

URGENT ACTION

FIRST TENNESSEE EXECUTION SINCE 2020 NEARS

Oscar Smith is scheduled to be executed in Tennessee on 22 May 2025. He was convicted in 1990 of the 1989 murder of his estranged wife and her two teenaged sons. He was 40 years old when sentenced to death on 26 July 1990 and is now 74. A forensic expert, using modern latent print techniques, has called into question evidence the state argued was central to its case. Juror misconduct and misinformation violated Oscar Smith's fair trial rights at the sentencing. The Governor should commute this death sentence immediately.

TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

Governor Bill Lee
1st Floor, State Capitol
600 Dr Martin L. King, Jr. Blvd.
Nashville, TN 37243, USA

Dear Governor

I urge you to stop the execution of Oscar Smith, scheduled for 22 May 2025. In appealing for clemency, I do not seek to downplay the murders in 1989 of Oscar Smith's estranged wife and her two teenaged sons in their home.

An expert has called into question a key piece of forensic evidence used to convict Oscar Smith, who maintains his innocence. The prosecution told the jury that a palm print from the murder scene was so conclusive that it was as if the perpetrator had "signed his name" at the scene, that there was no doubt it was left by Oscar Smith, and that the jury could convict him on this alone. In 2021, a print examiner with over 40 years of experience concluded that the evidence was "inconclusive" on whether Oscar Smith was the source of the print, and that the analysis presented at trial was "flawed" and met neither 1990 nor today's standards. This expert also identified a fingerprint on an awl (a leather-working tool) used in the murder. That print, which was not Oscar Smith's or any of the victims, contained DNA revealed under modern DNA analysis, not belonging to Smith or the victims. In 2022, the trial-level court denied his lawyers' motion to reopen proceedings based on this new evidence, ruling that even if presented at trial it would not have made a difference. In 2022, a juror from the trial signed a statement that if it had been known at trial that there was "an unknown person's DNA" on the awl, she would not have voted for the death penalty.

The 1990 sentencing was marked by juror bias and misconduct and the introduction of extraneous and inaccurate information regarding Oscar Smith's eligibility for parole if he received a life sentence. In 2020 the Tennessee Court of Criminal Appeals ruled that there was no "procedural vehicle" available to address the claim that juror misconduct had deprived Oscar Smith of a fair and impartial trial. "If taken as true", it acknowledged, the facts in the various juror statements were "disturbing", and if presented in a motion for a new trial and believed by the trial judge, "it is possible that a new trial would have been granted, at least to sentencing". Under international law, capital proceedings must scrupulously observe fair trial guarantees and conform to the highest standards of independence, competence, objectivity and impartiality of judges and juries. The carrying out of a death sentence after a trial in which such guarantees have not been respected constitutes a violation of the right to life.

The power of executive clemency exists precisely to remedy injustices that courts have been unable or unwilling to reach. I appeal to you to prevent Oscar Smith's execution and to commute his death sentence.

Yours sincerely,

ADDITIONAL INFORMATION

The bodies of Oscar Smith's estranged wife and her two teenaged sons were found at their home on 2 October 1989. After a two-day trial in Nashville in July 1990, the jury convicted Oscar Smith of three counts of first-degree murder. The sentencing phase began and ended the next day, 26 July 1990. Tennessee adopted life without the possibility of parole as a sentencing option in 1995, but at the time of Oscar Smith's trial, if the jury had voted for life imprisonment, he would still only have been eligible for parole after 108 years (36 years per murder). Before the sentencing deliberations, the defence asked the judge to instruct the jury about when the defendant would be eligible for parole if they voted for life. The request was denied. The jury voted for the death penalty.

