OCTOBER 2002 SESSION
PRISONER REVIEW BOARD
STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,	)	
	)	
vs.	)	Docket No. _____
	)	
ANDREW URDIALES	)	Inmate No. R15337
	)	
	)	

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

_____

PEOPLE'S RESPONSE IN OPPOSITION TO PETITION FOR EXECUTIVE CLEMENCY

_____

HEARING REQUESTED

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Assistant State's Attorneys

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I

HISTORY OF THE CASE

Serial killer Andrew Urdiales was recently sentenced to death for the murders of two young women in Cook County in 1996. In addition to these crimes, Petitioner admitted to murdering six other women (one in Livingston County, five in California), as well as the kidnapping, rape, and attempted murder of another young woman in California. He has been indicted by the Livingston County Grand Jury for the First Degree Murder of Cassandra Corum under case number 98CF-19, for **which he is eligible to receive the death penalty.**

On May 13, 1997, the Cook County Grand Jury indicted Petitioner for the First Degree Murder of Lynn Huber under case number 97CR-13757 and the First Degree Murder of Laura Uylaki under case number 97CR-13758. On June 3, 1997, the Petitioner was arraigned and entered a plea of not guilty to both indictments.

On April 30, 2001, the People filed their Notice of Intent to Seek the Death Penalty against the Petitioner pursuant to the then newly enacted Illinois Supreme Court Rule 416 (c).

Petitioner's jury trial on the two Cook County indictments (which were consolidated for trial) commenced on April 8, 2002. The guilt phase concluded on May 23, 2002, at which time the jury returned a verdict of guilty as to both charges of First Degree Murder. The penalty phase commenced on May 24, 2002. After hearing evidence in aggravation and mitigation, the jury sentenced Petitioner to death on May 30, 2002.

Petitioner, in his haste to get his Petition for Executive Clemency before this governor, filed his request even before the termination of proceedings in the trial court—before, in fact, he had formally been sentenced to death.

II

FACTS OF THE CASE

Andrew Urdiales is a cunning opportunist. Clever and manipulative, he camouflaged his animal instincts and murderous acts first under the color of his service as a United States Marine and later, in civilian life, as a security guard. His craftily engineered "aura of respectability" enabled him to kill without suspicion across half of a continent for two decades.

CHRONOLOGY OF PETITIONER'S CRIMES

January, 1986-**Urdiales murdered** Robbin Brandley at Saddleback College, Mission Viejo, California.

July, 1988- **Urdiales murdered** Julie McGhee in Cathedral City, California.

September, 1988- **Urdiales murdered** Mary Ann Wells in San Diego, California.

April, 1989- **Urdiales murdered** Tammy Erwin in Palm Springs, California.

September, 1992- **Urdiales kidnapped, raped, and attempted to murder** Jennifer Asbenson in Palm Springs, California.

March, 1995- **Urdiales murdered** Denise Maney in Palm Springs, California.

April, 1996- **Urdiales murdered** Laura Uylaki in Chicago, Illinois.

July, 1996- **Urdiales murdered** Cassandra Corum in Livingston County, Illinois.

August, 1996- **Urdiales murdered** Lynn Huber in Chicago, Illinois.

November, 1996- **Urdiales** arrested in Hammond, Indiana for **unlawful possession of a weapon**.

DETAILS OF THE INDIVIDUAL CRIMES

January, 1986-**Robbin Brandley**

Robbin Brandley was returning to her car after ushering a concert on her college campus. Petitioner, a stranger to the victim, approached her as she neared her car. He immediately began stabbing her with a knife with a six-inch blade in the back, neck, chest, and hands. (See Attachment A.) He fled the scene and returned to his Marine Corps base. The autopsy revealed that Robbin had been stabbed 41 times.

