

ROBERT GATTIS

PETITION FOR COMMUTATION OF DEATH SENTENCE

Robert Gattis prays that the Delaware Board of Pardons recommend that Governor Markell commute his death sentence to life imprisonment without the possibility of parole. Clemency is an act of mercy and grace, with deep roots in our American tradition.

Over 20 years ago, in the throes of a jealous rage fueled by alcohol, Robert Gattis killed his longtime paramour, Shirley Slay. On January 20, 2012, the State of Delaware plans to execute Mr. Gattis for the killing. The sentencing jury that recommended a death sentence and the judge who imposed that sentence heard little of Mr. Gattis's horrific past: that he suffered extreme and sustained sexual, physical and psychological abuse throughout his childhood – abuse, experts have concluded, that was “catastrophic” to his development. Guided by deep personal conviction, Mr. Gattis has spent the last 20 years on a path of contrition and rehabilitation, seeking to be a positive influence on younger inmates, developing a strong and enduring relationship with his two sons (and now their young families), and mentoring others to make the right choices and not repeat the tragic mistakes of his own life. As a testament to his sincerity, many have come forward, including several former correctional officers, to give witness to Mr. Gattis's transformation and to plead for the mercy and grace that clemency represents.

As we describe, the jury and judge never learned of the terrible experiences of Robert's childhood or the debilitating impact these childhood traumas had on Robert's psychological development, including that they left him suffering from Post-Traumatic Stress Disorder. Yet the

trauma and its effects on Robert's psyche would have helped explain how he came to commit the crime. No court was ever in a position to review this evidence without the impediment of legal technicalities that limit judicial review. Only this Board is empowered to fully consider this information. Several additional factors demonstrate that clemency is appropriate:

- Robert does not contest that he is responsible for Ms. Slay's murder.
- Robert has consistently expressed remorse and contrition for the killing of Ms. Slay.
- During the 21 years he has served in prison for this crime, Robert has demonstrated a genuine and sustained commitment to rehabilitation. He has had a positive influence on younger inmates, as acknowledged by corrections officers; he has developed and maintained strong and enduring relationships with his two sons and their young families; and he has successfully mentored family members and other young people to make the right choices and not repeat the tragic mistakes of his own life.
- The crime Robert committed, senseless as it was, was less aggravated and far more mitigated than the crimes committed by many other Delaware defendants who have not received death sentences in Delaware courts.

Under similar conditions, five capital inmates facing imminent execution in Ohio, Oklahoma and Tennessee were granted clemency over the past three years. This Board should recommend that Governor Markell also do so.

I. Robert Gattis's History Presents a Compelling Case For Clemency.

Robert Gattis grew up in poverty and chaos. A35, A99. His childhood was one of sexual, physical, and psychological abuse. Before he was old enough to begin grade school, he was repeatedly anally raped by a family member. These rapes, as well as other forms of sexual molestation, continued throughout his childhood, often while he was in the "care" of close family members who could not, or would not, protect him. As is all too frequently the case, the sexual

abuse went undetected. Indeed, we now know that this is not unusual, and that sexual abuse against children, especially male children, often goes unreported. For Robert, furthermore, life was also filled with beatings and violence. Not only were violence and threats directed at him; Robert was also the frequent witness to the abuse of those he loved, as he watched his stepfather brutalize his mother and siblings, and later saw his mother abused and mistreated by his natural father.¹

Even as a small child, Robert began to show the predictable signs of emotional distress stemming from this abuse. He would rock himself while humming in an effort to shut out his surroundings. A89. He would bite his hands, to the point of drawing blood. A80, A95, A150, A152. He would wrap his arms around himself as if trying to hold himself in one piece. A125, A147. Sometimes, his sister Janesta recalls, "he'd lose it and go rushing at people while he bit

¹ The information in this section has been compiled from the background investigation conducted by Robert's Chief Investigator, Robert Durand, and the clinical interviews conducted by Richard G. Dudley, Jr., M.D., and Victoria Reynolds, Ph.D. The reports of Drs. Dudley and Reynolds appear in the appendix, followed by the statements of the family members and friends interviewed by Mr. Durand. Citations preceded by "A" refer to the Appendix. See Reports of Drs. Reynolds, A1 and Dudley, A33; and Declarations of Beverly Duffy (aunt), A64; Florence Duffy (aunt), A70; Joy Farrare (aunt), A72; Allen Gattis (biological father), A75; Manuel Gattis (paternal uncle), A80; Preston Gattis (paternal uncle), A83; Declaration of Roscoe Handy (cousin of step-father), A86; Declaration of Patricia Hatcher (friend), A91; Declaration of Nancy Hobson (ex-wife), A95; Declaration of Clara Hollis (friend of mother), A99; Declaration of Wynita Jenkins (aunt), A103; Declaration of Wanda Duffy Lee (sister), A105; Declaration of Annett Lewis (cousin), A110; Declaration of Barbara Lewis (mother), A113; Declaration of Madison McRae (pastor at mother's church), A146; Declaration of Theophilus Osborne (friend), A149; Declaration of Mona Lisa Price (aunt), A152; Declaration of Janesta Ray (sister), A155; Declaration of Shirley Redding (sister), A158; Declaration of Lee Simpson (friend), A165; Declaration of Coleman Smith (friend), A169; Declaration of Janice Sylvestre (aunt), A171; Declaration of Darlene Taylor (friend of sister), A175; Declaration of Joyce Wall (girlfriend of biological father), A179; Declaration of Ernest Walton (boyfriend of Yvonne Favors), A183. Mr. Durand, Drs. Dudley and Reynolds, and many of the witnesses, speak on the video submitted with this application.

