

**PUBLIC**

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**Death penalty**

**03 August 2006**

**USA (Ohio)**

**Darrell Wayne Ferguson (m), white, aged 28**

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Darrell Ferguson is scheduled to be executed in Ohio on 8 August 2006. He was sentenced to death in 2003 for the murder of 61-year-old Thomas King on 25 December 2001 and the murders of Mae Fugate, 69, and her 68-year-old husband Arlie Fugate the following evening. Darrell Ferguson has waived his appeals.

Before the trial, Darrell Ferguson wrote to the judge and prosecutor. In a letter to the prosecutor, for example, Ferguson admitted to the crimes and expressed his wish to "get this over with as soon as possible...Darrell Wayne Ferguson wishes to seek the death penalty." In a subsequent letter to the judge, he wrote: "I have no Remorse for what I did", and asked "in my right state of mind would you please Find it in good will to give me the Death penalty" [sic].

Darrell Ferguson pleaded guilty and waived his right to a jury trial. He waived the presentation of any mitigating evidence. Before he was sentenced, the defendant read out a letter to the court stating his lack of remorse, and that if he was freed back into society he would "pick up where I left off from and take the pleasure of causing destruction. I'm not afraid of death like some of you are". The three-judge panel sentenced him to death.

Darrell Ferguson has a history of mental health problems. He has been treated for Attention Deficit Hyperactivity Disorder and bipolar disorder. He has a history of suicide attempts. For example, when he was 19 years old he attempted suicide by eating rat poison and was placed in a psychiatric unit. His brother committed suicide the following year. Darrell Ferguson has a history of substance abuse, and has been assessed as having an IQ of 77, indicating possible borderline mental retardation.

The Ohio clemency board has recommended that Governor Bob Taft not grant clemency to Darrell Ferguson.

### **BACKGROUND INFORMATION**

About one in 10 of the people executed since judicial killing resumed in the USA in 1977 have been so-called "volunteers", prisoners who had dropped their appeals and "consented" to execution. Any number of factors may lead a prisoner not to pursue appeals against his or her death sentence, including mental disorder, physical illness, remorse, bravado, religious belief, the severity of conditions of confinement, including prolonged isolation and lack of physical contact visits, the bleak alternative of life imprisonment without the possibility of parole, pessimism about appeal prospects, a quest for notoriety, or simply a desire to gain a semblance of control over a situation in which the prisoner is otherwise powerless. Rational or irrational, a decision taken by someone who is under threat of death at the hands of others cannot be consensual. What is more, it cannot disguise the fact that the state is involved in a premeditated killing – part of a culture of violence, not a solution to it. Whether or not prisoners who "ask" to be executed are deluding themselves about the level of control they have gained over their fate – after all, they are merely assisting their government in what it has set out to do anyway – the state is guilty of a far greater deception. It is peddling its own illusion of control: that, by killing a selection of those it convicts of murder, it can offer a constructive contribution to efforts to defeat violent crime. In reality, the state is taking to refined, calculated heights what it seeks to condemn – the deliberate taking of human life. While "volunteer" executions are sometimes referred to as a form of state-assisted suicide, "prisoner-assisted homicide" would be a more accurate label. For if a death row inmate seeks to commit actual suicide, the state will make every effort to prevent it.

To oppose capital punishment is not to excuse or minimize the consequences of violent crime. If it were, then a majority of countries are currently apologists for violent crime, clearly a nonsensical suggestion (125

countries are currently abolitionist in law or practice). Instead, to end the death penalty is to recognize that it is a destructive, diversionary and divisive public policy that is not consistent with widely held values. It not only runs the risk of irrevocable error, it is also costly – to the public purse, as well as in social and psychological terms. It has not been shown to have a special deterrent effect – as a case such as Darrell Ferguson’s graphically illustrates. It tends to be applied discriminatorily on grounds of race and class. It denies the possibility of reconciliation and rehabilitation. It promotes simplistic responses to complex human problems, rather than pursuing explanations that could inform positive strategies. It diverts resources that could be better used to work against violent crime and assist those affected by it. It is an affront to human dignity. It should be abolished.

There have been 1,036 executions in the USA since 1977, at least 120 of which have been of “volunteers”. Scores of those executed in the USA since 1977 had histories of serious mental illness or had mental retardation or borderline mental retardation (for example, see *USA: The execution of mentally ill offenders*, January 2006, [http://web.amnesty.org/library/pdf/AMR510032006ENGLISH/\\$File/AMR5100306.pdf](http://web.amnesty.org/library/pdf/AMR510032006ENGLISH/$File/AMR5100306.pdf)). Ohio has executed 22 prisoners since resuming executions in 1999. Five of these executions have been of people who gave up their appeals.

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

- expressing sympathy for those affected by the murders of Thomas King, Mae Fugate, and Arlie Fugate and explaining that you are not seeking to downplay the seriousness of these crimes or the suffering caused;
- opposing the execution of Darrell Ferguson, noting his history of mental health problems, and explaining your opposition to the death penalty in general and citing world abolitionist trends;
- urging the Governor to stop this execution, and to support a moratorium on executions in Ohio.

**APPEALS TO:**

Governor Bob Taft, 30th Floor, 77 South High Street, Columbus, Ohio 43215-6117, USA

**Faxes: +1 614 466 9354**

**Email, via: <http://governor.ohio.gov/contactinfopage.asp>**

**Salutation: Dear Governor**

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

**PLEASE SEND APPEALS IMMEDIATELY.**