

URGENT ACTION

EXECUTION SET AMID DNA AND RACISM DISPUTES

Willie Manning is due to be executed in Mississippi on 7 May for two murders committed in 1992. He is seeking clemency or at least a stay of execution in order for DNA and other testing of crime evidence to be carried out. He maintains his innocence. His lawyers argue that the trial prosecutor used racially motivated tactics during jury selection.

Tiffany Miller and Jon Steckler, both students at Mississippi State University, were murdered in Oktibbeha County, in eastern Mississippi, in the early hours of 11 December 1992. **Willie Manning**, 24 years old at the time of the crime, was brought to trial in late 1994 and convicted of both murders. At the sentencing phase of the trial, which was completed the following day, the defence lawyer made no opening statement and presented only two witnesses, the defendant's mother and aunt. The Mississippi Supreme Court upheld the conviction and death sentences in 1998, rejecting the claim that he had been denied adequate legal assistance at the sentencing.

In 2009, a federal judge denied his appeal, including on the claim that the prosecution had engaged in race-based discrimination in rejecting African Americans during jury selection. Willie Manning is black, and the murder victims were white. The original jury pool for his trial consisted of 85 people, 28 of whom were black. The 12-person jury that was eventually seated for his case had only two black jurors. The federal judge ruled that Manning had not proved that the prosecutor's use of summary dismissals of black would-be jurors were racially motivated. The federal judge also rejected the claim that Manning had been prejudiced by his lawyer's failure to investigate and present mitigation evidence of Willie Manning's background of poverty, deprivation, parental abandonment, his witnessing of domestic violence and other issues. His ordinary appeals were exhausted on 25 March 2013 when the US Supreme Court refused to review the case.

In addition to clemency from the governor, lawyers for Willie Manning are seeking a stay of execution in order that there can be DNA and other forensic testing of evidence from the crime. On 25 April, the Mississippi Supreme Court denied the request, in a 5-4 decision. The majority concluded that the jury had been presented with "conclusive, overwhelming evidence of guilt". The four judges in the minority said that not only should the testing be granted, but also that the prosecution's jury selection tactics should be reviewed. The dissenting opinion stated that "the reasons offered by the prosecution" for dismissing certain African American prospective jurors were "highly suggestive of pretextual motivations", and the "facts suggest a pattern of impermissible racial discrimination by the prosecution". The dissenting judges said that previous review of this issue by the Court had been "very cursory".

Please write immediately in English or your own language:

- Acknowledging the seriousness of the crime for which Willie Manning was sentenced to death;
- Calling for the execution to be stopped and clemency granted;
- Noting the split decision on the state Supreme Court, with four judges saying they would allow DNA testing and raising serious questions about possible racial discrimination by the prosecutor at jury selection;
- Calling for the state to allow DNA testing to be conducted.

PLEASE SEND APPEALS BEFORE 7 MAY 2013 TO:

Governor Phil Bryant, P.O. Box 139, Jackson, MS 39205, USA

Fax: +1 601 359 3741

Email: <http://www.governorbryant.com/contact/>

Salutation: Dear Governor

Also send copies to diplomatic representatives accredited to your country.

**AMNESTY
INTERNATIONAL**



URGENT ACTION

EXECUTION SET AMID DNA AND RACISM DISPUTES

ADDITIONAL INFORMATION

Amnesty International opposes the death penalty unconditionally, in all countries and in all cases, regardless of the crime, and regardless of questions of guilt or innocence. The capital justice system in the USA is marked by both discrimination and error, in addition to the inevitable cruelty of this punishment abandoned by a majority of countries.

In 1990, just four years before Willie Manning's trial, the US General Accounting Office reported to the US Senate and House Committees on the Judiciary that existing research showed "a pattern of evidence indicating racial disparities in the charging, sentencing, and imposition of the death penalty" under capital statutes passed after 1972. In 82 per cent of the 28 studies it reviewed, "race of victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty, i.e., those who murdered whites were found to be more likely to be sentenced to death than those who murdered blacks. This finding is remarkably consistent across data sets, states, data collection methods, and analytic techniques". Studies conducted since then have continued to point to race as a factor in capital sentencing. Blacks and whites are the victims of murder in approximately equal numbers, yet some 78 per cent of the more than 1,300 prisoners put to death in the USA between 1977 and 2013 were convicted of killing white victims.

Under a 1986 Supreme Court decision, *Batson v Kentucky*, prospective jurors can only be removed at jury selection for "race neutral" reasons. At Willie Manning's trial, his current lawyers argue, the prosecutor dismissed six prospective black jurors for reasons that were not "race neutral". For example, the prosecutor said that three of them were dismissed because they read "liberal publications", referring to *Jet* and *Ebony* which had primarily an African American readership. The dissenting opinion of the Mississippi Supreme Court in Willie Manning's case on 25 April 2013 argued that to accept the prosecutor's reason as lacking pretext "absolutely strains credulity. Indeed, it is about as preposterous as suggesting that a judge who reads the American Bar Association Journal should be disqualified from sitting on civil or criminal appeals".

Meanwhile, numerous errors continue to be revealed in death penalty cases. Since 1973, more than 140 prisoners have been released from death rows around the country on the grounds of innocence. DNA testing has played a substantial role in the exoneration of the prisoner in 18 of those cases. On 30 April, the Mississippi Innocence Project and the Innocence Project New Orleans filed a brief in support of Willie Manning's request for the Mississippi Supreme Court to reconsider its 25 April refusal to order DNA testing. In their brief, the organizations state that while they take no position on his guilt or innocence, their experience from other criminal cases in Mississippi in which prisoners were exonerated using DNA testing demonstrated that "Mr Manning's case is exactly the kind of case where DNA testing could prove innocence or confirm guilt", contrary to what the majority on the Mississippi Supreme Court had concluded in the 5-4 denial of Willie Manning's request for DNA testing.

Executions resumed in the USA in 1977 after the US Supreme Court approved revised capital statutes in 1976. There have been 1,330 executions in the USA since then, 21 of them in Mississippi. There have been 10 executions in the USA so far this year. On 2 May, the governor of Maryland signed into law a bill abolishing the death penalty in his state, making Maryland the 18th abolitionist state in the USA (see <http://www.amnesty.org/en/news/usa-maryland-joins-global-trend-against-death-penalty-2013-05-02>). A statement from Governor Martin O'Malley and legislative leaders said: "With the legislation signed today, Maryland has effectively eliminated a policy that is proven not to work. Evidence shows that the death penalty is not a deterrent, it cannot be administered without racial bias, and it costs three times as much as life in prison without parole. Furthermore, there is no way to reverse a mistake if an innocent person is put to death..."

Name: Willie Manning

Gender m/f: m

UA: 113/13 Index: AMR 51/023/2013 Issue Date: 3 May 2013