

**APPLICATION TO THE
GEORGIA BOARD OF PARDONS AND PAROLES
ON BEHALF OF JIMMY MEDERS**



① If the jury recommends that the accused be sentenced to life imprisonment, can the jury recommend that the sentence be carried out without Parole??

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INTRODUCTION

The case of Jimmy Meders presents a constellation of circumstances that this Board has rarely seen and almost certainly will never see again:

- (1) it is one of the few remaining cases where the trial occurred before the Legislature authorized life without parole;
- (2) it has evidence in the trial record showing that the jury wanted to impose a sentence of life without parole;
- (3) it has every living juror confirming that life without parole would have been their verdict if it had been an option;
- (4) it has a defendant with no prior criminal history and a career of service in the National Guard who committed a single tragic crime in 1987;
- (5) it has evidence that as an inmate, Meders has exhibited consistently “excellent” behavior—precisely the type of behavior that assists prison officials in maintaining order;
- (6) it has evidence showing that for Georgia juries, this is not the type of case that warrants the death penalty now that life without parole is available as a sentencing option; and
- (7) it has every living juror urging this Board to grant clemency, thereby giving Meders the sentence the jury would have imposed if it had been authorized to do so.

In requesting clemency, Meders takes responsibility for the murder of Don Anderson, which would not have occurred if not for Meders's actions. There is no doubt that this case is a tragedy. Because of the actions of Meders and his accomplices, Anderson's family lost a beloved family member whose absence has been felt for more than thirty years.

For Meders, the crime was a stark departure from what had been an otherwise productive life. In addition to supporting his wife and infant son through auto body work, Meders had been enlisted in the National Guard for the seven years leading up to the crime. While serving in the Guard, he earned commendations for his "devotion to duty" and his willingness to make himself "always available for whatever tasks there were to be accomplished." He did not have any criminal history, exhibiting the peaceful and law-abiding behavior to which he returned during his incarceration, where he has earned praise from GDC officials for being a "model inmate."

When Meders went to trial, twelve citizens were selected to express the "conscience of the community" regarding the punishment Meders should receive for his actions. Those twelve community members wanted to return a verdict of life without parole. There is only one reason they did not do so: life without parole was not an authorized sentence at the time of Meders's 1989 trial. If life without parole had been available, that is the sentence that Meders would have received.

The jurors made that clear in 1989, and they have made it clear today: every living juror from Meders's trial is urging this Board to grant clemency and commute Meders's sentence to life without parole.

The jurors' sentencing decision would have been simple if life without parole had been available; it took them only twenty minutes to ask the trial judge if they could recommend life without parole. But with that sentence unavailable, the jury's decision became significantly more complicated, such that they did not return a verdict until four additional hours had passed. The foreperson of the jury has since explained how the unavailability of life without parole complicated the jury's deliberations:

Did I want the man to die? No, not really. But that was the only option if we wanted to make sure he didn't get out. If life without parole had been available, I believe that's the option we would have gone for.

Exhibit 1 (Affidavits of Jurors).

The jury's decision that life without parole was the appropriate sentence reflected its conclusion that Meders was not among the "worst of the worst" offenders for whom the death penalty is reserved. He did not have any criminal history, and had found success in the National Guard, reflecting his strong character despite an upbringing marked by poverty, addiction, and abuse. Beyond its conclusions about Meders's character, the jury also rejected the State's contention that Meders acted alone in the murder of Anderson, instead believing

that his accomplices Bill Arnold and Greg Creel were at least as responsible as Meders and should have been charged.

The thirty years since Meders's trial have validated the jury's determination that life without parole was the appropriate sentence. In that time, Meders has proven to be one of a "very small, select group of death row prisoners" who consistently exhibit excellent behavior. Exhibit 16 (B.J. Murphy Letter of Support). He has received just one disciplinary infraction in thirty years, leaving GDC officials with no doubt that Meders "would continue to positively contribute to a prison environment with a sentence of Life Without Parole." *Id.*

Today, the availability of life without parole enables juries to ensure that a defendant will not be released from prison while reserving the death penalty for only the most aggravated cases. Meders's crime was tragic and senseless, but it did not fall into the narrow category of highly aggravated crimes for which justice requires the death penalty. To the contrary: it shows precisely why the Legislature authorized life without parole.

This Board should effectuate the view of the jury—the "conscience of the community"—and commute Meders's sentence to life without parole.

I. THE JURY WOULD HAVE SENTENCED MEDERS TO LIFE WITHOUT PAROLE IF THAT SENTENCE HAD BEEN AUTHORIZED AT THE TIME OF MEDERS’S TRIAL.

This case presents the Board with a unique opportunity to do precisely what those selected to express the “conscience of the community” wanted: impose a sentence of life without parole. The only reason why Meders’s jury did not do so is that life without parole was not authorized in Georgia at the time of the 1989 trial. But evidence in the trial record, along with statements from every living juror who recalls the sentencing deliberations in this case, confirms that if life without parole had been available, that is the sentence that Meders would have received.

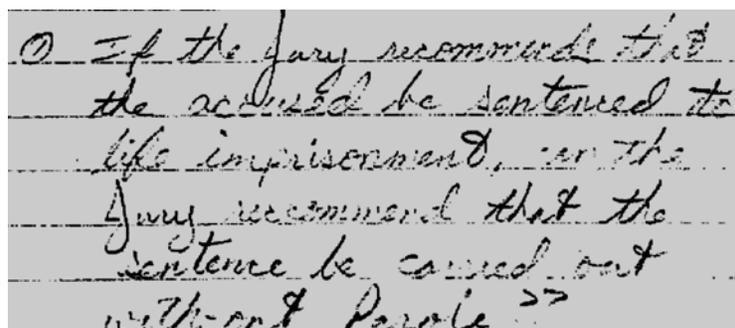
A. The Jury Asked the Judge If It Could Impose a Sentence of Life Without Parole.

