

DATE TYPED: February 08, 2017
DATE PUBLISHED: February 10, 2017

IN RE: GARY OTTE, CCI #A264-667

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

Date of Meeting: February 2, 2017

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: Gary Otte, CCI #A264-667

SUBJECT: Death Sentence Clemency

CRIMES, CONVICTIONS: Aggravated Murder, Aggravated Robbery, Aggravated Burglary¹

DATES, PLACE OF CRIME: February 12, 1992 and February 13, 1992 in Parma, Ohio

COUNTY: Cuyahoga

CASE NUMBER: CR279973

VICTIMS: Robert Wasikowski (age 61) – Deceased
Sharon Kostura (age 45) – Deceased

INDICTMENT: Count 1: Aggravated Murder with Capital Offense Specification
Count 2: Aggravated Murder with Capital Offense Specification
Count 3: Aggravated Burglary with Firearm Specification
Count 4: Kidnapping with Firearm Specification
Count 5: Aggravated Robbery with Firearm Specification
Count 6: Receiving Stolen Property
Count 7: Receiving Stolen Property
Count 8: Aggravated Murder with Capital Offense Specification
Count 9: Aggravated Murder with Capital Offense Specification
Count 10: Aggravated Robbery with Firearm Specification
Count 11: Kidnapping with Firearm Specification
Count 12: Aggravated Burglary with Firearm Specification

TRIAL: Found guilty by a three-judge panel of counts 1, 2, 3, 5, 8, 9, 10, 12

DATE OF SENTENCE: October 6, 1992

SENTENCE: Count 1: DEATH
Count 2: DEATH
Count 3: 3 year Gun + 10-25 years

¹ Otte was convicted of multiple counts of each offense.

Count 5: 3 year Gun + 10-25 years
Count 8: DEATH
Count 9: DEATH
Count 10: 3 year Gun + 10-25 years
Count 12: 3 year Gun + 10-25 years

Found not guilty of counts 4 and 11. Counts 6 and 7 were dismissed. All counts to be served consecutively.

ADMITTED TO INSTITUTION: November 2, 1992

JAIL TIME CREDIT: 256 days

TIME SERVED: 291 months (does not include jail time credit)

AGE AT ADMISSION: 20 years old

CURRENT AGE: 45 years old

DATE OF BIRTH: December 21, 1971

THREE-JUDGE PANEL: Honorable Richard McMonagle (Presiding)
Honorable Frank J. Gorman
Honorable Lesley Brooks Wells

PROSECUTING ATTORNEY: George Lonjak, Assistant Prosecuting Attorney

FOREWORD:

A clemency proceeding in the case of Gary Otte, A264-667, was 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 January 19, 2017, the Parole Board interviewed Otte, who appeared via videoconference from the Chillicothe Correctional Institution. A clemency hearing was held on February 2, 2017 with eleven (11) members of the Parole Board participating. Arguments in support of and in opposition to clemency were presented at that hearing.

The Parole Board considered all of the written submissions, arguments, and information disseminated by presenters at the hearing, as well as the judicial decisions. The Parole Board deliberated upon the propriety of clemency in this case. With eleven (11) members participating, the Board voted eleven (11) to zero (0) to provide an unfavorable recommendation for clemency to the Honorable John R. Kasich, Governor of the State of Ohio.

DETAILS OF THE INSTANT OFFENSE (CR279973):

The following account of the instant offense was obtained from the Ohio Supreme Court opinion, decided February 21, 1996:

On February 11, 1992, Otte stole his grandfather's red 1962 Chevrolet Impala and .22 revolver and left Terre Haute, Indiana. He also stole two credit cards belonging to his uncle and aunt. Otte arrived in Parma, Ohio, the next day and tried to use the stolen cards in local stores, but they were confiscated.

Otte next drove to see his friend Mike Carroll ("Carroll"). Carroll lived with his fiancée and Jerry "J.J." Cline ("J.J.") in the Pleasant Lake apartment complex in Parma.

After that Otte drove to Gypsy and Rob's, a Cleveland bar, where he found J.J. Otte asked J.J. "if he was still robbing people." J.J. said he planned to "hit" two people at Pleasant Lake. One was a woman in her thirties with a Visa gold card; she lived alone "one building over" from J.J. and Carroll. The other was "an old man that lives diagonally from [Carroll's] apartment that is a drunk and has lots of money."

That evening, Otte returned to Pleasant Lake alone. He went to Carroll's apartment, but nobody was home. He then knocked on the door of Mary Ann Campangna ("Campangna"), who lived next to Carroll and across the hall from Robert Wasikowski. Otte claimed his car had overheated, said he was looking for Carroll, and asked for oil. Campangna told him she didn't have any, and Otte left.

Otte saw Wasikowski drive into the parking lot and thought that "that was the man" J.J. had described. Otte came out and asked Wasikowski for some oil, telling him the same story about his car overheating. As they spoke, Otte noticed that Wasikowski had been drinking. Wasikowski drove Otte to a gas station to buy oil.

When they returned, Otte asked to use Wasikowski's phone; after some hesitation, Wasikowski agreed. Otte followed Wasikowski into his apartment. Looking through her peephole, Campangna found this "very strange," so she continued to watch Wasikowski's door. Six or seven minutes later, Campangna heard "a very loud crack, cracking sound."

Inside the apartment, Otte pretended to make a phone call, then "tried to stall for time." Finally, Wasikowski asked Otte to leave. Otte went to the door, opened it, then slammed it shut and drew a gun. Wasikowski offered Otte \$10 from his pocket. Otte pulled the trigger anyway, but the gun wouldn't fire. Wasikowski asked, "[I]t isn't loaded, is it [?]" Otte then fired the gun at Wasikowski's head. This time, it went off. Wasikowski fell to the floor, gasping and begging for help. Otte found this "the most horrible sight that I have ever seen"; nonetheless, he turned up the volume on the TV and went through Wasikowski's pants pocket, took out his wallet and took his cash, about \$413. Otte searched for more money, but found only some fifty-cent pieces in the bedroom. He

considered shooting himself, "but something told me not to," so he stole the fifty-cent pieces and left through the sliding glass patio door.

Otte then returned to Gypsy and Rob's, where he paid an \$80 debt, played pool, drank, and took drugs. At 2:30 a.m., he left the bar, but continued to "party" until 10:00 or 10:30 a.m., when he checked into a hotel and slept until 5:00 p.m.

When Wasikowski failed to report for work on February 13, his employer called the Parma police. An officer entered the apartment and found Wasikowski dead. Robert Challener, the chief deputy county coroner, later performed an autopsy. He found that Wasikowski died from a gunshot to the head fired from less than two feet away.

Meanwhile, Parma police investigated the murder. Capt. Joseph Bistricky ("Bistricky") interviewed Mary Ann Campagna, who described the man she had seen as "a white male, early 20's, six feet, thin to medium build, with blondish-brown hair, and a mustache." She suggested that Mike Carroll might know him.

Around 1:30 p.m., Bistricky interviewed Carroll, who said he knew the person Campagna had seen; his name was Gary, he was from Indiana, and he was driving his grandfather's car, a red 1962 Impala in good condition. Carroll's description of "Gary" matched Campagna's. Carroll promised to call police if he found out more about Gary's identity or location. Later that day Carroll told the police Gary would be at Gypsy and Rob's around 7:30 p.m.

On the evening of February 13, Otte went back to Pleasant Lake to rob Sharon Kostura. Otte knocked on her door; when she answered, he drew a .22 revolver and shoved his way in. He closed and locked the door. Kostura screamed and Otte shot her in the head. He stole about \$45 from her purse, took her car keys and checkbook, and left through the patio door. Police later found Otte's fingerprint on that door.

After dinner, Otte returned to Gypsy and Rob's. He left with Carroll, J.J., and someone known as "Buster." They "smoked dope" in the Impala, then visited someone called "Patty." After leaving Patty's house, Otte dropped off J.J. and Buster near the bar.

Otte then drove past several police officers near Gypsy and Rob's. Because Carroll had told Capt. Bistricky that Otte would be at the bar that night, the officers were waiting for Otte. They pulled him over and ordered him to shut off the engine and throw out the keys. Carroll told the officers, "The guns are in the trunk." Officers opened the trunk and found a .22 caliber revolver and a .25 caliber semi-automatic pistol. The officers began an inventory search of the car but because of bad weather and a gathering crowd, Bistricky ordered the car towed, and the search was completed at the police garage.

In the glove compartment, police found Kostura's checkbook, a set of Hyundai car keys, and a box of .22 caliber live shells. In the passenger compartment, they found ammunition for the .25 caliber gun and a pillow with a red stain. A detective documented the items found on an inventory form.

Because Kostura had not reported her checkbook stolen, officers went to her apartment, where they found her still alive. Kostura was taken to the hospital and lived eight days, until February 21. Dr. Challener found that the gunshot wound to her head killed her.

Det. John Bomba interrogated Otte within an hour of his arrest on February 13. Otte denied going to the Pleasant Lake Apartments on February 12 or 13. He claimed he had no idea how Kostura's checkbook got into the car and "never even saw the guns until the police said they were in the trunk."

On the afternoon of February 14, Det. Robert DeSimone interrogated Otte. Otte confessed to shooting and robbing Wasikowski and Kostura. On February 16, Otte signed a confession. On February 20, Otte asked to speak with DeSimone; he corrected part of his February 16 statement and answered questions.

Otte was indicted for aggravated murder as to each victim. He filed a motion to suppress his confession, but it was denied after a hearing. After waiving his right to a jury trial, Otte was tried and convicted by a three-judge panel. At the penalty phase, Otte presented Dr. Sandra McPherson, who testified about Otte's childhood troubles fitting in, his depression and early drug use, as well as his success within very structured environments. Otte's parents also gave testimony about their son's troubles growing up, and Otte himself gave an unsworn statement. After considering this mitigation evidence, the panel nonetheless imposed a death sentence.

PRIOR RECORD

The following information was obtained from the Post-Sentence Investigation completed on February 16, 1995 and the Law Enforcement Automated Data System (LEADS):

Juvenile Offenses:

According to the Post-Sentence Investigation, Otte self-reported being charged as a runaway in 1985 in Terre Haute, Indiana for which he was placed in a detention home.

Adult Offenses:

<u>Date</u>	<u>Offense</u>	<u>Location</u>	<u>Disposition</u>
09/23/90	Theft	Euclid, OH	30 days jail (28 days suspended), \$37 costs, \$250 fine, 1 year probation
2/12-2/13/92 (Age 20)	Aggravated Murder Aggravated Robbery Aggravated Burglary	Parma, OH	INSTANT OFFENSES

Institutional Adjustment:

Otte was admitted to the Ohio Department of Rehabilitation and Correction on November 2, 1992. His work assignments while incarcerated at the Southern Ohio Correctional Facility included that of a Porter. While incarcerated at the Mansfield Correctional Institution, Otte's work assignments included Artist, Material Handler 2, Laundry Attendant, Student, and Recreation Worker. While incarcerated at the Ohio State Penitentiary (OSP), Otte's work assignments included Food Cart Attendant and Student.

