

DATE TYPED: October 8, 2009
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IN RE: DARRYL DURR, OSP #A 207-889

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

Date of Meeting: September 30, 2009

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

IN RE: Darryl Durr, OSP #A207-889

SUBJECT: Death Sentence Clemency

CRIME, CONVICTION: Aggravated Murder with three specifications aggravating circumstances, Kidnapping; Aggravated Robbery; Rape.
* Also convicted and serving sentences in CR229934 for Rape and in CR231206 for Rape.

DATE, PLACE OF CRIME: Between 1/31/1988 and 4/3/1988 in Cleveland, Ohio

COUNTY: Cuyahoga

CASE NUMBER: CR231670

VICTIM: Angel Vincent (Age 16)

INDICTMENT: 9/23/1988: Count 1: Aggravated Murder with three specifications of aggravating circumstances and one aggravated felony specification; Count 2: Kidnapping with violence and prior aggravated felony specifications; Count 3: Aggravated Robbery with violence and prior aggravated felony specifications; Count 4: Rape with violence and prior aggravated felony specifications.

TRIAL: 12/5/1988: Found Guilty by Jury as indicted.

SENTENCE: 12/16/1988: Count 1: Sentenced to DEATH
12/20/1988: Counts 2-4: Sentenced to 15-25 years on each count concurrent, but consecutive to Count 1

ADMITTED TO INSTITUTION: January 10, 1989

JAIL TIME CREDIT: N/A

TIME SERVED: 249 months

AGE AT ADMISSION: 25 years old

CURRENT AGE: 46 years old

DATE OF BIRTH: June 26, 1963

JUDGE: Honorable Ralph A. McAllister

PROSECUTING ATTORNEY: Assistant Prosecutor Carmen Marino

FOREWORD:

Clemency in the case of Darryl Durr, A207-889 was initiated by the Ohio Parole Board, pursuant to Section 2967.03 and 2967.07 of the Ohio Revised Code and Parole Board Policy #105-PBD-01.

On September 17, 2009, Darryl Durr was interviewed by the Parole Board at the Ohio State Penitentiary.

A Clemency Hearing was then held on September 30, 2009 with seven (7) members of the Ohio Parole Board participating. Arguments in support of clemency were presented by Attorneys Kathleen McGarry and Dennis Sipe. The inmate's supporters, William Lazarow (post-conviction Attorney), Angel Durr (daughter), Matthew Princehorn (friend), Fred Princehorn (friend), and Reverend Gena Thornton also spoke in support of clemency. A recorded statement from Gina Vicente, whom Durr refers to as his wife - although they are not legally married - was also presented.

Arguments in opposition to clemency were presented by Cuyahoga County Assistant Prosecutor Matthew Meyer and Assistant Attorney General Stephen Maher. The victim's representatives, Norma Jean Godsey (mother), Arlene Drewry (aunt), Darlene Rodriguez (aunt), Edith Godsey (aunt), Rita Hart (family friend) and Corennia Hatfield (cousin), also spoke in opposition to clemency.

The Parole Board considered all of the written submissions, arguments, information disseminated by presenters at the hearing, prior investigative findings as well as judicial decisions and deliberated upon the propriety of clemency in this case. With seven (7) members participating, the Board voted seven (7) to zero (0) to provide an unfavorable recommendation for clemency to the Honorable Ted Strickland, Governor of the State of Ohio.

DETAILS OF THE INSTANT OFFENSE (CR94-01-0158):

The following account of the instant offense was obtained from the Ohio Supreme Court opinion, decided March 20, 1991:

On January 31, 1988, at approximately 10:50 p.m., Norma Jean O'Nan and her husband returned to their home in Elyria and discovered the front door unlocked, the lights and television on, and their sixteen-year-old daughter, Angel Vincent, missing. Only twenty minutes earlier, Mrs. O'Nan had spoken with her daughter by telephone to learn that Angel's girlfriend, Deborah Mullins, was at her home and that Deborah's boyfriend, subject Darryl Durr, was expected to arrive later in the evening. That was the last chance Mrs. O'Nan would have to speak to her daughter alive.

