

URGENT ACTION

MISSOURI EXECUTION SET FOR HUMAN RIGHTS DAY

Paul Goodwin is scheduled to be executed in Missouri on 10 December, Human Rights Day. His lawyers are seeking clemency on the grounds of intellectual disability and mental incompetency to be executed. This would be the 10th execution of the year in Missouri, the most there in any year since 1899.

Paul Goodwin, now aged 48, was tried in 1999 for the murder of Joan Croatts, aged 63, in St Louis County on 1 March 1998. At the trial, two psychologists and a psychiatrist variously testified that Paul Goodwin operated in the borderline range of intellectual functioning, that he had major depression, a personality disorder, and learning disorders, and that at the time of the crime he had not been responsible for his conduct or at least that his capacity to conform his conduct to the requirements of the law had been substantially impaired. However, the jury rejected the defence of not guilty by reason of mental disease or defect, and at the sentencing phase voted to recommend the death penalty, which the judge imposed on 2 December 1999.

In 2002, in *Atkins v. Virginia*, the US Supreme Court ruled that the use of the death penalty against those with "mental retardation" (now usually known as "intellectual disability") was unconstitutional. Lawyers for Paul Goodwin brought a claim under *Atkins*, and included for the first time a specific testing of his intellectual disability by an expert in this field. In 2006, the Missouri Supreme Court ruled four to three to uphold a lower court judge's dismissal of this claim. The Chief Justice and the two other judges who dissented argued that although there was evidence from the trial record that Paul Goodwin did not have intellectual disability, "there was also enough evidence [from this new specific assessment] that he was retarded". They noted that the educational psychologist retained by the appeal lawyers, who specialized in "mental retardation and death penalty issues", and whose research was cited in the *Atkins* ruling, had concluded that Paul Goodwin "is within the mild range of mental retardation, probably smack in the middle of it". They argued that the lower court judge had been wrong to discount this evidence and that Paul Goodwin should receive a new sentencing where this evidence of intellectual disability could be put before a jury.

Based on their experts' opinions, Paul Goodwin's lawyers are seeking clemency on the grounds that his intellectual disability, combined with other mental deficits, render him incompetent for execution under US law, that is, lacking a genuine understanding of the reason for and reality of his punishment.

Please write immediately in English or your own language:

- Calling on the governor to prevent this execution and to commute Paul Goodwin's death sentence;
- Noting the evidence of his intellectual disability, and that the power of executive clemency is not restricted in the way that courts may be when assessing whether an execution should be stopped;
- Expressing concern at Missouri's continuing use of the death penalty;
- Acknowledging the seriousness of the crime in this case and the suffering caused.

PLEASE SEND APPEALS BEFORE 10 DECEMBER 2014 TO:

Office of Governor Jay Nixon

P.O. Box 720, Jefferson City, MO 65102, USA

Fax: +1 573 751 1495

Email: via website <http://governor.mo.gov/contact/>

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.

**AMNESTY
INTERNATIONAL**



URGENT ACTION

MISSOURI EXECUTION SET FOR HUMAN RIGHTS DAY

ADDITIONAL INFORMATION

The execution of Paul Goodwin is scheduled to take place at one minute past midnight on 10 December 2014. The UN General Assembly proclaimed 10 December as Human Rights Day in 1950, to bring to the attention “of the peoples of the world” the Universal Declaration of Human Rights, article 3 of which states that everyone has the right to life and article 5 that no one shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. It was a US national, Eleanor Roosevelt, who chaired the UN committee which drafted the Universal Declaration, and it was she who had suggested that reference to the death penalty be removed from it because there were moves in various countries to abolish capital punishment. In an article published in 1953, five years after adoption of the Declaration, Eleanor Roosevelt wrote: “It has always seemed to me that capital punishment, the taking of human life by other human beings after a judgment passed by human beings, was quite wrong. We know that often human justice, no matter how hard we try to make it the wisest possible judgment, may be faulty”.

The US Supreme Court’s 2002 prohibition of the execution of persons with intellectual disability – *Atkins v. Virginia* – left to states “the task of developing appropriate ways to enforce the constitutional restriction”. Although the Court had pointed to clinical definitions of “mental retardation” as a disability, manifested before the age of 18, characterized by significantly sub-average intellectual functioning and with limitations in two or more adaptive skill areas, its failure to be more prescriptive has contributed to less than full protection. On 27 May 2014, in *Hall v. Florida*, the US Supreme Court revisited the *Atkins* ruling for the first time and struck down a Florida law requiring that a defendant claiming to have intellectual disability show an IQ score of 70 or below. “Intellectual disability is a condition, not a number”, the Supreme Court ruled; “Courts must recognize, as does the medical community, that the IQ test is imprecise”. It found that Florida’s rigid IQ of 70 cut-off, which blocked the presentation of evidence other than IQ that would demonstrate limitations in the defendant’s mental faculties, was itself unconstitutional.

Paul Goodwin’s lawyers have sought to get back into the courts to argue that the *Hall* ruling impacts the Missouri Supreme Court’s analysis of Goodwin’s intellectual disability claim. They have re-stated the evidence of this disability, including Paul Goodwin’s childhood problems, his struggles in school, and his problems in employment and daily functioning, together with the assessment done by Dr Denis Keyes, the expert retained by the defence for post-conviction proceedings who concluded that Paul Goodwin has intellectual disability. In a petition filed in US District Court on 1 December, they argue that “Missouri, like Florida, disregarded an IQ test score that, when considered with the standard error of measurement, placed Goodwin in the sub-average intelligence range, and refused to consider testimony regarding Goodwin’s adaptive deficits”.

There have been 1,392 executions in the USA, 79 of them in Missouri, since the US Supreme Court upheld new capital laws in 1976. There have been 33 executions in the USA this year, with nine of them in Missouri, equalling the number it carried out in 1999, its highest total since 1976. The last time there were 10 executions in one year in Missouri was in 1899.

Today 140 countries are abolitionist in law or practice. Four US states have abolished the death penalty in the past five years – New Mexico (2009), Illinois (2011), Connecticut (2012) and Maryland (2013), and another two states – Oregon and Washington State – currently have governor-imposed moratoriums on executions. Amnesty International opposes the death penalty in all cases unconditionally, regardless of the crime, the culpability of the offender, or the method used to kill the prisoner.

Name: Paul Goodwin
Gender m/f: m

UA: 302/14 Index: AMR 51/057/2014 Issue Date: 3 December 2014