

CLAYTON LOCKETT

“IN REALITY I AM PROBABLY THE MOST DANGEROUS TYPE OF CRIMINAL” . . . “CAUSE IM AN ASSASSIN - POINT BLANK!”¹

Letters written by Clayton Lockett, a self-acclaimed assassin (App. 9-10, 30).

I. Procedural History

The evidence in this case shows that on June 3, 1999, Clayton Lockett kidnapped, beat and shot Stephanie Neiman. He then callously buried her in a shallow grave while she was still breathing and fighting for her life. The Oklahoma Court of Criminal Appeals (“OCCA”) summarized the evidence presented at the defendant’s jury trial as follows:

At around 10:30 p.m. on June 3, 1999, Bobby Bornt was asleep on the couch at his house in Perry, Oklahoma, when his front door was kicked in. Three men, Appellant [Lockett], Shawn Mathis and Alfonzo Lockett, entered his house and immediately started beating and kicking him. Bornt recognized Appellant because Appellant had recently covered a tattoo for him. Appellant was carrying a shotgun which he used to hit Bornt. After the beating, Bornt's attackers used duct tape to secure his hands behind his back and they gagged him and left him on the couch while they ransacked the house looking for drugs. As Bornt lay restrained on the couch his friend, Summer Hair, approached the open door. She was pulled inside, hit in the face and thrown against a wall. One of the men put a gun to her head and ordered her to call to her friend, Stephanie Neiman, who was outside sitting in her pickup. When Neiman came inside, they hit her several times to get the keys to her pickup and the code to disarm the alarm on her pickup.

The men put all three victims in the bedroom where Bornt's nine-month old son, Sam, had been sleeping. Alfonzo Lockett came into the bedroom and got Hair. He took her into

¹Quotes in this brief are printed as written by the authors. No grammatical or spelling corrections have been made.

the bathroom where he made her perform oral sodomy on him. He then took her into Bornt's bedroom where he told her to get undressed and he raped her. When he was finished, he left her there and Appellant came into the bedroom. He raped her vaginally and anally and he made her perform oral sodomy on him. When he was finished, he told her to get dressed and she went back into Sam's bedroom with the others. Alfonzo Lockett came into the bedroom and used duct tape to secure Hair's and Neiman's hands behind their backs. He also put tape across their mouths.

Appellant instructed Mathis to look in the garage for a shovel. When he returned with a shovel, the victims were loaded into Bornt's and Neiman's pickups. Bornt and his son were placed in his pickup with Appellant. Hair and Neiman were placed in Neiman's pickup with Mathis and Alfonzo Lockett. They took off driving with Appellant in the lead. They left Perry and drove to a rural area in Kay County. Appellant stopped on a country road where he got out of the pickup he was driving and went over to Neiman's pickup. He made Hair get out and go with him to a ditch where he raped her and forced her to perform oral sex on him. When he was finished, he took her back to Bornt's pickup. While Hair was sitting in the pickup, Mathis got her and took her back to Neiman's pickup where he made her perform oral sex on him. He grabbed her head and said, "In order for you to live, this is what you have got to do."

While stopped on the country road, Appellant told Mathis to get the shovel and start digging. When Mathis was digging in the ditch, Bornt heard Appellant say, "Someone has got to go." Neiman was taken to the hole dug by Mathis and Appellant shot her. The gun jammed and Appellant came back up to the pickup to fix it. While he was doing this, Bornt could hear Neiman's muffled screams. When the gun was fixed, Appellant went back down to the ditch and shot Neiman again. While Mathis buried Neiman's body, Appellant and Alfonzo Lockett warned Bornt and Hair that if they told anyone they would be killed too. They then drove both pickups to another location where they left Neiman's pickup. All of them rode back to Bornt's house in his pickup. Appellant, Mathis and Alfonzo Lockett dropped off

Bornt, his son and Hair at Bornt's house and they left in Bornt's pickup.

The following day, Bornt and Hair told the Perry police what had happened. Neiman's pickup and her body were recovered and Appellant, Mathis and Alfonzo Lockett were subsequently arrested. Appellant was interviewed by the police three times. The first time he terminated the interview and asked for an attorney. He later reinitiated the interview and although he denied shooting Neiman during the second interview, he confessed to having killed her in a third interview.

Lockett, 53 P.3d 418, 421-422 (Okla. Crim. App. 2002).

Based on this evidence, Lockett was tried and convicted of First Degree Murder in the District Court of Noble County, State of Oklahoma, Case No. CF-1999-53. At trial, the jury found the existence of five aggravating circumstances: 1) Lockett had previously been convicted of felonies involving the use or threat of violence; 2) Lockett knowingly created a great risk of death to more than one person; 3) the murder was especially heinous, atrocious or cruel; 4) the murder was committed for the purpose of avoiding or preventing a lawful arrest or prosecution; and 5) there exists a probability that Lockett would commit criminal acts of violence that would constitute a continuing threat to society (O.R. 932). *See* Okla. Stat. tit. 21, § 701.12 (1), (2), (3), (5) & (7). Lockett was sentenced to death (O.R. 933). Lockett was also found guilty of one count of Conspiracy, one count of First Degree Burglary; three counts of Assault With a Dangerous Weapon, three counts of Forcible Oral Sodomy; four counts of First Degree Rape, four counts of First Degree Kidnapping, two counts of Robbery by Force and Fear, all after former conviction of two or more felonies

(O.R. 817-818). The jury sentenced Lockett to 2,285 years and 90 days imprisonment for these non-capital crimes.

The OCCA denied appellate relief on direct appeal. *Lockett v. State*, 53 P.3d 418 (Okla. Crim. App. 2002). The United States Supreme Court thereafter denied certiorari review. *Lockett v. Oklahoma*, 538 U.S. 982 (2003). Lockett's state post-conviction appeal was denied on October 22, 2002. *Lockett v. State*, No. PCD-2002-0631, slip op. (Okla. Crim. App. Oct. 22, 2002) (unpublished). On December 9, 2003, Lockett filed in federal district court his § 2254 petition that is the subject of this appeal. On January 19, 2011, the district court denied federal habeas relief.

Lockett appealed the denial of federal habeas relief to the United States Court of Appeals for the Tenth Circuit. The Tenth Circuit affirmed the decision of the federal district court. *See Lockett v. Trammell*, 711 F.3d 1218 (10th Cir. 2013). Petitioner's request for rehearing and rehearing *en banc* was thereafter denied on May 28, 2013. *See Lockett v. Trammell*, No. 11-6040, *Order* (10th Cir. May 28, 2013). The United States Supreme Court denied certiorari review on January 13, 2014. *Lockett v. Trammell*, __ S. Ct. __, 2014 WL 102620 (2014).

Recognizing that Lockett had exhausted all state and federal appeals, the Oklahoma Court of Criminal Appeals set Lockett's execution date for March 20, 2014. Pursuant to Art. VI, § 10 of the Oklahoma Constitution, Lockett now seeks executive clemency from the Governor of the State of Oklahoma.

II. Statement of the Facts

A. The Murder.

Bobby Bornt met Lockett through a mutual friend, Ramon Gissandaner (Tr. 1510). Lockett charged Bobby twenty dollars to cover an old tattoo. Lockett also claimed he gave Bobby a twenty dollar bag of marijuana, but no evidence supported this claim. Bobby gave Gissandaner the twenty dollars to repay Lockett for his work (Tr. 1512-1513). About a week later, Lockett, together with his cousin Alfonzo Lockett² and friend Shawn Mathis, broke into Bobby's home.³ Lockett held a shotgun and hit Bobby with it - he continued beating Bobby for approximately fifteen minutes (Tr. 1519; App. 5). Bobby was beaten and bound while his nine month son cried in an adjacent room. As Lockett described it, Bobby was bleeding profusely (App. 111)⁴. Lockett proceeded to bind Bobby with duct tape, taping his feet together, his hands behind his back and stuffed a rag in his mouth (Tr. 1522). Lockett moved Bobby off of the couch and told Bobby he was bleeding on Lockett's couch (Tr. 1533). Bobby described Lockett as "in charge" and that Lockett directed both Alfonzo and Mathis

²Because Clayton Lockett and Alfonzo Lockett share the same surname, Alfonzo Lockett will be referred to as Alfonzo to avoid confusion.

³During Lockett's statement, he told police he intended on stealing Bobby's belongings and pawning them to account for the money Bobby owed him (App. 111). However, in a letter written after the murder, Lockett stated his intent was to kill Bobby (App. 29).

⁴Portions of Lockett's confession admitted at trial are attached to the appendix for this Board's review. Due to the length of the confession and the page limitations imposed by this Board, the State has selected portions of the statement where Lockett describes the events. As noted by the Tenth Circuit, testimony from Summer and Bobby do not support certain portions of Lockett's confession wherein he claims to have helped the victims - for example, he claims he held Sam to comfort him at times during the ordeal and that he massaged Bobby's legs. *Lockett*, 711 F.3d n.1.

in their actions (Tr. 1582). Summer Hair and Stephanie Neiman happened upon the crime scene in an effort to persuade Bobby to attend a party (Tr. 1664). As described above, Summer initially entered the house and was immediately attacked and beaten (Tr. 1672). She was forced to call Stephanie into the home and Stephanie was also beaten (Tr. 1682-1688). Summer was initially made to perform oral sex on Alfonzo and vaginally raped by Alfonzo (Tr. 1696-1701). After Summer was raped by Alfonzo, Lockett raped her vaginally, anally and ultimately forced Summer to perform oral sex on him (Tr. 1702 - 1705). After being raped by Lockett, Summer was taken into a room with Bobby, Stephanie and Sam (Bobby's son) (Tr. 1706). Summer and Stephanie were restrained with duct tape and eventually all four victims were taken from Bobby's house (Tr. 1712-1717). Bobby, Stephanie and Summer were told they were all three going to die, but that Sam would be dropped off at a shelter (Tr. 1734-1735, 1793). Before leaving Bobby's residence, Lockett forced Bobby to tell him where he kept a shovel, telling Bobby "fuck it Bobby - you gonna die anyway" (App. 111; App. 5).

Lockett freely admitted that his original plan was to take Bobby, Summer and Stephanie to the country and kill all three of them (App. 111). He claimed he did not plan on killing Sam. However, Lockett did not drop Sam anywhere and all four were taken to a remote location in the country (App. 2). When they arrived at the murder scene, Lockett took Summer from the truck and had her undress in a ditch (Tr. 1722). He vaginally raped

Summer and forced her to perform oral sex on him again (Tr. 1724-1725)⁵. Summer, Bobby and Sam were put in Bobby's truck and Stephanie was standing out in front of the truck (Tr. 1725-1726). According to Lockett, Bobby and Summer agreed not to report the crimes he had committed against them that evening (App. 111). Lockett stated that he decided to kill Stephanie because she would not agree to keep quiet (App. 111). Lockett kept Stephanie restrained and eventually made her walk down to a hole that Mathis was digging so they could bury her. Stephanie stood for approximately twenty minutes close to the area Mathis was digging (App. 111). Mathis asked Lockett if the hole was big enough and Lockett responded "what you gonna bury in there, a dog?" (App. 111). Lockett was holding a shotgun (Tr. 1731). This was being said and done in front of Stephanie (App. 111).

Summer saw Stephanie standing down in the ditch and heard a gunshot (Tr. 1728, 1732). After the first shot, Lockett returned to the truck claiming the gun had jammed and Summer eventually heard a second shot (Tr. 1733). Bobby testified that Lockett was excited (Tr. 1628). Lockett told police he could hear her pleading "oh God, please please" (App. 111). Bobby recalled Lockett, Alfonzo and Mathis laughing about how tough Stephanie was (Tr. 1629). He ordered Mathis to bury her, despite the fact that Mathis informed him Stephanie was still alive (Tr. 1572; App. 3-4)⁶. Lockett told police he could see her

⁵Summer was also made to perform oral sex on Mathis at the murder scene and Mathis told her "in order for you to live, this is what you have got to do" (Tr. 1746).

⁶Based on the condition of Stephanie's body and the graphic nature of the photographs taken at the medical examiner's office, the State included in the appendix only the medical examiner's diagram of the gunshot wounds that caused Stephanie's death (App. 6-7).

breathing while she was being covered in dirt (App. 111). Both Bobby and Summer were threatened that if they told anybody about the events, they too would be murdered (App. 111).

