

PUBLIC

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Further information on EXTRA 17/01 (AMR 51/033/2001, 1 March 2001) - Death penalty

USA (Delaware)      David F Dawson, white, aged 45

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The federal US Court of Appeals for the Third Circuit granted a stay of execution to David Dawson, who was scheduled to be put to death on 9 March 2001, pending a decision in the case from the US Supreme Court. The state did not appeal against the stay of execution.

David Dawson's lawyers are appealing on the grounds that his death sentence was unconstitutionally obtained through the retroactive application of a law introduced after the crime was committed. The US Supreme Court is due to consider Dawson's appeal on 23 March and a week or so after that will announce whether it will hear oral arguments. If it decides not to take the case, a Delaware court will thereafter set a new execution date, probably for 30 to 45 days later.

The 1991 amendment to Delaware's capital statute which is at the centre of this appeal followed a high-profile crime in which two security guards were shot dead during a robbery. The jury in that case was unable to reach unanimity for a death sentence and the four co-defendants received sentences of life imprisonment. Angry with this outcome, the Delaware legislature responded by changing the law to make the jury's decision in capital cases non-binding on judges. As a result Delaware judges can now override the jury's sentencing recommendation.

The old law allowed the jury the discretion not to pass a death sentence even when they found that the aggravating circumstances in the crime outweighed the mitigating factors. Under the new law, if the sentencer finds that the aggravators outweigh the mitigators, then the death penalty is mandatory.

David Dawson is one of four prisoners currently on Delaware's death row whose crimes were committed before the new law came into effect, but whose trials or sentencing came after. Dawson was sentenced to death in 1988, but his death sentence was overturned in 1992. He was mandatorily resentenced to death under the new law in 1993, after the jury recommended, and the judge found, that the aggravating circumstances outweighed the mitigating factors.

David Dawson was sentenced to death for the murder of Madeline Kisner during a burglary of her home in December 1986.

**No further appeals by the UA Network are requested at this time. Many thanks to all who sent appeals.**