On April 4, 1989, twelve citizens of Glynn County were selected to serve on the jury in this death penalty case. The twelve jurors were selected not only for their ability to be fair, but also for their willingness to impose the death penalty if justice required it. Over the ensuing two days, the jury heard conflicting evidence regarding the murder of Don Anderson. The State presented its version of the case primarily through the testimony of Meders’s uncharged accomplices—Bill Arnold and Greg Creel—who claimed that Meders was solely responsible. T. 690, 728. Meders took responsibility for his role in the murder but testified that Arnold shot and killed Anderson. T. 1082, 1091–92. On April 7, 1989, after four hours of

deliberations, the jury determined that Meders was guilty of malice murder and armed robbery. T. 1266.

The sentencing phase began thirty-five minutes later. T. 1285. The State did not present any evidence in aggravation. T. 1290. Meders's attorney presented testimony from family members and a family friend. T. 1293–1307. The witnesses told the jury that Meders had good character, worked hard, and provided for his young children. The jury also knew that Meders had served in the National Guard for more than seven years prior to his arrest, where he was a Specialist carrying the rank of E-4. T. 1066–67.

At the conclusion of the sentencing phase, the jury retired to deliberate. The time was 4:35pm. T. 1337. Just twenty-one minutes later, at 4:56pm, the trial judge informed counsel that he had received a note from the jury regarding their sentencing decision:



Q If the jury recommends that the accused be sentenced to life imprisonment, can the jury recommend that the sentence be carried out without Parole??

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T. 1337; 1361. In response, the judge instructed the jury “unequivocally, that the jury cannot consider such a matter at all.” T. 1338. When the judge asked the State and defense counsel whether they had any objection to that instruction, both responded that they had none; as the State noted, “That is the law.” T. 1337.

The jurors’ inability to recommend a life without parole sentence significantly complicated their deliberations. The unavailability of life without parole prolonged the jury’s deliberations for an additional four hours—far longer than it took the jury to recommend a sentence of life without parole. A timeline of the jurors’ sentencing deliberations is below:



The timeline demonstrates that the jurors’ sentencing decision would have been simple if life without parole had been available. Their decision became difficult only because the Legislature had not yet authorized life without parole as a punishment. If Meders’s trial had occurred just a few years later, after the Legislature authorized life without parole, then the jury entrusted to express the “conscience of the community” would not have returned a death sentence.

B. Every Living Juror from Meders’s Trial Has Confirmed That They Would Have Returned a Verdict of Life Without Parole.

The jurors’ note to the trial judge does not stand alone. Every living juror who remembers the trial has stated that the jury would have returned a verdict of life without parole if such a sentencing option had been available.¹ *See* Exhibit 1 (Affidavits of Jurors). The following chart includes each juror’s key statement as to the jury’s sentencing vote:

Juror	Statement on Jury’s Vote for Death
J.H. <i>Jury Foreperson</i>	“Did I want the man to die? No, not really. But that was the only option if we wanted to make sure he didn’t get out. If life without parole had been available, I believe that’s the option we would have gone for.”
C.T.	“If life without the possibility of parole would have been an option for us to consider, this is what I would have voted for. And I feel confident that life without the possibility of parole is the sentence Meders would have received.”
A.D.	“I know that if we could have sentenced him with the assurance that he would never get out that I would not have voted for a death sentence.”
J.A.F.	“Based on our discussions in the jury room, had this sentencing option been available, I feel this is the route we would have taken. . . . Not having the option of life without parole, our only option available was the death penalty.”

¹ Of the twelve jurors in 1989, six are alive and able to recall the trial and sentencing deliberations. Four (jurors H.G., C.G., H.H., and U.Y.) have passed away. Two (jurors L.H. and M.S.) suffer from significant health issues that impair their ability to recall the trial.

D.K.	“If life without the possibility of parole had been an option, this is the decision I feel we would have reached.”
H.W.	“Our options were basically a chance to set him free or the death sentence, so I went with the death sentence.”

The jurors’ statements confirm what their note to the judge indicated: they wanted to sentence Meders to life without parole, not the death penalty. If the jury had had the option of imposing life without parole, that is the sentence Meders would have received. By commuting Meders’s sentence to life without parole, this Board would not be overturning the jury’s determination as to the appropriate sentence. It would be effectuating it.

C. This Case Shows Why the Georgia Legislature Eventually Authorized Life Without Parole.

As explained above, the jurors voted for a death sentence for Meders to avoid the possibility of him being released on parole, not because they believed him to be among the “worst of the worst” offenders deserving of the death penalty. Just a few years after the jurors reached their verdict, the Legislature authorized life without parole for precisely this reason. Then-Representative Thurbert Baker, who later served as Attorney General for over a decade, spearheaded the statutory change through the Legislature. As Representative Baker made clear in several interviews, life without parole was intended to “fill[] the gap between the extremes

of life imprisonment and the death penalty. This additional sentencing option allows the death penalty to be imposed only for the ‘worst of the worst’ offenses.”²

Governor Zell Miller quickly signed the act into law. On April 27, 1993, Governor Miller specifically identified, as the basis for his support, his desire to end the imposition of the death penalty in cases where justice did not require it:

I support the death penalty and have always supported it throughout my career. But the death penalty can only be imposed by unanimous agreement among the men and women who sit in the jury box. In cases where the crime is heinous enough to call for its consideration but the jury cannot quite reach a unanimous decision to impose it, the only other alternative has been a sentence that makes the offender eligible for parole in seven years. In my mind, there is a wide gap between those two options: death or eligibility for parole in seven years. So I proposed a third alternative between the two—a sentence of life without parole.³

This is exactly the type of case the Governor and the Legislature had in mind when they passed the statute authorizing life without parole. The jurors in this case did not want the death penalty, but they also did not want Meders to possibly be released in seven years. That is the reason they asked the judge if they could recommend a sentence of life without parole. Unfortunately, the option of life without parole was not available then. But it is available now—and it is the sentence that Meders should receive.

