

January 30, 2018

Reference: Raymond Tibbets Clemency

Dear Governor Kasich,

I am writing to ask you to show mercy to Raymond Tibbetts by commuting his death sentence to life in prison with no possibility of parole. This is not an easy request for me as I was a juror on the trial for that horrible crime.

Governor, I have only ever served on one jury. I believed then, and I still believe, that jury service is a duty that upholds our Constitutional system. My only service as a juror happened to be on a very gruesome murder case. Although this service was 20 years ago it has had a deep and sustained impact on me. I have very good recall of the experience to the extent that I remember the feel and odor of some of the evidence we examined during deliberations. This experience was so impactful that I have periodically checked the internet for public information related to appeals and other proceedings.

Last week I read an article about an inmate that is suing to have death by firing squad rather than by lethal injection. The only connection to this letter is that it caused me to research any updates on Raymond Tibbets proceedings. I learned that Tibbets execution date is scheduled for February 13, 2018. My first thought was introspection on how long the process from conviction to execution takes. I then saw links to publicly available information on the case including the most recent clemency hearing. After reviewing the material, from the perspective of an original juror, I have deep concerns about the trial and the way it transpired. This is why I am asking you to be merciful. This is not about my conscience beyond having an opportunity to explain how I believe the trial process was not well served in this case.

From the beginning the jury knew that if the defendant were found guilty of the crimes as charged that there would be a second or sentencing phase of the trial. We understood that there is a legal subtlety in Ohio where the Judge may sentence the guilty to death on recommendation of the jury following the sentencing phase. As the trial unfolded based on the evidence there was never any doubt as to whether Tibbets committed the murders. When the case was handed to the jury it was unanimous from the first vote that nobody doubted that Tibbets committed the murders. The jury did deliberate for sometime about whether both murders should carry the possibility of the death penalty. We decided based on discussion that the murder of Judith Sue Crawford was fundamentally different from that of Fred Hicks. The Fred Hicks murder was obviously pre-meditated and planned to eliminate a potential witness. Our doubt on the Judith Sue Crawford murder, despite its gruesome nature, stemmed from the real possibility that it was a crime of passion as the result of domestic arguing. We recommended life in prison without parole for

Ms. Crawford, and possible capital punishment for the Mr. Hicks murder. Given that we as the jurors were suggesting a possible death penalty we prepared for a sentencing phase that might be as long as the original trial. It turned out that the concern was unwarranted, we did not have to prepare for this.

During the sentencing phase the defense called Dr. Weaver a psychiatrist to explain any mitigating circumstances whereby the jury might not recommend death in the Mr. Hicks murder. Testimony was offered by way of mostly anecdotal stories that Tibbets had a tough upbringing related to inattentive parents and poor foster care. These circumstances may have led to abuse of alcohol and drugs at an early age. Testimony was offered concerning the impact of crack cocaine mixed with alcohol and the extent that might have impacted Tibbets awareness of what he was doing. We also learned more scant detail about Tibbets siblings. The prosecutors dismantled mitigating circumstances based on the argument that lots of people with troubled childhoods do not become murderers. They also strongly implied that Tibbets siblings turned out fine. Essentially implying that despite similar upbringings the other four overcame their challenges and were leading good lives. Dr. Weaver was dismissed. I can only speak for myself but I do not believe I was the only one shocked that day when not another witness was called to offer any mitigating circumstances that might cause the jury to make a determination that execution was not appropriate. We were dismissed and provided with some paper copies of some old case reports related to foster care. At the time the material seemed hastily prepared but I did not draw any other conclusions.

