

**DATE TYPED: September 2, 2005**  
**DATE PUBLISHED: September 7, 2005**

**IN RE: HERMAN D. ASHWORTH #A348-155**

**STATE OF OHIO  
ADULT PAROLE AUTHORITY  
COLUMBUS, OHIO**

Date of Meeting: August 31, 2005

Minutes of the SPECIAL MEETING of the  
Adult Parole Authority held at 1030 Alum Creek Drive  
Columbus, Ohio 43205 on the date indicated above

**IN RE: HERMAN D. ASHWORTH #348-155**

**SUBJECT:** Death Sentence Clemency

**CRIME, CONVICTION:** Aggravated Murder (2 counts)  
Aggravated Robbery  
Assault on a Police Officer

**DATE OF CRIME:** 96-CR-356: September 10-11, 1996  
97-CR-119: March 19, 1997

**COUNTY:** Licking

**CASE NUMBERS:** 96-CR-356, 97-CR-119

**VICTIM:** 96-CR-356: Daniel Baker  
97-CR-119: Danny Loper

**INDICTMENT:** 96-CR-356: 9/12/1996: Aggravated Murder (2 counts) with aggravating circumstance specifications (Crime committed while committing Aggravated Robbery; Subject was the principle offender in the crime; Crime was committed for the purpose of escaping detection, apprehension, trial or punishment); Aggravated Robbery  
97-CR-119: 3/27/1997: Assault on a Peace Officer

**DATE OF PLEA:** 96-CR-356: June 10, 1997  
97-CR-119: June 10, 1997

**PLEA:** 96-CR-356: Guilty to 2 counts Aggravated Murder with aggravating circumstance specifications and Aggravated Robbery; Plea accepted by 3 Judge panel after the State's presentation of evidence  
97-CR-119: Guilty to the indictment

**SENTENCE:** 96-CR-356: 6/10/1997: Death on Counts 1 & 2 concurrent with 10 years on Count 3

97-CR-119: 6/10/1997: 16 months  
consecutive to Case # 96-CR-356

**ADMITTED TO INSTITUTION:** June 17, 1997

**TIME SERVED:** 98 months

**AGE AT ADMISSION:** 24 years old; DOB: 2/26/73

**CURRENT AGE:** 32 years old

**JAIL TIME CREDIT:** 278 days

**PRESIDING JUDGE:** 96-CR-356:  
Honorable Gregory L. Frost  
Honorable Jon R. Spahr  
Honorable Robert H. Hoover  
97-CR-119:  
Honorable Gregory Frost

**PROSECUTING ATTORNEY:** Robert L. Becker

**FOREWORD:**

Clemency in the case of Herman Dale Ashworth #A348-155 was initiated by The Honorable Bob Taft, Governor of the State of Ohio, and the Ohio Parole Board, pursuant to Sections 2967.03 and 2967.07 of the Ohio Revised Code and the Parole Board Policy #105-PBD-05. A previous Clemency Report was sent to the Honorable Bob Taft following a Clemency Hearing on June 29, 1999, which contained a unanimous Parole Board recommendation against clemency.

On July 14, 2005, Mr. Ashworth declined an opportunity to be interviewed by a representative of the Parole Board at the Mansfield Correctional Institution. On August 31, 2005, the Ohio Parole Board proceeded to hold a clemency hearing for Herman Dale Ashworth. Present at the hearing were Robert Becker, Prosecuting Attorney, Licking County, Ohio; Heather L. Gosselin, Deputy Attorney General, Ohio Attorney General's Office. Representing Ashworth as stand-by counsel was Attorney Carol Wright. Victim's representatives were family members Tim Dorsey, Tangee Overly and others.

Mr. Ashworth is currently serving a death sentence for the beating death of Daniel Baker. His case was heard by a three-judge panel. Mr. Ashworth subsequently pled guilty to two counts of aggravated murder with specifications and aggravated robbery and waived mitigation. The three-judge panel accepted his plea and

**sentenced him to death. State appeals were initiated by Mr. Ashworth and a habeas corpus appeal filed in Federal Court.**

**While his habeas appeal was still pending before the District Court, Mr. Ashworth wrote a letter to the Court informing said Court that he was requesting his current appeal be withdrawn and stated that he would waive all future appeals.**

**The State of Ohio proceeded to request a date for Mr. Ashworth's execution. The Ohio Supreme Court has scheduled said execution for September 27, 2005.**

