

PETITION FOR CLEMENCY

TO HIS EXCELLENCY, JAMES S. GILMORE, III,

GOVERNOR OF THE COMMONWEALTH OF VIRGINIA

ON BEHALF OF

RONALD DALE YEATTS

Submitted by:

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April 26, 1999

On April 14, 1999, in response to a resolution of the Charlottesville-Albemarle Bar Association calling for a moratorium on executions, David Botkins announced, on behalf of Attorney General Mark L. Earley, that ". . . Virginia has the most fair, balanced and carefully implemented death penalty system in the country." He also stated that "juries carefully deliberate before rendering a verdict. Mark Miner, speaking on behalf of the Governor, concurred that the system is fair. Consequently, Ronald Dale Yeatts seeks the commutation of his sentence of death, to a sentence of life imprisonment, without possibility of parole, based upon the fact that, in his case, in one *critical* respect that literally meant the difference between life and death, that system was anything but "fair, balanced and carefully implemented," and the jury was prevented from carefully deliberating its verdict. (Ex. 1).

Ronald Yeatts killed Ruby Meeks Dodson. He did so during a robbery committed with Michael Vernon, who suggested the idea of a robbery and Ms. Dodson as the specific target, since he, not Mr. Yeatts, was aware that she had money in her home. The issue Mr. Yeatts raises here does not concern whether he committed the offense, but whether he received the benefit of a fair, balanced and careful deliberation by the jury which sentenced him to death.

THE UNFAIRNESS AND IMBALANCE IN THE SENTENCING PHASE OF YEATTS' TRIAL

At the sentencing phase of his capital trial, the prosecutor

went to great pains to demonstrate Mr. Yeatts' history of criminal conduct while under the supervision of the Court. He did not merely introduce Mr. Yeatts' criminal record, but, instead, had a probation officer testify, item by item, as to the date of each conviction, the sentence imposed, including the dates of any period of supervised release, and his parole or probation status on each date on which he committed the next offense of which he was subsequently convicted. This was all supplemented by the introduction of the sentencing orders for each of those convictions. By this method, he established that Yeatts:

(1) received a sentence of four years for statutory burglary, which was suspended and was placed on supervised probation for one year, and had the imposition of sentence on a charge of grand larceny suspended for five years;¹

(2) was "under probation supervision" when he next committed the crime of petit larceny and multiple crimes of statutory burglary and grand larceny;

(3) had his first burglary sentence of probation revoked and had his four year suspended sentence imposed, two years of which was resuspended;

(4) was under "mandatory supervision" following his release from prison when he committed the crime of trespassing, for which he was next convicted;

(5) was under parole supervision when he committed the crimes of statutory burglary (two counts) and petit larceny;

(6) had his parole revoked as a result of these latest offenses;

(7) was again under parole supervision when he committed the crime of trespassing, for which he was next convicted, but his

¹Although defense counsel chose not to point it out to the jury, each of the burglaries Yeatts had committed was of an unoccupied, commercial building.

parole supervision was continued; and

(8) was discharged from parole supervision on September 19, 1989, which was ten days before the murder of Mrs. Dodson. (JA 525-34).

In the course of this presentation, the prosecutor directly asked the probation officer what Mr. Yeatts' probation or parole status was a total of nine times, exclusive of the numerous additional questions which elicited the facts concerning Yeatts' supervisory status. This dramatic and compelling presentation of Yeatts' record culminated in the following exchange between the prosecutor and the probation officer:

Q. Mr. Williamson, beginning on March 3, 1980 and ending effective September, 1989, was there any time period when the defendant was not incarcerated, on parole supervision, or on probation supervision?

A. No sir.

(JA 534). The prosecutor then elicited from the probation officer the services which the Commonwealth had made available to Yeatts "to assist [him]" while he was under supervised release, including substance abuse and employment counseling, as well as counseling by the probation office itself. He further established that Yeatts had failed to take advantage of these services and was terminated from these programs due to his poor attendance and lack of motivation. (JA 535-36).

In his closing argument to the jury, the prosecutor harped on this evidence as the basis for a finding of future dangerousness.

... We know the defendant has been to court more than once. He had his chance more than once. Matter of fact, virtually every one of those offenses while he was having his chance, while he was out under the supervision of a probation or parole officer. In fact, if you look at the time on some of this stuff, it's a matter of days, and once you see the pattern, a pattern that shows you clearly and convincingly up to September 23rd, 1989. You have a man that ... for ten years almost, is either incarcerated, on parole, under the supervision of a probation officer or on probation under the supervision of a probation officer. They can't keep him out of trouble. They do what they can for him. He refuses to get help for his substance abuse. He's in this, incarcerated, on parole, on probation for ten years, right up until when, four days, four days and Ruby Meeks Dodson is killed.

(JA 537-38). But for a brief entreaty to the jury to remember the victim, that was the closing note of the prosecutor's argument in favor of a sentence of death. (JA 358).

