

**MEMO RE COMMUTATIONS OF DEATH ROW PRISONERS BY
REPUBLICAN GOVERNORS WITH A FOCUS ON FORMER OHIO GOVERNOR,
JOHN KASICH.**

Date: 7/14/2025

From: Erin McCallon

The following is what I found regarding commutations for death row prisoners by Republican Governors James Gilmore of Virginia, and John Kasich of Ohio. John Kasich notably granted clemency for 7 death row prisoners during his term as governor.

In general, my current research shows three main themes for clemency petitions that seemed to be fruitful for positive outcomes:

1. A strong showing of decreased mental capacity, both at the time of the crime and presently.
2. A strong showing of exceptional ineffective assistance of counsel.
3. Any kind of concern regarding culpability, which is made stronger through participation of other parties expressing that same concern, such as former jurors, prosecutors, or jurists.

In my analysis of the following cases, I have reviewed where available the detailed minutes of the board hearing for clemency, to review the theme for the case in support of clemency and in opposition, or the petition in support of clemency. Additionally, I reviewed articles regarding each governor's granting of clemency, searching for any quotes for what stuck out to them regarding each petitioner's application or case. Additionally, I have included the basic facts for each crime for our analysis, and when available, whether the defendant maintains any innocence of the crime.

Important to the analysis of each Ohio commutation is that applications are presented to the Ohio Parole Board, which are then voted on and presenting a recommendation to the Governor. Governor John Kasich, in a single instance, chose to grant clemency to a defendant despite the Board not recommending so, for John Jeffrey Eley, whom the board recommended 5-3 unfavorably for clemency. In each of the other cases where clemency was granted, the parole board voted majority favorably in recommendation of clemency. A unanimous vote in support for clemency is not required, however, as in many cases, the vote was split.

John Kasich, similarly, presided over the executions of 15 death row prisoners during his term as Governor. In almost every instance, the board unanimously voted unfavorably to recommend clemency to the governor. For Ronald R. Phillips, the board voted 10-2 unfavorably, and for Robert Van Hook, the board voted 8-1 unfavorably. The takeaway of this short analysis is that at least for John Kasich, the board's recommendation carried considerable weight in his decision-making whether to grant clemency.

The following are my notes on the above cases:

Commutation of Calvin Swann by Governor James Gilmore

Last published opinion before commutation:

<https://www.ca4.uscourts.gov/Opinions/Unpublished/9820.U.pdf>

Why: Severe mental deficiency, denoted by his schizophrenia and continually bizarre behavior while in prison.

State: Virginia

Courts rejected Ake claim, remanded on Ford claim but execution was imminent, Gilmore intervened.

Facts:

1. Calvin Eugene Swann was convicted and sentenced to death for the murder and robbery of Forrest Richter. On November 7, 1992, Swann was searching for a house to rob to get money to purchase cocaine and enter Richter's home upon noticing the door was open. When Richter reacted to Swann holding up a shotgun at him by charging, Swann fired the shotgun into Richter, stealing \$60 from his wallet before fleeing the scene. Richter died within 30 minutes of the shot.
 - A. Swann confessed to killing Richter and was indicted by a grand jury in Danville on five charges related to the robbery-murder. The jury fixed the punishment at life for the robbery, and fixed the punishment at death for his charge of capital murder.

Claims for Relief:

1. Claim re *Ake v. Oklahoma*, trial court refused to appoint him a psychiatrist.
 - A. Swann moved after indictment for the appointment of a mental health expert, which was granted. After conducting a three-day evaluation, Dr. Samenow concluded that Swann was "not impaired by mental illness at the time he shot and killed Richter."
 - B. Swann moved again for appointment of a mental health expert, specifically a psychiatrist, to assist in the presentation of mitigation evidence for further evaluation on the issue of schizophrenia, claiming the Dr. appointed to him before was not qualified to examine those issues.
 - i The trial court denied Swann's motion.
 - C. The court determines that the claim receives de novo review but determines that Swann's right to due process under *Ake* was not violated.

i Despite his claims, he was not entitled to specifically a psychiatrist at trial, and he is not due an evidentiary hearing as he has failed to develop the factual basis of his *Ake* claim, and even if he was so entitled to a psychiatrist, the error was harmless. (The psychiatrist he wanted appointed to testify at trial testified nonetheless, Dr. Ryans).

