

DATE TYPED: January 14, 2019
DATE PUBLISHED: January 18, 2019

IN RE: WARREN KEITH HENNESS, CCI #A287-375

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

Date of Meeting: January 10, 2019

Minutes of the **SPECIAL MEETING** of the
Adult Parole Authority held at 770 West Broad Street,
Columbus, Ohio 43222 on the above date.

IN RE: Warren Hennes, CCI #A287-375

SUBJECT: Death Sentence Clemency

CRIME, CONVICTION: Aggravated Murder, Aggravated Robbery, Kidnapping
Forgery (4 counts), Weapon Under Disability

DATE, PLACE OF CRIME: March 20, 1992 in Columbus, Ohio

COUNTY: Franklin

CASE NUMBER: 92CR062948

VICTIM: Richard Myers (age 51)—Deceased

INDICTMENT: Count 1: Aggravated Murder w/specifications
Count 2: Aggravated Murder w/specifications
Count 3: Aggravated Murder w/specifications
Count 4: Aggravated Robbery with specification
Count 5: Kidnapping with specification
Count 6: Forgery with specification
Count 7: Forgery with specification
Count 8: Forgery with specification
Count 9: Forgery with specification
Count 10: Having Weapon While Under Disability
With specification

TRIAL: Found guilty by jury of Aggravated Murder (counts 1-3,
counts 2 and 3 merged with count 1 for sentencing
purposes), counts 4, 5, 6, 7, 8, and 9.

Found guilty by judge of count 10.

DATE OF SENTENCE: January 14, 1994; August 1, 1994 (WUD)

SENTENCE: Count 1: Death (counts 2 and 3 merged with count 1)
Count 2: 3 GUN + 10-25 years
Count 3: 3 GUN + 10-25 years
Counts 4-9 3-5 years (all counts consecutive)
Count 10: 2.5-5 years

ADMITTED TO INSTITUTION: January 27, 1994

JAIL TIME CREDIT: 668 days

TIME SERVED: 300 months (does not include jail time credit)

AGE AT ADMISSION: 30 years old

CURRENT AGE: 55 years old

DATE OF BIRTH: October 13, 1963

JUDGE: Honorable Tommy L. Thompson

PROSECUTING ATTORNEYS: Dan Hogan, Eric Tarbox

FOREWORD:

A clemency proceeding in the case of Warren Henness, A287-375, was initiated by the Ohio Parole Board pursuant to Sections 2967.03 and 2967.07 of the Ohio Revised Code and Parole Board Policy #105-PBD-01.

On December 17, 2018, the Parole Board interviewed Henness, who appeared via videoconference from the Chillicothe Correctional Institution. A clemency hearing was held on January 10, 2019 with eight (8) members of the Parole Board participating. Both arguments in support of clemency and arguments in opposition to clemency were presented..

The Parole Board considered all of the written submissions, arguments, and information disseminated by presenters at the hearing, as well as the judicial decisions. The Parole Board deliberated upon the propriety of clemency in this case. With eight (8) members participating, the Board voted unanimously, eight (8) to zero (0), to provide an unfavorable recommendation for clemency to the Honorable Mike DeWine, Governor of the State of Ohio.

DETAILS OF THE INSTANT OFFENSE:

The following account of the instant offense was obtained from the Supreme Court of Ohio opinion, *State v. Henness*, 79 Ohio St.3d 53 (1997), affirming Henness' convictions and death sentence:

Warren Keith Henness, appellant, was convicted of aggravated murder with specifications and sentenced to death for the killing of Richard Myers, a fifty-one-year-old lab technician from Circleville, Ohio.

Myers was last seen alive on March 20, 1992. That morning, Myers told his wife he had something to do before he reported to work at midnight. Although Myers did not elaborate, his wife knew that he was an Alcoholics Anonymous volunteer and frequently traveled to Columbus to counsel others about drug and alcohol addictions. Myers was not home that afternoon when his wife returned from her job, and he failed to report to work that night.

That same morning, appellant's wife, Tabatha, answered a telephone call at the residence where

she and appellant were staying. The caller identified himself as "Dick" and asked for appellant. After the phone conversation ended, appellant told Tabatha he was going out. A car arrived for appellant. Tabatha recognized the driver as "Dick," a man who had picked up appellant several times before in the same car. Tabatha identified State's Exhibit 2-B as a photograph of the car she saw. The car belonged to Richard Myers.

A few hours later, appellant returned to the house to pick up Tabatha. He was alone and driving Myers's car. They drove to a car wash on Mound Street in downtown Columbus and smoked crack.

In his possession, appellant had checks and credit cards belonging to Richard Myers. Tabatha suggested that they involve Roland Fair, a drug dealer acquaintance, to pose as Myers to "pop the checks" and "play on the credit cards." The next day, appellant and Tabatha drove to Fair's apartment. Appellant told Fair that the owner of the checks, credit cards, and car was in a motel room with two prostitutes who were keeping him drunk.

While at Fair's apartment, Tabatha saw appellant washing a butterfly knife in the bathroom sink. Later, Fair noticed the knife soaking in the sink. The knife had a dark stain on it. Appellant told Fair that it was his knife.

Appellant, Tabatha, and Fair traveled to several banks and check-cashing outlets that day and the next, uttering forged checks and getting cash advances with the credit cards. With the money, they bought drugs. They also used the credit cards to buy merchandise, which they then sold for more drugs.

At some point Tabatha suggested that appellant tell Fair the truth about Myers. According to Tabatha, appellant told Fair that the owner of the car, checks, and credit cards had pulled a gun on him, appellant shot him, "and the guy died." According to Fair, Henness never specifically said what he did to Myers, but he did say, "I did not want to do it. He made me do it."

Later, appellant told Fair that the body was in the Nelson Road area in Columbus. The three discussed possible ways to dispose of it. According to Fair, Fair suggested a quarry. According to Tabatha, appellant was the one who suggested a quarry and stated that the body would never be found there.

Two or three days after March 20, Tabatha saw appellant with a gold wedding ring that was too big for him. Appellant told her that it was Myers's. According to Fair, appellant offered the ring to him, but Fair did not want it.

On March 23, appellant sold Myers's car to a sixteen-year-old drug dealer for \$ 250. Appellant wrote out a fake bill of sale and signed it "Richard Myers." The next day, the police recovered the car and impounded it because its owner was reported missing. The police questioned the sixteen-year-old and his companion, who led them to appellant.

On March 25, the police received an anonymous telephone call alerting them to the body of a dead man in an abandoned water purification plant on Nelson Road. Upon investigation, police discovered the body of Richard Myers. His shoelaces were tied together, his mouth was gagged, and his hands were bound together behind his back with a coat hanger. Police found four .25 caliber shell casings and one live .25 caliber round near his body. The four casings were all ejected from the same weapon.

