

**Plea for Commutation of Death Sentence of
Thomas Clyde Bowling, Jr.**

October 19, 2004

“Don’t have anything to do with that innocent man....”

Matthew 27:19

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I. INTRODUCTION

Matthew 27: 17-26

17 So when the crowd had gathered, Pilate asked them, "Which one do you want me to release to you: Barabbas, or Jesus who is called Christ?"

18 For he knew it was out of envy that they had handed Jesus over to him.

19 While Pilate was sitting on the judge's seat, his wife sent him this message: "Don't have anything to do with that innocent man, for I have suffered a great deal today in a dream because of him."

20 But the chief priests and the elders persuaded the crowd to ask for Barabbas and to have Jesus executed.

21 "Which of the two do you want me to release to you?" asked the governor.

"Barabbas," they answered.

22 "What shall I do, then, with Jesus who is called Christ?" Pilate asked.

They all answered, "Crucify him!"

23 "Why? What crime has he committed?" asked Pilate.

But they shouted all the louder, "Crucify him!"

24 When Pilate saw that he was getting nowhere, but that instead an uproar was starting, he took water and washed his hands in front of the crowd. "I am innocent of this man's blood," he said. "It is your responsibility!"

25 All the people answered, "Let his blood be on us and on our children!"

26 Then he released Barabbas to them. But he had Jesus flogged, and handed him over to be crucified.

What should we make of Pilate's wife and her troubling dream of innocence on the day that her husband sentenced Jesus to death? Matthew, the only disciple to record this prophetic dream, provides no details. But it must have been powerful, because Pilate's wife begged her husband, "*Don't have anything to do with that innocent man.*" The only reasonable interpretation of her words is a plea to spare Jesus's life because her dream convinced her that he was innocent. Her dream reminds us that God through His Holy Word in the Bible stands opposed to executing someone who is **innocent**.

Unfortunately, Pilate didn't heed his wife. Instead, Pilate heeded his advisers, high officials and priests. He was not swayed by his wife's spiritual insight, her realization that Jesus was innocent, and that it would be wrong to kill Him, to do "anything" to Him. Pilate listened instead to his advisers, and to the

bloodthirsty crowd that demanded Jesus's death. In the end, Pilate heeded the wrong people, and did the wrong thing, for the wrong reasons. He abdicated his obligation, attached to his position, to use his own best-informed judgment. Possibly in an effort to be popular, or just to get it over with quickly and be done with an unpleasant, burdensome chore, Pilate allowed himself to be swayed by the rabble, the crowd, the general public. In the end, neither Pilate's hand-washing nor his attempt to pin the blame for his action on the crowd would save him from eternal infamy as the man who approved and allowed the execution of the innocent Jesus of Nazareth.

Thomas Clyde Bowling, Jr., isn't Jesus. He makes no claim to be anything like Jesus, except for one small, important similarity. Like Jesus, Bowling is innocent. And on behalf of Thomas Clyde Bowling, Jr., known to his family as "T.C.," we petition you, as the Governor of Kentucky, for clemency and the commutation of this death sentence. Bowling is mentally retarded. And he is innocent of the murders he was convicted of. Worse, the Lexington police and Fayette County Commonwealth's Attorney's office are withholding evidence that could help exonerate him, apparently because this evidence would reveal police corruption linked with the "Bluegrass Conspiracy" that has never before been revealed.

The Need for Certainty

In any decision to take a human life, few would disagree that no one, and particularly not a state, should act without serious consideration, without certainty. As you read and consider this petition, you will not be able to escape the conclusion that this case is riddled with unanswered questions. There is significant evidence confirming that Bowling is seriously developmentally disabled. And there is significant evidence that Bowling was used and blamed for this killing by the real masterminds, who had motive and opportunity, and who were protected by local law enforcement. This case lacks the certainty required for a decision to take a human life. For you as Governor, and as a man of God, the only righteous course of action is to grant clemency.

Early Filing of Clemency Petition

As you know, we are filing this Clemency Petition on October 19, 2004, prior to the setting of an execution date, and well before T. C. Bowling's court challenges have been determined. We do so at your request, to give you the opportunity to consider clemency before any execution date is set. However, there is no time limit on your power to consider and grant clemency, up to the moment of execution. No matter what you decide today, or this week, the power to grant clemency will remain in your hands, up until the moment of execution.

No court has ever allowed Bowling to present the ever-increasing amassed evidence that he is innocent. Nor has any court yet allowed us to present the equally mounting evidence of Bowling's mental disabilities and adaptive deficits, though we are still trying to be heard. The reason why no court has heard these claims is simple. As to the innocence claims, there are two main reasons: 1) the Commonwealth of Kentucky has refused to turn over ten video tapes, and other evidence regarding the alternate suspects in the Earley Bird Cleaner shootings, thus hindering Bowling's effort to prove his innocence; and 2) although Bowling has by now thoroughly investigated the alternate suspects, and has collected strong evidence of their guilt, no one connected with the suspects has been willing to talk.

Bowling's lawyers have sought, repeatedly, for a court hearing where these unwilling, even dangerous, witnesses could be compelled by subpoena to appear and testify under oath. Both state and federal courts have refused, leaving T. C. with the scant resources of a money-strapped public defender agency to continue the investigation. To get the highly sophisticated, dangerous witnesses in this case to talk, short of a court hearing, we would need something close to police resources, i.e., secure, high-powered sound-recording equipment, trained undercover "sting" agents, bullet-proof vests, and back-up protection. The Commonwealth has such resources at its command. But we who speak to you on his behalf have no such resources.