2. Execution would Violate Eighth and Fourteenth Amendments in light of his mental condition, *Ford* claim.

A. Competency not challenged at trial.

B. VA Supreme Court stated the claim was procedurally defaulted under *Slayton*.

i Swann objected on ground that he cannot be required to raise the claim until execution became imminent, but objection was overruled.

C. Court dismisses Swann's *Ford* claim without prejudice and remands the claim with instructions that he be "permitted to renew those claims in a subsequent federal habeas proceeding if his execution becomes imminent and he has exhausted any available remedies."

Article re Gilmore Halting Execution:

<https://www.washingtonpost.com/archive/politics/1999/05/13/gilmore-stops-execution-for-first-time/d07ac6c2-3613-4078-81b3-d44406339d19/>

Swann had about 4 1/2 hours before he was scheduled to die by lethal injection; his sentence was commuted to life without parole.

1. Swann has suffered from schizophrenia for 25 years.

2. Rob Lee of the Virginia Capital Representation Resource Center said that they couldn't tell if Swann comprehended, "his only reaction was to ask for a cigarette." He had already ordered a last meal: a cheeseburger, fries, fake and tea.

3. Gilmore's statement: Swann's case "presents unique and extraordinary circumstances justifying my intervention" as his "behavior on death row ha[s] been nothing short of bizarre and totally devoid of rationality... I believe the power of clemency in a matter involving premeditated murder of another individual should be invoked only in the most compelling and extraordinary of circumstances. In my opinion, the case of Calvin Swann presents such... circumstances."

4. Later in the article: "Swann's mental illness was so obvious that even the hard-boiled Danville commonwealth's attorney who prosecuted him, William H. Fuller III, said recently that he would not have sought the death penalty if life without parole had been available at the time of the trial."

- A. Gilmore said that Fuller’s second thoughts were an important consideration.
- 5. “The all-white jury that convicted Swann, who is black, heard little about Swann’s illness.”
 - A. The jury was misinformed that on two separate occasions; Swann had been found mentally incompetent to stand trial.
 - B. Swann’s mental illness surfaced at age 19, when he began talking to animals and speaking in numbers. He was committed to a state hospital.
- 6. Mark Mills, a psychiatrist who examined him after sentencing, found him to be “totally crazy,” and “exhibiting a more devastating pathology” amount more than the 10,000 patients he evaluated over the years.

GRANTS OF CLEMENCY BY JOHN KASICH:

Article by WKYC re “Gov. Kasich spares record number of death row inmates” - <https://www.wkyc.com/article/news/local/ohio/gov-kasich-spare-record-number-of-death-row-inmates/95-578666829>

- 1. “[T]he governor appreciates the gravity of clemency authority and carefully considers cases ‘to make decisions that further justice.’”
 - A. John Kasich spared 7 men in total and allowed 15 executions to proceed.
- 2. Seems to perform in tandem with the Ohio Parole Board.
- 3. What it Appears Kasich Cared About
 - A. Effective Representation
 - B. Mental Capacity
 - C. Culpability

Commutation of Raymond Tibbetts

Why: Regrets by former juror, obvious issues regarding trial counsel’s effectiveness (failure to investigate, develop mitigating evidence, etc.) that seriously undermined Tibbetts’s death sentence.

- 1. Consideration: Letter from Juror Geiger to Governor Kasich asking him to commute Raymond’s death sentence.

https://dpic-cdn.org/production/legacy/Tibbetts_JurorRossGeigerLetter.pdf

A. After reading the material from Raymond's bid for clemency, "I have deep concerns about the trial and the way it transpired."

i Shocked that few mitigating witnesses were called, and mitigating circumstances offered.

ii "The reality seemed to come down to the single question of whether Tibbetts upbringing was such that his life should be spared... Based on the totality of the information that was available to us, and the fact that there was not one other person willing to speak to mitigation... we (the two voting for life) could not conclusively say that the childhood was to blame. Additionally, at the time the drugs argument did not carry much weight because we were not aware of the very real problems of prescribing opioids to people with addictive behaviors... Imagine my anger when I was able to review the clemency transcript as well as supporting documentation in favor and opposed to clemency. Pages of relevant information concerning details of abandonment, foster abuse, and re-abandonment that began before Tibbetts was even two years old. The shocking revelation that Tibbetts sister was able to testify but was not included in the penalty phase testimony. The revelation that the prosecutors got it wrong if not lied about the Tibbetts siblings having normal lives... All of these things lead me to one conclusion and that is **that the system was and seems to be today very flawed in this case... Based on what I know today I would not have recommended the death penalty.**"

