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PETITION TO PRESIDENT WILLIAM JEFFERSON CLINTON  
FOR EXECUTIVE CLEMENCY AND COMMUTATION OF DEATH SENTENCE  
ON BEHALF OF DAVID RONALD CHANDLER

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SUBMITTED ON BEHALF OF PETITIONER  
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COUNSEL OF RECORD

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**I. Introduction.**

David Ronald Chandler petitions the President of the United States for clemency and commutation of his death sentence, pursuant to the authority of the President under Article II, Section 2 of the United States Constitution. Mr. Chandler's sentence of death should be commuted primarily because there is now substantial doubt as to his guilt for inducing the murder for which he was sentenced to death, but also because due to the failures of Mr. Chandler's trial counsel the jury which sentenced Mr. Chandler to death never knew anything about the remarkable redeeming qualities in his character.

Everyone concedes, including the trial judge in Mr. Chandler's case, that his conviction and death sentence depended upon the testimony of the actual murderer, who, in exchange for a plea bargain whereby he avoided a capital prosecution of himself, testified at trial that he committed the murder because of a \$500 offer from Mr. Chandler. That witness has now unequivocally recanted that testimony and has sworn under oath that he was in no way induced to commit the murder by Mr. Chandler and that Mr. Chandler is innocent of the crime. This witness continues to maintain that he lied at Mr. Chandler's

trial, despite the fact that in so doing he risks his plea bargain and subjects himself now to a possible capital prosecution.

If a jury now heard the case against Mr. Chandler they would obviously have a reasonable doubt as to his guilt. The witness whose testimony was essential to Chandler's conviction and death sentence admits he lied at Chandler's trial and that Chandler had nothing to do with the murder. Indeed, when the foreperson of the jury which convicted Mr. Chandler and sentenced him to death was informed that the essential witness against Chandler now admits he lied at trial, he publicly stated that if he had known these facts he would never have convicted Chandler of murder, much less sentence him to death.

This Petition for Clemency and Commutation therefore presents a quintessential case for commutation of a death sentence. Executive clemency and commutation is the "safety valve" in our constitutional system necessary to prevent miscarriages of justice, especially when evidence is disclosed after trial which reveals that there is substantial doubt about the defendant's guilt, and especially when a death sentence is at stake. As Chief Justice Rehnquist wrote in Herrera v. Williams, 506 U.S. 390, 411-412, 415 (1992), "Executive clemency has provided the 'fail-safe' in our criminal justice system. It is an unalterable fact that our judicial system, like the human

beings who administer it, is fallible. But history is replete with examples of wrongfully convicted persons who have been pardoned in the wake of after-discovered evidence establishing their innocence." (citation omitted). This constitutional protection against the imposition of an unjust sentence is obviously of paramount importance when the awesome and irrevocable sentence of death is involved. Accordingly, Petitioner Chandler respectfully requests that the President exercise his constitutional authority to grant clemency and commute his death sentence.

## II. Procedural History.

On April 2, 1991, Petitioner David Ronald Chandler, known as Ronnie Chandler, was convicted in the United States District Court for the Northern District of Alabama of various marijuana related charges, including engaging in a criminal enterprise and procuring a murder in connection with this continuing criminal enterprise. The next day, after a sentencing hearing which lasted less than three hours from start to finish, the jury returned a death penalty verdict on the murder charge, the first death penalty imposed in a federal case after the federal death penalty was re-instituted in 1988.

After his convictions and sentences were affirmed on direct appeal, U.S. v. Chandler, 996 F.2d 1073 (11<sup>th</sup> Cir. 1993), cert. denied, 512 U.S. 1227, 114 S.Ct. 2724 (1994), Mr. Chandler filed

a motion to vacate his convictions and sentences and for a new trial, under 28 U.S.C. § 2255 and Rule 33 of the Federal Rules of Criminal Procedure. In three separate orders, the District Court denied the motion. U.S. v. Chandler, 950 F.2d 1522 (N.D.Ala. 1996); U.S. v Chandler, 950 F.Supp. 1545 (N.D.Ala. 1996); U.S. v. Chandler, 957 F.Supp. 1505 (N.D.Ala. 1997). A split panel of the United States Court of Appeals for the Eleventh Circuit upheld the denial of Chandler's claims challenging his convictions, but reversed the denial of his challenge to his death sentence, due to the ineffectiveness of Mr. Chandler's counsel at sentencing, and ordered a resentencing. Chandler v. U.S., 193 F.3d 1297 (11<sup>th</sup> Cir. 1999). However, rehearing en banc was ordered and the panel decision was vacated. 193 F.3d at 1316. A sharply divided en banc Eleventh Circuit disagreed with the panel on the ineffective assistance of counsel at sentencing issue. Six judges voted to affirm Chandler's death sentence. Five judges voted to vacate his death sentence. Chandler v. U.S., 218 F.3d 1305 (11<sup>th</sup> Cir. 2000). There is currently pending a Petition for a Writ of Certiorari in the Supreme Court of the United States. Chandler v. U.S., No. 00-6745. The Solicitor General has not yet responded to this Petition.