Mr. Yeatts tried to advise the jury, through either evidence or an instruction, that he would not even be eligible for parole for at least thirty years. The trial judge refused to allow either. (JA 519-21; 552).

That this evidence and argument had its intended effect is plain. The only inquiry from the jury during its deliberations was as to the number of years until Yeatts would be eligible for parole. (JA 548). Thus, the only question in the jury's mind was not whether Yeatts would be eligible for parole, but when.² When it was denied an answer other than the prescribed direction that, "in deciding sentence you will not consider the question of parole...", the jury returned with a sentence of death in less

²The entire question read: "How many years will the defendant have to serve before he is eligible for parole if he's given life plus the twenty years for armed robbery?" (JA 548).

than half an hour. (JA 548-50). Rejecting the Commonwealth's argument in favor of a finding of "vileness" aggravator, the jury found only future dangerousness as the basis of death eligibility, and sentenced Yeatts to death.

Of course, regardless of its legality -- and the Virginia Supreme Court ultimately held it was legal -- there was nothing fair or balanced in this one-sided procedure, by which the prosecutor was able to exploit the jury's concern about the potential for Mr. Yeatts' release on parole, but Yeatts was precluded from educating the jury about the reality of his parole eligibility.

THE UNFAIRNESS AND IMBALANCE OF, AND LACK OF CAREFUL IMPLEMENTATION IN, THE VIRGINIA SUPREME COURT'S CONSIDERATION OF YEATTS' COMPLAINT

In his appeal to the Virginia Supreme Court, Mr. Yeatts protested this plainly unfair, one-sided exploitation of the issue of parole. Not unexpectedly, the Court tersely rejected his argument. Yeatts v. Commonwealth, 242 Va. 121, 410 S.E.2d 254 (1991). It was not unexpected because the Court had consistently rejected the argument that juries should be educated about the reality of parole eligibility, even when, as in Mr. Yeatts' case, the prosecution had introduced the issue of parole eligibility into the proceedings. See, Mueller v. Commonwealth, 244 Va. 386, 408-09, 422 S.E.2d, 380, 394-95 (1992).

In Mueller, a case decided after Yeatts' case, the Court noted that accurate evidence concerning parole eligibility is not

admissible even where, as here, there had been testimony concerning the defendant's misconduct while on parole. Id. The Court concluded that it "ha[d] drawn a clear distinction between the *admissibility* of a defendant's parole history and evidence of his future parole eligibility." Id. (emphasis added). In so holding, the Court relied on its identical ruling in Pope v. Commonwealth, 234 Va. 114, 126-27, 360 S.E.2d 352, 360 (1987), a case decided before petitioner's own case. See, Mueller, 244 Va. at 409, 422 S.E.2d at 394.

Thus, the Virginia Supreme Court summarily rejected Mr. Yeatts' claim despite the fact that it is undeniable that he was sentenced to death in significant part because of an **unfair** and **unbalanced** sentencing hearing which prevented Yeatts' jurors from intelligently deliberating the sentence they considered appropriate. Of course, the fact that allowing the prosecution to so blatantly exploit the jurors' concerns about the possibility of parole, while preventing the defendant from explaining his parole eligibility, is *legal*, says absolutely nothing about whether it is **fair** or **balanced**, or whether it provides for the jury's careful deliberation of the appropriate sentence.

THE LACK OF FAIRNESS AND BALANCE OF, AND LACK OF CAREFUL IMPLEMENTATION IN, THE POST-CONVICTION SYSTEM THAT CONSIDERED THE LACK OF FAIRNESS AND BALANCE IN THE SENTENCING PHASE OF YEATTS' TRIAL

Yeatts renewed his complaint about this procedure in his federal post-conviction proceedings. The federal district court dismissed Yeatts' due process claim based upon this unfair and unbalanced procedure which had prevented his jury from intelligently considering an issue it deemed important to its deliberations of an appropriate sentence. (JA 923-26). The court rejected the claim not because the procedure was fair or balanced, but because of a legal technicality -- the "new rule" doctrine.

On appeal, the Fourth Circuit also did not address the substance of Yeatts' complaint. Yeatts v. Angelone, 166 F.3d 255 (4th Cir. 1999). Like the district court, it did not find that the procedure was fair or balanced, or that keeping the jury ignorant of the truth about Mr. Yeatts' parole eligibility allowed the jury to carefully deliberate his sentence.