As you sit in judgment, making the decision whether to set an execution date, there is --as yet-- no official ruling on the vital questions of Bowling's innocence (which he has tried, repeatedly, to raise in the

courts), or on whether Bowling is mentally retarded. We must trust that you, as an educated man of science, will be able to judge for yourself. Please read this petition carefully. The trial prosecutors made no effort to explain why Bowling would kill two people he had never met, and had no connection to.

This petition will first address the question of whether or not Bowling should be exempted from execution based purely and simply on his mental retardation. We will then re-visit the mental deficit issue in the context of presenting Bowling's claim of innocence. Finally, this petition will address the Open Records claim, that is, the evidence that is still, to this day, being wrongfully withheld by the Commonwealth, evidence that we believe could help establish T. C. Bowling's innocence.

Bowling's mental retardation claim and his innocence claim are intimately connected and intertwined. All his life, Bowling's mental deficits have severely limited his ability to weigh and solve problems, not just problems in school, but also real-life problems. His deficits have limited his understanding of other people and situations. He has always been a follower, unable to distinguish which of his friends' requests and demands he should obey. As you will learn in this petition, members of a dangerous Lexington drug family befriended Bowling, recognizing him for what he is, the perfect "patsy." They used Bowling, and framed him for the Earley murders. Bowling is an innocent dupe.

II. T. C. BOWLING IS MENTALLY RETARDED.

Mental retardation is a form of "innocence."

Under both Kentucky law and the federal constitution, it is illegal to execute someone who is mentally retarded. This is a categorical bar, just like the bar against executing a person who was under the age of 16 at the time of the crime. A person who is mentally retarded is said to be "**innocent of the death penalty.**" To be "innocent of the death penalty" means that due to his mental retardation (cognitive and adaptive disabilities) Bowling is categorically ineligible to be executed under Kentucky law and under the United States Constitution. *Atkins v. Virginia*, 536 U.S. 304 (2002).

Thomas Clyde (T.C.) Bowling is mentally retarded.¹ He is a child in the body of a 51-year-old man. As a result of his low I.Q. and adaptive deficits, the odds have always been heavily stacked against him. Throughout his life, Bowling has tried repeatedly to overcome the odds. Unfortunately, despite repeated efforts, he has never succeeded. In the end, his mental retardation landed him on death row.

Lawyers for Bowling traveled to Buckhorn, Kentucky, where they interviewed many classmates, teachers, family and friends of T. C. Bowling. The picture that emerged is consistent and heart-breaking. His childhood friend John L. Miller remembers Bowling poignantly, saying T. C. “was slow, like me.” Miller nicknamed Bowling “Top Cat.” He recalls how they would console each other for bad grades, telling each other “D is for dandy,” and “F is for fine.” According to Miller and other witnesses, from early childhood, Bowling was an easy target to manipulate, and take advantage of. With his low intellect, and adaptive deficits, Bowling was always a follower, the very sort of person who would be easy to set up to take the rap for the Earley Bird Cleaner murders. All his so-called friends had to do was to talk him into buying a gun the week before, make sure he was drunk, as usual, on the day of the murders, and then use his car without his knowledge while he was drunk and out of it. It is extremely easy to frame someone who is mentally retarded, particularly when he is also drunk.

Bowling did not begin walking until he was eighteen months old. Toilet training also was slow. By the time Bowling was three years old, he had already suffered from scarlet fever, and after that he never seemed the same.

When he entered school, his academic difficulties began immediately. Bowling was recommended for special education testing during the first grade. Although many people recognized that Bowling needed special attention and consideration in school, he received a “gift” promotion to the

¹ The facts regarding Bowling’s mental retardation are fully supported, with citations to documentation and witness statements, in his petition in Fayette Circuit Court, currently on appeal in the Kentucky Supreme Court. Please carefully

second grade. Second grade was even worse, and he was held back. Although Bowling's grades did not improve as he continued his education, he continued to be promoted from grade to grade despite extremely poor grades. It is amazing that Bowling kept trying to succeed in school as long as he did. Despite a lack of testing for learning disabilities, a lack of tutoring, a lack of special education and vocational classes, Bowling tried and tried to get through school.

According to his friend, John L. Miller, he, Bowling, and one other "slow learner" were outcasts in school. In the seventh grade, an I.Q. test was administered to Bowling. He scored at the bottom of the barrel - - a 74, which places him in the lowest 1% to 3% of the population. This score qualifies him as mentally retarded. But, despite this I. Q. score, and despite D's and F's, Bowling was not placed in special education, because none existed in Buckhorn, Kentucky at that time. Instead, Bowling received another "gift" promotion to the eighth grade, where one of his teachers commented that he was a slow learner. The "gifts" stopped, however, when Bowling reached the ninth grade, where he remained for nearly three years until he dropped out after failing health class three years in a row.

Bowling's deficits were not just in the academic arena. While he was a child, his mother had to lay out his clothes and force him to get dressed for school. He continuously appeared to be in a "dreamy" state as he stared into space and failed to respond to anyone who attempted to gain his attention. He could not comprehend his parent's instructions and had to be told what to do over and over again. Even into his teenage years, Bowling had hygienic problems. His parents had to force him to take showers and inspect him to make sure he was clean for school.

Bowling's childhood interaction with others also evinced deficits. He could not sit still and was always folding paper while watching television. He was characterized as a "follower" and would do anything he was told to do including throwing a classmate's coat out the window of a school bus. He couldn't comprehend basic childhood games. When his peers played baseball, he would only watch. He

never played hide and seek, seemingly unable to grasp the concept - - watching aimlessly as peers played.

