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**FOR IMMEDIATE RELEASE**

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**GOV. RITTER GRANTS POSTHUMOUS PARDON  
IN CASE DATING BACK TO 1930s**

Gov. Bill Ritter granted a full and unconditional posthumous pardon today to Joe Arridy, who was convicted of killing a 15-year-old girl, sentenced to death and executed by lethal gas seven decades ago.

Arridy, who had an I.Q. of 46 and behaved more like a child than a man, confessed to the 1936 sexual assault and murder of Dorothy Drain in Pueblo. Drain and her sister were found in their home, both having been attacked with a hatchet.

But an overwhelming body of evidence indicates the 23-year-old Arridy was innocent, including false and coerced confessions, the likelihood that Arridy was not in Pueblo at the time of the killing, and an admission of guilt by someone else. In addition, it would be unconstitutional today to impose the death penalty on anyone as intellectually disabled as Arridy. Arridy spent 18 months on death row, always smiling and always playing with a toy train. He requested just ice cream for his final three meals and stepped into the gas chamber still grinning like a little boy.

“Granting a posthumous pardon is an extraordinary remedy,” Gov. Ritter said. “But the tragic conviction of Mr. Arridy and his subsequent execution on Jan. 6, 1939, merit such relief based on the great likelihood that Mr. Arridy was, in fact, innocent of the crime for which he was executed, and his severe mental disability at the time of his trial and execution. Pardoning Mr. Arridy cannot undo this tragic event in Colorado history. It is in the interests of justice and simple decency, however, to restore his good name.”

The Arridy case has been featured in books, magazines and newspapers nationwide. The request for Arridy's pardon was brought to Gov. Ritter by local attorney David A. Martinez, who has spent years researching the case.

### **Complete text of Gov. Ritter's executive order granting the pardon:**

Pursuant to the authority vested in the Governor of the State of Colorado by Article IV, Section 7 of the Colorado Constitution, I, Bill Ritter, Jr., Governor of the State of Colorado, hereby issue this Executive Order granting a posthumous pardon to Joe Arridy.

#### I. Background

In 1937, Joe Arridy was convicted of one count of murder. He was sentenced to death and executed by lethal gas at the Colorado State Penitentiary on January 6, 1939. Granting a pardon is an extraordinary remedy and granting a posthumous pardon is a particularly extraordinary remedy. The tragic conviction of Mr. Arridy and his subsequent execution merit such relief based on the most compelling circumstances imaginable: The great likelihood that Mr. Arridy was, in fact, innocent of the crime for which he was executed and his severe mental disability at the time of his trial and execution.

Even a brief overview of some of the more salient facts pointing to his innocence is sufficient to demonstrate that it is unlikely that Mr. Arridy had any involvement in the murder of Dorothy Drain. Mr. Arridy had an I.Q. of 46. At ten years of age, he was committed by the Pueblo County Court to the State Home and Training for Mental Defectives in Grand Junction. On August 8, 1936, he ran away with some other boys from the institution and jumped on a train. On August 24, 1936, Sheriff George Carroll of Cheyenne, Wyoming reported that Mr. Arridy had confessed to the murder and sexual assault of 15-year-old Dorothy Drain, who was killed in Pueblo sometime in the night or early in the morning on August 15 or August 16, 1936. Indeed, there was compelling evidence that Mr. Arridy was not even in Pueblo at the time of the murder.

The confession, which only Sheriff Carroll heard, was full of contradictions and inaccuracies. Worse, the confession was clearly false, including statements that he acted alone and that he killed her with a blunt instrument instead of a hatchet, which was conclusively proven to be the case. On August 20, 1936, Frank Aguilar was arrested at Ms. Drain's funeral in Pueblo, and he was also charged with her murder. Faced with the inconsistencies and inaccuracies in Mr. Arridy's initial confession, Sheriff Carroll obtained a second false confession in which he changed his story to indicate that he was

with Mr. Aguilar when he murdered her instead of acting alone as he stated in his first confession. Mr. Aguilar had, however, always maintained that he had never met Mr. Arridy. During his own trial, Mr. Aguilar confessed his guilt to his attorney. In fact, the murder weapon, which was a hatchet with distinctive notches in the blade that matched Ms. Drain's wounds, was found in Mr. Aguilar's home hidden in a basket covered by rags. At an insanity hearing, Mr. Arridy testified that he had never seen a hatchet and did not even know what a hatchet was. Mr. Aguilar was found guilty at trial, and he was executed on August 17, 1937.