² JoAnne D. Spotts, *Sentence and Punishment: Provide for the Imposition of Life Sentence Without Parole*, 10 Ga. St. U. L. Rev. 183, 187 (1993).

³ Zell Miller, *Signed, Sealed and Delivered: Highlights of the Miller Record* 408 (1999).

II. THE JURY WAS RIGHT IN WANTING TO SENTENCE MEDERS TO LIFE WITHOUT PAROLE.

Meders's jury correctly believed that this was the type of case envisioned by Representative Baker and Governor Miller—a case that was not the “worst of the worst,” and a case in which life without parole would be an appropriate sentence. Supported by evidence of Meders's National Guard service, life history, and lack of criminal history, along with reason to doubt the State's assignment of sole responsibility to Meders, the jury determined that life without parole was the appropriate punishment. Evidence since uncovered only serves to reinforce that determination.

A. Meders's Service in the National Guard, Lack of Criminal History, and Difficult Upbringing Demonstrate That He Is Not Among the “Worst of the Worst” Offenders Deserving of Death.

1. Meders Had a Distinguished Career in the National Guard in the Seven Years Leading Up to This Crime.

Evidence of Meders's military service revealed his reliable and dedicated character and contributed to the jury's judgment that he was not deserving of the death penalty. The jury heard at trial that in addition to steady work in auto body repair, Meders had been serving his country and community in the National Guard for seven years, from July of 1980 until the time of the crime. T. 1066. Meders had obtained the rank of E-4—the equivalent of a specialist. *Id.* Meders's military

record further demonstrates that he was a “good soldier”⁴ who earned recognition for “noteworthy and commendable”⁵ dedication during his seven years of service.

Meders’s service in the National Guard reveals his devoted character.

Meders enlisted in the National Guard in 1980, at age 19. At that time, the Cold War was ongoing, the Soviet Army outnumbered the U.S. Army, and there was a very real danger that Meders would be called to active duty. As Retired Captain Art Cody explains, “American commitment to NATO ensured that were there a war, US ground forces, to include its field artillery, would be deployed to Europe where they would be significantly outnumbered by the Soviets and likely suffer heavy casualties.” Exhibit 4 (Letter from Captain Art Cody).

Meders reenlisted for another six-year term in 1986 despite knowing that if his unit were to be mobilized, the Iran-Iraq War meant that its “drop area was smack dab in the middle of the Iranian desert.” Exhibit 2 (Mason Jacobs Letter of Support). As a later platoon sergeant and supervisor said, Meders “liked being in the Guard; the comradery of it, and serving his country.” *Id.*

The National Guard enabled Meders to do what he did best—driving and repairing motor vehicles—in service of his country, and he did it well. Meders’s military record reflects that he completed multiple trainings and certifications, was

⁴ Exhibit 2 (Mason Jacobs Letter of Support).

⁵ Exhibit 3 (Lieutenant Cecil Pearce Letter of Commendation).

regularly promoted, and earned a number of commendations. Exhibit 4 (Letter from Captain Art Cody). Mason Jacobs, a veteran of Vietnam and Desert Storm and a recipient of the Bronze Star and Army Commendation Medal, supervised Meders and called him “a good soldier who did his job without any fuss.” Exhibit 2 (Mason Jacobs Letter of Support). He notes that Meders was respectful and capable, never causing trouble. Various accolades recorded in Meders’s file reflect the same, including a Drivers Badge in recognition of “a high degree of skill in the operation and maintenance of motor vehicles,” an Army Service Ribbon for completion of initial-entry training, and multiple Army Reserve Component Achievement Medals for successfully completing four years of service. Exhibit 4 (Letter from Art Cody). In a letter of commendation from 1983, Lieutenant Cecil L. Pearce wrote:

1. Permit me this opportunity to express my appreciation to you for the devotion to duty you have rendered to the Bn Supply Section (POL CREW) and to the training mission of this Battalion. Your dedication is of such a degree that it is noteworthy and commendable.
2. By making yourself always available for whatever tasks there were to be accomplished, you have rendered this command support and assistance which has greatly enhanced the accomplishment of our mission and a successful AT.
3. Again, I say, thank you for a job well done.

Exhibit 3 (Lieutenant Cecil Pearce Letter of Commendation).⁶

⁶ “AT” stands for “active duty training.”

These records reveal that Meders was a devoted, valuable contributor to his battalion who exercised his role with skill, respect for others, and good behavior. His service to his community and country was a strong factor in favor of life without parole. Meders's jury was right in its judgment that such a man was not among the "worst of the worst."

2. As a Child and Into Adulthood, Meders Showed Good Character Despite Personal and Family Struggles.

Both as a child and in his adult years prior to the crime, Meders showed good character in the face of serious personal and family challenges. His childhood was marked by poverty, abuse, poor health, and intellectual limitations, yet he remained a protective brother and a loving son. At age 15, he began struggling with alcohol addiction, which contributed to his tragic mistake in 1987. Despite that, he was a caring husband, a productive worker, and, as noted above, a well-regarded member of the National Guard.

Meders was born to Faye and James Meders, both of whom had been sharecroppers throughout their lives. Faye was raised in Tifton in a house with no running water or indoor plumbing and had to work grueling hours even as a child. She tried to instill that work ethic in her children, in circumstances only marginally better than those she grew up in. As Faye explains in a letter to this Board, poverty was a hallmark of Meders's life from the moment he was born:

When I found out I was pregnant with Jimmy I could not afford to buy prenatal vitamins, and I was very anemic. After he was born I wasn't able to produce enough milk for Jimmy because of my anemia. Jimmy was born in a clinic instead of a hospital. We had got to the hospital when I was in labor, but we were turned away because we didn't have enough money.

Exhibit 5 (Faye Meders Letter of Support).