Bowling also had difficulty with other basic life functions. Outside of school, Bowling tried hard to fit in, to “make it.” But his low I.Q. and adaptive deficits plagued him and held him back. It is very telling that T. C. did not get his first job until he was 18. Even then, his father had to get the job for him, with his company Codell Construction Company, where he worked as Chief Engineer. Even with his father’s connection, T. C. didn’t last with Codell more than a few months. Entry level road work was too complex, too demanding for T. C. Bowling. After that, he never had anything but entry level jobs, such as car wash attendant, parking lot attendant, tobacco worker, and pizza delivery man. And he struggled even with the menial jobs.

Bowling had trouble finding addresses and making change when delivering pizza. He tended to only go places he knew how to get to. If he didn’t already know where a place was, he would not go. He rarely read anything. When he went out to eat, he never looked at a menu. Instead, he always ordered the same food. As a child, he never could figure out if he had enough money to buy candy. As an adult, he could not manage a bank account.

Bowling’s mother recalls that T.C. never had anything that he could take pride in. He tried to learn to cook, but the only dish he could master was grilled cheese.

In part because of the high risk that an innocent mentally retarded person could be framed, Kentucky bans the execution of “seriously mentally retarded offenders.” The United States Supreme Court recently raised this bar when it held that the Eighth Amendment categorically prohibits the execution not just of “seriously” mentally retarded offenders, but of all mentally retarded offenders. This is because of the fact that while mentally retarded defendants may be capable of distinguishing right from wrong, their fundamental cognitive limitations make them inherently less culpable for criminal actions:

Because of their impairments . . . by definition they have diminished capacities to understand

and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others. . . . Their deficiencies do not warrant an exemption from criminal sanctions, but they do diminish their personal culpability.

Atkins, 536 U.S. at 318. Mentally retarded people are simply inappropriate candidates for the death penalty.

In addition to the high risk that a mentally retarded person could be framed, mental retardation also carries with it a uniquely heightened risk that the criminal justice system will not identify the disability for what it is. This is true because mentally retarded people project an unwarranted impression of lack of remorse, and seem more likely, in the eyes of the jury, to pose a future danger.

Neither the Kentucky legislature nor the Kentucky Supreme Court have determined what procedures should apply to a death row inmate raising mental retardation for the first time on appeal or in post conviction. Bowling has an appeal pending in the Kentucky Supreme Court right now, requesting the Court to establish procedures for raising mental retardation claims after the trial.

We are still seeking through litigation a mental retardation expert to interpret T. C.'s test scores, give him additional testing on adaptive deficits, explain the margin of error, the Flynn effect (which causes a test to produce higher, unreliable scores as the test ages, until it is re-normed), and other factors affecting the reliability (or unreliability) of the specific I. Q. tests that T. C. has taken. Mental retardation, a sub-category of psychology, is not an easy subject to master. There are many long, complex treatises on it, and though as T.C.'s lawyers we are reading and learning more on the topic every day, we are far from experts. There can be no doubt that Bowling has serious cognitive deficits. Clearly he wasn't lazy, and clearly he tried, over and over again, and just couldn't make it through school. A boy who fails ninth grade twice --and still has the humility and courage to try it *a third time* before he finally gives up and drops out-- has to be given credit for trying. But just as clearly, a boy who cannot make it through the 9th grade on his third try, a boy who fails "Health" three times, is a boy with serious mental deficits.

We urge you, as Governor, to consider how these facts call for mercy and clemency.

Alternatively, despite the anxious pressure from the Attorney General, you have the power to refrain from setting an execution date for Bowling at least until after his current litigation, especially his mental retardation claim, has been heard and resolved in the courts. Kentucky must establish some procedure for Bowling –and other condemned prisoners whose cases were already post-trial when the United States Supreme Court banned the execution of the mentally retarded-- to get his mental retardation claim heard and decided, in order to ensure that Kentucky does not become the first state to execute a mentally retarded inmate in violation of *Atkins* (not to mention K.R.S. section 532.140). As Governor, you have the power to ensure that the courts have time to do their job. You also have the power to do what the courts cannot do—grant clemency to Bowling because of his developmental disability. As a physician, you have long been charged with taking care of the ill, the disabled, and the handicapped. Now, as Governor, you have the additional power to ensure that Kentucky does not mete out inappropriate punishment for the weakest members of our society. We urge you to exercise this power.

Bowling has not wrongfully delayed filing his mental retardation claim, nor any of his claims.

Bowling’s trial occurred right after the enactment of Kentucky’s mental retardation statute, which exempted only “seriously” mentally retarded people from the death penalty in Kentucky. Bowling’s trial attorneys did not raise mental retardation at all. Rather, they chose to present a few family members who testified regarding some, scattered aspects of Bowling’s upbringing. They spoke of a history of mental illness in the family, they spoke of T. C.’s depression after the break-up of his marriage, and his heavy dependence on alcohol. Mental retardation was not raised, and it was not discussed at trial. Nor was it raised on appeal or in post conviction, until this year.

As soon as we realized that Bowling has a strong, viable mental retardation claim, we filed it in state court and simultaneously asked the 6th Circuit for permission to file a successor habeas. It would be patently unethical to “sit” on a viable mental retardation claim and leave our client on death row. If

Bowling succeeds on his mental retardation claim, he will immediately walk off of death row, though not out of prison. No ethical attorney would withhold even briefly any claim that could save a client from any unnecessary time on death row. This would be cruel to the client, and to his family. We have raised this claim in good faith and prior to any execution date, when the courts still have sufficient time to consider and rule on it.

