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or

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PETITION FOR COMMUTATION

NAME Thomas Eugene Creech IDOC# 14984

DATE 10/13/2023 INSTITUTION OR DISTRICT SUPERVISED IMSI

A. Please complete the following:

- (1) Crime First Degree Murder (2) Crime _____
 Length of Sentence Death Penalty Length of Sentence _____
- (3) Crime _____ (4) Crime _____
 Length of Sentence _____ Length of Sentence _____

B. The following must be addressed in your petition or it will be returned.

- (1) Explain exactly what you are requesting the Commission commute or change about your sentence, such as: reduce the length of the sentence, change a fixed sentence to indeterminate, or change a consecutive sentence to concurrent, reduce the fixed portion of a sentence, or other.
- (2) Explain the reason(s) why you feel the circumstances warrant a change of sentence in your case.

C. You may attach up to 4 additional pages. **All attachments must accompany the petition to be processed and will not be returned to the petitioner.**

D. If you are applying for an early discharge commutation, you must complete the following:

Mailing Address: _____
 Physical Address: _____
 Telephone Number: _____
 Message Number: _____
 Email Address: _____

NOTE: A petition must be received at the Commission office by the first day of the month preceding a quarterly session. The petition must be typed or will not be considered.

The following witness signature is to acknowledge only that the Petitioner is submitting this Petition:

Thomas Eugene Creech
Petitioner Signature

Ezra Phillips
Case Manager or Supervising Officer Print Name

[Signature]
Case Manager or Supervising Officer Signature

(1) Explain exactly what you are requesting the Commission commute or change about your sentence.

Commutation of death sentence to fixed life (life without parole).

(2) Explain the reasons why you feel the circumstances warrant a change of sentence in your case.

Forty-two years ago, Tom Creech committed an unforgivably terrible act and killed David Jensen. But the Tom Creech of 2023 is not the Tom Creech of 1981. Today's Tom is a profoundly remorseful seventy-three-year-old man with many years of spotless behavior who spends his time improving the lives of prison staff with unprecedented demonstrations of respect and compassion, mentoring younger inmates to avoid the same mistakes he made, and expressing his strong Christian faith through poetry and music. Nothing would be gained by Tom's execution and much would be lost, not least for the correctional employees forced to participate in the killing of a man many of them have become fond of over the last four decades. If Tom's death sentence is reduced to life in prison without the possibility of parole, he will die behind bars. That is an appropriately severe punishment for his serious crime. He does not need to be executed. To allow him to make that case, Tom respectfully asks the Commission to at least have a hearing and fully consider the value of his life before it paves his way to the execution chamber.

I. Listen to the judge.

Tom was sent to death row by one man: Judge Robert Newhouse, who sentenced him without any help from a jury. In a highly unusual turn of events, Judge Newhouse has come to the conclusion that Tom ought not be executed for Mr. Jensen's murder. Judge Newhouse, who sentenced Mr. Creech to death multiple times, realizes that no "purpose would be served by executing [him] now" after he "has spent more than forty years on death row with the threat of execution hanging over him." Ex. 1. Instead, "that time, along with spending the rest of his life in prison is punishment enough." Ex. 1. Because "there's no risk in commuting Mr. Creech's

death sentence to life in prison without the possibility of parole,” executing Mr. Creech would, in Judge Newhouse’s opinion, “just be an act of vengeance.” Ex. 1.

It is remarkable that the man most instrumental to Tom’s death sentence has acknowledged the senselessness of his execution. His admirable candor is a factor weighing heavily in favor of commutation, or at least a hearing.

II. Listen to the prison staff.

The wisdom shown by the man who knew Tom’s case best in 1981—the judge—is echoed by the people who have known him best since then: the prison staff who have worked with him for the last forty-plus years. Tom has built a uniquely large and meaningful set of relationships with IDOC personnel through many years of uniformly respectful, positive, and caring behavior.

