

DATE TYPED: May 11, 2011
DATE PUBLISHED: May 12, 2011

IN RE: SHAWN L. HAWKINS, OSP #A218-401

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

Date of Meeting: May 4, 2011

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: Shawn L. Hawkins, OSP #A218-401

SUBJECT: Death Sentence Clemency

CRIME, CONVICTION: Aggravated Murder with death penalty specifications (2 counts), Aggravated Robbery with firearm specification (2 counts)

DATE, PLACE OF CRIME: June 12, 1989 in Mt. Healthy, Ohio

COUNTY: Hamilton

CASE NUMBER: B893838

VICTIMS: Diamond Marteen, age 19
Terrance Richard, age 18

INDICTMENT: 9/1989: Counts 1-4: Aggravated Murder with death penalty specifications; Counts 5-6: Aggravated Robbery with firearm specification.

TRIAL: Trial by Jury

VERDICT: Found Guilty as indicted.

DATE OF SENTENCE: January 26, 1990

SENTENCE: Counts 1-4: DEATH (counts 1&2 and 3&4 later merged); Count 5-6: 10-25 years with 3 years actual

ADMITTED TO INSTITUTION: February 1, 1990

JAIL TIME CREDIT: 219 days

TIME SERVED: 21 years, 10 months

AGE AT ADMISSION: 21 years old

CURRENT AGE: 42 years old

DATE OF BIRTH: September 12, 1968

JUDGE: Honorable Norman A. Murdock

PROSECUTING ATTORNEY: Arthur M. Ney, Jr.

FOREWORD:

Clemency in the case of Shawn Hawkins, A218-401 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 April 19, 2011, Shawn Hawkins was interviewed via video-conference by the Parole Board at the Ohio State Penitentiary. A Clemency Hearing was then held on May 4, 2011 with seven (7) members of the Ohio Parole Board participating. Arguments in support of and in opposition to clemency were then presented.

The Parole Board considered all of the written submissions, arguments, information disseminated by presenters at the hearing, prior investigative findings as well as judicial decisions and deliberated upon the propriety of clemency in this case. With seven (7) members participating, the Board voted seven (7) to zero (0) to provide a favorable recommendation for clemency in the form of a commutation to a sentence of Life without the Possibility of Parole to the Honorable John R. Kasich, Governor of the State of Ohio.

DETAILS OF THE INSTANT OFFENSE (B893838): The following account of the instant offense was obtained from the Ohio Supreme Court opinion, decided June 9, 1993:

On June 11, 1989, Diamond Marteen and Jerome Thomas were interested in purchasing a pound of marijuana. Marteen's friend, Terrance Richard, knew a prospective seller, Shawn L. Hawkins. On the evening of June 11, Richard, using his mother's silver-gray Hyundai sedan, drove Marteen and Thomas to appellant's residence at 1681 Newbrook Drive, Mt. Healthy. Hawkins met the men in front of the residence and negotiated with them concerning the terms of a drug deal. During the meeting, Hawkins provided the men with a number for a telephone paging device. Hawkins instructed the men to page him later that evening for delivery of the drugs. According to Thomas, Hawkins was shown the cash (approximately \$1,400) the men intended to use for the marijuana purchase. Thomas testified that Hawkins never entered the Hyundai sedan during negotiations of the drug deal.

Following the meeting, Richard and Marteen drove Thomas to work. Thomas arrived at his place of employment at approximately 10:30 p.m. Thomas left the money for the purchase of marijuana with Marteen so that Richard and Marteen could finalize the drug deal later that night. Marteen was wearing several diamond rings at 10:30 p.m. when Thomas last saw him.

Shortly after driving Thomas to work, Richard and Marteen visited the home of Melissa Edward and used Melissa's telephone to page someone. Several minutes later, Richard received the return telephone call. Richard and Marteen then left Melissa's home,

presumably to purchase marijuana.

