

URGENT ACTION

INDIANA'S FIRST EXECUTION IN 15 YEARS LOOMS

Joseph Corcoran is scheduled to be executed in Indiana on 18 December 2024. He was convicted in 1999 of the murder of four men in 1997, including his brother and future brother-in-law, and sentenced to death. He has long been diagnosed with paranoid schizophrenia, with symptoms that include hallucinations and delusions. We are calling on the Governor to stop his execution and to ensure that his death sentence is commuted.

TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

Governor Eric Holcomb
Office of the Governor, Statehouse
Indianapolis, IN 46204-2797, USA
Email: GovHolcomb@gov.in.gov; or via webform <https://www.in.gov/gov/2752.htm>

Dear Governor

I am writing to urge you to stop the execution of Joseph Corcoran, scheduled for 18 December 2024. I do not seek to downplay the terrible events of 26 July 1997 which left four people dead. However, I believe that for the State to add a fifth death to this tragedy would simply be to perpetuate the cycle of violence.

Diagnoses that Joseph Corcoran has paranoid schizophrenia were first made in 1999. In 2002, Indiana Supreme Court Justice Robert Rucker wrote that "Corcoran is obviously severely mentally ill". In 2005, Justice Rucker pointed out this had "developed into full-blown paranoid schizophrenia." In 2008, US Circuit Judge Ann Williams noted that "no one contests that Corcoran suffers from a mental illness", as was "clear from his delusion that prison guards torture him daily with an ultrasound machine, and his delusion that he suffers from an involuntary speech disorder".

In 2003 Joseph Corcoran had refused to sign his post-conviction petition because he sought to waive review and to be executed. The post-conviction court rejected the unsigned application and held a hearing on his competence to waive appeals. Three experts testified that Joseph Corcoran had paranoid schizophrenia, with symptoms including delusions and hallucinations that explained his decision to waive his appeals. Their testing not only showed that he was not malingering – as the sentencing judge had suggested – but that if anything he was trying to "cover up his psychological symptoms", for "it is better for him psychologically to appear that he is criminally responsible than to admit that he has a serious mental illness that may have contributed to his behavior in the past. It speaks to how powerful the stigma is against serious mental illness, that he would rather be executed than admit that schizophrenia might be contributing to his desire to die". The court nevertheless found him competent.

In 2005, Joseph Corcoran signed a petition for post-conviction review, but was deemed to have missed the deadline. His lawyers are seeking to have this order vacated and his petition reinstated, arguing that the "legal landscape" around "timeliness" in Indiana has since changed, and that this should apply retroactively in a case of a man facing execution whose mental disability had "severely interfered with his ability" to sign his petition in timely fashion, part of a pattern throughout his case in which he has "lost opportunities to save his life". International law and standards prohibit the use of the death penalty on those with mental (psychosocial disabilities) who have limited ability to defend themselves on an equal basis with others, including due to lack of procedural accommodation.

You are not bound by the legal rules and procedures faced by courts. I urge you to choose fairness over finality, to prevent Joseph Corcoran's execution, and to commute his death sentence.

Yours sincerely,

ADDITIONAL INFORMATION

In 1997, 22-year-old Joseph Corcoran was living in his sister's house. Her upcoming marriage meant that he would have to move out. On 26 July 1997, he awoke to hear his brother and others downstairs talking about him. Taking a loaded rifle with him, he went downstairs, where he shot his brother, his future brother-in-law and two other men there. The prosecutor offered to forgo the death penalty if he would plead guilty or waive his right to trial by jury and opt for trial before a judge only. Joseph Corcoran rejected both, without giving a specific reason, only that it was based on "a feeling". At his May 1999 trial, the jury convicted him. The prosecution alleged one aggravating factor to make him eligible for the death penalty, namely multiple murders. The jury recommended the death penalty.