**DETAILS OF INSTANT OFFENSE CASE# 96-356:**

**The following information was taken from the report of the Supreme Court of Ohio dated November 6, 1999, and other court documents:**

**Herman D. Ashworth had been living in Louisiana and had moved to Newark, Ohio, in April 1996. He was living with his cousin, Ron Sillin. On September 10, 1996, Ashworth went to the Wagon Wheel Bar and began drinking. Another cousin, Louis Dalton, also stopped off at the Wagon Wheel for a few drinks around 4:30 or 5:00 p.m. Dalton stayed for a couple of hours, and before he left, Ashworth asked him whether he could borrow some money. Dalton told him no.**

**Lloyd Thompson, owner of the Wagon Wheel, saw Ashworth in the bar around 8:00 or 9:00 p.m. Ashworth asked Thompson whether he could borrow \$10, but Thompson said no. Thompson later saw Ashworth talking to a man who Thompson had not seen before, but who was later identified as Daniel Baker. People in the bar, including Baker, were buying Ashworth drinks. Ashworth told Thompson that he thought that Baker was gay and he (Ashworth) was going to get rid of him. Thompson did not observe anything that would indicate that Baker was gay, nor did Thompson see any advances made by Baker toward Ashworth. Thompson saw Ashworth and Baker leave together. Thompson saw Ashworth later in the evening but never saw Baker again. When Ashworth returned to the bar, he appeared to have over \$40 with him. Ashworth asked Thompson to cover for him if the cops came in. It appeared to Thompson that Ashworth's right hand was swollen.**

**Tanna Brett, Ashworth's girlfriend, saw Ashworth that evening outside the TNT Bar and Wagon Wheel Bar. As they were talking to each other, Brett grabbed Ashworth's right hand.**

**Ashworth fell to his knees in pain, and told Brett that he hurt his hand in a fight with a guy. Ashworth took her behind the Legend Bar, to the Salvation Army loading dock. Brett observed a man lying on his belly but did not see any blood. However, she heard what sounded like snoring coming from him. She did not observe any belongings on the ground, and they stayed less than a minute. She did notice that Ashworth had blood on one shoe.**

**Brett and Ashworth proceeded to the TNT Bar, where Ashworth bought a “bucket of beer”. Brett noticed that Ashworth had a \$5 bill, a few singles, and a \$10 bill. Ashworth told Brett that he thought he should go back and finish the guy off, because he did not want to be recognized. Brett begged him not to go back, and Ashworth told her he was going over to the Wagon Wheel Bar. Brett stayed at the TNT until “last call”, around 2:15 a.m. She then went over to the Wagon Wheel, but Ashworth was not there. She proceeded to the Legend Bar to look for him. When she got near the Legend, she heard a noise that sounded like something hitting metal. She walked toward the noise, which was coming from the Salvation Army loading dock. She saw the same man lying on his back, with his head against the garage door. There was a lot of blood. This time she observed papers and articles strewn about. She could hear the man breathing, and saw him move his hand a little bit. She left because it made her sick to her stomach.**

**Brett returned to the Wagon Wheel, grabbed Ashworth, and said, “You robbed him.” Ashworth did not say anything; he just looked at the floor. She saw dark spots on his pants.**

**Earlier that evening, around 9:30 p.m., Dalton had received a call from Ashworth. Ashworth told him that he had been in a fight and “kicked the shit out of this guy.” Ashworth said that he kicked him until he could not kick him any more. He mentioned that his hand hurt.**

**Around 3:45 a.m. on September 11, 1996, Daniel Baker’s body was found on the Salvation Army loading dock. By the time police arrived, he was already dead. There was blood around Baker’s head and upper shoulder area. There was so much blood that it had seeped underneath the garage door. Items belonging to Baker were strewn about the area. Bloody footprints surrounded the area and also were evident on Baker’s chest. While police were investigating the crime scene, a 911 call came into the police station (around 4:13 a.m.). The caller said that he had beaten a man badly and left him on the loading dock of the Salvation Army. The call was traced to a public telephone located less than a mile from Ashworth’s house.**

