

DATE TYPED: February 15, 2007
DATE PUBLISHED: February 16, 2007

IN RE: CHRISTOPHER J. NEWTON, MANCI #A378-452

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

Date of Meeting: February 9, 2007

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: CHRISTOPHER J. NEWTON, MANCI #378-452

SUBJECT: Death Sentence Clemency

CRIME, CONVICTION: Aggravated Murder with Specification

DATE, PLACE OF CRIME: November 15, 2001 in Mansfield, Ohio

COUNTY: Richland

CASE NUMBER: 02-CR-48H

VICTIMS: Jason Brewer (Age 27)

INDICTMENT: January 14, 2002: Aggravated Murder with Aggravating Circumstance Specification; specifically that the offense was committed while the offender was under detention.

PLEA: January 14, 2003: Pled guilty to the indictment.

VERDICT: January 15, 2003: Found guilty by 3 Judge Panel of the indictment.

SENTENCE: February 4, 2003: Sentenced to DEATH

ADMITTED TO INSTITUTION: October 18, 1999

TIME SERVED: 90 months (total)
48 months (Instant Offense)

AGE AT CONVICTION: 33 years old

CURRENT AGE: 37 years old

DATE OF BIRTH: November 13, 1969

PRESIDING JUDGES: Honorable James D. Henson
Honorable James DeWeese
Honorable Lawrence Grey

PROSECUTING ATTORNEY: James J. Mayer, Jr.

FOREWORD:

Clemency in the case of Christopher J. Newton #378-452 was initiated by the Ohio Parole Board, pursuant to Section 2967.03 and 2967.07 of the Ohio Revised Code and Parole Board Policy #105-PBD-01. The Ohio Supreme Court set an execution date of February 27, 2007, with a Warrant of Reprieve being granted by the Honorable Ted Strickland until May 24, 2007 in this case.

On January 11, 2007, Christopher J. Newton declined an opportunity to be interviewed by a representative of the Parole Board at Mansfield Correctional Institution.

A Clemency Hearing was held on February 9, 2007, with eight members of the Ohio Parole Board participating. Mr. Newton was represented by Joseph E. Wilhelm and Robert K. Lowe of the Ohio Public Defender's Office, however they made no presentation to the Board in his behalf. Arguments in opposition to clemency were presented by Richland County Prosecutor James J. Mayer, Jr. and Assistant Richland County Prosecutor Kirsten L. Gartner. A letter from the victim's aunt, Rosemary Carter, was also read into the record.

The Board gave careful review, consideration and discussion to all testimony, and to all available facts pertaining to the crime including all supplemental materials submitted by the Richland County Prosecutor's Office. The Board deliberated extensively upon the propriety of clemency in the form of commutation and in the form of reprieve. With eight (8) members participating, the Board voted unanimously to provide an UNFAVORABLE recommendation to the Honorable Ted Strickland, Governor of the State of Ohio.

DETAILS OF THE INSTANT OFFENSE (02-CR-48H): The following account of the instant offense was obtained from the Ohio Supreme Court opinion decided January 25, 2006:

In June 1992, Christopher Newton was sentenced to five to 15 years in prison for attempted aggravated burglary. Within a few weeks of his release on parole in 1999, he broke into his father's house. As a result, his parole was revoked, and he was sentenced to an additional concurrent eight-to-15-year prison sentence. In August 1999, Newton told a mental-health professional that he was going to kill someone in prison so that he could spend the rest of his life in prison.

On October 16, 2001, Newton, claiming that another inmate had threatened to stab him, requested that he be placed in protective custody. He was assigned to cell 115 with Jason Brewer in a section of the Mansfield Correctional Institution (MANCI) reserved for inmates who request special protection. Brewer was 27 years old, five feet, 11 inches tall, and weighed 130 pounds. Newton was 32 years old, five feet, 11 inches tall, and weighed between 195 and 225 pounds.

