

PETITION FOR CLEMENCY

TO HIS EXCELLENCY, JAMES S. GILMORE, III,

GOVERNOR OF THE COMMONWEALTH OF VIRGINIA

ON BEHALF OF

MARLON DEWAYNE WILLIAMS

Submitted by:

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INTRODUCTION

Marlon DeWayne Williams was twenty years old when he committed the crime for which he is condemned. His short life leading up to the crime was poisoned by horrific abuse and neglect conditions, which forever altered his ability to relate and respond to others. Counsel does not claim that DeWayne's background is an *excuse* for his crime. DeWayne has taken full responsibility for that. Instead, counsel submits that DeWayne's background is an *explanation* for the crime, and demonstrates that he is worthy of mercy.

HISTORY OF ABUSE AND NEGLECT

The abuse and neglect of DeWayne Williams began in a place that most abuse does: the neglectful and violent childhood home of his mother. Clemestine Williams was the second youngest of five children. The children's father, apparently irrationally jealous of his wife, regularly and severely beat their mother, often removing her to the woods for the beatings so that neighbors would not hear her screams. Finally, one day while Mr. Williams was reportedly pulling his wife off the commode to take her to the woods, Mrs. Williams told her eldest daughter Jean to call the police. Shortly thereafter, the Williams were divorced.

After the divorce, Mrs. Williams herself began inflicting severe beatings on her older children¹, particularly the boys. According to Clemestine's sister, Jean Brooks, there was little parental attention paid to the children besides the beatings. Brooks could tell very early on that Clemestine was becoming just like her mother: mean, cold, distant, and isolated. Clemestine physically fought with peers every chance she got. Eventually, the family was split apart, and Clemestine and her younger sister went to live with an aunt.

Marlon DeWayne Williams was born to eighteen year old, unmarried Clemestine in Shreveport, LA, on May 4, 1973, three weeks before her high school graduation. App. at 50. When DeWayne was just a year old, Clemestine determined that she could not handle working and caring for an infant. *Id.* It was agreed that baby DeWayne would go to live with Clemestine's older sister Jean Brooks in Las Vegas, Nevada. The Brooks' were total strangers to DeWayne. Clemestine joined the army where she remained until 1977. *Id.* While in the military, she began a relationship with a woman she met there, Evelyn Harris. At some point, Clemestine and Harris decided they wanted DeWayne back. Clemestine contacted her sister in order to regain custody of four and a half year old DeWayne. Ms. Brooks requested that Clemestine come and live with her family and DeWayne for about six months in order to ease DeWayne's transition, because DeWayne had finally seemed to get used to living with the Brooks. Clemestine agreed. The day

¹ Most violence occurs in the following pattern: men abuse men and women, women abuse children, and children abuse other children and pets. Perry, Bruce, M.D., Ph.D, "Neurodevelopmental Adaptations to Violence: How Children Survive the Intergenerational Vortex of Violence." (Appended at 130-140). App. at 131.

after she arrived in Las Vegas, however, Clemestine attempted to leave with DeWayne. Ms. Brooks was able to convince Clemestine to stay. Despite Ms. Brooks' attempts, several days later, Clemestine surreptitiously arranged to be picked up in Las Vegas, and she and DeWayne returned to Louisiana.

Concerned about DeWayne's young life being uprooted once again, Ms. Brooks and her husband went to Louisiana to speak with Clemestine and Harris. As DeWayne clung to Ms. Brooks screaming and crying, a violent altercation between Ms. Brooks and Clemestine ensued, because Clemestine steadfastly refused Ms. Brooks any future access to DeWayne. Little DeWayne witnessed the fight, and ultimately looked on as the only mother he ever really knew was chased from the house at gunpoint by Clemestine's lover Evelyn Harris. Ms. Brooks had no choice but to return to Las Vegas, at which point, due to her sister's interference, she lost track of DeWayne.

DeWayne was kept in day care for the bulk of the next two years. App. at 50. Records reflect that even when her son was just a small child, Clemestine's relationship with him was more of a peer than a parent. *Id.* And evidence of tragic neglect also exists: Clemestine reported to social services that she did not even want to handle DeWayne because he was a boy. App. at 51.

Clemestine married Floyd McRae on December 17, 1978, when DeWayne was five. App. at 86. Shortly thereafter, Mr. McRae was shipped overseas, and Mrs. McRae moved with her children to Los Angeles. According to Floyd's sister, Flora Marker, Clemestine routinely locked DeWayne and his infant sister in the house for days at a time while she went out partying. Marker remembers stopping by the house and seeing little DeWayne peering out the window. There was little or no food in the house.

