

EXTRA 37/01

Death penUSA (Indiana) James Lowery, white, aged 54

Jim Lowery is scheduled to be executed in Indiana on 27 June 2001 after more than two decades on death row.

Mark and Gertrude Thompson were murdered in their home on the night of 30 September 1979. Jim Lowery, who had briefly worked as the elderly couple's caretaker before being fired, was convicted of the murders and sentenced to death in 1980. He was retried in 1983 after winning an appeal, but was again convicted and sentenced to death.

The jury heard some evidence of Jim Lowery's background at the sentencing phase of the retrial, but the defence did not present much of the detail now available about his deprived and abused life before the crime. Specifically, it heard nothing about his appalling treatment in state mental facilities as a teenager.

Jim Lowery was born in 1947 to a 14-year-old mother and an alcoholic father. His and his four siblings' childhood was marked by poverty and parental neglect. Jim Lowery first got into trouble as a young teenager, after taking his father's car for joyriding in. When he was 15 or 16, his parents took him to court and a judge committed him to a state mental facility, even though no evidence had been presented that he was mentally ill. The teenager ran away from the institution several times, telling his brothers and sisters that he had witnessed inmates being given electro-shock treatment and that he was afraid this would happen to him.

He was transferred to the maximum security unit of another institution, the Norman Beatty Hospital, which has since been closed. There he was subjected to repeated gang rapes by staff. On occasion he was held in isolation, and he witnessed further electro-shock treatment. He was released at the age of 18. He took to drugs, alcohol, and property crime, and was in and out of the prison system until the crime for which he was sentenced to die.

Another former teenage inmate of Norman Beatty, Frank Davis, was sentenced in 1996 to life imprisonment for two murders. The sentencing judge rejected the prosecution's bid for a death sentence, stating: "the Court finds of great significance the fact that the State created the monster it now seeks to destroy. The mitigation provided by the horrors perpetrated upon Defendant while at Norman Beatty Hospital and while the State was *in loco parentis* with the Defendant, are so strong as to overcome the substantial aggravating circumstances also found in this case." As a 14-year-old, Davis was subjected to rape at the hands of other patients in the hospital.

At a clemency hearing on 18 June, the Indiana Parole Board heard testimony from a psychologist who recently diagnosed Jim Lowery as still suffering from post-traumatic stress disorder as a result of his treatment in the mental institutions. The psychologist also testified that Lowery should never have been placed in those facilities.

The board also heard how Jim Lowery has been a model prisoner who has not had a single disciplinary write-up in his 22 years on death row and who has been entrusted with a job as a prison porter, which allows him to be out of his cell for extended periods of time. The board was told that Lowery had helped save another prisoner's life by calling attention to his suicide bid, and that

he has been an important mediator between prisoners and the authorities at times when tensions on Indiana's death row have run high.

On 19 June, the parole board voted against clemency. Its chairman noted that there was "no question that [Lowery] was a model prisoner" whose record in the prison was "exemplary". Jim Lowery's fate is now in Governor O'Bannon's hands. Under Article 5, Section 17 of the Indiana Constitution, he has the power to override the Board's recommendation and grant clemency.

Last year, Governor O'Bannon ordered a legislative study into the fairness of the state's use of the death penalty. That study is still in progress. Fourteen professors at the Notre Dame School of Law, Indiana, have signed a letter stating that it is "both unwise and inconsistent with elemental notions of fairness to conduct any execution" in Indiana while the system is being studied, given that it is "possible that the State of Indiana might execute a person who would have been entitled to the benefit of the Commission's work". The letter noted that in this regard "Mr Lowery's situation creates a risk of an erroneous execution". Another five law professors from Indiana University of Law have signed a similar statement.

BACKGROUND INFORMATION

Amnesty International opposes the death penalty in all cases. Every death sentence is an affront to human dignity, every execution a symptom of, not a solution to, a culture of violence. Those on death row in the USA were convicted of violent crimes, but many were themselves exposed to violence and subjected to abuse from an early age. The death penalty denies the possibility of error and of rehabilitation.

As of 19 June 2001, 720 prisoners have been executed in the USA since judicial killing resumed in 1977. Eight of these executions have been carried out in Indiana.

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

- expressing sympathy for the family and friends of Mark and Gertrude Thompson, and explaining that you do not condone the manner of their deaths;
- noting the appalling life experiences of Jim Lowery, including his time as a teenage inmate of Norman Beatty Hospital, and that the jury were not aware of the full extent of this deprivation and abuse, and noting the judge's ruling in the case of Frank Davis;
- noting that Jim Lowery has been a model and trusted prisoner with no disciplinary write-ups in over 20 years, and who has been a force for good in the prison;
- urging the Governor to break the cycle of violence in this case and to grant clemency;
- noting that the Governor has ordered a study into the fairness of the death penalty in Indiana, and arguing that to permit executions while such a study is ongoing should be opposed even by death penalty proponents.

APPEALS TO:

Governor Frank O'Bannon
Office of the Governor
State House, Room 206
Indianapolis, IN 46204-2797, USA

Tel: + 1 317 232 4567

Telegrams: governor O'Bannon, Indianapolis, Indiana, USA

Fax: + 1 317 232 3443/5738

Email: fobannon@state.in.us

Salutation:Dear Governor

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

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

Letters to the Editor, *The Indianapolis Star*, P.O. Box 145, Indianapolis, IN 46206-0145, USA. **Fax: +1 317 444 6300. E-mail via website:**

<http://www.starnews.com/help/contact/letters.html>

PLEASE SEND APPEALS IMMEDIATELY.