

**CLEMENCY SHOULD BE GRANTED  
AND WENDELL FLOWERS SPARED**

**BECAUSE WENDELL FLOWERS WAS THE  
LEAST CULPABLE OF THE FOUR MEN  
INVOLVED IN THE CAPITAL OFFENSE**

**BECAUSE WENDELL FLOWERS WAS  
ARBITRARILY SINGLED OUT FOR  
THE DEATH PENALTY**

**BECAUSE THE PROSECUTOR MISLED THE  
JURY ABOUT THE ROLE WENDELL FLOWERS  
PLAYED IN THE KILLING**

**BECAUSE WENDELL FLOWERS MIGHT  
NOT BE GUILTY OF CAPITAL MURDER**

## **WHY DEATH ROW INMATE WENDELL FLOWERS MERITS GUBERNATORIAL CLEMENCY**

- Four men were charged in this capital offense: Wendell Flowers, Steven Leazer, Michael Moore, and John Fuller.
- All of the credible evidence shows that Wendell Flowers was the least culpable of the four.
- No direct, credible evidence shows that Wendell Flowers ever touched the victim.
- No direct, credible evidence shows that Wendell Flowers knew his codefendants planned to kill the victim. Similarly, no direct, credible evidence shows that Wendell Flowers intended that the victim be killed.
- All of the credible evidence shows that Leazer and Moore planned the killing and committed the stabbing. John Fuller was recruited to provide extra "muscle." Wendell Flowers was recruited to be the lookout.
- Only Wendell Flowers faces execution.
- Leazer and Moore received life sentences for their role in this capital offense.
- Fuller was tried twice. Neither jury could agree on a verdict despite the fact that, absent an incredible confession from Flowers, the evidence against Fuller was stronger than the evidence against Flowers. The State dropped the charges and Fuller was paroled this year.
- Leazer and Moore are white.
- One of the reasons Leazer and Moore recruited Wendell Flowers and John Fuller to assist them was that, like the victim, Flowers and Fuller were African-American. Leazer and Moore were concerned that the killing not appear to be racially-motivated.
- Leazer, Moore, and Fuller were tried together in 1991; Wendell Flowers was tried alone in 1994. At the first trial, the prosecution portrayed Leazer and Moore as the ringleaders and Wendell Flowers as a tag-along and lookout. Using the same evidence, the prosecutor changed theories at the second trial and argued that Wendell Flowers was the mastermind and major player.
- The State withheld statements from the defense indicating that Wendell Flowers was not involved in the planning of the killing and did not participate in the stabbing.

## SUMMARY OF THE CASE

In 1989, Mr. Flowers and three other prisoners were charged with fatally stabbing a fellow prisoner at the Piedmont Correctional Institute in Salisbury, North Carolina. **Mr. Flowers is the only one of the four on death row and he was the least culpable.**

Wendell Flowers has suffered from mental illness and drug addiction for years. While incarcerated, Mr. Flowers's drug abuse has continued unabated. In addition, Mr. Flowers has long been suicidal. Bent on self-destruction, Mr. Flowers told the investigators that he committed the capital offense alone. Numerous statements from everyone else present at the scene of the crime -- some of which were not turned over to the defense at trial -- indicated that codefendants Steven Leazer and Michael Moore planned the crime and that Mr. Flowers did not participate in the stabbing. The State's eyewitness could not say that Mr. Flowers stabbed anyone, and in the eyewitness's first statement to authorities, he did not identify Mr. Flowers as one of the participants. No blood was found on Mr. Flowers. All of the physical evidence pointed to Leazer and Moore. **The State has no direct evidence that Mr. Flowers planned to kill or actively participated in killing the victim in this case. The only evidence that Mr. Flowers stabbed the victim came from Mr. Flowers himself, and 12 Rowan County jurors who saw Wendell Flowers testify absolutely rejected the truthfulness of Mr. Flowers's account.**

Three of the four inmates were tried in 1991. At this trial, the State presented testimony from an eyewitness who said that one of the inmates went into the victim's cell first. Two other inmates followed 10 minutes later, while Mr. Flowers stayed at the cell block door holding it open. The eyewitness heard rumbling and banging; the cell door then flew open, and the victim staggered out of his cell. The victim's shirt was bloody. Two of the inmates came out of the cell and dragged the victim back inside. One of these inmates was holding some sort of sharp object in his hand. Only then did Mr. Flowers enter the cell. After approximately five minutes, all four inmates left the victim's cell, Leazer carrying bloody clothes.