Marker says that during this time DeWayne, then a tiny child, was skinny and frail, and had bags under his eyes. He had whipping and burn marks covering his body. He was a terribly sad child. Marker looked after the children as often as she was able, but when it came time for DeWayne to return to his mother, he would tremble and cry and hang on to her. He was clearly afraid to go back. Eventually, DeWayne's baby sister Keisha had to be hospitalized as a result of eating Drano while unsupervised. Ms. Marker believes that Child Protective Services investigated Clemestine for neglect, but Clemestine left the area before she could be prosecuted.

After spending some time with Mr. McRae stationed in Germany, the family was relocated to Fort Bragg, NC. On April 13, 1983, DeWayne was found wandering the base. Clemestine had severely beaten him with part of a TV stand. App. at 11-20. DeWayne was hospitalized. Marked swelling, tenderness, and open wounds on his buttocks were noted. App. at 13. Mrs. McRae, however, was uncooperative and showed little insight into the problems in her relationship with her child. App. at 12. The beating resulted in Clemestine's receiving a child abuse disposition, and her placement in

Systematic Training for Effective Parenting. App. at 15, 22. She was also ordered to attend counseling with her son. Id. DeWayne was diagnosed with Battered Child Syndrome.² App. at 11. That same year, Clemestine became pregnant with another child she reportedly did not want. App. at 51.

Despite the measures taken by the military, the physical and emotional abuse continued. Mr. McRae was charged with abuse for forcing DeWayne to go to school with no shoes on as a punishment. In early 1984, ten year old DeWayne was again found wandering the base. App. at 1-10. He had run away because his stepfather had severely beaten him with a belt for using profanity in school³. App. at 2, 4. He also forced DeWayne to write "I will not use profanity in school 10,000 times before a certain deadline or he would be whipped again." App. at 4.

DeWayne was hospitalized for three days. During this time, DeWayne reported that his house was filled with wine and beer bottles and that he often stayed up until 4 or 5 am watching his sister while his parents went out and partied. App. at 8. He also reported that his father threatened to cut up his coat and make him wear torn shirts and pants to school. Id. DeWayne indicated he did not want to return home or go to foster care. He wanted to return to Las Vegas to live with his aunt. Id. He was, however, released to his family and again ordered to attend counseling with his mother. App. at 10. Mrs. McRae routinely failed to attend counseling sessions or to bring DeWayne to the peer group to which he was assigned. App. at 21.

When his family was transferred to Fort Lee in Petersburg, Virginia, DeWayne was placed in counseling again from November 1985 through April 1986. App. at 22. On April 28, 1986, when DeWayne was 12, his mother beat the young boy in the face with a broom handle so severely that his two blackened eyes were 95% swollen shut. She then sent him off to school. The school reported the abuse. Id. DeWayne was immediately removed from the home and hospitalized at Kenner Army Hospital. Id. DeWayne was then placed in a foster home on an emergency basis. App. at 24. On May 6, 1986, Prince George Social Services sought a court order transferring custody of DeWayne to them citing Mrs. McRae's "apparently uncontrollable anger and explosive manner" and her unwillingness "to provide structure and nurturing needed for normal development." App. at 23. During this time period, Mrs. McRae readily admitted that "her normal method of discipline [was] to stretch the child across the bed and beat him with a belt; usually leaving whelps (sic)." App. at 22.

² Children who suffer from Battered Child Syndrome exhibit impulse control problems, angry outbursts, withdrawal, lack of focus or purpose, and poor judgment as to what is safe and unsafe.

³ Floyd confided in family members that he beat DeWayne more severely than the other children because DeWayne was not his biological child.

The same day as Mrs. McRae's custody was terminated, DeWayne was admitted to Petersburg General Hospital where his black eyes were noted along with swelling to the forehead and discoloration of his pupils. App. at 25. He was unable to see clearly or correctly. His only way to see was to tilt his head back to peer out of slightly opened eyes. App. at 22.

On admission, DeWayne appeared younger than his age. App. at 24. DeWayne felt depressed, alienated, and rejected and had somewhat given up. App. at 24. He was tearful and angry and believed nobody cared for him. Id. His insight and judgment were impaired. Id. DeWayne was diagnosed with Major Depression. App. at 24. He was medicated with Desyrel, an antidepressant. App. at 46.

On May 12, 1986, DeWayne was involuntarily committed to Poplar Springs Hospital for psychiatric evaluation by the authority of Child Protective Services and the Juvenile and Domestic Relations Court. App. at 34. On admission, physicians noted that DeWayne did not feel that anyone cared for him and did not seem to care for anything. He did not care whether he lived or died. App. at 29. While hospitalized, DeWayne exhibited dysphoria, anger, deep seated depression, self-destructiveness, flat affect, ambivalent emotional attachments, enuresis, poor self-esteem, sleep disturbances with sleep-onset insomnia, extreme guardedness and frequent temper outbursts. App. at 41.

When questioned about his childhood, DeWayne responded I don't know I don't think about it I don't want to talk about it. App. at 26. Social workers concluded that DeWayne appears to be a young man who has received little nurturance from the significant others in his life. His childhood has involved repeated episodes of emotional abandonment by his mother as well as at least two incidents of serious physical abuse. App. at 26.

