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MAR.19.1999

ROY RAMSEY, CP87

Potosi Correctional Center

Mineral Point, Missouri 63660

Execution date scheduled: 12:01 a.m. April 14, 1999

STATEMENT OF THE CASE

I. PROCEDURAL HISTORY

On March 14, 1991, a jury in the Jackson County Circuit Court found Roy Ramsey guilty of capital murder in the death of Garnett and Betty Ledford. The jury assessed the penalty of death, which the court imposed. On July 16, 1991, Mr. Ramsey filed a pro se application for post-conviction relief pursuant to Mo. S. Ct. 29.15. An amended application for post-conviction relief was filed on September 13, 1991. After a hearing on the motion, request for post-conviction relief was denied on July 7, 1992. On February 22, 1993, Mr. Ramsey timely filed a consolidated appeal to the Supreme Court of Missouri, which combined his direct appeal and the appeal of the ruling on the motion for post-conviction relief filed pursuant to Rule 29.15. On October 26, 1993, the Supreme Court of Missouri affirmed Roy Ramsey's conviction and sentence of death. State v. Ramsey, 864 S.W.2d 320 (Mo. banc 1993) (as modified on denial of rehearing). Roy Ramsey timely filed a Petition for Writ of Certiorari before the United States Supreme Court. On May 2, 1994, the Supreme Court of the United States denied the petition without a hearing. Ramsey v. Missouri, 511 U.S. 1078 (1994).

On June 2, 1994, Mr. Ramsey filed his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. Para. 2254. Counsel was appointed, and Mr. Ramsey subsequently filed an amended petition. On December 9, 1996, the district court issued its Order denying Mr. Ramsey's claims. On December 23, 1996, Mr. Ramsey filed a Motion to Alter or Amend Pursuant to Rule 59(e). On January 23, 1997, the district court denied Mr. Ramsey's Motion to Alter or Amend the

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Judgment. Thereafter, on or about March 10, 1997, Petitioner filed an Application for Certificate of Appealability in the Eighth Circuit. On June 18, 1997, the Eighth Circuit summarily denied the application. Petitioner filed a Petition for Rehearing on July 20, 1997. The matter was remanded by the Eighth Circuit to the district court for consideration as to which issues a certificate of appealability should be granted. On August 21, 1997, the district court issued its Order granting certificate of appealability as to certain issues and denying certificate of appealability as to certain issues. Thereafter, Petitioner filed his Motion to Alter or Amend Judgment in the district court and sought to expand the certificate to all issues. That motion was denied by the district court on September 5, 1997.

Mr. Ramsey filed an application for certificate of probable cause or expanded certificated of appealability in the Eighth Circuit. The application was denied by that court. After all briefs were filed in the Eighth Circuit Court of Appeals, the court affirmed the district court ruling denying Petitioner relief on his petition for writ of habeas corpus filed pursuant to 28 U.S.C. Para. 2254. Mr. Ramsey's petition for rehearing and rehearing en banc was also denied.

On January 11, 1999, Mr. Ramsey filed his petition for writ of certiorari in the United States Supreme Court. That petition was denied by the Supreme Court on February 22, 1999. On February 22, 1999, respondent filed a motion to set execution date. The Missouri Supreme Court has set Mr. Ramsey's execution date for April 14, 1999, 12:01 a.m. CDT.

II. FACTUAL HISTORY

A. Facts Relating to the Alleged Offense

Billy Ramsey (Roy Ramsey's brother) and Angela Ray were the key witnesses who testified against Roy Ramsey at trial. Angela Ray was not charged in the offense. Billy Ramsey

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was charged but agreed to testify for the state against Roy Ramsey in exchange for a favorable sentence. Billy Ramsey received a 25 year sentence as a result of his cooperation and is eligible for release on parole December 31, 2000.

