

EXTERNAL

AI Index: AMR 51/90/96

11 November 1996

Further information on EXTRA 55/96 (AMR 51/85/96, 22 April 1996) and follow-up (AMR 51/39/96, 3 May, AMR 51/83/96, 3 September and AMR 51/85/96, 17 September) - Death Penalty

USA (GEORGIA) Ellis Wayne FELKER

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Ellis Wayne Felker has received a third death warrant: his execution is now scheduled for 14 November 1996, despite serious doubts about his guilt.

Attorneys representing Felker claim to have had inadequate time to examine and evaluate the five crates of police evidence newly disclosed to them immediately prior to Felker's previously scheduled execution in September. One of the attorneys was recently quoted in the press as stating: "*There are numerous possible leads which we have had no time to investigate. The stack of new paperwork is more than two feet thick.*"

The boxes contained a signed confession from another suspect in the crime and forensic samples from Joy Ludlum's body and the crime scene, which could possibly prove Felker innocent via DNA testing.

On 26 October the Georgia Supreme Court refused to extend Felker's stay of execution or to consider whether the new evidence might exonerate him. The Court based its decision on a procedural point claiming that it was the responsibility of the defence attorneys, under the *Georgia Open Records Act*, to find the boxes of previously undisclosed evidence at an earlier date.

On 2 May 1996, the Georgia Board of Pardons and Paroles refused to commute Felker's death sentence. Since that decision, and despite the new evidence providing further doubts around the guilt of Felker, the Board have refused to reconsider granting clemency.

During the Atlanta Olympic games in July 1996, the Attorney General of Georgia, Michael Bowers, met with the Secretary General of Amnesty International, Pierre Sané, to discuss the organization's concerns around the use of the death penalty in the state. During the meeting, the Attorney General undertook to give serious consideration to evidence presented by Amnesty International concerning flaws in the legal process leading up to the imminent execution of a death row prisoner.

The Attorney General has previously made statements denying the possibility of Felker being innocent based on the opinions of police officers responsible for the investigation of the case (see further information AMR 51/83/96).

In recent correspondence with his English wife, the strain of facing death has been evident in Felker's letters: "*I'm so tired of this...My mind is tired, my body is tired, I'm tired of being tired. If it weren't for you, I'd be ready to just give in...my head's so fucked up right now...I'm feeling so empty and alone.*"

Amnesty International believes that it is extremely unlikely that the Georgia Board of Pardons and Paroles will reconsider its decision not to commute the death sentence of Ellis Wayne Felker, and is therefore appealing to Attorney Generals at state and federal level.

**FURTHER RECOMMENDED ACTION: Please telephone, or send telegrams, faxes in English or in your own language, using as much of the following as possible:**

- expressing deep concern that Ellis Wayne Felker is scheduled to be executed on 14 November 1996;
- expressing concern that defence attorneys representing Felker have had inadequate time to examine and evaluate the five crates of evidence previously undisclosed to them;
- reminding the Attorney General of his promise made in July to the Secretary General of Amnesty International and pointing out that the serious doubts as to the guilt of Ellis Wayne Felker make this case of great concern to Amnesty International;
- expressing concern that the Attorney General is quoted as saying that he relied on the statements of police officers responsible for the investigation of Felker rather than evaluating the information himself;
- urging the Attorney General to implement a full investigation into the possible innocence of Ellis Wayne Felker or, at the very least, not to oppose legal appeals for a stay of execution from defence attorneys representing Felker.

**APPEALS TO:**

The Honourable Michael Bowers  
Attorney General of Georgia  
Office of the AG  
Department of Law  
40 Capital Square, S.W.  
Atlanta, GA 30334-1300, USA  
**Telephone: +1 404 656 3300**  
**Telegrams: Attorney General Bowers, Atlanta, Georgia, USA**  
**Fax: +1 404 651 9148**  
**Salutation: Dear Attorney General**

**Please also appeal to the Federal Attorney General:**

- expressing deep concern that the State of Georgia may be about to execute an innocent man and appealing that she do all in her power to stop it.

The Honorable Janet Reno  
Attorney General  
Department of Justice  
**Telephone: +1 202 514 2000**  
**Faxes: +1 202 514 4371**  
**Telegrams: Attorney General Reno, Washington, USA**  
**Salutation: Dear Attorney General**

**COPIES TO:**

The Honourable Zell Miller  
Governor of Georgia  
203 State Capital  
Atlanta, GA 30334  
USA  
**Fax: +1 404 656 2612**

and to diplomatic representatives of USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**