



**State of Ohio
Adult Parole Authority
Columbus, Ohio**

CLEMENCY REPORT

**ROBERT A BUELL
SOCF #177-711**

SEPTEMBER 10, 2002

DEATH SENTENCE CLEMENCY
IN RE: ROBERT A. BUELL #A177-711

Case Number	Crime	Sentence
CR 189356	Aggravated Murder	Death
CR 189356	Kidnapping (3 counts)	7-25 Years
CR 189356	Felonious Sexual Penetration (3 counts)	Life
CR 83101104	Felonious Sexual Penetration (2 counts)	7-25 Years
CR 83101104	Gross Sexual Imposition (2 counts)	2-5 Years
CR 83101104	Rape (2 counts)	7-25 Years
CR 83101104	Felonious Assault	5-15 Years
CR 83101104	Felonious Assault (3 counts)	8-15 Years
CR 83101104	Rape	10-25 Years
CR 83101104	Kidnapping (3 counts)	10-25 Years
CR 83101104	Kidnapping (2 counts)	10-25 Years

DATE, PLACE OF CRIME: July 7, 1982, Marshallville, Ohio
October 16, 1983, Damascus, Ohio
May 22, 1983, East Liverpool, Ohio

COUNTIES: Wayne (change of venue to Cuyahoga)
Summit

VICTIMS: Krista Lee Harrison, age 11, deceased
Deborah Davies, age 28
Patricia Lively, age 29

PRESIDING JUDGE: Wayne County: change of venue to Cuyahoga
Summit County: Honorable Judge Evan Reed

PROSECUTING ATTORNEY: Wayne/Cuyahoga County: Keith Shearer
Summit County: Patricia Cosgrove

ACCOMPLICE(S): None

DATE OF ADMISSION: February 3, 1984

AGE AT ADMISSION: 44 Years – DOB: September 10, ¹⁹⁴⁰~~1959~~

DATE TYPED: September 11, 2002
DATE PUBLISHED:

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

Date of Meeting: September 10, 2002

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

IN RE: ROBERT BUELL, SOCF #177-711

SUBJECT: Death Sentence Clemency
CRIME, CONVICTION: Aggravated Murder, 1 Count
Kidnapping, 3 Counts
Felonious Sexual Penetration, 2 Counts
Felonious Assault, 2 Counts
Gross Sexual Imposition, 1 Count
Rape, 2 Counts
SENTENCE: Wayne County, Death
Summit County, 121-340 &
48 Years Actual Incarceration - Gun
DATE, PLACE OF CRIME: July 7, 1982, Marshallville, Ohio
October 16, 1983, Damascus, Ohio
May 22, 1983, East Liverpool, Ohio
COUNTIES: Wayne (change of venue to Cuyahoga)
Summit
VICTIMS: Krista Lee Harrison, age 11, deceased
Deborah Davies, age 28
Patricia Lively, age 29
INDICTMENT: Aggravated Murder, with Specifications
Kidnapping
Kidnapping, with Firearm Specification
Felonious Sexual Penetration
Felonious Sexual Penetration, with Firearm Specifications
Rape, with Firearm Specifications
Felonious Assault, with Specifications
DATE OF ADMISSION: February 3, 1984
DATE OF BIRTH: September 10, ~~1959~~ 1940
PRESIDING JUDGE: Wayne County: change of venue to Cuyahoga
Summit County: Honorable Judge Evan Reed
PROSECUTING ATTORNEY: Wayne/Cuyahoga County: Keith Shearer
Summit County: Patricia Cosgrove
ACCOMPLICE(S): None

FOREWARD:

Clemency in the case of Robert Buell, #177-711 was initiated by The Honorable Bob Taft, Governor of the State of Ohio, and the Ohio Parole Board, pursuant to Section 2967.13 of the Ohio Revised Code and The Parole Board Policy #501.09.

A previous Clemency Report was sent to The Honorable George V. Voinovich on December 16, 1994, then Governor of the State of Ohio. That report contained a unanimous Parole Board recommendation against clemency.

During the course of the investigation, attempted contact was made with the families of the victims. Contact was made with appropriate Criminal Justice officials, allowing them to voice their concerns regarding clemency. The inmate was given an opportunity to speak to a representative of the Ohio Parole Board but declined.