The testimony adduced at trial was that Billy Ramsey and Angela Ray spent the night of November 20, 1988, at 5609 East 39th Terrace, the home of Effie Ramsey, mother of Mr. Ramsey and Billy Ramsey. (Tr., pp. 955, 957, 1213.) After eating breakfast, (Tr., pp. 955, 1213), Angela Ray drove Mr. Ramsey and Billy Ramsey in her car. (Tr., pp. 956, 1215-16.) Angela Ray testified that Mr. Ramsey had pointed a gun at her and said, "Take me to Grandview." (Tr., p. 1214.) Billy Ramsey's testimony confirmed that he and Mr. Ramsey were in the car with Angela driving. However, Billy Ramsey's testimony was to the effect that the three mutually agreed "to go out and do some stealing." (Tr., p. 956.)

Angela Ray drove the three, ultimately stopping near 7610 East 102nd Street in Jackson County, Missouri, (Tr., p. 958.) Ray's testimony was that Billy Ramsey gave her the directions to drive, (Tr., p. 1217.) Mr. Ramsey and Billy left the car and went to the door of the residence. (Tr., pp. 959, 1218.) Ray saw Mr. Ramsey and Billy speaking with an older man with white hair. Eventually, the older man came out of the house speaking with Mr. Ramsey and Billy, and then all three went back into the house. (Tr., pp. 962, 1219, 1222.) According to Billy Ramsey, the precipitating event for entering the house was when Mr. Ramsey pulled his gun and told the older man (later identified as Garnett Ledford) to go inside. (Tr., pp. 963-64.) Billy described Mr. Ramsey's gun as a "nickel-plated .22 [-caliber] automatic." (Tr., p. 959.) Angela Ray described the gun which Mr. Ramsey pointed at her as silver colored. (Tr., p. 1214.)

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Once inside the residence, Mr. Ramsey and Billy Ramsey encountered Mrs. Ledford, (Tr., p. 964.) Mr. Ramsey and Billy took the Ledfords to the main bedroom where the Ledfords were forced to open a safe, and Mr. Ramsey and Billy took money, jewelry, and "other stuff." (Tr., p.966.) Billy removed some guns from a closet and unhooked the VCR. (Tr., p. 967.) Billy responded to Mr. Ramsey's call to get a pillow case (in which to carry the stolen merchandise) and observed Mr, Ramsey taking the Ledfords. in the "back bedroom." (Tr., p. 970.) Billy proceeded on to the car where Angela Ray was waiting. (Tr., pp. 970-71.) While Angela Ray was driving in the vicinity of 67th and Prospect, Billy Ramsey threw Mr. Ledford's wallet with identification cards and pictures out of the car window. (Tr., p, 972) At approximately 3:00 p.m. on November 21, 1988, Patricia Standifer was walking home from school with Monica Porter near 67th and Prospect where she found "picture and cards and stuff." (Tr., p. 1108.) The cards bore the name "Garnett J. Ledford." (Tr., p. 1109.) Billy Ramsey's fingerprint was found on one of the photographs which were among the articles found by Standifer. (Tr., p 1120.)

Greg Steele was the son-in-law of Garnett and Betty Ledford. (Tr., p, 870.) Steele had come to know Billy Ramsey while they were both incarcerated in the Jackson County Jail. (Tr., 869-70.) On November 21, 1988, at about 1:00 p.m., Steele went to the Ledfords' residence at his wife's request because Mrs. Ledford had not made a shopping date with Mr. Steele's wife. (Tr., 871.) Steele arrived at the Ledfords' residence to find the storm door unlocked and the front door ajar. (Tr., p. 872.) Steele found Garnett Ledford on the bed and Betty Ledford in a chair with her hands tied in a spare bedroom in the house, (Tr., p. 879.)

Dr. Bonita Peterson testified to having performed the autopsies on Garnett and Betty Ledford, (Tr., p. 1376, et seq. Peterson testified that Mr. Ledford suffered two gunshot wounds

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to the head and one gunshot wound involving the left upper arm and neck. Either the second or third of these wounds would have been fatal, in Peterson's opinion. (Tr., pp. 1379-80) In Peterson's opinion, Mr. Ledford died of gunshot wounds to the head. (Tr., p. 1394.) Peterson testified that Mrs. Ledford suffered three gunshot wounds to the head. Any of these wounds would have been fatal in Peterson's opinion. (Tr., pp. 1388, 1390, 1393.) In Peterson's opinion, Mrs. Ledford died of gunshot wounds to the head. (Tr., p. 1395.)

