effective assistance of counsel at sentencing, but the Illinois Supreme Court remanded the case yet

again to allow more proof. People v. Willie Thompkins, 181 Ill.2d 1 (1998). In June, 2000, the Illinois Supreme Court, ruling that defense counsel was ineffective at sentencing, vacated Thompkins' death sentence and remanded the case for a new sentencing hearing. People v. Willie Thompkins, 191 Ill.2d 438 (2000).

That sentencing hearing is now pending in the trial court.

II

FACTS OF THE CASE

On the early morning of December 23, 1980, a police officer found the body of Gerald Holton lying face-down in a ditch in an unincorporated area of Markham. (Tr. 633-34) Holton had been shot in the head, and his skull had been completely shattered. (Tr. 686) The body of Arthur Sheppard was found minutes later lying in a nearby clump of trees. Sheppard was dead from two gunshots to the head. (Tr. 688, 692) Both men had been bound with telephone cord. (Tr. 686, 688) Following an investigation, defendant was convicted in June, 1982 for these execution-style murders and other related offenses. (Tr. 1155)

The sequence of events leading up to the murders began early on December 22, 1980, when defendant went to the Harvey home of his girlfriend, Sandra Douglas. (Tr. 490) Ronnie Moore and Keith Culbreath were there as well. Culbreath's girlfriend at the time was Sandra Douglas's sister, Sherry Dunigan.

Defendant asked Keith Culbreath to step into a bedroom with him. There, defendant asked Culbreath whether he wanted to make some money, telling him that he was planning a "stick-up." (Tr. 493) Defendant told Culbreath, "[W]e are going to take off a couple guys, make some money." (Tr. 492)

Culbreath, who noticed a rifle and a handgun with a pearl handle lying on the

bed, agreed to the “stick-up.” (Tr. 493) Culbreath told defendant he wanted to go home and get his ski mask. (Tr. 495) Defendant replied, “don’t worry about it, [I’ll] take care of that.” (Tr. 495) In response, Culbreath told defendant that he “didn’t want to be part of it.” (Tr. 495)

Defendant, Ronnie Moore, and Sandra Douglas then left the house in Sherry Dunigan’s red Torino automobile and drove to the Markham home of defendant’s sister-in-law, Pamela Thompkins. (Tr. 531) Everyone but defendant went to the basement, where there was a small kitchen, bedroom, and recreation room. The group sat around the kitchen table talking for a while. Then Pamela Thompkins made a telephone call and said, “They’re here and they have what I told you they would.” (Tr. 531)

Twenty minutes later, Arthur Sheppard and Gerald Holton, the murder victims, arrived at Pamela Thompkins’ house. (Tr. 531) They were escorted to the basement kitchen, where everyone but defendant was present. Gerald Holton pulled out a bag of cocaine and put it on the table. (Tr. 532,600) Ronnie Moore told Sandra Douglas to cook the cocaine on the stove and purify it, which she did. (Tr. 533) When Sandra turned to show the finished product to Moore, she saw defendant standing in the doorway of the kitchen, holding a gun with a pearl white handle. (Tr. 535) He pointed his gun at the two men and declared, “[A]ll right, put your hands on the table. this is the police.” (Tr. 535-536) Holton put his hands on the table, and Sheppard put his hands up in the air. Defendant stretched Gerald Holton out over the table while Ronnie Moore disarmed Arthur Sheppard. (Tr. 536, 600-601)

Defendant and Moore used telephone cord to tie up Sheppard and Holton, and then took their wallets from them. (Tr. 537,601) Defendant dragged Sheppard into an adjoining bedroom. (Tr. 538)

Sandra Douglas and Pamela Thompkins went upstairs to Pamela’s bedroom. (Tr. 541) About 15 minutes later, at defendant’s request Sandra Douglas drove Ronnie

Moore to a nearby drugstore to buy grain alcohol to use for free-basing cocaine.

