Application to the Georgia

Board of Pardons and Parole

on Behalf of

Brandon Astor Jones

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BEFORE THE

BOARD OF PARDONS AND PAROLES

STATE OF GEORGIA

APPLICATION OF BRANDON ASTOR JONES
FOR A STAY OF EXECUTION
AND FOR A COMMUTATION OF HIS SENTENCE OF DEATH

Undersigned counsel applies to the Board of Pardons and Paroles, pursuant to Article IV, Section II, Par. II(a) and (d) of the Georgia Constitution of 1983, O.C.G.A. sections 42-9-20, 42-9-42(a), for consideration of this application on behalf of Brandon Astor Jones, for commutation of the sentence of death, imposed by the Superior Court of Cobb County on September 23, 1997. Undersigned counsel requests the opportunity to have a full and fair hearing before the full Board, allowing him to present witnesses in support of commutation and at the conclusion of which he will seek commutation of Mr. Jones's death sentence.

On February 14, Brandon Jones will be 73 years old. He has been on death row since the Carter Administration. As this Board is no doubt aware, he has already served a longer term of incarceration than would the typical prisoner sentenced to life imprisonment in Georgia. What is compelling about his case is that he is facing execution now, after nearly 37 years on death row, for a crime – a murder occurring during the attempted armed robbery of a retail establishment – for which no one has been sentenced to death in 20 years. Most of the men who committed the same crime during the same era, moreover, are today free on parole. No one, – least of all Mr. Jones, – disputes that he committed a very serious crime, or that he caused Roger Tackett's family tremendous pain and loss. We come before the Board only to question the fairness of his sentence.

The unfairness and disproportionality of executing Mr. Jones now for this crime is heightened by the fact that the evidence shows his co-defendant was almost certainly the triggerman. But even if Mr. Jones were the shooter, the evidence now before the Board shows that only **eleven** persons, – including those who actually killed the victims in these cases, – have been sentenced to death and had their death sentences affirmed by the appellate courts for this crime since the inception of the modern era of the death penalty in 1975. The last murder during the armed robbery of a storefront that resulted in a death sentence in Georgia occurred in 1994.

When evaluating the proportionality of Mr. Jones's death sentence following his retrial in 1997, the Georgia Supreme Court did not have the information this Board now has.

> "We did not do a good job on proportionality. I believe the problem was we were unable to gather all the necessary data and didn't have the resources necessary to formulate a proper analysis."
>
> - Former Chief Justice of the Supreme Court of Georgia Norman T. Fletcher[1]

As will be shown below, the citizens of the State of Georgia – as represented by their elected prosecutors and their juries – have now determined that Mr. Jones's crime does not fall in the class of offenses so "extreme" that society has deemed them the "most deserving of execution." A death sentence was once imposed only very rarely for the spontaneous murder committed during the course of an armed robbery. Now, it is simply never imposed for that crime. The proof before this Board demonstrates that Brandon Jones's sentence is a lone outlier in Georgia, an artifact of another era.

In addition, Mr. Jones himself is an outlier. Other Georgia death row inmates, he is 73 years old and suffers from age-related cognitive dementia and physical failings. He has had no prison disciplinary record involving violence in

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[1] *See* Bill Rankin, Heather Vogell and Alice Wertheim, *High court botched death reviews*, Atlanta Journal-Constitution, Sep. 26, 2007, at A1, A4.

30 years. He is profoundly remorseful for his actions, as expressed in his interview with the Board's investigators.

If spared, Mr. Jones can continue to serve as a mentor and grandfather to his many grandchildren and great-grandchildren. As reflected in their letters to the Board, these young people are in desperate need of male role models and the lessons and guidance that he can so powerfully convey as a result of his past mistakes and experiences. As Mr. Jones told the Board, if its members choose to show him mercy, he will devote the remainder of his days to the writing and the relationships via correspondence that he so cherishes.

Mr. Jones asks this Board to exercise its discretion and examine his case in light of all of this information, – the Georgia Supreme Court did not have, – and extend mercy to Mr. Jones, who has spent nearly 37 years on death row for this crime, by commuting his sentence to life imprisonment.

I. Mr. Jones's Death Sentence is Extreme and Disproportionate

A. Facts Regarding the Crime

Mr. Jones maintains that, though he was present and in possession of a gun when Mr. Tackett was robbed and killed, he did not fire at the victim. Van Solomon alone shot Roger Tackett. As Mr. Jones himself has told the Board, this senseless act was something he wanted no part of, and he deeply regrets his

decision to join Solomon in the store that night. There is considerable circumstantial and forensic evidence to support his account.

The State's evidence at Petitioner's trials[2] demonstrated that in the early morning hours of June 17, 1979, Roy Kindel, a patrol officer with the Cobb County Police Department, had occasion to stop at a Tenneco service station/convenience. (RT 1390-91, 1399).[3] There he noticed a green car parked near the front of the store with the door open. (RT 1400). Through the store's glass front, he saw Brandon Jones poke his head out a storeroom door at the back of the store, glance around, and close the door again. (*Id.*) As Officer Kindel entered the store with his gun drawn, he heard three loud pops, followed by a pause, then a fourth and final pop. (RT 1401). He announced that he was the police, and ordered the occupant(s) out of the storeroom. (*Id.*) No one immediately complied. (RT 1402).

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[2] Mr. Jones was first tried in 1979 and sentenced to death. *Jones v. State,* 249 Ga. 605, 293 S.E.2d 708 (1982). In 1989, that sentence of death was overturned as the product of constitutional error. Eight years later, the State of Georgia was finally prepared to retry him as to penalty. The State's evidence regarding the crime, described here, was largely the same at each trial.

[3] Citations to prior proceedings are as follows:
Transcript of Petitioner's 1979 capital murder trial = TT
Transcript of Petitioner's 1997 resentencing trial = RT
Transcript of Petitioner's 2004 habeas corpus evidentiary hearing = HT

When Officer Kindel opened the storeroom door, Mr. Jones was closest to him near the door, with Mr. Solomon some distance behind him. (RT 1402, 1542). Mr. Solomon was standing between Mr. Jones and the victim, Roger Tackett, who had been shot and had fallen to the storeroom floor in the area immediately behind where Mr. Solomon was standing. The victim's body went unnoticed by Officer Kindel as he ordered the two men out of the storeroom. Officer Kindel ordered Mr. Jones and Mr. Solomon to lie face down on the floor in the public portion of the store and searched both men. (RT 1402–03). Neither had a weapon. (*Id.*) Officer Kindel handcuffed Mr. Jones using his only set of handcuffs, then escorted Solomon to his police car and locked him inside. (RT 1403).

