

**PETITION FOR EXECUTIVE CLEMENCY OF
WALTER MILTON CORRELL, JR.**

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INTRODUCTION

The death penalty may be justified in certain circumstances involving unusually heinous crimes and strong certainty about the identity of the murderer. Neither of those factors is present in the case of Walter M. Correll, Jr. -- a person who is borderline retarded with an I.Q. of 68. Based on evidence the original trial court never heard, there is grave doubt that Mr. Correll killed Charles W. Bousman, Jr. There is overwhelming evidence that one or both of Mr. Correll's two co-defendants -- who each received comparatively light sentences -- are more culpable than Mr. Correll. In light of these doubts, and the harsh injustice of such undeservedly different sentences, the death sentence should not be carried out in this case. Mr. Correll's execution would tarnish the Commonwealth of Virginia's reputation for justice and fairness.

Mr. Correll's plea for mercy and reason is based in substantial part on facts that were not available to the court when it convicted Mr. Correll and sentenced him to death. Technical rules, which strictly limit the information that can be considered in habeas corpus proceedings, prevented state and federal courts from hearing or acting upon this crucial evidence after the trial.^{1/} This new information establishes that Mr. Correll was not the triggerman in the crime for which he is sentenced to die. Instead, he was the

^{1/} When Judge Turk of the United States District Court for the Western District of Virginia was apprised of some of these facts he granted Mr. Correll's federal Petition for a Writ of Habeas Corpus and ordered his release or new trial. Judge Turk's decision, in turn, was reversed on technical issues.

"fall guy" in a conspiracy hatched by the two other co-defendants, who were long time associates. They have escaped the death penalty for their own acts by pointing the finger of blame at Mr. Correll.

As every court reviewing this case has agreed, there was no physical evidence tying Mr. Correll to the crime. He was convicted and sentenced to death largely on the testimony of defendant, John Dalton, and several personal friends and family members of his and the other defendant, Reynolds. The co-defendants and other witnesses against Mr. Correll were all members of a tightly knit group, and Mr. Correll was -- in their eyes -- an expendable outsider who had only met the co-defendants the night of the incident.

Two days after he was arrested, Mr. Correll was given a polygraph examination by the Virginia State Police. Although he was asked at least forty-five questions, there was never any suggestion that his answers regarding who killed Mr. Bousman were untruthful. Although Mr. Correll's memories of the night of the crime are hazy, he is certain that he did not kill Mr. Bousman and he has maintained his innocence throughout this case. To his credit, Mr. Correll has candidly admitted the limits of his memories, even when it hurt his legal position to do so. For example, when several witnesses testified at trial that Mr. Correll was with them on the night of the crime -- in other words, that Mr. Correll had an alibi -- it would have been more "convenient" for Mr. Correll to corroborate that testimony and "remember" that he was with those people.

In petitioning for clemency, Mr. Correll does not overlook the fact that during his three days of police interrogation, after his requests for an attorney and the opportunity to call his family was refused, he made several statements to the police in which he "confessed" to killing Mr. Bousman.^{2/} These "confessions" are suspect because they bear the classic indicia of false confessions -- confessions that are given not because they are true, but because that is the only way to stop an interrogation that has become unbearable. As with all false confessions, Mr. Correll's statements appear superficially reliable because the interrogators fed him the precise answers they wanted him to parrot back, in this case by playing an audiotaped statement from a co-defendant with the supposed details of the crime. As Mr. Correll explained at his trial, "[I]n the last three days I had been questioned by three or four different people, and I mean, if they had asked me if I had kidnapped the President, I would have told them yes because I couldn't take no more of it."

The post-trial evidence that Mr. Correll was not the triggerman, and that his co-defendants' were more culpable makes this a case that cries out for the Governor to exercise his constitutional authority and grant clemency. Mr. Correll respectfully requests the Governor's intercession in a case that should never have resulted in Mr. Correll being put on death row while his co-defendants received relatively light sentences.

^{2/} Both the state and federal courts agreed that this interrogation, which continued over several days, and during which Mr. Correll was persistently denied his request for counsel, was a flagrant violation of the law. The trial court refused to admit Mr. Correll's first two "confessions" because they were the unreliable result of unreasonable and overbearing police tactics. For technical reasons, the court concluded that Mr. Correll's final statement to the police could be admitted into evidence against him.

