

USA (INDIANA) Gary BURRIS, black

Gary Burriss is scheduled to be executed on 20 November 1997. He was sentenced to death in February 1981 for the robbery and murder of black taxi driver Kenneth Chambers. Two other men involved in the crime were sentenced to prison terms.

Gary Burriss had received a stay of execution before his execution date of 29 November 1995, as three judges of the Federal Court of Appeal for the Seventh Circuit wished to allow for a full oral hearing in front of the entire court in December 1995.

The Indiana Supreme Court reversed Burriss's original death sentence, finding that the attorneys representing him at trial had been incompetent. The attorneys had described Burriss as an "insignificant, snivelly little street person" before the jury and had failed to investigate Burriss's life to present evidence arguing for a sentence less than death.

In 1992, another sentencing hearing was held. The jury was unable to agree on whether or not to impose a death sentence; the trial judge chose to impose a death sentence. The Indiana Attorney General's office, in its brief to the Indiana Supreme Court, conceded that a sentence less than death would have been reasonable in Burriss' case. Despite this, the Indiana Supreme Court affirmed the death sentence.

The case against Burriss rested on William Kirby, who testified that Burriss had confessed the crime to him in jail when they were both in police custody. Kirby was awaiting trial on charges of robbery, possession of illicit drugs and of being a habitual offender. Following his testimony against Burriss, Kirby received a sentence of 10 years' imprisonment. The charge of being a habitual offender was dropped at the State's request, saving Kirby from a 30-year term in prison. According to reports, Kirby has since been released from prison and has committed several thefts, a kidnapping and an attempted rape.

Burriss was abandoned as an infant and does not know the date and place of his birth, or the names of his parents. He was raised believing he had been found in a rubbish bin by a man called Newland, a pimp. Newland raised Burriss in an environment of crime; they lived above a club, operated by the pimp, which was frequently raided by police for prostitution, the illegal sale of alcohol and drugs and gambling. Newland involved Burriss in many of the illegal activities taking place around the club; these included being a courier for drugs and alcohol and knocking on prostitutes' doors when their clients' time was up. When Burriss was 13, Newland was convicted of manslaughter and sent to prison.

The authorities then placed Burriss in a foster home. His foster mother reportedly remembers that when she asked him once what he wanted for Christmas, he requested a birth certificate or some information as to who he was.

Gary Burriss reportedly has an "outstanding" prison record. He was selected by Department of Corrections staff to work as a porter, a position awarded to an inmate who is trusted and liked. In 1986, Burriss refused to participate in a hostage incident where other death row inmates threatened to take the life of a member of the prison staff. He has made an effort to improve himself through reading and obtaining a GED (the equivalent of a high school diploma).

Several Department of Corrections staff have testified on Burris' behalf in support of a sentence less than death.

Burris was one of eleven people charged with a capital crime between 1978 and 1981 during the administration of Steven Goldsmith as Marion County's prosecutor (the jurisdiction where Burris was sentenced). Of the 11, nine were black - a significant over-representation of the black population.

BACKGROUND INFORMATION

As of 31 July 1997 there were 45 prisoners under sentence of death in Indiana. Since executions resumed, five prisoners have been put to death in the state under its present death penalty laws. The most recent execution in Indiana was Tommie J Smith (aka Ziyon Yisrayah) on 18 July 1996. The execution team had trouble finding a vein and the process took over an hour and 20 minutes. The method of execution is lethal injection. The power to grant clemency rests with the state governor, on the advice of the Parole Board.

The Constitution of Indiana states: "The penal code shall be founded on the principles of reformation, and not vindictive justice."

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

- expressing sympathy for the victim's family and friends;
- urging Governor O'Bannon to grant clemency to Gary Burris by commuting his death sentence;
- noting that Burris was convicted mainly on the testimony of William Kirby, a witness who may have been attempting to gain a reduction in charges against him by his cooperation with the prosecution;
- urging Governor O'Bannon to take into consideration the following in deciding whether to grant clemency: Burris' poor legal representation at trial; his exemplary behaviour in prison; his deprived childhood; that the other two men involved in the crime received prison sentences; the state Attorney General recommended in its brief to the Indiana Supreme Court that a sentence less than death would have been reasonable in Burris' case.
- expressing concern about possible racial discrimination in the application of the death penalty in Marion County;

APPEALS TO:

Governor Frank O'Bannon
206 State House
Indianapolis, IN 46204
USA

Telegrams: Governor O'Bannon, Indianapolis, IN 46204, USA

Phone: +1 317 232 4567

Fax: +1 317 232 3443

E-mail: fobannon@state.in.us

Salutation: Dear Governor O'Bannon

COPIES OF YOUR APPEALS TO:

Indianapolis News
307 N Pennsylvania St
Indianapolis, IN 46204
USA

Fax: + 1 317 633 1174

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

PLEASE SEND APPEALS IMMEDIATELY.