

OCTOBER 2002 SESSION
PRISONER REVIEW BOARD
STATE OF ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,)	
)	Docket No.
vs.)	
)	
RALPH HARRIS)	Inmate No. B35933
)	
)	

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

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

HEARING REQUESTED
(If Petition is considered)

RICHARD A. DEVINE
STATE'S ATTORNEY OF COOK COUNTY

By: John G. Murphy
Assistant State's Attorney

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I.

BRIEF HISTORY OF THE CASES

Over a three year period from July 21, 1992 to August 16, 1995, the defendant, Ralph Harris, terrorized the Chatham community in the southeast side of Chicago. During armed or attempt armed robberies in nine different attacks, the defendant fired twenty-eight shots into the bodies of eleven men, killing six and injuring five. Many who survived were critically injured. He sexually assaulted six women at gunpoint, and he robbed another nine victims, also at gunpoint. The defendant is a serial killer, a serial rapist and a serial armed robber who is one of the most ruthless, diabolical cold-blooded criminals who has ever walked the streets of Chicago. His victims were men and women, both young and old. His victims included teachers, business people, laborers, counselors, custodians, cosmetologists, housewives, real estate brokers, administrative assistants, speech pathologists and retirees. Each of his victims were going about their life's business, and each was randomly targeted by the defendant.

Although this violent and deadly crime spree extended over three years, the defendant was incarcerated from August 24, 1992 to January 22, 1995 in the Illinois Department of Corrections for two additional armed robberies for which he was convicted. Thus, the defendant was incarcerated for approximately twenty-nine of the thirty-seven month period. Shockingly the defendant, a one man crime wave, killed, injured, raped and robbed twenty-six victims in just eight months.

Prior to being sentenced to the Illinois Department of Corrections for the two armed robberies and while on bond for those armed robberies, the defendant shot Danny Smith seven times, shot Thomas Hodges one time killing him, shot Jimmie Bramlett two times, killing him, shot Willie Williams two times, shot David Ford five times killing him, shot William Patterson two times killing him, and shot James Patterson one time. The defendant killed David Ford and William Patterson and shot James Patterson on the same day. All the shootings occurred during armed or attempt armed robberies.

After being released from the Illinois Department of Corrections on January 22, 1995, the defendant didn't wait long before resuming the attacks. Less than one month after his release on February 14, 1995, the defendant attacked his first victims. The last attack occurred just over six months later on August 16, 1995.

From February 14, 1995 to August 16, 1995, the defendant shot Eric Watkins two times killing him, shot James Henry four times, shot James Williamson one time killing him and shot James Brown one time all during armed or attempt armed robberies. His crimes took a new twist when he began sexually assaulting some of the women he robbed. He anally assaulted Marilyn Edwards, forced Bettye Webber to perform oral sex on him and vaginally assaulted her, attempted to anally penetrate Joan Porche, forced Rhonda Thompson to perform oral sex on him and anally and vaginally assaulted her, vaginally assaulted Rita Jackson and vaginally assaulted Deyonous Moore. All these sexual assaults occurred during armed robberies. In addition to killing two victims, shooting two others and sexually assaulting seven more victims during this six month period, the defendant robbed nine victims at gunpoint.

After the defendant was arrested on August 29, 1995, he was charged with twenty felony cases. In case 95CR-27598, the defendant was convicted by a jury of first degree murder and attempt armed robbery of William Patterson and attempt first degree murder and aggravated battery with a firearm of James Patterson on March 3, 1999. On March 24, 1999, Judge Dennis Porter sentenced the defendant to the death penalty. In case number 95CR-27595, the defendant was convicted by Judge Porter of first degree murder and attempt armed robbery of David Ford on September 22, 1999. Again Judge Porter sentenced the defendant to the death penalty on October 25, 1999. In case number 95CR-27600, the defendant was convicted by a jury of armed robbery and multiple counts of

aggravated criminal sexual assault of Rhonda Thompson on April 7, 2000. On May 10, 2000, Judge Porter sentenced the defendant to a total of one hundred twenty years.

During the sentencing hearings, Judge Porter also heard about the defendant's other criminal acts. In 1989 as a juvenile, the defendant stabbed a passenger who was riding on the Chicago Transit Authority train in the neck with a screwdriver and took his jacket. The defendant was found delinquent of robbery and aggravated robbery and sentenced to one year probation. In 1990 police found the defendant in possession of a fully loaded twenty-two caliber H & R handgun. In 1991, the defendant committed two armed robberies with a handgun, victimizing a former sergeant with the Chicago Police Department and a woman with her grandchildren. On August 24, 1992, the defendant pled guilty to both armed robberies, and he was sentenced to seven years in the Illinois Department of Corrections.

Many of the defendant's victims and/or their families attended the defendant's trials and/or sentencing hearings. Many victims testified in aggravation during the sentencing hearings following the murder convictions. Victim impact statements of James Patterson, William Patterson's brother, Naomi Michael Clark, David Ford's mother, and Akira Ford, David Ford's daughter, were presented in each respective sentencing hearing. (See attached victim impact statements.) Evidence from most of the twenty charged cases was used in the trials or in aggravation during the sentencing hearings. Virtually every type of evidence was introduced against the defendant. That included eyewitness identification, DNA evidence, ballistics evidence, fingerprint evidence and the defendant's confessions. Given the two death penalty sentences, the one hundred twenty year sentence and the testimony of the victims in aggravation, the remaining seventeen cases were dismissed by the People of the State of Illinois.

The defendant has filed a Notice of Appeal but has not filed a brief.

