

Pardon Docket No. _____

BEFORE THE
ILLINOIS PRISONER REVIEW BOARD
Autumn Term, 2002

ADVISING THE HONORABLE GEORGE RYAN, GOVERNOR

IN THE MATTER OF DOROTHY WILLIAMS
PETITION FOR EXECUTIVE CLEMENCY

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TO THE HONORABLE GEORGE RYAN, GOVERNOR

**PETITION FOR EXECUTIVE CLEMENCY
ON BEHALF OF DOROTHY WILLIAMS**

Dorothy Williams, register number B21483, Dwight Correctional Center, by her undersigned counsel, respectfully requests that her capital sentence be commuted to a sentence less than death.

Petitioner is unable to read; this petition is submitted on her behalf by her undersigned attorney, who, as set out in the annexed affidavit, has represented petitioner for more than seven years in post-conviction matters and who reviewed the facts set out herein with petitioner at a face to face meeting on August 23, 2002.

I. STATUS OF CONVICTIONS

Petitioner Dorothy Williams is presently confined at the Dwight Correctional Center under sentence of death imposed on April 18, 1991 by the Circuit Court of Cook County in case number 89-20869 following petitioner's conviction after a jury trial of murder and robbery (A jury was waived for sentencing.)

Petitioner's conviction was affirmed on direct appeal, *People v. Williams*, 164 Ill.2d 1 (1994). (Appendix 1-11.) Petitioner's application for relief under the post-conviction hearing act was recently remanded for an evidentiary hearing, *People v. Williams*, No. 88663 (June 20, 2002). (Appendix 12-17.) The post-conviction matter is presently pending in the Circuit Court of Cook County.

This petition for executive clemency is concerned solely with petitioner's capital sentence and does not make any argument about the serious constitutional claims that are at issue in post-conviction proceedings.¹

Petitioner has not previously sought executive clemency.

II. BACKGROUND INFORMATION

Petitioner was tried and convicted under her birth name of Dorothy Williams. Petitioner does not know her social security number; petitioner's prison number is B21483. The pre-sentence report (Appendix 18-31) reports that petitioner's Chicago "IR" number is 356618, her FBI number is 245 787 M7, and her Illinois SID is IL19971020.

III. FACTS OF THE OFFENSE

The facts of the offense are set out in the decision of the Illinois Supreme Court on direct appeal (Appendix 8):

At trial the evidence of guilt marshaled by the State against the defendant was overwhelming. Not the least of it was defendant's statement made to police on September 7, 1989, before a court reporter that defendant had strangled Harris and had taken a "component set" from the victim's apartment. In the statement, which was read to the jury, defendant said that on July 25, 1989, she had gone into Harris' apartment and had talked with Harris for about 10 minutes, at which time Harris asked her to go to the store for her and gave her \$2 for that purpose. As she gave defendant the

1. Petitioner is challenging in post-conviction proceedings both her conviction and her sentence. Petitioner is unable to read; the primary claim in post-conviction proceedings is that the prosecution submitted perjured testimony that petitioner had read aloud her confession. (Appendix 15.)

money, Harris turned around, and defendant grabbed her from the back," putting her arms around Harris' stomach and "trying to stop her from talking." Defendant did so, she stated, because she wanted to "[g]et the component set" to sell for drugs. Harris was telling defendant in a loud voice to let her go, and when Harris began to scratch defendant, defendant "grabbed" a "rag" Harris wore around her head and tried to put it over Harris' mouth "[s]o she wouldn't scream." As defendant put the rag over Harris' mouth and around her neck, Harris was "pulling it trying to get it off" and attempting to get away from defendant. Defendant described the rag as having been around Harris' neck for "[a]bout a half a minute or a minute." When Harris fainted and began to fall, defendant "threw her on the bed." As Harris started to fall, she was saying, "[O]h"; when defendant threw her on the bed, she had stopped speaking. After throwing Harris down, defendant said, she "grabbed the component set and * * * left out."

Among other evidence introduced by the State was the testimony of Marian Harris, the victim's daughter, that when she had visited her mother on the morning of her death, Mary Harris was wearing a pink scarf on her head. Marian Harris testified further that following her mother's death a small Realistic Clarinet 16 stereo set she had purchased for her mother was missing. On the morning of September 7, 1989, she identified a stereo set at the police station as the one she had purchased for her mother. Following her mother's death the witness discovered missing one of three large boxes that had been in her mother's apartment on the morning of her death and a lightweight sheer print bedspread.

Hubert Carmichael, a resident of the same apartment building as the victim, testified that at about 6:30 p.m. on July 25, 1989, as he was standing at the window of the day room on the first floor, he saw a woman whom he identified as the defendant leaving the building alone and carrying a box large enough to hold the stereo set found to be missing from the victim's apartment. The woman, whom Carmichael had seen on numerous prior occasions, was dressed in what appeared to him to be a white nurse's uniform. When he saw her again on September 6, 1989, defendant's hair color had been changed to red, and she was wearing glasses. Another resident of the building, Willie Shelby, testified that she had left the victim's apartment at about 6 p.m. on the evening of her death.

