OFFICE OF ATTORNEY GENERAL
STATE OF OKLAHOMA

Offender Name: Jones, Julius DOC#: 270147
March 2021 Parole Docket- Commutation Hearing Docket

March 1, 2021

Oklahoma Pardon and Parole Board
2915 N Classen Blvd, #405
Oklahoma City, OK 73106

Members of the Oklahoma Pardon and Parole Board:

The Office of the Oklahoma Attorney General has been defending the convictions and sentences of Julius Jones for the last seventeen years and is intimately familiar with the true facts of the murder of Paul Howell. We protest, in the strongest possible terms, Jones's application for commutation of his death sentence. This letter will outline the indisputable evidence of Mr. Jones's guilt and refute some of the most egregious misrepresentations he has made to this Board, and to the public at large. Every factual assertion herein is supported by the documents in the attached appendix. We respectfully ask this Board to deny Jones's application without passing it to Stage Two.

In fact, it appears Mr. Jones is ineligible to be passed to Stage Two. According to this Board's Rule 515:15-11-3(b), "If an inmate receives a misconduct from the date of the receipt of the application up to the hearing, the personal appearance is cancelled and the commutation consideration will be conducted as a jacket review." Mr. Jones submitted his application in October of 2019 (Application at 16). On March 6, 2020, Mr. Jones was

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discovered to have a cell phone charger in his cell (Appendix at 3-4). Mr. Jones also received a write-up for misuse of the prison phones in February and March of 2020 (Appendix at 1-2). Mr. Jones's application should be denied.

JULIUS JONES MURDERED PAUL HOWELL

There is simply no doubt that Julius Jones is the individual who murdered Paul Howell. The evidence presented at his trial overwhelmingly established that fact. And the DNA testing obtained by Mr. Jones himself has only confirmed what the jury found: there is no reasonable doubt that Julius Jones placed a gun against the head of Paul Howell and pulled the trigger—killing a father in front of his children—in the hope of obtaining a little money for Mr. Howell's Suburban.

Paul Howell was shot and killed at approximately 9:30 p.m. on Wednesday, July 28, 1999, after parking his GMC Suburban in the driveway of his parents' home in Edmond (Appendix at 372, 382-84, 400-02). The Suburban was taken (Appendix at 397). Two days later, on Friday, July 30, 1999, Mr. Howell's Suburban was found in the parking lot of a convenience store in South Oklahoma City (Appendix at 407-08). Mr. Jones is on surveillance video in that same store at 3:30 p.m. on Thursday, July 29, 1999 (Appendix at 409).

Police searched the area near the convenience store and located a body shop owned by Kermit Lottie approximately four blocks away (Appendix at 410-14). Mr. Lottie told police—and later testified at Jones's trial—that Ladell King came by on July 29 to ask Mr. Lottie to purchase a Suburban matching the description of Mr. Howell's (Appendix at 415-23). Mr. King had at least one passenger in his vehicle, but Mr. Lottie could not see the individual well enough to recognize him (Appendix at 421). Mr. Jones now admits that he was that passenger (Application at 9). Mr.

Lottie had seen news of the carjacking and murder of Mr. Howell, so he declined to purchase the Suburban (Appendix at 422-23).[1]

Police then tracked down Mr. King, who informed them—and later testified at trial—that Mr. Jones drove Mr. Howell's Suburban to Mr. King's apartment between 9:30 and 10:30 p.m. on Wednesday, July 28 (Appendix at 429-43, 449). As police were interviewing Mr. King, someone called Mr. King's pager from Julius Jones's parents' home (Appendix at 484, 494-95). Mr. King led police to that home (Appendix at 494-95). Investigator Jerry Flowers of the Oklahoma City Police Department called the home phone number from outside the residence and Mr. Jones answered (Appendix at 496-97). Investigator Flowers informed Mr. Jones that the house was surrounded and asked him to come outside (Appendix at 497). Mr. Jones hung up the phone, after which the front door of the house opened (Appendix at 498). An individual looked out briefly and then slammed the door (Appendix at 498). Unfortunately, some officers were behind the wrong house and Mr. Jones fled through a window (Appendix at 492, 499). Officers eventually found

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[1] Mr. Jones argues that Mr. King and Mr. Lottie lied about his involvement in the crimes (Application at 12). In fact, Mr. Lottie said nothing at all about Mr. Jones, other than that he had never met Mr. Jones (Appendix at 424). As set forth above, Mr. Lottie simply testified that Mr. King approached him about purchasing a Suburban and he declined. It is unclear why Mr. Jones believes this testimony to be untruthful. In fact, Mr. Jones now admits that he went to Mr. Lottie's shop with Mr. King after they dropped the Suburban off (Application at 9). Thus, although Mr. Lottie did benefit from his testimony, Mr. Jones admits that said testimony was truthful. Further, Mr. Lottie provided the same testimony at the January 12, 2000 preliminary hearing before he was charged in federal court in July of 2000 (Appendix at 244-54, 465, 471).

Regarding Mr. King, Mr. Jones provides evidence of Mr. King's *possible motive* to testify falsely, but no evidence that he actually did so. As will be explained, Mr. King's testimony was corroborated by a number of other witnesses, the videotape of Mr. Jones at the convenience store, the gun used to murder Mr. Howell which was found in Mr. Jones's home, and the DNA found on the red bandanna that was wrapped around that gun. As for Mr. King's sentence for bogus checks, it was established beyond doubt at Mr. Jones's trial that he did not receive a benefit in exchange for his testimony against Mr. Jones (Appendix at 469-70, 504-07). In fact, the Assistant District Attorney handling the bogus check charge was not even aware of Mr. King's testimony until the middle of Mr. Jones's trial, and she testified that the disposition of that case was unrelated to Mr. King's testimony (Appendix at 472-83). The same is true of Mr. King's defense attorney in the bogus checks case (Appendix at 466-48).

Mr. Jones at the home of Laymon Jordan, the brother of Mr. Jones's accomplice Christopher Jordan (Appendix at 500-03).

Mr. Jones says that he stayed at Laymon Jordan's apartment because "[he] was afraid to go back to [his] house" because the police were there (Application at 10). In the preceding paragraph, however, Mr. Jones said that Christopher Jordan asked him to tell Laymon Jordan that the police were after Christopher and Laymon Jordan (Application at 10). Thus, Laymon Jordan's apartment was an exceedingly strange place for Mr. Jones to attempt to hide from police.

Christopher Jordan testified at Mr. Jones's trial in exchange for a plea bargain. In light of Mr. Jones's assertion that Mr. Jordan lied when he testified that Mr. Jones shot Paul Howell, this protest letter will discuss Mr. Jordan's testimony only to the extent that it was corroborated. The corroboration was abundant.