2. Case Information:

A. Convicted for the murders of Judith Crawford (LWOP) and Fred Hicks (Death). Hicks had employed Judith Crawford as a live-in caretaker, and Tibbetts lived with them as he had just married Crawford a month before the murder, on November 6, 1997. Hicks's sister, Joan, visited their home in Cincinnati and found her brother dead upstairs. "They found Hicks with a tube still connecting his nose to a nearby oxygen tank." He had 2 knives in his chest, one in his back, and a fourth blade also in his back. He had no defensive wounds. After searching the rest of the house, officers found Crawford on the third floor, having been severely beaten with her head cracked open, a knife in her neck, a broken arm, and a bloodstained baseball bat and several knives nearby the body.

Commutation of Arthur Tyler:

https://www.cleveland.com/open/2014/04/gov_john_kasich_grants_reprieve.html

Why: Concerns regarding degree of participation in the crime.

1. **Ohio Parole Board recommended mercy** "because of questions surrounding his murder conviction in the 1980s."

A. Convicted in Cuyahoga County in 1986 for the murder of Sander Leach.

B. **“The questions that continue around this case are fundamental and the irregularities in the court proceedings are troubling.”**

i He was one of two people convicted for the crime, but the only one sentenced to die. Co-defendant confessed almost immediately, “admitted to police, family and friends that he shot Leach in a struggle for the gun.” Later, signed a confession but changed story to say Tyler shot the gun. Co-defendant was released in 2008.

2. Petition for Commutation of Sentence:

https://media.cleveland.com/open_impact/other/Tyler.Clemency%20Petition.FINAL.4-17-2014-1.pdf

A. **“There is grave doubt in this case. As Governor John Kasich stated recently, “When there has been any doubt on this, we don’t execute.”** Cleveland Plain Dealer, 2/13/2014.””

B. Focus is on guilt issues, degree of participation. A few other points are made, but the bulk of the petition is focused on the co-defendant having actually fired the gun.

Commutation of Ronald Post:

<https://www.cbsnews.com/news/ronald-post-condemned-obese-ohio-killer-granted-clemency/>

Why: Constitutionally inexcusable and defective representation by trial counsel.

1. I suppose there were arguments made that Ronald Post may have been “too fat to be humanely executed”, but he was **pardoned by Kasich on the grounds that he “had poor legal representation.”**

A. No doubt about guilt; however, serious missteps by attorneys regarding the guilt phase of the trial.

B. “When the governor made his decision on Monday, he said all criminal defendants, regardless of the heinousness of the crimes, deserve an adequate defense.”

i Parole board rejected arguments that Post deserves mercy, but “couldn’t ignore perceived missteps by his lawyers.”

2. Clemency report: https://drc.ohio.gov/wps/wcm/connect/gov/792e5630-b9f8-490c-b714-91692f444f57/clemency_rpost12142012.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_79GCH8013HMOA06A2E16IV2082-792e5630-b9f8-490c-b714-91692f444f57-obbXfIF

A. Facts of Case:

i In the morning on 12/15/1983, Post killed Helen Vantz, an employee at the Slumber Inn, sometime between 4am and 6am, while she was sitting at her desk working on nightly accounts. He got the gun from a friend, who he picked up late the night before but had dropped off before the incident. The victim was found slumped at her desk, with a bank deposit bag and her handbag missing. Post drove to North Ridgeville and met with Ralph Hall (the owner of the gun) and Debbie Hall, and he told Ralph what he had done. Post later went to the home of James Harsh and asked him to say Post had been with him between 2:30am and 7:30am, but Harsh refused to support the alibi. Post admitted his guilt to several other people that day.

a) He got the gun from Ralph Hall, a friend he picked up (with another friend, Jeff Hoffner). They went to the Slumber Inn together, but allegedly when Post went inside and recognized Carol who was working the front desk, he decided they would not rob the Inn and dropped Ralph and his other friend off, keeping Ralph's gun in the process, and returning to the Inn by himself, later killed Helen Vantz.