THE CRIME AND THE VICTIM

A. Charles Bousman

Mr. Bousman's body was found near Bayrock Marina in Franklin County, Virginia, on August 16, 1985, at approximately 1:00 a.m. Mr. Bousman had died five days earlier, on August 11, 1985, of knife wounds to his chest and neck. Before his death he had been choked, placed in the trunk of his own car, and driven to an area near the marina at Smith Mountain Lake. The killing was apparently unplanned. The murder weapon was not brought to the scene by the defendants, but belonged to Mr. Bousman and was kept in his car.

Although the violent death of any citizen is a great and inexcusable tragedy, the special horror that attends the murders of particularly helpless victims was not present here. Mr. Bousman was, to be blunt, a person with a reputation for being on the fringes of society. He was a well-known homosexual who "trolled" in the area of Southeast Roanoke, looking for pick-ups. He owned a maroon 1985 Buick Somerset automobile, which bore the license tag "LOVE-69." The autopsy report showed that Mr. Bousman was wearing sexual paraphernalia on his body, and in all probability was seeking a sexual liaison at the time of the crime.^{3/} While the murder of Mr. Bousman cannot be excused because of his own activities, it also must be acknowledged

^{3/} Mr. Bousman had a reputation for being an aggressive homosexual, and this is consistent with the note in the autopsy report on Mr. Bousman: "Around the scrotum and penis is a studded black leather bracelet with a snap fastener. This has been tightly snapped around the scrotum and the penis." This device typically is worn by a group of particularly "macho" homosexuals known as "leather boys."

that given Mr. Bousman's reputed lifestyle, he knowingly exposed himself to potentially dangerous situations.

B. Walter Correll

Walter Correll was the perfect "dupe." He was born with "blue baby syndrome" caused by insufficient oxygen at birth. His measurable I.Q. has suffered a consistent and significant decrease since his intelligence was first tested at the age of seven. By the time of the crime, when Mr. Correll was twenty-four years old, the Commonwealth determined that his I.Q. was down to 68 (borderline retarded). This put him in the bottom three percent in intelligence for people his age. When he was arrested, he could not read simple words like "sun," "clothes," "Italy," and "breakfast."

Physically, Mr. Correll was a wimp. Average in height (5 foot, 6 1/2 inches) and very slight, he weighed less than 135 pounds at the time of his arrest. He was shorter than Mr. Bousman, who was five feet ten inches and much lighter. He also was smaller in height and weight than either of his co-defendants.

In keeping with his slight physique, Mr. Correll had a reputation among his friends as being docile and compliant. As his friend Ray Sigmon explained, "Walter is a very easy-going person ... very ... gullible and timid, and violent, he's not ... he wasn't that big, to begin with. He would defend himself, if he was put in a threatening situation, but to go out and start a fight, or try to beat up someone ... that wasn't Walter's style."

The idea of Mr. Correll acting as the leader in a violent crime with Dalton and Reynolds following his commands just does not square with

the facts. The Honorable David A. Melesco, who was Mr. Correll's lead trial attorney and who currently serves as a District Court judge in Franklin County, agrees.

If you consider all of the evidence, including the victim putting himself at risk looking for a "friend", the concerted activity of all three participants, and the plea bargain offered the other two, Walter's sentence is disproportionate.

(A copy of Judge Melesco's letter is attached as Appendix "A".)

C. Richard Reynolds and John Dalton

Mr. Correll's co-defendants, Richard Reynolds and John Dalton, were close friends, and they were living together at the time of the crime. They barely knew Mr. Correll. Because Virginia's "triggerman rule" permits the death penalty only for the actual killer, and not for accomplices or other participants in the crime, Reynolds and Dalton had every reason to place the entire blame for Mr. Bousman's death on Mr. Correll. By portraying Mr. Correll as the killer and themselves as hapless accessorers, they were able to negotiate plea agreements and obtain comparatively lighter sentences. Depending on the extent of their prior criminal history, Reynolds and Dalton could be eligible for release on parole after serving as little as one quarter of their sentences.