July, 1988-**Julie McGhee**

Julie McGhee's partially decomposed body was discovered in a remote desert area. She had been stripped of identification. In addition, identification was further complicated by the fact that coyotes had fed upon her. (See Attachment B.) Petitioner admitted that he had taken the victim to the area in order to have sex with her and then shot her with a .45 caliber pistol that he purchased at his Marine Corps base. After killing Julie, the Petitioner returned to his Marine Corps base. Ballistics testing revealed that the weapon that fired the cartridge casings found near Julie's body matched the cartridge casings found at the scenes of the murders of Tammy Erwin and Mary Ann Wells.

September, 1988-**Mary Ann Wells**

Urdiales picked up Mary Ann Wells, a prostitute, and took her to a deserted industrial complex in San Diego. According to the Petitioner, after he had sex with her, he shot her and took back the $40 that he had paid her. (See Attachment C.) He fled the scene and returned to his Marine Corps base. Ballistics testing revealed that the weapon that fired the cartridge casings found near Mary Ann's body matched the cartridge casings found at the scenes of the murders of Tammy Erwin and Julie McGhee. DNA testing revealed that a condom found at the scene had both the victim's (1 in 20 quadrillion Caucasians) and the Petitioner's (1 in 1.7 quadrillion Caucasians) DNA on it.

April, 1989-**Tammy Erwin**

Petitioner confessed that he drove Tammy into the desert in order to have sex with her. He admitted that he shot her three times before returning to his Marine Corps base. (See Attachment D.) Ballistics testing revealed that the weapon that fired the cartridge casings found near Tammy's body matched the cartridge casings found at the scenes of the murders of Mary Ann Wells and Julie McGhee. After Tammy's murder, Petitioner dismantled his murder weapon and disposed of it in other parts of the country.

September, 1992-**Jennifer Asbenson**

After his discharge from the Marine Corps in 1991, Petitioner returned to California in 1992 for a vacation. Urdiales spotted Jennifer Asbenson at a bus stop. Using the ruse of the "Good Samaritan," Petitioner offered the 19-year-old victim a ride to work. She accepted his assistance but rebuffed his advances. Petitioner dropped the victim off at work, only to return at the end of her shift. Once again, Urdiales conned Asbenson into getting into his car. Once inside, he put a knife to her throat and tied her hands behind her back. He drove into the desert and parked the car. He cut off her shorts and her bra and stuffed her underwear in her mouth. He then vaginally and orally raped the victim. He strangled Jennifer until she lost consciousness. Urdiales then forced her into the trunk of his rental car. At trial, Jennifer testified that she was certain that she "was going to die." So convinced was she of her (what seemed inevitable) fate that, while tied up in the trunk of his car, she attempted to take her own life. Her failure to "end the torture" motivated her into a renewed effort to escape. Somehow, she was able to find the trunk release mechanism and jumped out of the trunk and ran for safety. Urdiales returned his rental car and flew home to Chicago the same day. But for her fortuitous escape, Jennifer Asbenson would have been Petitioner's ninth murder victim.

March, 1995-**Denise Maney**

Petitioner committed his fifth murder while on another vacation to California. Urdiales spotted Denise Maney on the street. Denise, a prostitute, agreed to have sex with the Petitioner. Urdiales drove to a deserted area. He tied up Denise and then sexually assaulted her. According to the Petitioner, he then put his .45 caliber gun in her mouth and "blew the back of her head off." He then stripped her of all of her clothes and possessions and left her body in the desert. (See Attachment E.) Petitioner had purchased this second pistol from a gun shop in Calumet City, Illinois.

April, 1996-**Laura Uylaki**

The nude body of Laura Uylaki was found floating in Wolf Lake in Cook County. (See Attachment F.) She had been shot twice in the head with Petitioner's third registered pistol, a .38 caliber revolver. Petitioner had left behind no clues as to either his identity or to the identity of the victim. He admitted that he had driven Laura to Wolf Lake in order to have sex with her. He acknowledged that he shot her "a couple of times" and threw her body into the lake. Ballistic testing in April 1997 revealed that she, Cassandra Corum, and Lynn Huber, had been killed with the gun that had been recovered from Urdiales by the Hammond police. The Petitioner had purchased this pistol from the same gun shop in Calumet City.