III. T. C. BOWLING IS INNOCENT.

**“DON’T HAVE ANYTHING TO DO WITH THAT INNOCENT MAN.” --
MATTHEW 27:19**

Bowling’s mental retardation explains how easily he was used.

Bowling was drinking heavily the day of the Earley Bird Cleaner shootings. He remembers few details of what happened that day. He was not present at the Earley Bird murders, and was not involved with the shootings. Except, that after the shootings, John Ed Adams told Bowling that he had better get his car out of town. T. C. considered John Ed Adams his best friend, a sort of father figure to T. C.. When John Ed told T. C. to get his car out of town, to hide it, T. C. did what he had always done since childhood. He immediately did as he was told. He didn’t ask questions. He drove his car to Powell County, hid it in some bushes, and hitchhiked to his sister’s place, where the police found him, sleeping off his drunkenness on a couch.

The Commonwealth’s theory of this case --that T. C. Bowling stalked and shot an innocent young couple that he had never met before, for no reason-- has never, ever, made sense.

Unfortunately, T. C. Bowling has been largely unable to assist his attorneys in figuring out what really happened. Bowling was drunk the day the crimes occurred. All he remembers is that John Ed Adams came to him that day, and told him to get his car out of town. T. C. is afraid for the truth of this case to come out. He is mortally afraid that the accusations we are raising against the Adams family

could place his own family in mortal danger. He is afraid that the people who killed the Earleys will also kill members of his own family, who are still living in Lexington.

With the little assistance T. C. has been able to provide, T. C. Bowling's attorneys and investigators have searched to make sense of the case. We have managed, with little help from a scared, intellectually challenged, semi-competent client, no help from the courts, and scant public defender resources, to uncover compelling evidence of T. C. Bowling's innocence.

The Commonwealth of Kentucky refuses to reveal the truth behind the Earleys' murders because it would expose corruption in the Lexington Police Department.

Eddie and Tina Earley died in the early morning of April 9, 1990, shot to death in the parking lot of the Earley Bird Cleaners, a small dry cleaning business owned by Eddie's parents, and run primarily by Eddie. The physical evidence suggests that Tina was the primary target, as she was apparently shot first, multiple times, while still sitting in the car. The key was left in the cleaning business's door. Apparently it had been placed there by Eddie, opening up the cleaners, while Tina waited in the car. Eddie's body was found on the ground beside his wife's open car door. Thus, it appears that when Tina was shot, Eddie ran back to the car, where he was also shot.

Bowling has steadfastly maintained his innocence. The only evidence linking Bowling to the crime was entirely circumstantial, including the identification of Bowling's car as the car driven by the gunman, the fact he had bought a gun a week earlier that "could have been" the murder weapon, the fact that one witness (but not the other) described a man wearing a jacket and hat like a jacket and hat that Bowling owned, and the fact that after his car was used in the Earley shootings, Bowling took it, parked it on his parents' property in Powell County, and then hitchhiked to his sister's place in Tennessee, where he was found and arrested, asleep on a couch.

Whoever shot the Earleys used T. C. Bowling's car. Just before the shooting, T. C.'s car and the Earleys' car collided in the parking lot of the Earley Bird Cleaners, leaving identifiable paint smears on

both cars, as well as shattered headlight glass, left in the parking lot, and later identified as coming from T. C.'s car.

As soon as the police identified Bowling's car, Bowling was arrested, and any investigation of alternate suspects evaporated. There were two eye-witnesses. One described a man who could possibly have been Bowling. However, this eyewitness was unable to pick Bowling out of a line-up. Another witness described someone who looked entirely different from Bowling, a description that could have matched one of John Ed Adams's sons. That witness disappeared.

Police records and photos of members of the Adams drug family reveal that at least two of these men bear a resemblance to T. C. Bowling. A member of the Adams family could easily have borrowed T. C.'s hat and jacket and then borrowed his car while T. C. was drunk at John Ed's house. Police never established any link between Bowling and the Earleys, nor any motive for him to kill them. Bowling had never met either Eddie or Tina, and did not know them. The experts could not identify the gun Bowling had purchased days earlier as the murder weapon. The Adams knew the Earleys, had the means to kill the Earleys, and a motive to do so. One of the Adams committed the murders.

The Earleys were murdered by Lexington drug dealers connected with the police.

The Earleys were killed due to their involvement with the John Ed Adams Lexington drug family. Though well known to the Lexington police department, the Adams typically eluded arrest because they had at least one inside connection to the Lexington Police Department. That connection was David Shade, a police officer who was married to one of Donald Leroy Adams' sisters. Shade routinely alerted the Adams whenever a warrant was issued, and gave them enough time to hide their drugs and escape before the police arrived.

Police Chief Larry Walsh, now retired, was hired to clean up the Lexington Police force in the wake of the Bluegrass Conspiracy. One of the first cases he worked on was the Earley Bird murders. Walsh swears that Eddie Earley informed on Donald Adams, and got Donald Adams arrested on drug

charges. Walsh told the Lexington Bureau of Investigation to investigate Donald Adams for the Earley murders. But Bowling was arrested instead. Walsh also swears that he documented the fact that Eddie Earley informed on Donald Adams and got him arrested. And there is evidence that the Lexington police were involved with the Adams family as well.

Eddie Earley's parents owned and operated the "Earley Bird Cleaners," a small dry cleaning business located in the north end of Lexington where Eddie worked. Located directly behind the Earley Bird was a gas station and convenience store named the White Lightning. In 1987, the White Lightning was managed by Donald Ray Adams, who hired his brother David Adams to work there.