Reynolds and Dalton are both physically larger and stronger than Mr. Correll. Reynolds, in fact, was about as big as Mr. Bousman. Because Mr. Bousman was taller and substantially heavier than Mr. Correll, it would have been difficult for Mr. Correll to choke Mr. Bousman from behind with an arm around his neck while they were standing (which is how Dalton described

the event), and relatively easy for either of the larger and stronger co-defendants to choke him that way.

The murder weapon was a knife, which is a weapon that Dalton was familiar with. Dalton not only admitted to the police and at trial that he was familiar with knives, but he even demonstrated to Police Captain Overton, who was the lead investigator on the case, how to throw a knife.

Reynolds had an uncaring personality that contrasted sharply with Mr. Correll's. Overton particularly described Reynolds as "very cold and callous," and noted that Reynolds showed no remorse whatsoever with respect to Mr. Bousman's death.

Mr. Correll, on the other hand -- who has consistently maintained that he is innocent -- has nonetheless expressed great sadness at Mr. Bousman's death. As Mr. Correll expressed his feelings:

The pain first started with the victim's family and my heart goes out to them. Yes these are only words and can't take away their pain. This is why they are in my prayers daily.

(A copy of a letter from Mr. Correll is attached as Appendix "B".)

MR. CORRELL IS INNOCENT OF CAPITAL MURDER

Only the person who actually killed Mr. Bousman can be guilty of capital murder and sentenced to death. Accomplices are guilty of serious crimes that potentially carry sentences up to life imprisonment, but they cannot be executed.

Evidence developed after trial demonstrates that Mr. Correll's co-defendants (in particular, Richard Reynolds) were far more involved in the murder than they admitted to the police. They were buddies and roommates

who hardly knew Mr. Correll. They easily shifted blame to the odd man out who, being borderline retarded, could least defend himself.

A. Three Reports Indicate That Richard Reynolds, Not Walter Correll, Killed Mr. Bousman

After his arrest, Richard Reynolds reportedly boasted to friends and fellow prisoners -- including Troy L. Weeks and Sherman Wilson -- that he, rather than Mr. Correll, had killed Mr. Bousman. Reynolds also described Dalton's substantial role in the crime. Virginia courts have consistently found in other cases that statements from "snitches" are sufficiently reliable to support a conviction for capital murder and a sentence of death. Post-trial investigation produced statements from several people to whom Reynolds made these boasts.

Troy Weeks was detained at the Corner Springs Detention Center in Blue Ridge, Virginia, in August 1985, at the same time as Richard Reynolds. In conversations at that time, Reynolds reportedly told Weeks that after they had picked up Mr. Bousman, Dalton hit Mr. Bousman on the back of the head and then placed him in the trunk of the car. Then, Reynolds reportedly boasted that he and Dalton stabbed Mr. Bousman, and they gave the knife to Mr. Correll and told him to stab Mr. Bousman. According to Reynolds, Mr. Correll refused this order and said that Mr. Bousman was already dead. Weeks said Dalton repeatedly urged Mr. Correll to stab the victim, and when he continued to refuse, Dalton accused Mr. Correll of being a "pussy." Weeks said that Reynolds recounted this version of the events "on several occasions," and Reynolds consistently noted that Mr. Correll "refused to stab Bousman." (A copy of Mr. Weeks' statement is attached as Appendix "C".)

Sherman Wilson, an acquaintance of Reynolds, corroborated the critical points in Weeks' statement. Wilson stated in an affidavit that Reynolds admitted killing Mr. Bousman. According to Wilson, Reynolds said he had stabbed Mr. Bousman in his chest and cut his throat. Wilson said that before his arrest, Reynolds even showed him the knife he claimed to have used during the crime. (A copy of Mr. Wilson's affidavit is attached as Appendix "D".)

Additional corroboration for Reynolds' role as the actual killer comes from an unlikely source. John Boitnott, Esq. who was Reynolds' trial counsel, happened to recently appear in a case that was tried before Judge David Melesco, a District Court judge who had represented Mr. Correll at trial before Judge Melesco ascended to the bench. During a break in the recent proceedings, Mr. Boitnott told Judge Melesco off the record that he (Reynolds) was lucky because his former client was the person who stabbed Mr. Bousman. When Judge Melesco properly reported this conversation to the trial judge and to Mr. Correll's post-conviction counsel, Mr. Boitnott backpedaled. Perhaps realizing his serious ethical breach in disclosing a client's privileged communication to him, Mr. Boitnott denied having made such a concession and claimed that his client's role was as described at Mr. Correll's trial. Judge Melesco, however, stands by what he said, and he has provided an affidavit to that effect. (Judge Melesco's affidavit is attached at Appendix "E", and Mr. Boitnott's letter is attached at Appendix "F".)

