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The Honorable Bill Lee  
Governor of the State of Tennessee  
State Capitol, 1<sup>st</sup> Floor  
600 Charlotte Avenue  
Nashville, Tennessee 37243

**Application for Executive Clemency on Behalf of Don Johnson**

Dear Governor Lee,

Please spare the life of Don Johnson.

Don has been forgiven by Cynthia Vaughn, the only daughter of Connie Johnson, Don's wife, the woman whose death Don caused.

Cynthia asks for the privilege of meeting you in person, so she can share her experience of Christian forgiveness. We too ask for the privilege of meeting with you, to share the story of Don Johnson's journey to redemption.

We hope that you will meet Cynthia, and with us. You alone have the power to commute Don's sentence of death to a sentence of life. Your decision is absolute. And Cynthia's plea for mercy is exceptional. We know of only one other case in the history of the State of Tennessee in which the child of the ultimate victim has begged the Governor for mercy for the murderer—and in that case clemency was granted to Gaile Owens.

Respectfully, we believe that this too is an extraordinary case, where mercy, forgiveness, redemption and the miracle of rebirth in Christ, all come together to warrant an exercise of your constitutional powers.

## *The Law of Clemency*

The Tennessee Constitution of 1796 provided that the Governor of Tennessee

**“shall have power to grant reprieves and pardons....”**

Article 3, Section 6

That power and that language has never been changed. Two hundred and twenty three years later that power is yours and yours alone, to exercise as you see fit.

The extraordinary power of the executive to grant pardons has been part of Anglo-American law for more than one-thousand years. *Herrera v. Collins*, 506 U.S. 390, 412 (1993). Chief Justice Marshall recognized the unique role of clemency in our justice system: “[a] pardon is an act of grace.” *United States v. Wilson*, 32 U.S. (7 Pet.) 150, 160 (1833). Alexander Hamilton noted the necessity of the pardon, without which, “justice would wear a countenance too sanguinary and cruel.” The Federalist No. 74, pp. 447-49.

The clemency power vested in the Governor of Tennessee is unfettered by statute, the legislature, or the courts. *State ex rel. Bedford v. McCorkle*, 40 S.W.2d 1015, 1016 (1931). The power is “entrusted to [the Governor’s] judgment and discretion, which cannot be interfered with, and of which he cannot be relieved.” *State ex rel. Rowe v. Connors*, 61 S.W.2d 471, 472 (Tenn. 1933). While judicial review of a death sentence is bound by the facts in the legal record, “the Governor may review a request for commutation without being bound by such limitations.” *Workman v. State*, 22 S.W.3d 807, 808-09 (Tenn. 2000).

The Governor of Tennessee, like the U.S. President, and the English monarchs is vested with **“the power to extend mercy, wherever he thinks it is deserved.”** *Herrera*, 506 U.S. at 867 (quoting 4 *W. Blackstone, Commentaries*, \*397). “[E]xecutive clemency operates outside the letter of the law. The executive clemency process is a vehicle for mercy.” *Workman*, 22 S.W.3d at 812 (Drowota, J. concurring).

This petition for clemency is an appeal to your judgment and discretion, and it is a request for mercy. This petition is based on considerations outside of the legal system, and considerations which no court has any power to assess. This petition focuses on forgiveness, redemption and mercy.

## *The Forgiveness of Cynthia Vaughn*

Cynthia Vaughn is the daughter of Connie Johnson, the woman whose life Don Johnson ended.

For most of her life, Cynthia hated Don. She looked forward to his execution. She said publicly, "I want the freak to burn." In 2006, when Don was scheduled for execution, she asked to see him, so she could tell him how badly he had hurt her. The prison denied her that visit.

In 2009, Don Johnson began praying for reconciliation with Cynthia. As his good friend, Richard Gardner explains: "It took almost three years of weekly prayer but she suddenly appeared." (Richard Gardner, 10 year prison volunteer, Lt.Col. USAR (Ret.), February 21, 2019).

In 2012, Cynthia Vaughn was allowed to visit Don. She has written about this life-changing visit:

I proceeded to release almost 3 decades of anger, resentment, and pain on him and he never once looked away from me as I told him how his actions on December 8, 1984 changed my life forever. Tears were in his eyes as I told him of my childhood. Tears ran down his cheeks as I reminded him of all that I missed out on in life, not having had my mother around. Simple things that most people take for granted, like the birth of my child, my mother wasn't there. Graduation from high school, my mother wasn't there. When I got married, my mother wasn't there.

After I was finished telling him about all the years of pain and agony he had caused, I sat down and heard a voice. The voice told me, "That's it, let it go." The next thing that came out of my mouth changed my life forever. I looked at him, told him I couldn't keep hating him because it was doing nothing but killing me instead of him, and then I said, "I forgive you."