The special place Tom has made for himself in the eyes of IDOC staff is best shown with a story. Ronald Gus was an IDOC officer from 1982 until his retirement in 2005. Ex. 2. In 2012, Mr. Gus’s wife passed away. Ex. 2. Afterwards, Tom sent a condolence letter to Mr. Gus in the form of a poem. Ex. 3. The poem was entitled “Your Mary Beth” and it commemorated in moving terms how the couple had been brought together “by Godly design, by destiny or by fate.” Ex. 3. Mr. Gus’s son Dave “was amazed that despite not seeing Tom for seven years, Tom wrote [his father] a letter about [his mother’s] passing.” Ex. 2. The “family was very touched by the kind gesture.” Ex. 2. Dave “hope[s] one day to see Tom in heaven and thank him for his kind words regarding the passing of [his] mother.” Mr. Gus’s high regard for Tom predates Tom’s kindness surrounding his wife’s passing, however. A much earlier poem by Mr. Gus about Tom meditates on how, “of all the men upon the row, only you will get a tear to flow.” Ex. 4.

Other poems by Tom reinforce his esteem for prison staff. “Blessed Are The Peacemakers,” from 2007, commends the “[b]rave men and women who serve society by putting themselves in harm’s way” while serving as correctional officers. Ex. 5. In his 2009 poem

“Unsung Heroes,” Tom expresses “reverence” for all the guards who labor “with honor and dignity,” and he dedicated the lines to the staff that he had “come to know and respect.” Ex. 6. Tom has given many poems to officers and they are appreciative. Brandi Barclay, an IMSI medical worker, refers to how “[s]taff members who kept his poems did so because they treasured them.” Ex. 7.

The exceptional strength of Tom’s ties to IMSI staff is further reflected by other witness statements. Former Director of Nursing and Health Services Administrator at IMSI Kathy Niecko recalls how Tom got a “gang leader” to “stop mistreating” one of her employees and even persuaded the other inmate to apologize. Ex. 8. Ms. Niecko goes so far as to say that “if there had ever been a riot at the prison, Tom’s cell would be the first one I would run to,” for it “would have been the safest place for [her] to be.” Ex. 8.

Like Ms. Niecko, top prison officials have long considered Mr. Creech to be the best possible ambassador for the institution. In 2010, a visit was made to IMSI by a group of people involved with the Methodist Church. The group included Donna Boe, who was at the time a member of the Idaho House of Representatives. Ex. 9. The visit was arranged by Brent Reinke, then the Director of IDOC. Director Reinke made special plans for the group to meet Tom in person. Ex. 9. Ms. Boe had the impression that Director Reinke selected Tom for the role because he “was the most stable and respectful person on death row” and because IDOC management could rely on him “to be civilized and courteous when he met the group.” Ex. 9. Director Reinke sent Tom a note conveying his gratitude for his “openness and candor” and for providing the visitors with a “meaningful” experience. Ex. 10.

Given Tom’s track record as a model inmate, it’s unsurprising that some of the staff who worked with him the longest have no reservations about a possible commutation. Billy Brasseth was an IDOC officer for twenty-eight years. Ex. 11. To Mr. Brasseth, “[o]ut of all the guys on

death row, Tom was the easiest to get along with.” Ex. 11. Since “Tom always demonstrated his ability to do well in prison,” Mr. Brasseth feels “that his sentence should be changed to life without parole.” Ex. 11. The same sentiment is voiced by Rodney Schlienzy, who spent seventeen years at IDOC and interacted with Mr. Creech off and on for fifteen of them. Ex. 12. As Mr. Schlienzy notes, “[t]he first inmate I think of when naming death row inmates that were easy to get along with is Tom Creech.” Ex. 12. It would be “fair,” in Mr. Schlienzy’s view, for Tom “to be resentenced to life without parole.” Ex. 12. Jeanette Griggs is of the same mind. She worked for IDOC for twenty-seven years, rising to the rank of lieutenant. Ex. 13. Ms. Griggs found Mr. Creech to be “cooperative” and “pleasant” and she sees that he is no “threat in the institutional setting,” leading her to “support clemency.” Ex. 13. Gary Hartgrove shares that point of view. He worked in law enforcement for forty years, thirty with the California prison system and five with Idaho’s. Ex. 14. Mr. Hartgrove observes that Mr. Creech “demonstrated high respect and gratitude for all the correctional officers and support staff, and treated them all well,” and they in turn “appreciated his cooperative attitude.” Ex. 14. Based on his background, which includes “extensive experience in Corrections and inmate risk assessment,” Mr. Hartgrove “fully support[s] Mr. Creech’s bid for clemency.” Ex. 14. Ms. Barclay is another likeminded person. She “felt safe around Tom” and “did not feel this way around many other inmates.” Ex. 7. Although Ms. Barclay believes in the death penalty, she “support[s] Tom’s clemency” because she “absolutely feel[s] that Tom does not deserve to be executed[.]” Ex. 7.

