

URGENT ACTION

FLORIDA EXECUTION SET 33 YEARS AFTER CRIME

Manuel Valle, a Cuban national, is due to be executed in Florida on 2 August. He was convicted of the murder of a police officer in 1978. He was 27 years old when first sent to death row. He is now 61. He is being denied access to a meaningful clemency process.

On 2 April 1978, Officer Louis Peña of the Coral Gables Police Department in Miami, Florida, was shot dead after stopping Manuel Valle and Felix Ruiz in their car. Officer Gary Spell, who arrived at the scene separately, testified that Manuel Valle had shot Officer Peña and then fired two shots at Officer Spell. Manuel Valle was charged with murder and attempted murder. Felix Ruiz was charged as an accessory and sentenced to 10 years in prison.

Manuel Valle was sentenced to death in May 1978. In 1981, the Florida Supreme Court ruled that his lawyer had been prevented from adequately preparing a defence due to the speed with which the case had been brought to trial. At a new trial in 1981, Manuel Valle was again sentenced to death, but this sentence was overturned by the US Supreme Court in 1986. In 1988, a new jury voted by eight to four that Manuel Valle be sentenced to death.

On 30 June 2011, Governor Rick Scott signed a death warrant in Manuel Valle's case setting his execution date. The warrant stated that executive clemency was not appropriate. The state has said that a clemency process has been held, but the only information on any such process found by Manuel Valle's current lawyers is a request made in 1992 by the then-Governor Lawton Chiles that a clemency investigation be conducted. Manuel Valle's lawyers have said that they can find no evidence of any clemency proceedings having been conducted, either in the 1990s or under the current governor. They have stated that "without notice, without the opportunity to be heard, without counsel, Mr Valle's clemency proceedings, if any, did not comport with due process". If any such proceeding has been conducted, the lawyers have asserted, "it was conducted in complete secrecy without counsel".

The US Supreme Court has stated that executive clemency is the "fail-safe" in the criminal justice system, to provide the possibility for remedy or relief not provided by the judiciary. Under article 6.4 of the International Covenant on Civil and Political Rights, a treaty ratified by the USA in 1992, "anyone sentenced to death shall have the right to seek pardon or commutation of the sentence". Respect for this right can only be achieved through a meaningful, transparent process, with the participation of the prisoner and his or her counsel. No such process has been conducted here, in violation of the USA's international obligations.

PLEASE WRITE IMMEDIATELY in your own language:

- Acknowledge the seriousness of the crime for which Manuel Valle was sentenced to death and explaining that you are not seeking to downplay the suffering caused;
- Express concern that Manuel Valle has not had access to a meaningful and transparent clemency procedure, as required under international law, and urge that this be rectified;
- Point to the cruelty of the death penalty, not least subjecting someone to 33 years on death row, and note that in that time, scores of countries have abolished the death penalty as they have come to recognize its risks, costs, ineffectiveness, and its incompatibility with fundamental human rights principles;
- Urge Governor Scott to prevent this execution and to ensure commutation of Manuel Valle's death sentence.

PLEASE SEND APPEALS AS SOON AS POSSIBLE, AND BEFORE 2 AUGUST 2011 TO:

Office of Governor Rick Scott, State of Florida, The Capitol, 400 S. Monroe St., Tallahassee, FL 32399-0001, USA

Fax: +1 850 487-0801

Email: Rick.scott@eog.myflorida.com

Salutation: Dear Governor

Also send copies to diplomatic representatives accredited to your country.

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

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ADDITIONAL INFORMATION

Manuel Valle is a Cuban national. According to his current lawyers, he was not informed after his arrest in 1978 of his right to seek assistance from the Cuban authorities, as required under the Vienna Convention on Consular Relations. Cuba ratified this treaty in 1965 and the USA ratified it four years later (see also <http://www.amnesty.org/en/library/info/AMR51/063/2011/en>).

Manuel Valle has been facing execution for 33 years, a torment deepened by the fact that during his time on death row more than 60 of his fellow inmates have been taken from their cells and killed by the State of Florida. The US Supreme Court has not ruled on whether prolonged confinement on death row violates the US Constitution, but individual Justices have raised concerns. In 1995, for example, Justice John Paul Stevens wrote that executing a prisoner who had been on death row for 17 years arguably negated any deterrent or retributive justification for the punishment, supposedly the two main purposes of the death penalty. In 2002, in the case of an inmate who had been on death row for more than 25 years, Justice Stephen Breyer stated that if executed, the prisoner would have been “punished both by death and also by more than a generation spent in death row’s twilight. It is fairly asked whether such punishment is both unusual and cruel.” Three years earlier, he had written that “It is difficult to deny the suffering inherent in a prolonged wait for execution – a matter which courts and individual judges have long recognized”, and added that “death row conditions of special isolation may well aggravate that suffering.” In 1996, a Florida Supreme Court judge noted that death row prisoners in Florida, as now, “are maintained in a six- by nine-foot cell with a ceiling nine and one-half feet high. These prisoners are taken to the exercise yard for two-hour intervals twice a week. Otherwise, these prisoners are in their cells except for medical reasons, legal or media interviews, or to see visitors.... These facilities and procedures were not designed and should not be used to maintain prisoners for years and years.”

The last execution in Florida was in February 2010. This would be the first execution under Governor Rick Scott, who took office in January 2011. Ordinary judicial appeals in Manuel Valle’s case were completed in October 2007, opening the way for his execution to be scheduled. His lawyers are challenging the “arbitrary and standardless power given to Florida’s Governor to sign death warrants”. A week before Governor Scott signed Manuel Valle’s death warrant in June, he was criticized in the media for not having signed such a warrant during his first six months in office. In those months he had been contacted in writing by the murder victim’s daughter in this case asking why Manuel Valle’s death warrant had yet not been signed.

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has said that “transparency is among the fundamental due process safeguards that prevent the arbitrary deprivation of life”, and that “persons sentenced to death, their families, and their lawyers should be provided with timely and reliable information”. Lawyers for Manuel Valle are arguing that he has been denied access to records to which he is entitled, including in relation to the state’s lethal injection procedures and its acquisition of execution drugs. They are also challenging the legality of the execution procedures. In the past year, following the suspension and then ending of production by the sole US manufacturer of sodium thiopental, the anaesthetic component of the three-drug mix used by most of the USA’s death penalty jurisdictions, states have scrambled for alternatives (see USA: An embarrassment of hitches, <http://www.amnesty.org/en/library/info/AMR51/058/2011/en>). Some have turned to pentobarbital as a substitute, including Florida in June 2011. The Denmark-based manufacturer of pentobarbital has condemned use of its drug in executions, and has also questioned its efficacy for this purpose. On 1 July 2011, it announced that it would now use a “specialty pharmacy” programme that would deny distribution of the drug to prisons in US states using lethal injection.

Amnesty International opposes the death penalty unconditionally. There have been 1,263 executions in the USA since judicial killing resumed there in 1977, including 29 this year. Sixty-six men and two women have been executed in Florida since 1977.

Name: Manuel Valle

Gender: m

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