

Pursuant to Article IV, Section II, Par. II(a) and (d) of the Georgia Constitution of 1983 and O.C.G.A. sections 42-9-20, 42-9-42(a), Robert Earl Butts, Jr., by and through undersigned counsel, applies to the Board of Pardons and Paroles for consideration of his application for commutation of the sentence of death imposed by the Superior Court of Baldwin County on November 21, 1998 for the murder of Donovan Parks.

There are compelling reasons for this Board to exercise its plenary power to commute Robert Jr.'s death sentence. The profound childhood neglect he endured as his parents left him to care for his younger siblings while they roamed the streets of Milledgeville, each in the grip of mental illness, drug addiction, or both. That he was only eighteen years old at the time of the crime. The disproportionate nature of his sentence, and the State's introduction of unreliable and prejudicial allegations of gang affiliation at his trial. His profound remorse, as evidenced in his statement to this Board this morning. His efforts during his incarceration to heal his fractured family, to grow in faith, to develop and wield his artistic and literary talents to inspire others, and to offer the comfort and support to others that he so grievously lacked. Above all, perhaps, there is this. Robert Butts did not shoot and kill Donovan Parks. And we now know that the State's witnesses who once claimed that he confessed to doing so falsified that testimony—testimony that

was the linchpin of the State’s argument to impose the death penalty—at the behest of his co-defendant, Marion Wilson.

I. There is No Reliable Evidence that Robert Jr. Shot Donovan Parks or Confessed to Doing So.

The State’s capital case against Robert Jr. hinged upon three witnesses called to testify that Robert Jr. had admitted to shooting and killing Mr. Parks. Two of those witnesses—Horace May and Shone Holcomb—have now provided sworn statements attesting that Robert Jr. never said any such thing.¹ Mr. May, moreover, has revealed that he falsified his testimony against Robert Jr. at the behest of Marion Wilson, Robert Jr.’s co-defendant, who later admitted to Mr. May that he himself had shot and killed Mr. Parks, and that Robert Jr. had no idea he planned to do so.

Mr. May, the first of these witnesses to testify, reported that he had been incarcerated in the Milledgeville city jail on two separate occasions with Robert Jr., who was awaiting trial for Mr. Parks’s murder.² Mr. May testified that he had joined a conversation that Robert Jr. was having with other prisoners about his case and “asked him . . . did you do it?” According to Mr. May, Robert Jr. had responded, “yeah, but I hate it.” After some prodding from the district attorney,

¹Mr. May’s affidavit is attached as Exhibit 1 to this petition. Mr. Holcomb’s affidavit is attached as Exhibit 2.

² Mr. May’s trial testimony is attached as Exhibit 3.

Mr. May clarified that Robert Jr. had confessed to shooting Mr. Parks, testifying, “I asked [Robert Jr.], you know, who really shot [Mr. Parks] and he said he was the one. Said he hated it, but he was the one.”

Mr. May now admits under oath that his testimony at Robert Jr.’s trial—and his statements to the district attorney and counsel that preceded it—were false. As Mr. May acknowledged at Robert Jr.’s trial, he had been incarcerated with Marion Wilson at the Baldwin County jail between the times that he was imprisoned with Robert Jr. What Mr. May did not report before or during Robert Jr.’s trial is that he and Mr. Wilson had “spent a lot of time together,” and that he had “felt sorry for him.” Mr. Wilson, who struck Mr. May as “really young,”³ talked to Mr. May at length about “having a rough childhood, and how he didn’t have a father.” Mr. Wilson also “talked a lot about how his girlfriend was pregnant with his baby, and that he didn’t want his kid not to have a father, too.”

Mr. Wilson “told everybody [in the jail] that Robert had shot Donovan.” Knowing that Mr. May had been locked up with Robert Jr., Mr. Wilson “begged” him to say that Robert Jr. had confessed to shooting Mr. Parks. “He straight up asked me to do it for his kid,” Mr. May attests, “and I agreed.” After returning to the city jail with Robert Jr., Mr. May called the district attorney and his attorney and “told them that Robert had confessed that he had shot and killed Donovan.”

³ Mr. Wilson is actually a year older than Robert Jr.

Sometime later, however, Mr. Wilson confessed to Mr. May “that he himself had shot and killed Donovan Parks.” Mr. Wilson also told Mr. May “that he and Robert had agreed to steal Donovan’s car, but he had told Robert that they would release Donovan. Robert did not know that [Wilson] was going to kill Donovan.”

Mr. May also attests “that Robert never said a word to me” about the night of the crime, despite Mr. May’s repeated attempts to question him about it.

Accordingly, the main thrust of his trial testimony—that Robert Jr. had confessed to capital murder—is simply untrue.

Robert Jr. is not the only one to whom Mr. May falsely attributed statements. In a recorded statement to Mr. Wilson’s lawyers given just before his trial, Mr. May claimed that Robert Jr.’s cellmate, Shone Holcomb, had told him that Robert Jr. had confessed to shooting Donovan Parks.⁴ In his statement to this Board, Mr. May admits that this, too, was untrue. “Holcomb never said anything like that to me.”

In his own sworn statement to this Board, Mr. Holcomb agrees. Mr. Holcomb was the second witness called at trial for the purpose of testifying to Robert Jr.’s supposed confession. After he repeatedly claimed a lack of recall and expressed his unwillingness to testify, however, the trial court excused him.⁵ As

⁴ Mr. May’s recorded statement is attached as Exhibit 4.

⁵ Mr. Holcomb’s trial testimony is attached as Exhibit 5.

Mr. Holcomb explains in his statement here, he did not “understand at the time why the prosecution put [him] on the stand in Robert’s trial” and did not want to testify because he “knew they were trying to use [him]] against Robert somehow.”

Mr. Holcomb was surprised to learn that the prosecutors intended to elicit testimony that Robert Jr. had confessed to being the shooter, because “Robert never said anything like that” “I never heard him say anything like that to anyone while we were locked up together,” Mr. Holcomb continues, “and I don’t believe that he would have told anyone that”

One person who did claim that Robert Jr. was the shooter, however, was Marion Wilson. As Mr. Holcomb states, he too was incarcerated with both Mr. Wilson and Robert Jr. as they awaited their trials. Like Mr. May, Mr. Holcomb recalls Mr. Wilson telling everyone that Robert Jr. was the one who had shot and killed Donovan Parks. Further, Mr. Wilson asked a number of his fellow prisoners “to try to get over to the city jail and get close to Robert so that they could say that Robert had confessed to them.” Mr. Holcomb also heard Mr. Wilson “offer to pay people to testify against Robert and say that he had told them that he was the shooter.”

When Mr. Holcomb was subsequently assigned the same cell as Robert Jr. in the city jail, he remembered Mr. Wilson’s scheming. Worrying that the “really young and really scared” Robert Jr. would fall victim to it, Mr. Holcomb “told him

not to talk to anyone about his case.” Ironically, one of the people who Mr. Holcomb “worried would try to get close to Robert and claim he’d confessed to them” was Horace May, whom he knew from a previous incarceration, and whom he “knew not to tell . . . anything because he would try to use it to help himself.”

Robert Jr. appeared to follow Mr. Holcomb’s advice. Only after the men had known each other for a while did Robert discuss his case with Mr. Holcomb, and then only to say “that Wilson had been the shooter.” Otherwise, Mr. Holcomb attests, “I never heard [Robert Jr.] say anything to anyone about his case, although I saw plenty of people try to ask him about it.”

One such person was probably Gary Garza, the third and final witness presented by the state to testify that Robert had confessed.⁶ Mr. Garza, too, was incarcerated with both Robert Jr. *and* Mr. Wilson, and was presumably exposed to Mr. Wilson’s lies about Robert Jr. and his inducements to testify to that effect. Mr. Garza also had an extensive criminal history.⁷ Indeed, Mr. Wilson’s own counsel later testified that he “wouldn’t put Garza on the stand if he was the last person on earth because Garza is the classic jailhouse snitch. Gary would do anything,”⁸ Perhaps unsurprisingly, Robert Jr. has no new statement to offer from Mr. Garza here. When asked about his testimony by two members of Robert Jr.’s legal team,

⁶ See Ex. 6, Trial Testimony of Gary Randall Garza.

⁷ See Ex. 7, GCIC records of Gary Randall Garza.

⁸ See Ex. 8, Excerpted State Habeas Testimony of Thomas J. O’Donnell,

Victoria Calvert and Melanie Goodwill, Mr. Garza literally fled the scene, abruptly locking up his place of business, jumping into his car, and driving away.

The implications of Mr. May's statement, as corroborated by Mr. Holcomb, are profound. Robert Jr.'s jury heard falsified testimony that he had confessed to shooting Donovan Parks. Moreover, that testimony was engineered by Marion Wilson, who himself confessed to Mr. May that he had shot Mr. Parks, but has repeatedly blamed Robert Jr. and continues to try to ensure that Robert Jr. is assigned the greater culpability.⁹

Mr. Wilson's maneuvering, as reported by Mr. May and Mr. Holcomb, underscores that he, and not Robert Jr., shot and killed Donovan Parks. Indeed, as the Eleventh Circuit Court of Appeals wrote when reviewing Mr. Wilson's

⁹ Indeed, these gambits are consistent with Mr. Wilson's behavior since his arrest, when he quickly told police that Robert Jr. was the shooter and offered to help the police gather – or manufacture – evidence to that end. *See* Ex. 9 (Statement of Marion Wilson). Mr. Wilson's attempt to assign blame to his co-defendant has continued through the past few months. Despite being tried more than a year before Robert Jr., Mr. Wilson's habeas proceedings have moved more slowly -- primarily because his case, which has served as a vehicle for an esoteric legal issue, was accepted for argument before the full Eleventh Circuit Court of Appeals and the Supreme Court of the United States. While his case was awaiting argument in the Supreme Court, Mr. Wilson wrote to Robert Jr. to propose that whichever of them first appeared before this Board would confess to being the shooter, in the hope of making a grant of clemency more likely for the other. *See* Ex. 10. Given the postures of their respective cases, however, it was clear that Robert Jr.'s case would come before this Board first. This was hardly a good-faith proposal.

conviction, Mr. Parks would be the *third* person that Mr. Wilson had shot in his young life.¹⁰ As Judge Ed Carnes noted, “[w]ithout provocation Wilson shot a human being when he was fifteen, shot a second one when he was sixteen, and robbed and shot to death a third one when he was nineteen.”¹¹ The State had

¹⁰ See Exhibit 11, *Wilson v. Warden*, 774 F. 3d 671, 676-77 (11th Cir. 2014) (internal citations omitted) (opinion vacated, *en banc* review granted) (Carnes, J., concurring.).