Faye's poor health likely contributed to significant health problems that Meders experienced as a young child, many of which went unaddressed. For instance, he suffered severe stomach ulcers and constantly battled high fever. Beyond his illnesses, Meders also developed a speech impediment by the time he was four or five years old.

Meders exhibited deficits in his intellectual functioning from an early age. School records confirm that he performed poorly, particularly in reading and spelling. More broadly, he exhibited several deficits in his overall functioning, all of which were consistent with intellectual disability. As an expert neuropsychologist explains, Meders's deficits left him functionally illiterate and vulnerable to peer pressure. Exhibit 6 (Letter from Dr. Dale Watson).

Meders also suffered abuse as a child. As the oldest of four children, he was the frequent target of attacks by his father. As Meders's sister Laurie explains:

Our dad hit him very hard with the belt. . . . Dad never hit my sister and me like he did Jimmy on many occasions. My sisters and I would cry, watching Dad belt Jimmy. Dad would swing the belt around and around, gathering speed before hitting Jimmy with it.

Exhibit 7 (Laurie Roder Letter of Support). Still, Meders “never stopped loving his daddy, despite the whippings.” Exhibit 5 (Faye Meders Letter of Support).

Indeed, despite the abuse, Meders tried to emulate his father in other ways, particularly when it came to his father’s work ethic. Meders inherited his father’s love of fixing cars and followed him into the auto body field, often working alongside his dad and trying to learn as much as he could:



In addition to being a devoted son, Meders was a protective brother. His younger brother Stacey describes the two brothers as close. While Stacey was the “more serious one,” Meders liked to engage in small pranks on family members to get people to laugh. Exhibit 8 (Stacey Meders Letter of Support). Their sister Laurie, who had a twin sister Leigh, described Meders as always wanting to make his younger siblings happy:

Some years, our parents did not have money to buy us any presents for Christmas. Jimmy would give the money from his hard work to our parents to get us Christmas presents because he didn't like the thought of us not having Christmas presents on Christmas morning. But he never said anything about it; I was much older when my parents told me.

Exhibit 7 (Laurie Roder Letter of Support).



As Meders explained to the Board during his interview, he tried to take the same caring approach to his marriage with Sheri Meders. The two married when he was 24 and she was 16. Although they had “some ups and downs,” he consistently tried to work hard, put food on the table, and make sure that she was comfortable. Shortly after their marriage, Sheri became pregnant with their first child, Jamie. As Meders said to the Board, he had always wanted to be a good father, and their young son provided him with a chance to do so. But when Jamie was just one year old, Meders made the tragic mistake that removed him from Jamie’s daily life. It

also cost him the opportunity to raise his daughter, Trinity, who was born just weeks after Meders's arrest.

As the facts of the offense make clear, Meders struggled with a serious alcohol problem. As he stated in his interview with the Board, "Drugs and alcohol and me are a bad combo." This is a realization he came to only after years of reflection during his incarceration.

Meders began drinking heavily from the start of high school. By age 15, he was drinking after school every day with a local auto body worker, Johnny Wilkerson. Wilkerson's wife, Sarah, attested to Meders's "bad drinking problem" and how it escalated into further substance abuse over the years of his friendship with her husband:

He and Johnny would get a case of beer, and it would be gone when Jimmy left. This went on daily, and the amount of beer increased. It got so I never saw Jimmy without a beer in his hand.

Along with the beer, Jimmy also took pills. This began when he hurt his back when he was 17 or 18 years old, and he was prescribed "muscle relaxers". . . . Once the prescription drugs ran out, Jimmy kept taking other, similar pills.

Exhibit 9 (Sarah Wilkerson Affidavit).

This substance abuse had a growing effect on Meders's ability to function in his daily life. His superior in the National Guard noticed his excessive drinking, Exhibit 2 (Mason Jacobs Letter of Support), and his younger sister Laurie describes how Meders would drink until he passed out.

On one notable occasion, Meders passed out drunk while in the middle of adding antifreeze to his car, such that when the rest of the family arrived home over 12 hours later, the car's radiator had frozen and burst. Exhibit 7 (Laurie Roder Letter of Support). Laurie adds that though Meders initially "turned to alcohol as a release," he was unable to stop drinking at that point. Nevertheless, even though he regularly lost control, those who observed his alcoholism agree that Meders never became "mean, violent or aggressive" as a result. Exhibit 2 (Mason Jacobs Letter of Support); Exhibit 9 (Sarah Wilkerson Affidavit).

Substance abuse was a key aspect of Meders's involvement in this crime. Meders told both the jury and this Board about the exorbitant quantity and variety of alcohol and drugs he consumed that night. T. 1074–75. While Meders has never pretended that his addiction excuses his role in the death of Don Anderson, this evidence further supports the jury's determination that he is not among the "worst of the worst" offenders.

3. The Crime in This Case Was an Aberration for Meders, Who Is One of the Rare People on Death Row to Have No Prior Criminal History.

Despite his challenging background and struggles with substance abuse, Meders is the rare individual on death row who did not have any criminal history before his capital offense. As he discussed in his clemency interview, he made a

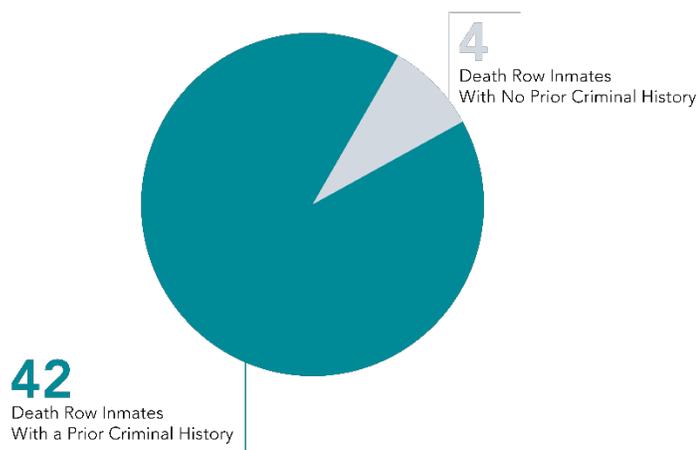
single tragic mistake on October 14, 1987. As Meders acknowledged, that mistake “was a disaster” and caused significant harm to the Anderson family.

