

DATE TYPED: April 14, 2006
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IN RE: JOSEPH L. CLARK, OSP #183-984

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

Date of Meeting: April 11, 2006

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

IN RE: JOSEPH L. CLARK, OSP #183-984

SUBJECT: Death Sentence Clemency

CRIME, CONVICTION: Aggravated Murder with Specifications (2 cts.)

DATE, PLACE OF CRIME: 1/12/1984: Toledo, Ohio
1/15/1984 Toledo, Ohio

COUNTY: Lucas

CASE NUMBER(S): CR 84-5130

VICTIM(S): Count 1: Donald Harris
Count 2: David Manning

INDICTMENT: February 2, 1984: Counts 1 & 2: Aggravated Murder with Death Penalty Specification and Firearm Specification, Counts 3 & 4: Aggravated Robbery with Firearm Specification, Count 5: Attempted Murder with Firearm Specification, Count 6: Felonious Assault (1 count)

VERDICT: November 6, 1984: Found guilty by Jury of Count 2
February 21, 1985: Found guilty by Jury of Count 1

SENTENCE: November 28, 1984: Sentenced to DEATH
March 4, 1985: Sentenced to LIFE
March 18, 1985: Counts 3, 4, 5 and 6 nulled.

ADMITTED TO INSTITUTION: March 22, 1985

AGE AT ADMISSION: 36 years old

CURRENT AGE: 57 years old

DATE OF BIRTH: January 15, 1949

PRESIDING JUDGE: Honorable Francis Restivo

PROSECUTING ATTORNEY: James Bates, Michael Bruno
& James Yavorcik

FOREWORD:

Clemency in the case of Joseph L. Clark #183-984 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 Parole Board Policy #105-PBD-05.

On April 11, 2006 a Clemency Review Hearing was held with nine members of the Ohio Parole Board participating. Testimony in support of Clemency was presented by Mr. Clark's attorney, George Pappas and by his daughter-in-law, Domonique Stallworth. Testimony in opposition to Clemency was provided by Lucas County Prosecuting Attorney Julia Bates and representatives from the Office of the Ohio Attorney General, Stephen Maher and Matthew Hellman. Testimony in opposition was also provided by the victim's wife, Mary Ellen Gordon and the victim's two brothers Michael and Stephen Manning. Present and offering written testimony in opposition were surviving family members of Donald Harris; Clark's other Aggravated Murder victim. Robert Roloff, another victim, was present and offered written testimony. A fourth victim, Kim Henry offered written testimony, but was not present at the hearing.

After careful review and deliberation concerning the documentary evidence and testimony provided, the Parole Board, with nine (9) members participating, voted and reached a unanimous decision to provide an **unfavorable** recommendation to the Honorable Bob Taft, Governor of the State of Ohio.

DETAILS OF THE INSTANT OFFENSE (84-5130): The following details are taken from the Ohio Supreme Court Decision dated August 24, 1988:

On the night of January 13, 1984, David A. Manning, an employee of the Clark service station at 3070 Airport Highway in Toledo, was shot and killed during an armed robbery of the establishment. The record indicates that Joseph L. Clark, entered the service station at approximately 9:00 p.m. armed with a drawn .32 caliber revolver. The victim was working alone and the subject demanded money. According to a statement made by the offender to Toledo police Detective Sergeant Larry Przeslawski, the victim told the subject that there was no money, but the subject repeated his demand for money. The victim then walked to the back room of the service station, returned to the counter, handed the subject approximately \$60 from the cash drawer and told him that was all of the money on the premises. The subject "told him it wasn't all of it." The victim responded that there was no more money, but reached down and produced an envelope containing more cash. According to subject's statement, the victim then tried to "force his way on me [subject]" whereupon the subject shot Manning once in the right upper chest. The subject then ran out the service station door to his car and drove home.

Shortly thereafter, two Toledo police officers arrived on the scene in response to a silent alarm. One of the officers walked through the service station without seeing anyone. Upon looking further, he found the victim slouched behind the service counter.

On January 16, 1984, the subject was arrested after allegedly committing an assault and robbery at the Ohio Citizens Bank. The arresting officer found a .32 caliber revolver in the subject's

coat pocket.

