

EXTERNAL

AI Index: AMR 51/08/98

EXTRA 14/98

Death Penalty

6 February 1998

USA (OHIO) Wilfred BERRY, white

---

Wilfred Berry, 33, is scheduled to be executed in Ohio on 3 March 1998. He was sentenced to death for the 1989 murder of Charles Mitroff. Berry has withdrawn his legal appeals and consented to his execution.

Berry's execution would be the first in Ohio since 1963. The state reintroduced the death penalty in 1981 after the US Supreme Court invalidated its previous death penalty laws of 1972.

Berry's co-defendant received a life sentence. However, Berry requested that he be sentenced to death and refused to cooperate with his lawyers during the trial.

Previous prison records show that Berry had an extremely abusive childhood during which he was severely beaten by his mother and was sexually assaulted.

Both his parents suffered from mental problems - his father was diagnosed as schizophrenic. Berry has made 11 suicide attempts, the first when he was only 11-years-old. At 14 he was committed to an institution for the severely emotionally disturbed where he was diagnosed as suffering from severe schizophrenia but received no further treatment upon release. At the age of 19 he was sentenced to six years imprisonment for car theft in Texas. While in prison he was raped by another inmate and attempted suicide. Prison doctors diagnosed Berry as suffering from chronic undifferentiated delusional schizophrenia.

While on death row, Berry has conducted a letter-writing campaign to be executed.

In December 1997, following numerous mental health evaluations, the Ohio Supreme Court found that Berry was mentally competent to waive his legal appeals, stating: *"We find that he is capable of making a voluntary, knowing and intelligent decision."* When asked about the mental evaluations, Berry indicated his desire to be found competent, stating: *"I've been studying up. I know I can pass. I know what they look for. All I'm going to say is I did it and I should die."*

Ohio's Attorney General, Betty Montgomery, has supported legislation that would make assisted suicide illegal in the state. However, she has aggressively defended Berry's right to waive his appeals and be executed, stating: *"if a volunteer wishes to have the death penalty, we will concur in that."*

Amnesty International is extremely concerned at the precedent Berry's execution would set in Ohio. Berry's case has not been adjudicated by the judicial system as warranting a death sentence. It would appear that his sentence is a result of the state of Ohio complying with his long-term wish to die, thereby making it a case of state-assisted suicide.

Amnesty International believes that the execution of a prisoner who has chosen to abandon their appeals and allow the state to execute them is no less a gross human rights violation than any other execution. The fact that the individual makes such a choice does not relieve the state of its responsibility in taking the life of one of its citizens.

**BACKGROUND INFORMATION**

As of 1 January 1998, there were 179 prisoners under sentence of death in Ohio. Prisoners have a choice of methods of execution; lethal injection or electrocution.

Power to grant clemency rests with the state Governor. The Adult Parole Board makes a non-binding recommendation to the Governor.

**RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in English or your own language or telephone:**

- urging that Governor Voenovich grant clemency to Wilfred Berry by commuting his death sentence, even though Berry is not requesting clemency;
- expressing concern that the execution of Wilfred Berry would constitute a case of state-assisted suicide and not an adjudication by the courts that a death sentence was appropriate in this case;
- expressing concern that Wilfred Berry's wish to die, and therefore his death sentence, may stem from the inadequate treatment of his mental illness;
- expressing concern that the Federal Courts have not examined Wilfred Berry's case to ensure that his conviction and sentence are within the United States Constitution;
- expressing sympathy for the victims of violent crime and their families;
- stating that the resumption of executions in Ohio would be a retrograde step running against international trends.

**APPEALS TO:**

The Honorable George V. Voenovich  
Governor of Ohio  
Riffe Center  
77 S. High St  
Columbus, OH 43215  
USA

**Telegrams: Governor of Ohio, USA**  
**Faxes: + 1 614 466 9354**  
**Telephone: + 1 614 466 3555**  
**Salutation: Dear Governor**

**COPIES TO:**

Ms. Margarette Ghee  
Adult Parole Board  
1050 Freeway Dr. North  
Columbus, OH 43229  
USA

**Faxes: + 1 614 752 1251**  
**Telephone: + 1 614 752 1207**  
**Salutation: Dear Ms Ghee**

and to diplomatic representatives of USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**