B. The Trial

At trial, Lockett's guilt was not disputed. He hardly could considering he confessed in a rather cold-blooded fashion and such confession was admitted in the State's case-in-chief during guilt stage proceedings. The Tenth Circuit referred to the confession as follows:

Throughout the videotaped confession, Mr. Lockett's demeanor was relaxed and conversational. He made no statements of remorse. The federal district court described the confession as "a step-by-step account of the evening," which Mr. Lockett delivered "[w]ith clarity, detail and the absence of emotion." *Lockett*, CIV-03-734-F at 14. Mr. Lockett explained that he initially planned to kill all of his adult victims so that the police would not find out that he had violated his probation by leaving his home county. He said that he ultimately decided to kill Ms. Neiman because she said that she would tell the police about his crimes. He calmly spoke of watching his accomplices bury Ms. Neiman while she was still alive, describing her coughing while the dirt hit her face.

Lockett, 711 F.3d at 1224; (App. 111; Tr. 1276-77).

Co-defendant Alfonzo, voluntarily spoke to police and led police to Stephanie's body (Tr. 1319, 1340, 1926). Evidence clearly established that Lockett was the ring leader of the crime. Lockett's trial attorneys' efforts were largely focused on sentencing stage proceedings to save him from the death penalty. However, based not only on the horrendous crime he committed, the overwhelming case in aggravation and his criminal behavior before and after

the crime establishing his disregard for authority, the jury determined the appropriate punishment was death. In fact, Lockett's utter disregard for authority is something still prevalent to the present day.

Aggravating Circumstances

To support its request for the death penalty, the State presented evidence of five aggravating circumstance during Lockett's sentencing stage proceeding.

1. Lockett had previously been convicted of felonies involving the use or threat of violence.

The State presented uncontested evidence that Lockett was a four-time convicted felon, two of which involved intimidation of state witnesses. *Lockett*, 711 F.3d at 1225-1226. Donald Chambray and Raphael Truyen both cooperated as witnesses against Lockett regarding one of the felony convictions, namely burglary (Tr. 2197; App. 17-18). Evidence established that Lockett physically assaulted Chambray and threatened Truyen that he was next (Tr. 2195-2201; App. 17-18). Truyen was sitting on his porch when Chambray approached him (Tr. 2197). Chambray had a busted eye, busted mouth and a busted nose (Tr. 2197). Chambray was holding his ribs and told Truyen that Lockett said to let Truyen know he was next (Tr. 2198). Lockett proceeded to drive by Truyen's house and yelled to Truyen that he was lucky he was at the house and that Lockett was going to get him (Tr. 2198; App. 17-18). Lockett's attorney acknowledged the jury that Lockett threatened to kill Chambray and Truyen (Tr. 2176). The facts of that actual conviction established Lockett stole nine firearms and three hunting knives during a burglary (Tr. 2191). The evidence

overwhelming established Lockett was previously convicted of a felony that involved use and the threat of violence to a person.

2. Lockett knowingly created a great risk of death to more than one person.

The State also presented overwhelming evidence that Lockett knowingly created a great risk of death to more than one person. Both surviving witnesses testified Lockett threatened to kill them (Tr. 1539, 1734-1735). Lockett himself stated that was his initial plan - the fact that he changed his mind is of no moment (App. 111). The legal requirements had already been satisfied. *See Smith v. State*, 727 P.2d 1366, 1373 (Okla. Crim. App. 1986) (this aggravating circumstance can be proven “where a defendant during the continuing course of conduct in which a murder is committed, threatens the life of another and has the apparent ability and means of taking that person’s life”).

3. Stephanie’s murder was especially heinous, atrocious or cruel.

Undisputed evidence established that Stephanie’s murder was especially heinous, atrocious or cruel when she was beaten, bound and driven to a remote location to die (Tr. 1531-1532, 1559-1561, 1683, 1708-1712, 1721). She was forced to watch as a grave was dug and was shot twice (1566-1571, 1731-1733). Stephanie was frightened and suffered, as evidenced by her moans and muffled screams after she was shot and laid suffering while Petitioner unjammed the shotgun so he could shoot her again (Tr. 1566-1573, 1732-1733). By Lockett’s own account, Stephanie suffered because she was buried alive. There is no doubt Stephanie's murder was especially heinous, atrocious and cruel.

4. **Stephanie's murder was committed for the purpose of avoiding or preventing a lawful arrest or prosecution.**

Overwhelming undisputed evidence established that Stephanie was murdered so that Lockett could avoid arrest or prosecution for his crimes. Of course the strongest evidence was App. 111).

5. **Petitioner is a continuing threat to society.**

Finally, evidence established that Lockett was a continuing threat to society. This was established by his repeated criminal conduct since he was a juvenile, his actions of making weapons while incarcerated and by his own statements through letters wherein he threatened the death of the surviving witnesses as well as his the two co-defendants (Tr. 2202-2207, 2212-2219, 2226-2235, 2243-2250, 2256; App. 9-16, 23-33). The district court summarized the evidence regarding Lockett's behavior while awaiting trial as follows:

Five letters were introduced (State's Exhibits 62-66). Two of the letters concern his co-defendant, Alfonzo Lockett. In the first letter, State's Exhibit 62, Petitioner tells his aunt that Alfonzo's life is in danger. Petitioner tells her that he has written his "homeboys" in the penitentiary and "they [are] waiting on him." Petitioner also states that he has "a lot guns stashed in an old house with bullets. Enough guns to start a war...." The second letter, State's Exhibit 66, is a copy of Alfonzo's statement to police. On the statement, Petitioner has written comments like "This is when he start givin it up!" and "Bullshit! That nigga aint telling tha truth. That nigga dry ass snitchin and railroading a nigga." Two of the letters, State's Exhibits 63 and 65, are written to Undersheriff Raymond Henry. In both letters, Petitioner complains about the treatment he is receiving from Undersheriff Henry's officers. In State's Exhibit 63, Petitioner tells Undersheriff Henry that he is "**probably the most dangerous type of criminal....**" In State's Exhibit 65, Petitioner

details his prior violent acts while incarcerated and tells Undersheriff Henry that he needs to be taken more seriously “because [he] aint in here for missing [S]unday school....” In the final letter, State's Exhibit 64, Petitioner discusses his gang affiliations and threatens the lives of three people, including the two surviving victims in this case. Petitioner states, “Cuzz Im a California Hoover Crip! We don't get down at all like these Hooverz from Oklahoma! Why you think so many niggaz beat cases out that way? **Cause Im an assassin—point blank!**”

Petitioner's threats to others were clearly relevant to the jury's assessment of continuing threat. Regarding the letters to Undersheriff Henry, the very implication made by Petitioner is that if Undersheriff Henry's officers do not start treating him better, Petitioner is going to retaliate (State's Exhibit 65: “I got to beg you to kill this tension ... before it escalates....”). Therefore, whether or not Petitioner committed these prior violent acts while incarcerated is a collateral issue. Even if the statements are untrue, Petitioner made them for the purpose of threatening the officers guarding him and they were therefore probative as to Petitioner's future dangerousness.

