

DATE TYPED: September 16, 2009
DATE PUBLISHED: September 17, 2009

IN RE: LAWRENCE REYNOLDS, JR. OSP #A 296-121

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

Date of Meeting: September 10, 2009

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

IN RE: Lawrence Reynolds, Jr., OSP #A296-121

SUBJECT: Death Sentence Clemency

CRIME, CONVICTION: Aggravated Murder with 4 specifications of aggravating circumstances, Aggravated Robbery, Kidnapping, Aggravated Burglary, Attempted Rape.

DATE, PLACE OF CRIME: January 11, 1994 in Cuyahoga Falls, Ohio

COUNTY: Summit

CASE NUMBER: CR94-01-0158

VICTIM: Loretta Mae Foster (Age 67)

INDICTMENT: 01/20/1994: Count 1: Aggravated Murder with 4 specifications of aggravating circumstances; Count 2: Aggravated Robbery; Count 3: Kidnapping; Count 4: Aggravated Burglary; Count 5: Attempted Rape.

TRIAL: 06/01/1994: Found Guilty by Jury on 06/01/1994 as indicted in Count 1.
05/19/1994: Found guilty by Jury as indicted in Counts 2-5.

SENTENCE: 06/09/1994: Count 1 Sentenced to DEATH; Count 2-4: 10-25 years; Count 5: 8-15 years; Counts 2-5 to be served consecutively.

ADMITTED TO INSTITUTION: June 15, 1994

JAIL TIME CREDIT: 154 days

TIME SERVED: 183 months (does not include JTC)

AGE AT ADMISSION: 28 years old

CURRENT AGE: 43 years old

DATE OF BIRTH: June 2, 1966

JUDGE: Honorable Ted Schneiderman

PROSECUTING ATTORNEY: Assistant Prosecutor Michael Carroll

FOREWORD:

Clemency in the case of Lawrence Reynolds, Jr., A296-121 was initiated by the Ohio Parole Board, pursuant to Section 2967.03 and 2967.07 of the Ohio Revised Code and Parole Board Policy #105-PBD-01.

On August 20, 2009, Lawrence Reynolds, Jr. declined an opportunity to be interviewed by the Parole Board at the Ohio State Penitentiary.

A Clemency Hearing was then held on September 10, 2009 with six (6) members of the Ohio Parole Board participating. Arguments in support of clemency were presented by Kathryn Sandford and Robert Lowe of the Ohio Public Defender's Office and Dr. Dennis Eshbaugh of the Ohio Department of Mental Health. Arguments in opposition to clemency were presented by Summit County Chief Assistant Prosecutor Brad Gessner and Assistant Attorney General Justin Lovett.

The Parole Board considered all of the written submissions, arguments, information disseminated by presenters at the hearing, prior investigative findings as well as judicial decisions and deliberated upon the propriety of clemency in this case. With six (6) members participating, the Board voted six (6) to zero (0) to provide an unfavorable recommendation for clemency to the Honorable Ted Strickland, Governor of the State of Ohio.

DETAILS OF THE INSTANT OFFENSE (CR94-01-0158):

The following account of the instant offense was obtained from the Ohio Supreme Court opinion, decided January 14, 1998:

In early January 1994, Loretta Mae Foster complained to her son that a neighbor, Lawrence Reynolds, had been knocking on her door after dark. Reynolds had recently painted Foster's basement and claimed that he needed to put a paint can in the basement. Foster told her son that she was scared of Reynolds.

On January 11, 1994, Foster's sister-in-law, Norma Haubert, took her to a doctor's appointment. Foster told Haubert that a neighbor had been acting "weird"; that is, he would knock on the door, hide, and then jump out at her. Foster told her doctor and her doctor's office manager about Reynolds in an effort to explain why her blood pressure was elevated. After the visit to the doctor, Foster stopped at her credit union and withdrew fifty dollars. Haubert dropped Foster off at home around 3:00 p.m.

Around 7:30 p.m. that evening, Reynolds and his brother Jason went to Northgate Lanes to shoot pool with Jason's friend Joseph Hindel. Upon arriving, Reynolds told Brian Baker and Jim Ferrando that that would be his last night to party with them because he

had killed someone and was leaving town the next day.

Reynolds told them that he had knocked on Foster's door and told her that he had something to give her from his sister. He had rope and a tent pole with him. Foster opened the door and a struggle began. Reynolds hit Foster and she fell to the floor. He began to rummage through her purse. When he realized she was attempting to reach for the phone, he cut the phone line, "tied her up," and hit her once or twice with the tent pole. He tried to strangle her with his hands, but was unsuccessful.

At some point during the struggle, Reynolds received a rope burn on his hand, which he showed his listeners. Reynolds told them that he had left Foster lying naked in the living room, and that he had taken forty dollars in cash and a blank check from her checkbook before leaving through the back door.