July, 1996-**Cassandra Corum**

The nude body of Cassandra Corum was found floating in the Vermillion River in Livingston County. (See Attachment G.) She had been shot and repeatedly stabbed. Petitioner admitted that, on the night of the murder, he "became angry" with Cassandra, handcuffed her, bound her ankles with duct tape, and taped her mouth shut. He stated that he cut her clothes off and drove her to the Pontiac area in his pick-up truck. Once at the Vermillion River, he forced her out of his truck and murdered her.

Once again, the defendant had left behind no clues as to his identity or as to the identity of the victim. Ballistic testing in April 1997 revealed that she, Laura Uylaki, and Lynn Huber had been killed with the gun that had been recovered from Urdiales by the Hammond police officers.

August, 1996-**Lynn Huber**

The nude body of Lynn Huber was found floating in Wolf Lake, only yards away from where the body of Laura Uylaki had been discovered. (See Attachment H.) She had been shot three times and stabbed 28 times. After dumping her body in the lake, Petitioner threw her clothes and personal items into a charity bin because, he reasoned, "she won't need them anymore so maybe someone else could use them."

Like Laura and Cassandra, Petitioner had left behind no clues to his identity or to identity of his victim. Ballistic testing in April 1997 revealed that she, Laura Uylaki, and Cassandra Corum had been killed with the gun that had been recovered from Urdiales by the Hammond police officers.

PETITIONER'S ADMISSIONS TO THESE CRIMES

TO LAW ENFORCEMENT: Upon his arrest by Chicago police in 1997, Petitioner immediately admitted the murders of Laura Uylaki, Lynn Huber, and Cassandra Corum. At that time, he spontaneously volunteered information regarding the five California murders, as well as the crimes against Jennifer Asbenson. (Note: At the time of his arrest, no law enforcement agency had any knowledge of, or evidence linking him to, the California crimes.) An assistant state's attorney wrote out petitioner's confessions to the murders of Ms. Uylaki, Ms. Huber, and Ms. Corum. (See Attachments I, J, and K.) Petitioner's confessions to the California crimes were tape-recorded by law enforcement officials. (See Attachments L and M for transcripts of these tapes.)

TO HIS DEFENSE EXPERTS: Petitioner reiterated his responsibility for the eight murders and the crimes against Jennifer Asbenson to his retained psychiatrist, Dr. Dorothy Otnow-Lewis. Dr. Lewis testified at trial that Petitioner admitted these crimes and was able to provide her with explicit details of each. **He recalled how many of these women "begged" not to be hurt and said things like " 'Please don't kill me' and the usual babbling."** Petitioner told the doctor that, from his first murder, his plan was to "be a serial killer." He indicated to her

that he **"was turned on by watching women suffer."** He stated that "all women are dirty whores" and deserve to be killed. Ever the manipulator, Urdiales told Dr. Lewis that it was "easy" to fake an insanity defense and that he "was not going to accept [his] fate."

III

REASONS FOR DENYING THE PETITION

This Petitioner is a cold, calculated, and brutal serial killer. **There exists absolutely no legal reason to commute this Petitioner's death sentence.** This Petitioner pled not guilty by reason of insanity. His plea is critical to this petition and went almost unmentioned in his own request for executive clemency. When the Petitioner asserted the affirmative defense of insanity, he admitted to each of the eight brutal murders he was charged with both here in Illinois and in California. Simply put, during his trial the Petitioner did not say he did not commit these heinous murders. Rather, he said he did commit these murders but should not be held responsible because he was insane. The jury soundly rejected this assertion.

As such, this is not a case where the Petitioner claims he was wrongly convicted and is innocent of the crimes for which he was convicted. This is not a case of mistaken, false or an alleged coerced identification. This case does not rely on the testimony of a jailhouse informant. This is not a case involving the Petitioner's intelligence quotient or assertions of mental retardation. This is not a case in which unknown DNA is an issue. There is no dispute as to the facts of the case or to the cause or manner of the victim's physical injuries. This is not a case where the Petitioner claims his confession was the product of torture or where there are allegations of police or prosecutorial misconduct.

