

DATE TYPED: September 23, 2004
DATE PUBLISHED: September 28, 2004

IN RE: ADREMY DENNIS, MANCI #306-133

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

Date of Meeting: September 21, 2004

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

Adremy Dennis #A306133
Death Penalty Clemency

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IN RE: ADREMY DENNIS, MANCI #306-133

SUBJECT: Death Sentence Clemency

CRIME, CONVICTION: Aggravated Murder cs/w Attempted Aggravated Murder cs/w
Aggravated Robbery (3 counts) cs/w Unlawful Possession of
Dangerous Ordnance

DATE, PLACE OF CRIME: June 5, 1994; Akron, Ohio

COUNTY: Summit

CASE NUMBER: 94-06-1569A

VICTIMS: Kurt O. Kyle (Victim-Agg. Murder; Agg. Robbery)
Martin Eberhart (Victim-Agg. Robbery)
Dean R. Pizer (Victim-Att. Agg. Murder; Agg. Robbery)

INDICTMENT: Agg. Murder w/ (2) Death Penalty Specs w/FirearmSpec.;
Att. Agg. Murder w/Firearm Spec.;(3) Counts Agg. Robbery
w/ (3) Firearm Spec.; Unlawful Poss. of Dangerous
Ordnance w/Firearm and Physical Harm Spec.

VERDICT: Date (12-15-94) Guilty by Jury to Indictment

SENTENCE: Ct. 1-Agg. Murder - Sentenced to Death, Firearm Spec.-3
yrs. prior to and cs/w death; Ct. 2-Att. Agg. Murder - 10 to 25

Yrs, Firearm Spec.-3 yrs. prior to and cs/w 10-25 and cs/w Ct.1; Ct. 3-Agg. Robbery- 10-25 yrs, Firearm Spec.- 3 yrs prior to and cs/w 10-25 yrs., specs to Ct. 3 merged with specs to Ct. 2, Ct. 3 cc/w Ct. 1; Ct. 4-Agg. Robbery 10-25 yrs, Firearm Spec.- 3 yrs. prior to and cs/w 10-25 yrs., Ct. 4 cs/w Cts. 1 & 2; Ct. 5-Agg. Robbery 10-25 yrs., Firearm Spec. - 3 yrs. prior to and cs/w 10-25., Spec. to Ct. 5 merged with Spec. to Ct. 2., Ct. 5 cc/w Cts. 1 & 2; Ct. 6-Possession of Dangerous Ordnance- 3-5 yrs. Firearm Spec.- 3 yrs. prior to and cs/w 3-5 yrs., Ct 6 cs/w Cts. 1, 2.

AGGREGATE SENTENCE: Death consecutive with 12 years (specifications) consecutive with 23-55 years.

ADMITTED TO INSTITUTION: 1-5-95

TIME SERVED: 116 months

AGE AT ADMISSION: 18 years old, D.O.B. (1-23-76)

CURRENT AGE 28 years old

JAIL TIME CREDIT: 210 days

PRESIDING JUDGE: Honorable Mary F. Spicer

PROSECUTING ATTORNEY: Michael Carroll

ACCOMPLICE: Leroy Lavar Anderson, A301526, (Sent. Life Imprisonment for Agg. Murder, Att. Agg.Murder, and 3 Cts. of Agg. Robbery). First statutory parole hearing March 2022.

FOREWARD:

Clemency in the case of Adremy Dennis #306-133 was initiated by The Honorable Bob Taft, Governor of the State of Ohio, and the Ohio Parole Board, pursuant to Sections 2967.03 and 2967.07 of the Ohio Revised Code and the Parole Board Policy #105-PBD-05.

A previous Clemency Report was sent to The Honorable George V. Voinovich, then Governor of the State of Ohio, on January 30, 1998. That report contained a unanimous Parole Board recommendation against clemency.

On September 10, 2004, Parole Board Member Jim Bedra interviewed Mr. Dennis at the Mansfield Correctional Institution for our most recent investigation for this report. Also present at the meeting was Kyle Timken, Assistant Public Defender.

