

ORIGINAL

*Application to the
Georgia Board of Pardons and Paroles
on Behalf of
John Wayne Conner*

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BEFORE THE
BOARD OF PARDONS AND PAROLES
STATE OF GEORGIA

*Application to the Georgia Board of Pardons and Paroles
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INTRODUCTION

John Wayne Conner is a testament to the rehabilitative process. Despite being on death row for the last 34 years without hope of release, Mr. Conner has transformed himself from a violent young man with severe substance abuse problems into a peaceful and productive member of the prison community. Having been raised in almost unimaginable circumstances of poverty and violence, Mr. Conner initially fell into the pattern modeled by those in his family. In prison, Mr. Conner has shed the trappings of his past and now is of far greater service to the State of Georgia alive than dead. In the words of a longtime corrections officer, "John Wayne Conner is worth saving."¹

Mr. Conner feels great remorse for taking the lives of Jesse Smyth and J.T. White, and for the pain he has caused their families and friends. None of the information offered herein is meant in any way as an excuse for Mr. Conner's violent crimes. Rather, it is offered in the hopes that it gives this Board context and an understanding of how Mr. Conner became a man capable of taking others' lives during drug- and alcohol-fueled bouts of violence, and how he has since

¹ Letter from Dennis Morgan, a retired correctional officer who supervised Mr. Conner on Death Row for eight years (Exhibit 1).

become a faith-filled, productive, hard-working, peaceful, and creative member of the prison community.

The members of this Board are the only decisionmakers who will have an opportunity to weigh Mr. Conner's culpability and value as a human being, and determine the punishment he deserves for J.T. White's murder on the basis of complete and accurate information. The information presented to this Board is information Mr. Conner's sentencing jury never heard or considered. It is information Mr. Conner's state postconviction courts never heard or considered. And, it is, in large measure, information Mr. Conner's federal postconviction courts never heard or considered. In part, this is because Mr. Conner was represented at trial by a young appointed attorney who was wholly inexperienced in capital defense and neglected to investigate Mr. Conner's mental health, cognitive functioning, or violent and traumatic family background. In part, this is because Mr. Conner began his legal appeals before law offices like the Resource Center existed to assist and provide litigation funding and resources to individuals on death row. And, in part, it is because, at the time of his capital trial, Mr. Conner had not yet transformed into the faithful, hard-working, kind, and artistic man he is today.

Mr. Conner's case is unique because it is a relic of a bygone era. His entire trial, including voir dire, took place in three days, from July 12-14, 1982. His lone 26-year-old defense attorney, Dennis Mullis, had no previous death penalty experience and presented no evidence at either phase of trial. Nonetheless, the jury struggled with sentencing Mr. Conner to death, at first returning deadlocked. In 1984, Mr. Conner entered state habeas proceedings. Mr. Conner was represented by *pro bono* volunteer counsel who was granted zero resources with which to investigate and litigate the petition. Today, such resources are universally provided to death-sentenced inmates, both in Georgia and throughout the country.

Thus, unlike many cases that come before this Board, neither the jury nor the appellate courts had the opportunity to hear the shocking and tragic story of Mr. Conner's childhood in Milan, Georgia, nor the mental impairments that have affected him since childhood. Mr. Conner grew up in a home where vicious physical assaults, incest, sexual abuse, and alcoholism were the norm. Stabbings and shootings were not uncommon. The neighbors feared Mr. Conner's father Carroll, but Carroll's most depraved acts of rage, violence, and sexual deviance were reserved for his wife and children.

Again, unlike other cases that have come before this Board, Mr. Conner was denied a mental health evaluation both at trial and in state habeas proceedings. As a result, neither his jury nor the state appellate courts considered Mr. Conner's death sentence in light of his intellectual disability and brain damage. Although the federal court ultimately considered Mr. Conner's disability, he was nonetheless denied the right to a jury trial on this issue, a right similarly-situated Georgia capital defendants have routinely received.

Because no one else has ever fully considered the horrific past that so impacted Mr. Conner's young adulthood, nor his compelling transformation since, Mr. Conner looks to this Board for the careful consideration and mercy of which he was previously deprived.

Accordingly, pursuant to Article IV, Section II, Par. II(a) and (d) of the Georgia Constitution of 1983, and O.C.G.A. §§ 42-9-20 and 42-9-42(a), Mr. Conner, through undersigned counsel, submits this Application to the Board of Pardons and Paroles seeking commutation of the death sentence he received from the Superior Court of Telfair County on July 14, 1982, as punishment for the murder of Mr. J.T. White. Mr. Conner respectfully asks the Board to stay his execution, presently scheduled for July 14, 2016, to permit its measured consideration of his Application, and to provide Mr. Conner a full and fair hearing before the full

Board, at which he may present witnesses and be heard through counsel. Finally, on the basis of the information this Board learns from this Application, supporting documentation, live witnesses, and its own investigation, Mr. Conner asks this Board to exercise mercy and to commute his death sentence to a term of life imprisonment without the possibility of parole.

I. THIS BOARD IS THE FIRST AND ONLY ENTITY TO HEAR AND CONSIDER RELEVANT, COMPELLING INFORMATION ABOUT MR. CONNER'S TRAUMATIC BACKGROUND.

A. Mr. Conner's Childhood was Marked by Violence, Incest, Poverty, Depression, Academic Failure, and Mental Impairment, Facts Which Were Never Disclosed to Mr. Conner's Jury or Subsequent Appellate or Postconviction Courts.

Imagine a man who evokes fear and repugnance from an entire community. A man who uses the freshly sharpened pocketknife he carries everywhere to slit the throat of a man for simply brushing arms with his pregnant wife on the street.² A man who, during his WWII service, the story goes, beheads a man in a movie theatre for sitting in the seat between him and his brother.³ A man who pulls a knife on a Good Samaritan who helped pull his truck out of a muddy riverbed.⁴ A man whose raised voice causes the neighbors to shelter inside their homes.⁵ A man who stabs his brother⁶ and nearly kills his own father-in-law by cutting his throat.⁷ A

² Linda Jones Affidavit ¶ 11 (Exhibit 9): "Mama told us kids that Daddy cut a man's throat on the street because he brushed by her when he passed by, and Daddy didn't like it."

³ Angie Elleman letter, p. 4 (Exhibit 17).

⁴ Eddie Spires letter, p. 2 (Exhibit 12).

⁵ Linda Jones Affidavit ¶ 19 (Exhibit 9).

⁶ Angie Elleman, p. 4 (Exhibit 17).

⁷ Mabel Kuhn letter, p. 1 (Exhibit 13); Linda Moon letter, p.1 (Exhibit 15); Linda Jones Affidavit ¶ 11 (Exhibit 9).

man who routinely rapes his own daughters causing multiple pregnancies.⁸ A man who carves up his wife like a “jigsaw puzzle.”⁹

Now imagine that man is your father.

A child’s sense of normalcy is defined not by the outside world’s social norms, but rather by his immediate family and home life. For young John Wayne Conner, normalcy included extraordinary familial violence that frequently involved knives and guns; regular drug and alcohol abuse; and brutal physical, sexual, and emotional abuse. Mr. Conner’s background does not excuse his crimes. It does, however, shed light on how a young man – long since reformed into the creative and hard-working person Mr. Conner is today – was once indoctrinated into a life that normalized drugs, alcohol, and violence, so much so that he drunkenly beat a friend to death in reaction to a lewd comment.¹⁰

Because of the bygone era in which Mr. Conner’s crimes took place,¹¹ the woefully inadequate systems in place for capital defendants at that time, and some particularly draconian procedural rules which prevented Mr. Conner from presenting this evidence more recently, this Board is the *first and only* entity able to consider this information and the mitigating effect it should have had and should still have on Mr. Conner’s death sentence.

⁸ Linda Jones letter, p. 2 (Exhibit 8); Cynthia Ingram letter, p. 2 (Exhibit 10).

⁹ Thelma Ann Royals letter, p. 1 (Exhibit 11).

