


Page 3 - Girvies Davis - 7/25/75

percentile. This result suggests that this youth has the aptitude for working rapidly and accurately with detailed and repetitive clerical-type tasks.

Girvies' personality test results contain a great deal of perseveration, which supports the findings of the Bender, that this youth has an organic brain syndrome. On the Rorschach, he sees butterflies and eagles in almost every one of the stimulus cards, and his TAT stories show the effects of very impoverished intellectual, social and emotional life experiences. It appears as though Girvies' level of emotional and intellectual functioning is quite low, and in addition seems to lack any real understanding of people and how to effectively relate to them.

Girvies has some problems with his impulse control, and he has a low level of frustration tolerance. It appears as though the best situation for this youth is a very low level vocational placement, e.g. maintenance work or work adjustment training in a vocational workshop, such as SAVE in Belleville. Efforts to push Girvies into anything more complex will probably result in unbearable frustration for this youth, which in turn is likely to lead to some kind of anti-social acting out behavior. If he has not already had a neurological evaluation, then this should be done, and I would strongly recommend that medication be utilized in the management of this youth.



Sherman Sklar
Clinical Psychologist

SS/sp

MEMORANDUM

Date: August 29, 1975

Distribution: Mr. Huch, Mr. Peters, Mr. Criswell,
Pere Marquette, A. & File (3)

To: Kenneth A. Wells, Coordinator
Field and Advocacy Services Unit

From: Jacqueline Settles, Team Leader "B"

Subject: GIRVIS DAVIS
EXTENDED AA PLAN

Girvis is a 17 year old black youth who was returned to Pere Marquette on 7-17-75 for assault of a member of his own natural family. The incident occurred on 7-4-75; however, Girvis was not returned to Pere Marquette right then, but placed in the County Jail to await further disposition. The team staffed Girvis and concluded that Girvis need not return to Pere Marquette if he was willing to go on the Corrections Learning America Trip on 7-8-75. The student consented to this plan, was released from the County Jail and left on the float trip on 7-8-75. However, on 7-16-75, while on the float trip, the student became assaultive to a parole staff member, and because of the incident, was returned to Pere Marquette, Step 1, on 7-17-75.

While at Pere Marquette, Girvis' behavior has been predictable. Girvis knows by now how to adjust to Pere Marquette, consequently he maintains a decent attitude and has no particular problems with staff or students. Weekend furloughs have been marginal. On one extended weekend at the E.O.C. Group Home he became involved in an incident that will be discussed later on in this report.

RECOMMENDED PLAN:

On 8-19-75 Girvis was staffed in the East St. Louis office by Janice Duncan, Richard Cosey, Aaron Bodwell and this writer. At the time of this staffing Girvis was on an extended weekend authorized absence for the express purpose of meeting with the entire team to conform future plans for A.A. During the course of the staffing, it was learned that Girvis had become involved in an altercation with [redacted] while on his furlough and it resulted in the two youths drawing knives on each other. Because the details were quite sketchy and had been resolved, Girvis was advised regarding this kind of future behavior, and preventive measures were also discussed as a means to deal with future incidents. The recommended plan is as follows:

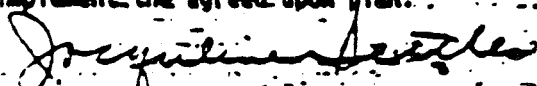
Plan: Placement: E.O.C. Group Home (by Leonard Perry)
Vocational: C.M.T., September 15, 1975, Prep. with Tom Taul
Educational: C.E.D. Prep., Choice, September 2, 1975, Orientation with Janice Duncan and Myron Buchanan
Med./Psych: Barnes Clinic, Dr. Lamm, (by Richard Cosey)
Counseling: Minimum twice weekly at Group Home (Mr. Cosey)

(All referrals have been made and accepted by various areas.)

Page 2
Extended AA Plan
Girvis Davis
August 29, 1975

A major factor affecting Girvis' adjustment is his physical, aggressive manner in dealing with problems confronting him. It is felt through his continued use of medication some of his aggression may be controlled, coupled with this, the team and his counselor are attempting to assist him in methods of resolving some conflict situations he encounters. He was also advised that when he did not employ some socially acceptable manners of dealing with conflict, that recommendations would be entertained to place him on restriction or return to Pere Marquette. Girvis shared with the team his concerns about recurring problems in the group home, and at this juncture he was assured they were being dealt with and that sessions would be held in the group home bi-monthly to deal with those problems affecting the entire group.

Finally, it is therefore recommended by the team that Girvis be granted an extended authorized absence to the E.O.C. Group Home effective 9-2-75 and that the team be given permission to implement the agreed upon plan.


Jacqueline Settles, Team "B" Leader
Field and Advocacy Services Unit.
Southern Correctional Region

JS:bls

MEMORANDUM

Date: January 23, 1976

To: Mr. Leonard O. Perry, Supv. Dist. II
Southern Correctional Region

From: Barbara Hubbard
Foster Group Home Counselor *BH.*

Subject: DAVIS, GIRVIS - DCJ# Y 69-0463

Just

Distribution:

Wells, Pere Marq. *file*

Since being granted an extended Authorized Absence from Pere Marquette, Girvis has made a progressive effort in maintaining his community based program. His program consists of a two hour day educational program at Choice and cooperative Work Training Program orientation. Girvis' residential plan consists of the E.O.C. Group Home.

Due to the Christmas holidays, this counselor has not been able to properly evaluate his school program or work training program. He only attended Choice five days before the school closed for Christmas vacation, however, the five days he attended prior without any problems. His work orientation program has not been met on a regularly scheduled basis due to other responsibilities of our staff, however, the work orientation coordinator indicates that Girvis has completed all assignments without any problems and is pleased with his attitude toward the program.

He has made a good adjustment to the Group Home. In the beginning, Girvis spent a considerable amount of time at his mother's home. Even before the extended A.A., Girvis would spend most of his furlough, until curfew time, at the mother's home. Two consecutive weekends, on furlough to E.O.C. Group Home, he visited his mother's home and was hurt to the extent of requiring medical attention. This counselor feels that visits to the mother's home might result in an unsuccessful community adjustment. After talking with Girvis about his visits to his mother's home once a week, preferably on Saturdays, there has not been any problems since. Girvis willingly does his household chores and his room is often neat and clean. He is friendly with his peers and relates well to new wards coming into the home.

Due to the shortness of his extended authorized absence, and the Christmas vacation of Choice, it is recommended that Girvis be granted another extended Authorized Absence to give the counselor a better chance to evaluate Girvis in his program areas.

Attached is a copy of Girvis' C.M.T. program. His educational program at Choice is from Monday - Friday 2:30 p.m. to 3:30 p.m.

Barbara Hubbard
Foster Group Home Counselor

BH/bs

MEMORANDUM

Quint

Date January 29, 1976

Distribution: Halls, Peters,
Pere Marc File (2)

To: Leonard O. Perry, Supv., Dist. II
Southern Correctional Region

From: Barbara Hubbard
Foster Group Home Counselor

Subject: DAVIS, GIRVIS - EXTENDED AUTHORIZED ABSENCE

Since the second two weeks extended authorized absence, Girvis has had problems with his adjustment and the acceptance of supervision from this Counselor. During the first week of the 2nd extended AA, his adjustment was seen as poor. He has been suspected of several incidents, however, this Counselor was not able to gather enough information to prove him guilty in any instance. He was suspected of trying to sell a stolen typewriter and calculator that had been stolen from the Housing Authority, where another youth in the home was employed. He was also suspected of taking new sheets away from the Group Home, however, a day after being confronted, the sheets showed up. Houseparents had reported that Girvis was coming in after curfew during the first week on his 2nd extended AA and was seen intoxicated on several occasions. One night he came home past curfew and began fighting with another youngster. After being confronted with all the above issues and restricted, Girvis refused his restriction.

Although Girvis' adjustment to the home was poor and he refused to follow rules, he participated in his program areas.

Mr. Buchanan, his educator, has indicated that Girvis is doing well in his school program. His attendance and class participation has been seen as good.

Mrs. Settles indicates that on several occasions Girvis has come to C.W.T. unwilling to do what was expected and sometimes disrupted the class, however, managed to get his assignment in when expected.

On 1/19/76, Girvis was staffed by Mr. Perry and this Counselor and restricted for two nights to the Group Home. He followed through with the restriction and has been doing well since the staffing.

It is my opinion that Girvis has problems accepting supervision and relating to this Counselor. At one point, he asked to be assigned another Counselor. Attempts are being made by both Girvis and this Counselor to better the counseling relationship. During the 2nd two weeks of the 2nd extended AA, Girvis' attitude has improved, however, he is changeable and recognizes that he is only on a two week extended Authorized Absence. Since Girvis' attitude has been so unpredictable and his adjustment so shaky, this Counselor is recommending another two week extended AA and would like to have a continuous two week Authorized Absence until his adjustment merits him having an official Authorized Absence.

Barbara Hubbard, Counselor
Foster/Group Home Unit

BH/ba



NAME DAVIS GERVIS	INITIAL	HOSPITAL NO 7-03635-0	DATE 7-3-77	ROOM NO 1C0-1
ADDRESS 324 FORTYTH		DOCTOR THOMAS		
CITY E. ST. LOUIS, ILL.		REL. CONC EMITIFIED		
PHONE 330-4389	TELEPHONE 01-20-98	MADE IN USA		
SEX & AGE M-19	WEIGHT 51kg	PROG. HOSP. DATE UNDETERMINED		
ADMIT DATE 7-3-77	DISCH. DATE 7-5-77	PATIENTS EMPLOYER NONE		
ADMITTING PHYSICIAN OVERDOSE	TEST NO.	OTHER NO. 03-113-01222 SELF CASE		
		GUARANTOR OR NEXT RELATIVE SMITH BELLA MOTHER		PHONE 330
		EMPLOYER		
		DISCH. DATE		

FINAL DIAGNOSIS including Complications

1. Suicidal gesture	Code
2. Depressive reaction.	300.2
3. Mental retardation. (borderline)	31.1

OPERATIONS

CAUSE FOR ADMISSION

PERTINENT FINDINGS History, Phys Exam, Lab, X-Ray, etc.
 This 19 year old male was taken to the emergency room following an overdose of Elavil and Tranzone and practically comatose. Pupils were equal but constricted and reactive to light. There were no signs or symptoms of anticholinergic poisoning. IV fluids were started and the patient was admitted ICU. He made an uneventful recovery by the next morning and was then transferred to the psychiatric unit. However, he eluded and the family was called, brought back the next morning against his resistance. He does not want to stay in the hospital, he is irritable and hostile. He is very demanding. From the past history, he is potentially violent or to be considered so. He started to sign himself out so the undersigned called the mother and the mother indicated that it is quite OK for him to leave the hospital against our advice. So he is discharged against medical advice. However, he has been given the option to come to the office for further followup care or to attend the Mental Health Clinic.

CONSULTATION WITH RESULTS

Reviewed
 Improbable
 Not Improbable
 Not Trained
 Diagnostic Only
 Other

DISCHARGE TO _____

Cause of Death: _____
 Date: 7/6/77
 Signature: _____
 Authority: _____

James Davis is a nineteen year old, male, born in [redacted] California. The patient has been here for [redacted] weeks, the diagnosis could not be located.

REASON FOR REFERRAL

The patient was brought here by the mother stating that he is nervous and that he is suffering from seizure disorders. He is in jail for burglary. He said he had been in jail recently for violent behavior at home towards the mother and destroying property in the house. He said his last seizure was [redacted] ago. He admitted to being nervous but would not elaborate.

For details of history please refer to the old record when available and also to the intake summary.

MENTAL STATUS

The patient looks about the same as his stated age of nineteen. He is quite defensive and has difficulty in making eye contact. He is also very irritable and appears somewhat hostile. He does not talk spontaneously or answers questions adequately and has to be pushed to get answers. There is moderately high levels of anxiety both somatic and psychic. The impulse control is very poor. He has a tendency to become combative and violent and mild frustrations whenever his needs are not met. There are no psychotic symptoms at this time. He seems to be functioning at the borderline range of intelligence or probably the level of mild mental retardation. Because of his defensiveness and irritability, we attempt was made to assess his intellectual functions. Insight is poor.

DIAGNOSIS

1. Mental Retardation, Borderline Type with Episodic Emotional Dyscontrol Syndrome.
2. Convulsive Disorder Etiopathic *Impaired*
3. *Personality Disorder*

RECOMMENDATION

Since we do not have the old record we should try to assess his intellectual functions by a battery of psychological tests. We should also try to obtain medical records from Dr. Lam in St. Louis who was treating him for his seizure disorders. In the meantime the following medications were prescribed: Dilantin 100 mg. three times a day 50 capsules; Mellaril 50 mg. three times a day 50 capsules. Next appointment is in two weeks.

[Signature]
V. J. [redacted]

PROGRESS NOTE

AF Clivia Davis (CS 44938)
Date of contact: 8/10/78
Date of Dictation: 8/10/78
Transcription: 8/18/78

The patient was seen today for 15 minutes for a scheduled visit. He states that he continues to be nervous and sleep is disturbed. He has multiple psychosomatic complaints. He feels that he should go to the hospital and "get my system cleaned up."

The mother called stating that he's very nervous and it is difficult for her to cope with his behavior at home. Therefore, it was decided that we put him in the hospital for a brief period and arrangements are made to admit to a psychiatric unit in Christian Welfare Hospital.


V. J. Thomas, M.D.

VJT db

2001-72

FAMILY NAME: DAVIS, FIRST NAME: GLEYS L. INITIAL: L.

STREET: 839 No. 81st St.
CITY: E. St. Louis, Illinois
PHONE: 384-2589 DATE: 1-20-58

SEX: M AGE: 20 MARR: Single

ADMIT DATE: 8-10-78 TIME: 11:45 AM

HOSPITAL NO: 8-04091-8 ROOM NO: 8-15-78 283-02

DOCTOR: Thomas...
RELIGION: Prot.

WEDEN NAME: None DATE: Yes/1977

PATIENTS EMPLOYER: Medicare # 427-32-5712-C-6

RELATIONSHIP: Mother

ADMIT DIAG: Emotional Dyscontrol Syndrome / Manual Ectard...
Ectard...
Ectard...

FINAL DIAGNOSIS including Complications

Depressive Neurosis Chronic
Eczematous Dermatitis since childhood

2001-72
283-02

OPERATIONS 8-14-78 Excision of skin lesions Papilloma
of Rt. Hip and Vofl Axilla

93.

CAUSE FOR ADMISSION

PERTINENT FINDINGS: History, Phys Exam, Lab, X-Ray, etc. This is a 20-year old black male admitted 8/10/78 because of feeling nervous, shaky and sick. The patient said I have a nervous problem, feel bad, started shaking around a lot of people all my life, getting worse for the last six months. Also gave history of skin rash and eczema, left elbow, since early childhood, multiple warts of right thigh and left axilla, since age 10 years, which get worse when "I am nervous".

FINAL SUMMARY OF TREATMENT

Gives history of scratching too much, getting easily upset. Also complains of trouble in sleeping, worrying about "lots of things on my mind", "looking for a job, filling the application, did no good". The patient also complains of headaches after drinking too much whiskey, about one pint, 3 to 4 days a week, for one year. Physical exam suggested that he had eczematous type of rash, left elbow, and multiple warts of right thigh and left axilla. Psychiatric exam suggested that he appeared worried, tense, having anxious and depressed mood. Routine lab work was within normal limits. ECG was normal. For depression he was treated with anti-depressant medications, supportive psycho-therapy, occupational therapy and ward milieu therapy. For multiple warts he was treated in consultation with Dr. Erenneis. (Page 1 of 2 pages)

DISCHARGE MEDICATIONS

CONSULTATION WITH RESULTS

Approved Not Improved Not Treated Discharge Only Other
P. Thakur, M.D./med

DISCHARGE TO

Cause of Death

Davis, Charles
1091-78

ADMISSION DATE: 8/10/78
DISCHARGE DATE: 8/16/78

DISCHARGE SUMMARY, (cont)—For excessive drinking he was treated with explanation counseling, psycho-therapy. Response to the treatment was good. At the time of discharge he had no unusual anxiety and no depression. Eczematous dermatitis was much improved.

DISPOSITION: Tablets-Mellaril 25 mg. t.i.d.; Ointment for the surgical scars.

Follow up by Dr. Thomas. Appointment arranged.

D: 8/25/78
T: 8/25/78


F. Thomas, M.D./MDV

PSYCHOLOGICAL HISTORY

NAME: GIRVIS DAVIS
DATE OF BIRTH: January 20, 1958
AGE: 22 years
RELIGION: 2 sisters, one brother, one half brother
ADMISSION DATE: March 26, 1981

The client's history is sketchy at best to a point. His mother and father lived together for ten (10) years before his mother remarried that Mr. Davis was married and had another family. The relationship between the mother and father is vague. The father was unemployed, and the mother was on Public Aid throughout their marriage. Impressions are that neither parent was effective parents. Of the five children, four have been identified by the mental health center.

Mrs. Smith later married Dwight Smith, who also does not work and is ineffective as a father. He appeared to be very subservient to Mrs. Smith and the children.

The client's health history only reveals numerous visits to the hospital because of an allergy. He is allergic to milk, and some other things not mentioned in the medical report from Childrens' Hospital.

There is no other recorded history until 1969 when the client was seen by Dr. Marianne M. Chernok, M.D. (Psychiatrist). At that time, the client had been identified by the Juvenile Corrections Office because of various anti-social acts (stealing, burglary, etc.) At that time, Girvis was exhibiting signs of organicity through psychological testing, acquired by Dr. Chernok for the Juvenile Corrections Office. In 1972, an EEG done by Dr. Chernok revealed gross abnormalities, and the patient was placed on valium. The patient complained of headaches and backaches at that time, and was not given aspirin.

In 1973, a report from Dr. Marvin C. Piperyn of the Department of Juvenile Corrections substantiated Dr. Chernok's findings of organicity. The following symptoms were noted and have followed the client to the present day. Emotionally volatile, displays markedly defective insight and judgement, disorientation as to time, defective sensorium sleep disturbance, markedly defective fund of knowledge, ~~or~~, head aches, backaches, gross abnormal EEG, (shifting spike slow waves and spike activity in the anterior leads), acting out towards mother and physically attacking sisters. Hyperactive, low I.Q. (runs under 80 probably lower now 3/26/81). He was diagnosed: "Non-psychotic organic brain syndrome associated with cerebral trauma". The diagnosis also was substantiated by the fact that the client was involved in accident in which he suffered severe injury to head at the age of ten when he was hit by a truck.

PSYCHIATRIC HOSPITAL CENTER
1234 Davis
CITY, STATE

He was not identified in the school system until 1970, which coincided with the accident and his involvement with juvenile delinquency in 1968. He was admitted to this center in 1970-closed 1971, opened 1971-closed 1975, opened 1977-closed 1977, opened 1977-closed 1978. He was in attendance the latter part of 1978 but the chart was not opened. He also saw the doctor (Thomas) on 2/7/79 (with out being opened and given medication). The last recorded contact was on May 22, 1979 (phone contact). The last note was on June 7, 1979. Client failed to keep appointment to see Physician. Dr. Thomas gave him several diagnosis to include: Mental Retardation, Episodic Emotional Dyscontrol Syndrome, Depressive Reaction and Convulsive Disorder.

Throughout contact with this mental health center, the client has been inconsistent in his attendance. He has been linked with Department of Correction, Special Education, Division of Vocational Rehabilitation, SSI Administration, and Alton State Hospital with no change in his life course.

The rest of the client's life has been filled with various professionals trying to help him. He missed the one thing he needed most-a stable home environment.

Alan Reeves
Alan Reeves, M.S.
Coordinator Satellite Program

Exhibit
33

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

AFFIDAVIT OF ANDREA D. LYON

Andrea D. Lyon, on oath, states as follows:


1. I am an attorney currently licensed to practice law in the State of Illinois, and I have been licensed to practice here since 1976.

2. I am also the Director of the Capital Resource Center, located at 600 West Jackson in Chicago, Illinois. The Capital Resource Center is an organization that provides legal defense services to persons on death row at the collateral stages. I am the former chief of the Homicide Task Force of the Cook County Public Defender.

3. In my career I have tried more than 125 murder cases. I have also represented defendants at eighteen capital sentencing hearings; in none of them did my client receive the death penalty.

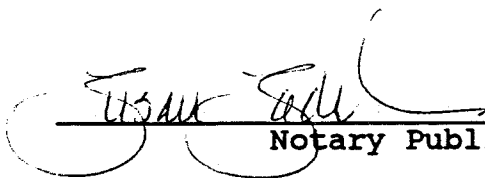
4. I am generally familiar with the evidence used to convict Mr. Davis and with the mitigating evidence that the jury did not hear concerning Mr. Davis' organic brain damage, borderline retardation, mental illness, and dysfunctional/alcoholic family background. In my professional opinion, this mitigating evidence had a high probability of persuading at least one juror to vote against the death penalty, which would have meant that Mr. Davis

would not have been sentenced to death. In fact, in three cases in my career, I have used similar mitigating evidence successfully to avoid the imposition of the death penalty.



Andrea D. Lyon

Subscribed and sworn to before me
this 25th day of April, 1995.



Notary Public

OFFICIAL SEAL
SUSAN SADLIER
NOTARY PUBLIC STATE OF ILLINOIS
MY COMMISSION EXP. MAY 28, 1997

5. During the conversation, Mr. Knapke informed me that, at the sentencing hearing, Mr. Davis' attorney had intended to introduce evidence that Mr. Davis suffered from various mental health problems, including borderline mental retardation, brain damage Mr. Davis suffered when he was hit by a truck as a boy, and mental illness, including a suicide attempt. Mr. Knapke explained that at the last moment Mr. Davis refused to allow his attorney to introduce the mental health evidence; because confidentiality laws prohibited the disclosure of these records without Mr. Davis' authorization, the evidence could not be presented to the jury. I have reviewed the portions of this mental health evidence which are attached to this statement under Tab A. Mr. Knapke also explained that Mr. Davis' attorney could have presented but failed to present evidence that Mr. Davis came from a very poor and dysfunctional family.

6. Had I known about the mitigating evidence described above, I might have voted for the lesser penalty of life in prison. A person close to me has suffered from mental illness in the past, and I believe that demonstrated mental illness often lessens a person's ability to make good decisions for himself or herself. I also believe that all too often the legal system looks at mental illness in black and white -- a person is either insane, and therefore not responsible for his or her actions, or is totally responsible for his or her actions. I believe that in some cases a person who is mentally ill may not be innocent, but may be less responsible for his or her actions. Thus a person's mental capacity and health should be taken into account in determining the appropriate sentence.