The timing of this Petition for Executive Clemency also has bearing on its validity. At the time the Petitioner filed his petition he had not filed a motion for new trial. Nor has he availed himself of any of the myriad of appellate rights available to him. Why does the Petitioner file his petition now? He files this disingenuous petition in order to take advantage of one individual's politically charged view of the death penalty.

PETITIONER'S REQUEST FOR CLEMENCY IS PREMATURE BECAUSE HIS CASE HAS YET TO HAVE APPELLATE REVIEW

Because petitioner's death sentence has not yet been affirmed by the Illinois Supreme Court on direct appeal, this petition for executive clemency is premature. (Since the Judgment and Execution Order in Petitioner's case was only signed by the judge on September 3, 2002, briefs have yet to be filed.) The Illinois Constitution of 1970 expressly provides that "Appeals from judgments of Circuit Courts imposing a sentence of death shall be directly to the Supreme Court as a matter of right." Article VI, section 4(b). Pursuant to this provision, the Supreme Court promulgated Supreme Court Rule 606(a) which states that "In cases in which a death sentence is imposed, an appeal is automatically perfected without any action by the defendant or his counsel." Therefore, it is clear that all convictions resulting in death sentences must be reviewed by the Court before the defendant may be executed.

Due to this constitutional restriction, it is clear that no convictions resulting in death sentences are final prior to the completion of the Illinois Supreme Court's review on direct appeal. As the Court has long recognized, the completion of the direct appeal is a necessary element of criminal prosecutions. See People v. Mazzone, 74 Ill. 2d 44, 46, 383 N.E.2d 947 (1978) (holding that a defendant's death while his appeal is pending requires the convictions to be abated *ab initio*);

O'Sullivan v. People, 144 Ill. 604, 610, 32 N.E. 192 (1892) (same); People v. Robinson, 187 Ill. 2d 461, 463, 719 N.E.2d 662 (1999) (same). Thus, it cannot be disputed that in capital cases, the Court's affirmance is a indispensable component of a "conviction." Accordingly, because the Governor's clemency power is expressly limited to situations "after conviction" (Article V, section 12) (and in fact the practice has always been to wait until the completion of the entire appellate and post-conviction process), neither this Board nor the Governor may consider a clemency petition from petitioner until the finding of guilt and death sentence are affirmed by the Illinois Supreme Court.

PETITIONER *HAD* THE BENEFITS OF THE NEW SUPREME COURT RULES

The Petitioner was tried under the amended Illinois Supreme Court Rules regarding capital cases, even though those rules did not apply to the petitioner's case. The People filed a Notice of Intent to Seek the Death Penalty and complied with the amended Illinois Supreme Court Rules regarding discovery in capital cases. Despite compliance, the defense asserts numerous instances where the Petitioner was not afforded the benefit of these recent changes. These assertions are false and misleading.

Oblivious to the fact that his case was tried under the amended Illinois Supreme Court Rules regarding capital cases and that the defendant had almost unlimited resources from the Capital Litigation Trust Fund, the petitioner asserts that because he was sentenced to death without the recommendations of Governor Ryan's Commission on the Death Penalty and that he was sentenced to death under a "fundamentally flawed system." 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)).

It is telling, however, that Petitioner has not even made the attempt to demonstrate how the recommendations of the Commission would have affected the outcome of the proceedings. This is especially so as the petitioner was found eligible for the death penalty based upon an aggravating factor, multiple murder, which the Governor's Commission has specifically recommended be retained.

The majority of the Petitioner's clemency petition focuses on non-compliance with the Governor's commission in such areas as the failure to video-tape his confessions, the failure to electronically record witness interviews, the failure to allow an independent lab to verify certain forensic results and the improper use of non-electronically recorded confessions. These issues are nothing more than a smokescreen designed to inflame passion. The Petitioner admitted to these crimes. Upon his arrest by Chicago Police in 1997, Petitioner immediately admitted the murders of Laura Uylacki, Lynn Huber and Cassandra Corum and spontaneously volunteered admissions regarding the five California murders and the rape and kidnapping of Jennifer Asbenson. The Petitioner reiterated his responsibility for the eight murders and crimes against Jennifer Asbenson to the psychiatrist he hired for trial. Finally, the Petitioner's own defense lawyer admitted in opening statement that the Petitioner committed these grisly murders. It begs the question to ask,

how would the recommendations of the Governor's Commission have impacted the Petitioner when admitting to the crimes was an integral part of his very defense.