¹⁰ Linda Jones, p. 4 (Exhibit 8): “Shorty would never want me to tell you that his childhood is the reason he did the bad things he did. He is not one to offer excuses, and I agree that his childhood is no excuse for what he did. But I know it did affect him, especially his drinking, and when I look back at what he went through, it makes me realize just how far he has come to be the caring, considerate person he is now.”

¹¹ Angie Elleman letter, p. 1 (Exhibit 17): “Not only was there no presentation to the jury about John’s childhood and life, the most compelling and tragic childhood story was ripe to have been told.”

1. John's Parents' Impoverished, Traumatic, and Troubled Histories

John's father, Carroll Conner had an eighth grade education and joined the Army during World War II. While fighting in the Pacific, Carroll killed a man in a movie theatre¹² and developed an opium addiction. He brought both the story of this killing and his addiction home to Georgia. In 1944, Carroll married Inez Revell, with whom he had five daughters. They divorced in 1952, a year after Carroll was convicted of assault with intent to murder Inez's father, Leonard Revell, whom Carroll stabbed multiple times and cut across the neck, nearly killing him.¹³ For this offense, Carroll served two years in prison.¹⁴

Five years later, Carroll married Beatrice Gresham, with whom he had five more children, including John.¹⁵ Carroll and Beatrice moved to Milan, a small poor town, in which the Conners were one of the poorest families, a circumstance for which – in addition to Carroll's drinking and violence – they were shunned.¹⁶ During this time, Carroll drank heavily, going on

¹² Linda Jones Affidavit ¶ 10 (Exhibit 9): "Our Uncle Claude told us that when he and daddy were in the war together, daddy cut off a man's head in a movie theatre where they were stationed in the Pacific. I know it sounds crazy, but when I was growing up, it fit with what I knew about Daddy and I believed it. I still do."

¹³ Gloria Carter letter, p.1 (Exhibit 14): "My father came to my granddaddy's house to get us back and cut my granddaddy all the way around his neck. . . . The doctor said that if the cuts had gone the least bit deeper it would have hit the jugular and Granddaddy would have bled to death."

¹⁴ Monroe County Court records of Carroll Conner (Exhibit 28).

¹⁵ Between John and Linda's births, Beatrice gave birth to a sixth child, a boy who died shortly after birth.

¹⁶ Angela Elleman, p. 4 (Exhibit 17): "Growing up, he felt like when people thought of the Conner's they thought of violence and of his daddy's good-for-nothing life. People were afraid of his violent father, and would not come around. Jack felt like children at school would make fun of him and teachers assumed they were stupid. The community did not intervene to help."; Elizabeth Beck addendum report, p. 1 (Exhibit 21): "When I asked him what 'poor'

months-long binges of constant drinking, stopping only when his body went into delirium tremens (DTs) at which point he would be hospitalized for alcohol withdrawal.¹⁷ When Carroll was drinking, he insisted those around him drink as well, including his children whom he started on alcohol in their early teens.¹⁸ Carroll's substance abuse was not limited to alcohol, as he also satiated his opiate addiction, which developed during his wartime service, by injecting boiled-down paregoric intravenously. John and Beatrice were regularly enlisted to help Carroll with the IV administration of his paregoric.¹⁹

meant, he replied that when the family [later] lived in Arkansas, the children did not have shoes, even in the winter when it snowed.”

¹⁷ VA hospital treatment records (Exhibit 27); Cynthia Ingram, p. 2 (Exhibit 10): “My daddy was an alcoholic. He didn't drink every day of the year. He drank for months and then he stopped for months, what you call a binge drinker. When he was drinking he never quit until his body made him quit by giving him the DT's so bad we had to send him to the VA hospital. He didn't go under his own will, only when he became so crazy or so sick he didn't have the choice.”

Linda Jones Affidavit ¶ 15 (Exhibit 9): “Daddy was a binge drinker. He was either all in or all out when it came to drinking. When he was on a drunk, he drank every day until he passed out. When he drank, oh Lord, he was something. When he drank he didn't get out and drive. He learnt me young to drive, and you drove whenever, wherever he wanted. This usually went on for a couple, three months. Then he went into the DT's and after he got bad enough we took him to the VA in Augusta to dry out. It was only the DT's and detox at the hospital that stopped him. I never ever remember him stopping drinking on his own. He'd stay clean for a while and then the cycle started all over again.”

¹⁸ Linda Jones, p. 3 (Exhibit 8): “He liked the people around him to drink when he drank. I believe that is how Shorty started drinking so young. It's how I started too. If you were around Daddy when he was drinking, you didn't leave until he said you could.”

¹⁹ Linda Jones Affidavit ¶ 17 (Exhibit 9): “[Daddy] used to shoot paregoric in a syringe in his arm. I've seen Mama hold his arm. Shorty used to help him, too. They told us never to tell anyone, that it was his medicine. He heated the stuff in a spoon over a hot coal and then shot it. He was shaking when he did it. Later, I learned he got addicted to pain killers after his leg was messed up in a tank explosion. The military put him on Methadone, then sent him home and he was addicted. He took the paregoric until he couldn't get it any more without a prescription. After that he used street drugs and more alcohol.”

Beatrice, who also had an eighth grade education, is described by those who knew her as slow and as having great difficulty caring for her children and her home.²⁰ Beatrice was frequently depressed and “frightened she might kill herself at times.”²¹ An attorney for Mr. Conner who spoke with Beatrice before her death described her as follows:

She was blunted in her affect and not very emotional, even describing horrific abuse. She would state it all so matter of factly. She was resigned that this was her life. Often when I would visit her she would be wearing an old house dress that was stained with tobacco and urine. She would lay down on the couch when she talked to me, exhausted by her life. She lived such a sad life, but didn't have any ability to imagine her life differently

(Angela Elleman, p. 2-3, Exhibit 17.)

2. “It was Hell growing up a Conner.”²²

You can't imagine how Shorty²³ came up, especially if you know him now. He doesn't talk about it, but he had a very bad childhood. I wouldn't wish that kind of childhood on my worst enemy.

– Letter from Linda Jones, John's sister (Exhibit 8)

The home in which Carroll and Beatrice raised their children until John was approximately ten years old had no indoor bathroom and no hot water. To bathe, the family heated water on the stove to pour into a tub on the back porch. The family lived in “filth and squalor,” and the children were left to “run wild and raise themselves.”²⁴ This lack of supervision led to a serious incident in which John's older brother Buster hit John in the head with an axe while chopping wood. Mr. Conner's head split open and he lost consciousness. The

²⁰ Angela Elleman, p. 3-4 (Exhibit 17).

²¹ Elizabeth Beck report, p. 6 (Exhibit 21).

²² Linda Jones Affidavit ¶ 5 (Exhibit 9).

²³ John's siblings refer to him by his nickname, Shorty.

²⁴ Angela Elleman, p. 3 (Exhibit 17).

wound required stitches and the scar is still visible today.²⁵ On one occasion Carroll and Inez's daughters visited Carroll and Beatrice's home in Milan, where they were horrified by the family's living conditions:

We visited my father and his other family, including John, in Milan Georgia. Their house was filthy and run down, more like a shack than a house. The kids were dirty and dressed in old, dirty clothes. I felt the place was unfit to live in. I stopped at a gas station as soon as I could after we left their house to try to wash off my baby daughter since she had crawled on their floor. When we came up, we were poor and there were 10 of us crowded together in my grandparents' small house. But our situation was nothing at all like the horrible conditions I saw my father's family living in.

(Linda Moon letter, p.1, Exhibit 15.) In addition to the physical conditions, Inez's children witnessed the life they narrowly escaped had their mother stayed married to Carroll Conner:

I learned first hand [Carroll] was every bit as crazy as my mama had always told me he was. He and Beatrice and some of their children came for a visit. I don't remember any more which of Beatrice's children were there, but they all came together. Carroll was very, very drunk and turned crazy and mean. He grabbed Beatrice and sliced her arm open with a knife from just below her shoulder to almost her elbow. He insisted she didn't need a doctor, and he took tape and bandaged it all up with the tape. It was a deep and bloody wound, and she definitely should have gone to a doctor. He had a gun and started shooting it inside the house at all of us. I was sitting in a chair and he shot a bullet between my legs. It was a terrible, scary mess, and I have felt so blessed since then that my mama had the sense to divorce Carroll when she did.