¹¹ The Eleventh Circuit detailed Mr. Wilson’s extensive criminal history as follows:

The jury heard that, from the age of 12 years, Wilson was “either out committing crimes or ... incarcerated somewhere.” The jury heard that Wilson had been charged with first degree arson¹¹, criminal trespass, and possession of crack cocaine with intent to distribute, and that in a period of eleven weeks Wilson was charged with ten misdemeanor offenses. The jury heard that, as a 15-year-old, Wilson shot a stranger, Jose Valle, in the buttocks because he “wanted to see what it felt like to shoot somebody,” and that Wilson sold crack cocaine to Robert Underwood and then shot him five times and “casually walked off.” The jury also heard testimony that Wilson was charged with cruelty to animals after he “shot and killed a small dog for no apparent reason.” The prosecution also presented evidence of Wilson’s violence and gang activity. The jury heard that Wilson threatened a neighbor, saying “I’ll blow . . . that old bitch’s head off”; Wilson committed unprovoked attacks on his schoolmates; and Wilson attacked one of the employees during his incarceration at Claxton Regional Youth Development Center. The jury heard details of an incident in which a “belligerent” Wilson and five others¹¹ were shouting at students in a parking lot at Georgia College. When police arrived, Wilson rushed one of the officers and had to be subdued with pepper spray when he attempted to grab the officer’s gun. The jury heard portions of Wilson’s post-arrest interrogation in which he confessed that he was the “God damn chief enforcer” of the Milledgeville FOLKS gang, a rank he achieved by “fighting and stuff like that.”

obtained Mr. Wilson's conviction and sentence of death for Mr. Parks's murder a year before Robert Jr. was tried.¹² The murder weapon – a sawed-off shotgun – was found hidden under Mr. Wilson's bed; the state also presented testimony establishing that he had borrowed a hacksaw for the express purpose of sawing the barrel from a shotgun.¹³

This Board has previously stated that it “will not allow an execution to proceed in this State unless and until its members are convinced that there is no doubt as to the guilt of the accused” State Board of Pardons and Paroles, Order Suspending the Execution of Sentence of Death, Troy Anthony Davis, July

¹² Unsurprisingly, the first attempt to present testimony from these three men came from Mr. Wilson's counsel during his capital murder trial. The State, however, successfully excluded their testimony from the guilt-innocence phase of Robert Jr.'s trial as inadmissible hearsay. *See Ex. 12, Excerpt from Wilson Trial Transcript, at 1787-1801.* While the defense anticipated calling the men to testify during the sentencing phase, once the state opted to “bring it out ourself” by introducing a summary of what they would supposedly say through the testimony of the county sheriff, Mr. Wilson's defense opted to call their investigator, William Thrasher, to testify as to what they had purportedly told him. In Wilson's state habeas proceedings, his counsel explained that he called Mr. Thrasher instead of these “jailhouse informants” because he did not trust any of them, and expressed concern that “if for some reason Horace or Gary of Holcomb said something I'd have to impeach my own witness.” *See Ex. 8.*

¹³ Kirk A. Jones, a friend of Mr. Wilson's girlfriend, Angela Johnson, testified at Robert Jr.'s trial that he saw Mr. Wilson about a month before the murder with a green sack that he believed had a sawed-off shotgun in it. Jones also testified that about two weeks before Mr. Parks was murdered, Mr. Wilson asked him for a hacksaw because he wanted to saw off a shotgun. *See Ex. 13.* The State also presented testimony from Mr. Wilson's girlfriend – who, as discussed above, was pregnant with his child at the time of the crime – claiming that Robert Jr. had brought the gun to Mr. Wilson's house to hide. *See Ex. 14.*

16, 2007. Given the statements of Mr. May and Mr. Holcomb and the record in this case,¹⁴ there is no way for this Board to be convinced that Robert Jr. shot and killed Donovan Parks. The very least that these testaments establish is that there is no reliable evidence that Robert Jr. confessed to doing so. That alone is reason enough for this Board to exercise its awesome powers and spare Robert Jr.'s life.

But it is not the only reason. As detailed below, the circumstances of Robert Jr.'s life both before and after the night of the crime offer additional and compelling grounds for mercy.

II. Robert Jr.'s Turbulent and Parentless Childhood Argues for Mercy

Robert Jr. essentially grew up without parents. His mother and father were each so profoundly damaged that they were unable to care for him yet remained present in his life in confusing and harmful ways.

His mother, Laura Waller Butts¹⁵, was born out of wedlock. Laura's mother, Mary, married Willie Cooper, a violent and quick-tempered alcoholic who regularly beat Mary and menaced her four children. "Everyone in the house tried to stay out of his way . . . to keep from getting hurt," writes Pete Waller, Laura's

¹⁴Additional credible evidence that Robert Jr. was not the shooter is the testimony of GBI Special Agent David Rush, who testified that it was his opinion based on the polygraph examination he administered to Marion Wilson that "Mr. Wilson was the shooter." *See* Ex. 51, Trial Transcript at 2367-74.

¹⁵ Laura Waller Butts's letter to the Board is attached as Ex. 15.

brother.¹⁶ Physical violence was frequent, including extreme confrontations. Mary once shot Willie in the leg. Another time, Willie tried to stab Pete with a knife.

When Laura was only fifteen, Willie's attentions toward her turned sexual. "Willie . . . made me feel uncomfortable because he acted like he liked me and tried to pull on me," Laura explained. Willie would invite over friends who would flirt with and even proposition Laura. "Some of these men would give my sister Laura alcohol and tried to make her do things with them, according to Pete. "She was only in Junior high [sic] and these were grown m[e]n, I knew it wasn't right."

Laura began avoiding her home when she knew that Willie was drinking – which was often. In the face of Willie's unrelenting advances, Laura herself turned to alcohol, triggering a lifelong struggle with addiction. "I remember the first time I ever drank, I got very sick and I threw up," Laura recalls. "But I kept drinking, and I've been drinking ever since."

Laura would drop out of school after the ninth grade. When she was sixteen, she became pregnant by Arthur Terrell, one of the friends Willie had brought over to leer at her. Laura's oldest child, Tammy, was born on July 19, 1975. Terrell played no role in raising his daughter. Still a teenager, Laura essentially gave her daughter to her mother, Mary, to raise. "Laura was not a good mother," her

¹⁶ Pete Waller's letter to the Board is attached as Ex. 16.

brother Tony Waller writes.¹⁷ “She had Tammy, then left the baby with our mother [and] went right back out to the streets.”

A year after Tammy was born, however, Laura met Robert Butts, Sr., at a basketball game in Milledgeville. A tall, quiet twenty-two-year-old, Bob was a student at Georgia College, where he was studying for his masters in physical education. He was also employed at Central State Hospital as a Health Service Technician, working with unruly patients. Bob’s younger brother, Juan Lewis, remembers him as an “assertive and intelligent man with a very promising future.”¹⁸ A “phenomenal athlete,” Bob had won All-State honors as a wrestler while starring for the football and basketball teams at Baldwin High School, where he also interned in the physical education department. Another brother, Cary Nkosi, remembers how well-liked Bob was by his teachers and peers, who found him respectful and kind.¹⁹ “I idolized [him],” Juan remembers. “Not only was my brother an outstanding athlete who won many titles and awards in sports, he was also a very caring brother. Bob was always concerned about his siblings and made sure we were taken care of when we were younger.”

¹⁷ Tony Waller’s letter to the Board is attached as Exhibit 17.

¹⁸ Juan Lewis’s letter to the Board is attached as Exhibit 18.

¹⁹ Cary Nkosi’s letter to the Board is attached as Exhibit 19.

Bob and Laura began dating. On May 14, 1977, they had a son, whom they named Robert Earl Butts, Jr. Cary writes that “Little Bob [was] their ‘love child’, as my brother Bob often called him.” Bob and Laura married the following December. “Senior and Laura seemed happy,” remembers Pete, who shared a house with the couple for six months. “They both were working and things were good.” “Things went well for them for a short time,” Tony Waller agrees. “[T]hey seemed happy.” That did not last, as Robert Sr. soon began to show signs of the mental illness that would destroy his storybook life.

As Tony remembers, “[e]arly on, when Junior was still a baby, Robert Sr. began doing weird things, like building crosses and putting them up around the house and the neighborhood, and wandering the streets, talking to himself.” Pete recalls that Senior “started talking to himself, saying things I didn’t understand He would take pails outside to collect rainwater when it wasn’t raining.” Cary writes that “Bob heard voices calling to him, telling him to do things he ordinarily would not do. He once set fire to a pile of wood I asked him why he did it and his reply was ‘*They* told me to do it!’”

