

Statement of Governor Jack Markell Regarding the Commutation of Sentence of Robert Gattis

Pursuant to my authority under Article VII, Section 1 of  the Delaware Constitution, I have decided to commute the sentence of Robert Gattis to life in prison without the possibility of parole, subject to the conditions set forth below.

I realize my decision may cause pain to the family and friends of Shirley Slay. For that, I deeply apologize.

In reaching this conclusion, I give great weight to the decision of the Board of Pardons. In the exercise of its constitutional duties, the Board thoroughly reviewed Mr. Gattis's application for clemency and the State's response. The Board studied the entire historical record of this case, carefully listened to the statements made by parties on both sides, and had the opportunity to look Mr. Gattis in the eyes and question him. Having done so, the Board took the unusual and perhaps historic step of recommending, by a 4-1 margin, that Mr. Gattis's death sentence be commuted to life without parole. I take the Board's considered decision seriously.

Over the last two decades, executions pursuant to death penalty sentences imposed by the State have proceeded only in the absence of an objection from the Board of Pardons and the multiple courts having jurisdiction over the case. In essence, the multiple checks and balances that are in place have historically been in alignment before the extraordinary action of executing a criminal defendant proceeds. While I have supported the imposition of the death penalty in the past and

I consider Mr. Gattis's crimes to be heinous, I am not prepared to move forward with imposition of the sentence in this case.

I undertake this commutation after thorough review of the record presented and substantial contemplation. I have read Mr. Gattis's application for clemency, the state's response, and Mr. Gattis's reply. I have reviewed the many affidavits submitted. I have spent substantial time considering the harm endured by Ms. Slay and her family, Mr. Gattis's history, and the merits of the clemency application. I have prayed. At the end of the day, although I am not free from doubt, I believe moving forward with the execution of Mr. Gattis is not appropriate under the totality of the circumstances. After my review, I find myself in agreement with the four members of the Board of Pardons who concluded the mitigating evidence here is sufficiently substantial that an act of clemency on my part is warranted. In doing so, I am committed to the fact that Mr. Gattis will spend his remaining life in prison and will pose no threat to public safety.

Even if one were to discount certain of the allegations of sexual abuse recently alleged by Mr. Gattis (as the Board did), the fact remains that Mr. Gattis's family background is among the most troubling I have encountered. As one of his former attorneys stated in an affidavit, the additional evidence about Mr. Gattis's childhood "puts Mr. Gattis, his case, and his potential defenses to capital murder in an entirely different light." This substantial dysfunction, abuse and neglect Mr. Gattis experienced as a youth does not in any way excuse the cowardly murder of Ms. Slay.

This commutation in no way relieves Mr. Gattis of his moral or legal guilt, and I am mindful of the fact that an innocent victim lost her life on the night of May 9, 1990. That is why I have conditioned Mr. Gattis's commutation on the following: (1) Mr. Gattis shall forever drop all legal challenges to his conviction and sentence, as commuted; (2) Mr. Gattis shall

forever waive any right to present a future commutation or pardon request and agree to live out his natural life in the custody of the Department of Correction; (3) Mr. Gattis will be housed in the Maximum Security Unit of the James T. Vaughn Correction Center for the remainder of his natural life, unless constitutionally required medical care is necessary; and (4) Mr. Gattis, after consultation with counsel, shall knowingly, willingly and voluntarily accept these conditions, as determined by the Superior Court. With these conditions, Ms. Slay's loved ones can at least know that they will never have to go through the painful process again of trials, hearings or requests for release.

My decision is among the most difficult I have had to make in all my years in public service. But in light of the Board's unprecedented decision and the reasons set forth above, I believe it is the correct one under the circumstances. My thoughts and prayers are with the loved ones of Shirley Slay during this difficult time.