But that disastrous mistake was an aberration in an otherwise productive and law-abiding life. Meders’s actions that night were inconsistent with the manner in which Meders ordinarily treated people in his community. As letters of support from family, friends, and community members alike indicate, Meders was known to be a peaceful, self-effacing, kind person.⁷ His involvement in this crime was and is out of character to all who knew him.

Until this crime, Meders had no history of criminal behavior. The State presented no evidence of any prior negative conduct to the jury; in fact, it presented “no additional evidence” of any kind at the sentencing phase of the trial. T. 1290. This means that there was not a single additional aggravating fact—neither criminal history nor anything else—that the State could use to argue that Meders was deserving of death beyond the basic facts of the crime. This lack of aggravating evidence supports the jury’s determination that life without parole is the appropriate sentence.

⁷ Exhibit 2 (Mason Jacobs Letter of Support); Exhibit 5 (Faye Meders Letter of Support); Exhibit 7 (Laurie Roder Letter of Support); Exhibit 8 (Stacey Meders Letter of Support); Exhibit 9 (Sarah Wilkerson Affidavit); Exhibit 10 (Jamie Meders Letter of Support); Exhibit 11 (Jimmy Pello Letter of Support); Exhibit 12 (Karen Mimbs Letter of Support); Exhibit 13 (Hines Clements Letter of Support); Exhibit 14 (Jan Smith Letter of Support); Exhibit 15 (Belinda McNair Letter of Support).

Meders's lack of criminal history is far from the norm in death penalty cases. There are currently 46 people on Georgia's death row. Of those 46, 42 had criminal records prior to the offense for which they were sentenced to death. Meders is one of just 4 people on death row who did not have any prior criminal history. The following graph illustrates these statistics:



Moreover, Meders's consistently rule-abiding behavior throughout his thirty years of incarceration underscores the aberrational nature of his crime. *See infra* III(A). This unusual characteristic further sets Meders apart from the "worst of the worst" and weighs in favor of a sentence of life without parole.

B. The Jury Did Not Believe the State's Theory That Meders Was Solely Responsible for the Crime, Instead Believing That His Accomplices Were At Least as Culpable.

Bill Arnold, Greg Creel, and Jimmy Meders were all present at the Jiffy Mart when Anderson was killed. T. 690, 728. Unlike Meders, Arnold and Creel had criminal records at the time of the offense. However, while Meders faces

potential execution, neither Arnold nor Creel was even arrested for their involvement, much less charged with a crime.

As Meders explained in his interview with the Board, this crime would not have occurred without him. It was his gun and he participated in the crime. However, the problems with the State's version of events are significant. They caused grave concern for the jurors, and they warrant grave concern at this stage as well.

At trial, the State claimed that it did not charge Arnold and Creel because they "told the same thing all the way down the line" and were consistent in their stories "from day one." T. 1182–83. The jury did not accept that contention, and instead evinced clear doubts about the State's theory of events. Halfway into its deliberations, the jury sent a note to the judge with several questions regarding the evidence, many of which evinced doubt about the credibility of Arnold and Creel. T. 1261. In the affidavit she submitted to the Board, Juror D.K. explained the jury's reason for sending a note to the judge:

The jury had a lot of questions during our deliberations. One of the main questions we had was why the other men Jimmy was with that night, Bill Arnold and Greg Creel, weren't charged with the same crimes he was. We talked about this during our deliberations a lot.

Exhibit 1 (Affidavits of Jurors). Thus, although the jury did not think that Meders was innocent, it did not accept the State's position with respect to Arnold and Creel.

The jury doubted Arnold's and Creel's innocence even though it did not have access to several pieces of evidence that undermined the accounts that Arnold and Creel provided at trial. In fact, one of the principal law enforcement officials who investigated the crime—Sheriff Wayne Bennett—testified at a hearing that he “did not agree” with the decision not to prosecute Creel and Arnold. S.H.T. 181. As Sheriff Bennett explained, he “believe[d] that they participated at a level that they should have been criminally prosecuted.” *Id.* The jury's and Sheriff Bennett's doubts about the State's theory at trial were well-founded.

Three specific aspects of the trial testimony of Arnold and Creel have proven to be untrue. First, both denied seeing a weapon that evening. T.T. 701, 725. Second, they denied taking Meders home earlier in the evening, telling the jury that Meders “must have” had the gun on him the whole day. T.T. 707, 725, 741. And third, both men denied using Meders's gun at any point during the early-morning drive around Brunswick. T.T. 708, 741.

However, Creel and Arnold's initial statements to the police contradict that testimony in several important respects. Most importantly, Creel told police that he and Arnold both knew that Meders possessed a gun that day. R.H. Ex. 1. Additionally, Arnold and Creel both told police that they dropped Meders off early in the evening before picking him up at around 11:00. R.H. Ex. 1. In these and

other important ways, the State’s case at trial bore little resemblance to the facts that the police had developed immediately after the murder occurred:

State’s Case at Trial	Law Enforcement Investigation
Arnold, Creel, Meders spent the whole day together.	Arnold, Creel, Meders did not spend the whole day together.
Arnold did not pick Meders up at 11:00pm.	Arnold picked Meders up at 11:00pm.
Arnold and Creel did not know Meders had a gun.	Arnold and Creel knew Meders had a gun.
There is no evidence of any shootings in the area that morning.	There were two documented shootings in the area that morning.
Randy Harris saw Meders with a gun after the crime.	Harris did not see Meders with a gun after the crime.
Sherri Meders told Harris where the gun could be found.	Harris did not know where the murder weapon could be found.

