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House Judiciary Committee
RE: 2023 -- H 5149 / Opposition

Fighting to keep justice for Kelly Andersen

On behalf of my aunt Kelly Andersen and family I am here today fighting to keep the justice we received fifteen years ago. In the last few weeks by hearing your proposal of this bill our family has endured unnecessary fear, pain, and sorrow by being forced to relive the most brutal events that led to the violent death of our beautiful Kelly. You have torn open wounds of our family after we were promised it was finally over. Our family has questioned your motives for this bill because a sentence of life without parole is not given lightly for there are over 30 murders a year in Rhode Island yet only 31 have been given this sentence.

For instance, a man already on parole from a second victim tortured and murdered a young mother on June 28, 2006 named Kelly Anderson. For years our family could not move on because we had to anticipate and be ready for trial and pray for the justice that Kelly so desperately deserved. I can't possibly begin to describe how dark those years felt, especially for Kelly's children. Although we would finally get the justice she deserved, and some sort of peace knowing he would die in prison, our lives would never be the same. Brian Mlyniec was convicted of first-degree murder of Kelly Anderson by strangulation after bound her with a television cable against her will, sexually assaulted and tortured her for more than six hours.

On July 3, 2008, a jury found the defendant guilty of first-degree murder in violation. The jury later found that the murder involved aggravated battery also known as torture. During the three week long trial the judge ordered my aunt Kelly's children to leave the hearing. My

mother, who is the sister of Kelly Andersen, ordered the same for me and other cousins to leave while the medical examiner spoke of the horror she endured while displaying the most graphic pictures seen in a courtroom. In preparing for today's testimony, Kelly's daughter and I have had to read the most graphic heinous details for the first time. To just say my aunt was murdered by strangulation truly does not begin to describe the suffering she endured. I think it's important for Rep. Edwards, and the other sponsors of this bill to know the full details of the evil they advocate for. I warn you at this time you will hear extremely graphic details. I ask that you all listen carefully and ask yourself if evil can be rehabilitated or deserve a second chance or deserve to have hope of being released one day. Peter Andrew Gillespie, M.D., an assistant medical examiner for the State of Rhode Island, conducted an autopsy on Ms. Anderson on June 24, 2006. During the examination, Dr. Gillespie discovered the following: a laceration on Ms. Anderson's forehead with bruising adjacent to it, bruises about her eyes and nose, swollen left eyelids, small petechial hemorrhages on the right side of her face, abrasions on her nose, abrasions between her nose and mouth, an abraded left lower lip, slight abrasions on her chin, blood coming from her mouth, multiple purple contusions and lacerations on the inside of her mouth, a contusion on the left jaw line, an abrasion on her shoulder, two series of five parallel scratch marks on her left and right inner breasts, a bruised right nipple, two pinkish-colored contusions on her left abdomen, two traumatic injuries on her small bowel corresponding with the contusions on her abdomen, two bruises on her left upper leg, small dry abrasions and bruising on both knees, a large bruise on the outside of her right knee, multiple bruises and abrasions on her left lower leg, a hand-like impression just above her left ankle, contusions on her right lower leg and ankle, an "O" shaped contusion on her right calf, small abrasions near her left and right ankles, abrasions and contusions on the outside of her foot, a large scratch mark on the upper right side of the back, additional scratch marks near her right shoulder, abrasions on the midline of her back, a small purple contusion

