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August 2, 2021

Governor Kate Brown

Re: Commutation Petition of Lynley Rayburn

Dear Governor Brown:

Thank you for this opportunity to provide information as you consider this application. I am well aware of the letters you have received from the family of Dale Rost. They have eloquently and articulately relayed to you the impact this murder has had, and continues to have, on their lives. Mr. Rost was murdered by Ms. Rayburn (hereinafter referred to as Rayburn or Lynley) and A.J. Smith (hereinafter referred to as Smith).

I handled this case from the discovery of Mr. Rost's body, through plea and sentencing. As I read through the application, I was stunned by the lack of "accountability" taken by Rayburn. The minimization of her role in this murder by the authors of the application, assumably approved by Rayburn, shows she has taken little, if any, responsibility for her actions on the day that she and Smith robbed, humiliated, and murdered Dale Rost in cold blood.

A few facts about the case and some of the admissions made by Rayburn at or near the time of the original investigation are important. This is a very brief summary with some of the original police reports attached. On December 23, 2005, police were called to the home of Dale Rost by his daughter who came to check on him when he did not show up for a family Christmas gathering. She found his naked body hog tied by a cable dog lead. He had a single gunshot to the head. Inside, the home was in complete disarray and had clearly been "tossed". The rural home, located about 100 yards up a gravel driveway from the roadway, was a double-wide mobile home.

After coercing bank PIN numbers from Mr. Rost at gunpoint and killing him, Rayburn and Smith stole Rost's vehicle. They began a joy ride in Rost's vehicle that, among other things, included using methamphetamine, making videos of them driving the vehicle, and withdrawing over \$1,000 from his accounts. Early the next day, they picked up Nathan Knapp. Knapp had been released from

jail earlier that day or late the day before. Smith and Rayburn shared details with Knapp about what happened. Although Knapp was in the vehicle when the other two were arrested, and Knapp was initially arrested, it was quickly determined that he had nothing to do with the robbery, theft, or murder.

When interviewed, Knapp, without any reason to slant or spin the information, relayed what he had been told. He said that while riding in the vehicle of "a dead man", both Rayburn and Smith told him things about the day before. Knapp said that Rayburn told him that she went looking for money while Smith held the gun on Rost. Rayburn admitted stripping Rost of his clothing, an act of sheer humiliation, and tying him up while Smith held the gun on him. Knapp told the interviewing detective that in a three-way conversation between them, Smith wanted to leave the residence with the money and credit cards, leaving Rost tied up and alive. However, Rayburn was afraid of getting identified and going to prison because she 'had kids' and that 'if they left the victim alive, they would get caught by police.'

After being jailed, Rayburn confided information about what happened that day with another adult in custody, Sherry Engleman. As with Mr. Knapp, to my knowledge there was no incentive for Engleman to exaggerate, spin or slant the information provided by Rayburn. Engleman shared that she was told by Rayburn that Rayburn and Smith got high on meth that day. They left Smith's parent's home and headed to Rost's home. Rayburn said that they knew 'the guy that was killed.' Rayburn shared how they got the gun and that Rayburn said things didn't go the way they wanted it to go. Rayburn said that Smith 'taped the guy up' and pulled the trigger. After, they 'both freaked out' and that there was 'blood everywhere'. Rayburn told of stealing the 'guy's car' and leaving. Clearly, Rayburn was present for the killing.

As relayed by the Commutation Petition, the facts have now changed. The changes are either intentionally deceitful or grossly mistaken by failing to consider the information readily available from the police reports. In her petition, at pages 18-19, Rayburn describes her participation in this horrific crime. Rayburn says that she (1) knocked on the door and Mr. Rost answered. Rayburn (2) was shocked that Smith pulled the gun, even though they brought the gun with them to rob him. Rayburn (3) "went along" with what Smith was doing and "did not try to stop him." Rayburn (4) "looked around the house for money and other valuables." Lastly, Rayburn "felt uncomfortable" and told Smith that she was leaving; and left the house.

The Petition for Commutation, in addition to much of Ms. Rayburn's historical background before the murder, offers in mitigation and consideration that she is being "accountable" for the crimes she committed. The term "accountability" has a myriad of exact definitions. They almost all include such things as a 'liability to be called on to render an account', to have your actions or failures to act be questioned by others and to be responsible for acting or not acting. One certainly cannot be 'accountable' if one does not start by acknowledging their role in the matter that causes such a review to occur. I suggest that even worse than not acknowledging your role in an incident, in this incident, is to minimize it, to change history in a way that makes you look good. Nothing about Ms. Rayburn's current account of what happened on December 22, 2005, is remotely close to 'taking accountability'.

As I mentioned at the outset, the devastation that this horrific event had on the family and friends of Mr. Rost has been well documented, and articulately stated by them. I will not repeat that. The minimum that, as Governor of the State of Oregon, you should expect of someone requesting

commutation, should be honesty in the role they played in the commission of the crime. That should be where it starts. Everything else, as important as it may be, should be at best be discounted where the individual seeks to make themselves look good by minimizing either their conduct or the result of the crimes committed.

Thank you for taking the time to review my comments. I acknowledge some of the successes that Rayburn has had while in custody. She is to be commended for those strives. However, this violent crime and the significant role Ms. Rayburn had in it, is not one that should be considered for commutation. She was given a life sentence that allows for parole after 25 years. This is and was appropriate. Her post-conviction conduct, good or bad, will be given due consideration once she has become eligible for parole. I urge you to deny this commutation request.

I am more than happy to answer any questions you or your staff may have. I've included a small number of the original police reports, including those reports (highlighted by law enforcement) as referred to hereinabove.

Respectfully,



Bradley C. Berry
Yamhill County District Attorney

BCB: dg
Encs.