

APPLICATION FOR EXECUTIVE CLEMENCY

IN THE MATTER OF:

RICHARD BERNARD MOORE

ADDRESSED TO:

THE HONORABLE HENRY DARGAN MCMASTER

Governor of the State of South Carolina

Columbia, South Carolina

Richard Bernard Moore, through his undersigned counsel, respectfully requests the Honorable Henry Dargan McMaster, Governor of the State of South Carolina, commute Richard's sentence of death to a sentence of life imprisonment without the possibility of parole, pursuant to Article IV, § 14 of the South Carolina Constitution and S.C. Code § 16-3-20.

I. Introduction.

Richard Moore and his many supporters come before you, seeking mercy. Richard is a devoted Christian father, grandfather, and friend to many, who has reformed his life in the 25 years since his arrest. His rehabilitation has been noticed, leading two of the jurors from his trial and the former director of the South Carolina Department of Corrections (SCDC) Jon Ozmint to support Richard's request for clemency. App. 1-7.

Others have recognized that Richard’s crime does not warrant the ultimate punishment of execution because, as the State agreed, Richard entered the store where the shooting occurred unarmed, and thus, without the premeditation to commit murder. This led former Supreme Court Justice Kaye Hearn to support commuting Richard’s sentence, stating, “I think it’s tragic, I do not believe Richard Moore deserves to die,” and that Moore is facing execution “tells [her] our system is not working as it should.”¹ Similarly, finding Moore’s case unique among all South Carolina death sentences, retired Circuit Court Judge Gary Clary who originally sentenced Richard to death, requests you grant clemency. App. 8.

A short video with messages from Richard’s children, lawyers, and other supporters was submitted contemporaneously with this application. Many letters of support and other materials have been compiled in an Appendix also accompanying this application.² In support of clemency, Richard and his counsel submit the following:

¹ Victoria Valenzuela, *Richard Moore is to be Executed Nov. 1: A Former State Supreme Court Justice, Former Corrections Department Chief and Jurors are Among Thousands Advocating for His Clemency*, SCHEERPOST (Oct. 27, 2024), available at <https://scheerpost.com/2024/10/27/richard-moore-is-to-be-executed-nov-1-a-former-state-supreme-court-justice-former-corrections-department-chief-and-jurors-are-among-thousands-advocating-for-his-clemency/>.

² Counsel have collected these letters over the years since the completion of Richard’s regular post-conviction proceedings. Though some letters are dated from years past, counsel have stayed in touch with the clemency supporters, and no one has changed their opinions or rescinded their letter of support.

II. Moore's Life Over the Years Since His Arrest Reveals His Deep Remorse and Rehabilitation—The Criminal Justice System Has Achieved Its Highest Purpose by Rehabilitating Moore.

Richard Moore deeply regrets his decisions and actions that led him to take the life of James Mahoney in 1999. Over the past 25 years, Richard has reflected on the harm and loss he inflicted on the Mahoney family. He has also recognized the pain his actions have caused his own family, especially his two children Alexandria and Lyndall. Though he can never make up for the life he took, he has sought to do all he can to better the lives of those around him by bettering himself. Through prayer and study, he has become a more faithful Christian; through consistent communication and love, he has become a better father (and now grandfather); and through all of this, he has gained maturity and wisdom that makes him a benefit to the prison system through his good behavior and help to others.

At the time of his arrest, Richard was a man who loved his family and wanted to support them, but who also struggled with a drug addiction that had plagued him since his teenage years growing up outside of Detroit, Michigan. Tragically, at 34 years old, Richard made mistakes in support of his addiction that cost the life of James Mahoney and took Richard away from his children, then 4 and 6 years old.

