



Winter Newsletter 2000

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WCADP is on line —

e-mail: wcadp@scn.org
web:
<http://www.scn.org/activism/wcadp>
phone: (206) 622-8952

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Strategic Planning Meeting Will Be January 8

The WCADP will hold a meeting on Saturday, January 8 at the Inter-Faith Center, 1224 South I Street, in Tacoma from 9:30–4:30. The focus of the day will be discerning both the key strategic goals of the Coalition for the coming years and the necessary organizational structure to achieve these goals. We need all interested members of the Coalition to join with us as we continue to work to abolish rather than simply protest the death penalty. For more information, please contact the Coalition office at 206-622-8952, or contact Kevin Glackin-Coley at 206-382-4236 or keving@seattlearch.org.

The strategic-planning portion of the meeting ends at 3:00. It will be followed by the annual business meeting of the WCADP steering committee, which will elect officers and steering committee members for the upcoming year.

Coalition Needs Your Financial Help

In response to the Coalition's ongoing financial difficulty since this past summer, the Coalition's steering committee decided to cancel the autumn newsletter (replacing it with this extra-length issue), and in September to re-energize the Fundraising Committee. The committee put together a solid fundraising plan which began with the creation of an Annual Campaign this fall. The purpose of the fall fundraising is to raise operating funds for the year 2000 now so that all our efforts during the year can be devoted to abolition. Glen Anderson has turned the chair of the fundraising committee over to Larry Wydro. The committee is invigorated by our efforts for a major gift campaign.

We remain in need of funds. The Coalition Steering Committee gratefully thanks all who have responded to the annual campaign. Please consider a generous response if you haven't already sent in a check. Major gifts will be acknowledged in an upcoming newsletter issue.

Coalition Plans Protest of Record-Setting Executions

The US has set yet another modern record for executions in a year. The 98th and final for 1999 occurred December 15 with the death of Sammie Felder. This is the most executions in any year since 1951, when 105 were killed.

As in previous years, Texas again led the pack, taking the lives of 35 this year. Virginia killed fourteen, a post-Furman annual record for that state. Felder's execution was Texas' 199th since the state's resumption in 1982; demonstrations are planned in this country and Germany in response to the two hundredth which probably will occur in mid-January. One of the Texas executions scheduled then is of Johnny Paul Penry, a severely mentally disabled man who was resentenced to death after a famous US Supreme Court ruling in 1989 overturned his first sentence. Four juvenile executions are scheduled in January: two each in Texas and Virginia.

The national toll of 98, though appalling, was actually fewer than had been expected. On December 15, a stay in Arkansas and a welcome, rare commutation in North Carolina spared two lives which otherwise would have brought the total to a hundred for the year. The second execution of the coming year will be the six hundredth of the post-Furman era that began with Gary Gilmore in 1977.

Executions will resume in early January. As we go to press, the most likely date for the six hundredth execution is Friday, January 7. The Coalition plans to distribute leaflets in Seattle's Westlake Center in protest of this shameful milestone. If you would like to be notified of this event when plans for it are finalized (which may be on very short notice), call Billy Kreuter at 206-784-0849 or (preferably) send e-mail to billyk@drizzle.com.

Abolition Day Event, March 2

Our annual Abolition Day event will be a little different in the coming year. Instead of the full dinner that we've held for many years, our present plans call for a catered dessert reception to be held on March 2 at a new location and followed by a live dance band. As always, we will have a program of speakers and our popular Silent Auction. Judy Blinder will again coordinate the auction. We need auction items! Please call Judy at 206-784-0849 to let her know of any that you will donate.

Watch for an announcement of details coming to you in the mail later this winter.

Joint Catholic-Jewish Call for Abolition

After an exhaustive study of the "collective wisdom and moral insights" of Judaism and Roman Catholicism, the National Jewish/Catholic Consultation on December 3 issued a powerful new joint statement calling for an end to the death penalty. Affirming a shared understanding of the sanctity of human life, the members of the Consultation declared, "We have committed ourselves to work together, and each within our own communities, toward ending the death penalty."

The statement is entitled, "To End the Death Penalty: A Report of the National Jewish/Catholic Consultation."

Coalition Forms Legislative Committee

As part of WCADP's renewed effort to abolish the death penalty, the legislative committee has been working with Coalition member agencies and others in an effort to develop legislation for the 2000 legislative session. Legislation is being drafted in an attempt to broaden the discussion in Olympia on questions related to capital punishment.