An autopsy revealed that Myers had been shot five times in the head with .25 caliber bullets. One bullet had penetrated his brain, killing him. Myers had a large cut on his neck, which could have been inflicted with a butterfly knife such as State's Exhibit 6. Abrasions on his knees showed that his knees had struck a hard surface and were consistent with being forced to kneel on a concrete floor. Myers's left ring finger had been severed six to eight hours after death.

Columbus police arrested appellant on an unrelated charge on April 8, 1992. At the police station, it was apparently discovered that he was wanted on forgery charges. He was also a suspect in Myers's murder and homicide detectives questioned him. During the interrogation, appellant claimed Fair approached him with the checks and credit cards. Appellant suggested that Fair may have committed the murder. Appellant also told detectives he had not owned a gun since December 1990. However, Tabatha and Robert Curtis, at whose residence Tabatha and appellant were living, testified that appellant had a semiautomatic handgun, either a .22 or .25 caliber, in March or April 1992. Appellant sold the gun to a drug dealer about two weeks after the murder.

On April 14, appellant was interrogated for a second time. He admitted he was with Myers on March 20 because Myers was helping him seek drug counseling and treatment for Tabatha. He also admitted that Fair was not involved in the murder. Instead, appellant blamed the murder on some Cubans who were trying to settle a score with him. He stated Myers happened to be at the wrong place at the wrong time.

Appellant was indicted for three counts of aggravated murder: (1) murder with prior calculation and design, *R.C. 2903.01(A)*; (2) aggravated robbery-murder, *R.C. 2903.01(B)*; and (3) kidnap-murder, *R.C. 2903.01(B)*. Each count carried two death-penalty specifications under *R.C. 2929.04(A)(7)*: aggravated robbery and kidnapping. He was also charged with aggravated robbery, kidnapping, four counts of forgery, and having a weapon while under disability.

Appellant pled guilty to the forgery counts and elected to try the weapons charge to the court (which found him guilty). The jury found him guilty as charged on all the remaining counts. After a mitigation hearing, the jury recommended death. The trial court agreed and sentenced appellant accordingly. The court of appeals affirmed appellant's convictions and sentence of death.

PRIOR RECORD:

The following information was obtained from the Post-Sentence Investigation completed on March 20, 1996:

Juvenile Offenses: Warren Hennes has the following known juvenile record:

<u>Arrest Date</u>	<u>Offense</u>	<u>Location</u>	<u>Disposition</u>
08/13/76	Theft	Chillicothe, OH	Continue 6 months
08/18/80	Peeling Tires & Acceleration	Chillicothe, OH	\$10 & costs, social driving suspended for 30 days

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08/18/80	Red Light	Chillicothe, OH	\$15 & costs suspended, \$5, attend Seminar
11/03/80	Speed	Chillicothe, OH	\$15 & costs suspended, \$5, attend Seminar
11/26/80	Criminal Trespass	Chillicothe, OH	Custody of mother, 120 days Probation, \$35 fine
11/26/80	Unauthorized Use of MV	Chillicothe, OH	Custody of mother, 120 days Probation, \$25 fine
11/26/80	Escape	Chillicothe, OH	Custody of mother, 120 days Probation, \$50 fine
11/26/80	Unruly Child	Chillicothe, OH	Custody of mother, 120 days Probation
01/09/81	Speeding	Chillicothe, OH	\$15 fine & costs, license suspended For 90 days
02/08/81	Escape	Chillicothe, OH	Permanent commitment to DYS For minimum of 6 months

Adult Offenses: Warren Henness has the following known adult arrest record:

<u>Arrest Date</u>	<u>Offense</u>	<u>Location</u>	<u>Disposition</u>
10/13/82	Burglary Grand Theft (R124-946) (82CR156)	Chillicothe, OH	03/25/83: 2-15 years 04/06/83: Admitted to prison 11/22/83: Paroled 10/16/84: Recommitted on new #
10/13/82	Passing Bad Checks (R124-946) (82CR185)	Circleville, OH	03/30/83: 1-5 years 04/06/83: Admitted to prison 11/22/83: Paroled 10/16/84: Recommitted on new #
04/12/84	Receiving Stolen Property (A181-538) (14CR84)	Pike County	10/09/84: 6 months 10/16/84: Admitted to prison 04/01/85: Furloughed 04/10/87: Paroled 04/15/87: Recommitted on new #

02/16/87	Escape (A196-164) (85CR061626)	Switzer, WV	04/02/87: 1 ½-5 years 04/15/87: Admitted to prison 04/26/90: Paroled 01/27/94: Recommitted on new #
07/27/91	Receiving Stolen Property (91CR-08-4738A)	Columbus, OH	07/08/92: 6 months jail and costs
04/09/92	Robbery (A287-375) (92CR-04-2262)	Columbus, OH	INSTANT OFFENSE
04/09/92	Forgery (2 counts) (A287-375) (92CR-06-2069)	Columbus, OH	INSTANT OFFENSE
04/09/92 (Age 28)	Aggravated Murder Robbery Kidnapping Forgery (4 counts) Weapon Under Disability (A287-375) (92CR-06-2948)	Columbus, OH	INSTANT OFFENSE

Institutional Adjustment:

Hennes was admitted to the Ohio Department of Rehabilitation and Correction on January 27, 1994. His work assignments while incarcerated at the Southern Ohio Correctional Facility (SOCF) included porter. While at the Mansfield Correctional Institution (MANCI), Hennes's work assignments included porter, painter, barber, food service worker, recreation worker, and tutor. His work assignments while incarcerated at the Ohio State Penitentiary included porter and environmental service worker. Presently, Hennes is a recreation worker at the Chillicothe Correctional Institution.

Since his admission in 1994, Hennes has accumulated the following disciplinary record resulting in his being placed in disciplinary control, local control, or restrictive housing, as indicated below:

- 02/18/1997: Threatening bodily harm to another, with or without a weapon. Hennes told an officer he should not wear the flag on his shirt because he does not believe in free speech. The officer felt threatened because Hennes had balled his fists and was in a fighting stance. He received fifteen days of disciplinary control for this rule infraction.
- 10/22/2002: Possession of contraband. Hennes was found to be in possession of 13 feet of rope made of braided sheet material. Hennes stated he used the rope to work

out. He received 15 days of disciplinary control and 77 days local control for this rule infraction.

- 02/17/2015: Unauthorized possession, manufacture, or consumption of drugs or any intoxicating substance. Henness was observed by a correctional officer behaving in a drunken fashion. He smelled of hooch, had slurred speech, stumbled, and had problems maintaining his balance. He received fifteen days of disciplinary control for this rule infraction.
- 09/14/2015: Unauthorized possession, manufacture, or consumption of drugs or any intoxicating substance. During a cell shakedown, Henness was found to be in possession of approximately three gallons of hooch and hooch making materials. He received fifteen days of disciplinary control for this rule infraction.