on her lower back, a small yellow abrasion near her buttocks, and a large contusion on the back of her left elbow. Doctor Gillespie explained that these were acute injuries, inflicted shortly before Ms. Anderson died, with the exception of the yellow abrasion on her back, which was a postmortem injury. Doctor Gillespie testified that the marks around the ankles appeared to be ligature or restraint impressions. He also believed that the bruising on the right calf and right nipple were suggestive of bite marks, and that the scratches on Ms. Anderson's breasts were caused by fingernails. Other abrasions and contusions were determined to be contact injuries. Doctor Gillespie noted that it would have taken a fairly large object or a large amount of force to produce some of the larger bruises. Doctor Gillespie further testified that he discovered "multiple traumatic injuries," on the top, the back, and both sides of Ms. Anderson's head, consisting of extensive bruising and areas of hemorrhage. Doctor Gillespie said that these injuries could have been caused by multiple falls, but not by a single fall, and he explained that their placement suggested that falling was not the actual cause. Doctor Gillespie also examined the vagina, anus, and perineum. Near the anus there was a large, purple-colored contusion and a large and small laceration; on the perineum there was a laceration approximately one inch in length; and on the vagina there were multiple lacerations, some one-half in length. These injuries would have required surgical repair. Doctor Gillespie explained that it was unlikely that fingers could have caused these injuries, but he noted that a fist could have. Finally, Dr. Gillespie examined Ms. Anderson's neck. An exterior examination revealed two contusions and faint parallel linear impressions on the neck. An internal examination revealed multiple areas of hemorrhage within multiple muscles of the neck, and a fractured hyoid bone. Doctor Gillespie testified that these injuries were caused by strangulation, and he stated that Ms. Anderson had died from strangulation. He explained that causing such strangulation took a large amount of force, likely somewhere between four and eleven pounds of

pressure, applied for at least three to four minutes. Doctor Gillespie estimated that Ms. Anderson had died between midnight and 3 a.m.

The Rhode Island criminal system has worked for Kelly Andersen for we received justice and the monster responsible received the appropriate sentence of life without the possibility of parole. Furthermore, as our law states he was able to appeal to have his sentence reduced, in which all those appeals concluded the sentence given was appropriate. Life without the possibility of parole was appropriate. One of the appeals wrote "We feel it is appropriate to include in our decision today the particularly telling words of the trial justice, explaining his conclusion that defendant merited the most extreme penalty allowed under Rhode Island law: "I agree wholeheartedly with [the jury's] finding that this murder was committed in the manner involving aggravated battery. "* * * 26 General Laws 1956 § 12-19.2-4 provides: "At the presentence hearing, following a finding that one or more of the circumstances enumerated in § 11-23-2 or 11-23-2.1 as the basis for imposition of a sentence of life imprisonment without parole was involved in the first degree murder of which the defendant has been convicted...The court shall state on the record its reasons for imposing its sentence." - 28 - I find, and the jury I'm sure found, that the defendant disabled the victim beyond what she was already feeling due to the ingestion of illicit drugs and perhaps prescription drugs. He plied her with alcohol. He, at some point, began to beat her all over her body, and that did not happen in a few seconds or a few minutes. "The exhibits that were introduced during trial were some of the most graphic I have ever seen * * *. [The photographs] * * * show how savagely [Ms.] Anders[o]n was beaten. "This did not occur by a fall in the bathroom or two falls in the bathroom or five falls in the bathroom. More than likely [Ms.] Anders[o]n was beaten while she was bound by wire cable. "What makes this Court believe beyond a shadow of a doubt that she was bound without her consent is the defendant's use of a television cable and Walkman wire earpiece cable to hogtie her. [Ms.] Anders[o]n was

repeatedly, for an extensive period of time, sexually assaulted both vaginally and anally by the defendant using his fingers and fist. He explained to the police officers and to the jury how that occurred, and I don't believe him. "I think this was some bizarre, evil form of punishment that the defendant was giving to the victim. Had she survived, she would have required surgical reconstruction of her vagina and anus. They were that badly mutilated. "Finally, he strangled [Ms.] Anders[o]n to death. * * * [B]ased upon the evidence primarily from Dr. Gillespie, the medical examiner I found to be highly credible, the strangulation which occurred here * * * involving the fracture of the hyoid bone, didn't occur in just a few seconds for death to result as it did here. There must be substantial force, which after 30 seconds generally results in unconsciousness of the victim but death does not occur for three to four or more minutes. "So the defendant applied deathly pressure to the neck of [Ms.] Anders[o]n for a substantial period of time demonstrating his clear intent to kill her. "For reasons we will never know for sure, the defendant placed [Ms.] Anders[o]n in a bathtub of water. * * * [T]he defendant must have known by that time that he had likely succeeded in his goal because he submerged the entire body, including her head, under water, and there were no bubbles. "Thus, this horrific incident lasting over perhaps six hours is clearly a case of murder by battery. And I find that - 29 -this defendant acted in a most violent and depraved manner. He has a history of this. * * * "This Court remembers vividly the testimony by the North Kingstown victim * * *, which I felt was powerful and truthful, and chillingly similar in its detail as to what occurred here. "In the North Kingstown case, the defendant disabled the victim there with drugs and alcohol. When she passed out, he bound her against her will and without her consent and kept her bound despite her protestations that she wished to be released. He beat her face much to her shock. He violated her repeatedly anally with his fingers and/or fist. I felt during the trial, and I feel for purposes of sentencing, that this prior conduct is very significant. "" * * * ""It was a death that, quite frankly, I don't understand, but I have no doubt that it was murder in the first degree and