Lockett v. Workman, CIV-03-734-F, 2011 WL 10843368 *33-34, *slip op.* (W.D. Okla. Jan. 19, 2011)(emphasis added).

Some of the letters were written in a manner that are indecipherable to the average person. Sergeant Mike Sharp, with the Oklahoma City Police Department's Gang Enforcement Unit, reviewed the letters and has aided this board by translating same. As outlined in his letter, Sergeant Sharp has extensive experience in investigating and arresting individuals involved in the gang lifestyle (App. 19). Lockett's intentions were to hire hits on different people, including the two surviving victims, Bobby and Summer, and to seek revenge for the ones he feels “snitched” (App. 19-22). According to Sergeant Sharp, Lockett

appeared to be, or wanted the reader to believe, he was a high ranking gang member who had the power to allocate funds, order gang members to relocate and authorize certain people be killed (App. 19).

Both Bobby and Summer have expressed they feared then and fear now retaliation for Lockett's imprisonment and impending execution (App. 102-105). As the evidence so clearly demonstrated at trial, and as will be discussed below, Lockett's behavior since he has been incarcerated for this crime, clearly indicates that Lockett is a continuing threat to society. There can be no doubt that if given the opportunity to live within prison society, Lockett will continue to make weapons out of the materials available to him. He has proven this with his behavior since his arrest for this murder. Not only did Lockett destroy county property while awaiting trial, he made several weapons, i.e. saw blades, a tattoo gun, sharpened wires, shanks made from metal window frames he destroyed (Tr. 2205-2206, 2228-2231, 2233; App. 11). Lockett was angry that a jailer had discovered his escape plan, and he planned on using the sharpened wires to kill the jailer and take his keys (Tr. 2231). Lockett refused to return shower items after he showered, including razors (Tr. 2216-2219). Lockett was found in possession of a homemade shiv by Undersheriff Raymond Henry (Tr. 2290). Upon retrieving the shiv from Lockett, Lockett told Henry "you know that I could have stuck this in your fucking heart." (Tr. 2290; App. 11(referring to exhibit 68)). However, even in the securest facility, Lockett has been able to make homemade weapons and hide them in his cell (App. 52-56, 67-70, 93-94). There can be absolutely no question

the jury's determination that Lockett is a continuing threat society, most importantly prison society, is supported by his actions.

Mitigation evidence

Lockett's attorneys presented mitigation evidence through the testimony of seven witnesses. A summary by the federal district court is listed here:

In the second stage, Petitioner presented seven witnesses, five of whom gave testimony relevant to Petitioner's upbringing and mental health. Petitioner's stepmother, aunt, and uncle testified extensively about their firsthand knowledge of Petitioner's upbringing, home life, and childhood experiences. Through these witnesses, the jury was advised that Petitioner was abandoned by his mother at the age of three (Tr. XIV, 2355-56); that Petitioner's father was abusive (Tr. XIV, 2372-76, 2382-83, 2430, 2438-39, 2443-45, 2465-70, 2475); that Petitioner wet the bed and sucked his thumb as late as age 12 and was punished for it (Tr. XIV, 2357, 2363-65, 2430-31, 2473-74); that Petitioner's father was a drug user who did drugs in front of Petitioner and routinely caused Petitioner to get high by blowing marijuana smoke up his nose as early as age three (Tr. XIV, 2383, 2445, 2471); that Petitioner's father was a criminal who taught him to steal and would punish him if he got caught (Tr. XIV, 2376-80, 2436-38, 2480-81); that Petitioner's father encouraged sexual activity, walked around nude, and watched pornographic movies in front of Petitioner (Tr. XIV, 2384-87, 2428-29, 2432-33, 2472-73); that Petitioner acted out sexually as a child and may have been sexually abused by his brother (Tr. XIV, 2387-89, 2427-28, 2433); and that Petitioner idolized his father despite his apparent failings (Tr. XIV, 2369, 2470-71).

In addition to family members, two experts testified on Petitioner's behalf. Joyce Turner is a clinical social worker whose experience and training is in human behavior, i.e., "how things that happen to people impact their behavior in the roles that they fulfill as adults" (Tr. XIV, 2542-43). Ms. Turner

testified that both sexual abuse and child abuse have negative effects on children (Tr. XIV, 2543–44). “If what we are taught to expect from that primary caregiver is inconsistent abuse, if it's failure to nurture, then that's how you're going to view the world and what you're going to expect from people.” According to Ms. Turner, the ability to trust is eroded, one becomes suspicious of the real intentions of others, and anger builds up. Because it is unsafe to express anger, an abused child will “divorce [himself] from feeling” and repress the anger (Tr. XIV, 2552–53). Ms. Turner testified that the danger of built-up anger is that it will eventually flood out. Something will trigger memories of the abuse and aggression results (Tr. XIV, 2553–54).

Ms. Turner also testified about abandonment, particularly in the first three years of a child's life. Abandonment causes attachment problems and regressive behaviors, such as bed-wetting and thumb-sucking (Tr. XIV, 2545, 2555–58). Ms. Turner concluded that “[i]f a lot of extremely bad things happen to you very, very early on, that's going to have a lifelong impact. That's going to erode, you know, a healthy foundation of establishing relationships and understanding what a healthy relationship even is” (Tr. XIV, 2558).

Petitioner's other expert was Dr. John R. Smith, a psychiatrist. From his examination and evaluation of Petitioner, which included information obtained by Ms. Turner, Dr. Smith concluded that Petitioner “had been severely damaged psychologically” (Tr. XV, 2629, 2631). Dr. Smith testified that “if you are traumatized during childhood by abandonment, by neglect, by physical or sexual abuse, that will affect the way your brain evolves and develops. If you are again traumatized in adolescence, that may add another piece to the puzzle of understanding adult brain function” (Tr. XV, 2634–35). Dr. Smith related to the jury once again the emotional and physical trauma Petitioner suffered growing up. He also discussed Petitioner's incarceration in an adult correctional facility at the age of 16 and that while in prison, Petitioner was raped by three men (Tr. XV, 2637–43).