Donald Ray and David used the store as a front for selling drugs. They were supplied by their brother-in-law, Donald Leroy Adams, who dealt in large quantities of cocaine and marijuana, and who traveled between his homes in Kentucky and Florida. All of the Adamses grew up in Irishtown, a small neighborhood in Lexington close to downtown, and bordered by railroad tracks. Donald Ray and David were two of eight children born to a man named John Quincy Adams. Donald Leroy was one of twelve children fathered by T. C. Bowling's friend, John Ed Adams. Allegedly, John Quincy and John Ed both named their sons Donald to enable them to confuse law enforcement. As they grew older, they often d

The Adams family operated like the mob. While they had many people working for them, selling drugs and even robbing houses, only the family members themselves "owned" the operation. They frequently recruited children, convincing them that their age would protect them from prosecution.

Tina and Eddie Earley knew the Adams family through their neighboring businesses. There are conflicting reports regarding whether Tina and Eddie used drugs. However, David Adams claims the couple occasionally purchased marijuana from him and his brother. According to Donald Ray, Eddie once asked if he could sell marijuana for him. Police found a pack of rolling papers in some warehouse space the Earleys were renting at 901 E. Third Street in Lexington.

After the Earleys were killed, Donald Ray told police that the Earleys had borrowed approximately \$600 from him. Just before they were killed, the Earleys filed for bankruptcy. And only a week before their deaths, they had moved out of their apartment on Jennifer Road and in with Eddie Earley's parents. Eddie's parents told police that the couple had been receiving threatening phone calls.

Tina Earley was having an affair with one of the drug dealers.

Tina got a job at the White Lightning in late 1987. Shortly thereafter, she began having an affair with Donald Ray Adams. Hours after she was murdered, Donald Ray told police that he had an affair with Tina. He referred to her as a "whore" and claimed that she had many affairs. He said Eddie knew about his wife's infidelity, but was too meek to do anything. Donald Ray said that "Eddie felt like he was fat and ugly and that he was lucky to have a good-looking girl like Tina, so he never would force the issue."

Donald Ray said his affair with Tina began after she had her baby. He claimed Tina told him she had many other affairs and that the baby was not Eddie's. Donald Ray said Tina's mother knew all about their affair, and often drove Tina to meet him. He said when they went to hotels, Tina would pay for the room, spending Eddie's money.²

Reeling from the "Bluegrass Conspiracy," the Lexington Police Department covered up the truth about the Earley murders to avoid further exposure.

At the time the Earleys were murdered, the Lexington Police Department was still reeling in the aftermath of the 1970's - 1980's scandal known at the time as "The Bluegrass Conspiracy." The "Bluegrass Conspiracy" was uncovered by Kentucky state police officer Ralph Ross's investigation of the Lexington Police Department, beginning in the early 70's with the discovery of a young woman's body in a Kentucky river and culminating in the exposure of rampant corruption within the department.

The young woman, Melanie Flynn, was murdered. The Kentucky State Police had jurisdiction

² Donald Ray Adams's statement to police dated 4/10/90.

over the investigation due to the location of the body. But the Lexington Police Department fought and won the right to keep the case. To this day, Flynn's murder remains unsolved. The entire investigative file disappeared, at least for a time, from police offices. The Lexington Police Department conspired to cover up Flynn's murder in order to prevent exposure of the department's involvement with the criminal activity that led to Flynn's death. This was, essentially, the "Bluegrass Conspiracy."

Suspicious of the Lexington Police Department's inept handling of the case, Ross began an investigation of the Lexington police force. That investigation revealed heavy police involvement in drug trafficking. Members of the undercover narcotics division were dealing drugs and arms. Their operation grew to an international scale, with the corruption reaching both state and national governments. Lexington police officers purchased and flew their own airplanes between Columbia and Kentucky, transporting massive amounts of cocaine and marijuana. In addition to drugs, these officers also became involved with many of the city's wealthiest citizens in a high-end prostitution ring. It is believed that Flynn was murdered due to her involvement as a paid escort.

Around this time, many Lexington police officers took their uniforms to the Earley Bird Cleaners. Among those was John Bizzack --at the time the Earleys were murdered, one of the highest ranking officers in the department, second in command only to the Chief and in charge of both the homicide and narcotics division. Bizzack was involved in the Flynn cover-up, along with several other cover-ups.

Another police officer customer of the Earley Bird Cleaners was Larry Walsh. In 1990, just before the Earleys were murdered, Walsh became Chief of Police. Walsh had never been involved in undercover work or narcotics investigations. He'd been a beat cop throughout his career, and was appointed Chief of Police to clean up the corruption within the department. After Walsh took office, many officers either retired or took jobs elsewhere, including David Shade and John Bizzack. But both were still on the force during the Earley investigation.

The Adams thought Tina set them up to be raided by the police, and Eddie got Donald Ray thrown in jail.

A few months before the Earleys were killed, men dressed to look like police officers staged a fake raid on Donald Ray Adams' Lexington property and took about \$5000 worth of drugs. Donald Ray thought the police were real, and that Tina Earley had set him up to get even, because she was angry over their break-up. This incident provided powerful motivation for Donald Ray, and the Adams family, to take revenge against Tina.

In addition, possibly due to jealousy over Tina and Donald Ray's affair, just before the shootings, Eddie began telling his customers about Donald Ray's drug dealing. Eddie told anyone who would listen, including many of his police officer customers. But Chief Walsh was the only one who did anything about the information.