Henness has received the following conduct reports that did not result in placement in disciplinary control, local control, or restrictive housing:

- Possession of contraband in 1994. Henness was found to be in possession of a broken fan and an altered cloth bag made of a t-shirt. The contraband was destroyed as a result of this rule infraction.
- Disobedience of a direct order in 1996: Henness was asked by a Correctional Officer why he had not cut his hair. Henness replied that he had a letter stating he did not have to do so. When the officer asked to see the letter, Henness said “forget it” and walked away. No hearing officer report (or disposition) is unavailable.
- Disrespect in 1997: While responding to another inmate, Henness stated “Yeah, well fuck him”, referring to a Correctional Officer that was completing a security check. Henness received a five-day recreation suspension for this rule infraction.
- Possession of contraband in 1998: During a cell search, Henness was found to be in possession of one tattoo gun, one box of thumb tacks, one box of paper clips, two pairs of gloves, and one set of headphones. No disposition available.
- Possession of contraband in 1998: During a cell search, Henness was found to be in possession of a tattooing needle. Henness received seven days of disciplinary control (suspended) and the contraband was confiscated.
- Possession of contraband in 2000. During a cell search, Henness was found to be in possession of an altered stereo. He received a verbal warning for this rule infraction and was given the opportunity to send the contraband item home.
- Possession of contraband in 2003. Henness was found to be in possession of minor contraband items. He received a verbal warning for this rule infraction.
- Possession of contraband in 2006. During a cell search, Henness was found to be in possession of minor contraband. He received a verbal warning for this rule infraction and was given the opportunity to send the contraband items home.
- Possession of contraband in 2007. During a shakedown, Henness was found to be in possession of three razor blades and other contraband items. He received a verbal warning for this rule infraction.
- Possession of contraband in 2007. Henness was found to be in possession of seven pairs of altered inmate shower shoes and four inmate milk cartons. He received a verbal warning for this rule infraction.
- Possession of contraband in 2007. Henness was found to be in possession of two razor blades, out of their original state. He received a verbal warning for this rule infraction.

- Unauthorized possession, manufacture, or consumption of drugs or any intoxicating substance and possession of contraband in 2018. While a Correctional Officer was conducting rounds, Henness was found to be intoxicated and in possession of miscellaneous fan parts. He received seven days of limited privilege housing and commissary restriction for this rule infraction.

Adjustment to Parole Supervision:

The following information is take from Henness’s violation and supervision summary report dated March 17, 1987:

- While on furlough, Henness committed Escape by failing to return to the Columbus Reintegration Center as required under his conditions of supervision.
- Henness further violated his furlough conditions by driving while his license was under suspension and attempting to use a stolen credit card.
- Henness was located in Logan, West Virginia after he was arrested for Brandishing a Dangerous Weapon (a sawed-off shotgun). Logan County Prosecutors’ Office declined to prosecute Henness when they learned he was being returned to Ohio for prosecution.

The following information is taken from Henness’s parole revocation report dated May 21, 1992:

- Henness was declared Violator-at-Large (VAL) and restored to supervision twice during his parole period which commenced on April 26, 1990.
- On March 19, 1992, a photograph was taken of Henness by security cameras as he was robbing the United Dairy Farmers (UDF).

APPLICANT’S STATEMENT:

On December 17, 2018, members of the Ohio Parole Board conducted an interview with Henness via videoconference from the Chillicothe Correctional Institution.

The following individuals observed the interview via videoconference but did not participate: Matthew Donahue, Chief Counsel, Office of Governor-elect Mike DeWine; Brenda Leikala, Assistant Ohio Attorney General; David Stebbins, Attorney for Henness; Justin Thompson, Attorney for Henness; Jessica Felker, Attorney for Henness; and Steve Taylor, Chief Counsel, Criminal Division-Appellate Unit, Office of the Franklin County Prosecuting Attorney.

Parole Board Chair Trayce Thalheimer introduced herself and the other members of the Parole Board to Henness and then identified the individuals who were observing the interview but were not participating. She explained the purpose of the clemency interview to Henness and noted that Henness’s clemency hearing was scheduled for January 10, 2019.

Chair Thalheimer asked Henness what he would like the Board to consider in determining whether to make a favorable or unfavorable recommendation for clemency in his case. Henness explained he had a statement that he wanted to read to the Board but was concerned that the information he was about to give would be covered by the media. He claimed that his family

had been threatened by individuals prior to his court case, and some of those persons were still alive and still represented a threat to his family. Chair Thalheimer informed Henness that the interview would be summarized in the Board's report to the Governor's office and that report, as a public record, would become available to the media when released. Henness chose to read his statement, in which he stated he is finally telling the truth—that "his friend" Dick Myers was killed by his then wife, Tabatha Henness, who was involved with Cuban drug dealers. Henness also stated one of the drug dealers shot him in the shoulder. Henness stated that according to Tabatha, the intent of the group was to rob him of his recently cashed tax return check and that Myers was an innocent victim who was simply in the wrong place at the wrong time. Henness relayed the details of his relationship with Tabatha, including her decline into drug addiction during one of his incarcerations and her eventual involvement with a drug and prostitution ring, which included a Cuban drug dealer boyfriend and a Columbus police detective. Henness stated his counsel will present letters from Tabatha at his clemency hearing that will support these claims. Henness proceeded to accuse his trial counsel, Attorney David Bodiker, of inadequate representation, stating he instructed co-counsel Joseph Edwards not to have contact with him. Henness reported that when Bodiker later became the Ohio State Public Defender, he handpicked Henness's appellate counsel to sabotage his appeals. Henness does admit to committing the various Forgery and Passing Bad Check offenses for which he is convicted of and expressed some remorse for those actions. Henness claimed that letters from Tabatha written after he was arrested and convicted in addition to physical evidence would exonerate him. He concluded his statement by stating that he does not deserve to lose his life just because he loved the wrong person.

Chair Thalheimer asked Henness to describe the actual events of the day of the crime. Henness stated he had enlisted Myers to help him take his wife Tabatha to West Virginia so that she could be placed in a drug rehabilitation program. Henness was going to steal motors out of the former water treatment plant and asked Myers to help him. Henness asked Myers to return to his (Henness) home to get a tool so he could loosen the bolts on the machinery he planned to steal. Tabatha gave Myers the tool and then got a ride from Myers to the home of one of her drug dealer friends. Tabatha and three Cuban drug dealers then came to the building to rob Henness. Henness stated Tabatha was holding a gun on Myers when the drug dealers began confronting him. Henness pushed one of dealers and was shot in the shoulder as he attempted to run away and hide from them. Tabatha claimed this startled her and she shot Myers. Tabatha persuaded Henness to return to the scene and he found Myers gagged and bound with wire. Henness stated the drug dealers then struck him some more until he promised to pay them \$30,000 dollars. Henness stated one of the drug dealers then handed him a pen knife and had him cut Myers's neck. Tabatha and the drug dealers proceeded to leave the area. Despite having trouble moving his arm, Henness packed up his tools. He did not want to carry the tools, so he stored them in a nearby shed. As Henness started walking up the driveway, Tabatha drove up and offered him a ride, so he got into the back seat. She took him to a nearby car wash where he cleaned up.