Donna Elder, Ph.D. evaluated DeWayne. She noted that he was angry, withdrawn, and hopeless. App. at 34. He had difficulty with peer interactions. App. at 34. During testing, DeWayne avoided eye contact. App. at 35. Elder concluded that DeWayne had been severely emotionally damaged. App. at 36.

The extent of his depression and fear of the future are so frightening to him that he struggles constantly to guard himself from these emotions. He withdraws behind a wall of oppositionality and negativism, probably adopting the philosophy that the best defense is a good offense.

Id. Elder further concluded that DeWayne had serious problems relating to other people: that he was slow to trust, quick to take offense, and at risk to associate with peers with behavior or attitude problems. Id. Elder finally determined that

DeWayne would be difficult to work with unless he could develop trust with a therapist. Id.

DeWayne's mother was also evaluated during this time period. She was diagnosed with Mixed Personality Disorder, with narcissistic and avoidant features. App. at 52. The psychologist described her as emotionally immature and dependent. App. at 51. He also noted that her emotional bonding to other people was "ineffective." App. at 52. He recommended that she undertake long term psychotherapy and that DeWayne not return to the home. Id.

In a June 2, 1986, letter to Prince George Social Services, Leon Andrews, Ph.D., reported that in recent family therapy sessions, the McRaes continued to minimize the extent of the abuse. App. at 39. He concluded that DeWayne suffered from Battered Child Syndrome and had taken on defenses including aggressiveness, distrust, and withdrawal. Id. According to Andrews, the most common causes for the child's responses is the unloving, overly strict or mentally cruel parent who at the same time deprives the child of the opportunity to learn techniques of conformity and restraint. Id. Andrews also recommended that DeWayne not be returned to his home. App. at 40.

On August 4, 1986, DeWayne was placed in foster care at the Baptist Children's Home. He was medicated with Tofranil for depression. App. 48A. The dramatic effects of the prolonged physical and emotional abuse on DeWayne were noted, including his fear, withdrawn qualities, difficulty relating to others and his pronounced need for therapeutic intervention and a structured environment. App. at 49. Social worker Raymond Keohane noted that DeWayne had great difficulty with trust. Id. He also noted that DeWayne had an extremely poor self-perception that he unconsciously reinforced through his behavior. Id.

After only a month at the Baptist home, however, DeWayne was placed in foster care with his mother's former lover, Evelyn Harris, in Suffolk, VA. App. at 60. DeWayne's mother was notified of the placement change, but showed no interest in regaining custody of DeWayne. App. at 44. Prince George Social Services continued to monitor DeWayne and noted his parents' and Ms. Harris' lack of cooperation with social services regarding counseling and visitation. App. at 63.

During the time period DeWayne was living with Evelyn Harris in Suffolk, Social Services noted that DeWayne had undergone emotional damage as the result of his abuse, and that he avoided talking, communicated only with curt responses, and demonstrated poor impulse control and low self-esteem. App. at 54.

Ultimately, due to Ms. Harris' lack of cooperation, and Social Services' opinion that the setting could not protect him from abuse, DeWayne was uprooted once again and

placed in foster care with his aunt, Jean Brooks, in Nevada under an Interstate Compact. App. at 1-10. This was the same aunt, who had tried to prevent DeWayne's being taken from her when he was a small boy. By the time DeWayne got back to his aunt, however, the extreme abuse and neglect that he had suffered at the hands of his mother had already severely damaged him. After an initial period of good adjustment, DeWayne eventually began to act out. His aunt, who had once tried to make a difference early in DeWayne's life, found she could no longer handle him.

Yet, in February 1989, despite the severe abuse and neglect that had already been inflicted on him, fifteen year old DeWayne was returned to his mother's custody. When social workers arrived at Mrs. McRae's home to notify her of DeWayne's return, she answered the door at approximately noon with a gallon of wine in her hand. App. at 78.

DeWayne was not back with his mother for two months before she prompted him into inappropriate behavior, inciting him to attack a group of boys in defense of his sister. App. at 85. As a result, he was charged in the Petersburg Juvenile Court with malicious wounding, assault and battery, petit larceny, and breaking and entering. Mrs. McRae was also charged with assault in the incident. App. at 77. A social worker prepared an evaluation of DeWayne in which she described DeWayne as unpredictable, impulsive, resentful, and moody. He could not form lasting peer relationships and was highly impulsive. App. at 74.

Again, Mrs. McRae was hostile and uncooperative. App. at 75. The social worker concluded that she was an exceedingly poor model for DeWayne and that she was unable to provide appropriate structure or discipline for him. App. at 78. The worker also noted that DeWayne's two little sisters were also at risk for behavioral problems and/or neglect. ⁴Id.

