

2007 Fall/Winter Newsletter

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Washington Coalition to Abolish the Death Penalty

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Founded in 1984, WCADP is a statewide 501(c)(3) non-profit organization comprised of individuals and organizations. WCADP is dedicated to public education and activism to abolish the death penalty.

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The President’s message

Rumors of the Demise of the Death Penalty Greatly Exaggerated

by Jeff Ellis, WCADP Steering Committee President

In Spring 2002, I was meeting with a number of young men sentenced to death who were awaiting their fate in the state prison located in Livingston, Texas. While waiting for guards to transport my next client, a young man wearing the prison-issued, white jump-suit with the large, unmistakable “DR” (death row) on the back waved me over to ask me a question. “Do you think the United States Supreme Court will prevent the execution of juveniles this term? I heard that they were going to let Napoleon Beazley die because his case is too political, but then they were going to take a case right after he’s killed.”

I told him that I hoped they would take a case—any case—immediately. “I hope so, too. I was only 17 when I was convicted of murder. Your guy is here. Thanks for talking to me. My name is Toronto Paterson.”

Next Term, the United States Supreme Court accepted Christopher Simmons’ case and later held that the U.S. Constitution prohibited the execution of juveniles.

For some time now and from various sources (politicians, prosecutors, defense attorneys, and fellow abolitionists), I have heard that we have achieved a de facto abolition of the death penalty in Washington. I hope so, but for the sake of eight men currently living in Walla Walla under a sentence of death, I do not believe we can rest so easy.

There are, of course, reasons to be optimistic. No new person has been sentenced to death since 2002. The state penitentiary has not carried out an execu-

tion since 1998 – and it has been since 1994 when the last person who did not volunteer for a death sentence (Charles Campbell) was hung in our names.

However, there are danger signals. After the 9th Circuit vacated Cal Brown’s death sentence, the United States Supreme Court reversed that decision and reinstated death—one of several cases coming out of

the 9th Circuit where the increasingly conservative Supreme Court took the lower appellate court to task for being too liberal. It seems to have worked. In late September 2007, the 9th Circuit found no error with Darold Stenson’s trial or death sentence. Trust me; there were many worthy errors to choose from.

After the Washington Supreme Court narrowly affirmed Davya Cross’ death sentence in 2006, they affirmed Robert Yates’ by an 8-1 margin in September 2007. What’s most concerning is that the four justices who in Cross’ case argued that the death penalty was arbitrary, capricious, and broken appear to have given up the fight.

Despite control of both the legislative and executive branches in Olympia, very few officials in Olympia have the courage to speak of abolition—not when issues like the future of the viaduct and the Sonics command attention.

At the end of the day, we know that rumors of the death penalty’s demise mean nothing. We cannot wait and hope that the arbitrariness which defines the death penalty continues to work in our favor – because sometimes it does not. I’d tell you to ask Napoleon or Toronto, but you can’t. They are dead.

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New Jersey to join ranks to Abolitionist States

As George Bush once (in)famously stated: "This is historic times."

In December, the New Jersey state legislature will vote on the issue of abolishing the death penalty. If passed as predicted, the measure will reduce the state's severest punishment to life-imprisonment without parole, making New Jersey the first state to abolish the death penalty since the Supreme Court allowed states to reinstate capital punishment in 1976.

The action of the state legislature is the result of a bi-partisan study approved by the legislature in 2006. The Commission created by state law-makers was charged with studying "all aspects of the death penalty as currently administered in the State of New Jersey, including but not limited to" the following issues:

(1) whether the death penalty rationally serves a legitimate penological intent such as deterrence;

(2) whether there is a significant difference between the cost of the death penalty from indictment to execution and the cost of life in prison without parole; in considering the overall cost of the death penalty in New Jersey, the cost of all the capital trials that result in life sentences as well as the death sentences that are reversed on appeal must be factored into the equation;

(3) whether the death penalty is consistent with evolving standards of decency;