Cynthia Vaughn, March 29, 2019.

Cynthia discovered that her forgiveness of Don provided her healing and peace:

Since forgiving Donnie my life has been better. I have been able to laugh with my children. I can talk to them about "teenager issues." Before I spent time

in anger, and I wasn't there for them. Now we talk, and they can share their lives with me. I am a better mother to them. Letting go of anger, has let me love more.

After that day in 2012, I joined a Church, the most awesome Church on Earth. I go on vacations with friends from Church, which I never did before. Before, I didn't have many friends, and they weren't from Church. I love my life now.

Before I forgave Donnie, I cried every night that I was alone. Now I happily snuggle with my youngest, and we giggle. As I have explained to my friends, by forgiving him, I released myself from my own confinement.

Cynthia Vaughn, March 29, 2019.

Cynthia Vaughn speaks now to groups throughout Tennessee, describing her journey to forgiveness and reconciliation with the man who murdered her mother. She witnesses that forgiveness and love bring greater peace than does hate and vengeance. That she and Don Johnson—the child of the victim and the perpetrator of the crime—could reconcile through Christ is the greatest possible proof of God's love in this world.

Cynthia Vaughn's forgiveness of Don Johnson, alone, provides sufficient cause for you to exercise your discretionary power to grant mercy. But there is more.

***Don Johnson's transformation from liar and murderer to Ordained Elder in the Seventh Day Adventist Church with a flock in prison.***

Don Johnson has been on death row for thirty-four years, which is half of his life on this earth. He was justly convicted of the murder of his wife, Connie Johnson. Don was by his own later admission, a liar, a cheat, a con man and a murderer. Yet, as Riverbend's long-serving Chaplain Jerry Welborn (1989-2011, 2014-2017) noted in his request for mercy, "After 30 years, none of us are the same. Mercy and grace are what remains." (Jerry Welborn, clemency request, February 22, 2019).

Don's redemption began in the Shelby County Jail, while awaiting trial. He heard another inmate give witness about the healing power of Jesus. Don began to listen. Later when Don was condemned and taken to Death Row, he heard more testimony about newness of life in Christ. Don was moved. When Don was offered the

chance for baptism as an adult on death row, he embraced it. And in his words, “It took.”

Today, after many years of study, prayer, and personal reflection, he is an ordained Elder in the Seventh Day Adventist Church. There are 25 million Seventh Day Adventists in the world; only one of those 25 million is an Elder on Death Row—Don Johnson.

Pastor Furman F. Fordham, II, who ordained Don as an Elder wrote:

“The ‘flock’ we assigned him were the gentlemen he had introduced to Jesus Christ while ministering ‘on the inside.’” (Pastor Furman F. Fordham, II, March 11, 2019).

*The Testimony of those Men and Women who have participated in Don’s spiritual transformation*

Over the past thirty years, a large group of men and women have gotten to know Don through their prison ministry, mentoring, volunteering and correspondence with Don. Many have submitted letters to you asking for mercy, some of which have been shared with us. These friends and supporters are adamant that Don’s faith is strong, and his reformation is real. Some of their most poignant observations include:

- “I know him as a man of faith and peace.” (Father Wilfred Steinbacher, who conducts Catholic Mass on Death Row, February 15, 2019).
- “Don is a light in a very confined and dark world.” (Richard Gardner, religious volunteer, Belmont Church, who has worked with Don for a decade, Lt.Col. US Army Reserves (Ret.), February 21, 2019).
- “He truly walks the walk and talks the talk of a true Christian. He has completely turned his life over to the Lord. His knowledge of Scripture continues to inspire me.” (Linda Faulk, religious volunteer, who has known Don since 2004, retired US Army nurse, March 14, 2019).
- “God has since that time transformed this man into an incredible minister of Love and Grace over these more than 30 years.” (Jack Galloway, Volunteer Minister, March 12, 2019).

- “I have found him to be a spiritual man, with his main desire being that of lifting up Jesus and demonstrating not just through his words but through his life what the transforming power that is available to all who are willing to surrender to Jesus Christ.” (Dr. Rosalyn Pitt, Head Elder, New Hope Seventh Day Adventist Church, February 28, 2019).
- “Don was one of the first inmates to really prove to me that individuals who are incarcerated can not only arrive at a place of true remorse, but undergo a genuine process of inner transformation, both in mindset and in moral and spiritual conviction.” (Canon Dr. Andrew White, Anglican Vicar of Baghdad, March 15, 2018).
- “This last half of his 67-year life has been a journey to redeem himself and help others. Don is a human being whose flame for Good has been reignited. More than ever, we need people like him in our society.” (Stephen Schaffer, Brentwood United Methodist Church, death row volunteer since 2003, in prison ministry since 1996, March 28, 2019).