It appears all but certain that a bill calling for a moratorium on executions will be introduced. Key legislators have told the committee that the bill will likely get a hearing. During the period of the moratorium, a study would be conducted to determine the fairness of, and problems with, application of capital punishment in Washington.

An important component of our legislative strategy will be the involvement of Coalition members. A questionnaire was just mailed to Coalition members to use in personal meetings with their legislators. This will help us determine who our potential allies are, and help legislators come to see that not all their constituents support capital punishment. Please contact your legislators to discuss the questionnaire with them.

WCADP president Kevin Glackin-Coley distributed a draft of a letter to be distributed to WCADP members to pass on to their legislators. We are now actively planning with our member organizations to write and submit bills to the state legislature in January. We need your participation! Please call the WCADP office to join this effort.

Alabama Conducts Execution Despite Evidence of Innocence

Brian Baldwin joins the grim roster of those, like Jesse Tafero, Wayne Felker, David Spence and many others, who have been executed despite the strongest evidence of innocence. He died in Alabama's electric chair on June 18. National black leaders, the Pope, the archbishop of Mobile and former President Carter had joined his attorneys in unsuccessfully arguing that he was a victim of racism.

Baldwin was convicted by an all-white jury. Black jurors were excluded by prosecutors, and black residents of the county said that the white population was committed to Baldwin's conviction before the trial was held. Racially derogatory language was used during the trial by the judge, the prosecutor and Baldwin's own court-appointed attorney. A sheriff's deputy at the time recently swore a statement that Baldwin had been beaten and tortured into a confession by white officers. Prosecutors shifted their theory as to the murder. Baldwin's codefendant, executed for the crime in 1996, stated that Baldwin wasn't present at, nor had any knowledge of, the murder. This statement is corroborated by physical evidence. The trial transcript was defective, inhibiting Baldwin's appeals. The trial defense was granted no funding for investigation.

In an unrelated earlier case of railroading by the same judge and prosecutor, Walter McMillian was released from death row on account of innocence. In McMillian's case, a state appeals court said that the judge and prosecutor had intentionally discriminated racially against McMillian. But challenges to this same judge's rulings that Baldwin's trial had been free of prejudice were never reviewed.

Alabama Governor Siegelman said that he was "deeply troubled" by the case, but nevertheless he would not grant clemency. The execution was the first during Siegelman's term. In response to a grant of clemency last January by his predecessor upon leaving office, Siegelman had promised he would show no compassion.

In prison, Baldwin edited the newsletter of Project Hope to Abolish the Death Penalty.

Staff Changes at the Coalition

Our Executive Director, Christina Albouras, will leave this position on December 31. The Coalition is now seeking to fill this position, possibly to be supported in part by the Mennonite Central Committee. A Personnel Committee has been formed to recruit for and oversee this position.

There are also a number of other roles to be filled. The Coalition currently does not have a volunteer coordinator. There is enough potential for that position to be a full-time job. A skills bank has also been suggested as a good resource. The WCADP speaker's bureau needs to be revitalized. We need participation of our members to bring these ideas to fruition. Please participate in any way you can.

Brian Lord's Conviction Reversed

Brian Lord has become the third prisoner on Washington's death row in the past five years to have his conviction thrown out. The Ninth Circuit Court of Appeals ruled in Lord's favor on July 14 in a 3-0 decision.

Lord's death sentence had been overturned by federal district court judge Barbara Rothstein in August, 1997, because prosecutors had inappropriately questioned him at his sentencing trial. Both the prosecution and Mr. Lord appealed that ruling. Lord appealed because he had hoped to overturn his conviction as well.

Of the three dozen issues his appeal raised, the only one considered by the Ninth Circuit panel was that Lord's 1987 trial defense attorneys had failed to call as witnesses three classmates of Tracy Parker, the 16-year-old girl Lord was accused of murdering. The three boys told police and defense investigators that they saw Tracy alive the day after the prosecution claims she was raped and fatally bludgeoned by Lord.

"What did defense counsel do with these witnesses? Nothing at all," according to the opinion authored by Judge Alex Kozinski, who wrote that they "could have given Lord a formidable defense: The victim was seen walking around well after the time Lord was supposed to have killed her. Those statements were probably the strongest evidence of Lord's innocence that trial counsel could have offered."