The next day, the subject, with the assistance of an appointed public defender, was arraigned in the Toledo Municipal Court for the assault and robbery at the bank. The public defender was aware that the subject was a suspect in the Manning murder, and advised the subject not to discuss it with anyone but him. Later that day, the record indicates that the subject tried to hang himself in his jail cell. Consequently, the subject was taken to St. Vincent's Medical Center for examination.

On January 23, 1984, the subject was released from the hospital and taken to the Toledo Police Detective Bureau where he was questioned by Detective James Lagger and Detective Sergeant Przeslawski. The detectives asked the subject if he was under the influence of alcohol or drugs, and the subject responded that he was not. The detectives then gave the subject a standard form containing his rights as established in *Miranda v. Arizona* (1966). After each paragraph was read, the detectives asked the subject if he understood what he had read. The subject responded each time that he understood what he had read and thereupon initialed each paragraph. After reading his rights, subject recited and signed the portion of the form waiving his *Miranda* rights.

Subsequently, the subject was interrogated by the detectives for a period covering one and three-fourths hours. The subject was then moved to another room where his statements were tape recorded. At that time, Sgt. Przeslawski again read the subject his *Miranda* rights, and the subject made a statement about a robbery-murder at a Lawson's store in Toledo. After making this statement, the subject was given another chance to hear his *Miranda* rights recited when the tape was replayed for him. Eventually, the subject made a tape-recorded statement confessing to the murder of Manning after his *Miranda* rights were again recited to him. The detectives gave the subject an opportunity to make any corrections in his statement upon replaying the tape for him. The subject offered no corrections, additions or changes to his tape-recorded statements relating to the Manning murder.

On February 2, 1984, Joseph L. Clark was indicted by the grand jury on six criminal counts, two of which alleged aggravated murder with an aggravating circumstance specification as set forth in R.C. 2929.04(A)(7). The first murder count related to the incident at the Lawson's store. The second murder count is the subject of the instant appeal, and concerned the murder of Manning.

The subject entered a plea of not guilty to the murder of Manning and the case proceeded to trial. On November 6, 1984, the jury returned a verdict finding the subject guilty of the aggravated murder of Manning while committing aggravated robbery. As part of its verdict, the jury also found the subject guilty of the aggravating circumstance as charged in the specification of the indictment.

A mitigation hearing was held, and the jury recommended the penalty of death, having found that the aggravating circumstance outweighed the mitigating factors beyond a reasonable doubt. The trial court agreed with the jury recommendation and sentenced Joseph L. Clark to death.

Joseph L. Clark was also sentenced to a term of LIFE imprisonment for the Aggravated Murder of Donald Harris, as charged in Count 1 of the indictment. On 1/12/1984, the subject entered the Lawson Store located at 4401 Hill Avenue in Toledo, Ohio. He proceeded to jump up onto the counter and then over same. The subject then removed the cash drawer and money from the safe. During the robbery, the subject shot Donald Harris (age 21) in the back of the head. The victim was later discovered in a pool of blood behind the counter by two witnesses who had entered the store to make purchases. The victim was admitted to the Medical College in critical condition and died later from the gunshot wound. An investigation revealed that two black males had been observed waiting in an automobile outside the store, and that a black male was observed inside the store looking around prior to the robbery and shooting.

INMATE JOSEPH L. CLARK IS ALSO INCARCERATED FOR THE FOLLOWING CASES:

CASE #44598: According to the records of the Adult Parole Authority, the following is known:

On 2/23/67, Joseph L. Clark, while armed with a gun, robbed a female victim of her money and personal property in Toledo, Ohio. The subject was indicted for Armed Robbery on 3/30/67, and was subsequently found guilty of Unarmed Robbery. On 7/31/67, the subject was sentenced to 1-25 years at the Ohio State Reformatory, inmate #73534 and ordered to pay court costs. On 10/17/67, the subject was released and placed on shock probation for a period of three years. On 1/19/70, his probation was revoked due to his conviction in Case #46819 and he was returned on 1/28/70. The subject was administratively transferred to the Ohio Penitentiary on 3/7/72, Inmate #134086. He was paroled on 11/30/73 and later returned as a parole violator due to his convictions for new offenses.