Many of Don Johnson’s friends are impressed by his acceptance of responsibility and his genuine remorse, which underlies this moral transformation:

- “Tennessee’s Death Row is filled with men who claim innocence or injustice at trial. In Don’s case, he confirmed his guilt almost at the very start of our time together.” (Gardner, Feb. 21, 2019).
- “Thirty years in prison makes a man terribly angry or, as in Mr. Johnson’s case, a time to take responsibility for his crime and begin a journey to a new life and a way of living much different from the one he came to prison with at an early age.” (Father Steinbacher, Feb. 15, 2019).
- “Don has asked for forgiveness of his sins and crimes he committed years ago and by the grace of God has become a new person in Christ.” (Faulk, Mar. 14, 2019).
- “We are aware of his crime and believe he is remorseful for his actions so many years ago. He has been open and honest with the community and with his church family.” (Collective Letter, New Hope Seventh Day Adventist Church, March 14, 2019).

Don Johnson is also lovingly described as good-humored, kind, intelligent and gentle. His faith is clearly a joyous one.

- “He is a well-balanced, interesting, good-humored, gentle man with such a great positive attitude and love and concern for his fellow man.” (Larry Aldrich, 10 year volunteer at Riverbend, March 10, 2019).
- “He has accepted, embraced and lived his life of imprisonment with more joy than most ‘free’ people. He exudes the love of Christ, and exemplifies the scripture that says ‘if any man is in Christ, he is a new creation; old things have passed away; behold, all things have become new.’ 2 Corinthians 5:17.” (Kristen Knecht, visitor for past 17 years, March 11, 2019).
- “I don’t think I’ve ever known anyone who remains more positive – in spite of having much to be negative about.” (John Dysinger, Don’s spiritual advisor for past 24 years, March 14, 2019).

Don Johnson gives more than he takes. Overwhelmingly, his religious visitors describe how he has helped them: strengthening their faith, and making their time on death row safer and more productive.

- “Don has been an important part of whatever successes I have had at Riverbend. He has been a ‘good counselor.’ When I had a question on how to deal with an issue, Don provided excellent advice. When I was overwhelmed by the prison drama, he was an encourager to stay the course. I can say without qualification that Don was one of the men God provided to protect me in my work.” (Gardner, Feb. 21, 2019).
- Don “has ministered to me in our frequent phone chats as I experienced personal challenges in my own life.” (Schaffer, Mar. 28, 2019).
- “I’m not sure how much I have been able to ‘advise’ him, spiritually, but I can emphatically say that he has advised and encouraged me over the years.” (John Dysinger, Mar. 14, 2019).
- “Donnie is no ordinary person and he has unusual perceptivity. I am aware that the prison uses his talents as a counselor and his unit has one of the best behavioral records in the State of Tennessee. Many people rejoice that he has served so well in spite of his environmental

circumstances.” (Dr. John L. DuBosque, visitor and telephone advisor since 1998, March 28, 2019).

- “During our visits and many Bible studies we spoke a lot about life and the mistakes we all make. His insights into life and the ability to change lives is very powerful and helpful, I believe to all of us.” (Aldrich, Mar. 10, 2019).

Most importantly, Don gives so much to the other inmates on Death Row. He has spread the Good News more effectively than any volunteer from the outside world can hope to do:

- “He has a ministry within the penal system, one that is likely much more effective than any volunteer mentor such as myself.” (Douglas Henry, TDOC mentor since 2001, March 10, 2019).
- “Over the years, Don has changed and grown into an instrument used for the glory of God in his outreach to other inmates through his ministering to them of Salvation by Faith in Jesus Christ.” (Gene Jones, Elder Clarksville Seventh Day Adventist Church, officiates communion on Death Row, March 8, 2019).
- “We would study the Bible together and soon with the other prisoners whom he had led to Christ. I was really impressed with his honesty, his commitment to Christ, and his willingness to do anything he could to make the prison a better place.” (Pastor Jack Blanco, long time visitor and correspondent, March 28, 2019).
- “His love and care for others needed spiritual growth to aid rehabilitation has been admirable.” (Michael Harris, Death Row Volunteer, conducts communion with Don Johnson, March 6, 2019).
- “Don is an instrument of change in numerous lives at Riverbend Maximum Security Institution (RMSI) in Nashville, through his ministry of introducing inmates to the saving love of God through a relationship with Jesus Christ.” (Jones, Mar. 11, 2019).
- “Our Seventh-Day Adventist Church has had many prisoners join the church and become Baptized because of Don Johnson’s faithfulness to

his creator.” (Tonya Hampton, Head Clerk New Hope Seventh Day Adventist Church, February 26, 2019).