Henness and Tabatha then met with Roland Fair. Henness noted that Fair was Tabatha's friend and that they had previously been involved in a large check cashing ring. Henness stated he was scared so he asked Fair to give him a big knife. Henness stated this was the reason he had a knife on his person when he was arrested by authorities. Henness stated he was "out of it" for a couple of days. When he came around, Henness discovered that Tabatha and Fair had been using Myers's checks and credit cards, so he proceeded to join them in committing

forgery. Henness stated Tabatha sold Myers's car to a neighborhood teenager who was later stopped by police while driving the car.

When asked about the Myers's finger being severed in order to steal his wedding ring, Henness stated that during the melee, Myers's finger had been shot. Henness speculated that a raccoon or some other kind of animal chewed the rest of the finger off his hand.

Chair Thalheimer asked Henness what type of clemency he was seeking in this matter. Henness was adamant that he does not want life without parole. Henness asserts his innocence in the murder and feels he should not do any more time. He does admit his guilt to the Forgery and Weapon Under Disability offenses but feels he should be eligible for parole or a pardon.

Parole Board members asked several questions to clarify various points of Henness's statements.

Henness's relationship with Myers. Henness stated he met Myers about four months prior during an Alcoholics Anonymous (AA) meeting at Talbot House in Columbus when he was seeking assistance with Tabatha's addiction issues. He described his relationship with Myers as a developing friendship. According to Henness, Myers picked him up at his residence to take him to a job interview. Since the interview was not scheduled until later that day, Henness asked Myers to take him over to the abandoned water treatment plant to steal machinery. Henness denied that Myers was a drug counselor, and stated he was "just a guy from AA" and was indeed the kind of person who would willingly accompany him on a theft, because Myers was stealing drugs from his job at the Veterans Administration (VA). Henness claimed Tabatha had not known Myers until that day, yet she willingly gave him Henness's tools and accepted a ride from him. Henness later stated Tabatha had previously seen Myers but had not actually met him.

Claim of exonerating evidence to be presented at hearing. Henness stated that two different calibers of unfired bullets were located at the scene of the murder. His fingerprints were not located on a nearby handrail. Henness reported the blood found on the knife was his own because he used it to dig the bullet out of his shoulder. Henness later stated he used a razor blade and a roach clip to dig the bullet out of his shoulder. Henness noted several of Tabatha's acquaintances had provided affidavits stating she was bragging about committing the murder. He also pointed to the letters she wrote him as her confession to the murder. When board members stated they could not extrapolate a confession from her letters, Hennes responded that an individual would have to know Tabatha in order to interpret her letters in that way.

Roland Fair's involvement. Henness claimed Fair was aware of another murder that Henness alleged Tabatha had committed. Henness admitted to asking Fair for a knife to use as protection. When asked how a knife would be protection against individuals with guns, Henness stated it was better than nothing.

Claim of inadequate representation during his trial and appeal. Henness claimed that Attorney David Bodiker turned on him when he refused to slander Myers in order to take a plea deal to a lesser charge. He also claimed that Bodiker threatened his co-counsel to stay away from Henness and when the case came up for appeal, Bodiker used his position as State Public Defender to assign counsel who would not vigorously pursue appeal. When asked why

Bodiker, who was known as a zealous defender of death penalty cases, would single him out, he stated Bodiker wanted him to take a plea deal, so he could maintain his reputation.

Why not tell the truth during the investigation or at trial? Henness's first version of events was that Fair had killed Myers. In his second version, he blamed Cuban drug dealers were to blame for Myers's death. Henness stated his initial motivation was to protect Tabatha because he loved her so much. He then stated his family received threatening letters which his attorneys will present at his hearing.

Henness concluded by apologizing for not clearly answering the board's questions. He admitted to doing a lot of things wrong at times when he thought he was doing the right thing, such as protecting Tabatha. Henness remarked he wishes he could change that day.

ARGUMENTS IN SUPPORT OF CLEMENCY:

At the hearing held on January 10, 2019, arguments in support of clemency supplementing the written application previously received were presented to the Board by Henness's attorneys, David Stebbins, Justin Thompson, and Jessica Felker.

Stebbins opened their presentation with a brief overview of the issues to be presented on Henness's behalf: Henness received ineffective assistance of counsel and his case did not receive meaningful appellate review; critical evidence was not presented at trial which would have created reasonable doubt; a sentence of death was excessive because Henness was not the "worst of the worst" offenders; and Henness's conduct today is such that a commutation of his sentence is warranted.

Henness received ineffective assistance of counsel and his case did not receive meaningful appellate review

Thompson began his presentation by acknowledging the Board does not generally review an attorney's performance, but stated in this case, Henness's defense was so egregiously lacking that action by the Board is warranted. He stated that death penalty attorneys are expected to prepare extensively for a death penalty hearing. His review of lead attorney David Bodiker's billing records for the trial did not reflect the extensive investigation, review, and meetings one would normally anticipate for a death penalty case. Thompson stated this was because Bodiker believed the case would be resolved with a plea. Joseph Edwards, who had been assigned as second attorney on the case, was participating in his first capital trial. Despite his inexperience, Edwards felt there was a breakdown in the case, and eventually sent a letter to Bodiker expressing his concerns. Bodiker assured him there would be a plea. When the two attorneys realized that Henness was not willing to plea, it was too late to hire a mitigation specialist.

Edwards believed the relationship between Bodiker and Henness was toxic and recommended they withdraw from the case, but Bodiker was unwilling to do so. Henness asked the trial judge to dismiss his attorneys but was denied by the court. In the guilt phase of the trial, the defense mounted was minimal. Prior to the penalty phase, Bodiker and Edwards filed a motion to withdraw, stating they had reached a point where they could no longer effectively represent their client. The judge denied the motion but made Edwards lead counsel for the penalty phase.

Henness's attorneys presented no mitigation witnesses other than jail inmates and correctional officers. Thompson stated there was other mitigation which should have been presented including testimony regarding Henness's dysfunctional upbringing and his history of drug and alcohol abuse. He stated there was clearly a toxic relationship between Henness and his attorneys but denied Henness was the source of the toxicity. Thompson also claimed that once Henness understood the purpose of mitigation, he asked to present on his own behalf. However, Henness was in no position to understand effective mitigation.