On June 12, 1989, at approximately 11:00 a.m., the bodies of Richard and Marteen were discovered in the Hyundai sedan on Elizabeth Street in Mt. Healthy, a suburb of Cincinnati. The police responded to the scene within minutes. Marteen's body was found in the front passenger seat in a fully reclined position. Richard's body was in the rear seat of the automobile. Both men had been shot twice in the head at close range while seated inside the vehicle. All shots had been fired from the same gun, a .25 caliber weapon. The murder weapon was never recovered by police.

The evidence at the scene indicated to police investigators that the murders had occurred at a different location, and that the Hyundai sedan had been abandoned on Elizabeth Street. The police found no money inside the vehicle (except for some loose change) and the diamond rings Marteen had been wearing were missing from his body. Marteen's pants pockets were turned partially inside out, indicating that robbery was a likely motive for the killings.

While preparing Richard's body for autopsy, a morgue attendant discovered Hawkins' pager number written on a paper napkin in one of Richard's pockets. The pager number led police to question Hawkins as a potential witness to the murders. During questioning, Hawkins admitted to having discussed a drug deal with the victims on the evening of June 11, 1989. However, Hawkins claimed at trial that the deal was never consummated because Hawkins was unable to get in touch with his suppliers. Hawkins told police that he never saw the victims after 9:00 p.m. on June 11. According to police, Hawkins denied having ever entered the Hyundai sedan.

Forensic experts discovered two of Hawkins' fingerprints inside the Hyundai automobile. One of the fingerprints (a thumbprint) was made in human blood on a blood-splattered notebook recovered from the floor of the automobile near the victims' bodies. The thumbprint could have been made only by a bloody thumb touching the notebook, or by the thumb touching a bloodstain on the notebook. The blood on the notebook was Type A human blood which matched the blood type of both victims. The second fingerprint was found on the right rear door inside the vehicle.

Henry Brown, Jr., a seventeen-year-old juvenile claiming to have witnessed Richard's murder, eventually came forward to identify Hawkins as the killer. According to Brown, on June 12, 1989, at approximately 12:30 a.m., Brown saw Hawkins shoot Richard in the rear seat of the Hyundai sedan in a cul-de-sac on Newbrook Drive. Brown testified that Marteen was already dead in the front seat of the vehicle in a reclining position. Brown stated that Hawkins rummaged through the Hyundai sedan and then drove the vehicle from the murder scene. Brown described the murder weapon as a .25 caliber handgun. Brown stated that Hawkins was wearing a black "muscle" shirt at the time of the murders.

Other witnesses heard gunshots on June 12, 1989, between approximately 12:30 and 1:00 a.m. By all indications, the sounds (four shots altogether) originated from the cul-de-sac area on Newbrook Drive. Several minutes after the shootings, Kenneth Boehmler saw a

man driving a silver-gray sedan in a suspicious manner on Hudepohl Lane, approximately one block south of the Newbrook Drive cul-de-sac. The unidentified man parked on Hudepohl Lane and exited the vehicle. When Boehmler's neighbor illuminated a porch light, the man returned to the vehicle and drove away. The unidentified driver of the vehicle was black, was wearing a dark "muscle" shirt and was similar to Hawkins in height, weight and build. As the car drove past Boehmler on Hudepohl Lane, Boehmler saw someone reclining in the front passenger seat as if asleep.

In September 1989, Hawkins was indicted for the aggravated murders of Richard and Marteen. For each of the two murders, two counts were returned: one charging that the offense was committed with prior calculation and design and one charging felony murder premised upon aggravated robbery. Each of the four counts of aggravated murder carried two death penalty specifications. Hawkins was also indicted on two separate counts of aggravated robbery with a firearm specification in connection with each count.

Hawkins was tried before a jury. Hawkins testified during the guilt phase of the trial and denied any involvement in the murders and robberies of Richard and Marteen. Hawkins presented a number of witnesses in support of his defense. Nevertheless, the jury found Hawkins guilty of all charges and specifications alleged in the indictment. For each count of aggravated murder, the trial court, following the jury's recommendation, sentenced Hawkins to death. For the aggravated robberies of Richard and Marteen (and for the associated firearm specifications), Hawkins was sentenced in accordance with law.