Dr. Smith concluded that Petitioner is mentally ill and suffers with symptoms of posttraumatic stress disorder. Dr. Smith described Petitioner as disconnected from his feelings, insecure, anxious, depressed, and vulnerable. He found that Petitioner sometimes distorts reality (Tr. XV, 2648-49). In addition to a mental disorder, Dr. Smith diagnosed Petitioner with a personality disorder as well. Through his upbringing, Petitioner had learned antisocial attitudes and behaviors, i.e., "toughness," "gangness," and "meanness" (Tr. XV, 2665).

Regarding Petitioner's actions on the night of the crimes, Dr. Smith believed that Petitioner's past experiences influenced his behavior.

Based on what I have told you about my understanding of Clayton, he would have found it, number one, easier to get enraged with a woman than a man because his very earliest rage and hurt was from women. And he is kind of dissociated. He has lack of empathy at times. He would have found it immensely difficult to tolerate this kind of aggression and pushing from anyone and especially in front of people that he considered his brothers. You could not possibly—I don't think he could have allowed that degree of humiliation to go on without responding to it, even if he didn't want to. Partly because of other people watching him and seeing him. And then, the rage that came up.

There is some evidence that I have heard that he tried to find a way out of this. And, in fact, I guess, did allow two of the potential victims to go free. He was touched, in fact, in my opinion, primarily by their quickness and willingness to agree, we are not going to tell anybody, but he was also touched by them both having children. Clayton having been abandoned, knowing what it's like to go without mothering, knowing what it's like to go without any decent parenting, he is

still very empathic towards children; that's one of his strong points and one of the decent points in his life.

But I think that because of his background and history, the terror of going back to prison, his immediate inability to find a way out for himself, which would allow face, I think all of those things emotionally contributed to his going ahead and killing this young woman. (Tr. XV, 2663-64).

Lockett, 2011 WL 10843368, * 16-18.

The jury was instructed on 43 mitigating factors that they should consider prior to assessing punishment (O.R. 906-908). The jury obviously found the overwhelming aggravating circumstances outweighed the mitigating evidence and sentenced Lockett to death. Since his death sentence, Lockett has continued to show absolutely no respect for authority, poses great security risks for correctional officers by failing to obey orders and destroying property, intimidates from behind the walls of death row and continues to disregard the rules and regulations mandated for the safety and welfare of not only correctional guards, but prisoners alike (App. 51-96).

III. The Appeals

Lockett has made two primary claims throughout his appeals, i.e., that he was denied a fair sentencing proceeding because the trial court limited the testimony of mitigation witness Joyce Turner and that he was prejudiced by the admission of victim impact testimony. Both of these claims have consistently been rejected by the courts.

1. Limitation of Joyce Turner's testimony

Lockett's claim on appeal that the limitations placed on Turner's testimony denied him a fair sentencing proceeding has been denied by all the reviewing courts. The final court to review this issue held as follows:

Our careful review of the record leads us to conclude that the erroneous limitation on Ms. Turner's testimony did not have a "substantial and injurious effect" on the jury verdict.

We discern in Mr. Lockett's arguments three possible ways in which the excluded portions of Ms. Turner's testimony could have influenced the jury's decision. First, did missing factual details prevent the jury from genuinely understanding the context of Mr. Lockett's childhood experiences? Second, did the absence of Ms. Turner's explicit opinion testimony that Mr. Lockett's adult criminal behavior was connected to his childhood trauma prevent the jury from understanding that this connection may have existed? Third, could the jury have inferred from Ms. Turner's failure to draw this explicit connection that she did not believe such a connection existed?

a. Missing Facts

We do not harbor significant doubt as to whether the handful of missing facts had a substantial and injurious effect on the jury's decision. Jurors heard substantial evidence that would have allowed them to understand the context of Mr. Lockett's childhood. The few missing details were not significantly different from the numerous details introduced through the testimony of Mr. Lockett's family members. For example, jurors did not hear that Mr. Lockett's father pointed guns at his family, but they did hear that his father routinely and severely beat his family members, that he was a criminal who taught young Mr. Lockett to commit crimes and punished him for getting caught, and that he showed Mr. Lockett pornography and forced him to do drugs when he was a young child.

Although the missing facts were relevant to mitigation, they were not significantly different in kind from the many facts the jury heard. They represent cumulative evidence of severe child abuse and poor parenting. We therefore harbor no significant doubt about the effect of these missing facts on the jury's sentencing decision.

b. Missing Opinion

We also do not harbor significant doubts as to whether the omission of Ms. Turner's expert opinion about Mr. Lockett had a substantial and injurious influence on the jury's decision. Taken together, the mitigating evidence, including Dr. Smith's testimony, was sufficient to allow the jury to understand how and why childhood trauma may influence adult behavior. Although she was not able to explicitly state her opinion that Mr. Lockett's adult crimes were tied to childhood trauma, her general testimony pointed to these conclusions.

For example, Ms. Turner testified that abuse and abandonment, especially in the first three years of life, erode children's sense of trust and safety and cause "a buildup of repressed rage" that may eventually release in the form of aggressive behavior. Aplt. Br. at 20. The jury likely understood that these points related to the testimony from Mr. Lockett's family members about the abuse and abandonment he experienced in childhood, including the first three years of life.

Dr. Smith reinforced this connection, testifying that Mr. Lockett was mentally ill as a result of his childhood trauma, which influenced his criminal acts. Dr. Smith testified at length to specific connections between Mr. Lockett's childhood and adolescent trauma, on the one hand, and his brain development and adult criminal behavior, on the other. He told the jury that as a 3-year-old child, Mr. Lockett was abandoned by his mother and "found on [his father's] doorstep, urine-soaked," and that Mr. Lockett's father frequently stripped him naked and beat him with belts or boards. Tr. Vol. XV at 2637. Dr. Smith told the jury that this type of early childhood trauma "may affect the neuron connections in the brain," which in turn control how he

“integrates, perceives, and expresses [himself] throughout life.”
Tr. Vol. XV at 2633.

According to Dr. Smith, this trauma caused him to develop “an extremely deep mistrust of human relationships.” *Id.* at 2642. This led Mr. Lockett to join a gang, which gave him a sense of belonging but also taught him criminal behaviors and “deviant” values. *Id.* at 2643. Dr. Smith said that beneath his “cloak of gangland meanness,” Mr. Lockett was “very insecure, full of anxiety” and often felt “very vulnerable.” *Id.* at 2649.

