

URGENT ACTION

OHIO EXECUTION SET FOR CRIME AT AGED 18

Billy Slagle, a 44-year-old man, is scheduled to be executed in the US state of Ohio on 7 August for a murder committed in 1987 when he was 18. The parole board has voted 6-4 to deny clemency. Ohio's governor is not bound by the board's recommendation.

Billy Slagle was sentenced to death in Cuyahoga County in April 1988 for the murder of his 40-year-old neighbour Mari Anne Pope who died from multiple stab wounds inflicted after she awoke to an intruder in her home in the early hours of 13 August 1987. Billy Slagle, apprehended at the scene, was 18 years old at the time of the crime. He has been incarcerated for all but eight months of his adult life, and has spent the past quarter of a century on death row. He is seeking commutation of his death sentence to life imprisonment without the possibility of parole.

According to Billy Slagle's current lawyers, the jury did not hear the full range of mitigating evidence available, including of the parental violence to which he was subjected and exposed as a child, or the extent of his parents' alcoholism and failure to support their son's rehabilitation when he was committed to hospital for substance abuse problems. The jury did hear that he was only 18 at the time of the crime and had the emotional development of a 12-year-old; that his childhood was marked by instability, that he began abusing alcohol and drugs from a young age and that he was intoxicated at the time of the crime. When the Ohio Supreme Court upheld the death sentence in 1992, two Justices dissented, arguing that the mitigation was not outweighed by the aggravating factors. One of the two has now appealed for clemency, including on the grounds that Billy Slagle had entered the home unarmed with the intention to steal, not to kill (the murder was committed using a pair of scissors found in the house).

When the US Court of Appeals for the Sixth Circuit ruled on the case in 2006, all three judges found that at least 15 statements made by the prosecutor during the trial had been "improper". However two nonetheless voted to uphold the conviction and death sentence, while the third dissented. She argued that prosecutorial misconduct – reflected in these 15 statements and more – had "so infected the trial that the misconduct violated Slagle's due process rights". She noted that the trial transcript was "rich with evidence" that the prosecutor "repeatedly overreached the bounds of proper prosecutorial conduct when questioning witnesses and presenting closing arguments", including "attacks on Slagle's character and denigrations of Slagle's attorneys and witnesses". She said she was "bewildered and dismayed" by the "incredible" conclusion of her two colleagues that "almost all" of the prosecutor's improper comments were "minimally prejudicial". She described the prosecutorial misconduct as "flagrant" and that "many of the prosecutor's improper assaults and references were likely to mislead the jury or prejudice the defendant".

The current prosecutor of Cuyahoga County says that if the case were to come to his office today, he "likely would not seek the death penalty or expect to see it imposed." He is supporting commutation of the death sentence.

Please write immediately in English or your own language:

- Acknowledging the seriousness of the crime and its consequences;
- Noting Billy Slagle's young age at the time of the crime, and that two Ohio Supreme Court Justices considered that there was enough mitigating evidence to warrant a sentence of less than death;
- Express concern at the trial prosecutor's misconduct and note that the current prosecutor supports mercy;
- Opposing the execution of Billy Slagle and calling for clemency.

PLEASE SEND APPEALS BEFORE 7 AUGUST 2013 TO:

Governor of Ohio, John Kasich, Riffe Center, 30th Floor, 77 South High Street, Columbus, OH 43215-6117, USA

Fax: +1 614 466 9354

Email: Samuel.Porter@governor.ohio.gov (governor's Chief Legal Counsel, please ask for your appeal to be relayed to the Governor)

Salutation: Dear Governor

Also send copies to diplomatic representatives accredited to your country.

Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

One of the jurors from Billy Slagle's trial subsequently signed an affidavit in which she stated that "mitigating circumstances' are just excuses and should not be considered when an individual is found guilty of murder", calling into serious question whether Billy Slagle's right under the US constitution to an impartial jury was violated.

Under a 1978 US Supreme Court ruling (*Lockett v. Ohio*), the sentencer at a capital trial must not be precluded from considering as a mitigating factor any aspect of the defendant's character or record and any of the circumstances of the offence that the defence puts forward as a basis for a sentence less than death. In 1993, in the case of a death row prisoner who was 19 at the time of the crime, the Supreme Court emphasised that: "youth is more than a chronological fact. It is a time and condition of life when a person may be most susceptible to influence and to psychological damage. A lack of maturity and an underdeveloped sense of responsibility are found in youth more often than in adults... These qualities often result in impetuous and ill-considered actions and decisions... [T]he signature qualities of youth are transient; as individuals mature, the impetuosity and recklessness that may dominate in younger years can subside." In its 2005 ruling prohibiting the death penalty against anyone who was under 18 at the time of the crime, the US Supreme Court recognized the immaturity, impulsiveness, and poor judgment associated with youth, as well as the susceptibility of young people to "outside pressures, including peer pressure". The Court also acknowledged that "the qualities that distinguish juveniles from adults do not disappear when an individual turns 18". Indeed, scientific research shows that brain development continues into a person's 20s.

In their dissent against Billy Slagle's death sentence in 1992, two Ohio Supreme Court Justices wrote: "The most compelling mitigating factor in this case is Slagle's age... Even in the best of circumstances an 18-year-old lacks the judgment of a mature adult. All of us who have lived through our late teens and twenties and seen our children grow through these years know that there is a significant difference between an 18-year-old and a 21 or 22-year-old... Several other mitigating factors are revealed in Slagle's history, character, and background. Slagle presented uncontroverted evidence that he had been drinking heavily in the 12 hours before he killed Pope. The record shows that Slagle is chemically dependent on alcohol and marijuana, and that his family and genetic background in all likelihood predisposed him to alcoholism. His substance abuse problems prevented him from finishing high school or holding a steady job. Constant family moves, his parents' divorce, and a dysfunctional family retarded Slagle's emotional development to the level of a 12-year-old. Defense experts agreed that Slagle's disease of alcoholism and drug dependence could be successfully treated."

On 16 July 2013, after a hearing on 8 July, the Ohio Parole Board announced that it was recommending to Governor Kasich that he deny clemency. Four of the 10 members voted for clemency. One wrote: "Slagle's age and immaturity at the time of the offense significantly mitigate his sentence in this horrible crime. Evolving standards of decency as well as medical, scientific, and sociological studies suggest that a penalty as final and irrevocable as death should not be imposed upon an individual who, like Slagle, retained the capacity for significant maturation and change at the time he or she committed the crime. Slagle's capacity for maturation and change at the time of his offense is evidenced by his positive institutional adjustment."

Billy Slagle told the clemency board that he was very remorseful for the murder of Mari Anne Pope and that he understood the effects of his actions upon her family. He also apologized to his own family for what he had put them through.

Amnesty International opposes the death penalty in all cases, in all countries, unconditionally. There have been 20 executions in the USA this year, and 1,340 nationwide since the US Supreme Court allowed executions to resume under revised capital statutes. Ohio accounts for 51 of these executions, two of which have been carried out this year.

Name: Billy Slagle
Gender m/f: m

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