

TESTIMONY ON HOUSE BILL 2167

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Thank you for offering me the opportunity to testify today. My name is Msgr. Stuart Swetland. I am the president of Donnelly College in Kansas City. I appear here today in favor of HB 2167.

My academic specialty is social ethics. I have been an instructor in ethics for over 30 years, often focusing on the questions of the ethical use of deadly force. I began this work as a young midshipman at the United States Naval Academy at the request of my military superiors not long after the horrific revelations associated with the My Lai Massacre. After my conversion to Catholicism while studying at Oxford University as a Rhodes Scholar, I have continued my academic formation and hold a doctorate in theology from the Lateran University in Rome. I contributed two chapters to a book on the death penalty entitled *Where Justice and Mercy Meet* (edited by Vicki Schieber, et al.) which has a forward by Sr. Helen Prejean, CSJ well known in this field for her book *Dead Man Walking*.

It is always difficult to speak about the death penalty. The crimes that lead to a sentence of death are almost always vicious, heinous and heartbreaking. In every case, grave injustices have been perpetrated and victims and their families have suffered greatly. All of us as citizens and neighbors have the duty to aid victims of violent crime and their families as they attempt to recover. One of the first funerals I performed was a murder victim and I learned firsthand how deeply a family and a community can be hurt by acts of senseless violence. Unfortunately, Donnelly College, where I am currently assigned, has lost more than one person to violence since I began thirty months ago. Opposition to the death penalty in no way lessens one's awareness of the evil that some are capable of committing. It does say that there is a better way. Death should never be seen as a solution to our problems; and it is not the solution to violent crime.

Every pope in modern times (and the United States Conference of Catholic Bishops for at least two generations) has adamantly appealed to all men and women of good will to end the use of the death penalty in the United States. For example, St. John Paul II pleaded for this repeal when he visited St. Louis in 1999: "A sign of hope is the increasing recognition that the dignity of human life must never be taken away, even in the case of someone who has done great evil. Modern society has the means of protecting itself, without definitively denying criminals the chance to reform. I renew the appeal I made most recently at Christmas for a consensus to end the

death penalty, which is both cruel and unnecessary" (Homily at the Papal Mass in the Trans World Dome, St. Louis, Missouri, January 27, 1999). More recently, Pope Francis when he spoke to a Joint Session of Congress in September of 2015 stated: "The yardstick we use for others will be the yardstick which time will use for us. The Golden Rule also reminds us of our responsibility to protect and defend human life at every stage of its development. This conviction has led me, from the beginning of my ministry, to advocate at different levels for the global abolition of the death penalty."

As a Catholic I accept this teaching. But these teachings, while delivered by men of faith, are not based on appeals to Biblical revelation but on the same self-evident moral principles upon which this nation was founded: "We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness." While not always fully lived out in our history, our application of these principles has developed over the years, expanding and broadening to help make this a "more perfect union." And it is these principles that point today to further development in reference to the death penalty.

There is one major reason that all people of good will should oppose the use of capital punishment. To execute someone always entails **directly intending** his or her death. Unlike the use of deadly force in self or other defense, where the intent is merely to stop the unjust aggression, capital punishment always includes death as the choice. This is made in our names and at our bequest. The system requires many to directly choose and intend death. Judges, prosecutors, juries, wardens, correctional officers, medical personnel are all implicated. For example, when a death sentence is carried out, correctional officers are required to take the condemn prisoner who has been subdued by the state for years, who no longer constitutes a threat to society and, in one way or another, kill him or her in our name. Their moral choice must be to intend the death of the person strapped down in the "death chamber." They must choose death. They must choose directly against the good of human life.

While this is the most serious reason to abolish the death penalty, today I wish to spend just a few moments to offer what some might call "conservative reasons to oppose the death penalty." I, like my parents before me, came from a politically conservative background. My father ran for office as a Republican. My first political memory was the bumper sticker on his 1966 Buick: "Don't blame me, I voted for Goldwater."

Conservatism was the norm in my house. And all conservatives should oppose the death penalty for these reasons:

First, conservatives believe in fiscal prudence. Although there is some controversy about this, most studies undertaken on the subject demonstrate that the application of the death penalty in a capital case costs the taxpayers significantly more than a similar case without the

death penalty. For example a December 2003 Survey by the Kansas Legislative Post Audit Committee "...found that the estimated cost of a death penalty case was 70% more than the cost of a comparable non-death penalty case. Death penalty case costs were counted through to execution (median cost \$1.26 million). Non-death penalty case costs were counted through to the end of incarceration (median cost \$740,000)" (<http://www.amnestyusa.org/our-work/issues/death-penalty/us-death-penalty-facts/death-penalty-cost>).

Second, conservatives recognize that our governmental system often underperforms and occasionally makes major errors. This is true of our judicial system as well. The Death Penalty Information Center has documented 157 cases in 26 states of wrongfully convicted persons on death row since 1973. Sister Helen's book, *The Death of Innocents*, demonstrated that sometimes the state kills an innocent person. The many cases of innocents wrongfully placed on death row in Illinois led the Republican Governor George Ryan in 2003 to commute all death penalty sentences to life in prison. When he did he also reminded his constituents that the death penalty does not seem to act as a deterrence: "The death penalty has been abolished in 12 states. In none of these states has the homicide rate increased." (NYTimes.com, January 11, 2003).

Third, conservatives believe in a smaller government with limited, enumerated powers and appropriate checks and balances. The death penalty is the ultimate example of concentrated governmental power. It literally empowers the government over matters of life and death. As my friend, Richard Viguerie, one of the fathers of the modern American conservative moment has put it: "Conservatives have every reason to believe the death penalty system is no different from any politicized, costly, inefficient, bureaucratic, government-run operation, which we conservatives know are rife with injustice. But here the end result is the end of someone's life. In other words, it's a government system that kills people."

These are all "conservative" reasons to oppose the death penalty. But no matter what one's political leanings, modern people know, or should know, that death is not a solution to our problems. It should never be directly chosen as an end or a means. We have grown beyond the mentality of "an eye for an eye, a tooth for a tooth." We know that the vicious cycle of violence and revenge does not work. A healthy culture always chooses life and teaches others the value of life, love and mercy. We know, as the famous quotation attributed to Gandhi goes: "An eye for an eye and a tooth for a tooth just makes the whole world toothless and blind." When Governor Ryan ended the death penalty in Illinois he received a letter from the Nobel Peace Prize recipient Archbishop Desmond Tutu who said: "...to take a life when a life has been lost is revenge, it is not justice.... [J]ustice allows for mercy, clemency and compassion. These virtues are not weakness." (NYTimes.com, January 11, 2003).

We know we can defend the people of Kansas without resort to the death penalty. We also know from the Floyd Bledsoe case that our courts are not infallible. Now is the time for all in Kansas to show our strength of character, our virtue and values, and to affirm a culture of life by finally rejecting recourse to the use of the death penalty in our great state. Thank you for your time and attention.