A detective who had been called to the scene of the homicide following its discovery at about 8 p.m. testified that the dresser drawers of the victim's apartment were found to be open and in

disarray, as was her closet. Her body was lying on the bed, a "bandanna" around her neck knotted in front. Entry appeared not to have been forced. Detective Schmidt testified concerning the recovery of a "Realistic clarinet number sixteen stereo system with two speakers" from the defendant's apartment on the afternoon of September 6, 1989. He recounted defendant's statement that it was her property and that she had bought it "hot," as stolen merchandise, on the street about a month earlier from a black male whom she did not know and was unable to describe. Expert testimony established that the defendant's fingerprints were found on objects that were inside the apartment of Harris after her death. The medical examiner described the victim's body as having a ligature around the neck, namely, a pink "kerchief" knotted at the angle of the jaw and wrapped tightly around the neck. The victim's hyoid bone had been fractured, an indication that "really extreme pressure" had been applied to the neck. In his opinion the cause of death of the victim, who was approximately 5 feet 3 inches tall and weighed 99 pounds fully clad, was ligature strangulation. Both of the victim's eyes were black and blue, a result, in his opinion, of having been struck.

IV. Criminal History

Following her conviction in this case, petitioner pleaded guilty to other charges and is presently serving the following sentences: 89 CR 20871, Armed Robbery, 30 year sentence; 89 CR 3376, Robbery, 7 years; 89 CR 20870, Robbery, 7 years; 89 CR 20871, Murder, Life; 89 CR 20870, Murder, Life.

Petitioner's arrest record is set out in her City of Chicago rap sheet, which appears in the Appendix, *infra*, 24-25.

V. Personal History

Petitioner was born in Chicago, Illinois on on December 24, 1952. Petitioner is unable to read and has an IQ that has been variously measured at 56 (State's Psychologist, Appendix R807), 62 (Cook County Psychiatric Institute, Appendix 45), 66 (Cook County Psychiatric Institute, Appendix 45), 67 (Cook County Psychiatric Institute, Appendix 45), 71 (Defense Psychologist, Appendix

46), 59 (Prosecution Psychologist, Appendix 97), and 73 (Chicago Board of Education Records, Appendix 33).

Petitioner's formal education ended when she was 14 years of age and dropped out of the sixth grade. Petitioner attended the "Doolittle" school for kindergarten and first grade (Appendix 30-31), then transferred to the "Einstein School," where she repeated the first grade and completed the second grade. (Appendix 31.) Petitioner then transferred to "Carter D. Woodson School," (Appendix 32-33) where she attended school for two years before advancing (at age 11) to the fourth grade in September of 1964. (Appendix 33.) Petitioner required two years to complete the 5th grade, and dropped out after beginning the sixth grade. (Id.)

Petitioner was expelled from the Woodson School in November of 1967. and was later expelled from a school for pregnant girls. (Williams Affidavit, par. 3, Appendix 34.²)

Petitioner does not have any employment or military history and has never been married. She is the mother of two children, who reside with petitioner's mother in Chicago.

2. John Williams is petitioner's brother and submitted a sworn declaration in post-conviction proceedings. A copy of his declaration is included in the appendix at 33-36.)

Petitioner "had a serious drug addiction and used heroin and cocaine that started when she was fourteen years of age." (Williams Affidavit, par. 9, Appendix C359.) Petitioner "has always been unable to read" and was assisted in her everyday life activities by her sister Peggy (who died in 1988), who helped petitioner with matters that required reading and writing." (Williams Affidavit, par. 7.)

VI. REASONS FOR SEEKING CLEMENCY

Petitioner respectfully prays that her capital sentence be commuted to a sentence less than death because of the overwhelming evidence that that petitioner is mentally retarded.

Petitioner's history reveals "subaverage intellectual functioning, [and] also significant limitations in adaptive skills such as communication, self-care, and self-direction that became manifest before age 18." *Atkins v. Virginia*, 122 S.Ct. 2242, 2250 (2002). Petitioner's school record shows that she was held in the fifth grade for two years, and dropped out of school at age 14 while in the sixth grade. (Appendix 33.)

This "subaverage intellectual functioning" is confirmed by IQ scores.

Dr. Edward Blumstein is a clinical psychologist (Appendix 39) who has been employed at the Cook County Psychiatric Institute for 26 years. (Appendix 41.) Dr. Blumstein evaluated the petitioner in 1995 (Appendix 45) and again in 1997. (Id.)

In 1995, Dr. Blumstein administered the "Wechsler Adult Intelligence Scale, Revised Version" to petitioner. (Appendix 45.) Petitioner scored a verbal IQ of 62, (id.), which Dr. Blumstein stated is within the retarded range

because it is below 70. (Appendix 50.)

Dr. Blumstein administered the same IQ test to petitioner in 1997. (Appendix 52.) This time, petitioner scored a verbal IQ of 66. four points higher than in 1995. (Id.) Dr. Blumstein conceded that the difference between the score of 72 on the test that he had administered and the score of 71 on the test administered by the defense psychologist was within the standard error or measurement. (Appendix 56-57.)

"Mentally retarded persons frequently know the difference between right and wrong and are competent to stand trial. Because of their impairments, however, by definition they have diminished capacities to understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others." *Atkins v. Virginia*, 122 S.Ct. 2242, 2250 (2002). "Their deficiencies do not warrant an exemption from criminal sanctions, but they do diminish their personal culpability. Id. at 2250-51.

VII. RECOMMENDATION

Petitioner's capital sentence should be commuted to a sentence less than death.

Respectfully submitted,

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