At this trial, Mr. Flowers testified for one of the other inmates. Mr. Flowers was not represented at this point and stand-by counsel strongly advised him not to take the stand. However, he insisted on telling the jury that he alone had planned and carried out the stabbing, and that the three codefendants were not involved in any way. On cross-examination, the prosecutor attempted to show that Mr. Flowers was lying, and that his account of the killing was inconsistent with the physical evidence. The prosecutor argued to the jurors that Mr. Flowers was not worthy of belief, that he was only the lookout, and that the eyewitness's account of the crime was true. **The jurors were not persuaded by Mr. Flowers's story** and convicted two of the codefendants of first degree murder and, following a capital sentencing, sentenced them to life. The jury could not unanimously agree on a verdict for the other codefendant, Fuller. A second trial for Fuller also resulted in a mistrial, and the charges were subsequently dropped against him. Significantly, Fuller did not even call Flowers as a witness at his second trial.

After casting aspersions on Mr. Flowers's veracity at the codefendants' trial, the prosecutor changed his tune when the question was whether Mr. Flowers should be sentenced to die. At Mr. Flowers's trial in 1994, the State again presented the testimony of the eyewitness, who repeated his

observations that Mr. Flowers was the lookout. The State also presented the transcript of Mr. Flowers's testimony from the codefendants' trial. However, this time the prosecutor urged the jury to believe portions of Mr. Flowers's account of the killing. Counsel attempted to introduce the complete transcript of the prior trial to show how the prosecutor had previously attacked the credibility of Mr. Flowers's testimony. The trial court refused to admit this evidence.

Thus, the prosecutor sought to minimize Mr. Flowers's role in the murder when the object was to secure convictions and death sentences for the codefendants. Conversely, the prosecutor sought to portray Mr. Flowers as the ringleader in order to secure a conviction and death sentence against him. The evidence presented was the same; only the prosecutor's argument changed.

At the 1991 trial of the codefendants, the prosecutor told the jury the following concerning the role of Wendell Flowers in planning the murder of Rufus Watson:

Each of them played a role. Steven Leazer was the bait. He was the white, homosexual bait for Rufus Watson. Michael Moore was the manager, the man who planned it and put it together. John Fuller. Look at him. The muscle. **Wendell Flowers, the lookout. Turned out Wendell Flowers later became the fall guy**, the role the way they planned it, when he was to be the lookout.

At the trial of Wendell Flowers, the prosecutor abandoned the "lookout" argument, and instead told the jury the following:

I think it's reasonable to conclude that Wendell Flowers is the one that **planned** the murder of Rufus Watson. . . He **recruited** some muscle and he **recruited** a knife man . . . **He got Steven Leazer and he paid off Michael Moore and John Fuller.**

At the 1991 trial of the codefendants, the prosecutor told the jury the following concerning the role of Wendell Flowers in the stabbing of Rufus Watson:

Wendell Flowers isn't the one that stabbed him in the chest. When [the victim] was stabbed in the chest . . . Wendell Flowers was watching, and Wendell Flowers was listening, but Wendell Flowers wasn't doing.

However, at Mr. Flowers's trial, the prosecutor argued as follows:

And he was there just exactly as [the eyewitness] described his presence. Maybe he's the one that held the shank when it was driven into [the victim]'s chest and cracked those ribs. Maybe he heard it when he was doing it. I believe in light of what Wendell Flowers said, it's fair to assume that he stuck the shank in on several of those occasions.

Thus, between the two trials, Wendell Flowers was transformed from the lookout and fall guy to the mastermind and stabber. The prosecutor nonetheless presented to the jury an argument he knew to be false and misleading.