The mention of an independent lab and the verification of certain forensic results in the petition is nothing more than a red herring. What forensic results is the Petitioner referring to? If the Petitioner is referring to the murder weapon, a handgun, ballistics tests were conducted. The results of these tests showed that the Petitioner's handgun was the weapon that fired the bullets found in the bodies of the Illinois victims. The Petitioner never disputed this fact and never requested independent verification. Maybe by the reference to forensic results, the Petitioner is alluding to his used condom found at the site of the Mary Ann Wells murder. DNA testing on this condom showed the semen from within to have conclusively come from the Petitioner. The trial judge allowed independent testing and verification of this item. Despite the trial judge's approval, the Petitioner either chose not to have this condom tested at an independent lab or elected not to present their findings at trial.

The Petitioner erroneously contends that, based on the Governor's Commission proposal, he should have been afforded a public defender during his custodial interrogation. Again, the Petitioner's defense was insanity. He admitted to these murders asserting he was not responsible because he was legally insane at the time of each of the killings. In light of his defense, Petitioner's allegations of procedural irregularities during questioning are irrelevant. Nonetheless, after a full evidentiary hearing on Petitioner's motion to suppress, the trial judge found the Petitioners confessions voluntary and admissible. Therefore, even if this proposal had been in effect at the time of Petitioner's arrest, it would not have applied to him.

The Petitioner claims his sentence should be reduced because the State's Attorney's decision to seek death was made without uniform protocols to guide his discretion and was not approved by a state-wide review committee. However, "[I]t has long been recognized by the Illinois Supreme Court that the State's Attorney is endowed with the exclusive discretion to decide which of several charges shall be brought, or whether to prosecute at all. A prosecutor's discretion extends to decisions about whether 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 of the independence of the various State's Attorneys under the Illinois Constitution. Moreover, Petitioner does not even allege much less argue that the decision to seek death in his case was the result of an abuse of discretion. Accordingly, it must be rejected.

Petitioner also claims that clemency is appropriate because he was denied the opportunity to make a statement in allocution at his sentencing hearing. The Petitioner never requested to make such a statement. Nonetheless, 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 least confuse the jurors, and might also impair their ability to weigh the aggravating and mitigating factors." People v Gaines, 88 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.

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 denied his post-trial motions, albeit after this petition was filed, it is clear that the judge would not have overridden the jury's verdict.

The Petitioner also asserts that his sentence should be commuted because the trial court ordered discovery depositions during trial. The prosecution requested, prior to trial, to depose three potential defense experts. None of the three defense witnesses resided or practiced in the State of Illinois and refused to make themselves available for depositions prior to trial, even though the court had ordered pre-trial depositions of these witnesses. Petitioner's witnesses submitted themselves for deposition only after the trial had started. The Petitioner cannot possibly claim any harm from this procedure, since, in fact, it was he and his witnesses who refused to comply in a timely manner with the lawful court orders. It was the prosecution that was deprived of the benefit of valuable pre-trial discovery under the recently amended Supreme Court Rules in capital cases by the refusal of defense experts to cooperate with the discovery process.

In contrast, Petitioner enjoyed the full benefits of the deposition process. Petitioner conveniently omitted that he had the benefit of a pre-trial discovery deposition of the prosecution's expert, Dr. Mathew Markos, on October 25, 2001, almost six months prior to the commencement of his trial.

PETITIONER'S CLAIM OF INSANITY REJECTED BY JURY

In opening statement at the trial's guilt phase, Petitioner's counsel admitted that Petitioner had committed the two murders he was charged with in Cook County, as well as the murder in Livingston County and the five murders in California. Petitioner relied upon the affirmative defense of insanity.