The people in the last paragraph have more than a hundred combined years in the correctional field. They dealt with thousands of inmates and their jobs were partly to tell the good ones from the bad. In their unanimous view, Tom is one of the best and would continue to be an exemplary inmate if resentenced to life in prison.

The trust that prison staff have in Tom is supported not just by officers' own accounts, but by IDOC records. In 2021, an IDOC document recounted that Tom's last disciplinary offense report (DOR) had been issued in 1994—twenty-seven years earlier. Ex. 15. Since then, Tom has received only one DOR. Ex. 16. It was for a minor dispute with another inmate, Azad Abdullah. Ex. 16. As Mr. Abdullah explains, the incident was simply “a misunderstanding over a card game that unfortunately got heated, but we immediately made amends and have been fine ever since.” Ex. 17. Indeed, to Mr. Abdullah, “Tom is a close friend” and even “like a brother.” Ex. 17. And the prison staff who know best clearly still regard Tom as posing no danger, since they routinely escort him to attorney visits with a single guard and no restraints. Ex. 43.

The undeniable reality is that Tom's record has been exceedingly strong for almost thirty years. Tom recognizes that his conduct in prison *before* 1995 was often inexcusably poor, including of course the crime at issue now. Yet the question before the Commission is whether to allow the Tom Creech of 2023 to be executed. With many years of ideal behavior, and the full-throated support of guards and staff who interacted with him daily, the answer is no.

III. Don't put prison staff through the ordeal.

Approving the execution of Tom Creech would make IDOC staff take part in the killing of a man many of them have known, respected, and befriended over the course of generations.

There are only three IDOC inmates who have been in custody for longer than Tom. Ex. 18. Ms. Griggs, a twenty-seven-year veteran of IDOC, has a particular appreciation for how hard that will make Tom's execution on prison employees. In 1994, Ms. Griggs was working at IMSI when Keith Wells was executed. Ex. 13. To this day, Ms. Griggs remembers the “mental stress and emotional distress” that she endured as a result of the experience. Ex. 13. Likewise, Ms. Griggs has no doubt that “executing Mr. Creech will be emotionally stressful for the staff who have gotten to know him.” Ex. 13.

Working at IDOC is already difficult enough without this added burden. Current IDOC Director Josh Tewalt emphasized to the legislature only a few years ago that IDOC employees “experience post-traumatic stress [PTSD] at 10 times the rate of the rest of the community”—a frequency that “even exceeds combat veterans.” Ex. 19. IMSI staff protect the public by doing difficult jobs with little pay under punishing conditions. Ex. 20. The last thing these dedicated law enforcement professionals need is to become part—either directly or indirectly—in taking the life of someone they might well have become attached to over the last forty years.

Other states point to the dangers. The psychological and emotional costs of carrying out executions are well-documented around the country. Ron McAndrew, a former warden in Florida, wakes up in the middle of the night and sees the men he helped execute sitting at the edge of his bed looking at him. Ex. 21. After a stint as warden in Mississippi, Donald Cabana felt that part of his humanity died with every prisoner he killed. Ex. 22. Following one execution, he showered twice in the hopes that he would feel clean enough to go to sleep. Ex. 22. Years later, the psychic stain remained. Ex. 22. The former head of the Georgia Department of Corrections, Allen Ault, agreed that “[t]hose of us who have participated in executions often suffer something very much like [PTSD]. Many turn to alcohol and drugs. For me, those nights that weren’t sleepless were plagued by nightmares.” Ex. 23. Similarly, Jeanne Woodford, a former warden in California who oversaw four executions, “felt the effect inside her brain” and “the memories of what she had done kept her distant and caused persistent insomnia.” Ex. 26.