Dr. Smith testified that Mr. Lockett had been raped in prison by a group of three men when he was 16 years old and that this experience, along with possible early childhood sexual assault, may have led him to “repress[] or dissociate[]” his sexual assault of Ms. Hair. *Id.* at 2647. Dr. Smith also offered an explanation for why Mr. Lockett allowed two of his victims to live while killing Ms. Neiman: Mr. Lockett may have become enraged at Ms. Neiman's defiance because “his very earliest rage and hurt was from women.” *Id.* at 2663. Dr. Smith suggested that Mr. Lockett did not kill Mr. Bornt and Ms. Hair because “he was touched ... by their quickness and willingness to agree” not to report him and because they had young children and Mr. Lockett knew “what it's like to go without mothering ... [or] decent parenting.” *Id.* at 2664.

In short, Dr. Smith offered a clear and emphatic opinion that Mr. Lockett's crimes were linked to his childhood and adolescent trauma. We therefore do not harbor significant doubt as to whether the absence of Ms. Turner's opinion on the issue affected the jury's sentencing decision.

c. Potential Negative Inference

Mr. Lockett's strongest argument relates to the third question: whether the jury may have drawn a negative inference from Ms. Turner's missing analysis. Mr. Lockett argues that upon hearing Ms. Turner's extensive testimony about hypothetical effects of childhood trauma on individuals, the jury likely expected her to conclude that, in her expert opinion, Mr.

Lockett's childhood trauma was connected to his adult behavior. When this opinion did not come, Mr. Lockett argues, the jury may have drawn the false conclusion that Ms. Turner did not believe there was such a connection.

But this potential negative inference does not overcome our highly deferential standard of review. Although it may have been possible for jurors to conclude that Ms. Turner believed Mr. Lockett's actions were not linked to childhood trauma, another inference was just as likely: that Ms. Turner did not testify to specifics because she was not familiar with Mr. Lockett's individual situation and that it was the role of the other expert witness, Dr. Smith, to provide these specifics. It is also possible that jurors did not draw any particular inference about what was not included in her testimony.

Moreover, even if jurors did draw a negative inference, it is not likely to have substantially influenced their verdict in the context of all aggravating and mitigating evidence. Mr. Lockett presented four witnesses in mitigation. As the State argues, "the jury was well aware of the trials and tribulations [he] faced growing up." Aplee. Br. at 13. His mitigating evidence was countered by extensive aggravating evidence, including the testimony of Dr. Call and evidence of Mr. Lockett's jailhouse misbehavior (e.g., making weapons and making threats about his surviving victims). Furthermore, certain evidence presented during the guilt phase no doubt influenced the jury's sentencing decision. The jury viewed a videotape of Mr. Lockett's matter-of-fact confession and saw and heard detailed testimony from two surviving witnesses. In the end, the jury found the presence of five aggravating factors beyond a reasonable doubt.

Viewed in this context, we do not find ourselves "in grave doubt" about the effect of the suppressed portions of Ms. Turner's testimony on the jury's sentencing decision. We therefore affirm the district court's refusal to grant Mr. Lockett relief on this ground.

Lockett, 711 F.3d at 1232-35 (citations to authority omitted).

Even more telling than the courts' rejection of the claim, is letters between Lockett and his father that indicate the abuse allegations are not even true (App. 39-50). Attached in the appendix are a series of letters between Lockett and his father, John Lockett, wherein Lockett says:

Oh yea, what were you saying about someone trying to bring up something about some child abuse? What was that about? I know Ro ain't going to say anything bad about you. That's part of the reason the jury wasn't **buying our story**, because Donna was saying that you abused us severely and the psychiatrist said that none of the boys would admit to that. Uncle Wayne testified for me also. He said that he wasn't around any child abuse. I told my lawyer that Donna wasn't going to be a good witness for us. But he swore he knew what he was doing. The DA brought up dope charges and shit. It was a circus Dad for real! (App. 46-47).

In response, Lockett's father wrote:

... D.H.S. has stopped bugging me I guess they figured out that Donna lied about me sexually abusing you John and Mario, they want to know why Tonys name never came up and I raised him too. I think Connie set them straight because Bruce and Hobart didn't go for that shit but its still in my jacket man im pissed at Donna now I got to carry that around with me for the rest of my life. (App. 49-50).

In short, the several courts who considered the evidence, true or not, found the omission of same was harmless error. Considering the crux of the evidence supporting the claim is likely not true, such should not factor in this Board's consideration for clemency.

2. Victim Impact Evidence

The other predominant theme of Lockett's appeals is that his sentencing was rendered unfair by the admission of victim impact testimony. Lockett claimed that a sentence recommendation and a description of the crime influenced the jury's death sentence. In the punishment stage proceeding, Robin Neff, the cousin of the victim's mother, read the victim impact statement prepared by the victim's mother and father (Tr. 2315-2324). In the statement, the Neiman's described how they became worried because their daughter had not come home the night before and did not show up to have lunch with her father (Tr. 2316). They checked with friends and places Stephanie would go but were unable to locate her, so they went to the police station (Tr. 2316). The Neiman's were told that the police heard she was kidnapped and shot (Tr. 2317). The following recitation of the facts of the crime and recommendation of punishment was read to the jury:

The police told me what had happened. Stephanie gave Summer a ride to Bobby Bornt's house. When Stephanie went in, they tried to get her truck keys. They have a struggle. Stephanie is not going to give up her truck keys, because she's very proud of her truck. She has worked very hard to get what she's got. She has a new truck, and she works every day. So, of course, she's not going to give up her truck. So, they have a struggle. The next thing she knows, Clayton hits her over the head with a shotgun. They tell me that they duct-taped Stephanie's hands and mouth where she cannot scream or yell at them anymore. That because Stephanie is going to stand up for her rights no matter what. She's going to stand up for what she's worked for and what she believes in (Tr. 2318).

Stephanie did not know these boys. Stephanie didn't know him, didn't owe him anything. She stood up for what was her right and for what she believed in. And when Clayton asked her if she would tell, she said, yes, she would tell. Right is right and wrong is wrong. Maybe that's what Clayton was so scared of, because Stephanie did stand up for her rights. She did not back down to him. She did not blink an eye at him (Tr. 2319).

We raised her to work hard for what she got. I think that's the reason she fought so hard for her truck that night. Because she worked so hard, she didn't want anybody to take it from her. (Tr. 2320).

However, for killing our only child, Stephanie, we ask this jury to sentence him to death.