Instead, the Court relied on yet another legal technicality -- that Yeatts had procedurally defaulted his claim. The basis of that conclusion was that, in his direct appeal to the Virginia Supreme Court, Mr. Yeatts had based his claim on the Eighth Amendment to the United States Constitution -- i.e., that his proffered evidence as to parole eligibility was a mitigating circumstance -- while, in federal court he had based his claim on

the Due Process Clause of the Fourteenth Amendment.³ The irony, however, was that the Court acknowledged that the Commonwealth had itself failed to properly present this affirmative defense to the district court and, therefore, had "lost" its right to argue the issue of default. Nevertheless, the Court decided to save the Commonwealth from its own procedural default, and consider the issue of Yeatts' default, in the interests of "comity and federalism," even though it is absolutely clear, from its numerous other decisions on the issue, that the nature of Mr. Yeatts' procedural default -- basing his claim on the Eighth, rather than the Fourteenth Amendment -- did not affect the decision of the Virginia Supreme Court. In short, what was good for the goose was not good for the gander. Once again, the system was neither fair nor balanced, nor could it possibly be said that it was "careful," when the courts invoked legal technicalities to avoid considering the fairness or balance of the procedure by which Mr. Yeatts' jury decided he should die.

THE UNDISPUTABLE ABSENCE OF FAIRNESS, BALANCE AND CARE THAT PRECLUDED YEATTS' JURY FROM CAREFULLY AND INTELLIGENTLY DELIBERATING HIS SENTENCE AND CAUSED THE COURTS NOT TO REVIEW HIS CLAIM THAT THIS BIASED PROCEDURE INFECTED HIS SENTENCING PROCESS DEMANDS THAT THE GOVERNOR COMMUTE THE SENTENCE OF RONALD DALE YEATTS TO LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE.

The facts upon which this Petition is based are not subject to dispute. It also can not be said -- at least not with a

³Had Yeatts pursued the claim in federal court on Eighth Amendment grounds, he plainly would have lost under the "new rule" doctrine.

straight face or any sense of integrity -- that the circumstances described herein were fair, balanced or careful.

- ◆ Any **FAIRNESS** in allowing the prosecution to introduce the issue of parole and then preventing Yeatts from accurately educating the jury as to parole eligibility was limited to the Commonwealth; it was "**BALANCED**" entirely in favor of a sentence of death.
- ◆ The courts' consideration of Yeatts' complaint about this procedure was only **FAIR** only to the Commonwealth, which was allowed to benefit from every legal technicality available to it, while the very issue of unfairness and imbalance in Yeatts' sentencing hearing was left unaddressed; the procedure was "**BALANCED**" entirely towards rescuing the Commonwealth from its own mistakes and avoiding care in the consideration of the unfairness of the process by which Yeatts was sentenced to death.
- ◆ The jurors' **CAREFUL DELIBERATION** of the appropriate sentence was thwarted by the law's refusal to provide them with the information they desired, and to which, in fairness, they should have been entitled.

Apparently, none of this was illegal, or unconstitutional, but it was not fair nor balanced, and it certainly did not allow for the jury's careful deliberation of the appropriate sentence. Nor can its significance be discounted. Without the jury's finding of future dangerousness, which the prosecutor linked directly to Mr. Yeatts' past conduct while on probation and parole, **he would not even have been eligible for the death penalty.**

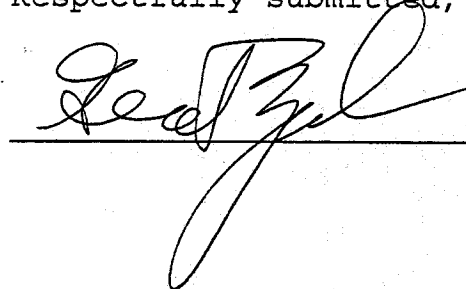
Of course, nothing was fair about the murder of Ruby Meeks Dodson, either. Mr. Yeatts surely does not seek to avoid punishment for his crime. The difference, of course, is that we, the citizens of the Commonwealth, claim to be morally superior to

him and, unlike Mr. Yeatts, we insist that our system for deciding who should die is fair.

If, indeed, the justification for rejecting the call of the Charlottesville-Albemarle Bar Association for a moratorium on capital punishment is to be found in the fairness, balance, deliberation and careful implementation of the death penalty system in Virginia, Ronald Dale Yeatts' case deserves the intervention of the Governor. Neither his sentencing hearing nor his attempts to seek redress through the state and federal courts were characterized by those qualities.

Consequently, Mr. Yeatts respectfully requests that the Governor exercise his clemency powers to commute his sentence of death to a sentence of life imprisonment without possibility of parole.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Gerald T. Zerkin", is written over a horizontal line.

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Moratorium urged
VA-PRISONS-DEATH PENALTY-
on Va. executions
EXECUTIONS-1997
No stand taken on capital punishment

BY FRANK GREEN
TIMES-DISPATCH STAFF WRITER

The Charlottesville-Albemarle Bar Association yesterday called for a moratorium on capital punishment in Virginia until more care can be taken to make sure the innocent are not executed and that it be applied in a fair and impartial manner.

Bruce R. Williamson Jr., president of the 375-member bar association, said, "It was not necessary to do a show of hands because the motion very clearly carried on a voice vote."

The action — apparently the first of its kind in Virginia and just the fourth like it in the country — mirrors a similar resolution passed by the American Bar Association in February 1997.

