

DATE TYPED: July 12, 2013
DATE PUBLISHED: July 16, 2013

IN RE: BILLY SLAGLE, A203-172

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

Date of Meeting: July 08, 2013

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: Billy Slagle, A203-172

SUBJECT: Death Sentence Clemency

CRIME, CONVICTION: Aggravated Murder with death penalty specifications, Aggravated Burglary, Aggravated Robbery

DATE, PLACE OF CRIME: August 13, 1987 in Cleveland, Ohio

COUNTY: Cuyahoga

CASE NUMBER: CR 220252

VICTIMS: Mari Anne Pope (Age 40)

INDICTMENT: Count 1: Aggravated Murder with death penalty specifications; Count 2: Aggravated Burglary; Count 3: Aggravated Robbery; Count 4: Attempted Rape

TRIAL: Trial by Jury

VERDICT: Found Guilty of Counts 1-3; Not guilty of Count 4

DATE OF SENTENCE: April 7, 1988

SENTENCE: Count 1: DEATH;
Counts 2 & 3: 10 – 25 years

ADMITTED TO INSTITUTION: May 13, 1988

JAIL TIME CREDIT: 270 days

TIME SERVED: 25 years, 2 months (does not include JTC)

AGE AT ADMISSION: 19 years old

CURRENT AGE: 44 years old

DATE OF BIRTH: December 30, 1968

JUDGE: Honorable Carl J. Character

PROSECUTING ATTORNEY: John T. Corrigan

FOREWORD:

Clemency proceedings in the case of Billy Slagle, A203-172, were initiated by the Ohio Parole Board pursuant to Sections 2967.03 and 2967.07 of the Ohio Revised Code and Parole Board Policy #105-PBD-01.

On June 25, 2013, Billy Slagle, the applicant, was interviewed via videoconference by the Parole Board at the Chillicothe Correctional Institution. A Clemency Hearing was then held on July 8, 2013 with ten (10) members of the Ohio Parole Board participating. Arguments in support of and in opposition to clemency were presented.

The Parole Board considered all of the written submissions, arguments, information disseminated by presenters at the hearing, as well as judicial decisions, and deliberated upon the propriety of clemency in this case. With ten (10) members participating, the Board voted six (6) to four (4) to provide an unfavorable recommendation for clemency to the Honorable John R. Kasich, Governor of the State of Ohio.

DETAILS OF THE INSTANT OFFENSE (CR 220252): The following account of Slagle's offense was obtained from the Ohio Supreme Court opinion, decided December 31, 1992:

In the early morning hours of August 13, 1987, the victim Mari Anne Pope was awakened in her home by the applicant. Two children, who she had agreed to watch for her neighbors, were also awakened. The children awoke to the voice of Mari Anne inquiring as to whom this person was that had entered her home. A man's voice angrily threatened her and ordered her to roll onto her stomach. The man asked if there were others in the house, to which she replied that there were two children upstairs. The man told the victim not to move and that he had a knife at her back. The children then heard Mari Anne begin to pray. The man responded by ordering her to stop praying.

The children recognized the voice and knew the man as Billy Slagle, who lived next door. They first sought to hide, and then to escape. They scurried through the hall and out the back door. One of the children looked into the bedroom and observed Slagle sitting on top of the victim, who was lying upon her stomach. Slagle had on only his underwear. As the children exited, the victim could be heard screaming.

The children were admitted into a neighbor's home and police were called. Police officers arrived momentarily and as they moved around the house, shining a flashlight into the windows, one officer observed a man standing in the rear bedroom. The officer entered and observed Slagle attempting to hide in the dining room, armed with blood-covered scissors. After ordering Slagle to discard the scissors and lie face down on the floor, the officer placed handcuffs on him.

The officer then went into the bedroom. He observed Mari Anne Pope lying across the middle of the bed. Her nightgown was pulled up around her neck. She was drenched in blood with large holes in her body. On the floor lay Mari Anne's broken rosary, and Slagle's tank-top T-shirt.

The officer called to his companion, telling him to call for medical treatment and to take custody of the handcuffed man on the dining room floor. The other officer responded that there was no one on the dining room floor and both officers began to search. Slagle had gotten up and hidden himself in a hallway closet. When the officer passed the closet door in this as yet darkened home, Slagle burst from the closet and sought to escape. The first officer to react testified that Slagle was very quick and agile. The officer was unable to subdue Slagle until two other officers entered the fray. Slagle was observed to have blood on his hands and clothing. He also had a number of superficial scratches and bruises.

Despite efforts to save her, Mari Anne Pope was pronounced dead at 6:00 a.m. The coroner reported that she had been stabbed seventeen times, with many of the stab wounds having been inflicted in and around her chest area. There were four stab wounds in her abdomen, five in the upper and lower extremities, with eight to the chest area, including wounds to the right atrium, pulmonary artery and right lung. She had also been severely beaten about her head and face.

At 10:00 a.m. the same day, Detective John J. McKibben interviewed Slagle, after having first advised him of his rights. At first, Slagle claimed to have no knowledge of the events of that morning. After being reminded that he had been arrested in the victim's home, Slagle described his actions on the night of August 12 and the morning of August 13 in some detail.

The jury convicted Slagle of aggravated murder with two death penalty specifications of committing murder in the course of aggravated burglary and aggravated robbery. The jury also found Slagle guilty of separate counts of aggravated burglary and aggravated robbery, but acquitted him of attempted rape.

The jury recommended the death penalty. The trial court agreed and sentenced Slagle to death for the aggravated murder of Mari Anne Pope. Slagle also was sentenced to concurrent terms of imprisonment for aggravated robbery and aggravated burglary.

PRIOR RECORD

Juvenile Offenses: Billy Slagle has the following known juvenile arrest record:

<u>DATE</u>	<u>OFFENSE</u>	<u>LOCATION</u>	<u>DISPOSITION</u>
9/2/1985 (Age 16)	Unauthorized Use of Motor Vehicle; Criminal Damaging; Criminal Trespass	Cleveland, Ohio	12/23/1985: Adjudged delinquent; Probation and \$320.00 restitution ordered

Details: Slagle entered a business without permission, took a 1971 Toyota and proceeded to crash it into a wrecked auto.

10/16/1985 (Age 16)	Unauthorized Use of a Motor Vehicle	Cleveland, Ohio	Adjudged delinquent; placed on probation
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Details: Slagle operated a 1978 Chevrolet without the consent of the owner of the vehicle.

8/19/1986 (Age 17)	Receiving Stolen Property	Berea, Ohio	Adjudged delinquent; restitution ordered
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Details: Slagle was found to be operating a stolen 1977 Oldsmobile Cutlass.

10/21/1986 (Age 17)	Breaking & Entering, Theft	Cleveland, Ohio	Adjudged delinquent; restitution ordered
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Details: Slagle broke into a residence removing property valued at \$208.00.

10/28/1986 (Age 17)	Felonious Assault, Assault	Cleveland, Ohio	Adjudged delinquent; Continued on probation with placement at Glenbeigh Treatment Center
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Details: Slagle assaulted a male victim with a pair of scissors and caused serious physical harm to a female victim.

SUPERVISION ADJUSTMENT:

Billy Slagle was placed on probation on December 23, 1985. He was supervised by the Cuyahoga County Juvenile Probation Department. Slagle was charged with numerous probation violations while under supervision. The violations included the following:

- On May 28, 1986, Slagle's probation officer filed a delinquency complaint because Slagle had failed to obey his parents, did not attend classes at Glenville High School on a regular basis, stayed out beyond his curfew, and drank alcoholic beverages. On July 15, 1986, Slagle was found to be a probation violator. Probation was continued and Slagle was ordered to attend counseling as arranged by his probation officer.

- On August 14, 1986, Slagle's probation officer again filed a delinquency complaint. The complaint indicated that Slagle had repeatedly left his mother's house without consent and that his whereabouts were unknown for days at a time, including the period from August 3, 1986 to August 14, 1986. On September 5, 1986, Slagle was found to be a probation violator. Probation was continued and he was ordered to continue with drug counseling and to refrain from using intoxicants.
- On October 23, 1986, Slagle's probation officer again filed a delinquency complaint. The complaint indicated that Slagle had failed to comply with the rules and limitations set in the home by his parents and that on numerous occasions he absented himself from home overnight without parental consent. On November 19, 1986, Slagle was found to be a probation violator. At the time of the hearing, Slagle had felony assault charges pending against him. On December 4, 1986, Slagle was adjudged delinquent for felonious assault and assault and was continued on probation with a placement at Glenbeigh Treatment Center.