Alex Woolard, a private security consultant who happened to be in the area, heard and responded to Kindel's request for assistance on the police scanner. (RT 1442–43). Woolard and Kindel discovered a van parked near the store. (RT 1445). Woolard questioned Jones, who was handcuffed to a pole in the parking area. (RT 1444–1447). Jones related that they were burglarizing the store and that the green car was not theirs; they had arrived in the van. (RT 1446). Throughout their conversation, Officer Woolard observed Mr. Jones looked anxiously through the window of the police cruiser at Solomon. (*Id.*; RT 1454). As Mr. Jones told the Board, Mr. Solomon glared at him, as if to silently warn him not to reveal what he had seen Mr. Solomon do. Motivated by a hope that Mr. Tackett might still be

helped despite the seriousness of his injuries, Mr. Jones told the detectives that there was another man in the storeroom, "bad hurt." (RT 1447).

Inside, Woolard and Kindel discovered Mr. Tackett's body. The store's cash register drawer had been moved from its normal after-hours hiding place and placed inside the storage area wrapped in a plastic garbage bag. (RT 1367, 1381, 1558). After discovering the victim's body, the police recovered two guns from a shallow box inside the storeroom.

1. The evidence shows that there was a single shooter

The primary point of contention at trial was the number of shots fired at Mr. Tackett and consequently, whether there were two separate guns fired or just one. Mr. Tackett suffered five gunshot wounds. (RT 1691-94). There is strong evidence to show that those five wounds were made by only four bullets, with a single bullet passing through the victim's thumb before entering his head. This indicates that Mr. Tackett was killed by a single shooter using the smaller of the two guns (a Colt .38 revolver containing the casings of four spent rounds).

The forensic evidence is clear. Only the Colt was fired in the storeroom the second gun, a Smith and Wesson .38 Special, was not fired during the robbery. Four bullets were recovered at the scene, all from the Colt: two were recovered from the victim's body, and two were found on the storeroom floor (RT 1692-93). All four bullets were a type of ammunition that could not be fired from the Smith

& Wesson (RT 1793-95). Officer Kindel heard a total of four shots that were consistent with the spent ammunition in the Colt: three shots in quick succession, followed by a short pause and a fourth shot (the Colt contained three spent shell casings, followed by a live round, followed by a spent casing). (RT 1401). No fired bullets from the larger Smith & Wesson gun were ever recovered. (RT 1613, 1622-23). Despite conducting additional, thorough searches of the entire interior of the service station and its exterior surrounds, police could not locate any additional spent bullets. (RT 1583-84, 1615-17).

Also, when Officer Kindel entered the storeroom, Mr. Jones was standing nearest the door; Mr. Solomon was behind him and to his right. This means that when the two men previously faced the other direction (i.e., faced Mr. Tackett), Mr. Solomon would have been nearest to the victim. The fact that Mr. Solomon was standing closest to Mr. Tackett's body suggests that he delivered all four shots. Were Jones the shooter, he would have had to fire four rounds without hitting Solomon, who was standing in between the two in a space described by the State's crime scene expert as a "little cramped area." Mr. Jones would also have had to accomplish this while heavily intoxicated. (HT 3072). (In response to the detectives' inquiry about how much he had been drinking on the night of the crime, Jones indicated that "a vodka bottle is just about empty.").

The van parked near the store was owned by Solomon, and it contained burglary tools, as well as holsters for both guns. (RT 1491-93, 1561). A small holster fitting the murder weapon (the Colt or "little gun") sat on the engine cover between the two front seats with its opening pointed in the direction of the driver; a holster fitted to the larger Smith & Wesson was found behind the driver's seat. (RT 1494, 1503 -05).

2. The State's theory at trial is contrary to the evidence

Though the evidence accounted for only four bullets being fired, the State posited that the five wounds were in fact made by five separate bullets. (RT 1709-10, 1772-73). The State's pathologist agreed that it was possible that one bullet produced both the wound to Mr. Tackett's thumb and the wound to his head. Nevertheless, he suggested that had a bullet first struck the thumb, the tight spin a bullet possesses when it is fired down the barrel would have been disrupted, giving it an unsteady tumbling motion as it struck the head. (RT 1709-10). According to the State, the reentry wound made by such an unstable bullet would have been irregular in shape. (RT 1770). Neither of the entry wounds to Mr. Tackett's head revealed this expected irregular shape. (*Id.*)

In post-conviction proceedings, a well-credentialed crime scene reconstructionist, Peter DeForest, testified that while a bullet would almost certainly be destabilized by passing through a substantial intermediate object such

as a limb or piece of furniture, this would not necessarily be true of a bullet that passed through something with so little mass as the thumb. (HT 204). It is entirely possible that a bullet could continue its path with a tight "spin" undisturbed as it left a thumb, and that the re-entry wound that it would thereafter create would not be irregular in shape.

Additionally, as Dr. DeForest testified, the state's hypothesis failed to account for the fact the thumb was likely in close proximity to the head when the shot was fired:

> In other words, if the thumb was only a short distance from the body when struck by the same bullet, there is likely to be little in the way of evidence of the bullet's "tumbling" to be observed in the shape of the reentry wound. If the bullet passed directly from the thumb to another part of the body as the two were in contact with one another, one would expect no such evidence of irregularity in the reentry wound.

(HT 2044).

The State's five-bullets theory required ignoring the undisputed physical evidence at the scene – that no fifth bullet from the Smith & Wesson was recovered despite an exhaustive search – as well as the eyewitness testimony from the responding officer who heard four shots. The State's theory that one of the men was able to intentionally shoot Mr. Tackett in the thumb as they accosted him somewhere outside the storeroom, and that the resulting stray bullet lodged somewhere that it could never be recovered, strains credulity.

Finally, an atomic absorption test for gunshot residue performed on each man's hands did little to inform the inquiry. The test alerted to the presence of antimony, barium or lead on both Jones's and Solomon's hands.[4] The examiners did not identify, quantify or report the levels of each substance found, making it impossible to rule out that one or more of these metals came from another source – such as lead paint.[5] And even *if* the elements on Jones's hands were gunpowder, it does not indicate that he fired a gun during the crime. Gunpowder residue would have been on both men when Mr. Jones stood in close proximity to Solomon as he fired his revolver in the tiny storeroom. The results of this now-discredited test do not settle the key question in this case.