CASE #46819: According to the records of the Adult Parole Authority, the following is known:

On 6/19/69, the victim, age 79, was asleep in his apartment when he was struck several times on the head by an intruder. It was determined that that the weapon used to inflict these injuries was a bumper jack. The victim was hospitalized for two days as a result of his injuries. Investigation at the scene revealed that the victim's billfold containing \$10.00 and personal papers had been taken from his trouser pocket. The trousers were on a chair next to his bed. The victim did not see his assailant - therefore, could not identify him. Police were able to lift two fingerprints from the window where the intruder had entered the apartment. The prints were found to belong to Joseph L. Clark.

The subject was subsequently arrested on this charge on 7/8/69. He was indicted on 8/14/69 for Breaking & Entering an Inhabited Dwelling in the Night Season. The subject was referred by the Court to Lima State Hospital on 8/28/69. He was committed on 9/2/69, for thirty days mental observation, and returned to the Lucas County Jail on 10/6/69, after he was determined to be legally sane. His diagnosis was anti-social personality with secondary drug dependency. On 12/15/69, the subject entered a plea of guilty to the lesser included offense of Breaking & Entering – Uninhabited Dwelling in the Night Season and was referred for a Pre-Sentence Investigation. On 1/19/70, the subject was sentenced to the Ohio State Reformatory, until

released according to law. The sentence was to be served concurrently with Case #44598. He was admitted under inmate #134086. He was granted a parole on 11/30/73, and later returned to the institution as a parole violator due to his convictions in several new offenses.

CASE #CR-74-5795: According to the Lucas County Adult Probation Department Pre-Sentence Report completed on this case, the following is known:

On 5/6/74, at 7:15pm, an armed robbery attempt was reported by the owner of Corvett's Sunoco located in Toledo, Ohio. The victim related that a 1970 gray Oldsmobile operated by a male later identified as Joseph L. Clark, entered his service station to purchase gasoline. The victim filled the tank as requested. The subject then followed the victim into the station where he provided a credit card registered to a Booker T. Washington as payment for the gasoline. Approximately 15 minutes later, a male, later identified as James E. Moore also entered the station asking to fill a can with gasoline. The victim was attempting to fill the can when he noticed Moore pulling a sawed-off shotgun out from under his coat. Moore told the victim to, "give it all to me", or words to that effect. The victim then grabbed the shotgun and there was a brief struggle involving all three individuals, during which the victim was able to run free from his assailants. A witness was able to obtain the license number of Clark's automobile, which led to his arrest on 5/8/74.

The subject was indicted for Aggravated Robbery. On 7/29/74, he pled guilty to the offense of Robbery. On 9/19/74, he was sentenced to 5-15 years. The subject was admitted on 9/26/74, inmate #139-937. He was released to parole on 3/20/79 and later returned to the institution due to his continued criminal activity.

CASE # 79-6869: According to the Lucas County Adult Probation Department Report and the Toledo Police Department Report, the following is known:

On 8/27/79, Joseph L. Clark and another man identified as Rubin Blackshear, entered the One Price Tire Store in Toledo, Ohio. Mr. Blackshear went to the back of the store with the manager, leaving the subject alone. Upon returning to front of the store, the manager observed the cash register open and that the subject was about to drive away. Mr. Blackshear then ran and jumped in the car and fled. The manager of the store signed an affidavit charging the subject with Grand Theft. The total amount of loss was estimated to be \$265.79.

On 9/19/79, Toledo Police observed the subject run a light. Upon checking with the Record Bureau a warrant was found for the subject's arrest in connection with the above crime. When officers approached the subject's automobile, he drove off. A chase ensued and the subject was finally apprehended and arrested.

On 4/28/80, the subject was sentenced to six months to five years, to be served consecutive to Case #80-5450. He was admitted on 5/2/80, inmate #158291. He was released to parole on 12/23/82, and returned to the institution after being convicted in the instant offense.

