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June 12, 2013

**VIA EMAIL - NEEDS IMMEDIATE ATTENTION**

[rick.scott@eog.myflorida.com](mailto:rick.scott@eog.myflorida.com)

The Honorable Rick Scott, Governor  
State of Florida - Office of the Governor  
The Capitol  
Tallahassee, FL 32399-0001

**RE: William Van Poyck (No. 034071)**

Dear Governor Scott:

I am counsel to William Van Poyck, and have been for the past 21 years on a pro bono basis. I write to ask one last time for clemency in this matter. I realize you have reviewed this matter but before this execution occurs I want to make sure that you know all of the circumstances that led to the crime in question, his legal proceedings and his current circumstances. They are:

1. His conviction and sentence was based on a false premise: that he killed Fred Griffis. The prosecution in this case argued that Van Poyck killed the guard, and the jury verdict form and the trial judge both indicated their belief that this was likely. It has since been shown that he was not the killer, and in fact did not intend anyone to die. Very recently, the widow of Frank Valdes provided a sworn statement that Valdes confessed to her that he was the one who killed the guard, and that Van Poyck's only desire was to free his friend from prison. It was not easy for Ms. Valdes to come forward with this information. She is an elderly woman and had no desire to get involved in this matter. But she came forward upon hearing news accounts of his impending execution because she felt she could not sit back and see this happen. A copy of her statement is attached. While I realize that Bill's mere involvement in the crime that led to the shooting of a guard could make him eligible for the death penalty, it seems fundamental that the sentencing body who decides that penalty should not be basing such a decision on the false belief that his involvement included firing the fatal shots. Indeed, juror affidavits have since indicated that their verdict would have been different had they known the truth. Bill testified that he was "stunned" by the killing; the newly discovered evidence fully supports that belief. The courts have said this came too late; but it's not too late for you to consider it at this point.

2. Van Poyck is far from any kind of sociopath or psychopath – the type who one normally associates as deserving of this type of punishment. But I will say that his descent into a life of crime almost seemed inevitable from his life's tragic circumstances. He was dealt a bad hand under any viewpoint. And yet it could have been so different. His father was Walter Van Poyck, a decorated World War II hero, a captain in the 82d Airborne Division with numerous tours of duty. He lost one leg and part of his other foot from German mortar fire in the invasion of Holland. After the war he married a nurse who cared for him, Phyllis, and they had three children. Bill was the youngest. When Bill was two, Phyllis, then pregnant with her and Walter's fourth child, went to help some sick neighbors. She never came back because she, along with the neighbors she had gone to help, was killed by carbon monoxide poisoning. At that point, the family completely fell apart. Walter, having already seen more horrors than anyone should ever have to see, and now having lost his wife in a freakish accident, simply withdrew. The children were left to be raised by a series of housekeepers and ultimately a stepmom who ranged from neglectful to abusive. All three of the Van Poyck children had serious emotional issues growing up. Ultimately, the oldest son, Jeffrey, began burglarizing homes around the age of 13 and took his 9 year old brother Bill along. At 12 Bill landed at the Dozier School for Boys in Okeechobee, which has a well documented and shameful history of abuses, including recent revelations of skeletons of boys in unmarked graves. At 17 he was involved in a bungled armed robbery attempt of a restaurant and somehow received a life sentence (from Judge Alphonso Sepe, who would later himself go to prison for taking bribes). Once in prison he suffered a complete mental breakdown and was put on industrial strength psychotropic medication for a number of years. He eventually befriended a man named James O'Brien, who was serving a life sentence for felony murder due to the death of his accomplice by police fire in a jewelry store heist. O'Brien helped Bill rise from the ashes of his tortured life, and develop into an accomplished writer and legal aid. Bill received parole at 32. Believing O'Brien had unjustly received a life sentence for a death that O'Brien had not caused, he became obsessed with getting him out of prison; there was never any desire or intent that anyone would be killed in that attempt.

None of this evidence was ever in front of Van Poyck's jury or trial judge due to his trial counsel's failure to conduct a penalty phase investigation; it is documented that his trial counsel wrongly believed there would be a multi-week hiatus between guilt and penalty phases and he was counting on that to conduct a penalty phase investigation.

3. Today, and despite the circumstances that led to his current situation, Van Poyck is, simply put, rehabilitated. He has accomplished enormous things under the most difficult of circumstances. He helps other prisoners, and has become something of an icon in prison. In recent years, he has had a number of his short stories published in various literary journals and has won several writing contests and awards, including the PEN American Center's 2004 Fielding Dawson Special Citation for Outstanding Achievement. He has published two novels, along with his award winning autobiography, "A Checkered Past".

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I've intentionally kept this short and to the point; there is much more that could be said. I will simply close by saying that if Bill's sentence is permitted to go forward it will constitute a travesty and a tragedy. A travesty because the system broke down; it did not work as designed to narrow him to the worst of the worst, deserving of death. It will be a tragedy because of the man he's become, and would continue to be if permitted to live.

Thank you for your consideration.

Very truly yours,

QUARLES & BRADY LLP



Jeffrey O. Davis

JOD:skm  
Enclosure