In the summer of 1999, Mr. Jones and Mr. Jordan were the best of friends (Appendix at 564-65). The two were always together and, although each had his own car, Mr. Jones frequently used Mr. Jordan's orange/bronze Cutlass (Appendix at 425-28, 516, 522-24, 527, 565-59). Mr. Jones's girlfriend at the time, Analiese Presley, was in the Cutlass alone with him before the murder of Mr. Howell and found a red bandanna and a small chrome gun therein (Appendix at 570-77). Mr. Jones admitted the gun was his (Appendix at 575). That Mr. Jones—as opposed to Mr. Jordan—owned the gun was further corroborated by a box of .25 caliber ammunition found in Mr. Jones's car after the murder (Appendix at 558-63). In a frightening display of consciousness of guilt, after his arrest, Mr. Jones wrote two letters to Ms. Presley from jail, threatening her and advising her to lie and claim she did not remember anything (Appendix at 11-16, 580-98). In particular, Mr. Jones warned Ms. Presley not to say that he was doing anything illegal (Appendix at 15, 598).

Around the same time Ms. Presley saw the gun, Mr. Jones, Mr. Jordan, and Mr. King began having discussions about stealing and selling a car (Appendix at 453-58, 530-52). It was decided that they should steal a GMC product because they were easier to dispose of than foreign cars[2] (Appendix at 455-56, 531). Mr. King advised Mr. Jones that Mr. Lottie would pay between $1000 and $1500 for a Chevy sports utility vehicle (Appendix at 459). A vehicle that came with keys would bring more money than one that was hotwired (Appendix at 533).

On July 28, Mr. Jordan and Mr. Jones drove to Edmond in the Cutlass to look for a Suburban to steal (Appendix at 528-31). Mr. Jordan was driving (Appendix at 542). Mr. Jones saw Paul Howell's Suburban on Broadway and instructed Mr. Jordan to follow it (Appendix at 534-36). Mr. Howell, his sister Megan Tobey, and his two daughters had just finished shopping for school supplies at Target and decided to drive through Braum's (Appendix at 377-81). Mr. Jordan pulled into Braum's and drove around the parking lot before finally backing into a space from which he could see the exits (Appendix at 535-37).

A man named Michael Peterson just happened to be sitting on the curb at Braum's with his wife when he saw Mr. Jordan's Cutlass circle the parking lot a couple of times before backing into a parking space from which both exits were visible (Appendix at 373-75). The car stayed in the parking space with its motor running, before leaving in a hurry after a few minutes (Appendix at 374-75). There were two young, black males in their early 20s in the car (Appendix at 376). One of the men had corn rows and one was wearing a white shirt (Appendix at 376). Mr. Peterson believed the man with corn rows was the driver (Appendix at 17, 376). Mr. Jordan had corn rows at that time (Appendix at 542).

[2] The relevance of selling foreign cars became clear to the jury in second stage when, as will be discussed, it was learned that Mr. Jones carjacked a Lexus and a Mercedes in the week before the murder.

Mr. Jordan followed the Suburban until Mr. Howell pulled into his parents' neighborhood, at which time Mr. Jones got out of the Cutlass (Appendix at 593-43). Mr. Jones had a chrome .25 caliber handgun and was wearing gloves, a stocking cap, and a red bandanna around his neck (Appendix at 525-26, 538, 543, 545-46). Mr. Jones ran up to the Suburban and shot Mr. Howell, who had opened the car door to get out (Appendix at 384, 543). Mr. Jones had the gun pressed against Mr. Howell's head when he fired (Appendix at 517-18).

The gunshot was the first sign Ms. Tobey had of trouble; there was no noise—such as a demand for the keys—that preceded it (Appendix at 386). She turned to see a black male wearing a white t-shirt with blue trim, a black stocking cap, and a red bandanna over his face (Appendix at 384, 387-88, 402-04). Mr. Jones has made much of Ms. Tobey's description of the shooter's hair. Ms. Tobey's testimony in this regard will be quoted below to demonstrate the fallacy in Mr. Jones's position. Suffice it to say for now that her description largely matched that given by Mr. Jordan, as well as by Mr. King, described below.

Ms. Tobey grabbed Mr. Howell's daughters and ran into the house, but not before Mr. Jones fired a second shot (Appendix at 384-85). Mr. Howell's parents ran outside to find their son unresponsive on the driveway (Appendix at 392-96). Mr. Howell died later at the hospital (Appendix at 398-99).

In the meantime, Mr. Jones drove the Suburban to Mr. King's apartment, arriving there after Mr. Jordan arrived in the Cutlass (Appendix at 435-40, 544). Mr. Jones, who advised Mr. King not to touch the Suburban, was wearing a waive cap, white t-shirt, gloves, and a red bandanna around his neck (Appendix at 442, 444-48). Mr. King's girlfriend, Vickson McDonald, saw Mr. Jones, Mr. Jordan, and the Suburban in the parking lot of her apartment at around 10:00 p.m. on July 28 (Appendix at 485-91, 493). Gordon Owens—a neighbor of Mr. King who had known him

for only about six months—also saw Mr. Jones and the Suburban at approximately 10:30 p.m. on July 28 (Appendix at 460-64).

A receipt found in the Cutlass further confirmed Mr. Jones's presence in that car on the day of the murder. Mr. Jones's thumbprint was found on a receipt in the Cutlass which was dated July 28, 1999 (Appendix at 599-605).

When police searched the home of Mr. Jones's parents, they found the murder weapon—a chrome .25 caliber handgun confirmed by ballistics testing to have fired the bullet that killed Paul Howell—wrapped in a red bandanna (Appendix at 510-15, 608). These items were in the attic right by an opening that could be accessed in the ceiling of Mr. Jones's closet (Appendix at 509-11, 549-54). There was also a white t-shirt with black trim and a black stocking cap in Mr. Jones's bedroom (Appendix at 557).

The magazine for the gun, with five bullets inside, was found on the doorbell chime, but only after an officer removed the chime's housing unit (Appendix at 508, 556). The gun could hold a total of seven bullets (Appendix at 606-07). Mr. Jones fired two bullets at the Howell residence (Appendix at 384-85, 404-06).

It was on the strength of this evidence that the jury was convinced of Mr. Jones's guilt beyond a reasonable doubt. In fact, although Mr. Jones's defense team has spoken to at least some of the jurors in the years since his conviction, not a single juror has expressed doubt about their verdict (Application, Exhibits 27-28). One juror—who has made allegations of racial bias which will be addressed later—expressly confirmed that the jury reached the correct result (Application, Exhibit 29, ¶ 14).

And there was evidence of which the jury was not aware. In July of 2017, Mr. Jones hired a lab to test the red bandanna for DNA. The lab obtained a partial DNA profile (Appendix at 18-

21). This profile was consistent with a mixture of at least three individuals (Appendix at 19). However, the major contributor to the DNA profile on the bandanna was found to match Mr. Jones (Appendix at 19). "The probability of randomly selecting an unrelated individual with this DNA profile at 7 of 21 loci tested is approximately: 1 in 1.3 billion in the US Caucasian population[,] 1 in 110 million in the US African American population[, and] 1 in 1 billion in the US Hispanic population[.]" (Appendix at 19). Mr. Jordan, on the other hand, was excluded as a possible contributor of the major component, and no conclusions could be drawn regarding the minor alleles (Appendix at 19).

Mr. Jones has addressed these highly incriminating results in a number of ways. First, he asked the lab to perform additional testing to determine whether the DNA sample was the result of semen being placed on the bandanna, but those tests were negative (Appendix at 22-23).