II

DETAILED HISTORY OF THE CASES

At the age of sixteen on February 3, 1989, the defendant and two offenders approached John Brooks who was riding a Chicago Transit Authority train downtown.

The defendant tried to take John's jacket. When he resisted, the defendant stabbed him in the neck with a screwdriver and fled with the jacket. John was taken to Northwestern Hospital where he identified the defendant.

On September 7, 1989, the defendant was found delinquent of robbery and aggravated battery case number 89J-2246. On October 18, 1989, he was sentenced to one-year probation by Judge Stanley Sacks.

On November 1, 1990, Chicago Police responded to a "man with gun" call and were directed to the defendant inside a tavern at 1545 E. 87th Street. The defendant reached into his right pants pocket where he had a fully loaded .22 caliber H and R handgun; however, Officer Clint Brannon grabbed his hand and recovered the weapon.

On January 12, 1991 at approximately 3:00 a.m., the defendant and two others approached Rutherford Wilson, who was a former sergeant with the Chicago Police Department, at 358 E. 78th Place. The defendant pointed a gun at him and took money, a ring and a pager. As the defendant and the two other offenders fled, Rutherford fired five shots at them, but no one was hit.

Rutherford identified the defendant who stood in a lineup. The defendant made an admission and signed a handwritten statement claiming someone else was the gunman. The defendant was charged with armed robbery under case number 91CR-11339.

On February 4, 1991 at 6:30 p.m., Jewel Williams, employed as a manager, and her two grandchildren, ages four and five, pulled up in front of her house located at 8739 S. Bennett. The defendant approached her as she began to remove her grandchildren from the car. He put a gun to Jewel's head and demanded her car keys. While Jewel's grandchildren fled, the defendant took the keys and fled with her car.

On February 15, 1991, Jewel's car was recovered in Naperville outside the defendant's girlfriend's apartment after she called police and told them the defendant had hit and choked her. On April 4, 1991 when the Naperville Police went to defendant's girlfriend's apartment building, the defendant jumped from a second floor window and fled across an open field where he was arrested. He was charged with armed robbery under case number 91CR-11338.

During the summer of 1991, the defendant was in custody on those armed robbery cases. On September 10, 1991, Judge Loretta Douglas reduced the defendant's bond

after the defendant's lawyer told the court the defendant was confined to a wheelchair due to a slip and fall at Cook County Jail. The defendant was placed on electronic monitoring and remained in that program until May 20, 1992. On that day, an electronic monitoring investigator went to the defendant's home and found him standing in an alley with friends. Upon seeing the investigator, the defendant ran through yards and jumped fences. The defendant was caught and taken into custody. On June 18, 1992 before Judge Douglas, the defendant denied running from the investigator but claimed that electronic shock treatments had shocked his legs back. Judge Douglas raised the defendant's bond three thousand dollars, and he made bond the same day.

Before pleading guilty to the armed robberies two months later and while on bond for those offenses, the defendant murdered Thomas Hodges, Jimmie Bramlett, David Ford and William Patterson, and he shot Danny Smith, Willie Williams and James Patterson.

On July 21, 1992 at approximately 3:15 a.m., Danny Smith, an insurance agent, had just driven in from Memphis, Tennessee, where he lived, and parked his car in front of his girlfriend's house at 8926 S. Harper. As he was getting out of his car, the defendant approached, pointed a gun at him, announced, "this is a stickup," and opened fire. Danny was struck seven times; once in the left hand, once in the left side of the chest, once in the left side of the lower abdomen, once in the right leg and three times in the left leg. Fortunately, he survived. Later, he identified the defendant's photograph from an array.

On July 22, 1992 at 11:45 a.m., Thomas Hodges, sixty-nine years old and retired, was in his garage behind his residence at 8617 S. Maryland. He was preparing to walk out the service door when the defendant and another offender, Gregory Powell, walked through a gate and stepped into the garage. The defendant pulled out a .380 caliber handgun and shot Thomas in the abdomen, killing him. Gregory Powell grabbed Thomas' wallet, and then the defendant and Powell fled. (See attached photographs.) The defendant gave Assistant State's Attorney Leslie Quade a handwritten statement which he signed, admitting he shot and killed the victim but claiming the victim grabbed the gun.

On August 2, 1992 at 4:25 a.m., Jimmie Bramlett, who was forty-three years old and employed by Prompt Services, was returning home from a family reunion. He parked

his car and walked toward the front door of his home at 2400 E. 89th Street. At this time, the defendant and another offender, Patrick Brunt, were driving around looking for people to rob. The defendant, who saw Jimmie Bramlett get out of the car, walked up to him, pulled out his handgun, announced a robbery and shot him two times in the abdomen. The defendant fled. At approximately 8:00 a.m., Jimmie was found dead on the lawn. (See attached photographs.) His wallet and the contents were missing. A few days later, an envelope postmarked August 3, 1992 containing Jimmie's wallet and identification cards was found in Jimmie's mailbox. The defendant gave Assistant State's Attorney Leslie Quade a handwritten statement, which he signed, admitting he shot and killed the victim but claiming the victim grabbed the defendant's hand and the gun.

On August 11, 1992 at approximately 12:20 a.m., Willie Williams, the owner of a small business, drove home with money from his store. After Willie parked his car and walked out of his garage, the defendant confronted him with a handgun and announced a "stickup." Willie gave the defendant a bag containing approximately \$1,800. Despite Willie's cooperation, the defendant shot him twice, once in the left forearm and once in the abdomen. While Willie was on the ground, the defendant searched his pockets. On November 19, 1992, Willie viewed a lineup in which the defendant stood but did not identify him. He came to court during the first trial and sentencing and recognized the defendant. He testified and identified the defendant in the second sentencing hearing.