A Deathrow Clemency Review Hearing was held on September 10, 2002 at 9:30 a.m. at the Adult Parole Authority, 1030 Alum Creek Drive, Columbus, Ohio.

After reviewing and deliberating the information provided, the Parole Board voted and reached a unanimous decision.

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

DETAILS OF THE INSTANT OFFENSE:

The following information was received from the Wayne County Sheriff's Office and the Wayne County Prosecutor's Office, the following events took place:

Case #CR189356

On July 17, 1982, eleven year old Krista Harrison and a schoolmate collected aluminum cans in the Marshallville Park (Marshallville, Ohio) across the street from Krista's home. While Krista and schoolmate Roy Wilson were picking up cans, a maroon-colored van with bubble-type windows entered the park. The van, which had white lettered tires, swung around so that it faced the road. A man with dark brown curly hair, a long mustache and a big nose got out and walked over to the park bleachers and sat down near Krista's ten-speed bike. A few minutes later, Roy Wilson saw Krista talking to the stranger. Roy observed the man reach inside Krista's blouse on a couple of occasions, and on each time, Krista knocked his hand away.

Krista got on her bike to leave, and the man felt under her blouse again and whispered something in her ear. Krista started crying and got off her bike and into the van. The van drove off. Roy rode Krista's bike from the park and alerted Krista's parents who called the police. Six days later, in a remote area of Holmes County, Krista's body was found beside a shed on Township Road 464.

An autopsy revealed that Krista has been viciously sexually assaulted by the thrusting of a rigid object against the inlet of her vagina, and then strangled to death. Her feet were bound with a large piece of plastic and tape. Her hair and clothing showed the presence of orange carpet fibers. During a search of the scene and surrounding area, several articles of clothing were found,

including a man's pair of paint-spotted blue jeans and two gloves. The gloves showed the presence of orange carpet fibers.

During the police investigation, a George Dawson of Township Road 464 gave them a shirt with a "Mike's Place" label which he found on the road. Evidence was also collected from along Fair Road in Wayne County. This evidence included a clump of hair, a blanket, a green garbage bag with tape on it, and two pieces of cardboard box with the shipping label sprayed over with black paint. Further investigation revealed that the label read "Sears." There were orange fibers on the blanket, the cardboard pieces, and on the hairs found off the blanket.

Daniel Cappy, lab supervisor at the Bureau of Criminal Investigations in London, Ohio, compared the carpet fibers removed from the evidence collected on Township Road 464 and Fair Road. The orange synthetic fibers matched in color, shape, and material content. Comparisons were also made of hair removed from the evidence and a hair sample from Krista. The hairs matched in color, texture and microscopic characteristics.

In October 1982, investigation and testing by the Police and FBI disclosed that the plastic found around Krista's feet and the cardboard pieces were packing materials used for van seats sold by Sears, Roebuck & Company. Around November 3, 1982, the name of Robert Buell came up in a search through Sears' records as a purchaser of van seats. Records indicated that Buell purchased two of these seats sixteen days before Krista's abduction. No other evidence linked Buell with the murder until mid-October 1983, when he was arrested and charged with other crimes in Summit County. Police executed search warrants at Buell's residence and removed, among other things, a roll of orange-colored carpeting, cans of blue and tan paint, interior and exterior paint samples, a newspaper article with Krista's picture in it (dated August 9, 1983), a plaid shirt containing a "Mike's Place" label, black spray paint, and a 1978 Maroon Dodge Van. Independent testing by the FBI and B.C.I. determined that carpet fibers from the van matched fibers from Buell's van and residence. The fibers on the blanket matched fibers from Buell's van and residence. The paint samples were compared and the blue and tan paint matched those on the paint-spotted jeans that were found. Buell's nephew, Ralph Ross, Jr. told investigators that Buell installed orange-colored carpet in the van like that in his home, and two new black seats. Ralph said his uncle also replaced the bubble-type windows with square, sliding windows. Investigators checked with Robert Buell's supervisor, Warren Walfish, who stated on July 17, 1982, Buell took three and one-half hours, leaving from work in the afternoon. This was the day of Krista's kidnapping. On November 15, 1983, Buell was indicted and charged with Aggravated Murder, with specifications, Kidnapping, and Felonious Sexual Penetration.