Second, Mr. Jones notes that the area from which the DNA was obtained was negative when presumptive testing for saliva was done (Application at 15). In his view, this means the red bandanna that was wrapped around the murder weapon was not the same red bandanna as that worn by the man who murdered Paul Howell because, he posits, the bandanna worn over the killer's mouth would have to contain the killer's saliva (Application at 15). However, the lab corrected Mr. Jones's attorney's assertion that there was no saliva on the bandanna. Instead,

> there are several reasons the presumptive test could have been negative that do not necessarily mean saliva was not present. Of course, one explanation for the presumptive negative result is that there is no saliva on the item. Additionally, any saliva present may have broken down over time or the saliva could have been diluted below the sensitivity of [the lab's] test.

(Appendix at 24-25).

Indeed, the expert Mr. Jones hired to critique the DNA testing performed at his request, **and by a company of his choosing**, does not rule out saliva or sweat as the source of the DNA.

Rather, in Mr. Jones's third attempt to dismiss this evidence, Dr. Shapiro states only that the DNA could also have been "'trace' or 'touch' DNA" and that transference cannot be ruled out (Application, Exhibit 26, p. 2).

Fourth, Dr. Shapiro disagrees with Mr. Jones's lab's use of the word "match." However, he apparently does not disagree with their conclusion that the probability of randomly selecting another African American individual with the same DNA profile is 1 in 110 million. In the year 2000, the "US African American population" consisted of approximately 34,658,190 individuals (Appendix at 26-27). Thus, whether Dr. Shapiro is comfortable with the technical term "match", it is **highly** improbable that the DNA on the bandanna came from anyone other than Julius Jones.

And the probative value of the DNA is reinforced by the other evidence. Ms. Tobey testified that the killer wore a red bandanna. Mr. Jordan and Mr. King testified that Mr. Jones was wearing a red bandanna before and after the murder. A red bandanna was found wrapped around the murder weapon in an obscure part of Mr. Jones's home that just happened to be accessible via Mr. Jones's bedroom. That bandanna contains Mr. Jones's DNA. Is it possible, as Mr. Jones's DNA expert asserts, that contaminated gloves worn by police transferred Mr. Jones's DNA to the bandanna? Perhaps. But the principle of parsimony dictates that the simplest explanation is usually the correct one. And to reach any conclusion other than that Mr. Jones's DNA is on that bandanna because he wore it when he murdered Paul Howell would be to ignore all of the other evidence.

It bears repeating that a jury convicted Mr. Jones of murdering Paul Howell **without** the DNA results, and Mr. Jones has not presented a single credible item of evidence—Mr. Jones's claimed alibi will be addressed below—that contradicts the evidence presented at trial. There is,

quite simply, no doubt that Julius Jones is the person who killed Paul Howell. And, as will be shown next, his death sentence is fully supported by the evidence.

* * *

Mr. Jones claims that perjured testimony and racial animus have resulted in his wrongful conviction of capital murder. As shown throughout this letter, this claim is false. But even setting that aside, DNA evidence *cannot* lie and *cannot* discriminate. Indeed, it was Mr. Jones who pushed for the testing of the bandanna in the first instance, no doubt hoping it would prove exculpatory. Instead, the bandanna has clearly reconfirmed Mr. Jones's guilt through arguably the most powerful type of evidence available—unimpeachable DNA evidence that knows not deceit or prejudice.

Finally, one last note regarding Mr. Jones's claim of innocence: according to page 2 of this Board's commutation application, "The submission of any false information is grounds for immediate denial of the application." (Application at 2). Moreover, Mr. Jones attested that "all statements contained [in the application] are true and correct to the best of [his] knowledge and information" and that "any intentional misstatement of material facts contained in [the] application may cause adverse action [thereon]." (Application at 16).

Mr. Jones currently swears, "as God is [his witness], [he] was not involved in any way in the crimes that led to Paul Howell being shot and killed[.]" (Application at 6). The above discussion demonstrates the falsity of this claim. In fact, Mr. Jones admitted his involvement, at least in terms of moving the Suburban, to his girlfriend, Analiese Presley (Appendix at 579). And the videotape from the convenience store absolutely proves the falsity of Mr. Jones's assertion that he had no involvement in any way in the crimes. This letter will show

that this is not the only false information Mr. Jones has submitted to this Board. His application should not be advanced to stage two.

THE MURDER OF PAUL HOWELL WAS THE CULMINATION OF AN ESCALATING COURSE OF CRIMINAL CONDUCT

Mr. Jones admits to having "done some [unspecified] stupid things in [his] life" which he describes as "youthful actions." (Application at 6). The fact is that Mr. Jones appears to have begun his crime spree with relatively minor—but not victimless—crimes such as shoplifting, but he quickly graduated to violent crimes. Sadly, Mr. Jones's repeated act of using a gun to take property from others ultimately led to the death of Paul Howell.

Mr. Jones has arrests dating all the way back to 1995, when he was fifteen years old (Appendix at 28-29). On March 11, 1998, Mr. Jones was caught stealing from a Footlocker store at Quail Springs Mall (Appendix at 615, 633-35, 636-37, 639). Mr. Jones pushed the store clerk when confronted about the theft, but was apprehended before he could get away (Appendix at 30-31, 635, 638).

In 1998, Mr. Jones pled guilty to unlawful use of a fictitious name in an application for an ID (Appendix at 32-34). Although he received a deferred sentence, that sentence was later accelerated (Appendix at 32-34).

On December 2, 1998, Mr. Jones was driving a car with an inoperable tag light (Appendix at 35, 640, 648-49). When officers attempted to pull the car over, Mr. Jones fled at speeds up to 50 miles per hour in a residential area before eventually stopping (Appendix at 35, 641-42). In the car were items that led the officers to suspect Mr. Jones and his passenger had been stealing (Appendix at 36-37). These included gloves, a screwdriver with torque bits, a flashlight, pliers, wheel caps and bolts thereto, broken pieces of automobile glass, and a speaker box (Appendix at

36-37, 644-47). The passenger admitted to police that the two men had stolen "spinners" and the speaker box from a car (Appendix at 39-44). According to the passenger, Mr. Jones had stolen from other vehicles a few nights earlier (Appendix at 41). Although this account is hearsay, what is significant is the sheer volume of evidence—detailed below—that confirms Mr. Jones's habit of stealing. In fact, between January of 1998 and July of 1999, Mr. Jones pawned no fewer than twenty different items like stereos, jewelry, cell phones, and video games (Appendix at 45-61).

On December 8, 1998, a CD player was stolen from Wal-Mart in the Village (Appendix at 62). Mr. Jones pawned this CD player on December 9, 1998 (Appendix at 62-65). The signature on the pawn slip was verified by a document examiner as that of Mr. Jones (Appendix at 64). Mr. Jones pled guilty to false declaration to a pawn broker and concealing stolen property (Appendix at 66-70).

On the day after the CD player was stolen from Wal-Mart, Mr. Jones stole four pagers from a Target store (Appendix at 69). Mr. Jones pled guilty to larceny of merchandise from a retailer (Appendix at 66-70).

On January 17, 1999, Mr. Jones was caught stealing two shirts from Dillard's (Appendix at 71-73). Undeterred, just two days later, Mr. Jones was caught stealing several items from Wal-Mart in Norman (Appendix at 74). Mr. Jones was also caught stealing pliers and bolt cutters in January of 1999 (Appendix at 680).