On August 17, 1992, David Ford, a DCFS counselor, called his girlfriend, Tammy Sanders, and told her he would be coming to her apartment. While she waited at approximately 2:30 a.m., Tammy heard shots coming from outside her apartment. She ran out and found David lying on a driveway, near her front door.

David, who was shot three times in the back and twice in the right arm, died at Cook County Hospital on August 25, 1992. (See attached photographs.) The defendant gave Assistant State's Attorney Leslie Quade a handwritten statement, which he signed, admitting he shot and killed the victim but claiming the victim lunged at the defendant and held the defendant in a bear hug.

On August 17, 1992 at approximately 1:00 p.m., just ten and one-half hours after murdering David Ford, sixty-seven year old William Patterson, who recently retired,

parked his car in front of his brother's home located at 1730 E. 86th Place. The defendant approached William who was moving framed prints from his car to his brother's home. The defendant pointed a .380 semi-automatic handgun at William and said, "give me your money." William responded that he had no money. The defendant again told him, "give me your money." William offered the defendant the prints he had and again said that he did not have any money. Harris then shot him two times in the abdomen causing his death. Seventy-year-old James Patterson who was also retired was inside his house. When he heard the shots, he came outside, saw his brother on his knees and saw the defendant standing over him. When James called out to the defendant, the defendant turned and fired one shot into his left side. (See attached photographs.)

The defendant fled on foot to a vehicle near 85th and Cregier driven by a co-offender, Gregory Powell. Powell had driven the defendant to the area and let him out of the vehicle after the defendant spotted the victim and stated, "there's a mark, let me out, let me out." Powell heard two to three shots and saw the defendant run up to the vehicle. When the defendant got into the vehicle, the defendant said, "man, let's get the fuck out of here." The defendant put the gun between his legs and said, "damn, the son of a bitch was broke. I didn't want to shoot the mother-fucker but he didn't have any money." Powell then drove away.

The victim's brother, James Patterson, and a neighbor, Brenda Smith, who saw the defendant fleeing, identified the defendant in separate lineups as the shooter. They both identified the defendant in court. The defendant claimed he could not remember this shooting.

In August of 1992, Chicago Police Firearms Examiner Richard Fournier examined firearms evidence recovered in the shootings of Thomas Hodges, Danny Smith, Jimmie Bramlett, Willie Williams, David Ford, William Patterson and James Patterson. Richard Fournier found that at least one fired bullet from each investigation was fired from the same .380 caliber handgun. Federal Bureau Investigations Firearms Examiner Gerald Wilkes examined fired bullets from the crime scenes or bodies of Thomas Hodges, Jimmie Bramlett, Willie Williams, David Ford, William Patterson and James Patterson. Gerald Wilkes also determined that the same .380 caliber handgun fired each of those bullets. Both firearms examiners concluded that the fired evidence was

consistent with having been fired from a Colt .380 caliber handgun. The defendant admitted to using a Colt .380 caliber handgun to kill Thomas Hodges, Jimmie Bramlett and David Ford.

On August 24, 1992, the defendant pled guilty to the armed robberies of Rutherford Wilson and Jewel Williams, case numbers 91CR-11338 and 91CR-11339. He was sentenced to seven years Illinois Department of Corrections concurrently by Judge Loretta Douglas.

While incarcerated in the Illinois Department of Corrections on October 16, 1992, the defendant fell in a shower and claimed he was paralyzed. Although he was issued a wheelchair and remained in a wheelchair until the date of his release, medical personnel and correctional officers observed the defendant use his legs on numerous occasions during his stay in penitentiary. He told one correctional officer that his need for a wheelchair was just a ploy. After serving his sentence, the defendant was released and placed on Mandatory Supervised Release on January 22, 1995.

Less than one month after his release, the defendant, undeterred by his time in the Illinois Department of Corrections, continued in his violent crime spree. On February 14, 1995 at approximately 10:00 a.m., real estate broker Marilyn Edwards showed a client, Bettye Webber, a housewife, a home at 8113 S. Washtenaw. While they were looking at a bedroom upstairs, the defendant came in, pointed a gun at them and demanded money and jewelry. After taking jewelry from the women, the defendant ordered them to go to the main level. After going down the stairs, the defendant forced Bettye to perform oral sex on him while pointing a gun at her head. The defendant then anally raped Marilyn while pointing the gun at her head. Finally, the defendant vaginally raped Bettye. The defendant then fled from the house. Both women identified the defendant in separate lineups.

The DNA profile from the semen stain on Marilyn's underwear matched the defendant's DNA profile. That profile would be expected to occur in approximately 1 in 13 million blacks. The defendant is black. The DNA profile from the vaginal swab taken from Bettye matched the defendant's DNA profile. That profile would be expected to occur in 1 in 2 billion blacks.

On March 18, 1995 at 1:45 a.m., Eric Watkins, thirty years old, and James Henry, twenty-six years old, were standing in front of 7901 S. Paxton. Ralph Harris approached, pulled out a handgun and pointed it at James' head. The defendant robbed both men and then ordered them into the vestibule of an apartment building. Inside, he forced them to face a wall and warned them not to look at him. He then shot James twice in the head and Eric once in the head and once in the leg. The defendant began to leave, however, when he turned, he saw James moving. He then came back into the vestibule and shot James two additional times. Incredibly James was able to get out of the building and flag down a police officer. He was immediately rushed to the hospital. James Henry saw the defendant on television in late August of 1995, and he called the police. In September of 1995, he identified the defendant who stood in a lineup.

