

# URGENT ACTION

## EXECUTION NEARS FOR MAN WITH MENTAL ILLNESS

**A Lebanese national with a history of mental illness is due to be executed in the US state of Ohio on 6 June for a double murder committed in 1992. The parole board has recommended to the governor that he deny clemency; he is not bound by their decision.**

**Abdul Hamin Awkal**, who arrived in the USA at the age of 24 in 1984 from Lebanon, was sentenced to death for the murder in 1992 of his wife Latife Awkal, who was seeking a divorce from him, and her brother Mahmoud Abdul-Aziz. The two were shot dead in the Family Conciliation Services Department of a Domestic Relations Court in Cleveland, Ohio, on 7 January 1992. Abdul Awkal was arrested in the courthouse after the shooting. In pre-trial custody Abdul Awkal was prescribed anti-psychotic and anti-depressant medications. The trial judge found that the severity of his depression rendered him incapable of assisting in his defence and that he was therefore not competent to stand trial. Abdul Awkal was held in a psychiatric facility where his anti-psychotic medication was increased, and he was then found competent to stand trial. During the trial in late 1992, his lawyers told the judge that his mental health had deteriorated, but the judge rejected their suggestion to hold a new competency hearing. Abdul Awkal was sentenced to death. One of the jurors has since signed a statement that he would have voted for life imprisonment without the possibility of parole if that had been an option at the time of the trial.

At a hearing before the Ohio Parole Board on 10 May 2012, Abdul Awkal's lawyers presented evidence of his traumatic experiences in the civil war in Lebanon which began in 1975 when he was 16, and his history of mental illness including severe depressive and delusional disorders. Psychiatrist Dr Phillip Resnick said that in 2005, 2007 and 2012 he had diagnosed Abdul Awkal as suffering from schizoaffective disorder, a serious mental condition combining psychosis and mood disorder, and detailed his "grandiose and persecutorial delusions". In a letter to Governor John Kasich, one of his lawyers has written: "Abdul Awkal lives in a delusional world" in which he believes he has "directed wars in Iraq and Afghanistan", "advises high-ranking government officials by mail", receiving coded messages in reply, and that "the CIA wants him dead" because he is "not helping them anymore".

The parole board acknowledged that "Awkal suffers from Schizoaffective Disorder, Depressive Type", but voted 8-1 that the aggravating factors in the case outweighed the mitigating circumstances. The member voting for clemency found that Abdul Awkal's mental state during the trial "was tenuous at best", that his illness might have affected his decision to reject the prosecutor's offer of a life prison term in return for a guilty plea, and that his crime had arisen "out of anger exacerbated by his mental illness – delusions of persecution – and his childhood exposure '...where guns and death were an everyday occurrence'." She also raised the poor quality of his legal representation at trial.

### **Please write immediately, in English or your own language:**

- Explaining that you are not seeking to excuse these murders or to downplay the suffering caused;
- Noting that Abdul Awkal has repeatedly been diagnosed with serious mental illness;
- Noting the poor legal representation Abdul Awkal received at trial;
- Opposing the execution of Abdul Awkal and calling on the governor to grant him clemency.

### **PLEASE SEND APPEALS BEFORE 6 JUNE 2012 TO:**

Governor of Ohio, John Kasich

Riffe Center, 30th Floor, 77 South High Street, Columbus, OH 43215-6117, USA

Fax: +1 614 466 9354

Email: kim.kutschbach@governor.ohio.gov (governor's Deputy Legal Counsel, adviser on clemency, please ask for your email to be forwarded)

**Salutation: Dear Governor**

**Send copies to diplomatic representatives accredited to your country.**

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

**AMNESTY  
INTERNATIONAL**



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### ADDITIONAL INFORMATION

In 2009, a three-judge panel of the US Court of Appeals for the Sixth Circuit decided that Abdul Awkal should receive a new trial on the grounds of ineffective assistance of counsel at the original trial at which he had pleaded not guilty by reason of insanity. His lawyer had attempted to present three expert witnesses in support of this defence. The judge found that the first was not a licensed psychologist and therefore excluded his testimony. The second, a court-appointed forensic psychiatrist, testified that he believed Abdul Awkal had been sane at the time of the murders. The third had been practicing psychiatry for about a year, but was not yet certified. The Sixth Circuit panel found that “clearly, Abdul Awkal’s counsel’s selection of guilt-phase experts was far less than ideal” and that the decision to call the forensic psychiatrist to testify amounted to constitutionally deficient performance.

The state appealed for a rehearing by the full Sixth Circuit. In 2010, the full court reversed the panel decision. Four of the 14 judges dissented: “Any remotely competent attorney knows that an insanity defense relies mainly upon expert testimony regarding the defendant’s mental state. But Abdul Awkal’s counsel’s presentation of expert psychological testimony at the guilt phase sounds like the opening of a bad joke: ‘Three defense experts walk into court. One got his degree from a mail-in university, is not licensed, and cannot testify. One is well-credentialed but testifies against the defendant. And the third is not certified in psychiatry. Or perhaps the better analogy is an episode of [the farce act] *The Three Stooges*. But, however one wishes to describe it, it is clear what counsel’s performance was not: the kind of representation constitutionally required in a capital case.”

Ohio has become one of the USA’s leading death penalty states, having carried out eight per cent of US executions in the past decade (45 out of 546 since January 2002). This has happened at a time when the country appears to be turning against the death penalty. In 2012, Connecticut became the fourth US state in five years to legislate to abolish capital punishment – after New Jersey (2007), New Mexico (2009) and Illinois (2010) – in addition to the demise of the death penalty in New York State. There has been a two-thirds reduction in annual death sentences in the USA since the mid-1990s, a halving in the annual judicial death toll since 1999, and the removal by the US Supreme Court of children (2005) and people with “mental retardation” (2002) from the reach of the executioner. In 2011, the Oregon governor imposed a moratorium on executions, and some 800,000 citizens in California – the state which accounts for one in five of the USA’s death row inmates – have endorsed putting abolition to the popular vote. As a result the choice to repeal the death penalty will be on the ballot for California voters at the general election on 6 November 2012. If the initiative is passed, the state’s death penalty will be replaced by life imprisonment without the possibility of parole, and a fund of US\$100 million will be created for use by law enforcement agencies in investigating murders and rape. This is a very different national picture from when Ohio carried out its first execution in 1999.

In January 2011, Senior Ohio Supreme Court Justice Paul Pfeifer, who when he was a state legislator was a co-author of Ohio’s capital statute enacted in 1981, wrote: “I helped craft the law, and I have helped enforce it. From my rather unique perspective, I have come to the conclusion that we are not well served by our ongoing attachment to capital punishment... I ask: do we want our state government – and thus, by extension, all of us – to be in the business of taking lives in what amounts to a death lottery? I can’t imagine that’s something about which most of us feel comfortable. And, thus, I believe the time has come to abolish the death penalty in Ohio”.

Amnesty International opposes the death penalty in all cases, unconditionally. There have been 1,295 executions in the USA since judicial killing resumed there in 1977, including 47 in Ohio. There have been 18 executions so far in 2012, one in Ohio.

Name: Abdul Hamin Awkal

Gender m/f: m

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