PRIOR RECORD

Juvenile Offenses: Shawn L. Hawkins has no known juvenile arrest record.

Adult Offenses: Shawn L. Hawkins has the following known adult arrest record:

<u>DATE</u>	<u>OFFENSE</u>	<u>LOCATION</u>	<u>DISPOSITION</u>
2/19/1987 (Age 18)	Drug Abuse 87-CRB-004240	Springfield Twp., Ohio	\$100 fine and costs.
8/21/1987 (Age 18)	Attempted Drug Law Violation (B874627)	Cincinnati, Ohio	12/23/1987: 3 years probation, \$1000 fine and costs. 7/26/1988: Terminated.
2/5/1988 (Age 19)	Trafficking in Drugs Carrying Concealed Weapon (B880816)	Cincinnati, Ohio	7/26/1988: 1 year on each count concurrent; 3/19/1989: Expiration of sentence.

6/12/1989 (Age 20)	Aggravated Murder (2), Aggravated Robbery (2) (B893838)	Mt. Healthy, Ohio	INSTANT OFFENSE
-----------------------	---	----------------------	-----------------

Traffic Convictions:

Between 2/4/1987 and 11/26/1987, Hawkins was cited with 8 traffic violations, all of which were resolved with nominal fines.

Dismissed, Nolle and/or Unknown Dispositions:

On 11/12/1986, Hawkins was arrested for Aggravated Robbery in Case 86-CRA-030518; the charge was dismissed.

On 6/15/1988, Hawkins was arrested for Assault in Case 88-CRB-015586; the charge was dismissed.

On 6/14/1989, the charge of Obstructing Justice in Case 89-CRA-016683 was dismissed.

Institutional Adjustment:

Shawn L. Hawkins was admitted to the Department of Rehabilitation and Correction on February 1, 1990. His work assignments while incarcerated at the Mansfield Correctional Institution included Artist, Barber, Food Service Worker, Laundry Worker, Material Handler, Painter and Porter. Since his transfer to the Ohio State Penitentiary, his work assignments have been as a Material Handler and Porter. Hawkins completed a correspondence / certificate program in Paralegal Studies in May 2002. Additionally, he completed several programs to include Rational Emotional Therapy, Commitment to Change, Stress Management, Rage, Recidivism & Recovery, Controlling / Managing Anger Part I, Controlling / Managing Anger Part II, Poetry Workshop, Film Group / Personal Meaning Part I and Film Group / Personal Meaning Part II. Hawkins has volunteered for and participated in numerous community service projects at both the Mansfield Correctional Institution and the Ohio State Penitentiary.

Since his admission, Hawkins has never been placed in Disciplinary Control. He has received approximately four (4) conduct reports since he was admitted to the Department of Rehabilitation and Correction in 1990. His last conduct report was in 2003. These conduct reports include Disobedience of a Direct Order (1993), Refusal to Carry Out an Institutional Assignment (1995), Violation of Mail Rules (2001) and Possession of Minor Contraband (2003).

APPLICANT'S STATEMENT:

On April 19, 2011, Hawkins was interviewed by the Parole Board via videoconference from the Ohio State Penitentiary. Hawkins professed his innocence. He said that he is

requesting a commutation to Life without Parole, rather than a full pardon, because he is realistic about what relief he is likely to receive, and that a full pardon does not seem a likely outcome. He feels that he deserves clemency because he in no way participated in the crime.

Hawkins admitted that he sold drugs in the neighborhood, saying that he “had one foot in the streets and one trying to do the right thing.” He said he knew Terrance Richard from the neighborhood and that he did not know Diamond Marteen. On the day of the murders, Richard approached him about purchasing a pound of marijuana. He did not have it at the time, so he told Richard to call back periodically. He stated that he got into Richard’s car so that he could talk privately about the deal. He said that he had been in the car at least four times and a drug source named “James” was in the car with them at one point. Around 9:00 p.m. that evening, Richard and Marteen showed up at his house asking about the drugs. He said that he told them he was unable to locate the drugs, at which time the victims left. Hawkins said that he never saw them again.