Patrick Brunt was arrested in September of 1995 and admitted that he was the getaway driver for the defendant in this murder. Brunt was convicted in a bench trial of first degree murder, attempt first degree murder and armed robbery and was sentenced to forty-five years in prison by Judge Porter.

On April 1, 1995 at approximately 4:00 a.m., Jayvonne Gregoire, a nail technician, and Patrice Robinson, a school assistant, returned to Gregoire's house after a party. After they got out of their car, the defendant approached, put a gun to Robinson's head and ordered the women into the gangway. Once there, the defendant took money and jewelry and fled. Jayvonne and Patrice identified the defendant in separate lineups.

On April 15, 1995 at approximately 4:15 a.m., Deborah Pugh, a schoolteacher, parked her car in her garage at 7740 South Constance after cashing a check at a local store. As she walked out the service door of her garage, she was met by the defendant, who forced her into the garage at gunpoint. The defendant took Deborah's purse, portable phone, a ring and a bracelet. Before he fled, he placed his hand on one of her legs, and moved it along her body up to her shoulders, across the front of her body and down her other side of her body. She identified the defendant in a lineup.

On May 14, 1995 at approximately 3:45 a.m., the victims, Joan Porche and Beverly Garrott, both cosmetologists, got out of a car at 9223 South Blackstone. The defendant approached them from behind, walked between them, held each by an arm, pointed a gun at Joan's head and took their purses. He forced the women into a gangway

where he made Joan disrobe from the waist down. As Joan faced a wall and Beverly knelt next to her holding her hand, the defendant attempted to anally penetrate Joan. A car pulled up on the street, and the defendant fled with the purses. Joan did not see the defendant's face, but Beverly identified the defendant in a lineup.

On July 1, 1995 at approximately 11:15 a.m., Patricia Butts, a speech pathologist, walked from her front door to her detached garage. As she walked, she passed the defendant. After she walked into the garage, the defendant came in, pointed a gun at her and demanded her money. Patricia gave the defendant her wallet and jewelry. He then fled. Patricia identified the defendant in a lineup.

On July 1, 1995 at 12:55 a.m., the victim, Nicole Brown, seventeen years old and a teacher assistant, parked her car and was walking from her garage. The defendant approached her and pulled out a handgun. The defendant took the victim's purse and jewelry and fled. The victim identified the defendant in lineup.

On July 18, 1995 at 7:00 a.m., Rhonda Thompson returned home at 8802 S. Kenwood from her job as a custodian at O'Hare airport. As she stood outside her home, the defendant approached, pointed a gun at her and ordered her to an isolated vacant area. There he made Rhonda perform oral sex on him while he pointed the gun at her head. The defendant then anally raped Rhonda. For the next 15 minutes, as Rhonda knelt naked in front of him, the defendant went through her purse, smoked her cigarettes and questioned her about photos and other items he found. The defendant then fled.

The defendant's fingerprint was found on one of Rhonda's identification cards, resulting in an arrest warrant being issued for him in August of 1995. Rhonda identified the defendant in a lineup. The DNA profile from the rectal swab taken from Rhonda matched the defendant's DNA profile. This profile would be expected to occur in approximately 1 in 410 billion blacks. The defendant admitted to Detectives John Hamilton and Tim Bagdon that he approached a woman in front of a house near 88th and Kenwood where he displayed a .380 automatic and ordered her to the train tracks. Once in the bushes he ordered her to take her clothes off, and he "fucked her in the ass." He said he went through her purse, told her he knew where she lived and warned her not to call the police. When asked if he left anything out, the defendant stated, "oh yeah, I made her suck my dick."

On July 18, 1995 at approximately 8:10 a.m., Marlene Wells, had just parked her car outside the Waterfront Terrace Nursing Home, at 7735 South Shore Drive where she was the director. As she began to walk into work, the defendant approached, displayed a handgun, announced a robbery and told her not to scream. The defendant took Marlene's purse, entered a small dark auto and drove off westbound. She identified the defendant in a lineup. Patti Greenberg, who saw the defendant pacing around just before the armed robbery, also identified the defendant in a separate lineup.

On July 23, 1995 at 9:00 a.m., William Jones, a sixty-five year old teacher, was removing his lawnmower from his garage located at 1915 E. 74th Street. The defendant approached and asked him for the time. The defendant then pulled out a handgun and demanded money. The defendant took his wallet and then fled. William identified the defendant in a lineup.

On July 23, 1995 at 9:55 a.m. Rita Jackson, was walking to church. As she walked, the defendant approached her at 8200 S. Chicago Avenue. The defendant asked her if she had the time. She continued to walk when the defendant came up behind her and put a gun in her side. The defendant walked Rita to a secluded area and searched her purse. He then made her remove her clothing, and he placed his penis in her vagina. The defendant fled. Rita identified the defendant in a lineup. The defendant orally admitted to Detectives John Hamilton and Tim Bagdon that he sexually assaulted Rita Jackson.

On July 31, 1995 at approximately 4:35 a.m., Deyonous Moore, a student, parked her car and walked up to her apartment building at 9419 S. Justine. While she was trying to get into the building, the defendant walked up to her, displayed a handgun and said, "come on, you know what to do." He walked her to 9423 S. Justine but left when a dog started barking. He led her to 9419 S. Justine where he took her money and two rings she was wearing. Deyonous then said, "what else do you want? I don't have anything else. The defendant replied, "you know what I want." After forcing her to remove her shorts, the defendant put his penis in her vagina. Before leaving, the defendant warned Deyonous, "I know where you live. If you call the police, I'll come back and kill you." The defendant fled.