In his petition, Petitioner asserts "At trial the defense proved that Mr. Urdiales was insane at the time of the charged murders." (p.5) Although the defense team may have convinced themselves, they did not convince the jury that the Petitioner was insane. Petitioner's jury returned verdicts finding him "guilty" of both murders. Under the law, the jury could return those verdicts only if they rejected Petitioner's insanity defense. If the defense had proved Petitioner was insane, the jurors would have been legally required to return a verdict of "not guilty by reason of insanity." The jury also rejected a second option—"guilty but mentally ill."

Obviously, the jury did not accept the opinion testimony of the expert witnesses retained by the defense. All of the defense experts were imported from the East Coast and compensated from the newly created Capital Litigation Trust fund. Dr. Dorothy Otnow-Lewis, a

psychiatrist, was paid in excess of $100,000.00 for her "professional services." Dr. Lewis was the first medical practitioner to ever diagnose this 38-year-old man as mentally ill.

All three of the experts hired by the defense testify regularly on behalf of defendants in capital trials. Dr. Lewis has recounted her experiences as a professional defense witness in her book Guilty By Reason of Insanity. (Dr. Lewis has examined and /or testified on behalf of several notorious murderers, among them serial killer Ted Bundy, whom she embraced and kissed shortly before he was executed.)

Dr. Mathew Markos, Director of Forensic and Clinical Services for the Circuit Court of Cook County, a board-certified forensic psychiatrist was appointed by the court to evaluate Mr. Urdiales' sanity. As a court-appointed psychiatrist, Dr. Markos has testified equally for the defense and the prosecution—a total of approximately 2,000 cases. He has been called as a witness by the Cook County Public Defender's Office and has testified in support of the insanity defense several times.

In his opinion, Petitioner did not suffer from schizophrenia or any other mental disease or defect and was "legally sane." Dr. Markos diagnosed Petitioner as a sociopath with antisocial and narcissistic traits. Dr. Markos testified that individuals with an antisocial personality repeatedly commit criminal offenses, exhibit no remorse or regret, have no regard for the feelings of others, and are frequently deceitful and manipulative. Sociopathy often manifests itself in childhood through cruelty to animals. When Petitioner was a child, he beat the family dog, Rufus, to death with a baseball bat. A narcissist feels "very special" and entitled to preferential treatment, are generally fascinated with themselves, are envious of others and entertain grandiose thoughts. Such individuals are not impulsive, but instead plan with precision and are extremely well-organized, intelligent, sometimes charming and extremely dangerous.

Petitioner's murders were committed at remote and isolated locations. They were premeditated, motivated, highly organized and defendant recalled them in extraordinary detail. He carefully selected his victims, and after the murders, defendant "methodically and meticulously" concealed his crimes.

According to Dr. Markos, a sociopath cannot be insane: "**Sociopathy is not a mental illness.** A sociopath knows exactly what he's doing. He is in good touch with reality." Petitioner's behavior is totally consistent with sociopathic behavior.

Dr. Markos testified that the opinion of the defense expert witnesses is also refuted by the fact that Petitioner functioned as a radio operator during his Marine Corps service. Transmitting and decoding radio signals are complex tasks that someone who is actively psychotic could not perform.

Petitioner's employment as a security guard following his discharge from military service up until the day of his arrest also refutes the defense experts' diagnosis of schizophrenia.

Petitioner has never been administered any anti-psychotic medication. Schizophrenia is a severe psychotic disorder. If untreated, symptoms persist and the person's condition deteriorates until he is severely incapacitated. According to Dr. Markos, if Petitioner had suffered from untreated schizophrenia for several years, his ability to function in a work environment (as well as personal hygiene and self-care) would be severely impaired.

PETITIONER IS *NOT* BRAIN-DAMAGED

Petitioner argued at both the guilt and penalty phases of his trial that brain damage affected his behavior and his ability to control his actions. After hearing testimony from both a defense expert and a prosecution expert, the jury rejected Petitioner's claim.