Overwhelmingly, Don’s friends and supporters make clear that if Don is granted Mercy, he will continue to bring good into the world—while executing him, will extinguish a positive light.

- “There is no question in my mind that his continued service to a higher power will benefit the prison system.” (Gardner, Feb. 21, 2019).
- “I believe our community is better off with Don alive, introducing young men to Jesus Christ, than it will be with Don dead.” (Pastor Fordham, Mar. 11, 2019).
- “Give him the opportunity to finish the work that the Lord has him doing...his faithfulness to our Creator could make an enormous impact on other Prisoners.” (Hampton, Feb. 26, 2019).
- “We honor our humanity by honoring Don’s value as a human being, by allowing him penance while confined to prison, by allowing him a meaningful life in fellowship with others imprisoned, by allowing him to help others seek forgiveness as salvation.” (Dr. Diane Keeney, March 4, 2019).
- “I fully believe that whatever God has in mind for Donnie Johnson’s future in both this life and in the hereafter, he is clean both in mind and heart and will be a blessing wherever his God chooses to send him.” (DuBosque, March 28, 2019).
- “I plead with you to grant clemency to Don that he can continue to bring more good to the world like the light of a candle shining from a hill.” (Schaffer, Mar. 28, 2019).

Redemption is uniquely a consideration for you, the Governor. No court has ever, or could ever, determine whether Don Johnson’s post-crime, post-sentence, reformation and Christian rebirth warrant relief. But you can, and in great humility, we believe you should.

## *The Testimony from the Men of Death Row*

Over half of the inmates on death row submitted letters on behalf of Don Johnson.<sup>1</sup> These men voluntarily submitted their testimonials about Don, and they paint a remarkably consistent picture of him:

When I first came to death row...he was one of the first brother's who came to me, asking could I help, do you need anything...

Don was genuinely a caring person not just to me, to people all around him. We've worked together he's also ministered to me, during the times I needed it most. He has always been a dear brother to me, spiritually, emotionally...

I request that you grant my brother Don Johnson, whom I love, clemency, he is truly a man of God, a changed man, so he can continue his ministry continue being a help to prisoners...

(Inmate Ltr. #1)

He has that respect amongst the men here. We call on Donnie for Prayer and for Counsel, and he's always available and willing, and always gives forth wise counsel, directing men to Jesus.

(Inmate Ltr. #2)

In [the years I have known Don] he has been most productive at establishing a spiritual connection to God and having a heartfelt concern for others in this community to seek peace and live in the name of God for themselves...

I direct all due respect to this man Don Johnson for the obvious change he has developed in his life, for the diligent effort he has applied to know God and do good for others in this world.

(Inmate Ltr. #3)

I've attended religious services with him, I've enjoyed his faithfulness and concern about me and fellow brothers. I've notice how he have gotten along with the officers here, respect and kindness, as he do with inmates...

He is a person who counts his Blessings, instead of his problems, have place me before him, by giving me drinks, food, headphones, time, even he had nothing else, he have reached out...

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<sup>1</sup> Out of respect for other attorneys and other cases, we are only citing letters from defendants who we know are expressly willing to share these letters publicly, and whose attorneys concur in this decision.

His life is a blessings from GOD, when other people say I can't, Don says, I will, or I've do my best to help you.

(Inmate Ltr. #4)

Throughout the years I have attended religious Services in a Group with Don Johnson. I have seen how Don has developed spiritually. Don, has impacted my life as I watched Don become the man Don is today. Spiritually, I watched Don Ministered to other Inmates, and the impact Don had on there Lives. In, this place of darkness Don is determined not to be deceived by Sin or deviate from good Morals, nor from the Savior Jesus Christ.

(Inmate Ltr. #5)

[When I arrived on Death Row] Don immediately came to check on me. He offered his assistance and tried to comfort me as I entered the unknown...

I have witnessed Donn intervene when people were involved in stressful situations due to personality differences...He has worked to keep the peace among inmates and staff alike.

(Inmate Ltr. #6)

[I] didn't want anything to do with the Bible God or anything in that line of thinking.

This did not affect Don's actions in helping me. I watched as not only did he help me but he also helped others, still I was set in my ways and still Don was there for me. I have watched this man go beyond requirements of faith to help others...

I'm not saying Donnie Johnson is perfect he's not, only one man ever was, but like all of us he seeks to be, as our Lord has commanded...I have seen him strive daily to obey, honor and bring glory to God.