Following his incarceration, Richard was finally able to break free of his addiction and has had no drug charges while incarcerated.³ Through the ministry

³ Richard has only received two minor disciplinary charges, both of which occurred early in his incarceration over 20 years ago. One took place in September 2002 for possession of Skittles outside his cell and the other occurred in October 2004 for disrespect when he used foul language toward an SCDC staff member. He received verbal reprimands for both. App. 3–4, n.1.

available on death row, Richard has been able to meet with pastors over the years and grown in his relationship with Christ. Richard was baptized while on death row at Lieber Correctional Institution. *see* App. 13 (Letter of Walter Codd). As a “follower of Christ,” App. 6 (Letter of Jon Ozmint), Richard has encouraged others in their faith. For example, Richard’s friend Alistair says, “[i]t was Richard that encouraged me to think about my faith;” “[h]e has been a caring human being concerned for my welfare and for my relationship with God and in Christ.” App. 16 (Letter of Alistair Gilchrist). Richard’s niece also benefits from his spiritual support, recounting that “[h]e always prays that I am ok and cared for, he keeps his faith alive and well even when things don’t go his way.” App. 24 (Letter of Anna Moore).

Like anyone who grows in their walk with Christ, Richard recognized the sins of his past and has sought forgiveness for his mistakes and how they hurt others. Richard’s son has seen this through their relationship, saying his father “has grown into a person committed to taking responsibility for his actions, and to doing his absolute best to lead a life of faith and good deeds.”⁴ App. 9 (Letter of Lyndall Moore).

Richard’s two children, Alexandria (age 31) and Lyndall (age 30), were born in Spartanburg, South Carolina. Richard has always loved his children, and his partner

⁴ Many others have recognized Richard’s faith and how it has had a positive impact on their lives. *See, e.g.*, App. 30 (Letter of friend Eric Peters) (“Richard is a changed man with a strong faith in God. I say that to say, going forward he will be led by God.”); App. 17 (Letter of Uncle Harold Harrington) (“[Richard] became a member of the Church of Christ and gave his life to God.”); App. 34 (Letter of friend Thomas Roddy) (recognizing Richard “has put Jesus Christ as the head of his life”); App. 35 (Letter of Pastor Rick Russ) (“In five years visiting inmates on death row our conversations always center around Jesus Christ and His saving Grace. . . . At one point, Richard asked if I would bring in communion. . . . Every few weeks I took the communion elements to Richard.”).

and mother of his children, Lynda, reported that he was crazy about the kids and was good with them.⁵ He would read to them, do schoolwork with them, and play in the yard with them. Lynda reported that Richard absolutely would have been a great father if he had not become addicted to drugs.



Richard with his daughter Alexandria as a baby.

Since his incarceration, Richard has worked consistently to repair and build his relationships with his children. He has done so by remaining a part of their lives through every stage, even though he was not there physically. When they were young, he would help them with their schoolwork, teaching them Spanish words and doing

⁵ *Interview with Lynda Byrd and Defense Team (June 15, 2015).*

math problems with them through letters.⁶ Alexandria recalls him making her puzzles, like words searches, that she would do and send back to him.

As they grew older, Richard supported and encouraged Alexandria when she entered the Air Force and Lyndall when he attended the University of Pennsylvania.⁷ Alexandria has been far away from her father for many years as part of the Air Force, living in South Dakota, Okinawa, Japan, and now Spain.⁸ But the distance has not diminished the love Richard has made her feel: “My father is just like any other father in a sense of, he’s always supportive and has shown me immense love throughout the distance, throughout these two decades, I’ve never felt him as anything more or anything less than a father figure.”⁹ Reflecting on her father’s relationships with family and friends, Alexandria said that Richard “has left and will continue to leave such a positive mark all over the world.”¹⁰

⁶ Sam Levin, *‘Don’t take his life’: South Carolina man faces execution after justice called his sentence invalid*, THE GUARDIAN (Oct. 29, 2024), <https://www.theguardian.com/world/2024/oct/29/richard-moore-south-carolina-execution>.

⁷ See accompanying video, which includes interviews with Alexandria and Lyndall.

⁸ Alexandria is no longer in the military as she is now a stay-at-home mom with two young children, but her husband is Active Duty in the U.S. Air Force and is stationed at an Army Base in Spain. They will be stationed there until 2026.

⁹ MSNBC, *Daughter of death row inmate talks new SC firing squad execution bill*, MSNBC (May 11, 2021), <https://www.msnbc.com/craig-melvin/watch/daughter-of-death-row-inmate-richard-moore-discusses-firing-squad-execution-bill-in-south-carolina-111708229671>.

