

Illinois Governor George Ryan Pardoned Four Innocent Men Condemned to Death On January 10, 2003, and the Next Day He Cleared Illinois' Death Row

By Hans Sherrer
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Introduction:

Illinois Governor George Ryan did the unthinkable on January 10, 2003 when he pardoned four men on Illinois' death row who had been tortured by the police into giving false confessions. A day later Gov. Ryan again did the unthinkable when he commuted to life in prison or a lesser terms of imprisonment, the remaining 167 Illinois prisoners sentenced to death.

On January 10, 2003, and again the next day, Illinois Governor George Ryan demonstrated he does not share the timidity of his fellow politicians who duck and dodge making controversial decisions that can potentially destroy their career. A governor has the broad authority under the Illinois Constitution to pardon or commute the sentence of anyone convicted of a crime who is the victim of a miscarriage of justice. Many other states have a similar provision. However, on those two days Governor Ryan did not just break the mold of how other politicians ignore those provisions, he completely shattered it.

During a speech at the DePaul University College of Law on Friday, January 10th, Governor Ryan announced he was exercising his constitutional authority by pardoning four men on Illinois' death row who had suffered the "manifest injustice" of having a false confessions tortured out of them by the Chicago Police. The four men were Aaron Patterson, Madison Hobley, Leroy Orange and Stanley Howard.¹ During his speech the governor emphasized he was convinced the men were innocent, and that "The system has failed all four men, and it failed the people of this state. These cases call out for justice, they cry out for reform."² He further said, "The system has proved itself to be wildly inaccurate, unjust, unable to separate the innocent from the guilty..."³



Governor Ryan speaking at DePaul University College of Law on Friday, January 10, 2003.

The convictions of the four pardoned men resulted from unconscionable police and prosecutorial misconduct. Neither the Chicago Police Department nor the prosecutors for Cook County, Illinois paid heed to the U.S. Supreme Court's unanimous decision in 1936 decrying the use of a confession obtained by physically torturing a criminal suspect. In that case, *Brown v. Mississippi* (1936), the Supreme Court stated:

“That complaint is not of the commission of mere error, but of a wrong so fundamental that it made the whole proceeding a mere pretense of a trial and rendered the conviction and sentence wholly void. . . . “Coercing the supposed state's criminals into confessions and using such confessions so coerced from them against them in trials has been the curse of all countries. It was the chief inequity, the crowning infamy of the Star Chamber, and the Inquisition, and other similar institutions. The constitution recognized the evils that lay behind these practices and prohibited them in this country. . . . The duty of maintaining constitutional rights of a person on trial for his life rises above mere rules of procedure and wherever the court is clearly satisfied that such violations exist, it will refuse to sanction such violations and will apply the corrective.””⁴

The Chicago Police Department not only failed to conform its practices with a Supreme Court decision made when Franklin Roosevelt was President, but they actually improved on the brutalities of the openly racist Mississippi police of that era by adopting the Khmer Rouge’s ingenious and economical practice of suffocating innocent people in Cambodia during the 1970s with plastic bags.⁵

Aaron Patterson’s alleged confession to the April 1986 murders of Vincent and Rafaela Sanchez was exposed as a monstrous lie when it was discovered that in the interrogation room he had etched into a metal bench:

“Aaron 4/30 I lie about murders. Police threaten me with violence. Slapped and suffocated me with plastic. No lawyer or dad. No phone. Signed false statement to murders.”⁶

Suffocating Aaron Patterson with a plastic bag would be expected to extract a false confession, since a person will confess to *anything* to stop being tortured. In the *Brown* case, the Supreme Court noted that without the torture induced confession, “. . .there was no other evidence upon which conviction and sentence could be based.”⁷ The same is true in Aaron Patterson’s case. There is nothing linking him to the killings: no eyewitness, no forensic evidence, no murder weapon, and no other physical evidence of any kind. Mr. Patterson’s conviction and death sentence were based on his inability to resist making a false confession while being tortured, and for that he spent 15 years on Illinois’ death row waiting for his life to be snuffed out – or a miracle to stop it.



