

DATE TYPED: June 24, 2009
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IN RE: MARVALLOUS KEENE, OSP #A286-363

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

Date of Meeting: June 17, 2009

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

IN RE: Marvallous Keene, OSP #A286-363

SUBJECT: Death Sentence Clemency

CRIME, CONVICTION: Aggravated Murder with firearm and death penalty specifications (5 counts), Aggravated Burglary with firearm specification (1 count), Aggravated Robbery with firearm specification (3 counts), Aggravated Robbery (3 counts), Burglary (1 count), Attempt to Commit Aggravated Murder (2 counts), Kidnapping with firearm specification (1 count), and Kidnapping (1 count).

DATE, PLACE OF CRIME: December 24-26, 1992 in Montgomery County, Ohio

COUNTY: Montgomery

CASE NUMBER: 92CR3469

VICTIM: Joseph Wilkerson (Age 34)
Danita Gullette (Age 18)
Sarah Abraham (Age 38)
Wendy Cottrill (Age 16)
Marvin Washington (Age 18)

INDICTMENT: 1/29/1993: Count 1: Aggravated Burglary with firearm specification; Counts 2,5,8,9,11,13: Aggravated Robbery with firearm specification; Counts 3,4: Aggravated Murder with firearm specification and 6 death penalty specifications; Counts 6,10: Aggravated Murder with firearm specification and 2 death penalty specifications; Count 7: Burglary with firearm specification; Counts 12,14: Attempt to Commit Aggravated Murder with firearm specification; Counts 15,18: Kidnapping with firearm specification; Counts 16,17: Aggravated Murder with firearm specification and 4 death penalty specifications; Counts 19,20: Aggravated Murder with firearm specification and 3 death penalty specifications.

TRIAL: Found Guilty by Three (3) Judge Panel. Count 3 merged with Count 4, Count 16 merged with Count 17, and Count 19 merged with Count 20.

SENTENCE: 12/10/1993: Counts 4,6,10,17 and 20: Sentenced to DEATH; Count 1: 10-25 years; Counts 2,5,8,9,11,13: 10-25 years; Count 7: 8-15 years; Counts 12,14: 10-25 years; Counts 15,18: 10-25 years; all counts to be served consecutively and consecutive to 3 years actual for the firearm specifications in Counts 1,5,8,9 and 15.

ADMITTED TO INSTITUTION: December 15, 1993

JAIL TIME CREDIT: 5 days

TIME SERVED: 186 months

AGE AT ADMISSION: 20 years old

CURRENT AGE: 36 years old

DATE OF BIRTH: July 5, 1973

JUDGE: Honorable Robert M. Brown
Honorable Lee A. Bixler
Honorable Robert D. Nichols

PROSECUTING ATTORNEY: Mathias H. Heck, Jr.

ACCOMPLICE(S): Laura Taylor
Demarcus Smith
Heather Mathews

FOREWORD:

Clemency in the case of Marvallous Keene, OSP #A286-363 was initiated by the Ohio Parole Board, pursuant to Section 2967.03 and 2967.07 of the Ohio Revised Code and Parole Board Policy #105-PBD-01.

On May 19, 2009, Marvallous Keene declined an opportunity to be interviewed by the Parole Board at the Ohio State Penitentiary.

A Clemency Hearing was then held on June 17, 2009 with seven (7) members of the Ohio Parole Board participating. Mr. Keene was represented by Rachael Troutman and Kelly Schneider of the Ohio Public Defender's Office; however, at Mr. Keene's instruction, they made no presentation to the Board in his behalf. Arguments in opposition to clemency were presented by Montgomery County Assistant Prosecutor Carley J. Ingram and Assistant Attorney General Thomas Madden.

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

DETAILS OF THE INSTANT OFFENSE (B912206): The following account of the instant offense was obtained from the Ohio Supreme Court opinion, decided September 20, 1996:

“Marvallous Keene and three companions-Heather Mathews, Laura Taylor, and DeMarcus Smith-were arrested for their participation in the various crimes, the first of which occurred at the home of Joseph Wilkerson early on December 24, 1992. Keene, Mathews, and Taylor arrived at Wilkerson's home under the pretext of wanting to participate in an orgy. Once inside, Taylor lured Wilkerson into his bedroom and pretended to undress. Shortly thereafter, Mathews and Keene also entered the bedroom and pretended to undress.