CASE #80-5450: According to Adult Parole Authority Report and the Lucas County Sheriff's Department Report, the following is known:

On 2/20/80, at approximately 3:00 p.m., Joseph L. Clark was transported from the Toledo House of Corrections to the Lucas County Jail. Upon exiting the bus in the sally-port area of the jail, the subject broke free and ran across several streets. A Sheriff's Deputy chased after the subject, but lost him. The Deputy then noticed fresh footprints in the snow on the other side of a fence, so he continued over the fence into a parking lot. A witness then drove up and advised that the subject had jumped into a parked van in front of a nearby building. The Deputy, with the assistance of an off-duty Toledo Police Officer, approached the van and took the subject back into custody.

The subject was indicted for Escape (1 count). On 4/28/80, the subject pled guilty to the indictment and was sentenced to 1 to 5 years consecutive with Case #79-6869. The subject was released to parole on 12/23/82 and later returned to the institution upon his conviction in the instant offense.

APPLICANT'S STATEMENT:

Mr. Clark was interviewed by Board Member Jim Bedra on April 5, 2006 at the Ohio State Penitentiary. Assisting Mr. Bedra and present during the interview was Parole Board Parole Officer, Ted Morrison. Also present at the interview was Mr. Clark's attorney, George Pappas. The interview was observed via teleconference by representatives from the Ohio Attorney General's Office, Stephen Maher and Matthew Hellman. Also observing was Judy Coakley, Parole Board Executive Assistant.

Mr. Clark readily admitted to committing the Aggravated Murder of David Manning. His version of the instant offense does not differ in substantial detail from the official record. He also admitted to his other crimes during his 1984 crime spree in which he shot and killed Mr. Harris, shot and wounded Mr. Roloff and robbed Ms. Reno. He stated that he was in need of money to purchase drugs. He left his mother's house to find a filling station to rob. He cased out a Clark Gas Station and watched for customer traffic to cease. Once the attendant (Mr. Manning) was alone, he entered the station and put a gun to Mr. Manning's back, ordering him to open a safe. When the victim had difficulty doing so, he ordered him to give up the money from the cash register. Mr. Manning complied with this demand. Clark admits he was on the opposite side of the counter from the victim. Clark suggested the victim cursed at him and made a movement that caused him to fear a possible advancement from Mr. Manning, so he shot him. He stated that in several other robberies, victims had tried to physically stop him and in his thought process, he felt the same was about to happen again. He said he did not mean to shoot Manning and that it was an accident. After shooting Manning, he left the premises with the money given from the cash register.

At one point during the interview, Mr. Clark began to cry, explaining that he is losing his life because of his use of drugs. In the same context, he suggested that if his life was spared he could be of help to younger inmates by steering them away from drugs. He is not a burden to the state evident by his positive institutional conduct.

When questioned about his impressions of the impact of his actions on his victims and their families, he initially responded "I don't know what to say." After a significant pause, he was again asked to respond. He did so by simply saying, "I am sorry. I would like to be forgiven. It was an accident."

He spoke of the hardship and embarrassment he has caused his family. He asked them not to attend the hearing on April 11, to spare them further embarrassment. He spoke of his daughter Tina Stallworth who was herself a victim of homicide and the pain that has caused him. He said he has regular contact with his family.

He is still hoping for Clemency and would like to die old. He ended by saying he is prepared to die if Clemency is not granted and asks God to forgive him and to accept him in heaven.

PRIOR RECORD:

JUVENILE:

According to the records of the Lucas County Juvenile Court, Lucas County Adult Probation Department and the Adult Parole Authority, the subject has the following record as a juvenile:

<u>DATE</u>	<u>OFFENSE</u>	<u>LOCATION</u>	<u>DISPOSITION</u>
4/12/60 (Age 11)	Larceny from Store	Toledo, Ohio	Probated to mother
<u>Details:</u> The subject and a co-delinquent admitted stealing from approximately five local stores.			
6/23/62 (Age 13)	Theft	Toledo, Ohio	Probated to mother and fined \$2.00
<u>Details:</u> The subject and a co-delinquent took a wheel off another youngster's bike.			
4/25/63 (Age 14)	Robbery	Toledo, Ohio	Probated to mother - case adjusted
<u>Details:</u> The subject and six other juveniles participated in an unarmed robbery.			
9/1/63 (Age 14)	Auto Theft	Toledo, Ohio	Probation

Details: The subject and others stole an auto belonging to John Slack. The car was driven by the subject and was subsequently involved in a car accident.