Eddie told Walsh that Donald Ray Adams was dealing in large amounts and that Adams bought many expensive things and lived in a house armed with an elaborate security system. Walsh noticed Eddie was nervous and that he shared this information quietly, looking around. Walsh concluded that Eddie was afraid of Donald Ray Adams. Walsh drove to Donald Ray's house, located only a few blocks from the cleaners, and verified the existence of an alarm system. He sent a memo to the narcotics division. Not long thereafter, Walsh heard that Donald Ray Adams had been arrested.

The Chief of Police's suspicions about the crime were never properly investigated.

When the Earleys were murdered, Walsh immediately suspected Donald Ray Adams. He sent an officer to the scene of the crime to advise the investigators that Eddie had provided information on Donald Ray. The officer brought with him a copy of Donald Ray Adams' arrest record. But this record was never disclosed to the defense, and was not included in the investigative file.

At the crime scene, veteran Lexington police department Lieutenant Fran Root of the Crimes Against Persons Unit led the initial investigation, videotaping the scene. After discussion with Captains

Kitchen and Bizzack, the investigation was assigned to Sergeant Willaim Fockele to coordinate, using Financial Crime Detectives. The investigation remained under Root's control. But despite the obvious seriousness of the crime, Root, oddly, assigned Williams Henderson, a detective from the car theft unit, to be lead detective. Henderson had never investigated a murder, or even a serious assault. Yet he was placed in charge of a double capital murder. Root assigned himself the task of investigating the "Adams connection," and then never interviewed or investigated any of the Adams.

On the day of the murders, April 10, 1990, Detective Henderson interviewed Donald Ray at the Lexington jail where he was still serving time, though on work release, for the Eddie Earley-connected drug conviction. Adams left the jail daily to work at "Body Masters," an auto repair shop he and his brother David bought and used as their new front for selling drugs. After the killings, Donald Ray told police that he and Tina had an affair and that she had many other affairs. He suggested they begin looking for the killer in the Bryant Station area of Lexington where Tina's last boyfriend lived.

Also on the day of the murders, Henderson also interviewed Donald Ray's brother, David Adams. David confirmed Donald Ray's affair with Tina. Like Donald Ray, David was also eager to provide suggestions to the police about who they should investigate. David told police that Jeff Hall had come to his body shop the day of the murders looking for replacement parts for a damaged front headlight.

Jeff Hall went to high school with the victims before dropping out at sixteen. Eddie Earley's friends told police that Hall often bullied Eddie and the two were not friends. Hall had worked for David Adams for several years before the murders. Based on David Adams' information, police arrested Hall and questioned him for hours about his knowledge of the Adams' drug dealing and any connection they had to the Earleys. According to Hall, a narcotics officer he knew named Gaylord Thompson questioned him extensively about Donald Ray Adams, David Adams and Donald Leroy Adams. Thompson had previously tried to get Hall to perform a controlled buy from Donald Leroy, and

got angry when Hall simply took the money and left with Donald Leroy. Thompson had been trying to bust Donald Leroy Adams for years, and he was well aware of the large volume of drugs Adams was dealing and the extent of the operation. The questioning ended abruptly when Thompson was called out of the room. When he returned, he told Hall to leave because a man named Thomas Bowling had just confessed. This was a lie. No confession by T. C. was ever presented at trial.

Bowling never confessed. The police file of the investigation provides no documentation of Thompson's involvement in the investigation. Even though Hall was questioned for hours at the police station after having been arrested, the only documentation in the file is a fifteen page transcribed interview conducted by Det. Henderson.

Bowling was the perfect patsy.

Thomas Bowling dropped out of school after failing to complete the ninth grade three times, ending an academic career of Ds and Fs, special education referrals and repeated grades. After he dropped out, he began what would become his life's work – drinking alcohol. At the time he quit school, he lived with his parents in Buckhorn, Kentucky. He did not get a job, rather he hung out all day with his many cousins and drank local moonshine. Soon thereafter, Bowling's family moved to Lexington, Kentucky.

In Lexington, Bowling met John Ed Adams, a man much older than himself. Bowling was only fifteen years old. The two men became close friends several years later, when Bowling let John Ed live with him in an apartment on Maple Street for over a year. Bowling's new father figure was a violent man who drank. Both John Ed and Bowling were heavy drinkers and spent much of their time in bars together.

By the early 1990s, Bowling had been married three times, and his third marriage to a woman named Dottie Sue was ending. He had never been able to hold down a steady or well-paying job. He had worked as a janitor, on a road crew, and as a farm hand. None of these jobs lasted very long and at

the time the Earleys were killed, he had been working as a pizza delivery man. But with the disintegration of his marriage, he began to spend most of his time drinking with John Ed.

When Dottie Sue left Bowling for another man in March of 1990, Bowling moved in with his parents. This was just three weeks before the crime. He had to hide his drinking from his mother, who did not approve, so he spent most of his time at John Ed's apartment, drinking heavily. His mother was simply in denial with regard to her son's alcoholism. Though she saw him frequently vomiting while he lived with her, she failed to recognize that this was because he was drunk. Similarly, she reported often hearing him stay up all night without realizing that he was drinking after she went to sleep. T.C.'s mother also witnessed bizarre behavior. She saw T. C. watch television with his face right against the screen. He dodged imaginary bullets while driving his car. She noticed how depressed he was over the break up of his marriage. He spoke to her of death and dying, instructing her regarding the distribution of his belongings.

The Friday before the Earleys were murdered, Bowling stopped going to work. He brought a gun home that evening, a gun that John Ed Adams had helped him purchase that day. T. C.'s sister stated that he appeared drunk. She was angry when she found him showing the gun to her son. Early Monday morning, April 9, 1990, Bowling's mother saw him leave the house around 6:00 a.m. She would never see him as a free man again.