¹⁰ Sam Levin, *‘Don’t take his life’: South Carolina man faces execution after justice called his sentence invalid*, THE GUARDIAN (Oct. 29, 2024), <https://www.theguardian.com/world/2024/oct/29/richard-moore-south-carolina-execution>.



Alexandria Moore – Air Force

Lyndall believes he has a positive outlook on life, an outlook he attributes to his father's influence. Lyndall has excelled academically, graduating as valedictorian of his high school class and earning a degree in economics from the University of Pennsylvania in 2016. Lyndall states that his father has always been supportive of his growth in whatever way possible and is a great source of support in his life. If his father is executed, Lyndall says, "we would not be ridding ourselves of a violent criminal nor a threat to others; rather, we would be losing a clear testament to the fact that human beings are capable of reflecting on and seeking redemption for their worst actions, and that a troubled past is not guarantee of a troubled future." App. 9.



Lyndall Moore - High School Valedictorian

Now, Richard's greatest joy is having virtual visits with Alexandria's two daughters Amaya (age 5) and Alivia (age 4 months). Amaya knows her grandfather through visits (virtual and in person) and phone calls. Alexandria reports that, when the phone rings at their home near a US Army base in Spain, Amaya asks "is that Pa Pa?" and will run off with the phone to talk to him when it is. Amaya feels the same love from Richard that his children do. Alexandria smiles when she shares, "Even with the physical distance, he is very much here and a part of my girls' lives and my life. My daughter dances for him and shows him her toys."¹¹

Alexandria and Lyndall love their father dearly. They do not want to lose him, and Alexandria wants him to continue being a part of his granddaughters' lives.¹²

¹¹ Sam Levin, *'Don't take his life': South Carolina man faces execution after justice called his sentence invalid*, THE GUARDIAN (Oct. 29, 2024), <https://www.theguardian.com/world/2024/oct/29/richard-moore-south-carolina-execution>.

¹² Other friends and family also recognize the importance of Richard to his children. *See, e.g.*, App. 43 (Letter of Psychologist Janis Whitlock) ("There is not a single conversation we have had in which he has not updated us, with nothing but total pride and love, about the welfare of his children and now grandchild[ren]."); App. 25 (Letter of sister Vanessa Moore) ("I feel like his life should be spared because he is still a good, loving father, brother, and friend."); App. 10 (Letter of lawyer Melissa J. Armstrong) ("If granted clemency Richard Moore could

They plead with you, as the sole person with the authority to allow their father to live, to “really understand [the case] and know that their father is “a guy who struggled with addiction but he’s not a monster, no, he’s not a bad person.”¹³

Richard’s behavior in prison over the past 25 years demonstrates his change is genuine. He has had no disciplinaries in the past 20 years,¹⁴ a feat that is particularly difficult in the strict confines of death row. “Richard has proven himself to be a reliable, consistent force for good, on death row.” App. 3 (Letter of Jon Ozmint). Based on Jon Ozmint’s meetings with Richard and SCDC staff, and his review of Richard’s record, Ozmint concluded “[t]he staff [on death row] know who can be trusted and Richard is clearly one of several reliable and respected inmates on the row. App. 3–4. His story and his manner of living would allow him to be an influential force for good in general population, with an ability to have a positive impact on the most recalcitrant and hopeless of young offenders.” App. 4.

Richard’s life and character today are a far cry from that of 25 years ago. Ozmint recognized that in his rehabilitation, “our criminal justice system has already achieved its highest and most lofty purpose in the life of Richard Moore.” App. 6. This has caused two of the jurors who originally sentenced Moore to death to support clemency. Sandra Taylor sat on Richard’s jury and has “heard about [his]

continue making positive contributions to society, both as a model inmate as well as a supportive parent of two children with whom he has a loving and unbreakable bond.”).

¹³ Ted Clifford, ‘*He’s not a monster.*’ *Son of South Carolina man set to be executed asks for clemency*” THE STATE (Oct. 23, 2024), available at <https://www.thestate.com/news/local/crime/article294308934.html>.