Mrs. O'Nan testified that Angel was wearing a hot pink sweater, a light pink and white checkered blouse, hot pink pants, and white tennis shoes when she and her husband left Angel home alone on the evening of January 31, 1988. After notifying the Elyria Police of Angel's disappearance, Mrs. O'Nan searched her home to determine if any of Angel's belongings were missing. Although Angel's pink pants were found, Mrs. O'Nan's search revealed the following items missing: an old lavender blanket with a hole in the center, a pair of black acid-washed denim jeans, Angel's pink and white checkered blouse, light blue eyeglasses that Angel wore only in her home, a jean jacket that Angel had borrowed from a friend, an Avon necklace with an "A" charm attached, a small chain bracelet, an Avon slip-on bracelet, an inexpensive rhinestone ring and a dog chain that hung from her mirror. Mrs. O'Nan also discovered Angel's handbag stuffed under her bed.

Three or four days later, Mrs. O'Nan confronted Deborah Mullins and the subject regarding the disappearance of her daughter, and was told by the subject that "you know how kids are, she probably ran away."

On April 30, 1988, three boys noticed a foul odor coming from two orange traffic barrels while playing in Brookside Park. The barrels had been placed open end to open end, and were underneath a railroad tie. Upon separating the barrels, the boys discovered a severely decomposed female body that had been wrapped in a dirty old blanket. A portion of a leg was visible through a large hole in the blanket.

A deputy coroner testified that the only clothing found on the victim was a pink sweater and a pair of white tennis shoes. The pink sweater had been pushed up well above the victim's breast area. An initial external examination determined the body to be that of a young white female, that was in an advanced state of decomposition. The body was heavily infested with maggots and the body's eyes and ears had been lost. There was also prominent evidence of animal activity about the inguinal and vulval regions of the body, and in and about the thighs. According to the deputy coroner, the decomposition was consistent with three months' exposure.

After examining the body, the deputy coroner concluded that the cause of death was homicidal violence. Since the body was so badly decomposed, the deputy coroner could not determine whether ligature marks, scrapes or tears indicating strangulation were present. There was no damage noted to the internal cartilaginous structures of the neck. The deputy coroner declined, however, to rule out strangulation as a cause of death since damage to these structures is not always present in young strangulation victims due to the flexibility of these structures. In addition, because the body was so severely infested with bacteria, testing for the presence of acid phosphates and spermatozoa was inconclusive.

In September 1988, after subject was arrested for two unrelated rapes, Deborah Mullins revealed her knowledge of Angel's disappearance to the Cleveland Police Department. As the result of her information, an ankle X-ray obtained from Elyria Memorial Hospital, and dental records, the body discovered in Brookside Park was determined to be that of Angel Vincent.

At trial, Deborah Mullins testified that on the evening Angel disappeared Deborah had asked the subject to drive to the house of one of Angel's friends to retrieve a package of cigarettes for Angel. Subject agreed and left. Shortly thereafter, subject returned to Deborah's house and, instead of entering through the front door, began throwing stones at her upstairs bedroom window and blew his car horn for her to come out. Deborah and her baby, who had been fathered by the subject, left the house and entered the subject's car where the subject brandished a knife toward both of them.

As the subject was driving, Deborah heard noises from the back seat and after turning around discovered Angel bound on the rear floorboard.

According to Deborah's testimony, Angel was wearing black acid-washed denim jeans, a jean jacket, and tennis shoes when she was last seen in the back of subject's car.

When Deborah asked the subject why Angel was bound in his car, the subject responded that he intended to "waste" her because "she would tell." He never revealed just what Angel was going to tell.

After threatening the life of both Deborah and his baby, the subject let Deborah out of his car. He returned to her home three or four hours later. Upon returning, subject told Deborah that he had "wasted" Angel and that she should pack her things because they were leaving.

Subject drove Deborah and their baby to his wife's, Janice Durr's, Cleveland apartment. The subject left with a duffle bag containing two shovels after dropping Deborah and the baby off.

When subject returned, he was wet and covered with snow. Upon entering the room, subject placed a ring and bracelet that belonged to Angel on a coffee table. As he was falling asleep, subject told Deborah that he had strangled Angel with a dog chain until she "pissed, pooped and shit and made a few gurgling sounds," took her body to a park, wrapped it in a blanket, placed it between two construction cones, and left her by some railroad tracks.

Later that day or the next day, subject burned a bag of clothing in the basement of Janice Durr's apartment building and asked Deborah to model the black acid-washed jeans that Angel had worn on the evening of her abduction.

