

DATE TYPED: July 16, 2009
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IN RE: JASON A. GETSY, OSP #A 330-121

**STATE OF OHIO
ADULT PAROLE AUTHORITY
COLUMBUS, OHIO**

Date of Meeting: July 9, 2009

Minutes of the **SPECIAL MEETING** of the
Adult Parole Authority held at 770 West Broad Street,
Columbus, Ohio 43222 on the above date.

IN RE: Jason A. Getsy, OSP #A330-121

SUBJECT: Death Sentence Clemency

CRIME, CONVICTION: Aggravated Murder with 3 specifications of aggravating circumstances, Attempted Aggravated Murder with firearm specification, Aggravated Burglary.

DATE, PLACE OF CRIME: July 7, 1995 in Hubbard, Ohio

COUNTY: Trumbull

CASE NUMBER: 95-CR-399

VICTIM: Ann R. Serafino (Age 66)
Charles Serafino (Age 39)

INDICTMENT: Counts 1,2: Aggravated Murder with 3 specifications of aggravating circumstances; Count 3: Attempted Aggravated Murder with firearms specification; Count 4: Conspiracy to Commit Aggravated Murder; Count 5: Aggravated Burglary with firearm specification.

TRIAL: Found Guilty by Jury on 09/03/1996 as indicted. Count 2 dismissed by the State. Count 4 dismissed by the State on 09/12/1996.

SENTENCE: 09/12/1996: Count 1 Sentenced to DEATH; Count 3: 10-25 years with 3 years actual incarceration for the firearm specification; Count 5: 10-25 years.

ADMITTED TO INSTITUTION: September 13, 1996

JAIL TIME CREDIT: Unknown

TIME SERVED: 154 months

AGE AT ADMISSION: 20 years old

CURRENT AGE: 33 years old

DATE OF BIRTH: October 8, 1975

JUDGE: Honorable W. Wyatt McKay

PROSECUTING ATTORNEY: Dennis Watkins

ACCOMPLICES: Ben Hudach: Sentenced to 20 years to Life; Admitted on 9/20/1996, inmate# A330-330. First Hearing held on 3/9/2009, and Continued to July 2015.
Richard McNulty: Sentenced to 30years to Life; Admitted 3/8/1996, inmate #A320-929. First Hearing to be held in January 2032.
John Santine: Sentenced to 20 years to Life; Admitted on 3/20/1997, inmate #A334-117. First Hearing to be held in January 2023.

FOREWORD:

Clemency in the case of Jason A. Getsy, OSP #A330-121 was initiated by the Ohio Parole Board, pursuant to Section 2967.03 and 2967.07 of the Ohio Revised Code and Parole Board Policy #105-PBD-01.

On June 30, 2009, Jason A. Getsy was interviewed via video-conference by the Parole Board at the Ohio State Penitentiary. His attorney, Michael J. Benza, was present at the institution to observe the interview. Representatives from the Attorney General's office, the Trumbull County Prosecutor's office, the Governor's Office and the Federal Public Defender's Office observed through video conferencing but separate from the Board Members. Board Members participating in the interview included Chairperson Ms. Mausser and Parole Board Members Mr. Bedra, Dr. Mack, Mr. Maszczyński, Mr. Rauschenberg, and Ms. Venters.

A Clemency Hearing was then held on July 9, 2009 with seven (7) members of the Ohio Parole Board participating. Arguments in support of clemency were presented by David Stebbins of the Federal Public Defender's Office. Arguments in opposition to clemency were presented by Trumbull County Prosecutor Dennis Watkins and Assistant Attorney Generals Holly LeClair and Matt Kanai.

The Parole Board considered all of the arguments, the information disseminated by presenters at the hearing, prior investigative findings as well as judicial decisions and deliberated upon the propriety of clemency in this case. With seven (7) members participating, the Board voted five (5) to two (2) to provide a favorable recommendation for clemency to the Honorable Ted Strickland, Governor of the State of Ohio.

DETAILS OF THE INSTANT OFFENSE (95-CR-399): The following account of the instant offense was obtained from the Ohio Supreme Court opinion, decided December 23, 1998:

“Charles (“Chuckie”) Serafino lived with his mother, Ann Serafino. On the evening of July 6, 1995, Ann went to bed at approximately 11:00 p.m. Chuckie was on the love seat in the family room when, sometime after 1:00 a.m. on July 7, he heard a loud explosion. Shells from a shotgun blasted out the sliding glass door behind him and wounded him in the arm. As he ran for the bathroom to inspect his injuries, Ann came out of her bedroom. Chuckie remembered hearing his mother say to someone, “What are you doing here? Get out of here.” He also remembered hearing someone say, “Shoot the bitch,” or “Kill the bitch.” Serafino next recalled seeing a gun in his face and being shot again. He fell to the bathroom floor and pretended to be dead. After the intruders left, he called 911.

Frederick Hanley, Jr., Chuckie's neighbor, jumped from his bed upon hearing gunshots. He looked at his digital alarm clock, which read 1:22 a.m. As he was going downstairs, he heard at least one additional gunshot. Once outside, he heard footsteps that appeared to be running away from the Serafino residence. He instructed his wife to call 911 and inform the police that shots were coming from the Serafino residence and that someone was running towards the city of Hubbard.

Officer Thomas Forgacs of the city of Hubbard Police Department was one of the first officers to respond to the call. The officers broke into the Serafino home and found Chuckie lying on the floor with blood all over him. Chuckie asked the officers to check his mother; she was dead.

Forgacs left the scene and began checking the Hubbard area for a white Crown Victoria owned by John Santine. Forgacs went to 24 1/2 South Main Street, where he had seen Santine's car parked on the evening of July 6. He found Santine's car parked in the driveway with another car pulled in behind it.

Earlier in the year, Santine had attempted to purchase a portion of Chuckie Serafino's lawn-care business and had deposited \$2,500 in the business's account. Subsequently, Chuckie violated probation and was incarcerated in the Trumbull County Jail until July 6, 1995. While Chuckie was in jail, Santine attempted to take over Chuckie's business. Santine transferred Chuckie's building lease and equipment into his own name, which caused an altercation between Santine and Ann Serafino and Chuckie's sister. The Serafinos filed a civil action against Santine while Chuckie was still in jail.