3/14/66 (Age 17)	Burglary	Toledo, Ohio	4/7/66: Recommitted to Ohio Youth Commission- Fairfield School for Boys on a parole violation from 4/7/66 to 9/26/66.
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Details: The subject was involved in the burglary of Miller's Coin-Op Services located in Toledo, Ohio.

OTHER ADJUDICATIONS:

The subject was also before the court for the following: 3-16-61 Assault (adjusted); 10-14-61 Discharging Slingshot (adjusted); 8-13-63 Malicious Destruction of Property (adjusted); 10-4-63 No Operator's License (court costs); 12-16-63 Petty Larceny (adjusted); 2-1-65 Unarmed Robbery (adjusted). The subject was also charged with Deporting on several occasions; however, same was handled unofficially.

DISMISSED, NOLLED AND/OR UNKNOWN ADJUDICATIONS:

In September 1963, the subject was charged with Auto Theft on 6 occasions; dispositions unknown. In October 1963, the subject was charged with Theft; disposition unknown. On 10/25/63, the subject was charged with Complicity to Sexual Assault. This charge was the result of the subject dragging a female victim into his home and then watching her be sexually assaulted by an associate. The disposition of this charge is unknown.

ADULT:

According to the FBI, BCI, Adult Parole Authority, Toledo Police Department and the Lucas County Adult Probation Department, the subject has the following record as an adult:

<u>DATE</u>	<u>OFFENSE</u>	<u>LOCATION</u>	<u>DISPOSITION</u>
2/23/67 (Age 18)	Unarmed Robbery Case #44598	Toledo, Ohio	Instant Offense, 7/31/67: Sentenced to 1 - 25 years (inmate #73534); 10/17/67: Granted 3 years Shock Probation; 1/19/70: Probation Revoked; Original Sentence of 1-25 years imposed concurrent with Case #46819; 11/30/73: paroled; 9/26/74: returned as a parole violation due to his conviction in case #74-5795; 3/20/79:

paroled; 4/28/80: parole
revoked due to conviction in
Case #79-6869 and Case #80-
5450; 12/23/82: paroled;
Parole revoked due to
conviction in Case #84-5130.

6-27-67 (Age 19)	Petty Larceny	Toledo, Ohio	3 days, court costs
1/20/68 (Age 19)	Altering or Forging Forms Case #45478	Toledo, Ohio	Incarcerated at the Toledo House of Corrections from 1/20/68 to 7/20/68.

Details: The subject signed a fictitious name on a motor vehicle bill of sale.

11/14/68 (Age 19)	Petty Larceny, Assault & Battery on Police Officer	Toledo, Ohio	Incarcerated at the Toledo House of Corrections from 11/14/68 to 12/14/68.
6/14/69 (Age 20)	Inducing Panic	Toledo, Ohio	\$10 fine, court costs
6/21/69 (Age 20)	Aggravated Riot	Toledo, Ohio	\$15 fine, court costs
6/26/69 (Age 20)	Discharging Firearm or Fireworks	Toledo, Ohio	\$50 fine
07/08/69 (Age 20)	Breaking & Entering Case #46819	Toledo, Ohio	Instant Offense: 1/19/70: Committed to Ohio State Reformatory (inmate #134086) concurrent with Case# 44598: 11/30/73: paroled; 9/26/74, returned as a parole violator due to his conviction in case #74-5795; 3/20/79: paroled; 4/28/80: parole revoked due to conviction in Case #79-6869 and Case #80-5450; 12/23/82: paroled; Parole