On November 15, 2001, around 5:10 a.m., MANCI correctional officers ("COs") Gregory Ditmars, John Vesper, and Shane Douglas responded to a disturbance in cell 115. Brewer

was lying still on the floor in a puddle of blood with a piece of orange cloth wrapped around his neck. Newton was laughing and had blood smeared all over his face. MANCI nurse Trena Butcher testified that when she examined Newton, he told her that he had “painted himself with the victim's blood and had also ingested the victim's blood as part of the ritual when you kill someone.”

MANCI nurse Diane Burson testified that when she responded to cell 115, Brewer was not breathing and had no pulse. Burson and responding paramedics worked diligently, and eventually Brewer's heart began to beat. Ditmars testified that while medical personnel were trying to save Brewer's life, Newton was laughing and yelling, “ ‘Let him die. I killed him.’ ” According to Douglas, Newton said, “ ‘[F]uck that bitch [Brewer]. You might as well not even work on him. He is already dead.’ ” Nurse Butcher recalls Newton periodically shouting to the paramedics, “ ‘Stop, let the fucker die.’ ” State Highway Patrol Trooper Doug Hamman described Newton as singing, “ ‘[T]here is nothing like the taste of fresh blood in the morning.’ ”

Newton told Ditmars that he had killed his cellmate and had drunk his blood. Vesper recalled Newton's saying that he had killed Brewer by choking him and beating his head on the floor. Douglas testified that Newton said that he had hit Brewer earlier that night and had seen the fear in his eyes and knew he was going to kill Brewer before the night was over.

After paramedics established a heartbeat, Brewer was taken to MedCentral Hospital, then flown to the Ohio State University Medical Center, where he was declared brain dead around 2:30 p.m. After an autopsy, Dr. Dorothy Dean, a forensic pathologist, concluded that Brewer had died from a ligature strangulation. Brewer also suffered other injuries to his head and body consistent with his having been kicked or stomped on.

After the assault, Newton told Lieutenant Hilbert Mealey, a MANCI CO, that he had allowed Brewer to lie dead for an hour in the cell because Newton knew that paramedics would try to save his life. Newton told Mealey that he had more fun in prison than on the outside. MANCI Lieutenant Joe Albert recalled that Newton had seemed very happy and had repeatedly asked, “ ‘Did I kill him? Is he dead?’ ” Newton also said, “[I]f he is not dead, I hope he is going to be a vegetable.”

Although Albert did not want to interview him, Newton was adamant about making a statement. Albert advised Newton of his *Miranda* rights, and Newton waived them. Newton described how he had choked and assaulted Brewer starting around 3:45 a.m. Using a razor blade, Newton had cut a strip off an orange jumpsuit and had used that strip to strangle Brewer.

In Newton's cell, COs found four letters addressed to various prison officials, dated November 14, in which Newton stated that he had lied to obtain protective custody. He stated that his real reason for requesting protective custody was to “take care of a little problem,” and the job was now done. Newton authenticated the letters by his bloody fingerprints and referred to himself as “Satan's Messenger, 666.”

On the morning of the murder, November 15, Trooper Smith advised Newton of his *Miranda* rights, and Newton signed a written waiver of those rights. Newton told Smith that another inmate had hired him to beat up Brewer and that at around 10:00 p.m. the previous evening, while he and Brewer were playing chess, they argued, and then he struck Brewer. They both stayed awake, and Newton spent time making a rope so that he could strangle Brewer. Around 3:30 a.m., as Brewer was going to sleep, Newton pulled Brewer out of bed and hit his head against the floor and stomped on his head twice. Newton then strangled Brewer with the rope he had made, until it broke. Newton punched Brewer in the face a few times and then cut a strip off a prison jumpsuit and strangled Brewer with it. Then Newton stomped on Brewer's head again.

Although Brewer begged, "Please don't kill me," Newton estimates that he stomped Brewer's head with his foot between five and ten times. He also stomped on his throat and chest a few times. After Newton finished assaulting Brewer, he smeared Brewer's blood on his face and licked the blood off his hands. After 30 minutes or so, he called to a CO and said, "[W]elcome to the house of death!" Newton also stated that he knew he would die in prison and hoped for the death penalty.

