

URGENT ACTION

THREE DECADES ON DEATH ROW, EXECUTION SET A 65-year-old man is scheduled to be executed in the US state of Florida on 15 February for a murder committed in January 1980. He has been on death row for half of his life.

In September 1980, 33-year-old **Robert Waterhouse** was sentenced to death for the first-degree murder of Deborah Kammerer. Her nude body had been found eight months earlier in mud flats at Tampa Bay, Florida. Robert Waterhouse, who at the time of the crime was on parole in relation to a second-degree murder conviction in 1966 in New York, was arrested and charged with the Kammerer murder. In 1988, the Florida Supreme Court ordered a new sentencing hearing (see overleaf). He was re-sentenced to death in 1990.

In 2003, Robert Waterhouse's lawyers filed a motion in state court for DNA testing of evidence from the crime. At a hearing in 2005, it was established that the evidence had been destroyed and that there was nothing left that could be subjected to DNA analysis. The judge concluded that the destruction had been inadvertent. A new defence motion argues that it would be unconstitutional to execute a prisoner who has "consistently and continuously maintained his innocence", who in support of this claim has sought DNA testing unavailable at the time of his trial, and where all relevant evidence has been destroyed as a result of official recklessness or negligence. The Florida Supreme Court is due to hear oral arguments on the motion on 7 February.

The motion also provides new evidence from a man who says that on the night of the murder he was in the bar from which, according to the trial testimony of a bartender who was a key witness for the prosecution, Robert Waterhouse had left with Deborah Kammerer. In a sworn statement signed on 9 January 2012, the new witness (who also worked at the bar) claimed that it would have been impossible for the bartender to have seen the exit from where she said she was at the time. The new witness said that on the night in question he had seen Robert Waterhouse leave the bar with two white males, not with the victim. He further alleges that he was interviewed by police at the time, and that he had told them this, but that the detective had seemed "disinterested" and subsequently "accused [me] of trying to protect a murderer". The new witness says that he has come forward now because he read a newspaper article on 5 January 2012 which stated that Robert Waterhouse had been seen leaving the bar with Deborah Kammerer, which the witness states was "not true".

Robert Waterhouse's lawyers have pointed to the commutation in 2005, by the Governor of Virginia, of the death sentence of Robin Lovitt. The governor pointed to the destruction by officials of biological and other evidence from the crime. Noting that the death penalty was the state's "most severe and final sanction", he said the system "must operate with complete integrity" and that the evidence destruction had "breached the public trust in the system".

Please write immediately in your own language:

- Explaining that you are not seeking to downplay the seriousness of the crime, or the suffering caused;
- Expressing concern that evidence from the crime has been destroyed, making DNA testing impossible;
- Noting the new witness evidence calling into question the trial testimony of a key prosecution witness;
- Urging the Governor to commute Robert Waterhouse's death sentence.

PLEASE SEND APPEALS AS SOON AS POSSIBLE, AND BEFORE 15 FEBRUARY 2012:

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

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**



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ADDITIONAL INFORMATION

In 1988, the Florida Supreme Court ordered a new sentencing for Robert Waterhouse consistent with a 1987 US Supreme Court decision relating to mitigation evidence in capital cases. At the re-sentencing hearing in 1990, Robert Waterhouse refused to allow the presentation of any mitigation evidence on his behalf. He said that his lawyer could have presented “at least half a dozen factors in mitigation” but that he would not allow him to do so because “I shouldn’t be up here begging for my life,” and not presenting such evidence “spares my family the embarrassment, the trauma”. He had wanted his lawyer to make a “lingering doubt” argument, but as this was not considered a mitigating factor under Florida law, the lawyer considered that he could not ethically do so.

The two lawyers who represented Robert Waterhouse at his original 1980 trial have seen the statement signed in January 2012 by the man who has come forward to question the trial evidence. These lawyers have themselves now signed statements asserting that he would have been an important witness for them to present at the trial in order to undermine the prosecution’s key witness, the bartender who had said Robert Waterhouse had left the bar with Deborah Kammerer. They state that although there is a “brief mention” of this witness in the police report which they had seen prior to the trial, the report indicated that he had “had no information about the evening in question”. The lawyers assert that they did not contact this witness because they had “relied on this police report as being an accurate and truthful statement of what [the witness] told the police”.

The death penalty in the USA is marked by arbitrariness, discrimination and error. One of the starkest statistics about the death penalty is that since the US Supreme Court ruled in 1976 that executions could resume under new capital statutes, more than 130 people have been released from death rows on the grounds of innocence. In more than 10 per cent of these innocence cases, DNA evidence played a substantial role in the exoneration.

Amnesty International opposes the death penalty in all cases, regardless of questions of guilt or innocence, the facts of the crime, or the method of execution. Today, some 140 countries are abolitionist in law or practice. The USA appears to be turning against the death penalty. There were 43 executions in the USA in 2011, compared to 46 in 2010 and 52 in 2009. A more marked decline can be seen in the annual death sentencing total which has fallen by about two-thirds since the mid-1990s. In 2011, the number of death sentences passed during the year fell below 100 for the first time since executions resumed in 1977.

There have been 1279 executions in the USA since judicial killing resumed there in 1977, including 71 in Florida. There have been two executions in the USA so far in 2012, carried out in Oklahoma and Texas.

Name: Robert Waterhouse

Gender m/f: m

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