Who Is Clarence Ray Allen?

At 75, Clarence Ray Allen is the oldest inmate on California's death row, where he has been incarcerated for the past 22 years. His execution date has been set for January 17th, 2006, one day after his birthday. Clarence Ray Allen would be the thirteenth inmate to be executed since California restored the death penalty in 1978.

Background

Clarence Ray Allen, a Choctaw American Indian, Allen was convicted in 1982 for ordering the murders of three individuals while serving a life sentence at Folsom State Prison for the murder of a young woman in 1974. Billy Hamilton, the man who actually perpetrated the three murders, also received a death sentence. If this execution is carried out, Allen will be the second oldest man put to death in the U.S. in over 60 years and the oldest in California since the death penalty was reinstated. Allen is in very poor health, suffering from advanced heart disease and diabetes. He is confined to a wheelchair and nearly blind. He suffered a major heart attack on Sept. 2, 2005, and has a long history of delayed and substandard medical treatment.

He has been nearly discipline-free for the past 23 years. Executing him now will be gratuitous and extremely unusual. What is to be gained from executing this man? He is no threat to public safety, his execution will not make our society safer, or serve any real purpose. *Stop Executions California* is a grassroots coalition opposed to ALL executions. We believe that the death penalty is inhumane and is wrong in all cases. We protest every execution date and aim to end executions in this state. We also believe that there are fundamental flaws in the criminal justice system that lead to wrongful convictions, unfair trials, and bias death penalty sentencing.

1. The Death Penalty is racist

Race is a factor in this case. Allen is Native American and all of the victims are white. This case was tried in a rural, predominantly white county. A recent study published in the *Santa Clara Law Review* concluded that murderers of Caucasians in California during the 1990s were far more likely to be sentenced to death than those who killed blacks or Latinos. California has a higher proportion of Native Americans on death row than any other state, and Native Americans nationwide are more likely to receive a death sentence than any other group.

2. Clarence Ray Allen had an ineffective, poorly qualified lawyer

The record of Allen's trial is too typical. Under appellate review, court after court identified (and found reasons to excuse) errors by the judge, misconduct by the prosecutor, and ineffective assistance by Allen's own counsel so egregious that it fell outside the range of reasonable professional assistance. Inexperienced defense attorneys and underhanded maneuvers by ambitious local prosecutors are found in a majority of death penalty convictions. The 9th Circuit Court of Appeals reported, Ray Allen's "[t]rial counsel admits he did nothing to prepare for the penalty phase until after the guilty verdicts were rendered, and even then, in what little time [eight days] was available, he failed sufficiently to investigate and adequately present available mitigating evidence." The 9th Circuit stated that it is "overwhelmingly plain" that trial counsel's performance "fell below an objective standard of reasonableness."

3. The case depended on the testimony of unreliable informant witnesses

The chief witnesses against Allen at trial were admitted participants in the crimes that he was charged with. The prosecutor secured their testimony by giving them benefits, including the promise that they would not be charged with these very same murders. These witnesses had obvious reasons to lie, shifting blame and responsibility to Allen in order to protect themselves. At different times since the trial, each of these witnesses has admitted that they lied at trial.

4. Other serious mistakes were made

The 9th Circuit found a series of "errors committed by the trial court, prosecutor and defense counsel" in this case. For example, the judge gave the jury the wrong instructions on the law, stating, "If you conclude that the aggravating evidence outweighs the mitigating evidence, you shall return a death sentence." This misled the jury, wrongly mandated that the jury return a death sentence without regard to their personal views. The 9th Circuit also found that the prosecutor committed misconduct several times in the closing arguments at the guilt and penalty phases. In addition, the jury should have considered only three aggravating factors, but mistakenly considered 11 aggravating factors. On this issue, the 9th Circuit stated in its denial of relief, "No one disputes that the trial court erred."

NO ONE should be executed while the Justice Commission is studying these flaws

The *California Commission on the Fair Administration of Justice* has been established to study exactly these kinds of mistakes. The Justice Commission must report its recommendations to the Governor and Legislature by Dec. 31, 2007. **No one should be executed while the Justice Commission is conducting this in-depth study.** It is up to people of conscience throughout the state to make sure that the Commission does its job in a fair and comprehensive manner. We need to demand that the legislature put in place a moratorium on further executions until the Commission has had time to carry out its work. We need to make our voices heard. Only then can we hope that the truth will be revealed about a system so dysfunctional that it can reach the conclusion that murdering a 75-year-old man in a wheelchair serves any purpose at all.

What to do:

Contact Governor Arnold Schwarzenegger! Phone: 916-445-2841 Fax: 916-445-4633 email: www.govmail.ca.gov
Join Stop Executions California! Call 510-333-7966 or e-mail stopexecutionscalifornia@yahoo.com