The State argued to the jury that it should believe the witnesses who “admit things that you would expect some people to try and hide.” T. 1183. But among the three men at the Jiffy Mart, only Meders satisfied the State’s credibility test. Unlike Creel and Arnold, Meders took responsibility for his role in Anderson’s murder. He told the jury that the murder weapon was his, T. 1082; that he was present when the murder occurred, T. 1091; and that he took money from the cash register after Anderson was shot, T. 1092. Meders fully acknowledges his

responsibility for Anderson's murder, and as he explained in his interview, he deeply regrets his actions.

Creel and Arnold charted a different path, telling the police one story and telling the jury another. The jury did not accept what they heard and felt that Arnold and Creel also should have been held accountable for their actions.

The evidence that Arnold and Creel testified falsely further supports a grant of clemency. It suggests strongly that Meders testified truthfully at trial, that he was not the sole perpetrator, and that death is not the appropriate punishment for him.

III. TIME HAS VALIDATED THE JURY'S DESIRE TO SENTENCE MEDERS TO LIFE WITHOUT PAROLE.

As discussed above, the jury correctly determined that life without parole is the appropriate sentence based on the information it had in 1989 about Meders and his crime. Nothing in the thirty years since has undermined the jury's determination; in fact, time has validated it. For his part, Meders has proven to be a "model inmate" who, in the words of GDC staff, "can help keep a cell block calm and running smoothly through his quiet, reflective example and his consistently steady behavior." Exhibit 16 (B.J. Murphy Letter of Support). More broadly, the availability of life without parole has meant that juries across the state, including in Brunswick, are rejecting the death penalty in cases like Meders's. Exhibit 21 (Jury

Sentencing Data). Together, the evidence from the last thirty years confirms what the jury knew in 1989: life without parole is the appropriate sentence for Meders.

A. Meders’s Exemplary Conduct in Prison Confirms That Life Without Parole Is the Appropriate Sentence in This Case.

Meders has spent the last thirty years determined to learn from the mistakes that led to his crime—and he has been successful in that effort. Since he arrived on death row in 1989, he has received a single disciplinary infraction: for one instance of failing to follow instructions in June 2002. Exhibit 17 (Disciplinary Report).⁸

Meders’s remarkable record over his thirty years is an outlier among the population of death-sentenced individuals. In the last ten years, there have been approximately 600 disciplinary charges against death-sentenced inmates,⁹ according to data obtained from the Georgia Department of Corrections; Meders has not received a single charge:

UDS OFFENDERS WITH DRs	DR COUNT	GREAT	HIGH	MODERATE	LOW	TOTAL CHARGES
65	439	125	433	41	0	599

⁸ According to the factual statement of the report, on June 27, 2002, Meders “would not be getting ready for inspection [and] he would not bathe, eat or shave until the fan on the cat-walk was turned toward his cell.” Exhibit 17. Meders pleaded guilty to the infraction. Retired mental health counselor B.J. Murphy, who had Meders on his caseload, says that Meders’s complaint was really “about basic necessity.” Exhibit 16 (B.J. Murphy Letter of Support). As Murphy explained, “G-house was terribly, terribly hot during the summertime,” and Meders only “desire[d] to get a little airflow to cope with the high summer heat and humidity”

⁹ This limited sample understates the degree to which Meders has exhibited good behavior, because it does not capture the first twenty-one years of his incarceration. The sample is limited because GDC only has data available for the most recent ten years.

These numbers show not only that disciplinary charges are common on death row, but also that most death-row inmates receive them. Meders is unique in that he avoids disciplinary problems altogether.

GDC officials attest to the rarity of Meders’s behavior. B.J. Murphy was a mental health counselor at GDCP for 18 years before retiring in 2014, and Meders was on his caseload. Exhibit 16 (B.J. Murphy Letter of Support). Murphy explained that “[i]t was routine” for death-sentenced inmates to receive infractions. But Meders was different:

In contrast to this norm, I do recall a very small, select group of death row prisoners who were well-behaved, obedient and compliant. . . . [Meders] was one of the inmates in this select group.

Id.

Classification reports confirm Murphy’s recollection. These reports demonstrate that GDC staff members have repeatedly described Meders’s behavior as “excellent” or “good”:

Describe inmate’s house behavior: Excellent

Describe inmate’s house behavior: Excellent

Describe inmate’s house behavior: EXCELLENT

Describe inmate’s house behavior: good

Describe inmate's house behavior: good

Exhibit 18 (GDC Classification Reports). The reports further document that Meders has never had an altercation with a guard or inmate. He also does not have gang affiliations, nor does he have problems with any other inmate.

For these reasons, B.J. Murphy called Meders “a model inmate”:

Meders was well-behaved and minded his own business so that neither I, nor the Warden when making rounds, ever had to pay him any particular attention – but for a few moments on an inspection day in the summer of 2002.

Exhibit 16 (B.J. Murphy Letter of Support). Other prison officials had similar experiences with Meders. One former sergeant remembered him well, saying that Meders was “extremely low-profile” and never caused problems. Another former counselor remembered Meders among the well over 100 prisoners on death row at the time and said he was “very low-key.”

In his interview with the Board, Meders explained why he keeps to himself in prison: he spends a lot of time thinking about the pain he has caused. Although he revisits several key decisions he made as a young man, none of them causes as much regret as his actions in October 1987. Because of what he did, the Andersons lost a brother and a son. And the pain extends to Meders’s family as well, particularly to his children; because of his actions, they were forced to grow up without their father. This regret animates Meders’s behavior in prison.

