

EXTERNAL

AI Index: AMR 51/83/96

3 September 1996

Further information (2) on EXTRA 55/96 (AMR 51/38/96, 22 April 1996) and follow-up (AMR 51/39/96) - Death Penalty

USA (GEORGIA) Ellis Wayne FELKER

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Ellis Wayne Felker has received a new death warrant and is scheduled to be executed in Georgia on 10 September 1996. He was sentenced to death in 1983 for the murder of Joy Ludlam.

According to newspaper reports, evidence raises serious doubts as to Felker's guilt. Joy Ludlam disappeared 14 days before the discovery of her body. Felker, who knew Ludlam, was the main suspect and was put under police surveillance within hours of her disappearance. After the discovery of Ludlum's body in a creek, the first autopsy, performed by Warren Tillman, put her death within the previous five days. However, this would have ruled Felker out as a suspect as he had been under police surveillance for the previous 13 days. Tillman changed his mind and stated that Ludlum's body could have been in the water for 14 days. Tillman was working as a laboratory technician at the time and had no medical training.

Attorneys representing Felker during the appeals process showed Tillman's notes and photographs of Ludlam's body to pathologists who unanimously concluded that she could not have been dead for longer than three days. In spite of this, the appeal courts have upheld Felker's conviction.

During a press interview given on 14 July 1996, the Attorney General of Georgia, Michael Bowers, stated that there were no innocent prisoners on death row. He said, *"There is rarely any question about the guilt of these people, virtually none. That is a myth...these guys on death row are the pits."* When asked specifically about Felker, Bowers replied, *"I've talked to the cops who investigated him, and I asked them: 'Guys, is there any doubt about his guilt?' And they told me, 'Bullshit'."*

Felker came within hours of execution on 2 May 1996. He received a stay of execution from the US Supreme Court after his lawyer challenged the Anti-Terrorism and Effective Death Penalty Act. The Act set limits on the number of appeals death row inmates can bring before the courts and is designed to shorten the length of time taken up by the appeal process in death penalty cases. At the end of June 1996, the US Supreme Court ruled that the Act was constitutional and lifted the stay of execution. However, the Georgian authorities did not obtain another execution warrant until after the Olympic Games had taken place in Atlanta. Felker is the first prisoner to have an execution date since the Olympics ended in August.

At his hearing before the 2 May execution date, the Georgia Board of Pardons and Paroles refused to grant clemency to Felker. The Board has sole authority to grant clemency in Georgia.

Felker's legal appeals are probably now exhausted and the Georgia Board of Pardons and Paroles remains the only hope for him. He is currently appealing on the grounds that his previous attorneys did not pass on an offer of life imprisonment from the prosecution, as defence attorneys are required to do.

The offer followed the discovery that the prosecution had withheld evidence

(which it declined to produce in court) which normally the defence attorneys would be made aware of.

**FURTHER RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in English or in your own language:**

- expressing concern that Ellis Wayne Felker is scheduled to be executed on 10 September despite serious doubts about his guilt;
- urging the Georgia Board of Pardons and Paroles to reconsider the case of Ellis Wayne Felker and to commute his sentence of death to a prison term.

**APPEALS TO:**

Georgia Board of Pardons and Paroles

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and to diplomatic representatives of the USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**