The evidence is convincing that there was just a single shooter during Mr. Tackett's armed robbery. That same evidence strongly suggests just what Mr. Jones has always contended: that the shooter was Van Solomon.

As Mr. Jones informed the Board, he and Mr. Solomon encountered Mr. Tackett in the storeroom after they had entered and walked through the vacant store. While attempting to convince Mr. Tackett to open the store's safe, Mr. Solomon suddenly began speaking unintelligibly before abruptly grabbing Mr.

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[4] The science behind that test is now regarded as unreliable. *See* Schwoeble & Exline, Current Methods in Forensic Gunshot Residue Analysis (2000).

[5] Jones and Solomon spent the days leading up to the crime working in Solomon's contracting business; they were painting. (TT 398-399).

Tackett and shooting him in the head, continuing to shoot him as he fell to the floor. Mr. Jones stood by in utter shock as the bullets seemed to ricochet all around them in the crowded space. Mr. Jones indicts himself as a coward for his role—for not having put a stop to it all.

B. Mr. Solomon Had a History of Committing Armed Robbery and Was Mentally Unstable

This was not the first occasion upon which Mr. Solomon had made violent use of a gun. The first time was at age 15, in Lawton, Oklahoma, when he fired a .22 rifle into a man's leg, and was committed to the state penitentiary in McAlester as a result. (Ex. 14 at 2426). Two years later, he was returned to McAlester after he committed the armed robbery of a soldier for $60.

Later psychological examination and testing from Mr. Solomon time in the Georgia Department of Corrections reveals an emotionally disturbed man with psychotic traits. His test results on a personality test were "strongly suggestive of a major emotional disorder." (Ex. 13 at 2095). Overall, his profile was one "associated with severe emotional disturbance" including "evidence of a schizophrenic thought disorder and paranoid mentation." (*Id.* at 2084). His testing revealed he was likely "excitable, irritable, and overreact(s) to environmental stimuli." "Disorganization under stress is a central problem." (*Id.*). He endorsed a number of items suggesting paranoid ideas, suspicious thoughts, strange experiences and visual and olfactory hallucinations. (*Id.* at 2096). The

examination noted the he scored high on scales of psychoticism. (*Id.* at 2101). One diagnostic possibility identified was schizophrenia, disorganized type.

All this information supports Mr. Jones's description of Van Solomon's abrupt and franticly murder of Mr. Tackett. Nevertheless, if the Board remains unconvinced by the substantial evidence that Mr. Jones did not fire a weapon, the fact remains that his sentence is disproportionate to that imposed upon all similarly situated offenders. With incredibly few exceptions, those defendants – including those who were definitively proven to be (or admitted to being) the shooter – have received a life sentence in Georgia.

II. In Georgia, Mr. Jones's Crime Now Uniformly Results in a Sentence of Life Imprisonment or Less

The offense committed by Mr. Jones and Mr. Solomon happens with unfortunate frequency. Counsel was able to document that in Georgia, a murder committed while attempting to effectuate the armed robbery of a retail establishment, such as a convenience store, has occurred at least 430 times in the modern death penalty era.[6] The investigation directed by undersigned counsel continues to identify additional instances of this crime each day, making it likely

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[6] Petitioner's counsel has examined cases from 1975— when the Georgia capital sentencing scheme was revised to pass constitutional muster in the wake of *Furman v. Georgia*, 408 U.S. 238 (1972) and began to be implemented anew— through 2015.

that the actual number of such offenses in Georgia is even higher. *E.g., State v. John Willie Williams,* Superior Ct of Richmond Co., Case No. 42 (January 1981 Term), guilty plea entered February 23, 1981 (sentenced to life plus twenty five years) (additional case identified after the data contained in Exhibit 4 was complete).

As the evidence now before this Board reflects, the majority of the 430 armed robbery offenses identified were similar or more aggravated than the crime committed by Mr. Jones. Nevertheless, those defendants almost uniformly received a sentence of life, and sometimes, a sentence less than life. Dozens of these offenders who committed armed robbery-murders *after* Mr. Jones have completed their sentences and have been paroled.

A small handful of these 430 cases received the death penalty, but a number of those death sentences were reversed early in the modern death penalty era, and a sentence of life imprisonment was subsequently imposed.[7] In six of the cases that were reversed, the defendants were subsequently paroled. Ex. 4, rows 2, 8, 9, 17,

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[7] *See e.g., Smith v. State*, 249 Ga. 228, 290 S.E.2d 43 (1982), habeas corpus relief granted by *Smith v. Kemp,* 664 F. Supp. 500 (M.D. Ga. 1988); *Corn v. State,* 240 Ga. 130, 240 S.E.2d 694 (1977), habeas relief directed by *Corn v. Kemp,* 837 F.2d 1474 (11th Cir. 1988), *Hawes v. State,* 240 Ga. 327, 240 S.E.2d 833 (1977), *Arnold v. State,* 236 Ga. 534, 224 S.E.2d 386 (1976), *Pulliam v. State*, 236 Ga. 460, 224 S.E.2d 8 (1976), habeas relief granted by Tattnall Cnty. Super. Ct. No. 77-358, Order of June 20, 1979, *Cofield v. State,* 247 Ga. 98, 274 S.E.2d 530 (1981).

43, 67. Since 1975, only 11 persons other than Mr. Jones received a death sentence that was ultimately affirmed for a single homicide committed during the course of an armed robbery of a place of business.[8] This number includes Mr. Jones's codefendant, Van Roosevelt Solomon, who actually shot the victim. In other words, more than 418 people who committed murder while attempting to rob a place of business received a sentence of life or a term of years.