On November 18, Newton wrote an 11-page letter relating details of the murder. In a Highway Patrol interview on November 19, 2001, Newton admitted that he had lied in claiming that an inmate had hired him to assault Brewer. He had never met or heard of Brewer before they were placed in the cell together. Newton said that he and Brewer had been sexually intimate, and that when he woke up Brewer that night, he had said, "Jason, come here. I'm horny." According to Newton, Brewer ignored him, which made Newton angry. Although Newton had already decided to kill Brewer, he said that he "needed that kicker [the refusal] * * * to start, start the rage."

At the guilt phase of the trial, Newton, after pleading guilty, presented no evidence.

DETAILS OF THE INSTANT OFFENSE (92-CR-320): The subject is also serving a sentence in Case #92CR320, the details of which are as follows:

On 4/8/1992, the subject and Melvin Turner broke into a residence in Fremont, Ohio by breaking a rear window with a rock. Once inside, they took several items which included three handguns, a large amount of change, a glass container, and jewelry. Both the subject and Melvin Turner were subsequently located and arrested in Portland, Tennessee.

The subject was indicted on 5/20/1992 for Aggravated Burglary, Receiving Stolen Property and Improper Handling of Firearms in a Motor Vehicle. On 6/19/1992, he pled guilty to the amended count of Attempted Aggravated Burglary, the remaining counts were dismissed. The subject was subsequently sentenced to 5-15 years in this case. On 6/30/1992, he was admitted under institution number A257-790. On 5/20/1999, the subject was granted a parole. He was declared a Parole Violator at Large on 7/1/1999. On 10/18/1999, the subject was recommitted under new number A378-452 as a result of his conviction in Case #99CRI07820.

DETAILS OF THE INSTANT OFFENSE (99CRI07820): The subject is also serving a sentence in Case #99CRI07820, the details of which are as follows:

On 7/1/1999, the Ashland County Sheriff's Department was dispatched to the residence of 1289 Township Road 653 for a reported burglary. Upon arrival, officers met with Lynn Newton who informed the officer that someone broke into his house and stole three firearms. The victim further indicated that he believed that his son, Christopher J. Newton, was responsible for the offense. Subsequent investigation revealed that Christopher Newton sold the stolen firearms out-of-state. His whereabouts were unknown until his arrest on 7/5/1999 in Wells, Nevada. During a subsequent interview with the Ashland County Sheriff's Department, the subject also admitted to stealing his father's wedding rings and selling them.

On 8/19/1999, the subject was indicted for Count 1 - Burglary, Count 2- Having Weapons under Disability and Count 3 - Receiving Stolen Property. On 8/30/1999, he pled guilty to these offenses. On 10/15/1999, the subject was sentenced to 4 year consecutive terms for Burglary and Having Weapons under Disability, concurrent with 1 year for Receiving Stolen Property.

DETAILS OF THE INSTANT OFFENSE (CR386660): The subject is also serving a sentence in Case #CR386660, the details of which are as follows:

The subject was paroled on 5/20/1999. He was declared a parole violator-at-large on 7/1/1999, as his whereabouts were unknown. As a result, he was indicted for Escape on 2/3/2000. On 4/14/2000, the subject was convicted of Attempted Escape for which he received a one (1) year sentence.

PRIOR RECORD:

Juvenile:

<u>DATE</u>	<u>OFFENSE</u>	<u>PLACE</u>	<u>DISPOSITION</u>
9/8/1982 (age 12)	Petit Theft	Huron, Ohio	Turned over to juvenile authorities.
9/24/1984 (age 14)	Petit Theft	Huron, Ohio	Turned over to juvenile authorities.
11/1984 (age 15)	Gross Sexual Imposition	Erie Co., Ohio	Committed to permanent custody of the O.D.Y.S.; commitment suspended on condition of successful completion of the Berea Children's Home.

11/21/1984 Petit Theft Huron, Ohio Turned over to juvenile
(age 15) authorities.