Hawkins said that he knew witness Henry Brown from the neighborhood, and that he was close to Brown’s brother, Howard Johnson. He said he does not know why Brown would point the finger at him as the killer. He said that Brown was a pathological liar, always finding a way to lie about things, and that Brown was not a drug dealer, but a “hustler” who would steal and sell things. He later speculated that Henry Brown might have been protecting his brother by fingering him, or that Brown was told by police that he [Hawkins] had named Brown as the killer.

Hawkins stated he also knew Robbie Burns, who dealt drugs (although they did not deal drugs together). He said that Burns dated his sister. He went on to say that Henry Brown implicated Burns and his sister in the crime as well, but the police did not charge them in the offense. He also said that he was selling drugs that he bought himself. He was not being “fronted” by another dealer.

He said that on the night of the offense, he went to Robbie Burns’ house and watched basketball. He later said that he left the house briefly to get beer. He said that at the time he left, the victims were far away. He said that if he kept his receipt from the beer purchase, it would have “come in handy.”

Regarding the pager that he lied about (for which he was arrested for Obstruction of Justice), Hawkins admitted to the Board to lying about the pager, saying that he knew it would be associated with the murder and he wanted to distance himself from it. He claimed he does not remember what he did with the pager, but assumes that he threw it away. When asked specifically why he doesn’t remember such an important detail that could link him to the crime, he said he “simply can’t remember.” The charger for the pager was confiscated during the search of his house. While he admitted providing the pager number to the victims, he denied that he was ever in fact paged by them.

Regarding the fingerprint that was found in blood on a notebook in the vehicle, Hawkins said that he has never denied being in the vehicle, and that he could have touched the

notebook. He denies leaving a smeared print in blood. He questioned whether the print was properly processed by law enforcement. He feels that the print was contaminated.

He claimed that he truly has no idea who committed these homicides. He said he is not protecting anyone, saying "I wouldn't be sitting here for someone else."

When asked about the mitigation phase of his trial, he said that his attorneys did not humanize him in the eyes of the jury. He feels they should have put his family on the stand to speak of his character. He said his attorneys were shocked when he was convicted at the end of the guilt phase.

Hawkins said that since he has been in prison, he has tried to stay out of trouble, and involve himself in as many programs as available. He said he keeps busy writing and reading. He likened himself to a butterfly, who came to prison as a caterpillar, and has now transformed.

He said that he has a very supportive family, with regular visits in spite of the distance. He claimed that he is a different person from the drug dealer he was in his youth. He said that at the time he lied about the pager and his role selling drugs because he was driven by fear that he would be seen as a "drug dealing thug."

When asked how he felt about the death of the victims, he said, "the fact that two young people lost their lives, I'm saddened by that. I know what it's like to lose someone to gun violence. It was senseless. Unfortunately our society is full of that. It could have been me losing my life in the street." But he said that he does not think that the death penalty is appropriate, as he has come to the conclusion that he does not believe in state-sanctioned execution.

ARGUMENTS ADVANCED IN SUPPORT OF CLEMENCY:

A written application with exhibits outlining the arguments in support of clemency was provided to the Parole Board. On May 4, 2011, a hearing was conducted to further consider that merits of the application. Attorney Anthony Covatta represented Shawn Hawkins and presented arguments and witnesses in support of clemency.

Mr. Covatta argued that Hawkins did not commit these murders. Quoting Ohio Supreme Court Justice Pfeifer, he said that one cannot have confidence in the results of the trial. He said that he is not making any claim that Hawkins is insane or has any mental deficiency, but is claiming actual innocence. He presented a letter from Patricia Dupps, a juror from the original trial who contacted his office after reading a recent story in the Cincinnati Enquirer. She writes in part that "I wish it was more overwhelming that he was guilty."