Yesterday's resolution states it does not take a position on the death penalty, but nevertheless urges the governor and the General Assembly to stop carrying out executions until steps are taken:

- "to ensure that death penalty procedures are administered fairly and impartially";
- "to minimize the risk that innocent persons may be executed";
- "to strive to eliminate discrimination in capital sentencing on the basis of the race of either the victim or the defendant"; and
- "to prevent (the) execution of mentally retarded persons and persons who were under the age of 18 at the time of their offenses."

David Botkins, spokesman for Attorney General Mark L. Earley, said, "All the concerns raised by the resolution are all currently in place in

Virginia: the death penalty is administered fairly; there are safe-guards to keep innocent people from being executed; and there is no discrimination in sentencing."

He said Virginia law allows for the death penalty only in the most heinous of cases and juries carefully deliberate before rendering a verdict.

Botkins said, "With all due respect to the Bar Association, they should be glad that Virginia has the most fair, balanced and carefully implemented death penalty system in the country."

Mark Miner, spokesman for Gov. Jim Gilmore, said, "The governor is following the law of Virginia and our country which punishes those who commit violent, heinous acts of crime."

Miner contends the system is fair and has adequate safeguards.

But Henry Heller, director of Virginians for Alternatives to the Death penalty, said "It's about time that a member bar association went in line with the American Bar Association and is able to come out and say, "Hey, there are questions here about the use of the death penalty and we need to look at it."

In February 1997, also citing unfairness, the American Bar Association urged a nationwide moratorium on the death penalty despite opposition from its president and the Clinton administration.

The motion for yesterday's resolution was made by Charlottesville lawyer Steven D. Rosenfield, who has represented a number of death row clients, Williamson said. Rosenfield said the resolution mirrors the one passed by the ABA.



1 dangerousness, Your Honor, and we would ask that any
2 evidence of those prior crimes be excluded.

3 THE COURT: Well, the Court's of the opinion
4 the law in Virginia is against you on that point, and the
5 Court will deny the motion to exclude. If you have any
6 other grounds for exclusion as a witness is testifying
7 state them at that time.

8 MR. FURROW: Yes sir, Your Honor.

9 THE COURT: That will cover any evidence of
10 prior crimes through this witness.

11 MR. FURROW: Your Honor, at the same time, I
12 think this is the appropriate time to do it. There is a
13 question or two that we would like to ask this witness
14 that may be objectionable and we would like to proffer
15 that for the record at this time.

16 THE COURT: That would be a good time to do
17 it. Go ahead.

18 MR. FURROW: Thank you sir.

19 VOIR DIRE EXAMINATION OF R. S. WILLIAMSON

20 By Mr. Furrow:

21 Q. Mr. Williams?

22 A. Williamson.

23 Q. Mr. Williamson, you're a Probation Officer?

24 A. Yes sir.

25 Q. You're familiar with the probation and parole

1 Statutes and the way that you calculate somebody's time
2 once they, how much time they have to spend in jail on a
3 sentence?

4 A. Roughly, yes sir.

5 Q. Alright, and when you say roughly, what do you
6 mean by that?

7 A. Well, there are four different classifications
8 for inmates. When someone goes into the system they're
9 classified in one of those classes and they can move up
10 and down. The good time they're awarded is based on the
11 classification they're in, so they may earn different
12 amounts of good time from quarter to quarter. Based on
13 that they may earn at a different rate, based on whether
14 they're a first time felon, second, third, so forth.

15 Q. Alright, do you know what classification Mr.
16 Yeatts would initially be placed in, as a result of his
17 prior crimes and his conviction of robbery and his
18 conviction of capital murder, if he received life
19 imprisonment?

20 A. He would be in the lowest classification as
21 far as gaining good time.

22 Q. In other words he would gain it slowest?

23 A. Right.

24 Q. Alright now, based on his prior records,
25 probation, the information that you have, and his

1 conviction of robbery and his sentence of twenty years,
2 and a life sentence based on a conviction of capital
3 murder, can you tell me how long Mr. Yeatts would have to
4 spend in the penitentiary?

5 A. He would have somewhere in the neighborhood of
6 thirty-five years, and then parole would be considered
7 based, to be eligible for parole, but again, that date can
8 be affected by awarded good time or loss of good time.

9 Q. And I understand that you can't....

10 A. As we discussed earlier he, as far as the
11 second time down mine, looking at his record, I feel like
12 he'd be classified as a second term felon, which would ear
13 slower.

14 Q. Your best guess, how long would Mr. Yeatts
15 have to spend in the penitentiary?

16 A. Probably thirty years, thirty-five.

17 MR. FURROW: That's our proffer, Your Honor.

18 MR. JONES: Judge, we do have one more
19 objection concerning the copies of convictions, judgments.
20 Mr. Light's going to, of course, proffer the convictions
21 record, but attached to that, he isn't going to offer the
22 letter I don't believe.