B. Statements to the Board:

a) Expressed sympathies to the victim's family during sentencing, and would have gotten in touch to express remorse if they had given him an indication they wanted contact; however, states he did not kill the victim.

b) Post maintains that his role in the crime was to drive Hall (the owner of the gun) to the motel in exchange for gas money. The gun belonged to Hall. He would not have needed Hall's gun to commit the crime, as he had plenty of his own guns.

c) He dropped Hall off at the Slumber Inn and waited in the car. Hall bought him a full tank of gas after he came out. He denied receiving any proceeds or having any knowledge of the murder until he read about it in the newspaper. Post said the other man involved, Jeff Hoffner, was not there for the robbery.

d) Post told the board that "Hoffner wrote him a letter in which he expressed remorse that Post went to prison." He

hypothesized this is because Hoffner, who was Hall's brother-in-law, aided in the conspiracy and prosecution against Post.

e) When asked why he pled no contest, Post indicated that it was because one of his attorneys wanted him to plead no contest (Michael Duff), while the other (Lynette McGough) urged him to enter a guilty plea. "Post told the Board that his two trial attorneys were always at odds with one another. Post wanted to take the case to trial. However, Duff convinced Post's family that he would receive the death penalty unless he pled no contest."

f) Post's counsel (at the time Ernie Hume) retained a polygraph examiner, Robert Holmok, to administer a test, and signed a waiver stating he was voluntarily submitting to a polygraph. "This is the document that was later alleged to be Post's confession to Holmok that he killed Vantz." Post notes that the confession is not in his handwriting, but "that Holmok handwrote the confession, and he asserted that his signature was surreptitiously placed under it."

(1) Robert Holmok was also retained by the state in this same case.

C. "The Board is not inclined to make a favorable recommendation for clemency on the basis of Post's alleged innocence as to the shooting... However, despite Post's apparent guilt, a majority of the members of the Parole Board agrees with the proposition advanced by Post's counsel that the totality of omissions, missed opportunities, and questionable (if not inexplicable) tactical decisions made by Post's former attorneys warrant the exercise of Executive clemency."

Commutation of John Jeffrey Eley***

Why: Serious concerns regarding his mental capacity both at the time of the offense (bordering on culpability concerns) and continually (his competency to be executed).

1. Ohio Parole Board voted 5-3 to **decline** clemency.

A. Important: In previous acts of clemency, each has been recommended favorably by the pardon and parole board to Kasich.

2. The governor said he based his decision on evidence that Eley acted under the direction of another person, and that his mental capacity was limited, saying, "Without those factors it is doubtful that Eley would have committed this crime." – DPIC:

<https://deathpenaltyinfo.org/ohio-governor-grants-clemency-based-on-defendants-mental-capacity> ; Kasich official statement: <https://dpic-cdn.org/production/legacy/KasichComEley.pdf>

- A. Acting under Melvin Green, who mostly walked away from this as Eley refused to testify against him.

Commutation Application, Board Hearing:

Link: https://drc.ohio.gov/wps/wcm/connect/gov/194ce73a-f886-41ad-847e-06e06ebdf59b/Clemency_jeley198441.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_JQGCH4S04P41206HNUKVF31000-194ce73a-f886-41ad-847e-06e06ebdf59b-obbYUKO

1. Focus of campaign: mental deficiency, culpability, competency to be executed.

A. “Vicki Werneke next stated that Eley's records reveal factors that could indicate that he suffered from brain impairment. These factors included: he was delivered at birth via forceps; he participated in boxing as a teenager; he had a head injury; he abused alcohol and drugs, and hospital records from 1976-1984 show that he was hospitalized several times due to alcohol and infections related to alcohol use; these factors also support that Eley is mentally retarded.”

i IQ testing for Eley, given the Flynn effect, would show a score around 70-75 percentile range.

ii Eley is gullible, something highly taken into consideration for ID diagnoses; he consulted with Green’s counsel whether or not he should testify against Green, as an example.

iii “If evaluated for competency using today's more sophisticated testing, Eley would be found incompetent; he does not have a rational understanding of what is happening; he may also be mentally ill, as there is a higher likelihood of mental illness in individuals who are mentally retarded, and diagnostic over-shadowing of mental illness can occur because behaviors are attributed to mental retardation.”

B. Trial counsel stated on video that Eley was unable to understand the gravity of the situation. Refused to cooperate for competency testing, refused to take a plea because he did not want to be a witness to Green’s trial. “Eley was not concerned about his trial as evidenced by his statement to the court consisting of unexplainable religious comments in an attempt to sound smart.”