Adult Offenses: Billy Slagle has the following known adult arrest record:

<u>DATE</u>	<u>OFFENSE</u>	<u>LOCATION</u>	<u>DISPOSITION</u>
8/17/1987 (Age 18)	Aggravated Murder Aggravated Robbery Aggravated Burglary (CR220252)	Cleveland, Ohio	INSTANT OFFENSE

INSTITUTIONAL ADJUSTMENT:

Billy Slagle was admitted to the Ohio Department of Rehabilitation and Correction on May 13, 1988. His work assignments while incarcerated at the Southern Ohio Correctional Facility, Mansfield Correctional Institution, and Ohio State Penitentiary included Clerk, Food Service Worker, Laundry, Porter, and Library Aide. Since his transfer to the Chillicothe Correctional Institution, Slagle's work assignment has been as a Porter. Slagle did participate in GED classes from May 1999 to February 2005. Since his admission, Slagle has never been placed in Disciplinary Control. He has received approximately two (2) conduct reports since his admission. Those conduct reports include refusal to carry out an institutional assignment (1993) and possession of minor contraband (2003).

APPLICANT'S STATEMENT:

On June 25, 2013, members of the Ohio Parole Board conducted an interview with Slagle via video conference from the Chillicothe Correctional Institution.

The following individuals observed the interview via videoconference, but did not participate: Steve Maher from the Office of the Ohio Attorney General; Samuel Porter

from the office of Governor John Kasich; Joseph Wilhelm, Assistant Federal Public Defender; Alan Rossman, Assistant Federal Public Defender; Vicki Werneke, Assistant Federal Public Defender; Jill Davis, Assistant Federal Public Defender; T. Allan Regas, Assistant Cuyahoga County Prosecutor; Katherine Mullin, Assistant Cuyahoga County Prosecutor; David Cerutti, Parole Board Parole Officer; and Jerrold Montgomery, Parole Board Parole Officer.

Ohio Parole Board Chair Cynthia Mausser opened the interview by introducing herself to Slagle. She noted that the Parole Board last interviewed him on August 4, 2011 as part of the clemency process that was initiated ahead of his prior execution date. Chair Mausser noted that following his 2011 clemency hearing, Governor John Kasich granted Slagle a reprieve. Because Slagle has since received a new execution date, the clemency process is beginning anew, Chair Mausser explained. Chair Mausser informed Slagle that his clemency hearing is scheduled for July 8, 2013. Chair Mausser introduced Slagle to the Parole Board members who were present for his interview.

Chair Mausser asked Slagle what he would like the Board to consider in determining whether to make a favorable or unfavorable recommendation for clemency in his case. Slagle responded that he would like to have his death sentence commuted to life without parole. Slagle then read from a lengthy prepared statement.

Slagle asked the Board to reconsider the unfavorable clemency recommendation that it made as part of his 2011 death penalty clemency proceedings. In his prepared statement, Slagle asked for forgiveness. He stated that he is deeply sorry for taking Pope's life and that he understands the effects that his crime has had upon her family. Slagle noted that he has two sisters and that he would be devastated if anyone ever harmed them like he harmed Pope.

Slagle next apologized to his family for the difficult position that he has put them in. He apologized to his family for the shame that he has brought upon the family and for forcing them to have to watch him fight for his life.

Slagle insisted that the events of the night of the crime do not reflect who he is as a person. Slagle described himself as a low-key individual by nature. For that reason, Slagle does not understand why he took Pope's life. He regrets the crime every day. He insisted that he did not enter Pope's home with the intention of hurting her or anyone else. He noted that he was not armed when he entered Pope's home. He was only looking for something to steal. Slagle told the Board that he had never entered an occupied home prior to that night.

Slagle stated that his judgment was severely impaired by drugs and alcohol when he broke into Pope's home. Slagle described drinking a substantial amount of alcohol and smoking a substantial amount of marijuana on the night of the crime. Slagle described his memories from the night of the crime as fuzzy. He stressed to the Board that by describing his impairment on the night of the crime he was not attempting to make excuses for taking Pope's life, but he was only trying to explain why he acted the way he

did, and he believes that he would not have killed Pope had he not been so significantly impaired.

Slagle stated that he had hopes and dreams growing up but was hindered by the absence of positive guidance from his family, particularly his parents. Slagle stated that his parents fought constantly when he was a child. He described his parents' arguments as alcohol-fueled and violent in character. Slagle described how his parents divorced when he was 12 years old. Slagle's mother subsequently became involved with men who physically abused him. Slagle described how, as a child, his adult family members provided him with alcohol. By the age of 12, he was using marijuana. He stole marijuana from his mother, who both used and sold the drug.

Slagle described himself as a loner until the age of 14, when he began associating with a group of peers who used drugs. From there, his drug and alcohol abuse escalated. Slagle noted that, as a juvenile, he was ordered to the Glenbeigh Hospital ("Glenbeigh") in Cleveland for treatment. Slagle described Glenbeigh as a place where wayward youth were warehoused for the purpose of collecting insurance payments.

While at Glenbeigh, Slagle came to the realization that he had a serious substance abuse problem. However, Slagle did not embrace treatment at that time because he believed that, like his father, he could live a productive life as a functioning alcoholic. Slagle admitted that, prior to killing Pope, he had been given opportunities to get clean. However, Slagle explained that, like any addict, he was not ready to embrace treatment until he reached rock bottom. Unfortunately, he continued, rock bottom did not come until the night he took Pope's life.

In his prepared statement, Slagle made a case for commuting his sentence to life without parole. He urged that life without parole, which was not an option available to the jury at the time of his trial, is a viable option for him today. Slagle insisted that he is redeemable. He stated that, while serving a life sentence, he would like to work with animals and do community service. He would participate in Alcoholics Anonymous and any available programs.

Slagle noted that he has abstained from drugs and alcohol during his incarceration. He pointed out that he has behaved himself in prison. He said that his abstinence and good conduct suggest that he can be productive while serving a life sentence. He described himself as a model prisoner with no history of violence during his incarceration. The quiet, nonviolent, and shy persona that he has exhibited as a prisoner is his true identity, he urged.

Slagle addressed the felonious assault that, in part, led to his juvenile commitment to Glenbeigh. That assault involved two victims, David and Miriam Lovejoy, whom Slagle was adjudicated as having attacked with a meat hook and scissors. That assault was identified by the Board in its 2011 clemency report as one example of a pattern of Slagle's escalating violence preceding Pope's murder. Slagle admitted that he was involved in a

physical altercation with the Lovejoys. However, he insisted that he, not the Lovejoys, was the victim in that altercation.

Slagle described the Lovejoys as an adult couple that would allow Slagle and other juveniles to drink and use drugs in their home. Slagle stated that, on the night that he allegedly assaulted the Lovejoys, David Lovejoy became involved in a physical altercation with one of Slagle's friends, Mike Williams. According to Slagle, he was drawn into the fight between David Lovejoy and Williams because Slagle had brought Williams to the Lovejoys' home. Slagle insisted that it was David Lovejoy who was the aggressor, stabbing Slagle during the altercation. Slagle admitted to striking Miriam Lovejoy with a chair, but he claimed that he acted in self-defense when she attacked him with a chair of her own.

At the time he was adjudicated delinquent for that offense, Slagle professed his innocence to neither his attorney nor the juvenile court judge. According to Slagle, he believed at the time that professing his innocence would be useless given his criminal history.

Slagle also took issue with a recorded audio statement made by the Lovejoys alleging that Slagle had a history of physical abuse toward his then-girlfriend, Tammy Roupe. Slagle insisted that he never argued with Tammy, no less struck her.

Further, Slagle insisted that he never used PCP, as suggested by the Lovejoys. In short, Slagle believes that the Lovejoys hold a grudge against him stemming from his physical altercation with them and that they have been trying to dehumanize him ever since.

Lastly, in his prepared statement, Slagle addressed statements that Cleveland Police Detective John McKibben alleged Slagle made to him following his arrest for Pope's murder. According to McKibben, Slagle had admitted to him that he was attempting to sexually assault Pope immediately prior to taking her life. Slagle stated that it has always been his position, and it remains his position today, that he does not recall making that statement to McKibben. Slagle insisted that he is not challenging, and has never challenged, the veracity of McKibben's recollections. He simply does not recall making that and other statements that he is alleged to have made to McKibben.

Following his prepared statement, Chair Mausser permitted the Board members to direct questions to Slagle.