On August 2, 1995, Deyonous viewed a lineup and told police that Delmar Bradford resembled the offender but she was not positive. On August 5, 1995, she viewed another lineup and identified John Leeper.

Subsequently, a search of the DNA database was conducted using DNA recovered from Deyonous' underpants. The DNA profile matched the defendant's profile. The profile would be expected to occur in approximately 1 in 410 billion blacks.

On July 31, 1995 at 6:45 a.m., Everett Harvell, was returning home from his job as a midnight security guard. The defendant walked passed him on the sidewalk, and Everett walked up to the front door at 6938 S. Cregier. The defendant came up behind and placed a gun to his head. He removed his wallet and then fled. Everett identified the defendant from a lineup.

On August 2, 1995 at approximately 4:30 a.m., sixty-year old James Williamson, a dock loader who was on his way to work, was approached by the defendant at the side door of his house at 9820 S. Greenwood. When the defendant demanded money at gunpoint, James told him "I don't have anything. I don't have anything, man." The defendant responded by firing one shot into the left side of James' chest, killing him. (See attached photographs.) Ella Carr, the next-door neighbor, heard the conversation and looked out her window which was next to the Williams's side door. She tentatively identified the defendant in a lineup. The defendant gave a handwritten statement, which he signed, to Assistant State's Attorney Thomas Darman admitting he was involved in this offense but claiming Patrick Brunt was the shooter. (See attachment.)

On August 16, 1995 at approximately 3:45 a.m., James Brown, a U.P.S. loader, and a female friend walked up the rear steps of Brown's house at 10100 S. Wallace. The defendant approached, pointed a gun at them and demanded money and James' gold chain. The defendant then ordered James to leave the yard and walk to the alley with him. James walked out of the yard. However, he believed that the defendant was going to kill him in the alley and grabbed at the defendant's gun. The defendant shot him once in the abdomen and fled. James identified the defendant in a lineup and identified a chain recovered from the defendant upon his arrest as the chain that was taken from him.

On August 29, 1995 at approximately 1:00 a.m., the defendant was arrested at his girlfriend's apartment. The defendant tried to use his girlfriend as a shield and he

struggled with the police, however three Chicago Police detectives wrestled him down to the floor and placed him under arrest. He was wearing the same gold chain which James Brown identified.

Between the hours of 1:30 a.m. and approximately 4:30 a.m., the defendant was interviewed by Detectives John Hamilton and Tim Bagdon. After being advised of his constitutional rights by Detective Hamilton, the defendant gave oral admissions to the sexual assaults of Rhonda Thompson and Rita Jackson.

From approximately 7:30 a.m. to 4:25 p.m., numerous victims and witnesses viewed separate lineups in which the defendant stood. In the early morning, Ella Carr made a tentative identification. Rita Jackson, James Brown, Donna Robinson, Bettye Webber, Jayvonne Gregoire, and Patrice Robinson positively identified the defendant.

At approximately 9:00 a.m., Detective Hamilton re-interviewed the defendant again advising him of his constitutional rights. Detective Hamilton advised the defendant that James Brown identified him and identified his gold chain. The defendant orally confessed to the shooting and armed robbery of James Brown.

Later that afternoon Marilyn Edwards and Beverly Garrott viewed lineups separately and identified the defendant. The defendant and the other men who stood in the lineups on August 29, 1995 were photographed together. (See attached photograph.)

Later in the evening Patrick Brunt was brought to the police station. Brunt admitted driving the defendant to various locations and waiting for him.

The defendant saw Patrick Brunt in the police station and told police that he wanted to make another statement. The defendant was given his constitutional rights again. At approximately 8:30 p.m. Detective Hamilton interviewed the defendant. The defendant admitted being involved in the James Williamson murder but claimed that Patrick Brunt was the shooter and that he only drove the car. The State's Attorney's Felony Review Unit was contacted and Assistant State's Attorney Tom Darman arrived. Sometime around 12:00 a.m., Assistant State's Attorney Darman interviewed the defendant. He advised the defendant of his constitutional rights. The defendant provided an oral confession on the Williamson shooting similar to his earlier statement. That confession was written out by Assistant State's Attorney Darman, presented to the

defendant, read by the defendant and signed by the defendant on every page. (See attachment.) After the confession was completed, the defendant went to sleep.

Gregory Powell, who was located and brought to the police station, was interviewed. He admitted that he drove when the defendant shot William Patterson. Although Brunt didn't know William's name, he described William's appearance, the location, the time of the year and the time of the day when this occurred..

The next morning on August 30, 1995 at approximately 9:50 a.m., James Patterson and Brenda Smith viewed lineups. Each identified the defendant. All the men who stood in these lineups including the defendant were photographed together. (See attached photograph.)

At approximately 10:15 a.m., the defendant was interviewed by Detective Hamilton. Again the defendant was given his constitutional rights. He was told that he was identified in the William Patterson murder and he was told about the ballistics match in the murders of William Patterson, Thomas Hodges, Jimmie Bramlett and David Ford. The defendant admitted shooting Thomas Hodges, Jimmie Bramlett and David Ford but claimed each victim resisted. The defendant signed handwritten notes prepared by Detective Hamilton summarizing his confessions in each murder. The defendant said he should get the death sentence for all the things he has done. He did state that he did not want to be known as a rapist. Instead he wanted to be known as the "Chatham Killer." He denied any knowledge of the William Patterson murder saying, "I'm not saying I didn't do it, but I did so many I don't remember this one."