Aaron Patterson after his release on Friday, January 10, 2003.

The other three men pardoned by Governor Ryan were also tortured by a variety of methods.

Madison Hobley falsely confessed after the police wrapped a plastic bag over his head, struck his chest, kicked his shins, and pushed their thumbs against his throat so he could not breathe.⁸ For failing to withstand being tortured, Mr. Hobley spent 13 years on Illinois’ death row.



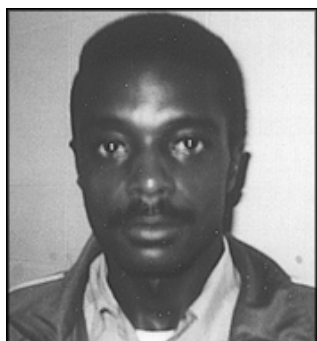
Madison Hobley walking out of prison on Friday, January 10, 2003.

Leroy Orange falsely confessed after the police “electro-shocked him, squeezed his scrotum and put an airtight bag over his head.”⁹ For failing to withstand being tortured for 12 hours in 1984, Mr. Orange spent 17 years on Illinois’ death row.



Leroy Orange leaving the Cook County Jail on Friday, January 10, 2003.

Stanley Howard falsely confessed after the police kicked him, punched him, held him incommunicado in an interrogation room for 43 hours, and put a plastic typewriter cover over his head.¹⁰ For failing to withstand being tortured, Mr. Howard spent 15 years on Illinois’ death row.



Stanley Howard, released from death row on January 10, 2003, but continuing to be held in custody on another conviction.

As the Supreme Court made clear 67 years ago in the *Brown* case, there is no place in *any* civilized country for *any* law enforcement agency to treat *anyone* in the way the Chicago Police Department treated those four men:

“Further details of the brutal treatment to which these helpless prisoners were subjected need not be pursued. It is sufficient to say that in pertinent respects *the transcript reads more like pages torn from some medieval account than a record made within the confines of a modern civilization* which aspires to an enlightened constitutional government.”¹¹

Although the Chicago police acted like they were in competition to out brutalize the Spanish Inquisition’s interrogators, the prosecutors failed to check their conduct, and the trial and appellate judges involved likewise failed to aid the four men. The police, prosecutorial and judicial systems completely collapsed from protecting innocent men from being victimized and sentenced to death in all four cases.

The outrageousness of the facts underlying the men’s convictions, and the utter failure of the judicial system to correct the men’s wrongful convictions has been known for some time. Three of the men - Patterson, Hobbey and Howard – were featured in a 1998 Chicago Tribune investigation, and again in that newspaper’s November 1999 Series, *The Failure of the Death Penalty in Illinois*. In the more than three years that had intervened between that very public series and Gov. George Ryan's pardons, the men continued to languish on death row. Convinced of the men’s innocence and the failure of the judicial system to either prevent or rectify the wrongs it

allowed to occur, Governor Ryan intervened to ensure that however belated, justice would prevail in the men's cases.

Governor Ryan had previously pardoned three men, on December 19, 2002, that were sentenced to death after they had been wrongly convicted of murder.¹² However those three men - Rolando Cruz, Gary Gauger and Steven Linscott - had been exonerated. Consequently those pardons didn't inspire Gov. Ryan's condemnation by the broad coalition of people nationwide who believe it is better that 99 innocent people be wrongly convicted and imprisoned or even executed, than risk one guilty person going free. Those people that seek to elevate the conviction, imprisonment and execution of the innocent to a high art are commonly known as staunch 'law and order' advocates.