23 MR. LIGHT: No.

24 MR. JONES: But he is going to offer through
25 evidence, a Criminal Complaint Affidavit, which goes to

1 record, is indeed admissible. The defendant has had
2 access to this information through the discovery process
3 for many, many months now, and he has had every ample
4 opportunity to explore this, to bring in any witnesses
5 that he so choose, and he was ultimately convicted of the
6 offense as charged, and as such I submit it's admissible.

7 THE COURT: Are you talking about the warrant
8 that charges the offense or are you talking about the
9 Affidavit that's filed with the Magistrate?

10 MR. LIGHT: Criminal Complaint, Your Honor, it
11 is the Affidavit that's filed with the Magistrate.

12 THE COURT: The Court rules it is not
13 admissible. Ready for the jury? ~~Ask the jury to come in.~~

14 (The jury was returned to the Courtroom at
15 2:14 p.m.)

16 DIRECT EXAMINATION (Cont.)

17 By Mr. Light:

18 Q. Mr. Williamson, pursuant to your position as
19 Chief Probation and Parole Officer in the Office of
20 Probation and Parole, located in the City of Danville, do
21 you recall the date when Ronald Dale Yeatts first came to
22 your attention?

23 A. Yes sir.

24 Q. When was that?

25 A. March 3rd, 1980.

1 MR. LIGHT: Your Honor, I have an attested
2 copy of a conviction Order out of the Circuit Court of the
3 City of Danville, dated March 3rd, 1980, signed by Judge
4 Ingram, and it's an attested copy, whereby the defendant
5 was convicted of statutory burglary and grand larceny.

6 THE COURT: Let it be admitted.

7 Q. Mr. Williamson, do you know, the sentence that
8 was given to the defendant as a result of this Court Order
9 that I just had admitted as Commonwealth's Exhibit Number
10 597

11 A. Yes sir.

12 Q. And what was that?

13 A. Sentenced to four years, suspended for three
14 months, on the City Prison Farm, one year of probation to
15 follow, two years good behavior to follow that.

16 Q. When was the defendant released from
17 incarceration and began his probationary period?

18 A. Let me, for the grand larceny, imposition of
19 sentence was suspended for good behavior for five years.
20 His probation began on May the 9th, 1980.

21 Q. And when was, May 9th, 1980?

22 A. Yes sir.

23 Q. And directing your attention to June 21st,
24 1980, what was the defendant's status?

25 A. He broke into, he was on probation supervision

1 at the time.

2 Q. And as of July 5th, 1980, what was the
3 defendant's status?

4 A. He was under probation supervision at that
5 time.

6 Q. And as of July 23rd, 1980, what was the
7 defendant's status?

8 A. He was under probation supervision at that
9 time.

10 MR. LIGHT: Your Honor, I have an attested
11 copy of an Order entered by the Circuit Court of
12 Pittsylvania County, Virginia, dated December 12, 1980,
13 whereby the defendant withdrew an appeal. Attached to
14 that, a conviction Order from the General District Court
15 of Pittsylvania County, Virginia, whereby the defendant,
16 Ronald Dale Yeatts, was convicted of petit larceny, and
17 sentenced to confinement of twelve months, with an offense
18 date of July 5th, 1980. We move for introduction of...

19 THE COURT: Let it be admitted.

20 MR. LIGHT: ...these three documents into
21 evidence as Commonwealth's Exhibit Number 60. Further, we
22 have an attested copy of an Order of the Circuit Court of
23 Pittsylvania County, Virginia, dated November 5th, 1980,
24 whereby the defendant was found guilty of statutory
25 burglary and grand larceny on Indictment number one,

1 statutory burglary and grand larceny on Indictment number
2 two, the offense dates being June 21st through the 23rd of
3 1980, and the other being July 23rd, 1980. We move for
4 introduction of these documents as Commonwealth's Exhibit
5 Number 61.

6 THE COURT: Let them be admitted.

7 Q. Now Mr. Williamson, the Virginia Carolina
8 Livestock Market, statutory burglary and grand larceny
9 that I just admitted into evidence, do you recall the
10 offense date for that offense?

11 A. Virginia Carolina Livestock Market was broken
12 into on June 21st, 1980.

13 Q. And the petit larceny offense date?

14 A. Was this the incident involving the car
15 circus, was July 5th, 1980.

16 Q. And Bernard Mills?

17 A. Was July 23rd, 1980.

18 Q. That's statutory burglary and grand larceny as
19 well?

20 A. Yes sir.

21 Q. And once again, the status of the defendant on
22 all three of those dates was?

23 A. He was under probation supervision.

24 Q. As a result of these convictions what, if
25 anything, occurred in the Danville Circuit Court on

1 January 5th, 1981, as a result of your office's actions?

2 A. On January 5th, 1989, Mr. Yeatts appeared in
3 the Danville Circuit Court as a probation violator. On
4 that date the previous suspended, the statutory burglary
5 he received four year sentence, with two years of that
6 being resuspended on condition of good behavior for five
7 years upon his release, and the grand larceny conviction,
8 the prior, the imposition of sentence was suspended for
9 five years good behavior.