**Based on their investigation, police went to the home of Ron Sillin, where Ashworth was residing. Initially they knocked and rang the doorbell, but no one answered. They called Ron Sillin and obtained permission to enter. They found Ashworth asleep in the back bedroom. They woke him and asked him to come down to the police station for questioning. He ultimately agreed, and dressed. After being informed of his Miranda rights, he agreed to make a taped statement.**

**According to Ashworth, he had been drinking at the Wagon Wheel, starting around 3:30 p.m. Baker arrived around 8:00 p.m., and the two started talking together. Upon Baker’s suggestion, the pair went over to the Legend Bar, where they had a beer, and then Ashworth suggested going back to the Wagon Wheel. On the way back to the Wagon Wheel, Baker told Ashworth that he wanted to show him**

something. They went around the corner, where, Ashworth claimed Baker “reached down and grabbed me on my butt.” Ashworth told him to stop, that he was not “that way” but Baker would not stop. Ashworth said that he kept trying to move away from Baker, and they ended up on the loading dock. Baker kept moving toward him and again tried grabbing him. Ashworth began to hit him with his fists, and “freaked out”. Baker did not fight back, but kept coming at him, saying “it’s okay,” “it’ll be alright”. Ashworth said that he eventually picked up a board, about six inches wide and five feet long, and struck Baker with it. After Baker fell down, Ashworth took the wallet out of Baker’s pants, but denied keeping the wallet; instead, he said he just took the money, about \$42. The remaining contents of the wallet spilled out. Ashworth stated that he had not planned to take the wallet or money, but he just thought of it at that time.

Ashworth said that he went back to the Wagon Wheel Bar and drank, and then went to the TNT Bar and drank some more. He then went home but did not remember how he got there. He woke up Sillin and asked him to take him up to Tee Jaye’s Restaurant to get something to eat. On the way back, he asked Sillin to stop so he could use the phone because he was worried about Baker, but Sillin told him not to worry about it. After he got home, he said that he began to worry and walked back to the pay phone and called 911. He told the operator that he had hurt someone, that the person needed some help, and described the location, but he did not identify himself. He then went back home and went to bed. Ashworth never admitted going back to the loading dock a second time.

During his statement to police, Ashworth indicated that the clothes he had worn were at his house and that he was wearing the shoes he had on during the encounter with Baker. The shoes had blood on them, and the police confiscated them. The officers asked for Ashworth’s consent to obtain the clothing he had worn, and he gave it. The police also obtained a search warrant. The pants they recovered had blood on them and in the front pants pocket, contrary to Ashworth’s statement, Baker’s driver’s license and credit cards were found. The soles of Ashworth’s shoes matched the bloody footprints found at the scene and on the victim’s shirt.

The coroner found that Baker had died as a result of numerous blunt force injuries. He stated that the injuries he observed were typical of those he was more likely to see as a result of a car accident or an airplane crash. In his twenty years of practice, he had seen only one other case with such severe injuries as a result of a beating. The coroner opined that with such injuries, death would normally occur in ten to twenty minutes.

#### **DETAILS OF CASE # 97-119:**

On March 19, 1997, Herman Dale Ashworth, while incarcerated at the Licking County Jail on Case # 96-356, hit a Licking County Deputy in the face with a closed fist. The Deputy had asked Ashworth to discard a soup cup that Ashworth was using as a beverage container, as it was an activity prohibited by jail rules. Ashworth

refused. The Deputy sought assistance with a group of deputies confronting the subject in his cell. Ashworth asked if he was headed for the disciplinary block. Upon receiving an affirmative response, he put the cup down and hit the Deputy on the left side of his face. He was restrained and taken to the floor twice before being cuffed and escorted to disciplinary lockdown.

**PRIOR RECORD:**

**Juvenile:**

| <u>Date</u>          | <u>Offense</u>       | <u>Place</u>   | <u>Disposition</u>  |
|----------------------|----------------------|----------------|---|
| 10-31-90<br>(Age 17) | Petty Theft<br>(M-1) | Licking County | 4-4-91: Adjudged<br>Delinquent, Placed on<br>Probation; 6-21-91:<br>Probation successfully<br>terminated, all costs<br>paid |

Details: The subject shoplifted merchandise from Meijers Department Store.

**DISMISSED/NOLLED/UNKNOWN ADJUDICATIONS:**

In 1990, the subject was charged with Rape in Licking County, Ohio; the charge was dismissed. A Police Report was filed that described Ashworth forcing a 14 year-old female onto the floor and penetrating her vagina with his penis. Subsequent accusations included him forcing her head between his legs and threatening her life and lives of her family members if she told.