B. Mr. Correll Could Not Have Killed Mr. Bousman By Throwing a Knife Into His Chest

According to both Dalton's testimony at trial and Mr. Correll's spurious "confession," Mr. Correll supposedly killed Mr. Bousman by throwing

a knife into the victim's chest. The physical evidence, however, is completely inconsistent with this scenario.

In a post-trial affidavit, the Roanoke Medical Examiner, Dr. Oxley, explained that Mr. Bousman received two wounds to his chest. Mr. Correll's co-defendants said that these wounds were caused by Mr. Correll throwing a knife while standing above Mr. Bousman. Because the rib cage surrounds and protects the chest, it is difficult to throw a knife deep into the chest cavity, and nearly impossible to do so without leaving telltale signs on the ribs and cartilage. Dr. Oxley found, however, that "there was no indication of damage to the chest cartilage or bone chips in the area of the first wound," and that with respect to this wound, which had a penetration of approximately four to four and one-half inches:

[I]t is highly improbable that such a wound would have been caused by throwing a knife into Mr. Bousman's body. In order to throw a knife in a manner which would cause a wound to penetrate to a depth of 4 1/2 inches, enter the lung and sever the pulmonary artery, an extremely sharp and pointed knife would have had to have been used and the knife would have to be thrown with a tremendous amount of force. Moreover, given the absence of bone chips or cartilage damage, the knife would have had to have been thrown with a degree of accuracy sufficient for it to enter cleanly between the ribs. Given these factors, it is my opinion that the first wound was likely caused by stabbing rather than by throwing . . .

(A copy of Dr. Oxley's affidavit is attached as Appendix "G".)

The improbability of the fatal wound being inflicted by a knife thrown by Mr. Correll, even under almost "perfect" conditions, is further shown by the fact that Mr. Correll was severely inebriated at the time. As Ray

Sigmon testified in post-conviction proceedings, Mr. Correll was "very intoxicated" on the evening of Saturday, August 10, 1985. In fact, Mr. Correll was so drunk that he was not capable of driving a car, and he "couldn't hardly even walk. He wasn't capable of walking, that night." In light of this incapacity, it is absurd to suggest that Mr. Correll could have thrown a completely unfamiliar knife with the force and pinpoint accuracy that Dr. Oxley said would be required to inflict the wound he observed -- much less that Mr. Correll could have done so on successive occasions.^{4/}

C. Mr. Correll Passed the Polygraph Examination

On August 18, 1985, the third day of his custody, Mr. Correll was administered a polygraph examination at the Virginia State Police Bureau of Investigation office in Appomattox. The polygraph examiner presumably asked Mr. Correll, among other questions, whether he had stabbed Mr. Bousman. Nothing in the state police report of the polygraph examination shows that Mr. Correll's answer to that question was deceptive.^{5/}

Indeed, although Mr. Correll was asked at least forty-five questions during the polygraph examination, only one of his responses was

^{4/} Other inconsistencies in the statements given to the police regarding Mr. Bousman's condition after being picked up are readily apparent in the post-trial affidavit from the Assistant Roanoke Fire Marshall, Kenneth Sharp, and in Mr. Dalton's statement at the time he was subjected to a polygraph examination, wherein Dalton claimed that the knife was found in the trunk of Mr. Bousman's car and not in the passenger compartment, as is reported in the statements of the defendants. (A copy of Mr. Sharp's affidavit is attached as Appendix "H".)

^{5/} Mr. Correll has diligently attempted to obtain a full copy of the polygraph examination result to attach to this petition, but he has been informed that it no longer exists.

identified as "deceptive."^{6/} This response related to the question whether Mr. Correll had taken any jewelry from the body of Mr. Bousman after he appeared to be dead. While taking something from Mr. Bousman's body is reprehensible, it is not a capital offense. Virginia wisely reserves the ultimate penalty for the actual killer.