A. 1975-1994: A Death Sentence for an Armed Robbery-Murder Is Exceedingly Rare in Georgia

The 11 other cases that resulted in death have two key characteristics in common: First, the offenses for which death was imposed were committed early in the modern era of the death penalty. Most of the eleven retail-armed robbery crimes resulting in a death sentence occurred in the late 1970s or 1980s.[9] A few

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[8] *Campbell v. State*, 240 Ga. 352, 240 S.E.2d 828 (1977); *Solomon v. State*, 247 Ga. 27, 277 S.E.2d 1 (1981); *Mincey v. State*, 251 Ga. 255, 304 S.E.2d 882 (1983) ; *Spivey v. State*, 253 Ga. 187, 319 S.E.2d 420 (1984);); *Kinsman v. State*, 259 Ga. 89, 376 S.E.2d 845 (1989); *Meders v. State*, 261 Ga. 806, 411 S.E.2d 491 (1992); *Brockman v. State*, 292 Ga. 707, 739 S.E.2d 332 (2013); *Mobley v. State*, 265 Ga. 292, 455 S.E.2d 61 (1995); *Cromartie v. State*, 270 Ga. 780, 514 S.E.2d 205 (1999); *King v. State*, 273 Ga. 258, 539 S.E.2d 783 (2000); *McClain v. State*, 267 Ga. 378, 477 S.E.2d 814 (1996).

[9] *Campbell v. State*, 240 Ga. 352, 240 S.E.2d 828 (1977) (crime occurred December 1975); *Spivey v. State*, 253 Ga. 187, 319 S.E.2d 420 (1984) (crime occurred on December 1976); *Solomon v. State*, 247 Ga. 27, 277 S.E.2d 1 (1981) (crime occurred June 1979); *Mincey v. State*, 251 Ga. 255, 304 S.E.2d 882 (1983) (crime occurred April 1982); *Kinsman v. State*, 259 Ga. 89, 376 S.E.2d 845 (1989) (crime occurred September 1986); *Meders v. State*, 261 Ga. 806, 411 S.E.2d 491 (1992) (crime occurred June 1987).

happened in the early 1990s.[10] Second, and importantly for the Board's consideration, those crimes for which the death penalty was imposed typically were more aggravated in some substantial way. A few examples are illustrative:

- **William "Pop" Campbell.** Crime occurred on December 5, 1975. William Campbell was convicted of the armed robbery and murder of a 74-year-old barber. The victim was found lying comatose in a pool of his own blood, after suffering a deep stab wound to the chest. Campbell had also beaten the man in the head with a claw-hammer and "blood [was] smeared all over the whole barbershop and everything in the barbershop..."[11] Campbell took $300 and the victim's watch. *Campbell v. State,* 240 Ga. 352, 240 S.E.2d 828 (1977).

- **Ronald Spivey.** Crime occurred on December 28, 1976. Spivey was in the process of robbing a customer and two waitresses at a cocktail lounge when he was interrupted by an off-duty police officer working as a security guard and the proprietor of an adjacent restaurant, who had come together to investigate. Spivey shot both men multiple times and began to flee with the bar employees and customer as hostages. As he left, he heard one of his victims groan

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[10] *Brockman v. State,* 292 Ga. 707, 739 S.E.2d 332 (2013) (crime occurred June 1990); *Mobley v. State*, 265 Ga. 292, 455 S.E.2d 61 (1995) (crime occurred February 1991); *Cromartie v. State*, 270 Ga. 780, 514 S.E.2d 205 (1999) (crime occurred April 1994); *King v. State,* 273 Ga. 258, 539 S.E.2d 783 (2000) (crime occurred September 1994); *McClain v. State,* 267 Ga. 378, 477 S.E.2d 814 (1996) (crime occurred November 1994).

[11] At trial, Campbell implicated his co-defendant, Henry Drake, as the person who struck the victim with the hammer, but later signed an affidavit in which he testified that he had lied at trial and that Drake had no involvement in the barber's robbery and death. *See Drake v. Francis,* 727 F.2d 990 (11th Cir. 1984). Drake was later given executive clemency on the grounds that he was innocent of the murder. Barry Siegel, *Georgia Man's Trials: When One's Rights Made a Wrong,* LOS ANGELES TIMES, available at http://articles.latimes.com/1988-12-22/news/mn-1014_1_henry-drake (last visited January 7, 2015).

and he returned to fire several times in his direction. One of his victims died, but the other survived. Spivey also shot one bar employee in the hip. He then took a woman hostage and fled to Alabama with her. *Spivey v. State*, 253 Ga. 187, 319 S.E.2d 420 (1984).

- **Terry Mincey.** Crime occurred on April 12, 1982. Mincey cased a gas station and discovered that there was a lone female cashier and two teenage customers inside, then returned to the car to tell his codefendants that he had found a good place to rob. He told the codefendants that did not plan to leave any witnesses. He then went back inside to rob the cashier at gunpoint, but was interrupted by a customer at the gas pumps. While still holding the cashier at gunpoint, he approached the customer outside and shot him twice, once in the chest and once in the face. As the cashier and the two teenagers began to run away, he fired again, shooting the cashier in the head and neck. The cashier died from her injuries; the customer survived but was nearly blind as a result of the gunshot wound to his face. *Mincey v. State*, 251 Ga. 255, 304 S.E.2d 882 (1983).

- **Ray Cromartie.** Crimes committed on April 7 and 10, 1994. Cromartie committed two premeditated armed robberies of open convenience stores days apart. During the first armed robbery, he shot the store clerk in the face before making an unsuccessful attempt to open the cash register. His first victim survived. Cromartie robbed a second convenience store after enlisting the help of friends. He again shot the store clerk twice in the face. This time, the victim died of his injuries. *Cromartie v. State*, 270 Ga. 780, 514 S.E.2d 205 (1999).

Thus, those few defendants that received death sentences were largely characterized by factors that made the defendant markedly more culpable than Mr. Jones – such as multiple shooting victims who survived or a defendant who was the known trigger-person.

B. 1995-2015: A Death Sentence Is Never Imposed for This Crime in Georgia

No constitutionally sound death sentence has been imposed for any similar offense that has occurred after 1994, in spite of the offense continuing to happen regularly during this era. The prevailing conscience of the citizens of the State of Georgia is now, and has been for at least twenty years, which a spontaneous murder committed while carrying out the armed robbery of a retail establishment is – while very serious – not among the "worst of the worst" offenses for which the death penalty is reserved.

C. Many Armed Robbery-Murders That Resulted in a Life Sentence Were Far More Aggravated Than Mr. Jones's Crime

An examination of those 400 plus life sentences that were imposed for Mr. Jones's crime further highlights just how anomalous his sentence is. None of the characteristics of Mr. Jones's offense set it apart in terms of culpability. In fact, in a study of the sentencing patterns in cases of murder during the armed robbery of a retail establishment, an examination of the factors in Mr. Jones's crime results in a predicted sentence of life, or slightly less than life, based upon the sentencing patterns in other cases. (Ex. 1 (Teasdale report) at 4).

