

URGENT ACTION

GOVERNOR STAYS EXECUTION AFTER JUROR PLEA

On 8 February, the Ohio Governor issued an eight-month reprieve for Raymond Tibbetts, who was due to be executed on 13 February. The decision came after he received a letter in support of clemency from one of the jurors from the 1998 trial.

Raymond Tibbetts was sentenced to death in 1998 for the murder of Fred Hicks in 1997. The sentence survived the appeals process despite what a federal judge described in a dissent in 2011 as the trial lawyer's "failure to engage in basic preparation" of mitigation evidence about the defendant's traumatic upbringing. Evidence raised on appeal, she wrote, "revealed a much more chaotic and abusive environment" in parental and foster care than the jurors had heard about. Such "shocking" and "utterly disturbing" details would have given them "compelling" reasons to vote for life, she wrote. In January 2017, however, the Ohio parole board recommended by 11 votes to one that the Governor deny clemency. The majority acknowledged Raymond Tibbetts's "traumatic" childhood, but decided that they could not "say, with any reasonable degree of confidence, that the outcome of the trial would have been different had his trial attorneys presented that mitigation evidence in the manner suggested by his current attorneys".

A man who served as a juror at Raymond Tibbetts's trial wrote a detailed letter dated 30 January 2018 to Governor John Kasich after reviewing the mitigating evidence which had been seen by the parole board but not the jury. The juror expressed his "deep concerns about the trial," in light of this information and concluded that "[b]ased on what I know today I would not have recommended the death penalty." In an Ohio capital case, a jury must be unanimous for the death penalty for that to be the outcome.

The former juror wrote: "Governor, if we are going to have a legal process that can send criminals to death that includes a special phase for mitigation shouldn't we get it right?" He wrote that "this is not about my conscience beyond having an opportunity to explain how I believe the trial process was not well served in this case". He urged the governor to commute the death sentence. Among his reasons were "the truly terrible conditions, understated at trial, of Tibbetts (sic) entire childhood"; "The lack of preparation if not outright malpractice on the part of the defence for the sentencing phase"; and "The apparent ineptitude of the defense team in not calling Tibbetts sister to testify". He also suggested that the scant nature of the mitigation case had allowed the prosecution to "dismantle" it. In her 2011 dissent, the federal appeals court judge had noted that not only had the abuse been mentioned only "vaguely and in passing" at the trial, "it is important to remember one of the State's tactics during the penalty phase was to challenge the legitimacy of the defence's mention of childhood abuse, however minimal the reference".

On 8 February, Governor John Kasich wrote to the Chair of the Ohio Parole Board requesting that the board convene a new hearing to review the case "in light of this new information". To "facilitate this process", the Governor said he had issued an eight-month reprieve. The Warrant of Reprieve holds that the death sentence will now be carried out at 10am on 17 October 2018 "unless further reprieve or clemency is granted".

Raymond Tibbetts's defence team has expressed its gratitude for "the crucial support of Ohioans to Stop Executions, Amnesty International, and other grassroots organizations who mobilized their strong network to contact Ohio's Governor on behalf of Ray."

No further action by the UA Network is requested at present. Many thanks to all who sent appeals.

This is the first update of UA 13/18. Further information: www.amnesty.org/en/documents/amr51/7777/2018/en/

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