D. Mr. Correll's "Confessions" Are Totally Unreliable

There was no physical evidence linking Mr. Correll to this crime. Aside from Dalton's self-serving and inconsistent testimony, other evidence introduced at trial included Mr. Correll's statement to the police.^{7/} This statement, however, bears the hallmarks of being a "false confession."

The phenomenon of false confessions is documented by a former police interrogator, Gisli Gudjonsson, in his highly respected book, The Psychology of Interrogations, Confessions and Testimony, John Wiley Publishers (1992). A particular kind of false confession, called a "coerced complaint confession," arises from the interrogation process. This kind of confession occurs when the suspect no longer can withstand interrogation, and he gives a confession that he knows is false. The "suspect does not confess voluntarily but comes to give in to the demands and pressures of the

^{6/} Mr. Correll's responses to several other questions were classified as "inconclusive." These questions related to whether Dalton had cut or stabbed Mr. Bousman.

^{7/} Richard Reynolds' brother Lonnie Reynolds testified at trial that he heard Mr. Correll claim to have killed Mr. Bousman. Reynolds' sister-in-law Rhonda Small also said Mr. Correll told her he killed Mr. Bousman, although she agreed that a few minutes later Mr. Correll assured her that he did not kill anyone. Both witnesses were part of the same close group to which Reynolds and Dalton belonged, and both had a strong interest in portraying Mr. Correll as the killer in order to protect Reynolds from the death penalty.

interrogators for some immediate instrumental gain." (Id. at 227.) Such a suspect typically cannot cope with the stress of interrogation, or he may have come to believe that he will suffer a worse fate if he does not confess. "[T]he suspect's perceived immediate instrumental gain of confessing has to do with an escape from a stressful or an intolerable situation." (Id. at 228.) These suspects often do not understand the consequences of giving a confession; for example, the suspect may think he will be allowed to go home after he admits to the crime.^{8/}

There are several classic indicia of a coerced compliant confession: (1) The suspect is a suggestible person. (2) The suspect was subjected to stress before the confession. (3) The interrogator related the critical facts of the crime to the suspect before he obtained a confession. Each of those indicia are present in Mr. Correll's case.

First, as Ray Sigmon noted, Mr. Correll is "easygoing," gullible," and "timid." Mr. Correll has a low I.Q. and is borderline retarded, a factor that Gudjonsson has found to be associated with suggestibility. "[S]ubjects with I.Q.'s well below average, such as those who are borderline or mentally handicapped, tend to be markedly more suggestible" in the interrogation setting. (Id. at 180.) At trial, Mr. Correll ruefully acknowledged his suggestibility and

^{8/} Another kind of false confession described by Gudjonsson, called a "coerced internalized confession," also arises from the interrogation process. In this kind of false confession, the suspect becomes convinced that he must have committed the crime because his interrogators are so certain that he did it. Eventually, he comes to believe the interrogators more than he believes his own memory.

susceptibility to pressure: "[I]f they had asked me if I had kidnapped the President, I would have told them yes because I couldn't take no more of it."

Second, Mr. Correll was deprived of the two things he most wanted: a lawyer and the opportunity to talk to his parents. Although Mr. Correll was read his Miranda rights and promptly asked for a lawyer, the police responded by telling him that he did not need an attorney because "we have already got the other two statements" and "[t]here is no sense in you lying about it." The police ignored his request for counsel and immediately began interrogating him. Aside from its blatant illegality, which the trial court immediately recognized, this response sent Mr. Correll the unmistakable message that he was at the mercy of the police, and that they could (and would) do whatever they wanted with him until they got what they wanted. Indeed, Mr. Correll was not permitted to talk to a lawyer or to telephone his parents until he had been interrogated over three days at several facilities, and the police had obtained all the statements from him that they wanted.