In February of 1999, a man visiting Quail Springs Mall set his keys down, but they were taken and his car was stolen (Appendix at 75). In March, Mr. Jones was arrested in the stolen car, and was found to be in possession of a loaded .380 caliber handgun which was on the driver's side floorboard (Appendix at 76-80, 681-86). Although Mr. Jones has claimed that he purchased the car with no knowledge that it was stolen, he accelerated and made a quick turn as soon as the

officer started to follow him (Appendix at 78, 81-82, 683). Mr. Jones then parked and abandoned the car (Appendix at 78, 684). Not only do Mr. Jones's actions belie his claim of innocent ownership, but he told Ms. Presley that he and the friend from whom he later claimed to have purchased the car had taken it from Quail Springs Mall after finding the keys (Appendix at 83-84, 698-99).

When Mr. Jones was arrested in this stolen car, he had in his pocket a pair of gloves and a pair of women's pantyhose (Appendix at 78, 686). Also in the car were a kicker box with speakers, two lug wrenches, approximately 200 CDs, a floor jack, and a number of other items such as a drill, screwdrivers, stereo wires, and a wire stripper (Appendix at 80). Perhaps most significantly, there was an 18" gold necklace (Appendix at 80). Eugene Chambers told police that Mr. Jones stole gold chains from a jewelry store in Quail Springs Mall, and also stole from a jewelry store at Crossroads Mall (Appendix at 86-87). **Mr. Jones indeed pawned a chain on November 7, 1998 (Appendix at 47).**

Mr. Chambers further told police that Mr. Jones stole CDs, that he and Mr. Jones stole from cars and stores, and that Mr. Jones was "'really into' stereo equipment." (Appendix at 86-87).[3] Mr. Chambers invoked the Fifth Amendment when called to testify against Mr. Jones and denied his prior statements (Appendix at 690-97). Mr. Chambers's coach testified, outside the presence of the jury, that he brought Mr. Chambers to court (Appendix at 715). The coach saw someone stand up, try to make eye contact with Mr. Chambers, and clinch their fists over their heart (Appendix at 715-17). The coach believed the person was attempting to influence Mr. Chambers's testimony (Appendix at 715-19).

[3] Mr. Jordan also told police that he and Mr. Jones stole CDs (Appendix at 85). And both Mr. Jordan and Mr. Chambers identified the same individual as the man to whom they sold the CDs (Appendix at 85-86).

On March 18, 1999, an officer was on patrol on Lindsey Street in Norman when he saw Mr. Jones walking from the area of the ATM machine of a bank at approximately 3:30 a.m. (Appendix at 88-89, 679). When Mr. Jones saw the officer, he ducked down behind a bush, then ran away when the officer braked his car (Appendix at 88-89). The officer pursued in his car until Mr. Jones reached his apartment complex (Appendix at 88-89). Another officer joined the foot pursuit and they eventually apprehended Mr. Jones (Appendix at 88-89). During the chase, Mr. Jones discarded a pair of gloves, face mask, and plastic water gun that had been painted black (Appendix at 88-89). The prosecutors learned about this incident too late to use it at trial (Appendix at 678-80).

On July 9, 1999, Mark Merchant was working at his jewelry store in Quail Springs Mall (Appendix at 650-51). Mr. Jones came in that morning and robbed Mr. Merchant at gunpoint (Appendix at 651-53). Mr. Jones was wearing a pantyhose over his head and a red bandanna over his face (Appendix at 653-54). Mr. Jones specifically demanded gold chains and took approximately $15,000 worth (Appendix at 652-53, 655-57).

Although Mr. Merchant could not identify Mr. Jones, Mr. Jordan testified that Mr. Jones took the Cutlass the day of the robbery and came back with gold chains, stating that he had robbed a jewelry store at Quail Springs Mall (Appendix at 675-77). Another individual partially corroborated Mr. Jordan, testifying that he saw a goldish color, older model Monte Carlo speed out of the parking lot at the time of the robbery (Appendix at 687-89). According to Mr. Jordan, Mr. Jones pawned many of the chains, wore one, and gave one to Ms. Presley (Appendix at 677). Ms. Presley confirmed that Mr. Jones gave her three or four gold chains, but then took them back (Appendix at 704-06). **Pawn slips prove that Mr. Jones sold several gold chains in July of 1999 (Appendix at 45, 48, 61).**

Also in July of 1999, Mr. Jones was arrested for reckless driving (Appendix at 90-91). Mr. Jones was "doing doughnuts" in the parking lot of a gas station "in a careless wanton manner with no regard for the patrons of the business and the other vehicles" that were present (Appendix at 90). Mr. Jones remarked that he "was dropping my girl off and I guess, I got a little happy." (Appendix at 91).

On July 21, 1999, Dr. Vernon Hoffman and some friends visited the Hideaway Pizza location on Western Avenue in Oklahoma City (Appendix at 658-60). When they exited the restaurant, Mr. Jones pointed a gun at Dr. Hoffman and told him to get in his Lexus and drive (Appendix at 659-61). Dr. Hoffman's friends were already in the car (Appendix at 661). Mr. Jones forced Dr. Hoffman into the car and backed out, but Dr. Hoffman and his friends escaped (Appendix at 661-62). Mr. Jones wore a blue and white bandanna (Appendix at 663). The car was recovered three months later, but the victims' personal belongings had been stolen (Appendix at 664). Dr. Hoffman could not identify the robber, but Mr. Jordan drove Mr. Jones to the restaurant and witnessed the robbery (Appendix at 665-70). In addition, Mr. Jones told Ms. Presley that he had a Lexus, and that he had acquired it with Mr. Jordan (Appendix at 700-02). Ms. Presley assumed Mr. Jones and Mr. Jordan had stolen the Lexus (Appendix at 701-02). She further admitted that although Mr. Jones seldom worked, he often had money (Appendix at 702-04).

On the day after Dr. Hoffman was carjacked, Dr. Anand Lapsi and three friends ate dinner at the same Hideaway Pizza location on Western Avenue in Oklahoma City (Appendix at 92-97, 616-18). When the diners exited the restaurant, Mr. Jones pointed a gun at Dr. Lapsi and stole his Mercedes (Appendix at 619-22). Mr. Jones was wearing a blue bandanna over his face (Appendix at 622). Dr. Lapsi positively identified Mr. Jones as the person who robbed him (Appendix at 623-28). Further, although she did not testify at Mr. Jones's murder trial, one of the witnesses

positively identified Mr. Jones, with 85% certainty, in a photo lineup (Appendix at 97-100). And Mr. Jordan tied Mr. Jones to this crime, as well (Appendix at 666-67, 671-74). But there was even more evidence which conclusively establishes that Mr. Jones committed this carjacking.

An employee of the apartment complex in Norman in which Mr. Jones lived noticed a Mercedes—which was out of place for the complex—parked near Mr. Jones's apartment (Appendix at 100, 104). The employee called police when he noticed that the word "Mercedes" was misspelled on the paper tag (Appendix at 104). A handwriting expert determined that Mr. Jones had prepared this fake paper tag for the vehicle (Appendix at 105-111). Another employee of Mr. Jones's apartment complex actually saw Mr. Jones drive the car (Appendix at 102).