I have been around fakers all my life and I can spot such a person but Donnie Johnson is not such a person. I have held a downward view of Justice and our system and I am unworthy to ask you for mercy...but I feel I must on the part of Donnie Johnson...please don't let them kill my friend, please.

(Inmate Ltr. #7)

Donnie became a very important part of my spiritual life, Christ caused our paths to cross, bringing a true change in my life as well as Donnie's.

(Inmate Ltr. #8)

In total, thirty-five inmates from Death Row have submitted requests for mercy, on behalf of Don Johnson. As in the letters quoted above, each man makes clear that Don has helped them, cared for them, and showed them God's love and a better way of life. He has been, and continues to be, their minister on death row.

### *Don Johnson's Reach Beyond the Walls of Prison*

Don Johnson extends his inspirational message to many others, beyond those who have written you.

For many years Don has conducted a radio and internet ministry on WNAH-1360 AM every Sunday at 11:30 a.m. Don recorded 125 episodes of "What the Bible Says," which have been played in sequence, consistently since the 1990s. These messages have undoubtedly touched thousands. This passage is particularly poignant:

When, after seeing our true character we realize that we are sinners, that we are on death row and without hope, we sense our need of a Saviour.

("What the Bible Says," # 88).

With the assistance of volunteer and Methodist Sunday School teacher, Stephen Schaffer, Don has called in to Sunday Schools in Nashville at United Methodist Churches in Brentwood, Edgehill, and West End. We expect you have received, and will continue to receive letters from this particular church community.

Don has prepared, and distributed to other prisoners and the outside community, devotional materials that make clear the depth of his own personal study of the Bible and his dedication to spreading the word of God to others. As you will see, Don may not be college educated, but he is sincerely devout. He encourages others to read the Bible for themselves and then make up their own minds, as Don did in the Shelby County Jail and then on Death Row.

He corresponds with spiritual pen pals around the world, including the former Vicar of Baghdad, Canon Dr. Andrew White. Canon White has explained the far reach of Don's ministry:

I developed a close relationship with Don as he expressed a genuine interest in my evangelical ministry in the Middle East. Don developed a close relationship, through me, with one of the chief rabbis in Israel whom he

corresponded regularly in writing. I remember spending many hours listening to Don speak of his love and devotion to our Lord and his new-found interest in the Jewish culture. I even brought him a Tallit (prayer shawl) and a Mezuzah from Israel.

(Canon Dr. Andrew White, March 15, 2018).

As one of his correspondents, in Holland, writes:

Don Johnson shows what God can bring about in one's life; his life is illustrative of what can happen to you when you dedicate your life to God: you become another, a better person."

(G.A. van Berlo-Jansen, February 15, 2019).

### *The Love of the Dysinger and Knecht Families*

One particularly special group of Don Johnson's friends who have written you to ask for mercy is the Dysinger/Knecht family.

In 2004, when Don Johnson was scheduled for execution, John Dysinger was asked to be Don's spiritual advisor. Amazingly, the Dysinger family decided that this should be "a ministry our whole family would participate in." (Pamela Dysinger, March 15, 2019). They had four children at the time, from 18 months in age to 12 years:

Most people would have thought us crazy for taking young children into such a place, but it brought so much joy to those men on death row. We would always sing scripture songs to Don and of course anyone else in the visiting room would hear as well. It was a unique opportunity for our family to bless those who most people would see as not being worth their time. To say it has enriched our lives and the lives of our children is an understatement. Don has been a consistent Christian influence in our lives and the lives of my children.

(Pamela Dysinger, Mar. 15, 2019).

My four younger brothers and I would listen as Uncle Don shared his story, and encouraged us to be obedient and honest children. He never blamed others, but wanted us to do better than him. I can't help but believe Don Johnson's life and influence has helped to shape the adults we are today.

(Kristen Knecht, started visiting Don at age 10, March 11, 2019).

The Dysinger family has remained close to Don Johnson for the fifteen years since that original execution date. When their daughter, Kirsten began dating Nicholas Knecht, the man she would marry, Nicholas had to pay a visit to death row:

When we started dating, one thing high on her list was to take me to meet Uncle Don so I could get his stamp of approval on our relationship...I expected to meet the hardest of criminals on that visit to Death Row; instead, I met a kinder, more honest and honorable man than many I have met on the streets of our own city. I made a friend that day.

(Nicholas Knecht, March 12, 2019).

Amongst all of the Dysinger/Knecht's letters of support, a few observations stand out:

Don's rock-solid faith in God has never wavered in all the years I have known him. Not only does he have a deep, personal faith, but he is constantly seeking to encourage and point those around him to a closer walk with God.