Presently, Otte is a Porter at the Chillicothe Correctional Institution. It is noted in the Institutional Summary Report (ISR) that Otte self-reported he participated in a Poetry Retreat and a movie program conducted through Mental Health Services while incarcerated at OSP. However, there is no documentation or certificates in his file to confirm that information.

According to the Post-Sentence Investigation, Otte attended high school in Terre Haute, Indiana through 1990 and completed the 11th grade, after which he was expelled due to absenteeism. The ISR reflects that Otte obtained his General Education Diploma (GED) on November 6, 2007 while incarcerated at OSP.

Since his admission, Otte has accumulated the following disciplinary record resulting in his being placed in disciplinary control or local control, as indicated below:

- 04/15/93: Encouraging or creating a disturbance. Otte broke the sink, toilet, and lighting in his cell. Otte was given a verbal reprimand and placed in local control for six months. He was also required to pay for the damage to the sink and toilet.
- 11/30/96: Fighting, with or without weapons, including instigation of, or perpetuating, fighting. Otte was in a physical altercation with another inmate. Both inmates complied with direct orders to stop fighting. Otte received 10 days in disciplinary control for this rule infraction.
- 02/12/10: Fighting, with or without weapons, including instigation of, or perpetuating, fighting. Otte was in a physical altercation with another inmate. Both inmates complied with direct orders to stop fighting. Otte received 10 days in disciplinary control for this rule infraction.

Otte has received the following conduct reports that did not result in placement in disciplinary control. Those rule infractions include:

- Encouraging or creating a disturbance and disobedience of a direct order in February 1993. Otte walked through a metal detector while he was in restraints. He was previously warned not to do so.

- Encouraging or creating a disturbance and destruction, alteration, or misuse of property in March 1993. Otte was in a verbal altercation with another inmate and threw coffee into the inmate's cell.
- Possession of contraband in May 1993. Otte was in possession of contraband while in local control status.
- Possession of contraband in August 1993. Otte was in possession of contraband while in local control status.
- Disobedience of a direct order in August 1995. Otte was given a direct order to return to his cell after recreation and refused to do so.
- Refusal to carry out work or other institutional assignments in June 2000. Otte did not clean the kitchen when he was supposed to do so.
- Possession of contraband in October 2000. Otte was in possession of six highlighter markers.
- Disrespect to an officer, staff member, visitor, or other inmate and dealing, conducting, facilitating, or participating in any transaction, occurring in whole or in part, within an institution, or involving an inmate, staff member or another for which payment of any kind is made, promised, or expected in May 2012. Otte kicked his door several times after stating to a commissary worker that he could not accept a box of crackers because they were damaged and due to the fact that he purchased the crackers for someone else. Otte told the employee that he was going to contact a lawyer and was "suing his ass."
- Disobedience of a direct order in July 2014. Otte had his cell door propped open after being given a direct order earlier in the day to shut it.

APPLICANT'S STATEMENT:

On January 19, 2017, members of the Ohio Parole Board conducted an interview with Otte via videoconference from the Chillicothe Correctional Institution.

The following individuals observed the interview via videoconference but did not participate: Keven Stanek, Assistant Chief Counsel, Office of Governor John Kasich; Brenda Leikala, Assistant Attorney General; Katherine Mullin, Assistant Attorney General; Joseph Wilhelm, Attorney for Otte; Vicki Werneke, Attorney for Otte; Lori Riga, Attorney for Otte; Alan Rossman, Federal Public Defender; Christopher Schroeder, Assistant Cuyahoga County Prosecuting Attorney; and Kristen Sobieski, Assistant Cuyahoga County Prosecuting Attorney.

Ohio Parole Board Chair Andre Imbrogno introduced himself and the other members of the Parole Board to Otte and then identified the individuals who were observing the interview but were not participating. He explained the purpose of the clemency interview to Otte and noted that Otte's clemency hearing was scheduled for February 2, 2017.

Chair Imbrogno asked Otte what he would like the Board to consider in determining whether to make a favorable or unfavorable recommendation for clemency in his case. Otte stated that he takes full responsibility for the crimes and humbly asks that his life be spared. Otte indicated that everything he was going to tell the Board is true. He asked the Board to hear his story and walk in his shoes.

Otte related that he was born in Terre Haute, Indiana, the oldest of five children in a close-knit family. When he was four, his parents converted to Mormonism, which was a major step for his parents and one that shaped his life dramatically in the years to follow.

According to Otte, his life was progressing well until he entered the first grade and became the victim of bullying. Otte could not understand why he was being singled out among his peers. As young as he was, he was clueless as to how to deal with the situation. By the second grade, what began with name calling progressed to physical abuse. His peers would push him and chase him home from school every day, Otte related.

His parents discouraged him from fighting and instructed him to run when confronted by his peers, Otte continued. His parents bought him running shoes for that purpose. He found ten different ways to run home from school, but running only fueled the bullying, Otte recounted. The bullying and chasing continued throughout elementary school. Though his teachers recognized the bullying, they were unsure how to respond and ultimately just assumed that Otte's peers would grow out of it. Over time, Otte continued, some of his teachers came to mistakenly believe that he was in fact the problem.

He would try to avoid the bullying and to befriend the bullies, Otte recounted. He became the class clown and would give his toys away in an attempt to curry favor.

One day he was chased home by a boy who was carrying nunchucks, Otte continued.² The boy knocked on Otte's door and asked Otte's father if he could fight Otte. His father agreed. Otte and the boy fought, and several of Otte's peers deemed Otte the winner. Not long thereafter, another boy showed up at his home and Otte's father again agreed that the boys should fight. The two boys fought for five to ten minutes, Otte related, and Otte was badly hurt. Black and blue all over, Otte, whose one safe haven was his home, no longer felt safe there.³ At the same time, his parents had lost their trust in him, Otte lamented.

Although Otte had hoped that junior high would mark a new beginning, many of his peers from elementary school moved on with him to junior high, and the bullying continued. While Otte explored becoming a part of several different peer groups, he felt that he did not quite fit in with any group. Part of the problem, Otte explained, was that he was raised in a very different environment than his peers. The religious atmosphere in his home contrasted sharply with the environment at school, and he struggled with the contradiction. This led to conflict at home, as he began to smoke cigarettes, to go out with friends, and to resent his strict curfew. In

² Nunchucks are martial arts fighting sticks.

³ According to Otte, his father initially encouraged him to run away from the bullies, but after realizing that this strategy was not working, his father later encouraged him to fight in the hope that adopting a confrontational approach would resolve the situation.

seventh grade, he found a girlfriend, but she broke up with him in response to negative peer pressure she was receiving for dating him. Otte described it as a very rough period.

Otte stated that by eighth grade he had twice attempted to commit suicide, once with Extra-Strength Tylenol and later by stabbing himself in the wrist with an ink pen. Although he was placed in counseling, his parents largely dismissed the suicide attempts as attention seeking. By tenth grade, Otte was running away from home and was labeled a habitual runaway, resulting in his placement at a boys' school outside Terre Haute. According to Otte, that placement was one of the better experiences of his childhood. He explained that the school provided discipline and structure that he welcomed, but he received no counseling there.

After approximately a year and a half at the boys' school, Otte returned to public school, at which point the bullying resumed. Otte began using drugs and alcohol, at first on the weekends, and then daily. He began using marijuana frequently in an attempt to escape the abuse he was experiencing.

By his senior year in high school, his parents had decided it was time for him to move out of their home and to become self-sufficient. After his parents set him up in an efficiency apartment, he began missing school and was eventually expelled just five credits short of graduation. At the same time, he lost his job and was unable to pay his rent, leaving him homeless until eventually he moved in with his grandfather, who allowed him to come and go as he pleased, resulting in Otte partying most days.

His parents later encouraged him to enter Job Corps, which took him to Cleveland. While participating in that program, Otte said that he experienced a lot of racism. Two and a half months into the program, he was found passed out in an elevator with his wrists slit, after which he was placed in a 45-day treatment program. After that program, he met a woman, they moved in together and became engaged but eventually broke up, Otte related.

At that point Otte became addicted to crack cocaine, which resulted in him losing everything and having to return to Terre Haute. He eventually returned to his grandfather's home when his grandfather agreed to take him back if he reenrolled in school and found a job. Because he was so much older than the other students, Otte struggled to fit back in at school. Meanwhile, his grandfather was threatening to throw him out of his home if he did not find a job. Otte began to contemplate suicide and was desperately craving crack, which he could not obtain in Terre Haute. Knowing that he could obtain crack in Cleveland, Otte stole his grandfather's automobile and gun. He said that his intention was to eventually use the gun to take his life.

Otte then drove to the Pleasant Lake Apartments in Parma, Ohio, where he intended to meet up with a friend who could help him obtain crack. At the apartment complex, Otte encountered Wasikowski, whom he asked to take him to a gas station to buy oil. When they arrived at the gas station, Otte had no money with which to purchase the oil so they returned to the apartment complex. Otte recounted that he then asked Wasikowski to use his phone.

Once inside Wasikowski's apartment, Otte pulled the gun and demanded all of Wasikowski's money. When Wasikowski moved toward him, Otte stated that he panicked and pulled the trigger. When the gun did not fire, Wasikowski made a comment to Otte about the gun not being loaded, at which time Otte again panicked and pulled the trigger. This time the gun fired.

Immediately after shooting Wasikowski, Otte stated that he was so distraught that he just sat in Wasikowski's living room contemplating suicide. Eventually, he took \$400 dollars from Wasikowski, left the apartment, purchased drugs, and proceeded to get high through the night and into the next day.

That next day, Otte continued, he was almost completely out of money. He returned to the apartment complex and approached Kostura's apartment. He presented himself to Kostura as a maintenance man and as she began to open the door, Otte pushed on it, startling her. Kostura screamed, which Otte stated caused him to panic and shoot her in the head. According to Otte, he was in Kostura's apartment only briefly and did not search the apartment for money or other valuables. He said he was unsure why he did not summon help for Kostura.

Otte related that he chose both victims completely randomly and that neither Cline nor any other acquaintance at the Pleasant Lake Apartments suggested Wasikowski and Kostura as targets for a robbery. Otte explained that he implicated his acquaintances from the apartment complex in initial interviews with police because he was angry at them for, as he saw it at the time, setting him up and assisting in his apprehension.

Otte stated that he never wanted to be tried by a three-judge panel and that his father was encouraging him to opt for jury trial. However, because he was taking a drug that made him very passive, he followed his attorneys' advice and accepted the three-judge panel in lieu of a jury. With a jury trial, Otte lamented, he would have at least had the opportunity to convince one juror—and he only needed to convince one—that his life was worth sparing.

Otte noted that he is also disappointed that that he did not have the opportunity to present to a jury the story of how he was bullied and how it affected him psychologically. Ultimately, Otte continued, his attorneys believed that his case was unwinnable, and that attitude was reflected in their effort. Still, he does not blame anyone but himself for his current situation. Otte stated that the mitigation present in his case, including the bullying, does not justify what he did.

Otte indicated that he obtained his GED since coming to prison and although there are few programs offered on death row, he has participated in those that were available, including a poetry class and a movie discussion group. Those classes allowed him to form bonds with the other inmates who participated and taught him that different people have different views. Otte observed that other people's opinions should be respected even when they differ from your own.