C. Post-Conviction counsel stated Eley did not understand legal concepts; he is susceptible to being manipulated by other inmates, and he is not competent. He wanted to skip state court and file a federal post conviction petition; he didn’t understand the concept of exhaustion. Once his claims were exhausted, he refused to sign the paperwork that would allow counsel to file in federal court, even though that was what he wanted for years.

D. Dr. Smalldon, a psychologist, opined that Eley lacks rational capacity, is incompetent, and does not appreciate what effect his statements (for example,

stating he does not even know Green, and that his conviction is a racist conspiracy) has on his clemency petition; he is illogical. Eley would complain his attorneys were not visiting him, but he would refuse their visits.

E. A former judge on the panel that sentenced Eley to death stated if he had known what he knows now regarding the mitigating circumstances around Eley's functioning, he would have voted for a sentence less than death.

2. The opposition claims that Eley is not mentally deficient, was given an expert for an Atkins claim who found his IQ to be at 82 and found him not to be deficient, and that Eley is a liar, and a career criminal.

3. Board, 5-3, in opposition of clemency, as no substantiated Atkins claim was proven, and his actions can be proven by ASPD and not necessarily mental deficiency. Eley shot the gun that fired the bullet, undisputed.

A. Those for clemency: Not worst of the worst, mental capacity, culpability/influence of Melvin Green

Commutation of William Montgomery

Link: https://dpic-cdn.org/production/legacy/WilliamMontgomery_Commutation_3.26.18.pdf

Article from The Intercept: <https://theintercept.com/2018/04/10/william-montgomery-ohio-death-sentence-commutation/>

Article by the ABA: https://www.americanbar.org/groups/committees/death_penalty_representation/project_press/2018/spring/william-montgomery-granted-clemency-amid-concerns-about-reliabil/

Why: "Too much doubt", with the board recommending clemency 6-4.

1. Montgomery is charged with murdering two young women in Toledo in 1986; he knew both victims, and ballistics were traced to his gun. Therefore, police concluded he killed both women.

A. Sentenced to death for murder of Ogle, sentenced to 15-to-life for Tinch.

2. The State's Theory: He killed Ogle first in the course of robbing her and killed Tinch to cover it up on the same day – March 8, 1986.

A. Tinch's body was found in her car on March 8th. The following day, Ogle's car was found behind an abandoned home. Police officers got the name Glover Heard from a man in the county jail, Michael Clark. They located Heard and obtained the name of William Montgomery. William Montgomery agreed to interview with the police, changed his story a few times, but ultimately held that

Heard murdered both girls, and that Montgomery would be able to lead the police to Ogle's body, which he did.

B. Review of autopsy, photos, transcripts, etc. cast doubt on the State's theory; evidence shows Ogle likely died closer to when body was discovered on March 12th. Additionally, none of Ogle's belongings were found in Montgomery's possession; in fact, Ogle's wallet was found in the room of the State's main witness, Glover Heard.

C. Evidence pointed that Heard had cut a deal with the state "to avoid the death penalty and to avoid prosecution for an unrelated charge of gross sexual imposition with a 5-year-old child" in exchange for testifying against Montgomery; Heard pleaded as complicit in the murders and was charged 15 years to life.

3. Abraham Bonowitz of Death Penalty Action remarks that Kasich's commutation of 6 death sentences while in office shows a "real discomfort with the death penalty as a whole." Concerns regarding innocence play a part in that discomfort for Kasich.

Clemency Hearing

Link: https://drc.ohio.gov/wps/wcm/connect/gov/078c3f7f-a0a6-4153-88fb-86c2c6fd021f/William+Montgomery+Death+Penalty+Clemency+Report+and+Recommendation+%281%29.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_M1HGGIK0N0JO00QO9DDDDM3000-078c3f7f-a0a6-4153-88fb-86c2c6fd021f-obbSVVU

1. Focus: Lack of credibility of Glover Heard as a witness; Innocence.

A. "One important piece of evidence that was not considered by the jury was a police report that describes several of Ogle's high school classmates having reported seeing Ogle after 1:00 a.m. on March 12, 1986, four days after Montgomery is alleged to have killed Ogle."

B. "Oebker argued, further, that Montgomery's case is eerily similar to the case of Arthur Tyler, who received a unanimous favorable recommendation for clemency from the Board in 2014 and whose sentence was ultimately commuted to life without the possibility of parole by Governor John Kasich."