Third, the police made sure Mr. Correll knew in advance what he was supposed to include in his confession. After two hours of interrogation, the police played Dalton's audiotaped statement. Immediately after being imprinted with this information, Mr. Correll confessed that he killed Mr. Bousman. As Mr. Correll explained at trial, "I listened to the tape and when I heard the tape I thought that I had been with them [my co-defendants] because I couldn't remember anything about the night that they said it happened." When the details of Mr. Correll's statement did not completely mesh with the details

of Dalton's statement, the police got a second statement from Mr. Correll and then a third statement in their effort to clear up any inconsistencies.^{9/}

**MR. CORRELL SHOULD NOT BE EXECUTED WHILE
HIS CO-DEFENDANTS SERVE LIGHTER PRISON TERMS**

A. Reynolds and Dalton Are at Least as Culpable as Mr. Correll

It could not be clearer that Reynolds and Dalton spun a story to save themselves, and that they did so at the expense of Mr. Correll's life.

Reynolds reportedly admitted to friends and snitches that he killed Mr. Bousman, but when he talked to the police, he shifted the blame onto Mr. Correll. Reynolds and Dalton were the only ones big enough to choke Mr. Bousman from behind with an arm around the neck, but they told the police that this was done by Mr. Correll.

Dalton, who knew how to use knives, testified that Mr. Correll threw the knife into Mr. Bousman's chest.^{10/} The Medical Examiner, however, stated the wounds could not have been caused that way. Dalton's testimony that he could see all the fine details of the killing, including the precise location where the knife penetrated Mr. Bousman's chest each time and the amount of bleeding from the wounds, is equally suspect because the murder

^{9/} In total, nine statements were taken from the three defendants. Nine statements were required because the earlier statements contained such significant inconsistencies relating to the active involvement of Mr. Correll's co-defendants in Mr. Bousman's death as to be worthless.

^{10/} Dalton's account of the events of the crime is suspect not only because of his strong incentive to exculpate himself, but also because he admitted being "pretty well hyped" from drinking alcohol and taking "several hits" of LSD the same evening. Thus, even if Dalton was trying to be truthful -- and there is no reason to believe that he was -- there are obvious doubts about the accuracy of his perceptions and the reliability of his memories.

occurred in the middle of the night, the headlights of the car were turned off, and Dalton claimed to be standing at least four feet away from Mr. Bousman's body in a dark wooded area.

The results of the polygraph examination given to Mr. Correll show that he did not kill Mr. Bousman. His confessions to the contrary are unreliable. Mr. Correll made those confessions not because they were true, but because he is a suggestible person and he had gotten a clear message from the police that they would continue both to interrogate him and to keep him incommunicado until he admitted that he killed Mr. Bousman.

Under any view of this evidence, Reynolds and Dalton are at least as culpable as Mr. Correll, and probably more culpable. Yet Mr. Correll was convicted of capital murder and sentenced to death, while Dalton got thirty years for second-degree murder and Reynolds got forty years for first-degree murder.^{11/}

The sentences of Reynolds and Dalton cannot be enhanced to reflect the full measure of their participation in the killing, but Mr. Correll's sentence can be modified in the interest of justice. Indeed, that is the purpose of executive clemency. Commuting Mr. Correll's sentence to life imprisonment will avoid the injustice of executing Mr. Correll for a murder that he did not commit.

^{11/} Dalton received 10 years for robbery and Reynolds got 40 years for robbery, with 20 years suspended contingent on good behavior.

B. Mr. Correll Is Deserving of Mercy

Several people who minister to prisoners, and who are in a good position to judge the inmates and compare them with each other, have echoed the arguments contained in this petition. Bishop Walter F. Sullivan, the Roman Catholic Bishop for the Richmond Diocese, who has known Mr. Correll for several years, believes not only that Mr. Correll is incapable of violent behavior, but also that he is innocent of the murder of Mr. Bousman. As Bishop Sullivan states:

From my contacts with Walter I have never been convinced that he committed or was able to commit the act for which he has been sentenced to die. He has always treated me with respect and courtesy. He is a very reserved, meek and even timid young man. Walter is not one who would incite others or act independently of them. He is quite obviously a follower and one who would seek to placate or win the approval of others. I have seen similar traits in others who, like Walter, have a very low IQ and are considered borderline retarded.

