

**EXTERNAL**

**AI Index: AMR 51/95/96**

**EXTRA 182/96**

**Death Penalty**

**22 November 1996**

**USA (VIRGINIA) Joseph O'Dell**

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Joseph O'Dell, white, is scheduled to be executed in Virginia on 18 December 1996.

Joseph O'Dell was sentenced to death in November 1986 for the murder of Helen Schartner, who was raped and murdered after leaving a nightclub on 4 February 1985.

O'Dell was convicted on the testimony of a prosecution witness who has recently signed an affidavit saying he lied when he testified at trial that O'Dell had confessed the murder to him in jail. The prosecution witness reportedly made his statement about O'Dell's confession because he thought he himself was facing a possible sentence of life imprisonment for breaking and entering and arson and thought he might be able to make a deal for a lighter sentence. The witness was reported in the press as saying "I don't want an innocent man's death on my shoulders...I feel better now, I feel relieved. I knew I didn't have to lie anymore". He could be prosecuted on a perjury charge, which carries a maximum 10-year sentence.

Results of DNA tests carried out for the defence after sentencing on blood found on O'Dell's clothes contradict serology tests carried out by the prosecution at trial which linked O'Dell to the crime.

O'Dell's death sentence was overturned in Federal District Court in 1994, reportedly "on a technicality". At the same time the Court failed to grant an evidentiary hearing on the DNA evidence on the grounds that the testimony of the prosecution witness would still have influenced the jury in imposing a sentence of death.

In November 1996 O'Dell's death sentence was reinstated by the 4th US Circuit Court of Appeals which unanimously agreed that O'Dell's claims of innocence have no merit.

According to reports O'Dell represented himself at trial after realizing that his court-appointed attorney lacked experience in criminal cases.

#### **BACKGROUND INFORMATION**

As of 31 July 1996 there were 53 prisoners under sentence of death in Virginia. Thirty-three prisoners have been executed in the state under its present death penalty laws. Virginia ranks third in the list of states which have carried out the most executions (Texas is first with 107, and Florida second with 37) since executions resumed in the US in 1977. Four other prisoners are scheduled to be executed in Virginia in December 1996. (see EXTRA 183/96, AMR 51/96/96). If these executions go ahead as scheduled Virginia will have executed more prisoners within 15 days than it has so far executed in any one year since it resumed executions in 1982. The most recent person to be executed in Virginia was Ronald Bennett on 21 November. Prisoners in Virginia choose their method of execution from either electrocution or lethal injection.

In Virginia, the Governor has sole authority to grant commutations, although he may act on a recommendation for commutation from the state's Board of Pardons and Paroles.

On 7 November 1996 Governor George Allen commuted the death sentence of Joseph Patrick Payne. Payne will now serve a life sentence without parole. Two other death row inmates have had their death sentences commuted in Virginia in the last five years. Joseph Giarratano's and Herbert Bassette's death sentences were commuted by Governor Wilder in 1991 and 1992 respectively, because of doubts concerning their guilt.

Amnesty International opposes the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment, as proclaimed in the Universal Declaration of Human Rights.

**RECOMMENDED ACTION: Please send appeals in English or in your own language:**

- expressing concern that Joseph O'Dell faces execution on 18 December despite serious doubts about his guilt of the crime for which he was sentenced, namely that he was convicted on the testimony of a prosecution witness who has since recanted;
- pointing out that DNA tests of blood found on O'Dell's clothes contradict the results of earlier serology tests, carried out on behalf of the prosecution;
- expressing concern that O'Dell received such poor legal representation at trial that he decided to represent himself;
- welcoming the commutation granted to Joseph Payne on 7 November 1996 and urging Governor Allen also to commute Joseph O'Dell's death sentence;
- expressing opposition to the death penalty in all cases.

**APPEALS TO:**

The Honourable George Allen  
Governor of Virginia  
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Richmond, VA 23219, USA

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**Telephone: +1 804 786 2211**

**Faxes: +1 804 371 6351**

**Salutation: Dear Governor**

**COPIES OF YOUR APPEALS TO:**

The Letters Editor  
Richmond Times-Dispatch  
Box 85333  
Richmond, VA 23293, USA  
**Faxes: +1 804 775 8019**

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

**PLEASE SEND APPEALS IMMEDIATELY.**