Kozinski wrote, "Trial counsel's failure to present their testimony was all the more questionable in light of the weaknesses

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Death Row Update

Washington

On September 30, a judge in Thurston County rejected arguments by **Mitchell Rupe's** attorneys that the state should be forbidden from seeking, for the third time, to sentence Rupe to death. He was convicted of killing two tellers during a robbery of Tumwater State Bank in 1981. Roger Hunko, one of Rupe's attorneys, contends that new evidence shows that former Thurston County Prosecutor Pat Sutherland was a director and major shareholder of the bank, and also that Sutherland owned the land which was leased for the bank premises. Rupe's attorneys say they only recently discovered Sutherland's connection to the bank, which was not revealed at the time of the trial. Sutherland served as Thurston County prosecutor until 1994. He died in 1996. Sutherland also was a defendant in a wrongful death lawsuit filed against the bank. These positions created conflicts of interest which gave Sutherland personal reasons to see Rupe dead. Jim Freeley, another of Rupe's attorneys, says that he will appeal the September ruling directly to the Washington Supreme Court.

Charles Finch's death sentence will not be restored by the US Supreme Court, which on October 4 refused to accept the state's appeal of the Washington Supreme Court's May 6 ruling. The state court ruled that Finch was denied his rights when he was shackled during trial. The Snohomish County district attorney announced

within a day that the sentence would be retried, and he suggested that the state supreme court judges who voted in favor of Finch should be defeated for reelection. On October 22, the Snohomish County Superior Court set May 1 for the new sentencing hearing. Judge Ronald Castleberry also scheduled a hearing in January on defense motions to move the retrial elsewhere because of publicity, and to remove Snohomish County prosecutors from the case.

Clark Elmore's death sentence was upheld by the Washington Supreme Court on October 7. Elmore, like Finch, was shackled at trial. Judge Sanders dissented from the 7-1 ruling, saying that it was unfair that an edited tape recording of Elmore's confession which failed to include his statements of remorse was repeatedly played by the jury.

Juan Duarte Gonzalez will not face the death penalty. It was Duarte's trial, which is to start January 10 in Kennewick for the aggravated murder of an Omak policeman, which prompted the state legislature in 1999 to unanimously pass a law making the state treasury, rather than certain poor counties, financially responsible for a prosecutor's decision to charge aggravating factors. Nevertheless, Okanogon County prosecutor Rick Weber filed court documents on October 22 revoking the notice of intent to seek a death sentence.

Evaluations by experts for both the defense and the state indicate Duarte suffered from a "mental defect" the night he allegedly shot the policeman, Weber said. "I was surprised and disappointed that our experts agreed with the defense experts. Based on these two evaluations, I am no longer convinced that we can meet the extraordinarily high burden imposed at sentencing in death penalty cases."

National

Mumia Abu-Jamal continues to be in the news. Our last issue reported on the national reaction to the invitation to the imprisoned Pennsylvania journalist to speak at last June's graduation ceremony for Evergreen State College in Lacey (near Olympia). A few weeks after that, the August issue of *Vanity Fair* magazine featured a claim by a one-time prison volunteer that Abu-Jamal had inadvertently confessed the murder to him in 1992.

Immediately there was considerable reason to doubt the magazine's claims. The article's author is a long-time publicist and partisan for Philadelphia Mayor Ed Rendell. Rendell had been district attorney in charge of Mumia's 1982 trial and stands to gain politically from Abu-Jamal's execution. While the article included a one-sided reading of the case's legal history, Abu-Jamal was given no opportunity to respond to it before publication. The volunteer, Philip Bloch, had visited Abu-Jamal under the auspices of the Pennsylvania Prison Society; the organization's head said that Bloch was forced out because he had violated its rules.

Abu-Jamal filed his *habeas* petition in federal district court on October 15. This appeal may be hampered by the 1996 Anti-Terrorism and Effective Death Penalty Act. The *Vanity Fair* article could well have been timed to influence the federal judiciary.

Later in the summer, Bloch's credibility was further weakened when Abu-Jamal publicized a letter that Bloch had sent him in 1993

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Readers with this capability are invited to consider requesting not to receive the newsletter by regular mail. This will save the Coalition some money. Send requests to Billy Kreuter of WCADP's newsletter committee at billyk@scn.org. You can also request to receive the text of the newsletter in an e-mail message.

Abolition to Go Before Oregon Voters

The Life for a Life Act, a proposed amendment to the constitution of Oregon, will go before the state's voters in November, 2000. Under the proposal, the death penalty will be replaced by life without parole. The Life for a Life Act requires that a person convicted of aggravated murder would be required to work in the prison work program with the earnings earmarked towards restitution to the state or to the victim's family. The proposal was initiated by former US Senator Mark Hatfield. Among the many other groups and prominent individuals who joined Hatfield at the July announcement were the Oregon Coalition to Abolish the Death Penalty and Survivors Advocating for an Effective System, a victims' rights group opposed to capital punishment.