Several hours later, at about 8 or 9 p.m., Sandra Douglas heard a banging noise coming from the basement, “like maybe like a small garbage can or something hitting up against something.” (Tr. 545) After the banging stopped she heard two gunshots from the basement. (Tr. 545-546) Pamela Thompkins grabbed her face with her hands and said, “No, I told them not to do it here. I knew it wouldn’t go according to plans.”

Sandra Douglas went to the basement and peered down the stairs, where she saw the feet of a body being dragged towards the garage. She did not see the entire body, but she recognized the boots as those that Gerald Holton had been wearing. (Tr. 556) As Holton was dragged into the garage, Arthur Sheppard followed, with Ronnie Moore holding a knife on him. (Tr. 556-557) Defendant, Ronnie Moore, and Pamela Thompkins then left in the red Torino and two other cars. (Tr. 557)

Defendant, Pamela Thompkins, and Ronnie Moore took Sheppard and Holton to an open field in an unincorporated area in Markham. During the drive, Sheppard begged for his life and said his wife had just had a baby. Defendant and Moore shot Sheppard in the head and left his body in a clump of trees. (Tr. 475, 477) They dumped Holton’s body in a ditch.

Dr. Robert J. Stein, chief medical examiner for Cook County, later testified that Gerald Holton died from a bullet to the brain. His skull was completely shattered. (Tr. 682-683) Dr. Stein testified that Arthur Sheppard died from two bullet wounds to the head. (Tr. 688-690) His executioner stood no more than six inches away when he pulled the trigger. (Tr. 690)

About a half hour after the murders, defendant called Sandra Douglas and told her to clean up the basement. Ms. Douglas went to the basement and saw blood smeared in the recreation room, the bedroom, and in the hallway leading to the garage. She also saw small, white balls on the floor and a large pool of blood in the garage. She was

nervous after viewing the scene, and could not bring herself to clean anything. (Tr. 560-561) Pamela Thompkins returned home a little while later and walked around the house “mumbling to herself.” (Tr. 562)

Defendant called again 20 minutes later. Sandra Douglas told him that she had to get out of the house and she wanted to leave right away. (Tr. 564) Defendant told Sandra to calm down, and instructed her to retrieve the gun he had left under a couch at the house. (Tr. 495) Sandra found the gun, and went to the location indicated by defendant.

Sandra Douglas, Pamela Thompkins, and defendant all gathered that night at the home of Delmar Watkins. (Tr. 570) The next day, Sandra Douglas asked defendant what the noises she had heard the night before were. (Tr. 571) Ms. Douglas said defendant responded that she should “just forget about it, the less I know, the better off I’ll be.” (Tr. 571) Ms. Douglas told defendant, “Well, just tell me what was the noise that I heard.” (Tr. 571) Defendant responded that “that was him [defendant] hitting the nigger in the head with a shovel because he didn’t want to get in the trunk” with the other man. (Tr. 571)

That morning, Pamela Thompkins noticed blood dripping from the red Torino’s trunk onto the snow. (Tr. 607-608) Defendant told Sandra Douglas and Delmar Watkins to go wash the car. (Tr. 572) Even though Watkins hosed down the inside of the car’s trunk for 45 minutes, a state investigator later testified that he found blood stains in the trunk of the car. (Tr. 869) In addition, investigators later determined that three sets of small, white Styrofoam balls, which were found in Pamela Thompkins’ basement, the trunk of the red Torino, and the victims’ hair, were all of the same composition. (Tr. 778-779)

After the murders, Sandra Douglas did not attempt to see defendant again. (Tr. 575) Instead, she fled to Alabama in January, 1981. She testified, “I was scared. I didn’t want to be here no more. I thought my life was in danger.” (Tr. 575)

Several months later, on March 13, 1981, Cook County Sheriff's Department police officer Patrick Foley received a telephone call from a woman who said she had information about the murders of Gerald Holton and Arthur Sheppard. Thirty minutes later, Doris Ferguson arrived at the Markham facility and identified herself as the telephone caller. (Tr. 1382)

