

# Ohioans to Stop Executions

## Criminal Justice Issues and Prisoners' Rights

<https://otse.org/new-former-juror-urges-gov-kasich-spare-ray-tibbetts-execution-based-information-jurors-never-heard-trial/>

## Policy Issue Resources

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[Hannah Kubbins](#) / February 1, 2018

(Columbus, Ohio; February 1, 2018) In a rare and highly significant development, a juror from Ray Tibbetts capital trial has come forward to support a commutation of his death sentence due to the jurors deep concerns about the trial, concluding that [b]ased on what I know today I would not have recommended the death penalty.

Former juror Ross Geiger has written to Governor John Kasich after reviewing extensive mitigating evidence about the Tibbetts extreme history of abuse, abandonment and addiction. The relevant information was presented during the clemency process *but never seen by jurors*. Having reviewed this information, Mr. Geiger cites multiple concerns, including inept trial attorneys, incomplete and inaccurate information about childhood trauma, misleading inferences by prosecutors, unclear jury instructions, and the role of opioids.

Mr. Geigers letter assessing the evidence, which can be accessed here: <http://bit.ly/2BH15VI>, is particularly weighty because in Ohio, a single jurors recommendation against a death sentence requires the court to impose a life sentence rather than death.

After reviewing all the information available about the case, which recently came to light through the clemency process, Mr. Geiger believes the system failed Mr. Tibbetts. In his words:

All of these things lead me to one conclusion and that is that the system was and seems to be today very flawed in this case. The State of Ohio (through Hamilton County) called on me to fulfill a civic duty one that included an unenviable task of possibly recommending death for another man. I fulfilled this duty faithfully. Governor, if we are going to have a legal process that can send criminals to death that includes a special phase for mitigation shouldnt we get it right?

Mr. Tibbetts is scheduled for execution on February 13, 2018, unless Governor Kasich intervenes. The executive function of clemency is unique in that it is often the only time that the totality of all factors in death penalty cases can be evaluated in one complete picture. Mr. Geigers letter provides the Governor with the new information that a juror believes crucial gaps between what is now known and what the jury knew at the time demonstrate that, in Mr. Geigers words, the trial process was not well served in this case.

The letter from Mr. Geiger details why death is not appropriate for Mr. Tibbetts (in Mr. Geigers own words):

Mr. Geigers letter also expresses the need to consider the impact of Mr. Tibbetts being improperly prescribed opioids, given the current understanding of this category of drugs impact, little of which was known during Mr. Tibbetts 1998 trial. As Mr. Geiger explains, at the time the drugs argument did not carry much weight because we were not aware of the very real problem of prescribing opioids to people with addictive behaviors. As we now know in Ohio too well opioids can quickly lead to seriously grave consequences when not prescribed properly. Mr. Tibbetts struggled with substance abuse for much of his life as an attempt to numb the effects of his childhood trauma, but had achieved a period of sobriety when he suffered a workplace injury and was prescribed opioids despite his history of addiction. Predictably, he relapsed and spiraled to rock bottom shortly before committing the crimes that sent him to death row.

Mr. Geigers assessment of the new evidence aligns with federal appellate Judge Karen Nelson Moores dissent in Mr. Tibbetts case that criticized his trial attorneys for offering just one witness in support of their case against a death sentence. As the judge noted, had Tibbetss family and friends testified, the evidence regarding Tibbetss childhood abuse would have come directly from individuals who experienced the same abusive environment as Tibbetts, and such testimony as to what Tibbetts endured certainly would have had a greater impact on the jury than just listening to [a doctor] mention Tibbetss childhood abuse vaguely and in passing. *Tibbetts v. Bradshaw*, 633 F.3d 436, 456 (6th Cir. 2011) (Moore, J., dissenting). Mr. Geiger writes he was shock[ed] to discover Mr. Tibbetts sister was available to testify at trial because the jurors were left with the impression that not one other person [was] willing to speak to mitigation beyond an ill-informed psychiatrist.

In addition, as Judge Moore pointed out, it is important to remember one of the States tactics was to attempt to undermine the mitigation value of Tibbetss abusive childhood by implying that the defense was fabricating any mention of such abuse. *Id.* Mr. Geiger expresses his anger at learning about proof defense counsel could have given the jury that would have prevented the prosecutors from dismantl[ing] the scant mitigating circumstances they presented, including [p]ages of relevant information concerning details of the abandonment, foster abuse, and re-abandonment and that it began before Tibbetts was even two years old.

For more information, or to speak with one of Mr. Tibbetts attorneys, please contact: Tristin Aaron, [tristinaaron@gmail.com](mailto:tristinaaron@gmail.com) and [718-938-4078](tel:718-938-4078).

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