Feingold Introduces Federal Abolition

Senator Russell Feingold, D-Wisconsin, on November 10 introduced S. 1917, the Federal Death Penalty Abolition Act of 1999. Feingold said that the federal government was complicit in the "culture of violence and killing" by enacting additional death-penalty statutes. "I was thinking about the millennium, about the fact that this is a very unusual thing to be alive when we are not only moving into a new century, but a new millennium. It's just really tragic after all the horrors of the last thousand years we can't leave behind something as primitive as government-sponsored execution."

Senator Feingold said on introducing the legislation, "What has happened to our nation's sense of striving to do what we know to be the right thing? Those who favor the death penalty should be pressed to explain why fallible human beings should presume to use the power of the state to extinguish the life of a fellow human being on our collective behalf. ...

"The use of the death penalty by the United States stands in stark contrast to the majority of nations that have abolished the death penalty in law or practice. ... The United Nations Commission on Human Rights has called for a worldwide moratorium on the use of the death penalty. And soon, Italy and other European nations are expected to introduce a resolution in the UN General Assembly calling for a worldwide moratorium. The European Union bans membership in the Union to nations that use the death penalty. ...

"The death penalty is at odds with our best traditions. It is wrong and it is immoral. The adage 'two wrongs do not make a right' could not be more appropriate here."

In his Senate floor speech, Feingold noted that in December, 1998, "The European Union actually passed a resolution calling for the immediate and unconditional global abolition of the death penalty, and it specifically called on all states within the United States to abolish the death penalty. This is significant because it reflects the unanimous view of the nations with which the United States enjoys its closest relationships—nations that so often follow our lead."

The senator singled out US executions of juveniles as a particularly egregious abuse. Referring to Anthony Porter, the innocent man whose release from Illinois death row we reported in our summer issue (also see Death Row Updates in this issue), Feingold said, "Innocent, and yet ... about to be killed. Why? Because our criminal-justice system is sometimes far from fair and far from just."

In an interview, Feingold conceded that the measure had no chance of passing, but he said that the sentiments behind it were shared privately even by some of his conservative Republican colleagues.

WCADP members may wish to consider sending their opinions of S. 1917 to Senators Feingold, Patty Murray and Slade Gorton. Murray and Gorton support the death penalty.

Statewide Meeting Held July 24th

On Saturday, July 24th, WCADP held its annual statewide planning meeting in Ellensburg. Members from around the state gathered at St. Andrew's Church to brainstorm and strategize for the year ahead. It was productive and pleasurable for members across the state to meet.

Voters Choose Alternatives to the Death Penalty

A scientific survey of voters in Thurston County, Washington, found that public support for the death penalty drops drastically when people are offered practical alternatives.

This survey, as have many others, found that about 73% of the public say they support the death penalty when given a simple choice of “support” or “oppose.” However, asking the question in this way gives people the choice between something and nothing, with no alternative solution. The survey gave a sample of 160 Thurston County voters a choice between the death penalty and life in prison without any chance of parole (LWOP). When given this alternative, voters’ support for the death penalty dropped from 73% to 55%. The survey also gave the option of LWOP and working in prison to earn money for restitution for the victim’s family. When given this alternative, only 39% of Thurston County voters chose the death penalty.

These findings are comparable to surveys that have posed these options to people in other parts of the country. Surveys conducted from 1986 to 1991 in Florida, New York, California, Mississippi, and Nebraska likewise found that apparent support for the death penalty is based on failing to offer alternatives. In each of those states, scientific surveys show fewer than half of the people surveyed would choose the death penalty when offered the alternative of LWOP plus restitution.

The lesson seems to be that public support for the death penalty seems overwhelming only when realistic alternatives are not offered. The typical, simplistic yes/no surveys consistently report approximately 70–75% support for the death penalty. News media and politicians seem to accept those simplistic surveys at face value and make decisions based on them. However, the issues—and people’s thoughts and feelings about the issues—are much more complex than that. Public decision-makers have a responsibility to explore these more thoroughly. When we do we will make more thoughtful public policy decisions.