“Senior started having hallucinations,” Laura remembers. “He started to say things that didn’t make any sense. He would make crosses out of rope that I brought home from work, put them on a hill, and burn them. I remember one night where he began thrashing the sheets and threw them off the bed. I was so scared

that I couldn't sleep." He was so irrational that Laura bought a gun the next day, afraid that she "didn't know what he was going to do." She worried he would harm her or the children.

Within a year, Bob had dropped out of Georgia College and lost his job at Central State Hospital. He was soon hospitalized at Central State and diagnosed with paranoid schizophrenia.²⁰ Between 1977 and 1993, he would be admitted to Central State Hospital thirty times. The severity of his illness drove him to crack cocaine, which, as Juan laments, he "still uses . . . as often as possible."

For most of Robert Jr.'s childhood, "Bob would cycle in and out of Central State Hospital and prison." "He was a shell of the man he used to be," Juan writes. Bob would steal things to get money for drugs and was often arrested. His old friends, embarrassed by his condition, abandoned him. As Juan writes, Bob "lost all of his friends and the only friends he had were the voices in his head."

As Bob succumbed to his illness and addictions, Laura moved with Tammy and Robert Jr. into the Riverbend Apartments, which were income-based. Bob would occasionally come stay in the apartments, but his derangement and drug abuse made him a dangerous and unpredictable presence for his son. Tony remembers one episode vividly.

²⁰ Bob's mother, Mary Butts Lewis, was herself diagnosed with schizophrenia and repeatedly admitted to Central State Hospital throughout his childhood.

When Robert Jr. was about four years old, I went to visit my sister and the children at the Riverbend apartments. I opened the door to the bathroom, and Robert Sr. was in there, with the heat lamp turned up high, and he had rubbed some sort of oil all over his body and Junior's body as well. They were both naked. The bathroom was super-heated and sweat was pouring off of them. I didn't know why Robert Sr. was doing this to his son. I backed out of the bathroom and closed the door.

Tony writes that he "was disturbed by Robert Sr's behavior that day, in the bathroom, but I didn't know what to do about it. I've thought about that incident for years, and wondered if I should have stepped in and tried to remove young Robert." He admits, though, that he was intimidated by Bob.

Robert Jr. was all too aware of his father's illness. Juan remembers that "[w]henever I did spend time with Little Bob, he would always ask me the same question 'Why does my dad laugh and talk to himself all the time?'" Juan tried to explain his father's mental illness and drug problems to Robert Jr., but could not salve his embarrassment. Juan remembers bringing Bob to visit Robert Jr. one day. As they waited on the apartment steps, "Bob was outside laughing and talking to himself, as usual. As soon as little Bob saw the condition his father was in, he hung his head in disappointment. Little Bob wanted to see his father, but hated seeing Bob in that condition." Robert Jr.'s shame was compounded by kids in the neighborhood, who would tease him about his "Crack Head Dad." Robert Jr.'s downstairs neighbor at Riverbend, Jodie Mosley, remembers seeing Bob

“walking around the neighborhood asking people for change. Robert never said anything when he saw his father, he would just look at him.”²¹

Laura, despondent over the end of her marriage, returned to the streets. She abandoned Tammy to her mother once again. Laura kept Robert Jr. with her, but left him frequently with her mother and grandmother, or whomever she could find, so that she could go out drinking. Pete recalls her knocking on his door and fleeing after handing him a crying, diapered Robert Jr.

Laura’s drinking problem grew ever more severe. According to Pete, “Laura never knew her limit. She would drink until she passed out . . . [and] wake up, not remembering what she did or who she did it with.” In 1979, Laura became pregnant again, and her son Tamayo was born on May 16, 1980. Tamayo’s father, Jerome Wright, was never involved with the family.

Just over two years later, Laura had another son, Dominique Hurt. Dominique proved emotionally disturbed from a young age. According to Laura’s brother, Tony, Dominique was just like his father, Calvin Hurt: “unable to hold a conversation, much less a job.” Calvin and Laura often argued and fought, and Tammy recalls that it was “normal” for him to whip Robert Jr. and Tamayo.²²

²¹ Jodie Mosley’s letter to the Board is attached as Ex. 20.

²² Tammy Terrell’s letter to the Board is attached as Ex. 21.

Laura's behavior was equally volatile when she drank. Tammy witnessed countless occasions of drinking and drug use. As Laura admits, "I would have blackouts and could not remember anything I had done. I was able to work but I would drink alcohol during breaks." She did not think she had a problem at the time, but was fired by two employers for her drinking. Instead of feeding her children, she sold their food stamps to get money for alcohol. She left the children with their grandmother or alone so that she could go out and party. Robert was forced to look out for his younger siblings.

In the midst of this chaos, Tony remembers Robert Jr. "as always quiet and well-mannered . . . [and] easily led." Robert Jr. "was not the person who would initiate anything, not a game or a conversation. He was simply a nice little boy. He was smart, though, and I thought that Robert had a lot of potential." One teacher, Cindy Crawley, described a quiet boy who always seemed as if he was tired while he was in [this] classroom" and whose "nose seemed to always need wiping."²³ Another, Lois Reaves, remembers him as a "quiet child" with a "dropped head," by which she meant that he "had very low self-esteem" and had "difficulty accepting nurturing, hugs, pats on the back, words of encouragement."²⁴ Ms. Reaves noted

²³ The affidavit of Cindy Crawley is attached as Ex. 22.

²⁴ The affidavit of Lois Reaves is attached as Ex. 23.

that in her experience, such an aversion to affection is often “reflective of a failure of a parent bonding with, or nurturing, her child.”

But Robert Jr. was also kind. Jodie writes how “[p]eople at school would pick on me a lot because they said I was slow [and] take my book bag and push me around.” Robert, Jodie remembers, “not only took up for me with those people, he also comforted me when I needed someone to talk to about my problems.” Robert reassured Jodie that she was “a good person no matter what others said” and advised her “to pray about dealing with things at school.” When Jodie struggled with her schoolwork, Robert Jr., who was younger but “smart and good at school,” would help her. Jodie writes that she “was thankful for Robert’s help and friendship.” Robert “was a good big brother to his younger siblings and a really good friend to me.”

In 1985, Laura began to date Harold Burton, a truck driver. On July 5, 1986, their daughter Tameica Butts was born.²⁵ A short time later, Laura began using crack cocaine. Soon she would disappear for extended stretches. Tony Waller remembers that Laura “would go missing for weeks at a time, and our mother would ask me to look for her.” Pete recalls that he and Tammy would “go looking for Laura to bring her home,” grim errands that Tammy also remembers, adding: “Sometimes she would come home with us and sometimes she would not.”

²⁵ Harold Burton’s letter to this Board is attached as Exhibit 24.

Laura's addictions were grueling for her children. Laura "stayed in the streets while we were coming up, so she wasn't what anyone would call a 'normal' mom," Tamayo writes. "But she was our mom, and we loved her and worried about her, especially when she would be gone for days and weeks at a time."²⁶ Pete noted Robert Jr.'s deep pain over his mother's struggles, writing that "Robert loved his mother but hated seeing her when she was on drugs [H]e knew he had no control over her decision to use drugs and get drunk, which frustrated him."

By 1987, Laura and the children had moved to a trailer on sixty acres of woods outside of Milledgeville. Laura's disappearances increased, and the trailer's rural setting isolated the family and amplified their privations. Pete recalls that "Laura's children were often left alone in the trailer, practically raising themselves." Tameica remembers many times "when the power, or the phone, or the water would be turned off because my mother would use the bill money to buy drugs."²⁷ Tamayo remembers "how cold it would get in the wintertime in that trailer, especially when the power was off because my mom hadn't paid the bills." The children would eat outside in the sun to warm themselves. Their telephone service was out often enough that, if the children had an emergency, they would "have to run to a neighbor's house to call for help."

²⁶ Tamayo Butts's letter to this Board is attached as Exhibit 52.

²⁷ Tameica Butts's letter to this Board is attached as Exhibit 25.

The absence of an adult intensified the children's desperate conditions as Dominique's severe mental health issues worsened. Dominique had become so aggressive and disruptive at school that his teachers asked Laura to keep him at home so that other children could learn. He was no more controlled at home, where he stole toys from the neighbors, destroyed the walls and furnishings of the trailer, and fought with his siblings, once shooting Tamayo in the head with a BB gun. "Dominique was wild," Tammy writes. "He was always fighting with us and tearing up our things; he just would not listen." "Dominique had a lot of troubles," Tamayo agrees, "and would act crazy and wreck our stuff." Dominique was ultimately diagnosed with severe behavioral disorders resulting from, among other factors, autism and neurological impairments. With Laura unable to manage his medications, he continued to cause havoc at school and was eventually hospitalized for the safety of himself and others. Medical reports suggest that his worst behavior came on days when his mother was gone all night.

As Laura's and Dominique's conditions worsened, Mary took Tammy in permanently. "Because of all the chaos, I ended up moving in with my grandmother," Tammy writes. "I did not mind it at all. Even though my grandmother and her husband also drank a lot, her house was better than my mother's." Harold would try to help when he was around, but Laura pawned many of the things he bought for the children to buy drugs. Harold remembers Robert

Jr.'s distress when Laura pawned the boom box that Harold had given him for Christmas.

This situation meant that Robert Jr., who was now the oldest child in the house, became a surrogate parent to his younger siblings. "Since Junior was the oldest, he was in charge, but he was still too young to take care of his siblings in his mother's absence," writes Pete. Robert Jr.'s siblings remember long stretches when they were on their own, with only Robert Jr. to care for them. Tamayo confirms that it was Robert Jr. who "would look after me, my brother, Dominique, and my sister, Tameica when my mom went missing. It wasn't easy. My grandmother would stop by and bring us groceries sometimes, but most of the time it was just us kids alone in the trailer." Tameica remembers "many times when it would just be me and my brothers home alone." But "Robert always tried to make the best of the situation," Tameica writes. "Robert would try to find something funny to say to cheer me up and he would cook food for me and help me with my homework."