In granting the pardons on January 10th, Gov. Ryan performed his historic duty as a governor to act as a "fail safe" line of defense protecting an innocent man or woman who has not been protected from the harm of a wrongful conviction by the trial judge, or the appellate judges reviewing that conviction. The U.S. Supreme Court clearly stated the importance of that executive role in the 1993 case of *Herrera v. Collins*.¹³

In refusing to grant Leonel Herrera's petition for a writ of habeas corpus in spite of four affidavits attesting to his actual innocence, including one that named the actual killer, the Supreme Court ruled that "a claim of 'actual innocence' is not itself a constitutional claim."¹⁴ In writing the majority opinion, Chief Justice William Rehnquist wrote at length that the correct remedy for Mr. Herrera and other people making a claim that their conviction should be reversed based on their 'actual innocence,' was to pursue "executive clemency." He even noted that the concept of executive clemency in the United States traces its roots to English law, and that until 1907 a convicted person in England had no right of appeal. They could only rely on the good graces of the Monarch to correct an erroneous conviction by granting clemency. As Justice Rehnquist observed in the *Herrera* case, "It was the only means by which one could challenge his conviction on the ground of innocence."¹⁵ Justice Rehnquist went on to write:

"Executive clemency has provided the "fail safe" in our criminal justice system. K. Moore, *Pardons: Justice, Mercy, and the Public Interest* 131 (1989). It is an unalterable fact that our judicial system, like the human beings who administer it, is fallible. But history is replete with examples of wrongfully convicted persons who have been pardoned in the wake of after-discovered evidence establishing their innocence. In his classic work, Professor Edwin Borchard compiled 65 cases in which it was later determined that individuals had been wrongfully convicted of crimes. Clemency provided the relief mechanism in 47 of these cases; the remaining cases ended in judgments of acquittals after new trials. E. Borchard, *Convicting the Innocent* (1932). Recent authority confirms that over the past century clemency has been exercised frequently in capital cases in which demonstrations of "actual innocence" have been made. See M. Radelet, H. Bedau, & C. Putnam, *In Spite of Innocence* 282-356 (1992)."¹⁶

Thus, it is apparent that the only reason Governor Ryan's pardons on January 10th seem extraordinary is that all other governors nationwide are ignoring their centuries old *obligation* to exercise clemency. They are failing to do so, even though as Justice Rehnquist put forth considerable effort to emphasize, it is historically one of the most important, if not the single most important humanitarian responsibility of a state's executive political officer.

The day after issuing the four pardons Governor Ryan again showed he had the courage to exercise his constitutional responsibilities as governor of Illinois. He announced during a speech at the Northwestern University School of Law that he was commuting the sentences of the remaining 167 people sentenced to death in Illinois. The

death sentences of 164 were commuted to life in prison without parole, and the other three were commuted to 40 years to life to bring their sentences in line with those of co-defendants.¹⁷



Governor Ryan speaking at Northwestern University School of Law on Saturday, January 11, 2003.

Governor Ryan explained in his over 6,000-word speech that he felt compelled to act because “Our system is haunted by the demon of error – error in determining guilt, and error in determining who among the guilty deserves to die.”¹⁸ He also pointed out to his audience, “The governor has the constitutional role in our state of acting in the interest of justice and fairness. Our state constitution provides broad power to the governor to issue reprieves, pardons and commutations. Our Supreme Court has reminded inmates petitioning them that the last resort for relief is the governor.”¹⁹ In perhaps his clearest exposition of what drove him to issue a blanket commutation of every Illinois prisoner sentenced to death, Governor Ryan stated:

“Our systemic case-by-case review has found more cases of innocent men wrongfully sentenced to death row. Because our three-year study has found only more questions about the fairness of the sentencing; because of the spectacular failure to reform the system; because we have seen justice delayed for countless death row inmates with potentially meritorious claims; because the Illinois death penalty system is arbitrary and capricious - and therefore immoral - I no longer shall tinker with the machinery of death.

...

I must act.”²⁰

Governor Ryan’s blanket commutation two days before he left office was not as radical as his critics have made it out to be, since it was only unique in the number of people it affected. At least three other governors have exercised their constitutional powers by commuting the sentences of death row prisoners to life in prison as their term neared its end. In 1915, Oklahoma Governor Lee Cruce commuted the death sentences of 22 men; Arkansas Governor Winthrop Rockefeller commuted 15 death sentences in 1970; and New Mexico Governor Toney Anaya commuted five death sentences in 1986.²¹