The subject then drove Deborah, Janice Durr and his children to the west side of Cleveland where he burned another bag of items, and while driving from Cleveland toward Elyria, the subject threw Angel's jean jacket out the car window.

After arriving at Deborah's home in Elyria, Deborah's mother informed her that Mrs. O'Nan had come over and inquired about Deborah's knowledge of Angel's disappearance. Deborah testified that subject threatened her and their baby's life and instructed her to tell

Mrs. O'Nan that Angel had been talking about running away. Deborah also testified that the subject took her and their baby to Edgewater Park where the subject threw Angel's glasses over a cliff into the lake. A month or so later, while driving past the Cleveland Zoo, subject pointed to a location near a bridge and said, "Over there." When Deborah questioned his statement, the subject replied, "You know what I am talking about."

Following a jury trial subject was convicted of one count of aggravated murder, with specifications, pursuant to R.C. 2929.04(A)(7), that the murder was committed while the subject was committing, attempting to commit, or fleeing after committing aggravated robbery, rape, and kidnapping, (2) kidnapping, with a violence specification, (3) aggravated robbery, with a violence specification, and (4) rape, with a violence specification.

PRIOR RECORD

Juvenile Offenses: Darryl Durr was arrested in 1974 for Breaking and Entering; disposition unknown.

Adult Offenses: Darryl Durr has the following known adult arrest record:

<u>Date</u>	<u>Offense</u>	<u>Location</u>	<u>Disposition</u>
09/25/1981 (Age 18)	Possession of Marijuana (CRB 28196)	Cleveland, Ohio	\$25.00 fine.
05/05/1982 (Age 18)	Felonious Assault (CR173705)	Cleveland, Ohio	9/14/1982: 2-15 years, Sentence suspended, placed on 5 years probation w/ 90 days jail; 09/14/1987: Probation terminated.

Details: The subject, a gas station attendant, got into an argument with a female over two dollars worth of gas. The subject stabbed her in the stomach. Victim was in the hospital for 3 days and was off work for 2 ½ weeks.

7/18/1988 (Age 25)	Rape with prior aggravated felony specification (CR229934)	Cleveland, Ohio	11/9/1988: 10-25 years and costs. INSTANT OFFENSE
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Details: On 7/17/1988, the subject pulled his vehicle in front of the victim (age 18) and blocked her way. He then pointed a gun at the victim and ordered her to get into his car. The subject drove away and after a short while ordered the victim to remove her clothes.

Shortly thereafter, the subject stopped his vehicle and raped the victim. He then allowed her to go to the bathroom, only to return to the car and rape her a second time. A police car pulled up and after a struggle with police the subject was arrested and was subsequently charged with this crime.

8/30/1988 (Age 25)	Rape with violence specification and prior aggravated felony specification (CR231206)	Cleveland, Ohio	11/9/1988:10-25 years concurrent with CR229934. INSTANT OFFENSE
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Details: On 8/29/1988, the victim (age 14) was walking down the street when the subject offered her a ride. She accepted the offer, but the subject would not take her where she asked to go. Instead, the subject took the victim to an apartment building where he forced her into a vacant apartment at knifepoint. She resisted, so the subject cut her several times. He then pushed her to the floor. The subject had her remove her clothes and then he raped her. The subject then took the victim to the apartment next door where he forced her to take a bath. He later drove the victim to a family member's residence, threatening her if she told anyone what had happened. Medical records indicated that the victim had 2 stab wounds, 12 abrasions, 1 laceration of the inside lip, and bruising on the lips. The clinical examination verified the presence of sperm.

09/14/1988 (Age 25)	1. Aggravated Murder with three (3) specifications of aggravating circumstances and prior aggravated felony specification; 2. Kidnapping with violence and prior aggravated felony specification; 3. Aggravated Robbery with violence and prior aggravated felony specification. 4. Rape with violence and prior aggravated felony specification. (CR231670)	Cleveland, Ohio	12/19/1988: DEATH; Counts 2-4: 15-25 years concurrent, but consecutive to sentence in Count 1. INSTANT OFFENSE
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Institutional Adjustment:

Darryl Durr was admitted to the Department of Rehabilitation and Correction on January 10, 1989. His work assignments while incarcerated at the Mansfield Correctional Institution included Tutor, Material Handler and Laundry Attendant, Recreation Worker, and Porter. Since his transfer to the Ohio State Penitentiary, his work assignment has been as a Clerk Administrator. Durr has participated in community service projects while

at the Mansfield Correctional Institution and the Ohio State Penitentiary. He is currently housed in the extended privilege unit at the Ohio State Penitentiary. .