The worker recommended that DeWayne be given probation and that Mrs. McRae be ordered to alcohol counseling. App. at 79. She also recommended that Ms. McRae be warned that her continuing refusal to cooperate could have legal consequences. Id.

On June 22, 1989, DeWayne was again placed in Poplar Springs Hospital for psychiatric evaluation. This time the symptoms were more serious. He was delusional. He exhibited paranoid ideations and psychotic symptoms. App. at 94. He exhibited "evidence of loosening of thought processes," and his "judgment appear[ed] to be

⁴ Not surprisingly, this prophecy came true. Ms. Brooks, who now has custody of one of DeWayne's younger sisters reports that the cycle is continuing in her life. This girl, also removed from her mother's custody when she was very small, is extremely angry and out of control. She is mean and is regularly suspended for fighting. This young girl recently came close to getting the Brooks family evicted from their home because of her fighting. DeWayne's oldest half sister, who lived with her step-father after being separated from her mother, also had a great deal of difficulty adjusting, and became pregnant at an early age.

markedly impaired."

In July, 1989, Peggy Sprecher, Ph.D. conducted another evaluation of DeWayne. She determined that DeWayne was

a very damaged young man who has adopted a tough exterior to protect himself from more harm. He has experienced much trauma and loss in his life, and continues to experience high needs for closeness/nurturance, but is unlikely to let others close despite these needs. His self esteem is v. low, coping skills non-existent, and level of ongoing distress high. New demands will result in quick regression.

App. at 81 (emphasis in original).

Ultimately, following six weeks of hospitalization, DeWayne was diagnosed with Major Depression, recurrent, with psychotic features. App. at 71. His psychosocial stressors were assessed as "extreme." Id. He was prescribed Haldol, a potent antipsychotic medication. Id. DeWayne was only sixteen years old.

Once again, social services described DeWayne's mother as uninvolved, uncooperative, and as providing contradictory information. She was hostile and belligerent, described by one worker as simply "nasty and mean," and "inappropriate as a parent." App. at 82. Ultimately, due to the "chronic" nature of the family dysfunction and the utter uncooperativeness of Mrs. McRae, DeWayne was committed to Petersburg Social Services once again for foster care placement. Id. Dr. Leon Andrews and social workers believed that because DeWayne had no internal controls, no motivation to change, and because he was totally indifferent to his situation, that he could not succeed in a residential placement. App. at 100. So, as a result of his behavior in the hospital, DeWayne was ordered into detention at Beaumont Learning Center. Id.

At a juvenile detention hearing, the judge ordered workers to investigate residential placement in light of the abuse DeWayne had suffered throughout his life. Numerous programs were contacted, although the judge urged that DeWayne be placed at Oak Ridge for intensive treatment due to his emotional problems. Timber Ridge, St. Joseph's Villa, and Grafton all refused to take DeWayne. App. at 101.

Testing during this time revealed that

DeWayne's social judgment, which is the understanding and awareness of societal rules and expectations, is well below average for his age, and when combined with his average social intelligence, which is the ability to predict cause and effect in social situations, can result in tendencies to be manipulative and

streetwise, and to scheme in working toward what may be socially inappropriate goals.

Projective test results suggest DeWayne is a very depressed and angry young man whose emotional conflicts have their roots in his relationships with his parents. Very ambivalent and confused feelings are noted in regard to parental figures. DeWayne seems to feel angry and fearful toward father figures, yet may also regret the lack of a caring father/son relationship. DeWayne appears to feel very ambivalent about his mother, feeling conflicting urges to separate from her and be close to her. These ambivalent and conflicted feelings are very difficult for DeWayne to deal with effectively, and his primary coping skills seem to be impulsive acting out and repression or denial.

Emotional issues appear to be extremely difficult for DeWayne to cope with effectively, and he either refuses entirely to cope with these issues and becomes uncommunicative and uncooperative, or acts out in destructive and aggressive ways. While it is not clear if DeWayne's depression had a negative impact on his IQ scores, he does appear to have a poor ability to use verbally mediated problem solving skills, which further impairs his ability to cope with his depression and anger in socially appropriate ways. No doubt the fact that aggressive and uncooperative behaviors have been modeled in his home also contribute to his use of inappropriate problem solving techniques.

The test results and DeWayne's documented behaviors are reflective of strong tendencies to act out aggressively, at times with even little provocation. DeWayne appears to be an interpersonally inaccessible and self-absorbed youth who has little concern for the impact his behavior has on others. If he considers the consequences of his behavior, he may do so only after he has acted and will probably think only about the impact his behavior will have on himself. A rather primitive level of psychosocial functioning is noted and DeWayne can be expected to be immature, egocentric and superficial in his relationships with other people.