The harms are not limited to wardens. Craig Baxley, a correctional officer in the South Carolina prison system, was diagnosed with PTSD and depression after witnessing various gruesome scenes at executions. Ex. 24. Other colleagues suffered the same, or worse. Ex. 24. One took his life. Ex. 24. Fred Allen, a Texas guard, analogized the experience to war, in that one has to periodically and out of nowhere “relive it again.” Ex. 25.

These wounds are suffered by far more than just the members of the execution team. Everyone who works at a prison where an execution is occurring is in jeopardy. “There was more than one casualty,” said Perrin Damon, a spokeswoman who helped coordinate two executions in Oregon. “More people are involved than anyone understands.” Ex. 26.

An execution would be even more traumatic for IDOC staff if it goes wrong—and there’s a real risk it will. During Clayton Lockett’s 2014 Oklahoma execution, he writhed and gasped, rolled his head, grimaced, and grunted, all for more than thirty minutes. Ex. 27. The same year, in Arizona, the execution team gave Joseph Wood fifteen doses of drugs, causing him to gasp and snort hundreds of times over more than an hour. Ex. 28. At a Florida execution in 2006, Angel Nieves Diaz’s lethal drugs leaked into his soft tissues, sloughing away the skin on his arms and suffocating him to death. Ex. 29. So many state-sanctioned killings went awry in 2022—including two that had to be called off completely in Alabama—that it was dubbed the “year of the botched execution.” Ex. 30. These are states that have collectively carried out hundreds of executions in the modern death penalty era. Idaho has had only three in that time. The prospect of an execution here going off the rails is substantial. Watching Tom, a man for whom many IDOC staffers have such high regard, die slowly and in obvious pain, would only make things that much more trying for them.

IV. Don’t deprive other inmates of a positive influence.

Tom has used his own tremendous mistakes to steer younger prisoners in a better direction. Executing him would take that good force out of these inmates’ lives for no gain.

Mark Boman became acquainted with Tom when he was in the administrative segregation unit. Ex. 31. In Mr. Boman’s eyes, “Tom was a consistently positive influence on the younger inmates.” Ex. 31. Tom would advise such prisoners “to give up the criminal lifestyle and try to do right” and he “would warn them that they didn’t want to end up like him. If Tom saw younger

inmates who were wasting their lives, he'd counsel them to become productive citizens.” Ex. 31. Likewise, fellow death-row inmate Azad Abdullah is grateful that Tom gave “good advice to [him] and other younger inmates. He would tell people to behave well and stay out of trouble.” Ex. 17. Tom’s wife LeAnn, who has known him for twenty-seven years, describes how her husband “takes lessons from the errors of his ways in the past to try to redirect other younger prisoners down better paths.” Ex. 32. As Tom himself says, he “tell[s]” the young inmates “not to mess up like me.” Ex. 33.

Executions are meant to deter crime and to encourage better behavior from would-be criminals. But executing Tom does the opposite, as he has become a compelling advocate for law-abiding behavior for the men who most need to hear it.

V. Tom is remorseful.

Tom has the deepest regret for taking the life of Mr. Jensen. Although Tom understands that there’s nothing he can say to make up for his crime—and is not trying to do so—he has still tried to convey the magnitude of his remorse in his attached declaration, which he respectfully asks the Commission to read in its entirety. Ex. 33.

Tom’s remorse is not the product of a newfound desire for clemency, but rather a longstanding conviction borne of deep reflection. Around 2019, unprompted, Tom told Deputy Warden Hartgrove that he was “sorry for what [he] did to” Mr. Jensen. Ex. 14. Tom’s sister Virginia Plageman, who has been in touch with her brother throughout his incarceration, reveals that he “has expressed to [her] more and more remorse for the death of David Jensen as he’s gotten older. The crime really bothers him now and he’s very sorry for it.” Ex. 34. In the interactions that Tom’s friend Amy Matz-Brunson has had with him over the years, he “has expressed . . . how much remorse he has for what he’s done.” Ex. 35. Tom has also spoken of his remorse to former death-row inmates George Porter and Gene Stuart. Ex. 36; Ex. 37.