Doris Ferguson told Officer Foley that on the day after the murders, she spoke on the phone to her long-time friend Pamela Thompkins. (Tr. 1383) Pamela asked Ms. Ferguson how she could get blood off her garage and basement floors. (Tr. 1383) Doris Ferguson said she told Pamela she did not know, and asked how the blood got there. (Tr. 1383) Pamela replied that on the afternoon of December 22, she arranged for two men to come to her house in connection with a cocaine deal. Pamela said defendant and his girlfriend were present at her house as well. (Tr. 1388) Pamela said she and defendant tied up the men with telephone cords and then took their cocaine away from one of them. Pamela told Doris Ferguson she still had some of the telephone cord in her basement. (Tr. 1384) Pamela said one of the men (who must have been Holton), was shot in the basement, and she helped defendant put his body in the trunk of defendant's girlfriend's car. The other man was put in the back seat of the car, she said.

Pamela Thompkins told Doris Ferguson that she went with defendant to the site where they dumped the bodies. She said that during the drive, the man in the back seat (Sheppard) begged for his life and said his wife had just had a baby. He also said he had told other people where he was going. (Tr. 1383) Sheppard was shot at the site where the two bodies were later found. Pamela told Ms. Ferguson that the bodies found at 160th and Western on the morning of December 23 were the men who had come to her house the day before. (Tr. 1383) Pamela said they ditched the victims' van at a motel. (Tr. 1384) Pamela said she was telling Doris what happened because she was afraid defendant might kill her, and she wanted someone to know in case that happened. (Tr. 1384)

After receiving this information, Officer Foley verified that a child had been born to Arthur Sheppard's wife in October, 1980. (Tr. 1384) Officer Foley also learned that on December 23, 1980, a black van registered to Arthur Sheppard had been recovered by police at the Chek In Motel in Hazel Crest. (Tr. 1384)

Based on this information, Officer Foley sought and obtained a search warrant for Pamela Thompkins' house. The police found a fifteen-foot telephone cord, a .38 revolver, six rounds of ammunition, and apparent bloodstains. (Tr. 1386) The police arrested Pamela Thompkins. (Tr. 1387)

Meanwhile, Sandra Douglas stayed in Alabama with relatives until she learned that defendant had been arrested. (Tr. 576) At trial, Ms. Douglas explained, "I was scared. I didn't want to be here no more. I thought my life was in danger." (Tr. 575) After learning that defendant had been arrested, Sandra Douglas went to a Birmingham police station to report that she knew about a murder that had taken place in Chicago. (Tr. 576-577) After returning to Chicago, Sandra Douglas was arrested and charged with murder. (Tr. 585) These charges were later dismissed. (Tr. 586)

Defendant was arrested on March 17, 1981. (Tr. 144) The following day, he was interviewed by the Cook County Sheriff's Police investigators. (Tr. 813-817) After waiving his rights, defendant admitted he had been at Pamela Thompkins' house with Moore, allegedly to protect Pamela's interest in a cocaine deal she had arranged with Gerald Holton. (Tr. 818-819) He said Sandra Douglas and Ronnie Moore were also present at the house. (Tr. 819)

In corroboration with the evidence presented at trial, defendant explained how Gerald Holton and Arthur Sheppard arrived at the house and brought cocaine down to the basement. However, defendant attempted to clear himself and shift the blame to Ronnie Moore by saying that Moore shot Holton for attempting to escape after refusing to be put into the trunk. (Tr. 819, 849) According to defendant, after Holton was shot, "everybody in

the house knew what had to be done.” (Tr. 819-820) Defendant, Pamela Thompkins, and Ronnie Moore then took Holton and Sheppard to 160th and Western Avenue. (Tr. 819) Defendant said that Moore took someone into the woods and returned by himself. (Tr. 849)

Pamela Thompkins was interviewed by an assistant state’s attorney on the day defendant was arrested. She provided additional information about defendant’s murder. Ms. Thompkins said that on the morning of the murders, defendant asked her to get in touch with Gerald Holton to arrange the purchase of an ounce of cocaine. (P. 596) Pamela Thompkins acted as the go-between in negotiations between Holton and defendant. Holton agreed to bring the cocaine to Ms. Thompkins’ house, and later arrived at her house with another man that Ms. Thompkins did not know. (P. 599-600)