**Adult:**

| <u>Date</u>          | <u>Offense</u>                                      | <u>Place</u>               | <u>Disposition</u>  |
|----------------------|---|----------------------------|---|
| 12-30-91<br>(Age 18) | Simple Burglary<br>Felony Theft<br>(Case # 92-5534) | Lake Charles,<br>Louisiana | 6-23-93: 3 years DOC<br>suspended, placed on<br>probation, \$500 fine,<br>restitution, substance<br>abuse screening, 240<br>hours community<br>service, cc/w with 93-<br>5966; 3-19-96:<br>Violation warrant<br>issued. |

Details: The subject broke into a baseball park's storage shed and stole \$411 worth of baseball equipment.

|                          |   |                                    |  |
|--------------------------|---|------------------------------------|--|
| <b>1991<br/>(Age 18)</b> | <b>Theft (misdemeanor)<br/>(Case # 93-5966)</b> | <b>Lake Charles,<br/>Louisiana</b> | <b>6-23-93: 2 years DOC<br/>suspended, placed on<br/>3 years probation,<br/>\$500 fine, restitution,<br/>substance abuse<br/>screening, 240 hours<br/>community service, all<br/>cc/w with 92-5534;<br/>3-29-96: probation<br/>violation warrant</b> |
|--------------------------|---|------------------------------------|--|

**Details: The subject shoplifted \$377 worth of goods from Sears Department Store.**

|                             |  |                                 |  |
|-----------------------------|--|---------------------------------|--|
| <b>8-21-96<br/>(Age 23)</b> | <b>Driving Under the<br/>Influence<br/>(Case # 96-10312)</b> | <b>Licking County,<br/>Ohio</b> | <b>8-21-96: 30 days jail<br/>(17 days suspended),<br/>\$300 fine suspended,<br/>operators license<br/>suspended for one (1)<br/>year</b> |
|-----------------------------|--|---------------------------------|--|

**Details: Alcohol .123 B.A.C.**

|                             |   |                                 |                        |
|-----------------------------|---|---------------------------------|------------------------|
| <b>9-11-96<br/>(Age 23)</b> | <b>Aggravated Murder<br/>w/ specification (2 cts.);<br/>Aggravated Robbery<br/>(Case # 96-CR-356)</b> | <b>Licking County,<br/>Ohio</b> | <b>INSTANT OFFENSE</b> |
|-----------------------------|---|---------------------------------|------------------------|

|                             |  |                                 |                        |
|-----------------------------|--|---------------------------------|------------------------|
| <b>3-19-97<br/>(Age 24)</b> | <b>Assault on a Peace Officer<br/>(Case # 97-CR-119)</b> | <b>Licking County,<br/>Ohio</b> | <b>INSTANT OFFENSE</b> |
|-----------------------------|--|---------------------------------|------------------------|

**OTHER CONVICTIONS:**

**In 1996, the subject was cited with two (2) traffic violations in Licking County, Ohio for which he received a fine and costs. He was also charged with Drug Abuse (small amount of marijuana) for which he was sentenced to 3 days jail and suspended fine.**

**DISMISSED/NOLLED/UNKNOWN DISPOSITIONS:**

**In 1991, the subject was charged in Dequincy, Louisiana with three (3) Traffic Violations, No Drivers License, Criminal Mischief, Theft, and Public Intoxication for which dispositions are unknown.**

**In 1993, the subject was charged in Dequincy, Louisiana with Traffic Violation and Theft for which dispositions are unknown.**

**In 1994, the subject was charged in Dequincy, Louisiana with Disturbing the Peace for which a disposition is unknown.**

**In 1995, the subject was charged in Lake Charles, Louisiana with Simple Rape; the case was dismissed. In this case, the subject was reported to the police for allegedly raping an adult female who gave him a ride home. The victim said he invited her inside, pinned her to the bed, and then forced her to have sexual intercourse.**

**In 1996, the subject was charged in Lake Charles, Louisiana with 2<sup>nd</sup> degree Battery, Simple Criminal Damage to Property, Simple Battery, Aggravated Burglary and False Impersonation. In this case, the subject and others were charged with breaking into a hotel room and beating up its male occupants. The subject then fled to Ohio to avoid prosecution. The Lake Charles Sheriff's Department had issued a warrant in this case, which is no longer active. In 1996, the subject also had a probation violation warrant issued by the Lake Charles Probation Department that is also no longer active. It is indicated that both warrants were withdrawn as a result of the subject's incarceration for the instant offense.**

