



Twenty-Third Judicial Circuit

*Madison County Courthouse
100 North Side Square
Huntsville, Alabama 35801-4820*

LOYD H. LITTLE, JR.
CIRCUIT JUDGE
Retired

PHONE
(205) 532-3440

September 8, 2011

Honorable Robert Bentley
Governor of Alabama
State Capitol
600 Dexter Avenue
Montgomery, AL 36130

re: DERRICK O'NEAL MASON
Circuit Court Madison County Case # CC1994-922
Supreme Court of Alabama Case #1971489
EXECUTION DATE: SEPTEMBER 22, 2011

Dear Governor Bentley,

It without reservation that I respectfully ask you to commute the death sentence I imposed on Mr. Mason, and sentence him to LIFE, WITHOUT POSSIBILITY OF PAROLE.

I was elected to the Circuit Bench in Madison County in 1994 and began a 15 year career in that position in January 1995. I retired in January of 2010 and remain active as a Circuit Judge in my county and in other north Alabama counties by special appointment from the Chief Justice.

The Mason case was pending before my predecessor when I assumed office. The case was tried and completed on June 16, 1995. A sentencing hearing was conducted on August 14, 1995, at which time I sentenced the Defendant to death. It was my first of what would be many capital murder trials during my career.

I know that if the Mason case had been tried by me at a later date, with more experience and exposure to capital cases, a different decision would have been made in sentencing. I would have imposed LIFE, WITHOUT POSSIBILITY OF PAROLE.

There are several reasons why that would have happened at a later date in my career.

The difference in experience of the lawyers involved was significant. Our seasoned and excellent District Attorney and one of his best and brightest Assistant DAs prosecuted the case which was defended by 2 very capable and qualified attorneys, but who had absolutely no experience in capital litigation before that trial. That lack of experience, combined with its being my first experience in capital litigation, more than likely affected how the case was tried.

I know now that I would have used tighter reins on all involved which may have altered how the jury voted in the sentencing phase of the trial. Ten of the 12 jurors recommended the death penalty. From what I have observed since, I believe that more experienced defense attorneys could have more effectively presented evidence of the mitigating factors (his age, lack of significant criminal record and drug and alcohol use) that could have affected the jury's recommendation and my ultimate decision.

Most importantly is the significant difference in the evidence put forth and argued as an aggravating factor in this case when compared to the evidence of that factor in other cases tried in Madison County in my court and the courts of my colleagues. Further, I was one of 6 or 7 Circuit Judges selected by AOC to lead a 3 day seminar several years ago on Capital Litigation in Alabama. Over 50 Judges from around the state participated and discussed issues and facts in cases they had handled or had pending for trial.

The more I learned, the more I believed that the Mason case did not warrant the death penalty. There is no doubt, however, now or then that the jury was absolutely correct in convicting him of capital murder. The jury had the option of convicting him of several lesser included charges, but they were convinced beyond a reasonable doubt that he was guilty of capital murder. The evidence supported the conclusion that he terrorized the victim by making her disrobe, that he was physically abusive, and that he shot her twice in the head at close range with a pistol.

It was obviously a cowardly and brutal killing. However, the law of Alabama requires that this aggravating factor of being especially heinous, atrocious and cruel be so when compared to other capital murders. In hindsight, and with so much more experience now in these cases, I do not believe this aggravating factor would have been available to the jury or the Court. Without that as an aggravating factor to consider, the advisory verdict of the jury would most likely have been different. They would have recommended life without parole and I would have followed that recommendation.

That is what should have happened 15 years ago.

Governor Bentley, I am confident that what I am asking you to do now is absolutely the right thing to do under the facts of this case and the law of this State.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Loyd H. Little, Jr.", written over a horizontal line.

Loyd H. Little, Jr.

Circuit Judge, active retired