(Mabel Kuhn letter, p.1, Exhibit 13.)²⁶ Beatrice's sister Thelma Ann Royals similarly recalls being horrified by the abuse her sister suffered at Carroll's hands:

Beatrice tried to get away from Carroll sometimes. I was still living with my parents in Griffin when she was pregnant with Shorty. She ran away to our

²⁵ Bhushan Agharkar report, p. 3-4 (Exhibit 26)

²⁶ See also Gloria Carter, p. 1 (Exhibit 14): "I know Beatrice's children suffered far more from [Carroll] than my sisters and I did. Mama's divorcing Carroll was one of the best things she ever did for us. I don't know what might have become of us all if she had stayed with him, but I am certain our lives would be very different than they are now."

house, and she had Buster with her. He was just little. We put a mattress on the floor in the living room for them to sleep on. We were all asleep one night when Carroll come in. He had a hunting knife and he kicked Beatrice while she was pregnant and sleeping. We all went into the living room when we heard her scream. My daddy had his shotgun and told him to leave. Carroll didn't believe Daddy would do anything, but then my brother took the gun and told him he wasn't afraid to use both of them barrels. We called the sheriff and Carroll left. Or we thought he did. Come to find out, he hid under the house behind the chimney until the law left. Then he came back in and told Beatrice they were coming with him. He said he was going to come back and kill each and every one of us if she didn't, so she went on with him.

I saw Beatrice in Milan after that. She took me in the bathroom and showed me her bruises on her chest and stomach where he beat her even though she was pregnant. She came back to our house to have Shorty at the clinic in Barnesville. After that Carroll came back to the house and took her away again.

(Thelma Ann Royals letter, p. 2-3, Exhibit 11.)

The violence and chaos Inez's children and Beatrice's sister witnessed was only a tiny glimpse into the terror that was commonplace in Carroll and Beatrice's household, yet it was enough to leave a lasting impression. Indeed, it is nearly impossible to overstate the tragic dysfunction in John's childhood home. John witnessed and suffered various forms of abuse including routine beatings with cords, watering hoses, sticks, roots, and "lighter knots";²⁷ verbal abuse mocking his limited intellectual functioning;²⁸ and knife slashings and gun shots by his father.²⁹ To avoid these horrors, John and his siblings took extreme measures, even sleeping in the woods to avoid their father's bullets and rage.³⁰

²⁷ Elizabeth Beck report, p. 3 (Exhibit 21); Linda Jones Affidavit ¶ 7 (Exhibit 9): "A lighter knot . . . [is] a piece of branch with a knot in it full of sap. People used them to start fires because the sap makes them light fire easy. Daddy liked to use them [to beat us] because they were extra heavy."

²⁸ Linda Jones Affidavit ¶ 5 (Exhibit 9).

²⁹ Cynthia Ingram, p. 2 (Exhibit 10); Linda Jones, p. 3 (Exhibit 8).

³⁰ Bhushan Agharkar report, p.4 (Exhibit 26).

Carroll Conner's savagery was so apparent even to outsiders that neighbors knew to keep their distance from the Conner house:

Because of Carroll, we did not associate [with the Connors] except when we had to, we didn't go in their house and they didn't come in ours.

But I know on account of what I saw happen outside their house that John Conner had a very hard life when he came up. I saw Carroll run all of them out of the house. Carroll was naked so I believe he must have been on one of his drunks. Carroll chased his wife until she dove underneath their house to get away from him. It was up on blocks and had a little crawl space under it. She was on her stomach and her feet were sticking out from under the house. Carroll went after her and cut the bottoms of her feet with his knife.

Carroll was mean, violent and crazy and he had no business raising children.

(Eddie Spires letter, p. 2-3, Exhibit 12.)

Daddy was pure evil. He beat us with belts so bad we peed and worse in our pants. . . . He carried a knife around and threatened people with it. He was known to cut people also. He cut Mama many times. He shot at all of us and threatened to kill us. Everybody was scared of him. We grew up in a tiny town and even the law was scared of him. He used to scare us with stories of how he hurt and cut people. Sometimes he even told us about killing people. He loved to scare us with gory stories of all the Japanese soldiers he killed in World War II. When I was a child, he had me believing he had killed hundreds of soldiers. His stories were gruesome and scary. Most parents try to teach you how to act civil to others. He was the opposite. He was always bragging about hurting others.

(Linda Jones, p. 2, Exhibit 8.)

As John's sister Linda summed it up, "It was hell growing up a Conner."³¹

Daddy made it [hell] and Mama never did anything to stop it. A lot of times she made it worse by telling him every single thing we did when he came home from working. We weren't allowed to have friends when we were in grade school. Daddy didn't want us talking to the other kids or going to their houses. Really that was fine with most of the other families anyway because Daddy had a reputation and the good families didn't want their kids near anyone related to him. Daddy never ever praised any of us. He cut us down like we was nothing. He threatened to kick us, beat us and kill us. He was always cussing at us. I was an

³¹ Linda Jones Affidavit ¶ 5 (Exhibit 9).

adult before I knew you don't talk to a child that way. He was always telling Shorty "you ain't never be a man," and "if you do something like your damn sister, you'll pay." He was talking about Cooter³² running away, but he would say it about anything we did. He even talked mean to his own mother.

Beatings were a normal part of living for us growing up. We all got them except Buster. Buster was the oldest. Maybe he got them when he was younger, too, but by the time I remember Buster he was too tough to take a beating off my daddy and Daddy didn't try. The rest of us got beat with water hoses, and lighter knots. A lighter knot was Daddy's specialty. It's a piece of branch with a knot in it full of sap. People used them to start fires because the sap makes them light fire easy. Daddy liked to use them because they were extra heavy. . . . Some of the beatings were so bad we had to miss school until the marks healed. They were never less than 10 whips.

(Linda Jones Affidavit ¶¶ 5, 7, Exhibit 9.)

Carroll's violence against his wife³³ and children did not stop with hoses and lighter knots used for whipping. Guns and knives were regularly in the mix and used in and around the house on family, friends, and strangers.

I am 6 years younger than Shorty which meant my father was older and calmer when I came along. But he was still the Devil.

There were 5 kids in our family. Our Daddy shot at all of us with real guns when he was messed up from drinking. He threatened to kill us. He's come after us with knives and he's beat us senseless for no reason. He's shot at and cut my mother too. Daddy never cut me, but he did almost kill me with a gun. He chased us all out of the trailer screaming and hollering and waving his gun around. I didn't think I could outrun him so I jumped under the trailer and hid behind one of the wheels. That crazy man shot out the tire right in front of where

³² John and his siblings refer to Cynthia by her nickname, Cooter.

³³ Angela Elleman, p. 2 (Exhibit 17): "I interviewed Mr. Conner's mother, Beatrice, on several occasions. She told me how Carroll violently abused her and the children. She showed me scars where Carroll had stabbed her, and told me about him threatening her and the children many times with knives. He had also shot at them several times. She believed he was 'messed up' from serving in World War II where he had been shot and 'blown up' by a tank."

I was hiding. He was definitely trying to kill me. I know those same kinds of things happened to Shorty and haunt his mind like they do mine.

(Cynthia Ingram p. 2, Exhibit 10.)

It was impossible to know what would set Daddy off. Once I was sitting on the floor and out of nowhere, he bent over me and cut my neck. Mama had just put on a record because Daddy wanted to hear some country music. He cut me so deeply the blood didn't pour down my neck, it spurted straight out. Daddy took off, and Mama didn't have a way to get me to the hospital. She and my brothers ran to the neighbors for help, but they were so scared they closed their doors and pretended not to be there. Mama finally stopped the bleeding by stuffing the wound with flour. Of course it got infected and I had to see a doctor. Mama made me tell him I cut it on a barbed wire fence.