Mr. Chandler now petitions the President for executive clemency and a commutation of his death sentence, (1) because

there is a substantial likelihood that he is innocent of the murder charge for which he was sentenced to death and (2) because due to the failures of Mr. Chandler's counsel the jury which sentenced him to death was unaware of the numerous good works and redeeming qualities of Ronnie Chandler. The newly enacted regulations regarding requests for clemency by a person under a federal death sentence provides that a petition for commutation of a death sentence should not be filed before the final termination of proceedings of a petitioner's first petition under 28 U.S.C. § 2255. 28 C.F.R. § 1.10(b). Because his Petition for a Writ of Certiorari to the United States Supreme Court regarding his first petition for § 2255 relief is still pending, Mr. Chandler has not previously filed a petition for clemency due to this regulation. However, Petitioner now files this request for clemency and commutation of sentence, despite the language of §1.10(b), because the regulations also expressly provide that they are "advisory only" and do not in any respect "restrict the authority granted to the President under Article II, Section 2 of the Constitution," which expressly empowers the President "to grant Reprieves and Pardons for Offenses against the United States." §1.11. Moreover, in that all that Petitioner is seeking before the Supreme Court is a new sentencing, commutation of Mr. Chandler's death sentence

would make the appeal to the Supreme Court moot, effectively terminating all litigation in his case.

### III. Facts Related to Innocence Claim.

Ronnie Chandler was born and raised in Piedmont, Alabama, a small rural community in Northwest Alabama, near the Georgia-Alabama line. He just turned 48. He married his wife Deborah shortly after graduating from high school. They have been married now for 27 years and have three grown children and six grandchildren. At an early age he learned construction and brick masonry skills and began his own small construction business, primarily building residential houses. Mr. Chandler was successful and soon was able to hire a number of people in the community to work on the houses he built.

In approximately 1988, Mr. Chandler, while still running his construction business, got involved in growing and distributing marijuana. Mr. Chandler, as well as a number of residents in the isolated area where he lived, fell prey to the allure of the easy money that could be made from cultivating marijuana, which could be readily planted and grown in the backwoods of Alabama. Mr. Chandler admits that for approximately two years he was actively involved in selling marijuana grown in isolated areas near his home. His marijuana activities were not tiny, but were not extensive relative to other marijuana distribution enterprises. Paul Watson, who was

involved with Mr. Chandler in cultivating marijuana and who was later to cooperate with the government, estimated that the amount of marijuana grown was 263 pounds.

The prosecution's case against Mr. Chandler at trial was (1) that Mr. Chandler was involved in growing and distributing marijuana in rural northwest Alabama, and (2) that he had offered Charles Ray Jarrell, Sr. ("Jarrell"), who was also involved in this marijuana operation, \$500 to kill Marlin Shuler. Shuler had allegedly provided information to the authorities that Donna Shuler, Shuler's ex-wife and Jarrell's sister, was selling marijuana she had obtained from Chandler. The government presented a number of witnesses to testify that Chandler cultivated and distributed marijuana. Chandler has admitted growing and selling marijuana, although not in as large a scale as the government claimed at trial. However, the murder case was thin, depending exclusively on the testimony of a sole witness, the actual murderer, Jarrell, and Chandler adamantly denies in any way causing or inducing Jarrell to kill Shuler.

Jarrell and his son had been indicted in state court for the murder. In order to obtain testimony from Jarrell that Chandler had offered him \$500 to commit the murder, the government entered into a plea bargain with Jarrell, whereby the United States and Alabama agreed not to seek the death penalty against Jarrell, all charges would be dismissed against



Jarrell's son, and Jarrell would receive a 25 year federal sentence for conspiracy to distribute marijuana. There was no other evidence which directly implicated Mr. Chandler in the Shuler murder. As Judge Hancock, the judge who presided over Chandler's trial, found in connection with the \$2255 proceedings, "[t]he centerpiece of the government's evidence linking Chandler to the Shuler murder was the testimony of Charles Ray Jarrell," U.S. v. Chandler, 950 F.Supp. at 1553, which "the jury necessarily had to believe to convict Chandler." U.S. v. Chandler, 957 F.Supp. at 1520.

Numerous questions about Jarrell's testimony implicating Chandler in the Shuler murder were raised at trial. As the majority of the Eleventh Circuit was to explain in its en banc opinion, the "weaknesses" in the government's case included the following: (1) there was a "history of animosity" between Jarrell and Shuler unrelated to Chandler, resulting from Shuler's severe abuse of his ex-wife and mother-in-law, who were Jarrell's sister and mother; (2) Jarrell "for his own reasons" had previously attempted to kill Shuler by shooting him in the head, but the attempt had failed because the gun "had just not gone off"; (3) Jarrell had made numerous inconsistent statements about the Shuler murder claiming (a) that he did not do it, (b) that his shooting of Shuler was an accident, (c) that he shot Shuler solely because of "personal animosity", and, (d) finally,

and only after repeated police interrogations, that he had shot Shuler because of a \$500 offer from Chandler; (4) Jarrell admitted being severely intoxicated at the time of the shooting, having consumed almost a case of beer; and (5) Jarrell received a favorable sentence for himself, and the dismissal of all charges against his son, for his testimony against Chandler. Chandler v. U.S., 218 F.3d at 1310-1311. Given these factors undermining Jarrell's credibility at trial, the Eleventh Circuit itself concluded that "the evidence of guilt (on the murder charge) was not overwhelming." Id. at 1320.

