

URGENT ACTION

DEATH ROW INMATE SEEKS COMMUTATION TO LIFE

Michael Zack, a 45-year-old man on death row in Florida who has exhausted his ordinary court appeals, is seeking executive commutation of his death sentence to life imprisonment. In Florida an execution date is set if and when clemency is denied.

Michael Duane Zack, then aged 27, was arrested on 16 June 1996 and charged with the sexual assault, robbery and murder of Ravonne Kennedy Smith who had been killed three days earlier in her home in Pensacola, Florida. In 1997 Michael Zack was brought to trial, at which the prosecution also presented evidence of his involvement in another murder, of Laura Rosillo, committed around the same time. The jury found him guilty of the Smith murder. The defence presented evidence of Michael Zack's childhood of severe abuse. Four mental health experts variously testified that in their opinion he suffered from post-traumatic stress disorder, chronic depression, foetal alcohol syndrome, addiction, and possible brain damage, that he had the mental and emotional age of a 10 or 11 year old child, and that his ability to appreciate the criminality of his conduct had been substantially impaired. The jury recommended a death sentence by a vote of 11-1 which the judge accepted and imposed on 24 November 1997.

According to his clemency petition, Michael Zack is remorseful about his past criminal conduct, and has a good disciplinary record on death row, where he has learned to read and write and "to overcome the traumatic events of his youth". According to the petition, Michael Zack was born prematurely after his mother was in a car accident. During the pregnancy, she had routinely consumed large amounts of alcohol. His father, a soldier, left shortly after Michael was born and his mother subsequently married another soldier. This stepfather was severely abusive towards Michael and his sisters. When the boy wet the bed, for example, as he did nightly from about the age of eight until at least 12, the stepfather's punitive actions included punching the boy, using an electric blanket to electrocute him, making him wear the wet sheet around his neck, and heating a spoon until it was red hot and holding it against the boy's penis. Among other things, the stepfather also "threw him against the wall, and kicked him with boots that had spurs on them"; tried to "drown him", to "run over him with a car", and to "poison him". When the boy was three, he was hospitalized after he drank a bottle of vodka; he "overdosed on drugs [his stepfather] had given him"; and the stepfather "threatened to shoot and stab him". The stepfather also allegedly sexually abused Michael and raped his sisters. When Michael Zack was aged 11, his mother was killed with an axe, allegedly by his 16-year-old sister. At that time, Michael himself had been placed in a psychiatric hospital in Louisiana where he stayed for a year. He was later sent to a series of foster homes, in some of which he was allegedly subjected to further sexual abuse.

Please write immediately in English or your own language:

- Opposing the execution of Michael Duane Zack and calling for him to be granted clemency;
- Noting the evidence of appalling abuse he suffered as a child and its impact on him and his development;
- Acknowledging the seriousness of the crime for which he was sentenced to death and its consequences.

PLEASE SEND APPEALS BEFORE 8 JULY 2014 TO:

Governor Rick Scott

Office of the Governor, The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001, USA
Email: Rick.scott@eog.myflorida.com

Salutation: Dear Governor

Office of Executive Clemency

Florida Parole Commission, 4070 Esplanade Way
Tallahassee, FL 32399-2450, USA
Email: ClemencyWeb@fpc.state.fl.us
Fax: +1 850 414 6031 or +1 850 488 0695

Salutation: Dear Members of the Clemency Board

Also 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.

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ADDITIONAL INFORMATION

During jury selection for Michael Zack's trial, after the prosecutor summarily dismissed two African American women from the jury pool, the defence objected that this indicated possible racial motivation. The prosecutor gave "race-neutral" reasons for the dismissals. Each of the women were employed at an institution in Pensacola that, the prosecutor noted, "administers psychological support, therapy, counselling, over a wide array of – meet a wide array of psychological needs within the community". One of the women, the prosecutor said, has "some knowledge concerning post-traumatic stress syndrome". Because there was "going to be a great deal of psychological evidence coming in during the penalty phase and perhaps on guilt-innocence, I'm not comfortable with [having the women in question sitting on the jury]". The judge expressed concern at this explanation – "the mere fact that she's got some employment whereby she's going to have some special knowledge that the other jurors don't have" – but allowed the dismissals nevertheless.

In a sworn statement in 2011, Michael Zack's older half-sister recalled how "Michael suffered a great deal at the hands of [their stepfather], who "regularly threw Michael into walls as well as punched and kicked him in the head. These beatings would often leave Michael staggering and dazed". The stepfather, she said, "often gave Michael pills and alcohol which would cause him to pass out. On one occasion, I witnessed [the stepfather] inject Michael with drugs which made him so high he didn't know where he was". She continued: "For as long as I can remember Michael has always rocked himself. The only time I have spoken to Michael as an adult was when I came to Florida to testify on his behalf. When I saw him in the jail he was rocking himself and begging me not to let 'them', the authorities hurt him. It was clear to me then that Michael still didn't get it". In another statement signed in 2011, his younger half-sister recalled how as a child he "was slow", "always had difficulty in school", "seemed unable to learn", was a "follower", and how "as an adult Michael was very childlike, it was like he never grew up". She recalled that "as a child Michael was constantly suffering head injuries. Michael's stepfather knocked him unconscious numerous times. [He] would often punch Michael in the back and side of the head because it left less bruising and there wouldn't be noticed. One of these beatings left Michael bleeding so badly he needed to be stitched up. Instead of [his stepfather] taking Michael to the hospital he closed the wound to Michael's head himself using a staple gun".

In a statement to accompany his clemency petition, Michael Zack expresses his remorse: "I want to first say to the victims families and to the clemency board and to my family how sorry I am for my actions and the two lives that I am responsible for taking and that I truly understand why the victims families want me executed and all the hurt and pain that I've caused them".

In 2012, a quarter of all death sentences in the USA were passed in Florida, and in 2013, Florida accounted for nearly 20 per cent of the year's death sentences in the USA. In 2013, Florida executed more people than it had in any year since 1984 and today lies behind only Texas, Virginia and Oklahoma in the number of executions carried out since 1976 when the US Supreme Court approved new capital statutes, including Florida's.

There have been 1,379 executions in the USA since 1976, 86 of them in Florida. There have been 20 executions in the USA this year, five of them in Florida. Amnesty International opposes the death penalty in all cases, unconditionally.

In Florida, an execution date is set when an inmate's ordinary judicial appeals are exhausted and after clemency is denied. Michael Zack's petition for clemency is currently before the Governor and other officials involved in executive clemency decisions. It is not known when a decision will be taken on his case.

Name: Michael Duane Zack

Gender m/f: m

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