Another goal of the survey was to identify strong and weak arguments for and against the death penalty. The survey showed that voters who oppose the death penalty did not find any of the pro-death penalty arguments persuasive, but voters who support or were undecided about the death penalty were troubled by courts applying the death penalty inconsistently and the prospect of putting innocent people to death.

The survey was designed and conducted by the Olympia Fellowship of Reconciliation (FOR). The Olympia FOR has worked nonviolently since 1976 on a variety of peace and social justice issues. It is the local affiliate of a broadly interfaith, international pacifist organization founded in 1914. Western Washington FOR, which includes the Olympia chapter, is a member organization of the Coalition.

For information about the survey, efforts to abolish the death penalty, or the FOR, call Glen Anderson at (360) 491-9093. To receive a copy of the nine-page report by mail, call the same number. To receive a copy of the report by e-mail, contact aliscurtis@aol.com.

Amnesty International Promotes Moratorium

Coalition member Amnesty International is an independent worldwide membership organization which works impartially for the release of all prisoners of conscience, fair and prompt trials for political prisoners and an end to torture, executions and political killings. On December 10, the anniversary of the Universal Declaration of Human Rights, Amnesty launched the yearlong “Moratorium 2000 Project: Action for a Death Penalty-Free Millennium.” Every section in AI will be gathering Moratorium 2000 petitions. If you wish to receive the action’s materials and updates please contact the former AIUSA Western Region Abolition Coordinator, Hilary Naylor, at hnaylor@igc.org; or contact the Executive Director of Moratorium 2000, Magdaleno Rose-Avila, at mavila@gte.net.

The Moratorium 2000 petition says in part, “We believe in full protection of human rights, and hereby call for a moratorium on the death penalty by the year 2000.”

Many prominent abolitionist organizations have called for a moratorium as a useful tool in the effort to abolish capital punishment. Other groups recognize the injustices and inequities of the death penalty and have called for a halt of executions until these injustices are rectified.

Amnesty and some of the other organizations hoping to use a moratorium as a steppingstone to abolition acknowledge that an abolition strategy in some cases causes polarization of the community. Numerous polls have shown that when the public is educated on the death penalty issue a majority favor alternatives to the death penalty. In the words of Sr. Helen Prejean, “Peace always comes in steps and the first step is to cease and desist from killing which, of course, is a moratorium.” Moratorium 2000 aims to present a million signatures to the United Nations in 2000. This will be a very powerful call for a worldwide halt on executions.

An objection voiced to a moratorium is that when it comes to an end it will lead to an increase in executions. Amnesty responds that in England, the hanging of an innocent man, Timothy Evans, in 1949 mustered public outrage that led to a moratorium on the death penalty in 1965 and permanent abolition in 1969. When majority rule took place in South Africa a moratorium on capital punishment was implemented; this then led to abolition. Russia is among the several countries recently declaring moratoria. As long as the goal of a moratorium campaign is that it is a step towards abolition it is unlikely that such a moratorium would ultimately lead to an increase in executions.

The United States had a de-facto moratorium from 1967 to 1977. Within this period, a formal moratorium was instituted between the 1972 *Furman* and 1976 *Gregg* decisions. Some have objected that after executions resumed in 1977, the situation was as bad or worse as it was prior to 1967. However, moratorium backers note that many lives were saved during moratorium period. The moratorium itself helped foster the continuing ambivalence towards widespread use of the death penalty presently seen in many states.

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that appears to accept Abu-Jamal's innocence. Following that, Abu-Jamal's supporters publicized Bloch's having paid for his name to be printed in an advertisement which appeared in two Pennsylvania newspapers in 1995, placed by Equal Justice USA, a national organization well-known to advocate a retrial for Abu-Jamal. The ad stated, "We care about Mumia because there is compelling evidence that points to his innocence," and it goes on to detail some of that evidence.

The US Supreme Court on October 4 refused to grant *cert* on Mumia's appeal of the final Pennsylvania ruling. Consequently, on October 13, execution advocate Governor Ridge issued a death warrant for December 2. Ridge took this action despite knowing that a stay due to the *habeas* appeal would be virtually automatic. That stay was issued on October 26.

With the stay now in effect, most likely the *habeas* appeals will last about two years.

A landmark criminal prosecution of seven law-enforcement officials ended in June when all were acquitted of conspiring to frame **Rolando Cruz**, who spent nearly ten years on death row in Illinois. Cruz was acquitted at his third trial in 1995 for a 1983 child murder. The four sheriff's officers and three former prosecutors were accused of fabricating evidence against Cruz, who was cleared in part by DNA evidence which corroborated a confession from another man. The acquittal of those accused of persecuting Cruz was due to conflicts in his testimony. A civil lawsuit by Cruz and two codefendants for wrongful prosecution remains in progress.