Laura's addiction also brought men "who were violent and abusive" into the house, Tameica recalls. "Sometimes I could not sleep because the arguing and beatings were so loud." Pete remembers one occasion when "Laura was gone for several weeks, leaving the kids in the trailer by themselves," because she had moved in with an abusive boyfriend, Isaac Jones. Pete had to call the police for

help in getting Laura out of the house because Jones would not let her leave.

Afterward, Laura let Jones move into the trailer with her and her children.

Tamayo remembers Isaac Jones in particular because he “liked to beat women. He liked to hurt my mother, and he was often in our house, even when our mother was gone.” Tony Waller remembers Isaac as a “very unstable and dangerous man Isaac beat her, but she kept him around for the drugs he provided.” Tamayo remembers one time when Isaac and Robert “got into an argument after Robert tried to protect my mom” The “next thing [Tamayo] knew, he had Robert pinned to the ground and beat him up.”

Outside of his siblings’ grateful recollections, the accounts of Robert Jr. from this time are frustratingly vague – a testament to the extent to which he had been abandoned by those who were supposed to care for him. Tammy did not visit her siblings at the trailer after moving in with her grandmother, but “I would see and hear things when they came to visit my grandmother” about her mother’s continued drug use and a sequence of abusive and controlling boyfriends. “I saw a lot of things before I moved to my grandmother’s,” Tammy writes, “and I’m sure Robert saw even more since he stayed there. I also know he tried to do what he could to help Tamayo, Dominique, and Tameica because he has always been a good brother.”

Tony remembers that it was around this time, when “Robert Jr. was about 15 years old, that “something went wrong in Robert’s life, and he was not able to pull himself together and become successful.” By the time that Robert Jr. was a teenager, Tony recalls, “he seemed withdrawn and disappointed. He had already built a wall between himself and everyone else.”

In perhaps the saddest measure of the degree to which Laura’s addictions removed her from Robert Jr.’s life, she has virtually no memory of him. “I really don’t remember much about what Robert was doing during this time,” Laura writes of her teenaged son. “He has always been a good son,” she adds. “I love him and he loves me. But I can’t recall how he was doing in school or what jobs he had.”

Over the next two years, Robert Jr.’s immensely difficult life began to take a toll. He was forced to repeat the tenth grade. In 1994, he was arrested and confessed to burglaries of three houses down the street from the family trailer, for which he was placed on probation. After completing the tenth grade on his second attempt, he began attending an alternative school, where he began to receive disciplinary reports for absences, tardiness, and profanities. He drove away from a gas station without paying and, when contacted by the sheriff, reimbursed the station. He tried to maintain a job, but he got into a fight with a coworker at Burger King and was terminated. He was forced to repeat the eleventh grade. He was charged with a probation violation for failing to report to his court service

worker, and was ordered to attend school, pay restitution, and observe curfew. He dropped out of school during the first semester to work full time. He was arrested at the Milledgeville Manor Apartments with a small piece of crack cocaine and a handgun and given probation. He was arrested for shoplifting four music cassette tapes from a Blockbuster video. He was arrested for DUI. Owing \$4,088.23 in court fines, restitution, and probation services, he was scheduled to appear in court on April 14, 1996, in an action to enforce restitution. The crime underlying Robert Jr.'s sentence of death occurred on March 28, 1996. He was eighteen years old.

Robert Jr.'s arrest devastated and, in some sense, awakened his family. After Robert went to prison, Laura realized that she needed to beat her addictions. She was able to get clean and maintain her sobriety for six years. Because of that, she writes, "I was able to be there more for Tameica than I had been for Robert and my other children." After her boyfriend died, however, she relapsed with alcohol and drugs. Laura continues to struggle with addiction. As Tameica relates, however, "I was able to see her sober and be a normal mom who cooked dinner and came to my games. Robert did not get the chance to see her like this before he was arrested."

Through the fog of his mental illness and addictions, Bob also has regrets. As Juan writes, "Bob loved his son but knew in his condition he could not be there for him." Bob "wasn't able to help his son" because "[h]e could barely keep

himself going,” Pete agrees. Pete relates recently finding Bob hungry and homeless in Milledgeville. Over a meal, Bob “talked about Robert Jr.” and how he “feels guilty about what happened to his son because he was not able to be there for Junior like he should have been.” Bob has submitted a letter to this Board that, while bearing the hallmarks of his mental illness, desperately pleads for his son’s life.²⁸ He has also recorded a statement to the Board, which has been submitted with the electronic version of these materials.

For his part, Pete “feel[s] guilty because I didn't always set the best example for Junior either.” While he struggled with drug and alcohol addictions for many years, he finally achieved sobriety with the support of his wife of 32 years, who “stayed by my side and helped me become a better man and father.”

Pete’s son, Johnny Waller, notes the lack of a functional adult in Robert Jr.’s life to compensate for Laura’s addiction-induced absences.²⁹ Johnny was nine years old when Robert Jr. was arrested and observes that while he and Robert were both the children of “crippling addicts” with “zero functionality” and who “crippled the lives of their family,” he also “had a dual parent household.” “Considering this,” Johnny writes, “it’s not hard for me to see how two men that

²⁸ Robert Butts Sr.’s letter to this Board is attached as Exhibit 26.

²⁹ Johnny Waller’s letter to this Board is attached at Exhibit 27.

share the same bloodline and both had substance abusive parents had starkly different outcomes in life.” While Johnny’s mom provided him “some sense of stability, centering, and grounding,” for Robert Jr., the closest thing to a “stable, centered, and grounded” parent has been prison. Accordingly, Johnny is a practicing attorney in Decatur, Georgia, while Robert Jr. is imprisoned under a sentence of death.

For his part, Tony Waller writes that “[t]here is also not a day that goes by that I don’t wonder if could things have turned out differently, if my brothers and I had stepped in and taken Robert, Tamayo and Dominique away from Laura.” But Tony and his wife “were busy, working our jobs and raising our family striv[ing] to give our children the stability, and advantages, that I had not enjoyed as a child Consequently, over the years we would only see Robert Jr, and his siblings, at my mother’s house at holiday times and occasional Sundays.” When Tony would see Robert Jr at his mother’s house, he would try to reach out to him. “[B]ut I believe now that he was already so emotionally exhausted and damaged from having a lot of responsibility with no support, little love and no encouragement that he didn’t know how to even begin to have a genuine conversation with someone who cared about him.”

Tameica believes that Robert Jr. was neglected more than she and her sister, Tammy, because “everyone worried about me and Tammy more because we were

the girls.” Noting that Tammy lived with their grandmother and that she spent more time there than her brothers did, she wonders if the adults in the family decided that “it was too much to take care of all of my mother’s children so they focused on me and Tammy.”

Tamayo, who was sixteen years old when Robert Jr. was arrested for the murder of Donovan Parks, finds that unacceptable. Because Robert Jr. had dropped out to work and “to try and support the family,” Tamayo did the same, and has been “working ever since.” Now with children of his own, Tamayo acutely understands that “the way we were raised was not right. We should have had parents we could depend on.”

But they did not.

III. Robert Jr.’s Youth at the Time of the Crime Argues for Mercy

The preceding section detailing Robert Jr.’s family history underscores one distressing aspect of his life before the crime: its brevity. Robert Jr. was only eighteen years old on the night that Donovan Parks was killed – a fact that argues for this Board’s dispensation of mercy when considering his role in that crime.

As the Supreme Court of the United States has recognized, a person’s age, mental development, and ability to control his impulses are critical considerations when assessing whether he has the extreme culpability required to impose a

sentence of death.³⁰ In keeping with that principle, any assessment of Robert Jr.’s culpability must account for his chronological age at the time of Mr. Parks’s murder—just 18 years old³¹—and his “mental age” of about 15 years old, the product of his childhood deprivations.³² Both considerations support this Board granting clemency.

First, Robert Jr.’s chronological age at the time of the murder significantly reduces his culpability. Indeed, if Robert Jr. had been just ten months younger, the Eighth Amendment would prohibit his execution.³³ Further, our current scientific understanding of brain development recognizes that individuals at age 18, 19, and even 20 do not have fully developed brains, are immature, and are vulnerable to peer pressure and risk-taking behavior. For example, researchers believe that an individual’s impulse control begins to overcome his desires for sensation seeking only around age 21.³⁴ As one researcher has explained, “eighteen- to twenty-one-

³⁰ See *Roper v. Simmons*, 543 U.S. 551 (2005) (age and impulses); *Atkins v. Virginia*, 536 U.S. 304 (2002) (mental development).

³¹ Robert Jr. was born on May 14, 1977; Mr. Parks was murdered on March 28, 1996.

³² See Ex. 28, State Habeas Corpus Transcript, Letter of Dr. James E. Stark, at page 2 (stamped as page 6079 of transcript); D. Wechsler, *The Measurement and Appraisal of Adult Intelligence* 24-37 (4th ed. 1958).

³³ *Roper*, 543 U.S. at 578–79.