After trial, Jarrell, on his own, contacted Chandler's post-conviction counsel and admitted that he had lied at Chandler's trial with regard to the death of Shuler. Jarrell disclosed, swore under oath, and continues to maintain, that, in fact, he had killed Shuler due to a personal feud that was totally unrelated to Chandler. Chandler had never offered Jarrell \$500 to kill Shuler. Independent investigation by post-conviction counsel revealed a far different story from that heard by the jury.

Prior to the murder, Shuler had been married to Jarrell's sister, Donna, and had lived with Jarrell's sister and mother for several years. Shuler, suffering from bouts of alcoholism and fits of rage, subjected Jarrell's sister and mother to a litany of abuse, including:

- Severely beating Jarrell's sister on numerous occasions.
- Attempting to kill Jarrell's sister by driving her off a cliff.
- Knocking out Jarrell's sister's teeth by slamming a coke bottle into her mouth.
- Forcing Jarrell's sister to kneel on the floor and then urinating in her face.
- Viciously hitting Jarrell's sister with a wooden plank and then raping her in front of her mother, who is also Jarrell's mother.
- Grabbing Jarrell's mother by the throat and threatening to beat her with a stick.
- Slashing Jarrell's sister's tires so she could not leave, and then brandishing a can of gasoline, threatening to burn the house down.
- Frequently assaulting various family members and friends with a loaded shotgun and often shooting guns inside the residence.

Jarrell and Shuler had had repeated confrontations over this abuse. Indeed, only five weeks prior to the murder, Jarrell attempted to kill Shuler because of the abuse. Jarrell, who was living next door to Shuler, arrived home when he heard Shuler again becoming abusive. Jarrell snapped. He grabbed his

gun, jerked Shuler to his feet, cocked the loaded pistol against Shuler's head and pulled the trigger. The gun failed to fire. Jarrell dislodged the bullet, saw that the firing pin had hit it dead center, turned the pistol toward a garbage container, and again pulled the trigger blasting the container from the floor. He told Shuler, "I guess God didn't intend for you to die tonight."

Jarrell was to kill Shuler only weeks later. Jarrell and Shuler (both severe alcoholics) went to an isolated location near Piedmont, Alabama known as Snow's Lake to drink beer and target practice. After having consumed 23 beers, they began to argue about Shuler's abusiveness. Shuler made a remark dismissing his responsibility for the abuse. Jarrell again snapped, raised his gun and fired at Shuler, killing him. Jarrell did not kill Shuler because of a \$500 offer from Chandler. Rather, Jarrell shot Shuler in the midst of an argument related to Shuler's abusiveness, in much the same way he had previously attempted to shoot Shuler only a few weeks earlier.

Following Shuler's death, Jarrell continued drinking heavily. Shortly after the murder, Jarrell miscalculated while playing with a rattlesnake and suffered an almost fatal snakebite induced coma. Three months after the murder, and shortly after Jarrell's recovery from the coma, he and his son

were arrested in Illinois at a time when the government's investigation of Chandler's marijuana involvement was culminating. Jarrell was believed to be involved. Jarrell was also a prime suspect in the Shuler disappearance, because of the history between Jarrell and Shuler and Jarrell's previous attempt to kill Shuler. Alabama investigators went to Illinois to interrogate the Jarrells. The questioning soon focused on Chandler and what the two Jarrells could provide to implicate him.

Jarrell was suffering from alcohol withdrawal and the aftereffects of the snakebite coma. Jarrell first denied killing Shuler, but then admitted to shooting Shuler, claiming, however, that it was an accident. The investigators asked whether Chandler had ever promised him money to kill Shuler. Jarrell told a convoluted story that the only time Chandler had offered him money to hurt someone was when Chandler had once jokingly offered him \$500 to rough up a person who had been making improper sexual advances on women at a gas station in town. Twisting this statement for their own purposes, the agents were ultimately able to get Jarrell to sign an internally inconsistent statement that the shooting was an accident, but that Chandler had also offered him \$500 to kill Shuler. Jarrell was not represented by counsel at the time. When Jarrell finally talked to an attorney, the attorney advised Jarrell to

use this statement to his advantage and guided Jarrell into signing a plea agreement for 25 years and the dismissal of all charges against Jarrell's son in exchange for his testimony against Chandler that Jarrell had killed Shuler for \$500 offered by Chandler.

After trial, Jarrell contacted counsel for Chandler and revealed that his trial testimony implicating Chandler in the Shuler murder was a lie. Jarrell has now sworn under oath that his shooting of Shuler had nothing to do with Chandler. He has given this testimony despite the fact that in so doing he jeopardizes his plea bargain and subjects himself to a capital prosecution. Jarrell has steadfastly maintained his recantation for over six years and the recantation is supported by an impressive body of extrinsic corroborating evidence, including:

- (1) the significant, and independently corroborated, abuse history which gave rise to the feud between Jarrell and Shuler;
- (2) the prior, and independently witnessed, murder attempt in retaliation for this abuse shortly before the actual murder; and
- (3) sworn testimony from numerous family members of Jarrell, and inmates who were in jail with Jarrell, that Jarrell told them, at or about the time of his trial testimony, that Chandler had had nothing to do with the murder of Shuler, but that he had no option but to implicate Chandler to save himself and his son.