Although it does not relate to his innocence, the facts surrounding Mr. Arridy's execution were nothing short of appalling. In a sworn affidavit, Dr. B.L. Jefferson, who was the Superintendent of the State Home and Training School for Mental Defectives at Grand Junction, Colorado opined that Mr. Arridy "has the mind of a child of not to exceed six and one-half years of age and was not capable of giving either a dependable confession or of testifying and defending himself on the witness stand."

Mr. Arridy's actions on death row demonstrate all too clearly the accuracy of Dr. Jefferson's evaluation. The warden referred to him as the "happiest man to ever live on death row." He happily spent his days playing with a toy train and a toy automobile. Mr. Arridy clearly had no idea that he was about to be executed by the State of Colorado. For his last three meals, he requested nothing but ice cream—exactly what any child would do if they were told that they could eat anything they wanted. Father Albert Schaller, O.S.B., affirmed that he did not understand that he was going to die. In light of his intellectual disability, Father Schaller determined that under Catholic doctrine he should administer last rites to Mr. Arridy as if he was a child. During the administration of these last rights, Mr. Arridy complied with Father Schaller's request for him to put down his toy train and say prayers. Devastatingly, Father Schaller had to lead him through the Lord's Prayer two words at a time, for that is all that Mr. Arridy could remember.

This posthumous pardon is not being viewed solely through the lenses of 2011 norms. Numerous people at the time found it unconscionable that Mr. Arridy was sentenced to death. Gail Ireland, who went on to become the Colorado Attorney General, agreed to represent Mr. Arridy *pro bono* after his conviction. Throughout his representation of Mr. Arridy, Mr. Ireland obtained at that time an unprecedented number of stays of his execution from the Colorado Supreme Court—all by 4-3 votes. Notably, every time Mr. Arridy was informed that his execution had been stayed he showed no reaction and merely continued to play with his toys. Chief Justice Bakke made the following statement in an opinion denying one of Mr. Arridy's appeals:

[A]cknowledgment should be made of the commendable effort on the part of defendant's counsel and others to save Arridy from the death sentence. We are aware that such effort was prompted by the highest motives which move the hearts and minds of men, but until such time as the race, in its evolutionary process, can work out a more intelligent solution of cases such as is here presented, it remains the duty of the courts only, to safeguard the rights of the defendant and see that he has a fair and impartial trial under the law of the state as it now is, not under what we wish it might, or should, or may be at some time in the future.

*Arridy v. People*, 82 P.2d 757, 761 ( Colo. 1938).

Fortunately, the law has evolved in just the manner contemplated by Justice Bakke. Under current law it would be unconstitutional to execute a person such as Mr. Arridy. In 2002, the United States Supreme Court ruled in *Atkins v. Virginia* that "executions of mentally retarded criminals are 'cruel and unusual punishments' prohibited by the Eighth Amendment." 536 U.S. 304, 311-12 (2002). The Court stated in an earlier case that the "basic concept underlying the Eight Amendment is nothing less than the dignity of man. . . . The Amendment must draw its meaning for the evolving standards of decency that mark the progress of a maturing society." *Trop v. Dulles*, 356 U.S. 86, 100-01 (1958).

Pardoning Mr. Arridy cannot undo this tragic event in Colorado history. It is in the interests of justice and simple decency, however, to restore his good name. Granting this pardon demonstrates that Colorado has, in fact, matured in its understanding of mental disability.

## II. Grant of Clemency

Joe Arridy be and hereby is granted a full and unconditional pardon of the above described conviction.

GIVEN under my hand and the Executive Seal of the State of Colorado this seventh day of January, 2011.

Bill Ritter, Jr.

Governor

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