In March, the **Ford Heights Four** settled their civil suit against Cook County, Illinois for \$36 million. The four men, including two who spent years on death row, were exonerated in 1996 for a 1978 crime for which they were convicted twice in unfair trials. In their lawsuit against the county, they accused police investigators and the former chief of police of Ford Heights, Illinois, of engineering false testimony used against them in order to swiftly settle the high-profile case. They also accused police of ignoring and burying evidence identifying the true perpetrators. One of the men's attorneys said that the \$36 million amounted to an acknowledgment of "gross misconduct" by police.

Anthony Porter's last remaining charges have been dropped. As we reported in our spring and summer newsletters, the national news of Porter's release in February, after a journalism class at Northwestern University demonstrated Porter's innocence, helped spur moratorium efforts around the country. Possibly to block a financial settlement by Illinois with Porter, prosecutors had intended to try Porter for a robbery allegedly committed the same night as the murder which falsely sent Porter to death row. The robbery charge was withdrawn September 20.

Porter's IQ of 51 would have made him the most severely mentally retarded prisoner to be executed in the post-Furman era. His scheduled execution in September, 1998 was halted with but hours to spare when a court decided to examine that issue. The years of false imprisonment on death row and his lifelong mental disability have made adjustment very difficult for Porter since his release.

David Junior Brown was executed in North Carolina on November 19. Brown, who on death row was known as Dawud Abdullah Mohammed, was convicted by an all-white jury of the

killing of two white people. Successive courts refused his appeals, while consistently acknowledging the faults in his trial. For example, one concluded that the conduct of the prosecutor, in obstructing the defense, was "inexcusable," "based on personal animosity" towards the defense attorney and that the prosecutor's gamesmanship was "especially abhorrent when a person's life is at stake." Despite this, the courts all ruled that the prosecutorial misconduct had not prejudiced the outcome of the trial. Governor Hunt ignored widespread appeals requesting a commutation. Amnesty International noted inconsistencies in witness accounts and an incomplete investigation, in addition to the prosecutors' misconduct. A spokesman said that Brown, as a black man in a service industry catering to wealthy whites, became the chief suspect "in spite of the facts. ... What Dawud [Mohammed] brought to this case was his race and proximity to the crime scene and its victims."

Four executions were held on the day before the December 10 anniversary of the Universal Declaration of Human Rights. Among them, **D.H. Fleenor** was executed in Indiana although he was delusional, and **Andre Graham** was executed in Virginia despite the weakness of the evidence against him and recent statements of witnesses to a codefendant's confession. **James Beathard** was executed in Texas. Courts and the governor ignored the recantation and confession of the only important witness against Beathard, a conflict of interest by the defense attorney, and the prosecution's willful misrepresentation of the case against Beathard, including presenting two contradictory versions in two different trials.

The Florida Supreme Court ruled on a 4-3 vote on September 24 that Old Sparky was not unconstitutional. (See "Supreme Court Issues Key Rulings" on page 7.) The electric chair, famous for burning prisoners to death every few years, was partially rebuilt this year to facilitate the execution of **Allen "Tiny" Davis**. Davis, who weighed over 350 pounds, bled profusely upon electrocution, and photographs of the execution showed him appearing to choke and to writhe in pain. Lawyers representing Old Sparky's next scheduled victim, **Thomas Provenzano**, attempted therefore to have the chair declared unconstitutionally cruel and unusual. Irrespective of the photos and also of abundant evidence of malfunction in the electric killing apparatus, ensuing court proceedings ruled that Davis died instantaneously.

One of the three judges unsuccessfully voting to ban the chair wrote of the "burn 'em, fry 'em ... culture of cruelty" surrounding the debate. "Our justice system," he said, "is not simply an instrument of vengeance, despite the connotation to that effect contained in the extreme rhetoric that sometimes surrounds the constitutional debate over continuing use of the electric chair."

Provenzano's execution had been stayed by the Florida Supreme Court one day earlier because his attorneys also argue that he is too insane for execution. Although it is not seriously disputed that he is mentally ill, lower courts have found that he passes the very low standard of mental competence to be executed. A new hearing was held in October; on December 8, the judge ruled that Provenzano had not met the "clear and convincing evidence" standard required to prove he is insane. "Given the nature of the penalty, the Court cannot help but be troubled," wrote the judge, that he was compelled by the law to find Provenzano fit for execution. The ruling has been appealed to the Florida Supreme Court.