¹⁴ See App. 3–4, n.1 (Letter of Jon Ozmint); *Inmate Search Detail Report*, <https://public.doc.state.sc.us/scdc-public/inmateDetails.do?id=%2000006003>.

rehabilitation and would support a life sentence.” App. 2. Similarly, Doris Robertson wrote in support of Richard’s clemency application, saying she “would support the decision to commute Mr. Moore’s death sentence to life without the possibility of parole based on the work he has done to rehabilitate himself while incarcerated.” App. 1.

Our system, of course, respects a jury’s verdict. But in this case, circumstances have changed significantly since the jury’s sentencing determination in 2001. Richard has done what the criminal justice system asks of persons convicted of crimes: he has reformed and worked to make amends for his crimes. Were he tried today, it is unlikely the jury would sentence him to death. This is evidence the courts cannot consider, but the clemency procedure allows the Governor to consider this evidence at the end of the legal proceedings for just this reason and to make a final determination of whether execution is warranted based on the circumstances at the time execution nears. Richard’s reform and the harm the execution would have on his family weigh in favor of granting clemency in this case.

III. Moore’s Crime Is Not the Worst-of-the-Worst for Which the Ultimate Punishment of the Death Penalty Is Reserved.

“Capital punishment must be limited to those offenders who commit ‘a narrow category of the most serious crimes’ and whose extreme culpability makes them ‘the most deserving of execution.’” *Roper v. Simmons*, 543 U.S. 551, 568 (2005) (quoting *Atkins v. Virginia*, 536 U.S. 304 (2002)). By any objective measure, Moore’s crime is not the worst-of-the-worst, especially when compared to other crimes in which the death penalty was never sought or imposed.

At trial, the State alleged that Richard entered Nikki's Speedy Mart around 3:00 a.m. on September 16, 1999, intending to rob it to get money to buy crack cocaine.¹⁵ The State acknowledged that Richard did not bring a gun into the store, but alleged Richard took a gun away from store clerk James Mahoney, fired at store patron Terry Hadden, and then turned and fired at Mahoney, who also shot at Richard with a second gun.¹⁶ Richard was shot through the left arm, Hadden was not injured, and Mahoney was shot through the chest and died from his wounds. After the shooting, Richard went behind the counter and took a bank bag containing \$1,408 in cash from near the register. Based on this evidence, the jury convicted Richard of murder, armed robbery, assault with intent to kill, and possession of a firearm during the commission of a violent crime and sentenced him to death.

Richard has never denied shooting and killing Mahoney. When arrested soon after the crime, he immediately told the police "I did it. I did it." But he has always maintained that the State's theory of how the altercation began was wrong. Richard told his trial attorneys that he stopped at Nikki's to make a purchase and did not

¹⁵ The information in this and the following paragraph is contained in the trial and post-conviction relief hearing transcripts. Counsel are happy to provide the full transcripts for your review and would quickly do so upon your request.

¹⁶ Keith Fowler, the husband of the owner of Nikki's, testified at trial that he owned two guns he kept on the employee side of the counter in the store and Mahoney also kept his own personal gun in the waistband of his pants while working. Two of these guns were the guns involved in the shootout. The State presented testimony at trial about a "meat cleaver" found in the store that Fowler did not recognize and a pocketknife found in Richard's truck upon his arrest. However, no evidence connects this knife found in the store to Richard—it was never sent for fingerprint analysis—and there is no evidence that Richard brought the pocketknife into the store.

bring a weapon into the store.¹⁷ Richard was 11 or 12 cents short and asked if he could use the change from the penny holder on the counter. Mahoney refused and told Richard to get out of the store. When Richard refused to leave, Mahoney reached behind the counter and pulled out a pistol. Moore explained that when he saw the weapon, he “automatically responded” and “reached for it.” He and Mahoney “struggled over that . . . pistol, and it fired.” Richard wrestled the gun away from Mahoney who “immediately reached behind his back and pulled” out another gun and shot at Richard. Richard then sought cover behind a pillar and, acting in what he believed to be self-defense, fired “blindly” “around the pillar” toward Mahoney. Richard was adamant that he did not shoot at Hadden. He admitted that after the shooting stopped, he went behind the counter, saw Mahoney on the floor, and took a bag of money before leaving the store.