Since his admission, Durr has accumulated the following disciplinary record which resulted in placement in disciplinary control:

- 08/24/1998: Fighting – with or without weapons, including instigation of, or perpetuating fighting. Durr was involved in a fight with another inmate. He received 7 days in disciplinary control for this rules infraction.

Durr has received approximately seven (7) additional conduct reports since he was admitted to the Department of Rehabilitation and Correction in 1994. Four conduct reports were for Disobedience of a Direct Order (dates of occurrences 3/1989, 5/1994, 11/1994 and 6/2003), one conduct report was for Misuse of State Property (date of occurrence 3/1990), one conduct report was for Giving False Information to Staff (date of occurrence 5/2003) and one conduct report was for Misuse of Prescription Medication (date of occurrence 12/2007).

APPLICANT'S STATEMENT:

Darryl Durr was interviewed by members of the Parole Board via video-conference on September 17, 2009. Durr made a statement to the Board, and then answered questions posed to him by individual Board Members. In his statement, Durr stated that he wished to convey his apologies to the victims for their tragic loss. He also stated that he maintains his innocence in this matter and will do so throughout the interview. Durr further stated that he is deserving of clemency because of his conduct and contributions since his incarceration. Specifically, he stated that he has held several jobs during his incarceration. He has a college education and has worked as a legal clerk helping other inmates with legal issues including custody and visitation with their children and medical treatment. In addition, with the assistance of his wife, he has participated in philanthropic activities and has helped many people. He further stated that although his prison behavior has not been spotless, he has had no disciplinary action for assaults on guards or rioting behavior.

Durr then provided responses to questions posed to him by the Board Members regarding the offenses for which he was convicted. Regarding the facts of the offense against Angel Vincent, Durr stated that during the evening in question, he recalls that Deborah Mullins went to make a phone call at Angel's house, then came back and asked him to go get cigarettes for Angel. He stated that he never left the house.

Durr was asked what he thought happened to Angel. He replied that he did not want to speculate and falsely accuse someone of the offense as he has been, but he implied that Deborah Mullins may have been involved in Angel's disappearance and murder. He added that he was at Deborah Mullins' home. She had just been released from the hospital after having a baby. He stated that he set up space for her, had worked a double shift, and stayed all night because he was too tired to drive back. Durr said that Deborah

Mullins went down to Angel's to call a drug dealer friend to party, and when she returned she was really cold. Shortly after her return, Janice Jackson (Durr) arrived and they drove back to Cleveland.

Durr was asked if he was in the presence of Angel on January 31, 1988. He replied that he is bad with dates but that he had not seen Angel since a Fourth of July party the previous year.

Durr was asked why the jury didn't believe he was innocent. He responded that the trial lawyers didn't let him take the stand because there was no physical evidence, and they felt that Mullins' veracity would be questioned and that he would not be found guilty. He stated that since there was no evidence offered to contradict the prosecutor's evidence, the jury thought the prosecutor's evidence was correct. As a follow up question, Durr was asked why Ms. Mullins would mislead the jury. He responded that their relationship became problematic, as he left her for another woman. He stated Ms. Mullins threatened to throw herself down some stairs because he was leaving her.

Durr was asked whether he thought he received a fair trial. He responded that a trace evidence expert testified that there was no physical evidence connecting him to this crime and that it all "boiled down" to the jury believing Deborah Mullins. He further stated that his attorneys didn't have money to test evidence and that there was a problem with evidence being destroyed. Durr also stated that he was offered a 7-25 year sentence prior to trial to provide testimony against Deborah Mullins and Janice (Jackson) Durr. He refused and was then tried as the principal offender in the case. Durr was asked what testimony he refused to provide. He responded that he did not have any first-hand knowledge of their involvement in the crime, but the prosecutor was surreptitiously trying to provide him with information that he was supposed to "parrot" back, but he refused. He emphasized that he was not going to make the same mistake he had made earlier when he plead to something that he didn't do (two other rapes).

The Board asked Durr why he pled guilty to two other rapes if he was innocent. He responded that his attorneys advised him to plead guilty and warned him that the case would revolve around race. Since he was a black man dating white women who claimed that they were raped by him, he would most certainly be found guilty, even if he was innocent. Durr stated his attorneys told him that he could appeal later, even if he plead guilty. He further offered that he had filed for DNA testing in both cases because there is no physical evidence linking him to these crimes either. He continued to maintain his innocence with respect to both of the rape cases.

