

EXTERNAL

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EXTRA 103/95

Death Penalty

11 September 1995

USA (Virginia) Dennis Waldon STOCKTON, white, aged 54

Dennis Stockton is scheduled to be executed in Virginia on 27 September 1995. He was sentenced to death for the murder of Kenneth Arnder in 1983.

According to press reports, Kenneth Arnder's body was found in North Carolina in 1978. The crime was investigated by officials from North Carolina but no charges were filed.

In 1982 the state of Virginia produced a witness, Randy Bowman, who claimed that he was a witness to a meeting at which Stockton agreed to kill Arnder for \$1,500. The prosecution claimed that Arnder was killed in Virginia and his body was then moved to North Carolina. The testimony of Randy Bowman was the state's main evidence against Dennis Stockton. No physical evidence linked Stockton to Arnder or indicated that the murder took place in Virginia.

The man who allegedly hired Dennis Stockton to kill Arnder, Tommy McBride, was also charged with conspiracy to commit capital murder. McBride's trial was scheduled for two weeks before Stockton's trial but was then deferred. Virginia authorities then sent the evidence against McBride to the District Attorney in North Carolina, suggesting that he be tried there. However, the authorities in North Carolina said there was no "credible" evidence against McBride and failed to file charges. A motion to dismiss the charges against McBride in Virginia alleged that his indictment "was designed only to impeach" McBride's credibility as a possible defence witness. McBride has never been tried on any charges relating to the murder of Kenneth Arnder.

In 1987, a federal judge set aside Stockton's death sentence when it was learned that the 1983 jury was tainted. The owner of a diner had told jurors eating lunch that Stockton should be executed. The judge offered Stockton a choice of life imprisonment or a new sentencing hearing. Stockton, insisting on his innocence, chose a new sentencing hearing. However, the law does not allow for evidence concerning guilt or innocence to be presented at a sentencing hearing and Stockton was again sentenced to death.

The validity of Randy Bowman's testimony against Stockton at the original trial has been continually challenged. The prosecution claimed that Bowman was not offered any incentives to testify. However in 1990, one of the two attorneys who prosecuted Stockton, Anthony Giorno, stated in a letter to Stockton's defence attorneys: "I am not aware of any promises made to Bowman other than that I told him I would endeavour to see that he would be transferred [to a different prison]." Enclosed with Giorno's letter was a letter from Bowman to the prosecution dated two weeks before the trial. In the letter Bowman states "I am writing to you to let you know that I'm not going to court unless you can get this 6 or 7 months I've got left cut off where (sic) I don't have to come back to prison." Transcripts of Bowman's testimony show that he denied any promises had been made and never mentioned the letter.

Seventeen days after Stockton's trial, prosecutors dropped charges of obtaining stolen property against Bowman. Fourteen months after the trial Bowman was released on parole.

In 1994 defence attorneys obtained affidavits from law enforcement officials. The officials stated that Bowman had become angry after Stockton's trial

"because promises allegedly made to him [in return for testimony against Stockton] were not kept." According to the affidavits, Bowman alleged that he had been promised a sentence reduction or that he would be transferred to another prison. Bowman was serving a prison sentence for larceny and firearm offences at the time of Stockton's trial.

There are also allegations that Bowman recanted his testimony. In a 1984 civil case challenging prison conditions, inmate Frank Cox testified he was in jail with Bowman when "Randy did tell me...that he lied on Dennis because he said, 'I hate that son of a bitch.'" Another inmate, Cleveland Martin, stated that Bowman told him "he would ...say anything for anybody if the money was right."

BACKGROUND INFORMATION

As of 30 April 1995, there were 56 prisoners under sentence of death in Virginia. Since executions resumed in 1982, 25 prisoners have been put to death under the state's current present death penalty laws. The last person to be executed in Virginia was Dana Edmonds on 24 January 1995. On 1 July 1994 the law was changed in Virginia to allow prisoners sentenced to death a choice of execution by electrocution or lethal injection. Previously executions had been by electrocution only. In Virginia the authority to grant executive clemency lies with the state governor.

Roger Coleman was executed in Virginia on 20 May 1992, despite doubts concerning his guilt. The United States Congressional House Judiciary Committee's 1993 report on innocent men sentenced to death singled Roger Coleman's case out, stating: "The reviews afforded death row inmates on appeal...simply do not offer a meaningful opportunity to present claims of innocence. Coleman's innocence was debated only in the news media, and considerable doubt concerning his guilt went with him to his execution."

Two death row inmates have had their sentences commuted in Virginia in the last five years. Joseph Giarratanno and Herbert Bassette's sentences of death were commuted by Governor Wilder in 1991 and 1992 respectively, because of doubts concerning their guilt.

RECOMMENDED ACTION: Please send make telephone calls/send telegrams/telexes/faxes/express and airmail letters in English or your own language:

- urging Governor Allen to grant clemency to Dennis Stockton;
- expressing deep concern that the state of Virginia is actively seeking to execute Dennis Stockton on 27 September 1995 in the face of serious doubts about his guilt;
- expressing deep concern that Dennis Stockton may have been convicted primarily on the strength of the testimony of a witness who believed he could benefit from helping the prosecution secure a conviction; and that the jury that convicted Dennis Stockton of murder was unaware of the possible ulterior motive of the main prosecution witness;
- expressing sympathy for the victims of violent crime and their relatives;
- urging that execution is a wholly inappropriate penalty in a case such as this, and that executive clemency is the traditional safeguard to prevent a possible miscarriage of justice where the judicial process has been exhausted.

APPEALS TO:

The Honorable George Allen
Governor of Virginia

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