Others who have spoken and met with Meders during his incarceration have reached similar conclusions. Reverend Katie Aikins has written and visited with Meders for more than 11 years. In this time, Reverend Aikins has seen that Meders “lives with deep remorse every day for the role he played in the murder of Don Anderson.” Exhibit 19 (Rev. Katie Aikins Letter of Support). Similarly, Reverend Connie Bonner has written and visited with Meders for the last eight years. In their correspondence, Meders “wrote of his regrets for the way his early life has separated him from his family.” Exhibit 20 (Rev. Connie Bonner Letter of Support). Meders’s regrets about his earlier actions fuels his behavior in prison:

He has developed from someone confused and disappointed by his sentence into one who not only regrets how he has spent his early life but has actively sought to improve his behavior, to stand more positively for what is good and to make the best of the time given to him.

Id. Reverend Aikins confirms that Meders:

has used his remorse as well as God’s grace, to truly turn his life around for the better. Even to this day Jimmy continues on a path of rehabilitation and offers support and love to other people.

Among inmates, Meders is known as “a good man who consistently offers encouragement, practical advice, and humor to make difficult times easier to get through.” *Id.* Beyond the prison’s walls, his family members attest that Meders

consistently offers them love, support, and advice without judgment or complaint.¹⁰

Meders's "excellent" behavior, deep remorse, and personal growth in his thirty years of incarceration provides further proof that the jury was correct in determining that he was not "the worst of the worst." He has dedicated his time in prison to leading by quiet example and complaining to no one. For these reasons, former GDC staff member B.J. Murphy believes that Meders would thrive if sentenced to life without parole:

In Meders' case, I feel confident that he would continue to positively contribute to a prison environment with a sentence of Life Without Parole. Meders is the kind of inmate who can help keep a cell block calm and running smoothly through his quiet, reflective example and his consistently steady behavior. I believe he could continue to add this kind of value to other prison environments if given an opportunity to do so. For these reasons, I ask the Board to commute Meders' sentence to Life Without Parole.

Exhibit 16 (B.J. Murphy Letter of Support).

Finally, commuting Meders's sentence to life without parole would do more than help correctional officials and other inmates. It would also have a significant impact on Meders's family. His family members attest that Meders consistently offers them love, support, and advice without judgment or complaint.¹¹ As they

¹⁰ Exhibit 5 (Faye Meders Letter of Support); Exhibit 7 (Laurie Roder Letter of Support); Exhibit 8 (Stacey Meders Letter of Support); Exhibit 10 (Jamie Meders Letter of Support).

¹¹ Exhibit 5 (Faye Meders Letter of Support); Exhibit 7 (Laurie Roder Letter of Support); Exhibit 8 (Stacey Meders Letter of Support); Exhibit 10 (Jamie Meders Letter of Support).

have developed busy lives in other states, it has been harder for them to visit Meders, but he has always shown understanding, encouragement, and joy for their personal growth and success.¹² The love and support Meders provides as a father, brother, and son is invaluable to the family. Meders's son Jamie, who describes in a letter to this Board his complicated relationship with his father, explains what clemency would mean to him:

Having my dad around would mean having another chance at the family that I missed growing up, and it would mean giving my children that family, too.

Exhibit 10 (Jamie Meders Letter of Support).

B. Statewide Sentencing Data Demonstrates That Georgia Juries Would Not Sentence Meders to Death Under Our Current System, Where Life Without Parole Is an Available Sentence.

The availability of life without parole has enabled Georgia juries to ensure that a defendant will remain in prison without imposing the ultimate sentence of death. As a result, juries are reserving the death penalty only for the most aggravated cases. Jury sentencing practices provide further validation for the jury's determination that Meders's case is not one that warrants the death penalty.

Sentencing data across the past decade reveals that with life without parole as a sentencing option, Georgia juries consider the death penalty to be appropriate only in a narrow set of circumstances. Exhibit 21 (Jury Sentencing Data). Meders's

¹² Exhibit 7 (Laurie Roder Letter of Support); Exhibit 8 (Stacey Meders Letter of Support).

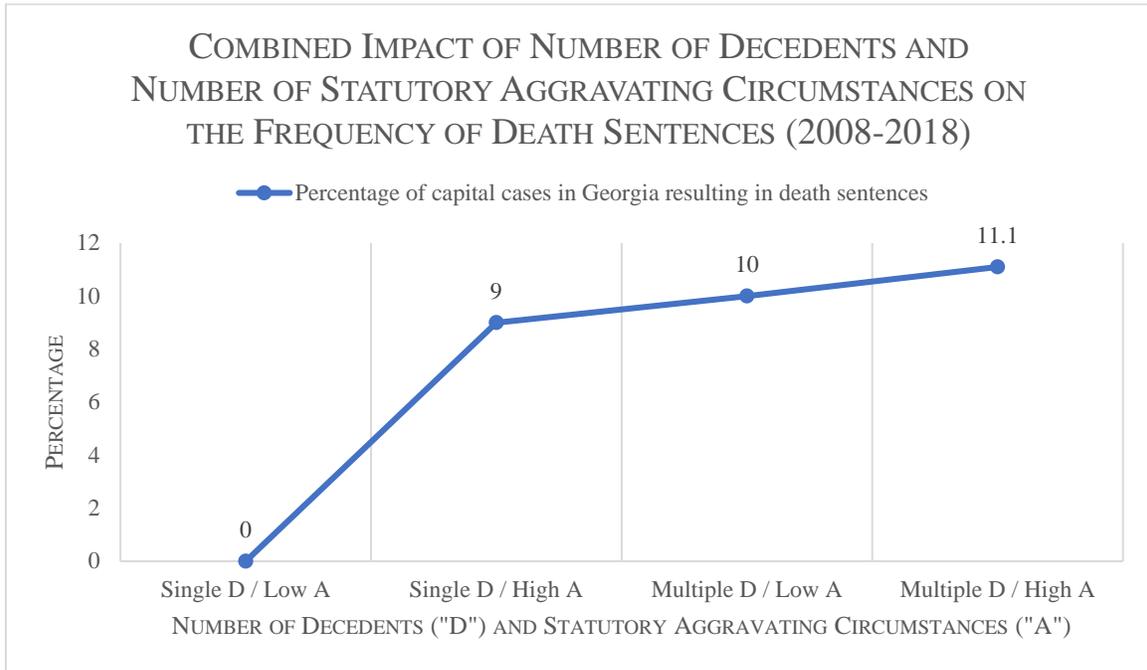
counsel has reviewed every case in which the State sought the death penalty that resulted in a sentence between 2008 and 2018. Of the 219 cases analyzed,¹³ just 14 (6.4%) resulted in a death sentence, while the remaining 205 (93.6%) ended in non-death resolutions. The records reveal two meaningful indicators as to when the death penalty is imposed today: first, the number of decedents involved in the offense; and second, the number of statutory aggravating circumstances at issue.