That's just one story, but there are so many. We have all laid in ditches to get out from under flying bullets. We have spent whole nights in the woods because it was too dangerous to go back in the house because daddy was still there. Think of a grown man hitting you so hard and so long with a belt he can't catch his breath. And it wasn't all physical. Daddy always had a threat. We were told to shut our mouth or we wouldn't have any teeth left. He threatened to kill us if we told on him. "I've killed many in my time and it won't bother me that it's kin neither" is what he'd say.

(Linda Jones, p. 3, Exhibit 8.)

John's brothers are no longer living, but have both detailed the violent attacks they and John received at their father's hands. John's brother Buster, who was murdered in 1984, reported that his father "would beat us violently when he was drunk":

When he was drunk, his temper would flare over minor things. And, even though John and I deserved to be punished by our father when we misbehaved, we did not deserve to be struck as violently as we were. We were beaten with a hosepipe, with my father's belt, with tree branches and with my father's hands and fists. John would be left bruised and scarred.

(Herman Conner Affidavit ¶ 3, Exhibit 16.) John's youngest brother Joe (aka Jack) similarly "recalled having so many cuts and bruises he would have to stay home from school for three or

four days after the beatings.”³⁴ He recounted “many stories of violence in the family – shooting guns off to scare each other, being beaten horribly, and of never once being told that he was loved.”³⁵

Because of John’s intellectual impairments, discussed in more detail below, he became a frequent target of the violence.³⁶ John’s aunt recalled “John as being sweet but not very bright.”³⁷ This “slowness,” she said, “caused him to bear the brunt of Carroll’s abuse on many occasions.”³⁸

Shorty got beat for things he did and didn’t do, for talking back, being a kid, or sometimes for doing something he shouldn’t have been doing, like the time he took the meat out of the freezer and sold it for the money.

(Linda Jones Affidavit ¶ 7, Exhibit 9; *see also* Angela Elleman, p. 2, Exhibit 17 (interview with Beatrice: “Carroll beat John more than the other children and nearly cut his throat once for taking money from his wallet.”))

The random yet persistent brutality of John’s childhood taught him that anger, frustration, and conflict are best resolved through violence.

Daddy was a terrible influence on all of us but especially the boys because he thought you couldn’t be a man without making people scared of you.

³⁴ Angela Elleman, p. 4 (Exhibit 17).

³⁵ Angela Elleman, p. 4 (Exhibit 17).

³⁶ Angela Elleman, p. 3 (Exhibit 17).

³⁷ Angie Elleman, p. 3 (Exhibit 17).

³⁸ Angie Elleman, p. 3 (Exhibit 17).

(Linda Jones Affidavit ¶ 19, Exhibit 9.) Despite regular taunting from his father that he would never live up to this “ideal,” – “you ain’t never be a man”³⁹ – the unfortunate truth was that Carroll’s children could not avoid absorbing some of his corrupting influence.

Every family member was scarred from having lived with and known John’s father, Carroll Conner. Their scars were visible – both physically and emotionally.

(Angela Elleman letter, p. 1, Exhibit 17.) John and the other children’s futures were tragically and irreparably shaped by Carroll Conner’s viciousness.⁴⁰

3. Escaping by Any Means

Unsurprisingly, Carroll and Beatrice’s children all attempted to escape their horrifically impoverished, violent, and chaotic circumstances in any way they could. The psychic weight and emotional toll of decades of poverty, violence, and physical and sexual abuse have clearly taken a heavy toll, as four of Carroll and Beatrice’s children have attempted to end their own lives. John’s sister Linda describes the children’s troubling suicide history:⁴¹

As a child, I laid in bed praying to God to take my life. My brothers and sisters must have said the same kinds of prayers because they have tried to kill themselves. Shorty tried to hang himself.⁴² My sister Cooter had to have her

³⁹ Linda Jones Affidavit ¶ 5 (Exhibit 9).

⁴⁰ After John was incarcerated, he and his father grew closer, at least in part as a result of regular family visits. “Beatrice visited [John in prison] every month. She didn’t drive, so Carroll drover her faithfully until he died in 1991. That was probably the nicest thing he ever did for her, and Shorty too. As Carroll got older he stopped drinking and he was a better father and a better husband. The cutting and the beatings stopped. . . . I believe Carroll felt bad for what he did to Shorty and he tried to make it up to him.” (Thelma Ann Royals, p. 3, Exhibit 11.)

⁴¹ Carroll and Beatrice’s firstborn child, Hermann “Buster” Conner, survived to adulthood, but was murdered in 1984.

⁴² Linda Jones Affidavit ¶ 21 (Exhibit 9): “Shorty hung himself from a tree and only lived because Buster saw him and cut him down.” John also attempted suicide in jail after his arrest in 1982. (Elizabeth Beck report, p. 6, Exhibit 21; Bhushan Agharkar report, p. 3, Exhibit 26.)

stomach pumped for eating a bottle of aspirin when she was a teenager. My brother Jack attempted suicide a few times. In 2012 he succeeded by shooting himself in the head. I also tried to kill myself once. I shot myself in the chest. By some miracle I survived. When I woke up in the hospital, I decided God must have a plan for me, and I have never tried to harm myself again.

(Linda Jones, p. 3-4, Exhibit 8.)⁴³

Before and between suicide attempts, the Conner children looked for other ways out of their dire situations. Sometimes the children, including John and Cynthia, took the literal, physical way out, and ran away from home, which landed them in a variety of institutional settings – Cynthia in the Child and Adolescent Ward of Georgia’s state psychiatric hospital,⁴⁴ and John in group homes and detention centers, which he tellingly preferred to his family home.⁴⁵

The boys dealt with it all by running away and getting sent off whenever they could. They’d rather be in a group home or a training school or jail than home. Cooter ran away a lot, too. She was almost never home once she got big enough to take off. She and Buster both went to Central State Hospital for treatment when they were kids. No one understood that their real problem was Daddy, and all they did was send us home to him.

(Linda Jones Affidavit ¶ 20, Exhibit 9.) Other times, when a physical escape was not possible, John and his siblings turned, as their parents had modeled and facilitated from a young age, to drugs and alcohol.⁴⁶

⁴³ Even Carroll’s mother was not immune to Carroll’s abuse and ridicule. She attempted suicide by drinking rat poison following a fight with Carroll. Some of the children were present as their grandmother had to be taken by ambulance to have her stomach pumped, after which she survived. (Elizabeth Beck report p. 6, Exhibit 21; Linda Jones Affidavit ¶ 6, Exhibit 9.)

⁴⁴ Elizabeth Beck report, p. 7 (Exhibit 21).

⁴⁵ Elizabeth Beck report, p. 2 (Exhibit 21).

⁴⁶ In addition to John’s documented drug and alcohol addictions, at age 15 Cynthia was diagnosed with drug dependence when she was admitted to Central State Hospital. (Elizabeth Beck report, p. 3, Exhibit 21.)

4. John's Individual Decline

Given the appalling state of John's home life, he was already facing an uphill battle in school. He endured chronic beatings and blows to the head, including the severe axe-induced injury described above.⁴⁷ This traumatic and violent upbringing and its physical and neurological results, in combination with his sub-average intellectual functioning, discussed more below, left his academic road nearly impossible to pass.

Teachers reported that John's slowness was not his fault and suspected he was intellectually disabled at the time.⁴⁸ Laverne Calhoun, who taught John in the fourth grade, specifically remembers that he tried hard in school.⁴⁹ Despite his best efforts, and despite being taught below grade level, John could not perform well in a single subject.⁵⁰ Had special education classes been available when John attended school in Telfair County, his teachers would have referred him.⁵¹ Unfortunately for John, there was no such safety net. Of John's five completed grades of school, only one was (potentially) an academic promotion; he was otherwise repeatedly granted social promotions.⁵² John failed first grade twice, fourth grade once, and sixth grade three times. After his fourth attempt at sixth grade, John was again socially promoted. He never went back.