Today, Otte stated, he is an entirely different person who genuinely cares about people. At one time, he allowed others, including his bullies, to define who he was, but no longer. Today, he loves who he is, and achieving that sense of self-worth has been a huge step for him along with reclaiming a religious faith that he lost in the years leading up to the murders. In short, he has not been idle and has been continually working on becoming a better person. Otte urged that although he is not perfect, he is a better person today than when he came to prison. He claimed that he is dedicating his life to that journey of self-improvement and to helping others.

According to Otte, if his life is spared, he wants to spend the remainder of it teaching others about bullying and its negative effects. Otte believes that what he has to say could be instructive

for both victims of bullying and those who engage in it. He feels strongly that he has a unique perspective that could help those who are currently suffering the negative effects of bullying.

According to Otte, he thinks about the victims of his crimes often and carries the victims with him. He added that it causes him tremendous pain to think about how he negatively affected the lives of the victims' family members.

Otte further indicated that he has a number of individuals in the community who support him, including his mother, father, and siblings. In addition, he is very close to his aunts and uncles, as well as a cousin. Otte also cited a spiritual advisor and several pen pals as key support systems in the community.

Otte stated that he could make a smooth transition from death row to general population were his sentence to be commuted. Although he acknowledges that his history of being bullied might pose some challenges for him in general population, which is less structured than death row, he believes that he can successfully make the transition.

As the interview concluded, Otte acknowledged that he was, at one time, a person who would lie and manipulate to serve his own ends, but stressed that he is an entirely different person today than when he first came to prison. Had he not changed, he would agree that his life was not worth sparing, however he stressed that he has become a better person since coming to prison. Otte added that he has dedicated a lot of time to personal growth, and he has friends and family who can testify to the progress he has made.

In terms of the specific form of clemency he is seeking, Otte indicated that while he would welcome the opportunity to one day be released, what he is ultimately requesting is that his life be spared. Otte reiterated that if his life is spared, he wants to educate others about bullying and to share his life experiences for the insights they provide on important social issues like race relations and education. Otte also indicated that, if his sentence is commuted, he would pursue the additional education and programming opportunities that would be available to him in general population.

Otte stated that he came to the interview with an open heart, again asked that the Board walk in his shoes, and thanked the Board for talking to him. Thereafter, Chair Imbrogno thanked Otte for participating and concluded the interview.

ARGUMENTS IN SUPPORT OF CLEMENCY:

At the hearing held on February 2, 2017, Otte's attorneys, Vicki Werneke and Joseph Wilhelm, presented arguments in support of clemency supplementing the written application previously submitted to the Board. According to Otte's attorneys, clemency is warranted because Otte endured a difficult childhood during which he was repeatedly bullied; his ongoing quest to find an accepting peer group and to dull the pain of his social alienation led him to become involved with, and ultimately addicted to, drugs and alcohol; his addiction and depression led him to kill Wasikowski and Kostura; and Otte's trial attorneys failed to fully and effectively present all of that information as mitigation evidence at trial.

Otte's attorneys also argued that even though Otte had wanted a jury trial, his attorneys compelled him to waive the jury in favor of a three-judge panel; that at the time of the waiver, Otte did not have the mental capacity to understand that decision and its implications; and that waiving a jury trial unfairly deprived Otte of the opportunity to have a jury hear and consider mitigation evidence that may have convinced one or more jurors to spare his life. Otte's attorneys also argued that, if granted clemency in the form of life without the possibility of parole, Otte will make a successful transition to general population. Lastly, Otte's attorneys argued that life without parole is a just punishment in Otte's case.

Otte Was Bullied and Socially Alienated During Childhood

Otte's parents, Jerry and Nancy Otte, expressed sympathy to the victims' families and conveyed their sorrow for their losses. They recognized that their son needs to be punished and asked that the punishment take the form of life in prison.

Nancy Otte noted that from a young age, Otte suffered from chronic ear problems that made him clumsy and physically awkward. She described Otte's love for animals and the numerous pets for which he cared during his childhood. According to Otte's mother, his social difficulties began in kindergarten. Because Otte was taller than the rest of the children, he was routinely singled out and treated as being older than he was. Even at that young age, he did not fit in socially and was bullied.

She continued that the bullying only intensified as Otte grew older. Her son was targeted for abuse and routinely chased home from school by the other children. His peers would play pranks on him and he was subjected to abuse even in church, where another child once put gum in his hair. Even the elementary school principal bullied her son by blaming him for trouble that he did not cause, Otte's mother described. From a young age, her son was set up as a "scapegoat," she stated.

Still, Otte longed to be accepted and would give away his toys in an attempt to win favor with the other kids, Nancy Otte described. As he grew older, the need for acceptance drove him to associate with a group of troubled teenagers who abused drugs and alcohol. Her son was eventually placed at an Indianapolis treatment center and later at the Gibault School for boys. Ultimately, Otte was expelled from high school just two months before graduation. He joined the Job Corps in Cleveland but was dismissed due to drug use. After a brief relationship with a young woman in Cleveland, Otte returned home, his mother explained.

Otte's mother did not understand her son's drug addiction and was at a loss as to how to help him when he returned home from Cleveland. Eventually, his lying, stealing, and substance abuse compelled her to remove Otte from the family home for the good of his younger siblings. Thereafter, he moved in with his grandfather who was relatively tolerant of Otte's substance use. He was there for a few months and then returned to Cleveland where he committed the crimes, Nancy Otte related. She was shocked to learn of the murders and became distraught upon hearing the news. Otte had always been a soft-hearted and sensitive child, she recalled.

According to Otte's mother, in the months leading up to Otte's trial, she worked extensively with Otte's mitigation specialist, Patricia Snyder. At the time, she did not even know what

mitigation meant, she noted. Still, she assisted Snyder in assembling family, church members, and teachers who could testify on her son's behalf.

Nancy Otte recalled attending the guilt phase of Otte's trial and noticing that her son appeared numb and emotionless. He appeared to be medicated, she described. She further recalled returning with her husband for the mitigation phase of the trial, thinking that the trial was still in the guilt phase. Otte's mother stated that one of her son's trial attorneys, Granville Bradley, met with her and her husband just 15 minutes before the start of the mitigation phase, at which time she and her husband learned for the first time that they would be testifying that day.

According to Nancy Otte, during that 15-minute conversation with Bradley she told him about the mitigation evidence that Snyder had been gathering, to which Bradley responded that he wished he had known about it. Otte's mother further indicated that during that conversation with Bradley, Bradley told them that he and Otte's lead counsel, Patrick D'Angelo, had convinced Otte to opt for a three-judge panel because it would be better for his case. Nancy Otte stated that she never talked to D'Angelo prior to testifying that day. She observed that her son's trial was very short and involved just one day for the guilt phase and one day for the mitigation phase.

Nancy Otte stated that she loves her son very much and has been keeping in touch with him throughout his incarceration. She stated that she is amazed by her son's growth, noting that he has regained a strong religious faith. She further indicated that if her son's sentence is commuted, she will continue to provide him with emotional and financial support. She and her husband would help their son adjust to general population, Nancy Otte promised. Her son's execution would devastate her family and leave a terrible void, Otte's mother stressed.

Jerry Otte then described how his son was big for his age and had ear problems that caused him to fall frequently. Despite his size, Otte was passive and would be chased by boys half his age. His son had low self-esteem and it was very hard for him to fit in socially. Otte was constantly searching for peer approval to the point that, in addition to giving away his own things, he was stealing other things and giving them away. That behavior did help him latch onto a peer group, Jerry Otte continued, but it was a negative one.

According to Jerry Otte, he and his wife attempted a number of different approaches with their son, including "tough love," but nothing seemed to work. Fundamentally, they did not understand addiction and could not relate to their son's situation. Like his wife, Jerry Otte was stunned to learn that his son had been charged with two murders. He recounted that his wife had fainted upon learning the news. At first, Otte's father believed that his son was innocent. To this day, it is hard for him to believe that his son took two lives, although he has come to accept that fact.

Otte's father described Otte's trial attorneys as a "joke." It was only upon arriving in Cleveland on the date of the mitigation phase of the trial that he learned that the guilt phase of his son's trial had concluded and that he would be testifying that day as a mitigation witness on his son's behalf. Like his wife, he did not even understand what mitigation meant, Jerry Otte explained. At the trial, his son stared straight ahead, expressionless. He stated that he and his wife were unable to meet with their son that day. He described the trial as a "travesty" and insisted that his son, who never received the jury trial he wanted, was denied his day in court.

Otte's father urged the Board to recommend that his son remain in prison for the rest of his natural life and argued that this would be punishment enough for the crimes he committed. Like Otte's mother, his father urged that they would continue to support his son were his sentence commuted and would ensure that he receives financial support even after he and his wife are gone. Jerry Otte indicated that he is sorry for the loss suffered by the victims' families and understands their anger. He concluded by stressing that Otte's execution will devastate his family and have a lasting negative impact upon it. He urged the Board to recommend that the Governor spare his son's life.

Cheryl Robinson, Otte's sister, stated that she was very close to her brother growing up. She considered Otte her best friend, and they were always together as children and looked out for one another. According to Robinson, her brother was a kind-hearted, sensitive child. Robinson and Otte walked to school together on most days during which she repeatedly witnessed her brother being bullied. The other children ridiculed her brother for many things, including the fact that he seemed a little slower than the other children, had a slight speech disorder, and was clumsy. Although the other children also made fun of her, unlike her brother she did not take it to heart. She observed that the fact that her brother was so obviously bothered by the ridicule seemed to encourage it.

Their parents had Otte participate in a wide-range of activities, including basketball and Boy Scouts, and the bullying followed Otte everywhere, Robinson continued. She related that no one, not even school officials, took the harassment seriously, and she lamented that it would not be allowed today.

Robinson recalled that Otte would tell her how badly he wanted to be popular, but when he was finally accepted by a peer group, it was a negative one that led him into drugs and alcohol. Otte started staying out late and her parents became very worried about him. According to Robinson, her parents never gave up on her brother, and were always searching for ways to help him. Robinson remembered that even after he became involved with drugs and alcohol, Otte remained very protective of her.

Robinson is surprised that her brother committed the crimes he did. The only other sibling who has had legal trouble is her younger brother, who she indicated is incarcerated for domestic violence. Robinson explained that like Otte, that brother was also bullied as a child and has been involved with drugs. He was bullied for his excessive weight and, like her, was bullied for being one of Otte's siblings, Robinson noted.

She explained that visiting her brother at the Southern Ohio Correctional Facility after he was committed to prison and seeing him shackled gave her nightmares. Robinson stated that her brother has conveyed to her his remorse for the crimes and for burdening her life with them. She urged that executing her brother will be very devastating for her family, particularly her parents. If her brother's sentence is commuted, she will continue to write him and support him, she added. Robinson indicated that she has seen considerable positive growth in her brother since being committed to prison. She asked the Board to recommend that her brother's life be spared.

Bob Brenton, Otte's uncle, said that Otte was a sweet child growing up who wanted friends but had none and was frequently bullied. According to Brenton, Otte's father urged the school system to address the bullying, but to no avail. Brenton said that Otte turned the effects of the bullying inward, seeking acceptance with a group that used drugs and alcohol and then using those substances to escape his own depression. Brenton recalled being shocked to learn of the murders because he knew his nephew to be passive, non-violent, and generally good-natured.