			revoked due to conviction in Case #84-5130.
5/8/74 (Age 25)	Robbery Case #74-5795	Toledo, Ohio	Instant Offense: 9/19/74: 5-15 years; 9/26/74: Admitted (inmate #139-937); 3/20/79: paroled; 4/28/80: parole revoked due to conviction in Case #79-6869 and Case #80-5450; 12/23/82: paroled; Parole revoked due to conviction in Case #84-5130.
9/19/79 (Age 30)	Grand Theft Case #79-6869	Toledo, Ohio	Instant Offense, 4/28/80: ½ -5 years consecutive to 80-5450 (Inmate #158291), 12/23/82: paroled; Parole revoked due to conviction in Case #84-5130.
2/20/80 (Age 31)	Escape Case #80-5450	Toledo, Ohio	Instant Offense, 4/28/80: 1-5 years (Inmate #158-291); 12/23/82: paroled; Parole revoked due to conviction in Case #84-5130.
1/17/84 (Age 35)	Aggravated Murder with specifications (2 counts) Case #84-5130	Toledo, Ohio	Instant Offense, 3/4/85: Count 1: Life Imprisonment, 11/28/84: Count 2, DEATH

OTHER CONVICTIONS:

On 5/29/68, the subject was charged with Due Regard for which he received a \$45 fine, (\$35 suspended) and Leaving Scene of an Accident for which he was fined \$15 and court costs.

On 3/8/69, he was charged with Disorderly Conduct, for which he received a \$15 fine and court costs.

On 4/29/69, he was cited for Stop Sign Violation and was fined \$15 and court costs.

On 5/8/74, the subject was charged with Obstructing Justice for which he received a \$15 fine.

On 7/31/79, he was cited for a Red Light Violation and received a \$20 fine.

On 9/19/79, the subject was charged with Due Regard for which he received 5 days in jail and his license was suspended 1 year; Eluding Police Officer for which he was sentenced to 5 days in jail; and Red Light for which he was sentenced to 2 days in jail.

On 1/1/83, the subject was cited with Failure to Return License for which he received a \$25 fine.

On 2/20/83, he was cited with Turning Rules and was fined \$30 and court costs.

On 10/24/83, the subject was charged with Operating Vehicle at Stop Signs and received a \$15 fine and court costs.

On 11/29/83, the subject was cited for Excessive Smoke and Noise, for which he was ordered to pay court costs and for Impeding Traffic for which he was sentenced to 5 days in jail.

On 12/10/83, he was charged with Display of Lighted Lights and was ordered to pay court costs.

On 1/16/84, the subject was charged with Traffic Control Signals for which he was sentenced to 2 days jail; Operating Vehicle at a Stop Sign for which he was sentenced to 2 days jail; Speeding for which he was sentenced to 8 days jail and for Operating Vehicle at a Stop Sign (2 counts) for which he was sentenced to 4 days jail. He was also charged with Fleeing a Police Office for which he was convicted, but further information is not available as to his sentence.

DISMISSED/NOLLED AND UNKNOWN DISPOSITIONS:

The following charges were dismissed: 7/11/67 Armed Robbery; 1/20/69 Assault (continued indefinitely); 4/8/69 Assault and Battery (continued indefinitely); 4/15/69 Backing Limitations; 6/21/69 Resisting Arrest (continued indefinitely); 6/26/69 Disorderly Conduct, Intoxicated (continued indefinitely); 6/24/79 Carrying a Concealed Weapon; 7/7/69 Grand Theft; 9/18/74 Assault; 9/19/79 Eluding Police Officer, Red Lights (2 counts), Headlight Requirement; Felonious Assaults; Carrying a Concealed Weapon; Handgun Owners Card; 11/22/83 Disorderly Conduct, Assault.

No disposition could be located for the following: 1/20/68, License and Vehicle Laws; 5/9/74, Slow Speed; and on 10/27/79, Due Regard.

From 10/12/83 to 12/27/83, the subject committed five (5) Armed Robberies; all of these cases were cleared as a result of the subject confessing to the crimes. Charges were not pursued due to the subject's indictment in Case #84-5130.

INSTITUTIONAL ADJUSTMENT:

Joseph L. Clark was admitted to the institution on March 22, 1985. The Parole Board was provided an Institutional Summary Report indicating a positive adjustment to incarceration. There are no remarkable rule infractions during his incarceration warranting comment.