The stark severity of Mr. Jones's sentence is further highlighted by comparing it to the legion cases that resulted in a life sentence. Even when the offense conduct involved **is** uniquely vile or aggravated, a death sentence has not

been imposed for murder committed during a place of business armed robbery. For example, James T. Jackson was convicted of robbing a bridal shop in Albany, Georgia in 1982. He absconded with all the cash from the store and the victim's car. When the bridal shop's proprietor did not return home for dinner, her daughter went to the store to check on her and found the following:

> At the time [the owner of the store] Mrs. Raybun was discovered, her face was lacerated and she showed no signs of life. Blood spattered the floor, the wall, Mrs. Raybun, and a telephone and desk. Her pants were off and her body was bare from the waist down. There were between sixteen and twenty-two individual stab wounds to her body, with several thin stab wounds on both sides of her neck. Deep circular puncture wounds in her chest and abdomen showed surface handle impressions indicating that a weapon had been inserted to the hilt. Her heart and lungs were punctured by sharp instruments and her scalp was lacerated, bruised, and torn. Her head and body were bruised. The victim died as a result of stab wounds to her chest and abdomen. Vaginal swabs were taken from the body and under analysis showed the presence of semen. Dried matter on the victim's abdomen was collected and analyzed as saliva from a person with type O blood. Jackson has type O blood and the victim had type A blood.

Jackson v. State, 249 Ga. 751, 752, 295 S.E.2d 53, 55 (1982). Jackson was sentenced to life in prison. (Ex. 4 (case data) at row 69).

In 1979, Joseph Chafin, with the help of Jackie Beaver, robbed the Oak Park Inn in Brunswick. *Chafin v. State,* 246 Ga. 709, 273 S.E.2d 147 (1980). He fatally shot the night manager and stole the cash box. *Id.* at 709. Over the course of the night, Chafin threatened Beaver that if he did not also rob and kill someone, Chafin

would kill him and a member of his family. *Id.* They then drove to another motel, where Beaver robbed and murdered the night manager. *Id.* Chafin was sentenced to life imprisonment plus twenty years, *Id.* at 710, and was paroled in 2010. (Exhibit 4 (case data) at row 36). Beaver was sentenced to a 25 year term of imprisonment. (*Id.* at row 35).

Similarly, Anthony Cobb and Harold Sneed went on a multi-county, multi-state armed robbery spree in 1976, robbing and killing the desk clerks at several hotels, including three robbery-murders during their time in Georgia. *Cobb v. State,* 250 Ga. 1, 295 S.E.2d 319 (1982); *Cobb v. State*, 244 Ga. 344, 260 S.E.2d 60 (1979). Cobb received a life sentence for murder in two of the Georgia counties and a death sentence in the third. That death sentence was subsequently overturned, *Cobb v. State,* 244 Ga. 344, 260 S.E.2d 60 (1979), and Cobb was resentenced to life on remand. Sneed received a life sentence and was paroled in 2010. (Ex. 4 at row 22).

In 1993, Donnie and Monaleta Allen robbed Spell's Place Package store in Lowndes County. Mr. Allen told everyone in the store to get down, and then began shooting. He shot at six to eight people, wounding the owner and killing a customer. A shoot-out erupted after the owner returned fire. (Ex. 4 at row 187, 188). Mr. Allen received a life sentence.

The Allen Grace case is exemplary of any number of cases in which multiple persons were shot during the course of the robbery, and yet resulted in the imposition of a life sentence. In April 1991, Willie Parish and Allen robbed the Bee Line grocery store while Allen's uncle, James Grace, stood guard outside. *Grace v. State*, 763 S.E.2d 461, 461 (2014). One of the store employees, Anthony Justiss, was shot once in the head; he died. *Id.* A second employee, Warren Jackson, was shot twice in the head; his injuries rendered him blind in one eye. *Id.* at 461-62. Allen and his accomplices took the cash register and a cash box, and they fled to another county, where Allen opened fire on two police officers. *Id.* He shot one in the face point-blank. *Id.* Allen was indicted for malice murder, aggravated battery, and aggravated assault. *Id.* He was sentenced to consecutive terms of life for the murder and armed robbery, and consecutive terms of years for the aggravated battery and aggravated assault. *Id.* Allen's uncle, James Grace, was convicted of the same offenses by a jury. *Id.* He was sentenced to life imprisonment for the murder, and consecutive terms of years for the remaining offenses. *Grace v. State*, 262 Ga. 746, 747, 425 S.E. 2d 865 (1993) (Ex. 4 at rows 152, 153). *See also Chapman v. State*, 273 Ga. 348, 541 S.E.2d 634 (2001) (both proprietors of a neighborhood grocery shot during Chapman's attempt to rob the store to feed his crack cocaine addiction; Chapman sentenced to life imprisonment) (Ex. 4 at row 147).

D. Many of the Men Who Committed This Crime Contemporaneously with Mr. Jones's Crime Received a Term of Years or Have Been Paroled from a Life Sentence

The full force of the sentencing disparity in this case is perhaps best evidenced by the fact that the majority of persons who committed this crime during the late 1970s and early 1980s are now on parole, or have completed their sentences entirely. (Ex. 4 at rows 1 through 133). This is true even for those offenders who were confirmed to be, or admitted to being, the actual shooter/ assailant. Of the offenders who committed their crimes in the years 1978 to 1980, a full 75% of these men are currently on parole. (Ex. 4 at rows 35 through 64).

For example, Jeffrey Rex Dillard, Jr. and three co-defendants robbed the In and Out grocery store in August 1977. (Ex. 4 at row 30). They entered the grocery store, selected a few items, put the items on the counter, and drew their guns on the man behind the counter, Johnny Conyers. *Id.* Conyers was not an employee; he was a customer who had simply been using the phone to make a personal call. *Id.* When Conyers moved, Dillard shot him in the chest, killing him. *Id.* Dillard was sentenced to life imprisonment for the murder. He was paroled in August 2006 after serving 29 years in prison. *Id.*

Gregory Thompson robbed the C.B.C. Convenience Store in Chatham County in June 1984, during the course of which he murdered Richard Robinson. Thompson was charged with armed robbery and murder. He pled to voluntary

manslaughter and armed robbery. (Ex. 4 at row 85). He was released in 2004 after serving a twenty-year sentence. *Id.*

During the year of Mr. Jones's crime, 1979, a total of 14 offenders committed a place of business armed robbery, as documented in the study. Two of those men are currently serving a life sentence. (Ex. 4 at rows 47, 54). Two of them, Brandon Jones and Van Solomon, were sentenced to death. The other ten men are currently on parole – some of them living successfully in the community for many years now – in spite of offenses that were similar or more aggravated than that committed by Mr. Jones. (Ex. 4 at rows 43 through 56).

