

URGENT ACTION

MAN FACING EXECUTION IN OHIO FOR 1995 MURDER

Jason Getsy, aged 33, is scheduled to be executed in Ohio on 18 August. He was sentenced to death in 1996 for a murder committed in 1995 when he was 19 years old. The state Adult Parole Authority has recommended that Governor Ted Strickland commute his death sentence to life imprisonment. The recommendation is non-binding.

Ann Serafino, 66, was shot dead in her home in the early hours of 7 July 1995. Her son, Charles Serafino, was also shot, but survived. The crime was initiated by a business rival of Charles Serafino, 35-year-old John Santine, who recruited three teenagers, Jason Getsy, Richard McNulty and Ben Hudach, all 19, to carry it out. All four were charged with the murder. Ben Hudach pleaded guilty and was sentenced to 20 years to life imprisonment. Richard McNulty pleaded guilty and was sentenced to life imprisonment. Jason Getsy was tried and sentenced to death for "murder for hire." John Santine was convicted of murder, but acquitted of "murder for hire," and was therefore not eligible for the death penalty. He was sentenced to life imprisonment, and is eligible for parole from 2022.

The Ohio Supreme Court upheld Jason Getsy's death sentence in 1998, while expressing concern that "Santine did not receive the death sentence even though he initiated the crime." It acknowledged that none of the three teenagers would have participated in the crime but for Santine, and that all three were under his influence. It noted Getsy's fear that Santine would kill him if he failed to do what Santine wanted (see overleaf).

In 2006, a three-judge panel of the US Court of Appeals for the Sixth Circuit voted 2-1 to overturn the death sentence: "We agree with the Ohio Supreme Court's suggestion that Santine is probably more – certainly no less – culpable than Getsy, the young boy he hired, but we do not agree that the death verdict can stand." The majority wrote that "like crimes are not being punished alike in the very same case," and also that the jury verdicts in the Santine and Getsy trials were "irreconcilable." This, it explained, was because "murder for hire requires at least two participants: the hiring party and the person hired... If the jury convicts only one of multiple defendants charged with the crime of murder for hire, this is a fatally inconsistent verdict requiring reversal." The full court agreed to reconsider the decision, however, and in 2007 reinstated the death sentence, by a vote of 8-6.

PLEASE WRITE IMMEDIATELY in English or your own language:

- Explaining that you are not seeking to condone the murder of Ann Serafino or to downplay the suffering caused;
- expressing your opposition to the execution of Jason Getsy;
- noting Jason Getsy's youth at the time of the crime, and the Ohio Supreme Court's recognition that he was in fear of John Santine and would not have committed the crime but for Santine;
- noting that six federal court judges opposed the death sentence on the grounds that the person who initiated the murder received a life sentence and given the irreconcilability of the juror findings in the Getsy and Santine trials;
- welcoming the Adult Parole Authority's recognition of the injustices in this case (see overleaf) and its recommendation for clemency and calling on Governor Strickland to commute Jason Getsy's death sentence.

PLEASE SEND APPEALS BEFORE 18 August 2009 TO:

Governor Ted Strickland

Governor's Office, Riffe Center, 30th Floor, 77 South High Street

Columbus, OH 43215-6108, USA

Fax: +1 614 466 9354

Email: <http://www.governor.ohio.gov/Assistance/ContacttheGovernor/tabid/150/Default.aspx>

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.

**AMNESTY
INTERNATIONAL**



URGENT ACTION

MAN FACING EXECUTION IN OHIO FOR 1995 MURDER

ADDITIONAL INFORMATION

John Santine was involved in a dispute with the Serafino family over a landscaping business owned by Charles Serafino. This dispute culminated in Santine's scheme to have "his boys" carry out a "hit" on Charles Serafino. There is substantial evidence that the teenagers feared John Santine and what would happen to them if they crossed him. In its 1998 decision on the case, the Ohio Supreme Court noted that Santine would provide the teenagers with money and drugs, "bragged that he had connections with the mob and often spoke of his Mafia connections." The Court noted that "Santine was known to have shot his own brother and apparently had never served time for the incident," and that he "routinely" carried a gun. It further noted that, from Getsy's videotaped statement made to the police after the shootings, it was clear that "Getsy feared Santine and was afraid that Santine would execute him" if he failed to do what he wanted. Getsy had apparently been "afraid to go to the police" before the crime "because Santine made it appear that he had the police in his pocket," a belief that "was supported by the fact that McNulty told police what Santine was planning and the police did nothing."

When the teenagers first went to the Serafino home, they returned to Santine's apartment without having carried out his plan, saying that they had been unable to find a place to park the car. The Ohio Supreme Court noted that "Santine became furious, eventually driving Getsy, McNulty, and Hudach to the place himself." According to Getsy's clemency petition, Santine had "verbally berated them and threatened them – all the time waving a gun at them" before driving them to the Serafino home. In a 2008 affidavit, John Santine confirmed that he had had a gun in his hand when he ordered them to go back to carry out his plan. He said that "because they were afraid of me, I knew that they would shoot Chuck Serafino if I ordered them to shoot him."

On 17 July 2009, the Ohio Adult Parole Authority reported that it had voted, five to two, in favour of clemency, recommending that Governor Strickland commute Jason Getsy's death sentence to life imprisonment without the possibility of parole. The five in the majority indicated a number of reasons for their decision, including that John Santine had "exerted considerable influence over the co-defendants," and adding that "it is noteworthy that at Mr Getsy's trial the state minimized this influence; at John Santine's trial, it was the state's primary theory." They also noted that several judges had "assigned Mr Santine a greater level of culpability than Mr Getsy;" that Jason Getsy had "cooperated completely" with the police investigation of the crime; that the jury had not been presented with a full psychosocial history of Jason Getsy and the effect that this may have had on his decision to carry out Santine's plan; and that Jason Getsy had "continuously expressed remorse for the victims and their family." The parole board added that "it is imperative that we have consistency and similar penalties imposed upon similarly situated co-defendants."

When the Sixth Circuit Court of Appeals reinstated the death sentence against Jason Getsy in 2007, the six judges dissenting from this decision said: "The Ohio state prosecutor, the Ohio Supreme Court, and apparently our Court as well, all concede that the death penalty verdict against Jason Getsy based on a 'murder for hire' scheme directly contradicts John Santine's not guilty verdict of the same crime.... Getsy, a teenage boy, was convicted of receiving 'murder for hire' money from Santine, and Santine was acquitted of paying the 'murder for hire' money to Getsy. Thus the two verdicts are inconsistent and irrational, and the verdict against Getsy should not be allowed to result in his execution." One of the six dissenting judges wrote an additional separate opinion in which he stated that "this case brings into stark relief why the death penalty in this country is arbitrary, biased, and so fundamentally flawed at its very core that it is beyond repair."

Amnesty International opposes the death penalty in all cases, unconditionally. Today, 139 countries are abolitionist in law or practice. The USA, in contrast, has carried out 1,171 executions since resuming judicial killing in 1977. Ohio accounts for 31 of these executions. There have been 35 executions in the USA so far this year, three of them in Ohio.

UA: 200/09 Index: AMR 51/086/2009 Issue Date: 24 July 2009

**AMNESTY
INTERNATIONAL**