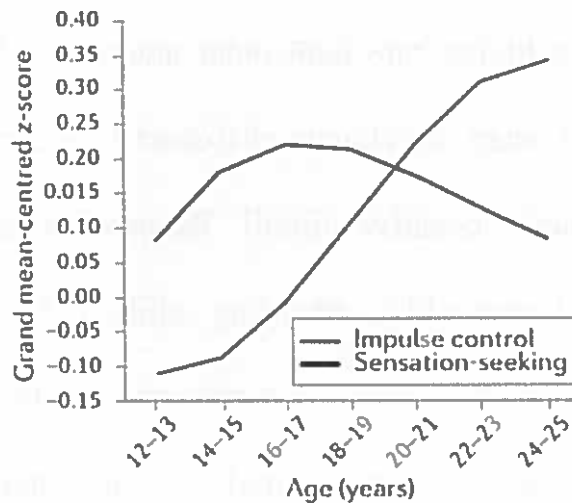
³⁴ See Natasha Duell, et al., “Adolescent Decision Making and Risk Taking,” at 266 in *Child Psychology: A Handbook of Contemporary Issues* (3rd ed. 2016) (Lawrence Balter and Catherine S. Tamis-LeMonda, eds.).

year-olds, like adolescents, engage in risk-taking behavior (including involvement in criminal activity) at a higher rate than older adults.”³⁵ This lack of impulse control is most profound when individuals of Robert Jr.’s chronological age at the time of the murder encounter negative stimuli. Researches testing impulse control of adolescents (13-to-17 year olds), emerging adults (18-to-21 year olds), and young adults (22-to-24 year olds) found that emerging adults of Robert Jr.’s then-chronological age exhibited no better impulse control than adolescents when confronted with negative stimuli.³⁶ An individual’s impulse control generally only overcomes his risk-taking desires around age 20-21, as demonstrated by the following chart³⁷:

³⁵ See Elizabeth S. Scott et. al., *Young Adulthood As A Transitional Legal Category: Science, Social Change, and Justice Policy*, 85 *Fordham L. Rev.* 641, 645 (2016).

³⁶ See *id.* at 650 (citing Alexandra O. Cohen et al., “When Is an Adolescent an Adult?: Assessing Cognitive Control in Emotional and Nonemotional Contexts,” 27 *PSYCHOL. SCI.* 549, 559-60 (2016)).

³⁷ See Laurence Steinberg, “The Influence of Neuroscience on US Supreme Court Decisions about Adolescents’ Criminal Culpability,” 14 *Nature Reviews Neuroscience* 513 (2013).



The scientific research thus demonstrates that an individual of Robert Jr.’s chronological age at the time of the murder (18-years-old) has a significantly diminished moral culpability as compared to someone older—and especially when compared to someone above age 21.

Second, Robert Jr.’s mental age further diminishes his culpability and underscores the appropriateness of granting Robert Jr. clemency. As the U.S. Supreme Court has recognized, the execution of an individual for a crime committed before he turned 18 is unconstitutional.³⁸ The Supreme Court based its conclusion in large part on “[t]he susceptibility of juveniles to immature and irresponsible behavior,” which makes the individuals “not as morally reprehensible as . . . an adult” for the same crime.³⁹ The Supreme Court also explained that

³⁸ *Roper v. Simmons*, 543 U.S. 551 (2005).

³⁹ *Id.* at 570 (quotation marks omitted).

juveniles' "own vulnerability and comparative lack of control over their immediate surroundings mean juveniles have a greater claim than adults to be forgiven for failing to escape negative influences in their whole environment."⁴⁰

Here, these characteristics perfectly describe Robert Jr. In 1997, when Robert Jr. was incarcerated but awaiting trial, a psychologist examined him and found that Robert Jr.'s reading and spelling were consistent with an IQ of about 80.⁴¹ An individual with a chronological age of 18 and an IQ of 80 would have a mental age of approximately 14.4.⁴² A year later, a court-ordered psychologist concluded that Robert Jr. "suffers from . . . poor judgment and impulse control."⁴³ Robert Jr.'s mental age of about 15, and his clinically diagnosed impulse control deficit significantly reduce Robert Jr.'s relative culpability. In other words, Robert Jr.'s "own vulnerability and comparative lack of control over [his] immediate surroundings mean" that he has "a greater claim than adults to be forgiven for failing to escape negative influences in [his] environment."⁴⁴

⁴⁰ *Id.*

⁴¹ Ex. 28, State Habeas Corpus Transcript, Letter of Dr. James E. Stark, at page 2 (stamped as page 6079 of transcript).

⁴² See D. Wechsler, *The Measurement and Appraisal of Adult Intelligence* 24-37 (4th ed. 1958).

⁴³ See Ex. 53, State Habeas Corpus Transcript, Report of Dr. Jerold S. Lower, at page 4 (stamped as page 4888).

⁴⁴ *Roper*, 543 U.S. at 570.

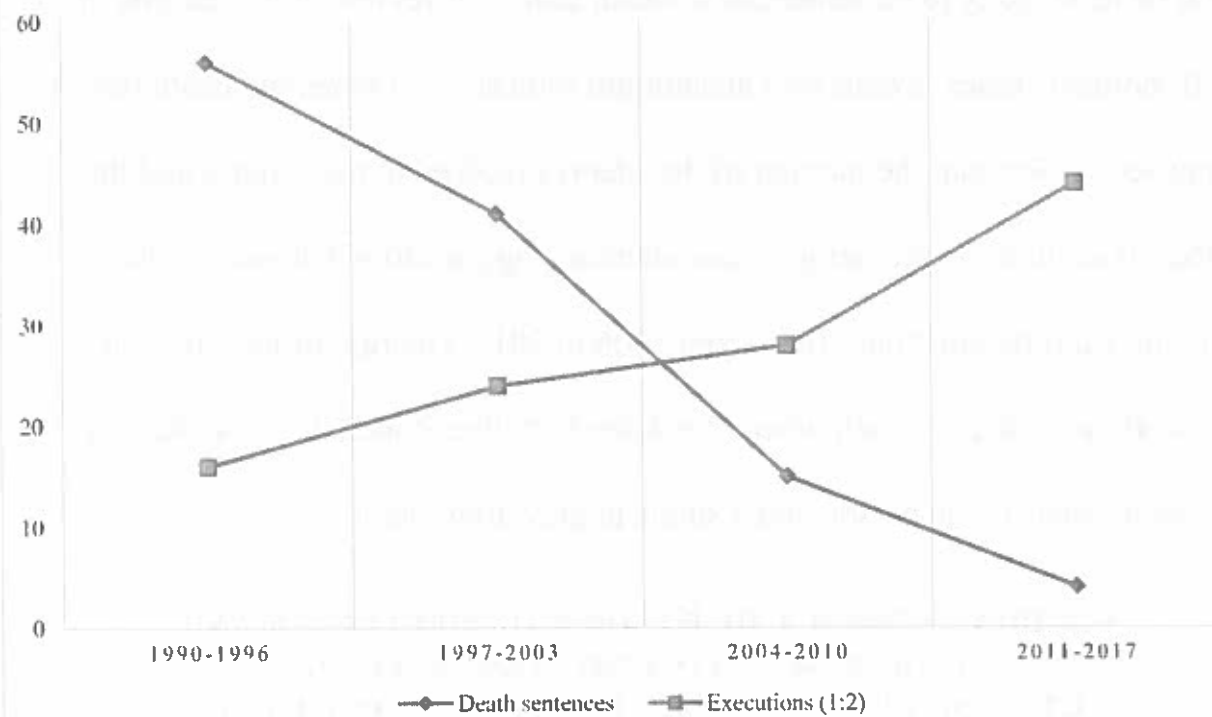
In sum, Robert Jr.'s chronological age and mental age at the time of his offense offer compelling reasons for this Board to recognize his reduced culpability and grant Robert Jr. clemency.

IV. Robert Jr.'s Sentence of Death is Disproportionate, Which Argues for Mercy

There are also aspects of the crime for which Robert Jr. was sentenced to death which argue for the dispensation of mercy. Robert Jr. is in no way trying to minimize Mr. Parks's death. The guiding principle of Georgia's death penalty statute, however, is that crimes with the same characteristics should receive the same sentence. And a Georgia jury would not sentence Robert Butts to death today. In fact, in the past decade, no Georgia jury has imposed the death penalty for an offense similar to the one for which Robert was sentenced to die. The State's insistence on executing Robert ignores this reality and the judgment of the people of Georgia.