⁴⁷ Bhushan Agharkar report, p. 3-4 (Exhibit 26).

⁴⁸ Affidavits of Laverne Calhoun (Exhibit 24), Ramon Brophy (Exhibit 23), Janetta Selph (Exhibit 25).

⁴⁹ Laverne Calhoun Affidavit at ¶ 3 (Exhibit 24).

⁵⁰ Laverne Calhoun Affidavit at ¶ 3 (Exhibit 24); Bhushan Agharkar report, p. 9 (Exhibit 26).

⁵¹ Laverne Calhoun Affidavit at ¶ 4 (Exhibit 24); Ramon Brophy Affidavit ¶ 4 (Exhibit 23); Bhushan Agharkar report, p. 9 (Exhibit 26).

⁵² John Conner School Records (Exhibit 22).

In addition to readily apparent symptoms of intellectual impairment, John manifested symptoms of depression throughout childhood and early adulthood. John's older brother stated that "John was always very sad inside."⁵³

John has always been a very sensitive young man. And he was constantly depressed. On many occasions he would cry and say that no one loved him. . . . He would not be convinced.

(Herman Conner Affidavit ¶ 5, Exhibit 16.) John's family didn't have the resources to get him help. Instead, he followed in the norm of his family: he began to self-medicate with alcohol and drugs. His habit predictably became a dependency and only exacerbated the depression and mental illness John sought to alleviate, driving John to desperate measures.

At times, even the drugs and alcohol weren't enough to numb the pain, and John tried to take his own life a number of times, including by overdosing on drugs and hanging himself from a tree (before being saved by his brother Buster). (Elizabeth Beck report, p. 6, Exhibit 21; Linda Jones, p. 3, Exhibit 8; Herman Conner Affidavit ¶ 5, Exhibit 16.) As John's depression worsened, so did his alcohol and drug abuse.

The same year John tried to hang himself, he killed Jesse Smyth, a young man John hung around with socially. After a drug- and alcohol-fueled argument, John was overtaken by rage and attacked Mr. Smyth. The guilt and remorse John felt after killing Mr. Smyth only intensified John's drive to abuse drugs and alcohol, beginning the tragic spiral that resulted months later in John fighting with and ultimately killing his friend J.T. White.

[Everything] changed after Shorty killed Jesse Smyth. We never talked about it, but I know it affected Shorty in a bad way. He already had a drinking problem, but it took on a whole new dimension after that. He stayed drunk. He started drinking Golden Grain 100 proof. It wasn't nothing for him to drink a gallon with

⁵³ Herman Conner Affidavit ¶ 4 (Exhibit 16).

someone. He didn't remember anything when he drank. I introduced him to a woman named Beverly Bates. I knew her from my job. She was just divorced and she was a big drinker, too. They were like fire and gasoline when it came to drinking. I didn't want all that drinking going on in my house, so they moved back down to Milan because Mama and Daddy had a place where they could stay. It wasn't long after that that Shorty killed JT White.

(Linda Jones Affidavit ¶ 25, Exhibit 9.)

The tragic night John killed Mr. White began like so many of their other nights – friends drinking and smoking marijuana with some girlfriends. That night, everyone was drinking; a witness noted Mr. White was “so drunk he could hardly talk.” While searching for more alcohol, Mr. White told John he wanted to have sex with John's girlfriend Beverly. Drunk and high, John reacted with intense anger; he began hitting and kicking Mr. White, unable to control his rage, and didn't stop until it was too late. During his incarceration and recovery from substance addiction, John has come to a far deeper understanding of the impact of his actions and has been living with deep remorse and sadness for the pain he has caused the families of Mr. Smyth and Mr. White ever since.

B. This Board Should Give Special Attention to Mr. Conner's Background Because It Was Never Considered by His Jury or the Appellate Courts.

The representation Mr. Conner received during his 1982 capital proceedings is uniquely troubling, even among cases of that era to which he belongs.⁵⁴ His young and woefully inexperienced appointed counsel, Dennis Mullis, had no previous death penalty experience. Mr.

⁵⁴ Mr. Conner's is the only death sentence from the post-1976 era in the Oconee Judicial Circuit that has not been reversed, remanded, and/or commuted. Moreover, the district attorney prosecuting Mr. Conner's case did not insist on a death sentence at the outset. In fact, he offered Mr. Conner a life sentence in exchange for a guilty plea. Letters between Mr. Mullis and Mr. Conner indicate that Mr. Conner attempted to accept the offered plea, but only after his trial was completed and had been convicted and sentenced to death. (Plea Letters, Exhibit 19.)

Mullis presented *no* evidence at either phase of trial and prepared for the penalty phase during the 15-minute recess between the guilty verdict and the penalty phase. Mr. Mullis stated in his closing argument that unless Mr. Conner was given a death sentence, he would be parole-eligible in just seven years – information that is considered so prejudicial that it would constitute reversible error if uttered by any state actor. The only personal information delivered to the jury about Mr. Conner was that counsel “[did not] think that Mr. Conner has exactly had a pleasant life,”⁵⁵ that Mr. Conner shared the same birth month and year as trial counsel, and that Mr. Conner “probably has about a tenth grade education.”⁵⁶

During that same 15-minute recess where Mr. Mullis scrambled to find mitigation witnesses in the courthouse hallway, Mr. Conner suddenly informed his counsel that he did not wish to present the three family members that trial counsel had asked to testify.⁵⁷ Without requesting a continuance, Mr. Mullis immediately notified the court. The trial judge questioned Mr. Conner about his wishes, to which he responded “yeah” and “that’s right.”⁵⁸ Because of those three words, no evidence in mitigation was presented to the jurors who sentenced Mr.

⁵⁵ This was presented simply as counsel’s opinion, as counsel failed to present any of the readily available evidence to support this argument.

⁵⁶ As discussed above, had counsel obtained Mr. Conner’s school records he would have learned that Mr. Conner never went beyond the sixth grade (after repeating it four times).

⁵⁷ Mr. Mullis intended to call Mr. Conner’s parents and his brother Joe, who had just testified against him for the State.

⁵⁸ Mr. Conner’s decision was clearly a hasty and uninformed one by a young man who suffered from depression and who has, at best, borderline intellectual functioning. In fact, Mr. Conner had attempted suicide in jail shortly after being arrested. (Elizabeth Beck report, p. 6, Exhibit 21.) While his attorney advised him to present his family, he did not ask for a continuance to persuade him of the gravity of the situation.

Conner to death, though they would have liked more information.⁵⁹ Those three words later prevented any appellate court from considering this evidence as well.⁶⁰

In 1984, Mr. Conner entered state habeas proceedings, represented by *pro bono* volunteer counsel Billy Nolas, who had few resources with which to investigate and litigate the petition, as the Georgia Resource Center was not yet in existence. Mr. Nolas repeatedly requested – and was repeatedly denied – funds for investigation and a mental health evaluation. During two self-funded trips from New York to Georgia, Mr. Nolas conducted a handful of interviews and cobbled together affidavits without any particular case strategy. (Billy Nolas Affidavit ¶¶ 4-11, Exhibit 18.) Like Mr. Conner’s trial counsel, Mr. Nolas ultimately failed to meaningfully investigate Mr. Conner’s case and to uncover the details of his horrific background.

By the time Mr. Conner’s state habeas petition was ultimately denied in 1997,⁶¹ Georgia had enacted a ban on executing defendants with intellectual disability. Mr. Conner subsequently filed a second state habeas petition on October 3, 2001, seeking a mental health evaluation in order to make a preliminary showing of intellectual disability (as required by the Georgia Supreme Court), supported by the affidavits of teachers and school records. The petition and

⁵⁹ Juror Tommie Bartlett letter, p. 1 (Exhibit 20): “At the time I was a juror, I felt that we were not getting all of the information we should have been told about who Mr. Conner was and what his background was. I would have like to have known more about him. As a school teacher, learning about his mental limitations would have mattered to me. And if I had known that he came from an abusive family background in which he learned that drinking and violence were a way of life, this absolutely would have made a difference to me.” Even without hearing anything in mitigation of punishment, the jury initially returned deadlocked. TT 463-64.