Durr was then asked to explain his version of the facts of the other two rapes. Regarding the offense involving the 18 year old victim, Durr stated that they were "partying" when the police came upon the scene. The victim was with him willingly and the sexual contact was consensual. He was asked about the gun that was found. Durr stated the gun was kept in the glove compartment and that the gun and car belonged to Janice Jackson. He was asked how the victim would know that he had a gun if it was in the glove compartment. His response was that the police separated him and the victim and that he

doesn't know police procedures, but if he had a gun they would have drawn their weapons and the police never drew their weapons.

In regard to the offense involving the 14 year old rape victim, Durr stated that no rape happened. He stated that she came to see him and was drunk. She slapped him, at which time, he pushed her down. He was asked how she was stabbed. Durr replied that she was not stabbed. She had a bottle in her hand, the bottle broke and she fell on it. He then attended to her wounds and took her home. Durr was asked why he chose not to take the victim to the doctor after she was cut by the bottle. He responded that she wasn't bleeding that bad and there wasn't much blood. He was also asked how long he had known the 14 year old victim. His response was three months. The Board asked Durr why he hid under the bed when police arrived at his apartment if he had not committed any offense against the victim. He denied that he was found hiding under a bed when arrested.

Durr was asked about his felonious assault conviction in 1982. He responded that he was employed at a gas station at the time, and a customer refused to pay so he turned off the pump. The customer fought him so he fought back. The customer dropped the charges, but the state picked it up and he was convicted.

Durr was asked questions regarding his family. He indicated that his current wife is not Janice Jackson Durr. He stated that he has been with his current wife for 20 years. He stated that many of his family members reside out of state. He also stated that he does have contact with his children who are now adults.

In concluding the interview, Durr wished to reiterate that there is no physical evidence linking him to any of the crimes, and that he has requested DNA testing in each offense and has submitted to a "rape kit" on three occasions. He said he has not raped, kidnapped or killed anyone.

ARGUMENTS ADVANCED IN SUPPORT OF CLEMENCY:

Attorney Dennis Sipe appeared at the hearing on Durr's behalf and provided the following arguments in support of clemency:

- Fairness calls for Durr to receive clemency. The state of Ohio decided to believe one woman-they thought she was telling the truth, but there is no forensic evidence and no eyewitnesses to this case. Durr's DNA does not appear anywhere. The case was decided on the testimony of a woman with a mental illness and criminal record.
- It did not make sense for Durr to have had Deborah Mullins come outside and see that he had Angel tied up in the car, and then tell her not to tell anybody. Deborah Mullins did not come forward for eight months.

- Race played a role in the case. The affidavit submitted by trial counsel noted the racial remarks made by the judge and the judge wanted to ensure Durr's conviction. The judge was not interested in impaneling a fair and impartial jury. In addition, the state chose to believe Debra Mullins because she was white.
- The advice that Durr was given, to plead to the other two rapes because he was black and the victims were white, and that he could appeal after pleading guilty was ill advised. As a result, Durr developed a distrust for lawyers and turned down a deal in the capital offense that would have saved his life.
- Durr's trial was defective in many respects. Durr was brought to trial 53 days after being charged and the jury was selected in a day. Both of these timeframes are incredibly short for a capital trial. There was no mitigation presented. The judge only gave the defense \$500.00 to pay for expert testimony, but the state had significant resources to obtain expert witnesses. There was exculpatory evidence that was withheld, including the initial misidentification of the victim and sightings of the victim after the supposed date of death.
- The state had an initial theory of the case and the evidence did not support it. The initial time of death and miscalculation of the age of the victim by the coroner did not support the theory. The coroner's difficulty in confirming how the victim died and that her liver was not checked for use of drugs should be of concern. It should also be a concern that the final identification came after the coroner found out that the body may be that of Angel Vincent. An expert should never know the facts before trying to establish the identification of a body. The defense had no expert to repudiate the state's theory.
- Angel Vincent was reported to be seen by various people in various places after January 31, 1988. The state is incorrect in stating that Angel Vincent was happy at home. She was in fact a truant and a runaway who was later sent an airline ticket by her father.
- The prosecutor on the case has a documented history of misconduct. The courts found prosecutorial misconduct in this case but concluded that it was harmless error. Defense counsel did not fight for Durr and did not challenge either the judge or the prosecutor.
- The state did not keep their word that they would not mention the rape cases in the capital case, as they are now being considered in the clemency proceeding.