Thompson acknowledged Bodiker's positive reputation as a defense attorney but stated the question at hand was not Bodiker's reputation, but his performance on this specific case. He asserted Bodiker's exclusive focus was on obtaining a plea.

Thompson proceeded to review the appeal process for Henness's case. Counsel from the state public defender's office would normally handle such appeals, but because Bodiker was now the state public defender, there was a conflict of interest and no attorney within his office could handle the appeals. Bodiker asked Attorney David Graeff to handle the appeal and he agreed to, but later stated he was unable to effectively do so due to time constraints and lack of funds. Henness has claimed that he had no knowledge that an appeal had been filed on his behalf. Thompson acknowledged that ineffective assistance of counsel was raised on appeal, but without specific examples and no evidence presented. As a result, there was no meaningful appellate review in either state or federal court. The Board inquired whether his attorneys had reviewed any notes or billing Bodiker may have made in his capacity as attorney for Henness during his parole violation hearings two months prior to his appointment as attorney for the capital case. They indicated that they had not, so they were unaware of any investigation or review Bodiker may have completed on the case prior to his actual appointment.

Critical evidence was not presented at trial which would have created reasonable doubt

Stebbins asserted there was insufficient evidence to convict in the case. He stated clemency is an appropriate remedy in this matter since evidence of alternate theories in the case were not presented by the defense, and those alternate theories could have produced doubt as to Henness's guilt.

Stebbins acknowledged there was no doubt Henness had possession of and used Myers's car, checks, and credit cards.

He stated it is important to examine the testimony of Tabitha and Fair because neither party is particularly credible. It was Tabatha's testimony that established the connection between Henness and Myers and Henness's possession of Myers's car. Her testimony also confirmed Henness was in possession of weapons. After Tabatha's initial testimony, she disappeared to Texas because she did not want to go through cross examination, forcing the prosecutor to bring about her return. Stebbins also stated Tabatha received a much lesser sentence in return for her testimony. Stebbins stated two of Tabatha's friends described her as violent and a drug addict. Tabatha was also unstable with a history of suicide attempts and hospitalization for mental health issues. Sherri Williamson, whom Tabatha had allegedly stabbed, indicated Tabatha was involved with Cuban drug dealers in the Short North. Stebbins questioned Fair's credibility as a witness as well due to their mutual history of involvement in crime and prostitution rings in the Short North. In conclusion, Stebbins stated the informational summaries of the police

investigations were not presented to his attorneys. He believed if any of this information had been available at trial, the Jury could possibly have concluded that Tabatha was more involved in the murder than what was presented at court.

The Board inquired about Henness's assertion during his interview that Tabatha was the shooter. Henness's attorneys acknowledged there is no conclusive evidence of Tabatha's guilt and it was impossible for them to support everything in his statement. The Board also questioned the theory that the murder was a result of Tabatha being in debt to Cuban drug dealers. The Board asked Henness's attorneys why the drug dealers did not take possession of Myers's car, money, and credit cards. The attorneys stated they simply could not answer the question. The Board inquired whether Tabatha's criminal record was reviewed and verified to support the allegations of her history of violence. The attorneys acknowledged there was no such review or verification of her criminal history. The Board also pointed out that during his interview, Henness painted Tabatha as having committed several murders and stated the Board would be presented with numerous affidavits to support these allegations. The attorneys acknowledged there were only the affidavits of Theresa Thomas and Sherri Williamson to support the allegations. The Board pointed out that their histories were similar to that of Tabatha and therefore calls into question the credibility of the affidavits.

Henness is not one of the "worst of the worst" offenders deserving of the death penalty

Felker acknowledged that Henness was convicted of Myer's murder, but argued that when compared with other aggravated murder cases from Franklin County, his crime does not merit the death penalty. She stated while the crime deserves serious punishment, death is an excessive punishment. To further bolster her argument, Felker claimed the prosecutor was willing to accept a plea of 20 to life, but Henness refused to plead in this case. Felker also argued the case is not so severe that it naturally received a death sentence but came about as a result of ineffective assistance of counsel.

Felker then argued the jury did not have the opportunity to hear the mitigation which would have disproved extreme culpability in this case. She characterized Henness's mother as being neglectful and described his father as a strict disciplinarian who did not believe he was Henness's biological father. Henness has now forgiven his mother and they have a close relationship.

Connie Parsons, Henness's mother, provided testimony at the hearing via pre-recorded video. Henness's mother and father were married after she became pregnant in high school. They had three children including Henness and divorced when Henness was still a baby. His mother later remarried and had additional children. One of her daughters was seriously ill and had to be treated at Children's Hospital in Columbus. When Henness's mother moved to Columbus to be with her ill daughter, she sent Henness and his sisters to live with their father, who doted on the girls but made it clear to Henness that he did not believe he was his biological father. After Henness was grown, he met Tabatha in the state of West Virginia. At first, the family thought the marriage was a positive life choice for Henness, but they soon realized Tabatha was using drugs. Henness's mother stated her son is not a violent person. In regards to her son's attorneys, she stated they only visited her once, did not care about the threatening letter she claimed to have received, and was never notified about the trial. Henness's mother stated if she had been asked to testify during the mitigation phase of the trial, she would have told them

what a good boy Henness was. She stated she would do anything in the world to persuade the Board to vote against the execution of her son.

Dr. James Reardon also provided testimony to the Board. He informed the Board that he is a licensed psychologist who has participated in a number of death penalty cases. Dr. Reardon stated this case was different than other death penalty cases in which he has been involved. Normally, he has access to a documented psychological history to review prior to meeting with an offender in a death penalty case. Dr. Reardon conceded this is not one of the horrible cases wherein the offender had been beaten or otherwise physically abused. Henness's issue is emotional neglect. He diagnosed Henness as having reactive attachment disorder as a result of growing up with a neglectful and self-absorbed mother. Dr. Reardon stated the instant offense stood out to him because he believed Henness's history lacked violence. Dr. Reardon stated as a result of his childhood, Henness was the perfect "chump" for Tabatha and would have done just about anything for her. He stated Henness's habit of lying is to be anticipated based on his neglectful upbringing. Dr. Reardon described Henness as being stubborn and narrow-minded at the time of the offense and the trial. He blames Henness for at least part of the issues he experienced with his attorneys.

Dr. Reardon disagreed with Henness's previous diagnosis of anti-social personality disorder. He determined that Henness suffers from reactive attachment disorder, major depression, substance abuse disorder, and attention deficit hyperactivity disorder (ADHD). Dr. Reardon stated Henness's ADHD appears to have been severe because he was prescribed Valium and Librium at a very young age. Dr. Reardon also found the diagnosis of anti-social personality disorder to be unlikely based upon Henness's interest in the well-being of his friends and other inmates. In addition, Henness appears to have a conscience, expresses regret, and at least some responsibility for Myers's murder.