Pamela Thompkins said that at one point while she was out of the basement, she heard defendant say something to the effect of “lay down, get down on the floor, this is it ... “ (P. 602) Ms. Thompkins said that when she later peeked downstairs, she saw Holton and Sheppard lying on the floor, bound with telephone cord. (P. 603) Ms. Thompkins later heard Holton offering money and heard Arthur Sheppard call a bank to find out how much money he had in his bank account. (P. 605) Both defendant and Moore had guns. (P. 615)

Sometime later, Pamela Thompkins heard Gerald Holton yelling and then she heard a gunshot. (P. 606) Defendant told Ms. Thompkins he wanted her to follow him and drive the car with Ronnie Moore and Arthur Shepard. (P. 608) Defendant had blood on his shirt, pants, and gym shoes. (P. 617)

Pamela Thompkins further said in her statement that after the two cars reached their destination, defendant asked her to help him pull Holton’s body out of the trunk of the car. She could not bring herself to do it. (P. 609) Ms. Thompkins saw defendant pull Gerald Holton’s body out of the trunk of the car and dump it into a ditch. (P. 611) Ms.

Thompkins said she saw Ronnie Moore walk Arthur Sheppard into the woods. Ms. Thompkins ran to her car, but before she could start up the engine, she heard gunshots. (P. 610)

Pamela Thompkins said she drove defendant and Moore to 152nd and Woods Street. (P. 612) Defendant's wife, Barbara Thompkins, picked her up later and drove her to the site where the bodies had been dumped so that Pamela could pick up her car, which she had left behind. (P. 612)

Ms. Thompkins said in her statement that when she got home, she saw blood on the garage floor, on a couch, a pillow, and on the wall. (P. 613) Defendant called Pamela Thompkins later to tell her to use flour to get the blood off of the garage floor. (P. 617)

Following a trial by jury, defendant was found guilty of the murders of Gerald Holton and Arthur Sheppard, conspiracy to commit armed robbery, armed robbery of Gerald Holton, armed robbery of Arthur Sheppard, obstructing justice, concealment of homicidal death, conspiracy to commit murder, and solicitation to commit armed robbery. (Tr. 1155)

Defendant waived a jury for sentencing. At the sentencing hearing, the State introduced evidence concerning defendant's attempted murder of Michael Weaver. (Tr. 1182) Weaver was suspected of acting as an informant for the Markham police regarding the activities of Black P. Stone Nation members. (Tr. 1183) Defendant was the founder and leader of the Markham Black Stone Rangers in the 1960's. (Tr. 124) One day in the summer of 1970, defendant and several other men brought Weaver to an unincorporated area in Markham. Defendant kissed Weaver on both cheeks and shot him point-blank three or four times. (Tr. 1184) As he shot, Thompkins put his hand over his chest and said, "All power to the People," or "all power to Black P Stone." Although defendant left Weaver for dead, he survived, albeit paralyzed from the waist down. (Tr. 1184) It was later

learned that the Thompkins family were friends with the Weavers, and that defendant's mother had considered Michael Weaver like another son. (Tr2. 253)

In 1971, defendant was convicted for attempted murder and aggravated battery in connection with this offense, and was sentenced to serve a 15-20 year term of imprisonment. (Tr. 1186-1187) The Illinois Appellate Court affirmed defendant's conviction and sentence. People v. Willie Thompkins, 19 Ill.App.3d 674 (1st Dist 1974). Petitioner was paroled from prison in 1975, however, after less than four years confinement. (Tr. 1205)

In another incident, a Chicago police officer testified that about one week before defendant was arrested for the murders of Holton and Sheppard, he and two other men were arrested for driving a stolen car. (Tr. 1214) Defendant's license plates were on the car and the automobile's vehicle identification number had been replaced with a fraudulent number. (Tr. 1215-1216) There was a loaded firearm on the backseat of the car, and a sawed-off shotgun in the trunk of the car.