That morning, Bowling went directly to John Ed's house and continued drinking. He had been drinking through the night while his mother slept, and he left the house when she awoke. Bowling remembers very little about the day. Late that afternoon, however, John Ed told Bowling to get out of town and to hide his car. Bowling asked no questions, drove his car to his family's remote property in Powell County, and left it there. He also hid his gun on the property, not wanting to take it with him. From there, he hitchhiked to his sister, Pat's house in Tennessee.

Bowling's family helped the police.

Bowling's mother became frantic when he did not return that Monday. Because of his bizarre behavior and his depressed state, she feared he had killed himself. She called Bowling's sister Pat, who immediately drove from Tennessee to Lexington. Together they drove to Powell County, where they found Bowling's car on the family property. Upon their return to Lexington, Pat's husband called to say that Bowling was asleep on their couch in Tennessee.

Alarmed by news reports in which her brother's car was described as the car driven by the Earleys' murderer, Pat phoned her minister for guidance. Following his advice, Pat phoned the Lexington police. Within hours, Bowling was arrested in Tennessee.

Once Bowling was arrested, the investigation essentially ended. At trial, the prosecution argued Bowling had stalked the victims and planned their murders for no reason whatsoever. Out of the jury's hearing, the prosecution informed the judge they had evidence which suggested Bowling was a hit man --hired to kill the Earleys. However, no such evidence was ever turned over to the defense, no such evidence was ever presented, and no one else was ever investigated or charged with regard to the Earleys' deaths.

The Earleys were killed because they angered the Adams family. Eddie's information led to Donald Ray's arrest at a time when the Adams were becoming vulnerable. The exposure of the corruption within the Lexington police department resulted in the Adams' decline, as it denied them the police protection they had enjoyed, particularly from David Shade.

The Adamses were significant in the world of drug dealing in and around Lexington, Kentucky in the 1980s. As such, they were almost certainly involved with the corrupt drug-dealing members of the Lexington Police Department. If Adams family members had been prosecuted for the murders of Tina and Eddie Earley, they would undoubtedly have revealed damaging information in order to save themselves, including information regarding their friends in the police department.

In order to prevent such testimony from the Adams family, and possible criminal charges, the

Lexington police looked no further into the case than Bowling, the man given to them by the Adams.

Donald Adams' business card was found in Bowling's car. But John Ed Adams, who was interviewed by police after Bowling's arrest, told police that Bowling "never let anyone drive his car." This statement was untrue, as John Ed was well aware. Later, John Ed told police that Bowling had purchased a gun from his neighbor just a week before the crime. In fact, John Ed had personally taken Bowling to his neighbor's apartment and helped him purchase this gun.

Bowling was used, not just by the Adams, but by the police and prosecution. Members of the Adams family threatened Bowling and told him that his family would be harmed if he were ever to speak. Bowling is on death row, while the Adams have never been charged or prosecuted for the murders of the Earleys.

IV. WHAT ARE THE LEXINGTON POLICE AND THE FAYETTE COMMONWEALTH'S ATTORNEY HIDING?

From October 1999, through July, 2000, T. C. Bowling sent Open Records Act requests to the Lexington Fayette Urban County Government (LFUCG), a public agency, requesting copies of all police records relating to Bowling himself, and also to Donald Ray Adams, David Adams, Donald L. Adams, Sr., Edward Earley, Tina Earley, and Clay Brackett, the man who sold Bowling a gun.

LFUCG provided some records, and the Fayette Circuit Court ordered LFUCG to provide even more records. But other key records, including ten video tapes of witness interviews conducted early in the investigation of the Earley Bird murders, are still being withheld. The main reason LFUCG offered for its refusal to disclose the ten witness tapes was that once it transferred them to the Fayette County Commonwealth's Attorneys' office (without retaining any copies), they immediately became "privileged" and exempt from disclosure. Final judgment in the Open Records lawsuit was entered on September 23, 2004. Bowling is appealing the Open Records denial in the Kentucky Supreme Court. One of the main

issues on appeal will be the question whether a state agency that does not wish to disclose records can simply transfer them to a willing Commonwealth's Attorney's office, and magically transform them—presto change-o—into privileged material.

It is a mystery why LFUCG—and the Fayette Commonwealth's Attorney-- is refusing to turn over the ten video tapes. The only reasonable conclusion is that these ten tapes contain key information regarding the Lexington police decision to halt its investigation of the Adams family, and to focus on T. C. Bowling. It is also reasonable to believe that the tapes contain information that LFUCG and the Fayette Commonwealth Attorney are trying to hide. Given what we know about the Adams family connections with the Lexington police, we can only conclude that LFUCG and the Fayette Commonwealth's Attorney are attempting to cover up additional "Bluegrass Conspiracy" style police corruption that has never been revealed.

The Myth of Thorough Judicial Review

It is a myth that condemned inmates' cases are closely and completely scrutinized by state and federal courts. People think the legal system gives death row prisoners too many opportunities to complain about unfair trial proceedings. But the reality is much different. Non-retroactivity doctrines, default rules, and burdens of proof insulate capital cases from review. T.C. Bowling has tried, repeatedly, to get either a state or a federal court to hear new evidence that he was framed. He has fought for Open Records access to exculpatory police records. And he is fighting in court for permission to interview his jurors, based on newly discovered information that his jury failed to consider any of his mitigating evidence. To date, no court has agreed to hear any of these claims. His petition asserting his mental retardation claim has already been summarily dismissed. The courts have refused to listen --primarily on technical, procedural grounds.