#### **INSTITUTIONAL ADJUSTMENT:**

**Herman D. Ashworth was transferred to Death Row at Mansfield Correctional Institution on June 17, 1997. Institution records do not indicate any behavioral maladjustments attributed to inmate Ashworth.**

#### **STATE'S POSITION OPPOSING CLEMENCY:**

**Counsel for the State of Ohio, Ms. Heather Gosselin, outlined a judicial review of Mr. Ashworth's conviction and sentence. Counsel first noted that the trial court appointed a clinical psychologist, Dr. Kristen Haskins, who examined Ashworth and found him competent to plead guilty and waive mitigation, stating that Ashworth "has the mental capacity to understand the choice between life and death and to make a knowing and intelligent decision not to pursue further remedies, and that he fully comprehends the ramifications of his decision and possesses the ability to reason logically, i.e. to choose means which relate logically to his ends." Counsel also outlined Mr. Ashworth's state and federal appeals in its report to the Parole Board.**

**Mr. Ashworth was allowed to appeal through the State Supreme Court although he had previously waived his rights to challenge his conviction by way of either post-conviction or appeal.**

He then filed a merit brief on January 5, 1998, which claimed that the trial court was required to consider mitigating evidence before imposing a sentence of death; that the trial court was predisposed to sentence Mr. Ashworth to death; and that he (Ashworth) was not competent to waive mitigation proceedings. On March 24, 1999, the Ohio Supreme Court reviewed and rejected all of Mr. Ashworth's claims. However, they did state that the record did provide information that could be considered for possible mitigation evidence. In the final analysis, the Supreme Court of Ohio then independently weighed the aggravating circumstances against the factors in mitigation and determined that the aggravating circumstances outweighed the mitigating factors, beyond a reasonable doubt. This point was explained thoroughly by Ms. Heather Gosselin, Deputy Attorney General, Ohio Attorney General's Office during the hearing procedures. Ms. Gosselin also pointed out the lack of remorse by Ashworth. She said Ashworth wrote to Mr. Becker before the trial seeking color crime-scene photos, stating he wanted them for "a little something for show-and-tell".

On March 16, 1998, Mr. Ashworth filed a petition for post-conviction relief with the Licking County Court of Common Pleas. On April 20, 1999, the trial court rejected all of Mr. Ashworth's claims. He appealed this decision to the Fifth District Court of Appeals and in its opinion issued on November 8, 1999, the Fifth District affirmed the trial court's decision upholding his conviction and death sentence.

In the Federal District Court, Mr. Ashworth filed a petition for a writ of habeas corpus. It was during this time with said petition pending in the Federal District Court that Ashworth in a letter to Judge Sargus, dated September 14, 2003, indicated he wanted to "put an immediate stop to all of {his} appeals" and to "waive {his} rights to all appeals in the future". Mr. Ashworth also sent a letter to the Ohio Attorney General's Office explaining that he wanted to waive his appeals and also indicating some dissatisfaction with his attorney (Carol Wright) and asking that she be removed from his case. On May 31, 2005, Mr. Ashworth appeared before Judge Sargus to express his desire to waive his right to all appeals. After questioning Mr. Ashworth, the Court concluded that Ashworth maintained his desire to waive all of his appeal rights.

Counsel for the State explained to the Parole Board that Mr. Ashworth had been evaluated by two experts, Dr. John M. Fabian in September of 2004 and Dr. Diane R. Follingstad in April of 2005, and both agreed that Ashworth was competent to waive his appeals and be executed.