Evidence presented to the federal habeas court, but never considered because it was deemed procedurally defaulted by state post-conviction counsel’s failure to present it, included a declaration from crime scene analyst Robert Tressel. App. 46–49. Tressel performed a thorough review of the available information and concluded that, in his expert opinion, “the forensic evidence is consistent with Moore’s testimony that he responded to the victim pulling a weapon on him and a shootout ensued but

¹⁷ Though Moore did not testify at trial, he testified during his state PCR hearing and trial counsel agreed Moore had repeatedly told them the same version of events prior to trial.

contradicts Hadden’s testimony that Moore had possession of a gun before the first shot was fired and that Moore fired that shot at Hadden.”¹⁸ App. 49.

Regardless of whether you consider the State’s theory presented at trial or Richard’s description of what happened, Richard’s crime does not rise to the level of the worst-of-the-worst because he did not enter the store armed, and therefore, did not have a plan to commit an armed robbery or have any expectation that a shootout would occur minutes later. As former Supreme Court Justice Kaye Hearn recognized, “entering a convenience store unarmed falls well short of engaging in a cold, calculated, and premeditated murder. While tragic and heinous to the victim and his family, Moore’s crime does not represent the ‘worst of the worst’ in terms of those murders reserved for the death penalty.” *Moore v. Stirling*, 436 S.C. 207, 236, 871 S.E.2d 423, 438–39 (2022) (Hearn, J. concurring in part dissenting in part). She acknowledged the case technically qualifies for the death penalty but found the ultimate punishment disproportionate in light of the fact that she had “not found any other case involving a defendant receiving the death penalty where he entered the place of business unarmed.” *Id.* at 241, 871 S.E.2d at 441.

Likewise, retired Circuit Court Judge Gary Clary has “studied the case of each person who resides on death row in South Carolina” and finds “Moore’s case is unique.” App. 8. In the years since Judge Clary originally imposed the death sentence

¹⁸ Federal habeas counsel also presented a declaration from Donald Girndt, a former South Carolina State Law Enforcement Division Agent and private crime scene analyst, which was not considered by the courts because state post-conviction counsel failed to present it. App. 60–61. Girndt reviewed evidence he had not been provided with prior to trial and concurred in Tressel’s conclusion that the “forensic evidence is consistent with Moore’s description.” App. 60.

in this case, he has “thought and reflect[ed]” on Richard’s case and asks you to “grant executive clemency as an act of grace and mercy.” App. 8.

Former prosecutor and Director of SCDC Jon Ozmint also opined that “objectively reviewed, Richard’s crime would never have been considered for the death penalty in most counties in our state.” App. 4. Like Justice Hearn, Ozmint finds “most compelling . . . the uncontested fact that Richard did not have a weapon when he entered the store where he shot Mr. Mahoney. So, even if he had planned to steal something from the store, he certainly did not plan to commit an armed robbery.” *Id.* In Ozmint’s opinion, it was only the advocacy skills of then-Solicitor Gowdy that allowed this case to result in a death sentence. *Id.* In most other counties and circuits, Ozmint does not believe this would have been a death penalty case, and he encourages the Governor to do what the courts cannot—to look across the State and ensure the death penalty is not arbitrarily imposed. *Id.* 2-3 & n.2 (noting “dozens of murderers currently serving life sentences in SCDC had more serious criminal histories and committed far more heinous killings”).¹⁹ This, in addition to Richard’s rehabilitation, led Ozmint to support “commutation of [Richard’s] death sentence,” a recommendation he has never made before. App. 3.

Richard does not contest that his actions qualified him for consideration for the death penalty—he did become armed and he did rob Nikki’s that night. *See* S.C. Code

¹⁹ One such example is the case of serial killer Todd Kohlhepp, charged in the same judicial circuit as Richard with killing seven people and sexually assaulting and kidnapping another victim. Prosecutors never sought the death penalty against Kohlhepp, and in 2017, Kohlhepp was allowed to plead guilty to a life sentence. *See Todd Kohlhepp pleads guilty to murdering 7 over 13 years*, CNN (May 26, 2017), <https://www.cnn.com/2017/05/26/us/south-carolina-kohlhepp-guilty-plea/index.html>.