The Mercedes was determined to be the one that was stolen from Dr. Lapsi. In fact, the key to the ignition was found in the Cutlass (Appendix at 627-28, 629-32).

Mr. Jones pled guilty to robbery with a firearm and possession of a firearm (Appendix at 112-122). On his plea paperwork, he admitted: "On July 22, 1999 I took from Anand Lapsi a Mercedez [sic] Benz with a firearm while in Oklahoma County." (Appendix at 115). Ironically, Mr. Jones misspelled "Mercedes" in his plea paperwork, just as he had on the paper tag he forged.

The evidence that Mr. Jones was a violent criminal is simply overwhelming. Yet, Mr. Jones claims he "had gotten into some trouble previously, but none of it was violent." (Application at 13). **This is yet another untruth in the application, as shown by the three armed robberies he had committed before he murdered Mr. Howell.**

Further, in a letter to Analiese Presley after his arrest for killing Paul Howell, Mr. Jones admitted that he was doing "stupid 'Shit'" for which he "should or could be dead or locked-up for the rest of [his] life." (Appendix at 123-24). Although Mr. Jones consistently denied, in letters to

Ms. Presley, that he killed Paul Howell, this admission belies his current attempt to minimize his past criminal behavior.

* * *

And Mr. Jones's refusal to respect the rules and laws of society did not end with Paul Howell's murder. During a discussion outside the presence of the jury, Mr. Jones was mouthing and gesturing at the prosecutor in a way that she felt was threatening (Appendix at 726). Mr. Jones denied it, but the court reporter confirmed that she saw him mouthing something (Appendix at 727).

In October of 1999, Mr. Jones helped his cellmate assault a jail officer (Appendix at 125-27, 707-14). Although Mr. Jones's cellmate began the altercation, Mr. Jones grabbed the officer's arm to prevent him from securing the cellmate (Appendix at 126). After the officer pushed Mr. Jones away, Mr. Jones and his cellmate continued to try to grab the officer until another officer intervened (Appendix at 126-27). Mr. Jones also threw the officer's radio in the toilet so he could not call for help (Appendix at 710).

In March of 2001, Mr. Jones was involved in a large, gang-related fight with other inmates (Appendix at 130-36).

In November of 2017, a cell phone was discovered in the cell of another inmate (Appendix at 137-41).[4] When the prison examined the contacts that had been made using that phone, it became apparent that Mr. Jones was one of the individuals who used the phone. Specifically, the contacts in the phone included Dorsheitha Freeman (the mother of Mr. Jones's child), Mr. Jones's father (Anthony Jones, who was labeled as "Popz" in the contact list), Mr. Jones's sister (Antoinette Jones), Mr. Jones's former girlfriend ("Ana Pressley" who was listed as "Poch" in the

[4] This exhibit is being used with permission from the Department of Corrections, after redactions were made at their request.

contact list), Mr. Jones's friend (Eugene Chambers) who is a convicted felon, and Mr. Jones's mother (Madeline Jones, who was listed as "Ma" in the contact list) (Appendix at 11, 137-43).

Finally, as discussed at the beginning of this letter, Mr. Jones has been written up twice since submitting his application (Appendix at 1-4). One of those write-ups was for having a cell phone charger in his cell, indicating that he has continued to make use of a cell phone since the other one was confiscated in 2017 (Appendix at 3-4). In fact, Mr. Jones also has write-ups that pre-date his commutation application, nearly all of which relate to possessing a cell phone (Appendix at 5-10).

Mr. Jones's defense team has created a public persona of a young man who made a few minor mistakes, but was not violent and was a diligent student who had no reason to pursue a life of crime. For example, one news article contains the following:

> In the fall of 1998, Jones was an 18-year-old engineering freshman at the University of Oklahoma, a recipient of the president leadership scholarship and on the verge of gaining a basketball scholarship.
>
> "He was supposed to [have] been walking on at OU (his sophomore year), and he was going to get a full ride if he did good and kept his grades up," said Antoinette Jones, Julius' younger sister.

(Appendix at 145).

Further, the first exhibit Mr. Jones has provided this Board states, "In the summer of 1999, Julius Jones was a 19-year-old African American male who attended the University of Oklahoma on an academic scholarship. At the time, Julius had high aspirations for what a college degree could do for him and his family." (Application, Exhibit 1, p. 1). **This is simply untrue, and should result in denial of the application.**

The fact is that, although Mr. Jones did well in high school, he had abandoned academic pursuits by the summer of 1999. Mr. Jones entered the University of Oklahoma in the Fall of

1998. That semester, his grades were: F, S, D, U, and C (Appendix at 152). In the Spring of 1999, Mr. Jones withdrew from all of his classes and he never completed another class (Appendix at 152). Mr. Jones was denied financial aid, and was administratively withdrawn in August of 1999 with a cumulative GPA of 0.80 (Appendix at 152-53).

* * *

Mr. Jones was indeed a bright, capable young man who, by all appearances, was raised in a loving family. Yet, that he chose a life of crime is undeniable. Mr. Jordan provided evidence of the two Hideaway carjackings and the jewelry store robbery. But his testimony as to those events was corroborated by pawn slips, Ms. Presley, the testimony of Dr. Lapsi, **and Mr. Jones's plea of guilty to one of the carjackings**, among other things. And Mr. Jordan had nothing to do with the other crimes discussed above. Instead, the evidence of those crimes comes primarily from people who witnessed Mr. Jones commit them, and he was arrested at the scene for many of them. Mr. Jones is the victim of his own choices, not an innocent man set up by Christopher Jordan and Ladell King.

The jury was aware of much, but not all of this evidence. Their choice of a death sentence cannot be considered excessive or unjust (Application at 1 ("A commutation consideration is not intended to serve as an early release mechanism but to correct an excessive or unjust sentence.")). Mr. Jones's application should be denied.

MR. JONES'S ALLEGED ALIBI IS UNTRUE

Mr. Jones claims he was at home with his family at the time of Paul Howell's murder (Application at 8). Mr. Jones claims he was home until approximately 11:00 p.m. on July 28, when Mr. Jordan picked him up, after which they went to Norman and then to Laymon Jordan's

apartment. **The presentation of this provably false information to this Board "is grounds for immediate denial of [Mr. Jones's] application." (Application at 2).**

Three people—including Gordon Owens, who had no motive to commit perjury—saw Mr. Jones with Mr. Howell's Suburban at Mr. King's apartment at around 10:00 p.m. Nevertheless, the Oklahoma Court of Criminal Appeals gave Mr. Jones every opportunity to prove this alibi. At a remanded evidentiary hearing, Mr. Jones's parents and siblings testified that Mr. Jones was home with them from approximately 4:00 or 5:00 p.m. until at least 10:30 p.m. on the night of the murder[5] (Appendix at 265-75, 282-88, 290-98, 300-07). Mr. Jones's family also testified that Brenda Cudjoe and her son, Scottie Carrington, were present until 9:00 or 9:30 p.m. (Appendix at 266-75, 283-84, 293-94, 302-07). However, Ms. Cudjoe told the defense trial investigator that she was not at the Jones's home on the evening of July 28 (Appendix at 311, 315-16, 344, 370-71).