WITNESS STATEMENT:

Roy Wilson testified to the above events in the Details of the Instant Offense.

According to information obtained from the Summit County Prosecutor's Office, the following is known regarding the Instant Offense.

(Counts 1-9):

On October 16, 1983, at approximately 9:30 a.m., victim, Deborah Davies, age 28, arrived at the Petroco Gas Station located at 29011 State Route 62, Demascus, Ohio, to begin painting the floor. The business was closed to the public and while the victim was bent over near the front door, a white male, later identified as the subject, Robert Buell, approached Ms. Davies asking if "this was Demascus, Ohio?" Ms. Davies replied in the affirmative at which time the subject stated, "You are coming with me unless you want your head blown off." The subject was holding a small dark pistol in his hands. The subject then forced the victim into a brown/maroonish colored van and handcuffed her hands behind her back. The subject then began to drive westbound on State Route 62 and after approximately 35 to 45 minutes he, along with the victim, stopped at a convenient store. The subject, upon arriving at the convenient store, observed a state highway patrol trooper sitting in the parking lot and after waiting a few minutes for the trooper to leave, forced the victim's face to the floor of the van, locking her inside while he went inside to buy a 6-pack and cigarettes. The subject then drove for approximately 10-15 minutes blocking the victim's eyesight with his hands so that she could not see where they were going.

The subject pulled into a location later determined to be his residence of 3319 Symphony Lane, Clinton, Ohio, where he used an automatic garage door opener to enter the garage. The victim was then taken into the home and while in the kitchen was forced to remove her outer clothing, leaving her in panties and a brassiere in the hall area. The subject then placed a leather bench in the hallway in front of a mirror and told the victim to remove the rest of her clothing, which she apparently did. At that time, the subject put the victim in a spread eagle position on her back, tying and cuffing the victim to the bench in this position. The subject then inserted a vibrator into her vagina while also making her perform oral sex on him. This type of activity lasted for approximately 45 minutes. The subject then took the vibrator and began to ram it into the victim's vaginal area. The subject also continuously punched the victim in the face and in the stomach. The subject then connected a roach type clip to the victim's nipples and attached a wire to the clip and then put the wire into an electrical outlet in the hall and shocked the victim. He repeated the same procedure on the victim's vaginal area. The victim was also forced to drink urine and semen from a glass and was beaten with a belt several times and had her mouth taped when she began to scream too loudly. This type of activity continued for approximately 45 minutes while the victim, during this activity, was handcuffed to subject's bed in his bedroom. The subject then left the bedroom and returned with a pair of scissors and cut the victim's hair off, he then took her into the bathroom and put her in the shower and shaved her head with a razor. He then gave her a towel and she was again told to lie on the bed. She was again tied to the bed and the subject undressed and went to bed for the night. The victim was then untouched for the remainder of the night.

The subject's alarm sounded at approximately 6:30 or 7:30 am, at which time he got up and began to get dressed for work. The subject indicated that he would be returning in four-(4) hours time. The victim was placed on her stomach on the bed and strapped to the bed with her legs in a spread eagle position. The victim was then told not to leave the residence and the subject turned the stereo on and left. The victim managed to free herself and then ran to the neighbors and called the police.

Franklin Township Police Department responded and spoke with the victim. On October 17, 1983, Franklin Township Police Department searched the subject's residence and found items including the victim's clothing and hair, various restraint devices, a Bear electrical cord, and a .22 caliber handgun. Subsequent investigation also revealed that the subject had been involved in the abduction of Patricia Lively.

