

USA (Washington State) James Homer Elledge, white, aged 58

James Elledge is scheduled to be executed in the State of Washington on 28 August 2001. He has refused to appeal against his death sentence.

He was sentenced to death in Snohomish County in October 1998 for the murder of Eloise Fitzner six months earlier. He was on parole for a 1975 murder when Fitzner, 47, was strangled and stabbed in a church basement.

James Elledge turned himself in after the crime, after allegedly twice attempting suicide. At the trial, he pleaded guilty to first degree murder. Under state law, the jurors had to decide that there were insufficient mitigating circumstances to merit leniency before they could decide on a death sentence. However, Elledge refused to allow any mitigating evidence to be presented, telling the jury that the "wicked part of me needs to die". The judge had earlier rejected a claim that the defendant's refusal to allow mitigating evidence would lead to a breakdown in the adversarial process that forms the basis of the US criminal justice system.

According to the *Seattle Post-Intelligencer* newspaper, "there were a lot of things the Snohomish County jury didn't know about James Elledge when they sentenced him to die. They knew he was a two-time killer, but they didn't know about the man whose life he once saved [that of a guard during a prison riot]. They were told he was competent to stand trial, but they didn't hear that he had pleaded insanity in a previous case. They didn't hear about a childhood so harsh he once asked a parole officer to let him stay in reform school rather than go home... The jury didn't know those things, because Elledge didn't want them to know".

According to the *Post-Intelligencer's* investigation, James Elledge was traumatized by the death of his sister when he was six or seven. He began drinking alcohol when he was seven or eight years old, which is what Elledge reportedly believes "destroyed" him. The newspaper noted that he was first taken into custody when he was 10, for breaking and entering, shortly after his father was hospitalized for mental illness. Two of his half-siblings killed themselves after his father died when James was 13. The newspaper reported that "psychiatric evaluations over the past 35 years suggested that [Elledge] was a man of average to above-average intelligence who was mentally ill".

On 5 July 2001, the state Supreme Court upheld the death sentence on mandatory appeal. It ruled that Elledge was competent to waive his appeals, that the sentence was proportionate to the crime, and that the jury was justified in finding that leniency was not merited. One of the eight judges dissented, saying that the court's proportionality review - in which it is supposed to consider whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases, considering both the crime and the defendant - had become "little more than lip service" to the protection against arbitrariness it was originally meant to offer.

On 6 August, the state Clemency and Pardons Board voted 3-2 not to recommend clemency. One of its members who voted for clemency said that the situation was "very troubling," in that the outcome of the trial might have been different "depending on whether [the jury] got the full story or not". The Governor can accept or reject the Board's recommendation.

BACKGROUND INFORMATION

Since the USA resumed executions in 1977, 93 inmates have been put to death after giving up their appeals, including some who demanded the death sentence at trial and some who claimed that they had committed their crimes so that the state would execute them (see *USA - The illusion of control: "Consensual" executions, the impending death of Timothy McVeigh, and the brutalizing futility of capital punishment*, AMR 51/053/2001, April 2001).

There may be any number of factors contributing to an inmate's decision not to pursue appeals, including mental disorder, physical illness, remorse, bravado, religious belief, the severity of prison conditions, the bleak alternative of life imprisonment without the possibility of parole, pessimism about appeal prospects, a quest for notoriety, or simply to gain a semblance of control over a situation in which they are otherwise helpless. But rational or irrational, a decision taken by someone who is under threat of death at the hands of others cannot be regarded as consensual. What is more, it cannot disguise the fact that the state is involved in a premeditated killing, a human rights violation that is a symptom of a culture of violence, not a solution to it.

A recent series of articles in the *Seattle Post-Intelligencer* argues that Washington's capital justice system is "riddled with incompetence, inequities and inadequate funding. People facing a death sentence frequently have been represented by some of the state's worst lawyers". The paper also found marked geographic disparities in capital sentencing across the state as a result of the discretionary powers of elected prosecutors.

Since 1977, 725 prisoners have been executed in 31 US states, selected for death under a system marked by arbitrariness, discrimination and error. Washington State accounts for three of these executions, two of which were of inmates who had refused to appeal against their death sentences: Westley Dodd, hanged in 1993, and Jeremy Sagastegui, lethally injected in 1998.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words:

- expressing sympathy for the family and friends of Eloise Fitzner;
- expressing concern that James Elledge's jury never heard mitigating evidence, and noting that the death penalty in the USA is riddled with arbitrariness and offers no constructive contribution to society's efforts to confront violent crime;
- noting that two pardons board members voted for clemency;
- urging the governor to commute this death sentence, and to lead his state away from the death penalty.

APPEALS TO:

Governor Gary Locke
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002, USA
Faxes: + 1 360 753 4110
Salutation: Dear Governor

COPIES TO: diplomatic representatives of the USA accredited to your country.

You may also write brief letters (not more than 250 words) to:

Letters to the Editor, *Seattle Post-Intelligencer*, P.O. Box 1909, Seattle WA 98111-1909, USA. **E-mail: editpage@seattle-pi.com**

Letters Section, *The Herald*, Box 930, Everett, WA 98206, USA. **Faxes: +1 425-339-3458. E-mail: letters@heraldnet.com**

PLEASE SEND APPEALS IMMEDIATELY.