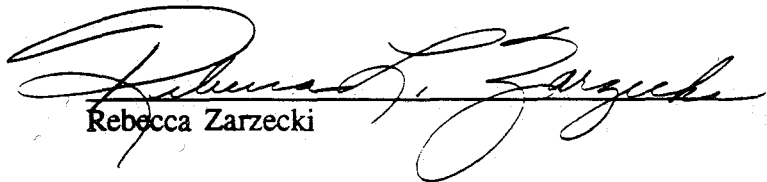
7. As a member of the jury that sentenced Mr. Davis to death, I believe that it would have been important for us to consider the evidence about Mr. Davis' history of mental disabilities and to have received evidence about his family life and upbringing. I would have wanted to know the extent of Mr. Davis' disabilities, what opportunities was he given to get help, and whether he took advantage of those opportunities. As I said, I might have voted in favor of a life sentence rather than a death sentence if I had known about this evidence.

8. I do not discount the life of Charles Biebel. His murder was a very serious crime. However, my decision whether to sentence Mr. Davis to death was serious as well, and I wish that I would have had all of the important facts about Mr. Davis.

9. I give this statement freely and without any offer of compensation. I authorize its use in support of Mr. Davis' planned clemency petition.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure in Illinois, the undersigned certifies that the statements set forth in this statement are true and correct.

Signed:


Rebecca Zarzecki

Dated:

4/14/95

FIELD SERVICES
KENNETH A. WELLS, Supervisor

Please direct reply to

Kenneth A. Wells
Suite 500 Illinois Building
East St. Louis, Illinois

June 10, 1967

Mr. Charles A. Hendley, Jr., Superintendent
Reception and Diagnostic Center
Illinois Youth Commission
P. O. Box 702
Joliet, Illinois 60434

SOCIAL HISTORY

IDENTIFYING DATA

Youth: DAVIS, Cirvies Lamar
NYO: 9-463-H
Birthdate: 1-5-58
Verification of Birthdate was made by the Agent viewing the school records.
Race: Negro
Other Agencies who worked with Youth: None
Social Security Number of Father: Unknown
Social Security Number of Mother: None
Social Security Number of Ward: None
Arrival Date: 4-28-67
Place: Reception and Diagnostic Center

INDIVIDUALS INTERVIEWED AND AGENCIES CONTACTED

Mrs. Ozella Smith
723 North 10th Street
East St. Louis, Illinois
Mother

Dwight Smith
723 North 10th Street
East St. Louis, Illinois
Stepfather

Records from the 20th Judicial Circuit
Court, Juvenile Division
Court House
Belleville, Illinois

Sgt. Roosevelt Brown, Juvenile Division
East St. Louis Police Department
East St. Louis, Illinois

Mrs. Walco, Caseworker
Illinois Public Aid
East St. Louis, Illinois

Miss Hunt, 4th grade teacher
A. M. Jackson Elementary School
East St. Louis, Illinois

The family does not have any hospitalization insurance; family is on Illinois Public Aid, A.D.C.-U.

COURT HISTORY

Present Situation: On 4-11-69 the youth was arrested for snatching a purse belonging to Mrs. Christine Lopper of Illinois. He was taken to police headquarters and released to his mother pending a court hearing. On 4-18-69 an amended delinquency petition was filed in Circuit Court charging the youth with purse snatching and being out of the control of the mother. On 4-28-69 the youth appeared in court with his mother, he was adjudicated a delinquent and committed to the Illinois Youth Commission by the St. Clair County Circuit Court charged with theft, the Honorable Judge William F. Fleming presiding.

Previous Delinquencies: The youth first came into contact with the East St. Louis Police Department on 5-11-66 when at age 8 he was arrested for stealing a pair of tennis shoes. His mother made restitution and paid for the tennis shoes.

On 5-26-66 he was arrested for breaking into the Sears & Roebuck Company store along with Ricky Johnson, now an Illinois Youth Commission ward, for taking two S-S guns. On 5-26-66 the East St. Louis Police Department filed a delinquency petition in the St. Clair County Circuit Court but it was dismissed on 7-6-66 because of the youth's age.

On 4-18-67 the youth was arrested for shoplifting at the Jupiter Store. He was lectured, warned, and released to the mother.

On 8-7-68 the ward was arrested for shoplifting at the Sears & Roebuck Company store. He was again lectured, warned, and released to the mother.

On 9-1-63 he was arrested for creating a disturbance at the Bike Shop on Collinsville Avenue, East St. Louis, Illinois. He was lectured, warned, and released to the mother. This brings the record up to the present situation.

DEVELOPMENTAL HISTORY OF YOUTH

Physical Data: The youth was born 1-3-68 in St. Mary's Infirmary, St. Louis, Missouri. The youth was of normal birth, bottle fed for 12 months, walked at 9 months, talked and was completely toilet trained at 2 years. According to the mother the youth is somewhat retarded and to this day he cannot talk plain. However, the mother volunteered that he was not in any accidents and as far as she knew there was no brain damage. The ward bleeds easily, has had a bad case of mumps and has been under the doctors care for this infection. Childhood diseases consisted of measles, mumps, and chicken pox. The youth was involved in no accidents, has had no broken bones, no surgery, and has never been hospitalized. Basically the youth is in good health.

Psychological and Psychiatric Data: The mother stated that the youth was referred to the local Mental Health Clinic by the school authorities but she never took him. Also the youth has never seen a psychiatrist so there are no evaluations available on this youth.

Name

DAVIS, GIRVIES

ITC 69-4634

Page 2

UNITED STATES DEPARTMENT OF JUSTICE
 Illinois Youth Commission

He has been found to be in need of continuous supervision. From all indications, he would need the controls which would be present in a medium security setting.

CLINICAL EVALUATION:

Girvies' IQ score, of 78, on the Revised Beta Test classified him as being in the borderline range of intelligence. His Revised Stanford Achievement Test results indicated very low academic skills. The youth is functioning at, approximately, the 1st grade level. The youth was last enrolled at Jackson Grade School in the 5th grade. A brief school report would indicate that his overall adjustment was unsatisfactory. Academically, the youth wasn't doing well which was, at least, somewhat due to his inability. Also, it has been indicated that his relationship with his teachers and fellow pupils hasn't been very good.

Girvies last lived in the home of his mother, Osella Smith, at 723 North 10th Street, East St. Louis, Illinois. Also, there is a man living in the home but, according to the youth, it isn't his father. Neither his mother nor stepfather are employed and they exist through the support of ADC funds. The youth didn't know why neither of his guardians didn't work but denied that there was any illness in the family. At present, there isn't any information pertaining to this. The youth's father is a policeman who stops by the house periodically. During these periodic visits, the father will sometimes give the youth's mother some money. The youth has about 8 siblings, all of whom live in the home, but their ages are unknown.

From what little Girvies said and what has been indicated, it would appear, he has had a very distant relationship with all authority figures who have lived in the home. Seemingly, the youth has been on his own, to do as he liked, since he was very young. It is to be noted, also, he has quite a lengthy record, although, he is only 11 years of age. He has never learned to respect the rights of others because he has never been taught to.

On the whole, he has been very hard to control and discipline here at the Reception & Diagnostic Center, due to the fact, he has had such a lack of it previously.

Basically, he is a very immature, dependent youth who is striving desperately to overcome his urgent dependency needs.

RECOMMENDATIONS:

- 1) It is the staff's recommend Girvies be transferred to ISTSB. It is felt that, although, he is very young he couldn't adjust in a minimum security setting. The probabilities of him leaving a camp setting are very, very, high.
- 2) He should be involved in the school program at the lower academic 1st grade level or EMH program.
- 3) He should be involved in as much individual and group counseling as is available. The youth should be particularly helped in the area of learning how to control his tendency to do what he wants, exactly when he wants to do it.
- 4) Girvies case should be thoroughly investigated prior to his return there. It is very unlikely that the boy detour from further acting out if he is returned to the former family setting.

ITC-713 5103

Kathleen Ryan
 Kathleen Ryan
 Social Worker
 Jerald Walker
 Moderator, FORM III

KR:JW:dp
 5-26-69

The youth was considered an obedient child at home, was nervous, had a slight temper, and would bite his fingernails. The mother felt that he had a very small attention span, could not concentrate on his studies, and was a lot of trouble at school. She considered him to be babyish and he would stick fairly close to home. The mother stated that because there is no father within the home structure, she tried to be both parents and tried to talk and reason with him and tell him where he was heading, but he seemed not to understand. He was very dependent on his mother, and in fact when he would make a dollar doing various jobs he would give his mother 75c. She stated she missed it very much, and when the mother said "it", this agent is not sure whether she meant the money or the child. She feels that one of his big problems is that his father is not in the home and that the word sees him only occasionally and it disturbs him not to have a relationship with him. Basically he is a problem child within the school, did not get along with adults in the community, and was almost anti-social.

Social Detr: The mother stated that he liked to swim, play baseball, and liked to attend the Boy's Club. He liked to watch television and had one friend that he was very fond of playing with, the boy being named "Tonsie". In fact this is an interesting relationship in that Tonsie comes by every morning even after the word was committed, goes into the house, looks at his bed and starts crying as he misses Girvies very much.

FAMILY HISTORY

Father: Girvies Stammis is 42 years of age and presently resides in St. Louis, Missouri. The mother seemed to be very secretive about his whereabouts as if this agent were trying to locate him. She thinks he is a night watchman for a local discount store and he comes to the home only occasionally. She thinks he is the father of three of her children, however she is not too sure. At our rate, Mrs. Smith assured this agent that the word and Mr. Stammis had no relationship.

Mother: Beulah (Davis) Smith was born 11-11-1931 in Paducah, Kentucky. She is an American Negro in good health and of the Baptist faith. She is presently an unemployed housewife and a recipient of A.D.C.-II. She is presently married to Dwight Smith whom she lives with and is supported by his A.D.C. grant. She has never been arrested, obtained 8 years of formal education, is not a veteran and belongs to no fraternal organizations.

It is this writer's impression that Mrs. Smith is extremely concerned about her son but is uneducated and extremely limited as a mother figure. She is concerned, but she does not have what it takes. She has been overly cooperative with this office, as is her reputation with the A.D.C. caseworker, Mrs. Weige, but that is the extent of her cooperativeness. Mrs. Smith has been extremely promiscuous throughout her lifetime and is now paying the bill, and it is felt that in her present marriage to Mr. Smith she has tried to rectify her past mistakes. However, she has married a 27 year old young man in extremely poor health who is unemployed, and this is no way to overcome mistakes. She stated she would cooperate with the Illinois Youth Commission if they would see fit to place the youth back in her home.

Employment: Dwight Smith is a 27 year old American Negro of the protestant faith, in poor health. He is presently an unemployed drummer and has not worked for the past two years. He is supported by A.D.C.-D. as he is supposed to be unable to work. Mr. Smith does not have an arrest record, obtained 8 years of formal education, has never been in the service, and belongs to no organizations.

All during this interview this writer thought that Mr. Smith, who turned out to be the husband, was the writer's handyman or even son, when she finally introduced him as her husband. He is young looking and states that he has just had major surgery, is unemployed, but is looking for work. At the time of this interview it appeared that this man was half intoxicated and was not very easy to relate to.

Marital History of Parents: A check with the A.D.C. records indicate that the mother and Mr. Stennis were never married but had a relationship from 1957 to 1964 which produced 4 illegitimate children. Mrs. Smith finally got married to her present husband, Dwight Smith, on 1-24-66, and I am sure there is no rationale for this marriage unless Mrs. Smith just wanted someone to do her errands and take care of her home.

Siblings: The oldest of Mrs. Smith's children is Beverly Davis, age 21, who is not married and resides in East St. Louis, Illinois. Jessie Davis, age 16, lives in the home and attends Rock Junior High School in the 9th grade. Both of these children were fathered by Fred Horton. Deborah Davis, age 9, lives in the home and attends Longfellow Elementary School in the 3rd grade. Bernadette Davis, age 8, lives in the home and attends Longfellow in the 2nd grade. Regina Davis, age 6, lives in the home and attends Longfellow in the 1st grade. Anthony Davis, age 5, lives in the home and is of preschool age. Yvonne Smith, age 2, is also of preschool age and lives in the home.

Other Relatives: None.

FAMILY INCOME

Mr. and Mrs. Smith are supported by A.D.C.-D. and their grant amounts to \$337.00 per month without the ward in the home. According to the A.D.C. records this family is not receiving any Social Security or veterans benefits.

HOME ENVIRONMENT

Mr. and Mrs. Smith and their family reside at 725 North 10th Street, East St. Louis, Illinois in a 5 room and bath brick structure. They have lived here for the past 4 years and rent this dwelling for \$55.00 per month. The home is divided into a kitchen, living room, dining room, and 3 bedrooms, and has a full basement which houses the gas furnace. The interview took place on a sunporch, and what rooms were visible seemed to be sparsely furnished with old and used furniture, but the overall appearance seemed to be fairly clean. Housekeeping standards were only average. The Smith family has benefit from most of the modern conveniences including a gas range, electric refrigerator, television and Hi-Fi. At the time of commitment the ward shared a bedroom with his younger brother Anthony.

NEIGHBORHOOD

The Smith family resides in an all Negro, low income, residential area of East St. Louis, Illinois. This area entertains an extremely high delinquency as well as adult crime rate and most of the property in this area is rental property. Most of the established families in this area have moved out and therefore it is close to becoming a slum area. Recreational facilities consist of one boy's club, school playgrounds and street corners.

SCHOOL HISTORY

At the time of commitment the youth was attending the A. M. Jackson Elementary School in the 4th grade. This writer talked to his teacher, Miss Hunt, and her first sentence to this writer was that "he was a vulgar student". He was below average in ability, aggressive in the classroom, would tear up his report card in front of the teacher, and when the teacher would send for the mother, she would not come to the school. Miss Hunt stated that he could barely do 4th grade work and needed to be prodded to do this.

VOCATIONAL HISTORY

None.

RELIGIOUS BACKGROUND

Although the youth was slow in school and behind in his grades, he seemed to have an interest in Bible School and attended the Morningstar Baptist Church for the past four years. He joined this church without the mother's consent and managed to attend with some of his friends. This is the extent of what the mother knows about his church attendance.

REPORTS OF OTHER SOCIAL AGENCIES

None.

ATTITUDE OF FAMILY TOWARD YOUTH

The mother tried to rationalize and stated that he was railroaded to the Illinois Youth Commission. When it was brought to her attention that the youth was arrested at age 8 for stealing, this was a different matter. This agent agrees that the mother should have had something to say in the court room, and this seems to have her more confused and mad rather than the commitment to the Illinois Youth Commission. She seems to be carrying a personal grudge for Sgt. Roosevelt Brown of the East St. Louis Police Department who filed the delinquency petition, and Judge Fleming who sentenced the youth to the Illinois Youth Commission. She has been on the phone continuously to this agent trying to find out if this agent could release her son, all of this without once admitting to anyone that she could have been at fault. During this interview this writer tried to make her examine her own life and the example that she has set, but she would not listen. She stated that she would write and visit when she can.

Page 6
Social History
DAVIS, Cirvian Laker

DECISIONS AND RECOMMENDATIONS

As stated before, Mrs. Smith has been on the telephone constantly to this agent, trying to get her son out instead of re-examining her life to see and rationalize her own problems and worry about the future placement of her son. The family is extremely disintegrated, there has never been any father influence in the home, and I am sure the youth was seeking sole identity in the community when he was committed to the Illinois Youth Commission. He could not look to his stepfather whom he hardly knew, he was a belligerent and anti-social child in the school program, and was almost destined to go to the Illinois Youth Commission. Placement back into this home must be guarded at this time; however, there would be retaliation from the mother if another placement resource were to be used.

Kenneth A. Walls
Juvenile Parole Agent
District VII

Kenneth E. Absher
Superintendent

KAW:bls
Encls. (2)
cc: Mr. Absher

STATE OF ILLINOIS
 YOUTH COMMISSION

NO FORMS

CLINICAL EVALUATION

SCREENING PSYCHOLOGICAL Report

Name DAVIS, GIRVIES	Number 69-4631	Date 5-16-69
Reason for Report	Born 1-5-58	Age 11-4

REASON FOR REFERRAL:

"Kicked an old lady, took her purse. Mother paid it back but I went to Court. Lady wasn't there. So Judge sent me up here on his own." Girvies also reported that he "Broke in a place," "Stole something out of a store" and that he "Stole a bike."

PSYCHOLOGICAL TECHNIQUES:

Revised Beta	Bender Gestalt
House-Tree-Person	New Stanford Achievement
High School Questionnaire	Interview

BEHAVIORAL OBSERVATIONS:

Girvies is an 11 year old dark complexioned Negro, round faced, chubby (mildly obese), with several large front teeth that distort his appearance somewhat.

He was quite hyperactive during the interview and expressed concern for the F's he saw on his report card.

PERSONALITY ASSESSMENT:

One could easily get the impression that Girvies is a very primitive youth who has found a delinquent way of life that is pleasurable to him. He mentioned that he was "sorry" that he kicked the lady but his comments appeared shallow and it is assumed that he would not hesitate to do it again if he thought that he could obtain some goods.

His human figure drawings have the coloring of those of a 5 or 6 year old child and the connotation of their being disjointed raised the question of organicity. Thus, he is being referred for a psychiatric evaluation. Interestingly, his productions on the Graham Kendall were flowery, suggesting that his behavior could have been a manic type of behavioral pattern. They have had rather gross distortions.

Girvies will present a challenge to all those who attempt to discipline him.

He is presently functioning at a high borderline intellectual level, 78, with his academics at a 1.6 grade level. There appears to have been some deterioration through the years for Girvie was once given A grades but now they are essentially F's.

Robert H. Brown
 ROBERT H. BROWN
 PSYCHOLOGIST

KHB:cm
 5-16-69

ILLINOIS YOUTH COMMISSION
RECEPTION AND DIAGNOSTIC CENTER

Charles A. Handley, Superintendent
Joliet, Illinois

MS
Hy

INTER-DEPARTMENTAL REFERRAL

TO Dr. M. Daniels DEPT. FROM Psychology DEPT.
DATE 5/16/69 WORKER Allen APPROVED BY FD
RE: Davis, Kevin ITC NO. 69-4534

PROBLEM:

Youth's figure drawings and
Graham-Kendall show distortions

ACTION REQUESTED:

Evaluate for Organicity

SUMMARY OF FINDINGS: (To be completed only in cases marked "urgent")

Signature of Examiner

Date

STATE OF ILLINOIS
YOUTH COMMISSION

CLINICAL EVALUATION

.....PSYCHIATRIC..... Report

related to any
trend of the

Name	DAVIS, GERVIS	Number	59-463M	Date	5-21-69
Reason for Report	Referral-Mr. Brown	Born		Age	

5-21-69: Gervis was referred for evaluation of possible organicity because of certain psychological test results. We do not yet have any background information at all and nothing is known about possible injuries or illnesses. His Revised Beta IQ is 78.

Gervis is a stocky little boy who was in good contact and cooperated well. He denied any serious illness, accidents, headaches or fainting spells. I found nothing to suspect organicity but if the history gives material to suspect it I would like to review it.

M. W. Chermak
Marianne W. Chermak, M. D.
Consulting Psychiatrist

MWC:dp
5-21-69

~~RECEPTION AND DIAGNOSTIC CENTER~~
 DEPARTMENT OF CORRECTIONS JUVENILE DIVISION
STAFF MEETING RECORD

RECEPTION AND DIAGNOSTIC CENTER - JOULET, ILLINOIS
 (Institution or Facility)

Name	Birthday	TYC No.	Date Staffed
DAVIS, GERVIS	1-5-58(12-7)	69-443M	9-16-70

PRESIDING: Ronald Williams

PRESENTED By: Team III

PRESENT: SPECIAL CASE REVIEW

IDENTIFYING DATA:

Gervis Davis is a 5'0 tall, Protestant, Negro youth, weighing 120 pounds. He has black hair and brown eyes, and there are no apparent identifying marks. Davis was first committed to the DCJ on 4-28-69 as a delinquent by the St. Clair County Circuit Court, charged with theft. The ward was most recently received at the Reception and Diagnostic Center on 8-28-70, after having broken parole, having been paroled from ISTSB.

PRESENT PROBLEM:

The ward first became involved with the police in may of 1966 when he was approximately 8 years of age. This first offense was that of theft. This theft was followed by a burglary on the 24th of the same month in 1966, a shoplifting in 1967, a shoplifting in 1968, a disturbance on the 4th of September in 1968, and a theft on the 30th of April in 1969. As stated above, the ward was first committed to the DCJ on 4-28-69. On 5-29-69 the ward was transferred to St. Charles ISTSB. On 9-27-69 the ward was transferred from ISTSB to a status of authorized absence at which time the ward was vacated. On 10-18-69, the ward was transferred from authorized absence pending parole to an official parole status. On 8-28-70 the ward was recommitted to the R & D Center, charged with RP/Poor Adjustment. Since his parole, the ward has been arrested atleast 6 times for stealing and shoplifting. During this time the parole agent states that he attempted to work with the ward because of his age, mental and academic retardation. The ward was also seen by a Dr. John Colsbere at St. Clair Mental Health Clinic for his acting out. The parole agent notes that although the ward is 12 years of age, he is functioning on the first grade level; therefore because of the school problems and because of his acting out his parole counselor felt that the ward should be reassigned to the Department of Corrections, Juvenile Division.

CLINICAL EVALUATION:

The ward gives the impression of being quite slow intellectually, and one must be quite careful in phrasing questions to him in that he appears to have difficulty understanding questions and responding. The ward also appears to be quite mother dependent, looking towards his mother for guidance in meeting his dependency needs. There is a truancy problem in school. The only reason the ward will give for this truancy problem is that he is harrassed by other students without being able to receive assistance from any of his teachers. The ward, during the interview stated, "I need help, because I get into too much trouble." The ward, therefore, seems to be aware that he is not functioning adequately and satisfactorily, and he appears to desire assistance. The ward definitely appears to be a follower and not in himself an aggressive person. The pattern of theft would possibly be explained by the suspicions that the family situation is strained fin-

Name

Page

DAVIS, GIRVIES

ncially and the family as a consequence of this is suffering physical deprivation. It does not appear that the ward has sufficient intellectual capabilities to make a constructive use of an institutionalized setting, and it is suspected that the ward's relationship with his mother is quite positive. The ward's caseworker states that he believes a minimum security setting is adequate for the ward, but due to the fact that the ward is functioning in the EMI level and due to the fact that he seems to be somewhat impulsive and somewhat unable due to his immaturity to behave himself properly, one might have to resort to a medium security setting. If Hanna City Special Education School would accept a boy who is 12 years and 7 months of age, Hanna City might be more appropriate than St. Charles.

The ward's psychologist referred Davis to Dr. Chermak for a psychiatric evaluation due to suspicions of organicity as a result of responses to psychological testing. In response to this Dr. Chermak states, "Girvies is a stocky little boy who was in good contact and cooperated well. He denied any serious illness, accidents, headaches or fainting spells. I found nothing to suspect organicity but if the history gives material to suspect it I would like to review it."