Considerable feelings of hopelessness and a pessimistic outlook are noted in the test results, and DeWayne seems to expect unhappiness, loss, and failure in his life. While it appears that DeWayne has had a fairly positive relationship with his aunt in Nevada, this relationship has been interrupted several times, and the

unstable nature of this relationship, along with the abuse he has suffered at the hands of his parents have no doubt contributed to DeWayne's very depressed and pessimistic outlook. While he denied any past or current suicidal thoughts, the test results suggest the potential for suicidal ideation exists, and self-destructive or injurious behavior should be guarded against. DeWayne appears to be an individual who denies and represses his uncomfortable feelings, which results in a considerable inner tension and irritability. Eventually the levels of repressed anger and unhappiness become too great, and DeWayne acts out impulsively and even explosively.

App. at 95-96.

Meanwhile, Clemestine's abandonment of DeWayne and her other children continued. She called DeWayne one time while he was at Beaumont. DeWayne was scheduled to take a Christmas visit to see his mother in 1990. He was then told that she could not manage to come pick him up. App. at 102. During this time, Mrs. McRae was arrested again, and her newest baby was removed from her custody. App. at 103.

Social services began to investigate Evelyn Harris for possible placement of DeWayne. In June 1991, immediately following his 18th birthday, DeWayne was released from Beaumont and placed with Evelyn Harris, despite the fact he had already been removed from her custody once due to her lack of cooperation and her inability to protect him from abuse. Not three weeks later, Ms. Harris reported that she did not have enough food for the two of them. App. at 111.

During the following six months or so, DeWayne was able to adjust fairly well. He succeeded in school and got a job. Then, suddenly his grades plunged. Anthony Enoch, another social worker stated that DeWayne had been doing well, then his aunt and his natural father, who had promised to send him money to go to Nevada to visit, reneged. This last rejection by his family was finally too much for DeWayne. It appeared [ever] since then DeWayne [gave] up. App. at 114. On October 23, 1992, supervision of social services ceased. DeWayne was never offered any additional supervision or treatment.

KNOWN EFFECTS OF CHILDHOOD ABUSE AND NEGLECT

Certainly every decent citizen desires to protect children like DeWayne from neglect and abuse. This desire stems not only from an instinctive desire to protect the young and a cultural infatuation with notion of childhood, but also from an intuitive

feeling that an abused child will, in one way or another, become a compromised adult.⁵ Recent scientific research indicates what we have always sensed: irregularities in the nurturing of infants and small children can result in permanent malformations of the brain, which can affect behavior. Combined with childhood trauma, such malformations can have devastating results.

The human brain has a hierarchical structure.⁶ The lower parts of the brain (the brainstem and midbrain) control involuntary functions such as heartbeat and breathing, and primitive reactions such as fear or aggression. The higher parts of the brain control more complex functions: the cortex controls language and abstract thinking, and the limbic areas control attachment and affect regulation.⁷

Healthy infants are born with many lower brain functions in place, i.e., they can breathe on their own and their hearts beat regularly. The higher brain functions, however, are not developed at birth and take years to form. Anybody who has watched a small child develop has observed this process. A toddler will cry anytime that he is hungry. An older child will learn to ask verbally for food at appropriate times.⁸

Higher brain functions develop in a use-dependent fashion -- that is to say these functions develop in response to experiential cues.⁹ Abnormalities in a developing child's experiential cues can permanently alter the higher brain's ability to function normally. For example, a child learns to speak by hearing others speak. If he is not exposed to language, he will likely never develop it normally. Similarly, deficits or abnormalities in critical stimuli at critical periods in children under three have been shown to produce *biologically impaired* functions such as humor, empathy, attachment, and affect regulation.¹⁰ In other words, if a child is not exposed at critical times to human empathy, he will develop an impaired ability to feel it. Thus, parental neglect in the early stages of childhood can permanently alter a person's capacity for attachment and human connectedness which are normally created in the higher and mid-brain. This lack

⁵ See Santosky v. Kramer, 455 U.S. 745, 788-789 (1982) (Rehnquist, J., dissenting) ("A stable, loving homelife is essential to a child's physical, emotional, and spiritual well-being. It requires no citation of authority to assert that children who are abused in their youth generally face extraordinary problems developing into responsible, productive citizens."); Russell v. Collins, 998 F.2d 1287, 1292 (5th Cir. 1993) (acknowledging that child abuse as "generally understood" would "have the tendency to affect the child's moral capacity by predisposing him or her toward committing violence"); Bouchillon v. Collins, 907 F.2d 589, 590 n.2 (5th Cir. 1990) (taking "judicial notice" that a defendant's background that included childhood neglect and sexual abuse "increases the probability of [maladjustment and mental] problems").

⁶ Perry, Bruce, M.D., Ph.D, "Incubated in Terror: Neurodevelopmental Factors in the 'Cycle of Violence'" (Appended at 115-129). App. at 117.

⁷ Id.

⁸ Id.

⁹ App. at 116.