PROPONENTS TO CLEMENCY:

A written application and documentation outlining the reasons Joseph L. Clark should receive Executive Clemency was filed with the Parole Board. On April 11, 2006, Attorney George Pappas presented oral testimony in support of the application. Reasons expressed in favor of the granting of Executive Clemency are as follows:

- Mr. Clark has admitted to having committed his crimes and has expressed acceptance of responsibility and remorse for his conduct both verbally and through his own actions.
- Mr. Clark is not a threat to anybody as he is no longer the aggressive person he once was during his early years. He is a different person now.
- Mr. Clark is a product of a troublesome childhood.
- Mr. Clark's conduct was exacerbated by an inadequate intellectual level which has been diagnosed within the "dull normal" range.
- Mr. Clark's behavior has been affected by an Organic Brain Syndrome as diagnosed by Michael M. Gelbort, PhD, Clinical Neuropsychologist on 6-28-96.
- Mr. Clark is inept emotionally as he kept things inside, with no ability or understanding of seeking help for himself.
- Mr. Clark had a long standing and untreated drug dependency with onset during his teenage years and extending into adulthood.
- Coupled together, Mr. Clark's drug-induced state of mind during the commission of his criminal acts, his dull-normal range of intelligence and inept ability to seek help to understand and treat his psychological issues all contributed to his life of crime.
- Mr. Clark has continued support from his family, which includes his mother, brother, 2 children and many grandchildren.
- Joseph Clark pleads for clemency and asks for a commutation of his death sentence to a life sentence.

Domonique Stallworth, the inmate's daughter-in-law, provided an oral statement on April 11, 2006. She explained that Mr. Clark did not want his family present at the hearing so as to spare them from anguish and embarrassment. She however expressed her need to represent the family despite Mr. Clark's request that no family member be present. She expressed condolences to the Harris family. She stated that Mr. Clark is truly apologetic for his actions and has the support of his family despite what he has done.

The Parole Board considered all the above factors presented by the applicant and by his counsel. We assessed their points of mitigation as follows:

- Mr. Clark indeed admits to the Aggravated Murder of David Manning. He also admits to his other offenses. He verbally expresses remorse and accepts full responsibility for his actions. However, he is unable to verbalize the impact his actions had on his victims and their survivors. His comment from the April 5, 2006 interview with the Board suggests that he may not fully understand the harm he has caused. (Please refer to the Applicant Interview section of this report for further elaboration of his comments regarding victim impact).
- Mr. Clark contends he is a different person today than when he committed his crimes and no longer a threat to harm anybody. The Board finds that a significant number of aging offender's propensity for violence tends to diminish as they get older. This is not unusual; nor is it a significant factor when considering the magnitude of the extreme violence we see in this particular case.
- By all accounts, Mr. Clark had a troublesome childhood. We recognize the effects of his dysfunctional childhood and give that factor slight weight. However, this alone does not sufficiently outweigh the extensive aggravating factors replete in this case.
- Mr. Clark has been diagnosed within a dull normal range of intelligence. There is however no substantial information to conclude that he is mentally retarded. He is in the lower tier of normal intelligence.
- Mr. Clark was diagnosed by one neuropsychologist as having an Organic Brain Syndrome. The United States Court of Appeals for the Sixth Circuit noted in their decision that Clark was evaluated by a psychologist and psychiatrist and neither concluded that he suffered from organic brain damage.
- Mr. Clark's long standing drug dependency seemingly went untreated. However it was Mr. Clark's denial of his problem that averted him away from treatment. By his own admission, he attempted to hide his addiction from his family and from those in a position to help him seek treatment.
- The cumulative effect of the above factors may have contributed to his criminal conduct. Yet, the brutality inflicted by Clark cannot be justifiably explained away by speculation that his actions were caused by factors adversely working together in a short duration of a crime spree. His well established prior criminal conduct, both as a juvenile and as an adult, signifies a propensity for violent behavior.
- It appears that Mr. Clark indeed has the support of family members. His desire for clemency appears sincere. However those are insufficient reasons to warrant a favorable action of clemency.

