

EXTRA 09/00

Death pen**USA (Alabama) Freddie Lee Wright, black, aged 49**

Freddie Lee Wright, black, is scheduled to die in Alabama's electric chair on 3 March 2000. He was sentenced to death for the 1977 murder of Warren and Lois Green, both white, during a robbery of their store in Mount Vernon, southern Alabama.

Police initially charged another man, Theodore Roberts, with the murders after an eyewitness, Mary Johnson, identified him in a photograph and a police line-up.

Roberts's girlfriend also told police that his gun was the murder weapon. However, seven months after the murders, charges against Roberts were dropped, and Wright was charged instead, after two men involved in the crime, Percy Craig and Roger McQueen, named him as the gunman. A third man also implicated Wright, but later retracted this; however he did not testify at the trial, and the jury did not hear this evidence.

At his first trial in 1979, the prosecution presented testimony from Craig and McQueen, as well as expert testimony that a handgun traced to Wright was "consistent with", but not positively identified as, the murder weapon. The mixed race jury voted 11-1 to acquit and a mistrial was declared. Having come within one vote of acquittal, Freddie Wright was retried about a month later.

Craig and McQueen again testified against Wright. This time the jury was all-white after the prosecutor (with no objection from the defence) removed black prospective jurors during jury selection. The appeal courts have rejected the claim that the prosecutor acted in a racially discriminatory way, on the grounds that the claim should have been raised earlier. Aside from the racial mix of the jury, the other difference from the first trial was that Wright's former girlfriend, Doris Lambert, testified that Wright had confessed the murders to her. After a two-day trial Wright was convicted and sentenced to death.

Freddie Wright maintains that he is innocent of the crime. According to his appeals, the jurors were left unaware of important exculpatory evidence, either because the prosecution withheld it from the defence lawyer, or because the latter failed to investigate it. The appeal courts have ruled that such evidence was not unconstitutionally withheld and that the jury would still have voted for death even if presented with it.

The withheld evidence consists of: Mary Johnson's testimony that placed Roberts at the crime scene; evidence that Roberts' gun was the murder weapon; an alleged secret deal between the state and McQueen offering him leniency in return for his testimony against Wright; and the mental health records of Doris Lambert undermining her credibility as a witness. According to these records, Lambert suffered from auditory hallucinations in which she believed she was talking to her long-dead father; she had a history of homicidal and suicidal fantasies, as well as drug abuse; she had been on psychiatric medication for years, and had been described as "manipulative" by a professional who treated her. At the trial she denied the allegation that she had said, after learning of Wright's plans to marry, that she would rather "see him dead" than with another woman.

In a federal court hearing in 1996, Roger McQueen recanted his testimony and said that Wright was not the gunman.

BACKGROUND INFORMATION

In 18 June 1999, Alabama executed Brian Baldwin, an African American whose 1977 trial was marked by racial discrimination, including the removal of all black prospective jurors from the jury pool by the prosecutor. Since 1977, when the USA resumed executions, Alabama has executed 20 prisoners, 13 of whom were black. The population of Alabama is 75 per cent white.

Less than three hours before Robert Lee Tarver, black, was due to be put to death in Alabama's electric chair on 4 February 2000, the US Supreme Court stayed the execution. Tarver's lawyers had appealed on the grounds that execution in the electric chair violates the constitutional ban on cruel and unusual punishment. The Court has not yet said whether it will examine the claim. In 1999 it announced that it would examine the use of Florida's electric chair, but after the Florida legislature introduced lethal injection as an alternative, the Court dropped the case.

On 31 January 2000, the Governor of Illinois announced a moratorium on executions in his state because of its "shameful" record of wrongful convictions, having executed 12 and released 13 death row prisoners since 1977. In recent days, Philadelphia City Council has adopted a resolution calling on the Pennsylvania legislature to enact a moratorium on executions until the state's use of the death penalty could be shown to be fair and free from racial bias. There are currently two bills before the Alabama Senate Judiciary Committee which call for a moratorium on executions in the state (Senate Bills No 7 and No 60, sponsored by Senator Sanders).

RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in English or your own language:

- acknowledging the seriousness of the crime of which Freddie Lee Wright was convicted and expressing sympathy for the victims' relatives and friends;
- expressing concern that Freddie Lee Wright was convicted by an all-white jury after the prosecutor removed black prospective jurors;
- expressing concern that the jury which sentenced Wright to die were not aware of certain exculpatory evidence, including that a key witness had serious mental health problems which undermined her credibility;
- noting that another key witness has since recanted his testimony and said that Wright was not the gunman;
- noting the moratorium in Illinois, and the moves towards a moratorium in Pennsylvania, on the basis of concern over wrongful conviction and racial bias in their capital justice systems;
- urging the Governor to grant clemency to Freddie Lee Wright and to support moves towards a moratorium in Alabama.

APPEALS TO:

The Honourable Don Siegelman
 Governor of Alabama
 Alabama State Capitol
 600 Dexter Avenue
 Room N-104, Montgomery, AL 36130, USA
Telegrams: Governor Siegelman, Montgomery, AL, USA
Faxes: +1 334 242 0937 or 242 2335
Tel: +1 334 242 7100
Salutation: Dear Governor

If possible, please also copy appeals addressed to the Governor to:

Brian McDonough, Drinker Biddle & Reath LLP, One World Trade Center, New York, NY 10048, USA. **Fax: +1 212 466 0569. E-mail: bmcdonough@dbr.com**
(Wright's appeal lawyer, who will then present appeals to Governor).

COPIES TO: diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.