John Cayton, firearms and toolmark examiner for the Kansas City Police Department, testified that the .22-caliber Ruger semi-automatic (Exhibit #60) fired the shell casings found at the Ledfords' residence and the .22-caliber slugs recovered in the autopsy. (Tr., pp. 1367-68.) Billy Ramsey testified that Exhibit #60 was the gun he saw in Mr. Ramsey's possession on November 21, 1988. (Tr., p. 991.)

Billy Ramsey testified that, sometime after November 21, 1988, he talked with Mr. Ramsey about the events of that day. According to Billy, Mr. Ramsey stated that he shot them because they knew Billy personally and because they could probably pick him (Mr. Ramsey) out in some police pictures. (Tr., p. 991.)

On November 27, 1988, Mr. Ramsey was arrested. (Tr., p. 1145.) On that date, Kansas City, Missouri, police officers conducted a residence check at 5609 East 39th Terrace for Roy J. Ramsey, Jr., who was allegedly wanted on a Kansas City parking warrant No. 5407378 and a pickup issued November 26, 1988 for homicide by the Crimes Against Persons Unit of the Kansas City, Missouri, Police Department. Upon checking the residence, Beverly Roper was contacted and, after questioning, Roper nodded her head "yes" in response to the question if Roy Ramsey was in the residence. She was then asked where in the residence Mr. Ramsey was located and she

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pointed to the west hallway. Roy Ramsey was contacted in the southwest bedroom, where he was arrested for the aforementioned parking warrant and the pickup for homicide investigation. Roy Ramsey was then searched incident to the arrest where the officers recovered an unknown type of silver colored coin of unknown denomination from his front left pocket. Roy Ramsey was never processed on the alleged parking warrant. He was never brought before the Circuit Court of Jackson County, Municipal Division of Kansas City, to face this charge.

Upon arrest and after being advised of his rights, Mr. Ramsey denied any knowledge of the horridities and stated that "he would have the last laugh." (Tr., p. 1149.) Police Officer Cline described Mr. Ramsey's demeanor during the interrogation as "sure of himself. Arrogant." (Tr., p. 1150.) After first denying having ever been in a "small white car," Mr. Ramsey then admitted to having been in Angela Ray's small white car two or three times. (Tr., p. 1151.) Finally, when questioned about a silver Chinese coin found in his possession when arrested, Mr. Ramsey asserted that he (Mr. Ramsey) had acquired the coin from a white man at a dope house on 68th Street and that the man was in the police lockup at that time. (Tr., 1151.) Although Mr. Ramsey was taken through the police lockup, the person could not be found. (Tr., p. 1154.) Further investigation revealed that no one had been released from the lockup (by bonding out, etc.) during the course of the interrogation with Mr. Ramsey. (Tr., p. 1155.)

B. Evidence in Mitigation.

Effie Ramsey, Mr. Ramsey's mother, testified regarding Mr. Ramsey's family history. (Tr., p. 1566, et seq.) Mr. Ramsey was born in 1953. Mr. Ramsey has nine brothers. Mr. Ramsey's father is Roy Ramsey, Sr. At the time of sentencing, Mr. Ramsey's father he was confined to a nursing home for medical reasons. Mr. Ramsey's father is now deceased. (Tr., p. 1567.) Mr.

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Ramsey was born in New Madrid, Missouri, where the family lived and worked on "101 Plantation." (Tr., p, 1574.) Mr. Ramsey worked in the fields with the family chopping cotton. He also began attending school while the family lived in southeastern Missouri. When the family moved to Kansas City, Mrs. Ramsey always had to work to help ends meet. (Tr., p. 1582.) Roy would frequently do odd jobs for neighbors, such as "Miss Pearl." (Tr., p, 15 82.)