Mr. Jones's trial attorneys were well aware of Mr. Jones's family's statements and investigated this potential alibi (Appendix at 276-80, 281, 288-89, 298-99, 308-10, 314-43, 345-66, 370-71). The attorneys were, quite reasonably, concerned that the State would call Ms. Cudjoe to refute the testimony of the Jones family (Appendix at 316, 337-38, 351-52, 359-60). They were also concerned that they (the attorneys) and the Jones family would lose credibility with the jury in a way that would hurt Mr. Jones in the sentencing phase if they presented this alleged alibi (Appendix at 338, 347, 351).

Ms. Cudjoe testified at the evidentiary hearing and confirmed that she was not at the Jones's home on the night of the murder (Appendix at 367-70). Although he did not testify, Ms. Cudjoe's

[5] Mr. Jones's father testified that he and Mr. Jones watched the news on the evening of the July 28 and saw a report about Mr. Howell's murder (Appendix at 287). Yet, Mr. Jones claims he learned about the murder on the following day (Application at 9).

son provided an affidavit affirming that he and his mother were not at the Jones's home on the night of the murder (Appendix at 154).

Most importantly, two of Mr. Jones's attorneys testified under oath that Mr. Jones told them repeatedly, and "unequivocal[ly]", that he was not at his parents' home at the time of the murder (Appendix at 317, 321-22, 348-51, 364-66). Like Ms. Cudjoe, Mr. Jones said he, Ms. Cudjoe, and Mr. Carrington were together at his parents' home on the night *before* the murder (Appendix at 334). Mr. Jones's third attorney claims he told her that he was at home (Appendix at 312-13).

Further, despite making various statements to Ms. Presley in an attempt to distance himself from the murder, Mr. Jones tellingly never claimed to her that he was home on the night of the murder. Rather, Ms. Presley told police that Mr. Jones told her that he and Mr. Jordan were "'on the South Side and uh, we were just suppose[d] to take the car to it's [sic] destination.'" (Appendix at 155). Yet, Mr. Jones now claims he was simply, and innocently, helping Mr. King move a car after Mr. King was unable to reach Mr. Jordan (Application at 8). Although Mr. Jones now claims Christopher Jordan murdered Mr. Howell, he told Ms. Presley that "'[i]t was two other guys.'" (Appendix at 155). The evidence proves that Mr. Jones and Mr. Jordan were present at the scene of the murder when it happened and that, therefore, Mr. Jones did not tell Ms. Presley the truth about his whereabouts. However, Mr. Jones **did not** tell Ms. Presley that he was at home. There is no logical explanation for this omission if, in fact, Mr. Jones had been at home. **Finally, that Mr. Jones did not testify at the evidentiary hearing speaks volumes.**

The state district court found that Mr. Jones's attorneys "took the only reasonable, professional and ethical step and chose not to present evidence of an alibi defense." (Appendix at 159). Perhaps more significantly to Mr. Jones's proclamation of innocence, the court stated, "it

would stand to reason that if [Mr. Jones] could explain his whereabouts on the night of the murder he would have told his lawyers and would not have chosen to remain silent as to any alibi concerning his whereabouts." (Appendix at 159). Finally, the court concluded that, in light of the State's witnesses who saw Mr. Jones on the night of the murder, "[t]he presentation of the alibi defense would not have caused the jury to reach a different conclusion." (Appendix at 167).

* * *

Mr. Jones's statements to this Board conflict with what he told two of his attorneys as they prepared for his capital murder trial. They also conflict with what he told his girlfriend at the time, and with the sworn testimony of three witnesses. Mr. Jones's alibi is no more credible today than it was at the time of trial.

THERE WAS NO "SECRET DEAL" WITH CHRISTOPHER JORDAN

Mr. Jordan admitted to Mr. Jones's jury that he was testifying as part of a plea agreement by which he was to be sentenced to life imprisonment for the murder of Paul Howell, with all but the first thirty years of the sentence to be suspended (Appendix at 519-21). Mr. Jones has told this Board that Mr. Jordan "had a secret deal with the prosecution" and that Mr. Jordan "and the prosecutors in my case agreed that he would only serve 12 to 15 years in prison in exchange for his testimony against me." (Application at 12). Mr. Jones's evidence of this alleged "secret deal" consists of an affidavit from 2004 in which a former defense investigator claims Mr. Jordan told her that prosecutors told him "that the time served on the sentence would be calculated by the Department of Corrections in such a way that he would actually serve only twelve (12) to fifteen (15) years . . . ." (Application, Exhibit 14). Mr. Jordan was released from prison after serving fifteen years of his sentence (Appendix at 171-77).

There was no "secret deal." Mr. Jordan was released because he had served his thirty year sentence under the administrative rules of the Oklahoma Department of Corrections, which afford inmates credits against their sentences (Appendix at 171-77). The Oklahoma Legislature passed a statute in 1999 which requires inmates convicted of certain offenses (including murder) to serve at least 85% of their sentences before earning credits. 21 O.S.Supp.1999, § 12.1. However, this statute only applies to individuals who committed their crimes "on or after March 1, 2000[.]" 21 O.S.Supp.1999, § 12.1.

Mr. Jordan's counsel spoke with the Department of Corrections before Mr. Jordan agreed to plead guilty, and was given information regarding the amount of time Mr. Jordan would expect to serve (Appendix at 255-57). This was revealed at a public hearing and transcribed as part of the record in Mr. Jordan's case. There is simply nothing that has been kept secret from Mr. Jones.

* * *

Mr. Jordan's plea paperwork is attached to this protest letter, as is his testimony regarding said plea agreement (Appendix at 178-89, 519-21). Mr. Jordan's testimony was accurate. There was no undisclosed agreement. In fact, just eight months after Mr. Jones's trial, Mr. Jordan filed a motion asking the court to modify his sentence. The District Attorney's Office strenuously objected (Appendix at 257-64). And the District Attorney's Office later protested Mr. Jordan's attempt to be released on parole in 2012, arguing that he should serve his entire sentence (Appendix at 190-91). Mr. Jones's claim that the State failed to disclose its complete agreement with Mr. Jordan by which Mr. Jordan was released after serving "far less than 30 years in prison **in exchange for pointing the finger at me**," (Application at 12), is simply false and warrants immediate denial of his application.

MS. TOBEY'S DESCRIPTION OF THE SHOOTER'S HAIR IS NOT INCONSISTENT WITH MR. JONES

Mr. Jones claims that Ms. Tobey's description of the hair of the man who killed her brother is more consistent with Mr. Jordan than with him, and that his lawyers failed to "offer evidence demonstrating that I could not have been the shooter." (Application at 11). Mr. Jones is incorrect on both counts.