RECOMMENDATIONS:

1. It is recommended that the ward be transferred to either the EMI program of Hanna City Special Education School or the EMI program of St. Charles ISTSB. The former recommendation is preferred in that the ward does not appear to be an inordinate discipline problem.
2. The ward, as stated above, is functioning on the EMI level and should be enrolled in such a program. The ward who is presently almost 13 years of age is functioning on the 1st grade level.
3. The ward should be given the benefit of a counselling program with an adult who will help him to make the best use of the facilities in an institutional setting. It is not believed that the ward has the intellectual ability to profit from an institutional setup.
4. As mentioned above, it is believed that the ward has a positive relationship with his mother, and due to this fact it is believed that the home is the best parole placement available at this time. The ward, however, will have to learn to say no when approached by peers who are attempting to engage him in delinquent activities. The mother apparently is unable to supply as much supervision as is apparently necessary for this ward as seen in the offenses since his parole from the ISTSB. It appears that the mother will not be able to correct his situation, other parole plans will have to be found.

Ronald Dean Williams

Ronald D. Williams
Correctional Counselor I
Team III

Sam English
Sam English
OTS, Team III

RDW/SE/kg

119 J 27 490

Continued

PLACEMENT INVESTIGATION SUMMARY

Name **GIRVIES MAVIS** Age **13** NYC No. **69-463-4**

Now located at **Illinois State Training School for Boys** Committed **4-28-69**

Source of Information: **Mother**

Home Investigated:

626 North 7th Street, East St. Louis, Illinois **St. Clair** **876-3259**
City County Telephone

Type of neighborhood **All black, low income, rental property area**

Mr. Relationship Religion Race Age

Occup: Employer

Mrs. **Opella Smith** **Mother** **Baptist** **Negro** **35**
Relationship Religion Race Age

Occup: **Housekeeper on A.B.C.** Employer

No. of Rooms **7 and bath** Rental **\$92/monthly** Owned

Length of time at above address **2 years**

Siblings Living in Home:

Name	Age	Employed at—School	Wages—Grade
Robert	11	Jackson Elementary	5th grade
Bernadette	9	Jackson Elementary	3rd grade
Regina	8	Jackson Elementary	3rd grade
Anthony	7	Jackson Elementary	2nd grade
Deven	4	preschool age	

Others in Household:

None

Does Family have firearms in home? Yes No What Disposition?

PLAN FOR YOUTH

Kind of Work: Employer

Address Wages

School: **A. M. Jackson Elementary** Transcript of credits needed? Yes No

Has this youth lived in this neighborhood before? **Yes**

Has this home cared for or employed a youth on parole before? If so state name **Yes, none**

Will family call for youth: Yes No Placement in above recommended Yes No

Kenneth A. Walls **VZI**
Agent District

NOTE: Attach complete narrative report following Home Investigation Outline.

Reported by **Kenneth A. Walls, Family and Youth**
Counselor

Date **March 29, 1971**

cc: Commission—1
Field Service—1

APR - 2 1971

FAMILY SETTING

Mother: Orelle Smith is 39 years of age and presently an unemployed housewife and a recipient of A.D.C. She is of the Baptist faith, does not attend any particular church, has never been arrested, obtained 8 years of formal education, and does not indulge in alcoholic beverages.

Mrs. Smith is seen by this counselor as a heavy set black woman of limited intellectual ability, and not particularly impressive as a mother figure. However, she is soft spoken, very cooperative, and easy to relate to. Mrs. Smith has many problems of her own, of being on A.D.C. and trying to raise 6 children without a father. Where she lacks in intellectual ability, she makes up in desire and willingness to cooperate with authority figures. Mrs. Smith readily admitted to this counselor during this interview that she has learned a great deal herself since Clarence was returned to the institution as a parole violator. She realizes now that she must spend more time with this ward, make him feel a part of the family, and help instruct the other children and his friends not to make fun of him and not to embarrass him, all in an effort to make him feel at home. Mrs. Smith was more honest during this interview than she has ever been with this counselor, and pledges that if the ward is allowed to return home, she will make every effort to help this counselor supervise this youth.

FINANCE

Mrs. Smith is a recipient of A.D.C. and receives a total grant of \$350 per month, plus food stamps and complete medical coverage.

HOME ENVIRONMENT

Mrs. Smith and her family reside in a 7 room and bath, frame dwelling in which she rents for \$92 per month. The home is a 2 story structure and is divided into a living room, dining room and kitchen on the first floor, 4 bedrooms upstairs, with a full basement which houses the gas furnace. Although there is adequate space for the size of the family, most of the rooms are furnished with old and run down furniture and the entire dwelling needs renovating. However, this is all Mrs. Smith can afford at this time, she has tried to get her landlord to repair the home, to no avail. The Smith family enjoy some of the modern conveniences such as a gas range, electric refrigerator, worn out television and radio. Housekeeping standards are average, and if parole is granted, Clarence would have a room of his own.

NEIGHBORHOOD

Mrs. Smith and her family reside in an all Negro, low income, residential area located in downtown East St. Louis, which is designated as part of Model City. This is an extremely poor neighborhood and most of the homes are rental property and there is not much investment in the community. Delinquency and adult crime is rather high in this area, and recreational facilities consist of only school playgrounds.

DEPRESSIONS AND RECOMBINATION

Due to the ward's age, it will be mandatory for the ward to attend school on a full time basis. However, in a report received with the ward's plans from Joliet, it was noted that in their case review the ward should be enrolled in the E.N.E. Program, primarily because he is functioning on the first grade level. In the community, prior to his return to the Training School, the ward was enrolled in Jackson Elementary in the 5th grade. At this point there is little wonder why his school adjustment

Page 2
Placement Investigator Johnny
DAVIS, Girvies

was poor. At this time an attempt was made by this counselor to enroll the youth in the E. M. E. Program in School District 189, but was told that the program was full, and there was a waiting list of at least 500 students. What this means is that the ward, if returned to this community, will have to be placed back in the regular school program in the 5th grade because he is almost 13 years of age.

In preparing a recommendation for parole for this youngster, it became very difficult to rationalize why he should be released from the institution. This counselor knows Girvies and how he operates in the community, knows of his inexperience, childish personality, knows of his inability to perform in the classroom, knows that he has learned to steal at an early age to hide his inadequacies, and knows that this black family on A.D.C. lives in the ghetto of East St. Louis. However, this important must realize that institutionalization is not the answer either. A good start would be to have the ward placed in the E.M.E. Program where he could possibly become interested, have busy during the day, and then with good supportive counseling and help from the mother, could be kept busy in the evenings also. He needs an education, or at least a partial education until he is old enough to be placed in a training program, and this will be this Department's goal during the next 3 years. This counselor is not trying to discourage parole, yet point out the fact that it will take great effort on the part of all parties concerned to help this youth adjust to a successful parole. The mother, through counseling, has come to realize her role in this problem, and it will be this counselor's role to secure a program in the community that will best suit his needs.

Therefore, it is recommended that because of the negative factors brought out in this case, along with the school year coming to a close, that an authorized absence pending parole be granted for at least 90 days in an effort to try and formulate an effective program that will meet the needs of this youngster.

On this basis, it is recommended that AAPF be granted to the home of the ward's mother, Mrs. Ovelle Smith, 626 North 7th Street, East St. Louis, Illinois whenever the Parole and Pardon Board sees fit.

If Authorized Absence Pending Parole is granted, it is also recommended that the youth be returned to this area via public transportation, and that the mother and this counselor be notified in advance of his anticipated time and date of arrival in this area.

Johnny Davis
Kenneth A. Wells
Family and Youth Counselor
District VII

Waymond F. Addy
Acting Superintendent

KAW:bls
cc: Springfield
c: MR. Gilson

APR - 9 1971

Exhibit
34

Did /or would/ this factor make you...

1. much more likely to vote for death
2. slightly more likely to vote for death
3. slightly less likely to vote for death
4. much less likely to vote for death
5. just as likely to vote for death

Defendant was mentally retarded.

	1	2	3	4	5	Total
California	0.8%	0.8%	24.8%	62.0%	11.6%	
	(1)	(1)	(30)	(75)	(14)	121
Florida	1.8%	1.8%	24.8%	53.1%	18.6%	
	(2)	(2)	(28)	(60)	(21)	113
Kentucky	0.0%	2.3%	29.9%	46.0%	21.8%	
	(0)	(2)	(26)	(40)	(19)	87
North Carolina	3.4%	0.0%	54.2%	28.8%	13.6%	
	(2)	(0)	(32)	(17)	(8)	59
South Carolina	0.9%	0.9%	26.1%	45.9%	26.1%	
	(1)	(1)	(29)	(51)	(29)	111

Defendant had a history of mental illness.

	1	2	3	4	5	Total
California	0.0%	0.0%	50.8%	24.2%	25.0%	
	(0)	(0)	(61)	(29)	(30)	120
Florida	1.8%	4.4%	34.5%	29.2%	30.1%	
	(2)	(5)	(39)	(33)	(34)	113
Kentucky	0.0%	1.2%	34.9%	33.7%	30.2%	
	(0)	(1)	(30)	(29)	(26)	86
North Carolina	1.9%	3.7%	46.3%	20.4%	27.8%	
	(1)	(2)	(25)	(11)	(15)	54
South Carolina	1.8%	1.8%	27.3%	25.5%	43.6%	
	(2)	(2)	(30)	(28)	(48)	110

Defendant had been placed in institutions in the past but never given any real help or treatment for his problems.

	1	2	3	4	5	Total
California	1.7%	2.5%	35.6%	18.6%	41.5%	
	(2)	(3)	(42)	(22)	(49)	118
Florida	2.7%	1.8%	32.1%	17.9%	45.5%	
	(3)	(2)	(36)	(20)	(51)	112
Kentucky	0.0%	34.9%	38.4%	15.1%	43.0%	
	(0)	(3)	(33)	(13)	(37)	86
North Carolina	2.0%	0.0%	42.9%	8.2%	46.9%	
	(1)	(0)	(21)	(4)	(23)	49
South Carolina	0.9%	3.7%	28.4%	20.2%	47.7%	
	(1)	(4)	(31)	(22)	(52)	109

IV.8 AGGRAVATING AND MITIGATING FACTORS

SOME FACTORS ABOUT A MURDER, THE VICTIM, OR THE DEFENDANT MAKE PEOPLE FEEL A DEATH SENTENCE IS MORE OR LESS APPROPRIATE. I WANT TO ASK YOU ABOUT FACTORS THAT MIGHT HAVE INFLUENCED YOUR DECISION IN THE _____ CASE.

1. I am going to read you a list of factors that might be true or present in a murder case. For each factor on the list, I want you to tell me:

a. Was this a factor in the _____ case?

- 1. yes
- 2. no
- 3. not sure

b. (IF YES,) how important was this factor in your punishment decision?

- 1. very important in your sentencing decision
- 2. fairly important in your sentencing decision
- 3. not important in your sentencing decision

c. Did / (IF NO) Would/ this factor make you . . .

- 1. much more likely to vote for death
- 2. slightly more likely to vote for death
- 3. slightly less likely to vote for death
- 4. much less likely to vote for death
- 5. just as likely to vote for death

FIRST ARE FACTORS ABOUT THE KILLING:

- ___ the killing was not premeditated but was committed during another crime, such as a robbery, when the victim tried to resist
- ___ the killing was especially bloody or gory
- ___ the killing was brutal, involving torture or physical abuse
- ___ the killing was committed while (DEF) _____ was under the influence of alcohol
- ___ the killing was committed while (DEF) _____ was under the influence of drugs
- ___ the killing was committed while (DEF) _____ was under the influence of an extreme mental or emotional disturbance
- ___ (DEF) _____ made the victim suffer before death
- ___ (DEF) _____ maimed or mutilated the victim's body after death

(CONTINUED)

a. Was this a factor in the _____ case?

1. yes, it was a factor in this case
2. no, it was not a factor in this case
3. not sure whether it was a factor in this case

b. (IF YES,) how important was this factor in your punishment decision?

1. very important in your sentencing decision
2. fairly important in your sentencing decision
3. not important in your sentencing decision

c. Did / (IF NO) Would/ this factor make you . . .

1. much more likely to vote for death
2. slightly more likely to vote for death
3. slightly less likely to vote for death
4. much less likely to vote for death
5. just as likely to vote for death

NEXT ARE FACTORS ABOUT THE VICTIM:

- ___ ___ ___ the victim was a female
- ___ ___ ___ the victim was a child
- ___ ___ ___ the victim was a respected person in the community
- ___ ___ ___ the victim was a stranger in the community
- ___ ___ ___ the victim was a known troublemaker
- ___ ___ ___ the victim had a criminal record
- ___ ___ ___ the victim was an alcoholic
- ___ ___ ___ the victim was a drug addict
- ___ ___ ___ the victim had a loving family

NEXT ARE FACTORS ABOUT THE DEFENDANT:

- ___ ___ ___ (DEF) ___ had no previous criminal record
- ___ ___ ___ (DEF) ___ had a history of violent crime
- ___ ___ ___ (DEF) ___ was mentally retarded
- ___ ___ ___ (DEF) ___ had a loving family
- ___ ___ ___ (DEF) ___ was under 18 when the crime occurred
- ___ ___ ___ (DEF) ___ was an alcoholic
- ___ ___ ___ (DEF) ___ was a drug addict
- ___ ___ ___ (DEF) ___ had a history of mental illness
- ___ ___ ___ (DEF) ___ had a background of extreme poverty
- ___ ___ ___ (DEF) ___ was a stranger in the community
- ___ ___ ___ (DEF) ___ had been seriously abused as a child
- ___ ___ ___ (DEF) ___ had been placed in institutions in the past but never given any real help or treatment for his problems
- ___ ___ ___ (DEF) ___ did not express any remorse, regret or sorrow for the crime

(CONTINUED)

a. Was this a factor in the _____ case?

- 1. yes, it was a factor in this case
- 2. no, it was not a factor in this case
- 3. not sure whether it was a factor in this case

b. (IF YES,) how important was this factor in your punishment decision?

- 1. very important in your sentencing decision
- 2. fairly important in your sentencing decision
- 3. not important in your sentencing decision

c. Did / (IF NO) Would/ this factor make you . . .

- 1. much more likely to vote for death
- 2. slightly more likely to vote for death
- 3. slightly less likely to vote for death
- 4. much less likely to vote for death
- 5. just as likely to vote for death

FINALLY, THERE ARE ADDITIONAL FACTORS THAT MIGHT HAVE AFFECTED YOUR SENTENCING DECISION:

- (DEF) _____ was convicted with evidence from an accomplice who testified against (DEF) _____ in return for a reduced charge or sentence
- (DEF) _____ would be a hardworking well behaved inmate, and would make positive contributions in prison
- there is a possibility that (DEF) _____ would be a danger to society in the future
- the victim's family suffered severe loss or grief
- the victim's family asked for the death penalty
- the community was outraged over the crime
- most community members wanted the death penalty
- although the evidence was sufficient for a capital murder conviction, you had some lingering doubt that (DEF) _____ was the actual killer

IF THERE ARE FACTORS NOT ON THIS LIST THAT AFFECTED YOUR SENTENCING DECISION, PLEASE INDICATE WHAT THEY ARE, HOW IMPORTANT THEY WERE, AND WHETHER THEY MADE A DEATH SENTENCE MORE OR LESS LIKELY:

- other factors _____
- other factors _____
- other factors _____
- other factors _____

Exhibit

35

AMERICAN BAR ASSOCIATION

RESOLUTION

BE IT RESOLVED, That the American Bar Association urges that no person with mental retardation, as now defined by the American Association on Mental Retardation, should be sentenced to death or executed; and

BE IT FURTHER RESOLVED, That the American Bar Association supports enactment of legislation barring the execution of defendants with mental retardation.

(Adopted by A.B.A. House of Delegates, February 7, 1989)

REPORT

Executing a person with mental retardation violates contemporary standards of decency. It is a practice opposed by professional associations in the field of mental disability and by a majority of supporters of the death penalty. It is disproportionate to the individual's level of personal culpability and serves no valid penological purpose. Regardless of the outcome of constitutional litigation on this issue, it is a practice which the American Bar Association should disapprove.

The ABA's Recommendation would bar the execution of any defendant who is mentally retarded. It parallels the position that ABA has taken for years in opposition to the execution of individuals for actions committed while they were minors.

The universally accepted definition of mental retardation is that established by the American Association on Mental Retardation (AAMR):

Mental retardation refers to significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

"Significantly subaverage general intellectual functioning" is defined as an IQ of 70 or below.² This means that to fall within the professionally accepted definition of mental retardation, an individual's intelligence quotient must be 70 or below, the mental disability must exist concurrently with behavioral difficulties, and this disability must have occurred before the age of 18.

(Persons with IQ scores between 70 and 85, who are sometimes described by laypeople as "borderline retarded," are not within the definition of mental retardation. Such individuals have a substantial mental disability that should be considered as a mitigating circumstance in capital cases, but they are not mentally retarded within the AAMR definition, and are not within the scope of the proposed ABA recommendation.)

¹ American Association on Mental Retardation [previously "Deficiency"], Classification in Mental Retardation 1 (H. Grossman ed. 1983).

² Id.

The burden of persuasion on whether a defendant is mentally retarded should be on the defendant.

In an earlier era in our history, people with mental retardation were thought to be unusually prone to criminal acts and were believed to be responsible for the majority of crimes in our society.³ These attitudes have long since been proven false.⁴ The era of eugenic sterilization and eugenic segregation are long since past. People with mental retardation are not abnormally prone to criminality or violence.

When people with mental retardation do commit crimes, they should generally be held responsible for their conduct. But, as the Supreme Court has repeatedly observed, "death is different." The specter of a person with mental retardation on Death Row is deeply disturbing to most Americans.

As in the case of capital punishment and minors, there is widespread public sentiment for banning the execution of any person with mental retardation. Scientific polling data indicate that a majority of Americans, even in states that strongly support capital punishment, oppose its imposition on defendants with mental retardation.

³ Five Justices of the U.S. Supreme Court have referred to the history of mistreatment of people with mental retardation in this country as "grotesque." City of Cleburne v. Cleburne Living Center, 105 S.Ct. 3249, 3262 (1985) (Stevens, J., concurring), 105 S.Ct. at 3266 (Marshall, J., concurring in part and dissenting in part).

⁴ Ellis & Luckasson, Mentally Retarded Criminal Defendants, 53 George Washington Law Review 414, 416-21 (1985); Biklen & Mlinarcik, Criminal Justice, Mental Retardation and Criminality: A Causal Link?, 10 Mental Retardation and Developmental Disabilities 172 (1978).

⁵ See, e.g., Gamino, "73% in Texas Poll Oppose Executing Retarded Inmates," Austin American-Statesman, November 15, 1988; Cambridge Survey Research, Inc., Attitudes in the State of Florida on the Death Penalty: A Public Opinion Survey 7, 61 (1986); Blume & Bruck, Sentencing the Mentally Retarded to Death: An Eighth Amendment Analysis, 41 Arkansas Law Review 725, 759-60 (1988).

The current system of mitigation, (see ABA Standards for Criminal Justice 7-9.3), and competence for capital punishment, (see ABA Standards for Criminal Justice 7-5.6), are not adequate to assure that people with mental retardation will not be executed. Approximately five of the 101 individuals executed since Gregg v. Georgia have been mentally retarded. The only case to achieve substantial local publicity about the defendant's mental disability was the execution of Jerome Bowden in Georgia in 1986. It is significant that the Georgia legislature, at its next session, passed a new statute effectively outlawing the execution of people with mental retardation.⁶

Congress has passed a similar measure in the capital punishment provision of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690). On September 8, 1988, the House of Representatives considered an amendment by Representative Sander Levin of Michigan, which provided "A sentence of death shall not be carried out upon a person who is mentally retarded." The amendment was supported in floor speeches by Representatives George Gekas of Pennsylvania, Judd Gregg of New Hampshire, Arthur Ravenel of South Carolina, and Steve Bartlett of Texas. This represents the widest possible spectrum of political opinion in the House, from liberal Democrats to conservative Republicans. The amendment passed by a unanimous voice vote. On October 14, an identically worded amendment passed unanimously in the Senate. President Reagan signed the legislation containing the amendment.

Professionals and others with direct interest in people with mental retardation have reached the same conclusion. The American Association on Mental Retardation, the oldest and largest professional organization in the field, opposes the death penalty for persons with mental retardation. AAMR's amicus brief in Penry v. Lynaugh (No. 87-6177) has been joined by ten other mental disability groups, including the American Psychological Association, the Association for Retarded Citizens of the United States, the Association for

⁶ Ga. Code Ann. § 17-7-131 (j) (1988 Supp.). "Georgia To Bar Executions of Mentally Retarded Killers," New York Times, April 12, 1988, at A26, Col. 4.

⁷ Congressional Record, September 8, 1988, at H 7282 through H 7283 (daily ed.). See generally Congressional Record, August 11, 1988, at S 11606 through S 11607 (daily ed.) (Statement of Senator Paul Simon).

Persons with Severe Handicaps, the American Orthopsychiatric Association, the National Association of Private Residential Resources, and the National Association of Superintendents of Public Residential Facilities for the Mentally Retarded.

There are several persuasive reasons for a ban on executing people with mental retardation. One derives from the Supreme Court's Eighth Amendment doctrine of proportionality. States may execute only those persons whose culpability and moral blameworthiness are proportional to the punishment. The disabilities encountered by all persons who are mentally retarded prevent them from achieving that level of culpability. However, moral blameworthiness is measured or estimated, people with mental retardation are never in the top one or two percent of defendants convicted of murder in the level of their personal culpability. This argument is made more fully in AAMR's amicus brief in Penry v. Lynaugh.

The strength of the proportionality argument is indicated by the fact that no adult with mental retardation has a mental age higher than 12.

In addition, the Court has held that there must be a valid penological reason for choosing from among the many criminal defendants the few who are sentenced to death. The Court has identified two only such objectives -- retribution and deterrence. The Justices have held that retribution must be related to the individual's level of personal responsibility, and thus the analysis parallels the proportionality doctrine. And the likelihood that a mentally retarded individual will be deterred from a criminal act because he knows that persons with his disability may be executed, or the possibility that a

8 Tison v. Arizona, 107 S. Ct. 1676, 1687 (1987); Booth v. Maryland, 107 S.Ct. 2529 (1987); California v. Brown, 107 S.Ct. 837, 841 (1987) (O'Connor, J., concurring); Enmund v. Florida, 458 U.S. 782 (1982).

9 AAMR, Classification in Mental Retardation 33 (H. Grossman ed. 1983). Cf. Thompson v. Oklahoma, 108 S.Ct. 2687 (1988) (barring the execution of a defendant for an act committed before the chronological age of 16).