Adult:

<u>DATE</u>	<u>OFFENSE</u>	<u>PLACE</u>	<u>DISPOSITION</u>
3/26/1988 (age 18)	Theft	Huron, Ohio	Three days, \$82 fine and court costs, community service.
11/15/1988 (age 19)	Vehicle Used for Human Habitation	St. Petersburg, Beach, Florida	Time Served, fine & costs waived.
12/13/1988 (age 19)	Burglary (F-2) (88-17790) Grand Theft (F-3) (88-17791)	Pinellas Co., Florida	Three years probation.
03/29/1989 (age 19)	Forgery (2 counts)	Sandusky, Ohio	One count dismissed; remaining count restitution paid.
01/12/1990 (age 20)	Theft	Sandusky, Ohio	Disposition unknown.
05/21/1990 (age 20)	Passing Bad Checks	Sandusky, Ohio	Dismissed.
06/20/1990 (age 20)	Forgery Theft	Sandusky, Ohio	Disposition unknown.
04/30/1991 (age 21)	Domestic Violence	Huron, Ohio	Disposition unknown.
07/16/1991 (age 21)	Carrying Concealed Weapon	Sandusky, Ohio	Disposition Unknown.

Christopher J. Newton #378-452
Death Penalty Clemency Report

12/18/1991 (age 22)	Breaking and Entering (91CR360)	Erie Co., Ohio	12/23/1991: 1-½ years suspended, placed on 5 years probation. 7/7/1992: Probation revoked and original sentence of 1 ½ years imposed.
04/8/1992 (age 22)	Receiving Stolen Property, Improper Handling of Firearms in a Motor Vehicle	Sandusky Co., Ohio	6/19/1992: Dismissed
04/8/1992 (age 22)	Attempted Aggravated Burglary (92-CR-320)	Sandusky Co., Ohio	Sentenced to 5-15 years; 6/30/1992: Admitted under institution number A257-790; 5/20/1999: Paroled; 7/1/1999: Parole Violator at Large; 10/18/1999: Recommitted under new number A378-452.
7/1/1999 (age 29)	Attempted Escape (CR386660)	Cleveland, Ohio	4/14/2000: Sentenced to 1 year.
7/1/1999 (age 29)	1.) Burglary 2.) Having Weapons Under Disability 3.) Receiving Stolen Property (99CRI07820)	Ashland Co., Ohio	10/15/1999: Sentenced to 4 years in Count 1 consecutive with 4 years in Count 2, but concurrent with 12 months in Count 3; 10/18/1999: Admitted under inmate #A378-452.
11/15/2001 (age 32)	Aggravated Murder with Death Penalty Specification (# 02-CR-48H)	Mansfield, Ohio	02/04/2003: Sentenced to Death.

INSTITUTIONAL ADJUSTMENT:

Christopher J. Newton was admitted to the Department of Rehabilitation and Correction on October 18, 1999. His admission for the instant offense commenced on February 11, 2003. Mr. Newton has not participated in any programs during his incarceration. His current work

assignment is that of a porter. Previous work assignments include laundry attendant and animal trainer. Prior to 11/15/2001, he was also assigned as an assembler for Ohio Penal Industries and as a porter. Overall, his work ratings are good.

Mr. Newton was transferred from Mansfield Correctional Institution (MANCI) to Oakwood Correctional Facility on 12/6/2002 due to concerns he was suicidal. He was transferred back to MANCI on 1/3/2003.

Mr. Newton has been cited with two (2) rules infractions since committing the instant offense on 11/15/2001. On 4/16/2002, he was charged with Misuse of Property for which he received 7 days recreation restriction. On 2/4/2003, he was charged with Possession of Contraband for which he received a verbal reprimand.

Prior to 11/15/2001, he was charged with Disrespect to Staff on 11/23/1999 for which he received a verbal reprimand. On 11/28/1999, he was cited for Misuse of Property and Disobedience of a Direct Order for which he was placed in Disciplinary Control for 7 days. On 12/29/1999, he was charged with Any Act that is a Felony or Misdemeanor and False Information and was placed in disciplinary control for 15 days. On 2/7/2000, he was cited for False Information and was placed on Cell Restriction for 7 days. On 9/15/2000, he was charged with Disobedience of a Direct Order and received a Verbal Reprimand.