§ 16-3-20(C)(a)(1)(e) (allowing a death penalty prosecution where a murder is committed in the commission of an armed robbery). But just because the death penalty could be sought does not mean that it is appropriate. The vast majority of homicide cases in South Carolina do not result in the State seeking or obtaining a death sentence. Many who carried out heinous, pre-planned murders have been sentenced to life or less.²⁰ Richard and his supporters ask you, as Governor, to consider whether the ultimate punishment is warranted in this case where he did not plan to commit a murder, did not bring a weapon into the store, and reacted after being threatened with not one, but two guns already in the store. A determination that the ultimate punishment is not warranted in this case would not mean that no punishment is warranted. Even a grant of clemency would mean Richard would live the rest of his days in prison.

IV. The Governor has the Authority to Commute Moore’s Death Sentence.

As Governor, you are well aware the South Carolina constitution grants you the power to commute a death sentence for any reason or for no reason at all.²¹ The executive power to spare prisoners from the death penalty is deeply rooted in Anglo-

²⁰ See App. 5, n.2 (Ozmint Letter); see also App. 21 (Letter from Circuit Public Defender Jennifer Johnson: “As I near twenty-seven years in legal practice—nearly all of which have been in public defense—I can attest with near certainty that the facts and circumstances surrounding Mr. Moore’s case would not compel the State to seek the death penalty if the crime occurred today.”).

²¹ See S.C. CONST. ART. IV § 14; S.C. CODE ANN. § 24-21-910; see also Note, *Executive Clemency in Capital Cases*, 39 N.Y.U. L. REV. 136, 141 (1964) (placing “the clemency power in the absolute discretion of the governor was almost uniformly the scheme provided for by the draftsmen of the constitutions of the states admitted to the union after its formation”).

American criminal law.²² Historically, clemency has provided a method of weighing and adjusting sentences outside of the courts. As the United States Supreme Court stated in 1925,

Executive clemency exists to afford relief from the undue harshness or evident mistake in the operation or enforcement of the criminal law. The administration of justice by the courts is not necessarily always wise or certainly considerate of the circumstances which may properly mitigate guilt. To afford a remedy, it has always been thought essential to popular governments, . . . to vest in some other authority than the courts powers to ameliorate or avoid particular criminal judgments. It is a check entrusted to the executive for special cases.²³

In capital cases it is imperative that the Executive have accurate information not only about the crime, but also about the character of the defendant.

Given that the imposition of death by public authority is so profoundly different from all other penalties, we cannot avoid the conclusion that an individualized decision is essential in capital cases. The need for treating each defendant in a capital case with that degree of respect due the uniqueness of the individual is far more important than in non-capital cases. A variety of flexible techniques—probation, parole, work furloughs, to name a few—and various post-conviction remedies, may be available to modify an initial sentence of confinement in non-capital cases. The unavailability of corrective or modifying mechanisms with respect to an executed capital sentence underscores the need for individualized consideration as a constitutional requirement in imposing the death sentence.²⁴

The need for "individualized consideration" in Richard's case can now be met only by you. The jury never had the opportunity to make their decision based on the man Richard is today, nor were they asked to compare his case to other others to

²² See *United States v. Wilson*, 32 U.S. (7 Pet.) 150 (1833).

²³ *Ex parte Grossman*, 267 U.S. 87, 120-121 (1925).

²⁴ *Lockett v. Ohio*, 438 U.S. 586, 605 (1978).

avoid arbitrary imposition of the death penalty.

Since the death penalty was reinstated in 1976, there have been 313 grants of clemency to death row prisoners nationwide.²⁵ Recently, clemency has been granted in other states, in cases with similar evidence of rehabilitations and underlying facts. For example, on 2019, Mathew G. Bevin, then-governor of Kentucky, commuted the two death sentences of Leif Halvorsen, who was convicted of three counts of murder, three counts of robbery, and carrying a concealed weapon. In Bevin's executive order granting clemency and commuting Halvorsen's sentence to life without parole, Bevin reasoned that "Leif has a powerful voice that needs to be heard by more people."²⁶ Halvorsen's clemency petition explained that Halvorsen overcame his drug addiction, accepted responsibility for the gravity of the offense, and was driven by the remorse he felt for his actions to better himself and the lives of others during his time on death row.²⁷ He regularly corresponded with his daughter and was a major source of support and unwavering love for her, was a model of good behavior and self-improvement, had an exemplary prison record, and helped another death row inmate find religion before his execution.²⁸ Similarly, the Georgia Board of Pardons and Paroles granted clemency to Jimmy Meders in 2020, after he was sentenced to death