Earl Ramsey, Mr. Ramsey's brother, (Tr., p. 15 87, et seq.), testified that the family grew up in rural southeastern Missouri in a house with no inside plumbing. (Tr., p. 1588.) When the family moved to Kansas City, Earl and Mr. Ramsey would steal food to help feed the family. Earl testified that with the passage of time, they began to steal other articles, such as bicycles. (Tr., p.1591.)

William C. Hunt, (Tr., p, 1599, et seq.), testified that he had worked for the Jackson County Juvenile Center at the facility alternately known as "Industrial Home for Boys," "Little Blue Home for Boys," or "Highview Home for Boys." Mr. Ramsey was committed to the home for truancy when he was about ten years old. (Tr., p. 1600.) He ran away twice. According to Hunt, Mr. Ramsey's parents "went out of their way" to help the children. (Tr., p, 1600.) Mr. Ramsey was "quiet," "not aggressive," and "borderline mentally retarded." His reading was poor and he had an attention deficit. (Tr., p. 1604.)

Betty Lou Donaldson, (Tr., p. 1609, et seq.), testified that she was retired from 26 years with the Jackson County Juvenile Justice Center. Donaldson characterized the family as afflicted by "financial deprivation" and as having a difficult transition from rural to urban life. (Tr., p. 1612.) Donaldson did not recall any "hostility" from either Mr. Ramsey or his parents. (Tr., p.1614)

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Glenn Lipson, (Tr., p. 1634, et seq.), a psychologist at the Menninger Clinic, Topeka, Kansas, testified that Mr. Ramsey suffered, among other things, from a sleep disorder which affected his learning capacity, and resulted in irritability. (Tr., p. 1657.) Mr. Ramsey acknowledged having made errors in his life choices. (Tr., p. 1659.) Mr. Ramsey was not trusting and tended to be confused by life situations. (Tr., pp. 1661, 1663.) Overall, Lipson characterized Mr. Ramsey as possessing limited intellectual skills and emotional immaturity. Dr. Lipson's report indicates that Mr. Ramsey's intellectual functioning, as measured by the WAIS-R, falls within the low average range (Verbal I. Q. = 82, Performance I.Q. = 82, Full Scale I.Q. = 82). Roy's Low Average Abilities are fairly uniform with the exception that he has a relative strength (average as opposed to below average ability) in his knowledge of how people socially interact.

Karey Adams, (Tr., p. 1696, et seq.), testified that she was acquainted with Effie Ramsey, and that Mr. Ramsey had expressed concern for his mother and had requested Adams to check on Mrs. Ramsey from time-to-time. (Tr., p. 1697.)

C. Post-Conviction Relief Proceeding.

Mr. Ramsey identified three letters, PCR Exhibits 1, 2 and 3, as having been authored by his brother, Billy Ramsey. (PCR Tr., p. 15.) (App. at 59-61) The letters indicated that Billy Ramsey had falsely implicated Mr. Ramsey in the homicides. Exhibit 1 read:

Again, I'm very sorry about getting you in this bullshit when I know that you had nothing to do with it, but I was scared what might be the outcome in Court.

Exhibit 2 read:

Hey Big Bro

Im sorry that things didn't turn out the way I planned. See I was really on that end when I did talk with them cop's and I do no that they did write a lot of shit that they wanted to write, look man things shoulden had happen like this, so look Bro all I can say is I'm sorry for fucken up!!

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Your little Bro
Billy!!

Exhibit 3 read:

Look Roy!