Mr. Jones has served 37 years for his role in Mr. Tackett's death. A decision by this Board to grant clemency and allow him to live out the remaining years of his life in prison, in line with the overwhelming majority of persons who committed the same crime, or worse, is entirely appropriate.

III. Mr. Jones Is Tremendously Remorseful for His Role in the Crime

> "*I've been on death row for almost 37 years, and every single day, I've thought about Roger Dennis Tackett.*"
>
> -January 25, 2016 statement of Brandon Jones to the Board.

The pain of his role in a man's death is one that Brandon Jones has carried for years. As he indicated to the Board in his statement, when he saw Mr. Tackett's daughter at his 1997 resentencing trial, the pain in her face was nearly too much for him to bear. He could not look at her.

IV. Mr. Jones Poses No Risk of Harm to Others

Mr. Jones now suffers from dementia, and has grown otherwise physically and mentally infirm. He has not had a disciplinary report for violence or aggression in nearly 30 years. In fact, as this Board is by now aware, his disciplinary infractions in recent years have been few and minor, usually arising out of a misunderstanding with the prison staff, or as a result of Mr. Jones's obsessive demands for rules compliance by prison staff as a result of his mental illness, dementia and brain damage.

Mr. Jones's long-term confinement has accelerated the aging process. Mr. Jones was recently evaluated by an expert in geriatric neuropsychology, Dr. Stacey Wood. As Dr. Wood explained, incarceration is known to contribute to accelerated physical and cognitive decline for several reasons. These include the fact individuals often come to prison with risk factors for physical and mental illness, including a history of mental illness, poverty, addiction, and lack of access to medical care. Once in prison, these problems are compounded by a lack of cognitive stimulation and social interaction, and poor diet.

> This literature on the general impact of long-term incarcerations on aging pattern is consistent with Mr. Jones's case. For example, prior to incarceration, Mr. Jones had a history of low educational attainment, poverty, homelessness, and depression. Incarceration on death row further exacerbates the environmental risk in comparison to the general inmate population. Exercise is severely limited to one hour per day, human interaction is minimized and opportunities for

> programming are far fewer. Death row contains unique stressors as well.

(Ex. 20, Letter from Dr. Stacey Wood to counsel, at 2-3).

These unique stressors mean that over the years, Mr. Jones has been burdened not only by the threat of his own potential execution, but the ever-present threat to the lives of his friends and the other men on his cell block. As Dr. Wood observed, "Mr. Jones has served as a grim witness of sorts to the execution of approximately 60 individuals he has known throughout his incarceration." (Ex. 20 at 3-4). Of these sixty men who were executed during the time that Mr. Jones has been on death row, more than twenty of them were killed by electrocution, a method of execution since ruled unconstitutionally barbaric.

In addition, Dr. Wood reported that her evaluation revealed Mr. Jones to be in the early stages of dementia, and that his overall health profile and functioning were consistent with that of a man several years older than Mr. Jones's 72 years.

> Not surprisingly, Mr. Jones has had demonstrated health conditions we associate with older individuals since his early 60's. For example, he has been treated for hypertension, high cholesterol, gradual hearing loss, dyslipidemia, enlarged prostrate and chronic knee pain. He has been prescribed hearing aids, and has needed a cane to ambulate. According to prison records, Mr. Jones current medications include Indomethacin (pain), Tamsulosin (prostate), Finasteride (prostate), Metoprolol (high blood pressure), Aspirin, Acetaminophen, and Loratadine (allergies). Mr. Jones has lost his teeth and has required dentures for years.

> Mr. Jones has a cognitive profile that is worse than one would predict based upon his age and education alone. At present he is scoring below the threshold score for dementia on a screening measure. Previous neuropsychological testing documented impairments in executive functioning and processing speed in 2003. At the current assessment we continue to see these impairments but also declines in verbal memory abilities. Overall, Mr. Jones demonstrated strengths in crystallized intelligence, but weaknesses in fluid intelligence. Crystallized intelligence refers to learned information such as vocabulary and knowledge. Fluid intelligence refers to the capacity to reason and process novel information. Crystallized information is more resistant to the aging process, dementia syndromes, and other brain injuries. Fluid intelligence declines with aging and with dementia. This common pattern (preserved crystalized and impaired fluid reasoning) can help explain why an individual like Mr. Jones is able to have a strong vocabulary and language skills, but slowed speed of processing, poor cognitive flexibility, and declines in new learning as these abilities tap different brain systems. Mr. Jones' deficits in cognitive flexibility and new learning are also apparent in his inability to shift his focus from the paranoid themes present in the interview resulting in frequent perseverations, in a sense getting stuck.

(Ex. 20 at 4).

In short, Mr. Jones is a 73-year-old man who is suffering from age-related physical and cognitive limitations that go beyond his years. His disciplinary history and his prognosis clearly indicate he is not and will not be a danger to others if his death sentence is commuted to life in prison.

V. Mr. Jones's Difficult Childhood Explains His Troubled Adulthood

There is no question that Mr. Jones often struggled tremendously with – and ultimately failed at – the responsibilities of life: the military, fatherhood,

employment. His life was one marked by homelessness, instability, street crime, and the ebb and flow of his mental illnesses. There is likewise no question that his actions played a role in the tragic death of kind, caring, responsible man, a father and husband who was doing everything right. And while nothing can ever excuse or erase this, there is an explanation:

Brandon was born with the name "Astor Jones" on Valentine's Day, 1943. His mother, Jessie Carter, who was just twenty years old, was already plagued by alcoholism and psychological disturbances stemming from her abusive upbringing. (Ex. 26 (M. Tyler Affidavit) at 1008). Astor's father was a married man with whom Jessie was having an affair; he would play no part in his son's life.

Jessie's struggles left her ill-equipped to parent Astor / Brandon. (*Id.* at 1010, Ex. 28 (Hooper Affidavit) at 1021). Largely destitute, she and Astor shared a one-bedroom apartment on Chicago's Southside with his brother, three other women, and four other infants and children. To stay afloat, Jessie worked from dawn until night under difficult conditions at the stockyards and the tool and dye factory, where she lost a finger to her equipment. As Mr. Jones noted in his interview with this Board, because of his mother's poverty and long absences, he was "passed around" a lot when he was young, as his mother "gave [him] up" to various relatives and friends. (*Id.* at 1010).