Slagle was asked to clarify the statement he made in his prepared statement that Glenbeigh warehoused youth for financial gain. Slagle stated that he came to hold this view after his parents were unable to participate with him in treatment sessions. According to Slagle, his parents were denied admittance to those sessions because they were unable to make the \$500 payment required for participation. When asked whether his parents would have participated even if they had been able to make the required payment, Slagle responded that he did not know.

Slagle was asked to describe what he remembers from the night of the crime. Slagle responded that he remembers entering Pope's home and he remembers that it was dark inside. He remembers walking from room to room. The next thing he said that he remembers is standing over Pope, holding scissors with blood on his hands. Slagle remembers Pope gasping for air. He recalls the police shining a light in his face and he remembers running. Slagle does not know from where the scissors came.

Slagle stated that he does not recall seeing any children in Pope's home, nor does he recall Pope telling him that children were present. Slagle is aware that one of the children saw Slagle committing the crime. Slagle regrets that the child witnessed it. When asked what kind of effect witnessing the crime might have had upon the child, Slagle responded that he understands that the experience likely had long-lasting effects upon the child, leaving him in fear for his own safety. Slagle recalled the fear he felt as a child when his parents fought.

When asked what images come to mind when he thinks back on the night of the crime, Slagle initially responded that when he thinks about that night, he thinks about how he would feel if someone attacked one of his sisters the way that he attacked Pope. When pressed for his specific mental images from the night of the crime, Slagle again stated that he remembers standing over Pope with scissors in his hand while Pope gasped for air. Slagle indicated that he has no memory of what Pope was wearing on the night of the crime. He does not recall manipulating her clothing in any way, and he does not know why he had removed articles of his own clothing. He speculated that he must have removed his clothing as part of an attempt to rape Pope, but he does not recall attempting to rape her.

Slagle was asked why he became angry when Pope began to pray. Slagle responded that he has no problem with religion. He does not know why her praying would have agitated him.

Slagle stated that while he was growing up he did not consider his life unfortunate. However, looking back upon his life now, Slagle sees how terrible it was. He had dropped out of school by the time he killed Pope. For a while after dropping out of school, Slagle would pretend that he was attending. He ceased pretending after coming to the realization that his parents were too busy to pay attention to what he was doing.

Board members questioned Slagle about his blackout experiences. He reported that, prior to the night that he killed Pope, he had three or four blackout experiences. On occasion, he would awake on the side of the road or on his porch with no recollection of how he arrived there. Slagle indicated that he had never before acted violently during a blackout.

Slagle was questioned further about his forty-five day commitment to Glenbeigh, including his adjustment at the institution. Slagle indicated that he got along well with the other juveniles at the facility. Slagle related that he had only one minor confrontation with another juvenile who had teased him about his parents following one of their visits.

When asked why he continued to use alcohol and drugs even after completing his commitment to Glenbeigh, Slagle indicated that, in his view, Glenbeigh's treatment methods were not conducive to his personality. Glenbeigh's approach, according to Slagle, was confrontational, which put him on the defensive and made him unreceptive to what the facility was offering. Slagle also reiterated that, during his time at Glenbeigh, he had not yet hit rock bottom. He naively thought he could control his drinking.

Slagle again expressed ongoing resentment about a fee Glenbeigh insisted upon charging his family to participate in the familial component of his recovery. He lamented that his family never had the opportunity to meaningfully participate in his treatment. Slagle speculated that, had his family been more involved in his recovery, he may have been able to successfully beat his addiction. Slagle described his nephew's addiction and how his sister had been able to assist her son in overcoming it by becoming a partner with him in his sobriety, addressing her own addiction in the process.

Chair Mausser pointed out to Slagle that his sister overcame her addiction and additional personal tragedies that Slagle never experienced, yet Slagle's addiction continued to what Slagle suggests was an inevitably violent conclusion. Slagle answered that different people respond to similar situations differently. It is simply a matter of human nature, he explained.

As the interview neared its conclusion, Slagle stated that he never envisions himself being released from prison. He is resigned to the idea that he will never be released. However, he believes that he could function well and live a productive life if his sentence were to be commuted to life without parole. Slagle stated that his family remains supportive, visiting regularly. Slagle believes that, with his family's continued support, he could cope with a life sentence with no possibility of parole.

Chair Mausser thanked Slagle for participating in the interview, explained to him the remaining phases of the death penalty clemency process, and concluded the interview.

ARGUMENTS IN SUPPORT OF CLEMENCY:

A written application with exhibits outlining the arguments in support of clemency was submitted to the Parole Board. On July 8, 2013, a hearing was conducted to further consider the merits of the application. Attorneys Joseph Wilhelm and Vicki Werneke of the Federal Public Defender's Office represented Slagle at the clemency hearing. Assistant Cuyahoga County Prosecuting Attorneys Matthew Meyer and T. Allan Regas also provided statements recommending commutation of Slagle's sentence. Wilhelm, Werneke, Meyer, and Regas presented the following arguments in support of Executive clemency in the form of life without the possibility of parole.

Wilhelm stated that there is no disputing the fact that Slagle killed Pope. Pope did not deserve to die, Wilhelm said. Wilhelm acknowledged the trauma that the murder caused the children who witnessed the crime and stressed that nothing in the defense's presentation should be construed as an attempt to minimize the harm Slagle has done.

Notwithstanding the harm done, Slagle's case is one deserving of Executive clemency, Wilhelm urged. Wilhelm noted that the Office of the Cuyahoga County Prosecuting Attorney now supports clemency in Slagle's case. Wilhelm described the Prosecutor's position as an "enlightened approach."

Wilhelm stressed that, when Slagle killed Pope, he was not a violent individual by nature. As proof that Slagle had no murderous intent toward Pope, Wilhelm pointed to the fact Slagle was not armed when he entered Pope's home. His crime was impulsive in nature. Wilhelm contended that the crime would not have occurred but for Slagle's alcohol and drug addiction.

Slagle's brain was quite negatively affected by the alcohol and drugs he was consuming from a young age, Wilhelm urged. Slagle was also negatively impacted by the violence and instability he experienced throughout his youth. By the time Slagle took Pope's life, his own life was broken. Slagle was exposed to alcohol by his family from the time he left the womb to the night of the crime. When committed to treatment at Glenbeigh Hospital, Slagle had yet to recognize the severity of his own chemical addiction, Wilhelm argued. According to Wilhelm, Slagle's treatment at Glenbeigh was further hindered by the lack of family involvement in his treatment program.

Slagle experienced violence throughout his childhood. His biological father and mother fought constantly and violently. After his mother and father divorced, his mother subjected him to a succession of male partners who abused him and his mother. All of those men drank to excess, as did his mother. Slagle's family moved constantly, which stunted his emotional development and retarded his socialization. At 18, Slagle had the emotional development of a 12 year old, Wilhelm stated. As he progressed further into his teenage years, Slagle went largely unsupervised by any adult. He began abusing alcohol and drugs and associating with a group of troubled kids. He was, in short, a broken teenager, Wilhelm argued.

Wilhelm observed that Slagle has adjusted well since coming to prison. He has abstained from alcohol and drugs. His antisocial personality traits have faded away. He has continued to develop emotional bonds with his family. Wilhelm stressed that a commutation to life without the possibility of parole would be a stern punishment. Under that sentence, Slagle will ultimately serve all but eight months of his adult life in prison.

Following those introductory statements, Wilhelm summarized for the Board the several independent bases that he and Werneke would advance during the hearing in support of Executive clemency. First, the jury heard mitigation evidence that two Ohio Supreme Court justices, Herbert Brown and Craig Wright, determined was not outweighed by the aggravating circumstances in Slagle's case beyond a reasonable doubt, making the death sentence inappropriate. Second, in addition to the mitigation that was presented to the jury, there is a considerable amount of additional mitigation that was never presented to the jury but that is pertinent to the clemency consideration. Third, one of the jurors at Slagle's trial has since averred that no amount of mitigation presented at trial would have dissuaded her from recommending a death sentence and this juror bias rendered Slagle's

trial fundamentally unfair. Fourth, Slagle's Native American background and his ancestors' experiences as relocated Native Americans affected Slagle's upbringing, setting him on a course of addiction and juvenile delinquency. Fifth, Slagle's case is not a death penalty case. Lastly, Slagle has a supportive family that cares about him deeply.