William Lazarow, Durr's post conviction attorney provided the following arguments in support of clemency:

- Racial overtones in the case very likely altered the outcome.

- New information was obtained during the post-conviction investigation that the victim was sighted after the murder allegedly occurred. This information discredits the testimony of Deborah Mullins and her version of the offense.

A video-taped statement of Gina Vicente was played. She and Durr consider themselves married in the "eyes of God" but are not legally married. She resides in the Phillipines and their contact has been through correspondence only. The statement played was essentially identical to the written statement provided in Durr's application and emphasized the following:

- She and Durr participate in many philanthropic projects through her church. He is a good man and has helped many people.
- She believes that Durr is innocent and emphasized that the evidence is only circumstantial and should not be enough to take a man's life. She requested his sentence be commuted to life.

Matthew and Fred Princehorn provided the following in support of clemency:

- They believe Durr is incapable of murder and suggested that the verdict and sentence may not be trustworthy. They do not believe that he received a fair trial, and find no motive for the offense or any physical evidence connecting him to the offense.
- They began corresponding with Durr during his incarceration and now consider him a part of their family.
- Durr radiates a positive image and has many admirable qualities. They consider him to be respectful, intelligent, compassionate, caring, honest, genuine and forthright. He is not deserving of death as his sentence.

Reverend Gena Thornton provided the following in support of clemency:

- Durr has mentored troubled youths associated with her church. She stated he has motivated and inspired other inmates to join church.

Angel Durr, Durr's daughter, provided the following in support of clemency:

- She would like her father to receive clemency so that she, her son, and her brother can continue to get to know him. She has had little contact with Durr or his side of the family and she would like to continue to develop a father-daughter relationship with him.
- She was in and out of foster homes as a result of her father's incarceration and her mother's disabilities. Her father has offered her fatherly advice over the last few years.

- Ms. Durr read a letter from her mother, Deborah Mullins. Ms. Mullins stated in the letter that she wishes Durr to be granted life in prison for the sake of his children and grandchild.
- Angel Durr emphasized that there is no physical evidence linking her father to any of these crimes and she believes in his innocence.

Attorney Kathleen McGarry also appeared on behalf of Durr and provided the additional arguments in support of clemency:

- Durr's character and attitude since being incarcerated on death row demonstrate that he is worthy of clemency. He could be a bitter man because he is innocent but he is not bitter. He has tried to learn the legal system, particularly family law, which he first researched in order to learn how to gain custody of his daughter, Angel. He has touched the lives of many others, helping other inmates with custody and visitation issues with their children; helping burned victims in the Philippines; helping inmates obtain medical treatment; and working to improve the living conditions on death row. Durr encourages other inmates to maintain contact with their lawyers and has mediated situations to prevent trouble on death row. Durr has a strong religious base and helps others and expects nothing in return.
- The state focused its arguments in opposition to clemency mainly on the other acts rather than the capital offense. The Angel Vincent murder occurred 3-4 months before the other crimes, therefore the theory that there is a pattern of behavior does not work. She further emphasized that this is a one witness case and that person now says she does not want Durr executed.
- Clemency in the form of a commutation to life w/out the possibility of parole is warranted in this case.

ARGUMENTS ADVANCED IN OPPOSITION OF CLEMENCY:

Matthew Meyer, Assistant Cuyahoga County Prosecutor presented the following arguments in opposition to clemency:

- The courts have evaluated and scrutinized all of Durr's claims that he presented in his clemency application and have upheld his conviction and sentence. None of the arguments are new. The only new information is the statement Durr made to the Board which was filled with lies.
- Durr was caught in the act of raping another victim who was only 18 years old in the same park where the body of Angel Vincent was found. The fact that Durr said it was consensual is disrespectful to the victim. The victim was forced with a knife and gun. This act is demonstrative of the type of person Durr really is.