The State's Attorney's Office Felony Review Unit was contacted again. Assistant State's Attorney Leslie Quade arrived and spoke to the defendant with Detective Hamilton at approximately 11:40 a.m. The defendant repeated what he told Detective Hamilton.

Assistant State's Attorney Leslie Quade spoke to the defendant alone. When asked, the defendant said he was treated well by the police and her. He said he was given food to eat, used the bathroom whenever he needed it and was allowed to smoke. When asked, the defendant said he was not threatened nor made any promises for his statements. When the difference between a court reported and handwritten statement was explained to the defendant, the defendant said he wanted to give handwritten statements.

From approximately 2:15 p.m. to 8:00 p.m., Assistant State's Attorney Quade wrote out three handwritten statements. The first was the defendant's statement about the murder of Willie Bramlett, the second was his statement about the murder of Thomas Hodges, and the third was his statement about the murder of David Ford. The defendant was presented with each statement after it was written. The defendant read each statement. The defendant was told that if he wished to make any changes to his statements he could do so. The defendant did make some changes. All changes were initialed by the defendant, and every page in each statement was signed by the defendant. (See attachments.)

On August 30, 1995 at approximately 9:15 p.m., Chicago Police Detective Michael McDermott went to the defendant's house at 8554 South Muskegon. At the defendant's direction, Detective McDermott recovered a Lorcin .380 caliber handgun under a car where the defendant indicated it would be found. Chicago Police Firearms Examiner Ernest Warner and Illinois State Police Firearms Examiner Laura Fleming examined the Lorcin .380 caliber handgun and compared it to the firearms evidence in the James Brown shooting and the James Williamson killing. Both examiners determined that the firearms evidence in both shootings was fired by the Lorcin .380 caliber handgun found by defendant's house.

The defendant was charged in a number of cases. While in custody, he was filmed by the news media. James Henry saw him on television and immediately recognized him as the person who shot him and killed Eric Watkins. James called the police. The defendant was brought back from Cook County Jail for James Henry to view a lineup, along with other victims and witnesses. On September 22, 1995, James Henry, Deborah Pugh, Everett Harvell, Marlene Wells, Patti Greenberg, Nicole Brown, William Jones and Patricia Butts all viewed separate lineups and each identified the defendant. The defendant and the other men who stood in those lineups were photographed together. (See attached photograph.)

The defendant never expressed any remorse for what he did, either in the police station or in court. To the contrary, while he was being questioned, he laughed and joked.

After all the investigations were completed, the defendant was charged with a total of 20 felony cases. In case 95CR-27598, the defendant was convicted by a jury of

first degree murder and attempt armed robbery of William Patterson and attempt first degree murder and aggravated battery with a firearm of James Patterson on May 3, 1999.

During the sentencing hearing on March 24, 1999, the defendant's father, mother and sister testified on his behalf and described the defendant's life as normal. The defendant's mother and father were married over 40 years, and both worked. The defendant's sister majored in chemistry in college, was married, had two children and worked as a laboratory technician. His sister described him as intelligent. The defendant was not lacking for anything when he lived with his parents, and he had every opportunity to succeed.

Judge Porter heard the testimony of one witness after another in aggravation. Before imposing sentence, Judge Dennis Porter made the following comments:

In aggravation I have considered the fact that the State has also introduced what I consider to be significant credible evidence that the defendant is a serial killer. The State has introduced evidence which I consider to be even more credible evidence that the defendant is a serial rapist. And there has been significant evidence submitted that the defendant has committed other armed robberies other than the ones for which he stands convicted previously...

The State has presented evidence in sum that the defendant has committed acts of extreme violence and many cases with little or absolutely no provocation.

Judge Dennis Porter sentenced the defendant to the death penalty on the first degree murder conviction, sixty years Illinois Department of Corrections concurrently on the attempt first degree murder conviction and thirty years Illinois Department of Corrections concurrently on the attempt armed robbery conviction.

On September 22, 1999 in case number 95CR-27595, the defendant was convicted by Judge Porter of first degree murder and attempt armed robbery of David Ford. On October 25, 1999 Judge Porter again sentenced the defendant to the death penalty on the first degree murder conviction and twenty eight years Illinois Department of Corrections concurrently on the attempt armed robbery conviction.

In case number 95CR-27600, the defendant was convicted by a jury of armed robbery and multiple counts of aggravated criminal sexual assault of Rhonda Thompson on April 7, 2000. On May 10, 2000, Judge Porter sentenced the defendant to a total of one hundred twenty years.

The defendant filed a Notice of Appeal on all three cases but has not filed any brief.

III
REASONS FOR DENYING THE PETITION
Unsigned Petition

The Amended Petition for Executive Clemency filed on behalf of the defendant is an improperly filed Petition, and should be returned by both the Governor and the Prison Review Board as improperly filed. 730 ILCS 5/3-3-13(a) permits petitions to be filed only if signed by the defendant seeking clemency or “a person on his behalf.” There is no statement whatsoever that the defendant has acknowledged that this petition could or should be filed on his behalf. There is no such affidavit and in fact the Petition itself specifically states that the defendant has not filed his own verified Petition in accordance with the Prison Review Board’s guidelines. There is nothing to suggest that the defendant is incapable of signing this Petition or deciding whether or not to seek clemency.

