

In re capital execution of Anthony J. LaRette, Jr.

APPLICATION FOR GRANT OF PARDON,  
REPRIEVE OR COMMUTATION OF SENTENCE

To: The Honorable Mel Carnahan, Governor  
State of Missouri

The undersigned religious and civic leaders of the State of Missouri for their Application state:

**I.  
EXECUTION SET**

1. The execution of Anthony J. LaRette, Jr. has been set for November 29, 1995.
2. Court appeals have been exhausted.

**II.  
PARDON POWER IS INHERENT TO THE PEOPLE;  
CITIZENS HAVE STANDING TO APPLY**

3. The power to pardon, reprieve or commute is inherent in the sovereignty of the people of the State who have conferred the exercise of this power on the Governor by virtue of Article IV, Section 7 of the Constitution of Missouri. The power exists to serve the Common Good and not merely the individual under sentence.
4. The exercise of the pardon power is not dependent upon "one (the offender) who, on no sound principle, ought to have any voice in what the law should do for the welfare of the whole." *Biddle v. Perovich*, 274 US 479, 487 (Justice Holmes).

"A pardon in our days is not a private act of grace from an individual happening to possess the power. It is a part of the Constitutional scheme. When granted, it is the determination of the ultimate authority that the public welfare will be better served by inflicting less than the judgment fixed. \* \* \* The public

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welfare, not his (the prisoner's) consent, determines what shall be done." *Biddle*,supra, p. 486.

5. Precedent has been established for the right of these Applicants as citizens of the State to apply for reprieve or commutation in behalf of the common good and to have the Board of Probation and Parole review such application pursuant to Section 217.800, RSMo. On October 31, 1984 religious leaders and others, including many of the present applicants, filed an Application for Reprieve or Commutation relating to the capital execution of Gerald Smith with then Gov. Christopher S. Bond. Gov. Bond accepted the Application, referred it to the Board of Probation and Parole for review. Prior to the action of the Board on the Application, a federal stay order intervened and subsequently Gerald Smith resumed his legal appeals thus making the Application moot. The citizen-initiated clemency process has been used under subsequent governors. In fact "citizen" applications have been presented and acted upon since the earliest years of Missouri statehood. One of the earliest women prisoners was pardoned upon the application of her

neighbors.

6. Anthony LaRette has filed an application for executive clemency in his own behalf through counsel. This application is made in support of his application.

**III.  
REVIEW UNDER SECTION 217.800, RSMO. REQUESTED**

7. The undersigned invoke the requirements of Section 217.800, RSMo, which requires that "all applications for pardon, commutation of sentence or reprieve shall be referred to the

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Board (of Probation and Parole) for investigation." Further we request timely notice of the Board's proceedings and an opportunity to be heard prior to the completion of their investigation. The undersigned respectfully request an opportunity to be heard prior to the completion of their investigation. We request that the reasons for mercy and commutation outlined in this application be considered in granting commutation, not simply the prior conviction records and related parole materials of the offender. We request a written response to this Application.

**IV.  
A COMMUTATION SHOULD BE GRANTED  
BECAUSE OF DEFENDANT'S MENTAL DEFECTS**

8. Mr. LaRette's psychiatric history, as documented in his clemency application, supports a history of mental illness and brain damage.

9. No less than eight institutions over the last 30 years have diagnosed and treated Mr. LaRette for Temporal Lobe Epilepsy. This condition results in him having seizures that cause him to go into a rage, foam at the mouth, urinate, rip off his clothes and black out. Upon waking, Mr. LaRette will have no memory of his actions. At various times in his life these seizures have occurred between one - three times a week, some lasting as long as 40 minutes. It has been difficult to find medication to treat Mr. LaRette because of other medical conditions he has.(Further se LaRette Application and Request for Hearing and a Reprieve From a Commutation of a Sentence of Death.)

10. Mr. LaRette has also received several severe head injuries in his lifetime that have left him unconscious. At age five, he received an electrical shock that left him unconscious and

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resulted in auditory hallucinations. At age eight, he was knocked unconscious for over one hour by a baseball bat. It was after this incident that Mr. LaRette attacked an adult female family friend. At least one doctor has reported that his assaults on women are probably committed during the black-out periods.

11. At the time of the murder of Mary Fleming, Mr. LaRette was angry and stressed over marital problems and having violent hallucinations. He also attempted suicide.

12. The sentence of death is to be imposed when the murder is premeditated and carried out with deliberation. Mt. LaRette's medical condition raises questions about his acting with deliberation and

premeditation.

13. Mr. LaRette has been a victim of mental illness most of his life. Our society has come to realize the vulnerability of persons with mental illness and sought measures to protect them. Mr. LaRette is not a person the public would find to be a reasonable candidate for execution.