- In 1982, Durr stabbed a female victim at the gas station where he worked, and was convicted of Felonious Assault. The victim was located after Durr's interview with the Board and an audio recording was made. (The interview of the victim by Mr. Meyer was then played.) She stated she was getting gas, forgot her change, and asked Durr for the change. He refused to return it and as she made her way to a pay phone to call the police, Durr stabbed her in the stomach. She stated she did not have anyone with her as she was on her way to work. She lay there bleeding for approximately 40 minutes until another patron came and called for help. She went on to say that Durr is just mean and does not know how to treat people.
- Durr and his supporters have focused heavily on the fact that circumstantial evidence was used in this case. The reality is that physical evidence will not be present in every murder case. Sometimes we have to rely on those with first-hand knowledge. Deborah Mullins testimony was corroborated by facts that she would not have known but for Durr telling them to her, such as missing items and the location of the body. Deborah Mullins was a teenager involved in a "sick" relationship with Durr and was under Durr's complete control. It was only after Durr was arrested on the other rapes and Ms. Mullins believed that he was going to prison that she revealed her knowledge of the Vincent murder.
- Durr's theory that Ms. Mullins might be the murderer is "garbage." She had just had a baby three weeks before the murder, making it very unlikely that she could have physically disposed of the victim's body in the deep ravine where it was found. Durr has blamed everyone else for the crimes he has committed. He is unrepentant and undeserving of mercy.
- Durr had the opportunity and the motive to commit the murder. His actions demonstrate a pattern disturbingly similar when you view all the crimes together. The jury did not have the benefit of knowing of the additional rapes. These additional crimes certainly weigh heavily against Durr being deserving of mercy.
- Durr benefitted from Angel's body not being found until approximately 8 months later. The sperm and other physical evidence were destroyed because of the length of time the body was hidden. DNA testing did not and will not provide any beneficial evidence primarily because evidence was not maintained in 1988 like it is today. Anyone from the public could "check out" evidence from the clerk's office, thereby contaminating it and rendering DNA testing irrelevant.
- Durr's statement that he was offered a plea agreement which consisted of a 7-25 year sentence is total fabrication. No such offer was made and the elected prosecutor at the time indicated that the only mercy Durr would receive would be from the jury. He further stated that the prosecutor that prosecuted this case could not have unilaterally made such an offer and would have never visited Durr without defense counsel being present.

Assistant Attorney General Stephen Maher provided the additional arguments in opposition to clemency:

- The federal district court has addressed and reviewed the arguments raised by defense counsel in a 300+ page opinion. These arguments were given extensive consideration. Those parties in the best position to review and evaluate the arguments have done so and have not disturbed the conviction and sentence.
- Deborah Mullins' account of what happened is reliable as it is corroborated in five ways:
 - Janice Durr's trial testimony and written statement to the police mirrored Deborah Mullins' account in the following ways:
 - Janice stated that Mullins and Durr arrived at her apartment and Durr immediately grabbed a green duffle bag with two shovels and left.
 - Janice stated that Durr asked for turpentine and burnt items in the basement of her apartment building within hours of his return.
 - Janice stated that while she, Mullins, Durr and presumably their children were driving from Cleveland to Elyria, Durr threw something out of the window.
 - Janice stated that in early February, she, Mullins and Durr drove to a warehouse where Durr burned a paper bag.
 - Deborah Mullins' mother Margaret Hale noticed a marked difference in the demeanor of Mullins and Durr after Angel disappeared and described them as having a nonchalant attitude about her disappearance. After Durr's arrest for rape, Mullins told Margaret Hale that she could not take it anymore and that Durr had "trashed" Angel.
 - Mullins gave an accurate description of the scene to police in her second statement to them after Durr was arrested and she believed he was going to prison. She told police that Durr told her that he put Angel's body in two construction cones end to end with a railroad tie on top. That is the condition in which the victim's body was found.
 - The irony of the letter Angel Durr read from Deborah Mullins is the "height of duplicity". Durr told the Parole Board that Mullins is the real killer and possibly Janice Jackson, but at the same time he wants the Board to consider Mullins request that Durr receive clemency. Mullins never recanted her statement in this letter.
 - Durr's guilt in the other two rape cases constitutes "other bad acts" evidence. Other bad acts evidence is used to establish the identity of a perpetrator due to the similarity between the acts. There was an agreement between the prosecution and defense not to use the other rape convictions

in the guilt phase of the capital murder case. However, they certainly should be considered by the Board in deciding whether clemency is warranted. In addition, the decision by trial counsel to limit the mitigation presented was a strategy. It eliminated the possibility that the door would open during a mitigation witness's testimony that would permit the prosecution to admit the fact of the other rape convictions. This strategy was not laziness in mitigation preparation. It was smart.