Brenton stated that Otte's execution would make him very sad and that he would miss his nephew very much. Brenton promised that he will support Otte with emails, phone calls, and visits if his sentence is commuted. He urged that the State of Ohio can continue to protect its citizens from any threat it thinks his nephew poses by continuing to incarcerate him throughout his natural life. Brenton insisted that Otte is not the same person he was when he came to prison, and Brenton concluded by noting that his nephew's execution will cause his family terrible heartache.

Otte's attorneys played a videotaped statement from Otte's brother, Brent Otte, who noted that he was 12 years old when Otte committed the crimes. He described Otte as a loving brother who taught him how to play basketball. Brent Otte looked up to his brother as the oldest sibling, and stated that Otte remains very much loved by his family.

Brent Otte suggested that his brother was young, naïve, and negatively influenced by the people he was associating with as well as the substances he was abusing, but today, his brother is not the same person he was. Brent Otte described his brother as a beautiful person who has done much good for many people. He urged the Board to look beyond the crimes and the person his brother was when he committed them, and to focus instead on the person that Otte is today as well as how his brother's execution would negatively affect the Otte family. Brent Otte urged that commutation of his brother's sentence to life without the possibility of parole would give his brother an opportunity to continue to improve himself and help others. He concluded that Otte's execution would only compound the tragedy that has already occurred.

Otte's aunt, Margaret Douglas, recalled the night that her family learned of Otte's crimes. She further recalled attending the trial with Otte's mother and later visiting Otte in prison. She lamented that her nephew will never get married, have a family, or enjoy the other privileges of freedom. She observed that Otte's addiction to drugs and alcohol cost him those privileges. According to Douglas, the Otte family hates what he has done and the pain he has caused, yet they still love him. She added that Otte's execution will be very hard on the family, particularly his mother. Douglas concluded that the man Otte has become since coming to prison is very different from the man he was when he committed the crimes.

Sharon Joslin was Otte's teacher in the second and fifth grades. She described the student body at that time as very diverse with a significant percentage of the children coming from impoverished households. She said those children looked to the school for the support they were not receiving at home, and there were some with severe behavioral problems in the system at that time. She recalled that some of the other children in Otte's grade level who were his classmates throughout elementary school were particularly difficult to control, with severe behavioral problems and learning deficiencies.

Joslin remembers Otte himself as a well-behaved, sweet child. After finishing the fifth grade, Otte left Joslin a note telling her that she was a wonderful teacher. She related that he had a big heart. Joslin described the difficulty that Otte had fitting in at school, noting that he was gangly and awkward and looked bewildered much of the time. Joslin recalled Otte bringing things from home into school and giving them away in an attempt to win friends. She also recalled that there was one particularly problematic boy in Otte's class who gave Otte considerable trouble and who appeared to orchestrate the other kids' harassment of Otte.

Joslin subsequently taught Otte's younger siblings, which kept her in contact with the Otte family and informed of Otte's situation. She knew that he was having a number of problems, including depression. After Otte committed the murders, Joslin stated that she was prepared to travel to Cleveland to testify on Otte's behalf in the mitigation phase of his trial, but nothing came of it. She became very upset upon learning that he had been sentenced to death.

In 2006, Joslin began corresponding with Otte and they have exchanged many letters since. She urged that he is a different person today who has had much time for reflection, which is reflected in the maturity and understanding he communicates in his letters. She added that Otte accepts what he did and is at peace. Joslin described Otte as a beautiful person who loves everyone. She stressed that there is nothing to be gained by executing him, and that it would only cause his family great pain.

Julia Bonham, another of Otte's elementary school teachers, noted that she taught Otte in the fourth grade, which was comprised of the same group of students Joslin taught two years earlier as second graders. Like Joslin, Bonham found that particular group to be quite difficult to manage. Bonham observed that most of the children did not receive the kind of love and guidance that Otte's family was providing to him, and there was much anger in those children, which bewildered Otte.

Like Joslin, Bonham described Otte as passive and quiet, with difficulties making friends. She was later surprised to learn that Otte was using drugs and alcohol because he was a well-behaved student. Bonham suggested that in the end, Otte became involved with drugs and alcohol in an attempt to belong somewhere, and that led him to where he is today.

Bonham too thought that she would be traveling to Cleveland to testify on Otte's behalf and was surprised when that never came to fruition. She stressed that she was ready and willing to assist in Otte's defense.

Bonham stated that she has been corresponding with Otte during his incarceration, and that in that correspondence, he has taken responsibility for the crimes and offered no excuses. Through that correspondence, she said that she has seen Otte mature and come to grips with what he has done. Bonham asked that the Board recommend clemency for Otte.

Merrill Godfrey, one of Otte's childhood friends, stated that he grew up with Otte and knew him between the ages of six and 13. They attended church, Boy Scouts, and youth programs together. Godfrey was part of a group with which Otte tried, unsuccessfully, to fit in. According to Godfrey, Otte was singled out by the other children and harassed to a degree he had never witnessed before or since. Godfrey described Otte as socially awkward, mentally

slower than other kids, and sometimes unhygienic, all of which their peers ridiculed. Godfrey added that even adult Scout leaders would make fun of Otte.

Godfrey said that despite the harassment, Otte always tried hard and always showed up for church, Scout service projects, regular camping trips, and other events. Godfrey recalled that Otte was never unkind to anyone, yet no one ever stood up for him. Godfrey lamented that not only did he fail to support Otte, but he too sometimes joined in the harassment. Godfrey stressed that Otte deserved some positive feedback as a child but never received it. Godfrey further stated that he is not surprised that Otte fell in with a bad crowd because Otte was always a follower.

Godfrey apologized for failing Otte. He asked the Board to consider that from a young age, Otte had serious handicaps that made him stand out as different and that Otte made consistent and profound efforts to overcome those handicaps. Godfrey urged that, ultimately, Otte was never given any path to success and others, including himself, bear some responsibility for that reality.

Katherine Hoffman, a former youth counselor who coordinated social services for Otte, described an organization with which she worked in the late-1980s called Chances for Youth. Funded exclusively through grants, it acted as a referral site for children and families dealing with substance abuse and other problems. Hoffman recalled receiving a call telling her that a young man was sleeping in a car. When she went to investigate, she recognized Otte as a former basketball teammate of her son. Otte had just been released from the Gibault School and had been through a halfway house setting during which he continued to attend high school. She explained that funding for that program was capped on a per-child basis, and once Otte reached that cap, he was discharged. Hoffman opined that had he been able to stay at Gibault, his outcome might have been very different. She observed that he was quite functional in structured environments.

Hoffman assisted Otte, who was 15 or 16 years old at the time, as best she could, taking him shopping for clothes that he could wear to school. According to Hoffman, Otte was a gentle, caring, and polite boy who was thankful for the clothing she purchased for him and who clearly needed someone to show him love. She remembered that Otte eventually obtained a part-time job and appeared to be functioning fairly well. Hoffman knew that Otte eventually left the state and was quite surprised to learn that he had committed murder.

According to Hoffman, Otte clearly had educational, mental health, and other special needs that were addressed by neither the school system nor social service agencies. To this day, Hoffman finds herself constantly worrying about Otte. She urged that Otte is a fundamentally good human being who tried as best he could, and she concluded that his life is worth saving.

Wilhelm summarized that the incessant bullying and social isolation that Otte experienced during his childhood manifested itself in depression and multiple suicide attempts. Wilhelm stated that Otte turned to drugs and alcohol to gain social acceptance and to self-medicate his depression, and he suggested that although Otte did receive some substance abuse treatment as a youth, his co-occurring depression was not addressed, which left him vulnerable to regression following his discharge from the Gibault School. Wilhelm argued that by the time Otte

committed the murders, he was suffering from the physiological effects of his drug and alcohol dependence, as well as his depression, which contributed to his commission of the crimes.

Wilhelm suggested that despite the tragic nature of the crimes and the out-of-control addict that Otte was at the time he committed them, Otte has always had a remorse deep inside him. Wilhelm recounted that after shooting Wasikowski, Otte sat in Wasikowski's apartment contemplating suicide and also covered Wasikowski's face, which suggests horror at, and remorse for, what he had done.

Mitigation Evidence Uncovered Prior to Trial Was Not Fully and Effectively Utilized by Otte's Trial Attorneys

Patricia Snyder, a mitigation specialist who is a licensed attorney and social worker, stated that she was brought into Otte's case in March 1992 to gather information for the mitigation phase of his trial. She described Otte as very cooperative during her investigation and very appreciative of her efforts. According to Snyder, she visited Otte in the county jail approximately a dozen times.

In addition to spending time with Otte, Snyder spent several days in Terre Haute interviewing Otte's family members and teachers. While in Indiana, Snyder visited the Gibault School, gathered records, identified a number of people who could testify to the difficulties and harassment that Otte experienced growing up: his ear problems, which caused him to fall frequently, sometimes hitting his head; his learning deficiencies; the number of peers in his classes who had behavioral and emotional problems; and the absence of suitable mentors during adolescence, who are critical to a person's long-term success into adulthood.

Snyder stated that she passed that and other information along to Otte's attorney, D'Angelo. Though D'Angelo, as lead trial counsel, was Snyder's primary point of contact, she described having minimal contact with him in the months leading up to the trial. She stated that most of the contact she had with D'Angelo was over the telephone. Snyder further indicated that D'Angelo was having little contact with Otte in the months preceding the trial. According to Snyder, D'Angelo visited Otte only a couple of times, and Otte was frustrated by the lack of contact with his trial attorneys.

Snyder stated that in the weeks leading up to the trial, she became ill and was hospitalized. Prior to becoming ill, however, she had the opportunity to share the identities of relevant mitigation witnesses with Sandra McPherson, the forensic psychologist who testified for the defense during the mitigation phase of the trial. Snyder acknowledged that McPherson's testimony covered much of the mitigation that was available, including the chronic problems Otte experienced with his ears and his history of substance use. However, in Snyder's opinion, it would have been much more impactful if that information was communicated to the court by live witnesses—family members or classmates, for example—who actually witnessed what Otte experienced and how it affected him. Snyder stated that before she became ill she and McPherson had discussed the importance of having those kinds of witnesses come to the trial to testify. Ultimately, however, Otte's attorneys chose not to bring those live witnesses in to testify, Snyder noted.

Snyder related that D'Angelo never contacted her during her illness, and that had she not become ill, she would have spent additional time with the mitigation witnesses. She opined that knowing what she does about Otte's case, she believes that the mitigation that was available was quite significant. Unlike other cases in which she has been involved, Snyder stated that Otte's case was replete with potential witnesses who cared about the defendant as well as an abundance of records detailing his background. She further stated that she has been involved in cases with far worse aggravating facts that did not result in a death sentence.