Not In Our Names

Since <u>1/99</u>	Since <u>1/77</u>	<u>Date</u>	<u>Prisoner</u>	<u>State</u>
56	556	7/7	Tyrone Fuller	TX
57	557	7/8	Norman Newsted	OK
58	558	7/8	Allen Davis	FL
59	559	7/21	Tommy Strickler	VA
60	560	8/4	Ricky Blackmon	TX
61	561	8/5	Charles Boyd	TX
62	562	8/6	Victor Kennedy	AL
63	563	8/10	Kenneth Dunn	TX
64	564	8/11	James Earhart	TX
65	565	8/17	Marlon Williams	VA
66	566	8/18	Joe Trevino	TX
67	567	9/1	David Leisure	MO
68	568	9/1	Raymond Jones	TX
69	569	9/8	Mark Gardner	AR
70	570	9/8	Alan Willett	AR
71	571	9/10	Willis Barnes	TX
72	572	9/14	William Davis	TX
73	573	9/16	Everett Mueller	VA
74	574	9/21	Richard Smith	TX
75	575	9/24	Willie Sullivan	DE
76	576	9/24	Harvey Green	NC
77	577	10/12	Alvin Crane	TX
78	578	10/14	Jerry McFadden	TX
79	579	10/15	Joseph Parsons	UT
80	580	10/19	Jason Joseph	VA
81	581	10/21	Arthur Boyd	NC
82	582	10/27	Ignacio Ortiz	AZ
83	583	10/28	Domingo Cantu	TX
84	584	11/9	Thomas Royal	VA
85	585	11/12	Leroy Drayton	SC
86	586	11/16	Desmond Jennings	TX
87	587	11/17	John Lamb	TX
88	588	11/18	José Gutierrez	TX
89	589	11/19	David Junior Brown	NC
90	590	12/2	Cornel Cooks	OK
91	591	12/3	David Rocheville	SC
92	592	12/8	David Long	TX
93	593	12/9	Bobby Ross	OK
94	594	12/9	D.H. Fleenor	IN
95	595	12/9	James Beathard	TX
96	596	12/9	Andre Graham	VA
97	597	12/14	Robert Atworth	TX
98	598	12/15	Sammie Felder	TX

UN Abolition Endorsement Delayed

In April, 1999, the United Nations Commission on Human Rights voted 30–11 for a resolution calling for a worldwide moratorium on executions, as a prelude to completely abolishing the death penalty. The resolution, which was introduced by the European Union, was to have been voted on by the full UN General Assembly in October. While 71 countries endorsed Resolution 64, Singapore led a group of countries opposed to abolition, including the United States, China, Sudan, Libya, Iran and Iraq, in proposing crippling amendments. Consequently, the resolution sponsors decided on November 18 to withdraw the proposal and attempt to reintroduce it at a later date.

Supreme Court Issues Key Rulings

In the first several weeks of the 1999–2000 term, the US Supreme Court issued rulings on, or considered *cert* for, several key capital-punishment cases.

In the summer issue, we mentioned that the court had requested the Clinton Administration's opinion of the claims raised in *Domingues v. Nevada* that juvenile executions are forbidden by the International Covenant on Civil and Political Rights, which was ratified in 1992. The Solicitor General, who represents the Justice Department at the Supreme Court, in mid-October submitted a brief stating that the reservation by the US of the right to execute children was valid. Despite the worldwide view that the ban on killing children was obligatory and could not be countermanded, merely one week later the court threw the case out without issuing an opinion. The US is the only country in the world to have executed children in the past two years.

In a departure from usual procedure, two opinions were filed in another key death-penalty case at the Supreme Court. Justice Breyer was the only judge voting to hear appeals from prisoners in Florida and Nebraska that the length of time that they were forced to spend waiting to be executed was itself cruel and unusual punishment, forbidden by the Eighth Amendment. Breyer's statement said that he thought a serious issue was being raised, noting that several countries recently decided that death-row incarcerations far shorter than these prisoners' were indeed cruel. Breyer's opinion was countered by a scathing rebuke from Justice Thomas.