**Additional Mental Health Evaluations and summaries are as follows:**

**Dr. Chris Khellaf, Clinical and Forensic Psychologist—January 22, 1997**

**"Ashworth is presently capable of understanding the legal proceedings against him, and should be capable of assisting counsel in his defense. Ashworth is competent to stand trial".**

**Dr. Kristen E. Haskins, Clinical and Forensic Psychologist—May, 1997**

**“With reasonable psychological certainty, Ashworth has the mental capacity to understand the choice between life and death and to make a knowing and intelligent decision not to pursue further remedies”. More specifically, he is competent to waive mitigation and waive future appeals.**

**Dr. Janice Ort, Clinical Psychologist—January, 1998. (Hired by Ashworth’s attorneys during post-conviction proceedings. (Information taken from report from Atty. General’s Office dated August 31, 2005)**

**Dr. Ort opined the following:**

- **The “results of testing, clinical interviews, and record reviews reflect the deficits in Dale’s psychosocial as well as intellectual functioning.”**
- **Psychological test data indicated that Ashworth “has long standing personality dynamics, including impulsive behavior and poor judgment, which will be likely to result in behavioral problems.”**
- **Ashworth “has not developed internal controls by which he might moderate his behavior”.**
- **Based on Ashworth’s heavy drinking the night of the offense (and preceding months), the fact that Ashworth was depressed, the fact that his girlfriend had left him for a mutual friend, and the fact that the mutual friend had told Ashworth that the man he’d been drinking with was gay, Dr. Ort concluded that Ashworth had lost face and “[a]s a matter of pride he reacted to re-establish his manhood, and in the tradition of his Louisiana culture he reacted with violent means.”**
- **Ashworth’s mental disorders “may substantially affect his capacity to clearly, logically, thoroughly and completely consider his legal options.”**
- **Ashworth “has mental disorders which cause him to be impulsive, exercise bad judgment and render him unable to consider the long term consequences of his actions.”**

**In summary, counsel for the State of Ohio believes that the evidence overwhelmingly establishes Mr. Ashworth’s guilt and that he did understand the difference between right and wrong when he brutally murdered Daniel Baker. They stated further that the Ohio Supreme Court has reviewed Ashworth’s conviction and sentence, and has affirmed the trial court’s decision.**

**INMATE’S REPRESENTATIVE:**

**Attorney Carol Ann Wright was present at the clemency hearing held on August 31, 2005 as standby counsel for Mr. Ashworth. She stated in a letter to the Parole Board dated August 8, 2005, that she was attending the hearing “at the request of Mr. Ashworth’s family, merely to offer corrections to any misstatements if necessary.”**

**VICTIM/SURVIVOR INFORMATION:**

Much consideration has been given to the family and friends of the victim, Daniel Baker, who his family called "Danny". Mr. Baker was a father to a 12 year old daughter, Lisa, who he adored. He had moved to Newark, Ohio just one month prior to his death in order to pursue a job at Rockwell International. He was an engineer and loved his new job. His daughter lives in California but had recently visited him in Newark in order to help him settle into his new apartment. He was very sad the day she left for California and had apparently gone to the Wagon Wheel bar for a drink when he was murdered.

Daniel Baker's parents, Elwood (Woody) and Mary Baker were in their 70's and retired at the time of Daniel's death. They are in their 80's now and their health is not good; therefore, they were unable to attend the clemency hearing held on August 31, 2005. Before Daniel's death, they had lost another son due to a lengthy illness. Burying two children has been very difficult for these elderly parents. They felt that Daniel's death was worse, because at least they could prepare themselves for the death of their other son. His family stated to authorities that "death by murder is unbearable". Mary Baker collapsed when she received the news from the Crisis Response Team that her son was dead. And even worse, she was unable to view the body because of the severity of his injuries. Mr. and Mrs. Baker are left with one daughter who resides here in Ohio.

Woody and Mary Baker are very private people, but wanted to share with the Parole Board a little about their last conversation with Danny. Mary spoke to her son on the night he was murdered. She asked him what he had for dinner and told him she loved him. She will never be able to tell him she loves him again. Mrs. Baker said she would "give my life to change what happened". Woody and Mary Baker and the rest of Danny's family are haunted by the fact that Danny likely suffered as Ashworth beat him to death.

Daniel's daughter, Lisa, is currently in her second year of college. Her father would be very proud. She lives in California, but comes back to Ohio once a year to visit her paternal grandparents.

Daniel's niece and nephew, Tangee Overly and Tim Dorsey, spoke to the Parole Board at the clemency hearing and expressed the tremendous loss to their family of Daniel "Danny" Baker.