(Tr. 2324). The OCCA found that although some of the victim impact testimony was improper, it "did not have such a prejudicial effect or so skew the presentation as to divert the jury from its duty to reach a reasoned moral decision on whether to impose the death penalty." *Lockett*, 53 P.3d at 427⁷.

The district court concluded the error harmless based on the overwhelming evidence of guilt, Lockett's confession, the surviving victims' testimony and the overwhelming evidence supporting the aggravating circumstances. The district court described the statement as follows:

⁷The Honorable Charles Chapel concurred in the results, finding the sentence of death was sufficiently supported by the aggravating circumstances. *Lockett*, 53 P.3d at 431.

The victim impact statement was a single statement read to the jury by one other than Ms. Neiman's parents. The characterizations of the crime contained therein were reflections of the well-established evidence received in the first stage. The recommendation for a death sentence was direct and but [sic] concise. As to its consideration of this evidence, the jury was instructed that the evidence could be considered in determining an appropriate sentence, but that "consideration was limited to a moral inquiry into the culpability of the defendant, not an emotional response to the evidence. Under these circumstances, the Court cannot conclude that the improper portions of the victim impact statement had a substantial and injurious effect on the jury's determination of an appropriate sentence.

Lockett, 2011 WL 10843368 at *24.

The Tenth Circuit found the testimony in the case was not prejudicial and affirmed the district court's finding that the error was harmless. *Lockett*, 711 F.3d at 1240. As both courts correctly noted, the delivery of the victim impact statement was "more pallid than might have been expected and not nearly as inflammatory as they, under the facts of this case, could have been." *Lockett*, 711 F.3d at 1238-1239. The Tenth Circuit found "the description of the crime was brief and devoid of color or inflammatory language." *Id.* at 1239.

The evidence fully supported the characterizations of the murder and demonstrates the above courts' holdings were wholly reasonable. The jury could not have reached any conclusion but that each aggravating circumstance alleged by the State was met with overwhelming evidence. Accordingly, although a portion of the statement read may have been improper, it cannot be said to have influenced the jury's sentencing decision.

Respondent would also point out that the jury was instructed by the trial court not to let sympathy, *except for Lockett*, enter into its deliberations. (O.R. 912) (emphasis added). The jury was also specifically instructed on the limited role of victim impact evidence, including an admonishment that its consideration of the evidence must not be based on emotion, but only on “a moral inquiry into the culpability of the defendant” (O.R. 902). In light of the above, this Board should have no doubt that the victim impact testimony in this case did not improperly influence the jury’s decision to impose the death penalty. Accordingly, Lockett is not entitled to executive clemency.

IV. The Aftermath

Lack of remorse

Lockett has never shown any remorse for his actions. In a last minute effort to save his life, Lockett wrote a letter he claimed was intended for the Neimans, offering his apologies and claimed he murdered their daughter because he was fearful of her and jealous of her confidence and fearless traits - something she represented and he had strived so hard to become, but failed (O.R. 982-985).

The truth of why this happened is not over twenty dollars or because I thought that Stephanie would report my crimes to any law enforcement. The truth is deep down I feared Stephanie, I feared her because she was so strong in the face of death. She was confident and fearless, bold and brazen, utterly audacious and indomitable! To me she represented everything that I tried so hard to become, but could not. . . .

(O.R. 982).

Please realize that before I get to far into this that I am by no means trying to manipulate my way out of receiving the death penalty, in fact if it will compensate for the lose of your child's life and ease your pain I will lay my life down a thousand times over. . . .

(O.R. 983).

The defendant filed a Motion for Allocution (O.R. 451-454, 980). Allocution is a defendant's unsworn statement to the sentencing jury that is not subject to cross-examination. During his statement the defendant can ask for mercy, explain his actions, apologize, or say anything to the jury in an attempt to lessen the impending sentence. The above letter was filed with the Court as an offer of proof to show that if the trial court would have granted Lockett's Motion for Allocution, this is what he would have read to the jury prior to sentencing (O.R. 980). However, these written claims of remorse ring hollow when compared to the letters written by Lockett. Lockett described the district attorney as a fool, stating "I told that fool that I did shoot that bitch." (App. 30). He detailed personal information about both surviving victims, including social security numbers and birthdates, and that neither could hide from him (App. 29-31). He stated that his initial intention was just to "put a bullet in" Bobby and was hoping to catch Bobby with his ex-girlfriend Jessica - stating "she was gone get done real, real bad! And she still is. Her ass better get the fucc out of Perry cause my little brother coming down here from San Diego and niggaz think I was crazy then wait till cuzz get here! He already on the run from New Orleans for murder. It'z gone ce on and cracking and Bobby and Jessica first on his list." (App. 29).

When talking about Stephanie, he said “the big bitch was like Fucc yeah she was gone tell. So I went on and put her ass on ice!” (App. 30-31). He described that fellow gang members had attended his last court date and some had weapons hidden under their clothing (App. 31-32). He fills the remainder of the letter with words showing his utter lack of respect for authority and callous bragging about the havoc he caused and continued to cause (App. 32-33).

After being sentenced, Lockett wrote a letter to his brother George. A few sections are highlighted here for this Board’s review:

These foolz done gave a Gee 2385 years plus death! Now how tha hell that shit sound? Yeah tha jury had a major hard on for a Gangster cuzz. I aint too much leanin on it, I got cool appeal action! Cuzz I’m tha only nigga in tha whole damn courtroom! That’s why theze foolz had they way with a loc! . . . They need to bring thiz shit on loc! Got a nigga stucc up here waitin to be sentenced.

* * *

Cuzz I read three of you letterz fo tha first time in court! They got all our letterz up in court talkin bout gang violence! Ask you lil’bro theze billiez be on a major one loc! They ass is way out there! Swear to God I was gone have some niggaz storm tha court house!

(App. 34-36). There is absolutely no shed of remorse and any proclaimed remorse was for self-preservation.