⁶⁰ Because Mr. Conner’s words were interpreted by the courts as a “waiver” of mitigating evidence, all the reviewing habeas courts refused to consider any mitigating evidence presented on Mr. Conner’s behalf.

⁶¹ Through no fault of his own, Mr. Conner’s case languished in state court, being transferred to various judges between 1987 and 1997. (Billy Nolas Affidavit ¶ 18, Exhibit 18.)

request for expert access were denied summarily without a hearing, in part simply because the teachers' addresses were not included with their affidavits. (Angela Elleman, p. 6, Exhibit 17.)

Mr. Conner remains the only death-sentenced inmate in Georgia who was denied even the right to a mental health evaluation after making a threshold showing of intellectual disability. Indeed, many similarly situated inmates were not only granted remand trials, but were permitted to plead to sentences less than death long ago. While Mr. Conner was ultimately permitted to present evidence on his intellectual disability in federal court, the court did not consider the mitigating impact of Mr. Conner's poverty-, violence-, and trauma-filled family background and whether such evidence should have justified a sentence less than death. Moreover, by the time Mr. Conner was finally granted a hearing in 2013, many family members and key witnesses regarding Mr. Conner's background were deceased, and important records destroyed.⁶²

Thus, while Mr. Conner has sat on death row longer than of nearly all of his fellow inmates, his legal case has received substantially less review.⁶³ Given these unique circumstances, undersigned counsel urges this Board to give particular weight to the mitigating evidence of Mr. Conner's background, which is typically presented to a jury and/or reviewed by the appellate courts but has not been and will not be in this case.

⁶² Despite these legal disadvantages, the question of Mr. Conner's intellectual disability was a close one. Multiple experts agreed Mr. Conner was intellectually disabled (*see* reports of Bhushan Agharkar (Exhibit 26), and Elizabeth Beck (Exhibit 21)), and even the state's experts conceded that Mr. Conner was in the borderline range of intellectual disability. Moreover, the Eleventh Circuit Court Appeals concluded that although the evidence plausibly showed that Mr. Conner was intellectually disabled, they were bound by the lower's court ruling. *See Conner v. GDCP Warden*, 784 F.3d 752 (11th Cir. 2015).

⁶³ Other Georgia inmates who spent more than 30 years on death row typically received second, or even third, trials due to constitutional errors, for example, Jack Alderman (granted resentencing hearing due to trial error); Brandon Jones (same); Roy Blankenship (granted two resentencing hearings based on trial errors).

II. "A GREAT ASSET TO OFFICERS AND OTHER INMATES"⁶⁴: DURING HIS 34-YEAR INCARCERATION, MR. CONNER HAS TRANSFORMED HIMSELF INTO A VALUABLE, PRODUCTIVE, AND PEACEFUL MEMBER OF THE PRISON POPULATION.

"I wish more inmates were like Mr. Conner. It certainly would make the prisons safer. I think Mr. Conner has been a great asset to officers and other inmates. He has proven himself to be a very good inmate and a good example to others."

- Letter from Elnora Daughtry, a retired correctional officer who supervised Mr. Conner on Death Row for six years, and who has never before written a letter to this Board on behalf of another inmate (Exhibit 2).

Mr. Conner has adapted remarkably well to the structure of prison. He has become a model inmate, making himself indispensable to the smooth maintenance operations of the prison as a houseman willing to go above and beyond to better the prison environment. When not busy performing maintenance duties, Mr. Conner spends time nurturing his strong and confident relationship with God, studying his Bible, and talking with spiritual advisers. Mr. Conner has also, over the years, taught himself to paint and has shared his love of art, landscapes, and painting with other inmates, guards, and others in the corrections community, frequently gifts his works to friends, family, prison employees, and legal representatives.

A. The Reports of Officers and Mr. Conner's Department of Corrections Behavior and Mental Health Records Reflect Mr. Conner's Proven Ability to Channel His Energy Into Positive, Productive Activities.

"I am writing this letter to the Parole Board because I feel John Wayne Conner is worth saving. . . . [S]peaking as someone who went into the trenches daily, it is very important to keep inmates like Mr. Conner in the prison system because they make it safer for everyone."

- Letter from Dennis Morgan, a retired correctional officer who supervised Mr. Conner on Death Row for eight years (Exhibit 1).

⁶⁴ Letter from Elnora Daughtry, a retired correctional officer who supervised Mr. Conner on Death Row for six years (Exhibit 2).

Officers and staff view Mr. Conner as a positive influence on others, and an ally in their work managing inmates. Dennis Morgan, who worked on Death Row for eight years and spent a total of 20 years with the Georgia Department of Corrections (DOC) recognized Mr. Conner's positive record and character, and cited them as the reasons Mr. Conner is "worth saving":

I believe in the death penalty and there are some men on the row who I feel should be executed. . . . I've dealt with the troublemakers. There are some very bad men in G-House [Death Row], but inmate Conner is not one of them.

Mr. Conner gave me absolutely no trouble in G-House. He has been there a very long time, and he has always been respectful to me and other officers. Inmates can quickly get a reputation for being bad or being good. Mr. Conner was known as one of the good people on the row. He was always cooperative and performed any task or duty I asked of him. Everyone knew Conner because he was a good guy. You are quick to remember people you can consider allies especially when so many want to physically harm you. I always knew Mr. Conner would help make me aware of any potential problems, especially, if there was trouble brewing between other inmates. This type of information helped to prevent a lot of fights. Officers would then have the intelligence to know which inmates could be released in the run around room together. This was for the good of the officers and the other inmates.

(Letter from retired correctional officer Dennis Morgan, Exhibit 1.)

Mr. Conner's written records corroborate Mr. Morgan's praises. According to DOC reports, Mr. Conner gets along well with others and "motivate[s] others to maintain good behavior in the group setting." (Work/Activity Plan, September 25, 1985). He was even recommended, should he ever become eligible, for a work release program: "As a UDS inmate Conner is not eligible to participate in pre release programs. *Should his status change, he would be a good candidate for pre release program.*" (Work/Activity Plan, June 27, 1991) (emphasis added). His behavior and attitude toward guards and peers is consistently rated as appropriate or "above average." (Counselor Notes, January, 2, 1991). Retired correctional officer Elnora Daughtry recalls her time spent supervising Mr. Conner with similar praise:

Mr. Conner was an ideal inmate. He always followed orders and was very respectful to me and any of the other staff working with me. He never caused any problems in the cell block.

Since we could trust Mr. Conner, we used him as a run around. He would gather all of the laundry at night and bring it to the gate for pickup in the morning. There were never complaints about him stealing other inmates clothing or doing anything inappropriate. Officers knew we could depend on him to follow our instructions. In addition to dealing with the laundry, he would also clean the showers. Once again, he always followed our instructions, never mouthed off to any of the officers, and was always very respectful.

(Letter from retired correctional officer Elnora Daughtry, Exhibit 2.)

In the 34 years Mr. Conner has been incarcerated, he has been subject to only three disciplinary actions, the most recent being 17 years ago.⁶⁵ It has been 25 years since Mr. Conner was disciplined for engaging in conflict with another inmate, and his discipline in that case was probated due to evidence that the conflict was caused by a misunderstanding and that the inmates were able to settle the disagreement appropriately.⁶⁶ Overwhelmingly, Mr. Conner's positive and productive presence in G-House is appreciated by DOC staff:

⁶⁵ On June 28, 1999, Mr. Conner plead guilty to refusing a drug test. His explanation for the refusal was that his last two "callouts" had been to learn of the deaths of his brother and father. He was defensive and worried when he was called out and became angry when he learned it was for a drug test. After returning to his cell he regretted his actions and asked to take the drug test.