At the close of defendant's sentencing hearing, the trial judge asked him whether he had anything to say, and defendant answered, "No." (Tr. 1295)

After testifying at trial, Keith Culbreath asked the State that he be relocated, because he was afraid of what defendant might do to him.

The trial court concluded there were no mitigating factors sufficient to preclude imposition of the death sentence. (Tr. 1296) The court also sentenced defendant to concurrent sentences of 60 years imprisonment on each armed robbery conviction, 10 years for each conviction of concealment of homicidal death, and 6 years for obstruction of justice. (Tr. 1302-1308)

III

REASONS FOR DENYING THE PETITION

Petitioner asks for a grant of clemency because he believes errors occurred at his trial and because it is his feeling that “[he] has been punished enough.” (Petition at 2) Petitioner’s allegations of trial error were thoroughly investigated on direct appeal, in post-conviction proceedings, and in the Illinois Supreme Court, so there is no need for the Board to consider those allegations all over again. The trial court and the Illinois Supreme Court have reviewed the thousands and thousands of pages petitioner has submitted in support of his various claims, and the net result that is that while petitioner will receive a new sentencing hearing, his convictions have otherwise been affirmed.

Part 1 of this discussion responds to petitioner’s comments on the Recommendations issued by the Governor’s Commission.

Part 2 of this discussion responds in summary form to the legal arguments petitioner raises in his petition, which have already been addressed in the Illinois Supreme Court.

Part 1.

Recommendations of Governor’s Commission

Petitioner’s Lies and Misconduct

Petitioner argues that he should be granted clemency because of prosecutorial and police misconduct. It is petitioner who is the liar and it is petitioner who is engaging in misconduct before the Board. His allegations of police and prosecutorial misconduct are *all flat-out lies*. His statement that his claims of misconduct have never been addressed in the courts is *a flat-out lie*. (See Part 2 below). His statement that there was prosecutorial

misconduct in regard to four State witnesses is a *flat-out lie*. His statement that it seems to be, or appears to be, or might be, that the police fabricated his admissions, is a *flat-out lie*.

It is laughable that petitioner's attorneys think that police and prosecutors, whom they believe to be totally without ethics (unlike themselves), would stoop to bending the rules to convict a gutless murderer like Willie Thompkins.

Retroactivity of Recommendations

Petitioner argues that he would likely be free today if the recommendations of the Governor's Commission had been in place during the State's investigation and prosecution of his case. 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's argument also totally 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.

Disclosure in Writing of Deals with Witnesses

Petitioner asserts that Governor's Commission's Recommendation 50 suggests the pretrial disclosure in writing of prosecutors' deals with witnesses. Based on this Recommendation, petitioner argues that prosecutors should have been required to give him a written pretrial disclosure of any deal with witness Sandra Douglas.

The rationale of this recommendation, however, is to ensure that defense counsel is adequately prepared to cross-examine a witness with respect to his or her bias. Even if defense counsel was not able to get Sandra Douglas to say what he wanted her to on the stand, he is not claiming he was inadequately prepared to cross-examine her. Petitioner's defense counsel interviewed Ms. Douglas prior to trial with another defense attorney, and he was free to ask her whatever he needed to know. An assistant state's attorney said during a pretrial proceeding, "McGann and Sorosky went upstairs and interviewed Sandra Douglas in [ASA] Phillips' presence ... I am sure they have no complaints. She answered their questions until both Mr. McGann and Mr. Sorosky indicated there were no more questions they wished to ask."

Electronic Recording of Witnesses in Homicide Cases

Citing the Governor's Commission's report, petitioner argues that a common denominator in cases involving so-called wrongful convictions is the circumstance where the sole witness linking defendant to a crime is unreliable. Petitioner then attacks the testimony of Sandra Douglas on the grounds that her testimony in his opinion was unreliable. (Pet. at 60-71)

Sandra Douglas' testimony was absolutely reliable and was corroborated by plenty of other evidence, not the least of which was petitioner's own admissions to police. Petitioner would prefer it if his accuser had been a Girl Scout, but petitioner did not commit these murders surrounded by Girl Scouts. It was for the jurors to judge the credibility of Sandra Douglas, whom they clearly found to be completely credible.