10 MR. LIGHT: Judge, I have an attested copy of
11 that particular Order dated the 5th day of January of
12 1981, out of the Circuit Court of the City of Danville.
13 I'd like to move for introduction of that document into
14 evidence as well.

15 THE COURT: Let it be admitted.

16 Q. Now, based on the Court appearances that we
17 just detailed in the Circuit Court of Pittsylvania County,
18 on December 12, 1980, the two actions taken there, the
19 action taken by the Danville Circuit Court on January 5th,
20 1981, as of January 5th, 1981, what was the amount of
21 active time period pending against the defendant at that
22 time, on January 5th, 1981? How much time did he have to
23 pull?

24 A. Two years in penitentiary time, twenty-four
25 months in jail time.

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Q. What was the defendant's status as of December 29th, 1980?

A. He was an inmate.

MR. LIGHT: Your Honor, I have an attested copy of the warrant and back of the warrant, whereby the defendant was convicted on January 9th, 1981, of assault and battery, having occurred on December 29th, 1980. Move for introduction into evidence of that document.

THE COURT: Let it be admitted.

Q. When was the defendant released from incarceration as a result of these series of Orders?

A. Mr. Yeatts was released to mandatory supervision on June 25th, 1982.

Q. What was his status upon release?

A. He was under parole supervision.

Q. What was the defendant's status as of September 5, 1982?

A. He was under parole supervision.

MR. LIGHT: Your Honor, I have an attested copy of an Order out of the Circuit Court of Pittsylvania County, Virginia, dated March 11th, 1983, whereby the defendant was convicted of trespassing. Move for introduction into evidence of that document, finding the defendant guilty of trespassing on the property of Josie Alman.

1 THE COURT: Let it be admitted.

2 Q. Mr. Williamson, are you familiar with the
3 offense date of the trespassing into the home of Josie
4 Alman?

5 A. September 5th, 1982.

6 MR. LIGHT: Your Honor, I further have an
7 attested copy of an Order entered by the Circuit Court of
8 Pittsylvania County, dated March 9th, 1983, whereby the
9 defendant was convicted of statutory burglary and grand
10 larceny, and statutory burglary and petit larceny.
11 Attested copies of the Indictments that attach to that
12 particular document, one charging that the defendant did
13 on or about September 21, 1982, did break and enter and
14 commit grand larceny at the Highland Park Baptist Church.
15 That's on September 21, 1982. We move for introduction
16 into evidence of that.

17 THE COURT: Let it be admitted.

18 MR. LIGHT: The other aspect of the
19 conviction, the other statutory burglary and petit
20 larceny, involved the Oak Grove Baptist Church. Do you
21 know the offense date of the Oak Grove Baptist Church
22 offense?

23 A. Yes sir, it was October 2nd, 1982.

24 Q. And the other offense date was what?

25 A. Highland Park Baptist Church was September

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21st, 1982.

Q. What was the defendant's status as of September 21st, 1982, and October 2nd, 1982?

A. He was under parole supervision.

Q. As a result of the previously mentioned convictions, on March 9th, 1983, and the trespassing conviction as of March 11th, 1983, what if any, action did you all as parole and probation officers take?

A. After his March 11th conviction a Parole Board Warrant was served against him charging him with parole violation.

Q. And what action was taken on that?

A. On May the 9th, 1983, his parole was revoked.

Q. And what resulted as a result of that?

A. He was returned back to the penitentiary system.

Q. How long did the defendant remain in the penitentiary system?

A. After going back this time?

Q. Yes sir?

A. 'Til May the 22nd, 1987.

Q. What was the defendant's status as of May 13th, 1986?

A. He was an inmate in the Virginia Department of Corrections.

1 MR. LIGHT: I have an attested copy of a
2 Circuit Court Order of Southampton copy, Southampton
3 County, dated May 13th, 1986, whereby the defendant was
4 convicted of a felony, to-wit: sodomy. Move for
5 introduction into evidence of that particular document.

6 Q. Do you know the offense date of that
7 particular offense?

8 THE COURT: Let that Exhibit be admitted.

9 A. March 4th, 1985.

10 Q. What was the defendant's status as of that
11 date?

12 A. He was an inmate in the Virginia Department of
13 Corrections.

14 Q. Now, on May 22nd, 1987, you indicated the
15 defendant's status changed. What did it change from and
16 to?

17 A. He was again granted parole back to the
18 community for supervision.

19 Q. And what was the defendant's status as of
20 March 11th, 1988?

21 A. He was under parole supervision.

22 Q. What was the defendant's status as of April
23 13th, 1988?

24 A. He was under parole supervision.

25 MR. LIGHT: Your Honor, I have an attested

1 copy out of the Danville General District Court, alleging
2 an offense occurred March 11th, 1988, to-wit: trespassing,
3 convicted April 13th, 1988. Move for introduction into
4 evidence of that.

