

Tennessee Coalition to Abolish State Killing

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ARBITRARY & UNFAIR PROCEEDINGS

“Race, ethnic origin and economic status appear to be key determinants of who will, and who will not, receive the death sentence” in the United States.
-UN Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions, 1997

The death penalty in the USA is arbitrary and unfair because:

- 95% of death row inmates cannot afford an attorney. Poor people are being subjected to convictions and death sentences that equally or more culpable but more affluent people would not have received.
- Prosecutors seek the death penalty far more frequently when the victim of the homicide is white than when the victim is black or of another ethnic origin.
- Co-defendants charged with committing the same crime often receive different punishments, where one defendant may receive a death sentence while another receives prison time.
- Individual prosecutors make their own decisions about when to seek a death sentence, so that *where* the crime has been committed often determines the punishment.

“Despite the effort of the states and courts to devise legal formulas and procedural rules to meet this daunting challenge, the death penalty remains fraught with arbitrariness, discrimination, caprice, and mistake.”

-U.S. Supreme Court Justice Harry A. Blackmun, February 22, 1994

Olen Hutchinson was sentenced to death in 1991 for his involvement in a murder conspiracy, though he was neither present at nor even in the same county as the crime. His accuser, Ricky Miller, was a conspirator who was present and involved in the murder itself. Miller became the state's chief witness despite his extensive criminal record and was released after spending only two years in county jail. Hutchinson has run out of appeals and as of summer 2004 is awaiting the setting of an execution date.

“In Tennessee, capital punishment is not just the harshest brand of justice—it's the most arbitrary, chaotic and ill-conceived. Ghastly killers elude the state's most severe sanction, while defendants convicted on the testimony of drunks and shady accomplices wind up on death row.” –Matt Pulle, *Nashville Scene*, 9/4/03

“Almost all people accused of death-eligible crimes are impoverished and must rely on court-appointed lawyers to defend them at trial. ...there is an ever-present risk that minority defendants may be represented by lawyers who are not only incompetent, but also openly bigoted.”

-From *Killing with Prejudice: Race and the Death Penalty in the USA*. AI Report, May 20, 1999

In his article from the *Texas Law Review*, “Elected Judges and the Death Penalty in Texas,” Stephen Bright cites Texas cases in which court-appointed attorneys with clients on death row had never tried a capital case and other cases in which the attorneys not only slept through the trial, but the resulting death sentences were also upheld on appeal. “The process by which poor people are condemned to death is often a farce, a mockery, and a disgrace to the legal system and the legal profession,” he says. Bright also states that this is not exclusive to Texas. It is “a serious problem in many jurisdictions throughout the United States.”