Then proving that he will say anything about anyone in order to gain the Board's favor, petitioner opines (in a footnote), that Sandra Douglas was "likely" high on cocaine at the time of the murders. (Pet. at 62) As petitioner well knows, there is no evidence that this is true. Sandra Douglas testified that it was Ronnie Moore who introduced her to cocaine, and that she used it once or twice a week from August 1980, to December 1980. She did not testify that she used cocaine or was high on the night of the murders.

Petitioner then argues that Sandra Douglas failed to fully disclose to the jurors the deal that she made with the State. In fact, Ms. Douglas told the jurors that she knew there was a warrant outstanding for her arrest for murder, that she was arrested and charged with murder, that police told her she could help herself by telling the truth, that she was held overnight, and that after she gave a statement to police, they let her go.

Petitioner argues, however, that it would have been better had her statement been electronically recorded. In a related contention, petitioner argues that his admissions should have been recorded. What petitioner fails to recognize is that neither the Commission nor the governor 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 in this case expressly found that petitioner's statements were 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. Petitioner cannot complain that he was prevented from asserting at trial that his statement was unreliable and should not be considered.

Increased Funding for Investigation and Compensation of Counsel in Capital Cases

Petitioner argues that if his defense attorney had received the training recommended by the Governor's Commission, the outcome of his case might have differed. Petitioner's defense counsel was Patrick McGann, who now happens to be a Cook County Circuit Court judge. In a rather stunning swipe at Judge McGann, petitioner asserts that he "could have fared no worse at trial had he had no attorney." (Pet. at 79)

Judge McGann testified at an evidentiary hearing in this case that prior to petitioner's 1982 trial, he was a Cook County assistant state's attorney during the years 1972 through 1978. After that, Judge McGann maintained a private law practice, handling both civil and criminal matters. During his years in private practice, Judge McGann handled two capital cases: petitioner's and a case involving a defendant named Larry Hewitt. Judge McGann thought he defended Hewitt's capital case before petitioner's, although he was not sure.

McGann became a Cook County judge in 1988. At the time of the evidentiary hearing in petitioner's case, he was presiding in the Cook County Circuit Court Law Division.

Judge McGann's representation of petitioner during the guilt phase of his trial was challenged on appeal on every conceivable basis, and the Illinois Supreme Court never found that Judge McGann was ineffective at trial.

Petitioner further argues, however, that his cause would have benefited by increased funding. 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.

Sufficiency of the Evidence

Although petitioner has claimed in past appeals that the evidence was insufficient to show his intent to kill (a claim which the Illinois Supreme Court denied), *he has never before made a claim of actual innocence*. Nonetheless, he now argues that the evidence was insufficient to support his conviction.

To the contrary, the evidence of petitioner's guilt is overwhelming. The evidence of petitioner's guilt includes, but is not limited to, Keith Culbreath's testimony that petitioner invited him to "take off a couple guys" and told him not to bother retrieving his ski mask; that Culbreath saw a gun with a pearl handle in the room where they spoke; Sandra Douglas' testimony that prior to the shootings she saw petitioner holding a gun with a pearl

handle; Sandra Douglas' testimony that she saw petitioner pointing a gun at the victims; Pamela Thompkins' exclamation after the sound of the gunshots that "she told them not to do it here, she knew it wouldn't go according to plans," indicating that the murders had been previously discussed; petitioner's statement to investigators admitting his presence at the crime scene; petitioner's inculpatory statement that after Gerald Holton had been shot, "everybody in the house knew what had to be done"; and the physical evidence corroborating the witnesses' version of events.

Petitioner argues that the evidence shows that Ronnie Moore was actually the ringleader, but the Illinois Supreme Court has concluded otherwise. The Court said, "We do not agree with the defendant that the evidence introduced to Moore's trial requires that we modify this court's previous determinations. Although the testimony presented at Moore's trial provides a more complete picture of Moore's participation in these offenses, that evidence does not detract from the earlier depiction at the defendant's trial of the defendant's own involvement in the crimes." People v. Willie Thompkins, 161 Ill.2d 148, 184-185. The Court said, "[c]ompared with Moore, the defendant was the more culpable offender and, as measured by his criminal record, had less rehabilitative potential."