Man I have been up for the last few days In nights, asking God to forgive me for going over In that court room and making myself look like a dam fool, by lieing on you. But that prosecutor Pat Peters trick me to lie on you plus I don't understand how he use Angela Ray like that, all Im asking you, if you will find in your heart, away to forgive me for what I did wrong to you, But I no they was going to try to kill the both of us, so I lie'd on you for that reason.

your Brother Billy

Mr. Ramsey asserted that he had shown all three letters to his trial counsel, Mr. Dan Miller, in the presence of jail guards, Kim Henderson and Otis Chandler. (PCR Tr., p. 23.) Henderson remembered having seen Exhibit 3. (PCR Tr., p. 82.) Chandler observed Exhibit I and possibly Exhibit 3. Chandler did not recall reviewing Exhibit 2 previously. (PCR Tr., pp. 104-05.) Mr. Ramsey's trial counsel, Dan Miller, remembered reading Exhibit 1. Miller denied reviewing Exhibit 3. Miller also recalled Mr. Ramsey producing to him two letters, and he believed that Exhibit 2 was the second letter. (PCR Tr., p. 116.) Miller's recollection was that the letters were shown to him before the defense rested, (PCR Tr., p. 118.) Miller testified that he considered the use of the letters and determined not to use the letters because of the risks. He believe there was a risk that the jury would believe Mr. Ramsey had manufactured the letters or had forced Billy Ramsey to fabricate them. (PCR Tr., pp, 120-30)

Miller testified that he had been aware, prior to trial, of the potential testimony of Don Macy, (PCR Tr., p. 136), who had claimed to have seen two black men in the vicinity of the Ledfords' residence on the date of the homicides. Macy's description of the men was inconsistent

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with Billy Ramsey and Mr. Ramsey. Further, Macy failed to identify Mr. Ramsey in a lineup as one of the men he saw.

Miller also testified that he had been aware, prior to trial, that Pamela Crane, a person who lived in the Ledfords' neighborhood, had seen a white car parked near the Ledfords' residence, but had not seen anyone in the car. (PCR Tr., pp. 13 8-42.) This was inconsistent with Angela Ray's testimony that she waited in and around the car for the return of Billy Ramsey and Mr. Ramsey.

Trial counsel also testified that Jill Miller had recommended that Mr. Ramsey be tutored to improve his language skills and increase his ability to aid the defense team. (PCR Tr., p. 144.) Yet, trial counsel did not develop this proof. Miller further testified that Dr. William Logan recommended several medical/psychiatric tests that were not performed. (PCR Tr., p. 145.)

Dr. William Logan, the director of the Department of Law & Psychiatry at Menninger conducted a psychiatric evaluation and prepared a report at the request of Dan Miller. Dr. Logan did not testify at trial but did testify at the 29.15 hearing. The report prepared by Logan details Ramsey's background which reveals that Mr. Ramsey has been incarcerated for much of his life. From age 13 to the incarceration on the present charge in 1988 (age 35), Mr. Ramsey has been out of prison for about 27 months.

III. GROUNDS FOR CLEMENCY

A. Disproportionate/disparate sentence

1. Billy Ramsey received a 25 year sentence and is scheduled to be released on parole by December 31, 2000.
2. The state offered Roy Ramsey a plea bargain prior to trial that included a plea to two counts and a recommended sentence of 30 years for each.

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3. Roy's deprived background should be considered in determining whether the purported goals of the death penalty are met.

B. Exculpatory evidence from Billy Ramsey

The Billy Ramsey letters provide a basis to question the reliability of Billy Ramsey's trial testimony. In exchange for Billy's testimony that Roy was the 'shooter,' Billy was able to avoid the death penalty. No one can verify the truth or accuracy of Billy Ramsey's version of the offense.

C. Improper closing argument by the prosecutor

The prosecutor repeatedly referred to Roy Ramsey as "Rambo" during the state's closing argument. Mr. Ramsey was referred to by the nickname Rambo one time - in passing - during the trial. However, the prosecutor referred to Roy as Rambo on fourteen occasions during closing argument, clearly attempting to equate Mr. Ramsey with the Sylvester Stallone character in the movie of the same name, a movie containing shocking brutality and particularly violent death scenes. The intent of the prosecutor is clearly evidence by the context and drama of the references. Without question, the prosecutor tried to inflame the passions of the jury by referring to Mr. Ramsey as Rambo.

D. Arbitrary imposition of the death penalty

1. Commutation of Darrell Mease death sentence to that of life without parole. 2. State's decision not to seek the death penalty against Billy Ramsey and instead negotiate a 25 year sentence.