Dr. Reardon concluded by stating that based upon his early experience as a parole officer and his later experience providing mitigation testimony in other death penalty cases, Henness, in his current state, is certainly not one of the "worst of the worst" offenders deserving of execution.

Henness has significant support and will adjust well to general population if granted clemency

Thompson acknowledged Henness's alcohol related rule infractions but stated those infractions do not negate all the good he has done while in prison. He stated Henness has not committed any violent acts towards inmates or correctional officers and would adapt well to general population. Thompson referred to affidavits from other death row inmates who state he is a mediator between other inmates, is protective of weaker inmates, and makes an effort to help new inmates to adjust to death row.

Joe D 'Ambrosio, a former death row inmate who was exonerated, provided testimony at the hearing via pre-recorded video. He portrayed Henness as a mediator amongst inmates, who watches out for the welfare of correctional officers. He tells other inmates that correctional officers are only doing their jobs and do not deserved to be harassed. D 'Ambrosio stated when he visits Henness, the correctional officers tell him that Henness is "one of the good guys" on death row.

Michael Parsons, Henness's stepbrother, also provided testimony via pre-recorded video. Parsons had located to Columbus for work purposes and lived with Henness and Tabatha for a period. Parsons placed blame on Tabatha stating she became angry and abusive towards Henness when he refused to give her money for drugs. Parsons also claimed the gun belonged to Tabatha.

Doug McCready provided testimony at the hearing in support of Henness's request for clemency. McCready is a business man and college instructor who has known Henness since 2013. As a member of the First Community Church, he began visiting Henness, not for conversion purposes, but to be a friend and to engage in conversation. At first, McCready visited Henness monthly. Since moving out of state, he tries to visit him every several months. McCready stated Henness is always cordial and polite. He perceives Henness as a rational and empathetic man who cares deeply for his mother and who regrets his actions. McCready said he is a good judge of character and believes Henness is a genuinely good and decent human being who continually seeks to be a better version of himself. McCready stated he believes Henness is deserving of clemency based on the person he is today.

Kevin Biller, a businessman, also provided testimony at the hearing. Biller is a volunteer that actively works with the homeless and incarcerated individuals. Although he is not particularly religious, he volunteered to visit a death row inmate based on a notice he read in a church newsletter. He finds Henness to be articulate, polite and engaging, as well as genuine and compassionate. Biller stated he believes Henness strives to have a positive impact by mentoring younger inmates.

The final individual that provided testimony on behalf of Henness was Father Neil Kookoothe. His first contact with Henness was through a prison pen pal ministry. He began visiting inmates in 1996. Father Kookoothe stated he has worked with several death row inmates but this is the first time he has felt compelled to advocate for clemency on an inmate's behalf. He went on to discuss his efforts to assist other death row inmates in their efforts to exonerate themselves.

Thompson concluded by stating that Henness has been a good inmate who would adjust to general population with no problem. He does not view Henness's recent infractions involving alcohol as a significant factor since Henness only drank as a tool to help him sleep.

Board members noted that Henness has received multiple conduct reports during his incarceration and inquired why the Board should believe that if he has issues in a restrictive environment, he would successfully transition to the less restrictive environment of general population. His attorneys acknowledged Henness has issues, they just do not believe those issues negate the positive efforts he has made while in prison. Henness's attorneys were somewhat dismissive of the alcohol use as a serious issue. Board members pointed out that while in the community, Henness committed crimes when he abused alcohol.

The hearing presentation and written submissions by Henness's attorneys implied Henness was never violent prior to Myers's murder. Board members detailed his offending history which began at age twelve. His juvenile history included possession of a weapon and commitment to the Department of Youth Services, where he escaped. His first adult incarceration, for stealing a gun from his father, was at age nineteen. While on furlough from prison, he absconded to

West Virginia, where he was arrested for brandishing a firearm. West Virginia dropped the charges when the Ohio Adult Parole Authority charged him with Escape and returned him to Ohio. Board members noted there was not much discussion of Henness's armed robbery of a convenience store twenty-four hours prior to the murder. Henness's attorneys argued that those two violent days do not make him deserving of death.

Henness's attorneys concluded their presentation by asking the Parole Board to grant Henness's request that his sentence be commuted to life with the possibility of parole.

ARGUMENTS IN OPPOSITION TO CLEMENCY:

Ron O'Brien, Franklin County Prosecutor; Steve Taylor, Chief Counsel, Criminal Division-Appellate Unit, Franklin County Prosecutor's Office; Jane Mackenzie, Victim Advocate, Franklin County Prosecutor's Office; and the Honorable Dan Hogan, retired Judge, Franklin County Court of Common Pleas, and former attorney in Franklin County Prosecutor's Office, presented arguments in opposition to clemency.

Franklin County Prosecutor Ron O'Brien noted that while the victim's wife and son were not present, they are still waiting for justice to be served in this case. They were not present because they had no interest in listening to anything the defense would present on Henness's behalf during the hearing. He pointed out that adequacy of counsel had been reviewed repeatedly in the appellate courts. O'Brien noted the number of stories Henness has told with regards to the offense, including admitting that he had indeed killed Myers, but had done so out of "gay panic". There was discussion of a plea deal when Henness threw out the "gay panic" defense, but when his attorneys returned to Henness to discuss a deal, he stated he had made it all up. O'Brien stressed there was no evidence that a Cuban gang was connected to the murder. O'Brien described Henness as someone who changes his story to fit whatever circumstance he finds himself in, pointing out that Dr. Jeffrey Smalldon, who had been retained by Henness's trial attorneys in 1993, noted Henness told so many different stories that it was difficult, if not impossible, to work with him.

When questioned by parole board members, O'Brien confirmed there had been plea discussions, but no offer had been made. He also responded to a question regarding the firearm used by Henness in his robbery of a UDF the evening prior to the murder as described by the clerk who was robbed, saying it fit the description of a small, semi-automatic handgun.

The Honorable Dan Hogan, who was the assistant prosecutor for Henness's capital case, stated he was taking part in the hearing as a historian rather than an advocate. In the period from 1990 to 1995, he noted there was little to no prosecutorial discretion in charging a case. Then Franklin County Prosecutor Michael Miller's policy was to let the grand jury determine the indictment. Jurors in Franklin county rarely voted for the death penalty.

Hogan noted there was indeed discussion about a plea in this case, but due to the level of evidence available, the sentence level would have been high. Hogan was an experienced capital crime prosecutor. He was well aware that a defendant would have to be on board before a plea was even proffered. Hogan would have then gone to the family and the case detective for their

input on an offer. He had previously spoken with Myers's wife who was very clear that she would not be amenable to a plea deal.