- Darryl Durr is not deserving of clemency and the conviction and sentence should not be disturbed.

VICTIM'S REPRESENTATIVES:

Several family members/friends spoke regarding the effect the death of the victim has had on them individually and as a family.

In addition, Ms. Godsey, Angel's mother stated the following in opposition to clemency:

- Contrary to Angel being portrayed as a runaway delinquent, she was actually a very nice normal teenager.
- She has nightmares where Durr chokes her to death, and it bothers her when she thinks about what Angel must have gone through in the last hours of her life.
- She disputed Durr's statement that he hadn't seen Angel on the day she died and that it had been months since he had seen her. Ms. Godsey stated that Angel, Debbie and Durr saw each other often and were friends. Regarding the night of Angel's disappearance, Ms. Godsey stated that Debbie Mullins was in her home and answered the phone when she called to speak to Angel, then gave the phone to Angel. She was told by Angel that Durr was at the door and they were going to take her to get her jacket. Ms. Godsey believes Deborah Mullins left and Durr was left alone with Angel.
- She says she knows now that Durr was obsessed with Angel. Ms. Godsey related that Durr told her personally that he named his newborn baby, Angel, after her daughter.
- She also stated that Debbie Mullins attended Angel's funeral and apologized for not telling anyone about the crime. She does not believe Darryl Durr deserves clemency.

PAROLE BOARD'S POSITION AND CONCLUSION:

The Parole Board considered all of the written submissions, arguments, information disseminated by presenters at the hearing, the interview with the applicant, prior investigative findings as well as judicial decisions and deliberated upon the propriety of clemency in this case. Clemency in the form of a commutation to life without the possibility of parole is not recommended for the following reasons:

- Durr's criminal record includes significant instances of violence, particularly against young women and with the use of weapons. Despite the fact that he claims innocence in all of the convictions, the evidence suggests that he in fact committed the offenses.
- Durr fails to accept responsibility for any of the crimes he is convicted of, including those that he plead guilty to, and significantly lacks any remorse for his actions.
- The conviction and sentence have received extensive consideration by reviewing courts. Durr's arguments for clemency have been litigated and have found to be insufficient to warrant reversal. There is no manifest injustice in the conviction and sentence.
- Durr's conduct since his incarceration is commendable and presents some mitigation. However, this minimal mitigation is outweighed by the aggravating factors in the instant offense and Durr's violent criminal history.

RECOMMENDATION:

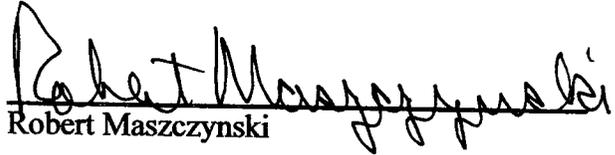
The Ohio Parole Board with seven (7) members participating, by a vote of seven (7) to zero (0) recommends to the Honorable Ted Strickland, Governor of the State of Ohio, that executive clemency be DENIED in the case of Darryl Durr, A207-889.

Adult Parole Authority
Ohio Parole Board Members
Voting **Favorable**

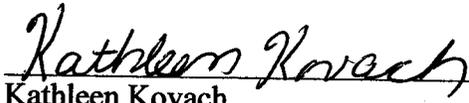
Ohio Parole Board Members
Voting **Unfavorable**



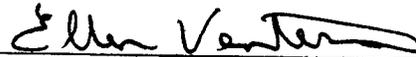
Cynthia Mausser, Chair



Robert Maszczyński



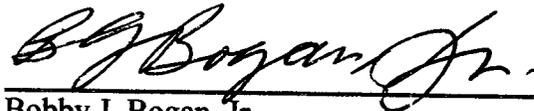
Kathleen Kovach



Ellen Venters



R. F. Rauschenberg



Bobby J. Bogan, Jr.



Trayce Thalheimer

Sept. Sunday 27, 2009
To whom it concerns:

My name is Deborah Mullins
and I am writing on behalf
of Darryl Durr asking for
support during this clemency
hearing in regards to his case
being dropped to life sentence
for the sake of him being
here for my daughter Angel Durr
and his grandsons Jayson Gray
and Damien Jackson.

Thank You,
Deborah Mullins