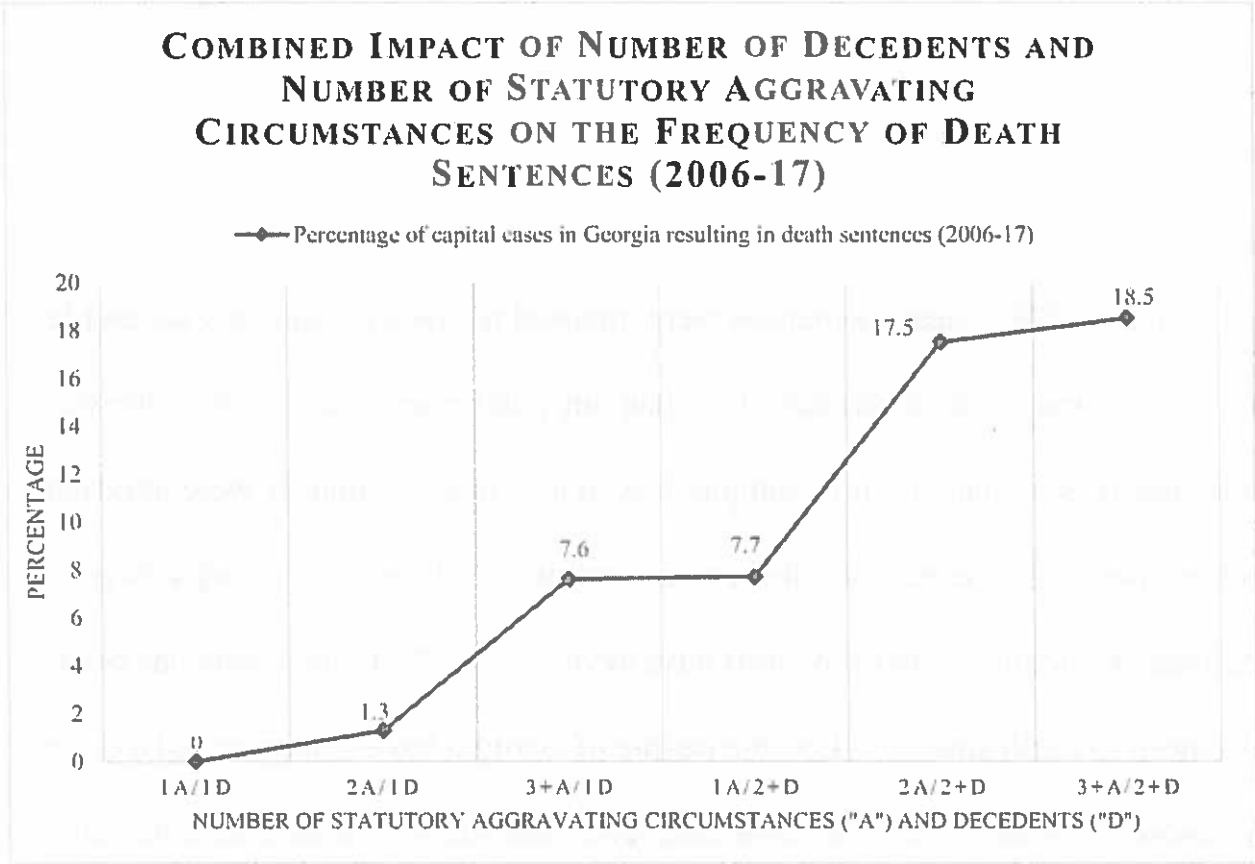
As reflected in the following chart, in the twenty years since Robert's trial, the rates of executions and death sentences in Georgia have moved in opposite directions.

TOTAL NUMBER OF DEATH SENTENCES AND EXECUTIONS IN GEORGIA, 1990-2017



In the 1990's, death sentences were imposed relatively frequently statewide and Georgia executed, on average, less than one person per year. In 1998, the year of Robert Jr.'s sentencing, for example, eleven new death sentences were imposed and one person was executed. Since then, new death sentences in Georgia have declined drastically while executions have skyrocketed. Not one person has been sentenced to death since 2014, as the people of Georgia have demonstrated a desire to impose the death penalty on fewer and fewer offenders. The shift demonstrates that Robert Jr. would not be sentenced to death under current sentencing practices.

Indeed, newly compiled data provides insight into which death-row inmates would be least likely to be sentenced to death today. A review of the records in “death-noticed” cases reveals two meaningful indicators of when the death penalty is imposed in Georgia: the number of decedents involved in the offense and the number of statutory aggravating circumstances (“aggravators”) at issue. The following chart demonstrates that, from 2006 to 2017, Georgia juries have not sentenced individual to death where the defendant, like Robert Jr., was charged with the murder of one person and a single aggravating factor:



Moreover, from 2006 to 2017, only 1.3 percent of death-noticed defendants received the death penalty where there were *two* aggravating factors and a single

deceased victim. These records confirm a clear trend: Georgia juries impose death sentences less frequently in single-decedent or low-aggravator cases, and they have essentially ceased imposing death sentences on defendants like Robert Jr. Put simply, the people of Georgia no longer consider someone like Robert Jr. — convicted of a single-decedent, single-aggravator murder — to be among the “worst of the worst” offenses for which the death penalty must be reserved. This trend weighs heavily in favor of clemency.

V. The Use of Inaccurate and Prejudicial Gang Evidence Argues for Mercy

In arguing for the death penalty, the State introduced testimony from a detective, Ricky Horn, who contended that Robert Jr. was a member of “the FOLKS gang,” a rampaging collection of devil-worshippers allegedly responsible for thousands of violent crimes in and around Milledgeville. The evidence connecting Robert Jr. to this gang was minimal: a few pieces of paper with “gang graffiti” found in the bedroom that he shared with his younger brother; a blue bandanna and supposedly “gang-related” drawings found in Robert Jr.’s car; and the fact that Robert Jr. wrote “O.G. Butts” on his shoes while incarcerated. But there was no evidence that Robert Jr. had been associated with a gang or involved in gang crimes, and his younger brothers later testified that they were responsible for the drawings and other “paraphernalia” attributed to Robert Jr. Further, the core of Det. Horn’s testimony—which was informed by a single gang seminar in

Atlanta, sporadic review of gang literature, and one or two television specials—had no basis in reality. As detailed by the report and testimony of Professor John Hagedorn, an expert on youth gangs and the author of a text focused upon the FOLKS gang, Det. Horn erroneously assessed the levels of violence in Baldwin County – which were actually declining – and made a number of simply fictional claims – including that “FOLKS” was an acronym for “Followers of Lord King Satan.”⁴⁵

VI. Robert Jr.’s Remorse for His Role in Mr. Parks’s Death Argues for Mercy

As Robert Jr. expressed in his interview with you earlier today, he is deeply remorseful for his role in Donovan Parks’s death. Robert Jr. has submitted a signed statement with this petition, in which he relates the events of that night.⁴⁶

He begins his statement, however, with this:

First, I want to apologize to the Donovan Parks family. I think about Mr. Parks and that night every single day, going over it again and again in my mind. There’s no excuse for what I did, and I’m tremendously sorry for what happened to Mr. Parks.

After detailing how Mr. Wilson shot and killed Mr. Parks to his surprise and horror, Robert Jr. expresses his remorse for his earlier, untruthful accounts of the crime.

⁴⁵ Excerpts from Mr. Hagedorn’s testimony are attached as Exhibit 29

⁴⁶ Robert Jr.’s signed statement to this Board is attached as Exhibit 30.

When the police arrested me, I lied and told them I didn't know anything about what happened to Mr. Parks because I thought it was wrong to snitch on Murdock. Then I lied in my statement and testimony. My lawyers knew some witnesses told the police that they saw a truck leave the scene, and I thought they were telling me to go along with that story. I knew it wasn't true and wish I'd said so.

Robert Jr. also writes powerfully of how his understanding of his responsibility in Mr. Parks's death has deepened as he has matured:

When I first got to death row, I viewed myself as a victim, because in my mind I was just an accessory, and I thought that everyone would realize that eventually. I was 21 and couldn't accept that I would be here for the rest of my life. It took me a while to grow up. I wish I hadn't taken so long to understand that, as a human being, I messed up in one of the worst ways possible. I'm not going to blame my mom or my dad because this is my fault. If I would have made better decisions then I wouldn't be sitting here today. So I just want to apologize to the Parks family, to the Board, and to everyone who has been drawn into this terrible situation.

Robert Jr. also writes of his well-intentioned but ill-considered attempt to apologize to the Parks family.

I hope Mr. Parks's family can forgive me one day. A few months ago, I decided that I had to make sure I apologized to them while I still could, and I sent them a letter.⁴⁷ I told them that I had planned to apologize at trial, but I was so immature, and that I understood that I couldn't make it right again, but that I was deeply sorry. My lawyers heard from the attorney general that they didn't want me to contact them again. I never meant to hurt them with my letter. I just didn't want to get to the end and only be apologizing then.

⁴⁷ Robert Jr.'s letter to the Parks family is attached as Exhibit 31.

Robert Jr. concludes by asking again for forgiveness.

I wish there was some way that you could see into my heart to see for yourself how sorry I am. Life is about choices and decisions, and I made bad ones. I am sorry that the worst decision I have ever made contributed to Donovan Parks's death and an irreplaceable loss to his family. I hope that one day they will forgive me.

VII. Robert Jr.'s Post-Sentencing Conduct Argues for Mercy

Robert Jr. arrived at the Georgia Diagnostic and Classification Prison in November 1998 as a scared twenty-one year old, who had never served significant time in prison before being sentenced to death. He quite literally had to grow up and become an adult while facing the harshest of realities: that he will die in prison.

Confronted with this, Robert Jr. might have turned inward. Instead, he has reached out. To his scattered and fractured family. Through his art and poetry, as he grapples with his shock and remorse for his role in Mr. Parks's death. And for spiritual guidance, as he seeks to grow in faith. Robert Jr. has worked not just to find hope, but to share it with the community of family, friends, pastors who support him, and who have come to depend upon him for support. He has not been perfect. But we respectfully submit that he has demonstrated by his conduct since being sentenced to death that he is far from the "worst of the worst," and that relief from his death sentence would be appropriate.

Relationships Maintained and Formed While Incarcerated on Death Row

As described above, Robert Jr. grew up in a family ravaged by mental illness and addiction, effectively depriving him of both of his parents. Many members of his family continue to battle those demons. Others, who were able to escape the worst of their family's dysfunction, have drifted away.

Notwithstanding these challenges, Robert Jr. has succeeded in maintaining these relationships. Indeed, not only has he become closer to his family in recent years, he has also become a strong source of support for them, as shown in their attached letters.

Robert Jr. could be forgiven for harboring anger for his mother, Laura, whose struggles with addiction deformed his childhood. The opposite is true. As Laura writes: "Robert and I talk nearly every day and have for years." Robert encourages Laura's sobriety, sometimes firmly: "He supports me and lectures me about doing right." And Laura has been able to appreciate Robert Jr.'s hard-won maturity: "He's grown up and is wiser, but has remained kind and down-to-earth."

Similarly, Robert Jr. might readily be estranged from his older sister, Tammy, given that she escaped the worst of his childhood when their grandmother took her in, and as her service in the Air Force has her stationed out of state.