ARGUMENT ADVANCED IN SUPPORT OF CLEMENCY:

The Ohio Parole Board received no written application for clemency on Christopher Newton's behalf. Mr. Newton's attorneys, Joseph E. Wilhelm and Robert Lowe, attended the clemency hearing on February 9, 2007. At that time, they advised they would not be presenting any information or mitigation, nor were there any letters or witnesses presented on Mr. Newton's behalf. In answering questions posed by the Board, defense counsel indicated if Mr. Newton had permitted further appeals, they would have argued mental illness issues and proportionality of Newton's death sentence to sentences of other inmates that have killed inmates during incarceration. Further, they would have offered more information on Longo's statement concerning the possibility of institution staff "turning a blind eye" to the risk toward the victim.

Mr. Wilhelm previously sent a letter to the Parole Board, dated January 11, 2007, in which he documented his client's wishes and the fact that Mr. Newton had directed him to not advocate on his behalf in favor of a sentence less than death.

STATE'S POSITION REGARDING CLEMENCY:

Richland County Prosecutor James J. Mayer, Jr. and Assistant Richland County Prosecutor Kirsten Gartner appeared at the clemency hearing conducted on February 9, 2007 and presented oral arguments in opposition to clemency.

Assistant Richland County Prosecutor Kirsten Gartner proceeded to detail the actions of Mr. Newton leading up to and including the day of the murder of Jason Brewer. She presented the following arguments in opposition to the granting of Executive Clemency:

- On October 16, 2001, Newton claimed he was being threatened by other inmates and requested to be placed in protective custody in order to have access to victim, Jason Brewer.
- Newton asked to be placed in a cell with Jason Brewer, who had requested protective custody after allegedly being raped by another inmate.
- Newton planned to kill Brewer and shared a cell with Brewer for approximately 30 days prior to killing him. Longo, an inmate in the cell across from Newton and Brewer, stated that Newton physically and verbally assaulted Brewer on several of those 30 days. Mr. Brewer made requests to be removed from the cell.
- On November 14, 2001, Newton wrote a “kite” to the institution staff stating he had killed Brewer. The “kite” was dated one day prior to the actual killing. Newton admits writing the “kite” prior to the killing and that he was contemplating how and when he would kill Brewer.
- Newton made a home-made rope from the strings of a blanket. He stated Brewer watched as he made the rope and stated he thought Brewer knew the rope was for him.
- Newton admittedly subjected Brewer to a long drawn out death, with multiple beatings, stompings, and strangulation. He further admitted that during the first set of beatings, Brewer did not bleed enough, and so he beat him again until he lost more blood.
- Newton, with premeditation, murdered the victim in an area of the institution that was supposed to be safe.
- Newton suffers from no mental illness that would warrant clemency. At the most, according to the psychiatrist working for the defense, Newton suffers from Polysubstance abuse in remission, antisocial behavior borderline personality disorder and mood disorder (NOS-not otherwise specified). The psychiatrist hired by the prosecution stated 60-70 percent of inmates have antisocial personality disorder, that Newton did not have the symptoms for mood disorder, and that he knew the difference between right and wrong.
- Newton shows no remorse for his behavior and one year following the murder he requested the prison’s psychiatrist to attend a one year “anniversary celebration” of Brewer’s death. Newton had fashioned a party hat and party blowers to celebrate Brewer’s death. The psychiatrist stated Newton appeared happy and made jokes about celebrating the anniversary.

- Newton showed no mercy for Mr. Brewer. He informed all that would listen that Brewer cried for mercy and begged Newton not to kill him, as he lay bloodied and beaten. The state should show no mercy to Mr. Newton.

Richland County Prosecutor James J. Mayer, Jr. provided the following information:

- Jason Brewer's Aunt Rosemary Carter's letter was read to the Board. The letter described the victim as a loving, kind, young man of slight build and mentally challenged.
- Jason Brewer was 27 years old when he was killed.
- Newton outweighed Brewer by 100 pounds.
- The Board should consider the brutality of the murder, the fact that Brewer was in protective custody, and the amount of time it took Newton to kill him.