Wilhelm then added that had it not been for Snyder's illness, she could have facilitated the appearance at trial of the additional mitigation witnesses she discussed with McPherson. Wilhelm also identified Otte's diminished mental capacity, brought on by the large amount of drugs and alcohol he consumed, as additional mitigation evidence that could have potentially been offered at trial. Wilhelm argued that although that diminished capacity would not have been a legal defense to the crimes, it could have been offered at trial to explain how Otte's perceptions at the time of the crime were distorted by drug-induced paranoia and how he was prone to impulsivity while under the influence. The paranoia, he argued, could help to explain why Kostura's scream so alarmed Otte. Wilhelm urged that Otte's diminished capacity was much more than a "lost weekend," as Bradley had characterized it at trial.

The Mitigation Evidence Available in Otte's Case Could Have Been Impactful to a Jury

Wilhelm argued that Otte was unfairly denied the opportunity to have a jury hear and consider the mitigation evidence that was available in his defense. According to Wilhelm, had Otte's trial attorneys not convinced Otte to waive his right to a jury trial, and had a jury heard the mitigation evidence that Snyder uncovered from Otte's family and friends, at least one juror could have been convinced that Otte's life was worth sparing.

Although McPherson covered some of the mitigation evidence in the bench trial, Wilhelm argued that trial counsel's failure to put on the live witnesses identified by Snyder removed the human element from that evidence. Moreover, he argued that the mitigation evidence would have been far more impressive to a jury than to a three-judge panel. He argued that Otte's case was, from the start, a case that was all about mitigation, as there was little question as to guilt or innocence. That fact, he continued, made the decision to waive a jury all that more suspect. Wilhelm contended that although Otte's crimes cannot be excused, it is possible to make sense of the crimes from a mitigation standpoint, and trial counsel failed to capitalize upon that opportunity.

Wilhelm argued that Otte's trial counsel instead chose not to fight for him. Wilhelm speculated that the decision to waive the jury trial was driven by economics, noting that once defense counsel reaches the maximum cap on their attorney fees in these cases, there is an incentive to opt for the less time-consuming trial by three-judge panel.

Wilhelm also argued that the fairness of Otte's jury waiver is further called into question by the fact that, at the time, Otte was being prescribed Mellaril, an antipsychotic drug, by a doctor employed by the jail in which he was being held. According to Wilhelm, the dosages being given to Otte were increasing in the period leading up to his waiver and causing hallucinations. Wilhelm stated that Mellaril, which was being prescribed to Otte to help him sleep, is not even indicated for insomnia. One of the drug's effects, Wilhelm continued, is to block dopamine in

various parts of the brain, including the frontal lobe, resulting in diminished attentiveness, motivation, and mental focus. Wilhelm argued that given the effects of the Mellaril on Otte's concentration, his relative inexperience with the criminal justice system, and the self-defeating mentality potentially brought on by his depression, Otte was in no condition to fully understand the consequences of his waiver. Wilhelm urged that it was thus unfair to ask Otte to waive his right to a jury trial under those circumstances.

Wilhelm stressed that he was not arguing to the Board that trial counsel was ineffective or the jury waiver was defective *as matters of law*. Instead, he was arguing that trial counsel's deficiencies and the suspect waiver raise questions of basic fairness that are squarely within the purview of clemency even when relief is not forthcoming under the strict legal standards applied in court.

Otte Will Make a Successful Transition to General Population

Werneke noted that Otte's family cares about him deeply and supports him. She stated that Otte has been rehabilitated since coming to prison, noting that he has obtained a GED and participated in a poetry class and a movie discussion group. In addition, Otte attends church services regularly, and his spiritual advisors have observed considerable growth in him. Werneke noted that while on death row, Otte has received few write-ups and has generally exhibited a calm and respectful demeanor. According to Werneke, Otte's positive institutional adjustment and growth since coming to prison bode well for his eventual transfer to general population were his sentence to be commuted.

Wilhelm further indicated that a recent evaluation of Otte obtained from Dr. Craig Haney, a psychologist, concluded that Otte is presently a mature, thoughtful, and spiritual person of good character. Wilhelm stressed that Otte is a far more mature person than when he first came to prison. Otte realizes that his crimes have affected the family members of the victims beyond imagination, and he feels great remorse. He realizes, too, that his negative actions have adversely affected his own friends and family. Wilhelm suggested that Otte would serve a life sentence peacefully and productively.

Life Without the Possibility of Parole Is a Just Punishment in Otte's Case

Wilhelm conceded that Otte's crimes are inexcusable but argued that granting clemency in Otte's case would not be tantamount to excusing those crimes. Instead, Wilhelm suggested that life without the possibility of parole is a stern punishment befitting the crimes.

Werneke explained that life without the possibility of parole was not an available sentencing option at the time of Otte's trial. Following the codification of life without parole as a sentencing option, the number of death sentences imposed in Ohio has declined, which she suggested reflects the widespread recognition of life without parole as an acceptable alternative to a death sentence.

Otte's attorneys concluded their presentation by asking that the Board grant Otte's request that his sentence be commuted to life without the possibility of parole.

ARGUMENTS IN OPPOSITION TO CLEMENCY:

Christopher Schroeder, Cuyahoga County Assistant Prosecuting Attorney, presented arguments in opposition to clemency.

Schroeder began by describing Otte's actions in the days leading up to the crime and the crimes themselves. Schroeder stated that on February 11, 1992, Otte stole his grandfather's .22 caliber revolver and his automobile, and he also stole two credit cards from his aunt and uncle. After attempting without success to use the credit cards at a shopping mall, Otte made his way to the Pleasant Lake Apartments, where Carroll lived. Schroeder noted that Otte had previously met Carroll and Cline in November 1991. After finding no one at Carroll's apartment, Otte went to a Cleveland bar, Gypsy and Rob's, where he ran into Cline, who described to Otte two potential robbery victims at the Pleasant Lake Apartments.

Otte returned to the apartment complex, Schroeder continued, and knocked on the door of Mary Ann Campagna. He asked Campagna if she had any motor oil, she told him she did not, and Otte left. Thereafter, Otte encountered Kenneth Cunningham in the parking lot and asked Cunningham whether he knew someone with a "ski" in his last name. Cunningham could not clearly recall the precise pronunciation of the name Otte used, but Cunningham recalled it having a "ski" in it.

Later, Schroeder continued, Otte saw Wasikowski arriving home and asked him whether he had any motor oil. Wasikowski drove Otte to a gas station to purchase oil. After they returned to the apartment complex, Otte asked to use Wasikowski's phone. Once inside Wasikowski's apartment, Otte pretended to make some phone calls. After Wasikowski asked Otte to leave, Otte pulled a gun on him. Wasikowski offered Otte \$10 and then Otte pulled the trigger. The gun misfired and Wasikowski indicated to Otte that he did not believe that the gun was loaded. Otte fired again from less than two feet away, and this time the gun fired.

Schroeder then described how Otte turned up the volume on Wasikowski's television so he did not have to listen to Wasikowski's pleas for help. Otte took \$413 in cash from Wasikowski's wallet and then ransacked the apartment looking for more. Eventually, after approximately half an hour, Otte exited the apartment through a sliding door. Schroeder added that Wasikowski may have lived for several hours thereafter.

Schroeder related that Otte then returned to Gypsy and Rob's where he drank and played pool. Otte then made three different trips to a drug house, where he obtained a second gun, a .25, Schroeder described. Otte later checked into a motel at approximately 10 a.m. on the morning after he killed Wasikowski and slept until approximately 5 p.m., at which time he awoke, showered, and made his way back to the Pleasant Lake Apartments to find the other potential victim that Cline had described.

Schroeder explained that as Otte slept, police had already discovered Wasikowski's body and had been led by witnesses to Carroll, who arranged with police to have Otte meet him that evening at Gypsy and Rob's. Before making his way to Gypsy and Rob's, Otte stopped at Kostura's apartment, knocked on her door, and told her that he was a maintenance man. Otte then forced his way in, shot Kostura in the forehead, stole a small amount of cash and some other property, and left through the apartment's sliding doors. Thereafter, Schroeder continued,

Otte went to a McDonald's, ate some food in the parking lot, and returned to Gypsy and Rob's. Otte was apprehended that same evening near the bar and police seized the .22 and .25 at that time.

Police interrogated Otte on the evening of his arrest, Schroeder continued. During the interview, Otte denied knowing anything about the crimes or the firearms recovered during his arrest. According to the detectives who interrogated him that night, Otte was coherent and did not appear to be under the influence. The next day, Detective Robert DeSimone interviewed Otte, at which time he confessed. Otte later gave subsequent statements to the police supporting his original confession to DeSimone.

With the exception of his motion to suppress the confession, Otte has never retracted that confession, which he made within 24 hours of the killings, Schroeder observed. Moreover, every appellate court that has reviewed the sentence imposed by the three-judge panel has upheld the convictions. The sum total of the information presented in 6 and a half hours of testimony at the clemency hearing is the same information presented in Otte's unsuccessful post-conviction court proceedings, Schroeder argued.

Before Otte waived his right to jury trial on June 25, 1992, Otte and his trial attorneys knew which judges would make up the three-judge panel and that one of those three judges would be Frank Gorman, who until recently, was the only judge in Cuyahoga County to have overridden a jury's recommendation of death.⁴ Schroeder argued that it was a reasonable legal strategy for Otte's trial attorneys to conclude that a three-judge panel with Gorman on it was a far safer bet than 12 unknown jurors, especially when considering that the case involved a double homicide, both victims were shot in their foreheads, and life without parole was not yet a sentencing option. In fact, D'Angelo himself testified during the post-conviction evidentiary hearing that Gorman's presence on the panel was a consideration in waiving a jury, Schroeder observed. D'Angelo also testified that the two other judges on the panel had reputations as thoughtful, fair judges.

Schroeder urged that Otte signed a jury waiver, and there is no indication on the record that he in any way hesitated to do so or that the three-judge panel was contrary to his wishes. If Otte initially wanted a jury trial that would not be surprising, Schroeder added, as it is unlikely that Otte even knew what a three-judge panel was given that he was not from Ohio. Moreover, Otte would not have known about Gorman or his reputation. In the end, D'Angelo's preference for the three-judge panel and Otte's cooperation with that approach makes sense when one looks at the totality of the circumstances, including Gorman's presence on the panel, Schroeder argued.

Schroeder addressed the potential effects of Mellaril on Otte's jury waiver, arguing that Otte had been on that particular dose of Mellaril for approximately a month when he signed the waiver. Schroeder argued that the drug was given at night to help Otte sleep, there was no reason to expect any residual daytime sedation, and there was no indication in the record that Otte was having problems communicating on the day he agreed to waive.

⁴ The case was State v. Wright, Cuyahoga County Court of Common Pleas, Case No. CR-86-211379.

Schroeder acknowledged that there were a number of witnesses who could have testified at the mitigation phase of Otte's trial, which would have revealed that Otte had a religious, middle-class upbringing; had received treatment on and off throughout his life; and had devoted teachers. However, had Otte's trial attorneys offered that testimony, they would have been highlighting the advantages that Otte had in his life as compared to other defendants. Given that, their decision not to offer those witnesses was a reasonable one, Schroeder opined. Otte had chances in life, Schroeder continued, but simply made the wrong choices over and over again.