10 Spaziano v. Florida, 468 U.S. 447, 460 n.7 (1984).

11 Enmund v. Florida, 458 U.S. 782, 800 (1982).

mentally typical person will be deterred by the spectacle of the execution of a mentally retarded defendant are hardly sufficiently plausible to justify the punishment.

The U.S. Supreme Court has granted certiorari in the case of Penry v. Lynaugh on the issue of whether the Eighth Amendment's ban on cruel and unusual punishment prohibits the execution of a defendant with mental retardation. The Penry case also involves the issue of appropriate jury instructions on the issue of mitigation, and there is some likelihood, as a result, that the Court will not reach the Eighth Amendment issue in this case.

Whatever the ultimate resolution of the Eighth Amendment issue, it is important for the American Bar Association to take a policy position in support of a ban on executing mentally retarded defendants. States with capital punishment will soon face the question of executing mentally retarded individuals. Their legislatures will have before them the resolutions of the other relevant professional organizations, as well as the recent enactments by Congress and the Georgia legislature. The position of the ABA on whether such an execution is consistent with contemporary standards of justice would be most important to their deliberations.

As it did in the case of juveniles, the American Bar Association should make clear that a modern and enlightened system of justice cannot tolerate the execution of an individual with mental retardation.

Respectfully submitted,

Terence F. McCarthy
Chairperson,
Criminal Justice Section

Clifford D. Stromberg
Chairperson,
Individual Rights and
Responsibilities Section

February 1989

Exhibit
36

POSITION STATEMENT***ON****MENTAL RETARDATION AND DEATH PENALTY**

WHEREAS, the **AMERICAN ASSOCIATION ON MENTAL RETARDATION**, the nation's oldest and largest interdisciplinary organization of mental retardation professionals, has long been active in advocating the full protection of the legal rights of persons with mental retardation.

WHEREAS, the **AMERICAN ASSOCIATION ON MENTAL RETARDATION** recognizes that, the archaic stereotypes and prejudices to the contrary notwithstanding, the vast majority of people with mental retardation are not prone to criminal or violent behavior.

WHEREAS, the **AMERICAN ASSOCIATION ON MENTAL RETARDATION** recognizes that some people with mental retardation become involved with the criminal justice system and are often treated unfairly by that system. This mistreatment often results from the unusual vulnerability of individuals with mental retardation and from the failure of many criminal justice professionals to recognize and understand the nature of mental retardation.

WHEREAS, the United States Supreme Court has made clear that in all capital cases the judge or jury must consider any mitigating circumstances which would indicate that the death penalty is inappropriate or unjust. Among these mitigating circumstances are any which would tend to reduce the individual offender's personal culpability and moral blameworthiness for the act he or she committed.

WHEREAS, mental retardation is a substantially disabling condition which may affect an individual's ability to appreciate and understand fully the consequences of actions, and which may impair the individual's ability to confirm his or her conduct to the requirements of the law. Thus mental retardation should always be considered to be a mitigating circumstance in selecting an appropriate punishment for a serious offense.

WHEREAS, the current system of permitting judges and juries to determine the relevance of mental retardation as a mitigating circumstance on a case-by-case basis has failed to prevent the unjust sentencing of several mentally retarded persons to death.

AND, WHEREAS, the competence of individuals with mental retardation to stand trial or enter a guilty plea, and to face execution are always subject to question, raising serious doubts as to the legality of an execution in any particular case.

THEREFORE, THE AMERICAN ASSOCIATION ON MENTAL RETARDATION resolves that no person who is mentally retarded should be sentenced to death or executed.

*** Passed by Legislative and Social Issues (LASI) Committee and adopted by the AAMR Board of Directors, February, 1988.**

Exhibit
37

DEPARTMENT OF CORRECTIONS

Juvenile Division

Reception and Diagnostic Center

EDUCATIONAL PROFILE

Student Davis, Givies DCJ No. 69-463

Date of Evaluation 8-2-72 Diagnostician Laura Muehlebach

1. I.Q. Test Results

Date of Test: 5-5-69 Test: Revised Beta I.Q. 78

Comments:

2. Stanford Achievement Test Results

Date of Test: 5-6-69 Battery and Form: PIW

Results (Grade Equivalency Scores):

PM1	U.R.1	Dismissed from remainder of testing session.						
1.6	1.7							

Comments:

3. Physical Factors

Visual See Medical Report

Auditory _____

4. Recommendations

A. Reading:

EDL Placement _____ Grade Placement 1.5

Comments: Givies has almost no word attack skills. He scored a 1.6 grade level on the Silossan. The words that he didn't know on the list, he guessed at (for better, he said better, for field, he said fell) He reads slowly and rather jerky; but his comprehension on the Gray Oral was 100% understood. He reads at 1st and 2nd grade level.

B. Language Arts:

Grade Placement 2.1

Comments: Givie was given the ^{CAT} Lower Primary Language test. He seems to understand capitalization test (3.0 level), and needs the most work in word usage. Spelling is quite poor (1.9) probably because of his poor phonics skills. This test was read to him.

C. Mathematics:

Grade Placement 2.4

Comments: Givie can add large columns of whole numbers and can subtract when borrowing is not involved, but that is about the extent of his mathematical ability. He can do a few multiplication facts.

5. Observations

Attitude Indifferent to negative - he was very active - wanted to leave after the first test (Session)

Behavior fair - said he really was that interested in school.

STATE OF ILLINOIS -- DEPARTMENT OF CORRECTIONS

Juvenile Division

Reception and Diagnostic Center

EDUCATIONAL PROFILE CHECKLIST

Student Davis, Girvies DCJ No. 69-469

Date of Evaluation 8-2-79 Diagnostician Laura M. M... ..

KEY TO CHECKLIST:

0. Unable to explore skill or knowledge.
1. The knowledge or skill has never been exhibited on occasions when it might have been.
2. The knowledge or skill has seldom been exhibited (1-25 percent of the time).
3. The knowledge or skill has been occasionally exhibited (26-50 percent of the time).
4. The knowledge or skill has often been exhibited (51-75 percent of the time).
5. The knowledge or skill has usually been exhibited (76-99 percent of the time).
6. The knowledge or skill has always been exhibited (100 percent of the time).

READING

I. Phonics & Structural Analysis Skills

- A. Letters of Alphabet
- B. Vowel Sounds
- C. Beginning, Middle, Ending Consonant Sounds
- D. Sound Discrimination
- E. Blending
- F. Syllabication

	Rating						
	0	1	2	3	4	5	6
A.							X
B.						X	
C.		X					
D.		X					
E.		X					
F.		X					

Comments:

II. Vocabulary Level

Comments:

Blason - 1.6 grade level

III. Comprehension

- A. Literal
- B. Inferential

A.							X
B.							X

Comments:

Gray Oral Level 1 100% understanding
2 100% "

IV. Reference or Study Skills

- A. Follow Directions
- B. Use of Index
- C. Table of Contents
- D. Reading a Graph

A.				X			
B.	X						
C.	X						
D.	X						

did not test

- E. Reading a Map
- F. Social Science
- G. Science

E.	X						
F.	X						
G.	X						

Comments:

LANGUAGE ARTS

I. Concepts and Skills

- A. Spelling
- B. Usage
- C. Punctuation
- D. Capitalization
- E. Dictionary Skills
- F. Sentence Sense

	0	1	2	3	4	5	6
A.			X				
B.			X				
C.					X		
D.						X	
E.				X			
F.			X				

Comments:

CAT Language Test - Lower Primary

Based on 2.1 grade level

MATHEMATICS

I. Concepts

- A. Time Concepts
- B. Calendar Concepts
- C. Zero Concept
- D. Basic Geometric Figures and Concepts
- E. Roman Numerals
- F. Measurement:
 - Liquid
 - Linear
 - Area
 - Volume
- G. Number System and Counting Concepts
- H. Place Value Concepts

	0	1	2	3	4	5	6
A.					X		
B.			X				
C.			X				
D.			X				
E.		X					
F.	X						
	X						
	X						
	X						
G.			X				
H.			X				

Comments:

did not test

REPUBLIC OF PHILIPPINES
 DEPARTMENT OF EDUCATION
 DIVISION OFFICE - CAGAYAN DE ORO
 CAGAYAN DE ORO

II. Number Facts

- A. Add. Number Facts
- B. Subt. Number Facts
- C. Mult. Number Facts
- D. Division Number Facts

	0	1	2	3	4	5	6
A.							x
B.							x
C.			x				
D.		x					

Comments:

Needs work in multiplication (5x3, 2x4, etc) and needs to be taught division

III. Whole Numbers

- A. Addition of Whole Numbers
- B. Subtraction of Whole Numbers
- C. Multiplication of Whole Numbers
- D. Division of Whole Numbers

A.							x
B.			x				
C.		x					
D.		x					

Comments:

Can do simple subtraction ($\begin{array}{r} 94 \\ -64 \end{array}$) but she does not understand borrowing and cannot do mult. and div.

IV. Common Fractions

- A. Understanding Common Fractions
- B. Add. of Common Fractions
- C. Subt. of Common Fractions
- D. Mult. of Common Fractions
- E. Division of Common Fractions

A.		x					
B.		x					
C.		x					
D.		x					
E.		x					

Comments:

No skills demonstrated

V. Decimals

- A. Understanding Decimal Numerals
- B. Addition of Decimal Numerals
- C. Subt. of Decimal Numerals
- D. Mult. of Decimal Numerals
- E. Division of Decimal Numerals
- F. Fractional Equivalents, Decimal Equivalents, and Percent Equivalents
- G. Computation with Percents and Percent Equivalents

A.		x					
B.		x					
C.		x					
D.		/					
E.		y					
F.		x					
G.		x					

Comments:

No skills demonstrated

FOR USE WITH 1963 FORMS

California Achievement Tests

Lower Primary - GRADES 1 AND 2 - Form U

DIAGNOSTIC PROFILE SHEET
DEVELOPED BY ERNEST W. TIEGS AND WILLIS W. CLARK

Name: **Davis, Grevia** Date of Birth: _____
School: **Jackson** City: **East St. Louis, Ill.**
Boy/Girl: **Girl** Grade: _____
Teacher of Record: **James M. Smith** Date of Test: **14**

READING

1. READING VOCABULARY

2. READING COMPREHENSION

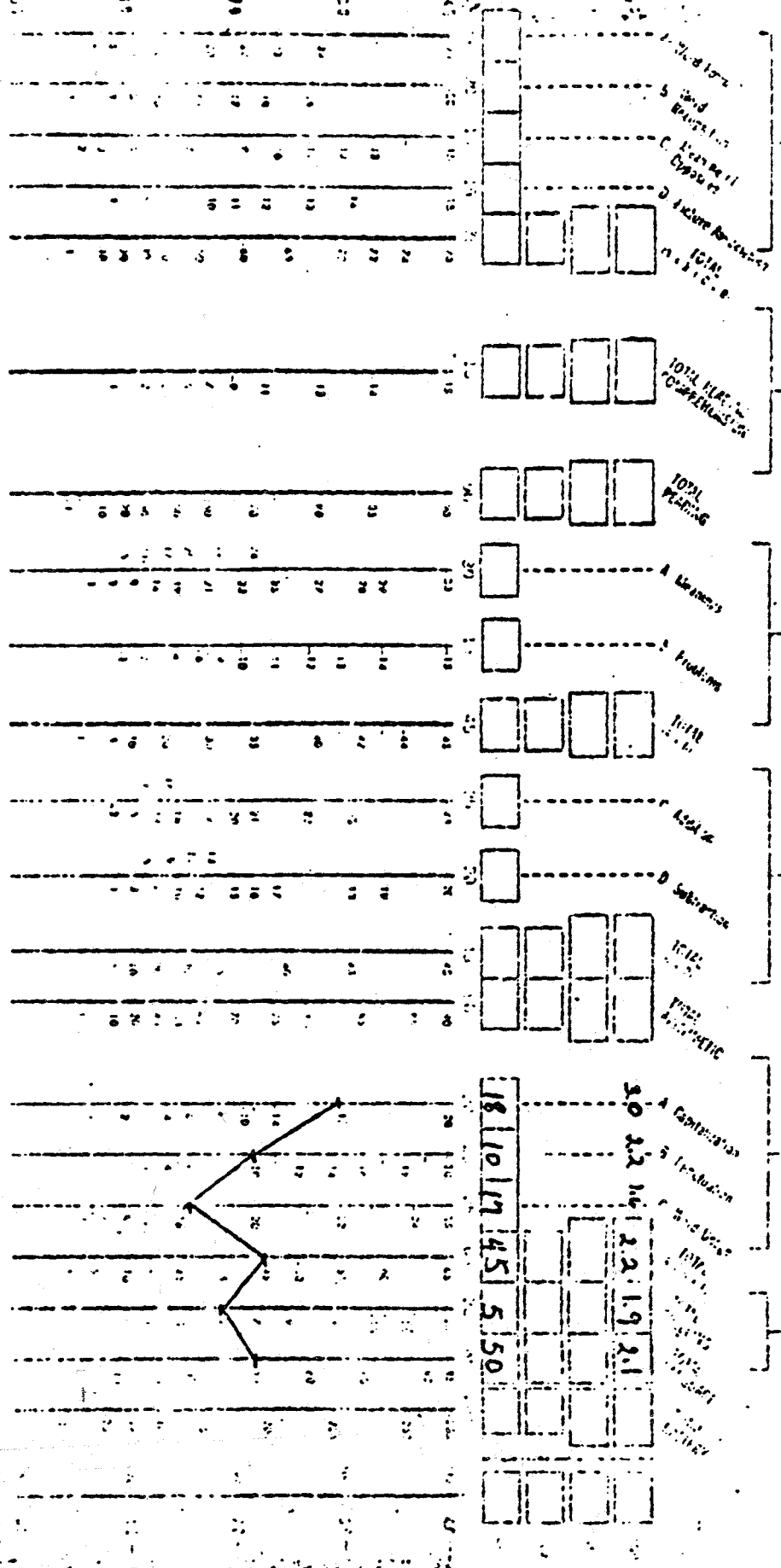
ARITHMETIC

3. ARITHMETIC REASONING

4. ARITHMETIC FUNDAMENTALS

LANGUAGE

5. MECHANICS OF ENGLISH



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Exhibit
38

5/5/94

Date

ILLINOIS STATE BOARD OF EDUCATION
Department of Adult, Vocational and Technical Education
100 North First Street
Springfield, Illinois 62777-0001

COLOR DISTRIBUTION

- WHITE ISBE
PINK Issuing Officer (Regional Supt.)
GOLDENROD Examinee
GREEN Chief Administrative Officer
CANARY Chief Examiner

[] If Retest Check this Box

ILLINOIS HIGH SCHOOL EQUIVALENCY TESTING PROGRAM
REPORT OF RESULTS OF TESTS OF GENERAL EDUCATIONAL DEVELOPMENT

INSTRUCTIONS: The examinee retains canary copy at Test Center and sends Isabele to Chief Administrative Officer. The Chief Administrative Officer will retain the green copy and forward to examinee's principal (or Chief Officer, Regional Superintendent). The Issuing Officer (Regional Superintendent) will complete the certification according to the code at bottom, retain pink copy and forward the white certified copy to the above address.

Form fields: FULL NAME (Last, First, Middle), BIRTHDATE (Month - Day - Year), ILLINOIS ADDRESS (Street, City, Zip Code), COUNTY, NAME OF ILLINOIS GED CENTER, SOCIAL SECURITY NUMBER, ADDRESS OF GED CENTER, TEST SCORING DATE.

Table with 4 columns: Test Number, High School Level GED Test Form, STANDARD SCORE, PERCENTILE RANK FOR U.S. Includes rows for Writing Systems, Social Studies, Science, Interpretation of Literature and the Arts, and Mathematics. Total score: 232. Average score: 46.4. Construction Examination Form: 46 A B.

Signature of Chief Examiner

TO BE CERTIFIED BY ISSUING OFFICER (Regional Superintendent) ONLY

NOTE: Detach examinee's copy (goldenrod) before certifying on the white copy for the Illinois State Board of Education.

I certify that these recorded scores are the official scores reported to me by the official Illinois GED Center for the above named examinee. I certify that the examinee has met the statutory and regulatory State standards and that:

Form fields: I have issued the aforementioned examinee the High School Equivalency Certificate on May 19, 1994. The High School Equivalency Certificate was not issued. [xx] Yes [] No This applicant has taken a GED preparation course.

Monroe-Randolph County

Signature of Regional Superintendent

146 W. Market Street, P.O. Box 165, REd Bud, IL 62278



Illinois State Board of Education

High School Equivalency Certificate

This Certifies That

Girvies Davis

has successfully completed the requirements of the High School Level Tests of General Educational Development and other State requirements, promulgated by the Illinois State Board of Education, as authorized by the statutes of the State of Illinois

A handwritten signature in cursive script, reading "Robert Bevinger".

In Recognition of such achievement and as evidence of such entitlement, I hereunto set my hand and affix the seal of the County of Monroe-Randolph this 19 day of May 1994

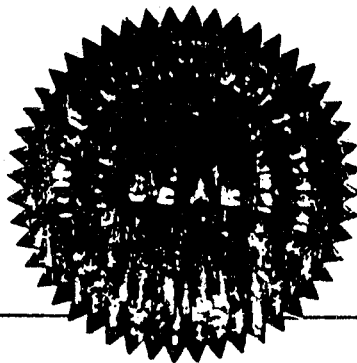
A handwritten signature in cursive script, reading "Lyle J. Hughes".
Regional Superintendent

Exhibit
39



Examine the "New Life" symbol. What
 is the meaning of a crown? (1 Peter 1:3)
 How does the crown relate to the
 resurrection? (1 Peter 1:3)
 First, the symbol reminds us of Christ's
 turning point. Jesus gave the crown of
 thorns to God. But through the resurrection
 God glorified him with the crown of
 glory. (1 Peter 1:3)
 In a similar way, you are to be
 glorified by your suffering. (1 Peter 1:3)
 You are to be glorified by your suffering.
 (1 Peter 1:3)
 You are to be glorified by your suffering.
 (1 Peter 1:3)

Certificate of Baptism

In obedience to the command of
 our Lord Jesus Christ, and in
 imitation of His example



Know ye not, that so many of us as were
 baptized into Jesus Christ were baptized
 into his death? Therefore we are buried
 with him by baptism into death: that like
 as Christ was raised up from the dead by
 the glory of the Father, even so we also
 should walk in newness of life.

Romans 6:3-4

GIRVIES LAMAR DAVIS

was buried with
 Him in baptism August 8th, 1984

Memorial Chapel - Menard, Illinois

January 20, 1958 - St. Louis, Missouri

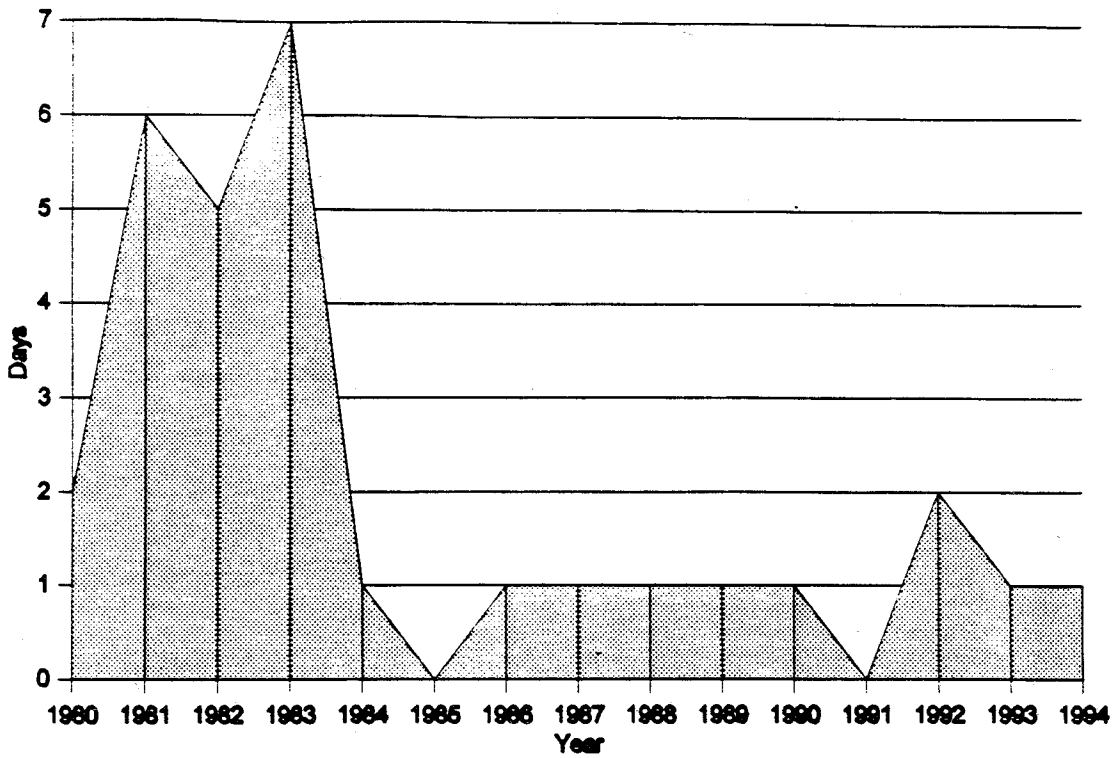
Date

Henry W. Moore Jr.

Minister

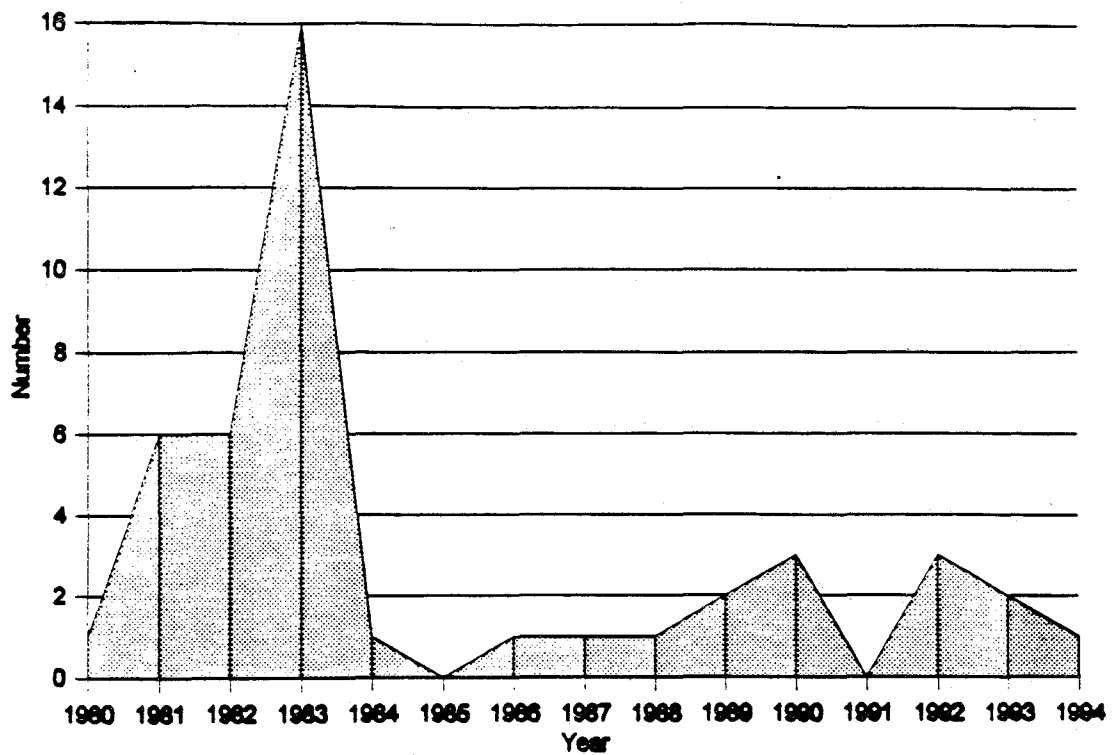
Exhibit
40

Number of Days "Ticketed"



The data in this chart comes from records of the Department of Corrections.