Forgacs searched for Santine's car because of a conversation he had had on June 20, 1995 with Richard McNulty. McNulty, who lived at 24 1/2 South Main and who is a co-defendant, had previously served as a police informant. On June 20, Forgacs asked McNulty, who worked for Santine, “What does Johnny have in store for Chuckie when he gets out of jail?” McNulty told Forgacs, “He's dead. He's bought and paid for.” McNulty told Forgacs that Santine had lined up a hit man, Tony Antone, to kill Chuckie Serafino. Forgacs gave little credence to McNulty's statements, and didn't inform Chuckie or follow up on the information.

Forgacs returned to the murder scene and told the Hubbard Township Police what McNulty had told him a few weeks earlier. Later that morning, Detective Donald Michael

Begeot of the Hubbard Township Police Department and Forgacs went to the McNulty apartment at 24 1/2 South Main to take McNulty in for questioning.

Initially, McNulty minimized his involvement and denied that he had told Forgacs about the contract on Chuckie. Based on other information obtained from McNulty, Begeot obtained an arrest warrant for Getsy. At approximately 10:00 p.m. on July 7, 1995, Getsy was arrested in the driveway of 24 1/2 South Main. He was given *Miranda* warnings at the scene and later at the Hubbard Township Police Department. At approximately 1:00 a.m., on July 8, 1995, Getsy gave a videotaped interview.

Getsy told Begeot that Ben Hudach called him on the evening of July 6, 1995, and told him to come to 24 1/2 South Main Street. When Getsy got there, Hudach, a co-defendant, told Getsy that they (Getsy, Hudach, and McNulty) had to “take out some guy.” Santine was not present, but Hudach related what Santine had told him earlier. Money had been discussed, but Hudach was not sure of the amount. Getsy later indicated that he participated in the shootings because he was scared of Santine, but did not do it for the money.

Sometime on July 6, 1995, Getsy, Hudach, and McNulty drove to the Serafino residence. They could not find a place to park so they returned to 24 1/2 South Main Street. When they returned, Santine was at the apartment and drove them back to the Serafino house. Getsy described the guns that they took with them, which included a shotgun, a SKS rifle, and a .357 magnum handgun.

Getsy explained that after Santine dropped them off, Hudach sprained his ankle and went back to where they were supposed to be picked up. Getsy stated, “[T]hat left me and Rick to get it done.” He admitted that what they were supposed to do was kill Chuckie Serafino.

Getsy explained that he and McNulty fired simultaneously through the sliding glass door on the back of the Serafino house. They entered the house through the shattered door and shot at Chuckie as he was running down the hall. When they saw Ann Serafino, Getsy stated, they “just kept shooting.”

During the interview with Begeot, Getsy was reluctant to mention Santine's name. He told Begeot that the same thing that happened last night could happen to him. He asked whether Santine would ever see the interview tape. Begeot assured Getsy that Santine would not be able to get to him. Getsy also asked Begeot if he was going to die, and Begeot told him, “No.”

Getsy admitted that he had the SKS rifle and the handgun during the shootings. He explained that when he was shooting the SKS, the clip fell out so he had to pull out the handgun.

Getsy's description of the weapons he and McNulty used was verified by physical evidence recovered at the scene. Michael Roberts, a forensic scientist, identified the

projectiles recovered from the murder scene. None of the projectiles found outside the family room area, where the sliding glass door was blown out, was discharged by the shotgun which, according to Getsy, McNulty carried and fired. The projectiles linked to the shotgun were recovered in the family room.

Getsy admitted that they had been instructed to kill any witnesses. When Begeot asked him what they were told about witnesses in the house, Getsy replied, “[I]f we were seen, to do them, too.”

After the shootings, Hudach called Santine to tell him it was finished and to pick them up. Santine told Hudach that there were cops everywhere and that they should run through the woods to get back to the apartment. Santine also told Hudach to ditch the guns in the woods.

Getsy, McNulty, and Hudach arrived back at 24 1/2 South Main, where Josh Koch and Santine were waiting for them. Santine ordered them to take off their clothes and take a bath. Getsy was the last to bathe. When he came out of the bathroom, his clothes and boots were gone. He did not know what happened to them.

Koch testified that he was at 24 1/2 South Main Street on July 6 and 7, 1995. He knew that Getsy, McNulty, and Hudach were going out to do something for Santine, but they declined to give him any details. He was to watch TV and write down the shows that were on so the other three could memorize the list for an alibi.

After Getsy, McNulty, and Hudach left, Koch waited in the apartment. Santine came to the apartment and, sometime around 1:00 a.m., jumped up and said, “I heard the gunshots.” Immediately thereafter, the telephone rang and Koch heard Santine talking to someone in a fast, excited manner. Santine said, “So you killed them, right, you killed them both? * * * Okay. Well, I can't come pick you up. The cops are everywhere, they are pulling over everybody, you got to run through the woods and ditch the guns.” Santine hung up and happily screamed, “I fucking love these guys.”

According to Koch, Santine was very pleased with the three men. He said, “You guys want \$10,000? I'll give you \$10,000.” McNulty told him he just wanted a wedding ring for his girlfriend. Hudach said that it had been a favor for Santine. Getsy indicated that he needed money for his car.

The next day, Koch heard Getsy bragging to Patricia Lawson about shooting Ann Serafino. Getsy grabbed a piece of pizza with no cheese on it and said, “This looks just like this bitch's face after we shot her.”

Michael Dripps, a close friend of Getsy, McNulty, and Hudach, acknowledged that Getsy was happy, secure, and tough when he had a gun in his hand. Dripps was present at the lawn-care business when Gum-out had been used to wipe prints off the weapons before the Serafino shootings. Dripps heard Santine instruct Getsy, McNulty, and Hudach to kill

Chuckie Serafino and all witnesses. Dripps also observed McNulty and Hudach in camouflage clothing on the night of the killing.

The Trumbull County Grand Jury indicted Getsy for the attempted murder of Charles Serafino, conspiracy to commit aggravated murder, aggravated burglary, and two counts of aggravated murder, with capital specifications for the death of Ann Serafino.

