

PUBLIC

AI Index: AMR 51/128/2005

15 August 2005

UA 210/05

Death Penalty

USA (Indiana)

Arthur P Baird II (m), white, aged 59

---

Arthur P Baird II is scheduled to be executed on 31 August. He was sentenced to death in 1987 for the murder of his parents, Arthur P Baird I and Kathryn Baird, on 7 September 1985. Baird also received a prison sentence of 60 years for the murder, the previous day, of his wife Nadine, who was seven months pregnant at the time, and a further eight years for the murder of the foetus. Baird's attorney is seeking a stay of execution on the grounds that he is mentally ill.

He is due to appear before the Indiana Parole Board on 19 August. The Board will hold a public hearing to determine whether to recommend clemency on 24 August, when members of Baird's family and of the victims' families, and the general public may present testimony for or against clemency.

Arthur Baird confessed to the killings, telling police he had lost control and gone "berserk". At the time of the killings, Baird reportedly believed he had solved the national debt of \$1.94 trillion, that the federal government was to pay him \$1 million for his advice, and that a big burly man was moving his arms, causing him to do the things that he did. He was examined by various psychiatrists and other mental health professionals, one of whom said that Baird had been legally insane at the time of the crime.

In a ruling on 19 July 2005, the Indiana Supreme Court noted that the other professionals had found him competent enough to understand what he had done was wrong, but had agreed that "his ability to conform his actions to the requirements of the law had been impaired by a mental illness, though the precise nature of the illness was variously described". In a post-conviction appeal, a mental health expert found that Baird suffered from a "delusional disorder" that rendered him unable to control his behaviour.

The Court rejected Baird's appeal that he was entitled to further relief in the courts on the grounds that he had been mentally ill at the time of the killings, saying that this issue had already been dealt with on appeal. In an earlier appeal to the Indiana Supreme Court, the Court had found that Baird was "under the influence of extreme mental or emotional disturbance when the murders were committed," but found "this mitigating factor to be in the low range". However, the ruling noted that the court had not been asked to consider whether Baird is *currently* mentally ill. While siding with the unanimous decision in denying the appeal, one of the Justices wrote separately because he wanted to emphasize that Baird had made no claim based on his present mental state, saying: "I continue to believe that a sentence of death is inappropriate for a person suffering a severe mental illness."

Following the 19 July ruling, Baird's attorney filed a further appeal with the Indiana Supreme Court. She also with the US Supreme Court, asking it to determine whether it is constitutional to execute someone who is mentally ill. The courts have yet to rule on these appeals. In 2002 the US Supreme Court ruled that it was unconstitutional to execute people who are mentally *retarded*, but it has not ruled on the constitutionality of executing someone who is mentally *ill*.

In November 2004, two federal judges upheld Baird's death sentence on appeal, noting that while the US Supreme Court had prohibited the execution of offenders with mental retardation, "it has not yet ruled out the execution of persons who kill under an irresistible impulse" brought about by mental illness. The judges acknowledged that "as an original matter, we might think it inappropriate to sentence to death a man as seemingly insane as Baird at the time of the murders. But it is not our judgment to make."

Amnesty International opposes the death penalty in all cases. Today, 120 countries are abolitionist in law or practice, and there are strict international safeguards applying to those countries which have not yet abolished the death penalty. For example, the United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty prohibit the execution of "persons who have become insane". In repeated resolutions in recent years, the UN Commission on Human Rights has called on those countries which still retain the death penalty not to use it against anyone suffering from a mental disorder.

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

- expressing concern that Arthur Baird is facing execution in Indiana on 31 August;
- expressing sympathy for the family and friends of Arthur, Kathryn and Nadine Baird, and explaining that you are not seeking to excuse the seriousness of the crime or of the suffering caused;
- expressing concern that Arthur Baird may be mentally ill and noting that the Indiana Supreme Court, in rejecting his recent appeal, was not ruling on his present mental state;
- noting that the United Nations Commission on Human Rights has called for an end to the execution of people suffering from mental disorders;
- noting that, as the Indiana Supreme Court stated in its 19 July ruling, mental health experts found that Arthur Baird's capacity to conform to the law was "impaired by a mental illness"; that a psychiatrist found him to be legally insane at the time of the crime and that another mental health expert found him to have been suffering from a "delusional disorder";
- noting also that in November 2004, two federal judges noted in a ruling that Baird was "seemingly insane at the time of the murders";
- calling on Chairman Rizzo to convey your concerns to the full Indiana Parole Board, and urging that the Board recommend that Governor Daniels commute Arthur Baird's death sentence;
- calling on Governor Daniels to stop the execution of Arthur Baird and commute his death sentence.

**APPEALS TO:**

Raymond W Rizzo, Chairman (To arrive by 19 August if possible, or by the latest 24 August)

Indiana Parole Board

302 W Washington Street

Indiana Government Center South, Room E321

Indianapolis, IN 46204, USA

**Fax:** +1 317 232 5738

**Salutation:** Dear Mr Rizzo

Governor Mitch Daniels, Office of the Governor, Statehouse Room 206

200 W. Washington St., Indianapolis, IN 46204-2797, USA

**Fax:** +1 317 232 3443

**Email:** <http://www.in.gov/gov/contact/index.html>

**Salutation:** Dear Governor

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

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 31 August 2005.