It is my firm belief that Don is absolutely no threat to society. In fact, I believe that society is being deprived by not having Don's influence. I believe the world would be a better place if Don were able to be a contributing member. He is a hard worker and would leave a trail of blessings behind him.

(John Dysinger, Mar. 14, 2019).

One thing I can say without a doubt he is a changed man! He is a man of God, and lives his life to honor him!

(Joshua Dysinger, visited since toddlerhood, March 16, 2019).

I am not here to plead his innocence, but rather his transformed life. A life that if silenced will leave a dark void in society; a void no one else can fill.

I believe the life of Uncle Don Johnson, is a light shining too brightly to be snuffed out. I wish you could meet him for yourself, and see the wisdom, love and care for others he possess. On Uncle Don's behalf, on his daughter Cynthia's behalf, on my behalf, and on behalf of the world that is made better by his existence, I entreat you from the bottom of my heart to grant this dear man clemency!

(Kristen Knecht, Mar. 11, 2019).

Perhaps, proving the depth of their belief in Don Johnson, John Dysinger has given him “an open invitation to come live on our farm. We have housing and work and would love the privilege of helping him reincorporate into society.” (John Dysinger, Mar. 14, 2019).

This special family makes clear that Don Johnson’s moral transformation on death row has been real and profound. They also reveal how far outside the prison walls his positive influence has reached. Yet again, their testimony could not have been considered by any court of law, but it may be reviewed by you when determining whether mercy should be granted. Respectfully, this special family’s request for mercy should be honored.

### *How did Don Johnson end up on Death Row?*

Don Johnson would answer by confessing that earlier in life he was a liar, a conman, a thief, and finally, a condemned murderer. For three decades, he rejected God’s love and lived a life of self-centered avarice. He says he had an emptiness in his heart, and lived in darkness. He does not place blame for his failure of character on anyone but himself. Respectfully, we believe that he is not being entirely fair to himself, and that his human failures were in significant part beaten into him by family and State.

### *An Unwanted and Abused Child*

What follows is taken from interviews with and declarations by Don Johnson’s family members, including his mother, Ruby Johnson (who passed away in 2009).

Ruby Ballard, was only fourteen years old when James Lee Johnson began “messing” with her. James Lee was a married, twenty-four-year-old man, with two boys of his own. Ruby’s older brother, Melvin, objected to this improper relationship, but James Lee beat him with a tire iron, and objections ceased. When Ruby was sixteen years old, she gave birth to Don’s older sister, Shirley. When Ruby was eighteen, James Lee divorced his first wife, and married Ruby.

Throughout their forty-six years of marriage, James Lee treated Ruby like a whipped animal. She was slapped, beaten, and choked. She was emotionally abused, degraded, and demeaned. Despite the fact that Ruby was more intelligent than James Lee, he kept complete control of the checkbook and the family’s finances.

Ultimately, he mismanaged money so badly that Ruby was cheated out of her social security, despite decades of working as a hair dresser.

One time, as an abused teen-mother, Ruby tried to escape James Lee. She fled to Michigan, where she had family. There she met Elmer Young, and had a brief, out-of-wedlock relationship with him. This relationship left her pregnant with Don. Feeling in need of financial security, she returned to James Lee and Tennessee, and to four more decades of abuse. It was into this violent and hate-filled home that Don Johnson was born.

Donnie Johnson was a frail little boy, with bad eyes, and no love. He wore coke bottle glasses and was a regular target of bullies (at school and at home). He was routinely and mercilessly beaten by James Lee for any and all reasons. James Lee would use a leather shaving strop, a switch, or his fists and feet. Through all of this abuse, Don Johnson was kept ignorant of his true origin—he was raised believing that James Lee was his biological father, and that his biological father hated him.

Don Johnson's battered mother Ruby could become physically abusive herself, and had very little capacity for maternal affection or kindness. Despite her imperfections, Don Johnson loved his mother deeply. He was certainly scarred by the abuse he saw inflicted on her, as much as the abuse he personally suffered. James Lee taught his son that the way to treat a woman was with cruelty and extreme violence.

James Lee was also, as Don remembers it, "a womanizer." He was not faithful to Ruby during the week. Other relatives remember even more abusive actions by James Lee towards young girls (Ruby was not the only teenage girl he would "mess with").

### *The Hypocrisy of the Church*

Nevertheless, every Sunday James Lee faithfully went to church and was "an esteemed member of the community." What Don saw in James Lee, was more than enough to sour Don on religion. With the moral clarity of a child, he saw hypocrisy in a church that welcomed and honored his father, who Don knew as an abusive, hate-filled, womanizer. Thus, by age thirteen, Don Johnson had stopped attending church, and he was left even more alone in a very cruel world.