Robert DeSimone, the former police detective to whom Otte first confessed the crimes, observed that although Otte described being horrified upon shooting Wasikowski, it did not stop Otte from ransacking Wasikowski's apartment. According to DeSimone, Otte may have covered Wasikowski's face because the victim reminded him of his grandfather. DeSimone added that Otte could have easily robbed both Wasikowski and Kostura without killing them. Instead he shot both in the forehead from a close distance. The first time he pulled the trigger in Wasikowski's apartment, the gun did not go off, yet he pulled the trigger again, DeSimone observed.

DeSimone rejected the notion that the murders were driven by Otte's substance use, noting that the only drug Otte had in his system as he travelled from Indiana to Ohio was some marijuana. While it is true that Otte used drugs after killing Wasikowski and before killing Kostura, in that same intervening period, Otte also slept at a hotel for several hours, awoke, showered, and returned to Pleasant Lake Apartments, which suggested that Otte was physically rested and in control of his own actions, DeSimone indicated.

DeSimone noted that after initially lying to police, Otte provided a full confession, which led to a subsequent taped confession and a signed confession. There were also additional statements, all of which were consistent with Otte's initial descriptions of the crimes.

DeSimone opined that the fact that Otte purchased an additional firearm after killing Wasikowski suggests that he may have been planning more crimes. The fact that the .22 had five live rounds and only one spent casing in its chambers clearly indicates that Otte reloaded the gun after killing Wasikowski, DeSimone added.

George Lonjak, the former Cuyahoga County assistant prosecuting attorney who tried Otte's case, stated that the three judges on Otte's panel had very good reputations and were respected, well-rounded judges, none of whom came to the bench from the prosecutor's office.

According to Lonjak, both D'Angelo and Bradley also had excellent reputations. Lonjak stated that he has tried cases both with and against Bradley, and he can attest to Bradley's professionalism. Lonjak added that D'Angelo is regarded as one of the best trial lawyers in Cleveland. Lonjak disagreed with Wilhelm's suggestion that D'Angelo and Bradley did not take Otte's case seriously or give it the attention it deserved, opining that they are both excellent lawyers.

Lonjak stated that he has tried criminal cases as both a prosecutor and a defense attorney and, as far as he is concerned, the decision to waive a jury in Otte's case made sense to him then and continues to make sense to him today. In Lonjak's opinion, the waiver was a smart move

from a strategic standpoint. Lonjak suggested that while the mitigation in Otte's case is somewhat moving, it is quite minimal in comparison to other cases in which he has been involved. He noted further that Otte's attorneys were presenting more mitigation today than was offered at trial in terms of quantity; however, in substance, it is the same information that was presented at trial.

Schroeder concluded the State's presentation by asking that the Board recommend to the Governor that clemency be denied.

VICTIM'S REPRESENTATIVES:

Laurie Wasikowski, Robert Wasikowski's daughter, noted that her father was just two months away from retiring when Otte killed him. She stated that her father was looking forward to travelling and visiting friends. He never lived to know his grandchildren, who have only pictures of him and the memories of him that others share. She stressed that her father was one of the best men you could ever hope to meet. He would help his friends however he could, and would even loan them money.

Laurie Wasikowski stated that she and her sister were also bullied as children, but that bullying does not give one the right to kill people. She added that Otte had many opportunities to change before he came to prison.

She observed that Otte did not have to kill her father, and noted that if Otte had truly been horrified by shooting her father, as he alleges, he would not have returned to the apartment complex the next day and killed Kostura. Had Otte not been stopped after murdering Kostura, he would have continued killing, she added.

Every day, Laurie Wasikowski continued, she lives with the image of her father lying dead on his apartment floor, which she had to clean of blood. There have been moments when she has wanted to commit suicide, but she lives on for her father and to see justice done.

Laurie Wasikowski described recently having been contacted by a person from the Federal Public Defender's office, who indicated to her that Otte is sorry for killing her father and asked her to permit Otte to live. She stated that the call, which was placed to her just two days before Christmas, was cruel, inhumane, and insensitive. She added that they could have at least waited until after the holidays to place that call. She urged the Board to make an unfavorable recommendation for clemency.

Nancy Wasikowski, another of Wasikowski's daughters, observed that Otte's family can continue to visit him in prison while she and her family can only visit their father at the cemetery. She noted that she has family members who, had they not passed away, would also have been involved in the clemency proceedings. She stated that 25 years is a long time to wait for justice to be done, and she indicated that she would like to see Otte's sentence carried out so that she too does not die before justice is done.

PAROLE BOARD'S POSITION AND CONCLUSION:

The Ohio Parole Board conducted an exhaustive review of the documentary submissions and carefully considered the information presented at the clemency hearing. The Board reached a unanimous decision to provide an unfavorable recommendation regarding clemency based upon the following:

- Otte's crimes were heinous in character, and the degree of victimization was extensive. Otte senselessly shot two vulnerable victims in their own apartments, stole from them, and callously left them alone to suffer and die on their floors. The similar locations of the bullet wounds in the foreheads of each victim demonstrates a clear purpose to kill.
- Assuming that Otte was in fact bullied to the extent described by his attorneys and others, one still has to view that harassment, unfortunate as it was, in the context of his overall upbringing, which included loving, supportive, and engaged parents; siblings who adored and admired him; teachers who liked and sympathized with him; and a community that attempted to address his substance abuse and other problems in supportive, structured environments. The positive role models and support systems available to Otte belie the suggestion that his descent into substance abuse and homicidal violence was inevitable. The totality of his upbringing instead suggests that Otte consciously rejected the law-abiding, pro-social paths available to him.
- The strategic decisions made by Otte's trial attorneys relative to the jury waiver and the manner in which mitigation evidence was presented do not call into question the fundamental fairness of Otte's trial or the sentence that resulted from it. Given the totality of the circumstances with which those attorneys were presented, their decisions do not appear unreasonable. Nor can the Board conclude with any reasonable degree of confidence that the results of the mitigation phase of the trial would have been different had Otte's trial attorneys opted for a jury, utilized additional live witnesses (whether in a bench or a jury trial), or employed any of the other approaches advanced by Otte's current attorneys.

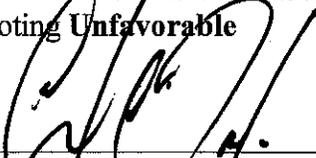
RECOMMENDATION:

The Ohio Parole Board with eleven (11) members participating, by a vote of eleven (11) to zero (0), recommends to the Honorable John R. Kasich, Governor of the State of Ohio, that Executive clemency be denied in the case of Gary Otte.

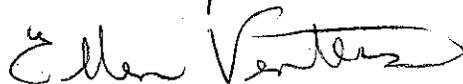
Adult Parole Authority

Ohio Parole Board Members
Voting **Favorable**

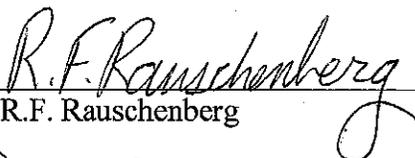
Ohio Parole Board Members
Voting **Unfavorable**



Andre Imbrogno, Chair



Ellen Venters



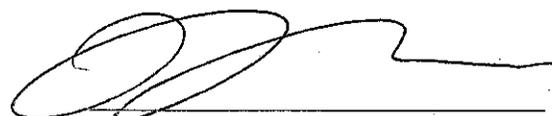
R.F. Rauschenberg



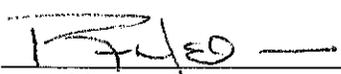
Trayce Thalheimer



Richard Cholar Jr.



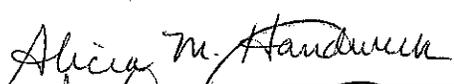
Marc Houk



Ronald E. Nelson Jr.



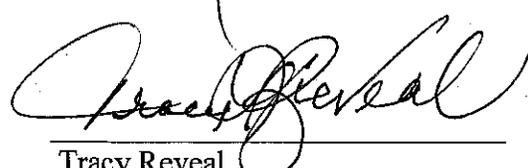
Michael H. Jackson



Alicia Handwerk



Shirley A. Smith



Tracy Reveal

Clemency Hearing for Gary Otte February 2, 2017

Thank you for the opportunity of letting me speak at this hearing.

I am Bob Brenton and I am Gary Otte's Uncle. By my side is my wife Connie Brenton, Gary's aunt. We are here because we are asking that Gary Otte not be executed!

My wife Connie and I met in school and were married shortly after. We have three beautiful children and four grandchildren, after a successful marriage of 45 years. Our children Robert J Brenton Jr. , James P Brenton, and Donna N Brenton.

My employment record of 50 years include, working on a farm, factory with steel background, paper making at the mill, and operating boilers for 25 years.

My wife and I were both born, raised, and continued to live in the Terre Haute, Indiana area.

Gary was a good and sweet kid when he was young. When Gary was young he spent time with both of us. As Gary went to school, Gary was bullied a lot, and other kids jumped on Gary everyday. All Gary wanted was their friendship and Gary had no friends! Gary's dad had to threaten the school to have them protect Gary from the bullying, but was not taken seriously at the schools.

Gary had a learning disability and had special needs that were not met by the school system. We also feel the schools failed Gary for that reason. Gary was a follower by nature.

I also have a son with a learning disability and know it is a long hard road and can not be handled without parent and school working together to fix a problem in a none hostile environment.

My reactions to the crimes was a total shock and hard to believe that it was true. Because the Gary I knew was passive, non-violent and very good natured.

I believe Gary was bullied so much that he turned that abuse inward on himself, thinking he was not worthy of anything. And with that being said I believe Gary wound up with the wrong crowd to gain social acceptance that he always wanted and craved. That crowd was also abusing drugs and alcohol, and Gary had become seriously addicted to drugs and alcohol from associating with this crowd.

My own children has had drug and alcohol problems, and I am very fortunate that I did not wind up in a similar situation, because substance abuse is a big problem for kids as well as adults, not only here, but all over the country.

Gary's execution would affect me, as well as my family and would make us personally sad and we would all miss Gary. My oldest son Robert is in constant contact with Gary and would be constantly haunted by this act. I also think an execution of Gary would lead to further health issues of his father and mother, who are not in good health now.

I would be willing to support Gary, if his death penalty was commuted by e-mail, phone, postal mail, and visits when health allows.

I feel that the State of Ohio has succeeded to protect the public for 25 years of the prison life of Gary Otte and could continue to due so if this death penalty was commuted.

Me and my family love Gary. Losing Gary will cause our family and I a terrible heartache.

The person that did the crimes is not the same person that Gary was growing up, or that he is now.

I AM ASKING THAT YOU PLEASE DO NOT EXECUTE GARY OTTE!

Jerry's Statement

Hi, I am Gary's father. I am here because I don't want Gary to be executed.

I would like to tell you about myself. I am 68 years old. I was born in Lepanto, Arkansas. It was a very small town, a farming community. My parents grew up there. My father and my mother married after my father returned from WW II. They moved to Indiana when I was 2 years old, to find work and a better life.

I guess I had a normal childhood. I met my wife in high school. Six months after I graduated high school I was drafted. It was during Vietnam. I can still remember getting on the bus to leave and a long haired Hippie tried to talk me into tearing up my draft card. A lot of young men burned them, and moved to Canada during that time. I love my country. I couldn't do that. If my country needed me I was going to do my part. I was maybe a little naïve. But I was young. I served my country for two years and got out of the Army after my two years were over. During those two years I got married to my high school sweetheart, to whom I am still married today, over 48 years. During those two years I grew up a lot. I still love my country and my wife.