On February 20, 1992, Mr. Conner was disciplined for accidentally causing a fire while making coffee in his cell. The disciplinary report acknowledged that Mr. Conner's actions were not intentional and his punishment was probated.

On June 18, 1991, Mr. Conner was disciplined for causing injury to an inmate. His punishment was probated because the evidence indicated that the conflict was due to a misunderstanding between inmates which was later resolved peacefully.

⁶⁶ See June 18, 1991, incident described to in footnote 63. Since this incident, Mr. Conner has not been found guilty of any behaviors requiring disciplinary action. On May 17, 2010, Mr. Conner was written up for assaulting another inmate, but the action was dismissed.

[John] was always polite to me and, to my knowledge, never had any problems with the staff or his fellow inmates. He maintained a good working relationship with the staff.

Unlike a few other inmates, John was an inmate who never complained. He was what I would call a "low-profile inmate" who would mind his own business and have a good attitude. I counseled John and personally found him to be a compliant and well-behaved inmate.

(Letter from Margaret Teal, who was a counselor at Georgia Diagnostic Prison for 11 years, during five of which she counseled Mr. Conner, Exhibit 3.)

Medical and mental health notes in Mr. Conner's DOC records likewise reveal that he has worked diligently over the past three decades to acquire the coping skills necessary to manage his mental health and live a peaceful and productive life in prison. Numerous notes refer to Mr. Conner's eagerness to help keep the cellblocks clean and well-maintained, and work however he can be of service to the prison or other inmates. A number of DOC notes also describe how Mr. Conner uses painting as a form of art therapy to manage his anxiety and fill his time peacefully and productively. A sampling of such notes from the past two decades follows:

- 08/17/15 - *Mental Health Counselor Notes*: "I/M [inmate] created several pieces of art (landscapes) and donated them to the M.H. Dept. here at GDCP."
- 03/13/15 - *Mental Health Counselor Notes*: "I/M utilizes healthy coping strategies in an effort to alleviate stress. He specifically enjoys work with maintenance detail in housing unit (UDS). I/M has no ACU/CSU admissions and no DR(s)."
- 5/15/13 - *Mental Health Counselor Notes*: "[Conner] claims spending a great deal of time meditating to increase self-awareness and praying seeking forgiveness."
- 01/23/13 - *Psychiatric Progress Notes*: "IM appears in good spirits. Always appears to be working on houseman duties."

On July 1, 1993, Mr. Conner was involved in an incident involving a broken broom. Reports indicate that a disciplinary report was filed, but no disciplinary action appears to have been taken against Mr. Conner. The other inmate involved admitted to breaking the broom.

- 08/09/12 – *Mental Health Counselor Notes*: “I/M indicated that he’s managing his anxiety very well, I’M used a lot of religious references as part of his way of coping in G-Cell house, I’M says ‘As long as I got Jesus I’m okay’ and ‘Jesus is my savior.’”
- 04/12/12 - *Mental Health Counselor Notes*: “Inmate identified his coping skill is Art Therapy, and that it is very therapeutic. He expressed that he enjoys painting landscapes. ‘Landscaping is soothing. I taught myself by watching TV.’ He reports that he stays preoccupied and this is helpful with this anxiety. ‘I like working as a houseman, and running errands for inmates who are locked down.’”
- 03/16/12 - *Mental Health Counselor Notes*: “Continues to spend most of his time working as orderly. Appears in good spirits.”
- 08/14/11 *Mental Health Counselor Notes*: “Inmate verbalized that Art Therapy was very therapeutic. He expressed that he enjoys painting landscapes. ‘Landscaping is soothing.’ ‘I taught myself by watching T.V.’ He reports that he stays preoccupied, and this is helpful with his anxiety. ‘I like working as a Houseman, and running errands for inmates who are locked down.’”
- 03/14/11 - *Mental Health Counselor Notes*: “Conner has made significant progress in treatment. He continues to utilize effective coping skills to manage symptoms of anxiety. He identifies canvas painting and working a detail as coping skills to manage anxiety.”
- 01/14/11 *Mental Health Counselor Notes*: “Also working as houseman and doing his colored drawings to ↓ anxiety.”
- 09/11/10 - *Mental Health Counselor Notes*: “I/M Conner has a history of mild to moderate anxiety characterized by restlessness, muscle tension, irritability and insomnia. For the past 6 months, I/M Conner has utilized effective coping skills of working a detail and canvas painting.”
- 01/11/10 - *Mental Health Counselor Notes*: “He . . . appears to keep himself occupied with dorm clean up.”
- 08/28/09 - *Medical Notes*: “IM appears in good spirits. States current meds are helping. . . Deals . . . anxiety by making art . . . Showed MD a large number of beautiful, colorful and skillfully drawn paintings.”
- 08/11/09 – *Mental Health Counselor Notes*: “Inmate currently reports no distressing mental health related symptoms. He reports sleeping well and states “I’m always cleaning . . . I’m the one that keeps this place clean.”
- 11/19/08 - *Mental Health Counselor Notes*: “[Conner] says he continues to paint, which I have observed him doing almost constantly during rounds.”

- 04/21/04 - *Counselor Notes*: "Conner appears to do excellent work on cellhouse floors"

- 08/19/03 - *Needs Assessment Plan*: "No recent DRs –uses free time productively."
- 10/22/99 - *Counselor Notes*: "Conner continues to do well. . . He does a good deal of sanitation work in the cellhouse."
- 06/03/99 - *Counselor Notes*: "He continues to spend a lot of his time in cleaning up the cellblock and appears to enjoy doing this."
- 04/19/99 - *Counselor Notes*: "Saw Conner this date. . . He says he spends a lot of his time cleaning the cellblock, 'as it gets to looking like a pig sty.'"
- 09/17/98 - *Counselor Notes*: "He participates in cellhouse sanitation, yard call. Makes few requests of staff."
- 12/15/97 - *Counselor Notes*: "Work in cellhouse—mops, waxes and dusts floor. Behavior has been appropriate."
- 08/28/96 - *Needs Assessment Plan*: "He continues to be the workaholic of G House, which helps keep him busy and out of trouble."
- 09/20/96 - *Needs Assessment Plan*: "Spends an inordinate amount of time cleaning the cellhouse. He participates in yard call, crocheting and enjoys reading."

(DOC records.)

Mr. Conner's productivity and work as a houseman – a privilege granted only to inmates who exhibit good behavior and a willingness to work hard – are a source of pride for him, which he shares with his family, including his sister Cynthia:

Even locked up, we've stayed close over the years, I don't get to visit as much as I want but we write each other all the time. He makes the best of his situation. He knows that prison has been good for him in a lot of ways – it got him off drugs and alcohol and helped him learn to control his anger. He stays busy keeping the block clean, sweeping, mopping, scrubbing, whatever needs to be done. He was always a hard worker, even back in Daddy's tree cutting business. A few months back there was a mold outbreak in the prison from all the storms and wouldn't you know Shorty rubbed his hands raw scrubbing it off with bleach.

(Cynthia Ingram, p. 3, Exhibit 10.) Mr. Conner's sister Linda, too, understands the time and care he devotes to his janitorial responsibilities on the block:

Shorty has been what they call a Houseman in his block for many years. He was very pleased to be asked to do that for his cell block and he has always taken his job very seriously. He is very proud of the work he does at the prison. To him it's his job. He talks about how clean he got the showers, how shiny he got the floors and what is the best way to sweep. I wouldn't think most people would want to do that kind of work every day, but Shorty has the energy for it and it makes him feel needed.

(Linda Jones, p. 2, Exhibit 8.)

Mr. Conner's sustained efforts on these fronts are recognized and appreciated by those in the prison. (Elnora Daughtry letter, Exhibit 2.) Further, they reflect the transformation he has made in prison and his ability to remain a productive, peaceful inmate, should this Board show him mercy.

Although I participated in Mr. Conner's prosecution and am very aware of the serious crimes he committed, I also recognize that he was a very young man at the time. They happened over 30 years ago and I am glad to learn that Mr. Conner has done well in prison and assists the staff with sanitation responsibilities.