* * *

I ask for your mercy in this case, and for a grant of clemency for a number of serious reasons. I have already stated that Walter is borderline retarded, a condition that certainly mitigates whatever personal culpability would warrant his being put to death. The contradictions and lack of certainty that surround the case take clemency out of the realm of mercy and clearly show that a penalty of death could not be just. Finally, because of the person that Walter is, and because of the faith and sense of responsibility that he has developed, his execution would in no way serve to provide what he himself, alive, can offer by way of personal witness.

(A copy of Bishop Sullivan's letter is attached as Appendix "I".)

In a similar vein, Bobby H. West, a religious volunteer who has known Mr. Correll since the early 1980s, writes:

I am convinced that Walter did not do the act for which he has been convicted. Walter has never showed aggressive behavior in my presence, not so much as to even raise his voice in anger In killing Walter Correll the Order of the Court will be satisfied, yet, I believe the Commonwealth will have killed the wrong man.

(A copy of Mr. West's letter is attached as Appendix "J", emphasis supplied.)

Other individuals who have come to know Mr. Correll over the years have submitted similar statements in support of Mr. Correll. (Copies of these letters are attached as Appendix "K".) A common theme throughout these letters is that Mr. Correll simply is not the type of person who would be capable of committing the crime for which he has been sentenced to die.

The circle simply cannot be squared. No one is suggesting that Mr. Correll has been a model citizen. But nothing in his background or in the facts about the case suggests that he was capable of murdering Mr. Bousman. Under these circumstances, it is most inappropriate to carry out the death sentence.

C. As a Mentally-Impaired Individual, Mr. Correll Should Not Be Executed

Mentally retarded individuals suffer from a deficiency in adaptive behavior which renders them unable to accept full responsibility for their acts. This behavioral trait is fundamentally similar to the mental and emotional characteristics attributed to insane persons and certain classes of defendant minors. It is recognized that the deficient mental capacities and sub-standard socialization of these classes of individuals warrant that such persons be

afforded unique consideration within the legal system. The rationale for this individualized approach lies in the fact that the mental impairments which afflict these classes of persons preclude their forming a conscious awareness and intent which, in turn, mitigates their capacity for criminal responsibility. As a mentally retarded individual, with an I.Q. of 68, Mr. Correll should be spared from execution, particularly where it is obvious that he was not the triggerman in a cold-blooded, planned homicide of an unsuspecting individual.

D. Mr. Correll Poses No Future Threat in Prison

Mr. Correll adjusted well as an inmate at Mecklenburg Correctional Center, providing further assurance that he would pose no danger to correctional officers and fellow inmates if his sentence were commuted. During his decade in prison, Mr. Correll was noticed for eight months of exemplary good time (5/5/86). To the extent he has committed infractions, they are the kind of minor violations that are almost unavoidable in prison: failing to follow count rules, hindering or delaying employees, and failing to obey direct orders. Although he has a recent infraction for possession of "mash" (an alcoholic beverage that many prisoners try to brew in their cells), the Warden determined that Mr. Correll "is not considered to be a threat to security at this time." Mr. Correll's only physical infraction involved his damaging a tray by sliding it under a grill in 1992. None of these infractions suggest that Mr. Correll is dangerous.

In addition, people who have visited Mr. Correll over the past ten years attest to his being a "model prisoner, a wonderful member of our Christian community at Mecklenburg...." Letter from Rev. James C. Griffin.

(See Appendix "K".) Similarly, Mrs. Elaine Schleeper, who has known Mr. Correll for several years, wrote that "he is not a dangerous individual who deserves to die." (See Appendix "K".)

CONCLUSION

The Governor should grant Mr. Correll clemency because there is more than substantial doubt that he is guilty of capital murder and because the death sentence is disproportionate to his involvement in Mr. Bousman's death. Mr. Correll's co-defendants, who are at least as culpable, will serve a term of years and may even be released on parole in a few short years. Governors of the Commonwealth of Virginia traditionally have given particular consideration to death row inmates when there were substantial doubts as to guilt, especially where the individuals were feeble minded. Mr. Correll respectfully requests that the Governor follow this noble tradition and grant him clemency.

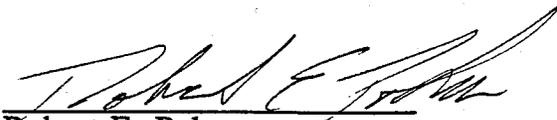
Respectfully submitted,

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