his hands. He didn't hit anyone, but it was scary to see him like that." A156. Robert had no protection from the abuse. Those in a position to help – teachers, clergy, social service providers – failed either to detect or to report what we now know to be tell-tale signs of trauma and abuse. His childhood experiences had a profound psychological impact, influenced the course of his life, and shed critical light on the person Robert was when he killed Ms. Slay.

A. Robert Was Raised in Violence.

Robert was born on November 18, 1962. His mother, Barbara Lewis, was 21 and already had two daughters, Shirley and Janesta, by a married man who had started an affair with her when she was 15. A116-17. She had a short-lived relationship with Robert's father, Allen Gattis, who abandoned her while she was pregnant with Robert. A118. Barbara then became involved with Leroy Duffy. A120. She married him after becoming pregnant with his daughter, Wanda. A120. Until age 12, Robert lived in Salisbury, Maryland, with Leroy, his mother, and three half-sisters.

Robert's stepfather Leroy was a jealous alcoholic who brutally abused Barbara and her older children, especially Robert. A68, A77, A84, A88, A99, A107, A123-24, A149, A155-56, A159-60, A171, A176. Robert was a loving and affectionate child, but Leroy resented him, because Robert was Allen's son and resembled his light-skinned natural father. A84, A123, A155-156. Leroy never called Robert by name, addressing him only as "Boy." A176. To Robert's older sister Janesta, it seemed that "Leroy just hated him." A156. Robert's eldest sister, Shirley, recalls that "Robert tried so hard to be perfect, and to stay out of Leroy's way, but Leroy looked for him whenever he needed a whipping boy." A160. Leroy beat and whipped Robert mercilessly. Barbara looked away while Leroy abused her son, rationalizing the beatings

as “discipline.” A123. She was afraid to give Robert attention and protect him, or even comfort him when Leroy beat him.

For Robert, there was no place of belonging. Just as Robert’s lighter skin set him apart inside the home, it set him apart outside the home. A125. He entered school in the early days of integration in Salisbury, and found that his lighter skin made him the target of darker-skinned African-American children and white children alike. He was harassed, bullied and beaten.

Three incidents typify Leroy’s physical assaults on Robert. Robert’s sister Shirley has “a particular terrible memory of Robert, as a little boy, playing quietly on the floor. Out of nowhere Leroy stormed into the room, snatched a terrified Robert up in the air by his leg, and held him upside down while he beat him all over with his belt.” A160. Robert sadly recalls an incident when he was eight years old. A7-8. It started with Leroy accusing Robert of misplacing fishing gear. Leroy called Robert into the kitchen and, in front of guests, Robert’s mother and rest of the family, hit Robert so hard across the face that he knocked him to the floor. Leroy then picked Robert up by the pants and whipped him with his belt to the point where Robert almost blacked out. No one intervened to stop the attack. Robert’s younger sister, Wanda Lee, recalls yet a different traumatic event: her father, in a jealous, drunken rage, screaming and hitting Robert and his mother and “going for the gun case.” A107. Just a small child herself, she “kept clinging to him and crying, and I wouldn’t let him go. I distracted him, and that gave my mother and Robert time to get out of the house. I truly believe I saved Robert’s and my mother’s life that night.” A107-08.

Robert’s sister, Janesta, hauntingly summarized Robert’s childhood existence with Leroy:

Robert got it the worst. He was a boy, and another man’s son, light skinned like his real father, and Leroy just hated him. When I think of them together, what I remember is

Leroy whipping Robert all over his little body with a belt.

A156.

The entire family lived in fear of Leroy, and a day did not go by without someone being beaten - including Robert's mother, Barbara. A159. At first, Leroy tried to hide his assaults on Barbara by beating her behind their closed bedroom door, but later he would slap, punch and throw her against the wall whenever he felt like it. A124, A155. As he became older, Robert tried to protect his mother, but Leroy would slam him out of the way. A124. Leroy brutally beat Shirley and Janesta, as well. A123, A155, A160. Shirley seriously considered killing Leroy herself to get her family out from under his domination. A162, A176.