¹⁰ App. at 119.

of development of the ability to feel human attachment can create a propensity toward violence.¹¹

The lower brain is already developed at birth. Its development is not impaired by environmental cues, but its functioning can be impaired. Trauma is one external cue which can affect the lower brain. A sense of safety is a basic requirement of growing up healthy from a mental health point of view ... in situations where children are exposed to trauma, especially if it is recurring, they are going to be at risk for a host of chronic and acute mental health problems.¹²

Exposure to trauma in the form of severe physical abuse, has the result of overstimulating the fight or flight impulses of the lower brain.¹³ The child becomes hypervigilant -- ready to jump at the smallest threat.

Other symptoms of trauma include,

In children aged 5 and younger: excessive clinging and crying, and regressive behaviors like bedwetting;

In children 6-11: anger, fighting, sleep problems, refusal to attend school, depression, anxiety, and emotional numbing;

In children 12-17: depression, academic decline, antisocial behavior, and guilt feelings.¹⁴

Trauma is much more devastating to a child if,

- a) it starts a very young age when a child's brain is more malleable;¹⁵
- b) it is direct (being the victim of abuse as opposed to seeing it).¹⁶
- c) it is unpredictable;¹⁷
- d) it is inflicted by another human (as opposed to an event), and that human is a family member;¹⁸

¹¹ Id.

¹² Kaufman, Mark, "Helping Children Cope with Trauma," Washington Post, Health p. 11, 16, 22 June 1999.

¹³ Perry, App. at 121.

¹⁴ Kaufman at 16.

¹⁵ Perry, App. at 122.

¹⁶ Kaufman at 16.

¹⁷ Perry, App. at 122.

¹⁸ Kaufman at 16.

- e) there is no alternative protector who can provide the child with some notion of safety¹⁹; or
- f) the child has other mental health disorders²⁰;

According to the research, then, the child who has been both neglected and abused is afflicted with a kind of neurobiological double-whammy. He is more likely to act impulsively and aggressively and is at the same time less able to feel attachment to the people who may surround him.

Whether this affliction will manifest itself in violence depends largely on the gender of the child and the other malignant factors in the child's life. Boys are much more likely to manifest the results of trauma and neglect violently²¹. Girls, who are biologically programmed to internalize, will manifest their damage in depression and anxiety disorders²². Children are also more likely to be violent if the abuse is pervasive, if they live in a chaotic and cognitively impoverished environment, if they are exposed to the idealization of aggressiveness in the media, or if they routinely see the most powerful member of the family get what he or she wants.²³ These risk factors are multiplicative rather than additive.²⁴ In other words, the prognosis for a child with one risk factor is the same as one with no risk factors, but a child with two risk factors is four times more likely to encounter difficulties later on.²⁵

NEGLECT, TRAUMA, AND OTHER FACTORS IN DEWAYNE'S LIFE

DeWayne Williams suffered the kind of neglect that has brain development consequences. He never knew his father. His mother herself suffered from an inability to bond and all sources say she was utterly inadequate as a caregiver. She admitted that she did not even want to handle DeWayne when he was a baby. Whatever bond DeWayne was able to accomplish with her was then ripped apart when he was suddenly sent to live with his aunt. His aunt reports that DeWayne was able to accomplish some bonding with her, but that that bond was also torn, and violently so, when DeWayne was still a small child. From that point on, DeWayne was never in any environment where he could form a meaningful attachment with an adult caregiver. As a result, DeWayne was significantly impaired in his ability to form normal relationships, or to feel empathy, attachments, or connections. The records are replete with proof:

¹⁹ Perry, App. at 122.

²⁰ Kaufman at 16.

²¹ Perry, App. at 121.

²² Kaufman at ____.

²³ Perry, App. at 122.

²⁴ Report of the Carnegie Commission on Meeting the Needs of Our Youngest Children. (Appended at 141-149). App. at 143.

²⁵ Id.

* [the result of DeWayne's neglect was] the development of a lack of trust
and toward others and a tendency to use defenses of oppositionality
negativism to keep others at a distance.

- Geraldine Meeks, LCSW

* [DeWayne was] withdrawn and self-destructive in interpersonal
situations up relationships. It is difficult for him to trust others and he sets
to be rejected by others.

-Leon Andrews, Ph.D

* In his relationships with adults, DeWayne will probably be very slow to
trust

-Donna D. Elder, Ph.D

* ...there was very little level of trust

-Raymond Keohane, LCSW

* ...[DeWayne] is not very trusting of others.

-Sylvia Alston, M.A.

* [DeWayne suffered from] ambivalent emotional attachments.

-Leon Andrews, Ph.D

* peer relationships are shallow and fleeting.

-Wanda Crockett

* [DeWayne] demonstrates no interest in maintaining warm or close ties
with others.

-Samuel Butler, Ph.D

* [DeWayne is] believed to be unable to bond with anyone.