Both Mr. Mayer and Ms. Gartner indicated that clemency should be denied to Christopher Newton.

VICTIM'S REPRESENTATIVES:

The Richland County Prosecutors represented the victim in this case. Jason Brewer's only relative that responded was his Aunt Rosemary Carter who responded by letter.

Ms. Carter is opposed to clemency for Mr. Newton. She stated in her letter that Newton is a "dark and evil man and is deserving of the verdict put upon him."

COMMUNITY ATTITUDE:

The Board received written correspondence from Richland County Judge James DeWeese. His recommendation was that executive clemency should be denied Mr. Newton and that he should be put to death. He further wrote, "His murder of his cell mate Jason Brewer in the protective custody area of the Mansfield Correctional Institution was extensively premeditated and carried out in the most sadistic manner."

The Board also received written correspondence from Ashland County Prosecutor Ramona Francesconi Rogers. Christopher Newton is also currently serving a sentence out of Ashland County and was serving this sentence at the time he committed the instant offense. Ms. Francesconi Rogers wrote, "It is my opinion that this defendant will continually reoffend, thereby placing people at risk, in order to attain his goal of remaining in prison." At the time the subject committed the offenses in Ashland County, he advised authorities that he wanted to go back to prison because he could not make it on the outside and that prison was where he belonged.

PAROLE BOARD'S POSITION AND CONCLUSION:

The Ohio Parole Board deliberated extensively on the documentary and testimonial evidence provided in this case. The Ohio Parole Board determined that executive clemency is not warranted in this case, based on the following factors surrounding the Aggravated Murder conviction and Death sentence of Christopher Newton in the death of Jason Brewer:

- Mr. Newton is not requesting clemency. Mr. Newton advised that he is prepared to have his sentence carried out and does not wish for clemency to be granted. He prevented his attorneys from presenting any mitigation for the crime or any reason why his sentence should not go forward.
- Mr. Newton has an extensive criminal history that includes juvenile offenses starting at age 12. Throughout his adult life he has shown flagrant disregard for the law and acted only in his own interests. In fact, Mr. Newton has stated that if his sentence is commuted to life he will "kill again."
- Mr. Newton planned the offense. He purposely arranged to be placed in protective custody and even more importantly, he manipulated the situation in order to be placed in the cell with Jason Brewer.
- Mr. Newton's conviction and sentence have been upheld over many years of judicial review. No mitigating factors were presented that outweighed the aggravating circumstances. He has been found to be competent to waive any further appeals.

RECOMMENDATION:

The Ohio Parole Board, with 8 members participating, by a vote of eight (8) to zero (0), recommends to the Honorable Ted Strickland, Governor of the State of Ohio, that Executive Clemency be denied in the case of Christopher J. Newton #378-452.

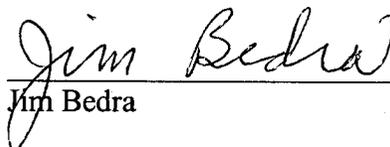
Christopher J. Newton #378-452
Death Penalty Clemency Report

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

Ohio Parole Board Members
Voting **Unfavorable**



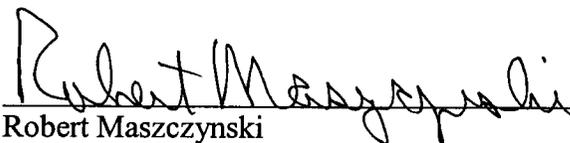
Cynthia Mausser, Chairperson



Jim Bedra



Sandra Mack, Ph. D.



Robert Maszczyński



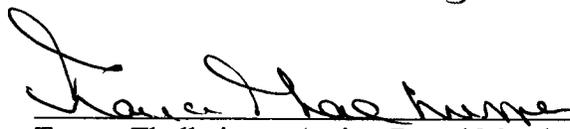
Peter Davis



Ellen Venters



R. F. Rauschenberg



Trayce Thalheimer, Acting Board Member