B. Robert Was Raped.

Robert was anally raped and sexually molested. The abuse was perpetrated by multiple family members. A4. The sexual abuse began before Robert even entered grade school. A4, A35. In addition, older boys sensed Robert's vulnerability. He was cornered by an older neighborhood boy between a bed and a wall, threatened, and then anally raped. A6. On another occasion, he was sexually molested by other boys in the neighborhood. A5-6.

Robert often stayed at the home of Leroy's mother, Sarah. Roland Handy, an older cousin, lived with Sarah. Roland would lure Robert to an upstairs room and anally rape him. A4-5, A35. These rapes went on for years in ritual fashion. Id. Robert tried to distance himself from the pain by playing with toys Roland offered him while he penetrated Robert. A4.

At other times while the children were small, Barbara left Robert and his little sister, Wanda, in the care of her own mother, Gladys Lewis. Robert's cousin, Annett, older by nine years, lived in Gladys's household. A5, A35, A105, A110-11. When left alone with the

children, Annett would undress, and then direct Robert to undress and come into bed with her. Id. She would fondle his penis, make him touch her vagina, and order him to get on top of her. Id. Sometimes Annett took Wanda into the bed with them. Id. Other times, she told Robert to wait outside while she molested Wanda, and then called him back into the bed. Id. At age 9, Robert was made to watch his uncle Herbert have sexual relations with Annett, after which Annett sexually molested Robert. A5.

Robert's sisters, too, fell victim to the incest and sexual abuse that plagued the family, and his sister Shirley, now deeply regretful of her actions, repeated the acts she had learned and molested her brother. A159.

Dr. Victoria Reynolds, a respected expert in evaluating and treating male victims of physical and sexual abuse, explains the impact of maternal neglect in the face of the trauma and abuse that Robert suffered:

Robert's traumatic experiences must be viewed as having taken place in the care of a mother who not only failed to prevent or stop the sexual violations and physical cruelty by her family members, but who actively invited these people into her home and into Robert's life. Robert was vulnerable to virtually anyone in his household or his neighborhood who had the inclination to prey upon him. Robert was perceived, accurately, as an unprotected and vulnerable child by sexual predators. This kind of neglect not only amplified the pain of Robert's traumas, but was its own form of maltreatment.

A10.

C. In Addition to the Abuse, Robert Was Exposed to Pervasive Incest and Family Violence.

The sexual abuse Robert suffered was part of a larger pattern of violent incest in Barbara's family that spanned generations. Barbara and her siblings believe they were fathered by their own maternal grandfather, Howard Lewis. A64, A115. Barbara recalls seeing Howard

in bed with her mother, Gladys. A115. He continued sexually abusing younger generations, raping Barbara and her sisters. A64.

Robert's sister Shirley explains that almost every child in the family fell victim to sexual abuse. A158-59. This pervasive, multi-generational pattern of sexually assaultive behavior may explain why Barbara could not protect her children from the sexual attacks by her family, but it only increased the psychological damage Robert suffered. For Robert, there was no safety or solace at home; instead, he was a little boy forced to "go off alone" fishing or into the woods, to find a safe haven. A74, A77, A80, A108, A125, A156.

D. Robert's Biological Father Was Brutal.

When Robert was about twelve, Barbara sent word to Allen, his biological father, that she was ready to escape from her life with Leroy. A77. When he came to see her, it sent Leroy into a terrifying rage. A129-131. Barbara feared for her life and fled in panic. Allen helped Barbara and Robert move to Wilmington, and Robert changed his last name from Duffy to Gattis. A131-32. But Allen quickly betrayed their hopes of a new and better life. He stayed with Barbara for two or three days at a time before disappearing to spend time with other women. A133. Allen had 22 children by other women. A76.

Allen was as brutal as Leroy had been. A135-37, A149, A156, A163, A180-81. Barbara used Robert to get Allen's attention, telling Allen that Robert was being disrespectful and needed discipline. A182. She describes the abuse she invited upon her son:

Allen would bully him, and push him around, and call him a punk, a faggot or a girl, and then he'd say that I had raised Robert to be like that. He'd knock Robert down and pin him to the ground and laugh in his face, saying, 'You don't like that? What are you going to do about it?' He'd try to provoke Robert to anger. He even did this outside, so Robert would be really humiliated in public. He beat Robert as if he was a man when Robert was just fourteen or fifteen years old.

A136-37. Joyce Wall, one of Allen's many girlfriends, recalls that Barbara used to "pick fights" with Robert just to get Allen to come over to "straighten him out." A182. She saw Allen punch Robert in the chest so hard that "he just folded like a little duck." A181.