OPPONENTS:

Julia Bates, Lucas County Prosecuting Attorney, and Stephen Maher of the Ohio Attorney General's Office represented the State of Ohio at the hearing before the Parole Board on April 11, 2006. Arguments offered in opposition to the granting of Executive Clemency included:

- Clark went on a nine-day robbery spree in Toledo, Ohio. Clark first robbed one victim at gunpoint (Kim Reno - January 8, 1984), then killed two victims (Donald Harris - January 12, 1984, and David Manning, January 13, 1984) and finally seriously wounded a fourth victim (Robert Roloff - January 16, 1984). On November 6, 1984, a jury in Lucas County, Ohio, found Clark guilty of the aggravated murder of David Manning, the second murder victim. The jury sentenced Clark to death.
- Clark appealed the district court's decision to the United States Court of Appeals for the Sixth Circuit. On appeal, Clark was permitted to argue (1) his trial counsel's failure to obtain a neuropsychologist and pharmacologist to testify at Clark's suppression hearing and trial about Clark's inability to voluntarily and knowingly waive his rights against self-incrimination; and (2) trial counsel's failure to obtain and introduce at mitigation evidence of Clark's organic brain syndrome, drug addiction and withdrawal, and his troubled childhood. In denying Clark's argument, the Sixth Circuit noted "Clark was examined by a psychiatrist and a psychologist. Neither expert concluded that Clark suffered from organic brain damage, nor did either suggest that Clark needed further neurological testing."
- The evidence in this case is conclusive that Joseph Clark murdered David Manning during the course of a robbery. After a full trial, a jury came to the only appropriate conclusion: Clark was guilty and deserved to be sentenced to death. The Ohio Supreme Court then reweighed the aggravating and mitigation factors and properly affirmed the conviction and sentence. Clark has been afforded more than 20 years of appellate review, and no court has held differently. For these reasons, the State respectfully urges the Parole Board to recommend that Governor Taft NOT grant clemency to Joseph L Clark.

The Parole Board has considered the voluminous documents and oral presentation submitted by the State. We find their submissions to be credible and with overwhelming merit to justify execution of the sentence issued by the court.

VICTIM STATEMENTS:

Mary Ellen Gordon the victim's wife, along with Michael and Stephen Manning, the victim's brothers, attended the Clemency hearing and read prepared statements describing their incredible loss and stated opposition to the granting of clemency. Copies of their statements are attached to this report.

CONCLUSION:

Joseph L. Clark is scheduled to be executed on May 2, 2006. Mr. Clark was interviewed by the Parole Board on April 5, 2006.

The Ohio Parole Board reviewed the documents and deliberated extensively on the information provided. While there was some mitigation in the evidence of early childhood disruptions within the family, a long history of drug dependency, and a dull normal intellectual level, these factors were insufficient to counterbalance the magnitude of the aggravating circumstance in this case. Clark's reign of terror during his crime spree caused the death of two men and serious bodily injury to another. A justifiable basis for mercy cannot be found. There was nothing presented to suggest any manifest injustice in the sentence of death. Accordingly, there was insufficient credible information to warrant an affirmative recommendation for clemency.

RECOMMENDATION:

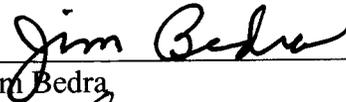
Following consideration of available information, the Ohio Parole Board, with nine (9) members participating, recommends to the Honorable Bob Taft, Governor of the State of Ohio, by a vote of nine (9) to zero (0) that Executive Clemency be denied in the case of Joseph L. Clark.

Adult Parole Authority
Ohio Parole Board Members
Voting **Favorable**

Ohio Parole Board Members
Voting **Unfavorable**



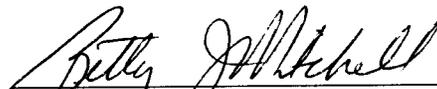
Cynthia Mausser, Chairperson



Jim Bedra



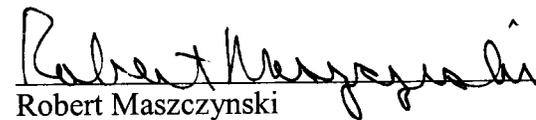
Sandra Mack, Ph. D.



Betty J. Mitchell



Peter Davis



Robert Maszczyński



Kathleen Kovach



Ellen Venters



R. F. Rauschenberg