Keene then pointed a gun at Wilkerson and ordered him onto the bed. Mathews and Taylor subsequently tied Wilkerson's hands to the bed and ransacked his home. The two females loaded several items, including a microwave oven and a television, into Wilkerson's red Buick. Keene later discovered a .32 caliber handgun in Wilkerson's garage. After finding the gun, he returned to the bedroom and shot Wilkerson, who had been covered with pillows. Upon hearing the single gunshot, Mathews and Taylor returned to the bedroom, where they saw Keene holding the handgun and standing next to Wilkerson's visibly shaking body. Taylor then shot Wilkerson a second time, and his body stopped moving.

The group subsequently left the house in Wilkerson's Buick. Keene and his friends drove to an apartment where they sometimes stayed at 159 Yuma Place in Dayton. Wendy Cottrill and Marvin Washington were present at the Yuma Place apartment and observed Keene and his companions unloading the items they stole from Wilkerson's house. DeMarcus Smith ultimately arrived at 159 Yuma Place as well.

Keene, Taylor, and Smith walked out of 159 Yuma Place later on Christmas Eve and saw Danita Gullette using a pay phone on Neal Avenue in Dayton. Keene and Smith approached Gullette and forced her to remove her red and black jacket and Fila tennis shoes. Keene and Smith then fatally shot Gullette and returned to 159 Yuma Place with Taylor. Mathews, who had remained at the house, noticed that Keene, Smith, and Taylor arrived out of breath. Additionally, she observed that Taylor was wearing a red and black plaid jacket and Smith was carrying a pair of Fila tennis shoes.

While at the apartment, Smith became embroiled in an argument with Mathews' old boyfriend, Jeffery Wright. The argument continued outside, where Smith shot and

wounded Wright. After the shooting, Keene, Smith, Taylor, and Mathews left 159 Yuma Place in the stolen red Buick. The group picked up another friend, Nicholas Woodson, and returned to Wilkerson's house, where Keene and Mathews then stole Wilkerson's Pontiac Grand Am from his garage. The five youths drove both vehicles back to 159 Yuma Place and later dropped Woodson off at another address.

The following day, December 25, 1992, Taylor asked former boyfriend Richmond Maddox to take her to a hotel. Taylor made the request as part of her plan for robbing Maddox. Taylor and Maddox subsequently left for the hotel followed by Keene, Smith, and Mathews. On the way to the hotel, however, Taylor shot Maddox in the head with a .32 caliber handgun and jumped from his car. Keene, Smith, Mathews, and Taylor then drove to an apartment complex parking lot later that evening and slept in Wilkerson's Grand Am. After several hours of sleep, Keene and his three companions proceeded to a Salem Avenue gas station before daylight on December 26, 1992. Smith, Mathews, and Taylor observed Kathie Henderson at the gas station's air pump filling her car's tires. Thereafter, Smith awakened Keene, and the two males exited their vehicle and stole Henderson's Dodge Shadow at gunpoint.

The group then left Wilkerson's Grand Am at a friend's house and drove the Dodge Shadow to a convenience store on West Fifth Street in Dayton. Taylor entered the store briefly, returned to the car, and reported that only two clerks were working. Keene and Smith subsequently entered the store armed with handguns. Keene shot clerk Sarah Abraham in the head after she handed him thirty dollars from the cash register. At the same time, Smith shot customer Jones Pettus in the abdomen and shot at, but missed, a second customer, Edward Thompson.

Following the robbery, Keene, Smith, Taylor, and Mathews drove to Nicholas Woodson's house and picked him up once again. While driving with Woodson, the group members discussed the possibility that Marvin Washington and Wendy Cottrill might report their crimes to the police. Consequently, Smith expressed his desire to "unload a clip in [Marvin's] ass," and Taylor and Mathews mentioned "jumping Wendy." As a result, Keene and his companions returned to 159 Yuma Place, where they picked up Washington and Cottrill.