(4) whether the selection of defendants in New Jersey for capital trials is arbitrary, unfair, or discriminatory in any way and there is unfair, arbitrary, or discriminatory variability in the sentencing phase or at any stage of the process;

(5) whether there is a significant dif-

ference in the crimes of those selected for the punishment of death as opposed to those who receive life in prison;

(6) whether the penological interest in executing some of those guilty of murder is sufficiently compelling that the risk of an irreversible mistake is acceptable; and

(7) whether alternatives to the death penalty exist that would sufficiently ensure public safety and address other legitimate social and penological interests, including the interests of families of victims.

...there is no evidence that the death penalty "rationally serves a legitimate penological intent."

In January 2007, the 13-member New Jersey Death Penalty Commission issued a report that concluded there is no evidence that the death penalty "rationally serves a legitimate penological intent." The report also recommended its abolition. Though the state currently has eight men on death row, the last execution in New Jersey took place in 1963 by lethal injection.

And now, New Jersey is primed to begin a new day.

Last year, the Washington Coalition to Abolish the Death Penalty sponsored a similar study bill in the Washington Legislature. Although there was virtually no public opposition, the bill died in committee. Our state's public officials should watch and listen to the praise that is about to be heaped on the leaders in New Jersey who made abolition happen. Our state's leaders should then watch and listen how quickly those faint complaints about abolition fade away.

We can do the same thing, here. The Coalition will even give the Legislature and the Governor all the credit. For us, the result is what matters.

Why I am an Abolitionist

by Jeff Wilson

The beginning of the end of my uncertainty about the death penalty came on Friday, September 2, 1994, when my home state of Nebraska killed Harold Lamont "Willie" Otey in the electric chair.

Not satisfied with an inhumane and painful death by the State, those wishing Otey dead gathered outside the walls of the Prison turning the balmy summer night into an impromptu party. Beer arrived, grills were set up, men and women of all ages waved signs and hurled insults at the much smaller group of abolitionists.

I still remember the signs. "Fry the Devil;" "Let Me Throw the Switch;" "Let Him Burn;" and more. Those signs have stayed with me. In the days leading up to the execution, frequent interviews would quote everyday Nebraskans saying variations on, "You only have to look at him to know he is guilty. He's the devil." (Translation: "He's black and he's getting what he deserves.")

I felt sick. Any uncertainty I had about the death penalty evaporated that night. Never before had it been so clear how this brutal practice destroys more than the inmate strapped in the electric chair.

Actions that night will play out in the lives of all involved, inside and outside the prison.

The revelers made a decision that night. Knowingly or not, they set out on a path glorifying hatred, brutality, retribution, and violence. Those who cheered this death, whether at the prison or elsewhere, lost a portion of that very thing that makes us all human.

I also made a decision that night: I would do what I can to oppose the death penalty.

**Have something to say? Submit "Why I am an Abolitionist" articles for possible printing to info@abolishdeathpenalty.org.*

Death Row Update

by Jeff Ellis

Cal Brown

On June 4, 2007, the U.S. Supreme Court reversed the 9th Circuit and reinstated Brown's death sentence holding 5-4 that the trial court did not err in excusing a juror who expressed ambivalence about the death penalty. The majority opinion was authored by Justice Kennedy, who was the crucial swing vote on criminal justice issues this last term. The dissent, written by Justice Stevens argued that the majority had erased an important distinction the Supreme Court had long drawn between "mere opposition to the death penalty" and "an inability to perform the legally required duties of a juror."

Brown's case is now back in the 9th Circuit where that Court is considering his remaining challenges, including a claim that his former lawyers were ineffective for failing to fully investigate his history of serious mental health problems.

Davya Cross

Cross will file his PRP at the end of October. It is unclear just what issues Cross will raise or how long before his case will be ready for decision.

Cecil Davis

Davis was sentenced to death for a second time by a Pierce County jury in May 2007. Davis' first death sentence was overturned because he was forced to appear before the jury in shackles, an error that was not repeated at his second trial. Davis' case is now back in the Washington Supreme Court on appeal. It is unlikely that the appeal will be heard for at least a year.

Clark Elmore

Elmore's PRP was filed in June 2001. His case was ready for a decision in January 2005. However, the Supreme Court has not acted as of this writing. Hopefully, this is because the Court is being careful. In his PRP, Elmore showed that he suffers from brain damage as a result of several significant head injuries (including being thrown through a windshield in a car crash) and repeated exposure to neurotoxins (like DDT and Agent Orange, from his military service in Vietnam). None of this information was known to his attorneys at trial and, consequently was not presented to the jury that sentenced him to death.

Jonathan Gentry

Gentry's case has been pending longer the others. He was convicted in 1991 and his habeas petition has been pending in U.S. District Court since October 1999. During the course of those proceedings, Gentry has shown that the prosecutors hid important information from his attorneys at trial. The legal issue is whether that information is important enough to grant Gentry a new trial or penalty phase.

Darold Stenson

On September 24, 2007, the 9th Circuit affirmed Stenson's convictions and death sentence holding that the disagreement between petitioner and counsel (counsel focused on the sentencing/penalty phase, while Stenson wished counsel to argue that someone else committed the murder) did not rise to the level of a constitutional violation. The Court also found that counsel's decision to concede guilt during the penalty phase was not ineffective, despite the fact that Stenson has always claimed he is innocent.

Stenson will now seek review by the full 9th Circuit. If they do not take the case en banc, then Stenson will petition the U.S. Supreme Court to review his case.

Dwayne Woods

Woods filed his habeas petition in July 2006. Recently, new counsel was appointed. In January 2007, those attorneys filed an expanded habeas petition. The federal court has set a briefing schedule which makes Woods final brief due in mid-November 2007.

Robert Yates

On September 27, 2007, the Washington Supreme Court upheld the death sentence for Robert Yates by an 8-1 margin, significantly backing off last years' 4-5 split on the Davya Cross case. In that case, four of the justices concluded that the death penalty has been imposed in such an arbitrary manner that it violated the constitution. However, in Yates's case, eight of the justices refused to throw out capital punishment just because prosecutors are inconsistent in how they use it. Yates will next petition the U.S. Supreme Court to review his case. If they do not do so, then he will likely file a Personal Restraint Petition (his second round of appeals) in the Washington Supreme Court.

China, the death penalty and the Olympics

An editorial by Jeff Wilson of WCADP

When the International Olympic Committee awarded the 2008 Summer Games to China it was with the understanding that the government would work to improve the condition of human rights in China. The United States along with virtually every country in the world stand poised to pour millions of dollars into China and burnish their abysmal reputation. Can we, as abolitionists, stand by and allow this to occur?

Here are some facts:

- China executes more people than all other countries combined. It is estimated that more than 15,000 people were put to death in 2006. This is after the Chinese government announced a tightening of the death penalty system to reduce the number of executions.
- China has built and now uses more than 40 "Mobile Execution Cars." These "cars," are converted ambulances and large buses outfitted with all the tools to kill by lethal injection. The largest of the mobile death chambers, a 26-foot long bus, has three sections. There is an execution chamber in the rear of the bus behind blacked-out windows that includes a hydraulic table designed to swiftly lift the accused from the ground, placing them in front of seating for a court doctor and guards. The middle of the bus is an observation area accommodating 6 people who view the execution through a glass panel. The third section is for the driver. The Chinese now claim that the switch from gunshots to injections is a sign that China "promotes human rights now," or so says Kang Zhongwen, who designed the Jinguan Automobile death van.
- Why the switch from firing squads to lethal injection? There is growing evidence that the Chinese government is engaged in wholesale organ harvesting from executed prisoners. Not only does the lethal concoction leave the body intact, the new "death cars" provide a secret and well-equipped way to quickly

harvest organs before driving the body to a crematorium.

On November 14, 2006, at the National Organ Transplant Application and Technology Conference held in Guangzhou City, Vice Minister of Chinese Health Department Huang Jiefu admitted that the majority of the country's domestic transplanted organs come from executed prisoners.

Even more macabre is the emphasis on harvesting organs from innocent practitioners of Falun Gong. On July 6, 2006, former Canadian MP David Kilgour and international human rights lawyer David Matas released their 49-page "Report into Allegations of Organ Harvesting of Falun Gong Practitioners in China." Their final statement reads, "Based on what we now know, we have come to the regrettable conclusion that the allegations are true. We believe that there has been and continues today to be large scale organ seizures from unwilling Falun Gong practitioners."

Does the United States have a moral responsibility to demand that China abolish its killing machinery or the West will forgo participating in their games?

The answer is an emphatic YES! We must take action to increase public pressure on the Chinese Government, the International Olympic Committee, and the United States Olympic Committee. We must work to bring these killings out of the shadows and into the harsh light of world public opinion. Everyone planning a trip to, or even anticipating watching the 2008 Olympics, must know what is going on in China.

We must act where our government will not. It is extremely unlikely that this president has the courage or the moral compass required to stand up to China. While Governor of Texas, George W. Bush signed more death warrants than any Governor in history. His administration has labored tirelessly to expand the

federal death penalty and has, at every turn, bowed to pressure from the Chinese in regards to human rights. History will show that this president is little more than a blood-thirsty coward building a legacy on death and degradation.

All of this begs the question, what can we—as abolitionists—do to make a difference? Are we as a people willing to play along as China courts the world's attention?

Listed below is contact information for the various organizations involved in this international travesty. I leave it up to each of you to decide whether or not to proceed. I for one believe that none of us has the luxury of remaining silent.

International Olympic Committee

Château de Vidy
1007 Lausanne
Switzerland
Tel: (41.21) 621 61 11
Fax: (41.21) 621 62 16
Email Form: www.olympic.org/uk/utilities/registration_uk.asp?prm_action=req

U.S. Olympic Headquarters

1 Olympic Plaza
Colorado Springs, CO 80909
Tel: 719.632.5551
Email: media@usoc.org
Links to each of the Sport Committees: www.usoc.org/12181_36427.htm

Embassy of the People's Republic of China in the United States of America

2300 Connecticut Ave., NW
Washington, D.C. 20008
Embassy operator: (202) 328-2500 (-2501 and -2502)
Fax: (202) 588-0032 (Media Counselor Chu Maoming)

**If you would like an attachment to email or fax with your message simply Google "China Execution Bus."*

Matching Gifts

(This is a partial list. To see the complete list go to www.abolishdeathpenalty.org/MatchingGifts.htm. Please check with your HR department for matching gift forms and/or giving restrictions.)

Adobe Systems	GlaxoSmithKline	Quadrant Corp.
American Express Co.	Hewlett Packard	Real Networks
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Banana Republic	Infospace	Safeway
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Boeing Employees Credit Union	Key Bank	Siemens
Brinks Home Security	Kraft Foods	Sprint
Canon	Lehman Brothers	Starbucks Coffee Company
Cascade	Lucent Technologies	Sun Microsystems
Charles Schwab	Macy's	Symantec
Chase Manhattan Corporation	Mayflower Park Hotel	Thrivent Financial for Lutherans
Chicago Title Insurance Co.	Medtronic	Transamerica
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Cisco	Merrill Lynch	United Airlines
City of Seattle	Microsoft Corporation	UPS/United Parcel Service
Coca Cola	NCR	US Bank
Compaq	Nintendo	USAA
Computer Associates	Pepsi Co.	Verizon Wireless
Costco	Perkins Coie	Visio
CIGNA Corporation	Pfizer Foundation	Washington Dental Service
Expedia	Philip Morris Companies	Washington Mutual Bank
Exxon Corporation	Piper Jaffray	Wells Fargo
Federated Group	Prudential	Xerox
Gap	Puget Sound Energy	Yahoo!
General Electric Company	Pyramid Brewery	Zymogenetics

A failure of vision:

The election of the King County Prosecuting Attorney

In 2003, Kamala D. Harris ran for the San Francisco District Attorney position and promised never to seek the death penalty. Shortly after her election, she kept her promise, deciding not to seek the death penalty in a high profile case involving the murder of a police officer, Isaac Espinoza. Instead, she sought and received a life without parole sentence for killer, David Hill.

This November, Harris sought re-election. Once again, she promised not to seek a death sentence in any case that crosses her desk. Harris is instead running on a platform that involves balancing prosecutions of violent crimes with rehabilitation for lesser offenders. She is unopposed. The citizens of San Francisco have learned that they can live without the death penalty, despite the fact that California has the largest death row in the country.

Here, in King County, Dan Satterberg was elected in November. Unfortunately, both candidates supported the death penalty although they each promised to be careful in deciding who should live and who should die.

This election could have been an opportunity for a candidate to step up and promise to take the money used to seek the execution of a fellow human being and use it instead for crime prevention efforts and to assist the family of victims of violent crime. This election could have been an opportunity to explain why not seeking the death penalty is good public policy and the only decent way to administer justice.

Perhaps, the candidates felt that the public would not support such a position. If so, they should have looked to San Francisco DA Harris. She could have told them that the people will support a true leader.

Thank You For Your Support! Donors from 10/1/06 through 10/31/07



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 Washington Association of Criminal
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 Kathy & Clarence Pugh
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The Washington Coalition to Abolish the Death Penalty is funded primarily through the support of individual donors like you. We sincerely believe in our motto: "It is easy to support the death penalty when you don't have the facts." That is why we are out at public events doing outreach and education. That is why we provide a speakers bureau to schools and other groups. That is why we work to educate our elected officials about this immoral practice. We need your help if we are to continue. Please consider clipping this form and mailing it in today with your gift. Every dollar we receive will bring us closer to that day when the death penalty is just a terrible memory.

YES! Count me in! I'm ready to stand up and help put an end to the death penalty. Please accept my gift to support the fight.



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 206.622.8952
 info@abolishdeathpenalty.org

- Individual: \$25.00
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This amount would really make a difference

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Please charge my contribution to my:

Visa MasterCard

Account Number _____

Expiration Date _____

Signature _____

Name (Please Print) _____

Address _____

City, State, Zip _____

() _____

Telephone _____

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Finding strength in numbers

The Steering Committee is growing

The WCADP Steering Committee (the governing body of WCADP) is looking for a few good people. Are you or is a member of your organization:

- Committed to abolishing (not merely reforming) the death penalty.
- Interested in setting and accomplishing goals for WCADP.
- Willing to engage your mind by reading WCADP materials, participating in meetings, and carrying out other WCADP work.

- Able to attend and actively participate in all (or virtually all) the monthly Steering Committee meetings and the most important other events.

- Capable of supporting WCADP financially every year with at least the basic membership dues.

If so, then we can use your help. We are looking for qualified individuals to assist in steering the direction of the WCADP. In particular, we would like to get input from people who are tied to larger organizations with common goals

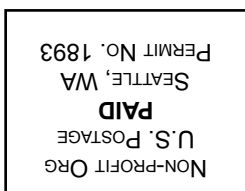
such as compassion, rehabilitation, and justice for all.

Want to apply? Send an email to: committee@abolishdeathpenalty.org

Have Questions? Call Jeff at the WCADP Office at (206) 622-8952. (Tues., Wed. and Thurs. from 10:00AM to 2:00PM) or email: info@abolishdeathpenalty.org.



There's a lot more on the up-to-date WCADP Blog:
<http://abolishcapitalpunishment.blogspot.com/>



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