The jury found Getsy guilty of all charges. After the trial, the state moved to dismiss the conspiracy count, which was granted, and elected to go forward with an aggravated murder charge based on prior calculation and design. After a sentencing hearing, the jury recommended that the death sentence be imposed. The trial court adopted the recommendation and sentenced Getsy to death.”

PRIOR RECORD

Juvenile: Jason A. Getsy has the following known juvenile arrest record:

<u>Date</u>	<u>Offense</u>	<u>Location</u>	<u>Disposition</u>
06/22/1992 (age 17)	Negligent Homicide	Hubbard, Ohio	07/28/1992 Probation & counseling ordered. Juvenile Probation terminated on 07/31/1993.

Details: Getsy negligently caused the death of Gary Roth Jr., age 14, with a .22 caliber pistol, while playing Russian Roulette.

Adult: Jason A. Getsy has the following known adult arrest record:

<u>Date</u>	<u>Offense</u>	<u>Location</u>	<u>Disposition</u>
03/25/1995 (Age 19)	Disorderly Conduct, Contributing to Delinquency of a Child	Hubbard Twp., Ohio	\$1000.00 fine
07/08/1995 (Age 19)	Aggravated Murder with 3 specifications of Aggravating Circumstances, Attempted Aggravated Murder with firearm specification, Aggravated Burglary Case #95-CR-399	Hubbard, Ohio	INSTANT OFFENSE
02/17/1996 (Age 20)	Escape	Trumbull County, Ohio	DISMISSED

Institutional Adjustment:

Jason A Getsy was admitted to the Department of Rehabilitation and Correction on September 13, 1996. His work assignments while incarcerated at the Mansfield Correctional Institution included Material Handler, Pre-GED / GED Student, and Porter. Since his transfer to the Ohio State Penitentiary, Getsy's work assignment has been as a porter and GED Student.

Getsy completed and passed his GED in December 2007. He participates in weekly religious service programs including bible studies, worship services, and also plays music in several of these services. Getsy has also participated in several community service projects throughout his incarceration. Getsy has been assigned to the Ohio State Penitentiary's extended privilege unit since his transfer from MANCI's extended privilege unit in November 2005.

Since his admission, Jason A. Getsy has never been placed in disciplinary control. He has received approximately four (4) conduct reports since he was admitted to the Department of Rehabilitation and Correction in 1996. All four offenses were for possession of minor contraband (06/2008, 08/2003, 11/1999, and 12/1998).

APPLICANT'S STATEMENT:

As previously stated, Mr. Getsy was interviewed by the Ohio Parole Board on Tuesday, June 30, 2009 via video conferencing. Mr. Getsy gave an account of his role in the instant offense and then answered questions posed by Parole Board Members. His account of the details was not entirely consistent with the version that was given to authorities. He asked that any consideration other than the death penalty be afforded him.

Mr. Getsy began the interview by stating that he takes full responsibility for his role in the instant offense and he understands that his actions placed him where he is. He emphasized further that his own stupid actions placed him in prison and he has been living every day with the thought of taking Ann Serafino's life as she was an innocent woman. The applicant said he feels devastation and pain, especially for Ms. Serafino's son and daughter. If he could take this act back, he would do just that.

Mr. Getsy was queried regarding his involvement and relationship with Mr. Santine. He stated that his friends began working for John Santine who would supply them with drugs. He recalls people telling him that Santine was "bad news" and he even tried to convince his friend Ben Hudach to reconsider his association with Santine. When Ben would not distance himself from Santine, Getsy decided to remain close to the group in order to protect his friend. He went on to say that his first meeting with Santine was at Rick McNulty's apartment where Santine bragged about "his connections" and "having the cops in his pocket". He remembers Santine always carrying a gun and calling them "his boys" which made him feel "trapped" in this particular association.

Getsy recalled an incident involving a boy who sold drugs for Santine's brother. The boy wanted out of the group, and in response, Santine gave an order to have his "privates" burned and have him sodomized and tortured with a hot iron. Getsy stated that this incident was a message to all of them that they could not leave the group or betray Santine. He stated that Santine suspected McNulty of being an informant and talked about killing McNulty.

Regarding the Serafinos, Getsy stated that there was a dispute between the Serafinos and Santine over the lawn care business and Santine talked of killing Chuckie Serafino, and what he could have done to him due to his mob connections. A few weeks prior to the offense, Getsy and his friends talked of getting away from Santine, but they were afraid to go to the police. However, they did meet with police and advised of Santine's threats to kill Serafino so that Serafino could be warned. The police did not act on this information, which made them feel that the police were probably connected to Santine as he had previously claimed. This made them fearful that Santine had discovered that they went to the police which further instilled their belief that Santine would cause them harm if they did not follow his directions. (Note: At applicant's hearing, Federal Public Defender Stebbins stated that Mr. Getsy misspoke as only McNulty went to the police). Getsy stated further that he and his friends wanted to get out of the group but did not know how.

Board Members questioned him further about the night of the crime. Getsy stated he was very naïve at this time in his life. He went on to say that he was with his girlfriend on the night of the offense, when Ben Hudach called for him to come down to his apartment because it was important. Getsy told how he had dropped his girlfriend off and continued on to McNulty's residence. When he arrived, only Mike Dripps was present. He said they left the apartment and went to the lawn care business and noticed that there were numerous guns on the floor that McNulty was cleaning. At that time, McNulty told him that they were supposed to kill Chuckie Serafino that night. Getsy stated he does not remember a mention of "money" at that time. He continued to say that money was "irrelevant" to him as he was afraid that if he did not do what he was told, he knew that Santine would harm him and his family.

As they were leaving, he said that Santine assured them that only Chuckie Serafino would be in the home; however, they were not to leave any witnesses. Mr. Getsy stated that he, Rick McNulty and Ben Hudach left for the Serafino home, but came back a short time later telling Santine that they could not find a place to park the car. He said that Santine became irate and drove them back to the Serafino home. Mr. Getsy said that since McNulty knew exactly where the house was located, he led him and Hudach through the woods. Hudach then supposedly sprained his ankle at which time it was decided that he would go back up the road and wait. He further stated that he and McNulty sat outside the house for about 45 minutes (after being quizzed by a Board member, he changed it to "about 25 minutes"). He also stated that they discussed what to do and felt that they had to do it.