5 THE COURT: Let it be admitted.

6 Q. What, if any, action did the parole or
7 probation individuals take as a result of the offense on
8 April 13th, 1988?

9 A. He was continued on parole supervision.

10 Q. How long did the defendant continue on parole
11 supervision?

12 A. Until he was discharged on September 19th,
13 1989?

14 Q. September 19th, 1989?

15 A. Yes sir.

16 Q. When was Mr., do your records indicate when
17 Mr. Yeatts was notified that he was released from parole
18 supervision?

19 A. February 26th, 1990.

20 Q. February 26th, 1990. Mr. Williamson,
21 beginning on March 3, 1980 and ending effective September
22 1989, was there any time period when the defendant was not
23 incarcerated, on parole supervision, or on probation
24 supervision?

25 A. No sir.

1 Q. During that time period from March 3, 1980 to
2 September 19th, 1989, were efforts made to assist the
3 defendant?

4 A. Yes sir.

5 Q. That's part of what you all do?

6 A. Yes sir.

7 Q. Was a particular area that you and I
8 previously discussed, identified as an area or potential
9 assistance to the defendant?

10 A. He was referred for substance abuse
11 counseling and employment counseling.

12 Q. When was he initially referred to substance
13 abuse counseling?

14 A. June 25th, 1982.

15 Q. Do your records show with what result?

16 A. On November 22nd, 1982, they terminated their
17 services to Mr. Yeatts.

18 Q. For what reason?

19 A. Poor attendance and non-motivation to change.

20 Q. Was substance abuse counseling again offered
21 to Mr. Yeatts and encouraged by your office?

22 A. Yes sir, on May 22nd, 1987.

23 THE COURT: Excuse me, Mr. Light, please don't
24 snap that. It appears on the transcript as a loud noise.

25 MR. LIGHT: I apologize Your Honor.

1 Q. Again sir, was substance abuse counseling made
2 available to the defendant at some time thereafter the
3 initial time period?

4 A. August 4th, 1988, he was, I'm sorry, on May
5 22nd, 1987, he was referred to the Ridge Street Center for
6 substance abuse counseling.

7 Q. With what result?

8 A. On August 4th, 1988, he was terminated.

9 Q. For what reason?

10 A. Refusal to set up and keep appointments.

11 Q. Any other efforts made by your office to
12 assist the defendant with substance abuse problems?

13 A. Other than just counseling within the office,
14 from the officer, no sir.

15 MR. LIGHT: That's all my questions. Please
16 answer any questions defense counsel may have.

17 CROSS EXAMINATION

18 By Mr. Furrow:

19 Q. Mr. Williamson, in the list of offenses there
20 is an assault?

21 A. Yes sir.

22 Q. And that occurred while Mr. Yeatts was in
23 jail?

24 A. Yes sir.

25 Q. And it occurred with another inmate?



1 not the way it happened. The way it happened was instead
2 of that one clean stroke, it's got to be a frenzied
3 attack with blood, getting more blood and more blood, and
4 heating the blood inside of the defendant. That's an
5 aggravated battery. Outrageously or wantonly vile,
6 horrible or inhuman in that it involved depravity of mind,
7 I'm not real sure what that means, but I know it when I
8 see it. The future dangerousness, ladies and gentlemen,
9 the defendant's actions on September 23rd, 1989, beginning
10 at somewhere around 4:00 o'clock at the home of Ruby Meeks
11 Dodson, will tell you clearly and convincingly and over-
12 whelmingly that this man presents a future danger to
13 society. But now we know that it happened, it started
14 long before that, it started in, apparently it started
15 extremely early in life. We know the defendant has been
16 to Court more than once. He had his chance more than
17 once. Matter of fact, virtually every one of those
18 offenses were committed while he was having his chance,
19 while he was out under the supervision of a probation or
20 parole officer. In fact, if you look at the time on some
21 of this stuff, it's a matter of days, and once you see the
22 pattern, a pattern that shows you clearly and convincingly
23 that began ten years go, and that was inevitable to turn
24 up to September 23rd, 1989. You have a man that since
25 March 3rd, 1980, March 3rd, 1980, for ten years almost, is