Effective Assistance of Counsel

Citing the report of the Governor's Commission, petitioner notes that qualified counsel is likely the most important safeguard against wrongful convictions. Petitioner asserts that his trial counsel was ineffective.

Although the Illinois Supreme Court has concluded that petitioner is entitled to a new sentencing hearing, it has otherwise firmly rejected petitioner's contention that trial counsel was ineffective in any other respect.

Delay in Resolving Petitioner's Appeals

Petitioner's attorneys have challenged virtually every aspect of his trial and his sentencing hearing. His attorneys have presented testimony from petitioner's family, friends, former employers, and defense attorney. Petitioner's attorneys have also secured affidavits from witnesses in the fields of neuropsychology, art therapy, criminal defense, and mitigation. Petitioner has the right to gather and present this evidence, the State has the right to respond, and the Courts have the right to carefully review the evidence and allegations.

Petitioner cannot have it both ways. If he wants to exercise his right to call multiple witnesses, and subject himself to testing by various experts, he should not be heard to complain that the process is taking too long for his liking. Furthermore, while petitioner complains that the passage of time has hampered his ability to prove he was wrongfully convicted, he has not explained how.

Petitioner was properly convicted under the law, and until he demonstrates otherwise, it is entirely just and proper that he is in prison.

Part 2.

Legal Arguments Previously Addressed By Illinois Supreme Court

Ineffective Assistance of Counsel at Trial

The Illinois Supreme Court has twice rejected petitioner's claim that defense counsel was ineffective at trial. In 1988, the Court said, "The record, as a whole, shows that defendant did receive diligent, vigorous, and competent representation. Defense counsel was highly experienced and diligently prepared in conducting defendant's case." People v.

Willie Thompkins, 121 Ill.2d 401, 448 (1988); see also People v. Willie Thompkins, 161 Ill.2d 148, 161-164 (1994).

Petitioner's Inculpatory Admission

On the day after he was arrested, petitioner made admissions to the Cook County Sheriff's police, including acknowledging that he was present during the murders and the disposal of the bodies, and that after Gerald Holton was shot, "everybody in the house knew what had to be done." In desperation, petitioner now argues that police fabricated his admissions. There is no evidence whatsoever to support this claim, which is no doubt why petitioner has never had the nerve to raise it in any of his many appearance before the courts. Petitioner's wild assertion that he was "railroaded to death row on fabricated testimony," (Pet. at 71) is a lie and an insult to the jury who heard the witnesses, and every court that has reviewed his case.

Petitioner alternatively argues that his admissions were introduced in violation of his constitutional rights. Petitioner moved to suppress his admissions prior to trial and the trial court denied the motion. The Illinois Supreme Court affirmed, ruling that petitioner's admissions were properly admitted at trial because petitioner waived his right to silence and right to counsel. People v. Willie Thompkins, 121 Ill.2d 401, 433-434 (1988). In 1994, the Court again affirmed the admissibility of petitioner's admissions. People v. Willie Thompkins, 162 Ill.2d 148, 176.

Keith Culbreath

Petitioner argues that the State fabricated charges against Keith Culbreath. The Illinois Supreme Court affirmed the trial court's ruling limiting cross-examination on the charge pending against Culbreath. People v. Willie Thompkins, 121 Ill.2d 401, 441 (1988).

The Court said, “The evidence was more than sufficient to point out to the jury that Culbreath was biased in favor of the prosecution.” 121 Ill.2d 401, 442.