A Death Row Clemency Review Hearing was held on September 21, 2004 with eight members of the Ohio Parole Board participating. Present at the hearing on behalf of Mr. Dennis were Assistant Public Defenders, Stephen A. Ferrell, Kyle Timken and Linda Prucha and family members Marquita Dennis, the inmate's mother; and Darnise Fisher, Querita St. Andre and Irene Donnie, the inmate's aunts. Present at the hearing on behalf of the State, were Summit County Assistant Prosecutor Richard Kasay and Assistant Attorney Generals Tim Prichard and Stephen Maher from the Office of the Ohio Attorney General. Representatives from the victims' families included Doreen and Howard Kyle, victim's parents, Craig Kyle, victim's brother, Martin Eberhart, victim of the Agg. Robbery and close friend to Mr. Kyle and Curtis Sabo, friend to Mr. Kyle.

At the conclusion of the hearing the Board gave careful review, consideration and discussion to all testimony provided and supplemental materials submitted. The Board voted and reached a majority decision.

We now submit to the Honorable Bob Taft, Governor of the State of Ohio our report and recommendation.

DETAILS OF THE INSTANT OFFENSE:

During the early morning hours of June 5, 1994, Adremy Dennis and his accomplice, Leroy Lamar Anderson, approached the victim, Dean R. Pizer in Akron, Ohio and demanded money. The victim refused and immediately fled as Dennis pulled out a sawed-off shot gun (.20 gauge) and shot at the victim. Review of the appellate decision indicates that the victim's court testimony was that he slid down a hill, and then ran away unharmed; that he heard a gunshot to his left that may have hit a trash can or some other object. He also testified that Dennis told him he was "going to die tonight."

A short time later, Dennis and his accomplice Anderson, approached victims Martin Eberhart and Kurt Kyle in front of Kyle's home. Earlier that evening, Mr. Kyle, an amateur stock car driver, had raced at Barberton Speedway and was hosting a barbeque for friends in celebration of his victory. Mr. Eberhart was leaving the gathering and Mr. Kyle accompanied him to his car. At that point, Dennis and Anderson approached the victims. Anderson demanded money while pointing a gun at

Eberhart's neck. The victim in turn handed over \$15.00 that had been in his wallet. At the same time, Dennis demanded money from Kyle. However, Kyle searched his pockets and told Dennis that he had no money with him. Dennis then pulled out a sawed-off shotgun and shot Kyle in the head at point-blank range. This severed both carotid arteries, killing him. The two assailants ran away together.

A few days after the murder, police received a call from Anderson's mother advising them that a possible suspect was living in her home. After procuring a search warrant, police seized several items from the home, including a .25 caliber handgun, a 20 gauge sawed-off shotgun and seven shotgun shells.

A short time later, police surrounded the Dennis home and apprehended Adremy Dennis. After waiving his Miranda Rights, Dennis, in a taped interview with detectives, admitted to shooting Kyle with the sawed-off shotgun. He further admitted that he and Anderson had planned to do some robberies that night. While admitting that he fired the shotgun three separate times that night, he asserted that each shot was accidental and that he "could barely focus" due to consuming alcohol and marijuana prior to the robberies.

A jury trial commenced December 12, 1994. After deliberation, the jury found Adremy Dennis guilty as charged.

PRIOR RECORD

Juvenile:

<u>Date</u>	<u>Offense</u>	<u>Location</u>	<u>Disposition</u>
3-3-92 (Age 16)	Criminal Damaging	Akron, Ohio	Detention Home

Details: The subject was arrested after throwing a brick through a neighbor's window.

1-16-93 (Age 16)	Receiving Stolen Prop.	Akron, Ohio	Detention Home
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Details: The subject was arrested driving a stolen car.

Adult:

<u>Date</u>	<u>Offense</u>	<u>Location</u>	<u>Disposition</u>
6-8-94 (Age 18)	Aggravated Murder Aggravated Robbery (2 cts.)	Akron, Ohio	Instant Offense

INSTITUTIONAL ADJUSTMENT:

Mr. Dennis was admitted to prison January 5, 1995. His prison files were reviewed on September 10, 2004 and it was found that he has made a positive adjustment in prison. He has had only two minor rule infractions during his ten (10) years of incarceration. Staff indicate that he is no problem on the unit and generally keeps to himself.

