

URGENT ACTION

LEGAL CONCERNS AS FLORIDA RESETS EXECUTION

Paul Howell, aged 48, is due to be executed in Florida on 26 February for the murder of a police officer in 1992. In 2013 a federal judge described his legal representation at trial and on initial appeal as “incompetent, ineffective, and deeply unprofessional”.

In February 1992, Florida State Trooper James Fulford was killed in a bomb explosion. Prosecutions were initiated against **Paul Howell** in state and federal courts – in the former for the murder of the officer, and in the latter on charges under a federal drug conspiracy law. He was given the same lawyer for both cases. The lawyer withdrew from the federal case, claiming that his wife had received a threatening phone call that “if Paul Howell goes down, [the lawyer] is going down also”. Prejudicial comments he made about his client in the federal case – including that he believed he would be convicted and that he was somehow involved in the threat – were later cited in a prosecution motion in the state case for the lawyer to be disqualified, as he had been in federal court. The motion stressed that “loyalty is the essence of a lawyer’s relationship to a client”, and the prosecution presented a federal agent who said that his investigation concluded that the alleged threatening call had not been made. The judge refused to disqualify the lawyer, who then represented Paul Howell at the trial. The jury voted to convict, and after a sentencing phase lasting less than an hour, voted 10-2 for the death penalty, which the judge imposed on 10 January 1995.

The lawyer appointed to represent Paul Howell on appeal missed a one-year deadline to file a federal habeas corpus petition. The federal courts ruled there were no “extraordinary circumstances” excusing this late filing and dismissed the petition without reviewing its merits. On the eve of Paul Howell’s execution on 26 February 2013, the 11th Circuit Court of Appeals issued a stay to consider whether a 2010 US Supreme Court ruling in another case meant that the Howell case should be reopened. In September, it ruled that it did not. One of the three judges wrote that while precedent might require that ruling, Paul Howell had a strong claim that “both his trial attorney, who fabricated death threats to be excused from representing Mr Howell, and his initial habeas attorney, who did not even contact Mr Howell until after his federal habeas deadline had passed, were “incompetent, ineffective, and deeply unprofessional”. She wrote: “it is unconstitutional and immoral for death row inmates to lose a fundamental constitutional right because of their attorney’s errors, especially when they are as egregious as those...here.”

Two petitions are pending before the US Supreme Court, one on the missed deadline issue, the other arguing that “not a single court, state or federal, has heard Mr Howell’s compelling claim of ineffective assistance of counsel for failure to investigate and present available mitigating evidence to convince the jury to spare Mr Howell’s life”. Such evidence includes physical childhood abuse and deprivations, including in his native Jamaica (which he left when aged 12 and he is now a US citizen), as well as details of mental health problems that emerged when he was in the US military from the age of 18 to 25, and signs of possible schizophrenia after he was discharged around 1990.

Please write immediately in English or your own language:

- Acknowledging the seriousness of the crime for which Paul Howell was sentenced to death;
- Noting the serious questions that have been raised about his legal representation at trial and on appeal;
- Calling on the governor to reconsider his denial of clemency and to stop this execution.

PLEASE SEND APPEALS BEFORE 26 FEBRUARY 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

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.

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ADDITIONAL INFORMATION

According to the state's case at the 1994 trial, Paul Howell constructed a bomb with the intention of killing Tammie Bailey in her home in Marianna, western Florida, in order to eliminate her as a witness who could link Paul Howell and his brother to a prior murder. According to the state, Bailey and the two brothers were part of a drug ring. The bomb was placed inside a microwave oven which was then giftwrapped. Paul Howell paid another man to deliver the package, but on the way the driver was stopped for speeding by State Trooper Jimmy Fulford. After the driver was taken away by other police, Jimmy Fulford was killed when the bomb went off as he opened the package.

Paul Howell's current lawyers continue to argue that his trial attorney's conflict of interest created such mistrust between him and the Howell family that little mitigation evidence could be gathered for the sentencing phase and no family member was called to testify. The lawyers assert that although there was some mental health evidence presented by a psychologist at the sentencing, it was "not only short on details", but also failed to provide any connection between the mental health problems and the crime for the jury to consider in deciding whether to vote for life or death.

According to his current lawyers, Paul Howell "grew up in poverty-stricken conditions in Santa Hill, Jamaica, where his family of eight lived in two rooms". Among other things, the children were exposed from a very young age to toxic pesticides in the fields in which they or their parents worked. The parents migrated to Fort Lauderdale in Florida when Paul Howell was seven or eight years old, and he and his five siblings joined them about five years later. In those intervening years, the children were left with "highly abusive relatives", who subjected the children to severe physical punishment. As a boy, Paul Howell suffered seizures, for which he received no medical treatment.

Governor Scott has previously denied clemency for Paul Howell, but can reconsider. See further information on UA 47/13 (<http://www.amnesty.org/en/library/info/AMR51/009/2013/en>) for previous action called for on this case.

Safeguard 5 of the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty states: "Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings."

Executions resumed in the USA in January 1977 after the US Supreme Court approved revised capital statutes, including Florida's, in July 1976. There have been 1,365 executions in the USA since then, 82 of them in Florida. Florida lies behind only Texas, Virginia and Oklahoma in the number of executions carried out since 1977. There have been six executions in the USA so far in 2014, one of them in Florida.

Amnesty International unconditionally opposes the death penalty in all cases. Today, 140 countries are abolitionist in law or practice. See also *USA: Another killing in a long-since failed experiment*, 17 January 2014, <http://www.amnesty.org/en/library/info/AMR51/005/2014/en>.

Name: Paul Howell

Gender m/f: m

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