

EXTRA 06/98

Death Penalty

14 January 1998

USA (INDIANA) Robert Smith, white

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Robert Smith is scheduled to be executed in Indiana on 29 January 1998. He was sentenced to death on 12 July 1996 for stabbing a fellow inmate. Smith is refusing to continue with the legal appeals available to him and has consented to his execution.

Robert Smith admits that on 30 June 1995, he and another inmate, Ronald Lunsford, killed fellow prisoner Michael Wedmore at Wabash Valley Correctional Facility.

Michael Wedmore, the victim, was in prison for beating to death his girlfriend's two-year-old daughter. Robert Lunsford pleaded guilty and received forty years in prison.

The district attorney of Sullivan County who prosecuted the case had no plans to request the death penalty and had offered Smith a term of 50 years imprisonment in return for a guilty plea. Robert Smith dismissed his two court-appointed attorneys after the trial Court agreed he was capable of conducting his own defence. He pleaded guilty to murder following a guarantee that he would receive a death sentence. He has always maintained that he wants to die.

Smith was originally sent to prison on robbery charges. As a result of being at another prison during riots he was convicted of battery with a deadly weapon and being a "habitual criminal". He was also disciplined by the prison authorities and spent time in solitary confinement. Lawyers, acting without the consent of Smith, appealed to the Indiana Supreme Court, arguing that Smith's severe depression resulted from being held in solitary confinement and that this depression had led him to seek a death sentence. However, the court upheld Smith's death sentence on the grounds that his choice was based in part on his desire not to spend the rest of his life in prison and was "freely, voluntary and rationally made. His decision was the product of a choice between the lesser of two evils."

Smith - who is allowed to name witnesses to this execution - has attempted to "sell" this right by requesting that witnesses pay a thousand dollars into a children's hospital fund in the name of the girl killed by Michael Wedmore. However, the correctional authorities have stated that this is unacceptable.

Amnesty International is extremely concerned at the precedent Smith's execution would set. Smith has not been adjudicated by the judicial system as warranting a death sentence. It would appear that his sentence is a result of the state of Indiana complying with his wish to die, thereby making it a case of state-assisted suicide.

Amnesty International believes that the execution of a prisoner who has chosen to abandon their appeals and allow the state to execute them is no less a gross human rights violation than any other execution. The fact that the individual makes such a choice does not relieve the state of its responsibility in taking the life of one of its citizens.

#### **BACKGROUND INFORMATION**

As of 8 January 1998, there were 42 prisoners under sentence of death in Indiana. The method of execution is lethal injection. Five prisoners have been executed

under Indiana's current death penalty laws. The most recent being Gary Burris, executed on 20 November 1997.

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 telephone/send faxes/e-mails/express/airmail letters in English or your own language:**

- urging that Governor O'Bannon grant clemency to Robert Smith by commuting his death sentence, even though Smith has not requested clemency;
- expressing concern that the execution of Robert Smith would constitute a case of state-assisted suicide and not an adjudication by the Courts that a death sentence was appropriate in this case;
- expressing concern that the Federal Courts have not examined the issues in Robert Smith's case, and therefore it has not been ruled that it is within the United States Constitution for him to refuse a lesser sentence and request the death penalty;
- expressing sympathy for the victims of violent crime and their families.

**APPEALS TO:**

Governor Frank O'Bannon  
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**Salutation: Dear Governor**

and to diplomatic representatives of USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**