PROPOSERS OF CLEMENCY:

A written application with documentation outlining the reasons Adremy Dennis should receive Executive Clemency was filed with the Parole Board. On September 21, 2004, Public Defender, Stephen A. Ferrell presented oral testimony in support of his application. Their focused question before the Board and the Governor is not one of guilt, but the question is one of mercy. Reasons expressed in favor of the granting of Executive Clemency are as follows:

- Mercy is appropriate in this case. Dennis was not even five months past his eighteenth birthday at the time of this offense. Although he was statutorily and constitutionally eligible for the death penalty, his youth and lack of maturity call for mercy. He was raised in the worst of circumstances and was completely neglected until the age of fifteen. Had Dennis committed this offense five months earlier, his age would have completely precluded imposition of the death penalty. However, maturity does not occur suddenly, upon the passing of a birthday. His level of maturity at the time of this offense was not very different from what it had been five months earlier. Therefore, his youth must carry enormous weight in determining what sentence is ultimately appropriate for him for this crime. His age is particularly significant because his background of incredible neglect left him almost incapable of exercising good judgment and responsible behavior. His youth and background do not excuse his offense, but they do argue strongly for mercy.
- Dennis had a neglectful family upbringing. His lack of parenting and inadequate education left him immature and vulnerable to the worst influences. He was born to an extremely unstable 19 year old mother who demonstrated her inability to effectively parent Dennis from the beginning. She had no prenatal care. When he was only one week old, he became sick when his mother gave him concentrated infant formula without any liquid added. His father was abusive towards his mother and prevented her from purchasing food, diapers and other necessities. They frequently fought and argued until he left them when Dennis was five years old. He was never able to progress in school. In his first year of kindergarten, he missed 31 days out of 60 days and was withdrawn in February. Similar absences were noted the next year when he was again placed in kindergarten. He later repeated the first grade, and after that was placed in third grade but the absences continued. He missed 34 days and failed third grade. The next year he missed 71 days. His absences became worse as time went on. As a

seventh grader, prior to his placement in foster care, he had missed 122 days. His mother nor school officials took substantial action to correct the problem. During these crucial years, Dennis was simply absent from his education through no fault of his own. He was frequently left alone with no one to take responsibility for him.

- Dennis was finally removed from his neglectful home by the Children Services Board when he was 15 years old. He was placed in foster care for the next three years. He developed a loving relationship with his foster mother. Within her home he met her expectations, but the damage of his past could not be undone according to two psychologists. It was too little too late. Psychologist James Brown testified at Dennis' trial as to the lack of parenting in his life. Patterns of behavior were set and it was too late. His problems needed to be addressed by the age of five or six and they were not. Psychologist, Sandra McPherson, in her evaluation of Dennis for his post-conviction proceedings, suggested that Dennis most likely suffers from Attention Deficit with Hyperactivity Disorder. The condition was never treated which would account for his deteriorating functioning in his adolescent and young adult years. This made him vulnerable to the substance abuse he encountered during his youth. Numerous warning signs of disaster were ignored at an early age and he was not placed in foster care until he was fifteen years old. Dr. McPherson concluded it was indeed too little too late.
- Dennis was a young man whose judgment was poor and further impaired by alcohol and drug abuse on the night of the offense. The facts of the offense tend to show that the shooting was an impulsive act that would never have occurred but for the lethal combination of extreme immaturity coupled with extreme intoxication.
- He now admits his guilt and accepts full moral responsibility. In his unsworn statement at the penalty phase, Dennis expressed remorse for the killing of Mr. Kyle. He acknowledged that maybe no one would believe him, but he never meant for this to happen. It is something that he lives with and thinks about every day of his life. He can never undo what has happened, but Dennis does take responsibility for this tragedy and expresses his remorse.
- In the interest of justice in this tragic offense, the harsh punishment of a life sentence for an eighteen year old offender does not diminish the seriousness of the offense; therefore the applicant pleads for mercy and asks for a commutation of his death sentence to a life sentence without parole eligibility.

