

PUBLIC

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Death Penalty

24 August 2005

USA (OHIO)

John Spirko (m)

John Spirko is scheduled to be executed on 20 September 2005. He was sentenced to death in 1984 for the kidnap and murder of Betty Jane Mottinger in August 1982. He denies carrying out the murder and no physical or forensic evidence links him to the crime. The Ohio Parole Board will soon be making a recommendation to Governor Bob Taft on whether to grant clemency or not. The Governor will then decide John Spirko's fate.

The federal court is currently considering an appeal to reopen the case based on the grounds that prosecutors at John Spirko's trial knowingly presented a false case against him, linking him to the crime through the involvement of a co-defendant who was charged but never tried, and against whom all charges were dropped in May 2004. On 25 July, US District Court Judge, James Carr, presiding over the case reportedly said that issues in the case "deserve careful and thoughtful attention" asking prosecutors to "join in a request directly to the Supreme Court of Ohio to lift its execution order, thereby giving me the time I need before the scheduled date of execution" [to review the case]. He is further reported to have stated that the request for review is not "a bad faith or frivolous contention" or a "last moment effort to keep the hand off the switch".

Betty Jane Mottinger, the post mistress of Elgin, a small town in Ohio, was kidnapped and murdered in August 1982. John Spirko contacted police in October 1982 offering to trade information about the murder in exchange for help with charges he was facing in another, unrelated case. He reportedly gave a series of differing accounts about the murder, including that his best friend and former cell mate, Delaney Gibson, had told him that he had carried out the murder. Prosecutors at trial argued that Gibson and Spirko committed the crime together, saying that the information John Spirko had provided could only be known by the murderer, and relying on the testimony of an eye witness who testified that she was 100 percent sure that she had seen Delaney Gibson outside the post office the morning Mottinger disappeared.

The appeal currently before the federal court claims that prosecutors at John Spirko's trial knowingly presented a false case against him by arguing that he conspired with Delaney Gibson because they had evidence suggesting that Delaney Gibson was 500 miles away at the time of the crime. They also allege that one of the original state investigators has recently stated that he told prosecutors at trial that he believed Delaney Gibson did not participate in the crime. This, they say casts doubt on John Spirko's conviction and warrants reopening of the case.

Writing a dissent to the majority opinion in May 2004 which dismissed John Spirko's appeal for an evidentiary hearing on claims that the prosecution at trial knowingly presented false evidence, federal judge, John Gilman said: "the case against Spirko was far from overwhelming" and left him with "considerable doubt as to whether he [Spirko] has been lawfully subjected to the death penalty..." He noted "a striking fact about the record in this case is the complete absence of any forensic evidence linking Spirko to the crime", and said that the state's case against John Spirko was built on "three shaky pillars" with "a foundation of sand".

Former federal judge, William Sessions, who has been active in an initiative to promote procedural safeguards in death penalty cases, two retired federal judges and a former federal prosecutor have reportedly raised concerns about John Spirko's conviction and death sentence.

Amnesty International opposes all executions, regardless of issues of guilt or innocence. This is a punishment that is an affront to human dignity and a part of a culture of violence rather than a solution to it. It has not been shown to have any unique deterrent effect, denying the possibility of rehabilitation and reconciliation. In the US the capital justice system is marked by arbitrariness, discrimination and error, and US authorities have frequently violated international standards in their pursuit of judicial killing of prisoners including people whose guilt remained in doubt.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language.

- expressing concern that John Spirko is scheduled to be executed in Ohio on 20 September 2005;
- expressing sympathy for the family and friends of Betty Jane Mottinger, explaining that you are not seeking to excuse the manner of her death or to minimize the suffering caused;
- expressing concern at reports that prosecutors may have presented a false case against John Spirko at trial;
- urging the chair of the Board of Pardons to convey your concerns to the full Board and urging the Board to recommend that Governor Taft grant clemency to John Spirko;
- urging that as a minimum, a reprieve be granted allow John Spirko's claims to be properly investigated;
- calling Governor Taft to grant clemency to John Spirko.

APPEALS TO:

Gary Croft
Chair
Ohio Parole Board
1050 Freeway Drive North
Columbus, OH 43229
USA

Fax: +1 614 752 0600

Salutation: Dear Mr Croft

Governor Bob Taft
30th Floor
77 South High Street
Columbus, Ohio 43215-6117
USA

Fax: +1 614 466 9354

Email: (via website) <http://governor.ohio.gov/contactinfopage.asp>
Alternatively email: Governor.Taft@das.state.oh.us

Salutation: Dear Governor

COPIES TO: diplomatic representatives of USA (Ohio) accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. All appeals must arrive by 20 September 2005.