The case records paint a consistent picture across the state. When multiple people died as the result of an offense, Georgians impose the death penalty more than twice as frequently than they do if only one person died (10.4% of the time versus 4.2%). Similarly, where the facts of the offense were more aggravated, as shown by the number of aggravating circumstances at issue,¹⁴ the death penalty is imposed more frequently. Cases with just one or two aggravating circumstances (“low-aggravation” cases) resulted in death just 4% of the time, in comparison with 9.6% of “high-aggravation” cases with three or more aggravating circumstances.

¹³ Counsel has obtained records from all of the 238 death-noticed cases resolved between 2008 and 2018. Of those 238 cases, records were incomplete in 19. Consequently, records from 219 cases were analyzed for the purposes of this petition. Of the 19 cases for which records were incomplete, none resulted in a death sentence.

¹⁴ The jury must find at least one aggravating circumstance among eleven listed in O.C.G.A. § 17-10-30 in order to impose the death penalty. The number of statutory aggravating circumstances at issue in each case was determined by the number of aggravating circumstances noticed by the State under O.C.G.A. § 17-10-30(b). When the State provided notice of more than one aggravating circumstance under the same provision, this was counted as one aggravating circumstance.

When this data is combined, it becomes clear that in Georgia today, cases at the extreme low-end of the spectrum—namely single-decedent, low-aggravation cases like Meders’s case—result in life without parole, not the death penalty.



As this data shows, *not a single person in Georgia* was sentenced to death for one of the 75 single-decedent, low-aggravation crimes like this one from 2008 through 2018. The sentencing data detailed above reveals that this is not mere happenstance. Rather, it is part of the reality that, with life without parole available, the people of Georgia reserve the death penalty for only the most highly aggravated offenses—“the worst of the worst.” Meders’s offense is not in that category. With life without parole as a sentencing option, Meders would not be sentenced to death today.

Moreover, in the Brunswick Judicial Circuit—which includes Glynn County, where Meders was tried—juries have not sentenced a single individual to death since 2009.¹⁵ Instead, Brunswick juries have imposed life without parole even in cases more aggravated than Meders’s case. For instance, a jury in 2012 imposed consecutive life without parole sentences on James Ralph Spell, who confessed that he “ripped [his ex-wife] open” with a knife and fatally shot his former parents-in-law over \$150 before attempting to flee the country. Similarly, in 2017, a jury opted for life without parole for Amos Southall, who brutally beat, strangled, drowned, and robbed a woman he had just met. That such cases did not result in death sentences suggests that the Brunswick community rejects the death penalty except in the rarest, most aggravated cases. Meders’s case is not the rare, highly aggravated case that warrants the death penalty in the view of the Brunswick community.

Finally, one of the clearest signs that Meders’s crime is not a capital offense today comes not from juries, but from another representative of the people of Georgia: prosecutors. The same data set shows that only 3.7% of the 219 cases between 2008 and 2018 were armed robbery cases like this one, where the only statutory aggravating circumstances are that the murder occurred in the

¹⁵ The last death sentence in Brunswick Judicial Circuit, one decade ago, was imposed on David Edenfield for his participation in a highly aggravated kidnapping, sexual assault, and murder of a six-year-old child.

commission of armed robbery and for pecuniary gain. *Not one* of those cases resulted in a death sentence. Moreover, the death penalty has not even been sought in such a case since 2011. This shows not only that Meders would not be *sentenced* to death under current sentencing practices—he likely would not even face the *possibility* of death under current charging practices, so wide is the recognition that death is disproportionate for his case. This data, combined with the fact that Meders served in the National Guard and had no prior criminal history, make clear that death is not the appropriate sentence in this case.

Given the availability of life without parole, Meders should not be executed against both the wishes of his own jury and the clear sentencing practices of today’s juries and prosecutors across Georgia.

IV. The Jury Supports Clemency Today.

Based on what they knew about Meders and his offense at the time of trial, the jurors believed that life without parole was the appropriate sentence. Today, every living juror supports clemency for Meders. *See* Exhibit 1 (Affidavits of Jurors). The following chart includes the jurors’ opinions about the sentence Meders should receive:

Juror	Statement Regarding Clemency
J.H.	“If his sentence is changed to life without parole now, that wouldn’t bother me. He’s been locked up for 32 years

<i>Jury Foreperson</i>	already, and life without parole is a very serious punishment.”
C.T.	“I support clemency for Mr. Meders in the form of life without the possibility of parole.”
A.D.	“I know that if we could have sentenced him with the assurance that he would never get out that I would not have voted for a death sentence.”
J.A.F.	“At this point in time, I support clemency for Jimmy Fletcher Meders in the form of life without the possibility of parole.”
D.K.	“I support clemency for Jimmy Meders, and would urge the Board of Pardons and Paroles to commute his death sentence.”
H.W.	“If [District Attorney] Jackie Johnson were to change the sentence to life without parole, that’s her decision. She could do it with my blessing.”

This Board should grant clemency because life without parole is the sentence the jury wanted to impose in 1989 and would impose today.

CONCLUSION

For the foregoing reasons, as well as those presented in the hearing on this Application, Jimmy Meders respectfully requests that this Board exercise its power to commute his sentence to life without the possibility of parole.

Respectfully submitted,

/s/ Michael Admirand

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