

# URGENT ACTION

## OKLAHOMA GOVERNOR COMMUTES DEATH SENTENCE

**On 19 May, the Governor of Oklahoma commuted the death sentence of Richard Smith to life imprisonment without the possibility of parole, accepting the state Pardon and Parole Board's recommendation to him to do so. Richard Smith had been due to be executed on 25 May.**

**Richard Smith**, aged 47, was convicted in March 1987 of the murder in 1986 of John Cederlund. At the sentencing phase of the trial, the defence lawyer presented almost no evidence, and no expert testimony, to persuade the jury not to sentence his client to death. The evidence presented by the lawyer at the sentencing was described in 2005 by a federal District Court judge as "shocking in its brevity, its failure to humanize [Smith] or to explain his actions". In 1992, a psychologist and a neuro-pharmacologist hired for the appeals process revealed that Richard Smith had had a childhood and adolescence marked by systematic neglect and abuse, and that he suffered serious mental impairments. In 2008, the 10<sup>th</sup> Circuit Court of Appeals noted that the lawyer's investigation for the sentencing phase had begun "a mere seven to ten days before trial", and "with 20-20 hindsight, there is much more that might have been presented, including [Smith's] abuse as a child, addiction problems, and psychological problems, brain injury and borderline intelligence". However, like the District Court, the 10<sup>th</sup> Circuit upheld the death sentence.

Less than eight months after Richard Smith's trial, Oklahoma adopted life imprisonment without parole (LWOP) as a sentencing option in the state. Six jurors from the trial later signed statements either that they would not have voted for execution if they had had the option of LWOP or that they do not oppose commutation of his death sentence now to LWOP. See Amnesty International document USA: Second thoughts – Former jurors rethink death decision as execution approaches, 26 March 2010, <http://www.amnesty.org/en/library/info/AMR51/025/2010/en>.

On 25 March 2010, the Oklahoma Pardon and Parole Board decided by three votes to two to recommend that Governor Brad Henry commute Richard Smith's death sentence to life imprisonment without parole. Governor Henry stayed the execution of Richard Smith until 4 May to give him more time to consider the board's recommendation. He subsequently issued a second reprieve until 25 May.

On 19 May, Governor Henry announced that he was accepting the board's recommendation and approving clemency. In a statement, he said: "This was a very difficult decision and one that I did not take lightly. I am always reluctant to intervene in a capital case, and I am very respectful of a jury's verdict, the prosecutors who tried the case and the victim's family who suffered because of the crime. However, after reviewing all of the evidence and hearing from both prosecutors and defense attorneys, I decided the Pardon and Parole Board made a proper recommendation to provide clemency and commute the death sentence. As a result, Richard Smith will be punished by serving the rest of his life behind bars without the possibility of parole."

This is the third time Governor Henry has accepted a recommendation from the Board to commute a death sentence. In four other cases, he has rejected such recommendations. There have been 37 executions in Oklahoma during Governor Henry's term in office (since 13 January 2003).

The USA has carried out 1,208 executions since resuming judicial killing in 1977. Oklahoma accounts for 92 of these executions. Per head of population, Oklahoma has the highest execution rate in the USA. There have been 20 executions in the USA this year, one of them in Oklahoma.

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

This is the 2nd update to UA 69/10. For more information see: <http://www.amnesty.org/en/library/info/AMR51/024/2010/en>, <http://www.amnesty.org/en/library/info/AMR51/028/2010/en>

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