The evidence concealed by the State from trial and appellate counsel included 11 statements

showing that the codefendants had repeatedly confessed to planning and committing the murder. According to the statements, Steven Leazer and Michael Moore planned to kill the victim because Watson was trying to horn in on the drug trade in the prison. Leazer and Moore recruited Flowers and Fuller to play minor roles, only because they did not want the killing to appear racially motivated. Leazer and Moore are white, while Wendell Flowers, John Fuller and Rufus Watson are African-American. The undisclosed statements also indicated that Mr. Flowers did not participate in the stabbing. None of the statements demonstrate that Flowers knew of Leazer's and Moore's intent to kill Watson. **No court has considered the claim that Mr. Flowers's right to due process was violated by the State's improper concealment of these statements.**

As noted earlier, Wendell Flowers has long suffered from mental illness. Prison records show that Mr. Flowers has reported experiencing hallucinations and has on a number of occasions been suicidal. Once, after he nearly overdosed, he was placed on strict suicide watch. Prison records also show that staff were aware that if Mr. Flowers continued to have access to psychotropic medications, eventually he would very likely take his own life. Yet Mr. Flowers continued to obtain and use psychotropic medications. Six months before his 1994 trial, Mr. Flowers ingested unknown amounts of two psychotropic medications and was found in a semi-stuporous state. He was again placed on strict suicide watch.

Significantly, Mr. Flowers was extremely suicidal at the time he made many important decisions affecting his case. For example, he gave up his right to an attorney shortly after prison staff observed and reported his suicidal behavior. Less than one month after prison staff recommended that he be placed on suicide precaution lest he start a fire, harm himself by swallowing foreign objects, or cutting himself, Mr. Flowers gave a false confession to the killing. About six months later, a prison psychologist observed that Mr. Flowers's arms were bandaged from where he had injured himself injecting cocaine. Less than two months after that, Mr. Flowers took the stand at the codefendants' 1991 trial and portrayed himself as the sole perpetrator of the homicide for which the credible eyewitness said he was only the lookout.

Since being convicted and sentenced to death, Mr. Flowers has repeatedly given up his appeals, only to reinstate them, and then, again, to give them up. Mr. Flowers has frequently expressed his wish to die. Given his history of mental illness and suicidal behavior, the execution of Wendell Flowers constitutes little more than a State-assisted suicide. Given a fair assessment of the State's evidence in this case, the execution of Wendell Flowers may very well result in the State-sanctioned killing of a man whose minor role in the killing makes him not guilty of first degree murder or at least ineligible for the death penalty.

At the very least, the execution of Wendell Flowers would constitute a cruel and capricious application of the death penalty. Four inmates were charged with killing Rufus Watson. Moore and Leazer were convicted of first degree murder and sentenced to life. Leazer subsequently killed **another** person in prison. He received a life sentence for that killing as well. The State dismissed the charges against John Fuller after two trials resulted in hung juries. Notably, the State did not even seek the death penalty in the second trial. Only Wendell Flowers, an African-American, sits on death row for the killing of Rufus Watson, not because he was the ringleader or mastermind, but because Flowers's mental illness impeded his ability to defend himself against the charges against him, and because the State withheld evidence favorable to the defense and knowingly exaggerated

**Flowers's minor role in this crime.**

## **THE EXERCISE OF GUBERNATORIAL CLEMENCY IS PROPER IN THIS CASE**

In past clemency appeals, the Governor has expressed a reluctance to second-guess state and federal judges involved in the review of death penalty cases. Here, however, the court opinions in **all** of the pertinent cases support the contention that Wendell Flowers was arbitrarily singled out for the death penalty. Moreover, because of Mr. Flowers's mental illness and his insistence on abandoning his rightful appeals, **no court has reviewed the question of whether the State improperly withheld evidence favorable to the defense.**

In *State v. Flowers*, 347 N.C. 1, 489 S.E.2d 391 (1997), the Supreme Court of North Carolina described the evidence against Wendell Flowers this way:

Wendell Flowers and the victim, Rufus Watson, were inmates under the control of the North Carolina Department of Correction at the Piedmont Correctional Institute in Salisbury, North Carolina. In May of 1989, Flowers and Watson resided on the fourth floor of the residence tower in Cell Block D.

On 13 May 1989, a prison guard assigned to the fourth floor, conducted the morning head count shortly after 6:00 a.m. and found every inmate present and alive. Following the second count of the day, at around 12:30 p.m. on 13 May 1989, a correctional officer found Rufus Watson's bloody body lying face down on his bed, covered with a blanket. Mr. Watson suffered multiple stab wounds.