Keene then drove his companions to Woodson's home, and Woodson exited the vehicle. As Keene continued on, Taylor whispered to Mathews that they were planning to kill Washington. Keene first took Washington and the others to a store, however, and Washington purchased beer and wine. Keene later announced that he had to use the bathroom and drove to a gravel pit. Shortly thereafter, Smith ordered Washington out of the car, and Keene pulled Cottrill out of the Dodge by her hair. At that point, Washington told Smith, "We didn't go to the police." Similarly, Cottrill said, "We didn't snitch. We didn't snitch." In response, Keene told Cottrill to "shut up, bitch," and he and Smith marched Cottrill and Washington behind a large dirt mound at gunpoint. Once out of sight, Keene shot and killed Cottrill, and Smith shot and killed Washington. The two males then took gold chains and a photograph from the victims.

Keene and the others ultimately returned to the house where they had left Wilkerson's Grand Am. While there, the group observed a police car behind the Grand Am on the other side of the house. Smith exited the Dodge after seeing the police car, and he fled the area on foot. Keene and his friends tried to leave the house, but police quickly stopped the Dodge and arrested Keene, Mathews, and Taylor. Police also apprehended Smith minutes later.

A grand jury subsequently returned a twenty-count indictment against Keene based upon his role in the foregoing incidents. Following the trial court's disposition of numerous motions, Keene waived his right to a jury, electing instead to be tried by a three-judge panel. The guilt phase of Keene's trial began on September 30, 1993, and concluded on October 12, 1993, when the panel found him guilty on all twenty counts. The court also found Keene guilty of several firearm specifications but, at the state's request, acquitted him of six capital-offense specifications. Additionally, prior to the penalty phase of Keene's trial, the trial court merged various duplicative counts and specifications.

The penalty phase of Keene's trial took place from October 25, 1993, until October 27, 1993. Following a mitigation hearing, the three-judge panel filed unanimous verdicts, finding beyond a reasonable doubt that the aggravating circumstances outweighed the mitigating factors for each of Keene's five aggravated murders. Consequently, the trial court imposed five death sentences as punishment. In addition, the trial court imposed eleven separate sentences of ten to twenty-five years each and one sentence of eight to fifteen years for Keene's other crimes. The court ordered these non-capital sentences served consecutively. The court also imposed five consecutive terms of three years' actual incarceration for Keene's firearm specification convictions."

PRIOR RECORD

Juvenile: Marvallous Keene has no known juvenile arrest record in Ohio. No further information is available.

Adult: Marvallous Keene has the following known adult arrest record:

<u>Date</u>	<u>Offense</u>	<u>Location</u>	<u>Disposition</u>
12/26/1992 (Age 19)	Aggravated Murder (5 cts.), Aggravated Robbery (6 cts.), Attempted Aggravated Murder (2 cts.), Kidnapping (2 cts.), Aggravated Burglary (1 ct.), Burglary (1 ct.) Case #92CR3469	Montgomery County, Ohio	INSTANT OFFENSE

Institutional Adjustment:

Marvallous Keene was admitted to the Department of Rehabilitation and Correction on December 15, 1993. His work assignments while incarcerated at the Mansfield Correctional Institution included food service worker and Porter. Since his transfer to the Ohio State Penitentiary, Keene's work assignment has been as a porter. Keene has been assigned to the Ohio State Penitentiary's extended privilege block since January 2006.

Since his admission, Marvallous Keene has never been placed in disciplinary control. He has received approximately two (2) conduct reports since he was admitted to the Department of Rehabilitation and Correction in 1993. In 1994, Keene was playing his radio too loud and in 2006, he was found to be in possession of minor contraband.

APPLICANT'S STATEMENT:

On May 19, 2009, Marvallous Keene declined an opportunity to be interviewed by the Parole Board at the Ohio State Penitentiary.