Number of Tickets Written



The data in this chart comes from records of the Department of Corrections.

Exhibit
41

Grace Bible College

INTERNATIONAL
MULTIDENOMINATIONAL

DIPLOMA

The Trustees and Faculty hereby certify that

Girvies L. Davis

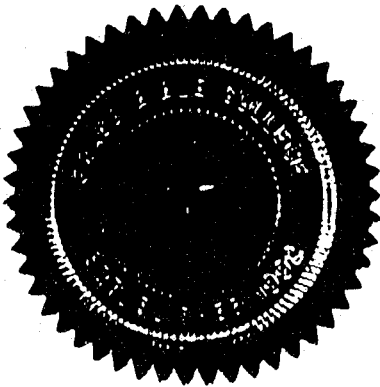
*has fulfilled the requirements for graduation as prescribed by the
Board of Trustees and in testimony whereof is awarded the title of*

Associates In Bible Studies

Duly signed and sealed this 9th day of March 1993

Lawrence O. Crocium

President



Grace Bible College

INTERNATIONAL
MULTIDENOMINATIONAL

CERTIFICATE

The Trustees and Faculty hereby certify that

Girvies Lamar Davis

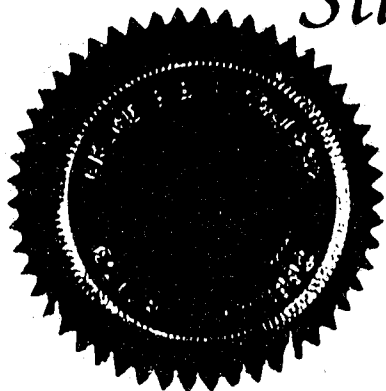
*has fulfilled the requirements as prescribed by the Board of Trustees and in testimony
whereof is awarded this certificate of completion in*

Studies of Cults and New Age

Duly signed and sealed this 1st day of April 1993

Lawrence O. Cracium

President



Grace Bible College

INTERNATIONAL
MULTIDENOMINATIONAL

CERTIFICATE

The Trustees and Faculty hereby certify that

Girvies Lamar, Davis, Jr.

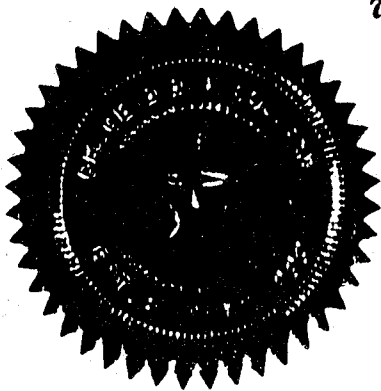
*has fulfilled the requirements as prescribed by the Board of Trustees and in testimony
whereof is awarded this certificate of completion in*

Biblical Counseling

Duly signed and sealed this 24th day of January, 1991

Lawrence A. Pracin

President



Grace Bible College

INTERNATIONAL
MULTIDENOMINATIONAL

CERTIFICATE

The Trustees and Faculty hereby certify that

Girvies Lamar, Davis, Jr.

*has fulfilled the requirements as prescribed by the Board of Trustees and in testimony
whereof is awarded this certificate of completion in*



Pastoral Studies

Duly signed and sealed this 17th day of November 1993

Laurena O. Cracim

President

Exhibit

42

Grace Bible College

INTERNATIONAL
MULTIDENOMINATIONAL

ORDAINED MINISTER

The Trustees and Faculty hereby certify that

Girvies Lamar, Davis, Jr.

*has fulfilled the requirements for ordination as prescribed by the
Board of Trustees and in testimony whereof is awarded the title of*

Ordained Minister

Duly signed and sealed this 6th day of January, 1994

Lawrence S. Crasium
President



*All who read these papers be it known that
Girvies Lamar, Davis, Jr.
is an Ordained Minister for the Purposes of
Spreading the Gospel of Jesus Christ through Grace Bible College*

As an Ordained Minister of God I believe and accept the following statements of faith, and to the best of my ability perform and preach the Word of God in all honesty and forthrightness:

DECLARATION OF FAITH

I. OF THE SCRIPTURES

"We believe that the Holy Bible was written by men divinely inspired, and is a perfect treasure of heavenly instruction; that it has God for its author, salvation for its end, and truth without any mixture of error for its matter; that it reveals the principles by which God will judge us; and therefore is, and shall remain to the end of the world, the true center of Christian union, and the supreme standard by which all human conduct, creeds and opinions shall be tried.

II. OF THE TRUE GOD

"We believe that there is one, and only one living and true God, infinite, intelligent Spirit, whose name is JEHOVAH, the Maker and Supreme Ruler of heaven and earth; inexpressibly glorious in holiness, and worthy of all possible honor, confidence, and love; that in the unity of the Godhead there are three persons, the Father, the Son, and the Holy Ghost; equal in every divine perfection, and executing distinct but harmonious offices in the great work of redemption.

III. OF THE FALL OF MAN

"We believe that man was created in holiness, under the law of his Maker; but by voluntary transgression fell from the holy and happy state: in consequence of which all mankind are now sinners, from birth; being by nature utterly void of that holiness required by the law of God, positively inclined to evil; and therefore under just condemnation to eternal ruin, without defence or excuse.

IV. OF THE WAY OF SALVATION

"We believe that the salvation of sinners is wholly of grace; through the mediatorial offices of the Son of God; who by the appointment of the Father, freely took upon him our nature, yet without sin; honored the divine law by his personal obedience, and by his death made a full atonement for our sins; that having risen from the dead, he is now enthroned in heaven; and uniting in his wonderful person the tenderest sympathies with divine perfections,

he is in every way qualified to be a suitable, a compassionate, and an all sufficient Saviour.

V. OF JUSTIFICATION BY FAITH

"We believe that the great gospel blessing which Christ secures to such as believe in him is justification: that justification includes the pardon of sin, and the promise of eternal life on principles of righteousness that he has bestowed, not in consideration of any works of righteousness which we have done, but solely through faith in the Redeemer's blood; by virtue of which faith his perfect righteousness is freely imputed to us of God; that it brings us into a state of most blessed peace and favor with God, and secures every other blessing needful for time and eternity.

VI. OF THE FREENESS OF SALVATION

"We believe that the blessings of salvation are made free to all by the gospel; that it is the immediate duty of all to accept them by a cordial, penitent, and obedient faith; and that nothing prevents the salvation of the greatest sinner on earth, but his own inherent depravity and voluntary rejection of the gospel; which rejection involves him in an aggravated condemnation.

VII. OF GRACE IN REGENERATION

"We believe that in order to be saved, sinners must be regenerated, or born again; that regeneration consists in giving a holy disposition to the mind; that it is effected in a manner above our comprehension by the power of the Holy Spirit, in connection with divine truth, so as to secure our voluntary obedience to the gospel; and that its proper evidence appears in the holy fruits of repentance, and faith, and newness of life.

VIII. OF REPENTANCE AND FAITH

"We believe that repentance and faith are sacred duties, and also inseparable graces, wrought in our souls by the regenerating Spirit of God; whereby being deeply convinced of our guilt, danger, and helplessness, and of the way of salvation by Christ, we turn to God with unfeigned contrition, confession, and supplication for mercy; at the same time heartily receiving the Lord Jesus Christ as our Prophet, Priest, and King, and relying upon him alone as the only and all-sufficient Saviour.

IX. OF GOD'S PURPOSE OF GRACE

"We believe that election is the eternal purpose of God, according to which he graciously regenerates, sanctifies, and saves sinners; that being perfectly consistent with the free agency of man, it comprehends all the means in connection with the end; that it is a most glorious display of God's sovereign goodness, being infinitely free, wise, holy, and unchangeable; that it utterly excludes boasting, and promotes humility, love, prayer, praise, true in God, and active imitation of his free mercy; that it encourages the use of means

in the highest degree; that it may be ascertained by its effect in all who truly believe the gospel; that it is the foundation of Christian assurance; and to ascertain it with regard to ourselves demands and deserves the utmost diligence.

X. OF SANCTIFICATION

"We believe that sanctification is the process by which, according to the will of God, we are made partakers of his holiness; that it is a progressive work; that it is begun in regeneration; and that it is carried on in the hearts of believers by the presence and power of the Holy Spirit, the Sealer, and Comforter, in the continual use of the appointed means- especially, the Word of God, self-examination, self-denial, watchfulness, and prayer.

XI. OF THE PERSEVERANCE OF SAINTS

"We believe that such only are real believers as endure unto the end; that their persevering attachment to Christ is the grand mark which distinguishes them from superficial professors; that a special providence watches over their welfare, and that they are kept by the power of God through faith unto salvation.

XII. OF THE HARMONY OF THE LAW AND THE GOSPEL

"We believe that the law of God is the eternal and unchangeable rule of moral government; that it is holy, just and good; and that the inability which the Scriptures ascribe to fallen men to fulfill its precepts, arises entirely from their love of sin: to deliver them from which, and to restore them through a Mediator to unfeigned obedience to the holy law, is one great end of the gospel, and of the means of grace connected with the establishment of the visible church.

XIII. OF A GOSPEL CHURCH

"We believe that a visible church of Christ is a congregation of baptized believers, associated by covenant in the faith and fellowship of the gospel; observing the ordinances of Christ; governed by his laws; and exercising the gifts, rights, and privileges invested in them by his word; that is only Scriptural officers are bishops or pastors and deacons, whose qualifications, claims, and duties are defined in the Epistles of Timothy and Titus.

XIV. OF BAPTISM AND THE LORD'S SUPPER

"We believe that Christian baptism in water into the name of the Father, and Son, and Holy Ghost: is to show forth a solemn and beautiful emblem of our faith in the crucified, buried, and risen Saviour, that it is a prerequisite to the privileges of a church relation; and to the Lord's Supper, in which the members of the church by the sacred use of bread and wine, are to commemorate together the undying love of Christ; preceded always by solemn self-examination. Ultimately the baptism by Jesus in the Holy Spirit leading to sanctification and everlasting life.

XV. OF THE CHRISTIAN SABBATH

"We believe that the first day of the week is the Lord's Day, and is to be kept sacred for religious purposes, by abstaining from all secular labor in the observance of all the means of grace both private and public; and by preparation for the rest that remains for the people of God.

XVI. OF CIVIL GOVERNMENT

"We believe that civil government is of divine appointment, for the interests and good order of human society; and that magistrates are to be prayed for, conscientiously honored, and obeyed, except only in things opposed to the will of our Lord Jesus Christ, who is the only Lord of the conscience and the King of kings of the earth.

XVII. OF THE RIGHTEOUS AND THE WICKED

"We believe that there is a radical and essential difference between the righteous and the wicked; that such only as through faith are justified in the name of the Lord Jesus, and sanctified by the Holy Spirit of our God, are truly righteous in his esteem; while all such as continue in impenitence and unbelief are in his sight wicked, and remain under the curse; and this distinction holds among men, both in and after death.

XVIII. OF THE WORLD TO COME

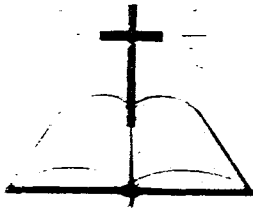
"We believe that the end of this world is approaching; that in the last day Christ will raise the dead from the grave to final judgement; that a solemn separation will then take place; that the wicked will be judged to endless punishment, and the righteous to endless joy; and that this judgment will fix forever the final state of men in heaven or hell, on principles of righteousness."

Date: January 6, 1994

Ordination Secretary: Julia A. Bailey

Minister's Signature: Minister Samuel David, Jr.

Exhibit
43



Jesus Is The Way

Prison Ministries

P.O. Box 3833
Champaign, Illinois 61826-3833
Office (217) 352-1054

FOUNDER

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NIGERIAN DIRECTOR

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~

Rob Zabka

~

Secretary Edith Mathes

~

February 23, 1995

David Schwartz
Jenner & Block
1 IBM Plaza
Chicago, IL 60611

Reference: Girvies L. Davis, I.D. # N-06107

Dear Mr. Schwartz:

I am writing to state that I have known Girvies L. Davis, an inmate on the condemned unit at Menard Correctional Center, for several years. I met Girvies only after he had been placed on the condemned unit so I have no idea of what he was like prior to that.

Over the years I have seen Girvies go through a change in his life, mainly due to his receiving JESUS CHRIST as his Lord and Saviour a few years ago. He has studied and worked to make himself a better person with JESUS being an important part of his life. He cares for the needs of others. Each Christmas he calls our office with a request for some gifts to be mailed to some children that he knows has needs of gifts. He also calls our office with requests for prayers for different people that have needs. He reaches out the best he can from behind the bars of prison to help others in whatever way that he can.

I would like to encourage anyone reading this to please help to commute Girvies's death sentence and in so doing, give him the opportunity to clear himself of whatever charges against him are not true. In saying this, I feel that if there is any question or doubt about one's guilt a person should not be put to death while that question and/or doubt remains. Once a life is taken, it can not be brought back.

If anyone has any questions about this letter or about Girvies, please feel free to call me at (217) 352-1054. I do alot of traveling to the prisons throughout the United States and other countries but I will return your call as soon as possible if I am not available when you call.

"...I was in prison
and ye visited me..."
— Matt 25:36



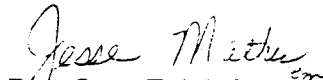
Jesse Mathes, Director

If there is anything that I can do to help Girvies I will do so. As stated earlier in this letter, I have truly seen a change in Girvies and I believe that he deserves to live. I have grown to love and care for Girvies just as I do all of the incarcerated men and women that I as a prison minister come in contact with. In the years that I have been involved in prison ministry, I hear many say that they are innocent of various crimes and know that some are and some aren't but I ask for Girvies's commuted sentence because I feel that he deserves it. Even though crimes have been committed, each still deserves every opportunity to change their sentence if one is truly innocent of what they have been charged with.

In closing this, I ask that whoever reads this **please give commute Girves's death sentence.**

Thank you for reading and considering this.

Respectfully,


Rev. Jesse E. Mathes

JM:em

Enclosure: 1 ministry brochure

"AND WHATSOEVER YE DO IN WORD OR DEED, DO ALL IN THE NAME OF THE LORD JESUS, GIVING THANKS TO GOD AND THE FATHER BY HIM."

"Colossians 3:17"

Ronald Barrow, N52087
P.O. Box 711 CU-M1-4
Menard, Illinois 62259

Governor Jim Edgar
207 State Capitol Bldg.
Springfield, Illinois 62706
(217) 782-6832

Dear Governor Edgar,

Greetings in the merciful name of our Lord and Savior Jesus Christ, who gave His life for the forgiveness of our sins. I pray that this correspondence finds you and your family in good health and that God is blessing you in all areas of your life.

I am praying that the Lord will open your heart to receive the truths of this correspondence and will move you with compassion and understanding in making your decision.

I am writing to you with regards to Sirvies L. Davis, my Christian brother, my friend, and a fellow condemned inmate, who faces possible execution in the near future. My request and my prayer is that you will commute Sirvies' death sentence to a term of imprisonment.

I met Sirvies in June of 1985, when I came to the Condemned Unit at Menard. I trusted no one and was leary of everyone, so I stayed to myself and observed those around me. Right from the start I noticed something different about Sirvies from most of the other inmates on the Row, but I wasn't sure what it was. I asked around about Sirvies and was basically told two things, one, that he was a Christian, and two, that before becoming a Christian and when he first came to death row, he was an angry, mean, hate-filled individual who you did not want to be around.

I began attending church services on Sunday, not to hear the Word of God but to get out of my cell. The first Sunday was the first time I spoke face to face with Sirvies. He was friendly towards me and told me a little about himself and how Christ had changed his life. I was leary, but the more I watched Sirvies over the weeks and got to really know him, the more I could see that Sirvies had something that few other men on the Row had. I continued to attend church services, but now it was to hear more about Jesus through the sermon preached and afterwards talking with Sirvies.

Girvies and I became friends, which is something I do not call but a hand full of men on the Row.

In December of 1985, I received Jesus Christ as my Lord and Savior. Although there were several factors involved in finally making my decision to commit my life to Christ, seeing Christ in Girvies and how Jesus had changed Girvies' life, was one of those factors.

Over the nine and a half (9½) years on the Row, I have watched Girvies educate himself, from barely being able to read to receiving his GED. In addition, he has worked hard at obtaining a vast knowledge of the Bible, whereas he can tell a person where any Scripture is whenever asked. Girvies has completed more Bible study courses than I can count and has gotten me involved in several different Bible studies. On many occasions Girvies and I have studied the Word of God together and with Girvies' help, I have grown in my Christian life.

Girvies has helped many men on the Condemned Unit, including myself, in studying, counseling when there is a problem, and with material needs, never asking anything in return. Few men on the Row have the compassion for others that Girvies has shown me in both word and deed over the years I've known him.

Girvies also ministers to people on the outside through letters and study papers he has written. He has met my family and several of my friends in the visiting area and all of them liked Girvies right off. Once, because of overcrowding in the visiting area, Girvies gave up his visit so that my mother who came to visit me from out-of-state would not have to leave early.

There is no question that in the past that Girvies has done some terrible things and punishment is required, but putting him to death is not necessary. It would be a tragedy and a great loss if Girvies is executed. He is not the same man who did these things in the past, he is a new man made possible by the power of Christ and Girvies has much to offer, even in prison, especially in sharing the Word of God, bringing souls to Christ, and furthering the Kingdom of God through his personal testimony.

I plead with you Governor, and pray in the name of Jesus that you will have mercy on Girvies and show compassion in commuting Girvies' death sentence to a term of imprisonment.

Thank you for your time and consideration of this most serious matter. May God bless you and your family, keeping you in His loving care.

Respectfully yours,

IN CHRIST,

Ronald Barrow
Ronald Barrow

cc. Hoover, Esq.
Girvies
file

John Whitehead
Inmate No. A-66319
Menard Correctional Center
P.O. Box 711 CU-N2-05
Menard, Illinois 62259

October 27, 1994

Governor Jim Edgar
207 State Capitol Bldg.
Springfield, Illinois 62706
(217) 782-6832

Mr. Russel J. Hoover, Esq.
Law Offices of Jenner & Block
One IBM Plaza
Chicago, Illinois 60611
(312) 332-3033

Re: Girvies L. Davis:

Dear Sirs;

There is a certain scepticism of jail conversion. I would like to tell you of one such real change. The change was abrupt and so different from his former persona.

From a Christian standpoint it was a joy to watch him study so hard with dictionary and Bible in hand. It is not uncommon now for brothers to ask him where Scriptures are in the Book. He always knows. He studied hard at the Quran in order to communicate the truth to those lost in muslim rhetoric.

I have seen him move a brother from wanting to physically confront those around him to seek other tools to air their problems and grievances.

He has sought out those in need and helped them with his funds and in sharing his excellent seasoned rice.

Girvies has made a positive of his life and a positive effect on this unit.

Commuting his sentence will make for a strong tool of the Lord inside our prison system.

Respectfully yours,



John Whitehead

cc.

November 14, 1994

Mr. Russell J. Hoover/Attorney
Jenner & Fleck
ONE I.B.M. Plaza
Chicago, Illinois 60611

Dear Mr. Hoover:

When I was called upon to give my assessment of Minister: Gervies L. Davis, I felt just as privileged to do so as I felt privileged to meet Rev: G. Davis " April 1984 "and subsequently become a friend.

My honest assessment of Rev: G. Davis is: He is a wonderfully decent human being, a person that has always been willing to help/assist another voluntarily and unselfishly. It has been my experience as well as my observation, Mr. G. Davis has given of himself in the profoundest capacity, with benevolence and humanitarian. G. Davis has always impressed upon my heart and mind, he is a loving, caring, considerate and compassionate individual. He is a person that has been able to sacrifice his own preference when the good of others required it. I've seen G. Davis in various moods, very low points and very high points and regardless of either disposition, Davis friendliness and integrity remained anchored.

Rev: G. Davis, is what I term honest to a fault. There's no lying in him. No matter how harsh the truth maybe, Rev: G. Davis, will speak it and do so with reservation. Rev: G. Davis is a deeply GOD fearing person. I've seen him mature/grow to a level of Spirituality that could be a exemplar to us all, a level I wish to attain. His life is govern by GOD's word the Bible and he reflects that knowledge in all he does and in his association with other's, including D.CO. Employee's.

Rev: G. Davis has been a spiritual asset to me and I can declare to numerous other's. Rev: G. Davis has demonstrated the ability to help employee's who has problems with troublesome inmates.

Rev: G. Davis is loyal, cooperative and a reliable person.

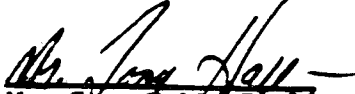
Rev: G. Davis always try to promote harmony and a peaceful co-existence between employees and inmates.

Rev: G. Davis is a wonderful person to be around.

Rev: G. Davis has always demonstrated tolerance and patient with peoples who are difficult to interact with, be it inmates and or employee's.

Rev: G. Davis has never given me a reason to mistrust him nor has he given me a reason to fear him.

Sincerely Submitted,


Mr. Tony Hall/A72086
P. O. Box 711
Menard, Il 62259-0711

00:

A F I D A V I T

My name is CHARLES M. SCHIEDEL, I am an attorney with the Office of the State Appellate Defender in Springfield, Illinois. In 1981 our office was appointed to represent Girvies Davis on appeal from his conviction and death sentence in St. Clair County. When I first met Mr. Davis, he was extremely hostile, suspicious, and belligerent. He appeared to be very angry and bitter about his situation and convinced that our office was working with the State to deny him his rights. I was frankly somewhat frightened of Mr. Davis in my first visit with him.

