

URGENT ACTION

CLEMENCY DENIED, EXECUTION SET IN FLORIDA

Michael Lambrix has been denied clemency and his execution set for 11 February. Twenty-three years old when he was sent to Florida's death row in 1984, he is now almost 56. He maintains that he acted in self-defence during the crime in question.

Clarence Moore and Aleisha Bryant were killed on 6 February 1983 and buried near the trailer home that **Cary Michael Lambrix** shared with Frances Smith. Michael Lambrix was charged with murder. His 1983 trial ended in a mistrial after the jury could not agree on a verdict. At retrial in 1984, the jury voted to convict him of two counts of first-degree murder and recommended the death penalty, by 10 votes to two for one murder and eight to four for the other. Michael Lambrix maintains his innocence of pre-meditated murder, claiming he acted in self-defence when Clarence Moore fatally attacked Aleisha Bryant and came at him when he tried to stop the assault.

The prosecution's key witness for its case against Michael Lambrix was Frances Smith, who testified that Lambrix had killed the victims. The judge did not allow the defence to raise prior inconsistent statements she had given to police. Deborah Hanzel, who was living with Smith's cousin at the time, testified that Michael Lambrix had told her that he killed the victims. She recanted this in 2003, saying that Lambrix "never told me at any time or in any manner indicated to me that he killed the victims". She said that Frances Smith had told her "she didn't really know what happened outside but that Mr Lambrix had told her that the guy [Moore] went nuts and he had to hit him". Deborah Hanzel said that she had lied because she had been asked by Smith to corroborate her story and had done so "due to the fear instilled in me" about Lambrix "by Frances Smith and state officials". She was recanting now, she said, because "I cannot run from the truth. I do not want to feel the guilt anymore".

In late November 2015, Michael Lambrix's lawyer was informed, with no explanation, that his client had been denied clemency. In December he called on the clemency authorities to stay the execution and to conduct a full investigation into the case for clemency, including an interview of Michael Lambrix, and to hold a clemency hearing. What the impact of a recent US Supreme Court ruling will be on Michael Lambrix's situation is as yet unknown.

Please write immediately in English or your own language:

- Calling for the execution to be halted, denial of clemency reconsidered, and the death sentence commuted;
- Expressing concern at the non-transparency of Florida's clemency process, and the absence of any public explanation for the denial of clemency to Cary Michael Lambrix or any information about what investigation was conducted into his case for clemency and what its conclusions were;
- Noting that Michael Lambrix denies pre-meditated murder and maintains that he acted in self-defence;
- Noting that the state's case was circumstantial, and pointing to the Hanzel recantation, and the non-unanimous jury recommendation for the death penalty;
- Noting the recent *Hurst v. Florida* ruling of the US Supreme Court, and urging that at the very least all executions be put on hold in Florida pending resolution of the issues raised by the ruling.

PLEASE SEND APPEALS BEFORE 11 FEBRUARY 2016 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. This is the first update of UA 31/15. Further information:

www.amnesty.org/en/documents/amr51/008/2015/en/

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ADDITIONAL INFORMATION

Executive clemency has not been granted in a Florida capital case since 1983, a period which has seen more than 90 executions in the state. In its assessment of Florida's death penalty system published in 2006, the American Bar Association (ABA) concluded that the lack of transparency surrounding the clemency process meant that it was impossible to determine the extent to which "inappropriate political considerations" impacted that process.

Under the state constitution, the Florida governor can grant reprieve from execution of up to 60 days, but can commute a death sentence only with the approval of two members of the Board of Executive Clemency. The Board is comprised of the Governor and members of the Cabinet. The latter consists of three elected officials, the Attorney General (the official ultimately responsible for defending death sentences in the courts), the Commissioner of Agriculture and Consumer Services and the Chief Financial Officer. The Governor can deny clemency for any reason, regardless of the Board's vote on the matter. Indeed, "the Governor has the unfettered discretion to deny clemency at any time, for any reason". The Florida Commission on Offender Review, consisting of three commissioners appointed by the Governor and the Cabinet, operates as the administrative and investigative arm of the clemency board. The Commission "may conduct a thorough and detailed investigation into all factors relevant to the issue of clemency and provide a final report to the Clemency Board". The investigation "shall include" an interview with the condemned prisoner and, where possible, his or her family, the prosecution and defence lawyers from the trial, and the trial judge.

In his letter to the Commission on Offender Review and the Executive Clemency Board, Michael Lambrix's lawyer submits that his client has received neither a "meaningful clemency interview" nor a "meaningful clemency hearing". He calls on Governor Scott to set aside the death warrant he signed in Michael Lambrix's case so that such a clemency process can be conducted.

On 12 January 2016, in *Hurst v. Florida*, the US Supreme Court ruled Florida's capital sentencing scheme unconstitutional because it gives juries only an advisory role in sentencing and leaves the final decision to judges. This, it said, was incompatible with the Court's 2002 *Ring v. Arizona* decision that the US Constitution requires juries, rather than judges, to make the factual findings necessary to sentence a defendant to death. How many of the inmates currently on Florida's death row will be impacted by the *Hurst* ruling, and how the Florida executive and legislative authorities will respond, remains to be seen. The *Hurst* ruling did not specifically address whether a jury has to be unanimous in its death sentencing decision. Under Florida's law, as shown in Michael Lambrix's case, a jury's sentencing recommendation (to which the judge is obliged to give "great weight") does not have to be unanimous, and indeed a vote for death can be passed on a bare seven to five majority vote. Between 2000 and 2012, only about one in five Florida death sentences were handed down on unanimous recommendations. Only about a quarter of the prisoners sentenced to death since 2012 were sent there after unanimous jury votes for the death penalty. In most death penalty jurisdictions, the jury must be unanimous – a single juror voting for life will mean life imprisonment. This issue will now be the subject of litigation in Florida, including in the *Hurst* case itself, remanded by the US Supreme Court to state court "for proceedings not inconsistent" with the *Hurst* ruling. Timothy Hurst was sentenced to death in 2012 by the trial judge following the jury's seven to five recommendation for the death penalty.

There have been 1,423 executions in the USA since 1976, 92 of them in Florida, which also accounts for the only execution so far conducted in 2016. Amnesty International opposes the death penalty in all cases, unconditionally.

See also: <http://www.save-innocents.com/save-michael-lambrix.html>

Name: Cary Michael Lambrix

Gender m/f: m

Further information on UA: 31/15 Index: AMR 51/3192/2016 Issue Date: 13 January 2016