As a result, Mr. Jones would spend most of his formative years in the home of his great aunt and her husband, Rev. James McGee, who was known as cruel and tyrannical. (Ex. 28 (Hooper Affidavit) at 1024, Ex. 30 (Taylor Duncan Affidavit) at 1035-1038); Ex. 29 (Taylor Blakemore Affidavit) at 1046). By the time of his fifth birthday, Mr. Jones was living full-time with the McGees, who renamed him "Jimmy McGee."[12] (Ex. 26 at 1010; Ex. 28 at 1021).

The McGees had little time to care for Jimmy (Brandon). Often, they left him home alone. For a brief, happy time, Jimmy was cared for by his great-grandfather, Abraham, who celebrated Jimmy's fifth birthday by throwing him a party – the first he had ever had. But Abraham died just months later. Jimmy was subsequently left to the devices of Rev. McGee's adolescent niece, who had assisted Abraham in caring for Jimmy but, when left unsupervised with him, began sexually molesting him – abuse that would continue throughout Jimmy's childhood. (Ex. 24 (Stewart Affidavit) at 1830-1831).

When the McGees were around, there was no respite for Jimmy, as Rev. McGee subjected him to regular and savage beatings. Mr. Jones's neighbor, Odell Taylor, remembers an occasion when he and Jimmy were playing in the McGees' front drive as "the Reverend" returned home. Angry that Jimmy wasn't working,

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[12] Mr. Jones was often renamed as he passed from house to house, at times being called "James," or "Estes."

Rev. McGeee "came charging at Jimmy, brought his entire weight around and hit Jimmy upside the head. He knocked him clean out, right there in front of the house with me watching. I remember standing there in the dirt drive, scared half to death." (Ex. 30 at 1036). Mr. Taylor recalled how Rev. McGee "would beat Jimmy with a big stick from the ground or with his belt or whatever else was within reach when he decided to get after him." (*Id.*). On other occasions, Rev. McGee would craft a tool "especially for whopping on Jimmy." Whatever he used, Rev. McGee would beat Jimmy so intensely and for so long that it would make young Odell "sick to [his] stomach." (*Id.*).

Jimmy bore the marks of his abuse constantly, with his "arms and face . . . always covered in bruises," frequently suffering "nosebleeds on and off all day." Odell remembers the sight of Jimmy's bare legs in the summertime, which were covered with such vivid bruises and welts that he could sometimes "figure out what the Reverend used on [Jimmy] by [their] shape . . . . [T]he marks would be shaped like a belt buckle or a garden tool." (Ex. 30 at 1035-37; *see also,* Ex. 28 (Hooper Affidavit) at 1024).

Jimmy's torments only intensified when, at the age of seven, he was taken by the McGees to Markham, Illinois, a rural area south of Chicago. Rev. McGee continued to beat him, and his "cousin" took advantage of the privacy of the outhouse behind the family's ramshackle house to continue molesting him. (Ex.

(Ex. 24 (Stewart affidavit) at 1832). Jimmy was also enrolled at a newly-integrated elementary school, where, as one of the only African-American students, he was resented by his new teachers and tormented by his classmates. (Ex. 30 at 1038-1039, Ex. 24 at 1833). As Mr. Jones told this Board, for all of his hardships, he had never heard "the n word" until he arrived in Markham. As a result, he "learned a lot about fighting at school," but not much else.

When Jimmy was twelve years old, his mother allowed him to move in with her and her new husband in Chicago. Jimmy arrived with "big welts running all down his shoulder and one side." (Ex. 28 at 1024-25). He also came with a new name, one he chose for himself upon leaving the McGees: Brandon Astor Jones. But his misery only deepened. Life with Jessie was disruptive and chaotic, with her chronic alcoholism triggering extreme and unpredictable changes in her mood and behavior. (Ex. 26 (M. Tyler Affidavit) at 1011, Ex. 27 (O. Tyler Affidavit) at 1016, Ex. 28 (Hooper Affidavit) at 1025-1027, *see* also Ex. 31 (Julius Lewis Affidavit) at 1069-1070); Ex. 32 (Carol Carter Affidavit) at 1074-1075).

In the first year that Brandon lived with his mother, the family moved to six different apartments, forcing Brandon to attend the seventh grade at three different schools. Jessie's tumultuous and frequently violent marriage was another source of dysfunction. On one occasion, she stabbed her husband because she did not feel that he had shown sufficient jealousy after catching her in bed with another man.

She also attempted suicide at least twice. (Ex. 27 at 1038, Ex. 26 at 1011, Ex. 31 at 1071). By contrast, she ignored Brandon and his brother, showing indifference as to whether they went to school.

Unsupervised and neglected, Brandon and his brother began drinking, gambling, and engaging in juvenile delinquency. Each was ultimately arrested and sent to a juvenile facility. (Ex. 28 at 1026-1027).

On May 1, 1958, at age fifteen, Brandon entered the State Industrial School for Boys in Sheridan, Illinois. Despite its name, this facility – where Brandon would spend the next sixteen months of his life – was in every meaningful respect a maximum security prison, with the boys divided into cellblocks surrounded by tall, razor-wired double-fences, four gun towers, and shotgun-wielding mounted guards. (Ex. 33 (McAfee Affidavit) at 1078). Boys who were delinquent and those who were wards of the state were thrown in together, regardless of age. The guards at Sheridan proved brutally abusive to the children in their custody. (Ex. 33 (McAfee Affidavit) at 1079-80). On multiple occasions, Brandon – who was what the guards called a "Chicago n-----," was brutally beaten and imprisoned in solitary sensory-deprivation cells (called "the holes") with no clothes, one blanket, no hot water, and a single meal every third day.[13] (Ex. 24 (Stewart Affidavit) at 1848).

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[13] It is now well recognized that long-term confinement in such limited-stimuli environments causes "an array of psychiatric symptoms and psychotic features [including] confused thought process, hallucinations, irrational anger, emotional

In 1960, the year after Brandon was released, the Illinois legislature convened an investigation into "brutality and other irregularities" at the institution. (Ex. 35, Special Report of Investigation of the Illinois Industrial School for Boys, Sheridan, Illinois" by Commission to Visit and Examine State Institutions Penal Division at 1093-1160). The investigation revealed multiple abuses, including beatings and the use of the isolation units. (*Id.* at 1105).

