

BEFORE THE GOVERNOR
OF THE STATE OF MISSOURI
THE HONORABLE JAY NIXON

In the Matter of:)
)
PAUL GOODWIN,)
) **Execution Scheduled for**
) **December 10, 2014**
Petitioner.)
)

SUPPLEMENTAL PETITION FOR A COMMUTATION OF, OR REPRIEVE FROM,
SENTENCE OF DEATH

On December 5, 2014, Paul Goodwin submitted to the Governor and Board of Probation and Parole a Preliminary Petition For a Commutation of, or Reprieve From, Sentence of Death. The basis for the petition was that Mr. Goodwin is incompetent to be executed due to his mental retardation and decreasing brain function. In the petition, Mr. Goodwin stated that evidence of his incompetence was found in part in a neuropsychological evaluation done by Dr. Robert Hanlon. Dr. Hanlon's report was not available at the time of the filing of the preliminary petition. As indicated in the petition, this supplemental petition includes Dr. Hanlon's report, and is provided in support of the fact that Mr. Goodwin's neuropsychological impairments make him incompetent for execution, and therefore deserving of a sentence commutation by the Governor, or at least, a stay order so that incompetency can be fully determined to the Governor's satisfaction.

Dr. Hanlon's Objective Neuropsychological Assessment Revealed Multiple Impairments that Cause Paul Goodwin to be Incapable of Understanding or Participating in the Clemency Process.

Dr. Hanlon is a Board Certified Clinical Neuropsychologist who works as an Associate Professor of Psychiatry and Neurology at Northwestern University Feinberg School of Medicine. Following a day-long evaluation of Mr. Goodwin, as well as consultation with counsel and review of relevant records, Dr. Hanlon concluded:

On objective neuropsychological assessment, Paul Goodwin reveals multiple cognitive and intellectual deficits that represent a neuropsychological impairment of moderate severity and a significant functional disability. His cognitive and intellectual deficits are associated with several Neurodevelopmental Disorders, including Intellectual Developmental Disorder (formerly known as mental retardation), Learning Disorders, and a Communication Disorder, specifically a Language Disorder, involving impaired auditory comprehension of speech.

Mr. Goodwin also manifests a Neurocognitive Disorder, involving memory impairment, attention dysfunction, and executive dysfunction, that is likely due to cerebrovascular disease secondary to the chronic effects of hypertension, hypercholesterolemia, and insulin-dependent diabetes. His neurocognitive profile is consistent with the effects of ischemic changes in the subcortical white matter of his brain, which are common sequelae of chronic hypertension, hypercholesterolemia and insulin-dependent diabetes.

Hanlon Report, at 1.

After reviewing the Missouri statute defining competency to be executed, Dr.

Hanlon concluded to a reasonable degree of neuropsychological and scientific certainty:

It is my opinion that, despite his intellectual developmental disorder, language disorder, learning disorder, and neurocognitive disorder, Paul Goodwin has the mental capacity to understand the nature and purpose of the punishment about to be imposed upon him.

It is also my opinion that, due to his intellectual developmental disorder, language disorder, learning disorder, and neurocognitive disorder, Paul Goodwin lacks capacity to understand matters in extenuation, arguments for executive clemency or reasons why the sentence should not be carried out.

Hanlon Report, at 2. *See Also*, Mo. Rev. Stat. § 552.060.1.

Paul Goodwin’s Language Comprehension Impairment Makes it Impossible for Him to Understand the Legal Proceedings, or to Assist His Attorneys in Preparing his Defense

Perhaps most relevant to the issue at hand - whether Paul can understand extenuating matters, arguments for clemency, or reasons why his death sentence should not be carried out; as required by the state statute - is his lack of language comprehension and his defective verbal IQ scores.¹ Dr. Hanlon found that the 10-point difference between Mr. Goodwin’s Verbal Comprehension Index on the IQ test (72) and his visual-nonverbal intelligence on the PRI Index (82) was “statistically significant, reflecting his comparatively undeveloped and general defective verbal intellectual functions.” Hanlon Report, at 6. Indeed, all of Mr. Goodwin’s previous IQ tests show lower scores on the Verbal Comprehension Index; many drastically lower. In 1976, his verbal IQ was reported at 72, and performance IQ at 85. In 1980, his verbal IQ was 69, while his performance IQ was reported at 80. In 1983, Verbal IQ was 69, Performance 91. And in 1998, his verbal IQ was 73, Performance 92. Hanlon Report, at 2.