(Counts 10-16)

On May 22, 1983, victim, Patricia Lively, age 29, was on her way to work in East Liverpool, Ohio, when her pickup truck broke down. As the victim was about to get out of the pickup truck, she realized that a man in a brown van, later identified as the subject, Robert Buell pulled up on the passenger's side of the pickup truck and was motioning to her. Initially, the victim ignored the subject. The subject parked his vehicle and began to walk towards the subject asking her if she needed any help. As the victim began to walk toward a sidewalk, the subject offered to give her a ride to the ambulance service where her husband worked and told her to go ahead and get into the van. The victim initially declined the offer, but did eventually climb into the passenger's side of the van and entered through the passenger side door. As the subject continued to drive, the victim attempted to get out of the van; however, the door was locked and she was not able to unlock the door. The subject then pulled a gun out of his sweatshirt and put it to her head. The victim was then told to get down between the seats in the van, which she did. The subject continued to poke and pound the gun on top of the victim's head, stating, "You fucked up this time bitch." The victim was then forced to lie on her back with her hands handcuffed behind her. The subject then stopped the van and undressed the victim, forcing her to attempt to crawl into the wheel well area of the van. When the victim did not fit inside the wheel well area, the subject became very angry with the victim, kicking her to try to get her to fit in this area of the van. The subject then forced the victim into the wheel well area and placed a heavy board on top of her so that she could not move. Twice while in route to the subject's house, they stopped to get gas. While the victim was in the van, the subject twice placed his fingers inside her vagina in a rough manner. Shortly thereafter, the victim and the subject arrived at his residence and again, the subject forced the victim inside his bedroom. The victim did notice several pornographic magazines opened and folded back showing three (3) women in various naked sexual positions. The subject then asked the victim what bra size she wore and when the victim responded, he punched her in the stomach, causing her to fall back onto the bed. Please note, prior to this the victim had told the subject that she had several scars on her stomach due to several abdominal type operations. The subject then removed one (1) handcuff and took the victim's top off and then again handcuffed her with her arms behind her back. The victim was then forced onto the subject's bed with the subject calling her a "cunt and a whore" as he walked away.

The subject asked the victim if she liked beer to which she answered "No." The subject then returned to the bedroom drinking beer and at that time removed his clothing. The subject repeatedly asked the victim if she did "tricks" to which the victim replied in the negative. The subject then began to fondle himself while watching the victim. The victim was then told to spread her legs. The subject hit the victim's legs when she did not spread them far enough apart. He then began to squirt gel from a plastic bottle all over the victim's pubic area and inside her vagina and rectum.

The subject then began to talk about sexual fantasies he had and indicated to the victim "if you had three boys you can handle this", and at that time shoved the beer bottle up inside the victim. The subject was still fondling himself when he did this. The victim then indicated that she felt as if she were being ripped apart and blacked out; however, not for very long. The subject then began to grab the victim's breasts pulling on them in such a manner that it caused the victim to scream. The victim then saw what she believed to be blood on the nipple of one of her breasts and at the time again blacked out. The subject then sat on the victim forcing her to perform fellatio. The subject, while the victim did this, bit the victim's vaginal area. The subject then moved and shoved his penis into her rectum. When the victim woke up, the subject then forced the victim to take a shower; however, her hands were handcuffed behind her back. The subject then indicated that he was going to call off work and inquired as to the victim's well being. The subject then took an orange and black rope and tied it around the victim's ankles, looping it through the handcuffs on the victim's back. The victim again dozed off, it would appear that the subject began to be concerned about the victim's injuries and got the victim something to eat and provided her with a bathrobe. At that time, the subject indicated that he had abducted the victim as a result of doing drugs and alcohol. The subject then promised to take the victim back to her home and also began to talk about the fact that he could be in trouble with the FBI as a result of the victim being from another state. The subject indicated that the only reason he would let her go was because of the fact that she had three (3) children. The subject left to go to work but did handcuff the victim and tied her to the bed. The victim remained at the subject's house for another evening.

On the following morning, the subject placed a pillowcase over the victim's head and led her to a vehicle, which he had after the victim had gotten dressed. The subject drove the victim to Shippingport, Pennsylvania, where he left her along the side of the road. The victim was later interviewed by the Federal Bureau of Investigation and related the abovementioned information. Please note the incident with victim Lively occurred prior to the incident with Debbie Davies. However, as a result of Ms. Davies abduction, the police linked the subject with Ms. Lively's abduction. The subject was arrested on October 19, 1983 and was subsequently charged as indicated.

WITNESS STATEMENT:

None.

VICTIM'S VERSION/RESTITUTION:

The victim is identified as Deborah Davies, whose statement is contained in the Details of the Instant Offense.

Ms. Davies was treated at Barberton Citizens Hospital as a result of the injuries sustained as a result of the Instant Offense. Officers did attempt to further interview the victim while she was at the hospital; however, they were unable to do so due to her emotional and physical condition.