**VI. The Courts Have Refused to Grant a New Trial.**

Despite the fact that Jarrell has now steadfastly maintained that his shooting of Shuler had nothing to do with Chandler and despite the fact that in making this revelation Jarrell's plea bargain could be revoked and he himself prosecuted for capital murder, the Courts have refused to grant Chandler a new trial. Judge Hancock, the same judge who was the trial judge in Chandler's case, refused to grant a new trial after hearing Jarrell's recanted testimony. Judge Hancock found that Jarrell had made "numerous prior inconsistent statements" regarding the Shuler murder and appeared to manipulate "his account of events to suit his then-present motives." Therefore, according to Judge Hancock, Jarrell was not a sufficiently reliable witness to prove that Jarrell had lied at Chandler's trial, ignoring the fact that Jarrell and only Jarrell could prove that he was lying at Chandler's trial. U.S. v. Chandler, 957 F.Supp. at 1512.

In essence, Judge Hancock denied Chandler a new trial at which he would have the opportunity to prove his innocence, because Jarrell is such a liar we cannot be sure that he is not lying about the fact that he lied at trial. Stated in another way, in Judge Hancock's opinion, how can we find that Jarrell is truthful about his being untruthful at trial, when Jarrell admits that he has been willing to lie to protect himself.

Chandler is thus caught in an obvious Catch-22. Judge Hancock admits that without Jarrell's testimony Chandler would never have been convicted of the murder of Shuler. But given that there is no other direct evidence, physical or otherwise, connecting Chandler to the Shuler murder other than the testimony of Jarrell, Jarrell's admission that he lied at Chandler's trial is not enough to require a new trial, because in admitting that he lied at Chandler's trial Jarrell was conceding that he is a liar whose testimony cannot be trusted. Chandler cannot prove his innocence because the only witness who knows whether Chandler was involved in the murder is such a liar we cannot tell when he is telling the truth and when he is not. Both Judge Hancock and all of the other courts which have reviewed Chandler's request for a new trial have ignored the fact that Chandler's conviction and death sentence for the Shuler murder was based upon the testimony of the same untrustworthy witness whose testimony Judge Hancock found insufficient to warrant granting Chandler a new trial.

The foreperson of the jury that convicted Chandler of Shuler's murder and sentenced him to death revealed in an interview on 60 Minutes his common sense conclusion that based upon what is now known about Jarrell's account of the Shuler murder he would never have convicted Chandler of the murder or sentenced him to death. The foreperson was simply stating the



obvious. Of course, a jury which heard all of Jarrell's accounts of what happened in connection with the Shuler murder, including his trial testimony that he shot Shuler because of a \$500 promise by Chandler and his current testimony that his shooting of Shuler had nothing to do with Chandler, but was an impulsive reaction to Shuler's dismissing his abuse of Jarrell's sister, would at least have a reasonable doubt about Chandler's guilt.

Benjamin Wittes made the same point in a Washington Post Editorial printed on December 29, 1998. (Exhibit "A"). As Mr. Wittes explained, there may be "good reasons to be suspicious of Jarrell, but they undercut his trial testimony at least as strongly as they do his current version of why he killed Shuler." Moreover, if Jarrell is simply "an opportunist whose version of the truth shifts with his self-interest," then we should be mindful that "his story at trial protected him from capital murder charges", while "his version now is diametrically opposed to his own interests in that it could—if the government chose to believe him—expose him to new charges." As Mr. Wittes acknowledged, he did not "pretend to know whether Chandler procured Shuler's death or which of Jarrell's stories is closest to the truth." However, he did know "that the only system that would err on the side of executing a man whose chief accuser has

recanted is one that fundamentally doesn't care whether its executing innocent people."

Counsel for Mr. Chandler trusts and believes that the President does care whether it is likely that an innocent man may be executed. The clear doubts about Mr. Chandler's guilt raise that specter. The remedy provided for by the Constitution is clemency and commutation of Mr. Chandler's death sentence.

V. The Case Regarding the Value of Chandler's Life Never Presented to the Jury.

The total mitigation case presented on behalf of Ronnie Chandler during the sentencing phase of the trial consisted of three stipulations and the brief testimony of Chandler's mother and wife. The entire mitigation case presented by the defense consisted of only sixteen pages of transcript and lasted no more than twenty minutes.