In the jury room there was, from what I remember, a super majority of recommendations for death. Myself and at least one other juror however expressed strong feelings that we should take time to have a discussion and give everyone an opportunity to express an independent point of view, given the gravity of the situation. The reality seemed to come down to the single question of whether Tibbets upbringing was such that his life should be spared. Although we were aware of the history of drug abuse we also recalled that there was time in his recent past that Tibbets had a job and was seemingly headed in the right direction. We were aware that he had an injury that required prescription pain killers. I recall that the evidence that Ray was capable of holding a job and staying clean at least for a brief time worked against him in the discussion of his upbringing, in that it seemed to demonstrate that his childhood circumstances must not have been that permanently damaging. The impact of a troubled childhood will have different weight with each juror. It carried weight for me and the one other juror I mentioned previously. We initially voted for life without parole. Based on the totality of the information that was available to us, and the fact that there was not one other person willing to speak to mitigation beyond a psychiatrist with very limited knowledge of Tibbets, we (the two voting for life) could not conclusively say that the childhood was to blame. Additionally at the time the drugs argument did not carry much weight because we were not aware of the very real problem of prescribing opioids to people with addictive behaviors. As we now know in Ohio too well

opioids can quickly lead to seriously grave consequences when not prescribed properly.

While I realize this letter has become quite lengthy I felt it important to try to explain my personal experience as a juror so that you might understand my position after I reviewed the clemency hearing transcript and the supporting documentation. I would ask that you consider the impact it had on me as a juror trying to fulfill a civic duty. In two weeks Tibbets will be put to death for these awful murders. Imagine my anger when I was able to review the clemency transcript as well as supporting documentation in favor and opposed to clemency. Pages of relevant information concerning details of the abandonment, foster abuse, and re-abandonment and that it began before Tibbets was even two years old. The shocking revelation that Tibbets sister was available to testify, but was not included in the penalty phase testimony. The revelation that the prosecutors got it wrong if not lied about Tibbets siblings having normal lives. All of the above are of great concern to me. One other thing struck me as very odd about the clemency hearing. Of the two murders only one carried the death penalty and that was for Mr. Hicks. Despite its horror and gruesomeness why does the murder of Judith Sue Crawford occupy so much of the parole boards clemency proceedings when her murder does not carry the death penalty? Perhaps there is a legal reason for this, but it does not seem rational. As the death penalty is for the murder of Hicks it stands to reason that the proceedings should be limited to that murder. Reading through the clemency transcript it almost seems as if the parole board has somehow overrode the jury and has decided that Tibbets should have the death penalty for the murder of Ms. Crawford.

All of these things lead me to one conclusion and that is that the system was and seems to be today very flawed in this case. The State of Ohio (through Hamilton County) called on me to fulfill a civic duty one that included an unenviable task of possibly recommending death for another man. I fulfilled this duty faithfully. Governor, if we are going to have a legal process that can send criminals to death that includes a special phase for mitigation shouldn't we get it right? Shouldn't the officers of the court (primarily the defense attorneys) treat the life or death phase with great attention to detail and the respect it deserves?

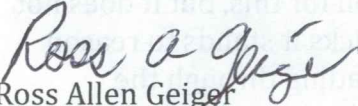
In conclusion, Tibbets is guilty and has forfeited forever his right to freedom. If the death penalty is reserved for the "worst of the worst", that is murderers that truly have no potential for redemption, then I ask you to grant mercy to Tibbets. Based on what I know today I would not have recommended the death penalty for the following mitigating factors:

- The truly terrible conditions, understated at trial, of Tibbets entire childhood
- The lack of preparation if not outright malpractice on the part of the defense for the sentencing phase
- The apparent withholding of information from the jury during the sentencing phase

- The apparent ineptitude of the defense team in not calling Tibbets sister to testify (what reasonable risk could this have had for Tibbets?)
- The prosecutors leading the jury to inaccurate conclusions about Tibbets siblings
- What I now believe were poor instructions to the jury regarding the autonomy of each juror in the sentencing phase
- The understated or not well understood impact that drugs and opioid prescription may have been a causal effect to increased drug abuse and a contributing factor to the murders
- The presumption that Tibbets does not have access to drugs or alcohol that are not prescribed by the prison medical staff
- The knowledge that he no longer poses a threat to society as he will be incarcerated until death
- The fact that clemency only has to be granted for the murder of Mr. Hicks

I urge you to show mercy by exercising your power of clemency by commuting his sentence of death by execution to one of death by imprisonment.

Respectfully,

  
Ross Allen Geiger  
Loveland, Ohio