Victim, Patricia Lively, was treated at the Medical Center of Beaver County. The victim did not suffer any type of fractures or dislocations due to the Instant Offense. An examination typically done for alleged sexual assaults was completed on the victim. Also, the victim was treated for various venereal diseases, which were negative.

The victim in a statement, indicated that due to the incident she had incurred hospital bills she had to pay which caused a hardship for her family. The bills totaled \$533.00. The victim also made several trips to the Youngstown FBI Office and to other law enforcement offices and to the Mental Health Clinic in West Virginia for treatment. The victim had lost approximately \$1,500 in pay. The victim indicated that the most important loss of all was not just for her but for the mental anguish that her three (3) sons had to go through. She indicated, "we have always been especially close and have never been separated until then. And to have to be hospitalized in November, the week before Thanksgiving for depression and a sinus infection was another obstacle my sons had to deal with. All in all, it is hard to calculate or summarize everything my family has gone through or will go through."

CO-DEFENDANT'S VERSION:

None.

DEFENDANT'S VERSION:

Not available.

PRIOR RECORD:

Juvenile:

Without properly signed releases of authorization, juvenile records cannot be gathered. However, according to Prosecutor Keith Shearer of Wayne County, the subject had no juvenile record.

Adult:

The subject has no additional criminal history in Wayne or Summit County other than the instant offenses.

INSTITUTIONAL AND/OR SUPERVISION ADJUSTMENT:

The subject is housed on Death Row so, therefore, program participation is not applicable.

SOCIAL HISTORY

Reverend Ernie Sanders attended the hearing on September 10, 2002. He testified that he has ministered to Robert Buell for the past ten years and that he believes Robert Buell is innocent of the instant offense. He also testified that a member of his congregation told him that she believed that her boyfriend had committed the murder of Krista Harrison.

A member of the Ohio Parole Board asked Reverend Sanders if he knew the reason Mr. Buell refused to be interviewed. Reverend Sanders stated that subject said he did not wish to say anything because he felt the Parole Board "had already made up its mind."

Reverend Sanders concluded his testimony by stating that the Parole Board should show mercy to Mr. Buell and cited several biblical scriptures to that effect.

PROPOSERS

Robert Buell is currently represented by Attorneys Michael Benza and Jeffrey Kelleher. They have provided an extensive written and documented folder outlining the reasons for the Ohio Parole Board to vote "Favorable" for Executive Clemency. Their points of argument expressed for a "favorable" recommendation were as follows:

- The Wayne County prosecutor's office committed misconduct in failing to inform Mr. Buell that "hypnosis" was used on the three witnesses offering testimony against subject.
- When requesting copies of the audio and/or videotapes used for the hypnosis session, Mr. Buell's counsel was told that it had been either misplaced or lost.
- Counsel for Mr. Buell stated that he could not have left the physical evidence found at the crime scene during the morning hours as he was at work.
- Even though Mr. Buell has been sentenced for crimes committed in two other cases, the issue at hand is the crime for which subject received the death penalty and the crimes are not at issue. The only thing to be discussed at this review is the matter of granting executive clemency to Mr. Buell.
- Counsel also stated that there have been numerous allegations against Mr. Buell regarding crimes involving girls under the age of 18 years. He stated further that Mr. Buell has not been charged on indicted for other crimes.

OPPOSERS

Mr. Martin Frantz, Wayne County Prosecutor, Mr. Jim Canepa, Section Chief of the Ohio Attorney General's Capital Crimes Unit represented the State of Ohio at the hearing before the Parole Board on September 10, 2002. Tim Pritchard, Ohio Attorney General's Capital Crimes Unit, and Stuart Cole, Ohio Attorney General's Corrections Litigation Section assisted Mr. Frantz.

Information presented by the Wayne County Prosecutor's office showed that evidence overwhelmingly established Mr. Buell's guilt. Mr. Frantz stated that Mr. Buell has been afforded eighteen (18) years of appellate review and not any court has held differently. Further, subject has been convicted and sentenced to death by a jury.