Megan Tobey's exact testimony was:

> Q [Cross-examination] And I believe you testified that the person who shot your brother had something on their head; is that correct?
>
> A Yes.
>
> Q Okay. Can you tell the jury again what that was?
>
> A It was a black stocking cap.
>
> Q And can you show the jury how that was pulled down?
>
> A It was a tight-fitting hat and it covered his head and it came to the -- probably the top of his eyebrows. And it came above where his ear goes on about a half an inch to an inch.
>
> Q So it comes down to about his eyebrows and down around his ears; is that correct?
>
> A Well, no, behind his ears.
>
> Q It came behind his ears like right there? (Indicating)
>
> A I didn't see where it -- I didn't see behind him.
>
> Q And he had hair sticking out from the sides; is that correct?
>
> A Yes.
>
> Q About a half an inch of hair on each side?
>
> A Above his -- where his ear connects to his head.

Q So there was about a half an inch sticking out?

A Yes.

. . .

Q [Re-direct] Ms. Tobey, do you know what corn roles [sic] are?

A Yes. Braids?

Q Yes. From what you could see of the gunman can you tell if he had corn roles [sic] or not?

A No.

Q No, he didn't or you couldn't tell?

A The hat was covering his head. They [braids] weren't above his ears. There was just a small amount of hair sticking out about half an inch above his ears.

Q So could you see braids or not?

A No, I could not see braids.

. . .

Q [Re-cross] Ma'am, but you are sure that there was at least a half an inch of hair sticking out from underneath the cap?

A Yes.

(Appendix at 388-91).

Ms. Tobey testified that there was about half an inch of hair between the top of the shooter's ears and the bottom of his cap. She specifically denied seeing braids. As described by the Tenth Circuit, "Tobey could see 'about a half an inch to an inch' of the man's hair between his stocking cap and 'where his ear connect[ed] to his head.' Trial Tr. Vol. 4, at 117:4–5, 16. But she didn't see braids or corn rows." (Appendix at 192-93, 825-26). Ms. Tobey's testimony that the shooter's cap was pulled down such that she could see approximately ½ inch of his hair above his ears is in no way inconsistent with Mr. Jones being the murderer. Simply put, Ms. Tobey's statement that the

shooter had half an inch of hair *visible* beneath his cap is not the same as saying that the shooter had hair reaching half an inch *from* his head, as Mr. Jones implies. It is also worth noting that Mr. Jordan had sideburns, Mr. Jones did not, and Ms. Tobey made no mention of sideburns (Appendix at 192-93).

Further, Mr. Jones's attorneys did attempt to convince the jury that Ms. Tobey's testimony excluded him. The State elicited from Mr. King that Mr. Jones had a "low cut" and did not cut his hair between the murder and his arrest (Appendix at 451-52). Thus, State's Exhibits 97 and 98, which were before the jury, accurately depicted Mr. Jones's hair on the night of the murder (Appendix at 192-93, 451-52). The jury knew that Mr. Jordan had corn rows (Appendix at 193, 450). Defense counsel elicited from Mr. Jordan that Mr. Jones had short hair and Mr. Jordan's was longer (Appendix at 547-48). Ms. Presley also confirmed, when asked by the State, that Mr. Jones's hair was "[r]eally short." (Appendix at 577-78).

In closing argument, defense counsel argued that the correct interpretation of Ms. Tobey's testimony was that the killer had long hair that protruded from under the cap (Appendix at 610-12). He then added:

> You've seen the pictures of Mr. Jordan and Mr. Jones in this case. I want to show them to you again. This is the photograph of Mr. Jordan -- Mr. Jones. He does not have a half an inch of hair. His hair is short and cut close to the head. Mr. Jordan, on the other hand, while he has corn rolls [sic] up here he has longer hair. You can even see it sticking up on the top of his head in the part that is a little bit frizzy. I submit to you that Mr. Jordan had a bandanna on and a stocking cap around his head, that his hair would stick out. It would have to. There is no way, no possible, way, that the hair on Julius Jones' head would stick out a half an inch. It's physically impossible.

(Appendix at 612).

It is simply untrue that Mr. Jones's trial attorneys failed to put this theory before the jury. Mr. Jones's real complaint is that his attorneys failed to introduce into evidence a **booking** photograph of him taken on July 19, 1999 (Application at 11). While Mr. Jones's arrest for reckless driving on that date pales in comparison to some of his other crimes, it was quite reasonable of counsel not to inform the jury that their client had been arrested just over a week before he killed Mr. Howell. Perhaps more importantly, the booking sheet relied upon by Mr. Jones does not indicate the offense that led to the arrest (Application, Exhibit 32). Thus, jurors would have been left to speculate. This photograph was unnecessary in light of State's Exhibits 97 through 100, and the testimony of Mr. Jordan, Mr. King, and Ms. Presley. It also had the potential to harm Mr. Jones's first stage defense of actual innocence. Counsel reasonably declined to rely on it.

One final note on this issue: Petitioner asserts that Mr. Jordan "had long hair which would have stuck out from beneath a stocking cap." (Application at 12). Mr. Jordan's hair was indeed longer than Mr. Jones's, but it was braided (Appendix at 193). The braids were close to Mr. Jordan's head and Ms. Tobey did not see braids (Appendix at 193, 390). Aside from the braids, the hair above Mr. Jordan's ears does not appear to have been long enough to protrude from under a stocking cap (Appendix at 193).

Ms. Tobey's description accurately described Mr. Jones's build and the clothing he was wearing—clothing that was later found in his bedroom (Appendix at 402-04, 444-48, 543, 557, 609). And then there is the testimony of all of the other witnesses, the murder weapon found in his home, the bullets in his car, and the DNA. This argument over Ms. Tobey's testimony is a red herring.

MANUEL LITTLEJOHN AND CHRISTOPHER BERRY ARE NOT CREDIBLE

Mr. Jones claims that Mr. Jordan "admitted to two people that I wasn't involved in the murder." (Application at 13). Mr. Jones's trial attorneys thoroughly investigated Emmanuel Littlejohn's potential testimony and determined he was not credible (Appendix at 194-95, 199-201, 208-10). In fact, Mr. McKenzie believed Mr. Littlejohn to be a "pathological liar." (Appendix at 210). Mr. Littlejohn even took a polygraph, which was inconclusive (Appendix at 210).

Mr. Littlejohn had other felony convictions including a murder conviction (Appendix at 213-17). By the time Mr. Jones's case went to trial, he had been sentenced to death (Appendix at 214). Thus, Mr. Littlejohn had nothing to lose from testifying falsely on Mr. Jones's behalf (Appendix at 796). There was also abundant information calling Mr. Littlejohn's mental health into question (Appendix at 218-31).

Mr. Littlejohn is, indeed, a pathological liar as indicated by the testimony of a psychiatrist whom he hired, and who admitted that he exhibits "[d]eceitfulness, as indicated by repeated lying[.]" (Appendix at 232-36). Moreover, he had a motive to try to assist Mr. Jones in that Sandra Elliott, one of the Assistant District Attorneys prosecuting Mr. Jones, had also prosecuted him (Appendix at 227). Mr. Littlejohn's testimony would not have been credible, and the prosecution's cross-examination of him had a very real potential to damage Mr. Jones's defense team's credibility.

Mr. Jones also claims counsel should have called Christopher Berry, who was awaiting charges on (and later convicted of) first degree child abuse murder. Mr. Berry allegedly would have testified that he heard Mr. Jordan brag about shooting Mr. Howell (Appendix at 237-37). However, Mr. Berry never told anyone what he knew before trial (Appendix at 238, 835). Thus, it is entirely unclear how counsel were supposed to present his testimony.

