

Betty Smithey, Longest Serving Female Inmate, May Get Parole For 1963

Murder

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Gov. Brewer Granted Smithey Clemency

Betty Smithey has been in prison for 49 years, convicted of killing a baby. Until now she was without the possibility of parole, but the "old code lifer" has been granted a chance at freedom by Arizona Gov. Jan Brewer.

Smithey, who is the U.S.'s longest serving female inmate according to a public records search by the Arizona Republic, was convicted in the 1963 New Year's Day murder of Sandy Gerberick, a 15-month-old she had been babysitting.

At the time, Smithey was sentenced to life without the possibility of parole. According to the law at the time she was sentenced, only the governor could grant her clemency.

She tried, appealing to former Arizona governors Fyfe Symington and Janet Napolitano, but was denied until Brewer, the current governor, approved Smithey's clemency request and agreed to lower her sentence to 48 years to life.

"Given the circumstances of Ms. Smithey's case, Governor Brewer believes this is an appropriate time for the Arizona Board of Executive Clemency to review this case for parole," said Matt Benson, spokesperson for Brewer.

The fate of the 69-year-old will rest in the hands of the five-member Arizona Board of Executive Clemency, who will hear Smithey's case on Aug. 13.

Smithey's attorney, Andy Silverman, said the news the hearing had been granted "came as a pleasant surprise."

"If she was found guilty today, it may be second-degree murder. If she had [been convicted of second-degree murder instead of first] in 1963 when she was tried, she would have been out of prison many years ago," Silverman said.

Smithey escaped four times during her first few decades in prison. But a letter she received from her young victim's mother in 1983 flipped a switch in her and made her use her time to "be reflective," Silverman said.

At 69, Smithey walks with a cane and has battled breast cancer and "a myriad of other health issues," Silverman said.

"She's absolutely not a threat to society. She's almost 70 years old now," Silverman said. "She's done a lot of reflection. Forty-nine years in prison, you think a lot about what you've been through."

If released, Smithey plans to live with her niece, Silverman said.

The contingency plan for her release will be an important piece of Smithey's parole hearing, said Zig Popko, clinical professor at Arizona State's Sandra Day O'Connor College of Law at ASU.

"She has to show she is not a risk is what it comes down to," he said. "A board member will look at where she is going to be living. Does she have friends or family who are willing to take care of her? Does she have a release plan?"

Three of the five members of the parole board will have to vote in Smithey's favor in order for her to be released. If the hearing is unsuccessful, she'll be eligible again in six months.

"At this stage," Popko said, "She has gotten over the biggest hump."