Getsy informed the Board that as he thinks now about the night of the offense, he realizes there were many ways in which he and McNulty could have changed their plans and maybe saved the life of Mrs. Serafino. He went on to say that maybe he could have knocked on Mr. Serafino's door and explained to him what Mr. Santine was planning. Getsy stated that at the time, those thoughts did not occur to either he or McNulty because of their fear of Santine.

Getsy further stated that when he and McNulty finally decided to go forward with the offense, he and McNulty both shot through the sliding glass doors and entered the Serafino home. Getsy stated that McNulty chased Chuckie Serafino down the hallway while he was standing in the living room "frozen". Getsy next recalled McNulty yelling at him that the victim was down the hallway. Getsy stated further that he fired down the hallway after seeing someone who he thought was Chuckie. When he walked down the hallway, he realized that the person he shot was not Chuckie. Chuckie was in the bathroom, so he shot him as well. During the shooting, he recalls McNulty yelling at him to kill and he may have said "kill the bitch". At that time Getsy said they ran from the house down the street to where Hudach was waiting. Hudach then called Santine who told them to run through the woods because police "were everywhere".

Getsy stated that when they arrived at Santine's apartment, he got "sick" from what he had done. Santine told them to take a bath as he disposed of their clothes. Getsy recalls Santine becoming very excited as McNulty explained to him what happened. Getsy stated that he pretended to be excited as well, in order for Santine not to become suspicious of him.

The next day the police picked up McNulty. Getsy stated that he wanted to tell someone what had happened and started to tell his uncle who was visiting from Colorado but decided not to because he did not want to put his family in danger. Getsy explained that he could not sleep because he was so emotionally and mentally drained; however, he did go back to work but kept thinking about getting caught or being killed by Santine.

Getsy wanted the Board to know that Chuckie Serafino wrote to him a few years ago when Serafino was in prison and Getsy wrote back. Serafino wrote that he forgives him. Getsy said that for Mr. Serafino to say that "he forgives him" is the kind of love that "only comes from God". He wants the Board to know that he has a lot of respect for the male victim and since receiving his forgiveness, Getsy has lived to serve God. Getsy said that he would like to receive clemency so that further healing can take place for the victim through more communication.

Getsy stated that if he were to be placed into general population, he would talk to some of the young inmates or do a prison ministry in order to show others that carrying the love of Christ in your heart is better than carrying around a lot of anger. He said he wants the Board to consider that his execution will not accomplish anything and that he has a lot to offer from prison.

Mr. Getsy was queried about his relationship with his co-defendants. He responded that he had gone to school with them. When he was 18 years old, he stated that he had “fallen out” with his parents, moved out and “lived in the streets”.

He said that Ben Hudach did not want him living like this and was able to get Getsy a job with Hudach’s father. Mr. Getsy later reconciled with his parents and moved back in with them and so did Hudach. He said that they became close, each calling the other’s parents, “Mom” and “Dad”.

Getsy was also asked about his juvenile record. Mr. Getsy responded that at age 15 or 16, he was convicted of Negligent Homicide whereby he and a friend were playing Russian roulette with a gun and he shot his friend in the head. He explained how the “accident” occurred. Getsy said that at first he told authorities that his friend had shot himself, but later he told the truth about the incident.

Getsy said he wanted the Parole Board to know that he has a very supportive family and calls his grandmother almost every day. He stated further that he has aunts, uncles and several cousins who look up to him.

Getsy was asked about the start of his drug and alcohol use. He stated that it began in elementary school. Older kids thought it was funny to get “the little kid high”. He went on to say that his parents smoked marijuana. He wanted the Board to know that his mother died while he was incarcerated.

Getsy was asked whether he and his co-defendants wore camouflage clothes on the night of the offense. His response was “everybody wore them, we did not get them specifically for this job, they were just clothes that we had.” He was also asked whether or not he had referred to the movie “Natural Born Killers” to describe himself and his co-defendants. He responded that he does not remember using that term and denied referring to Mrs. Serafino’s face as resembling a piece of pizza.

When asked if he feels he got a fair trial, he responded that he “did not know”. He went on to say that Santine was found “not guilty” of Murder for Hire, yet he himself was found “guilty” of Murder for Hire. He said that Santine was the cause of this offense and but for Santine, the crime would not have occurred. He responded further that this does not, however, take away from what he did, however he does not feel that the sentences are fair.

Mr. Getsy was asked how long he had known Mr. Santine. He stated that he had only known him for a few months. He stated further that he was not working for Santine but “hung” around him quite a bit. When responding to a question regarding his parental supervision as a child, Getsy said he recalls his mother having many boyfriends and one of them being a violent drug addict who beat them both.

Mr. Getsy did express remorse for the violence he perpetrated against the victims. When queried about the type of clemency he was requesting, applicant replied, "I'll take anything that would spare my life".

ARGUMENTS IN SUPPORT OF CLEMENCY:

A written application with exhibits outlining the arguments in support of clemency for Jason Getsy was received by the Parole Board. On July 9, 2009, a hearing was conducted to further consider the merits of the application. Assistant Federal Public Defender David Stebbins represented Jason Getsy and presented the following witnesses in support of clemency:

Janice Hudach, the mother of Ben Hudach was heard by means of a video-taped statement. She stated that she has known Jason's family for many years. Jason began working for her family as he was having problems with his stepfather and had moved out of his home. Jason's mother died while he was on trial; he was devastated because he was not allowed to go to the funeral. She acknowledged that both her son Ben and Getsy were afraid of Santine and witnessed incidents that reinforced that fear. Mrs. Hudach gave a description of the crime as told to her by her son. She wanted the Parole Board to know that it was not in Ben or Jason's nature to commit a crime such as this. This crime was committed out of "fear", not as a murder-for-hire. She urged the Board to recommend clemency.