At age 60, I do not feel that it is necessary to execute Mr. Conner. Though I do not oppose the death penalty in some cases, I believe that a life without parole sentence for Mr. Conner would be fitting. In fact at this point, I believe it is the appropriate punishment.

(Letter from Frank Mitchell, who was a deputy sheriff in Telfair County and supervised Mr. Conner before and during his trial and who testified against Mr. Conner in his capital trial, Exhibit 4.) Based on all these accounts, Mr. Conner has demonstrated himself to be an exceptionally reliable, positive, and productive member of the prison community whose life is worth sparing.

B. Mr. Conner Spent the Last 34 Years on Death Row Developing, Growing, and Nurturing His Now-Unwavering Faith in God.

Mr. Conner is deeply remorseful and ashamed of the fact that he caused the deaths of Jessie Smyth and J.T. White and inflicted great harm on their loved ones. Although undersigned counsel believes the circumstances of Mr. Conner's violent and traumatic upbringing,

intellectual disability, and drug and alcohol addictions are relevant to his culpability and this Board's exercise of mercy, Mr. Conner would be the first to say that those factors do not excuse his actions. Mr. Conner's feelings of guilt and unworthiness long blocked him from daring to consider that he could ever be worthy of God's mercy, forgiveness, and grace.

Through diligent study, religious television programming, and discussions with spiritual advisers, though, John has built and fortified his faith in God. Mr. Conner's spiritual adviser Pastor Spurgeon Hays has no doubt that John's faith today is strong. Mr. Conner recently told him that although he is "sad that his execution date is so close," Mr. Conner knows that he is "in God's hands" and is "ready to be used in any way God will use him."⁶⁷ But, Pastor Hays notes, it has been a journey for Mr. Conner to reach this point of unfaltering faith:

For many years John struggled to believe that he could be worthy of God's love after having committed his crimes, but his faith has truly grown. He has learned to find solace in God's love, and committed himself to being God's helper to those whose lives he can positively impact. I see this in his efforts to improve life in his cellblock by making the environment clean and sanitary for all. I recently asked John what he would do if his sentence were commuted to life without parole. John lit up and said that he would like to keep a new prison clean and help his fellow inmates with whatever small things he could. John has learned that making a positive difference in the lives of others has also allowed him to find meaning in his own life.

(Pastor Spurgeon Hays letter, p. 2, Exhibit 7.)

Mr. Conner's family, too, has witnessed his spiritual growth:

He's worked hard to make his life in prison mean something. Shorty was always a Christian in name, but I feel now he has become a real Christian with an honest and powerful faith in God. He reads the Bible every day, and he thinks about what it means. He has encouraged me a lot in my own relationship with God. When I have had doubts, Shorty has been there for me with love and encouragement.

⁶⁷ Spurgeon Hays letter, p. 1 (Exhibit 7).

A few months ago, my boyfriend beat me so badly I had to be hospitalized. It was a terrible, scary experience. I had to move in with my son for weeks because I couldn't take care of myself, and I wasn't able to work. I work for myself cleaning houses, so if I don't work I don't get paid, which was also very stressful on me. I went to visit Shorty once I was well enough. He was so kind and worried about me. He wanted to know how I was feeling and what he could do to help me. He encouraged me to put my problems in God's hands and was just a great comfort to me. 20 years ago, Shorty would have been angry and focused on what should happen to the man that did this to me. That visit really told me how Shorty has changed.

(Linda Jones, p. 1, 4, Exhibit 8.)

Mr. Conner's sister Cynthia describes how his faith has helped him as his impending execution nears:

I talked to Shorty on the phone today. He did his best to comfort me. I think he is more worried about me than he is about himself. He said he has everything he needs in his Bible. He recited to me from Psalm 23:2, *The Lord is my shepherd*. He memorized the entire verse. We felt our blessings. We talked about Jesus. I am so glad and proud Shorty has accepted Jesus in his heart.

(Cynthia Ingram, p. 3-4, Exhibit 10.)

Thus, although Mr. Conner fully accepts responsibility for his terrible crimes, his faith in God has given him hope for merciful intervention by this Board, and for grace to live out his life in a productive and meaningful way within a correctional setting.

C. Mr. Conner Has Taught Himself to Paint, an Activity that Is Therapeutic for Mr. Conner and that He Can Share With Friends, Family, and Prison Community Members.

Mr. Conner knows he likely never would have picked up an artistic paintbrush were he not incarcerated. Mr. Conner recognizes that his ability to paint is an extreme privilege and for it – and the outlet painting provides him – he is extraordinarily thankful.

Shorty just loves drawing and painting. He always tells me if he'd never gone to prison, he never would've gotten into art. He's given so many of his paintings away to me, his attorneys, his pastors, and others and he's always so darn proud

of them. His positive outlook on his situation has helped me deal with all the pain from when we were coming up. I know his hard work and good attitude help the people around him in prison too.

(Cynthia Ingram, p. 3, Exhibit 10.)

Painting is, Mr. Conner often says, “a blessing” that has changed his life. He has spent many hours of his non-maintenance work time watching Bob Ross’s “The Joy of Painting” and similar programs, through which he has learned new painting techniques. He takes great joy and pride in imagining new landscapes and replicating those he sees on television and in print.

Shorty always loved nature. He loved to fish and hunt and camp and be outside. Now he paints what he loves — nature scenes with waterfalls, creeks and rivers, trees, and sunrises. When Shorty talks about painting, he gets excited. Painting is what he loves. He has really improved his skills, and the paintings he has been able to make in the last few years really show how hard he has worked. The old Shorty never would have had the patience to work so long at something. The new Shorty does. Shorty says his art has taught him how to see. He says it has been the best gift he could have had because it has taught him to look for beauty in the things around him. I honestly think that has helped him to stay such a positive person in prison.

(Linda Jones, p. 1-2, Exhibit 8.)

Mr. Conner takes even greater pride in sharing his work both by mentoring other inmates who are interested in art and by gifting his work to family, legal representatives, and prison community members.

Shorty has become a talented artist. Since he has been in prison, he has painted many paintings for me and my sister. I know that it’s not easy for him to find ways to give to us from prison, and his art is one way he has found he can show us his love and thanks. He is basically self taught since he learned to paint from a tv show and from other inmates. He gets a real kick out of working together with other inmates on his art. He also loves to brag on some of the ones back there who are really good at drawing. Sometimes it’s all he can talk about. If a new inmate shows any kind of interest in learning, Shorty loves to teach them art. He says it saved him, and he wants to share that with the new ones that come in. Shorty has been able to use his art to show his caring for others.

(Linda Jones, p. 1, Exhibit 8.)

Mr. Conner's contribution to the prison community, his personal growth, his acceptance of God's love, and his genuine remorse and acceptance of responsibility make him a worthy candidate for this Board's mercy. That he has become a person worthy of salvation given the horrific home environment in which his life began is a remarkable achievement and deserves the careful consideration of this Board, particularly because it was never considered by Mr. Conner's jury or the courts that weighed his fate.



painting by John Wayne Conner

PRAYER FOR MERCIFUL INTERVENTION

On behalf of John Wayne Conner, corrections officers who supervised him, community members, and Mr. Conner's friends and family, undersigned counsel humbly ask this Board to take into account the brutal conditions in which Mr. Conner spent his childhood and young adulthood; the tumultuous path and downward spiral that once led him to alcohol, drugs, and violence; and the transformed man Mr. Conner has become during his 34 years on death row.

We ask that you grant him the opportunity to serve out the remainder of his natural life in the Georgia prison system, where he will continue to contribute to the maintenance and order of his cellblock, and act as a positive influence on others and productive presence for the prison system as a whole.

For all the reasons set forth above, and those found in the evidence and argument at the hearing on this Application, Mr. John Wayne Conner respectfully requests that this Board intervene mercifully, and exercise its power to commute his death sentence.

Respectfully Submitted,



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