## *A Juvenile Lost in the World*

Don Johnson, by his own account, became a terror. The only attention he could get was negative, and he learned to prefer this negative attention to none at all. He would provoke the bullies into beating him, and his elders into punishing him. His teachers promoted him, so they could avoid having him in class ever again.

He also ran away. Today, we would hope that a teen-age boy with behavior problems, who regularly runs away from home, would be questioned by the authorities and offered help. We would hope that such a boy would be seen as a victim of abuse and not as miscreant in need of punishment. But in Don Johnson's case, no one asked why he ran away, or what he was running away from. Instead, at age fourteen he was sent to the State Vocational Training School for White Boys, also known as Jordonia, where he would live from October 15, 1965 until April, 19, 1966.

### *Jordonia*

Jordonia, was the second most notorious institution in the Tennessee juvenile penal system; it was labelled a "concentration camp," and a "Prep School for the Pen."<sup>2</sup> Children at Jordonia were regularly beaten by guards "with fists and paddles," and by bigger inmates; they were also left unprotected from sexual abuse.<sup>3</sup> "Boys who've returned from Jordonia say older youths ferret out younger ones unable to fend them off."<sup>4</sup> Three years prior to Donnie's arrival, the Chattanooga Youth Commission requested an audit of Jordonia following an inmate's hanging; Commission member, Mrs. Norman E. Soper observed, "It is run like Alcatraz and they are only children."<sup>5</sup>

Don Johnson remembers the physical abuse at Jordonia, and the beatings from both guards and other inmates. He also remembers that he was the victim of one attempted rape at Jordonia. He also remembers that the abuse at Jordonia was not necessarily any worse, physically, than what he suffered at home, but psychologically it was more stressful, because he never knew where the next assault would come from.

Following Don Johnson's "treatment" for his runaway problem at Jordonia, he was returned to the same loveless, abuse-filled home. Not surprisingly, after a matter

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<sup>2</sup> "Do 'Reformatories' Reform?" *Kingsport Times News*, February 9, 1969.

<sup>3</sup> "For Some: Last Chance To 'Go Straight'," *Kingsport Times*, February 12, 1969.

<sup>4</sup> "For Some: Last Chance To 'Go Straight'," *Kingsport Times*, February 12, 1969.

<sup>5</sup> "Probe Urged at Jordonia," *The Tennessean*, June 21, 1962.

of months he was returned to State's custody, this time to the only institution more feared than Jordon: Pikeville. This time his commitment was for theft.

### *Pikeville*

The Kingsport Times-News described a sentence to Pikeville as "like going to Hell."<sup>6</sup> A Murfreesboro Daily News-Journal headline read "Humans Treated Worse Than Animals, Report Says."<sup>7</sup> Shortly after Don Johnson had been released from Pikeville, two inmates died: one was strangled in his cell, the other died from a "mysterious illness after suffering from a foot infection."<sup>8</sup> A report that was submitted to Governor Buford Ellington by the Hamilton Juvenile Court Commission found that Pikeville was unsanitary with rats crawling about during the day, extremely overcrowded, and significantly understaffed.<sup>9</sup> Some of the more awful observations made by the commission (during a single daytime visit), include:

- "Lack of adequate living space forces great numbers of boys to be crowded together, giving the larger, more physical and hostile boys a chance to torment and, in certain instances, inflict physical harm to the younger, smaller and, or more delicate individuals."
- "The problem of homosexuality, always present in an institution of this type, is aggravated by the close quarters." (To modern thinking, this means the problem of rape.)
- "In the academic sphere, the attitude prevailing seems to be one of resignation and despair. The general feeling is that since each and every student there is a bonafide failure in anything even remotely connected with education."
- "[T]he counselors on the campus exhibit the same mannerisms in speech and conduct towards the children that they should strive to correct. Several of the children mentioned that the counselors were foul-mouthed and abusive."

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<sup>6</sup> "Do 'Reformatories' Reform?" Kingsport Times News, February 9, 1969.

<sup>7</sup> "Humans Treated Worse than Animals, Report Says," Murfreesboro Daily News-Journal, September 22, 1969.

<sup>8</sup> "State's Prison System Faces a Gigantic Task," The Tennessean, June 2, 1969.

<sup>9</sup> Dr. David Dzik, Hamilton County Juvenile Court Commission Report to Governor Ellington, September 15, 1969.