Pastor Henry Cardillo stated that he has known Jason's family for 40 years. Pastor Cardillo said he has been with Jason since the day after the crime was committed and has spent many hours with him. He believes Jason has matured and that he is extremely remorseful. Pastor Cardillo explained to the Board that Jason had had a very unfortunate upbringing as his mother had many different partners during his early years. Several of these individuals were involved in drugs and also the physical abuse of his mother. In fact, he stated that Jason's mother almost lost an eye because of a severe beating by one of the men in her life. Pastor Cardillo recalls hearing that Jason was only five years old when he was given a gun to shoot because drug dealers were shooting out the back windows in the house. This early exposure to guns worked against him in later life. Pastor Cardillo has counseled the family on numerous occasions; Jason was like a son to him. Jason told him he would like to communicate with the Serafino family so that they can understand how sorry he is. Jason and Mr. Serafino have written letters to each other. Jason is hopeful that they can have a face-to-face meeting. Pastor Cardillo stated also that Jason has taught himself to play the guitar and keyboard and plays weekly during chapel services at the prison. Pastor Cardillo stated that he hopes mercy prevails.

Ronald Manes, Getsy's uncle, expressed remorse to the victim's family and said that he appreciated the opportunity to speak on Jason's behalf. Mr. Manes stated that he never would have imagined that they would find themselves in such a situation as this. He said that he has been a Nurse for 17 years, none of which prepared him for this. However, the family has come to terms with what Jason has done. He contended that Jason's mother, Janet, was more concerned with her male relationships than she was with Jason. Jason

was exposed to witnessing violence in the home, and particularly against his mother by her partners. This abuse and other outward, external forces help to explain the violent act Jason committed. Mr. Manes recalled that Jason's stepfather Willie Getsy was the one male that Jason most looked up to. Willie became Jason's stepfather when Jason was 12 which was a time when Jason was craving a father/son relationship. Unfortunately, Willie was an impulsive drug abuser who was obsessed with guns. Willie made the home very gun friendly which caused Jason to be careless with guns and resulted in the accidental shooting death of his friend. Mr. Manes stated that Jason was very traumatized by this incident and Willie was angry at Jason for his carelessness. Instead of providing counseling to Jason, Willie's solution was to force Jason to begin handling guns again and purchased a rifle for him for his birthday. This was the same gun that Jason used in the crime against the Serafinos.

Regarding Getsy's relationship with Santine, Mr. Manes stated that he recalls Jason telling him that he had a "bad feeling" about Santine, but he wanted to support his friend Ben (Hudach). Mr. Manes said that Jason called him prior to the offense seeking help, but would not provide him with any details indicating that he did not want to put the family in any danger. Mr. Manes believes that because of his upbringing, when Jason was confronted with the choice of committing the crime or risking the safety of himself and his family, he did not know how to seek any other option. However, since the offense was committed, Jason has accepted responsibility, regrets his actions and displays remorse.

Mr. Manes stated that ironically, Jason has been given opportunities in prison that he never received before prison that have cultivated the caring and good natured person that he is. In addition, through the encouragement of Chuck Serafino, he has accepted God and reaches out to others. Mr. Manes stated that Jason has a spotless prison record and believes that if he is executed, his debt to society will not be paid as he still has much to contribute. He does not believe that the crime Jason committed was the result of a long journey of criminal history, but rather the result of external influences. Mr. Manes stated that the family would be grateful if Jason's life was spared.

Donna Keener, the aunt of Jason Getsy expressed sympathy to the Serafino family. She remembers that when Jason was a baby she held him in her arms and prayed to God that he would take care of him because she knew Jason didn't have a chance given the lifestyle her sister chose to live. According to Ms. Keener, she has experienced some recent personal difficulties, and Jason was the only person she could talk to. He has been very supportive of their family. She argued that he committed this crime out of fear and otherwise, she does not believe he would do this. She stated, "Please let him live".

Lillian Manes, Jason's grandmother, stated that Jason was always a sweet boy and he has often inspired her. She contended that he could be so much help to others and that this crime was done under fear. She told the Board that Jason had showed her a picture of a kid that Santine had tortured. She asked the Board to spare her grandson's life.

Assistant Federal Public Defender, David Stebbins then made the following arguments in support of clemency:

- Jason Getsy fully accepts responsibility for the death of Ann Serafino and the injuries caused to Charles Serafino and is extremely remorseful. Since his incarceration, Jason has maintained a spotless prison record and currently resides in the honor pod. He has helped his family and other inmates from prison, and would like to continue contributing through his music and religion.
- The men in Jason Getsy's childhood that served as father figures were all violent influences. As such, Jason learned to protect himself and to obey violent men. His stepfather was cold, strict and gun obsessed. After the tragic death of Jason's 14 year old friend, his parents ceased counseling despite the suggestion that it continue, and encouraged Jason to handle guns again, and bought him a rifle for his 16th birthday. His stepfather and mother forced him to move out at the age of 18. He eventually moved in with Ben Hudach and his family and spent a lot of time at Rick McNulty's apartment. He met John Santine through Ben and Rick. John Santine was an older, violent male who these boys became afraid of. Because of his upbringing, Jason was susceptible to Santine's manipulation and became obedient to him. This was reinforced by fear from his friends. A few weeks before the offense, McNulty went to the police and told them about the "hit" on Chuck Serafino. When the police did nothing, the boys' fear was reinforced. Jason participated in the offense due to his fear of John Santine and what he might do to his family if he refused to participate.
- Jason was tried before John Santine and was found guilty of the "murder-for hire" specification based on the theory that Jason, McNulty and Hudach were hired by John Santine to commit the offense. At John Santine's trial, the state's theory was that Santine controlled the boys, and McNulty and Getsy were his "puppets". The state proved Santine's influence and control over the codefendants at Santine's trial, but are arguing otherwise in opposition to Getsy's clemency request. Santine was acquitted on the "murder-for-hire" specification and could not receive the death penalty. Although the state is permitted to pursue alternate theories at the separate trials of the codefendants, it is unjust and unbalanced to maintain Jason Getsy's sentence when Santine is the arguably more culpable codefendant. The inconsistent verdicts and outcomes of these trials should not be maintained. Had Jason's jury known of the outcome of Santine's trial, it likely would have made a difference in the sentence recommendation.
- The courts reviewing Jason's trial and sentence have been "troubled" by the inconsistent outcomes of Jason's trial and Santine's trial, however, they have chosen to do nothing. The Sixth Circuit Court of Appeals' decision was an 8-6 vote to maintain Jason's death sentence. The majority believed that there is no federal precedent that would permit them to overturn the sentence based on disparate treatment. They expressed that they were troubled, but were not permitted to act. The six dissenting justices disagreed and opined that Jason's sentence should be overturned as unconstitutional based on disparate treatment. During oral arguments, discussion was had between the court and the Assistant Attorney General representing the state whether the issue was one that the Parole

Board and Governor could consider for clemency, and the Assistant Attorney General acknowledged that the Parole Board and the Governor could consider the issue. Clemency is the fail proof in the system and should be used to correct Jason's unjust and unbalanced sentence.