My wife and I decided to wait until I was out of the Army to have children. One year after being separated from the Army, my wife gave birth to our first son Gary. Life was great. (All guys wanted a son).

I had a job, it was hard work, but was steady. I used the GI bill to go to School. It was hard, working a full time job and going to school all day. But I knew I wanted a better life for our family.

Approximately 3 years after my son was born, my beautiful daughter was born. It was a great life. I was very happy. I had a job, a wife that loved me and 2 beautiful children. My wife and I thought we would stop having children, we had the perfect family. Two years later we joined the church so we could raise our children with a strong religious foundation. Being a member of the church changed our views about having only 2 children. We had more children after that. Brian, Brent and Jeffery. I am truly blessed.

I rejoined the Army in 1976. There were many reasons why. It was only to be for one year. They gave me my previous rank back. During that first year I loved it. It felt like I was doing something good. I stayed in 28 years. I made a lot of good friends and did many good things. I retired in 1996 because of my health. I could no longer physically do the job. My grandfather, my dad and one of my sons served in the military. I am very proud of that. I believe a strong part time Army is a great deterrent to going to war.

Gary was a good and loving son. At a very young age we bought Hermit Tree Crabs and had them in a fish bowl. Gary would take them out so they could exercise and play. He would help me work in the garden and play on the swing set with his sister. They were very close.

Gary was always big for his age. He looked older than he was. When he was very young he stumbled a lot, one time falling and hitting his head on the baseboard heater. He cut his eyebrow and had to get stitches. Gary had hearing problems, causing inner ear problems that affected his balance.

Gary was big for his age. Sometimes he was treated older than he should have been. For example, his basketball coach would expect Gary to have the same skills as the other children the same size as Gary, and Gary would be a couple years younger. I can recall when Gary was chased home by a boy half his size. This happened several times. One day when I was home I thought Gary needed to stand up to this little boy, Gary being twice his size. I talked Gary into doing so. The small boy hit Gary three times really fast, and then I broke up the fight. Gary was big, but not a fighter, having never fought before. I think it was easy to bully Gary, and easy to make fun of him, so it happened a lot.

Gary played sports; he was OK, but not a star. He liked to impress his dad. One day I was out of town and I called home and Gary told me he hit a Grand Slam homerun that won the game for the team. He was very excited. I wasn't really sure that he really did, he was always trying to impress me. I thought he exaggerated the home run. Two days later when we went to practice, his coach told me the same story with the same enthusiasm. Gary needed that and more stories like that to build his self-esteem.

There were too few for him to feel good about himself. He was always trying to be accepted by his friends, peers and family. Gary tried hard to fit in socially, with school, sports, and boy scouts. Gary always tried hard to fit in, giving his toys away that he had just got for Christmas, or doing things just to fit in. For example, when Gary was a teenager, he was arrested for stealing a pair of gloves, not for himself, but giving them to another boy. That was a way of fitting in. It worked, with the wrong group of kids. This was when we began Tough Love. Nothing seemed to help. We now know that drugs were the problem. We took Gary to Koala in Indianapolis to help with the problem, then later to Gibault School for Boys. It seemed nothing helped.

Not too long ago, Gary called me to tell me not to worry; he has made peace with God. The only reason he told me that is because he doesn't want me to suffer. But how does a dad watch his son be executed and not suffer?

Gary has been in jail most of his adult life for over 25 years, he hasn't hurt anyone, hasn't used any drugs in 25 years. The only people Gary's execution will hurt are his family, mother, father, sister, brothers, aunts, uncles, cousins, nieces and nephews. His execution will have a lasting effect on them the rest of their life.

Why not let Gary sit in jail the rest of his life. Jail rhymes with hell for a reason.

In Romans chapter 12, verse 19 it states:
Vengeance is mine, saith the Lord.

If a child had stage 4 cancer, with no cure, and you had the power to cure the cancer and save the child you would.

You can save my child's life, by granting him clemency. At the same time, you can save my life and my family's life. My son had a disease called drug addiction. Even though he hasn't used drugs in 25 years, he could lose his life by lethal injection. I say "walk a mile in his shoes", and then try on his dad's for size.

I served in the military. My dad, grandfather and my son also served in the military. My grandfather fought in the First World War in the trenches where the enemy used mustard gas on them, causing blisters on their skin, and if they breathed it would cause death. My father was wounded in WWII in the Battle of the Bulge and came close to dying, and always had trouble with his leg and he had nightmares his entire life.

One of my sons joined the Navy after 911 and was injured while serving in the Gulf. He is now medically retired from the Navy.

I was drafted 1968 during Vietnam, spent 28 years and retired from the Army in 1996. I have a license plate on my truck that says, "US ARMY RETIRED". Some people see the license plate and walk over to me and tell me thanks for my service. I tell them thanks. Sometimes I think the time I spent working for my country might have been better spent with my son Gary. I know hindsight is 20 / 20. If you would like to thank me for my service, help me save my son's life, by granting clemency. Gary will still spend the rest of his life behind bars, but his dad will not have to stand by and watch his execution.

Gary was kicked out of high school and Job Corp seemed like a good alternative. Job Corp would help Gary to get his high school diploma after graduating from Job Corp. And that was important to Gary. It seemed like a good plan. Hindsight is 20/ 20. It didn't work out. It caused other problems. Drugs were still part of the mix and Job Corp kicked him out of the program. After being kicked out he met a girl named Lisa. She had two children that Gary

adored. Gary helped Lisa run a cleaning service. Things seemed to be working out. This lasted for several months and Gary broke up with Lisa and came back home.

Gary came home and shortly after that he stole \$300 from a close friend of mine. I think it was for drugs. At that time I didn't understand drug abuse. That is when Gary went to live with my dad, Gary's grandpa. Gary and my dad got along very well. But my dad didn't understand the drug addiction. He lived with my dad about 6 months. He took my dad's car, credit card and cash, and went back to Cleveland.

Shortly after Gary arrived in Cleveland all of this happened.

When I heard what Gary did I couldn't believe that it was possible? I would never in a million years thought my son Gary could have done something like this. Gary may have been capable of many stupid things, but never taking someone's life. I assumed he wasn't guilty. When my wife heard the news she fainted. I had to call her sister, who she was very close to. I still find it hard to think that my son, Gary, could have taken someone's life. When I got the news on the phone I even told Gary to request an attorney. I assumed Gary was innocent and being set-up. The next day I asked a friend, who was a young attorney, if I needed to get Gary an attorney. He assured me that Gary would be assigned a very capable attorney. Later, we found out that was not the case.

My wife and her sister went to visit Gary in Cleveland and he didn't even remember that they were there, because he given Mellaril.

Gary's attorneys were a joke. Why would you confess to a crime and agree to a three Judge Panel if promises weren't made. I had never heard of a "Three Judge Panel". I thought the Constitution said we could have a trial and it would be made up of twelve people that were my peers. Gary never had that.

Forgive me for bringing it up, but for over 25 years, Gary never had his day in court.

I have to tell you this, just to get it off of my chest. I know Gary is guilty. But the trial by a Three Judge Panel was a travesty in Gary's case. Not only was it over so fast, Gary was on a very strong drug that was increased greatly during the trial.

When we got to the 2nd court date we learned the trial was over. It was in the mitigation stage of the trial. Grandville Bradley met with us 15 minutes before the court opened and informed us that this was the mitigation part of the trial, and told us we would be called on to be witnesses. There was no defense by the attorney, and I didn't even know what it meant to be in the "mitigation" phase.

During this time we did not get to meet with Gary, before or after the trial, I mean mitigation. I tried to make eye contact with Gary from my seat; he acted like he was not all there. He

stared straight ahead, with no reaction during the mitigation. Granville Bradley told us in a room outside the court room, 15 minutes before court, that Gary did not want a Three Judge Panel, but his attorneys talked him into it and told him that it would be better for his case. What reason would there be to not have a jury trial??

I understand the anger that the victim's families feel. But just maybe if there had been a jury trial it could have helped all the families understand why it happened and feel a better sense of closure. They would have gotten a lot more information about the cause and effect of the crime. There are a lot of victims in the case, on both sides.

Let my son sit in jail, what I call hell. I had a close friend tell me a long time ago, "this wasn't hell, but it was a local call from here." That's where Gary is.

I understand what the victim's families must be feeling, with all my heart. But, please help me by sparing my son's life and granting clemency.

Thank you for your consideration. If I have offended or hurt anyone, please accept my sincere apologies, because that was not my intent.

Gary's Dad

1. My name is Nancy Otte. I am Gary's mother. I am here because I do not want my son Gary to be executed. I would like to express sympathy for the victims' families. I have thought about them and felt sorrow for their loss several times over the years. I recognize that Gary must be punished for what he did by continuing to be imprisoned.
2. I was born and raised in Terre Haute, Indiana. I met my husband Jerry in high school. He was drafted into the military after high school. I married Jerry while he was on Christmas leave from the Army, before he went to Germany. I was able to join him in Aschaffenburg Germany for a year and half. We both returned to Terre Haute after his time in Germany came to an end.
3. Jerry returned to work at Wabash Fiber Box Company and I stayed home and worked as a house wife and mother for 18 years. Then I returned to work. I retired from Indiana State University as an Administrative Assistant.
4. After we returned from Germany, we rented an apartment for about a year, then purchased a home in Prairie Park Subdivision, in the suburbs of Terre Haute.
5. In 1971, on our 3rd wedding anniversary, Gary was born. He weighed 6 lbs 12 oz. He was a bundle of joy. It was the best anniversary present I could ever get.
6. Throughout Gary's childhood he was plagued with ear problems. This made him clumsy and physically awkward. Like any child, he rushed through every day, which caused him many bumps and bruises from falling. Doctors said he needed tubes in his ears, but would not do it until he was 5 years old. He got his first tubes at 5. Because he was so active the tubes came out within a short amount of time. Within a few months he would need more. He had 3 or 4 sets of tubes put in within a year. He had several other sets of tubes put in during his younger life.
7. In June 1974 when Gary was 2 ½ he got a new baby sister, her name is Sheryl. They were very close to one another. They played together endlessly. In 1978, when Gary was 6 his brother Brian was born. In 1980, when Gary was 9 years old, his brother Brent was born, and in 1984, when Gary was 12 years old, his brother Jeffery was born .
8. Gary loved animals also. He had several kinds of animals during his youth. He had a dog named Benji and they were inseparable, and he had a cat named Midnight. Through the years he had other pets also. Including Hermit tree crabs. I remember one day I was walking down the hall way and one of the tree crabs was walking towards me. Being the coward that I am, I screamed and jumped up on the nearest thing I could. We found out, many years later, that Gary felt sorry for the tree crabs and he thought it was a good idea to let them out and walk for a while. Then he forgot about them when he went outside to play. They were loose in the house for several days. He also had a couple of chameleons that we got him at the circus. He talked to them, and even took them to bed with him. He was crushed when they died.