Hogan then spoke on the issue of poor representation by Bodiker, because he did not want the Board to have the wrong idea regarding the zealousness of his representation of Henness. He noted that Bodiker was a highly skilled criminal defense lawyer and likened every day he met Bodiker in court to a street fight. Hogan stated he and Bodiker had later spoken about Henness's mother not being used as a mitigation witness. According to Hogan, Bodiker previously told him when he interviewed Henness's mother, she stated once he left home the neighborhood pets stopped disappearing and there were no more fires in the neighborhood. From that he assumed that Bodiker did not feel Henness's mother would work out well as a mitigation witness.

Board members noted that during his interview, Henness had stated Myers was stealing drugs from the VA hospital where he worked and asked whether this had come up during the investigation. Hogan stated he was aware Myers had a job at the VA and was associated with AA, but nothing more. Board members also inquired about Henness's assertion that the blood found in the car was his and whether that blood evidence had been DNA tested. Hogan said there had been no DNA testing done in the case and reminded the Board that DNA testing was in its early stages at the time of the case.

Steve Taylor, Chief Counsel, Criminal Division-Appellate Unit, began his portion of the presentation by stating the assertion that Henness is not violent is inaccurate. He noted Henness threatened to shoot someone the day he was arrested which was what led to his initial arrest. He also stated Henness entered a United Dairy Farmers on March 19, 1992, the day before Myers was killed, producing a small caliber automatic handgun and demanded "big bucks" from the store clerk. He stole seventeen dollars in currency and seventeen dollars in food stamps. Henness later pled guilty to robbery in this case. Taylor asserted these actions demonstrate that Henness was plainly capable of violence and threats of violence.

Taylor proceeded to detail the multiple versions of the offense that Henness has relayed over time, beginning with his first police interview in which Henness insinuated that Roland Fair committed the murder. In his second interview, Henness told police that neither Fair nor Tabatha were involved, and that it was Cuban drug dealers who committed the offense. Contrary to the defense's assertion that Henness has always maintained he did not kill Myers, both Bodiker and Edwards testified that in one of the many versions of the offense he related to them, Henness became very emotional, admitting that he had committed the shooting resulting in the death of Myers. Taylor also cited Dr. Smalldon's report which stated Henness's accounts of the offense were so inconsistent he was unclear as to what Henness actually said happened. Taylor noted that at trial, Henness acknowledged his multiple accounts, stating that his attorneys had heard so many stories, they did not know which one was true.

Taylor noted Henness is capable of extreme violence. He created multiple counterfeit scenarios to cover his tracks to a pathological degree. Henness's repeated lies show he is incapable of accepting responsibility and those lies, including his present day lies to the Board, demonstrate that Henness is unworthy of any leniency.

Taylor next addressed the issue of ineffective assistance of counsel by pointing to Bodiker and Edwards's affidavits. He stated when the attorneys stated they were unable to be effective, it was not due incompetence or dereliction on their parts, but because they received absolutely no cooperation from Henness. Taylor further noted that the federal courts permitted expansive discovery upon appeal and yet still rejected the claim of ineffective assistance of counsel. Taylor disputed the defense's claim that Bodiker did not have adequate contact with Henness to properly prepare for his defense by noting that Bodiker had documented seventeen visits to Henness and nine phone calls. Within the five months prior to trial, there were seven documented visits. Taylor refuted Henness's claim that he was not notified of the possibility of a plea deal until October 1993, by noting that the plea discussion, wherein Henness refused to consider a plea, took place on December 15, 1992. In regards to the lack of mitigation, Taylor noted Henness refused to allow his attorneys to call on Dr. Smalldon and did not want his family members to take the stand, telling Edwards that his mother would not have asked the Jury to spare his life.

Taylor concluded his statements by stating while it is nice that Henness has friends willing to speak on his behalf, he could not help thinking on all that Richard Myers has missed out on since his murder.

Board members asked Taylor if he had any idea of the gun's location. Brenda Leikala, Assistant Ohio Attorney General, responded that during the investigation, both Tabatha and Robert Curtis stated it was sold to a drug dealer a couple of weeks after the murder, but this was not testified to at trial.

Prosecutor O'Brien concluded the presentation by stating nothing presented at the hearing supports the granting of clemency. He commended Henness's supporters, but noted their testimony was not sufficient to outweigh the Jury's decision in this case.

VICTIMS' REPRESENTATIVES:

Jane Mackenzie, Victim Advocate for the Franklin County Prosecutor's Office, spoke on behalf of the victim's wife Lila Myers and their son Daniel Myers. Even though Mrs. Myers was forced to move forward with her life, she is still very traumatized. She decided it would not be good for her to be present at the hearing. Mrs. Myers wants the Board to understand that just because the family was not present, they do care about the results of the hearing. They are still waiting for justice. Mrs. Myers still misses her husband and grieves for him. She said it was up to the Board to defend her husband.

PAROLE BOARD'S POSITION AND CONCLUSION:

The Ohio Parole Board conducted an exhaustive review of the documentary submissions and carefully considered the information presented at the clemency hearing. The Board reached a unanimous decision to provide an unfavorable recommendation regarding clemency based upon the following;

- Hennes's claim that he was not the actual shooter in the case is not persuasive. His account of the offense is not reliable as evidenced by the contradictory statements made and the rather creative details with which he embellished during his December 17, 2018 interview with the Board.
- While the toxicity of the relationship between Hennes and his attorneys is not in doubt, the source of the friction is not solely, or even primarily, the fault of Hennes's attorneys. Bodiker was a seasoned and effective defense attorney, who clearly believed that, given the available evidence, the best course of action was to pursue a plea. Hennes, through his unwillingness to provide consistent, coherent details and his insistence on controlling the events of the case, often in conflict with his attorneys' advice, created a situation which resulted in his conviction and death sentence. Hennes's refusal to act in his own best interests, does not lead the Board to conclude that his attorneys were ineffective.
- Evidence presented to the Board during the hearing in the form of affidavits was not sufficient to convince the Board that had such evidence been permitted to be presented at trial, it would have necessarily resulted in a different outcome.
- According to expert reports and testimony, Hennes has not previously nor currently suffers from the type of major mental illness or developmental disability that would impair his ability to distinguish right from wrong or to meaningfully and fully cooperate with his own defense. In fact, demonstrating a strong awareness of self, Hennes admitted he had told his attorneys so many stories that they did not know what was true.
- Hennes's conduct throughout his incarceration, particularly his more recent rule infractions involving alcohol, belie the assertion that he has significantly changed and would make a positive adjustment to general population.
- Hennes's poor supervision history and history of violence in the community are such that the Board is unwilling to overturn the trial jury's decision that he is deserving of the death penalty through the extraordinary remedy of clemency.