Sandra Douglas

Petitioner contends that the State concealed the existence and content of Ms. Douglas’s statement, and for a period of time even concealed her. This issue was fully aired in a *voir dire* hearing prior to trial. Later, the Illinois Supreme Court considered the issue and rejected it. The Court found that there was no evidence that a substantially verbatim report existed of Douglas’s conversation with Alabama police, that Alabama officials were not agents of the State whose possession and control of information had to be imputed to the State’s Attorney’s Office, and that the Alabama law enforcement officials were not subject to the jurisdiction of the Illinois courts. People v. Willie Thompkins, 121 Ill.2d 401, 426-427. The Court said, “the record clearly shows that the assistant State’s Attorney, although unsuccessful, diligently attempted to obtain the purported memorandum, to contact Sergeant Knight, and to produce the notes at trial.” 121 Ill.2d at 427. The Court further found that a prosecutor’s comment about Sandra Douglas’s Alabama statement did not improperly bolster her testimony. 121 Ill.2d at 430.

Petitioner further argues that the State concealed the whereabouts of Sandra Douglas while she was in Alabama, and must have made a secret deal in order to get her to leave Alabama and return to Illinois after his arrest. There is no evidence to support these charges, beyond petitioner’s overactive imagination. Two defense attorneys interviewed Sandra Douglas prior to trial, and she did not say anything about any secret deals with the State. In petitioner’s cynical worldview, it is not possible that Sandra Douglas

voluntarily chose to go to the Alabama police. Yet, the evidence showed that is exactly what she did.

Doris Ferguson

Petitioner argues that Doris Ferguson's conversation with police was fabricated. The Illinois Supreme Court rejected this claim, ruling that petitioner's allegations of fabrication were "entitled to little weight," and that police were able to corroborate certain details related by Ferguson. People v. Willie Thompkins, 161 Ill.2d 148, 170-171 (1994).

Petitioner further argues that the State deliberately concealed Doris Ferguson during a suppression hearing. The Illinois Supreme Court rejected this ridiculous claim in 1994. People v. Willie Thompkins, 161 Ill.2d 148, 172-173 (1994).

Pamela Thompkins

Petitioner argues that the State encouraged Pamela Thompkins to lie, as evidenced by Ms. Thompkins' recantation which she wrote two years after the murders. The Illinois Supreme Court rejected this argument in People v. Willie Thompkins, 161 Ill.2d 148 (1994), where the Court said Ms. Thompkins' recantation "cannot be given any substantial weight," and noted that at her own trial, "Pamela effectively recanted the recantation she had made only one day earlier." 161 Ill.2d at 377-378.

Petitioner's Choice of Counsel

Petitioner argues that prosecutors interfered with his effort to obtain private counsel. The Illinois Supreme Court rejected this claim, writing, "we find no unconscionable intrusion into defendant's attempt to exercise his right to counsel of his own choice." People v. Willie Thompkins, 121 Ill.2d 401, 437 (1988).

Petitioner's Mitigation Evidence

As stated, the Illinois Supreme Court has ruled that petitioner is entitled to a new sentencing hearing. People v. Willie Thompkins, 191 Ill.2d 438 (2002). It is in the context of that hearing that petitioner's mitigation witnesses should be heard. At that time, the State can explore their testimony and present the State's aggravation evidence. Until that time, and until a sentence is actually pending against petitioner, it is premature to even consider granting him clemency.

Furthermore, petitioner's mitigation witnesses cannot soften the blow of the damage he has done. The evidence showed that petitioner planned the murders, organized the participants, executed the scheme, and orchestrated the cover up. It was petitioner who tried to enlist Keith Culbreath in the murders and told him there would be no need for a disguise, petitioner who confronted the victims and pretended to be a policeman, petitioner who ordered Sandra Douglas to clean up the blood in the basement, petitioner who told Sandra Douglas to fetch his gun from under a couch, and petitioner who intimidated Sandra Douglas into fleeing the state.

It is chilling to think what kind of vengeance petitioner might wreak if he is ever permitted to walk free again. When petitioner thought Michael Weaver was informing on the Black P Stone Rangers, he marched him to a field and shot him point blank three or four times. Then later, before his trial for the murders, petitioner told his trial attorney that if he could find Sandra Douglas, she would not be testifying.

Petitioner simply cannot be allowed to add anymore victims to his list.

CONCLUSION

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

Respectfully submitted,

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