The clemency application statute does contain a general provision that states that nothing in section 5/3-3-13(a) shall be construed to limit the power of the Governor under the constitution to grant a reprieve, commutation of sentence or pardon. However, this provision cannot and should not be read to permit consideration of unsigned petitions in capital cases. It is the constitution itself that provides both the Governor’s power to grant clemency and the legislature’s power to regulate the manner in which clemency must be applied for. Thus, subsection 13(e) specifically contemplates that the Governor will act only “under the constitution,” *i.e.*, that the Governor’s power would be cabined by any restrictions upon the application process that are constitutionally enacted by the

legislature. To read subsection 13(e) to permit the Prison Review Board or the Governor to act on an unsigned petition would render meaningless all the previous subsections of 5/3-3-13, as well as the language in Article 5, section 12 of the Constitution authorizing legislative regulation of the manner of applying for clemency.

The signing requirement for capital cases was plainly enacted under the constitutional power of the legislature to regulate the manner of applying for clemency. It represents a requirement that is entirely concerned with that procedure and does not attempt to limit the Governor's power to grant clemency to any inmate or category of inmates based upon any substantive distinction, or even any procedural distinction other than one of form. More importantly the requirement of a signature does not attempt to implicate the real subject of subsection 13(e), which was the preservation of a governor's discretion to decide whether and to what extent to grant clemency to a person who qualifies for it and has complied with proper application procedures.

For these reasons, the defendant's petition should be rejected. However, should the Prison Review Board or the Governor nevertheless choose to consider the substance of the arguments made on the defendant's behalf by individuals who were apparently not instructed by the defendant to do so, responses to those arguments follow.

New Supreme Court Rules and Governor's Commission's Proposals

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

protect those rights given to defendants by the federal and state constitutions” and that {a} violation of procedures designed to secure constitutional rights should not be equated with a denial of those constitutional rights.” Id. At *63,64.

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

Adequate Funding

The defendant also refers to the newly created Capital Litigation Trust Fund, however it is unclear if he is claiming he is entitled to executive clemency because this fund did not exist when he was tried and sentenced. 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). The defendant was represented by attorneys in the Cook County Public Defender’s Office. The defendant was examined by a number of expert witnesses hired by the Public Defender’s Office. A jury consultant was hired and used during jury selection in the first trial. The defense never complained that there was not enough money or resources available. 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.

Decision To Seek Death

The defendant 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 C]ourt that the State's Attorney is endowed with the exclusive discretion to decide which of several charges shall be brought, or whether to prosecute at all. A prosecutor's discretion extends to decisions about whether or not the death penalty should be sought. People v. Jamison, 197 Ill.2d 135, 161-62, 756 N.E.2d 788 (2001). Therefore, any attempt to mandate such a review would constitute an impermissible restriction on the independence of the various State's Attorneys under the Illinois Constitution. Moreover, the defendant 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.

Allocution

The defendant also claims that clemency is appropriate because he was denied the opportunity to make a statement in allocution at his sentencing hearing. However, as the Illinois Supreme Court stated long ago, "an unsworn statement to the sentencing jury [to be] consider[ed] along with testimony given under oath and the arguments of counsel would at the least confuse the jurors, and might also impair their ability to weigh the aggravating and mitigating factors." People v. Gaines, 988 Ill.2d 342, 380, 430 N.E.2d 1046 (1981). The defendant did testify on his behalf during the first jury trial in case number 95CR-27598, the murder of William Patterson. Moreover, the defendant 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.

Supreme Court Review

The defendant claims the Supreme Court did not on direct appeal consider whether Judge Porter's two death sentences were imposed due to some arbitrary factor, whether an independent weighing of the aggravating and mitigating circumstances indicated death was the proper sentence or whether the sentence was excessive or disproportionate to the death penalty imposed in similar cases. The defendant did file a Notice of Appeal, however he has not filed a brief. Therefore the Supreme Court has not reviewed any of his claims. The Illinois Supreme Court has demonstrated that it will address comparative sentencing arguments whenever they are raised by defendants in capital cases (see People v. Emerson, 189 Ill.2d 436, 727 N.E.2d 302 (2000); People v. Palmer, 162 Ill.2d 465, 491, 643 N.E.2d 797 (1994) and will vacate a death sentence if it determines that it is excessive in light of the facts of the case and the defendant's background (see People v. Smith, 177 Ill. 32d 53, 685 N.E.2d 880 (1997); People v. Blackwell, 171 Ill. 2d 338, 665 N.E.2d 782 (1996).

Lineup Identifications

The defendant asserts that his sentences should be commuted because in case number 95CR-27598 two eyewitnesses, James Patterson and Brenda Smith, who identified the defendant three years after the offense in two separate lineups were not told that the suspected perpetrator might not be in the lineup nor that they should not feel they must make an identification. Further the defendant claims that his sentences should be commuted because the lineups were not videotaped, and the police did not obtain the eyewitness' "confidence statements." Ironically, the defendant argues that his sentence should be commuted yet fails to make a claim of actual innocence. Instead, he merely relies on a procedural recommendation for relief. The men who stood in each of the lineups, including the defendant, were photographed together. The photographs clearly demonstrate that the other men in the lineup were similar to the defendant. That one

witness, Ella Carr, only made a tentative identification demonstrates the integrity of the police officers conducting these lineups. The eyewitnesses who identified the defendant testified that no one, including police officers, suggested who to identify. Significantly, the defendant never even challenged the validity of the eyewitness' identification prior to trial. He never filed a Motion to Suppress Identification, nor requested a hearing to determine whether those witness' identifications were suggestive and/or admissible. In his Petition, the defendant failed to establish how the eyewitness' were incorrect or that they were in fact incorrect.