-Donna Childers, MSW

In addition to this neglect, the trauma in DeWayne's life was horrific, and of the most damaging sort: direct, severe abuse by his own parents. The beatings began at a young age. DeWayne's aunt remembers seeing scars and burn marks on him before he even started school. The beatings became more ferocious over time, often resulting in hospitalization. The abuse was highly unpredictable, forcing DeWayne to live in an almost constant state of fear. Nor was there any person who could make DeWayne feel safe. Both his mother and stepfather beat him throughout his very young life, then he was never in one home long enough to possibly let his guard down.

The abuse had the lower-brain results that practitioners expect to see. The repeated, severe, and unpredictable abuse created a state of hypervigilance in DeWayne. The image is of a boxer in the ring, hopping back and forth, ready at any moment to fend off an onslaught:

* [DeWayne] is quick to take offense at slight or imagined offenses.

-Donna Elder, Ph.D

* [DeWayne] exhibits signs of low frustration and easy agitation.

-Leon Andrews, Ph.D

* When he is subject to minor pressures, or faced with potential embarrassment, [DeWayne] can be quickly provoked

-Samuel Butler, Ph.D

* [DeWayne] can interact well with peers as long as he feels in control of the relationship. If the balance of control is tipped, he becomes aggressive.

-Donna W. Childers

* [DeWayne] is quick to act out aggressively in response to stress.

-Sylvia Alston, MA

DeWayne also exhibited other classic signs including enuresis extending into adolescence. App. at 4, 47. His anger, fighting, sleep problems, withdrawal, and emotional numbing are all well documented in the records. App. at 29, 34, 36, 38, 41, 42, 46, 54, 55, 71, 86, 95.

In addition to the neglect and trauma, DeWayne suffered from almost every risk factor possible, expanding exponentially the fact that he would eventually become violent as the result of his childhood. The logistics of his life were almost unspeakably chaotic. As a fatherless infant, DeWayne was abandoned by his mother, and sent to live in a different state. Only a few years later, he was returned to Louisiana, where he lived for a short time with his mother and her lover. When his mother met his stepfather, he moved to Texas, then California, then Germany, then North Carolina and Virginia, all by the time he was thirteen. After the most horrific incident of abuse, he spent the remainder of his young life moving from foster home to foster home, as well as occasional stints with his mother, who was abusing alcohol and drugs.

DeWayne suffered from cognitive difficulties as well. In 1986, testing revealed that DeWayne was functioning in the below average range and in severe need of remediation in math, and that he was also in need of remediation in reading comprehension. App. at 32, 33. During the testing DeWayne's eyes filled with tears when he felt he wasn't doing well. App. at 32. He scored a full scale IQ of 74 in the borderline range of mental retardation. App. at 35. In 1989, DeWayne again scored a full scale IQ of 74. App. at 70. On another test, he scored a full scale IQ of 78. App. at 95.

DeWayne also suffered from harmful low self-esteem. His self image was doubly problematic because DeWayne tended to act in accordance with it: he took actions to ensure that others would share his negative image of himself. Social worker Geraldine Meeks reported that at age 13, DeWayne continued to set himself up to be the object and chastisement and rejection by others. Apparently, in DeWayne's mind, negative attention was the only attention he believed was available to him or that he deserved. At the Reception and Diagnostic Center in 1989, it was noted that DeWayne strongly resisted discussing his family, but was much more open when discussing his delinquent behavior.

DeWayne also suffered from clinical depression. In addition to being a severely debilitating illness in its own right, DeWayne's depression, when combined with his poor cognitive functioning and low self-esteem made it even more difficult for DeWayne to form a trusting relationship with an adult. DeWayne is described throughout the records as uncommunicative, answering questions with one word answers, and as unable to maintain eye contact with anyone. App. at 9, 61, 66, 69, 91, 94, 97.

The combination of all of these malignant factors rendered DeWayne significantly less able to withstand the effects that the abuse and neglect had had on him.

THE TRIAL COURT'S DECISION

Amazingly, DeWayne does not blame anybody for the outrage of his childhood.²⁶ He pled guilty to this crime, and threw himself on the mercy of the court. The judge was not apprised of a great deal of the information before you now. Jean Brooks, the only witness who had any direct knowledge of DeWayne's background, testified only briefly. The handful of records which were provided to the judge were not accompanied by any testimony or argument regarding what effect DeWayne's childhood had on him. The lack of information before the judge was partly the fault of counsel, and partly, again, the result of DeWayne's abuse. DeWayne could not bear to be traumatized by his childhood once again, and asked his attorneys not to introduce a lot of information about the neglect and abuse. From this evidence, the trial court summarized the mitigation presented in DeWayne's case as minimal. Sent. Tr. Vol. II at 59. Surely, had the court had the information contained herein, it would have had mercy on DeWayne, who has already suffered so much punishment in his life, mostly for the crime of being a child.