In 1983, the Illinois Supreme Court upheld the conviction and sentence at which time Girvies informed us that he did not want to pursue any further appeals and desired to be executed. Mr. Davis became very angry with me when I tried to place materials regarding his history of trauma and mental disturbance in front of the courts to show that he was perhaps not fit to make a decision to waive further appeals. As I recall, one of our secretaries, who had had some brief phone conversations with Girvies, sent him a letter expressing her hope that he would change his mind about not fighting the execution. I believe that some other individuals who knew of the case did the same thing, although I am not sure of the details.

Sometime in late 1983 or early 1984, Mr. Davis, to my surprise, contacted me and asked if I could obtain for him a book on Bible study. I did this and we had some brief discussions about our religious views, or lack thereof, and other personal matters.


It is my recollection and understanding that the fact that other people were concerned about whether he lived or died, led Girvies to believe that some higher power was working through these people and that perhaps his life had some value.

Over the years, as Girvies continued his study of the Scriptures and biblical materials, it was impossible not to be struck by a dramatic change in his character. Girvies had been a somewhat violent and troublesome inmate as well as a hostile and suspicious client. He became, through what I can only describe as a genuine religious transformation, a peaceful, kind, concerned, polite, respectful and caring person. This transformation was reflected in the obvious difference in the way in which the staff at the prison treated him, as well as his personal relationship with myself and my staff. Girvies was helpful to us in relations with other inmates and the prison authorities, as well as being a personal friend who expressed his gratitude for the legal efforts we had made on his behalf and his concern for any personal problems myself and my staff shared with him.

By the mid to late 1980's, Girvies had become someone that I truly liked, trusted and even admired. In almost twenty years of representing indigent defendants, I have never seen anyone undergo the kind of personal and spiritual growth and transformation of character that I saw in Girvies. I am not a person who attends religious services or studies religious writing, but I can only attribute what happened to Girvies to the power of faith and study to redeem and reform someone who appeared to be a hardened criminal into a peaceful, patient and genuinely likeable individual.

As I stated at the outset of this affidavit, I feared the Girvies Davis that I met in 1981. I count myself today as fortunate to know and to be friends with the man Girvies Davis has become.

FURTHER AFFIANT SAYETH NOT.


CHARLES M. SCHIEDEL
Deputy Defender
Office of the State Appellate Defender
Supreme Court Unit
400 South Ninth Street, Suite 101
P.O. Box 5720
Springfield, IL 62705-5720
(217)782-1989

Illinois Times

SPRINGFIELD'S INDEPENDENT WEEKLY • THURSDAY, APRIL 13, 1995 • VOL. 20, NO. 34

The next to die



*Girvies Davis is
scheduled to be
executed May 17.
He may be innocent.*

PHOTO COURTESY OF THE BELLEVILLE NEWS (2/24/81) R.A.T.

Girvies Davis at his trial in 1980.

NETPICKING: *Navigating detours on the information highway* (PAGE 14)

CHUZZLEWITS: *A Dickensian analysis of Washington politics* (PAGE 10)

MULTICULTURAL MUDDLE: *School district opts to divert diversity* (PAGE 5)

PARDON DOCKET NO. _____

BEFORE THE ILLINOIS PRISONER REVIEW BOARD

APRIL, 1995

SUBMITTED TO THE HONORABLE JIM EDGAR, GOVERNOR

IN THE MATTER OF GIRVIES DAVIS

PETITION FOR EXECUTIVE CLEMENCY

Russell J. Hoover
Barry Levenstam
Janice A. Hornaday
Norbert B. Knapke II
David A. Schwartz

JENNER & BLOCK
One IBM Plaza
Chicago, Illinois 60611
(312) 222-9350

Confessions discounted in 2 killings, other crimes

9/29/30/30

Officials are inclined to discount the involvement of two East St. Louis men in two murders and five other shootings despite their confessions. St. Clair County State's Attorney Clyde Kuehn said Friday.

But Kuehn still considers them suspects in as many as seven killings and two other shootings, which police said they also admitted in statements earlier this month.

AFTER VICTIMS OF two shootings and witnesses to two murders did not identify Richard Holman, 18, and Girvies Davis, 21, in lineups, Kuehn said he believes their confessions in those cases were false.

The cases in which confessions have been discounted are:

— The Dec. 4, 1978, shooting of Mark Resmann, a Caseyville service station attendant. Two other men have been convicted in connection with that shooting.

— The Dec. 21, 1978, slayings of Edward Campbell,

35, manager of the Mexico City Cafe in Fairmount City, and Mary Prestito, 39, a waitress, in a robbery there. Three other persons were wounded.

— The Aug. 7, 1979, wounding of Walter Golab, 62, of East St. Louis, who was shot and stabbed by intruders in his East St. Louis home.

KUEHN SAID PERSONS actually involved in the crimes may have persuaded the pair to confess, on the theory that Davis and Holman had little to lose.

Davis has been charged with murder in connection with the Aug. 30 slaying of Frank Cash, 21, of Belleville, a clerk in an East St. Louis auto parts store. Authorities said Holman, who has been held in jail on another matter, has admitted participating in the Cash killing.

"From the standpoint of this office, we feel good about seeking charges on the auto parts case," Kuehn said. "I'm not in the least discounting that they could be good for a number of the crimes they confessed to."

STATE OF ILLINOIS)
)
COUNTY OF RANDOLPH) SS

DECLARATION OF PETITIONER GIRVIES DAVIS

I, Girvies Davis, declare under penalty of perjury that all the assertions made in this petition are complete, true and accurate.

GIRVIES DAVIS
No. 6107

Subscribed and sworn to before me
this ___ day of April, 1995.

Notary Public

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I.

INTRODUCTION

In capital cases, when all is said and done, if doubt remains as to whether the State has convicted the wrong man or if the sentencing process has failed to account for mental or judgmental shortcomings over which the condemned had no control, executing the condemned is neither civilized nor just. The Constitution and laws of the State of Illinois erect safeguards to protect the innocent and to provide fair and measured punishment to the less culpable, but those safeguards are not foolproof -- committed as they often are to the caprice, emotion, and discretion of human beings. And so, Girvies Davis comes to the final refuge of the condemned, the Governor's clemency power. Mr. Davis seeks a commutation of his death sentence to a life sentence, and thereby to avoid an execution that would result from an obvious failure of the criminal justice system. The Governor's clemency power is plenary. He can grant clemency for any reason. The Governor need answer only to his own moral sense of right and wrong and to his God in passing upon requests for commutation of sentence.

II.

REQUEST FOR CLEMENCY

Girvies Davis faces execution for the crime of murdering Charles Biebel. His is a compelling case for clemency and he asks that Governor Edgar have mercy on him and commute his death sentence to life imprisonment without possibility for parole.

The most terrifying aspect of the death penalty is the thought that the wrong man could be executed. While Mr. Davis' lifestyle before his incarceration was that of a "fence" who trafficked in stolen goods (which he deeply regrets), there is grave doubt as to whether he was even involved in the murder of Mr. Biebel and no doubt from the evidence in his case that Mr. Davis did not shoot Mr. Biebel. The only evidence against Mr. Davis was his statement to the police that he and Ricky Holman had broken into Mr. Biebel's home to steal money and valuables and that Holman had shot and killed Mr. Biebel while he (Mr. Davis) was outside at the car. Although Holman is in state custody on other charges, he was never tried for this murder.

As this Petition will show, the reliability of Mr. Davis' "confession" and a dozen other contemporaneous statements, in which Mr. Davis supposedly implicated himself in nearly every then-unsolved murder or attempted murder in St. Clair and Madison Counties, is highly doubtful. Mr. Davis, who was functionally illiterate at the time, supposedly gave the police a list he had written of crimes to which he wanted to

confess. After the police took Mr. Davis on a middle-of-the night search for evidence, he supposedly read and signed a statement "confessing" to the Biebel murder at 4:30 in the morning. We know -- and St. Clair County State's Attorney Clyde Kuehn admitted at the time -- that Mr. Davis did not commit many of the crimes to which he "confessed" that night; indeed, others have been convicted of one of those crimes. Mr. Davis has consistently said that he was coerced into signing these statements -- which rings true in light of the fact that many are demonstrably false. The unreliability of the inculpatory statements in general casts serious doubt on the Biebel confession in particular, and thus on the conviction, which is supported by precious little else. Clemency should be exercised to prevent Girvies Davis from being executed for a crime he very likely did not do.

Even if the State's version of the crime is true, executing Mr. Davis -- the accomplice -- would be unprecedented. Never before in this century has this State executed an accomplice who was convicted on an accountability theory, as it seeks to do here, and not even bothered to try the actual killer for the murder.^{1/} It defies reason and good moral sense that the State demands the life of one less culpable and effectively excuses the conduct of the killer.

^{1/} Watt Espy, the foremost archivist of executions carried out in this nation, reports that in the only previous case (in 1938) in which Illinois executed an accomplice without bringing the actual killer to trial, the killer had committed suicide before his trial could be held.

An equally strong reason for granting clemency exists because Mr. Davis' sentencing jury never considered important mitigating evidence of Mr. Davis' history of organic brain damage, retardation, mental illness, and horrible family life. The jury never heard this compelling evidence because Mr. Davis, whose disabilities prevented him from understanding that it was probably the only evidence that could save his life, refused to let his attorneys present this evidence to the jury. We know that this evidence would have made a difference; two of the jurors who sentenced Mr. Davis to death recently have said so. They are powerless to change their verdict now. Indeed, in the 15 years since he was sentenced to death, no judge or court has considered this vital evidence.^{2/} The Governor is able to do so. We submit that the evidence of Mr. Davis' mental defects strongly suggests that Mr. Davis is not the type of person the State of Illinois should execute.

Lastly, we ask that the Governor consider the remarkable changes Mr. Davis has made in his life since his incarceration. The turnaround in his life is a tribute to his faith in God and his hard work in overcoming his disabilities.

^{2/} As Judges Ripple, Cudahy and Rovner of the United States Court of Appeals for the Seventh Circuit, in voting to grant rehearing en banc on Mr. Davis' appeal from the denial of his federal habeas corpus petition, accurately observed, because of "lack of consideration of the defendant's psychiatric condition, the decision on the death penalty was made on the basis of a very inaccurate picture of the defendant [T]he missing evidence was highly significant both as proof of a mitigating circumstance and as a foundation for Mr. Davis' claim . . . that the death penalty was imposed without evidence that the defendant intended, or displayed reckless indifference, that a killing take place or that lethal force be used." Davis v. Greer, 21 F.3d 788, 789 (1994).

His life is valuable to himself and others; killing him would not benefit society.

III.

BACKGROUND

On October 23, 1980, in a trial held in St. Clair County, Illinois, a jury convicted Mr. Davis of murdering Charles Biebel in case no. 79 CF 771. On October 28, 1980, the same jury sentenced Mr. Davis to death for that crime. Mr. Davis has consistently maintained that he was not involved in any way in the killing of Mr. Biebel.

Mr. Davis does, however, acknowledge that he has made very serious mistakes in his life and for these he has expressed great remorse.

Juvenile Record.

Trained by his mother at a very early age to steal to help support her alcoholism, Mr. Davis was first brought to the attention of the juvenile authorities on May 11, 1966 when he committed a theft at the age of eight. He was adjudged delinquent. On May 24, 1966, he was again found to be delinquent when he committed a burglary. He was not committed to the Illinois Youth Commission.

On April 18, 1967 and on August 7, 1968, he was charged with shoplifting. On September 4, 1968, he was charged with creating a disturbance. None of these events resulted in a conviction leading to a commitment to the Illinois Youth Commission.

On April 28, 1969, at age 11, Mr. Davis was committed to the Illinois Youth Commission for a theft; he was paroled six months later. His parole was revoked twice: once at age 12, on August 28, 1970, due to "poor adjustment," and once at age 14, on October 8, 1972, for a re-evaluation after he committed theft.

During Mr. Davis' frequent involvements with the Illinois Youth Commission, various professionals with the Commission determined that Mr. Davis had organic brain syndrome, which was likely caused when he was hit by a truck at the age of 10; was borderline mentally retarded and was educably mentally handicapped; and suffered from other mental illnesses. Neither the juvenile authorities nor the educational system provided any consistent or effective treatment or help for Mr. Davis. (See Section IV.B. below.)

Adult Record.

On February 23, 1976, Mr. Davis was convicted of burglary and was sentenced to one year probation. On August 30, 1976, Mr. Davis was convicted of failure to carry a firearm owner's identification card, and was fined \$20. On August 23, 1977, burglary charges were filed against Mr. Davis, which were eventually dismissed. Nevertheless, he was found to be in violation of his probation, and on January 28, 1978, he was remanded to the St. Clair County Jail for six months. On November 10, 1977, Mr. Davis was convicted of misdemeanor battery and was fined \$60. Other than the murder convictions discussed below, Mr. Davis has no other adult convictions.

However, Mr. Davis was widely known in the area as a thief and as a "fence," or dealer in stolen goods.^{3/}

Other than minor traffic violations, as an adult Mr. Davis was arrested three times for failure to carry a firearm owner's identification card, twice for burglary, twice for unlawful use of a weapon, and once for possession of cannabis, resisting a peace officer, and aggravated assault. Mr. Davis' rap sheet is attached to this Petition as Exhibit 1.

During the 1977-1978 time frame, Mr. Davis was despondent and clinically depressed. He attempted suicide by an overdose of drugs, was committed twice to the psychiatric ward of the Christian Welfare Hospital, and once to the Alton State Hospital. He was treated -- all too briefly -- for schizophrenia, depressive neurosis and alcohol-related problems.

Murder Convictions.

On December 22, 1978, 89-year-old Charles Biebel was shot to death in his rural mobile home. The State's case and evidence against Mr. Davis rested upon a theory of accountability -- that Mr. Davis was responsible for the conduct of an accomplice, Ricky Holman, who actually committed the shooting. Under the State's version of the crime, Holman shot Mr. Biebel after Mr. Davis had left Mr. Biebel's mobile home. While the State indicted Holman for the Biebel murder, it never bothered to try him on the charges. As explained in detail in

^{3/} Mr. Davis had no significant employment history. He applied to enter the U.S. Army in 1976, but his application was denied. He worked for short periods of time as a vendor for a wholesale food company and as a dishwasher at a neighborhood store.

Section IV.A. below, there is no credible evidence to support Mr. Davis' guilt of the Biebel murder. A jury convicted Mr. Davis of this crime on October 23, 1980, and sentenced him to death on October 28, 1980.^{4/}

On March 11, 1980, Mr. Davis was convicted of the May 11, 1979 murder of John Oertel (case no. 79 CF 592). The State prosecuted Mr. Davis on an accountability theory, arguing that Holman was the actual killer. Mr. Davis received a 40-year sentence for this crime.

On March 27, 1980, Mr. Davis was convicted of murdering Frank Cash in the August 30, 1979 robbery of the State Street Auto Supply store in East St. Louis (case no. 79 CF 720); Holman was also convicted of this crime. While a witness identified Mr. Davis as the killer, that identification is suspect (see note 5 below and accompanying text). Mr. Davis was sentenced to 40 years for the murder and 30 years (concurrent sentence) for the attempted murder. This sentence is consecutive to the 40-year sentence in case no. 79 CF 592.

On April 16, 1981, Mr. Davis was convicted of the July 13, 1979 murder of Esther Sepmeyer (case no. 80 CF 5). Ricky Holman was also convicted of this crime; the State convicted Mr. Davis on an accountability theory, producing evidence that

^{4/} Mr. Davis has appealed to the Illinois Supreme Court the denial of his second post-conviction petition which alleged that his death sentence is unconstitutional because his attorney failed to seek a competency hearing and because his death sentence violates ex post facto due process principles. In addition, Mr. Davis has filed a federal habeas corpus in the United States District Court for the Southern District of Illinois asserting the ex post facto issue. This is Mr. Davis' first request for executive clemency.

Holman was the actual killer. Holman was sentenced to life in prison. Mr. Davis was sentenced to death, but the Illinois Supreme Court reversed that death sentence because the prosecutor improperly told the Sepmeyer jury that Mr. Davis already had been sentenced to death in the Biebel case. The State has not resentenced Mr. Davis in that case.

IV.

REASONS FOR COMMUTING MR. DAVIS' SENTENCE TO LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE

- A. There Is Substantial Doubt As To Whether Mr. Davis Is Guilty Of The Crime For Which He Is Sentenced To Die -- And No Doubt That Mr. Davis Did Not Shoot The Victim.

If the State of Illinois executes Girvies Davis for murdering Charles Biebel, it will in all likelihood be meting out the ultimate punishment to a man for a crime he did not commit. Although Mr. Davis has a criminal history, and although he has participated in armed robberies in which people were killed, not a shred of credible evidence indicates that Mr. Davis was in any way involved in the murder of Mr. Biebel. In any event, even under the State's own version of the crime, Mr. Davis did not shoot Mr. Biebel. Ironically, the State has never even prosecuted Mr. Davis' accomplice, Holman, who actually (according to the State) committed the murder.

The Crime.

On December 22, 1978, Charles Biebel was shot and killed in his mobile home in Belleville, Illinois. The culprit or culprits stole a number of items from Mr. Biebel's home, including a television and a double-barrelled shotgun. There were no eyewitnesses to the murder, and there was no physical

evidence to help identify the killer. The police were stymied and did not have a suspect for more than seven months.

The Confessions.

On August 30, 1979, Mr. Davis participated with two other men in a holdup of the State Street Auto Supply store in East St. Louis. With a companion, Mr. Davis entered the store to commit a robbery. The third man apparently kept watch outside. The companion approached the counter, produced a gun, and fired at the store owner. A store clerk named Frank Cash then ran into the back storeroom and the gunman pursued him. Mr. Cash was shot and killed in the storeroom. When the gunman returned, the store owner produced a gun and began firing. As the gunman and Mr. Davis ran from the store, Mr. Davis was shot in the arm. (No one has ever doubted that Mr. Davis was involved in the robbery in which Frank Cash was killed.^{5/} Mr. Davis was convicted for his role in that murder and sentenced to 40 years in prison.) Later that afternoon, the police arrested Mr. Davis at the hospital, where he had gone to

^{5/} There is, however, dispute as to whether Mr. Davis did the shooting. Although a witness identified Mr. Davis as the shooter at trial, he had previously been unable to do so at a lineup, and at the time of the crime had given a description of the shooter to the police that matched not Mr. Davis but the companion who had entered the store with Mr. Davis. Specifically, the witness described the shooter as being ten years older, three inches taller, and 35 pounds heavier than Mr. Davis, and as having a gap between his two front teeth. Mr. Davis had no front teeth, having had all four upper and lower incisors knocked out just a couple weeks before. Furthermore, the witness stated that the shooter was wearing a grey shirt, but Mr. Davis was wearing a green shirt.

receive treatment for his gunshot wound. Eventually, he was taken from the hospital to the St. Clair County Jail.

Mr. Davis was questioned repeatedly by the police during the ten days following his August 30, 1979 arrest. The police hoped that they could connect Mr. Davis to several unsolved crimes, so they interrogated him to determine if he had participated in any of them. Although Mr. Davis was without the benefit of an attorney during these interrogations, he consistently denied having any knowledge of the unsolved crimes, including the murder of Mr. Biebel.

The police persisted. According to several officers, their persistence paid off in the early morning hours of September 10, 1979 -- between 3:30 and 4:30 a.m. -- when Mr. Davis signed more than a dozen confessions. Among the statements signed by Mr. Davis was a confession to the murder of Mr. Biebel which, according to the police, was signed at 4:30 that morning. Although the police had no reliable evidence linking Mr. Davis to the scene of the crime or to the murder weapon, and although Mr. Davis had repeatedly denied any involvement in or knowledge of the crime, the police had produced all the evidence they needed: a signed confession in which Mr. Davis admitted his role in the murder. (Exhibit 2.) According to the statement, Mr. Davis' 17-year-old companion, Ricky Holman, shot Mr. Biebel in his mobile home while Mr. Davis was outside putting stolen items in the car.

In addition to his statement confessing to the murder of Charles Biebel, the police procured more than a dozen other

confessions from Mr. Davis during the same time period, enabling them to "close the book" on virtually all of the major unsolved crimes in St. Clair and Madison Counties. Because these confessions were the only evidence linking Mr. Davis to the crimes (with the exception of the Cash murder), the circumstances surrounding them are worth exploring.

Mr. Davis was in police custody for ten days before the police elicited any confessions from him. Then, according to the police, on the morning of September 9, 1979, Mr. Davis gave a handwritten note to a jailhouse guard that indicated that he wanted to "come clean" for eleven listed crimes. (Exhibit 3.) The police say that the guard called them promptly, but the police did not arrive at the jail to see Mr. Davis for almost twelve hours, until 10:00 that night. The police then handcuffed Mr. Davis, placed shackles on his legs, and removed him from the St. Clair County Jail. Over the course of the next five hours, the police drove Mr. Davis around St. Clair and Madison Counties so Mr. Davis, according to the police, could help them locate evidence from various crimes. At around 3:00 a.m. on September 10, 1979, the police returned Mr. Davis to the St. Clair County Jail. According to the police, Mr. Davis then voluntarily began signing the series of confessions that provided the bulk of the evidence against him.

If the fortuitous confessions -- which "solved" virtually all of the major unsolved crimes in the area -- seemed too good to be true, it is because they were. For several reasons, the police version of how Mr. Davis came to sign the

confessions is untenable, and the State's decision to rely on the statements as probative evidence is simply astounding.

First, Mr. Davis was illiterate; he could not have written the original inculpatory note that he supposedly handed to a guard at the jail, and he could not have read any of the statements he signed. The jury never heard that Mr. Davis could not read or write; indeed, during the closing argument, Mr. Davis' attorney implied that the opposite was true. Yet, Mr. Davis' illiteracy during this period of his life is not in doubt; Richard Cosey, his long-time juvenile probation officer, has said that he found it necessary to read for Mr. Davis because Mr. Davis was unable to read for himself. Only after several years in prison did Mr. Davis, a fourth-grade dropout (at age 12), begin to learn how to read and write. Furthermore, recent samples of Mr. Davis' handwriting indicate that the note clearly was written by someone other than Mr. Davis. (Compare Exhibit 3 with Exhibit 4.)

Second, it is uncontroverted that Mr. Davis could not possibly have committed a number of the crimes for which he signed confessions. The St. Clair County prosecutor who sought the death penalty against Mr. Davis for the Biebel murder has admitted that Mr. Davis did not commit at least seven of the crimes to which he confessed. (Exhibit 5.) Perhaps the most striking example of a crime that Mr. Davis did not commit -- despite his confession to it -- is the attempted murder of a man named Mark Resmann. Mr. Davis signed a statement claiming he tried to kill Mr. Resmann during a gas station robbery.

Mr. Resmann, upon being shown a photograph of Mr. Davis, told police that Mr. Davis was not involved. (Exhibit 6.) The State later convicted two other men -- Bryan Lawrence and Keith Harris -- of that crime. Two more of the crimes to which Mr. Davis "confessed," the shooting at the Perfect Circle Donut Shop in Cahokia and the murders at the Mexico City Cafe, were committed with the same weapon as the Resmann shooting. (Exhibit 7.) Mr. Davis did not commit those either; the Perfect Circle victim described his assailant in a manner that eliminated Mr. Davis as a suspect^{6/} (Exhibit 8), and survivors at the Mexico City Cafe did not identify Mr. Davis in a lineup. (Exhibit 9.) With respect to a fourth confession, the murder of Frieda Mueller, ballistics reports show that she likely was killed with the same weapon used in these other shootings that Mr. Davis did not do. (See Exhibit 7.) And as to a fifth crime to which Mr. Davis "confessed," the shooting of Walter Golab, the prosecutor also stated that Mr. Davis did not commit that crime because Mr. Golab did not identify Mr. Davis when given the opportunity to do so in a lineup. (See Exhibit 5.)

Mr. Davis also confessed to being an accomplice to a robbery/murder committed by Ricky Holman in a Burger Chef in East St. Louis and to participation along with Holman in a robbery/murder/attempted murder in a Madison furniture store. Mr. Davis was never indicted or tried for his alleged involvement in those crimes, and so has never been required or

^{6/} The victim described his assailant as a man with a "light complexion." By all accounts, and to anyone who looks at him, Mr. Davis is a dark-skinned black man.

afforded the opportunity to mount a defense to charges associated with them.

Because Mr. Davis signed all of these statements at the same time, including the Biebel confession, the fact that so many were totally false renders all of those confessions unreliable. Mr. Davis' "confession" to the murder of Charles Biebel is no more worthy of belief than his "confession" to the attempted murder of Mark Resmann, the crimes at Perfect Circle and Mexico City, the murder of Mrs. Mueller and the attempted murder of Mr. Golab, especially given the dearth of any substantiating evidence in the Biebel case.

Third, the substance of Mr. Davis' "confession" to the Biebel murder contains details of Mr. Biebel's place of residence that Mr. Davis could not have remembered. The same facts, however, were readily available to the police. The one-page statement includes a comprehensive description of Mr. Biebel's mobile home: "The inside of the trailer has the kitchen on the right of the front door, then the living room, then a bedroom down the hall to the left." (See Exhibit 2.) Mr. Davis, according to the police, was briefly present in Mr. Biebel's trailer on December 22, 1978, the day of the killing; by all accounts he had not been there since. Even if Mr. Davis had been in Mr. Biebel's trailer once, it defies belief to suggest he -- or anyone else, for that matter -- could recall the layout in such detail after eight months (especially in light of his substantial mental defects, which are described in Section IV.B.). The police, however, certainly had this

information at their disposal from their initial investigation of the crime scene and undoubtedly included it to "authenticate" the confession.

Fourth, the police have never explained a number of peculiar aspects of their story. They have never adequately explained why they waited until 10:00 p.m. to question a man who purportedly was ready to confess that morning to murders that had been beguiling authorities for more than seven months. The police have never explained why, if they were looking for evidence, they conducted their five-hour search in the middle of the night rather than during the light of day. Finally, the police have never explained how their story is believable in light of Mr. Davis' inability to read or write and the fact that Mr. Davis "confessed" to a number of crimes he undoubtedly did not do.

There is also Mr. Davis' own version of the way in which the police obtained the statements, which differs markedly from the scenario described by the police. Mr. Davis claims that he neither wrote an inculpatory note nor gave one to a jailhouse guard -- a plausible assertion given his inability to read or write and given the fact that the note also referenced several crimes that everyone agrees he did not commit. He says that on the night of September 9, 1979, the police showed up and surprised him by removing him from the St. Clair County Jail. For the next several hours, Mr. Davis says the police drove him around, urging him to sign statements they already had written, which admitted responsibility for more than a dozen murders or

attempted murders. When their efforts yielded nothing, the police officers became frustrated.

At around 2:00 a.m. on September 10, 1979, Mr. Davis says the police pulled over to the shoulder of a deserted highway, produced the as-yet-unsigned confessions, removed him from the police car, removed his handcuffs, removed his leg shackles, unholstered their guns, and told him that he had two options: sign the confessions or try to escape. Mr. Davis, fearing for his life, then signed everything the police placed in front of him.

Mr. Davis' version of why he signed these statements has not changed in fifteen years.

The Evidence At Trial.

In October 1980, Girvies Davis was tried, convicted, and sentenced to death for murdering Charles Biebel. The State had only one piece of evidence that placed Mr. Davis at the scene of the crime: the coerced confession that Mr. Davis had signed at 4:30 a.m. on September 10, 1979. Though twenty-two months had passed between the murder and the trial, the only other evidence the State was able to introduce indicated simply that Mr. Davis facilitated Holman's sale of a shotgun taken from the Biebel home. That Mr. Davis was a "fence" who commonly dealt in stolen goods has never been denied.

The State's theory at trial was that both Mr. Davis and Ricky Holman robbed Mr. Biebel, and that Mr. Davis' confession indicated that Mr. Holman did the shooting. The State argued that Mr. Davis should be held accountable for

Mr. Holman's actions because Mr. Davis knew that someone could have been killed in the robbery. Mr. Davis is scheduled to be executed based on his accountability for what Mr. Holman did, while in the view of the law, Mr. Holman (who was not prosecuted) is innocent of any wrongdoing at all in the murder of Mr. Biebel.

Given the lack of evidence and the unreliability of the purported confession, one ought to wonder how Mr. Davis was convicted at all. The State was able to win a conviction largely because the trial court judge allowed the State to present evidence of the other crimes for which Mr. Davis had been convicted or was a suspect, including crimes for which Mr. Davis was later exonerated. For example, the prosecution told the jury that two weeks before the Biebel killing, Mr. Davis was present when Frieda Mueller, an elderly woman, was shot and killed in her home. The Mueller murder was pivotal to the State's argument for the death penalty in the Biebel case because it was the only case mentioned at trial that preceded the Biebel murder. The State relied heavily on Mr. Davis' supposed participation in the Mueller murder to argue that, although Mr. Davis did not shoot Mr. Biebel, he should have known that a shooting was likely to occur because he was present when Mrs. Mueller had been shot. This supposed "knowledge" was the State's justification for sentencing Mr. Davis to death in the Biebel case.¹⁷

¹⁷ In affirming this death sentence, the Illinois Supreme Court also improperly relied on the Mueller shooting as evidence (continued...)

But the State never even charged Mr. Davis for the murder of Frieda Mueller -- because the evidence showed that he was not involved. Other than the unreliable confession, there was no physical or circumstantial evidence connecting Mr. Davis to the Mueller killing. Ballistics reports indicate that the gun used to kill Mrs. Mueller exhibited rifling characteristics similar to the gun used to shoot Mark Resmann (see Exhibit 7), but not the gun used to shoot Mr. Biebel, and we know from Mr. Resmann that Mr. Davis was not involved in shooting Mr. Resmann (see Exhibit 6).

Furthermore, the jury was told by a police officer that Mr. Davis was connected to the Mexico City Cafe murders and the Golab shooting. This too was false, because surviving witnesses did not identify Mr. Davis as the assailant; according to press reports, some said Mr. Davis definitely was not involved. (See Exhibit 9.) In addition, a ballistics analysis shows that the same gun that was used to shoot Mr. Resmann was also used at the Mexico City Cafe. (See Exhibit 7.) Mr. Davis

V (...continued)
that Mr. Davis knew that Mr. Biebel would be shot:

Further, defendant certainly had reason to contemplate that a life would be taken, or that lethal force would be employed. As previously noted, defendant confessed to participating in the Mueller murder. That killing occurred before the murder which is the subject of the instant case. Defendant stated that the victim was shot by Holman while the defendant was carrying stolen property to his car. In view of the similarity in the circumstances, the conclusion is inescapable that defendant must have anticipated the killing of the victim in the instant case.

State v. Davis, 95 Ill. 2d 1, 52, 447 N.E.2d 353, 378 (1983).

was never prosecuted by the State for the murder of Mrs. Mueller or the Mexico City shootings.

Indeed, the State's reliance on evidence of other crimes was so heavy that one juror in the Biebel case, approached recently, actually recalled -- mistakenly -- that the jury had convicted Mr. Davis of one of the other crimes. Essentially, the jury heard two allegations over and over: Mr. Davis is a murderer, and he confessed to murdering Mr. Biebel. The jury heard no evidence about Mr. Davis' inability to read or write, and because Mr. Davis' lawyers decided not to let him testify in his own defense, it did not hear Mr. Davis' version of how and why he signed the statements.

The State did have one piece of circumstantial evidence. It introduced the testimony of a man named Gregory Mitchell who told the jury that Holman sold him a double-barrelled shotgun. The same shotgun was identified by another witness as one of the items stolen from Mr. Biebel's trailer (it was not the gun that was used to shoot Mr. Biebel). Mr. Mitchell testified that Mr. Davis had telephoned him to inform him that Holman had a gun that he wanted to sell; Mr. Davis was not present when the sale took place, and Mr. Mitchell did not ever see Mr. Davis in possession of the shotgun. Because Mr. Davis was an admitted "fence" who bought and sold stolen goods for a living, it is neither surprising nor indicative of involvement in the robbery that he set up such a transaction. Mr. Mitchell's testimony did not indicate that Mr. Davis participated in the Biebel murder, or that he was present on

Mr. Biebel's property; it indicated only that Mr. Davis knew from Holman that a robbery had taken place.

Indeed, the testimony of Mr. Mitchell contradicts the contention of the police that as of 10:00 p.m. on the night of September 9, 1979 Mr. Davis wanted to confess to a number of crimes, including the Biebel murder. Mr. Mitchell testified that at around 1:00 a.m. on September 10, 1979, the police brought him over to a car in which Mr. Davis was sitting. According to Mr. Mitchell, Mr. Davis told him, in the presence of the police, that Ricky Holman was trying to implicate Mr. Davis in a number of crimes, including robberies and murders in which Holman had stolen goods which Holman later sold to Mr. Mitchell; Mr. Mitchell also stated that Mr. Davis asked him to provide the police with the goods Holman had sold to him. According to Mr. Mitchell's testimony, Mr. Davis did not admit his involvement in any crimes; instead, he asked Mr. Mitchell to help him prove his innocence to the police. Mr. Mitchell's testimony thus contradicts the police version that Mr. Davis was in the process of confessing to these crimes.

In sum, the State had three kinds of evidence: (1) unreliable confessions; (2) inflammatory allegations about unrelated murders, a number of which Mr. Davis clearly did not do; and (3) testimony indicating the uncontroverted fact that Mr. Davis commonly bought, sold, and arranged transactions for the sale of stolen goods. There was no physical evidence or testimony indicating that Mr. Davis was present on Mr. Biebel's

property when he was shot and killed, and nothing at all to link Mr. Davis to the murder weapon.

The State's chances of obtaining a conviction and death sentence based on this thin evidence were probably enhanced by the State's successful attempt to exclude all African-Americans from Mr. Davis' jury, which resulted in an all-white jury. Mr. Davis was a black man portrayed by the prosecution as someone responsible for the murders of several white victims. The State used its peremptory challenges to exclude each potential African-American juror at the Biebel trial. This racially discriminatory practice violates the Equal Protection Clause of the United States Constitution. Because of a technicality of Supreme Court law, however, Mr. Davis was not permitted to prove this constitutional violation.^{8/} A jury with African-American members probably would have been more skeptical of "confessions" that were procured only after a handful of white police officers removed a black suspect from jail and took him on a midnight ride. Mr. Davis, however, was

^{8/} When Mr. Davis was convicted in 1980, and when his conviction was affirmed by the Illinois Supreme Court in 1983, the law required a criminal defendant seeking to prove race discrimination in the State's use of peremptory challenges to demonstrate a pervasive pattern of discrimination in case after case in that jurisdiction. To the best of counsel's knowledge and research, no defendant anywhere in this nation ever proved race discrimination under that impossible standard. In 1986, the United States Supreme Court recognized the unfairness of that standard and reversed it, holding that a defendant could prove race discrimination based solely on the State's exercise of peremptory challenges in his own case. See Batson v. Kentucky, 476 U.S. 79 (1986). Mr. Davis was not provided the benefit of the Batson decision retroactively, however, and thus remains blocked by a mere technicality from establishing his constitutional right to a properly-selected capital jury.

convicted and sentenced to death by a jury from which all African-Americans had been improperly excluded.

There is not one piece of reliable evidence that indicates that Mr. Davis was in any way involved in the murder of Charles Biebel. Mr. Davis, unfortunately, cannot prove his innocence. The police never identified the real killer, and no one has stepped forward to admit responsibility. Mr. Davis does not have an alibi; when he was questioned about the Biebel murder in September 1979, he had no recollection of where he was on the afternoon of December 22, 1978. This is not surprising, in that Mr. Davis -- a petty robber and a dealer in stolen goods -- was not the type of person who kept an appointment book. Though Mr. Davis cannot affirmatively prove his innocence, a rational person viewing the evidence which relates directly to the killing could not plausibly find that Mr. Davis is guilty of murdering Charles Biebel.

Still, Mr. Davis is not asking to be released from prison. Mr. Davis was convicted for his role in the armed robbery and shooting at the State Street Auto Parts store, for which he was sentenced to 40 years in prison. Mr. Davis has also been sentenced to an additional 40 years for his role in the robbery and murder of John Oertel. Mr. Davis' goal is not to be set free; it is to be spared the improper punishment of death.

The death penalty is a drastic measure, properly reserved for only the most heinous crimes where no doubt at all remains about the defendant's guilt. At the very least, there

is substantial doubt about whether Mr. Davis had anything to do with the crime for which he is scheduled to be executed^{9/} -- there is no doubt that he did not do the shooting. In light of these circumstances, it is important for the Governor to commute Mr. Davis' death sentence to life in prison to prevent the execution of someone who is almost certainly not guilty of the crime for which he is to die.

B. In Light Of His Organic Brain Damage, Mental Retardation, and Horrible Family Background, Mr. Davis Is Not An Appropriate Candidate For Execution.

At the time of the crimes that he has been accused of committing, Mr. Davis suffered from serious mental disabilities which adversely affected his judgment. He had an extensively documented history of organic brain damage, borderline mental retardation and other mental illnesses. As a child, Mr. Davis lived a life of poverty and neglect and his mental disabilities were never adequately treated. The jury that sentenced Mr. Davis to death did not hear any of this compelling mitigating evidence.

Organic Brain Damage.

On May 16, 1969, when Mr. Davis was 11 years old, Dr. Robert H. Brown, a psychologist for the State of Illinois Youth Commission, prepared a psychological screening report of Mr. Davis. (Exhibit 11.) Two of the tests administered by Dr. Brown -- Mr. Davis' figure drawings and his "Graham-Kendall" test -- showed distortion, suggesting that Mr. Davis suffered

^{9/} Attached as Exhibit 10 are recent newspaper articles written about this "substantial doubt."

from "organicity," or organic brain damage. Dr. Brown also noted, "There appears to have been some deterioration [of Mr. Davis' intellectual capacity] through the years for Girvies was once given A grades but now they are essentially F's." Because of these troubling results, Dr. Brown referred Mr. Davis to Dr. Marianne W. Chermak, M.D., a consulting psychiatrist, for further tests. After interviewing Mr. Davis on May 21, 1969, Dr. Chermak concluded that she found nothing to suspect organicity and decided not to test Mr. Davis. (Exhibit 12.)

By the next time Mr. Davis was evaluated, he had not shown improvement. On December 22, 1971, Dr. Kenneth C. Spajer, a psychologist with the Illinois Youth Commission, prepared another evaluation of him. (Exhibit 13.) Dr. Spajer conducted a series of tests, and those tests "indicated a possibility of an organic brain dysfunction." He referred Mr. Davis again to Dr. Chermak.

On December 22, 1971, Dr. Chermak saw Mr. Davis for a second time. After noting that Mr. Davis showed "strong organic signs on psychological testing and hyperactivity," she ordered that an electroencephalogram (EEG) test be performed on Mr. Davis. (Exhibit 14.)

That test was conducted on December 27, 1971 by Dr. F.M. Lorimer, M.D. Mr. Davis was 13 years old. The test showed that Mr. Davis did in fact suffer from brain damage. (Exhibit 15.) Dr. Lorimer wrote that he found:

Grossly abnormal EEG with shifting spike slow waves and spiking activity in the anterior leads, particularly frontal, temporal. There is also fast activity in varied frequencies. This record is not

commonly seen associated with grand mal epilepsy but is a record which would correlate with behavioral disorders.

Dr. Chermak, in a report dated January 5, 1972 concurred with Dr. Lorimer's conclusions. (Exhibit 16.) She prescribed Valium.

Dr. Lorimer reported the cause of Mr. Davis' brain damage: at the age of 10, Mr. Davis had been hit by a truck while riding his bicycle. (See Exhibit 15.) His mother has confirmed that this accident occurred. (Exhibit 17, at par. 6.)

Further clinical evaluations supported the doctors' findings of organicity. On August 21, 1972, Dr. Chermak saw Mr. Davis yet again; she gave Mr. Davis another prescription for Valium, and added a prescription for Dilantin. (Exhibit 18.) Dr. Marvin C. Ziporyn, a psychiatrist with the Illinois Department of Corrections, examined Mr. Davis on October 29, 1972; he concurred with Drs. Chermak and Lorimer:

This youngster displays all of the classical stigmata usually associated with organicity. He is emotionally volatile, displays markedly defective insight and judgement, and, indeed, shows some evidence of disorientation as to time Sensorium is defective as demonstrated by poor ability to calculate and a markedly defective fund of knowledge. On memory tests, such as Number Sequence and Word Recall, he displays an almost complete ineptitude. The history on this youngster is that he has had frequent episodes of headache and received a severe injury to his head at the age of ten when he was hit by a truck. . . . The diagnosis is, "Non-psychotic organic brain syndrome, associated with cerebral trauma."

(Exhibit 19.) (See also Exhibit 20 at par. 10.)

On January 13, 1975, Jacqueline Settles, an employee of the Illinois Department of Corrections, Juvenile Division,

reported that on January 3, 1975, a neuropsychiatrist named Dr. Lam had administered an EEG to Mr. Davis which "indicated some organicity." (Exhibit 21.)

On July 25, 1975, Dr. Sherman Sklar, a clinical psychologist consulting for the Illinois Department of Corrections, examined Mr. Davis and observed evidence of organicity. He wrote in his report, "Girvies' Bender Gestalt drawings are grossly inaccurate and are very indicative of an organic condition. It is probable that at least a part of the client's learning problems are attributable to his brain dysfunction. . . . Girvies' personality test results contain a great deal of perseveration, which supports the findings of the Bender, that this youth has an organic brain syndrome." (Exhibit 22.)

In all, four physicians and two clinical psychologists concluded that Mr. Davis suffered from organic brain damage, which probably resulted from the head trauma Mr. Davis suffered when he was hit by a truck at the age of ten. Robert L. Heilbronner, Ph.D., a neurological psychologist who recently reviewed Mr. Davis' juvenile and mental health records at the request of Mr. Davis' attorneys, confirmed that the records "clearly support a diagnosis of organic brain dysfunction." (Exhibit 23 at page 5.)^{10/} In Dr. Heilbronner's expert opinion, brain injury like that which Mr. Davis suffered has

^{10/} Dr. Heilbronner is a licensed and practicing neuropsychologist and an Assistant Clinical Professor at Northwestern University Medical School. He has expertise in the area of traumatic brain injury. His curriculum vitae is attached to his report which is Exhibit 23.

severe consequences on the injured person's cognition, emotions, and behavior. (Exhibit 23 at page 6.) He explains that it is common for a brain-injured person to have decreased insight, problems with concentration, poor memory, and weak planning and problem-solving skills. (Exhibit 23 at page 6.) Furthermore, according to Dr. Heilbronner, an injury to the brain can also result in changes in personality and emotions, the most common of which include a tendency toward anger, reduced control over impulses, poor modulation of emotion, some symptoms of depression, and reduced motivation and effort. (Exhibit 23 at page 6.)

Borderline Mental Retardation.

Even if Mr. Davis had not been struck by a truck at the age of ten, it is clear that he would have nonetheless been an at-risk child. The available records show that Mr. Davis was diagnosed as borderline mentally retarded by Dr. Brown in his report dated May 16, 1969; Mr. Davis was 11. (See Exhibit 11.) In a report dated May 26, 1969, Kathleen Ryan, a social worker with the Illinois Youth Commission, reported that Mr. Davis scored a 78 on the Revised Beta Test, which placed him in the "borderline range of intelligence." (Exhibit 24.) At the age of 11, Mr. Davis was functioning at a first grade level; until his arrest and conviction, Mr. Davis' educational level never improved significantly.

In July 1975, when Mr. Davis was 17, Dr. Sklar reported that Mr. Davis was functionally illiterate, read at a second grade level, spelled at a third grade level, and had

arithmetic skills at the fourth grade level. (See Exhibit 22.) Dr. Sklar wrote, "It appears as though Girvies' level of emotional and intellectual functioning is quite low, and in addition seems to lack any real understanding of people and how to effectively relate to them."

In 1977, Mr. Davis received treatment from Dr. V.J. Thomas. In a report dated July 3, 1977, which was written in connection with Mr. Davis' admission to the Christian Welfare Hospital as a result of a suicide attempt, Dr. Thomas diagnosed Mr. Davis with "Mental retardation (borderline)." (Exhibit 25.)

Dr. Heilbronner has concluded, upon his review of Mr. Davis' records, that Mr. Davis suffered from mental retardation and was educably mentally handicapped ("EMH"). (Exhibit 23 at page 3.) Dr. Heilbronner states that Mr. Davis' mental retardation and EMH likely had its roots in his mother's alcoholism. (See Exhibit 23 at page 4.)

Other Mental Illness.

Because of his inability to cope with his mental deficiencies and his traumatic family life, Mr. Davis was, understandably, a very troubled and unhappy youngster. On July 3, 1977, Mr. Davis attempted suicide by ingesting an overdose of Elavil and Tranxene. (See Exhibit 25.) According to the medical records, Mr. Davis was "practically comatose." Two months later, on September 20, 1977, Mr. Davis was admitted to Alton State Hospital for an "acute schizophrenia episode" and "habitual excessive drinking." (Exhibit 26.) On August 10, 1978, Mr. Davis was admitted to the psychiatric unit of

Christian Welfare Hospital by Dr. Thomas. (Exhibit 27.) Mr. Davis stayed there for six days, was diagnosed with "depressive neurosis" and upon discharge was prescribed Mellaril, a powerful psychotropic drug. Dr. Thomas later increased the dosage of Mellaril and added a prescription for Dilantin.