1 either incarcerated, on parole ~~under~~ ~~the~~ supervision of a
2 probation officer or on probation ~~under~~ ~~the~~ supervision of
3 a probation officer. They can't ~~get~~ ~~out~~ of trouble.
4 They do what they can for him. ~~He~~ ~~tries~~ to get help for
5 his substance abuse. He's in this, ~~incarcerated~~, on
6 parole, on probation for ten years ~~right~~ ~~or~~ up until when,
7 four days, four days and Ruby Meeks ~~is~~ ~~is~~ killed.
8 How's he spend his time rehabilitating himself, this is
9 how, with his treatment in the alcohol center that he
10 refuses to cooperate with. Even ~~when~~ ~~we~~ lock him up we
11 can't keep him from committing felonies, committing
12 assaults and batteries. I really just want to make one
13 point. I'm going over the legal technicalities and I've
14 told you everything I've thought about, the definitions
15 and all that stuff, and what fits on it. Once again, I'm
16 going to try to focus your attention for the buffeting
17 that I'm sure is going to follow here, and I tried to do
18 that when I first began talking to you, try to think about
19 Ruby Meeks Dodson. You don't even have a photograph of
20 this woman here. You don't even know what she looks like.
21 I know you will remember that this is human being, that is
22 not a case. Ruby Meeks Dodson is a human being. It is my
23 duty and the police's duty, and I submit your duty, to
24 look after Ruby Meeks Dodson's interest here. Thank you.

25 MR. FURROW: Ladies and gentlemen, I'm sorry.

1 an instruction, not an instruction, excuse me, a question
2 from the jury, which reads, "How many years will the
3 defendant have to serve before he is eligible for parole
4 if he's given life plus the twenty years for armed
5 robbery?", and I'll ask if it's agreeable for the Court to
6 answer that question, which, to the jury, which the Court
7 believes to be the law, and I would tell the Jury, "In
8 answer to your question on parole, the Court instructs the
9 jury that in deciding sentence you will not consider the
10 question of parole."

11 MR. FURROW: Your Honor, the defense has no
12 objection to that instruction, but we want to make sure
13 that we reserve our earlier instructions that we proffered
14 on parole and the proffer from the, we're not, the proffer
15 from the probation officer, Mr. Williamson. We're not
16 giving those up, but we have no objection to that
17 statement because we agree to it.

18 MR. LIGHT: I'm about ready to agree to give
19 their previous instructions, but I'll agree to this
20 instruction to the jury, Your Honor.

21 THE COURT: Alright, ask the jury to come in.

22 (Jury brought in at this time.)

23 THE COURT: Remain standing if you will
24 please. Ladies and gentlemen, the Court has received your
25 question, and in answer to your question on parole, the

1 Court instructs the jury that in deciding sentence you
2 will not consider the question of parole, and that's the
3 answer I give you to the question. Please return now to
4 consider your verdict.

5 (THE JURY then again returned to the jury
6 room, for deliberations in the case, at 9:35 p.m.)

7 THE COURT: I told defense counsel before we
8 started closing arguments that I'd give them a chance to
9 make any objections to the Court's ruling on instructions.
10 I thought you'd already done so.

11 MR. JONES: I thought we did Judge, and of
12 course, but we got confused, and think we should make sure
13 we covered it, and maybe give some reasons why.

14 Instruction Number V, that's concerning the listing of the
15 certain mitigating circumstances, which are not all
16 exclusive but does in fact, list those things that can be
17 considered in mitigation that are listed in 19.2-whatever
18 that Section is that has the mitigation in there. We
19 think that should have been given to instruct the jury.

20 THE COURT: You've got two refused
21 instructions dealing with parole. You want me to give
22 those now because of that question?

23 MR. JONES: Don't get me confused Judge. I
24 can only think of one thing at a time. Instruction W, we
25 just ask that, just object to not giving that, I can't

1 think of any reason right now. Number X, it's a
 2 delineating mental retardation, that's one of the
 3 mitigating circumstances which would be offered by the
 4 defendant as a basis for sentencing. We think that should
 5 be listed for the reasons previously given for the
 6 Instruction Number V. The other dealing with the, W and
 7 Z, concerning the parole, and I don't think you should
 8 give it right now.

9 THE COURT: Alright, your objections will be
 10 noted for the record, for the refusal of the Court to give
 11 those, what are they four instructions, four instructions.
 12 Alright, we'll recess 'til we hear from the jury.

13 (Court was in recess again at this time.)

14 THE COURT: Alright, ask the jury to come in
 15 please. Let me see the verdict before you read it.

16 UPON THE RETURN OF THE JURY, to the Courtroom,
 17 at 10:12 p.m., the following verdict was rendered:

18 THE COURT: Ladies and gentlemen of the jury,
 19 have you arrived at a unanimous verdict? (To which they
 20 each responded in the affirmative.) Deliver your verdict
 21 please to the Clerk, and listen to your verdict. Alright,
 22 listen to your verdict read by the Clerk.

23 H. F. HAYMORE, JR., CLERK: Ladies and
 24 gentlemen of the jury, listen to your verdict... "We, the
 25 jury, on the issue joined, having found the defendant

INSTRUCTION NO. Y

THE COURT INSTRUCTS THE JURY THAT when you assess the evidence presented by the Commonwealth in support of its contention that there is a probability that the defendant will commit future criminal acts of violence that would constitute a continuing threat to society, you may consider the fact that if you set defendant's punishment at life imprisonment he will not be eligible for parole consideration for thirty years.

Refused
~~Refused~~
M.H.