

URGENT ACTION

MERCY SOUGHT AS DELAWARE EXECUTION NEARS

Robert Gattis is scheduled to be executed in the US state of Delaware on 20 January for a murder committed in 1990. Aged 27 at the time of the crime, he is now 49 after spending almost 20 years on death row. He is seeking commutation of his death sentence.

Shirley Slay, aged 27, was shot dead in her apartment at around midnight on 9/10 May 1990. **Robert Gattis**, with whom she had had a six-year relationship, turned himself into the police the following day and was charged with the murder. At the 1992 trial, the jurors convicted him of first-degree murder and decided by 10 votes to two that he should be executed. The judge sentenced Robert Gattis to death on 29 October 1992, ruling that “after balancing all of the circumstances, both aggravating and mitigating, mercy is not warranted in this case”.

Two decades later, a clemency petition to the state Board of Pardons seeks commutation of the death sentence to life imprisonment without the possibility of parole. It argues that the jury and the trial judge had heard little of Robert Gattis’s “horrific past”, namely that he had suffered “extreme and sustained sexual, physical abuse throughout his childhood – abuse, experts have concluded, that was ‘catastrophic’ to his development”. A forensic psychologist who has reviewed Robert Gattis’s background of abuse, neglect, abandonment, poverty and deprivation, and his history of self-harm and suicide attempts, has assessed him as suffering from, among other things, Post-Traumatic Stress Disorder and Major Depressive Order, linked to his severe childhood abuse.

This information was only revealed after 2006, after Robert Gattis’s ordinary appeals had been exhausted. In 2009, his lawyers filed a motion in federal court seeking an order authorizing consideration of a second habeas corpus petition based on the new information. The lawyer who had represented Robert Gattis for over a decade in state and federal appeals said that he was “frankly shocked” to learn of the level of abuse. He admitted his failure to “thoroughly investigate, uncover and present the information”, and that his close professional and personal ties to one of the trial lawyers had “in all probability affected the level of scrutiny I brought to bear on his performance in representing Mr Gattis.” The Court of Appeals denied the motion, ruling that the information could have been discovered earlier through “due diligence”.

According to the clemency petition, Robert Gattis has “consistently expressed remorse” for the crime and shown a “sustained commitment to rehabilitation”, including through his positive influence on younger inmates and his relationship with his two sons. An expert on male victims of abuse has said that “His current adjustment provides a glimpse of the person Robert could have been, if only appropriate interventions had been available to him when he was young”. Four former prison officers who knew Robert Gattis are supporting clemency. Governor Jack Markell can grant a temporary reprieve, but cannot commute the death sentence without such a recommendation from the Board of Pardons. The Board is holding a hearing on 9 January, and is expected to make its decision soon after.

Please write immediately in your own language:

- Expressing concern that the judge and jury never heard compelling evidence about Robert Gattis’s background;
- Calling on the Board of Pardons to recommend that Governor Jack Markell grant clemency to Robert Gattis.

PLEASE SEND APPEALS AS SOON AS POSSIBLE, AND BEFORE 20 JANUARY 2012:

Delaware Board of Pardons

Fax: + 1 302 739 3811

Email: pardons@state.de.us

Salutation: Dear Members of the Board

Send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



URGENT ACTION

MERCY SOUGHT AS DELAWARE EXECUTION NEARS

ADDITIONAL INFORMATION

Under Delaware law, "extreme emotional distress" is a recognized defence to capital murder. In 2009, the lawyers who had uncovered the history of abuse in Robert Gattis's childhood and adolescence presented this information to the trial lawyers and the mental health experts they had consulted before the trial. One of the experts said that if he been aware of Gattis's life history, "I would have concluded that Mr Gattis was likely under the influence of extreme emotional distress at the time of the offense". Another of the experts similarly stated that the new information demonstrated that "Mr Gattis's formative years were characterized by extreme sexual, physical and emotional abuse, in addition to poverty, neglect and abandonment... Mr Gattis's background and consequent emotional and mental deficits support a mental health defense to first-degree capital murder (extreme emotional disturbance)". A third expert wrote that if he had been provided with the information about Robert Gattis's background, he would have looked for evidence of whether the defendant was "under the influence of extreme emotional distress at the time of his offense, as both a guilt phase and penalty phase defense".

In a statement signed on 13 April 2009, the trial lawyer who had been responsible for investigating Robert Gattis's background said that "these new materials reveal that Mr Gattis's life was far more traumatic and chaotic than I previously realized", and that if he could try the case again, he would develop and present the "compelling defense" of "extreme emotional distress". He added that at the time the lawyers had not had "any formal training on how to defend a capital defendant", and that he now recognized that "the manner in which we handled capital cases at the time of Mr Gattis's trial was inadequate". The lawyer who had represented Robert Gattis for more than 10 years during the appeal process admitted that he was "frankly shocked to learn of the poverty, abuse, dysfunction, sexual improprieties and trauma suffered by my client". He said it put the case in "an entirely different light", light that was "stunning in its scope and profound in regard to missed opportunities at his trial and in his post-conviction proceedings."

The death penalty in the USA is marked by arbitrariness, discrimination and error. The USA appears gradually to be turning against this punishment. There were 43 executions in the USA in 2011, compared to 46 in 2010 and 52 in 2009. A more marked decline can be seen in the annual death sentencing total which has fallen by about two-thirds since the mid-1990s. In 2011, the number of death sentences passed during the year fell below 100 for the first time since executions resumed in 1977, according to the Death Penalty Information Center.

While international human rights law, including article 6 of the International Covenant on Civil and Political Rights (ICCPR), recognizes that some countries retain the death penalty, this acknowledgment of present reality should not be invoked "to delay or to prevent the abolition of capital punishment", in the words of article 6.6 of the ICCPR. The USA ratified the ICCPR nearly 20 years ago. The UN Human Rights Committee, the expert body established under the ICCPR to monitor the treaty's implementation, has said that article 6 "refers generally to abolition in terms which strongly suggest that abolition is desirable. The Committee concludes that all measures of abolition should be considered as progress in the enjoyment of the right to life". Today 139 countries are abolitionist in law or practice.

Amnesty International opposes the death penalty in all cases, regardless of the crime, the offender or the method of execution. There have been 1278 executions in the USA since judicial killing resumed there in 1977, including 15 in Delaware. There are 18 people under sentence of death in Delaware – all men. Eleven of these inmates, including Robert Gattis, are black. There has been one execution in the USA so far in 2012, carried out in Oklahoma on the evening of 5 January.

Name: Robert Gattis

Gender m/f: m

UA: 5/12 Index: AMR 51/002/2012 Issue Date: 6 January 2012.