committed by aggravated battery. Totally senseless. "This defendant under certain circumstances snaps. He snapped here. He snapped in North Kingstown six years before. "* * * "I find, despite his protestations to the contrary, that [defendant] lacks any true remorse. He does not accept responsibility for any of his conduct, let alone the murder, and as exhibited in this case, by his savage beating and strangulation of [Ms.] Anders[o]n. I find that this defendant has a truly evil side to his persona. I find that there is virtually no likelihood that [defendant] can ever be rehabilitated, never be made to be safe, no counseling, no term of imprisonment will ever provide safety to society that it deserves from [defendant], because I find him to be an extreme danger to our society."

Here, the hearing justice gave due consideration to the trial justice's findings, quoting them at length, but he nonetheless denied the motion, noting that "it is too late for [defendant] to change as it is too late for [the victim]." The defendant had failed to acknowledge that his actions resulted in the murder of Ms. Anderson. The hearing justice was mindful of the brutal, senseless, and horrific nature of the defendant's crime as well as the defendant's reluctance to bear full responsibility for the victim's murder. In our opinion, the hearing justice exercised his discretion appropriately, and his ruling should not be disturbed.

We are not talking about accidental deaths or bad choices made in the heat of the moment. We are talking exclusively about people convicted of first-degree murder—an intentional murder committed after deliberation. I don't minimize any death however, grieving a family member who died in a stabbing, or by gun is completely different then grieving for someone who was tortured and suffered hours before dying. Murder in the first degree is completely different then murder in the second and therefore should hold different sentences. As of now, the defendants have the privilege to speak and visit with their friends and families. Kelly Anderson does not. She will never see or speak to her children, family, or meet her grandchildren.

This bill will allow the defendants' fate of entering society on behalf of the same parole board who has failed Kelly and our family before. Had the parole board not paroled Brian Mlynec for what he did to his second victim, the woman mentioned who resides in North Kingstown then Kelly would be alive today.

Former Attorney General Patrick Lynch at the time said "She suffered one of the most barbaric and violent sexual assaults possible before her tormenter-someone she had considered a friend killed her. This demented sexual predator who took advantage of Anderson and horribly and fatally brutalized her, will never be free again. On behalf of keeping our communities safe from a sadistic killer like this defendant, I thank the jury for affirming that Anderson's death was consistent with aggravated battery, and I appreciate Judge Gale's ruling yesterday ensuring that this murderer never has a chance of regaining his freedom." Are you truly willing to vote in favor of this bill today and disturb the jury and judges ruling? Are you going to break the promise to Kelly and my family?

Today you have the ability to end this nonsense of saving just one. I can guarantee you will not find one worth saving and it's not worth putting our families through this nightmare now or for the foreseeable future at every parole board hearing. This committee has the power to close these wounds for good.

This is Kelly Andersen. A vote against this bill is a vote advocating for Kelly to keep justice. A vote in favor of this bill is a vote advocating for the Brian Mlynics and those like him a chance of freedom. It's that simple and the reality is we do not live in a civilized country. Those who support and sponsor this bill all share in common that they have not experienced what our family has. Zero of the current bill should be changed. Thank you for the opportunity to share these details and provide insight to help you oppose your decision. I trust that you all will do just that and choose the correct one.