Nothing more was presented on Mr. Chandler's behalf because, as Mr. Chandler's trial counsel, L. Drew Redden, conceded under oath, both prior to trial and during trial up until the guilty verdict was read at 1:50 p.m. on the afternoon of April 2, 1991, he had done "basically not anything explicitly" or "very little" to prepare for a sentencing hearing. Neither himself nor anyone on his behalf made any effort to obtain character or other mitigation witnesses. He merely had "only a hope" that mitigation evidence might be

"volunteered" to him. Indeed, trial counsel's first and only effort to investigate and locate mitigation witnesses occurred only after the jury had found the Mr. Chandler guilty at 1:50 p.m. on April 2, 1991, when counsel asked Mr. Chandler's wife, Deborah Chandler, to try to "get somebody to stand up for Ronnie (Chandler) tomorrow" who could testify to Chandler's "humanity, compassion, things of that sort."

Unfortunately, at the time that counsel made this request, Mrs. Chandler, having just witnessed her husband convicted of murder, was understandably "upset", "numb" and "just couldn't seem to function right"- - "I knew I had to say something to the kids, but I didn't know what." Mrs. Chandler testified that she did not remember talking directly to trial counsel, but recalled learning that she needed to find character witnesses when she and other family and friends were "in the bathroom and downstairs (at the courthouse) and was trying to get theirselves together" after the guilty verdict. This was the first she knew she had to find character witnesses and she had facing her a two to three hour drive home from Birmingham, where the trial was being held, to her house outside of Piedmont, Alabama, near the Georgia/Alabama border, during which "a bunch of people that come with us--had to be let out." When she finally arrived home and was "talking and praying" with friends and family, someone reminded her that she needed to find "somebody to stand up for

Ronnie tomorrow" and a friend suggested Reverend McCoy. As she testified, she did not "have the time or wits" to contact others and "didn't know I was even supposed to." She would have to be up and ready to go by at least 5 a.m. the next morning for the long drive back to Birmingham to meet with trial counsel for a few minutes before testifying on behalf of her husband the next day at a sentencing hearing at which her husband's very life was at stake. She asked to "be alone for a while" so that she could go into the bathroom, pray and listen to the "Word" on "praise tapes", from which she found comfort in "seemingly impossible situations." She stayed there all night.

Not surprisingly the only character witnesses that Mrs. Chandler was able to locate and get to court on such short notice were herself, Mr. Chandler's mother, Irene Chandler, and his former minister, Reverend McCoy. Counsel decided not to call Reverend McCoy, because the witness' contact with Mr. Chandler was somewhat remote and, as he explained during the \$2255 proceedings, to call one such witness "in the absence of some number of witnesses" would not be "a wise thing to do." As a result, the only mitigation witnesses who testified were Mr. Chandler's wife and mother. Counsel did not even prepare these two witnesses for their testimony until he spent only a few moments with them before trial began on the morning he presented them as witnesses. When counsel was asked "how much time did

you have to prepare Ms. Irene Chandler and Ms. Deborah Chandler for their testimony", his candid answer was "not much." As a result, their testimony was nothing more than a brief biographical sketch of Mr. Chandler.

The failure of trial counsel to present character evidence at sentencing, although it was readily available, was exploited by the prosecution in closing argument. The government argued that "David Ronald Chandler is a thoroughly dangerous man" and all that his wife and mother testified to "was that he is my child, he is my husband and here is his background." But, as the prosecutor continued, "probably everyone of you has a husband or a wife" and "every one of you had a mother at one time and hopefully still do." Indeed, "Jack the Ripper had a mother" and "Charles Manson had a mother." Although trial counsel in his sentencing argument attempted to portray Ronnie Chandler as a man whose life had "purpose" and was not "worthless", given the meager testimony presented at sentencing, he had no evidence upon which to support this claim.

However, if trial counsel had conducted the most cursory of a mitigation investigation, he would have located numerous witnesses in the community where Chandler grew up and lived who would have testified that Chandler's life could not be defined and summed up solely by the evidence presented by the government as to his marijuana related activities, but that Chandler was in

fact a compassionate, generous, and caring person who loved to help others; that he was not only non-violent, but extremely forgiving and an active peacemaker; that he had a cheerful, optimistic and encouraging personality--someone who would get you through hard times and make you laugh if you were down; that he was fair, honest and respectful of others; that he was a skilled carpenter, brick mason and contractor, who was not only hardworking himself, but also encouraged others to work hard; that he loved to teach others the skills that he knew; that he was a good family man who was extremely supportive of his own and other children in the community, particularly those who did not have a father; that he was kind and respectful to the elderly; and that he was religious, charitable and patriotic.

The witnesses who would have testified to the worth of Ronnie Chandler's life if they had only been located by his counsel and called as witnesses were salt-of-the-earth citizens, many of whom held down substantial positions in the community. The witnesses included long time factory workers, small business owners, and employees of the Anniston Army Depot and the Marshall Space Flight Center. All could have testified to Chandler's value as a human being based upon their close associations with him up to the time of his arrest. The "life profile" of Mr. Chandler which could have been attested to by these witnesses was remarkable.

During the §2255 proceedings Chandler's counsel was allowed to call 27 of these witnesses who would have been available to testify as to Ronnie Chandler's good character and good works, but were never contacted by Chandler's trial counsel. More were available, but the §2255 court allowed only 27 to testify. These witnesses would have been able to tell the jury a far different story about who Ronnie Chandler is than the one posed by the prosecution at trial.

