
amnesty international

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One more reason to end the death penalty

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“Amrine has met his burden of providing clear and convincing evidence of actual innocence that undermines confidence in the correctness of the judgment. This case presents the rare circumstance in which no credible evidence remains from the first trial to support the conviction”. Missouri Supreme Court, *Amrine v Roper*, 29 April 2003.

On 29 April 2003, the Missouri Supreme Court overturned the conviction and death sentence of Joseph Amrine. He had been on death row for 17 years for the murder of fellow inmate Gary Barber, a crime which Joseph Amrine has always said he did not commit. The state must now retry or release him.

In the absence of any physical evidence identifying Joseph Amrine as the murderer, the state’s case against him at his 1986 trial consisted of the testimony of three fellow inmates. Each of the three later said that his trial testimony was false, made as a result of threats or offers from the authorities. The testimony of a prison guard which pointed to one of Amrine’s accusers as the prime suspect, was reinforced on appeal.

Even as the prosecution’s case against Joseph Amrine fell apart over the years, the state continued to seek his execution. Indeed, at a hearing on 4 February 2003 before the Missouri Supreme Court, a prosecutor from the state Attorney General’s Office argued that the Court should block Joseph Amrine from having his case reopened. One of the Justices asked whether in the absence of the Court finding a constitutional violation, the state was suggesting that “even if we find Mr Amrine is actually innocent, he should be executed?” The assistant attorney general replied, “That’s correct, your honour”.

It is also disturbing that the conviction and death sentence survived the appeals process intact for so long. The April 29 ruling, which was carried on a 4-3 vote, came after state and federal courts alike had upheld the prosecution’s case and allowed the state to come close to being able to execute Joseph Amrine even after the case against him had collapsed.

Amnesty International welcomes the Missouri Supreme Court decision. In a report issued in June 2002, when Joseph Amrine was facing the prospect of an execution date being set, Amnesty International called for him to be granted an executive pardon, with the stipulation that the state could retry him within a reasonable time, without recourse to the death penalty, or release him. The organization wrote that it did not know who stabbed Gary Barber to death on 18 October 1985, but suggested that neither did the state.¹

¹ *Joseph Amrine – Facing execution on tainted testimony* (AI Index: AMR 51/085/2002, June 2002).

While many abolitionists, including Amnesty International activists worldwide, had campaigned on behalf of Joseph Amrine, the Missouri Supreme Court decision was made possible by the tireless work of his appeal lawyers at the Public Interest Litigation Clinic in Kansas City. Without their diligent efforts, it is possible that Joseph Amrine would already be dead, killed by a state which had relentlessly sought his execution since obtaining a death sentence 17 years ago.

Proponents of the death penalty, at least those who would object to the execution of a man whose conviction was unsupported by any credible current evidence, might suggest that the Missouri Supreme Court's decision is a sign of the system working. But, really it should be seen as one more sign of a system that is beyond repair.

More than 100 people have been released from death rows in the USA since 1973 after evidence of their innocence emerged. Of the more than 840 executed in the same period, several have gone to their deaths despite serious doubts about their guilt² Amnesty International believes that history will eventually show that innocent people have been executed since the USA resumed judicial killing in 1977, as has emerged in other countries following abolition (for example, in the United Kingdom). Proponents of capital punishment, put on the defensive by the now overwhelming evidence of the fallibility of the capital justice system, challenge abolitionists to point to proof of an innocent prisoner having been executed. But this cannot be a priority for those trying to stop the conveyor belt of death. The investigation required to uncover such a case takes time and resources, luxuries unavailable when there is a steady stream of inmates facing execution.

Public concern across the USA has been fuelled by evidence that errors in capital cases occur not only in relation to guilt and innocence, but also in relation to sentencing. In other words, people are being sentenced to die for crimes that do not "deserve" the death penalty, a punishment supposedly reserved in the USA for the "worst of the worst" crimes and offenders.³ A landmark study of the US capital justice system, published in 2000, had examined death penalty cases between 1973 and 1995 and found that the rate of prejudicial error in capital cases was 68 per cent. In other words, courts found serious, reversible error in almost seven of every 10 of the thousands of death sentences that were reviewed on appeal during the 23-year study period. The study, conducted at Columbia University, found that the most common errors were inadequate legal representation and the suppression of evidence by prosecutors or police.⁴ The study expressed grave concern that the courts may not be reversing all serious errors.

Twenty-nine people have already been put to death this year, as the USA heads towards its 900th execution since 1977. They were selected for death under a system characterized by arbitrariness, discrimination and error. It is time for a moratorium on executions as a first step to abolition of this irrevocable and inescapably cruel punishment.

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² They include Edward Johnson (executed Mississippi, 1987), Roger Coleman (Virginia, 1992), Leonel Herrera (Texas, 1993), Roy Stewart (Florida, 1994), Robert Drew (Texas, 1994), Jesse Jacobs (Texas, 1995), Girvies Davis (Illinois, 1995), Larry Griffin (Missouri, 1995), Dennis Stockton (Virginia, 1995), Antonio James (Louisiana, 1996), Ellis Felker (Georgia, 1996), David Stoker (Texas, 1997), David Spence (Texas, 1997), Joseph O'Dell (Virginia, 1997), Leo Jones (Florida, 1998), Troy Farris (Texas, 1999), Roy Roberts (Missouri, 1999), Richard Jones (Texas, 2000), Gary Graham (Texas, 2000), Richard Johnson (South Carolina, 2002), Amos King (Florida, 2003), Larry Moon (Georgia, 2003).

³ For a recent illustrative example, see case of Johnny Martinez. *USA: Death by discrimination – the continuing role of race in capital cases*, AI Index: AMR 51/046/2003, April 2003, page 16-17.

⁴ Liebman, J.S. et al. *A broken system: Error rates in capital cases, 1973-1995*. Columbia University School of Law. 12 June 2000.