In addition to the IQ testing revelations as to Mr. Goodwin’s impaired language

¹ Verbal skills are “typically considered the stronger indicators of intellectual ability.” Keyes Report, at 20.

comprehension, Dr. Hanlon’s further testing supported this fact. For example, Dr. Hanlon concluded, as a result of the administration of objective tests (controlled to measure for adequate test-taking effort by Mr. Goodwin):

- That Mr. Goodwin “revealed mild difficulty articulating his thoughts, combined with limited sentence structure and discourse impairment.” Hanlon Report, at 4.
- That Mr. Goodwin’s “[v]erbal intellectual functions were uniformly defective.” Hanlon Report, at 6.
- That Mr. Goodwin’s “[v]erbal encoding of narrative information was in the mild-moderately defective range” and that his “[r]ecall of the same narrative information following a 30-minute delay was also in the mild-moderately defective range.” Hanlon Report, at 7.
- That Mr. Goodwin’s “auditory comprehension was defective for short passages (i.e. 3-4 sentences), requiring basic inferences.” Hanlon Report, at 7.
- That Mr. Goodwin’s “[v]erbal reasoning, involving verbal concept formation and abstraction was in the moderately defective range.” Hanlon Report, at 8.

Both Dr. Hanlon and Dr. Keyes² findings show that Paul Goodwin is not able to comprehend the clemency proceedings and possible defenses to his execution, and can certainly not assist in preparing his defense. His execution would therefore violate the laws of this state, making the Governor obligated to step in and stop the execution.

In Addition to the Developmental Basis for His Deficits, Paul Goodwin is Also Suffering From Declining Neurocognitive Functioning Due to His Diabetes and Related Diseases

Significantly, Paul Goodwin’s incompetency is not based solely on the

² Detailed in the Preliminary Petition for a Commutation of, or Reprieve From, Sentence of Death.

developmental disabilities that have inflicted him since he was a child. His diabetes, and related hypertension, and hypercholesterolemia, have resulted in changes to the subcortical white matter of his brain. Hanlon Report, at 1. The result is a Neurocognitive Disorder involving memory impairment, attention dysfunction, and executive dysfunction. Id. Dr. Hanlon found that Mr. Goodwin’s “[e]xecutive functions, including cognitive flexibility, response inhibition, problem solving, and behavioral self-regulation, were generally defective.” Hanlon Report, at 8. Testing “reflected a defective capacity for formulating alternative solutions to novel problems and shifting cognitive set in response to changing task demands.” Id.

Again, this evidence of Mr. Goodwin’s declining cognitive abilities as a result of his physical diseases, which based on expert opinion cause Mr. Goodwin to be unable to understand or assist in the legal proceedings, require the Governor to act to stop what would be an illegal execution.

Conclusion

Mo. Rev. Stat. 552.060.1 forbids the state from executing anyone who “lacks capacity to understand . . . matters in extenuation, arguments for executive clemency or reasons why the sentence should not be carried out.” Both Dr. Keyes and Dr. Hanlon have rendered expert opinions that Paul Goodwin lacks such capacity. Keyes Report, at 3-4; Hanlon Report, at 2, 8. In fact Dr. Keyes, who first evaluated Mr. Goodwin in 2001, and who has been involved in over 75 cases where defendants have some suspected mental disability, adds that Paul Goodwin’s case “is the single case that has caused this evaluator

more desperate concern than any other case over the past 26 years.” Keyes Report, at 3.

Paul Goodwin is incompetent to be executed. His execution would violate the laws of this state and this country. The Governor has the unique and important responsibility to insure that such laws are upheld when all other avenues are exhausted. Based on the above reasons, as well as those contained in the Preliminary Petition, we ask that the Governor exercise his power to convert Paul Goodwin’s sentence to life in prison without the possibility of parole. In the alternative, we request that the Governor stay Paul’s execution and order that a hearing take place to determine his incompetency to be executed.

Respectfully Submitted,

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