Argument #1: The Mitigation Presented to the Jury

According to Wilhelm, the jury heard the following mitigation at trial: Slagle was only 18 at the time of the offense; his family moved frequently throughout his childhood; he had the emotional development of a 12 year old at the time of the crime; he was largely unsupervised by any adult during his childhood; he had a substance abuse problem; and he was severely impaired on the night of the crime. Former Ohio Supreme Court Justices Brown and Wright, who dissented from the Supreme Court's affirmation of Slagle's death sentence on direct appeal, concluded that, in their opinions, that mitigation was not outweighed by the aggravating circumstances in the case beyond a reasonable doubt.

Wilhelm and Werneke played a videotaped statement from former Justice Brown, who argued that Slagle's sentence should be commuted to life. Justice Brown indicated that youth, which is a statutory mitigation factor, was a major consideration leading him to the conclusion that the death sentence was not appropriate in Slagle's case. In Justice Brown's view, an 18 year old should be given the death penalty only in the most extreme circumstances. At 18, an individual does not have the emotional development of older adults, Justice Brown argued. Slagle's crime is not so extreme as to warrant a death sentence, he opined. Justice Brown stressed that Slagle entered Pope's home with the intention to steal, not to kill. Slagle killed Pope while his reason and self-control were severely impaired. His ability to act rationally was impaired by drugs and alcohol, Justice Brown stated.

Wilhelm stressed that the statutory mitigation factor of youth is at its zenith when the offender is only 18 at the time of the offense. Eighteen is the minimum age for imposing the death sentence, Wilhelm noted. Wilhelm pointed out that, since the death penalty was reinstated in 1981, only one person who was 18 years old at the time of the offense has been executed in this state, Adremy Dennis in 2004. That case, Wilhelm argued, was considerably more aggravated in nature than Slagle's.

Argument #2: There Is Additional Mitigation that Was not Presented to the Jury

Wilhelm argued that, in addition to the mitigation that was presented to the jury, there is additional mitigation that the jury did not hear but that the Parole Board and the Governor should consider. Wilhelm noted that the jury did not hear about the excessive abuse and violence that Slagle experienced throughout his childhood. The jury heard that Slagle's family was dysfunctional. However, the jury did not hear about the repeated violent confrontations between his parents. Nor did the jury hear about Slagle's physical abuse at the hands of the men with whom his mother became involved following her divorce from Slagle's father. The jury knew that those men treated Slagle harshly, but the full extent of that abuse and its severity was never communicated to the jury. That information could

have generated juror sympathy for Slagle, Wilhelm insisted. It also would have assisted the jurors' understanding of why Slagle was using alcohol and drugs to escape reality. Furthermore, Wilhelm argued, information about Slagle's violent upbringing would have assisted the jurors in understanding why he resorted to such extreme violence during his confrontation with Pope.

According to Wilhelm, the full extent of the alcohol abuse occurring in Slagle's family was never communicated to the jury. While the jury heard that Slagle's parents abused alcohol, for example, it was not conveyed to the jury that Slagle's parents were full-blown alcoholics. Nor was the jury made aware that many of Slagle's other family members were also alcoholics or that Slagle's mother sold marijuana. In short, the mitigation evidence presented to the jury did not provide to the jury a clear picture of the overwhelming environmental and genetic basis for Slagle's alcohol and drug addictions. Wilhelm argued that the failure to provide that information to the jury was another missed opportunity to generate juror sympathy for Slagle.

Wilhelm argued that the jury was also unable to appreciate why Slagle's commitment to Glenbeigh Hospital failed to rehabilitate him. The jury likely blamed Slagle for that failure. What the jury did not know, Wilhelm argued, was that Slagle's treatment at Glenbeigh was hindered by the fact that his parents did not participate in his treatment despite the fact that their involvement was recommended as part of Slagle's treatment protocol. Wilhelm noted that Glenbeigh's records do not indicate the reason for his parents' lack of participation. The records make no mention of the fee described by Slagle during his clemency interview.

Wilhelm argued that Glenbeigh did not address the emotional problems that were at the root of Slagle's substance abuse problem. Those emotional problems stemmed from Slagle's chaotic upbringing, Wilhelm contended. Further, it was never explained to the jury that, after Slagle left Glenbeigh, his parents offered him no support, instead leaving him to his own devices once again.

Wilhelm and Werneke played a videotaped statement from Dr. Robert Smith, a psychologist, who opined that Slagle suffers from an addictive disorder that includes hallucinogen abuse, marijuana abuse, and alcohol abuse. Smith noted that Slagle started abusing alcohol at the age of seven. He next tried marijuana and then progressed to other drugs. Alcohol and drugs were readily available to Slagle throughout his childhood. Slagle's family never discouraged alcohol use, according to Smith.

Smith indicated that at the young age at which Slagle started using alcohol, a person is incapable of making a conscious decision to use or not to use. At that age, Smith opined, Slagle would have only been imitating what he was witnessing in his immediate environment. One does not understand the concept of addiction or the risks involved until one is considerably older than the age at which Slagle began using, Smith explained.

Smith stated that, in his opinion, Slagle had all of the risk factors for addiction. Those risk factors were biological, environmental, and psychological in nature. Both of Slagle's

parents were alcoholic. So too were his grandfathers, as well as several aunts and uncles. Slagle thus had a genetic predisposition to addiction that is akin to the genetic predisposition to cancer, Smith argued. With that genetic predisposition, Slagle's response to alcohol was going to be biologically different from someone without that predisposition. Alcohol was a pronounced element of his environment as well, Smith argued. Those around him routinely used alcohol to excess, which normalized alcohol abuse in Slagle's mind. Slagle's environment tacitly condoned the abuse of alcohol. Lastly, Slagle's neglect, abuse, and parental abandonment created in him a psychological need for the numbing effect that alcohol and drugs could provide. Substance abuse afforded an escape from his negative environment. The combination of all of those various factors essentially sealed Slagle's fate, Smith argued.

According to Smith, alcohol and drugs distort the brain. An individual begins to change from who they are to a drug-affected version of themselves. Alcohol and drugs change the ways in which a person thinks, feels, makes decisions, and behaves. Slagle experienced all of those changes, Smith contended. Slagle's cognitive, or "higher order," functioning became impaired. His reality became distorted and he began to make poor decisions. Slagle began to act impulsively and sometimes aggressively as a result of the physiological changes he was experiencing as an addict.

Smith stated that there is a portion of the brain referred to as the "rewards" center that is responsible for survival needs; namely, hunger, thirst, and sexual drive. The rewards center, Smith explained, is directly related to addiction. It becomes activated during addiction, resulting in the brain's neurotransmitters being thrown out of balance. At that point, addicted individuals need the substance to which they are addicted. Overcoming the addiction becomes a significant challenge.

Smith addressed Slagle's treatment at Glenbeigh. Smith argued that adolescents are rarely successfully treated for substance abuse. The success rate for adolescents is low, he contended. The goal for adolescents, Smith argued, is to set the stage for sobriety later in life. The challenge, Smith continued, is that adolescents do not grasp the severity of addiction. Compounding the challenge for Smith was the fact that he was functioning at the emotional level of a 12 year old. The lack of parental involvement in Smith's treatment was also problematic. Therefore, the fact that Smith's treatment at Glenbeigh was unsuccessful does not surprise Smith. A relapse following his release from Glenbeigh was to be expected, Smith opined.

Smith next addressed the fact that, during his apprehension in Pope's home, Slagle exhibited coordination and physical balance despite his intoxicated state. According to Smith, Slagle's motor control and balance at the crime scene are not necessarily indicative of sobriety. Instead, it is an example of behavioral tolerance, Smith explained. Smith argued that the brain of an addict learns to compensate for impairment, particularly in relation to "over-learned" behaviors like walking and talking. After becoming accustomed to constantly being exposed to alcohol, the brain develops compensatory abilities. An alcoholic, Smith explained, can learn not to slur speech, for example. They can appear largely unimpaired even when significantly intoxicated. However, "high

order” or “executive” functions such as problem solving, impulse control, and concentration can become significantly compromised by alcohol and marijuana. The brain has no capacity to compensate for those functions.

Smith explained the concept of “blackout,” as it relates to Slagle’s actions on the night of the crime and his capacity to recall the events of that night then and now. Smith observed that Slagle was able to recall the events of the night of the crime to the police who interviewed him in the hours after he killed Pope. According to Smith, Slagle was, at that point in time, still intoxicated. That state of intoxication, Smith continued, explains Slagle’s ability to recall for police what occurred in Pope’s home. One of the characteristics of a blackout, Smith explained, is the ability to recall events while still in a state of inebriation and the inability to later recall them once sober. As the immediate effects of the intoxication recede, the memories fade and the person develops what amounts to amnesia in relation to events occurring during the blackout.