Lorenzo Wilborn, who at the time of the murder was an inmate residing on the fourth floor of Cell Block D, informed investigating officers that he had witnessed the murder. Wilborn stated that on the morning of the murder, he was listening to the radio in a cell directly across from the victim's cell. Wilborn saw Steven Leazer go into the victim's cell. Wilborn stated that approximately ten minutes later, he heard the sound of the cell block door opening. Wilborn looked through the cell window and saw Michael Moore, John Fuller and Wendell Flowers nearing the victim's cell. Moore and Fuller went into the victim's cell, and Flowers stayed at the cell block door holding it open. Wilborn heard someone say, "what's going on," and then heard rumbling and banging. Wilborn stated that the cell door then flew open, and the victim staggered out of his cell. Moore and Fuller came out of the cell and dragged the victim back into the cell. Moore was holding some sort of sharp object in his hand, and the victim's shirt was bloody. When they started back into the cell, Flowers stuck a broom handle in the cell block door to keep it from closing and locking, and Flowers entered the victim's cell. After approximately five minutes, the four inmates left the victim's cell. Leazer was carrying clothes with blood on them as he exited. Based on Wilborn's account of the murder as well as other information collected during the course of the investigation, Flowers, Leazer, Moore, and Fuller were charged with the murder of Rufus Watson.

In May of 1991, Flowers gave a statement to the State Bureau of Investigation. He admitted killing the victim and stated that he did so because of the way the victim was treating an inmate with whom Flowers was having a homosexual relationship and also because the victim had put out a contract on Flowers's life. Flowers stated that he pushed the shank used to stab the victim into the ground outside the recreation yard. The shank was later found in the

location described by Flowers.

In October of 1991, Leazer, Moore and Fuller were tried for the victim's murder. Leazer called Flowers as a witness at that trial. The transcript of Flowers's testimony at that trial was introduced into evidence at Flowers's trial and read to the jury. In that testimony, Flowers admitted stabbing and killing the victim but stated that he alone committed the murder. Flowers stated that after he killed the victim, he forced Leazer to help him clean up the cell and move the body onto the bed. Finally, Flowers stated that he was testifying because Leazer, Moore and Fuller were innocent, and he did not want to see them wrongly convicted.

Flowers presented no evidence in his defense.

347 N.C. at 13-16.

**Wendell Flowers, and Wendell Flowers alone,  
received the death penalty for his role in the killing of Rufus Watson.**

The Supreme Court of North Carolina briefly described the evidence against two of Flowers's codefendants in *State v. Leazer & Moore*, 337 N.C. 454, 456, 446 S.E.2d 54 (1994):

Steven Leazer and Michael Moore and the victim, Rufus Watson, were inmates at the Piedmont Correctional Center in Rowan County. On 13 May 1989, Watson's body was found in his cell. He died as the result of approximately twenty-one stab wounds. Bloody clothes, the weapon (a shank), fingerprints and an informant's tip led authorities to Leazer and Moore and several other inmates. Moore, Leazer, and Watson were incarcerated for violent felonies and were serving extensive sentences. Leazer and Moore were found guilty of murder in the first degree and were sentenced to life in prison.

Significantly, the Court noted that

The defense theory of the case was that Wendell Flowers had killed the victim because he was afraid the victim would kill him. Wendell Flowers testified to this effect.

**The jury found Wendell Flowers's testimony incredible and rejected the defense theory. Leazer and Moore were convicted of first degree murder, but sentenced to life.**

Moreover, when the State argued that Mr. Flowers should be convicted of first degree murder and sentenced to death because he was the mastermind and major player in the case, the prosecutor knew these arguments to be false. There was no evidence that Flowers planned the crime and recruited others. Further, other informants had furnished the prosecutor with numerous statements attesting to the fact that Wendell Flowers did not participate in the planning of the attack on Rufus Watson or in the stabbing. **These statements were not disclosed to the defense.**