They could have testified that Mr. Chandler was a compassionate, generous, and caring person who loved to help others. H. McCord ("compassionate"); Ruby McFry ("a caring man"); J. Masters ("caring"); D. Heath ("good-hearted", "giving"); J. Fortenberry (quick to help others without seeking anything in return) ("generous"); J. Masters ("generous"); K. Chasteen ("He has a reputation for being an extremely caring person."); E. Freeman ("He's one of the most compassionate, generous caring people I've ever met."); D. Matthews ("I consider Ronnie an extraordinary person. He's kind and cares about people."); J. McCoy ("Ronnie is a kind person....He's a generous person. He'd just give you the shirt off of his back, even if it was his last one."); ("I've just seen him reach out so many times and pick someone up, especially somebody who was down."); H. Lawler ("Good caring person"); T. Stokes ("he genuinely cared about people, had a love for people"); K.

McCord; D. McFry ("He helped you from the goodness of his heart. Not for anything in return."); S. Kelley ("I guess the difference between Ronnie is the fact that there are many people who say well, you know, I hope you get better soon, you know, or I hope your life improves down the road. But Ronnie would try to do something to make sure that their life did improve."); M. McFry ("He's a loving man."); S. Robertson ("He's always been giving and generous.").

Witnesses could have testified that Ronnie Chandler is extremely forgiving and an active peacemaker, contrary to the "thoroughly dangerous man" that the government contended him to be. J. Fortenberry (peaceful); K. Chasteen (would always dispel conflicts at work); E. Freeman (never knew him to say a harsh word against anyone); Ruby McFry (not a violent person); J. Masters (non-violent); R.S. Smith (after a man who had been paid in advance quit in the middle of painting Mr. Chandler's house, Mr. Chandler did not even get upset and said "Well, the Bible said if they take your coat to give him your cloak."); B. Russell ("It takes a lot to get him upset."); T. Montgomery (Mr. Chandler forgave and rehired him, even after he sued Mr. Chandler for an accident at work); K. Kelley (non-violent); D. McFry (non-violent); D. Kelley (non-violent).

A number of the witnesses could have described Mr. Chandler as a cheerful, optimistic and encouraging personality--someone



who would get you through hard times and make you laugh if you were down. D. McFry ("Well, if you were in a down and out mood he would always come in and have a big smile on his face and see that you were cheered up before he left."); T. Stokes ("A wonderful sense of humor."); B. Russell ("Always smiling, carrying on and joking"); K. Chasteen ("He's an outgoing, upbeat, always smiling, happy man.").

Witnesses, if only called, would have provided testimony that Ronnie Chandler is fair, honest and respectful of others. Kerry Chasteen (fair); J. Fortenberry (respectful); Ruby McFry (age 75) ("I was always treated with love and respect."); B. Russell ("he didn't like for you to say ugly, bad words around kids....or an elderly person. [He was] very respectful."). They would have further testified that he was a skilled carpenter, brick mason and contractor who was not only hardworking himself, but also encouraged others to work hard. J. Fortenberry (skilled carpenter and brickmason--encouraged others to work hard); D. Matthews ("One of the most skilled I've ever worked with"); J. Masters ("Ronnie will get up from daylight and work until dark and he wouldn't quit until the job is done."); K. Chasteen ("he's always been a conscientious, hard worker."); D. Matthews ("Extremely hard worker."); J. McCoy ("a very hard-working person"); D. Heath; D. Matthews.

Mr. Chandler could also have been described by the witnesses as someone who was not only skilled himself but who also loved to teach others the skills that he knew. R. Chasteen ("he had a favorite saying he liked to say about helping people. He was very....against giving just to give away. But a saying he used to use was if I give you a fish today you'll eat it today, but if I can teach you how to fish, you will eat forever."); J. Fortenberry (taught carpentry); J. Masters (taught carpentry, hunting & fishing skills); K. Chasteen (carpentry and masonry); D. Matthews (carpentry, contracting); J. McCoy (taught husband how to lay brick and block, taught him hunting skills).

Numerous witnesses would have testified that Mr. Chandler is a good family man who was extremely supportive of his own children and the children of others, particularly children who did not have a father at home. J. Fortenberry (real encouraging, loved children); K. Chasteen ("fantastic" with children); R.S. Smith ("the fatherless children, he was particularly caring about those"); E. Freeman (discussing her children--"He was like a second dad after their dad passed away."); W. Twilley (age 18, had a step-father but no real father--"He was like my dad"); B. Russell ("Very good role model [to children]....He would encourage them to stay in school, to go to church."); C. Chandler ("loves children"); Kerry Chasteen

(very good with children); T. Stokes ("he always had time for children").

Witnesses would have also testified that Mr. Chandler is kind and respectful to the elderly. B. Russell (the elderly residents of the community "were very special to him....he would treat them just like he was treating his own family."); R.S. Smith ("Ronnie has always had a compassion for the elderly people."); R.M. Trammell (age 82) ("He's always wanting to help me with something and I just learned to love him." "He's about the greatest friend I ever had."); Ruby McFry (age 75) ("I was always treated with love and respect"); R. Trammell (Mr. Chandler's grandmother, age 83, describing how Ronnie would always come by, once or twice a week, to see if she needed anything).