For Tom, his remorse is intertwined with his faith. In Ms. Matz-Brunson's words, Tom "understands that he needs the Lord's forgiveness for his actions." Ex. 35. In Deputy Warden Hartgrove's "entire tenure at IMSI," Tom was the only inmate to ever request a visit from a Catholic priest to take a confession. Ex. 14. Former Representative Boe prayed with Tom the first time she met him in 2010 and then "many times" since. Ex. 9. Tom's sister, Ms. Plageman, has "seen Tom's religious faith deepen during the time he's been incarcerated." Ex. 34. She is aware that "Tom prays several times a day" and has commented to her "that he would have been happy to be a minister, or even to teach a religious course." Ex. 34. A photograph attached to this petition shows Mr. Creech and his sister, along with the husband that she recently lost, as well as Mr. Creech's wife, LeAnn. *See* Ex. 38.

Tom's Christian tenets inspire his actions in prison. Mr. Boman "saw Tom offer to bring his Bible to other inmates so they could pray together. Tom would have those conversations all the time—that's just the way he was." Ex. 31. Many of Tom's poems and songs have religious themes as well. A poem entitled "Faith" from 2009 encourages the reader to "trust and believe and leave it to a higher power." Ex. 39. In "The Family of God," a poem from 2011 that is dedicated to Jesus, Tom reminds us to be "guided by God's powers above." Ex. 40. If spared from execution, Tom will continue to use his Christianity to explore the enormity of the errors he committed in his earlier life, and he would welcome the chance to discuss the subject at a hearing.

VI. Tom's life is worth saving.

Tom's devotion to Christianity underscores a deeper truth. As former Representative Boe puts it, "[e]xecution would deny all possibility of further repentance and change that would offer reconciliation with God." Ex. 9. The changes that Tom has made in his life since that tragic day in 1981 have been transformative and have positively impacted scores of people. Ms. Plageman, Tom's sister, has been struck by how much Tom has evolved over the course of his incarceration.

“He’s become much more caring about other people,” Ms. Plageman remarks, and “always asks how everybody in [her] life is doing by name.” Ex. 34. Dr. Roger Boe is a pediatrician in Pocatello and former Representative Donna Boe’s husband. Ex. 41. He has been friends with Tom since 2010, receiving many letters from Tom, all of which “demonstrated a concern for [the Boes] and our well-being.” Ex. 41. Ms. Matz-Brunson views Tom as “very genuine, kind, and caring.” Ex. 35. He inquires after her two daughters with such “interest and concern” that she occasionally thinks “he knows more about [her] daughters than some of [her] siblings.” Ex. 35. James Hairston, a fellow resident of death row for the last twenty-six years, recalls how Tom sent him a care package when he first appeared on the tier and how Tom has been equally generous since then, “giving whatever I needed without asking to be paid back or expecting anything else in return except friendship.” Ex. 42.

Tom’s many positive qualities are part of the reason why his execution would send out a ripple of pain and suffering for the many innocent people who care for him. Dr. Boe calls Tom’s execution “a tremendous tragedy.” Ex. 41. The execution would make Ms. Matz-Brunson “extremely sad.” Ex. 35. For Tom’s sister, it would be “one of the most horrible things [she] can imagine.” Ex. 34. If her husband were executed, Tom’s wife LeAnn “would crawl up into a ball and just give up.” Ex. 32. None of these people committed any crimes. They shouldn’t be punished by the pointless execution of a harmless old man who has become very special to them.

VII. Conclusion

Tom’s judge sees no need for him to be executed. Neither do many of the prison staff that Tom has won over through his kindness over forty years—some of the very people who would be forced to facilitate the execution. Tom respectfully asks the Commission to grant a hearing so that it can fully and fairly consider all of the evidence showing that his life still has value before signing off on his execution.