At age sixteen, Brandon emerged from Sheridan significantly worse off than when he had entered – having already been crippled by the psychological effects of a lifetime of abandonment and victimization. In 1962, he enlisted in the United States Army, where he met his wife, Ruby. Despite real effort, he would fail at both marriage and the military. (Ex. 24 (Stewart Aff) at 1849-50). Shortly before his discharge from the Army, Brandon was evaluated by Dr. Levon Tashjian, the first and only mental health professional whom he ever saw prior to his arrest in Cobb County in 1979. Dr. Tashjian noted that Brandon's Unit Commander had referred him for psychiatric consultation because he "appeared to be tormented by some personal problem" and had been AWOL over the course of several days because of his "personal preoccupation with his problems." (Mental Hygiene Report, Ex. 36 at 876). Dr. Tashjian wrote that Brandon "came into the military in

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flatness, violent fantasies, social withdrawal, over-sensitivity to stimuli, chronic depression, thoughts of suicide and perceptual distortions." (Ex. 24 at 1877).

an attempt to rehabilitate himself ... Just the opposite has happened. He states that he has done poorly as a soldier and has 'goofed up' on many occasions ... [B]ecause of his poor military record, of which he is ashamed, his guilt has increased rather than diminished." (*Id.*) He diagnosed Brandon as so severely depressed that he warranted the then-drastic treatment of psychotropic medication, a treatment that while common today, was at the time a treatment reserved only for the most extreme cases – perhaps ten percent. (*Id.*; Ex. 37 (Tashjian Affidavit) at 1555-56). Dr. Tashjian also documented symptoms that he and several other experts to evaluate Mr. Jones would later recognize as evidence that Brandon suffers from Posttraumatic Stress Disorder ("PTSD"), Bipolar Disorder, and severe damage to the frontal lobes of his brain. (*See* Ex. 24 (Stewart Affidavit) at 1819-95, Ex. 22 (Israelian Affidavit) at 1686-1714, Ex. 23 (Walker Affidavit) at 1800-16). On the basis of these findings, Dr. Tashjian advised his commanders that Brandon's mental illness made him unsuitable for continued military service. (Ex. 36 (Mental Hygiene Report) at 879).

VI. Mr. Jones Is Valued By His Friends and Loved Ones

In spite of the damage of his early life and the many broken relationships that his crime and his death sentence left in its wake, Mr. Jones has worked hard to repair his relationships with his children – from whom this Board will hear – and to

build loving relationships with his 18 grandchildren and 22 great-grandchildren. He has been delighted to learn of the births of two great-great grandchildren.

Through his correspondence and his self-education, Mr. Jones has also established a network of friends around the world. (Ex. 40 at 1- 12). Through these many relationships, Mr. Jones constantly strives for insight and for peace. As Mr. Jones explained to this Board, "he had to come to a place of death to live." A former fellow inmate has attested before the Board how Mr. Jones taught him writing, grammar and punctuation, and counseled him to see things in a different light. (Ex. 45 (Moore Affidavit) at 3).

All these bonds will be forever destroyed if Mr. Jones is executed. As some of Mr. Jones's grandchildren have explained in their letters to the Board, they are without positive male role models in their lives. Mr. Jones strives to ameliorate the legacy of fatherless he has left by mentoring, advising and encouraging his grandchildren. They ask for mercy:

> *"[My great-grandfather] has been a great influence in my life. I grew up without a father figure in my life, but knowing I had my great grandfather to write kept me moving on with my life in a positive direction. He told me to never give up and never look back at the bad things in life."*

-Brandon Dakarri Jones (Ex. 40 at 1).

> *He has written to me and my brother since we were kids and he taught me cursive writing. Even though I have never met him, I love him. I want him to hear about accomplishments I make as I get older. Graduating high school, college, and beyond. Even if he is not*

physically there to congratulate me, I want to be able to get home and write him all about it.

-DaQwan Morris, Age 13 (Ex. 40 at 3).

I want you to know how much his life really matters to me and to my brothers and sisters. I have 2 sisters and 2 brothers. I am the oldest son, and there are things that grandpa needs to teach them that I can't. There are not many positive and uplifting men in our lives. His advice, his guidance, his wisdom is priceless. He can speak from a place of really having been there and made mistakes in his life.

-Notorious David Jones (Ex. 40 at 7).

"There's a whole new generation of grandchildren for him to leave his impression on, please have mercy and spare him. When you read this, it is my hope you see him as a human, a kind, sweet and gentle grandfather with a good heart, and a love of nature and jazz music and a man that is loved by so many."

-Ebony Taylor (Ex. 40 at 4).

"Grandpa Jones needs to stay in this family. I have a two-year old son named Christian that I have not got to introduce to grandpa yet. He would love him; he is so beautiful and smart. There are lessons to be learned in all of this, many of which can't just be taught in books. His side of the story needs to be shared with as many family members as he can touch. I still have things I want to talk to him about. I need some advice and guidance and he can provide this. I love my Grandpa!"

-Jasmine Jones (Ex. 40 at 5).

"I love my grandfather and I still have so much to share with him and so much to learn from him. I lost my other grandfather last year from cancer. And I'm not ready to lose the only one that I have left. I would rather lose him from old age. Family is very important to me because family is all I have. I hope that me sharing my feelings and wishes will help you understand that you would be taking away a very important part of my history and family."

-Precious Taylor (Ex. 40 at 10).

> *My Nana told me that I would be losing him soon and I don't know how to be ok with that. I do not have anymore grandpas and even though I can't see him like I would like to... the idea of losing him makes me so sad. I want to be able to keep a relationship with him. He has to be here. I haven't graduated high school yet. I want to show him I can do it. I love my great-grandpa. He is our Valentine 2/14.*

-Simaone Jones, age 13 (Ex. 40 at 12).

VII. Conclusion

For all the reasons contained in this Application and appendices, and for the reasons found in the evidence and argument presented at the hearing on this Application, Mr. Jones and his family ask this Board to: (1) grant a stay of execution for ninety (90) days to permit the Board to review and deliberate the evidence on Mr. Jones's behalf; and exercise its awesome power to bestow mercy and to commute Mr. Jones's death sentence to a sentence of life without the possibility of parole.

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