**Consequently, neither the jury nor the Supreme Court of North Carolina knew the following:**



- An inmate named William Duncan reported to the S.B.I. that Michael Moore confessed to him.
- Moore told Duncan that Moore and Leazer planned the killing and asked Wendell Flowers to help them rob Rufus Watson.
- Moore told Duncan that Moore and Leazer entered the cell and Leazer stabbed Watson.
- Moore told Duncan that he and Leazer had to recruit two black inmates to help them “to keep it from looking like a racial incident.”
- An inmate named Randy Bowen reported to the S.B.I. that he overheard Michael Moore ask another inmate to kill Watson for \$500.00.
- An inmate named Bobby Flake reported to the S.B.I. that Michael Moore confessed to him.
- Moore subsequently assaulted Flake. While attacking him, Moore said, “I’ve killed one nigger, make it two.”
- Leazer told Flake that Leazer held Watson while Moore stabbed him.
- Leazer also admitted to Flake that Leazer stabbed Watson and watched the life go out of his eyes.
- An inmate named Jerry Fleeman reported to the S.B.I. that a few weeks after Watson’s murder, Leazer attacked Fleeman with a knife and tried to rob him. While assaulting Fleeman, Leazer admitted that he killed Watson the same way.
- Fleeman reported that Leazer attacked him with the knife in his right hand. Evidence at the 1991 trial indicated that Watson was stabbed by someone right-handed.
- Fleeman reported that another inmate told him he saw Leazer go into Watson’s cell and stab him. This inmate also told Fleeman that Wendell Flowers’s only involvement was to lure Watson out of his cell so that Leazer could sneak in. Leazer then struck Watson in the head, knocking him down, and then stabbed him. This inmate did not see Wendell Flowers go into the cell.
- Fleeman also reported that Leazer and Moore stole jewelry from Rufus Watson.
- An inmate named Brian Spruill reported to the S.B.I. that John Fuller confessed to him. Fuller said “we did what we had to do” regarding the murder of Watson.
- Fuller told Spruill that he and Moore and Leazer were “together” and that there was friction between the three of them and Watson.

- Fuller at no time mentioned Wendell Flowers to Spruill.
- Lorenzo Wilborn, the State's eyewitness at both trials, first told a prison chaplain about what he saw. In his first statement about the crime, Wilborn did not mention Wendell Flowers as participating.
- An inmate named William Hester reported to the S.B.I. that, prior to the murder, Moore told Hester that he was going to kill Watson. Hester believed Moore to be very serious about this plan.

**No state or federal court has had an opportunity to consider this evidence and to determine whether the prosecutor improperly withheld these statements.** On facts similar to those presented here, state and federal courts have found reason to vacate convictions. For example, in 1963, a defendant and an accomplice were tried separately and both sentenced to death. The defendant, who was tried first, took the stand and admitted his participation in the crime, but claimed that the accomplice did the actual killing. Subsequently, post-conviction proceedings, the defendant learned that the prosecutor had in his possession several statements wherein the accomplice admitted to committing the killing.

The United States Supreme Court, in this, the seminal case of *Brady v. Maryland*, 373 U.S. 83 (1963), ordered a new trial for the defendant. Additionally, the Court condemned, in the strongest language, the prosecutor's actions:

Society wins not only when the guilty are convicted but when criminal trials are fair; our system of the administration of justice suffers when any accused is treated unfairly. An inscription on the walls of the Department of Justice states the proposition candidly. . . "The United States wins its point whenever justice is done its citizens in the courts." A prosecution that withholds evidence on demand of an accused which, if made available, would tend to exculpate him or reduce the penalty. . . casts the prosecutor in the role of an architect of a proceeding that does not comport with standards of justice.

373 U.S. at 84.

**JUSTICE IN THIS CASE DEMANDS EXECUTIVE CLEMENCY**

## **WENDELL FLOWERS'S PRIOR RECORD DOES NOT JUSTIFY IMPOSITION OF THE DEATH PENALTY**

At the time of Rufus Watson's killing, Wendell Flowers was in prison for first degree murder. Mr. Flowers and two other men were tried and convicted for a burglary and robbery in which an elderly man was beaten to death.

The court opinions in this case show clearly that Wendell Flowers did not kill the victim in this case, and did not intend the victim's death.

According to the Supreme Court of North Carolina,

Carlton Roberts, Dennis Hayes, and Wendell Flowers broke into a rural home occupied by an elderly couple named Greer. Roberts assaulted Mr. Greer who died as a result of the assault. Flowers and Hayes restrained and injured the elderly wife of the owner. Flowers then went through the house, pilfering cash and other items.

*State v. Flowers*, 100 N.C. App. 58, 59-60, 394 S.E.2d 296 (1990).

Earlier that same evening, at about 6:00 p.m., Hayes borrowed a white 1972 Chevrolet Impala and drove to Statesville to pick up Roberts. Around 9:00 p.m., Hayes and Roberts, together with Wendell Flowers, went to the Greers' store.