Mr. Covatta presented an audio recording of Detective Engelman who was dictating his report, where at the end he used a racial slur to describe the victims. Mr. Covatta argued

that this was indicative of how the local law enforcement officials approached the investigation that he says was ultimately flawed. He pointed out that while Hawkins was arrested in June, he was not indicted until September. In addition, in 1989, Black on Black crime simply did not receive the same attention as White on White crime.

In arguing for Hawkins' innocence, Mr. Covatta criticized the use of Henry Brown as a witness to the shooting, pointing out that:

- Henry Brown has told a number of different stories about what he knows about the homicides. For example, he initially told police that he did not learn of the deaths until the next day;
- He told different versions of the events at trial, and then again in a 1998 deposition;
- A man named Kenneth Berry reports in affidavits from 1994 and again in 2011 that Brown told him just after the crime that Robbie Burns and Howard Johnson were responsible for the homicides;
- Brown was under investigation for this offense himself, but the file of that investigation has disappeared;
- Brown failed two polygraph exams at the time of the Grand Jury presentation, yet was granted full immunity. He told a story to the jury so that he could get out of jail;
- Brown said that Hawkins used his left hand to shoot the victims, when Hawkins is in fact right-handed; and
- His testimony did not support the Aggravated Robbery conviction.

Regarding Hawkins' fingerprint in blood found on a notebook inside the car where the victims' bodies were found, Mr. Covatta concluded that "I can't tell you that it is not Shawn Hawkins, but the evidence is foggy." He argued:

- The print was mishandled by Detective Suder. He disregarded procedure and placed the print in his locker;
- Detective Suder's testimony at trial and at the habeas hearing varied about how many times he attempted to raise and lift the fingerprint;
- The print was put into a regular refrigerator to make it easier to raise;
- The possible involvement by the Miami Valley Crime Lab in the development and identification of the print was not disclosed to the defense at the time of the trial;
- Even if it is Hawkins' fingerprint in blood, it does not prove beyond a reasonable doubt that he is the killer.

Mr. Covatta pointed out that the prosecutors were unable to use the testimony of a jail house informant, after that informant attempted to solicit a payment of \$15,000 from Shawn Hawkins' family in exchange for favorable testimony. Yet the prosecutor "snuck it in" during cross-examination of Hawkins, suggesting that he would call the informant as a witness, but ultimately failing to do so. Mr. Covatta argued that the curative instruction given by the court was not enough to cure this breach that the jury already heard.

Mr. Covatta pointed out that Hawkins' attorney John West failed to properly represent him when he chose to berate the jury for finding Hawkins guilty during the mitigation phase of the trial, instead of presenting any mitigation. Attorney West completely alienated the jury, and went so far as to threaten them stating "what comes around goes around". He argued that this is the one issue where Hawkins prevailed upon in Federal District Court, although ultimately the Court of Appeals disagreed.

Mr Covatta stated that we cannot be certain where the murders took place, as a new report from Forensic Pathologist Dr. George Nichols indicates that it cannot be proven that Terrance Richard was killed inside the car. Mr. Covatta says that this casts further doubt on the veracity and reliability of Henry Brown's testimony.

Mr. Covatta argued that although Hawkins could not remember what he did with the pager when questioned by the Board, he has been truthful about the essential facts surrounding the missing pager.

Mr. Covatta stated that he believes that Robbie Burns and Howard Johnson are the real killers for several reasons. First, they both disappeared for awhile after the crime. Second, Johnson's family immediately pointed investigators in the direction of Hawkins, and third, Kenneth Berry reported that Brown told him the day after the murders that Burns and Johnson were the killers.

Mr. Covatta argued that several prominent figures have expressed reservations about the sentence imposed in this case. These individuals include Ohio Supreme Court Justice Paul Pfeifer, former Ohio Secretary of State Ken Blackwell and State Senator William Seitz. In addition, trial Judge Murdock requested permission to approach Hawkins after testifying during Federal habeas proceedings, and after receiving permission to do so, shook Hawkins' hand and wished him good luck.