OPPONENTS OF CLEMENCY:

Richard Kasay, Summit County Assistant Prosecutor and Timothy Prichard and Stephen Maher, Assistant Attorney Generals of the Ohio Attorney General's Capital Crimes Unit represented the State of Ohio at the hearing before the Parole Board on September 21, 2004. Arguments offered in opposition to the granting of Executive Clemency included:

- The evidence overwhelmingly establishes Dennis's guilt.
- The facts of this case clearly indicate that a jury lawfully imposed the death penalty on Dennis, and that his convictions and sentences had not been reversed after nearly ten years of judicial scrutiny by every level of both the state and federal courts. These courts have also reviewed the actions taken by Dennis' trial and appellate counsel and have steadfastly held that Mr. Dennis received competent representation at every stage of the proceedings.
- Mr. Dennis was the "principal offender" in the crimes where Aggravated Robbery was the motive and that he shot Mr. Kyle in the head with a saw-off shotgun at point blank range. The murder was committed as a course of conduct involving the killing or attempt to kill two or more persons.
- Mr. Dennis has never expressed "genuine" remorse and has never accepted responsibility for his actions as he has provided numerous versions of his involvement. His taped interview with the Board on September 10, 2004 is a validation of his current mindset which is similar to his criminal way of thinking at the time of his crimes ten years ago.
- Dennis has acknowledged that he was in a leadership role with the Folks gang. He has tattoos on his chest of the numbers 187 and 211, which are the California Penal Codes for Homicide and Aggravated Robbery, which signify his crimes of conviction.
- He has an established prior record of juvenile criminal conduct resulting in adjudication.
- The aggravating and mitigating circumstances surrounding the crimes were considered at trial, upheld throughout the appellate process, and affirmed by the Ohio Supreme Court.
- The victim's mother, Doreen Kyle, and the victim's brother, Craig Kyle, gave statements describing their incredible loss since the murder of the victim. Their statements were silent as to whether the death penalty should be carried out. Also giving a statement was the Aggravated Robbery victim, Martin Eberhart, who gave details of the instant offense. He asks the State to carry out the sentence. Mr. Eberhart is currently a police officer. Curtis Sabo, a friend of Mr. Kyle, also gave an oral statement and urged the State to carry out the death sentence.

CONCLUSION:

Adremy Dennis is scheduled to be executed on October 13, 2004. A taped interview by the Parole Board was held at the Mansfield Correctional Institution on Sept 10, 2004.

The Board reviewed the documents and deliberated extensively on the information provided. The Board split in their decision with five (5) members voting for an unfavorable recommendation and three (3) members voting for a favorable recommendation.

Majority Opinion:

The majority members of the Board gave considerable focus to the following factors.

- The evidence overwhelmingly establishes Dennis' guilt.
- Dennis continues to minimize his participation in the crimes and lacks sincere remorse as evidenced in his most recent taped interview with the Board. After hearing his taped interview, the majority assessed that Dennis is of the same mindset today as when he committed the instant offenses.
- Prosecution proved during trial, the clear course of violent conduct by Dennis, beginning with the Aggravated Robbery and Attempted Murder of Mr. Pizer culminating in the Aggravated Robbery and cold blooded Aggravated Murder of Mr. Kyle.
- Dennis made a self-reporting statement indicating he was a member of the Folks gang and in a leadership role. He also acknowledged selling drugs, thereby affording him the ability to purchase new vehicles and other expensive items.
- All reviewing courts have agreed that Mr. Dennis received proper representation at trial and during subsequent appeals. His convictions and death sentence have been upheld after nearly 10 years of judicial affirmation.
- There was nothing presented to suggest any manifest injustice, nor was the mitigation presented regarding his youthful age and neglectful upbringing sufficient to outweigh the aggravating circumstances in this case.
- As such, a majority of the Ohio Parole Board recommends that Governor Taft not grant clemency to Adremy Dennis.

Dissenting Opinion:

The dissenting members of the Board gave considerable focus to the following mitigating factors.