Witnesses could have testified about Mr. Chandler's commitment to the church and his involvement in religious activities. K.R. Chasteen ("It wasn't unusual at all for him to stop the vehicle and someone that he knew was needed prayer, really in need, to stop right there and pray for them right on the spot."); R.S. Smith (describing how Mr. Chandler would apply religious principles to his life--forgiveness); B. Russell ("[he is] very religious....[H]e's asked me many -- numerous times to go to church with he and his wife and take my family to church."); S. Robertson ("Ronald knows the Bible.... yes, he's

very religious, yes."); H. McCord; Ruby McFry; H. Masters; R. S. Smith.

Chandler was also generous with community projects and unusually patriotic. H. McCord (donated to rescue squad; very supportive of church); J. Masters (donated money and time to church, built fellowship hall); B. Russell (always donated to roadblocks for charitable causes--"[i]f he had a dime in his pocket, he would donate it"); J. Fortenberry ("Oh, well, first we'd start off to do a job that morning, construction work, he'd just, say look fellows, we live in the best country in the world here, let's get out here and do a good job, and do our best 'cause we live in the best country, so let's do our best work."); K.Chasteen (While hunting "he stopped on the peak of one of those mountains and crawled out on a ledge and sang God Bless America at the top of his voice, and completely, too, by the way."); R. Smith ("I don't know anybody that's more patriotic than he is. You can be going down the road with him and he would just get out and--pull over on the side of the road and get out and sing God Bless America, three verses, get back in and go back down the road.").

There was evidence which could have been presented about many specific acts of charity and compassion by Ronnie Chandler. Mr. Chandler brought groceries, lunch money, shoes, clothing, or firewood to poor families, children, and elderly residents of

the community. J. Fortenberry (when he was only a child, Ronnie brought vegetables and lunch money to their family); D. Matthews (brought groceries to the poor); R.S. Smith (helped her with groceries, school money, shoes and clothes); H. McCord (bought cleats for disadvantaged boys so that they could participate in community sports league); D. Heath (brought two pairs of shoes for child living in the projects who was playing outside without shoes); J. McCoy (bought shoes for a poor child); M. McFry (bought new shoes for one of the church pastors who had holes in his shoes); Ruby McFry (brought groceries to her); H. Lawler (brought food to him when he had been laid off his job and his wife was expecting); B. Russell (bought food for children in projects); B. Russell (helped those in need with utility bills and firewood in winter); S. Kelley (helped poor with food and clothing); L. McBrayer ("He's sent us foods (sic) and stuff many a times when we didn't have anything to eat."); L. McBrayer (provided transportation for children to go to the doctor).

Mr. Chandler's kind-hearted encouragement also helped many through difficult time in their lives, often accompanied by unsolicited acts of kindness.

-- Chandler counseled and supported a woman who was in an abusive relationship with an alcoholic husband, and provided her with a means of returning home after she

had moved out of state and her husband remained abusive. L. McBrayer.

-- Chandler helped, counseled and encouraged an alcoholic man to work, to provide for his family, and to overcome his alcohol problem, taking care of the man's family while the man was in a rehabilitation program, and never giving up on him, even after the man sued him and won a judgment for an accident at work. T. Montgomery ("the whole time I was in [rehab] he took care of my family for me. And, you know, he helped me get back and forth to AA meetings and supported me there."); ("He never did give up on me....He helped me more than anybody I know of.").

-- Chandler provided support to a woman when her husband died and told her that she could live in a house he owned as long as she needed, refusing to accept anything in return. E. Freeman.

-- Chandler provided encouragement, support and care to a man who had burned his arm and could not work to support his family. B. Russell ("Just about every day he was there. He would come by and make sure we had plenty of food, make sure everything was all right.").

-- Chandler provided tremendous encouragement to a man who had been injured in an automobile accident,

ultimately giving him the inspiration to walk again.

J. Fortenberry.

-- Although he could ill afford it, Chandler gave a poor family money to bury their son who had been unexpectedly killed in an accident. D. McFry; E. Freeman; M. McFry.

-- Chandler volunteered his time and labor to cut the grass for a man disabled by a heart condition. S. Kelley.

-- Without being asked, Chandler built a porch for free for a handicapped man to make it easier for him to get into his house, asking nothing for his labor or the materials. C. Chandler.

-- Chandler encouraged a man who thought he would never be able to have children through a difficult period of several years until he and his wife finally had a baby. J. Fortenberry.

-- Chandler helped single mothers care for their children and provided a positive role model for them. R. S. Smith; E. Freeman ("He was like a second dad after their dad passed away."); W. Twilley ("He was like my dad"); B. Russell ("Very good role model [to children]....He would encourage them to stay in school, to go to church.").

-- Chandler gave money to the poor so that they could buy Christmas gifts for their children. S. Kelley; Kerry Chasteen ("Yes, there was a time when he came in, there was a friend of mine that I used to work with and he had overheard a conversation between her and this other lady and they were talking about what she could do because her children had--was going to have no Christmas and he just had some money stuck down or had give her what he had in his billfold at the time. And it just fascinated my supervisor because people just don't do that. You know, they was trying to figure out what she could do and Ronnie overheard the situation and just said, you know, I'll help. And you don't see that very often.")