C. "Oebker noted that one of Montgomery's trial jurors, Sidney Thomas, executed two affidavits, one in 1992 and another in 2018, which, taken together, indicate that Thomas had doubts about Montgomery's guilt at the time of trial in 1986."

D. "Though it was held by the United States Court of Appeals for the 6th Circuit to fall below the level of constitutional error, the state's failure to disclose the police report documenting that Ogle was observed by witnesses on March 12, 1986, four days after Montgomery is alleged to have killed her, gives a majority of the Board pause nevertheless," the majority wrote.

2. Opposition to Clemency points out that Montgomery had manslaughter on his juvenile record.

Additional notes: Successful, public-facing media campaign to assist clemency strategy overall.

Commutation of Joseph Murphy

Link to Reuters Article: <https://www.reuters.com/article/world/uk/ohio-governor-commutes-sentence-of-death-row-inmate-idUSTRE78Q016/> ; The Columbus Dispatch: <https://www.dispatch.com/story/news/crime/2011/09/26/governor-spare-life-condemned-killer/23610857007/>

Why: Penalty inappropriate given brutal upbringing and young age at the time the crime was committed, according to Kasich.

1. "Murphy suffered uniquely severe and sustained verbal, physical and sexual abuse from those who should have loved him"

Universal Recommendation for Clemency by the Board

Link: https://drc.ohio.gov/wps/wcm/connect/gov/06d463a6-a04a-4253-b099-fec42cf6202f/Clemency_JMurphy_+A199042.pdf?MOD=AJPERES&CONVERT_TO=url&CA_CHEID=ROOTWORKSPACE.Z18_79GCH8013HMOA06A2E16IV2082-06d463a6-a04a-4253-b099-fec42cf6202f-obb.s80

1. Ruth Predmore (victim) was elderly and lived alone; Joseph Murphy performed yard work for her and was acquainted with her. Applicant told his girlfriend he intended to extort money from Ms. Predmore through a threatening letter, telling her to put money in a bag in her yard or he will kill her that night. Ms. Predmore showed the note to a salesclerk. Ms. Predmore was murdered on the night of February 1st with stab wounds to the throat; Joseph came home that night with blood on him, but no cuts. Ms. Predmore's body was found the following day by an in-home caretaker. Detectives located belongings of Ms. Predmore's within 50 feet of the Murphy residence, and bloody clothes in Joseph Murphy's possession, with the bloodstains matching the characteristics of Ms. Predmore's blood type.
2. Notes from Joseph's Record: He was voluntarily committed to a children's psychiatric facility in 1980 from May until December.
3. During board hearing, Joseph said he committed the crime because he needed money to help pay for his sister's medical bills. He said that after Ms. Predmore didn't respond to the letter, his brother-in-law told him they should break in to take items to sell. When Ms. Predmore confronted them, Joseph said he got scared and stabbed her in the neck. He chose to victimize Ms. Predmore because he thought it would be a quick in-and-out situation. Applicant admitted to setting many fires when he was younger; when he would get in trouble with his mom, he would set fires so that police and firefighters would come and deflect attention away from him.

A. “Applicant stated his father traded their food stamps for alcohol and that his mother would tie him to the bed when she left the home. Applicant stated he was institutionalized at age 10 and resided in various treatment facilities in West Virginia, Pennsylvania, Ohio and Colorado up until to the age of 17. Applicant states his last placement was at the Dayton Children's Psychiatric Center, where he was eventually removed by his father due to being sexually assaulted. Applicant reports his worst memory of his childhood was at 6 years old, the day his father allowed the local moonshine salesman to rape him for a gallon of moonshine, and that during his cries for help, his father refused to assist him. Applicant admits to killing several pets and assaulting others during his youth. Applicant went on to report his conduct eventually resulted in him being placed in several treatment facilities in West Virginia, Pennsylvania, Ohio and Colorado. Applicant stated his siblings did not experience the same treatment due to being considered normal. Applicant reports he was not allowed to play with his siblings or other children because according to his parents, "he was not normal."

4. Arguments in Support of Clemency (Presented by Former Ohio Supreme Court Justice Herbert Brown):

A. Low Functioning: IQ of 74; testing at a 2nd grade level and working with the emotional capacity of a 12–14-year-old. Suffers from impaired frontal lobe.

B. Severe Abuse and Neglect: Was left home alone to starve; extensive sexual abuse – was sold for sex by his father; was left in a burning home as an infant.