Finally, Mr. Covatta stated that Shawn Hawkins has demonstrated good behavior while incarcerated and is a positive role model to his family. Given the unreliability of the evidence used to convict Shawn Hawkins, and ultimately to sentence him to death, the exercise of clemency is warranted.

Several of Hawkins' family members also presented to the Board in favor of clemency. Kirk Hogan, Hawkins' uncle expressed condolences to the family of Terrance Richard. In sum, he said that Hawkins' execution would compound the loss of this tragedy, and that he believes in his nephew's innocence. He stated that Hawkins has completed many programs in the prison and plays an important role in his extended family even though he is incarcerated.

Judy Hogan, Mr. Hawkins' mother after apologizing to the Richard family said that Hawkins loved life and the outdoors. He was very generous and would help older people. As a child, he was hurt by her divorce from his biological father. He attempted suicide, and lost a younger sister to Reye's syndrome. She said, "I conceived him, carried him, birthed him, raised him. I don't want to bury him." Ms. Hogan pleaded for mercy for her

son. Ms. Hogan said that she was not aware that her son was selling drugs, or that he possessed a gun or ammunition.

Angela Harris, Hawkins' cousin expressed condolences to the victim's family. In sum, she stated that her cousin has spent over 11 million minutes incarcerated, but he is not bitter or angry. She said that he has been a good advisor to the young people in their family, encouraging them to stay in school and choose their friends carefully. She said that she has collected over 5,000 petition signatures and that if Hawkins had pled guilty, he could have potentially been out of prison two years ago. She also urged the Board to recommended clemency to the Governor.

ARGUMENTS ADVANCED IN OPPOSITION TO CLEMENCY:

Arguments in opposition to clemency were presented by Hamilton County Assistant Prosecutor Ron Springman and Assistant Attorney General Stephen Maher. Mr. Springman argued the following:

- Most of what Hawkins' counsel is alleging and/or arguing has been litigated and examined during appellate review and is not new;
- Regarding the report from the Forensic Pathologist, Dr. Nichols, there is currently a motion for a new trial in the Hamilton County Common Pleas Court. The Prosecutor's office will be responding shortly. However, the report deals with aspects of the crime scene, and is not really new evidence;
- There were 14 witnesses whose testimony pointed toward Hawkins as the killer;
- Witness Jerome Thomas was clear that Hawkins never entered the car earlier that day, which established that the fingerprint must have been left at or near the time of the shooting;
- The victims went to witness Melissa Edwards' home and called Hawkins' pager.
- At 11am the next day, the bodies were found. There was no money in the vehicle. Diamond Marteen's rings were missing, and his pockets were turned inside out. There was a thumbprint in a blood spattered notebook that linked Hawkins to the shootings;
- Henry Brown testified that he saw the killing, and said that Hawkins was wearing a black muscle shirt. This was confirmed by the testimony of Mr. Boehmler who saw Hawkins trying to park the car, wearing a black muscle shirt.
- Brown's testimony, the fingerprint, and Hawkins' pager number written on a napkin all point to Hawkins as the killer;
- All reviewing courts have affirmed the Aggravated Robbery conviction;
- Justice Pfeifer dissented on the sentence only, not the conviction. And the other six Supreme Court Justices affirmed the conviction and sentence.
- Other trial evidence supported the veracity and reliability of Brown's testimony.

Stephen Maher focused on the mitigation and on Henry Brown's testimony. He also presented a Powerpoint presentation tying the disparate pieces of evidence together to demonstrate how the jury concluded that Hawkins was guilty.

Regarding mitigation, Maher argued that it is hard to mitigate a double execution-style slaying. The defense conceded today that Hawkins is not suffering from any mental illness that could explain the offense. In order for a condition to mitigate against the aggravating factors of a murder, a link to the crime must be established. Hawkins' previous suicide attempt may be the product of an earlier condition, but there is no link between that and the crime. He said that there was no psychological examination conducted for the mitigation phase. Residual doubt was the appropriate mitigation strategy for the defense to present.