Clemency exists because of these potentials for error in the judicial process. A judgment about human life is a weighty one for anyone who takes seriously their responsibility to preserve life. Such a decision should not be made without certainty. The decision whether a person should be executed by the

Commonwealth of Kentucky is diffused throughout the criminal justice system and the executive branch. Clemency, however, rests with a single individual --shared with no one. You, as Governor are the only one who has the opportunity, responsibility, and power to consider all the information, every factor, every value, including all the matters the courts were unable to consider.

The jury that sentenced T. C. Bowling to death heard little to nothing of the evidence supporting his claim of mental retardation. They never heard about the alternate suspects, and never heard that the police were withholding evidence. As a result, no one should rely on the trial court's determination that T.C. Bowling should die. Bowling's jury never got the information it should have had. And no court since then has ever allowed an airing of the full information. Only you, as Governor, have the full story (or as close as anyone can get to the full story), and only you can achieve a just result in this case.

VII. CONCLUSION

This petition, together with Bowling's mental retardation lawsuit, presents enough information to conclude that T. C. Bowling is mentally retarded. The only righteous course of action is to commute Bowling's death sentence. If, after reading and considering this petition, and Bowling's other pleadings, you are still unsure whether Bowling is mentally retarded, or whether he falls somewhere just above the cut-off, you still should grant clemency and commute Bowling's sentence from death to life without parole. Any uncertainty, on a life or death issue like mental retardation, should be resolved in favor of Bowling. If you are at all uncertain, in order to avoid ordering, or condoning, an illegal execution, the right course of action is to grant clemency.

You should consider Bowling's mental retardation twice --first on its own (as a categorical bar against the death penalty), and second, in conjunction with Bowling's claim of innocence. Bowling was used by the real murderers, and you must factor in his mental limitations and disabilities. It is commonly accepted that the less intelligence a person has, the less capable he is of making fully rational, fully

accountable, culpable, decisions. This petition presents evidence that T. C. Bowling was a mentally retarded, severely alcoholic man who fell in with bad, manipulative, greedy company, was used by them, and did their bidding out of a dim, mistaken sense of loyalty and friendship.

In this clemency petition, you have seen more evidence and data on Bowling's mental retardation than any juror, prosecutor or judge has ever seen or considered before. Compared with previous decision-makers, you have a much fuller picture. We pray that you will agree that there is significant doubt about both Bowling's guilt and his mental culpability, enough doubt to make executing him unjust.

If you commute T. C. Bowling's death sentence, you will by no means be the first governor to grant clemency to a death row prisoner. Since 1920 nine Kentucky governors have commuted 35 death sentences, for reasons including youth, personal aspects of the defendant's life, recommendations of citizens and ineffective assistance of counsel. The last commutation of death to life occurred in 2003, when Governor Patton commuted Kevin Stanford's sentence, based on the fact he was a juvenile at the time of his crime. Prior to that Governor Edward T. Breathitt commuted the death sentences of three men in 1967.

Attached to this Petition for Clemency you will find over 700 signatures by the citizens of Kentucky, and elsewhere, urging you to grant clemency. In addition, we are providing a short video taped presentation with footage of T. C. himself, and members of his family. We urge you to review this petition thoughtfully and carefully, and to view the video with an open heart.

Please, Governor Fletcher, don't have "anything to do with this innocent man." Please do not execute a mildly mentally retarded man who was used, and framed, by others far more culpable than he. As you know from reading the New Testament, and the story of Pilate's role in Jesus's crucifixion, the concept of clemency goes back at least to the time of Christ. It is the historic remedy for preventing miscarriages of justice after the court process has been exhausted. And it has long been an established and time-honored custom in the Commonwealth of Kentucky. This petition began with the story in Matthew 27 of Pilate's

wife's dream of innocence. God's disapproval and prohibition against executing someone who may be innocent appears throughout the Bible: Exodus 23: 7 ("Have nothing to do with a false charge and do not put an innocent or honest person to death...."); Proverbs 17:26 ("It is not good to punish an innocent man..."); Proverbs 18:5 ("It is not good to ...deprive the innocent of justice."); Isaiah 5:23 (disapproving those who "deny justice to the innocent"); Jeremiah 19:4 ("...and they have filled this place with the blood of the innocent."); Jeremiah 22:17 ("But your eyes and your heart are set only on dishonest gain, on shedding innocent blood and on oppression and extortion."); and Isaiah 59:7 ("Their feet rush into sin; they are swift to shed innocent blood. Their thoughts are evil thoughts; ruin and destruction mark their ways.").

The suffering of Eddie and Tina Earley and their families calls for both justice and punishment. But for someone with T. C. Bowling's limitations, and given all the circumstances, and particularly the lingering questions pointing to his actual innocence, a sentence other than death is the most effective and responsible way to express communal outrage and sorrow at the loss of Eddie and Tina Earley's lives. Executing a mentally retarded, innocent man, whose compelling story has never been aired, is not the solution.

T. C. Bowling, his family, his friends, his lawyers, and the many citizens who have signed the attached petitions, prayerfully request that you, Governor Fletcher, exercise your constitutional powers in granting this petition.

Respectfully submitted,

SUSAN J. BALLIET
Assistant Public Advocate
100 Fair Oaks Lane, #301
Frankfort, KY 40601
(502) 564-3948
(502) 564-3949

ELIZABETH R. STOVALL
Attorney at Law
6008 Brownsboro Park Blvd.
Louisville, Kentucky 40207
(502) 899-4759 (phone)
(502) 899-4760 (fax)

DAVID M. BARRON
Assistant Public Advocate
100 Fair Oaks Lane, #301
Frankfort, KY 40601
(502) 564-3948
(502) 564-3949

