

In re capital execution of Eric Schneider

**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 Eric Schneider has been set for January 29, 1997. Court appeals apparently 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

1

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. Eric Schneider 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

2

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.
COMMUTATION SHOULD BE GRANTED:
BECAUSE OF DIMINISHED MENTAL CAPACITY**

8. According to a "psychiatric profile" conducted by Dr. A. E. Daniel in October, 1988, Mr. Schneider suffered from diminished mental capacity at the time of the murders. Mr. Schneider suffered from untreated attention post disorder with impulsive and hyperactive behavior, sleep disorder, anxiety reaction, and depression. A person suffering from the disorder is mentally unable to focus the attention necessary to follow or even appreciate rules or instructions. These behaviors reflect a mental inability to appreciate a consequence of an action.

9. Mr. Schneider's school records also establish a consistent disparity between his verbal and performance skills which may indicate organic brain damage. (Schneider sustained at least three head injuries as a child.)

10. Mr. Schneider's history of untreated post-attention deficit disorder and possible organic brain damage were never presented to the jury.

3

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

11. 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.

12. 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.

13. 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.)

14. This study showed 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 Missouri occurred on February 26, 1965. In 1964, the year prior to the execution, there were 240 homicides in Missouri. The executions

4

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 of the last executions in Missouri than either the year before or after. This correlation must be given serious consideration in light of the opinions of psychiatrists that killing by the state is an incentive to those with a murder-suicide syndrome and a trigger to increasing intentional homicide.

15. The renewal of executions in Missouri in January, 1989 shows no correlation between the use of the death penalty and deterrence for crime.

Year	Number of Executions	Murder Rate Per 100T
1988	0	8.00%
1989	1	8.00%
1990	4	8.80%
1991	1	10.20%
1992	1	10.50%
1993	4	11.20%
1994	0	10.60%
1995	4	8.90%

16. 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.

5

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

18. 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 THE 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
Our Lady of Peace Community, Columbia, Missouri

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6

Most Rev. John Leibrecht
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Dated January 27, 1997

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