The pardons and commutations issued by Governor Ryan on January 10th and 11th were the culmination of a political hot potato he created over a three year period by focusing attention on the effects of what he called the “catastrophic failure” of the law enforcement system to distinguish the innocent from the guilty. He first did so first on January 31, 2000 when he imposed a moratorium on carrying out the sentences of condemned people waiting on Illinois’ death row to be executed, pending a review of the state’s legal process in capital cases. He took that action after 13 men had been ordered released from Illinois’ death row from the 1977 reinstatement of that state’s death penalty, to the year 2000. During that same period of time, Illinois executed 12 condemned people. By ordering that

moratorium, Governor Ryan showed a sense of decency and compassion towards people convicted and imprisoned of heinous crimes lacking in other politicians, even when there is overwhelming evidence a person is innocent.

By commuting the sentences of the 167 people in Illinois with death sentences, Governor Ryan ensured the innocent among them can pursue whatever legal remedies they may have available without fear their life will be snuffed out by a lethal injection before they have a chance to be exonerated. Under the circumstances Governor Ryan's action is eminently fair, reasonable, humane and just.

Although prosecutors were among those expressing the most anger at Governor Ryan's pardons and commutations, their continuing failure to exercise sound judgment in making an assessment about a suspect's possible guilt or innocence before initiating a prosecution makes them complicit in *every* false conviction in Illinois. The same holds true for prosecutors in the other forty-nine states, every U.S. protectorate, and at the federal level. Governor Ryan was compelled to act by a combination of that pervasive failure of discretion by prosecutors, the pervasive failure of police investigators to accumulate *actual* evidence of a suspect's guilt, the pervasive failure of trial judges to do everything possible to ensure that the innocent are weeded out from the guilty, and the failure of appellate judges to take decisive action when clear cases of an unsafe conviction come to their attention. In other words, Governor Ryan fulfilled his constitutional mandate to act "in the interest of justice and fairness" whenever police, prosecutors and judges fail to do so.

With much less fanfare than occurred on January 10th and 11th, Governor Ryan also granted executive clemency during his four years in office to 643 other men and women convicted of mostly petty offenses.²² He was also castigated by opponents for issuing those pardons. There is certainly something odd that a politician must avoid acts of compassion, when anyone who finds the shoe on the other foot would be forever thankful that they had benefited from that level of concern.

Some prosecutors have sneered that Governor Ryan shouldn't have exercised his constitutional power of executive clemency because he is a "pharmacist by training," yet his background may have enabled him to be far more discerning of injustice than the "professional" police, prosecutors and judges that created and perpetrated the legal messes that he tried to make right.²³ The fact that he acquired the knowledge necessary to reverse his position on the death penalty from voting to reinstate it as an Illinois legislator in 1977, to clearing Illinois' death row in 2003, is indicative that he is a more open to learning and growing as a human being than his so-called "professional" critics.

Although Governor Ryan was more than justified in ordering pardons and commutations during his term in office, they may have destroyed his political career in the same way that Illinois Governor John Peter Altgeld's career was effectively ended in 1893. That was when Governor Altgeld made the politically unpopular decision to pardon the three surviving innocent men known as the Haymarket Square Anarchists.²⁴

On January 16, 2003, a nomination was filed with the Nobel Peace Prize Committee in Norway for Governor Ryan to be considered for the 2003 Nobel Peace Prize.²⁵ He may be this country's most deserving public figure for the Peace Prize since Martin Luther King Jr. was awarded that honor in 1964.

Whatever happens to the now former Governor Ryan, his pardons and commutations elevated him to the rarified atmosphere of a person that can be called a *statesman*. Only a person whose actions transcend political

considerations at great personal cost can be considered a statesman, and so it is precisely because George Ryan's actions were so potentially destructive to his political career that his stature was elevated. His actions enabled him to be inducted as a member of an elite group in this country that *at most* can be counted on a few fingers of one hand. One prediction can safely be made about Governor Ryan's pardons and commutations: none of his critics will ever have to worry about dealing with the flak associated with making similar decisions, because they lack his stature to do so.