*State v. Hayes*, 314 N.C. 460, 463, 334 S.E.2d 741 (1985).

Subsequently, the three men went to the Greer home. Hayes wrapped a blanket over his head and crashed through the Greers' bedroom window. Roberts and Flowers followed. Mrs. Greer was asleep in bed when she heard a crash and felt someone land beside her on the bed. As she lay helpless in the bed, she heard someone say, "If you holler or if you scream I'll blow your head off."

Roberts then grabbed Mr. Greer and began beating him with a blunt object. Roberts demanded that Mr. Greer reveal where his money was hidden. Hayes and Flowers grabbed Mrs. Greer, held a pistol to her neck, struck her over the head with a flashlight causing a five-inch wound and demanded that she tell where she and her husband kept their money. Two of the assailants continued to hold Mrs. Greer and the other searched for money.

Roberts continued to beat Mr. Greer while Mrs. Greer led Hayes and Flowers outside, telling them there might be money hidden in a playhouse in the yard. She attempted to escape, but Hayes caught her and threw her to the ground. Mrs. Greer then led the men to the store where, after tying her, they took a number of items, including two cases of cigarettes, a watch and a .22 caliber Luger pistol. The three men left in a white Chevrolet.

Mrs. Greer was able eventually to free herself and go to her granddaughter's home.

*State v. Hayes*, 323 N.C. 306, 308-309, 372 S.E.2d 704 (1988).

From the court opinions, the following is clear:

- Wendell Flowers was not the ring leader.
- Wendell Flowers was not the driver that night.
- Wendell Flowers was not the one who burst into the house.
- Wendell Flowers did not intend to kill anyone.
- Wendell Flowers was not the one who beat Mr. Greer to death.
- Wendell Flowers was not even in the room when Roberts beat the victim to death.

**Thus, the fact that Wendell Flowers had a prior conviction for first degree murder -- arising from an incident in which he neither intended to kill nor killed anyone -- does not justify his execution for this capital offense -- another incident in which he neither intended to kill or killed anyone.**

**PROSECUTORIAL MISCONDUCT IN THIS CASE  
JUSTIFIES COMMUTATION OF THE DEATH SENTENCE**

<b>VERSION #1</b>	<b>VERSION #2</b>
<p><u>Lookout &amp; Fall Guy</u></p> <p>Each of them played a role. Steven Leazer was the bait. He was the white, homosexual bait for Rufus Watson. Michael Moore was the manager, the man who planned it and put it together. John Fuller. Look at him. The muscle. Wendell Flowers, the lookout. Turned out Wendell Flowers later became the fall guy, the role the way they planned it, when he was to be the lookout.</p> <p><i>Assistant District Attorney Ariadne Symons, December 1991.</i></p>	<p><u>Mastermind</u></p> <p>I think it's reasonable to conclude that Wendell Flowers is the one that planned the murder of Rufus Watson. . . He recruited some muscle and he recruited a knife man . . . He got Steven Leazer and he paid off Michael Moore and John Fuller.</p> <p><i>District Attorney William Kenerly, September 1994.</i></p>
<p><u>Lookout &amp; Fall Guy</u></p> <p>Wendell Flowers isn't the one that stabbed him in the chest. When [the victim] was stabbed in the chest . . . Wendell Flowers was watching, and Wendell Flowers was listening, but Wendell Flowers wasn't doing.</p> <p><i>District Attorney William Kenerly, December 1991.</i></p>	<p><u>Major Player</u></p> <p>Maybe he's the one that held the shank when it was driven into [the victim]'s chest and cracked those ribs. Maybe he heard it when he was doing it. I believe in light of what Wendell Flowers said, it's fair to assume that he stuck the shank in on several of those occasions.</p> <p><i>District Attorney William Kenerly, September 1994.</i></p>

**BOTH VERSIONS CAN'T BE TRUE.**

**ALL OF THE CREDIBLE EVIDENCE SAYS VERSION #1 IS TRUE AND  
VERSION #2 IS FALSE.**

**VERSION #1 DOES NOT JUSTIFY THE DEATH PENALTY.**

## **THE EXECUTION OF WENDELL FLOWERS, A MENTALLY ILL PRISONER, WOULD CONSTITUTE CRUEL AND UNUSUAL PUNISHMENT**

Wendell Flowers has a history of mental illness stretching back 20 years. Notations in the D.O.C. records include:

- In 1979, Mr. Flowers was referred for psychological evaluation because of anxiety, sleep disturbance, and nightmares. He declined to discuss his problems candidly due to fears of being labeled a mental health patient.
- Mr. Flowers reported in 1982 that he frequently drinks alcohol and uses drugs such as heroin.
- Mr. Flowers was again referred for mental health treatment in 1982. At this time he denied suicidal ideations.
- A 1983 report indicated that, in the past, Mr. Flowers had been treated with antidepressants.
- A clinical psychologist reported in 1986 that Mr. Flowers was suspected of drug usage, but Mr. Flowers denied this.
- In 1986, Mr. Flowers reported prior abuse of alcohol and cocaine. Mr. Flowers sought treatment for depression and insomnia, but denied suicidal ideations.
- Numerous times in the 1980's, Mr. Flowers sought treatment for migraine headaches. He reported having suffered migraines since 1971, and consistently requested psychotropic medications such as Elavil and Valium as treatment.
- A 1988 report indicates that, while incarcerated, Mr. Flowers received therapy periodically for treatment of depression and insomnia.
- Mr. Flowers received Elavil for his depression, headaches, and insomnia in May of 1988. At his request, the dosage was increased. In July, Mr. Flowers still reported feeling depressed.
- A staff psychologist reported in 1988 that Mr. Flowers appeared to be mildly paranoid.
- In February of 1989, Mr. Flowers was placed on Benadryl. Three months later, Mr. Flowers reported that when he went to court and was without Benadryl, his headaches came back.

### **May 13, 1989: Rufus Watson is killed.**

- On July 18, 1989, Mr. Flowers reported some limited hallucinatory experiences involving hearing voices of deceased relatives. The consulting psychiatrist increased the dosage of Benadryl.
- Sometime between July 20 and 25, 1989, Mr. Flowers was taken to the emergency room after appearing in acute distress. He was placed on Valium. The consulting psychiatrist noted Mr.

Flowers's emotional distress. Mr. Flowers reported vomiting and seeing "little demons" running through his room. The demons were telling him things to do. Valium was discontinued and Mr. Flowers was placed on Mellaril.

- The consulting psychiatrist who saw Mr. Flowers on July 25, 1989 reported that he was "somewhat difficult to evaluate."
- On July 28, 1989, Mr. Flowers reported considerable stress. He was also experiencing auditory hallucinations and still having visions of "little demons." Mellaril was discontinued and Mr. Flowers was placed on Navane and Artane.
- On August 4, 1989, Mr. Flowers reported that his distress had been so severe that he had considered suicide. He again reported hallucinatory experiences. Navane and Artane were increased.
- On August 9, 1989, Mr. Flowers reported having threatened to commit suicide. However, he reported that he was not serious when he made this threat. He again reported seeing little demons and snakes. Mr. Flowers described purchasing Artane, Sinequan, and Benadryl "on the yard."
- At his request, Mr. Flowers's dosages of Artane and Navane were increased on August 11, 1989.
- On August 24, 1989, Mr. Flowers requested additional medication. He reported that he had been buying Artane, Benadryl, and Sinequan.
- A mental health assessment in October 1989 found that Mr. Flowers had a rule violation for "misuse of medications." The report further noted that Mr. Flowers had a history of frequent substance abuse. Mr. Flowers reported being depressed and expressed a desire for Artane and Navane, as Benadryl was not helping him.
- In a mental health survey dated October 20, 1989, Mr. Flowers stated that he felt hopeful about the future none or little of the time. Most or all of the time he felt that others would be better off if he were dead.
- Also on October 20, 1989, Mr. Flowers reported hearing voices and seeing little devils. Mr. Flowers described the voices as those of individuals against whom he had committed crimes. He felt the voices were telling him to kill himself. He reported being depressed and asked for Benadryl.
- Mr. Flowers was seen in mental health on October 29, 1989. He described in fair amount of detail the small demons he was seeing. The demons were telling him to hurt himself. The voices were those of deceased people. Mr. Flowers reported occasional crying spells but said he liked to keep his feelings hidden. He did admit having suicidal ideations. Notes report that Mr. Flowers clearly wished to obtain medication.
- A consulting psychiatrist noted on November 19, 1989 that more prescription medications would

be harmful to Mr. Flowers.