- “[T]he paddle is still used to punish violations such as smoking at the wrong time... One wonders how much rehabilitation can take place during or after a paddling.”
- [Regarding the lack of health care] “This is not neglect (which means you do not have enough of a commodity), but this is sheer and total abandonment. Children look after one another.”
- “It is obvious that [the inmates] are the recipients of the worst possible experience that could be put upon them by supposedly interested and educated adults.”
- “Until I see a serious attempt, with the proper trained personnel, to rehabilitate these delinquent children, I recommend to my juvenile court judge that he boycott the State Vocational Training [School] in Pikeville.”<sup>10</sup>

Don Johnson’s memories of Pikeville are consistent with its horrid reputation. Sexual assault was attempted against him. Regular physical abuse by both the guards and other inmates was simply a fact of life. He remembers that he found his greatest sense of safety while working alone in the boiler-room, feeding coal to the furnace and hauling out the ashes.

Possibly most telling, when asked how Pikeville compared to the Ohio Penitentiary where he later spent time as an adult, Don Johnson says, “It was like going from the darkness into the light, the conditions in prison were so much better.”

### *Leaving “Home” at 18*

Shortly after Pikeville, Don Johnson left home for good. He was 18-years old, and by his own account a liar and conman. He had learned very little in school, but his father and the State of Tennessee had given him a master’s class in violence. He been taught that force and belligerence were the solutions to all problems. He had been taught that other people were either threats or targets. His father had taught him that women were to be used, denigrated, and beaten.

### *Don Johnson’s response to this history*

Don Johnson does not place blame for his subsequent wrongs on his father, on Jordonia, or on Pikeville. He takes responsibility for his own actions. However, those who can observe his life from the outside can easily see that the evil under which he

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<sup>10</sup> Dr. David Dzik, Hamilton County Juvenile Court Commission Report to Governor Ellington, September 15, 1969. *Id.*

lived had a profoundly negative impact. What is most remarkable about Don Johnson's life story is not that he ended up on death row following a loveless and hate-filled childhood, it is that he overcame that childhood to become the man of God he is today.

Our court system has no mechanism for measuring this kind of human journey. But, it is a substantial consideration, and as Governor, you can evaluate these truths.

### *Observations on the Legal Process*

This is not a legal pleading, and we are not making technical legal arguments. This application is not based on any errors by the prosecutors, or by the Courts. The grounds that this application addresses are matters that no Court has ever addressed, nor could ever address. We are not asking that you second guess the judicial process.

However, if you are wondering why Don Johnson's life story was never considered by any court, we would reference you to the sworn admissions of his lead defense attorney, whose **"main preparation for sentencing was to review the Tennessee code on death penalty procedure, while the guilt portion of the trial was under way."** *Johnson v. Bell*, 344 F.3d 567, 571 (6th Cir. 2003).

A defendant facing a capital trial in the 21<sup>st</sup> Century would be represented by a defense attorney who knew the sentencing law prior to appointment, and who prepared for sentencing by hiring a mitigation specialist, working with investigators, interviewing witnesses, and developing a mitigation theory long before trial commenced. That did not happen here.

### *Additional Considerations: The Prison Staff*

We believe in Don Johnson. We believe in him so strongly that we trust if you were to exercise your prerogative as Governor and talk to the staff at Riverbend, honestly and privately, they would tell you that Don Johnson is a good, honest, caring man who ministers to both prisoners and guards. We believe that the staff—wardens, counselors, clergy and guards—would verify all we have said about Don's positive role in maintaining peace, and in helping other inmates. They are some of the most important witnesses to his moral transformation.

*Our Concluding Prayer for Relief*

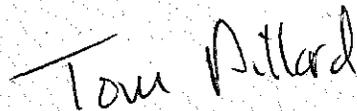
No Governor, in the modern history of our State, has been asked to make such a momentous life-and-death decision in the first months of their administration. Few if any Governors have confronted a case involving the powerful moral forces of forgiveness, redemption, and the miracle of rebirth.

This is a case for which clemency was designed. While, Don Johnson's death sentence may be legally acceptable under all of the analytical considerations of dispassionate law, it is not morally right—in the words of Alexander Hamilton it would be "unduly cruel." The remarkable transformation that Don has made warrants mercy. Cynthia Vaughn, the person with the greatest claim on his life, deserves to have her forgiveness honored. She should not have her own healing journey ended with an unnecessary and unwanted execution. Don Johnson should not have his journey from the darkness into the light ended in the death chamber.

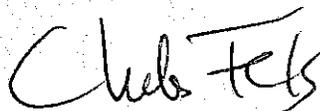
We would like to meet with you and your closest advisors to answer your questions, and address your concerns. We have faith that the beautiful truth of Don Johnson will touch your heart. We also implore you to meet with Cynthia Vaughn. She is the human being most deeply and directly affected by the weighty decision before you.

Sincerely,

RITCHIE, DILLARD, DAVIES & JOHNSON, P.C.



W. THOMAS DILLARD



REV. CHARLES W.B. FELS