

URGENT ACTION

RESUMPTION OF EXECUTIONS LOOMS IN OHIO

Ronald Phillips is scheduled to be executed in Ohio on 26 July. He was sentenced to death in 1993 for a murder committed earlier that year when he was 19 years old. He is now 43. This would be the first execution in Ohio in three and a half years.

In August 1993, a jury convicted **Ronald Phillips** of the January 1993 rape and murder of the three-year-old daughter of his girlfriend. At sentencing, the defence presented several of Ronald Phillips' relatives as character witnesses to bolster the argument that his life should be spared because he was a "good kid" with no previous criminal record whose crime was an anomaly. A psychologist testified that he was a "rather simple, emotionally immature, psychologically inadequate person" who functioned at a low intellectual level. The jury voted for death.

In 2010, the Sixth Circuit Court of Appeals upheld the death sentence, two votes to one. The dissenting judge argued that the trial lawyers clearly failed to provide the jury with compelling mitigating details of their client's violent and abusive childhood. The jury heard that "Phillips was a normal, all-American boy who liked to play with model airplanes," Judge Guy Cole wrote, but did not hear that "he was surrounded by violence, without interruption, from the time of his birth to the age of nineteen." His "culpability undoubtedly would have been reduced in the jury's eyes if they had known that his only male role model had taught him by life-long example that it was appropriate to physically and sexually abuse the children in one's care", Judge Cole continued, arguing that there was a reasonable probability that at least one juror hearing such evidence would have voted for a life sentence. In 2016, the Ohio parole board voted 10-2 against clemency. The governor can reject this vote.

The governor also has the power to issue reprieves to allow courts more time to consider an ongoing challenge to the lethal injection process. Ohio has not conducted an execution since January 2014, when the prisoner was witnessed "coughing, gasping, choking" during the lethal injection, one of a number of "botched" executions in the USA involving the use of midazolam as part of the execution protocol. On 28 June 2017, the full Court of Appeals for the Sixth Circuit lifted a lower court's injunction preventing Ohio from resuming executions with midazolam. Six of the 14 judges dissented. If just one had voted the other way, to leave a 7-7 tie, the injunction would have held. The death row prisoners have asked the US Supreme Court to stay their executions and review the decision.

The frequency of errors in capital cases in the USA, as well as evidence that the death penalty is not in practice limited to offenders whose "extreme culpability makes them the most deserving of execution," as is supposedly the case under US constitutional law, were among the factors cited in June 2015 by two US Supreme Court Justices as evidence that the death penalty may be unconstitutional. At least nine people have been sentenced to death in Ohio since 1975 for crimes they did not commit. A third of these nine cases were discovered as recently as 2014, when three more individuals were exonerated and cleared of wrongful convictions in Ohio capital cases.

Please write immediately in English or your own language:

- Calling on the governor to stop the execution of Ronald Phillips and to commute his death sentence;
- In your own words, urging the governor not to allow executions to resume in Ohio;
- Explaining that you are not seeking to downplay the seriousness of violent crime or its consequences.

PLEASE SEND APPEALS BEFORE 26 JULY TO:

Governor John Kasich, Riffe Center, 30th Floor, 77 South High Street, Columbus, OH 43215-6117, USA

Fax: +1 614 466 9354

Email (via website): <http://www.governor.ohio.gov/Contact/ContacttheGovernor.aspx> (**NB** this requires an address in the USA, please use

AIUSA's address: AI USA: 5 Penn Plaza, 16th Floor, New York, NY 10001, Phone: 212 807-8400)

Twitter: @JohnKasich

Salutation: Dear Governor

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 **Please check with your section office if sending appeals after the above date.**

**AMNESTY
INTERNATIONAL**



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ADDITIONAL INFORMATION

Today, 141 countries are abolitionist in law or practice. Abolition of the death penalty is a goal under international law and the UN General Assembly has passed repeated resolutions calling for a moratorium on executions pending abolition. Ohio is set to resume executions at a time when the USA itself is showing signs of moving against the death penalty, a situation requiring principled human rights leadership to sustain the momentum. The annual numbers of executions and death sentences are at historic lows, and a number of states have abolished the death penalty or imposed moratoriums on executions in recent years.

Amnesty International opposes the death penalty unconditionally, regardless of aggravation, mitigation, or the execution method chosen by the state. The death penalty is inherently cruel, inhuman and degrading and incompatible with human dignity. To end it is to abandon a destructive and divisive public policy, which not only runs the risk of irrevocable error, but is also costly, to the public purse as well as in social and psychological terms. The death penalty has not been proved to have a special deterrent effect. It tends to be applied in a discriminatory way in the USA, on grounds of race and class. It rejects the possibility of rehabilitation, tends to prolong the suffering of the victim's family, and extends the suffering to friends and relatives of the condemned. It diverts resources that could be better used to work against violent crime and assist those affected by it.

The death penalty in the USA is supposedly "limited to those offenders who commit a narrow category of the most serious crimes and whose extreme culpability makes them the most deserving of execution". While the crime of which Ronald Phillips was convicted was undoubtedly serious, there is also a serious question as to whether the second prong of this constitutional framework was met: "Reading the facts of this case, as so vividly described in the majority's opinion, one cannot but feel a deep sense of moral revulsion and horror that one human being could inflict such acts on another," Judge Cole wrote in his 2010 dissent. "It is for precisely this reason, however, that knowledge of Phillips's appalling childhood environment - the environment in which he spent his entire life prior to his crime, a world in which violence, criminal activity, and physical and sexual abuse of children were the status quo - is critical in assessing his culpability and determining the punishment he deserves. The jury that recommended Phillips be sentenced to death, however, heard little evidence about his childhood because his counsel failed to investigate the red flags leading to a large body of mitigating evidence that would have considerably altered the picture of his culpability." Judge Cole criticized his two colleagues for turning "a blind eye to the abhorrent conditions that Phillips endured and their effect on his moral and emotional development", and for "dismissing the violence that he and his siblings suffered... as merely 'unpleasant.'" Judge Cole emphasised that "this case is well within the range of this court's precedent finding prejudice resulting from ineffective assistance of counsel," even under the deferential standard imposed on federal courts for their review of state court decisions.

There have been 14 executions in the USA this year, bringing the total nationwide to 1,456 since 1976, when the US Supreme Court approved new capital statutes. Eighty-two per cent of these executions have occurred in the Southern region of the country. Ohio, a Midwestern state, has carried out 53 executions since resuming judicial killing in 1999, and is now ranked eighth (after Texas, Virginia, Oklahoma, Florida, Missouri, Georgia and Alabama). Ronald Phillips is the first of 34 prisoners currently scheduled for execution in Ohio in the next four years. Ohio lies seventh in terms of death row populations (after California, Florida, Texas, Alabama, Pennsylvania and North Carolina), and eighth in the number of wrongful convictions discovered in capital cases since 1973 (after Florida, Illinois (now abolitionist), Texas, Louisiana, Oklahoma, Arizona and North Carolina).