Behavior while in the department of corrections

Attached in the appendix are various misconducts Lockett has received since his incarceration for this murder. The following is a short summary of the violation and Lockett's response thereto:

- December 3, 2002 - possession/manufacture of contraband - 3 foot aluminum walking cane that had been sharpened to a point (App. 52-56).
- January 17, 2003 - destruction of property (flooded dayroom by destroying sprinkler head) - signed offense report as Daffy Duck Sr. (App. 57-60).
- January 21, 2003 - disobedience to orders (refused to wear cuffs to the shower) - signed offense report as Daffy Duck (App. 61-62).
- April 14, 2003 - battery (Lockett threw feces and urine on correctional officer who was serving him food) - during investigation Lockett stated to the investigating officer "Fuck this Kangaroo court, next time it will be a knife" (App. 63-66).
- April 18, 2003 - possession/manufacture of contraband - 11 inch sharpened plastic knife sharpened to a point and a 23 inch hand made club (App. 67-70).
- April 30, 2003 - individual disruptive behavior (jammed the locking device on the food passageway) - officer attempted to lock it and Lockett kicked it open and stated if it was fixed he would "just jam it again" (App. 71-73).
- May 4, 2003 - individual disruptive behavior (jammed the locking device on the food passageway) (App. 74-76).
- July 7, 2005 - disrespect to staff - when ordered to return to his cell, Lockett stated "Fuck you I don't have to" (App. 79-80).
- July 7, 2005 - disobedience to orders (refused to exit bottom run of SW-3-quad) (App. 77-78).
- July 7, 2005 - hindering staff in the performance of duties (refused to lock down) (App.81-82).

- October 5, 2007 - disobedience to orders (refused to stand up for count) (App. 83-84).
- October 14, 2007 - disrespect to staff - refused to cooperate with count - Lockett requested to cooperate and he came to the door and stated "Get your bitch ass down the run" (App. 85-86).
- October 21, 2007 - disobedience to orders - refused to cooperate for count (App. 87-88).
- April 26, 2008 - disobedience to orders - refused to cuff-up so that cell could be shook down (App. 89-90).
- April 30, 2008 - disobedience to orders - refused to lock down from the yard (App. 91-92).
- December 3, 2009 - possession of contraband (sharpened piece of metal) (App. 93-94).
- May 13, 2013 - possession of a cell phone - Lockett refused to cooperate in the investigation (App. 95-96).

Lockett has continued to threaten the lives of correctional officers who are responsible for his well being while being incarcerated. To those who feed him, he expresses his gratitude by throwing urine and feces on them and jamming the food hole (App. 63-66, 71-76). To those who give him an opportunity to explain his conduct, he tells them "Fuck this Kangaroo court, next time it will be a knife." (App. 65). Lockett was apparently going to make good on this threat - his next misconduct, merely four days later, was for possession/manufacture of contraband, namely a handmade 11 inch shank and a 23 inch club (App. 67-70). Lockett has absolutely no respect for authority and has continued to mock the system, signing notifications of disciplinary actions as "Daffy Duck" (App. 52-63, 66).

Lockett is housed at what is considered the most secure facility in Oklahoma, but informs the guards he does not have to lock down, stand for count or return to his cell (“Fuck you I don’t have to” and “Get your bitch ass down the run”). As far as Lockett is concerned, rules do not apply to him and he will continue to threaten the safety of correctional officers and inmates alike. Lockett has the reputation of being aggressive - to the point that other offenders refuse to share a cell with him (App. 51). Refusing to cell with an inmate is considered an infraction, thus such misconduct will result in the offender being placed in a lock up unit, level demotion or could result in the refusing offender losing all property (App. 51).

Mental Health

To date, no mental health expert has diagnosed Lockett with an Axis I diagnosis. At trial, Dr. John R. Smith testified that Lockett had elements of posttraumatic stress disorder from the abuse he suffered over his life (Tr. 2691, 2696). Further, Dr. Smith specifically rejected Axis I diagnoses of dissociative identity disorder, multiple personality, manic disorder, and bipolar disorder (Tr. 2657-2658, 2691-2692, 2694-2695). Dr. Smith testified Lockett did not suffer from brain damage and was not insane at the time of the crime (Tr. 2625-2627, 2658-2659, 2691). When asked if Lockett was a psychopath, Dr. Smith stated “we don’t really call them psychopaths. I think he has some antisocial traits.” (Tr. 2698). Dr. Smith opined that Lockett was damaged psychologically and exhibited symptoms of posttraumatic stress disorder (Tr. 2631, 2647-2648, 2691, 2695-2696, 2698). Dr. Smith

testified that Lockett was not suffering from a severe psychotic disorder when he murdered Stephanie (Tr. 2659). Dr. Smith stated that Lockett did not fit any of the psychiatric diagnoses in the DSM IV (Tr. 2706-2707). Dr. John Call diagnosed Lockett as having antisocial personality disorder, an Axis II diagnosis, and as a psychopath (Tr. 2744, 2747-2750).

Although Lockett's trial counsel did explore the possibility of presenting an insanity defense, he explained to the trial court that "statements and examination of [Lockett's] doctors and expert witnesses" did not support that Lockett was insane at the time of the crime - Lockett's trial attorney stated "I can't bring it if my doctors don't believe it" (Tr. 1218). On appeal, Lockett claimed his trial counsel was ineffective for failing to "marshal and direct the evidence of [his] mental illness into a coherent defensive strategy." *Lockett*, 53 P.3d at 425. Both the OCCA and the Tenth Circuit rejected this claim. *Id.* and *Lockett*, 711 F.3d at 1252.

V. Victim Impact

The State has made part of its appendix for the Board's consideration photographs of Stephanie and a victim impact letter that describes how the murder has continued to impact Stephanie's family. The photographs and letter provide a brief glimpse of the loss and grief that has been felt by Stephanie's family, due to the cold and calculated crime committed by Lockett. (App. 1,97-101). Also included in the appendix are photographs and letters from the two surviving victims, describing the impact the crimes committed against them and

witnessing the murder of a longtime friend has had on their lives (App. 8, 102-107). Both victims have continued to live in fear and with the anguish Lockett inflicted upon them and Stephanie the night of this senseless murder. Finally, Lieutenant David Farrow and the prosecutor, former District Attorney Mark Gibson, submitted letters for this Board's review (App. 108-110).

VI. Conclusion

As shown above, there is no doubt that Clayton Lockett is responsible for the brutal murder of Stephanie Neiman. Lockett murdered Stephanie without mercy, ordered Stephanie to be buried alive, joked about how tough she was and continued to characterize her with demeaning language well after the murder. Lockett's actions are deserving of the death penalty. In the numerous appeals filed by Lockett over the last thirteen years, the state and federal courts have consistently affirmed the jury's determination. It is now time for justice to be served. The State therefore respectfully requests that Clayton Lockett's request for executive clemency be denied.

Respectfully submitted,

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