In 2019, some of the trial jurors were interviewed. In signed declarations, two revealed themselves to have been fixed, even before the sentencing, on a death sentence. One said "At the time I was called to serve on Mr Smith's jury, I believed that anytime someone killed a person on purpose they should get the death penalty... In fact, I have never believed a person should get a life sentence if they meant to kill someone. There was not anything Mr Smith's lawyers could have said that would have made me change my opinion". He had voiced this position during jury selection and only adapted his responses when the judge questioned him. He recalled that he had felt the judge "did not like my answers... so I just went along with him" (and gave responses that suggested he could vote for life). Another of the jurors held the same view: "Mr Smith was found guilty of three individual murders. You automatically had to give death". He revealed that he had told his fellow jurors that at high school he had taken a science course which meant that he "knew" that the claim of weather patterns which formed part of the defendant's alibi defence could not have been true. He said also that during lunches, the alternate jurors joined the main jurors and contrary to the trial judge's instructions, "let us know they also thought Mr Smith was guilty". A third juror confirmed that there had been "hotheads" on the jury who were fixed on death from the outset and just wanted "to make a quick decision and go home". He revealed that he himself had believed that a sentence of life imprisonment would be "just 13 years" and that he voted for the death penalty because he "did not think that 13 years was enough time". At least one other juror was swung by his misinformation. A young woman, he recalled, "was really upset with the idea of the death penalty and electrocution. I talked to her in the jury room privately and assured her that life in prison was only 13 years. We had this conversation off to the side during deliberations. After our discussion, she later changed her vote and the jury became unanimous as to the death verdict". The juror confirmed the account and said that after learning that Oscar Smith "eventually would be released, I decided that the death penalty was the better choice".

Under US constitutional law, "due process demands that a jury provided to a capital defendant at the sentencing phase must stand impartial" – allowing the dismissal for cause of "any prospective juror who will automatically vote for the death penalty" as "such a juror will fail in good faith to consider the evidence of aggravating and mitigating circumstances" as required. Furthermore, US constitutional law "does not allow the execution of a person on the basis of information which he had no opportunity to deny or explain", such as that introduced in the jury room here.

Two weeks after the trial, the prosecutors wrote to the Chief of Police in Nashville to commend the key role that the police Identification Section had played in turning "a weak circumstantial case into a strong circumstantial case which left no doubt in the jury's minds that the defendant was the perpetrator of these horrible crimes". The letter stressed that "the most important piece of evidence presented to the jury" was a bloody palm print which a Sergeant in the ID Section had identified as having been left by Oscar Smith". That Sergeant testified that there was "no doubt" that the palm print belonged to Smith. "Palm prints don't lie" the jury was told by the prosecution and "you can convict on that alone". In 2021, an expert latent print examiner with over 40 years of experience, who had testified in court scores of times, mainly for the state, signed a declaration that, far from what the jury had been told, "the evidence is inconclusive as to whether Mr Smith is the source of the palm print" and that the Sergeant's "flawed" analysis – even under the methodology accepted in 1990 – had used methods that would not meet today's standards. She noted that the Sergeant had placed "strong emphasis" on the fact that the palm print appeared to be missing two fingers (as was Oscar Smith). She said that it was "far from conclusive" that this was an accurate assessment because the print had been left on soft fabric, and in such circumstances whole records of all fingers are not necessarily left. She concluded that under both "the outdated analysis and the modern analysis procedures" there was "no support" for the Sergeant's testimony that there was "no doubt" that the palm print had been left by Oscar Smith. She concluded that the Sergeant had generally flouted scientific standards by overriding objective scientific opinion with his own personal belief and had presented a conclusion in court unsupported by the evidence.

Oscar Smith came an hour from execution in 2022 when Governor Lee granted a reprieve after it emerged that the prison authorities had violated their own lethal injection protocol. Lawyers are challenging the state's new execution protocol, but the challenge will not be heard until January 2026. Tennessee accounts for 13 of the USA's 1,620 executions since 1976. This would be Tennessee's first execution since 20 February 2020. There have been 13 executions in the USA in 2025. Amnesty International opposes the death penalty in all cases unconditionally.

PREFERRED LANGUAGE TO ADDRESS TARGET: English. You may also write in your own language.

PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL: 22 May 2025.

NAME AND PRONOUNS: Oscar Smith [He/Him]

LINK TO PREVIOUS UA: n/a

ADDITIONAL TARGETS

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