The defendant's petition fails to include other evidence which corroborated James' and Brenda's identification. Each witness testified under oath in court and identified the defendant. The defendant admitted killing three other victims: Thomas Hodges, Jimmie Bramlett and David Ford. The defendant was identified by Danny Smith and Willie Williams as the person who shot them. Expert witnesses, Firearm Examiners Richard Fournier of the Chicago Police Department and Gerald Wilkes of the Federal Bureau of Investigation, determined that fired bullets from all the shootings (except Gerald Wilkes did not examine fired bullets from the Danny Smith shooting) were fired by the same weapon.

Interestingly, under the Governor's proposed legislation (HB3717 & HB2058), none of the Governor's Commission's proposals (Recommendation 10-15) relating to identifications were submitted. It is ironic that these proposals apparently were not important enough to include in the proposed legislation.

Eligibility Factors

In case number 95CR-27598, the defendant was found eligible for the death penalty because he murdered William Patterson during an attempt armed robbery. The defendant's petition mistakenly states the eligibility factor was armed robbery. The defendant asserts that he is entitled to clemency because he was found eligible for the death penalty based upon an eligibility factor other than those factors which the Governor's Commission has recommended be retained. Specifically, the Commission concluded that the current list of twenty factors is overly expansive and therefore

unconstitutional. Accordingly, it was suggested that the list be reduced to just five factors: (1) murder of a peace officer or fireman; (2) murder of any person in any correctional facility; (3) multiple murder; (4) murder accompanied by the intentional infliction of torture; and (5) murder of a witness, prosecutor, defense attorney, juror, judge or investigator.

However, the Illinois Supreme Court has expressly rejected the Commission's logic and held that Illinois' death penalty statute satisfies the constitutional mandate because it "genuinely narrows the class of individuals eligible for the death penalty and reasonably justifies imposition of a more severe sentence on those defendants compared to other found guilty of first degree murder." People v. Ballard, ___ Ill.2d ___, 2002 Ill. LEXIS 376 at *73 (No.88885 August 29, 2002) (citing Zant v. Stephens, 462 U.S. 862, 877, 103 S.Ct. 2733, 2742 (1983)). As the Ballard court explained, "there are innumerable examples of first degree murders that do not fit within any of the statute's eligibility factors" and "[e]ach provision is narrowly tailored to fit a specific set of facts and circumstances." Id., 2002 Ill. LEXIS 376 at *74.

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

Videotaping

The defendant also seeks clemency because his statement where he inculpated himself was admitted into evidence even though it was not videotaped, and points out that under the Governor's Commission's proposals both statements and the interrogations leading up to them should be videotaped. What the defendant fails to recognize is that neither the Commission nor the Governor himself call for the suppression of a statement simply because it was not videotaped. Rather, even under the Governor's proposed legislation (HB3717 & HB2058), such statements will still be admissible if the trial court finds that it was voluntarily made after considering the totality of the circumstances. After a full and complete hearing, Judge Porter denied the defendant's Motion to Suppress Statements as to the defendant's statement on September 17, 1998. Because Judge Porter expressly found that the defendant's statement was voluntarily made when he denied the Motion to Suppress Statements, it is clear that the failure to videotape his statement had absolutely no effect on the fairness of his proceedings. Every statement which is not videotaped is not inherently unbelievable. Each and every statement should be considered on an individual basis. That is the function of the Courts and the purpose of trials. During the trial, the defense did probe through cross-examination whether the statement in the David Ford murder, case number 95CR-27595, was made. Judge Porter is presumed to and clearly did follow the law in determining whether or not the defendant made the statement and how much weight should be given. The defendant cannot complain that he was prevented from asserting at trial that his statement was unreliable and should not be considered.

Again, it is telling that the defendant does not claim actual innocence. Clearly that is because the statement made regarding the murder of David Ford was made by the defendant. He provided detailed information about the murder that only the murderer would know, including how many shots were fired, where David was hit and a detailed description of David's car. He signed each page once and some twice. He was given the opportunity to make any changes and he initialed every change made in the statement.

He incriminated himself not just in this murder but in two other murders. He was identified by two witnesses in a fourth murder. His statement considered with the others and the witnesses' identifications were corroborated by the ballistics evidence which tied all four murders together with the same gun. The weapon the defendant said he used in three statements, a Colt .380 caliber handgun, was consistent with fired bullets recovered in each of the four murder investigations.

The credibility of each statement is established by the defendant's attempt to provide himself with some sort of self-defense when he claimed each of his victims resisted him. It is significant that the defendant only confessed to murders in which there were no eyewitnesses. Thus, he could distort the facts for his own self-serving purpose of minimizing his responsibility. This defendant is intelligent and experienced in the criminal justice system. He understood his handwritten statements to the four murders in 1992 and the one in 1995 were inculpatory. At the time he made all his admissions, he was aware that the handwritten statement which he gave and signed in the Rutherford Wilson armed robbery was an important part of the People's case, and that evidence provided the basis for his conviction for which he was sentenced to 7 years in the Illinois Department of Corrections.

Supreme Court Has Not Ruled

Because the defendant's death sentence has not yet been affirmed by the Illinois Supreme Court on direct appeal, this petition for executive clemency is premature. 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 an 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.

CONCLUSION

The defendant’s claims completely fail to establish that he should be granted clemency. He relies only on the new Supreme Court Rules and the Governor’s Commission’s proposals for relief without establishing that even if they were in existence at the time of his trial a different outcome would result.

Commuting the defendant’s sentence would grant the defendant what some lawyers want and would allow the defendant to escape the death penalty he has worked so hard to achieve.

Respectfully submitted,

RICHARD A. DEVINE
State’s Attorney of Cook County

By:

JOHN G. MURPHY
Assistant State’s Attorney