²⁵ See Death Penalty Information Center, *List of Clemencies Since 1976*, (last visited Oct. 28, 2024), <https://deathpenaltyinfo.org/facts-and-research/clemency/list-of-clemencies-since-1976>.

²⁶ *Commutation of Sentence* (Dec. 9, 2019), available at <https://dpic-cdn.org/production/documents/Halvorsen-Commutation-KY-2019-12-09.pdf>.

²⁷ *Application for Executive Clemency* (Nov. 25, 2019), available at <https://dpic-cdn.org/production/documents/Halvorsen-Clemency-Petition-KY-2019-11-25.pdf>.

²⁸ *Id.*

for the murder of a convenience store clerk. His clemency application showed that his crime was a “stark departure” from an otherwise productive life, and he generally exhibited peaceful and law-abiding behavior. The Board also highlighted that he incurred only one minor infraction in prison.²⁹

There is also a long-standing practice of governors granting executive clemency in capital cases in South Carolina. Between 1930 and 1961, there were thirty-one commutations of death sentences in this state, including commutations that resulted from substantial unrepresented evidence relevant to the defendant's mental condition, inadequate performance by trial counsel, or doubt as to the sufficiency of evidence of guilt.³⁰ In five of these cases, absence of evidence of premeditation was a significant part of the governor’s decision to commute the death sentence in question. For example, Governor Blackwood commuted Hobart Gregory’s sentence in 1932 because the crime “did not appear prompted by premeditation and malicious design.” Gregory had been convicted and sentenced to death for killing a man during a fight in a café. The number of clemency grants has declined in recent years as death sentences and executions have become less common and modern procedural safeguards have made it necessary for governors to intervene only in rare cases where a serious malfunction

²⁹ *Georgia Prisoner Jimmy Meders Granted Clemency Hours Ahead of Execution*, March 10, 2020, available at https://www.americanbar.org/groups/committees/death_penalty_representation/project_press/2020/spring/jimmy-meders-granted-clemency/.

³⁰ A chart listing the commutations can be found at Appendix, page 62–64.

has resulted in a factually or morally disproportionate sentence.³¹ Richard Moore's is one of those rare cases. As Director Ozmint said in his letter supporting clemency for Richard, "[a]s a proponent of the death penalty, I have never made such a recommendation [in support of clemency]" but Richard's case is one-of-a-kind. App. 3.

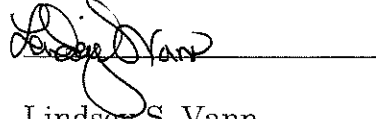
CONCLUSION

On behalf of Richard Moore, his children and grandchildren, his friends, and the others whose lives he could impact positively, undersigned counsel ask you to prayerfully consider granting mercy in this case. Mercy, of course, is not a right and cannot be deserved, but by showing mercy, one shares in and expresses the love of Christ. We know granting clemency to a man sentenced to death is a difficult decision and recognize there are countervailing considerations. We—neither Richard nor his counsel—do not seek to minimize the immense grief and suffering the Mahoney family has experienced over the past 25 years. His life was cut short and his family lost him forever. But Richard's death will not undo that harm. Instead, it would remove a loving and supportive presence from the lives of his family and loved ones. Nor will it make South Carolina safer because he is a positive influence on the prison system, making those around him safer through his presence.

On Richard's behalf and ours, we ask you to use your authority to extend mercy in this case and commute Richard's sentence to life without parole.

³¹ Paul J. Larkin, Jr., *The Demise of Capital Clemency*, 73 Wash. & Lee L. Rev. 1295, 1337-38 (2016).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lindsey S. Vann", is written over a horizontal line.

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