Joseph Corcoran's mental condition around the time of the crime, when he was showing signs of increasing paranoia, was an issue from the outset. The initial view among various experts was that he had a schizotypal or paranoid personality disorder; indeed in 1992, he had been diagnosed with schizoid personality disorder and major depression. In a pre-sentencing memorandum to the judge in 1999, his lawyers included the opinion of two doctors who now diagnosed him with paranoid schizophrenia. The judge found that he was under the influence of a "mental or emotional disturbance" at the time of the crime, but that this had not affected his ability to conform his conduct to the law. At a hearing on 26 August 1999, the judge accepted the jury's recommendation and sentenced him to death.

In 2000, the Indiana Supreme Court remanded the case for resentencing because of comments made by the trial judge that raised concerns that, in violation of state law, she may have relied upon non-statutory aggravating factors, including her remarks on the "innocence" of the victims, the "heinousness" of the murders, and the defendant's future dangerousness. She had told him he was "a very dangerous, evil mass murderer" and that "I am convinced in my heart of hearts, Mr Corcoran, if given the opportunity, you will murder again". She also said that it was "shameful that you would come into this court, Mr Corcoran, and try to characterize your illness as a mental illness to the disrespect of all people in this country that are in fact mentally ill". On remand, in 2001, the same judge resentenced him to death. In 2002, the Indiana Supreme Court affirmed this but in 2010, the US Court of Appeals for the Seventh Circuit held that it had been wrong to do so, and that the trial judge had clearly "added weight to a statutory aggravator based on the non-statutory aggravators" and that Joseph Corcoran should receive a new sentencing hearing. The US Supreme Court reversed, ruling the Seventh Circuit had not found a violation of *federal law*.

In 2003 after Joseph Corcoran indicated that he wanted to drop his appeals, the post-conviction court ordered a hearing into his competency to do so. At the hearing, Joseph Corcoran told the judge that he wanted and deserved to be executed. His lawyer presented the testimony of three experts – a clinical psychologist, a forensic psychiatrist, and a clinical neuro-psychologist – who each concluded that Joe Corcoran has paranoid schizophrenia, and that one of his symptoms were recurrent delusions that prison guards were subjecting him to torture via an ultrasound machine, causing him pain and uncontrollable muscle twitching. All three experts concluded that Joseph Corcoran could not make a rational decision to waive his appeals because it stemmed from his wish to stop this torture.

In December 2003, the post-conviction court found that while "the evidence is clear that the Defendant suffers from a mental illness", and the state conceded this, the defendant "understands what he is doing". While "his choice of action may be unwise, and obviously against the advice of counsel, he is competent to make this ultimate decision in spite of his mental illness". In 2005 the Indiana Supreme Court affirmed this finding. Justice Rucker again dissented, arguing that Joseph Corcoran was not competent and that his colleagues had given inadequate weight to the expert opinions. He wrote: "It is apparent that since July 1997 Corcoran's mental state has deteriorated significantly. So much so that his personality disorder has now developed into full-blown paranoid schizophrenia. In short, Corcoran is seriously mentally ill". In 2008, when the US Court of Appeals for the Seventh Circuit upheld this, one of the three judges dissented, concluding that the state Supreme Court's decision was "unreasonable error".

His current lawyers state that Joseph Corcoran "lives each day believing prison guards use an electronic device to bombard him with ultrasound waves... He believes he can hear people talking about him through the walls of his cell. He holds the delusional belief that he speaks in his sleep, saying embarrassing or provocative things to make people act hostile toward him. His intense delusions cause him to believe that while awake, he is actually sleeping and speaking involuntarily".

Indiana accounts for 20 of the USA's 1,605 executions since 1976. There have been 23 executions in the USA this year. This would be Indiana's first execution since 11 December 2009. Amnesty International opposes the death penalty in all cases unconditionally.

PREFERRED LANGUAGE TO ADDRESS TARGET: English. You may also write in your own language.

PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL: 18 December 2024.

NAME AND PRONOUNS: Joseph Corcoran, He/Him

LINK TO PREVIOUS UA: n/a