-- Chandler gave people a place to stay when they did not have any place to live. M. McFry.

-- Chandler offered work to those in need so they could afford to feed their families, assisting them in ultimately becoming self-sufficient. D. Heath (housekeeping); D. Matthews (framing houses) (lent him carpentry tools so he could go out on his own); K. Kelley (construction work); M. McFry (gave husband a job so he could support family); K. Chasteen.



- Chandler taught others hunting and fishing skills, always putting them in the best position so that they, rather than he, would succeed. J. Masters; J. McCoy.
- Chandler worked on houses without charge for those who could not afford it. S. Kelley.
- Chandler would often just stop by the side of the road to pray for people that he felt needed help. K. Chasteen.

The Supreme Court has repeatedly held that individualized consideration is indispensable to a constitutionally reliable capital sentencing proceeding. The jury in reaching its conclusion must focus on all "relevant facets of the character and record of the individual offender (and) the circumstances of the particular offense," thereby treating the defendant as a "uniquely individual human being." Woodson v. North Carolina, 428 U.S. 280, 304-305 (1976). The process must be "at once consistent and principled but also humane and sensible to the uniqueness of the individual." Eddings v. Oklahoma, 455 U.S. 104, 110 (1982). It is only then that there can be assurance that the sentencing decision reflects "a reasoned moral response to the defendant's background, character and crime." California v. Brown, 479 U.S. 538, 545 (1987) (O'Connor, J.) (Emphasis in original).

However, such constitutionally required particularized sentencing can occur only when the evidence of the unique individual background and character of the person on trial is presented by defense counsel during the separate penalty phase of the proceeding. Here, Mr. Chandler's trial counsel concedes that he failed to conduct any investigation of Ronnie Chandler's background and therefore the jury never heard anything about the unique humanity of Mr. Chandler. The jury that sentenced him to death only heard the bad about Mr. Chandler and nothing about the good. They had not the slightest inkling of the numerous instances of Chandler's kindness and generosity.

The judgment by the jury that Ronnie Chandler should be sentenced to death is therefore thrown into serious doubt. A jury's verdict sentencing someone to death cannot be reliable when due to the failure of a defendant's counsel the jury did not have any concept of the true nature of the person they were sentencing. As Judge Birch, a Republican appointee to the Eleventh Circuit, stated in his dissent to the Court's en banc opinion, "Defense counsel's entire penalty phase effort, from the minute that he asked Deborah Chandler to find mitigation witnesses until the arguments concluded, consisted of less than 24 hours. Before we, as a civilized society, condemn a man to death, we should expect and require more of an advocate." Chandler v. U.S., 218 F.3d at 1343. Mr. Chandler's death

sentence should be commuted, because we cannot be comfortable that the sentence of death was a reliable judgment, especially when you combine the substantial doubt as to Mr. Chandler's guilt with the failure of the jury to know anything about his true character.

#### VI. Conclusion.

The Constitution grants the President broad powers to grant clemency and to commute sentences because of the recognition that injustices, often grave injustices, can occur in our far from infallible judicial process. Herrera v. Collins, 506 U.S. at 411-412 ("Clemency is deeply rooted in our Anglo-American tradition of law, and is the historic remedy for preventing miscarriages of justice where the judicial process has been exhausted."). The innocent can be convicted and even sentenced to death. A jury can sentence a man to die without knowing anything about his true character, because of the failures of counsel. In these situations, clemency and commutation of sentence are the appropriate remedies.

There is no way that a jury now hearing the case against Ronnie Chandler would convict him of inducing Charles Ray Jarrell to kill Marlin Shuler. He is innocent of that crime. At the very minimum, there is more than a reasonable doubt as to his guilt. There is no more compelling case for commutation of a death sentence. When you add to the mix the failure of Mr.

Chandler's trial counsel to present to the jury anything about his true character, the case for clemency and commutation of his death sentence becomes even more compelling.

As recent investigations have clearly shown, innocent people are sometimes convicted of the most serious crimes and are not infrequently sentenced to death. The Governor of Illinois declared a moratorium on the death penalty in that state because it became obvious that the process for imposing the death sentence in Illinois was flawed and that innocent people were being sentenced to death. There is no reason to believe that the federal system is immune to this danger. This case is a sobering example that the same injustices that infect state court proceedings can occur also in the federal courts.

This case, however, is not an occasion to address this systemic problem. It is an occasion for clemency and commutation to be granted to prevent what could be an unconscionable injustice in a particular case. Ronnie Chandler is likely innocent of the murder for which he is sentenced to death. At a minimum, there is more than reasonable doubt as to his guilt. The process by which he was sentenced to death was also flawed, because a jury did not have the slightest idea of the real character of the man upon whom they imposed the ultimate penalty of death. The appropriate response to this situation is executive clemency and commutation. Petitioner

respectfully requests that the President exercise his constitutional powers in granting this Petition.

Respectfully submitted,

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