In any event, unlike Mr. Littlejohn, Mr. Berry implicated Mr. Jones in the murder. Mr. Berry's affidavit states that Mr. Jordan referred to Mr. Jones as his "partner in the case[.]" (Appendix at 237, ¶ 5). The Oklahoma Court of Criminal Appeals determined that Mr. Berry was not credible, and that "Berry's affidavit suggests that Jordan admitted [Mr. Jones] was involved in the murder, while according to Littlejohn, Jordan denied that [Mr. Jones] had any involvement." (Appendix at 834). The OCCA further questioned how Mr. Jones's prior attorneys would have been aware of Mr. Berry's proposed testimony (Appendix at 835). 11. In light of these factors, this claim has been denied by three courts (Appendix at 803, 808, 825-35).

* * *

Mr. Jones's attempt to portray Mr. Jordan as the person who murdered Mr. Howell ignores all of the evidence presented at trial which corroborates Mr. Jordan's testimony. In particular, Mr. Peterson saw a man with corn rows driving the Cutlass at Braum's. Mr. Jordan could not have driven both the Cutlass and the Suburban away from the Howell's neighborhood. Thus, it stands to reason that it was Mr. Jordan's passenger who exited the Cutlass and stole the Suburban. Then there is the location of the murder weapon, Mr. Jones's ownership of a white shirt with dark trim, the bullets in Mr. Jones's car, and the DNA evidence.

Prosecutors often tell jurors that evidence is like a puzzle: the individual pieces fit together to form a larger picture (Appendix at 613-14). In this case, the picture is unmistakably clear. Mr. Jones wants this Board to focus on isolated pieces of evidence—those that were presented and those that were not—taken out of context. When the evidence is considered as a whole, as it must be, there is simply no doubt that Julius Jones murdered Paul Howell.

THERE IS NO CREDIBLE EVIDENCE THAT A JUROR USED A RACIAL EPITHET

Mr. Jones claims one of the jurors said "'they should just take the n***** out and shoot him behind the jail.'" (Application at 14). This claim is based on an affidavit from another juror, V.A. (although this juror's initials are now V.C, this letter uses her initials from the time of trial). It is not the intent of this letter to demean V.A. or suggest that she is anything other than sincere. However, there was a record made at the time of trial which proves her memory—almost twenty years later—is faulty.

During sentencing proceedings, V.A. reported to the judge that J.B. "made a comment that they should place him in a box in the ground for what he has done. And I just felt that that was a little bit quick and not quite impartial enough." (Appendix at 720-21). V.A.'s concern was that "we are not supposed to be deliberating yet at this point and I just -- I felt that may influence somebody or his opinion is not important right now." (Appendix at 723). V.A. again emphasized that she felt J.B. already had his mind made up (Appendix at 725).

V.A. reported that approximately eight to ten other jurors were at the table when J.B. allegedly made this comment and that others were probably able to hear it (Appendix at 721-25). Her recent affidavit confirms the comment "was said aloud in a group setting." (Application, Exhibit 29, ¶ 4). The following day, the trial court asked every juror whether they heard anyone else express an opinion as to the appropriate punishment (Appendix at 728-48). Not a single other juror heard what V.A. reported, and they confirmed that "without hesitation" (Appendix at 730-48, 768). J.B. did not remember making any such statement although he was not positive that he did not (Appendix at 749-64). The trial court brought V.A. back in, and she admitted that it was possible that the part of J.B.'s conversation she overheard was not related to the trial (Appendix at 765-67). At no point did V.A. indicate that J.B. or any other jurors used a racial epithet; nor did she refer to race as being an issue.

The trial court denied relief in light of the other jurors' testimony and V.A.'s admission that she did not hear the entire conversation (Appendix at 768-69). The Oklahoma Court of Criminal Appeals denied relief on Mr. Jones's premature deliberation claim (Appendix at 770, 787).

Mr. Jones's defense team then interviewed V.A. in 2018, at which time she claimed to have overheard a juror refer to Mr. Jones using a racial epithet. V.A.'s affidavit makes clear that, although she cannot now remember the juror's name, she "reported it to the judge", thus she is referring to J.B. (Application, Exhibit 29, ¶ 4). V.A. now indicates that she "paraphrased" the comment (Application, Exhibit 29, ¶ 5). Yet, at trial, she was asked to relate the comment "the best [she could] remember it." (Appendix at 766). V.A. replied: "They should put him in a box and put him in the ground after this is all over for what he's done. **That was what I heard.**" (Appendix at 766 (emphasis added)). Defense counsel asked, "And that's a direct quote, as best that you can remember?" (Appendix at 766). V.A. responded, "**Yeah, best I can remember.**" (Appendix at 766 (emphasis added)).

V.A. now indicates that she "felt that this juror had a bias that needed to be brought to the court's attention." (Application, Exhibit 29, ¶ 6). Yet, as indicated above, V.A. expressed concern that the juror had formed an opinion before hearing all the evidence, but never so much as hinted that the juror might harbor racial bias against Mr. Jones. V.A.'s current account conflicts with the record made at the time when her memory was fresh. There is simply no credible evidence that race played any part in Mr. Jones's trial.

This claim also contains another untrue statement by Mr. Jones, who claims "no court has ever considered how this issue made my trial and my death sentence unfair." (Application at 14).

In fact, although the Oklahoma Court of Criminal Appeals did not believe this claim was properly before it, the court also made the following findings:

> The only perceivable difference between Jones's original claim and his current claim is Juror V.A.'s new assertion that Juror J.B. made a racial epithet. Juror V.A.'s recollection of what was said by J.B. on February 27, 2002, was no doubt better on that day when she reported it to the trial court than it is now. Moreover, Juror V.A.'s concern with Juror J.B.'s alleged comment was obviously significant enough that she felt compelled to report it to the trial court. Thus, it is highly improbable that Juror V.A. neglected to add, during the trial court's investigation into the matter, that J.B. used a clearly offensive racial epithet or for that matter, failed to mention that another juror possibly engaged in similar conduct.

(Appendix at 836, 840).

* * *

To avoid unnecessarily burdening this Board, this letter deals only with the most pertinent allegations in the application. However, it is necessary to very briefly address the study discussed in the Oklahoma Death Penalty Review Commission's report which purports to have found racial disparities in Oklahoma's capital sentencing practices (Application at 14). A discussion of some of the flaws of the study can be found at Appendix pages 239-43. For present purposes, it suffices to say that the study was not limited to death-eligible homicides. Instead, it included everyone who was a **suspect** in every first and second degree murder, and first degree manslaughter. The study also failed to account for the presence or absence of aggravating and mitigating circumstances. This study can, in no way, be said to have accurately evaluated Oklahoma's death penalty scheme.

* * *

For all of the reasons above, we respectfully ask this Board to deny Mr. Jones's application for commutation without advancing it to the second stage. When Mr. Jones has an execution date,

he will have another opportunity to argue that his sentence should not be carried out through an application for clemency. However, the present commutation application fails to demonstrate that his sentence is excessive or unjust.

Respectfully Submitted,

Mike Hunter
Attorney General of Oklahoma