THE END

Endnotes

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- ¹ *Ryan to pardon 4 on Death Row*, Steve Mills and Maurice Possley (staff), Chicago Tribune, January 10, 2003.
- ² *Ryan has right on his side, but we fear he'll go horribly wrong*, Editorial Staff, Chicago Sun Times, January 12, 2003.
- ³ *Illinois governor exiting with pardons*, Robert E. Pierre (staff), The Washington Post, January 11, 2003.
- ⁴ *Brown v. Mississippi*, 297 U.S. 278 (1936); 1936.SCT.40147, §26 (versuslaw.com).
- ⁵ See e.g., the movie, *The Killing Fields*,
- ⁶ *Ryan to pardon 4 on Death Row*
- ⁷ *Brown* at Versuslaw §27
- ⁸ *Ryan to pardon 4 on Death Row*
- ⁹ *Ryan to pardon 4 on Death Row*
- ¹⁰ *Ryan to pardon 4 on Death Row*
- ¹¹ *Brown* at Versuslaw §20 (emphasis added).
- ¹² *Ryan's Road to Death Row Reform*, The Associated Press, January 12, 2003
- ¹³ *Herrera v. Collins*, 506 US 390, 404 (1993); 1993.SCT.40618, §37 (versuslaw.com).
- ¹⁴ *Herrera* at Versuslaw §37
- ¹⁵ *Herrera* at Versuslaw §51
- ¹⁶ *Herrera* at Versuslaw §57
- ¹⁷ *Illinois governor commutes every one of state's death sentences*, Monica Davey and Steve Mills (staff), Chicago Tribune, January 12, 2003.
- ¹⁸ Text of Gov. George Ryan's speech announcing his commutation of all of Illinois' death sentences, prepared for delivery Saturday at Northwestern University's law school, The Associated Press, January 12, 2003, at: <http://www.news-observer.com/front/story/2091464p-1996475c.html>
- ¹⁹ *Id.*
- ²⁰ *Id.*
- ²¹ *Illinois governor commutes every one of state's death sentences.*
- ²² *Ryan Quietly Pardoned Hundreds: Most were ordinary people seeking to purge minor offenses*, Nicole Ziegler Dizon (AP), Seattle Post-Intelligencer, February 3, 2003, A3.
- ²³ See e.g., *Obstruction of Justice*, Editorial Staff, Chicago Tribune, January 15, 2003. (“Cook County State’s Atty. Richard Devine has suggested Ryan misused his gubernatorial clemency power in part because he lacked serious legal credentials, ridiculing him as “a pharmacist by training and a politician by trade.”)
- ²⁴ As the lawyer for the three surviving “anarchists” pardoned by Governor Altgeld in 1893, renowned attorney Clarence Darrow wrote movingly of the courage displayed by the governor's unprecedented act in pardoning them. See, *Attorney For The Damned*, Edited by Arthur Weinberg, Simon & Schuster, NY, 1957. For Altgeld's own account, see: *Reasons for Pardoning Fielden, Neebe, and Schwab*, John Peter Altgeld, State of Illinois Printing Presses, 1893.
- Governor Altgeld was unable to save those men’s four innocent co-defendant’s that were executed by strangulation before he took office. Officially, the men were hanged, but in an act of barbarity by the hangman, their nooses had all been tied so loosely that instead of having their necks broken, they dangled from the scaffold for eight minutes while being strangled to death. The eighth innocent Haymarket defendant committed suicide before he could be executed. See, *We the Jury: The Impact of Jurors on Our Basic Freedoms*, Godfrey D. Lehman, Prometheus Books, Amherst, NY, 1997, pp. 287-288.
- ²⁵ *Stop Capital Punishment Now*. Ryan's Nobel Nomination Completed and Filed on January 16, 2003: It is official: George Ryan is now a Nobel Peace Prize Nominee. Francis A. Boyle announced "I have today filed the Nomination by fax with the Nobel Peace Prize Committee in Norway. StopCapitalPunishment.org will now focus its efforts on promoting and lobbying on behalf of Governor Ryan to be awarded the 2003 Nobel Peace Prize." Available at: <http://www.stopcapitalpunishment.org/pressreleases.html>.