Mr. Maher went on to point out that juries are free to believe all, some, or none of what a witness says. Regarding Henry Brown's testimony, Mr. Maher pointed out that his testimony matches key physical evidence, notably:

- The position of the bodies in the car;
- The fact that Hawkins drove off in the car (as later observed by witness Boehmler);
- Brown identified a gun of the same type used in the killings;
- A witness heard the gunshots coming from the same general area where Brown said the crime occurred;
- Brown's sister heard the shots, and then he came to the door of their house a short time later. He told his sister that he was afraid that they would "get him"; and
- Brown mentioned other people (notably Stephanie Hawkins and Robbie Burns) in his testimony, which makes it less likely that he is making it up.

Regarding the lack of prosecution against Robbie Burns or Stephanie Hawkins who Brown also implicated in the offense, Mr. Maher pointed out that the other evidence, including the fingerprint, pointed to Shawn Hawkins, whereas there was no other evidence placing Robbie Burns or Stephanie Hawkins at the scene.

Mr. Maher also suggested that the likely reason the pager was never found was that it probably recorded a page at around 10:30pm from the victims to Hawkins, which would have established that Hawkins had contact with the victims shortly before the killings. The pager records were not available from the phone company.

Mr. Maher argued that the notebook with the fingerprint has been in an evidence box and available for inspection since December of 1989. In addition, Brown's 2002 testimony at the habeas proceeding was not considered a recantation by the magistrate.

Retired Sergeant Tom Boeing of the Hamilton County Sheriff's Office stated that he interviewed Henry Brown and initially Brown was very scared, particularly of Shawn Hawkins. Boeing eventually came to believe Brown when Brown acted out how the offense occurred on a car similar to the car that the victims were found in, located in the Sheriff's garage. Brown gave a description that matched the actual physical evidence found in the victim's car, and had knowledge of the crime scene that only someone who was involved would have known.

Boeing also pointed out that Hawkins' disavowal of the obvious evidence of the bloody fingerprint points to his guilt. Regarding the chain of custody of the fingerprint, he said that given the facilities that were available at the time, Suder's locker was the most secure place to keep that evidence.

Regarding the immunity agreement offered to Brown, Assistant Prosecutor Gerald Krumpelbeck of the Hamilton County Prosecutor's Office said that it was initiated by Brown's defense attorney, and that the agreement was approved by the elected prosecutor. Brown was definitely considered a suspect. In capital cases, the prosecution does not approach the defense with an offer. Plea bargaining is only considered when initiated by the defense. When asked which version of the offense Brown told he believed, Mr. Krumpelbeck stated that he believed Brown's trial testimony.

Mr. Maher and Mr. Springman argued that given all of the pieces of evidence that point to Hawkins as the killer, the verdict and sentence are reliable and should be maintained. In addition, Hawkins continues to lack remorse and deny responsibility, and has not demonstrated that he is deserving of executive clemency.

VICTIM'S REPRESENTATIVE:

Relatives of victim Terrance Richard appeared and presented to the Board at the clemency hearing. Terrance Richard's mother Barb Griffith stated that she believes Shawn Hawkins killed her son. She wanted the Board to know that she doesn't get to talk with her son, and her son has a child that he never knew and who did not get to know his father. She has seen Hawkins' family over the years, and they have never apologized to her. In addition to Hawkins, she believes that Stephanie Hawkins and Robbie Burns drove the getaway car in this crime. She does not believe that Hawkins is deserving of mercy.

Patricia Williams, who is the mother of Terrance Richard's child spoke on behalf of her son who is in the military, and unable to attend the hearing. She said that she knew Hawkins in school and that both he and his sister were bullies. She said that the Hawkins and Brown families were close, and that they terrorized her school. Terrance Richard was not a drug dealer as he has been portrayed. He was in diesel mechanic school. She had just found out that she was pregnant, and they looked forward to a future together. She had considered abortion when she first discovered she was pregnant, but when Terrance died, she elected to keep the baby. She was nine months pregnant at the time of the trial. She said that Brown initially lied to protect Hawkins, as they were like family, but at trial he told the truth. He looked at Hawkins while he testified and stood up for himself. Hawkins had a very nonchalant attitude during the trial. Her son is now grown, and in the US Army, and has received top honors in his graduating class. He does not believe that Hawkins is deserving of clemency, and she wanted to express that opinion to the Board on his behalf.

