

USA (Indiana) Gary BURRIS

Gary Burris, black, is scheduled to be executed in Indiana on 29 November 1995. He was sentenced to death in February 1981 for the robbery and murder of black taxi driver Kenneth Chambers. The two other men involved in crime were sentenced to prison terms and one has since been released.

The Indiana Supreme Court reversed Burris' original death sentence finding that the attorneys representing him at trial had been incompetent. The attorneys had described Burris as an "insignificant, snivelly little street person" before the jury and had failed to investigate Burris' life in order 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. However, the 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 Burris's case. Despite this, the Indiana Supreme Court affirmed the death sentence.

The case against Burris rested on William Kirby, who testified that Burris 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 Burris, 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.

Burris 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 trash can by a pimp. The man who found him raised Burris, 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 Burris 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 Burris was 13 years old, Newland was convicted of manslaughter and sent to prison.

The authorities then placed Burris in a foster home. The foster mother who cared for him 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 Burris 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. 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. Of the eleven, nine were black - a significant over-representation of the black population.

BACKGROUND INFORMATION

As of 31 August 1995, there were 50 prisoners under sentence of death in Indiana. The method of execution is electrocution. Three prisoners have been executed under Indiana's current death penalty laws. The most recent being Gregory Resnover (aka Ajamu Nassor) on 8 December 1994. 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 make urgent appeals in English or in your own language:

- urging Governor Bayh to grant clemency to Gary Burris by commuting his death sentence;
- noting that Gary 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 Bayh to take into consideration the following when deciding whether to grant clemency to Gary Burris: his exemplary behaviour in prison; his deprived childhood; that the two other men involved in the crime received prison sentences;
- expressing concern about possible racial discrimination in the application of the death penalty in Indiana;
- quoting from the Indiana State Constitution.

APPEALS TO:

State Governor

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PLEASE SEND APPEALS IMMEDIATELY.