The group proceeded to the Rainbow Bar where Reynolds continued to discuss how he had killed Foster. Baker and Ferrando did not know whether to believe Reynolds, so they left the bar and went to Foster's house. They looked into the living room window and saw Foster's nude body lying on the floor.

Reynolds and Jason also went to Foster's house after leaving the Rainbow Bar. Jason was stunned to see Foster's body. Reynolds picked up a glove and a tent stake that he had left and attempted to brush off the purse. Then they returned to their home.

Baker and Ferrando went to a friend's house because they knew his father was a police officer. They told Officer Joe Orsine what Reynolds had told them and described what they had seen at Foster's house. They later went to the police station and made a statement.

Police officers were dispatched to investigate. After finding the victim's body, the police initiated a homicide investigation and obtained an arrest warrant for Lawrence Reynolds, Jr.

Officers went to the Reynolds home and arrested Reynolds. While the officers were there, Lawrence Reynolds, Sr. consented, verbally and in writing, to a search of the house. He specifically consented to a search of Reynolds's bedroom and the basement. Police seized a camouflage outfit, gloves, a tent pole, white rope, a knife, and a blank check.

Forensic tests revealed that the rope found in Reynolds's bedroom matched the rope used to tie up Foster. Human hair on the rope matched a hair sample taken from Foster. Blood found on the camouflage overalls was of the same type as Foster's.

On January 20, 1994, the Summit County Grand Jury indicted Lawrence Reynolds, Jr. for one count of aggravated murder committed during the course of a robbery and/or burglary and/or kidnapping and/or attempted rape. Four separate aggravating circumstances, pursuant to R.C. 2929.04(A)(7), were alleged, *i.e.*, murder during an aggravated robbery, murder during an aggravated burglary, murder during a kidnapping,

and murder during an attempted rape. Reynolds was also charged with four separate felonies-aggravated robbery, aggravated burglary, kidnapping, and attempted rape.

While awaiting trial in the Summit County Jail, Reynolds told an inmate, Neil Webster, the same story he had told his friends. Reynolds also stated that he had taken off Foster's blouse to enable him to see her hands at all times. Webster questioned him concerning a newspaper article that asserted that the victim was found with her pants off. Initially, Reynolds claimed that Foster's pants had come off in the struggle, but he later told Webster that "he tried to stick his meat in her." When Webster specifically questioned him, Reynolds denied trying to rape Foster.

The autopsy showed that Foster had been strangled. She had also been subjected to blunt force trauma. No evidence of spermatozoa was found in her vagina or rectum, and there was no physical evidence of sexual conduct.

At trial, the defense did not deny that Reynolds was responsible for Foster's death. Instead, the defense attacked various elements of the offenses charged and attempted to show that Reynolds had been drunk and had not gone to Foster's house intending to kill her.

Reynolds was twenty-seven years old when the crime was committed and had been drinking alcohol since he was approximately fourteen years old. During his high school years, he drank as many as twelve cans of beer a day. Despite this drinking, Reynolds apparently had a normal childhood in a middle class family. After high school, he enlisted in the Army for four years and then re-enlisted for two more years. He served in Korea for eighteen months and was often drunk when he telephoned home.

When he got out of the Army, he became depressed because his girlfriend and the son he had fathered with her did not come to Ohio with him. His aunt and uncle helped him get a job with a replacement window company. He worked there for about two years before being fired because of alcohol-related chronic tardiness and absenteeism.

Approximately two years before the murder, Reynolds had been arrested for driving under the influence and failing to comply with a police officer's order. He moved in with his parents and completed an alcohol treatment program. Even so, he continued to drink. He paid rent to his parents when he first moved home, but had not given them any rent for about four months prior to Foster's death. He had been unable to find a job and sold personal items to support his drinking habit. When he had nothing left to sell, he apparently decided to steal money from Foster.

The jury found Reynolds guilty of all charges and recommended the death penalty. The trial court adopted the jury's recommendation and sentenced Reynolds to death. The court of appeals affirmed the convictions and sentences.

PRIOR RECORD

Juvenile: Lawrence Reynolds, Jr. has no known juvenile arrest record.

