

EXTERNAL (for general distribution)

AI Index: AMR 51/23/95  
Distr: UA/SC

EXTRA 13/95

Death Penalty

9 February 1995

USA (Illinois)

James FREE  
Hernando WILLIAMS

---

James Free and Hernando Williams will be executed on 22 March 1995 unless the Governor of Illinois exercises his authority to grant them clemency.

In Illinois, the Prisoner Review Board makes recommendations to the Governor, who has sole authority to commute death sentences in the state. A petition for clemency on behalf of Free will be presented to the Board on 22 February, and for Williams by 1 March. According to their attorneys, the Board will likely review both cases on the same day in March.

James Free, white, was sentenced to death on 27 November 1979 for the murder of Bonnie Serpico, white. He was also convicted of the attempted murder of Lori Rowe, and attempted rape of both women.

Hernando Williams, black, was sentenced to death on 14 January 1980, for the kidnap, rape, and murder of Linda Goldstone, white, in 1978.

Williams was convicted and sentenced to death by an all-white jury in Cook County, Illinois, after the prosecutor had excluded all 26 prospective black jurors from jury service, by use of peremptory challenges (the right to exclude jurors without giving reasons). Subsequent appeals to the Illinois Supreme Court and the US Supreme Court on the grounds of race discrimination were denied.

However, in a dissenting opinion, then US Supreme Court Justices Marshall and Brennan expressed concern that claims of race discrimination in the jury selection process had become "distressingly familiar". They further stipulated that "intentional exclusion of Negro jurors is particularly pronounced in capital cases in Illinois", and that race discrimination in jury selection was "one of the gravest and most persistent problems facing the American judiciary today". An investigation into peremptory challenges in felony trials of black defendants in Cook County, Illinois, conducted by the Chicago Tribune newspaper in 1984, found that prosecutors eliminated black jurors at more than twice the rate at which they excluded whites, and that the dismissal rate was even higher in cases with white victims.

An appeal will be presented to state courts at the end of February which claims, among other things, that the jury instructions in Illinois at the time of Free's and Williams' trials were incomprehensible, confusing jurors on the standards for sentencing someone to death, resulting in the arbitrary and capricious imposition of the death penalty.

#### BACKGROUND INFORMATION

The US Supreme Court ruled in 1986 in **Batson v Kentucky**, that prosecutors may not exclude jurors in any case solely on account of their race as this was contrary to the Equal Protection clause of the US Constitution. However, the **Batson** ruling was held not to be retroactive to past cases upheld on direct appeal prior to **Batson**, as in Williams' case.

As of 20 October 1994 there were 163 prisoners under sentence of death in Illinois. The method of execution is lethal injection.

**RECOMMENDED ACTION:** Please send telegrams/faxes/express and airmail letters either in English if possible, or call by telephone (An update will be issued as soon as the Prisoner Review Board have met and made their recommendation to the Governor, at which time all appeals will go to the Governor only):

**Appeals to the Illinois Prisoner Review Board (please select at least one member from the list below):**

- urging the Prisoner Review Board to recommend to Governor Edgar to grant clemency to Williams and Free by commuting their sentences of death;

**Appeals to Governor Edgar:**

- urging him to commute the death sentences of Williams and Free;

**Appeals to both:**

- expressing concern that James Free and Hernando Williams are scheduled to be executed in Illinois on 22 March 1995;

- expressing concern that Williams, who is black, was sentenced to death by an all-white jury after the prosecutor had excluded all 26 prospective black jurors for jury service, and in a county of Illinois which has been found to be particularly discriminatory against black jurors;

- referring to the dissenting opinion of former Supreme Court Justices Brennan and Marshall in Williams' case;

- expressing concern at reports which suggest that at the time of Free's and Williams' trials the jury instructions in Illinois were incomprehensible, confusing jurors on the standards for sentencing someone to death.

**APPEALS TO**

Prisoner Review Board  
319 E Madison, Suite A  
Springfield, IL 62701, USA

James K Williams, Chairman  
Kent R Steinkamp, Legal Counsel  
Clyde Brooks  
Herbert D Brown  
Joespeh T Dakin  
James Donahue  
William Harris  
Barbara Hubbard  
Milton Maxwell  
Joanne S Shea  
Anne R Taylor  
William Walsh

**Telegrams: (Individual's name), Prisoner Review Board, Springfield, Illinois, USA**

**Faxes: + 1 217 524 0012**

**Telephone: + 1 217 782 7273**

**Salutation: Dear Board Member**

The Honorable Jim Edgar  
Governor of Illinois  
207 State House  
Springfield, IL 62706, USA

**Telegrams: Governor Edgar, Illinois, USA**

**Telephone: + 1 217 782 6830**

**Faxes: + 1 217 782 3560**  
**Salutation: Dear Governor**

**COPIES OF YOUR APPEALS TO:**

The Letters Editor  
Chicago Tribune  
435 N. Michigan  
Chicago, Il 60611, USA

and to diplomatic representatives of the USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**