ARGUMENTS IN SUPPORT OF CLEMENCY:

Mr. Keene was represented by Rachael Troutman and Kelly Schneider of the Ohio Public Defender's Office; they met with him on June 3, 2009. At this meeting, Mr. Keene directed them not to present any evidence on his behalf at the parole board clemency hearing held on June 17, 2009. He does not wish to cause any additional pain to his family or to the victims' families.

ARGUMENTS IN OPPOSITION TO CLEMENCY:

Arguments in opposition to clemency were presented by Montgomery County Assistant Prosecutor Carley J. Ingram and Assistant Attorney General Thomas Madden. The State is opposed to the granting of Executive Clemency in this matter. They indicate that there is no doubt of his guilt; he confessed, an accomplice testified against him, and physical evidence tied him to the crimes. Furthermore there is no question as to the gravity of the offenses where he murdered five people in a bloody crime spree along with 3 other co-defendants, two of whom were juveniles. It is clear that Keene was the leader of this group and that he himself was the trigger man in 4 of the murders. A detailed and sequenced review of the instant offense was fully presented to the Board by the State and is summarized in the Details Section above.

Additional testimony was provided to the Board by Ohio Attorney General's Office indicating that Mr. Keene's case has been under judicial review for many years and that all courts have affirmed his conviction and that his sentence is warranted in this matter.

VICTIM'S REPRESENTATIVES:

Rhonda Gullette, the sister of victim Danita Gullette gave a verbal statement to the Board as to the impact that her sister's murder has had on her life and the life of her entire family. Many in her family suffered from enduring grief that led to chronic depression and social debilitation. Her sister had a two year old child at the time of her death and the loss of her mother cannot fully be expressed. Ms. Gullette also spoke about the bond between the other victim's families and attested to their grief as well. She further pointed out that justice needs to be served in the matter of Marvallous Keene.

Additionally, several family members were in attendance representing the following victims: Joseph Wilkerson, Sara Abraham, Wendy Cottrill, Marvin Washington and Richard Maddox.

PAROLE BOARD'S POSITION AND CONCLUSION:

Following careful examination of all available information in the case of Marvallous Keene, including a hearing conducted on June 17, 2009, the Parole Board has determined that a recommendation for clemency is **not** warranted. The magnitude of the offense, with 5 murdered victims, is an overwhelming aggravating factor. The Board views this as a worst form of an aggravated murder case. The 5 victims were killed in a cold and calculated manner. His guilt is not contested by the subject or by his representatives. Mitigation was not presented at the request of Mr. Keene. A sufficient basis for mercy cannot be found.

RECOMMENDATION:

On June 17, 2009, the Ohio Parole Board with seven (7) members participating, by a vote of seven (7) to zero (0), recommends to the Honorable Ted Strickland, Governor of the State of Ohio, that Executive Clemency be **denied** in the case of Marvallous Keene, #286363.

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

Ohio Parole Board Members
Voting **Unfavorable**



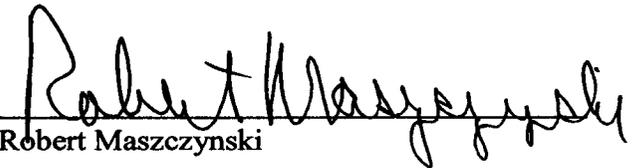
Cynthia Mausser, Chair



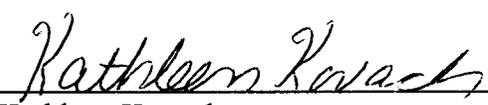
Jim Bedra



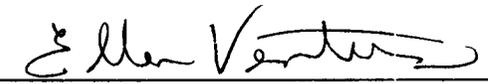
Sandra Mack, Ph.D.



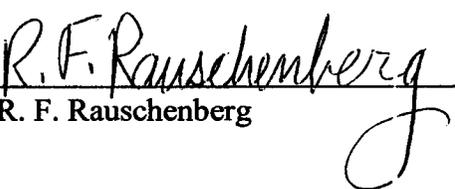
Robert Maszczyński



Kathleen Kovach



Ellen Venters



R. F. Rauschenberg