Adult: Lawrence Reynolds, Jr. has the following known adult arrest record:

<u>Date</u>	<u>Offense</u>	<u>Location</u>	<u>Disposition</u>
7/05/1984 (Age 25)	Criminal Damaging	Cuyahoga Falls, Ohio	Fine, suspended.
03/26/1991 (Age 24)	Telephone Harassment 91CRB659	Cuyahoga Falls, Ohio	04/17/1991: \$100 fine and costs.
01/21/1992 (Age 27)	Failure to Comply with Signal or Order of a Police Officer; DUI	Akron, Ohio	03/31/1992: 1 year Probation. Completed Treatment at Oriana House & Successfully Terminated 3-1993.
01/11/1994 (Age 28)	Aggravated Murder Aggravated Robbery Kidnapping Aggravated Burglary Attempted Rape (CR94-010-158)	Akron, Ohio	06/09/1994: DEATH 10-25 years 10-25 years 10-25 years 8-15 years INSTANT OFFENSE

Institutional Adjustment:

Lawrence Reynolds, Jr. was admitted to the Department of Rehabilitation and Correction on June 15, 1994. His work assignments while incarcerated at the Mansfield Correctional Institution included Porter, Recreation Worker, Laundry Attendant and Tutor. Since his transfer to the Ohio State Penitentiary, his work assignment has been as a Porter and Food Service Worker.

Reynolds completed a mandatory substance abuse program in 2002. No other programming is noted. In his application for clemency it is noted that Reynolds is eligible to be housed in the Ohio State Penitentiary's extended privilege unit, but declined so that he could assist another inmate with origami as a community service project. Reynolds has never taken any credit or consideration for this work.

Since his admission, Reynolds has accumulated the following disciplinary record which resulted in placement in disciplinary control:

- 01/31/1996 – Unauthorized possession, manufacture, or consumption of drugs or any intoxicating substance – Reynolds was found in possession of “hooch” and was disrespectful to a staff member by using profanity while talking to him. He received 10 days in disciplinary control for this rule infraction.
- 11/18/1997 – Procuring or attempting to procure, unauthorized drugs - Reynolds received a food box that contained marijuana hidden in three instant soup packets. He received 15 days in disciplinary control for this rule infraction.
- 06/01/2002 – Unauthorized possession, manufacture, or consumption of drugs or any intoxicating substance – Reynolds was found to be in possession of “hooch”. He received 15 days in disciplinary control for this rule infraction.

Reynolds has received approximately four (4) additional conduct reports since he was admitted to the Department of Rehabilitation and Correction in 1994. Three conduct reports were for seductive or obscene acts, including indecent exposure or masturbation, including, but not limited to any word, action, gesture or other behavior that is sexual in nature and would be offensive to a reasonable person (dates of occurrence 6/2006, 12/2008, and 12/2008). He also had one conduct report for destruction of state property (date of occurrence 7/1995).

APPLICANT’S STATEMENT:

On August 20, 2009, Lawrence Reynolds, Jr. declined an opportunity to be interviewed by the Parole Board at the Ohio State Penitentiary.

ARGUMENTS IN SUPPORT OF CLEMENCY:

Assistant State Public Defenders Robert K. Lowe and Kathryn L. Sanford submitted the following arguments supporting clemency both in their written application and at the clemency hearing:

- Lawrence Reynolds has suffered from alcoholism his entire life. He began drinking at an early age and by high school was consuming a 12-pack of beer daily. His drinking steadily increased in the Army and after his discharge.
- Lawrence Reynolds experienced an extreme lack of familial attachment throughout his life. The lack of bonding and the absence of nurturing contributed negatively to his subsequent development. Few family members and friends testified at the mitigation phase of his trial. None appeared or testified in support of clemency. His sister Sheila submitted an affidavit in support of clemency.
- Dr. Dennis Eshbaugh contributed an extensive written evaluation and supporting testimony at the clemency hearing. Dr. Eshbaugh confirms that Mr. Reynolds suffers from biological alcoholism, where drinking is a compulsion, and an inadequate personality. His behavioral patterns are asocial rather than antisocial. The jury had insufficient information. Dr. Bendo, at trial, misled the jury in failing to explain the ramifications of biological alcoholism and by referring to

Mr. Reynolds as antisocial. Reynolds' pre and post-conviction behavior, consisting of telephone harassment and sexually graphic letters, are suggestive only of social ineptitude/inadequacy.

- Lawrence Reynolds has adapted to confinement and conformed to the strictures of incarceration. His record of disciplinary infractions has been brief and all have been linked to his life-long struggle with substance abuse. All of his infractions occurred early in imprisonment during an initial coping period. His subsequent conduct reflects adaptability and maturation. He has exhibited no assaultiveness or aggression while confined. Mr. Reynolds qualifies to be housed within the honor pod but declined so as to assist with community service work. He has sought and received spiritual counsel. He poses no risk of future dangerousness.
- Jurors did not have the option of a life without parole sentence. The availability of the life without parole option has diminished support for the death penalty by jurors and society. Today, life without parole is a compelling and frequently used sentencing choice for jurors. Similar capital cases in Summit County have resulted in life without parole sentences suggesting that Mr. Reynold's crime is not the worst of the worst. Only the executive branch can correct this inequity.
- Mr. Reynolds has consistently shown deep remorse for the offense. He had no intention of causing Loretta Foster harm. He just wanted money for alcohol. A murder by an alcoholic with no plan to kill is not as heinous as the other crimes in which death was imposed in Summit County.
- Failures in the Court system have failed to correct an inequitable sentence. The extent of Mr. Reynold's hereditary/biological alcoholism was never fully developed and presented to the state and federal courts. A complete investigation by an alcohol expert would have presented a better understanding of Mr. Reynolds' alcoholism and its effect on his reasoning at the time of the crime. Lead trial counsel was appointed just weeks before the trial began. Appellate and post-conviction proceedings were similarly ineffective.