C. Victim Support: Two members of the victim’s family are in support of clemency; victim’s niece spoke in support of his clemency at the hearing.

5. Unanimous Support for Clemency. Why?

A. Mitigation in this case is overwhelming.

B. Total lack of any positive influence or caretaker in the defendant’s life.

C. That members of the victim’s family support clemency.

Commutation of Shawn Hawkins

Link: <https://deathpenaltyinfo.org/clemency-ohio-governor-commutes-death-sentence-because-of-doubts-about-defendants-role> ; Link to local Fox article:

<https://www.fox19.com/story/14871564/gov-kasich-grants-clemency-to-death-row-inmate-hawkins/>

Why? Lingering concerns over degree of involvement, lack of investigation into possible co-conspirators and their degree of involvement, and questions regarding the State’s main witness.

1. First commutation by Kasich.
2. “Republicans Ken Blackwell, a former Ohio Secretary of State and 2006 gubernatorial candidate, former Ohio Attorney General Jim Petro, and state Sen. Bill Seitz all wrote letters to Gov. John Kasich or to the Parole Board on behalf of Hawkins. Sen. Seitz stated, “[T]here is no reason to end Mr. Hawkins’s life on something so utterly flimsy as mishandled and inconclusive fingerprints and the testimony of a witness with every motive to lie....” (DPIC)
3. “Governor Kasich gave the case the microscope treatment and called it "frustratingly unclear" what the condemned killer's role was in the 1989 double murder.” (FOX19)

Clemency Hearing:

Link: https://drc.ohio.gov/wps/wcm/connect/gov/fcf914c6-dcda-4877-9477-02ef1a9e13e8/clemencyhawkins218401.pdf?MOD=AJPERES&CONVERT_TO=url&CACHEID=ROOTWORKSPACE.Z18_JQGCH4S04P41206HNUKVF31000-fcf914c6-dcda-4877-9477-02ef1a9e13e8-obc0bZ5

1. **FACTS:** Victim Diamond Marteen and Jerome Thomas were looking to purchase a pound of marijuana from defendant Shawn Hawkins, who they met through a mutual acquaintance, victim Terrence Richard. They met to discuss details for the sale. Thomas gave Marteen the money for the sale to hold, which was approximately \$1,400. Marteen and Richard went to a friend's home, and left, presumably to purchase the marijuana. Their bodies were later found in a Hyundai sedan, with both sustaining two gunshots to the head from a .25 caliber weapon. Marteen’s pants pockets were inside out, indicating that a robbery may have been the motive. Inside Richard’s pocket was a note for Shawn Hawkin’s pager number that he provided during their initial meeting for purchase. Investigators discovered Hawkins’ fingerprints inside of the Hyundai sedan, one of which was bloody. Furthermore, a witness identified Hawkins as the killer.
2. During board hearing, Hawkins professed his innocence and requested his sentence be commuted to LWOP. He stated his DNA was in the car because he got inside of the car to discuss the details of the deal during their earlier meeting that day. He never saw them again after that meeting. He said the witness, Henry Brown, was the brother of a close friend of his, and that he is a pathological liar, and possibly was convinced by the police to say Hawkins did it. The same witness implicated another drug dealer in the crime, who was not charged at all. He was at that friend’s house (who Brown also implicated), and they were playing basketball and drinking beer that night. He did lie about his pager, but because he wanted to distance himself from the murder because he was scared. He questions whether the fingerprints were properly processed by law enforcement.
3. Arguments in Support of Clemency:
 - A. Juror writes that she wishes he was more overwhelmingly guilty.

- B. Racist remarks by detective in case regarding race of the victims and defendant.
 - C. Henry Brown was not a reliable witness.
 - D. The bloody fingerprint in the notebook is not definitely Shawn Hawkins'.
 - E. Trial counsel did not present mitigation.
 - F. Several prominent figures in Ohio State Law have discussed their reservations regarding Hawkins' sentence.
1. Parole Board Decision: Clemency is Recommended
- A. Evidence overwhelmingly suggests that Shawn Hawkins was involved, at least in setting up the transaction, and in moving the bodies, but issues remain with the overall conviction.
 - B. The involvement of others was not fully investigated in this case; no mitigation was presented; jurors have residual doubt to this day; state presentation of evidence that should have been suppressed; unreliability of the main witness.