Oral arguments were also presented Jim Canepa and Tim Pritchard of the Attorney General's Capital Crimes Unit. Their points of argument expressed for opposing a "favorable" recommendation were as follows:

- The state and federal courts determined that neither the disclosure that witnesses had been "hypnotized" nor suppression of the hypnotically refreshed testimony would have created a reasonable probability that the result of Mr. Buell's trial would have been different.
- There was no evidence found on record that one of the witnesses had been "hypnotized."

- The state and federal courts found that there is not any reasonable probability that information concerning one of the witness's mental health status would have changed the jury's verdict of "guilty."
- There existed a clear link between the murder of Tina Harmon, Krista Lee Harrison, and the rape of Debbie Davies.
- The substantial physical evidence presented to the courts was clear and convincing that would leave no doubt of Mr. Buell's guilt.
- There were other acts of abuse against other children that were linked directly to Mr. Buell.
- Referencing the claim of subject's attorney that Mr. Buell did not receive a "fair" trial because it prevented the Federal Courts from reviewing the "defaulted" claims, Mr. Frantz indicated that the Federal Courts found that Mr. Buell received the assistance of appellate counsel.
- Scientific evidence was never refuted in any of the higher courts. The courts concluded that even if you dismiss all eyewitness testimony, the forensic evidence alone could convict.

COMMUNITY ATTITUDE:

Judge Wayne K. Weist, Wayne County, responded to the Board's inquiry on December 12, 1995. Judge Weist indicated that "he could think of no reason why the Governor would want to grant executive clemency to Mr. Buell." Please see the attached response.

No response was received from either the Prosecutor's Office or police officials.

The Victim Notification Section made repeated attempts to contact the victims/victims' representatives in this case but to no avail.

CONCLUSION:

Robert A. Buell is scheduled to be executed on September 25, 2002. An interview by the Parole Board was attempted to which Mr. Buell declined.

The Board reviewed the documents and deliberated on the information provided. During our deliberation we focused on the following facts.

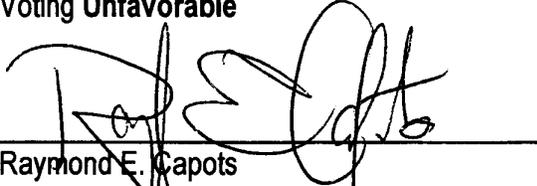
- The vicious nature of subject's crimes
- He kidnapped and murdered an 11-year old girl
- He kidnapped and raped two adult females
- There is no justification for the subject's actions
- There is absolutely no justification for recommending clemency in this case and the death penalty is appropriate for Robert Buell.

- There was overwhelming physical evidence presented that would substantiate the guilt of Robert Buell
- There was no new evidence or mitigation offered to the Ohio Parole Board at the September 10, 2002 Death Sentence Clemency Review.

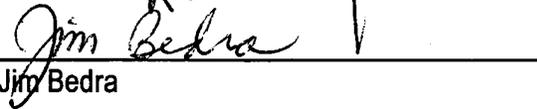
RECOMMENDATION:

Following consideration of available information, the Ohio Parole Board, with seven (7) members participating, recommends to The Honorable Bob Taft, Governor of the State of Ohio, by a vote of seven (7) to zero (0), that Executive Clemency be denied in the case of Robert A. Buell, #177-711.

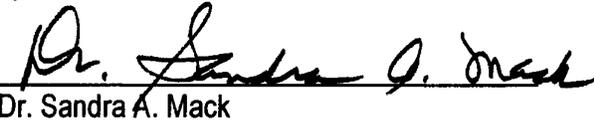
Adult Parole Authority
Ohio Parole Board Members
Voting Unfavorable



Raymond E. Capots



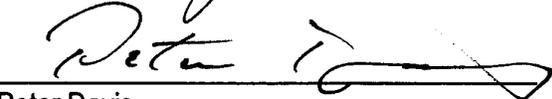
Jim Bedra



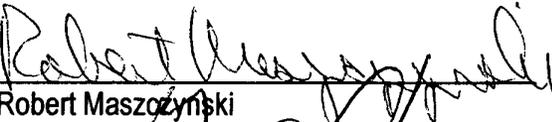
Dr. Sandra A. Mack



Betty J. Mitchell



Peter Davis



Robert Maszczyński



Gary Croft