The court has accepted a Florida case which could ban the electric chair forever. As we report in this issue's "Death Row Updates," the Florida Supreme Court in September once again approved on a 4–3 vote the constitutionality of Old Sparky, the partially rebuilt chair famous for setting prisoners on fire. On October 26 the US high court accepted the appeal on Eighth Amendment grounds of Anthony Bryan, who was to have been executed the next day. Fearful of the consequences, Florida legislative leaders who have flippantly defended Sparky now are scrambling to pass a lethal-injection bill. They hope that this will cause the appeal to be dismissed, thus avoiding a national precedent that a particular method of execution is cruel and unusual punishment.

The US Supreme Court will also hear an appeal that could further restrict prisoners' ability to argue that their attorneys were incompetent.

The Washington Coalition to Abolish the Death Penalty Newsletter is normally published four times each year. The newsletter committee is Billy Kreuter, Jackie Lent and David Fathi. Christina Albouras and Jackie Lent coordinate the mailing party. This newsletter is mailed to supporters of the Coalition and it is also available on the World Wide Web and by e-mail. Our web URL is <http://www.scn.org/activism/wcadp>. Send a message to billyk@scn.org to request an e-mail subscription.

Some members of the WCADP Newsletter Committee recently were asked if the newsletter could include basic information and talking points about the death penalty. Interested readers might want to take a look at the Coalition's web site, <http://www.scn.org/activism/wcadp>, where much of this information can be found. You'll find the current and past issues of the newsletter, talking points on the death penalty and a large number of links to other web sites concerned with abolition.

Here is an excerpt from an advertisement that appeared in the New York Times in November. The advertisement included these talking points.

Fact: Since the death penalty was reinstated by the Supreme Court in 1976, for every seven prisoners who were executed, one prisoner awaiting execution was found to be innocent and released. That's 82 people who were on death row before their innocence was established, including eighteen in Florida, ten in Illinois since 1994, and six nationwide just this year. Their release came about not because the system worked, but in spite of it.

Fact: At least 381 homicide convictions have been overturned since 1963 because prosecutors concealed evidence of innocence or presented evidence they knew to be false.

Fact: The death penalty doesn't deter crime. Since the death penalty was reinstated in 1976, the South has carried out 80% of the nation's executions, yet it has the highest murder rate of any region in the country.

Fact: It is *not* cheaper to execute prisoners than to keep them in prison for life without parole. The most comprehensive study on the cost of the death penalty was done at Duke University. It found the [added cost, compared to the alternative of life imprisonment] of executing a prisoner in North Carolina was \$2.1 million.

Fact: Over 90% of those tried on capital charges had court-appointed attorneys, yet not one state meets the American Bar Association's standard for the appointment of counsel for indigents. A Kentucky study showed 25% of death row inmates had been represented at trial by attorneys who were later disbarred or resigned to avoid disbarment. A Louisiana study showed 13% of those executed had been represented by lawyers who had been disciplined by their bar—a rate 68 times greater than the state bar as a whole. A Texas study showed capital defendants were 28% more likely to be convicted and 24% more likely to be sentenced to death if they were represented by court-appointed counsel.

Fact: Since 1984, 34 mentally retarded people have been executed.

Fact: A study by the U.S. General Accounting Office found racial prejudice in death sentencing. The race of the murder victim was shown to be a determining factor; killers of whites were proportionately more likely to be executed than were killers of blacks.

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in the prosecution's case against Lord. The prosecution had no DNA evidence or witnesses to the murder; no one had seen Tracy and Lord together on the day she disappeared; none of the trace physical evidence introduced at trial conclusively tied Lord to the crime; and much of the blood-related evidence was tainted by Phillips' mishandling of the leuco-malachite green tests, not to mention his subsequent attempts to cover up his mistakes. ... Had the jury believed the boys' testimony, Lord's suspicious behavior on the evening of September 16th could have been seen as odd but hardly indicative of murder." Phillips was a forensic scientist

“ Lord’s behavior could have been seen as odd, but hardly indicative of murder.”

who mishandled Lord's carpenter's hammer and then covered up his misstatements as to whether it was the murder weapon. The supposedly "suspicious behavior" on September 16, 1986, included Lord, a carpenter, going shirtless in cool weather and washing the bed of his pickup truck. Tracy Parker's classmates say they saw her on September 17.

Kitsap County prosecutors are deciding whether to appeal to the US Supreme Court. Prospects for such an appeal are not promising, given that the tough ruling by the Ninth Circuit was unanimous and authored by Kozinski, a Reagan appointee who supports the death penalty and usually rejects appeals from death-row prisoners. The county's other options would be plea bargaining, dropping charges or retrial. Retrial of a weak case after twelve years is unlikely to be regarded as fruitful by the county.

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