According to Dr. Heilbronner, Mr. Davis' serious problem with alcoholism is likely to have stemmed from Mr. Davis' attempts to "medicate" himself in an attempt to treat his diagnosed depression because he did not have access to other, more healthy resources. (Exhibit 23 at page 7.)

Chaotic Family Environment and the Resulting Failure of Care.

Despite the severity of Mr. Davis' problems, Dr. Heilbronner notes an almost complete failure of care in Mr. Davis' history. (See Exhibit 23 at pages 8-9.) This failure was primarily the result of a chaotic and totally dysfunctional family life.^{11/} Mr. Davis was denied from birth any semblance of a stable family unit or parental guidance. He was born on January 5, 1958 in East St. Louis. His large family lived in impoverished neighborhoods in East St. Louis, moving frequently when his mother could not pay the family's bills.

Mr. Davis' parents did not give him the discipline and love he needed as an at-risk child. His mother was almost completely ineffective as a parent, and his father, who died when Mr. Davis was young, was most often absent from the home. There is clear evidence that Mr. Davis' mother, father, step-

^{11/} Exhibit 28 is a detailed report by David Randall, Ph.D., which describes Mr. Davis' upbringing and social history.

father, siblings, and Mr. Davis himself all suffered from severe alcoholism. To support her lurid lifestyle, Mr. Davis' mother would prostitute herself, leaving her children alone at the house for days at a time. She taught and encouraged Mr. Davis to steal, and as his juvenile records indicate, he began doing so at a very early age. Even more terrible, she prostituted her daughters to the various different men who would visit the house. It is this sort of self-centeredness that explains her failure to find adequate medical care for her son.

Mr. Davis also slipped through the cracks of the educational system. At the age of 11, Mr. Davis was functioning at a first grade level, yet was in the fourth grade. Placement in an EMH program was recommended, but was not done because classes were full. When Mr. Davis was 13, special placement was again recommended; instead, he was placed in a mainstream sixth grade class due to his size. (See Exhibit 23 at pages 3-4.) By this time, though, he was no longer attending school anyway.

Mr. Davis also did not receive adequate care from medical professionals. The sporadic examinations by Drs. Chermak and Ziporyn and the sporadic Valium and Dilantin prescriptions fell far short of the required continuing treatment for his brain injury. Mr. Davis received no follow-up care for his brain injury. When Mr. Davis began showing signs of substance abuse and mental illness, he did not receive any consistent care. In short, there was a complete failure of care from the moment Mr. Davis was born until the time he was placed on death row.

As Dr. Heilbronner stated, Mr. Davis "was born too soon in time and to the wrong kind of family." (See Exhibit 23 at page 9.) According to him, the types of problems suffered by Mr. Davis are better understood and more effectively treated now. In fact, for some of his problems, treatment is mandated by law under the Illinois Developmental Disabilities and Mental Disabilities Service Act, 405 ILCS 80/0.01, et seq., and the Americans with Disabilities Act of 1990, 42 U.S.C. § 12111, et seq. According to Dr. Heilbronner, if adequate treatment had been made available to Mr. Davis as a child, his problems "might have been managed more easily, with less hardship and expense, and without significant intervention by the criminal justice system." (Exhibit 23 at page 9.)

Failure to Present Evidence at Trial.

Despite the well-documented nature of Mr. Davis' mental disabilities and sorrowful upbringing, the jury heard not one word about either. Why? Because Mr. Davis -- acting out of embarrassment and hindered by his ignorance, illiteracy, retardation and mental illness -- refused to permit his lawyers to tell the jury these crucial facts during his sentencing hearing. (Exhibit 29.) At this point, Mr. Davis' court-appointed counsel failed him by not demanding a hearing to determine Mr. Davis' fitness to be sentenced under Illinois law. (Ill. Rev. Stat. ch. 38, par. 104-11(b).) In fact, Dr. Ziporyn has stated that, based on his contact with Mr. Davis while he worked for the Department of Corrections and his review of the relevant records, it is his opinion that Mr. Davis "was not

capable of understanding and appreciating the nature of the sentencing proceedings by which he was sentenced to die, and was not capable of making an informed and rational decision about whether to allow his counsel to present evidence to the jury concerning Mr. Davis' history of mental health treatment" (See Exhibit 20 at par. 11.)

Thus, according to his obviously disabled client's self-destructive wishes, the only evidence Mr. Davis' counsel presented to the jury in mitigation was the roughly ten minutes of testimony from Mr. Davis' wife, Cindy Davis, who testified that Mr. Davis treated her well and that she would visit him in prison. (Exhibit 30.)

What impact would this evidence of mental disability have had on the jury's sentence? Very likely it would have led to a different sentence. It is crucial in this regard to keep in mind that a death sentence can only be imposed if the jury votes unanimously for death. If a single juror votes against death, the sentence cannot be death. Here, two jurors in this case -- Karole Rich and Rebecca Zarzecki -- were recently told about this mitigating evidence, and both of them concluded that it would have influenced their decision about the appropriate sentence. In an interview with Norbert Knapke, an attorney with Jenner & Block, and Sister Miriam Wilson, a Benedictine nun, juror Karole Rich said that she would not have voted for death if she had known about Mr. Davis' mental disabilities. (Exhibit 31.) In a signed statement, juror Rebecca Zarzecki stated that the evidence of Mr. Davis' mental illness and other mental

disabilities had the strong potential of making her vote for life rather than death. (Exhibit 32.) Ms. Zarzecki stated that "demonstrated mental illness often lessens a person's ability to make good decisions for himself or herself" and that she believes that "in some cases a person who is mentally ill may not be innocent, but may be less responsible for his or her actions." (See Exhibit 32 at par. 6.) Both jurors affirmed that they knew nothing about this evidence when they made their decision to sentence Mr. Davis to death, and both believed that they should have been presented with this evidence during the sentencing hearing.

Andrea Lyon, Director of the Illinois Capital Resource Center, concurs in the jurors' assessment. Ms. Lyon has substantial experience (and overwhelming success) defending clients in capital sentencing hearings. To date, she has handled 18 death sentence hearings -- and won every one. It is her expert opinion that Mr. Davis' mental health problems and impoverished family background are the type of mitigating factors that are likely to convince a capital sentencing jury to choose life over death. Indeed, she has used similar mitigating evidence in at least three death sentence hearings with success. (Exhibit 33, which will be submitted shortly.)

Public opinion polls and studies of jurors in death penalty cases indicate that the existence of mental disabilities is powerful mitigating evidence. In an ongoing study, researchers with the Capital Jury Project have interviewed actual jurors from capital cases about numerous issues

associated with the death penalty, including the importance of certain aggravating and mitigating factors. Although the nationwide study is not yet complete, the accumulated data from five states -- California, Florida, Kentucky, North Carolina and South Carolina -- indicate that capital jurors consider facts such as those associated with Mr. Davis to be powerful mitigating factors. (Exhibit 34.) The following tables summarize this data:

Table 1: Defendant Was Mentally Retarded

State	% who believe it is a mitigating factor	% who would be "much less likely to vote for death"
California (121 valid responses)	86.8%	62.0%
Florida (113 valid responses)	77.9%	53.1%
Kentucky (87 valid responses)	75.9%	46.0%
North Carolina (59 valid responses)	83.0%	28.8%
South Carolina (111 valid responses)	72.0%	45.9%

Table 2: Defendant Had A History Of Mental Illness

State	% who believe it is a mitigating factor	% who would be "much less likely to vote for death"
California (120 valid responses)	75.0%	24.2%
Florida (113 valid responses)	63.7%	29.2%
Kentucky (86 valid responses)	68.6%	33.7%
North Carolina (54 valid responses)	66.7%	20.4%
South Carolina (110 valid responses)	52.8%	25.5%

The responses of jurors Karole Rich and Rebecca Zarzecki confirm these statistics: Mr. Davis' mental disabilities, which included organic brain damage, borderline mental retardation, and mental illness, are mitigating factors which preclude the imposition of the death penalty in this case.^{12/}

There is also widespread public sentiment against the execution of those who are mentally retarded. A number of death penalty states prohibit the execution of mentally retarded individuals, including Arkansas, Colorado, Georgia, Indiana, Kansas, Kentucky, Maryland, New Mexico, Tennessee and Washington. Scientific polling data indicate that a majority of Americans, even in states that strongly support capital

^{12/} Judge Easterbrook of the United States Court of Appeals for the Seventh Circuit has observed that jurors are likely to credit claims of mental disabilities that have some organic basis. Brewer v. Aiken, 935 F.2d 850, 862 (7th Cir. 1991) (Easterbrook, J., concurring).

punishment, oppose its imposition on defendants with mental retardation. Indeed, 73% of Texans oppose executing retarded inmates, and Texas has executed more persons since the death penalty was reinstated than any other state. (Exhibit 35 at page 3.)

These facts reflect the moral sense that most Americans and citizens of Illinois share: that is, a person with mental disabilities, while still responsible for his or her actions, is less blameworthy than someone with all of his or her faculties. Both the American Bar Association and the American Association on Mental Retardation ("AAMR") oppose the execution of the mentally retarded. (Exhibits 35 and 36.) The American Bar Association has specifically acknowledged that persons with I.Q. scores between 70 and 85 have "a substantial mental disability that should be considered as a mitigating circumstance in capital cases." (See Exhibit 35.)

We urge the Board and the Governor to apply the same moral reasoning to Mr. Davis' case. While he is responsible for the crimes he committed and the murders he is accountable for, he is less blameworthy than others who do not suffer from organic brain damage, mental retardation and mental illness. This is especially true in this case since the State prosecuted Mr. Davis on a theory of accountability. For the jury to find Mr. Davis eligible for the death penalty, the State had to prove that Mr. Davis knew that Holman would kill when the two men jointly committed a burglary. Of course, the State produced no evidence that Mr. Davis was even present at either the Biebel

crime or the Mueller crime. (See Section IV. A.) Even assuming that Mr. Davis was at the Biebel home or at both, Mr. Davis' inability to recognize cause and effect, his poor memory, and his lack of judgment undermine the contention that he would have known what Holman would do to any witnesses at future robberies. Indeed, Dr. Heilbronner has concluded that "[t]he nature of [Mr. Davis'] reported impairments alone make it unlikely that Mr. Davis would know or be able to predict in advance the consequences of his or someone else's action." (Exhibit 23 at page 6.) Thus, the mitigating evidence would have demonstrated that Mr. Davis was not a malicious and cold-blooded killer, but rather that he was a retarded, severely disturbed and neglected young man who followed others and who had trouble understanding the connection between one event and another.

It is also appropriate to have mercy upon Mr. Davis because he grew up in a chaotic, poor, alcoholic and neglectful environment -- he was not given the love, support and stability that every child needs to become a productive citizen, especially a child with his types of mental disabilities.

No one -- not the jury, not the prosecutor, not the trial judge and not any other judge -- has considered whether in light of Mr. Davis' organic brain damage, mental retardation, mental illness, and a terrible family background, he deserves the death penalty or a lesser sentence of life in prison. We ask that the Board and the Governor consider this evidence, and commute Mr. Davis' sentence of death to life in prison.

C. Mr. Davis' Life Is Valuable.

When Mr. Davis was arrested in August 1979, he was 21 years old. He was a fourth-grade drop-out and was functionally illiterate. In addition, Mr. Davis was borderline mentally retarded, and suffered from organic brain damage and mental illness. Despite these disabilities, and the fact that he faces death at the hand of the State, Mr. Davis has made productive use of his time and has turned his life around. While many in prison "get religion" and "rehabilitate," Mr. Davis is an example of a prisoner whose rebirth and growth are genuine: despite his mental disabilities, he worked to learn how to read and write, primarily so he could read the Bible; he earned his high school equivalency diploma; he turned his life over to God, took courses at an accredited Bible college, and now is an ordained minister; and he has reached out to help others, including members of his family, fellow condemned prisoners, correctional officers, and total strangers.

Reading and the Bible.

There is no question but that Mr. Davis was illiterate when he was sentenced to death in 1980. In 1972, when Mr. Davis was 14, a diagnostician for the Juvenile division of the Department of Corrections stated in an educational profile that "Girvies has almost no word . . . skills." He did not know the words "better" or "field." (Exhibit 37.) In 1975, Dr. Sklar stated that Mr. Davis was functionally illiterate. (See Exhibit 22.) Mr. Davis received no schooling after this time. Richard Cosey, Mr. Davis' juvenile probation officer, confirms that Mr.

Davis was illiterate. However, beginning in 1983, Mr. Davis experienced a spiritual change that made him a new man.

As part of his spiritual renewal, Mr. Davis set about learning to read so that he could learn the Bible. Mr. Davis took the initiative and applied himself well: it was all up to him if he wanted to learn to read and write. With the help of others on death row, Mr. Davis started the long hard process of teaching himself to read. He had no radio, television, tape recorder, or any other distraction in his cell, only his work. His primer was the Bible; his instructors were his fellow inmates who prepared flash cards for Mr. Davis to help him learn spelling and word definitions. After many years of hard work, Mr. Davis now can read and write.

The magnitude of Mr. Davis' accomplishment is even greater when one considers that he suffered from the serious educational, mental, and social disabilities described in the previous section. In his 1975 report (Exhibit 22), Dr. Sklar was pessimistic about Mr. Davis' potential for intellectual growth:

It appears as though the best situation for this youth is a very low level vocational placement Efforts to push Mr. Davis into anything more complex will probably result in unbearable frustration for this youth

This report was not the only pessimistic evaluation of Mr. Davis' intellectual potential -- his juvenile and mental health records uniformly predicted a gloomy future for Mr. Davis' intellectual development. The fact that Mr. Davis was able to

overcome his disabilities is a testament to his dedication and commitment to making himself a better person.

In 1993, Mr. Davis enrolled in the High School Equivalency Exam course at Menard. Once again Mr. Davis applied himself and studied hard. He sat for the G.E.D. exam in early 1994, and he passed. Mr. Davis received his G.E.D. certificate on May 19, 1994. (Exhibit 38.)

Ironically, prison gave Mr. Davis what his mother, the educational system, and the juvenile authorities did not: the structure and routine that someone with his disabilities must have to achieve any educational success.

Religious Conversion.

Shortly after he entered prison, Mr. Davis began the process that eventually led to his religious conversion. This process ran parallel to his literacy studies, and was similarly informal. Mr. Davis was in contact with a number of people who were concerned about his spiritual life: for example, Mr. Davis received letters urging him to turn his life over to God from Carl Walker, a retired Air Force Captain and former guard in the St. Clair County Jail, Margie Adams, and Jesse Mathes. Mr. Davis says that he appreciated these letters and what they said, but that he was not open to their message.

Then, in 1983, the Illinois Supreme Court rejected Mr. Davis' direct appeal of his conviction and sentence. He became despondent and told his appointed attorney, Charles Schiedel, that he did not want to fight his conviction or sentence any longer. Mr. Davis was tired of life, going so far as to

petition the Illinois Supreme Court to execute him immediately; thankfully the Court denied the petition.^{13/} One day during this period, Mr. Davis was in his cell, and he felt an overpowering presence: the Spirit came upon him. Mr. Davis says that at that moment he got down on his knees and prayed for forgiveness for his sins of the past, present and future. He contacted Minister Henry W. Moore Jr., the chaplain at Menard, and asked to be baptized. On August 8, 1984, Minister Moore baptized Mr. Davis. (Exhibit 39.)

The proof of the sincerity of Mr. Davis' conversion is in his living. His behavior and attitude have changed dramatically. Mr. Davis asked that his appeals be continued, and his conduct on the condemned unit improved: the attached graphs show a dramatic decrease in "tickets" or disciplinary citations received by Mr. Davis after his 1984 conversion. (Exhibit 40.) He continued his efforts to improve his reading and writing, and strove to improve his understanding of the Bible and his newfound faith. Mr. Davis has devoted his life since then to studying his Bible. One look at Mr. Davis' well-worn and annotated Bible confirms this fact.

^{13/} This expressed desire to die on the part of Mr. Davis was not unprecedented. During the sentencing hearing of the Biebel trial, the prosecutor played for the jury a videotape in which he interviewed Mr. Davis about the crimes to which he allegedly had "confessed" on September 10, 1979. During that exchange, Mr. Davis repeatedly expressed a desire to be put to death, stating at one point, "If I can get some papers that I can sign saying I will be destroyed after I get through talking, I'll talk, I'll give you, I'll tell you everything." Such desperate, suicidal behavior illustrates the kind of pain Mr. Davis experienced before his spiritual transformation.

After several years of self-directed study, Mr. Davis wanted to formalize his religious education, so he began studying for the ministry with the World-Wide Church of God. After completing the required course of study, Mr. Davis was ordained a minister in 1989. Mr. Davis says that after a time he became dissatisfied with the literature he received from the World-Wide Church of God, so he turned to correspondence courses at the Grace Bible College in Cary, North Carolina (just outside of Raleigh). Mr. Davis paid Grace College \$400 in tuition, and completed four courses of study. (Exhibit 41.) Finally, on January 6, 1994, Mr. Davis received his certification from Grace College as an ordained minister. (Exhibit 42.)

Mr. Davis now explains that, although God's Spirit was always there for him, he was not open to It. He says, "God won't force Himself on you. You must have a desire and an openness to change. I heard what people were telling me, but I wasn't open. Then one day I opened up, and God came up on me without my knowing or expecting it. He was always there for me; I needed to open up for Him."

Mr. Davis' conversion is not one of convenience, caused only by his death sentence. Others who know Mr. Davis, and who have seen numerous "jailhouse" conversions, see in Mr. Davis a true commitment to God: Robert Caldwell, the former death row superintendent at Menard has described Mr. Davis' conversion as "very legitimate" (see Exhibit 28 at page 47); the Rev. William Van Buren, a Menard chaplain who has known Mr. Davis for 11 years says, "I've found him to be a person who has

genuinely changed" (see Exhibit 28 at page 49). Numerous other people attest to the sincerity of Mr. Davis' faith in pages 42-54 of Dr. Randall's report. (Exhibit 28.) These individuals know that Mr. Davis has experienced a real change in his life. Mr. Davis' faith is deep and sincere, motivated by his love of God, and not by the fear of death.

Mr. Davis' Help for Others.

Since his religious conversion, Mr. Davis has shown the ability to reach out and help others -- from his fellow prisoners on death row, and to his mother and family.

The best and most touching example of Mr. Davis' ability to help others is how he helped his mother, Ozella Smith, turn her life around. Ozella lived a disjointed, dysfunctional life: she was an alcoholic; she had children by six different men, none of whom helped with the raising of the children; and she was a part-time prostitute who enlisted her children to participate in criminal activity to support her anti-social lifestyle. Indeed, when Mr. Davis was very young, his mother would use him to help her shoplift by hiding items in his clothes. When Mr. Davis was older, she taught and encouraged him to steal. Her worst act was to prostitute her daughters to various men.

Mr. Davis' mother was still living this life after Mr. Davis was sentenced to death. However, in 1983, after Mr. Davis experienced his religious conversion, he began communicating with his mother to help her gain the faith that he had found. Others in the religious community helped. Ozella now lives in

Mt. Vernon, Illinois, where she helps care for her grandchildren. By all accounts she has left her previous lifestyle far behind, once and for all.

The irony of this situation is abundantly clear: Ozella never gave Mr. Davis what he needed as a boy -- a stable family life, discipline, support, direction -- but as a man Mr. Davis gave Ozella what she needed -- faith in God. Mr. Davis has good reason to resent his mother for the way she raised him, but he does not. Not only has Mr. Davis forgiven his mother, but he has also helped her to turn her life around.

Mr. Davis has reached out to and developed relationships with other members of his family. For example, Mr. Davis has developed a close relationship with his nephew, Eric Turner. Eric lives in Murpheesboro with his fiancée Nicole Miller, where they attend John Logan Community College; Eric is studying criminal justice, and Nicole is majoring in early childhood development. Eric and Nicole have twin girls.

Eric and Nicole correspond with Mr. Davis and visit him often. In an interview, Eric recalled his first visit to Menard:

I went down, just to visit. I really enjoyed myself. I was awakened to something. I expected him to be like what I heard, how a convict was supposed to be, especially on death row. I expected a person full of hate, anger, a mean and nasty person. But when I got there, it was nothing like that -- it was exactly the opposite . . . He was like warm, greeting. Happy to see us.

(See Exhibit 28 at page 53.) When they visit Mr. Davis (with their twin girls), Mr. Davis shares Bible passages with them (Eric says that Mr. Davis "knows it [the Bible] really well,

deep") and gives them guidance; for instance, Mr. Davis has encouraged Eric and Nicole to marry "so we wouldn't hinder our blessings." As a Christmas gift for Eric and Nicole, Mr. Davis asked another inmate to draw a picture of Eric's family for them from a photograph. The picture hangs on their wall. Eric values his relationship with Mr. Davis; he believes that Mr. Davis has had a powerful and positive impact on his life.

Others can attest to the sincere changes that have occurred within Mr. Davis since his incarceration.^{14/} Charles M. Schiedel, his court-appointed attorney, says that although he was "somewhat frightened" of Mr. Davis upon first meeting him, he now attests that he has "never seen anyone undergo the kind of personal and spiritual growth and transformation of character" that Mr. Davis has and that Mr. Davis has "reformed" from someone "who appeared to be a hardened criminal into a peaceful, patient and genuinely likeable individual." (See Exhibit 43.) Fellow inmates such as Ronald Barrow, John Whitehead and Tony Hall, have written letters attesting to the positive impact Mr. Davis makes at Menard. (See Exhibit 43.) Jesse Mathes, a minister who counsels prisoners, states that Mr. Davis "has studied and worked hard to make himself a better person with JESUS being an important part of his life" and that he "cares for the needs of others." (See Exhibit 43.) Robert Caldwell, the former Superintendent of the condemned unit at Menard until February 1994, states that

^{14/} Letters in support of Mr. Davis' clemency are attached as Group Exhibit 43.

Mr. Davis has "matured over the years" and that his religious conversion is "very legitimate." (See Exhibit 28 at page 47.) Officer Dan Rathert, a correctional officer at Menard, has described Mr. Davis' changes as "a miracle," and has said, "I hate to see them kill somebody like that who can help other people." (See Exhibit 28 at page 48.)

In short, Mr. Davis is not the same man he was when he was first sentenced to death. His life now has value to himself and to others. Therefore, Mr. Davis respectfully asks the Governor to allow him to go on living.

v.



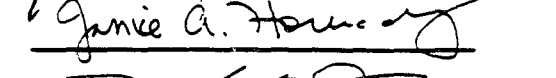
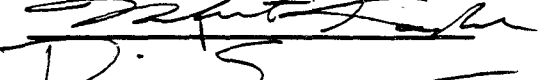

RECOMMENDATION

For the foregoing reasons, Girvies Davis' sentence should be commuted to life imprisonment without the possibility of parole. Mr. Davis' petition should be granted.

Respectfully submitted,

GIRVIES DAVIS

By

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