**COMMUNITY ATTITUDE:**

On July 15, 2005, notices were sent regarding the Clemency Hearing on Herman Dale Ashworth scheduled for August 31, 2005 to Licking County Prosecutor Robert L. Becker and to Licking County Common Pleas Court Judges, the Honorable Robert H. Hoover, the Honorable Thomas Marcelain (who replaced Judge Gregory L. Frost)

**and the Honorable Jon R. Spahr. Chief Probation Officer Kelly C. Miller responded after consulting with the Honorable Thomas Marcelain as to our request for information, indicating that the Parole Board would already have access to all pertinent information in this case. No opinion was offered as to whether Herman Ashworth should be considered for clemency. The Honorable Jon R. Spahr also responded, but did not comment on the pending clemency proceedings. No other responses to our request for information were received.**

### **CONCLUSION:**

**After careful review of this case, the Parole Board has concluded the following:**

- **There is no question as to Herman D. Ashworth's guilt in this case.**
- **Ashworth committed an extremely violent and brutal crime in which the facts of the case do support the death penalty. The severity and brutality of the beating suffered by the victim, Daniel Baker, shocked an experienced coroner who described the injuries as those usually seen in a high speed car or airplane crash.**
- **The most aggravating factor of this case is that Ashworth went back approximately four (4) hours later in order to beat the victim again so that the victim could not identify him as the individual who robbed and beat him earlier in the evening.**
- **Mitigating circumstances were considered by both the three-judge panel and the Ohio Supreme Court. The Ohio Supreme Court did conduct an independent weighing of aggravating and mitigating factors and did examine the proportionality and appropriateness of the death sentence.**
- **Psychological evaluations were conducted that found Ashworth to be mentally competent to stand trial. Evaluations also indicated that he understood the choice between life and death and could make a knowing and intelligent decision not to present mitigation or to pursue further remedies on his behalf.**
- **Ashworth has chosen not to participate in this clemency proceeding and has not presented any reason why the decisions of the trial court and state appellate courts should be overturned.**
- **Lack of remorse shown by Mr. Ashworth and his requesting color photos of the victim is reprehensible.**

### **RECOMMENDATION:**

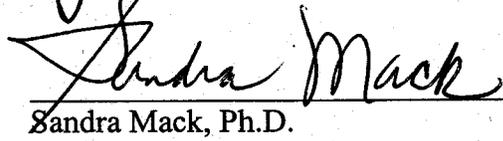
**After careful, extensive deliberation and discussion of the aforementioned facts of this case, the Ohio Parole Board cannot find a sufficient justifiable basis for mercy. Further, we do not find any manifest miscarriage of justice in the imposition of the death sentence. With nine (9) members participating, the Ohio Parole Board voted unanimously to provide an UNFAVORABLE recommendation for any form of executive clemency for HERMAN DALE ASHWORTH to the Honorable Bob Taft, Governor of the State of Ohio.**

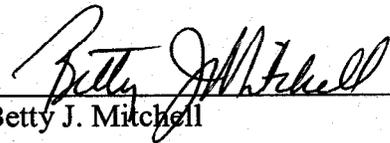
Ohio Parole Board Members  
Voting **FAVORABLE**

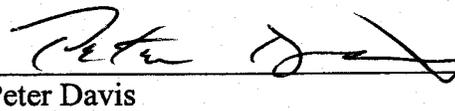
Ohio Parole Board Members  
Voting **UNFAVORABLE**

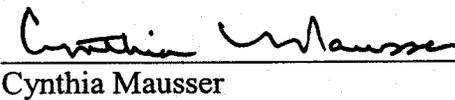
  
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Gary Croft, Chairperson

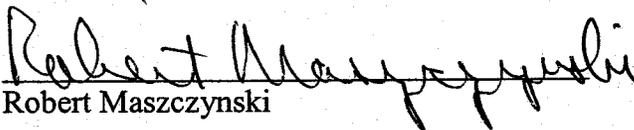
  
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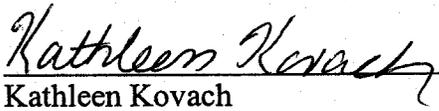
  
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Sandra Mack, Ph.D.

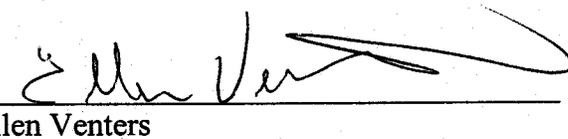
  
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Betty J. Mitchell

  
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Peter Davis

  
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Cynthia Mausser

  
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Robert Maszczyński

  
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Kathleen Kovach

  
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Ellen Venters