By his middle teens, Robert had settled into a state of frustrated anger, depression and despair. A74, A77. He began to abuse alcohol. A78, A150. He could not manage his emotions. He became easily frustrated and physically agitated. Often, Robert turned his negative emotions on himself. During his teen years he attempted suicide, slashed himself on the forehead, leaving a prominent scar, and continued biting his hands. A15-16, A35-36, A80, A125, A147.

When Robert was about fifteen years old, Barbara allowed a self-proclaimed "psychic" named Yvonne Favors to have custody of Robert. A138-40, A183. Favors thus got access to Robert's child support payments. Robert went along to get away from his abusive household. Favors engaged in sexually inappropriate behavior toward her new "son," trying to coerce him into having sexual relations with her. A6-7. At age 16, Robert joined the Army to escape from Favors' house. Barbara helped him lie about his age so that he could enlist. A140. Robert remained in the Army until 1982.

E. Robert's Childhood of Abuse, Neglect and Abandonment Left Him Unequipped to Maintain Adult Relationships.

Robert met Nancy Hobson in a nightclub near his Army base. A95. When she became pregnant with their first son, Robert Jr., in January 1982, Robert and Nancy married. *Id.* After discharge from the Army, Robert brought Nancy with him to Delaware. The couple had little to live on as Robert struggled to earn a living. A141. For a short time, they lived with Allen and Barbara, but Allen soon threw them out of the house. *Id.* Robert and Nancy lived in a homeless shelter. Robert Jr. was born soon after the couple arrived in Delaware. *Id.* The couple had a

second son, Marcus.

From the beginning of their marriage, Robert could not believe that Nancy could love him. Psychologically scarred, Robert viewed contact between Nancy and any other man as a threat. A95. He lost his temper easily with Nancy and at times was violent, but he also took his anger out on himself. A95-96. He was biting his hands often until they were bloody. A95. Robert tried to battle his depression and suicidal urges, but failed. He again attempted suicide by slashing his wrists, requiring hospitalization. A96. On another occasion, he overdosed on pills. Id.

Nancy and Robert's marriage broke down over Robert's emotional and financial instability. Nancy left him but returned several times. The two ultimately divorced in 1987. A97.

Robert's relationship with Shirley Slay, too, was unstable. A71, A78, A81, A85, A92, A108, A143, A157, A165, A170. They alternated between periods of closeness and periods of conflict and separation. As with his relationship with Nancy, Robert's relationship with Ms. Slay suffered from his extreme and irrational jealousy and fear that she would leave him. Robert was certain that Ms. Slay was seeing other men. He drank very heavily during his years with her. Robert was arrested several times for assaulting her. After one of his many breakups with Ms. Slay, he tried to kill himself by crashing his truck into a tree. A93.

In the following spring, Robert's employer had a wave of layoffs. When Robert learned that he was to be reassigned to a less responsible job with a sizeable pay cut, he behaved so erratically that his employer sent him to the Psychiatric Ward of Christiana Hospital. Robert spent two weeks as a psychiatric inpatient at the Medical Center of Delaware and then three

months on sick leave. A37, A213-340. When he was medically cleared to return to work, he was fired and lost his ability to help support Ms. Slay. A166.

As described shortly, the argument that led to Robert killing Ms. Slay began, like many others, because Robert was convinced that Ms. Slay was seeing another man and was going to end their relationship. He arrived at her apartment in a rage, carrying a gun, suspicious that there was a man with her on the other side of the door. He kicked in the door and shot her.

II. Robert Suffers From Mental Illness.

Robert's years in violent, sexualized family surroundings had a devastating effect on his development, causing profound psychological problems. He was abused by the people who should have been protecting and nurturing him; was forced to witness the victimization of his mother and sisters; and was never provided any kind of mental health treatment to help him deal with the trauma. He grew into a withdrawn, depressed person and a confused adult, desperately afraid of being abandoned and prone to self-harm and eventually to violence towards the women with whom he was emotionally and intimately involved. Robert's violent behavior, informed by his mental illness, only occurred in the context of the interpersonal relationships he was ill-equipped to manage.

As Dr. Reynolds explains:

From his earliest years, Robert had to find ways to accommodate pain, terror, helplessness, and shame, and to cope with repeated betrayals by caretakers who arbitrarily attacked and violated him or exposed him to others for such abuse. The traumas that formed a part of his daily life throughout his childhood affected his brain development, and created emotional dysregulation in his attachments to those closest to him. The traumas built in extreme reactions to the stresses of life – either emotional numbing and dissociation or hypersensitivity – and dysregulations of trust and mistrust in his interactions with the people in his life. They also resulted in self-harm, compulsive behaviors, suicide attempts, substance abuse, and externalization of anger and aggression, especially in response to stress

