

PUBLIC

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Further information on UA 207/04 (AMR 51/104/2004, 23 June 2004) - Death penalty / Legal concern

USA (Indiana) Darnell Williams (m), black, aged 37

On 2 July, Indiana Governor Joseph Kernan commuted the Darnell Williams's death sentence to life imprisonment without the possibility of parole. Darnell Williams had been due to be executed on 9 July for a double murder committed in 1986.

In a statement, Governor Kernan noted the various reasons behind his clemency decision. He said that he viewed the question of Darnell Williams's mental status differently from the courts. In 2002, in *Atkins v Virginia*, the US Supreme Court outlawed the use of the death penalty for those who have mental retardation. The Governor wrote: "Williams's IQ has been measured at 78 and 81, and he attended special education classes throughout his schooling. The usual 'cut-off' for mental retardation is IQ of 70-75, and Williams falls above that level. The US Supreme Court imposed a hard and fast rule that no one who is mentally retarded may be executed. The courts have set a clear legal standard, but it remains problematic to confidently place the solemn decision of life or death on a few percentage points on either side of a line. Williams's mental status weighs as a factor in the clemency process".

"A more substantial factor" for clemency, Governor Kernan continued, was the fact that Darnell Williams's co-defendant, Gregory Rouster, would not face execution. His death sentence was commuted on the grounds of mental retardation following the *Atkins* decision. The governor wrote: "Clemency is an appropriate method to adjust sentences of persons involved in the same crime to obtain a just result based on relative culpability". Governor Kernan said that "the record is clear that Rouster is more culpable in this case", and that it would be "unjust" for Darnell Williams to be executed under such circumstances.

Governor Kernan concluded that clemency was further supported because of doubts about the extent of Darnell Williams's participation in the actual shooting of Henrietta and John Rease. The governor said: "It is unwise to impose the sentence of death in these particular circumstances, with doubt as to Williams's direct participation in the murders and additional evidence continuing to emerge depreciating Williams's involvement in the murders – although there is no evidence exonerating him".

This is the first time since executions resumed in the USA in 1977 that executive clemency has been granted in an Indiana death penalty case.

Many thanks to all who sent appeals. No further action by the UA Network is requested.