Dr. Daniel Hier, professor and head of the neurology department at the University of Illinois at Chicago, reviewed the single photon emission computer tomography (SPECT) scan of Petitioner's brain that was recommended by one of the defense experts. (The SPECT scan is "highly reliable for discovering even subtle areas of metabolic dysfunction.") Dr. Hier also reviewed the extended electroencephalogram (EEG) recommended by one of the defense experts. (The EEG measures physiological and mental capacity of the brain.) In his opinion, both **Petitioner's SPECT scan and EEG were "totally normal"** and suggested an absence of significant brain disease.

Dr. Hier found no conclusive evidence of significant brain injury. His opinion is supported by:

-MRIs (which examined the anatomical structures of the brain) did not reveal frontal lobe damage or left hemisphere damage;

-Neuropsychological testing administered by a defense psychologist showed normal intelligence and memory, which are inconsistent with brain injury;

-Neurological examination by another defense expert (who was never called as a witness at trial) disclosed no signs of frontal lobe damage.

Dr. Hier's review of magnetic resonance imaging (MRI) of Petitioner's brain disclosed "minimal" cortical atrophy, which is an enlargement of the grooves around the outside of the brain and the ventricles. Cortical atrophy is a normal part of the aging process that everyone experiences as they age. **Petitioner's condition is common in the general population** and would not prevent him from leading a normal life. It does not constitute evidence of Petitioner's inability to control criminal behavior.

PETITIONER'S CONTINUING DANGEROUSNESS

The petition states, "[Petitioner] is not an incorrigible prisoner against whom jail authorities have had to take disciplinary action." This statement is more than disingenuous; it is a lie. On January 1, 2002, the Petitioner exacted his revenge on another inmate for an earlier physical altercation between the two. Inmate George Fernandez was handcuffed and shackled while using the telephone. Seeing this, the Petitioner ran out of his cell armed with a towel containing a bar of

soap. The Petitioner charged the defenseless inmate swinging his weapon but was subdued by guards before seriously injuring his victim.

On an earlier occasion, Petitioner attacked a member of his own defense team. In an interview room in Cook County Jail, Urdiales threw a fire extinguisher at Dr. Alexander Obolsky (a psychiatrist) because Petitioner found the doctor "arrogant."

PETITIONER'S COMPLETE LACK OF REMORSE

During Dr. Markos' clinical interview with defendant, Urdiales stated, "I am at war with society-on principles which make me angry and frustrated. " He described his victims as "targets of opportunity," and stated, **"There is nothing to regret."**

PETITIONER'S MARINE CORPS SERVICE WAS DISHONORABLE

While serving as an active duty Marine, the Petitioner brutally killed four innocent civilian women. This is not honorable conduct.

The Marine Corps Separation and Retirement Manual provides the definitions for the various classifications of service. Section 1004 states in part:

Honorable: This is the highest quality of characterization. Honorable characterization is appropriate when the quality of the member's service has met the standards of accepted conduct and performance of duty for military personnel.

Other Than Honorable (OTH): This is the least favorable characterization. OTH is appropriate when the basis for separation is commission or omission of an act that constitutes a significant departure from the conduct expected of a Marine. Examples of factors that may be considered include, but are not limited to, the use of violence to produce serious bodily injury or death…. (Note: a dishonorable discharge can only be awarded after conviction at General Courts-Martial.)

To maintain that Urdiales' service was honorable is an affront to all those who have honorably served our country. To attach the Petitioner's certificate of release as Exhibit A is the height of hypocrisy. The Petitioner attaches his "honorable" discharge in a veiled attempt to ride the current favorable winds of patriotism . Make no mistake about it, the Petitioner's conduct while in the Marine Corps was not honorable. While wearing the uniform of the United States Marine Corps and after taking an oath to protect this great nation from all enemies foreign and domestic, he was stalking the nearby countryside and killing the very citizens he swore to protect. His acts are deplorable and despicable. He is a disgrace to the Marine Corps. He long ago forfeited his right to be counted among the few and the proud.

CONCLUSION

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

Respectfully submitted,

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