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**REMARKS PARAPHRASED FROM THE TESTIMONY OF PLYMOUTH
COUNTY DISTRICT ATTORNEY TIMOTHY J. CRUZ IN THE MATTER OF
WILLIAM ALLEN'S PETITION FOR COMMUTATION**

June 15, 2021

Good morning Chairperson Moroney and members of the Parole Board. Today you have the weighty duty of hearing Mr. Allen's commutation petition, and, ultimately, advising Governor Baker on your view of whether his sentence should be commuted.

As District Attorney for Plymouth County, I am duty bound to seek a just outcome for all parties involved in our criminal justice system, in this case, and in each and every case in Plymouth County. Justice must take into account the harm to victims of crimes and their families, the citizens of Plymouth County, and the conduct and character of the defendants who my office prosecutes in our courts.

What we all considered a just outcome decades ago may warrant reconsideration with the passage of time, which brings with it developments in the law, forgiveness from victims, or the actions of an individual which evidences a fundamental change of character.

This is one of those rare cases in which the sentence for a First Degree Murder warrants reconsideration. Madame Chairwoman and members of the Board, I am asking that you recommend to Governor Baker that Mr. Allen's sentence be commuted to life with the possibility of parole.

On February 8, 1994, William Allen participated in the murder of Purvis Bester in the City of Brockton. Allen and his co-defendant Rolando “Mike” Perry devised a plan to rob Mr. Bester. Both men were wearing masks and armed with knives when they pushed their way into the victim’s home. Two witnesses testified at trial that both Allen and Perry attacked and stabbed the victim. Allen testified that he held several witnesses at knifepoint while Perry alone stabbed the victim. Allen demanded money from the four witnesses, who were attempting to hide in the bathroom, and then both men ransacked the apartment. Allen grabbed a police scanner and camera case, and both men fled.

Following a trial in August, 1997, a Plymouth County jury convicted Allen of Felony Murder in the First Degree. The jury did not find that Allen was a principal actor, but rather that he was guilty only as a joint venturer. Based on the credible evidence presented at trial, and the state of the law at the time, the verdict was appropriate and just. A mandatory sentence of life imprisonment without the possibility of parole was imposed. After reviewing the entire record, the Supreme Judicial Court affirmed Allen’s conviction.

Rather than taking his case to trial, Allen’s co-defendant, Rolando Perry, pleaded guilty to Murder in the Second Degree. In 2008, Perry wrote an affidavit about the robbery and murder of Purvis Bester. In his affidavit, he took full responsibility for the murder, stating that Allen did not “stab, punch, kick or do any harm to Mr. Bester.” He also stated that Allen was not even present in the room when Perry murdered the victim. In 2009, the Parole Board determined that Perry was sufficiently rehabilitated to be granted parole. He has been living at liberty for more than a decade. Principles of fairness and equity require that we take this into account when considering whether Allen’s sentence remains the just outcome in this case.

In 2017, the Supreme Judicial Court decided the case of Commonwealth v. Brown, which changed the doctrine of felony murder in the Commonwealth of Massachusetts. The SJC announced a new rule -- that at a trial for felony murder, the

prosecution would be required to prove that the defendant acted with malice. Before the Brown decision, the defendant's intent to commit the felony was all that was required to find a defendant guilty of felony murder when a death resulted. Now, the Commonwealth must also prove that the person acted with the malice otherwise required to prove a murder charge. WE will never know whether the jurors who convicted Allen of murder as a joint venturer alone, would have also found that he shared the malice or intent to kill that Rolando Perry exhibited when he stabbed Purvis Bester. The Brown decision does not entitle Allen to a new trial because it applies only to trials taking place after the decision was issued. However, it does mark a significant change in the legal landscape relating to felony murder. Although Allen's verdict was just and appropriate under the law at the time of his conviction, it is unknown whether he would be convicted of the same crime if tried today. This is certainly one factor we must consider, and a factor I have considered, when reviewing the fairness of his sentence.

My office has had the opportunity over the last several months to speak to several family members of Purvis Bester about their thoughts regarding Allen's sentence. Most notably, as this Board heard today, Mr. Bester's daughter Leah Cole feels strongly that Allen's sentence should be commuted. As next of kin to the victim, Ms. Cole's feelings weigh heavily in my recommendation to this Board. She believes that Allen's youth at the time of the offense and his incarceration for 27 years weigh in favor of him getting a second chance at life outside of a correctional facility. She also feels that justice dictates Allen's release where Rolando Perry, the more culpable party, has been granted parole. We have also spoken to two of Mr. Bester's brothers, Gerald Bester and Fred Bester. Both of them also conveyed their feelings that they would like to see Allen released from his sentence at this time. We did also hear today from Hattie Bester, the victim's sister, that she would like to see Allen's commutation petition denied. The fact that even the victim's family is divided over this issue is a reflection of the truly difficult decision this Board must make. While unfortunately there are other family members we were unable to reach, I hope that they have shared their thoughts with this Board and I urge you to consider their input.

Looking at William Allen's growth as an individual, it is undeniable that he has taken countless steps toward rehabilitating himself and giving back to others. This kind of initiative is rare in someone facing a life sentence without parole. Allen has completed an impressive amount of programming, including programs designed for rehabilitation such as Alternatives to Violence and Restorative Justice. He has also engaged in programs to further his education and develop life and employment skills. Allen has served as a mentor to mentally ill patients at Bridgewater State Hospital through the Companion Program. In 2011, Allen notably intervened to protect a corrections officer against an attack by another inmate. His disciplinary record while incarcerated has been limited, with no disciplinary reports for acts of violence.

In 2020, following the onset of the COVID-19 pandemic, Allen filed a motion in Plymouth Superior Court seeking release. Justice Debra Squires-Lee denied Allen's motion, finding that keeping Allen incarcerated during the pandemic did not violate his constitutional rights. However, Judge Squires-Lee also reviewed numerous letters submitted on Allen's behalf and noted that, "Allen may be a very good candidate for commutation of his sentence." Many individuals who Allen has encountered during his incarceration have also submitted letters in support of his commutation petition.

For a number of reasons, Allen's situation is truly unprecedented, which is why today I am taking the unprecedented step of supporting Allen's petition for commutation. Allen is serving a life sentence without parole, which represented the appropriate, just outcome at the time it was imposed. But a number of changes that have taken place over the last 27 years require us to revisit whether this outcome remains just at this time. Rolando Perry, who was convicted as the principal actor in Purvis Bester's murder, has been granted parole. Several of Mr. Bester's family members, including his daughter, would like to see Allen released. The law of felony murder has changed, making it unclear whether Allen would be convicted of murder if his case were tried today. Mr. Allen has taken all of the right steps toward rehabilitation, and I have no doubt that he would be granted parole at this time if he were eligible. For these reasons, I support this

Board making a recommendation to Governor Baker that William Allen's petition for commutation be granted.