Following that videotaped presentation, Wilhelm and Werneke played a second videotaped statement from Smith, which was recorded more recently. Smith stated that he could not appear in person for the clemency hearing due to new job responsibilities. Smith described how he recently received Slagle’s prison records for review. Smith stated that Slagle’s abstinence and positive institutional adjustment are encouraging. Slagle’s abstinence is consistent with research demonstrating that a structured environment can assist addicts like Slagle. Furthermore, there is every indication that early antisocial traits exhibited by Slagle have dissipated as he has aged, Smith contended. Smith expects that Slagle would maintain his good conduct and his abstinence from drugs and alcohol were he to receive a commutation to life without parole.

According to Wilhelm, Slagle has matured, his addiction is in remission, and his antisocial traits have faded. Wilhelm pointed out that the jury could never have known how well Slagle was going to handle his incarceration and how much he would progress as a human being during his imprisonment.

Argument #3: One of Slagle’s Jurors Was Biased

Wilhelm directed the Board’s attention to a post-conviction affidavit signed by one of Slagle’s jurors, Nina Roseberry. She stated in her affidavit that “‘mitigating circumstances’ are just excuses and should not be considered when an individual is found guilty of murder.” Wilhelm noted that Roseberry’s affidavit clearly indicates that there was no amount of mitigation that could have dissuaded her from recommending the death penalty.

Wilhelm speculated that Roseberry’s bias may have stemmed from the fact that her own father had been murdered, which was information elicited during the jury selection process. In any case, Wilhelm argued, Roseberry’s service on Slagle’s jury was fundamentally unfair to Slagle. Because any single juror can change the sentencing outcome from a recommendation of death to a recommendation of life, all 12 jurors need to be open minded and fair concerning mitigation evidence, Wilhelm argued.

Argument #4: Slagle's Native American Background Affected his Upbringing

Werneke noted that Slagle's mother is a full-blooded Chippewa Indian. She and her family had been relocated from a reservation to Cleveland in the 1960s as part of a relocation program administered by the United States Bureau of Indian Affairs. The Bureau administered that program from the 1950s through the 1980s. Ostensibly, the purpose of the program was to situate Native Americans for a better life. In actuality, the purpose of the program was to give the federal government access to natural resources situated on the reservations, Werneke stated.

The relocation program resulted in intergenerational trauma, Werneke continued. Werneke described the program as genocide. Native Americans had difficulty adjusting from the reservations' rural and nomadic lifestyle to urban settings. Cleveland received thousands of Native Americans who lacked the job skills and English language proficiency necessary to effectively acclimate to the city. In relocating different tribes, no thought was given to each tribe's unique culture and history. Relocated Native Americans sought refuge with one another in bars, Werneke stated. According to Werneke, the Bureau of Indian Affairs now deems the program a failure.

Hilary Weaver, a social worker and professor at the University of Buffalo, provided a videotaped statement. Weaver further described the relocation program and how it negatively affected Native Americans. She explained that many of the relocated Native Americans turned to alcohol as a coping mechanism, congregating together in bars where they found support in one another. Weaver conceded that she did not know whether this was the actual experience of Slagle's ancestors. However, it is what relocated Native Americans typically experienced, Weaver said.

Weaver indicated that, in past interviews with Slagle, she learned that Slagle received little parenting from his mother and father. Slagle grew up in an environment dominated by alcohol, drugs, and arbitrary violence. Weaver described the violence that was directed at Slagle as a child. She reiterated that Slagle's family was constantly moving, which exacerbated Slagle's already unstable life. There was dysfunction through every level of Slagle's family. According to Weaver, Slagle had no positive role models who could assist him in breaking the "intergenerational trauma" plaguing his family.

Wilhelm and Werneke played a second videotaped statement from Weaver who stated in the video that she recently met with Slagle and found that he had changed since her earlier conversations with him. During that recent interview, Weaver found Slagle to be more thoughtful and more engaged in their conversation than during previous discussions. Weaver reported that Slagle is becoming more connected to his family, particularly his sister Lisa Craft. He is also beginning to connect with some of the other inmates with whom he is incarcerated. In short, Weaver believes that Slagle is showing signs of significant emotional growth.

Weaver urged the Board not to conclude from Slagle's reserved and aloof demeanor that he lacks remorse for killing Pope. Weaver insisted that while Slagle may be calm and somewhat distant in demeanor, he is not without remorse. She described Slagle as a thoughtful individual.

Weaver stated that, if Slagle's sentence is commuted to life without parole, Slagle intends to fulfill a patriarchal role in his family, providing guidance to his nieces and nephews as well as troubled youth in the community. Slagle also wants to become involved in a prison dog program. Weaver noted that, unlike other death row inmates with whom she works, Slagle is a very believable and candid individual. She believes that Slagle would live a productive life were his sentence to be commuted.

Bob Roche, the Executive Director of the American Indian Education Center in Cleveland, spoke of the plight of Native Americans who, like Slagle's mother, had been relocated from reservations to Cleveland. Roche explained how his Center, and its predecessor which operated from 1969 to 1985, has served as a community resource for Native Americans who were stranded and destitute as a result of the relocations. The Center has also served as a forum for Native Americans to unite and promote their culture.

Roche knew Slagle and his family. Slagle's family had some limited interactions with the Center when Slagle was a young child. Roche recalls that alcohol abuse and violence were prominent characteristics of Slagle's home life. It was a generally dysfunctional family, Roche recalls.

Roche suggested that Slagle was a product of his own environment. Still, Roche was shocked when he learned that Slagle had committed a murder. He believes that alcohol and drugs were the root cause of Slagle's crime. Roche does not believe Slagle would have been capable of committing a murder without the intoxicating effects of alcohol. Roche indicated that it is his hope that the Governor will commute Slagle's sentence.

Argument #5: Slagle's Case Is Not a Death Penalty Case

Patrick Morgan, who was formerly employed as a prosecutor in Oklahoma County, Oklahoma and who is a former chair of the Oklahoma State Pardon and Parole Board, argued that clemency is appropriate in Slagle's case. Morgan stated that, as he reviewed Slagle's trial transcripts, he became disturbed by several objectionable statements made by the prosecutor. Specifically, Morgan took issue with how the prosecutor cross-examined Slagle. Morgan is also troubled by various statements made by the prosecutor in closing arguments. Morgan stated that he is shocked by the number of objections sustained by the trial court in relation to the prosecutor's statements and the number of instructions issued by the trial court to the jury to disregard certain of the statements. Morgan suggested that, as a practical matter, curative instructions of that kind are not effective.¹

¹ Alleged prosecutorial misconduct in the form of improper comments made by the prosecutor during trial was extensively litigated in Slagle's direct appeals and habeas proceedings. Each of the various courts that considered the issue concluded that any improper comments made by the prosecutor did not render Slagle's trial fundamentally unfair.

According to Morgan, the fact that Slagle was quite young when he committed the crime and the fact that he entered Pope's home without a weapon make Slagle's case one for which the death penalty is inappropriate. Morgan does not believe that the presence of children in the home makes the case worthy of the death penalty. There is no credible evidence that Slagle ever threatened the children or intended to hurt them, Morgan noted. Nor do the multiple stab wounds that Slagle inflicted upon Pope make the case worthy of the death penalty, Morgan opined. Morgan stated that, were he the prosecutor in Slagle's case, he would not have sought the death penalty.

Morgan argued that the sentencing option of life without parole, which exists today but was not available to the jury when Slagle's case was tried, has changed the way in which cases like Slagle's are decided by juries today. Morgan believes that, with the advent of life without parole as a sentencing option, juries rarely opt for death in response to fact patterns like those presented in Slagle's case.

Wilhelm added that some years after Slagle's trial, the Supreme Court of Ohio in 1996 held that juries in death penalty cases must be instructed that a solitary juror may prevent a death penalty recommendation by finding that the aggravating circumstances do not outweigh the mitigation.² Wilhelm argued that Slagle would have benefitted from this instruction had it been provided to his jury.

Morgan opined that, were he sitting on the Ohio Parole Board, he would recommend commutation to life without parole. Morgan acknowledged that he is not in fact sitting on Ohio's Parole Board and that the ultimate decision belongs to each of its individual members. Morgan noted that he was only offering a personal opinion based on his professional experiences.