9. When Gary was about 4 ½, almost kindergarten age, we moved into a large home in the Farrington Grove area of Terre Haute. Jerry and I had discussed it, and decided we wanted to have another child and the home we lived in was not large enough.
10. Gary started kindergarten at Crawford School about 5 months after we moved, and the problems began right away it seemed. Gary was pretty tall for his age, but he was a passive child. He did not fit in socially with the children at school. He was bullied unmercifully. Many times during his years at Crawford he was chased home by another child. Even the principal at Crawford bullied him.
11. Gary took this bullying to heart. It chipped away at his self-esteem. He wanted so bad to fit in with the other kids, he would give his toys away to them so they would be his friend. Even that did not work.
12. Unfortunately, as he got older into his teen years, Gary was even bullied at church. I remember when he was in his Sunday school class another kid sat in back of him and put chewing gum in his hair and rubbed it in, making it very difficult to remove. I also remember that same young man a few years later, called Gary and told him that he had won a large amount of money. He made it sound official on the phone and told him he would call him back in a few minutes to let him know where to pick it up. Gary was ecstatic. He was jumping up and down and telling everyone about it. The kid called him back a little later and led him on for a few minutes with details, then when he had him all hyped up, he told him who it was and that he really didn't win anything. Talk about crushed!
13. Gary endured a lot of this same type of behavior in his young childhood and youth. He so badly wanted to be accepted.
14. Finally, when Gary was a teenager, he was accepted into a group of troubled kids that were a very bad influence on him. This is when I believe Gary's alcohol and drug use began.
15. Gary spent time in several different facilities during these troubled years. He was in a group home, Gibault School for Boys and Koala Center in Indianapolis. We were attending family counseling with him weekly. It was a very difficult time in his life and the life of his family.
16. Gary had problems in high school and was expelled 2 months before he graduated.
17. He decided to go to Job Corps training in Cleveland because they told him he could finish high school there and attend classes on job training, and they would facilitate him getting a job. But he did not complete the program. He was doing drugs while he was at Job Corps, and was dismissed from the program.
18. He met a young woman named Lisa and lived with her in Cleveland for a 4 to 6 months I think. When he returned to Terre Haute to clear up some problems he had there, his relationship ended with Lisa.

19. When Gary returned to Terre Haute he was struggling with drug abuse.
20. We tried to help Gary all that we could, but we really didn't understand drug addiction. We tried everything we could, even Tough Love, which we learned about at his group home counseling sessions. When he returned home from Cleveland he was lying and stealing. We had to ask him to leave our home. We could see by his actions that he was taking drugs, and we could not tolerate that behavior around our other children. That is when he moved in with Jerry's father.
21. Gary stayed with his grandfather for a few months. His grandfather didn't have the same rules that we had in our home. He allowed smoking and drinking. After a few months Gary decided to return to Cleveland. The crimes and arrest took place when he returned to Cleveland.
22. We were both shocked when we got the call telling us about Gary's crime. It was unbelievable. Gary was always a soft hearted sensitive person, not violent. I didn't think he could ever do anything like that. It was like a scene out of hell. I was so distraught that I passed out.
23. Before Gary's trial I worked extensively with Pat Snyder, a mitigation specialist. (Truthfully, I didn't really know what it was all about) I didn't know much about the judicial system, so I couldn't comprehend the steps we had to go through to complete the trial. But, I did schedule people in Terre Haute for Pat Snyder to meet with, including church members who had contact with Gary from age 4, family members and some of Gary's elementary school teachers. Pat Snyder interviewed them and collected information to help Gary.
24. My sister, Margaret and I went to the first day of the trial. Jerry was in Honduras for the military. I didn't fully understand everything that happened during the trial, I was just so upset. Gary appeared to be numb, showing no emotion, therefore I don't believe he understood what was going on either. Based on the way he looked and acted I believe he was on drugs given by the doctor in jail. After court was concluded for the day, Margaret and I went to see Gary. He doesn't even remember us being there.
25. Jerry was home and was able to go to the next court date. We traveled from home to the court in Cleveland. We went to court thinking we were going to another day of trial, when actually, the trial was over. We were there for the mitigation part. Neither of us knew we were there to be witnesses.
26. Again, during the proceedings Gary seemed to be in a daze and like in a zombie like state.
27. Our only contact with Gary's lawyer's came that day. Granville Bradley, one of Gary's attorneys, met with us 15 minutes before the mitigation began. This is when he told us that we would be put on the stand. I brought up the information that Pat Snyder had

- collected while she was in Terre Haute. He was surprised because he said he didn't know about that information. He said he wished he had known about it.
28. Bradley Granville also told us that Gary wanted a jury trial, but his lawyers told him to waive a jury. They told him that a 3 Judge Panel was a better way to go for his situation.
29. We had never talked with Patrick D'Angelo, Gary's lead attorney, before we testified.
30. We could not believe that the trial was so short. One day for the trial and one day for mitigation – and a double sentence of death for our son. Who could ever believe a death sentence could be given after such a short trial. I still can't believe it.
31. I am begging you to commute Gary's sentence to Life in Prison. We love Gary with all of our hearts. We have provided him with financial and emotional support during his time in prison. We also visit him and keep in touch through JPay emails.
32. We have traveled to visit with him many times during the past 25 years. I began collecting a piece of red glass from assorted shops along the way when traveled to visit Gary. We now have 3 curio cabinets full of these red glass pieces. I do this as a reminder of our son in our home.
33. We will continue to visit, email and support Gary if you would find it in your heart to commute his sentence to Life. We will try to help Gary adjust to general population if that happens.
34. Gary's execution would devastate our family. It would leave a void in our life that would be impossible to fill. I have watched Gary's growth throughout his years in prison, and I have been amazed that he could retain such a strong faith and grow through scripture study, actions and humility. Gary is definitely not the same person he was when he was arrested. Again, I am begging you to commute Gary's sentence to Life in Prison. Please give him and us that chance. Please don't kill Gary.
35. Thank you for your consideration. May God bless us all!

Sheryl statement

My name is Sheryl Robinson and I am Gary Otte's Sister and I am here because I don't want him to be executed.

I was born and raised in Terre Haute, Indiana. I have four brothers. Gary is my oldest brother, then myself, then Brian, Brent and Jeffrey. Gary and I were probably the closest due to only being a couple years apart in age. I graduated from South Vigo high school and I lettered in gymnastics there. After high school I attended Ivy Tech community college and graduated as a licensed practical nurse. I also received my phlebotomy certificate and medical assistant certificate while attending Ivy Tech. I am currently employed at Signature healthcare of Terre Haute and have worked at that facility, under other company names for going on 18 years. I have worked my way up from floor nurse, to unit manager and now Assistant Director of nursing. I am the proud mother of two girls, Destiny age 22 and Hanna age 16.

Gary and I were very close growing up. We were always together. Gary was a very kind hearted, quiet and sensitive boy. He seemed to always be looking out for me or watching over/protecting me growing up. Gary and I walked to school together every day when we were in elementary school. Gary was a little slower acting than the other kids. He had some speech and hearing problems and kids would make fun of him on a daily basis. Gary was chased home and harassed by other kids on a daily basis on our walk home. Gary was a big/tall kid, but passive, he wouldn't fight back and showed no temper towards those kids. My parent had Gary in basketball and Boy scouts to help him be involved with other kids his age. But the bullying and harassment was overwhelming it seemed to follow him everywhere he went. I even remember the principle, at Crawford Elementary school giving Gary a hard time. The bullying was relentless and would not be allowed at extracurricular activities and schools today.

Gary wanted desperately to "fit in" and have friends. I remember Gary telling me he wished he could know what it was like to be popular like me. When Gary finally found a peer group, he was so happy to be accepted by the "cool kids". These are the kids who used drugs and drank alcohol. It didn't take long after Gary started hanging out with these kids when he started staying out late or not coming home. It didn't take long for my parents to be worried about this behavior and I remember them having him in counseling several times and he was at Gibault school for boys for a while. I remember my parents always looking for ways to help Gary. My parents never gave up on trying to help him any way they could.

Even when Gary was abusing alcohol and drugs, he remained a friend and protective brother for me. I can't remember a time where he was mean to me or didn't look out for me when he was around. If his friends were around and I was there, he wouldn't let them around me. He

always tried to keep me from the drug and alcohol. I specifically remember one time, when Gary and I were in high school and I had drank some alcohol at a game and Gary was not happy with me for this, he got me home safe and said just to go to bed and say nothing. He said you are "the good kid" and I am already going be in trouble. He seemed to always be protecting me in one way or another.

When I heard that Gary had been arrested for murder, I believe I was in shock. I only remember my mother crying hysterically and thinking...This couldn't be right, my brother, the Gary I know, couldn't have killed a mouse.

My brother Brian is currently incarcerated in Putnam Ville correctional facility for domestic violence. Brian is the only other sibling with legal trouble. Like Gary Brian was bullied as a boy. Brian was bullied mostly due to his weight or for being Gary Otte's brother. Like Gary Brian had some issues with drugs.

I visited Gary when he was a Lucasville for the first time. He was behind glass and I just remember seeing him shackled and watching him wave goodbye while being handcuffed, gave me nightmares. Gary seemed "so messed up at that time". This was very hard for me, so I did not visit Gary for a while. I did go and see him at Chillicothe. I am so glad I went and reconnected with Gary. Gary told me he is truly sorry for what he did. He also said he was sorry for making things hard for me.

Executing my brother would be extremely hard for me and my family. We all love Gary and don't want to lose him. I am very worried about my parents and how they will handle this. I am very worried about my dad due to heart problems.

If Gary's sentence is commuted, I will continue to visit, write and support Gary in any way I possibly can.

I am asking you to spare my brother's life. I love Gary. Gary has in a sense already lost his life and killing him would only cause heartache to me and my family. The person that committed these crimes was not the same person Gary was growing up and is not the same person he is now. Please don't kill my brother, please don't kill Gary!

Governor Kasich:

My name is Margaret Douglas, and my sister is Nancy Otte and she is 7 years older than me and has been my best friend forever. When I was a little girl, I used to make her bed, clean her room (she was a teenager). My dad would buy a carton of RC for the family. I would save mine to share with her. I would leave her notes on her pillow. *Dear Queen, I made your bed, I saved my RC for you. Love, your slave.*

Since she was older, naturally, she had children before me. Gary and Sherry were like my own kids. I loved them dearly. When Gary started having problems, I would try to be there to help out.

I still remember the night the police called my sister. My brother in law called me and said, you need to get over here for Nancy. I did. It was such a tragic time for our family too.

I went to the trial with my sister. Heartbreaking. I went to see him that first year he was in prison. Broke my heart to see him like that. The thoughts going through my mind, this boy, that I love, will never get to have a family, get married, enjoy family reunions, go to the library, movies, all of the privileges we enjoy in this world. Drugs and alcohol have made that choice for him.

But, my prime concern is my wonderful sister and her family. I have seen her through the years stand by Gary. I have learned what unconditional love really is. We hate what Gary has done and the pain he has caused the victims' families....but, he is still her son and my nephew and we do love him.

I know it's difficult for my sister to see her son in prison and to know what he gave up. The man he has become is such a different person from the boy he was at 20 when he committed these awful crimes.

I, along with all of Gary's family, are asking for you to please consider giving Gary life in prison and not ending his life with this execution.

Thank you for your time.



Margaret Douglas