Again, the opposite is true. Tammy writes: "It's hard for me to get back home and even harder to see Robert given the visitation schedule, but we are close." Robert Jr. has been a vocal supporter of her career and follows her personal and

professional life with interest. For her part, Tammy sends him pictures and videos of her family and friends “so that he can see what I am doing” and, perhaps, feel a part of it. She, too, is struck by the change in Robert Jr. “Over the years, my brother has grown up a lot. He’s smart and thoughtful.”

It is clear from Robert Jr.’s younger siblings that he remains the protective big brother who looked after them in the trailer. Tameica writes: “Even though he is in prison, Robert remains one of the most important people in my life. We talk about everything and he is there for me whenever I need someone to talk to.” It is clear, too, that Robert Jr. is not shy about dispensing counsel. Tameica, in noting that “[h]e likes to give me advice,” acknowledges that he does so “like a big brother should.” Tamayo strikes a wearier note, writing that Robert Jr. is “really smart and he gives me good advice, *even if I don't always want to hear it.*” He acknowledges, though, that Robert Jr. “has grown up a lot since his arrest” and “wants to be that role model for me that he didn’t have.”

Sadly, while Robert has been in prison, certain family members have struggled to escape their own addictions and mental illness, often unsuccessfully and with tragic results. Robert Jr.’s younger brother Dominique Hurt, who struggled throughout his life with mental illness, died in prison due to unknown causes on June 19, 2016. He was 33.⁴⁸ His death devastated Robert Jr. and his

⁴⁸ See Ex. 32.

family, and the memory of that loss has made the prospect of Robert Jr.'s execution all the more unbearable. As detailed in the letter of Tammy Mosley, Robert's sister: "I don't want to think about how my family would handle losing Robert. We are still struggling with losing my youngest brother, Dominique." In his letter, Tamayo echoes that thought: "We were all so hurt and shocked by my brother Dominique's unexpected death. I cannot image what losing Robert would be like." Robert Jr. worries perhaps most intently about the effect his death would have on his mother. While Laura has had long periods of sobriety, she has never fully escaped her addictions. Harold Burton, with whom Laura has reconciled, writes: "[Laura] struggles to stay sober. I worry about how losing Robert will affect her."

While Robert Jr.'s father, Bob, remains separated from him by his mental illnesses and addictions, Robert Jr. has forged relationships with his father's brothers, who, because his father was largely absent from his childhood, he never knew. Robert's uncle Cary Nkosi, the presiding Pastor of Pentecostal Episcopal Church of Jeffersonville, Georgia, had moved away from Milledgeville when Robert Jr. was a baby. His correspondence with "Little Bob" has brought him great pleasure and, it seems, some pleasant surprises. "Little Bob is a very talented artist," Cary writes. He treasures the drawings and poems Robert Jr. has sent him, which he sees as evidence that he is "trying to make the best out of his life despite

the past mistakes he's made." Pastor Nkosi also writes of Robert Jr.'s spiritual growth, noting that "Little Bob has great interest in understanding and learning more about the bible and other religions.... Even though Little Bob is behind bars, he has a hunger for understanding the meaning of life"

Religious Faith

Indeed, while religion was not an important part of Robert's upbringing, his deepening faith is a central part of his life today. For the past fifteen years, Robert Jr. has met regularly with Rev. Harry Barrow, a Presbyterian minister currently serving the First Presbyterian Church of LaGrange, Georgia. In recent years, he has also sought guidance from the Rev. Alan Sandlin, an Episcopalian rector now based in Atlanta, and Debra Aring, who will soon be ordained.

As Rev. Barrow details in his letter⁴⁹, when he first began visiting Robert Jr. decade-and-a-half ago, he found him "quiet and reserved," becoming "more open and responsive" only over time. As Robert Jr. began to gradually share stories about his early years in Milledgeville, Rev. Barrow asked him "about the best memories he had while growing up." Robert Jr.'s answer was unexpectedly heartbreaking. After mentioning that his mother "battled an addiction," Robert Jr. told a story about how one of the men who lived with his mother had taken him fishing one Sunday afternoon. Listening to Robert Jr. recount an afternoon made

⁴⁹Rev. Barrow's letter to this Board is attached as Exhibit 33.

remarkable only by the lack of happy memories to outshine it, Rev. Barrow marveled at how Robert Jr. neither whined nor felt sorry for himself.

Another surprise was in store. Upon learning that Robert Jr. enjoyed drawing, Rev. Barrow asked him “to draw something that could be used for the cover of a worship bulletin.” Robert Jr. did, and has continued to provide drawings for the bulletins that Rev. Barrow serves. Some members of Rev. Barrow’s churches have been so moved by Robert Jr.’s drawings that they began corresponding with him; many continue to do so to this day.

Rev. Barrow has also been moved by Robert’s compassion. When Robert Jr. and Rev. Barrow first began to pray together, Robert Jr. would often ask that they “pray for his mother and other family members, including a sister who was in the service.” And when Rev. Barrow mentioned during a visit that his son had contracted shingles, Robert Jr., without saying anything, wrote to his son to inquire after his health and to tell him that he would pray for him. “In summary,” Rev. Barrow concludes, “I realize that when Robert was a teenager, he made some bad decisions. However, I also believe that in the 22 years Robert has been incarcerated, he has grown as a human being and a child of God.”

Rev. Sandlin has visited Robert on a monthly basis for about three years, after being introduced to him by Rev. Barrow. “From the very beginning of our friendship,” Rev. Sandlin writes, “I’ve been continually surprised by Robert’s

upbeat attitude toward life.”⁵⁰ Rev. Sandlin finds it “remarkable” how, “[u]nder the very hard circumstances of living on Death Row, [Robert Jr.] stays positive and manages somehow to lift the spirits of all who come into contact with him. It surprises me, he surprises me, with how readily he finds and shares hope—and even joy—in the world when his own corner of it is so dark.” Rev. Sandlin leaves every visit with Robert Jr. “feeling better about the world than when I came in.” “That,” he added, “is, to say the least, not what I expected.”

Rev. Sandlin has also been struck by Robert Jr.’s “focus on others, and not himself.” Rev. Sandlin continues: “Robert isn’t interested in superficial exchanges. He wants to know you. He cares about you.” Rev. Sandlin expressed appreciation for Robert Jr.’s attention to his mother, who had been ill for most of the time that they have known each other, and who recently passed away. He also remarked upon Robert’s curiosity about Episcopalian theology, and his studious interest in the issues facing the churches Rev. Sandlin’s churches has served. “His is a deeply Christian approach to friendship,” Rev. Sandlin writes. “I feel grateful to have accompanied him on his journey of faith.

Debra Aring, a member of St. Bartholomew’s Episcopal Church in Atlanta in preparation for her ordination to Holy Orders, began corresponding with Robert

⁵⁰ Rev. Sandlin’s letter to this Board is attached as Ex. 34.

approximately two years ago, and began visiting him six months ago.⁵¹ She sees “no resemblance” between “the Robert who made terrible decisions that had tragic consequences for Donovan Parks and the Parks family” and the Robert she knows, who is “a devoted friend . . . [,] a talented artist and published author who expresses his surpassing depth of feeling in his work [and] a hapless Atlanta Hawks fan, for reasons I cannot understand.” “[P]atient and generous,” the Robert she knows “loves a good story and teases in good fun.” By “willing to risk forming new relationships with people on the outside,” the Robert she knows “has sustained a community that loves him”—which, given the conditions of his everyday life . . . is a remarkable feat.”

The qualities that so impressed Robert Jr.’s pastors were also noted by Susan Lehmann, a veteran mitigation investigator of some thirty-six capital murder cases, who was retained by counsel to investigate Robert Jr.’s childhood. “I am usually able to maintain some professional detachment from my cases,” Ms. Lehmann writes, “but Robert’s situation affected me on a deeply emotional level. Of all the cases that I have worked on, it is Robert’s that troubles me the most.”⁵²

Ms. Lehmann writes that when she first met with Robert Jr., he described his childhood as “normal.” As Ms. Lehmann learned the truth about Robert Jr.’s

⁵¹ Ms. Aring’s letter to this Board is attached as Ex. 35.

⁵² Susan Lehmann’s letter to this Board is attached as Ex. 36.

upbringing, however, she concluded that “[o]ne of the saddest aspects of Robert's life is that he could even think that a childhood such as his—in which he was left as caretaker for his younger siblings, one of them deeply disturbed, because of his mother's alcohol and drug addictions and his father's psychotic break—was ‘normal.’”

While “Robert's upbringing was as grim as any [Ms. Lehmann had] encountered in [her] 35 capital cases, *and worse than most*,” she “never heard him sound bitter or angry about his situation.” On the contrary, Robert Jr. showed more interest and sympathy for Ms. Lehmann than he did for himself. “Robert was always eager for news from Milledgeville, Ms. Lehmann writes, “[b]ut he was interested in me as well,” asking regularly about her children, husband, and other cases “He is different from most of my other clients in this respect: Robert is genuinely interested in people.” Over time, Ms. Lehmann saw “the quiet, guarded Robert I first met in 2005 reveal[] himself as a young man with a bright smile and deep interest in the world outside of the prison.” After noting his gift for “develop[ing] and maintain[ing] friendships with people from all walks of life,” Ms. Lehmann offered a heartfelt plea to this Board:

This has been the most difficult letter I've ever had to write. In the thirteen years that I have known Robert Butts, I have been amazed at what a kind, introspective and intelligent man he is. These qualities set him apart from most of the clients I worked with. . . . He is a decent, caring human being and should serve as a role model for other young men who've had little positive influence in their lives. My life

has been enriched by my friendship with Robert. I am deeply saddened by his scheduled execution. I know that our world is a better place with Robert in it. I hope you will grant him clemency.