Werneke noted that, on June 13, 2012, the Joint Task Force to Review the Administration of the Death Penalty³ ("Death Penalty Task Force") voted to recommend that felony murder specifications no longer serve as death penalty aggravating circumstances. Were the Ohio Legislature to implement that recommendation, murders like that committed by Slagle, which occur during the commission of a designated felony, would no longer be death penalty eligible.

² *State v. Brooks*, 75 Ohio St.3d 148 (1996).

³ The Joint Task Force to Review the Administration of the Death Penalty was created in 2011 by the Supreme Court of Ohio and the Ohio State Bar Association. The Death Penalty Task Force's operating guidelines describe its purpose as follows:

[T]o review the 2007 American Bar Association report titled "Evaluating Fairness and Accuracy in State Death Penalty Systems: The Ohio Death Penalty Report" and offer an analysis of its findings; assess whether the death penalty in Ohio is administered in the most fair and judicious manner possible; and determine if the administrative and procedural mechanisms for the administration of the death penalty in Ohio are in proper form or in need of adjustment.

The Death Penalty Task Force's membership includes judges, prosecutors, defense attorneys, lawmakers, and other criminal justice experts.

Werneke acknowledged that the Death Penalty Task Force's recommendation is preliminary in nature. She noted that the Death Penalty Task Force has not yet issued its final report and recommendations. Werneke urged, however, that the direction in which the Death Penalty Task Force is heading with this recommendation reflects an evolving, societal understanding about the types of cases that are death penalty-worthy and those that are not.

Argument #6: Slagle Has a Supportive Family

Werneke and Wilhelm played a videotaped statement from Slagle's younger sister, Lisa Craft. Craft described her parents' violent, troubled relationship. She described how Slagle was beaten by the men in their mother's life. Craft described how she and Slagle moved constantly as children, which left them isolated and without friends. She described the absence of any positive adult role models in their lives. Craft described Slagle's severe drug addiction.

Craft related how her chaotic childhood negatively affected her life, resulting in her own struggles with alcohol addiction. She saw her family's negative cycle of addiction manifesting itself in her own life. Craft described how she sought sobriety to break that cycle before her own children became caught in it.

Craft insisted that Pope's murder does not represent who Slagle is as a person. Her brother does not have a mean bone in his body, Craft urged. Craft believes that Slagle would not be on death row were it not for his alcohol addiction. She wishes the Governor could meet with her brother personally so that he can witness first-hand what a good person Slagle is.

Craft indicated that she has frequently visited Slagle in recent years. Slagle telephones Craft and other members of his family weekly. Craft asked that Slagle's sentence be commuted so that she can continue her relationship with her brother.

Werneke and Wilhelm played a videotaped statement from Jerome Wakefield, who was formerly married to Slagle's mother. Wakefield married Slagle's mother when Slagle was 15 years old. Wakefield described Slagle as the man of the house at the time Wakefield came into the family. At that time, Slagle had primary responsibility for Craft and his other sister. He described Slagle as a quiet and introverted young man. Wakefield does not recall Slagle ever being violent or argumentative.

Wakefield reiterated that Slagle had experienced a largely unsupervised childhood. He and his siblings were left to their own devices. Wakefield noted that alcohol was always readily available to the children. The family's lifestyle consisted primarily of going to bars and having parties. Wakefield stated that, for Native Americans, alcohol abuse is normal. It is a way of life. In Slagle's home, for example, beer was considered an essential. Alcohol was always available in Slagle home, Wakefield said.

Wakefield described Slagle's mother as an unstable influence in Slagle's life. He related that, as Slagle got older, Slagle was responsible for watching over not only his siblings, but his mother as well.

Wakefield described Slagle's love of animals and his love for the outdoors. Slagle would attempt to nurse injured animals back to health. According to Wakefield, Slagle was more comfortable in the outdoors communing with nature than in the city.

Wakefield stated that while he was not surprised that Slagle would break into Pope's home, he was very surprised to learn that Slagle had killed Pope. Wakefield theorized that Slagle, not expecting any confrontation inside Pope's home, must have become frightened when he came upon Pope.

Wakefield related that when he and Slagle's mother first visited Slagle in jail following his arrest, Slagle reeked of alcohol and appeared unaware of what he had done. Slagle barely recognized his mother and Wakefield.

Wakefield stated that Slagle deserves another chance because he is not a bad person and has been paying for his crime. He asked that the Governor allow Slagle to live a life without the death penalty hanging over his head. Wakefield asked that the Board and Governor show Slagle compassion and mercy.

Meyer and Regas appeared on behalf of the Office of the Cuyahoga County Prosecuting Attorney. Meyer related that, despite opposing Executive clemency during Slagle's 2011 clemency proceeding, his office now supports commutation of Slagle's sentence to life without the possibility of parole.

Meyer acknowledged that the facts of the case have not changed since 2011. Meyer described Slagle's crime as heinous. He noted that Pope was a completely innocent victim and in no way deserved to die. Meyer acknowledged the impact of the crime upon Pope's family and the two children who witnessed it. Meyer stressed that his office's change in position is in no way intended to diminish the severity of Slagle's crime or its victim impact.

Meyer explained that since Slagle's 2011 clemency proceedings, former Cuyahoga County Prosecuting Attorney Bill Mason has been replaced by the current Prosecuting Attorney, Timothy McGinty. One of Prosecutor McGinty's priorities upon taking office was to overhaul how his office charges, tries, and reviews death penalty cases. That overhaul, Meyer explained, included the development of a more rigorous process for determining which among the county's death penalty eligible cases will be charged as capital cases. The overhaul also includes a review of older cases as execution dates approach.

Meyer described how his office is, today, considering mitigation as part of the initial decision whether to charge capital specifications. In the past, Meyer explained, the default approach was to charge a capital specification whenever one applied. Today, his office

refrains from charging the death penalty specification until its attorneys review the mitigation evidence and make a determination that, given the mitigation, a jury would still return a death penalty verdict. Meyer explained that his office will not seek the death penalty in any case that it has not first determined contains those elements that make capital cases qualitatively different from non-capital cases. Meyer explained that Prosecutor McGinty is applying that same analysis to older cases like Slagle's.

Upon reviewing the mitigation evidence in Slagle's case, including Slagle's youth at the time of the offense and his history of substance abuse, Meyer's office cannot with confidence conclude that it would secure a death penalty verdict were the case to be tried today given the significant mitigation present and the additional sentencing option of life without parole that is now available to juries. Meyer described Slagle's case as qualitatively different from more heinous Cuyahoga County cases for which the death penalty has recently been carried out.

Every case is a product of its time and circumstances, Meyer explained. Meyer stressed that his office has never denied the significant mitigation present in Slagle's case. The only thing that has changed, Meyer insisted, is that the Cuyahoga County Prosecuting Attorney is now examining mitigation in the context of how a contemporary jury would view it and is allowing that analysis to inform its position on clemency.

ARGUMENTS IN OPPOSITION TO CLEMENCY:

William Caine, former Assistant Cuyahoga County Prosecuting Attorney, presented arguments in opposition to clemency.

Caine, who has since retired from the Office of the Cuyahoga County Prosecuting Attorney, was the lead prosecutor in Slagle's trial. Caine noted that the defense attorneys who represented Slagle at his trial were very experienced and capable attorneys. Caine pointed out that Slagle's case was tried by senior prosecutors.

Caine noted that Slagle's case has been thoroughly reviewed by a number of state and federal courts, all of which have sustained the death sentence. Twenty years of judicial review should stand for something, Caine insisted.

Caine stressed that nothing about Slagle's case has changed. Slagle's jury verdict should be preserved, he urged. The position taken by the Cuyahoga County Prosecuting Attorney, Caine argued, does violence to the jury system.

Caine noted that every Cuyahoga County Prosecuting Attorney who has held that office, with the exception of current Prosecutor McGinty, has ensured that Slagle's conviction is thoroughly and vigorously defended. Each of those prosecutors pursued the death sentence notwithstanding the mitigation evidence, which has never changed.

Caine disputed Meyer's claim that Cuyahoga County would, in the past, routinely charge death penalty specifications. Caine insisted that not every death penalty eligible case was in fact charged as such.

Under Ohio law, Caine argued, the death penalty is not reserved for mass killings only. The death penalty continues to be available for felony murder, Caine observed. Caine argued that, as far as felony murders are concerned, Slagle's is clearly among the worst of the worst. Being murdered in one's own home is the urban nightmare. It is the worst form of felony one-on-one murder, Caine said.