- If Jason's life is spared, he will help others through his religion and music and is willing to help the victim's family heal through continued dialogue.

ARGUMENTS IN OPPOSITION TO CLEMENCY:

Trumbull County Prosecutor Dennis Watkins argued the following in opposition to executive clemency for Jason Getsy:

- The Parole Board should not recommend clemency for Getsy out of respect for the jury, judge and all the courts that have reviewed this case. The crime was a horrible offense wherein an innocent woman was murdered in her own home.
- The Parole Board is aware of additional information regarding Jason Getsy that the jury did not hear. If the jury had heard this information it would likely have resulted in the same sentencing recommendation. That information is the fact that Jason Getsy had killed before. In addition, the Parole Board has the statements of codefendants Hudach and McNulty which the jury did not hear.
- The offense involved a conspiracy to kill, wherein Jason Getsy was the principal offender. The disparate sentences between Getsy and Santine should not be troublesome. Each offender has a constitutional right to have punishment considered based on his or her individual factors. This individual consideration often results in varying levels of severity in punishment despite the fact that codefendants may have equal culpability in a particular offense.
- Mr. Getsy was not the scared, intimidated person that he contends. No evidence exists that Santine tortured another boy or shot his own brother. Santine had no prior criminal record. Jason Getsy only knew Santine for a few weeks prior to the crime. Getsy was not present during the incident when Santine fired a gun into the wall at the lawn care business. He was not afraid of Santine. In fact, it was reported by Michael Dripps, a close friend, that Getsy was happy, secure and tough when he had a gun in his hand, and that Getsy was "just as nuts as Santine". Dripps also stated that he heard Santine instruct Getsy, McNulty, and Hudach to kill Charles Serafino and all witnesses. Getsy was a soldier "on a mission" to kill. Mr. Getsy was the only one involved in the crime who had his own gun. This was not the gun that his father had given him. He bought the gun at a gun show. Jason was enthralled by guns.
- Evidence showed that the manner in which Getsy and the co-defendants carried out this crime and their intention to take the Serafinos' lives for reasons involving monetary gain, do not exhibit any expressions of remorse or regard for the victims. The way in which Getsy bragged to his friends about the crime, makes allegations of duress and remorse incredulous. Getsy bragged to his friend, Patricia Lawson and another young lady, that Mrs. Serafino's face reminded him of a piece of pizza and that the crime, itself, is likened to the movie, "Natural

Born Killers". Getsy went to work the next morning after the crime and was acting normal. He even took his girlfriend to a festival. These are not the actions of a person who is under duress.

- Getsy lied to the Parole Board during his interview about his involvement in this crime. There was nothing accidental about the murder of Ann Serafino. She was shot at close range as she lay on the floor of her bedroom. She was not in the hallway. Getsy intentionally shot her and Chuck Serafino.
- Clemency is inappropriate in this case given all of the aggravating factors and should not be recommended to the Governor.

Holly LeClair and Matt Kanai of the Attorney General's Office provided the Parole Board with an explanation of the Federal Court review of Getsy's sentence and supported the state's contention that clemency is not warranted in this matter.

VICTIM'S REPRESENTATIVES:

Mr. Charles Serafino stated that he wrote to Jason Getsy when he was himself incarcerated in an attempt to find out what happened the night of the crime and to help him deal with it and move on. Jason Getsy lied in all of the letters he wrote back. Getsy also sent letters to Serafino's sister and lawyer that were all lies. He stated Santine was a "big mouth", not a tough guy and there was no reason to be afraid of him. Mr. Getsy did just what he wanted to do and did not care. Mr. Serafino said that he did not get a chance to say "goodbye" to his mother; others will have a month to say goodbye to Jason Getsy because he will be "gone".

Nancy Serafino, Ann Serafino's daughter and Charles Serafino's sister spoke of her relationship with her mother and the fond memories she had of her. She stated that her mother was her best friend. She visited her mother every weekend and is very proud to be Ann Serafino's daughter. Her mother was only 66 years young. It was very unfortunate that her grandmother (victim's mother) had to live through this tragedy. Ms. Serafino drove home every weekend to spend time with her mother. They shopped together and even talked about Mrs. Serafino moving to Mansfield to live with her. She has been sentenced to "hell" since her mother's death. She was in Chicago when she heard about her mother's death and became completely numb. A part of her died also. She relives her death over and over. If God allows her to live into her 90's, it will be like "living in hell" without her mother. She wishes she had been with her or died with her.

Jason Getsy is a cold-blooded killer. Ms. Serafino told the Board that she dreaded the thought of getting a letter from him and was upset when she recently received one. Getsy wanted to meet with her and her brother to say how remorseful he was. Getsy is as evil as he was 14 years ago. He had a smiling face during trial, like it was a joke. He never said anything about the death of her mother. She is tired of hearing how afraid Jason was. No normal human being could have done what he did. Jason Getsy walked into the house, stood over her mother and shot her. He is evil and he was on a mission. Her brother had to crawl down the hallway, pushing himself with his hands and knees after he

was shot to call for help. She had to care for him during his recuperation while she was grieving for her mother.

Ms. Serafino argued that “two wrongs do not make a right” and that “you can’t fix what was wrong by overturning what was right” in reference to the different outcomes of Getsy and Santine’s trials. Ms. Serafino stated that Jason Getsy should be executed.