RECOMMENDATION:

The Ohio Parole Board with eight (8) members participating, by a vote of eight (8) to zero (0), unanimously recommends to the Honorable Mike DeWine, Governor of the State of Ohio, that Executive clemency be denied in the case of Warren Keith Hennes.

Clemency Hearing

Warren K. Henness

9:00 am January 10, 2019

Adult Parole Board

770 West Broad St.

Columbus, OH

Good afternoon Ladies and Gentlemen of the Parole Board Authority. I sincerely thank you for this opportunity to appear before you on behalf of my dear friend, Warren "Keith" Henness.

I respectfully submit the following in his support.

My name is Kevin Biller and I am originally from Parma, Ohio, a blue collar suburb of Cleveland. I have been married for 41 years and have 4 children and seven grandchildren. I have a degree in chemistry from Baldwin Wallace College and am the president and owner of the Powder Coating Research Group, a product development and testing laboratory in Columbus, Ohio. I'm also an author and editor of trade journals in my professional field.

Throughout my adult life I have been actively involved as a volunteer administering to the homeless, the critically ill, the elderly and the incarcerated. I have assisted in coordinating retreats at Madison Correctional Institution, London Correctional and independent visits to Hocking Hills Correctional Institution. More recently I have been visiting a death row inmate at the Chillicothe Correctional Institute.

Encountering Keith was purely happenstance. I was leafing through a church newsletter while waiting for an

order at a Middle Eastern carryout and saw a notice expressing a need for visitors for death row inmates. I emailed the contact and explained how I was not a church member nor even religious but that I was interested in bringing a little sunshine into someone's life. The man I had contacted understood and connected me with "Keith" Henness. Keith and I started exchanging emails in September 2016 and I made the necessary arrangements for clearance to visit him on death row.

Soon thereafter I began visiting Keith every three or four weeks as my schedule permitted. We had connected through a church newsletter, however our visits are not religious. In addition we don't talk much about news or sports as Keith is much more conservative than I am and sports aren't my thing.

We quickly developed a comfortable familiarity that lets us speak with no pretension. Mastery of the English language and communication is an important part of my professional life and Keith is very articulate.

Our visits span a spectrum of subjects both topical and profound. A recurring thread revolves around our common humanity. We muse about the complexities of the human condition and our existence, the conundrum between the sexes, stupid stuff we did as kids, auto mechanics, woodworking, music, and television programs. Keith is an avid bookworm and he loves talking about the books he has read.

I sometimes share pictures of woodworking projects I have done with my grandkids. Keith has surprised me with plans for toys to consider as my next project with my grandkids.

Through our long conversations and emails Keith has gotten to know my wife Mary and the rest of our family.

He'll always inquire about them and listens intently as I recount what everyone is up to. A few months ago Mary decided to gain visitation approval and for the past six or so months we've been visiting Keith together.

Ever the gentleman Keith and Mary really clicked. She's a pilot, and they talk extensively about airplanes and their mechanical specifications. He has always been sweet, polite and very engaging.

Like I said Keith is an avid reader and has recommended books for my wife and family to read. These books are all weighty and quite lengthy. He introduced her to Ken Follett and his trilogies. One of our daughters is reading Follett's Century Series trilogy per Keith's recommendation.

Fairly often Keith and I converse about our childhoods - his more than mine. He grew up in a broken family and his father mostly ignored him as he grew up. In addition, after the divorce Keith's mother worked full-time and had little time for Keith and his sisters.

He talked about how neither of his parents were much involved with him even at a very young age. Keith mentioned that even as a child he used to regularly skip out and go camping alone for a night or two in his rural environment. He was pretty much left to fend for himself for a few days with no parental concern about his whereabouts.

After Keith was incarcerated, he asked his father why he was so cold toward him over all the years. His father then disclosed that he thought he was not Keith's biological father.

When Keith reflects back on his life, he thinks a big part of his downfall was the difficult relationship he had with

his father. Keith became involved with the juvenile justice system after his dad called the authorities on him instead of just dealing with him as a normal parent would have done. This started a life as a petty criminal with a variety of problems and issues that persisted over time.

In spite of his difficulties growing up, Keith has nothing but good things to say about his mother. He says she is a good person with a good heart. Some of the correction officers I met at the prison have known Keith's mom through the years and concur. It is very apparent to me that Keith loves her very much.

Keith's insights into human nature are always quite apt. Throughout the past two and a half years I have shared some pretty intimate stuff with Keith. He has a deep understanding of human nature and has given me some rather good advice. Believe it or not I have a better marriage because of some of the talks I have had with him.

Every time I have visited Keith his behavior has been exemplary and it is apparent that he is on good terms with the guards that escort him to and from the visitation area. He is always kind and pleasant to them as they transition his shackles from around his body down to his ankles and the metal bar on the floor. The guards that escort me will sometimes ask who I am visiting and when they hear it's Keith they will tell me he is one of the good guys that seldom causes any problems.

From time to time I order food for Keith through the approved prison food package system. He proudly reports about the exquisite dishes he concocts from those packages. Keith recognizes that there are a lot of

cell block mates who don't have any outside support so he kindly shares his creations with his fellow inmates who are weary of prison food.

Keith has been on death row for nearly 25 years and has developed a close circle of friends on his block. He has spoken to me about how he helps some of the younger and newly arrived inmates who enter death row. What he describes to me is what I call "mentoring". He unselfishly helps other men sort through their issues and counsels them to have self-control and equanimity. He further encourages them to be introspective and to come to terms with their past actions and to develop a faith to carry them into the afterlife.

I feel like I am a good judge of character given my background in business, my over forty year marriage, and raising four children. Over the years that I have gotten to know Keith, we have discussed many topics ranging from entertaining stories to even the dark side of his circumstances. He is a very genuine and compassionate human being. Even though Keith has very little contact with the outside world, it is obvious to me that he works very hard to be a good citizen. He strives to have a positive impact on the people he deals with both inside and outside of prison.

Knowing that he may soon no longer be with us, Keith has asked me if I could find it within my heart to visit another death row inmate. He says this particular individual receives no visits from family members and an occasional visit from a nice church lady. Keith says he would benefit from a "dude" friend.

And finally I would like to share one thing about Keith with you. It's something that personifies exactly who he really is today.

Typically it is the “do-gooder” who elects to visit prisoners to counsel them with their faith and help them seek eternal salvation. For me, I explained right from the start that my presence was to neither redeem nor save anyone, merely to bring a little sunshine into their life. Gradually over time, Keith has spoken to me about his faith and his membership in the First Community Church congregation. Not long ago he has gently encouraged me to give them a try – to attend one of their services.

Ironic as it seems – in this case, it is the death row inmate with the heartfelt concern for the salvation of his fellow man, a visitor from the outside.

Somewhere, someplace, I have to believe there is someone smiling down upon him.

Ladies and gentlemen of the Parole Board Authority, thank you kindly for your time and attention.