Caine described the terror Pope must have experienced after she awoke to find Slagle in her home. Slagle sat upon her chest, overpowering her. He then stabbed her 17 times until she bled to death, Caine described. It was a senseless crime, Caine argued. Slagle could have freely stolen anything he wanted to take from Pope's home. There was no need to kill Pope. Her life was taken for no other reason than that she was there.

Caine suggested that Slagle had been watching Pope prior to the night that he entered her home and murdered her. Caine noted that, while there was no physical evidence establishing that Slagle attempted to rape Pope, there was some evidence of attempted rape, including Slagle's admissions to Detective McKibben and comments of a sexual nature that the child witnesses overhead Slagle make to Pope as he sat on top of her.

Caine noted that the jury heard all of the evidence, including the mitigation. At trial, the defense had qualified experts at its disposal. Slagle chose the lifestyle he was leading. Whether Slagle entered Pope's home with a weapon has no legal significance, Caine argued. Whether he brought a weapon to the scene of the crime or found one there is irrelevant.

Caine insisted that the mercy shown Slagle should be measured by the mercy that Slagle showed Pope.

VICTIM'S REPRESENTATIVES:

Lorraine Faber, the aunt of the children who witnessed the crime, read from a letter written by the children's grandmother. In her letter, the children's grandmother expressed her opposition to clemency. She described the victim as a beautiful, humble person who was struck down in the prime of her life. The letter indicates that the children had been traumatized for life. She asked for closure.

Faber also read a letter from one of her siblings, who was not present at the hearing. The letter expresses opposition to clemency. In her letter, Faber's sister describes the trauma that her niece and nephew endured on the night of the crime and thereafter, as the children struggled with the memories of the night Pope was killed. The letter speaks of the pain that the children endured having to testify in court. In her letter, Faber's sister describes Pope as a very caring person and laments how Pope was only 40 years old when Slagle took her life. She asked that Slagle's scheduled execution be carried out.

Faber described the abusive, chaotic childhood she and her siblings experienced, drawing a parallel between her upbringing and Slagle's. Faber detailed physical abuse inflicted upon her by her alcoholic father. Faber and her siblings grew up without a father figure, Faber related. Faber described the difficult conditions in which they were raised, often going without heat and adequate food. Faber described how her family, like Slagle's, was constantly moving, making it impossible for her to make friends. She described being bullied in school. To this day, she suffers from depression that she cannot afford to treat. Like Slagle, Faber once had a substance abuse problem. She overcame it on her own. Faber stressed that, unlike Slagle, neither she nor her siblings ever got into any kind of legal trouble.

Faber described Pope as a loving, religious woman. Faber considers Pope a saint who saved the lives of her niece and nephew. Faber believes that Slagle had attempted to rape Pope and that he killed her because she could identify him. Faber related that, in conversations with Pope, Pope had expressed a fear of Slagle. Pope believed that Slagle was watching her. Faber views Slagle as a coward whose continued incarceration is an unnecessary drain on the state's resources. Why should his family be able to continue to visit him when Pope's family will never see her again, Faber asked rhetorically.

Lauretta Keeton, the mother of the children who witnessed the crime, expressed her displeasure with Prosecutor McGinty supporting clemency. In her view, retrospectively reviewing longstanding jury verdicts makes a mockery of the criminal justice system. Keeton related how she did not learn that Prosecutor McGinty would be supporting clemency until late in the day on July 3, 2013. She is frustrated that she was left with no time to effectively process that development and to respond to it. Keeton vowed that if Slagle's death is commuted, she will spend the remaining days of her life working to bring attention to that injustice.

Keeton described the significant impact that the crime had upon her daughter, who had witnessed the crime. She described how her daughter slept with a knife under her bed until age 14, when she began leaving the knife on her dresser. Keeton described how, to this day, her daughter lives in a state of fear, having recently obtained a concealed carry permit. Keeton stated that her children endured years of nightmares and counseling. The children isolated themselves, avoiding interaction with other children. Keeton described how, after Pope's death, her son would see the image of Pope watching over him.

Keeton read a letter from her daughter, in which her daughter indicates that she is unable to put the night of the crime behind her. In the letter, Keeton's daughter describes how her brother, who was with her the night Pope was killed, struggled with the dark memories from that night. She is convinced that those memories contributed to his later struggles in life and his eventual suicide by self-inflicted gunshot wound at the age of 23. In her letter, Keeton's daughter asks for closure.

Keeton considers Pope a saint. She described how, as she fought with Slagle in her bed, Pope continued to scream loudly despite the fact that it was agitating Slagle and putting

her at greater peril. Keeton believes that those screams were intended by Pope to wake the children and encourage them to escape.

Keeton described how Pope befriended her after Keeton moved to Ohio from Texas. Pope helped her overcome her alcohol addiction. Pope loved Keeton's children as if they were her own. Keeton cannot believe that someone like Pope could lose her life in the way that she did.

PAROLE BOARD'S POSITION AND CONCLUSION:

The Ohio Parole Board conducted an exhaustive review of documentary submissions and carefully considered the information presented at the clemency hearing. Six (6) members of the Board have concluded that Executive clemency is not warranted based on the following:

- The egregious nature of Slagle's crime and the circumstances surrounding it outweigh the mitigation present here. Slagle stabbed Pope seventeen times in her bed after entering her home with the intention to rob her. Pope's murder was unprovoked, merciless, and completely senseless. Two young children were present in the home while Slagle stabbed Pope to death. One of those children witnessed Slagle attacking Pope. The children's experiences that night appear to have had a long-lasting and profoundly negative impact on their lives. A majority of the Board concurs with the opinion expressed by William Caine, the retired prosecutor who led Slagle's prosecution, that Slagle's case is among the worst of the worst forms of felony murder. Moreover, notwithstanding the fact that Slagle was acquitted of rape, there appears to have been a sexual component to his crime, which is evidenced by Slagle's state of undress during the crime, the fact that police found Pope with her nightgown pulled up around her neck, Slagle's statements to police detectives following his arrest, and Slagle's statement to the Board during the clemency interview that, though he does not remember attempting to rape Pope, that must have been his intention when he removed his clothing after entering Pope's home.
- Slagle's youth at the time of the offense notwithstanding, by the time Slagle killed Pope, Slagle had already amassed an extensive juvenile record. Several interventions were attempted on Slagle's behalf. After repeatedly failing on probation and being adjudicated delinquent for assault, Slagle was placed at Glenbeigh Hospital. Instead of making the most of the treatment being offered him at that facility, Slagle made a conscious decision to pursue a life as a "functioning alcoholic." Today, Slagle demonstrates a disappointing lack of insight relative to the Glenbeigh placement. Rather than identifying the Glenbeigh commitment as the missed opportunity that it was, Slagle focuses on Glenbeigh's perceived deficiencies, criticizing its treatment methodologies and its

alleged refusal to involve his parents in his treatment, an allegation that Glenbeigh's records do not corroborate.

- Slagle's actions on the night of the crime and immediately thereafter suggest that he may not have been as significantly impaired as he suggests, at least not to the point of an alleged blackout. On the night of the crime, Slagle had the capacity to ride a bicycle from the location where he had been drinking to his home, a distance of two miles. He put the bicycle away in his garage. He then decided to rob Pope's neighboring home. He entered her home undetected. When police arrived on scene, he was sufficiently aware of what he had done and retained sufficient motor control and balance to temporarily elude capture. Following his arrest, Slagle provided investigators with a detailed account of what occurred inside the home and his intentions upon entering it, events that he now largely claims to have forgotten. Even assuming, for the sake of argument, that Slagle accomplished all of this while intoxicated to the point of blackout and even assuming, further, that his intoxication somehow explains both his actions on the night of the crime and his inconsistent memory recall between then and now, his voluntary intoxication ultimately does little to excuse the crime or mitigate its severity.
- Slagle's criminal history was escalating in severity and becoming increasingly violent in character. Before killing Pope, Slagle was adjudicated delinquent for a separate felonious assault involving two victims, Miriam and David Lovejoy. Slagle denies being the aggressor in that confrontation with the Lovejoys, claiming that he was the one who was attacked by them. Yet Slagle never asserted his innocence to anyone, not even his own attorney in the matter, until after he was sanctioned to Glenbeigh for the offense. In any case, there is no denying that, by the time he took Pope's life, Slagle had amassed an extensive juvenile history that escalated in severity from property crimes to Pope's murder. He conducted himself poorly while on community supervision.
- While the post-conviction affidavit signed by juror Roseberry suggests that she held a distorted view of her role in Slagle's trial, particularly the sentencing phase, there is no indication that the remaining eleven members of Slagle's jury, who voted to recommend death, shared her perspective. In light of those remaining jurors' death sentence recommendation and the considerable weight of the aggravating factors in Slagle's case, one cannot conclude with any reasonable degree of certainty that the outcome of the trial would have been different had Roseberry not been on Slagle's jury.
- Counsel's argument regarding Native American relocation is unpersuasive. Any connection between the relocation of Slagle's ancestors and Pope's murder is tenuous at best. To the extent Slagle's Native American heritage has any relevance to the question of clemency, it is a consideration that is

largely subsumed within the broader issues of Slagle's less than idyllic upbringing and his substance abuse history, which, though mitigating, do not warrant a favorable recommendation for clemency.