PAROLE BOARD'S POSITION AND CONCLUSION:

The Board reviewed documentary evidence presented both in support of and in opposition to clemency. This review included the June 30, 2009 interview of Mr. Getsy; and submissions and arguments from the July 9, 2009 clemency hearing. Five (5) of the seven (7) Parole Board Members found the following factors pivotal to their recommendation regarding clemency:

- Four defendants participated in the offense: John Santine, who initiated and organized the crime; Ben Hudach, who solicited Jason Getsy into the offense; Richard McNulty, who entered the residence with Getsy and fired his gun at Charles Serafino, and Getsy who shot both Serafinos. Mr. Santine exerted considerable influence over the co-defendants. The nature and extent of that influence is subject to considerable interpretation and speculation insofar as it impacted their decisions to engage in homicidal violence. It is noteworthy that at Mr. Getsy’s trial the state minimized this influence; at John Santine’s trial, it was the state’s primary theory. Santine’s jury, however, rejected the single death penalty specification of murder-for-hire resulting in a sentence of life imprisonment. The sole reason that this offense occurred is that John Santine wanted Charles Serafino dead and anyone else who witnessed the killing, and arranged for Ben Hudach to organize and carry out the killing. While it does not meet the legal standard of duress, the applicant committed the crime in fear of Santine who, according to the Trumbull County Prosecutor during Santine’s trial, took advantage of the applicant’s youth, personality, and circumstances to implement his plans. It is clear that neither Hudach, McNulty, nor Getsy would have engaged in the behavior that led to the tragic death of Ann Serafino in the absence of John Santine’s direction.
- More than one justice has assigned Mr. Santine a greater level of culpability than Mr. Getsy. Although perceptions of co-defendant culpability are subject to wide variation among individuals, it is clear that Getsy and Santine are at the top of the list. Getsy is the actual killer and Santine directed the assault on the Serafino’s from beginning to end. McNulty ranks near Getsy as an active participant and shooter in the home invasion at the Serafino’s. Yet, he was offered a plea agreement dismissing the death penalty specifications and received a life sentence. Hudach remains least culpable having not entered the residence.

- Mr. Getsy cooperated completely with the investigation. At one point during his taped confession with the police, he said, “I’m going to die for this” and an investigator stated, “No, you’re not”. In the Ohio Supreme Court Findings, Santine directed this offense from conception to occurrence to post-occurrence. It could be argued that Ben Hudach shares in that elevated culpability for organizing the group that eventually committed this terrible crime. Were it not for Hudach, it is questionable that Getsy would have been involved. John Santine was acquitted of hiring Mr. Getsy, yet Getsy was convicted of being hired by Santine. While these are not exactly mutually exclusive verdicts, they are difficult to reconcile. Some courts and even the Ohio Supreme Court found this circumstance “troubling” but ruled it was insufficient mitigation to overturn the death sentence in this case. Two judges in the U.S. Sixth Circuit Court of Appeals initially voted to reverse the death sentence of Jason Getsy over concerns with consistency and disparity, only to reinstate en banc by only an 8-6 majority. The majority ruled that the appellate courts are not charged with correcting that error, rather than on the claim itself. It is understandable that between cases it is difficult to make comparisons regarding culpability. However, within a single offense it seems paramount to address that issue during the sentencing phase.
- Based upon an incomplete presentation, the Getsy jury was limited in their ability to consider Getsy’s psychosocial history and any influence it may have had upon his decision to comply with the direction of John Santine. It is not inconceivable that another outcome at the mitigation/sentencing phase of trial may have resulted had this information been more fully developed.
- Mr. Getsy has continuously expressed remorse for the victims and their family. The deceased victim’s son, who was the target of this attack, has written the applicant in the past expressing forgiveness; although, at the hearing favored denial of clemency. Mr. Getsy has an excellent institutional adjustment, and would likely do well in general population.
- In imposing a death sentence, it is imperative that we have consistency and similar penalties imposed upon similarly situated co-defendants. The concerns expressed by several reviewing Courts remain and detract from the confidence needed to impose the gravest of penalties. After careful consideration of all facts, the majority of the Ohio Parole Board recommends that Executive Clemency is warranted in this case.

Two (2) of the seven (7) Parole Board Members found the following factors pivotal to their recommendation regarding clemency:

- There has been much discussion by the courts and this Board regarding proportionality review and disparate sentencing. “Proportionality, as defined by the Supreme Court, evaluates a particular defendant’s culpability for his crime in relation to the punishment that he has received”. There have been some death

sentences that have been struck down by the Ohio Supreme Court “not because they were disproportionate in comparison to sentences received by other, similarly situated defendants, but because of what the Court deemed to be the inappropriateness of the sentence in relation to the particular characteristics of the crime and the criminal at issue. These cases are of no help to Mr. Getsy, a competent adult who personally and intentionally committed aggravated murder. Unlike this absolute or individualized proportionality, Getsy's proportionality argument rests on a claim that his death sentence is disproportionate only by comparison to Santine's life sentence”. Ohio courts also compare death penalty sentences to other cases where the death penalty was given. There is no proportionality review required that consists of a comparison of Getsy's death sentence to Santine's life sentence. It appears that many found Getsy's sentence troubling only after Santine's sentence. The implication is that Getsy was properly sentenced but Santine was not. So, because Santine was not given the sentence that some think he deserves, we should recommend a change in Getsy's sentencing that some think he deserves?

- Getsy blames the police, his father, his mother, and Santine-at what point does he accept full responsibility for his actual role and admit the way the offense really happened? Santine was the planner of this offense and it is troubling that he did not receive the same sentence that Getsy received-resulting in disparate sentencing. However, two separate juries, a change of venue for Santine, Santine never made a confession/statement as Getsy and others did-for whatever reason-Santine escaped the death penalty. If you believe that Getsy's sentence fits the crime independently of the fact that his co-defendant planner was not given the death sentence, then one cannot recommend clemency. We review his role independently because this human being, this young man, not “boy”, this savvy “expert with a rifle by age 16” had a choice. At least one co-defendant appeared to make the choice not to participate to the point of killing someone. He pretended to hurt his ankle and did not continue to the home of the intended victim. Another co-defendant that did go to the home, may have purposely emptied his gun in entering the home, and therefore could not continue in the killing of the victims. (This co-defendant was actually a police informant and had gone to the police prior to the crime to report the ordered “hit” on Mr. Serafino.) However, Getsy, with dogged determination, continued on the rampage, and when one gun became disabled, he switched to another gun to complete the killing “assignment”. We can not recommend the ultimate sentence be set aside for this shooter just because the planner of the offense did not get the ultimate sentence. The argument of “but for Mr. Santine this crime would not have happened and Getsy would not have killed Ann Serafino” is correct- but unfortunately it did happen and Getsy, unlike his other co-defendants, made sure it happened.
- This was not a case where parties were under the influence; this was not a crime of passion; this was not a case of self defense; this was not a case where there was some doubt as to guilt; this was not a case where there was some exonerating evidence that the jury did not have an opportunity to review or that the courts