- At Central Prison on March 11, 1990, Mr. Flowers was noted to present a "mysterious case." There was "no known cause" of his "depressed mental status."
- On March 13, 1990, Mr. Flowers was placed on moderate suicide precaution.
- On March 15, 1990, Mr. Flowers overdosed on Sinequan. He was brought to Central Prison on a stretcher and placed on strict suicide precaution. Mr. Flowers spent four days in the hospital, during which time nurses observed his "wavering mental status." Mr. Flowers was observed to have "waxing and waning consciousness."
- Mr. Flowers referred himself for mental health screening on March 21, 1990. He reported wanting to start medications again.
- According to a report entitled "Documentation of Self-Mutilation/Suicide Attempt" dated September 28, 1990, Mr. Flowers was placed on Level II suicide precaution. This action was taken after Mr. Flowers set a fire in his cell.
- Mr. Flowers was removed from suicide watch on October 1, 1990.
- On January 26, 1991, Mr. Flowers is brought unconscious to Central Prison in an ambulance. He was reported to have been unresponsive since the previous evening. Subsequently, it was determined that Mr. Flowers had ingested Sinequan in an attempt either to get high or harm himself.
- A Central Prison psychiatrist reported on February 5, 1991, that Mr. Flowers would continue to be at risk for suicidal gestures as long as the medications are not managed appropriately at the unit, and he is allowed to continue to have access to medications. Dr. Smith also wrote that Mr. Flowers would continue to be a management problem and eventually might take his life if he continued to have access to psychotropic medication.
- On March 1, 1991, a psychological programs manager noted that Mr. Flowers had reported suffering from repeated nightmares about the capital offense. In the nightmares, the victim screamed out for "help" to Mr. Flowers. Mr. Flowers denied any suicidal ideations. He was cautioned strenuously against unauthorized use of psychotropic medications.

**March 11, 1991: Wendell Flowers writes to the prosecutor saying he does not want counsel.**

**April 11, 1991: Wendel Flowers waives right to counsel.**

- On April 18, 1991, Mr. Flowers was placed on Level II suicide precaution after he set a fire in his cell. The suicide precaution was ordered for five days.
- On April 22, 1991, a mental health program manager recommended that Mr. Flowers be immediately placed on suicide watch should he start a fire, harm himself from swallowing foreign



objects, cutting, etc., or should he just threaten misbehavior.

**May 16, 1991: Wendell Flowers gives confession to S.B.I.**

- On October 4, 1991, Mr. Flowers was seen by a staff psychologist. A nurse had referred Mr. Flowers because of concerns about his illegal use of drugs in the prison system.

**November 21, 1991: Contrary to advice of standby counsel, Wendell Flowers testifies at trial of codefendants and says he alone killed Rufus Watson.**

- Mr. Flowers was found in a semi-stuporous state after allegedly ingesting unknown amounts of Benadryl and Elavil on March 1, 1993. He was brought to the emergency room on a stretcher and placed on strict suicide precaution following this overdose. Medical notes indicate that Mr. Flowers took more than 30 pills.
- On April 1, 1993, Mr. Flowers was admitted to the emergency room in a confused state. He did not know his name or inmate number. Mr. Flowers admitted taking some pills but declined to say what kind. He was placed on strict suicide precaution.

**September 19-October 6, 1994: Wendell Flowers's capital trial and sentencing hearing.**

**STATEMENT OF WILLIAM DUNCAN, JULY 26, 1989**

**STATEMENT OF WILLIAM DUNCAN, SEPTEMBER 22, 1991**

**STATEMENT OF JERRY FLEEMAN, JULY 12, 1989**

**STATEMENT OF JERRY FLEEMAN, OCTOBER 3, 1991**

**STATEMENT OF JERRY FLEEMAN, OCTOBER 3, 1991**

**STATEMENT OF TONY HALL, MAY 19, 1989**

**STATEMENT OF BRIAN SPRUILL, OCTOBER 24, 1991**

**STATEMENT OF BOBBY FLAKE, JANUARY 15, 1991**

**STATEMENT OF BOBBY FLAKE, OCTOBER 15, 1991**

**STATEMENT OF WILLIAM HESTER, OCTOBER 10, 1991**