Four (4) members of the Ohio Parole Board have concluded that Executive clemency in the form of life without the possibility of parole is warranted.

Parole Board Chair Cynthia Mausser and Board member Venters make a favorable recommendation for clemency for the following reason:

- After opposing Executive clemency for Slagle in 2011, the Office of the Cuyahoga County Prosecuting Attorney has changed its position, expressing support for commutation of Slagle's sentence to life without the possibility of parole. The Office of the Ohio Attorney General, which did not challenge the position taken by the Cuyahoga County Prosecuting Attorney and which offered no statement during the clemency hearing, apparently supports the current Prosecuting Attorney's stance. The decision whether to pursue the death penalty in any given case lies within the discretion of the office of the local county prosecutor. That entity no longer supports Slagle's execution. Their change in position forms the basis for our change from an unfavorable recommendation to a favorable clemency recommendation.

Board member Rauschenberg makes a favorable recommendation for clemency for the following reason:

- The Cuyahoga County Prosecuting Attorney's support for clemency in Slagle's case and the recent recommendation by the Death Penalty Task Force to repeal felony murder death penalty specifications suggest that Slagle's execution would not be consistent with evolving social and legal standards.

Board member Cholar makes a favorable recommendation for clemency for the following reason:

- Slagle's age and immaturity at the time of the offense significantly mitigate his sentence in this horrible crime. Evolving standards of decency as well as medical, scientific, and sociological studies suggest that a penalty as final and irrevocable as death should not be imposed upon an individual who, like Slagle, retained the capacity for significant maturation and change at the time he or she committed the crime. Slagle's capacity for maturation and change at the time of his offense is evidenced by his positive institutional adjustment. Also militating in favor of a favorable recommendation for clemency are the absence of life without parole as an available sentencing option at the time of Slagle's trial; the absence at Slagle's trial of the current jury instruction that one juror can negate a death

sentence; and the Cuyahoga County Prosecuting Attorney's recommendation that Slagle's sentence be commuted.

RECOMMENDATION:

The Ohio Parole Board with ten (10) members participating, by a vote of six (6) to four (4) recommends to the Honorable John R. Kasich, Governor of the State of Ohio, that executive clemency be denied in the case of Billy Slagle A203-172.

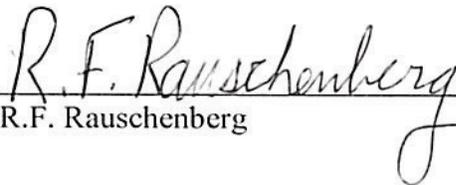
Adult Parole Authority
Ohio Parole Board Members
Voting **Favorable**



Cynthia Mausser, Chair



Ellen Venters

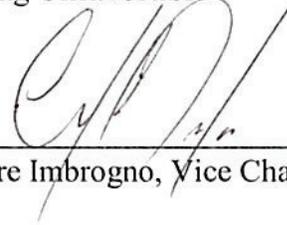


R.F. Rauschenberg

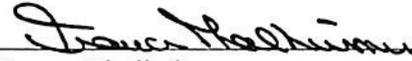


Richard Cholar Jr.

Ohio Parole Board Members
Voting **Unfavorable**



Andre Imbrogno, Vice Chair



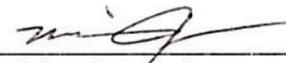
Trayce Thalheimer



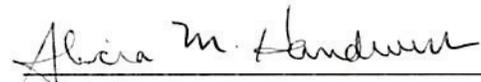
Marc Houk



Ron E. Nelson Jr.



Michael H. Jackson



Alicia Handwerk

5 July, 2013

To Whom It May Concern:

I am writing to implore upon this panel and Governor Kasich not to overturn the verdict and sentence put upon Billy Slagle in 1988. How dare he to complain that his death would be "cruel and unusual" punishment after he was convicted of brutally raping and plunging a pair of scissors into Marnie 17 times in front of Lisa (16) and Howard (8). Imagine these small children seeing this brutal attack on their beloved friend and planning their escape in the middle of that terrible night. My niece and nephew had to endure the pain of testifying in court and going through extensive therapy for an extended period rather than playing with their playmates. Lisa and Howard have had to deal with this tragedy all their lives. Howard, always a sensitive, caring young man took his own life in 2002 as he was unable to deal with seeing Marnie killed. He endured horrible nightmares and thoughts daily.

I also would like to tell you about Mari Ann Pope. She dedicated her life to God and community service. She cared for Lisa and Howard as if they were her children. She attended Mass every morning and provided Communion to shut-ins. She was a wonderful woman and a friend to all who knew her. God rest her soul. She was only 70 years old at the time of her death.

The State of Ohio and its taxpayers have housed, fed and provided medical care for Billy Slagle for 26 years. He has been able to avoid his sentence, also at State taxpayers' expense. I feel

he should be executed on Aug. 7, 2013 as he was sentenced in 1988 according to the law. This has gone on for far too long.

Please do not fall to the Cuyahoga County Prosecutor and his new agenda and do not make invalid the jury's conviction and the Judge's sentence. Please let our family have peace.

Judith Emerson

Parole Board + Governor Kasich 7-5-2013

To Whom it may concern:

As an acquaintance + former neighbor of MaryAnn Pope I am protesting the commutation of the sentence of her convicted murderer!

She was a beautiful person, physically, mentally + spiritually. She carried the Holy Communion Host to the home-bound every Sunday. She was a member of a prominent family, a pillar of her community. She kept a low profile + never flaunted any of her attributes.

The convict has languished in prison, at the taxpayers' expense, for 26 years, way too long!

Solitary confinement and a bread + water diet would have been appropriate.

As for "cruel + inhuman ~~that~~ treatment Miss Pope was not given an option.

For someone as young as he was to be capable of committing such a brutal, heinous crime is unforgivable.

She was struck down in the prime of her life.

My family was subjected to unforgettable images in the courtroom. My grandchildren, the witnesses, were traumatized for life!

He was apprehended "red-handed" cowering in her closet, still clutching the weapon. He deserves absolutely no consideration in overturning his well-deserved sentence.

I implore you to let your conscience be your guide + carry this through so some closure can come to all concerned.

Thank you for listening to my plea.

Respectfully

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letter for clemency denial Sunday, July 7, 2013 5:32 PM

From: "Lisa Bloxham" [redacted]

To: "laurretta keeton" [redacted]
1 File (10KB)

 clemency....

No virus threat detected File: clemency.wps Download File

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 - paid bills
 - password for a...

Lisa Bloxham
[redacted]

July 8, 2013
Re: Clemency Hearing for Billy Slagle
The Honorable Judge

My name is Lisa Bloxham, and I was the 12 year old girl that witnessed the murder of my babysitter, Mari Anne Pope. As hard as I've tried to forget about the senseless violence I witnessed some 26 years ago, there isn't a day that goes by that I'm not affected by what I experienced that day. I live in constant fear of being alone at home, am hesitant upon being approached by strangers, and struggle with depression and anxiety at times. While I try my hardest to be strong and overcome my memories, my brother, Howard, was unable to handle his dark memories. I lost my loving brother to suicide 10 years ago. I am confident that his experience that day greatly contributed to his not being able to handle the pressures of life. I miss him every day of my life.

I am strongly opposed to the actions that Prosecutor McGinty has taken. Mr. Slagle was convicted by a jury of his peers, and sentenced by the Judge to the Death Penalty. For the Prosecutor, 26 years later, to assume that he knows what the jury would have done had they had the option of a life sentence, is absurd and an obvious abuse of power to seek name recognition. I've waited a long time for some closure to this atrocity, and my heart aches that may not finally get it.

I'd like to reiterate that I believe that clemency should be denied today. The brutal nature of Mr. Slagle's violence that day, cannot be forgotten, and should NOT be pardoned!! There are so many other living victims that are affected each and every day, because of what he knowingly did that day. We are deserving of what the Court decided 26 years ago!