- Dissenting members of the Board gave great weight to the arguments put forward by Assistant Public Defender, Stephen A. Ferrell. His assertions have been validated by documented corroboration. The dissenting members of the Board concurred with these findings, that in fact, Dennis was subjected to severe and debilitating child neglect from birth until age fifteen when he was finally removed from his home by Children Services Board and placed in foster care.
- Dennis' aunts provided testimony at the Clemency Hearing detailing the lengthy history of neglect at the hands of his parents from infancy and throughout his young life.

- Dennis' mother also provided testimony and offered that she did the best she could do. She gave no apology for the effects her utter lack of parenting had on her son.
- School records indicate a pattern of extreme absenteeism from kindergarten on through middle school, resulting in routine failing grades. The school system missed a vital opportunity to help Dennis when they took no formal action in referring the matter to juvenile court or to Children Services. Thusly, Ms. Dennis was not held accountable for her disregard of her son's academic and social education.
- Reports from two psychologists, Dr. James Brown and Dr. Sandra McPherson corroborate the serious effects of Dennis' childhood neglect. Dr. McPherson's report in particular provides significant clinical findings that he is not an antisocial or sociopathic individual; that he can invest himself in positive relationships and has the potential to accept authority and structure that is imposed. Test results indicate characteristics of Attention Deficit with Hyperactivity Syndrome and a predisposition to drug and alcohol dependency. Dr. McPherson indicated that such persons are likely to get into trouble with the dominant society unless they have heroic parenting and clearly, Dennis' parenting was not heroic. She concluded that Dennis is capable of conforming his conduct in the prison setting and is capable of rehabilitation such that he can contribute positively to that structured setting.
- Dennis' age at the time of the offense presents strong consideration for mercy. Had he committed this offense 5 months earlier, his age would have completely precluded imposition of the death penalty. But even with the finite statutory eligibility for the death penalty to be imposed, we recognize that his level of maturity at the time of this offense was not very different from what it had been five months earlier. His youthfulness must therefore carry enormous weight in determining what sentence is ultimately appropriate for him for this crime.
- In regard to mitigating factors, the court ruled that Dennis was entitled to appropriate appreciable weight since he was eighteen years old at the time of the offense. The court also found relevant in mitigation, that his only prior convictions were two juvenile adjudications for criminal damaging and receiving stolen property. Additionally, the court deemed that the lack of effective guidance for Dennis during most of his life was deserving of mitigation. And finally the court determined that Dennis' apparent remorse over his criminal behavior should be given modest weight in mitigation. In spite of the court's recognition of these critical mitigating factors it ruled they did not outweigh the aggravating factors. The dissenting members, with all due respect to the court's decision, do place considerable weight to the stated mitigating factors and further suggest that mercy is warranted at this point in the case.
- Under Senate Bill 2, Ohio's current sentencing law, a jury has the option to recommend a sentence of Life without parole. Given all the mitigation presented, one can only speculate as to whether that may have occurred in this case had that been an option. Absent of that as an option at sentencing, the Governor has it within his authority to consider the option at this time.

Adremy Dennis #A306133
Death Penalty Clemency

- Manifest injustice cannot be found by having Dennis serve the rest of his life in prison. Commutation in this regard will not demean the seriousness or the horrors of the offense. There is no doubt he should be punished harshly for his disregard for Mr. Kyle's life. For an eighteen year old to serve the rest of his life in prison is clearly harsh, yet deserving. Therefore we respectfully recommend that the Governor Taft consider mercy and commute Dennis's sentence to a Life sentence without parole.

RECOMMENDATION:

Following consideration of available information, the Ohio Parole Board, with eight (8) members participating, recommends to The Honorable Bob Taft, Governor of the State of Ohio, by a majority vote of five (5) to three (3) that Executive Clemency be denied in the case of Adremy Dennis.

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Ohio Parole Board Members
Voting **Unfavorable**

Gary Croft, Chairperson

Betty J. Mitchell

Cynthia Mausser

Robert Maszczyński

Ellen Venters

Ohio Parole Board Members
Voting **Favorable**

Jim Bedra

Dr. Sandra Mack

Peter Davis