Terrance Richard's cousin Shirley Miller said that she watched Terrance grow up, and that she is tired of seeing her tax dollars used to pay to keep Shawn Hawkins alive. She says she understands loss as she has had a son killed during a drug deal. She also does not believe that Hawkins is deserving of mercy.

PAROLE BOARD'S POSITION AND CONCLUSION:

The Board reviewed and considered all information submitted both in support of and in opposition to clemency. The Board does not doubt that Shawn Hawkins was involved in this horrific killing of two young men. While the evidence suggests that Hawkins was clearly involved with setting up the drug transaction and moving the bodies, many aspects of the Hawkins conviction are troubling. The evidence suggests that Hawkins was involved and is likely the shooter. However, several issues are troubling in this case, which include the following:

- The roles of other individuals in the offense, notably Howard Johnson, Robbie Burns and Stephanie Hawkins. These people could very well have been involved and may not have been fully investigated;
- The many conflicting statements of key witness Henry Brown. In addition, law enforcement does not believe that the offense occurred as Henry Brown described to the jury, but believes a conflicting statement he gave.
- Not only was no mitigation presented during the sentencing phase, but trial counsel chastised and alienated the jury;
- Juror Patricia Dupps submitted a letter after reading of the clemency hearing in the Cincinnati Enquirer (5/3/11) noting "I wanted and needed more information." and "I wish it was more overwhelming that he was guilty" and finally, "I wanted a better option for him other than the death penalty...";
- The state's introduction of the gun box that was likely not connected to the offense and the mention of statements from the discredited jailhouse informant Keith Miree; and
- The jury was not aware that Brown was subsequently convicted for Aggravated Robbery involving a small caliber handgun with the victims sitting in an automobile. Finally they could not have been aware of his post-conviction affidavits and testimony which presented more inconsistencies.

The Board is not confident in the death sentence in this case, but is also not convinced that Shawn Hawkins is innocent. Given all of the above, the Board believes the exercise of executive clemency is warranted.

RECOMMENDATION:

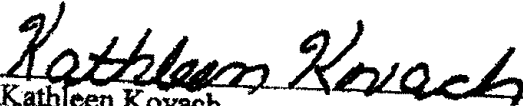
The Ohio Parole Board with seven (7) members participating, by a vote of seven (7) to zero (0) recommends to the Honorable John R. Kasich, Governor of the State of Ohio, that executive clemency in the form of a commutation to a sentence of Life without Parole be GRANTED in the case of Shawn L. Hawkins, A218-401.


Shawn L. Hawkins, A218-401
Death Penalty Clemency Report

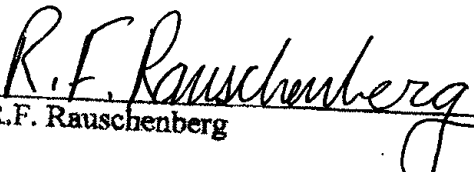
Adult Parole Authority
Ohio Parole Board Members
Voting Favorable


Ohio Parole Board Members
Voting Unfavorable



Cynthia Mausser, Chair

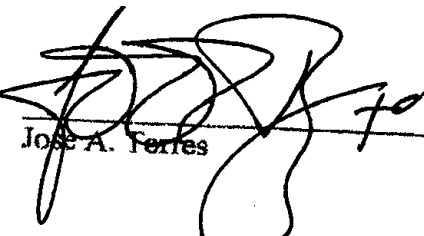

Kathleen Kovach


Ellen Venters


R.F. Rauschenberg


Bobby J. Bogan, Jr.


Trayce Thalheimer


Jose A. Ferrer