

PUBLIC

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UA 184/04 **Death penalty**

USA (Ohio) **William G. Zuern (m), white, aged 45**

William Zuern is scheduled to be executed in Ohio on 8 June 2004. He was sentenced to death in October 1984 for the murder of a jail guard, Phillip Pence, in the Community Correctional Institute in Hamilton County four months earlier. William Zuern has been on death row for almost two decades.

According to the evidence at trial, William Zuern, who was in pre-trial detention on a murder charge, stabbed Officer Pence with a sharpened bucket hook during a cell search on 9 June 1984. Phillip Pence died in hospital as a result of the stab wound.

At the subsequent trial, the jury convicted William Zuern of aggravated murder. The defendant waived his right to present mitigating evidence, and the jury recommended a death sentence, finding that the murder had been committed with prior calculation and design.

The Supreme Court of Ohio affirmed the death sentence in 1987. Two of the judges dissented on the grounds of a prejudicial statement made by a prosecution witness in front of the jury. The witness, a fellow inmate, had repeated a conversation he said he had had with a jail guard shortly before the stabbing. He recalled under questioning by the prosecutor that he had said of William Zuern: "He is crazy, man, he is in here for murder, and he won't hesitate to do it again". The defence had called for a mistrial, which the judge denied. The dissenting judges in the Ohio Supreme Court wrote that they could not "imagine anything more harmful or inflammatory in character than testimony of this nature... [Zuern] was denied fundamental due process of law and a fair trial by his peers and a second trial should be granted".

In 2000, a federal district judge granted William Zuern a new trial on the grounds that the prosecution had withheld evidence favourable to the defendant and which had undermined confidence in the jury's decision that Zuern had planned the murder. In 2003 the US Court of Appeals for the Sixth Circuit overturned the district judge's decision, deciding that even if the prosecution had turned over the evidence, the outcome of the trial would likely have been the same.

BACKGROUND INFORMATION

Amnesty International opposes the death penalty in all cases, unconditionally. The death penalty not only runs the risk of irrevocable error, it is costly - to the public purse, as well as in social and psychological terms; it has no special deterrent effect; it tends to be applied discriminatorily on grounds of race and class; it prolongs the suffering of murder victims' families, and extends that suffering to the loved ones of the condemned prisoner. It is a symptom of a culture of violence, not a solution to it. It is an affront to human dignity. It should be abolished.

Today, 117 countries are abolitionist in law or practice. The United Nations Commission on Human Rights has repeatedly expressed its conviction that "abolition of the death penalty contributes to the enhancement of human dignity and to the progressive development of human rights". In recent years, the Commission has repeatedly called on all governments to impose a moratorium on executions with a view to abolition.

The USA has put 911 prisoners to death since resuming executions in 1977. Ohio accounts for 11 of these killings. There have been 26 executions in the USA this year, including three in Ohio.

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 Phillip Pence, explaining that you are not seeking to minimize the seriousness of the crime or the suffering caused;
- explaining your opposition to the death penalty;
- urging the governor to grant clemency to William Zuern and to promote and support efforts for a moratorium on executions in Ohio.

APPEALS TO:

Governor Bob Taft
30th Floor
77 South High Street
Columbus, Ohio 43215-6117
USA

Fax: +1 614 466 9354

Email: (via website) <http://governor.ohio.gov/contactinfopage.asp>
Governor.Taft@das.state.oh.us

Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY.