

# URGENT ACTION

## EXECUTION SET FOR CRIME COMMITTED AT AGE 20

**Kenneth Williams, aged 38, is due to be executed in Arkansas on 27 April for a murder committed during a prison escape in 1999. Twenty years old at the time, he asserts he is not the same person he was then, and can contribute to society if allowed to live.**

In September 1999, **Kenneth Williams** was sentenced to life imprisonment without parole for a 1998 murder in Pine Bluff, Arkansas. Authorities brought him to the Cummins Unit prison and placed him in medium security confinement. On 3 October 1999, the 20-year-old escaped. At his later trial, the warden would admit that two prison officers had failed to perform their duties and that this had “allowed Inmate Williams to escape”. On the afternoon of the escape, Cecil Boren was shot dead at his home not far from the prison and his truck was taken. The truck was spotted the next day in Missouri and pursued by police. During the chase the driver of another truck, Michael Greenwood, was killed when the two trucks collided. Police arrested Kenneth Williams after he fled the scene on foot. He was brought to trial, and convicted in June 2000 of the capital murder of Cecil Boren.

At the sentencing the defence presented, including through expert psychological testimony, evidence of the defendant’s youth, his childhood marked by extreme poverty, exposure to violence in the home and on the streets, parental substance abuse, inadequate parenting, as well as his own attention deficit disorder and learning disabilities. The jury did not indicate on the verdict form that it had found any mitigating circumstances. The trial judge instructed them to mark at least one factor. Eventually they marked only one, namely “Kenneth D. Williams experienced family dysfunction which extended from generation to generation”. In 2007, the Arkansas Supreme Court rejected the argument that the jury had not properly considered the mitigation presented.

Among the witnesses presented by the prosecution was a sister of the victim who testified that, unlike the jurors, she and her family could not “do anything” about the situation, asking the jurors “what would you do if it was your brother or your sister or your baby that someone stole away from you? I can’t do anything, but you can”. The defence lawyer objected that this was improper “victim impact” testimony, and the judge said that it was “getting pretty close” to being improper but allowed it. In 2010, the US Court of Appeals found that “insofar as she suggested that the jury act affirmatively and impose a death sentence”, the sister’s testimony violated the constitutional standard. However it held that the trial’s outcome was unaffected and upheld the death sentence.

Kenneth Williams is seeking clemency. His petition maintains he is “not who he once was”, is remorseful for his past conduct, and that his reform demonstrates that “even the worst of people can be changed for the better”. He expresses hope that “young persons who read my writings” will “be warned off the path I took in my earlier years”.

### **Please write immediately in English or your own language, in your own words:**

- Calling for clemency for Kenneth Williams and for his death sentence to be commuted;
- Explaining that you are not seeking to excuse violent crime or to minimize the suffering caused;
- Pointing out that the death penalty denies the possibility of rehabilitation and reform of individuals, and does nothing to further our understanding of the roots of and responses to human violence.

### **PLEASE SEND APPEALS BEFORE 27 APRIL 2017 TO:**

The Honorable Asa Hutchinson, Governor of the State of Arkansas  
State Capitol, Suite 250, 500 Woodlane St, Little Rock, AR 72201, USA  
Fax: +1 501 682 3597

Email: <http://governor.arkansas.gov/contact-info/> (**NB this requires an address, please use AI USA address below**); or  
[info@governor.arkansas.gov](mailto:info@governor.arkansas.gov) (asking for email to be forwarded to governor)

**Salutation: Dear Governor**

AI USA: 5 Penn Plaza, 16<sup>th</sup> Floor, New York, NY 10001, Phone: (212) 807-8400

Also send copies to diplomatic representatives accredited to your country. MR. LEWIS LUKENS, Chargé d’Affaires ad interim, American Embassy, 24 Grosvenor Square, London W1A 6AE, tel: 020 7499 9000. Salutation: Dear Mr. Lukens **Please check with your section office if sending appeals after the above date.**

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### ADDITIONAL INFORMATION

On death row, Kenneth Williams has become religious and active in bible studies, and also taken to writing. In an article written in 2015, he recalled in 1998 having to carry the coffin of a 13-year-old friend, Matthew, who had “accidentally shot himself in the head while playing with a loaded gun he never should have had”. The article continues: “We grew up in the same gang-infested neighbourhood; we both lived as outlaws, who ran the streets of Pine Bluff, Arkansas, living dangerously on the edge. There was an age difference between us: when he was 13, I was 19. He was my apprentice, influenced in like-manner as I had been influenced by other older gang bangers... His life was a repeat of mine. Staring into his life was like looking into a mirror. I was ten years old the first time I was sentenced to the boy’s school for reform. After my release, I committed recidivism over and over again. I fled just about every foster home my case worker placed me in. At sixteen years old I was sentenced to prison for first degree escape from ‘The Arkansas Serious Offender Program’ and for second degree battery... After serving two years and two months, I was released on April 2, 1998.... I could have done much more to deter [Matthew] from his reckless decision-making. Had I done so, perhaps his fate could have been altered. It pains me to say, I and others came up short in the role model category... If only this was an isolated case, perhaps it would be more bearable; regrettably, it’s not. People all around the world struggle with the premature loss of a loved one. And, like myself, they find themselves asking the questions: ‘Could I have done more?’ ‘Why didn’t I do more?’.... Due to my inaction, I had to look upon the stiff, cold face of Matthew at his funeral... My young apprentice, whom I blindly led astray, is dead. As for me, I’m on Death Row, the closest a person can come to being in a grave without actually being there... We’ve all dropped the ball in some way, and boy does it show unmistakably in our school houses, in our jails, and prisons, our rehabs, and yes... most regrettably, our graveyards too.”

The extent of the security measures used at his trial raise concerns about whether Kenneth Williams’ right to the presumption of innocence was undermined and whether the jury may have viewed them as an indicator of his dangerousness and a reason to vote for the death penalty. He was made to wear prison clothing, handcuffs, shackles and an electro-shock stun belt, and there were uniformed guards sitting and standing near him. While US law permits shackling during guilt and sentencing phases only in exceptional cases, the US Supreme Court recognizes that “unlike physical restraints, compelling an accused to wear jail clothing furthers no essential state policy”, while carrying the “possible impairment of the presumption [of innocence] so basic to the adversary system”. In 2002, the Arkansas Supreme Court ruled that because the jury would anyway be told that the crime was committed while he was a prisoner, making him wear prison clothing was harmless. The Court noted that the jury may have seen his handcuffs and shackles, but said that “restraints are not per se prejudicial, and the defendant must affirmatively demonstrate prejudice”, ruling that he had not done so. It said the same in relation to the use of the uniformed guards. Amnesty International considers that the use of the stun belt violates the ban on torture and other cruel, inhuman or degrading treatment (<https://www.amnesty.org/en/documents/amr51/054/1999/en/>). The UN Committee against Torture has called for its abolition.

Like many states, Arkansas has faced problems sourcing chemicals for its lethal injection protocols and effecting protocols that courts find constitutional. In June 2016, the Arkansas Supreme Court upheld the state’s three-drug execution protocol. After the US Supreme Court declined to intervene in February 2017, Governor Hutchinson set execution dates for eight prisoners: Bruce Ward and Don Davis on 17 April; Ledelle Lee and Stacey Johnson on 20 April; Marcel Williams and Jack Jones on 24 April, and Jason McGehee and Kenneth Williams on 27 April. See <https://www.amnesty.org/en/documents/amr51/5816/2017/en/>.

There have been six executions in the USA in 2017, bringing the total to 1,448 since judicial killing resumed in the USA in 1977 under capital statutes approved by the US Supreme Court in 1976. The last execution in Arkansas – its 27<sup>th</sup> since 1977 – was carried out in 2005. Amnesty International opposes the death penalty in all countries and all cases, unconditionally.