

Death Sentence Commuted After Jurors' Pleas

RICHMOND, Nov. 7 (AP) — Virginia's Governor commuted a convict's death sentence today in the killing of a fellow inmate after four jurors said they doubted their verdict and the victim's mother pleaded for mercy.

The scheduled death by injection was only three hours away for the convict, Joseph Payne, when Gov. George F. Allen reduced his sentence to life without parole.

The Governor was Mr. Payne's last hope after the United States Supreme Court rejected his final appeal.

In a brief written statement, Mr. Allen, denied that he was influenced by the jurors' "second thoughts,"

and said his decision was based on the whole the record.

Mr. Payne got the news from a television outside his cell in the "death house" at the Greensville Correctional Center in Jarratt.

Mr. Payne, 40, was already serving a life term for the 1981 slaying of woman in suburban Washington when he was convicted in the 1985 death of David Dunford, 28, a fellow inmate who was doused with paint thinner and set on fire.

Dunford died nine days later without identifying his killer.

Mr. Payne's conviction came after another inmate, Robert Smith, testified he saw Mr. Payne set the fire.

In exchange for his testimony, Mr.

Smith had 15 years shaved off his 40-year sentence for armed robbery.

A year after Mr. Payne's 1986 trial, Mr. Smith recanted, only to later recant his recantation.

Mr. Payne's lawyer called only one witness — an inmate who said he saw Mr. Smith set the fire.

Other inmates who had come to the trial to give similar testimony were never called.

But appeals courts ruled that the inmates lacked credibility.

Still, four jurors said that if they had heard that testimony it would have changed their minds.

In recent weeks, they began calling for clemency, along with the victim's own mother.