Robert's Rich and Varied Correspondence

As noted by Ms. Lehmann, Robert Jr., through his pen, serves as a devoted friend to people around the world. What is remarkable about these friendships is that they are in no way a one-way street. Robert plays a prominent and positive role in the lives of his correspondents, serving as a constant source of support. These friends can attest that Robert's redeeming and humanizing qualities have only grown over the years, as he has developed into a thoughtful, compassionate, and attentive person who puts the needs of others ahead of his own. Robert Jr.'s death would be an almost unimaginable loss to them

For example, Alice Roberts, a schoolteacher who has corresponded with Robert Jr. for more than 18 years, describes him as a "thoughtful and attentive friend," who has been with her "every step of the way," including through a cancer diagnosis.⁵³ She has found comfort and inspiration in Robert's art, and knows him to be a deeply remorseful person who is focused on "becom[ing] a better person," and whom she would not hesitate to introduce to her husband and children.

Eric Saunders has been Robert Jr.'s pen-pal since 2005 and considers him one of his closest friends, noting that they have "given each other mutual support

⁵³ Alice Roberts's letter to this Board is attached as Exhibit 37.

in difficult times,” particularly when Eric suffered two family bereavements.⁵⁴ Having corresponded with Robert for so long, Eric has the benefit of witnessing the Robert Jr. who “entered prison as a lost teenager” develop “into a mature middle aged man demonstrating kindness and sensitivity to fellow human beings.” If Robert was free,” Eric writes, “my family and friends would be Robert’s family and friends.”

Similarly, Dorothy Nott, a lawyer, describes her 18-year correspondence with Robert Jr. as “an enriching and much valued experience” that has left her “amazed by Robert’s ability to examine himself, reflect upon his own situation, and to show empathy for the situation of others.”⁵⁵ As Ms. Nott explains, “In the early years of our correspondence, my beloved husband contracted cancer and as I cared for him in his terminal illness, Robert was a great support, putting his own difficult condition to one side as he focused on my grief.” To keep her in good cheer, Robert Jr. regularly sends drawings, “choosing images designed to appeal to me personally, with special editions for my birthday and Christmas.” In fact, Ms. Nott has been so impressed by Robert Jr.’s talent that she organized a gallery exhibition of his letters and art.

⁵⁴ Eric Saunders’s letter to this Board is attached as Exhibit 38.

⁵⁵ Dorothy Nott’s letter to this Board is attached as Exhibit 39.

Cathy Schneider is a fifty-two year old nurse and self-described conservative Republican who lives in Georgia with her husband and children.⁵⁶ Cathy attended a prayer vigil in 2016 where she learned of a pen pal program for prisoners. After praying about it, she decided to volunteer, and exchanged her first letter with Robert Jr. in May 2016. While initially far “outside of her comfort zone,” she and Robert have formed a deep friendship. Significantly, she has seen Robert express deep remorse on more than one occasion, and has seen how important Robert’s faith is to him.

Robert has also found support in his relationship with Jennifer Rowe, a recently-widowed former corrections officer who admits that she first corresponded with him for “free therapy.” To her surprise, Robert “gave me my life back. He also gave my children their mother back.”⁵⁷ Through their correspondence, Jennifer and Robert Jr. formed a deep attachment that they recognized in 2010 through a marriage. Robert has also played a major role in the lives of Ms. Rowe’s children. Jennifer’s daughter, Crystal, writes that Robert Jr. “has been an inspiration to me because he has shown me how to look at life in a positive way”⁵⁸ Jennifer’s son, Eddie, credits Robert with “help[ing] me avoid the life he is living. I was on a self-destructive path in life when Robert

⁵⁶ Cathy Schneider’s letter to this Board is attached as Exhibit 40.

⁵⁷ Jennifer Rowe’s letter to this Board is attached as Exhibit 41.

⁵⁸ Crystal Rowe’s letter to this Board is attached as Exhibit 42.

became a part of it. He helped curve decisions I made until I came to the realization that I could see myself walking in his shoes.”⁵⁹ As Eddie remarks, “[s]ometimes the slap in the face we need comes from the strangest of places.”

Conduct While Incarcerated on Death Row

Robert Jr.’s prison record reflects the same emotional maturity attributed to him above. Robert Jr. has been a well-behaved inmate who has neither posed a security risk nor been a problem for the correctional officers. As former Officer McCord states: “I remember Robert Butts very well. He was one of the inmates that always kept to himself. He never caused me no problems. He would do what he was told the first time. If I said, ‘Hey lock up,’ Butts would do it and say nothing.”⁶⁰ Officer McCord also recalls that “[w]hen [Robert Jr.] was in his cell, he was always drawing. He was a real good artist.” Similarly, Ramona Mott, a Licensed Mental Health Counselor who worked with Robert Jr., reports that he “was always very respectful to me and never refused visits.... He stood out as calm and kind compared to the other inmates.”⁶¹ Noting that Robert Jr. “often stayed to himself and seemed determined to steer clear of trouble” Ms. Mott “never heard about any altercations or even negative interactions between Mr. Butts and anyone else.” She concludes that “Mr. Butts never seemed to me the type of man who

⁵⁹ Eddie Rowe’s letter to this Board is attached as Exhibit 43.

⁶⁰ Officer McCord’s letter to this Board is attached as Ex. 44.

⁶¹ Mr. Mott’s letter to this Board is attached as Ex. 45.

would even be on Death Row,” adding that “if he Mr. Butts were to live out his life in prison rather than being executed, he would not be a problem at the prison.” In the same vein, former Chief of Security Michael Kyles states “Given my recollection of Inmate Butts, I do not believe that if commuted to a sentence less than death, Inmate Butts would pose a threat that cannot be managed according to general population procedures.”⁶²

Although Robert has not been infraction free while on death row, the number of disciplinary charges levied against him has fallen precipitously, with no more than a handful since 2014. Critically, Robert’s disciplinary record reveals that Robert does not pose a danger to others. All of his disciplinary charges are for non-violent offenses, with the exception of one fight in which the charges against him were dismissed because the evidence showed that he was defending himself.

The majority of Robert Jr.’s disciplinary charges are for offenses such as failure to file orders or insubordination. A representative example is that Robert was charged with Failure to Follow Instructions for a May 2, 2000 incident in which a correctional officer told him to prepare for an inspection but he refused and was in bed asleep when the inspection occurred. See Exhibit , DR D-222-00-0428. For this offense, the sanction was 30 day store restriction. A similar

⁶² Mr. Kyles’s letter to this Board is attached as Ex. 46.

incident occurred on April 19, 2004.⁶³ The sanction was 7 days isolation probated for 45 days. There were also a few instances where Robert refused to be tested, but in at least one instance, he explained that he was unable to produce urine at that time, and all of these incidents are older than ten years.

Robert has also been caught with contraband on occasion –cigarettes (October 2000), a small amount of tobacco (June 2004), marijuana (July 2009), and a cell phone (May 2017). These incidents should be assessed in light of the letter submitted by former Correctional Officer Yanarda McCord, who writes that Robert was known throughout death row as a nice guy who would not say no and would not “snitch” under any circumstances, leading other prisoners to take advantage of him by pressuring him to store contraband for them. As Officer McCord states: “They used [Butts] as a scapegoat . . . it was his way of protecting himself... It doesn’t surprise me at all that he was caught with contraband.”

Additionally, institutional records demonstrate that Robert Jr. has no gang affiliations and, moreover, has gone out of his way in recent years to mentor younger inmates. The jail records also show that he has done his best to participate in positive activities, such as the sanitation detail, the art program, and the crochet

⁶³ See Exhibit 47, Disciplinary History, DR D-522-04-0281.

program, and he has spent most of his time reading, watching TV, writing letters, and pursuing his interest in poetry and in art when able to do so.

Artistic Abilities

It is fitting that the last words in this petition are devoted to Robert Jr.'s poetry and art, the disciplines that he has pursued and developed during his incarceration. As Robert Jr. has written, "I learned art because I wanted to have a way to touch lives and make a difference in society, just to be able to uplift someone, and bring something positive to anyone who needs it, whomever God sends my way." And so he has. Robert Jr.'s work has been exhibited at various art shows and used on the cover of church bulletins.⁶⁴ As noted above, he seeks to comfort, inspire, and delight his various friends by sending them artwork personalized to their interests. They treasure these gifts, which they now share with this Board as they urge it to consider clemency.⁶⁵ Robert Jr. also has collected his poetry and art in a self-published volume, "A Portrait of My Journey, Memoirs From Death Row."⁶⁶

VIII. Conclusion

For all the reasons contained in this Application and appendices, and for the reasons found in the evidence and argument presented at the hearing on this

⁶⁴ See, e.g., Ex. 48, Church bulletin of LaGrange Presbyterian Church.

⁶⁵ A sampling of their pieces is attached as Exhibit 49.

⁶⁶ That volume is attached as Exhibit 50.

Application, Robert Jr. and his family ask this Board to: (1) grant a stay of execution for ninety (90) days to permit the Board to review and deliberate the evidence on Robert Jr.'s behalf; and (2) exercise its awesome power to bestow mercy and commute Robert Jr.'s death sentence.

Philip E. Holladay, Jr.

Philip E. Holladay, Jr.
Georgia Bar No. 361008
King & Spalding LLP
1180 Peachtree Street NE
Atlanta, Georgia 30309
404-572-4600; (fax) 404-572-5100
pholladay@kslaw.com

Gerald W. King, Jr.
Georgia Bar No. 140981
Victoria Calvert
Federal Defender Program, Inc.
101 Marietta Street, Suite 1500
Atlanta, Georgia 30303
404-688-7530; (fax) 404-688-0768
Gerald_King@fd.org
Victoria_Calvert@fd.org

Counsel for Robert Earl Butts, Jr.