ARGUMENTS IN OPPOSITION TO CLEMENCY:

Summit County Chief Assistant Prosecutor Brad Gessner and Assistant Attorney General Justin Lovett presented the following arguments in opposition to clemency:

- Lawrence Reynolds is undeserving of clemency. He murdered a family friend and kindly neighbor of over a decade by obtaining admission to her home by deception. He immediately began beating her brutally with a tent pole, ripped a clump of hair from her head, bound her hands, attempted to rape her, and ultimately used a rope to strangle her to death when manual strangulation with his hands proved insufficient.

- His intent to murder Loretta Foster is evident from his actions. Reynolds persistently attempted to gain access to her house on multiple days prior to the murder. He finally gained entry by deception by telling Ms. Foster he had a letter from his sister. He prepared for the murder by bringing a wooden tent pole used to beat her. He brought a rope to the scene used to both bind her and strangle her. He wore camouflage clothing and gloves. The attack began immediately upon entry and proceeded through several rooms of the house. The record is void of any evidence that Reynolds was grossly intoxicated or that he had even been consuming alcohol prior to the murder.
- Mr. Reynolds tampered with evidence in an effort to avoid detection demonstrating that he understood the wrongfulness of his actions. He returned to the crime scene with his brother to retrieve a glove, the tent pole, and wipe off areas that may contain his fingerprints. A milk jug of water was used to rinse the area around the body.
- Although apologizing for her death, his subsequent conduct casts doubt on his sincerity. While confined on death row, he sent a letter threatening sexual violence and murder if his demands for naked pictures were unmet. A separate obscene letter was sent to the victim of his prior telephone harassment similarly requesting naked photographs.
- Confidence in the conviction and sentence is supported by the affirmation of every state and federal court reviewing Reynolds' claims. The family of Loretta Foster is unanimously opposed to clemency.

VICTIM'S REPRESENTATIVES:

Testimony at the clemency hearing was offered by Kelly Redfern, Dona Pap, Patty Solomon, and Gail Hand; great-nieces and granddaughters of Loretta Foster, respectively. Each shared their memories of Loretta Foster and the exceptional kindness and generosity she shared with both family and neighbors. Each was nurtured by Loretta Foster and attribute to her many positive influences that have shaped their lives and the lives of their children. Their fond memories of Loretta Foster are unfortunately clouded and recurrently marred by the untimely and brutal manner of her death.

PAROLE BOARD'S POSITION AND CONCLUSION:

The Parole Board carefully reviewed written materials submitted and testimony presented at the clemency hearing. After extensive deliberation, we are unable to find a sufficient and sustainable basis to recommend mercy. The aggravating circumstances surrounding the brutal murder of Loretta Foster significantly outweigh arguments offered in mitigation.

RECOMMENDATION:

The Ohio Parole Board with six (6) members participating, by a vote of six (6) to zero (0) recommends to the Honorable Ted Strickland, Governor of the State of Ohio, that executive clemency be **denied** in the case of Lawrence Reynolds, Jr. A296-121.

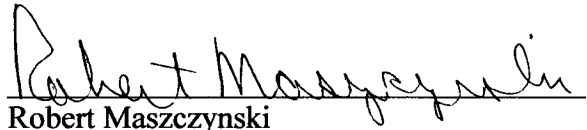
Lawrence Reynolds, Jr. A296-121
Death Penalty Clemency Report

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

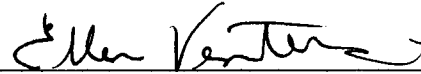
Ohio Parole Board Members
Voting **Unfavorable**



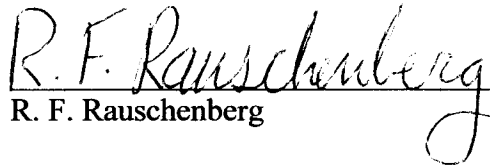
Cynthia Mausser, Chair



Robert Maszczyński



Ellen Venters



R. F. Rauschenberg



Bobby J. Bogan, Jr.



Trayce Thalheimer