

EXTERNAL (for general distribution)

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EXTRA 20/94 Death Penalty

8 April 1994

USA (Florida): Roy Stewart

Roy Stewart is scheduled to be executed in Florida on 20 April 1994 despite doubts about his guilt of the crime for which he was sentenced to death.

Roy Stewart, white, was sentenced to death in July 1979 for the murder of Margaret Haizlip, white, in February 1979. According to information received from his current attorney, Stewart was convicted on his own confession, which he retracted at trial, and the testimony of a witness. The witness agreed to testify against Stewart in exchange for lesser charges in connection with an unrelated incident and has since recanted her testimony against Stewart. Stewart's current attorneys claim that he confessed under police pressure and because of his disturbed mental state.

In a letter to the state governor's office requesting a clemency hearing, Stewart's attorneys argue that there is no physical evidence to link Stewart to the crime and that new evidence proves he is innocent. This evidence includes the testimony from a former prosecutor, who represented the state for six years at appeal level, which refers to inconsistencies with Stewart's confession and the actual physical evidence of the crime. The prosecutor has stated that his doubts about Stewart's guilt increased as he became more involved with the case and that his desire to express his concerns resulted, according to him, in "threats" from another prosecutor within the State Attorney's Office.

According to Stewart's attorneys, both state prosecutors who prosecuted Stewart at trial also oppose his execution.

Although Stewart had a clemency hearing in 1983, according to his attorneys none of this new evidence was available at that time. (In Florida clemency hearings are held relatively early on in the judicial process. The state governor holds a hearing in each case after a death sentence has been confirmed by the Florida Supreme Court).

While Amnesty International is unable to comment on the substance of the claims of innocence in Roy Stewart's case, it strongly supports the call for, at the very least, a clemency hearing for these issues to be considered.

BACKGROUND INFORMATION

Amnesty International opposes the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights.

One of the most compelling arguments against the use of the death penalty is the risk that innocent people may be executed. Serious miscarriages of justice in capital cases have already occurred in the USA and will do so again. (See AI report "USA: the Death Penalty; The Risk of Executing the Innocent", AI index: AMR 51/19/89, June 1989). A research study issued in 1987 and revised and updated in 1992 found 350 cases between 1900 and 1985 of defendants wrongfully convicted in capital or potentially capital cases. The study identified 23 wrongful executions over the period 1900 to 1991.

International standards provide guarantees to protect people who may have been wrongfully sentenced to death. For example, United Nations Economic and Social

Council (ECOSOC) resolution 1984/50, on Safeguards guaranteeing protection of the rights of those facing the death penalty, adopted in May 1984, recommends that *"capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts"*.

Florida has the third largest death row population in the USA - as of 6 January 1994 there were 332 prisoners under sentence of death. The last person to be executed in the state was Michael Durocher on 25 August 1993. The method of execution is electrocution.

RECOMMENDED ACTION: Please send faxes/express and airmail letters in English or telephone:

- urging Governor Chiles to grant clemency to Roy Stewart;
- urging Governor Chiles at the very least to hold a clemency hearing so that Roy Stewart's case may be thoroughly reviewed in light of the doubts concerning his guilt.

APPEALS TO:

The Honorable Lawton Chiles
Governor of Florida
State Capitol
Tallahassee, FL 32399-0001
USA

Telephone: + 904 488 4441

Faxes: +1 904 487 0801

Salutation: Dear Governor

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1 Herald Plaza
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USA

Faxes: + 1 305 376 8950

and to diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.