REASONS TO GRANT CLEMENCY

a) DeWayne Williams's Background

Two cultural ideals seem to converge at the point of the execution of DeWayne Williams: that which wants to protect children from neglect and abuse, and that which wants to exact the ultimate price from some adults for their actions.²⁷ Certainly, the desire to protect children does not exist solely because we think kids are cute. Certainly, it must also stem from an understanding that abuse will create pain and dysfunction in the adult survivor. In order to execute DeWayne Williams, then, we must believe that actions, which are understood to be symptoms of neglect and trauma in the child, turn magically into pure evil at the dawn of adulthood.

If we choose, instead, to believe what research and common sense tell us about the effects of neglect and trauma on certain children, we may actually be able to prevent crimes like this one: by increasing the education of parents, caregivers, and the social services community about the crucial importance of nurturance and attention in early childhood; by educating teachers to earlier signs of abuse so that children may be removed from the home sooner; to improve the provision of foster care for these children; and on and on.

²⁶ In fact, he has requested to see his mother before he is executed, but has been denied based on her criminal record.

²⁷ See Crocker, Phyllis, "Childhood and Adult Murder" 77 N.C.L.Rev. 1143 (1999).

b) The Punishment of his Co-Defendant

The undersigned also request that you consider the role and punishment of the co-defendant in this case. This crime was not DeWayne Williams's idea. This crime was conceived and planned by Clark Bedsole. Clark Bedsole approached DeWayne Williams and asked him to kill Bedsole's wife. Clark Bedsole pled not guilty to his role in the crime, and there is no evidence that Clark Bedsole had any mitigating circumstances in his background. Clark Bedsole refused to take responsibility for his role in the crime. Yet, Clark Bedsole is serving life without parole. Clark Bedsole is white.

A recent poll conducted by the American Bar Association found that 47% of Americans do not believe racial and ethnic groups are treated equally by the criminal justice system. App. at 150. An overwhelming 55.7% of white lawyers believe that racial bias exists in the justice system.²⁸

Thus, in this case, you have an opportunity, not only to demonstrate that Commonwealth is deeply aware of the ramifications of child abuse and neglect and is committed to their eradication, but that it also believes that people of different races should be punished harshly, but equally, for their crimes.

CONCLUSION

Life without parole is a serious sanction for serious conduct. In light of the foregoing considerations, we ask that you commute the sentence of Marlon DeWayne Williams.

Respectfully submitted,

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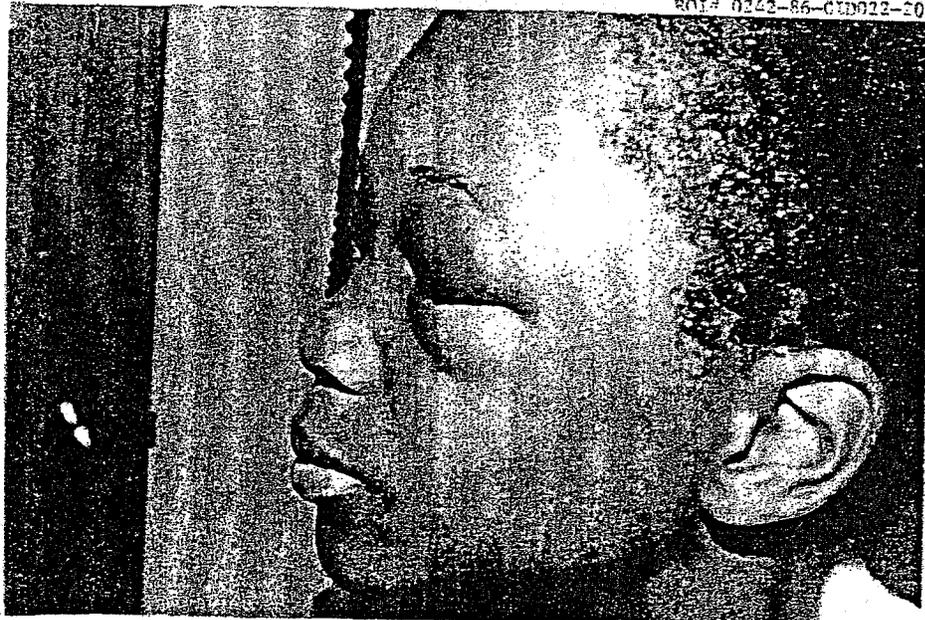
²⁸ Carter, Terry, "Divided Justice," *ABA Journal*, February 1999, p. 42.

*(next page) John Milton, *Paradise Regained*, Book IV, lines 220-221, in John Milton: *Paradise Lost and Paradise Regained*, 341, 386 (Christopher Ricks, ed., Penguin Books 1968).

**“[T]he childhood shows the man,
as morning shows the day.”**



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