**V.  
A REPRIEVE SHOULD BE GRANTED PENDING ANALYSIS  
OF THE PROPORTIONALITY OF THE  
DEATH PENALTY'S USE IN THIS AND SIMILAR CASES.**

14. A sentencing commission has been established by Section 558.019, RSMo. Supp1992 and revised again in 1994. The Commission is charged with studying disparities in sentencing. The Commission has special duties to study sentencing in relation to the death penalty. The Commission is working on its assigned task.

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15. The public policy of Missouri is to make the use of the death penalty contingent upon whether the penalty is proportionate. Section 565.035, RSMo., expresses this policy by requiring the Missouri Supreme Court to examine whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases. Subsection 6 of Section 565.035 establishes a special legal assistant to the Supreme Court charged with collecting records in all cases in which the sentence of death or life imprisonment with probation or parole was imposed.

16. Over 200 offenders has received fife without parole and 91 offenders are now on death row. There is sufficient experience to analyze proportionality as between this sentences. In Mr. LaRette's case, it would be noteworthy to analyze the proportionality of inmates with documented mental illness.

17. Therefore, we call upon the Governor to issue a reprieve in this matter until the Sentencing Commission has had a reasonable opportunity to analyze the data on proportionality in connection with the use of the death penalty in Missouri. To proceed with executions now would be to disregard or make a fraud of the public policy set forth in Section 558.019 and 565.035.

**VI.  
COMMUTATION SHOULD BE GRANTED  
BECAUSE THE DEATH PENALTY IS NOT A DETERRENT  
IN FACT ITS USE MAY THREATEN THE COMMON GOOD**

18. Capital punishment takes the life of a human being. Do we take another human life without clear and convincing evidence that such an act is in the best interest of society? Ought we to take another human life merely for revenge or retribution? We answer, no.

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19. What clear and convincing evidence exists to justify the state's taking of a human life? Scholarly studies fail to show that capital punishment has a deterrent effect on homicide. Common experience supports these studies.

20. One study concluded the following:

"During the 1950's there is no evidence that executions had even the slightest deterrent effect on murder. In addition, based upon our analysis of this decade, we find no support for the argument that a return to past execution practices will provide an effective solution to the murder problem. Rather, if executions are to again receive a prominent role in the criminal justice system, their use will have to be justified on grounds other than deterrence." This study compared murder and executions in death penalty states in the 1950's. (William C.Bailey, "The Deterrent Effect of Capital Punishment During the 1950's," Suicide and Life Threatening Behavior, Vol. 13, #2, Summer, 1983, pp. 95-109.)

21. There is an alarming correlation between the date of the last period of executions in Missouri and a significant increase in the number of homicides. Prior to the recent renewed use of execution, the last execution in Nfissouri occurred on February 26, 1965. In 1964, the year prior to the execution, there were 240 homicides in Missouri. The executions occurred early in 1965. In 1965 there were 300 homicides in Missouri, an increase of 60 over the preceding year. In 1966, the year following, no executions occurred yet there were 246 homicides in Missouri, a decrease of 54 from 1965. That is, there were significantly more homicides during the year o the last executions in Missouri than either the year before or after. This correlation must be given serous consideration in light of the opinions of psychiatrists that killing by the state is an

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incentive to those with a murder-suicide syndrome and a trigger to increasing intentional homicide.

22. The renewal of executions in January, 1989 shows a similar correlation of increased homicide following the use of capital punishment.

<b>Year</b>	<b>Number of Executions</b>	<b>Murder Rate Per 100T</b>
1988	0	8.00%
1989	1	8.00%
1990	4	8.80%
1991	1	10.20%
1992	1	10.50%
1993	4	11.20%

23. Capital punishment does not protect society; rather, the correlation is that homicide increases when the State uses capital punishment. Apparently the State by the use of violence, is teaching that killing is an acceptable means of solving personal problems.

24. Reliance on capital punishment wastes resources which could be better used by society, including the development of better ways to reduce crime. The cost of capital punishment litigation exceeds the cost of life imprisonment. Estimates are that it is about six times as expensive.

25. The Common Good of the people of Missouri would be better served by commutation of the death sentence.

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26. Execution destroys human life, a gift of our Creator, Redeemer God. It debases humanity, encourages revenge, precludes repentance and sanctions violence as a solution. Society abhors violence. Violence begets more violence. It is in the interest of the Common Good of the people of our state that the cycle of violence be broken.

FOR TBE FOREGOING REASONS, a reprieve should be granted or in the alternative, the death sentence should be commuted to life without parole.

Respectfully Submitted, Amnesty International - USA, Midwest Region

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Benedictine Sisters  
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Most Rev. Raymond Boland

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Right Rev. John Buchanan  
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Dated November 22, 1995

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