could not consider. So do we have a case for simple mercy? The Parole Board recommended mercy by way of life with the possibility of parole in the case of an inmate that showed genuine remorse, was honest in his Parole Board interview, and took full responsibility for his role in the offense. In contrast, it is our opinion that Getsy, in his interview with the Board, was not forthcoming regarding the offense. This lack of candor demonstrates that Getsy does not accept full responsibility for his role in the offense and does not have genuine remorse for his role in the offense. The following are only a few of the inaccuracies that Getsy made to the Board during the interview that we found troubling:

- Getsy said he and McNulty went to the police prior to the crime and the police did nothing. Actually, only McNulty went to the police. Getsy would shift some blame to the police for not following up on the threat to Mr. Serafino.
- Getsy denied hitting Mrs. Serafino prior to shooting her. He didn't want to appear like a cold blooded killer, shooting her at point blank range as she lay on the ground bleeding from the head wound.
- Getsy stated that the shooting of Mrs. Serafino was an accident, which we find to be the most troubling. He stated in the interview that he was just shooting down the hall in his attempt to shoot Mr. Serafino, and that Mrs. Serafino was shot by accident. Witnesses, including the surviving victim, stated that Getsy hit Mrs. Serafino in the head, turned and shot Mr. Serafino in the face, and then as she lay on the ground suffering from the head wound that he inflicted, Getsy shot 66 year old Mrs. Serafino in the chest at point blank range. He told his religious mentor that it was an accidental shooting and told his uncle that he did not intend to shoot Mrs. Serafino. He told the Board he did not intend to shoot Mrs. Serafino. Getsy has never accepted full responsibility for intentionally shooting Mrs. Serafino after invading her home at approximately 1:00 a.m. This is particularly disturbing because it does not lend itself to have one believe that Getsy is remorseful, honest, or that he accepts full responsibility for his role in the offense. Instead, it makes him appear to be cold, calculated and manipulative.
- Mr. Serafino and Getsy began writing letters to each other while Mr. Serafino was serving time for a drug offense. In a letter to Getsy, Serafino stated he forgave Getsy, thinking he was granting the privilege of forgiveness, as a Christian, to a dying man. He asked that Getsy write and tell the truth about what happened to his mother and him. Serafino, responding to a letter that Getsy wrote, stated he understood Getsy's concern that he had to watch what he said because of his pending appeals but he expressed his dismay that Getsy's letter did not have the truth about the way the killing of his mother occurred. We believe the killing of Ms. Serafino was a cold blooded killing and that Getsy remains calculating in his rendition of what happened and how it happened. It speaks volumes as to the character of this individual.


- We do not recommend clemency simply because Getsy was the shooter. We also considered that he brought his own gun to the crime scene, it was a home invasion type of offense, his militia military “training”, his past criminal record, his lack of candor on key facts during his Parole Board interview, he cold bloodedly killed the “unintended” victim; he tried to kill two people; and after he thought he had killed two people, he went about his life as if nothing happened, bragging afterwards about his offense, going to work and attending a social event. We considered whether or not Getsy was so afraid of Santine that he felt he had no choice. Getsy had not known Santine that long and he did not work for Santine, so there was no threat of losing his job if he didn’t carry out this crime. “There was no evidence that Santine ever directly threatened Getsy.” There was no immediate threat to Getsy, therefore, we did not accept his claim of committing the crime under duress. Finally, we considered the fact that Getsy was convicted of three death specifications-one would tie him to Santine-murder for hire. If that death specification was removed because of the results of the Santine trial (who was not found guilty of murder for hire specification), there would still be two other specifications to be considered. The United States Court of Appeals recognized this in their opinion in 2007-“Getsy was convicted of two other capital specification-felony murder and attempted multiple murders that do not necessarily conflict with the verdict from Santine’s trial-the defendant would therefore be entitled to at most, a new penalty phase hearing, not an outright voiding of his death sentence”.
- Getsy was asked in the Parole Board interview how he felt about life without the possibility of parole. He responded, with a slight chuckle, that he would like that because- he just wants to live. We believe Ann Serafino just wanted to live too.


RECOMMENDATION:

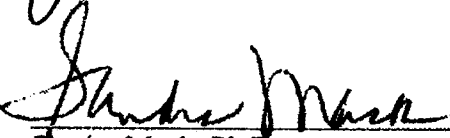
The Ohio Parole Board with seven (7) members participating, by a vote of five (5) to two (2) recommends to the Honorable Ted Strickland, Governor of the State of Ohio, that executive clemency be GRANTED in the form of a Commutation to Life without the possibility of parole for JASON A. GETSY #A330-121.

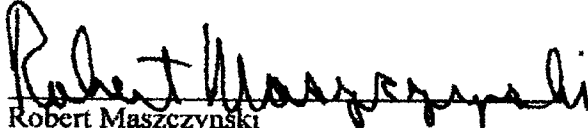
Jason A. Getsy, OSP #A330-121
Death Penalty Clemency Report

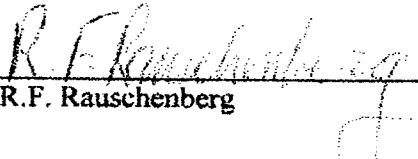
Adult Parole Authority
Ohio Parole Board Members
Voting **Favorable**


Cynthia Mausser, Chair



Jim Bedra


Sandra Mack, Ph.D.


Robert Maszczyński


R.F. Rauschenberg

Ohio Parole Board Members
Voting **Unfavorable**


Ellen Venters


Bobby J. Bogan