

PUBLIC

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Further information on EXTRA 70/00 (AMR 51/134/00, 21 August 2000) and follow-ups (AMR 51/145/00, 1 September and AMR 51/140/00, 4 September) - Death penalty

USA (Virginia) Derek Rocco Barnabei, white, aged 33

Derek Barnabei was executed on 14 September 2000 in Virginia. In his final statement he maintained his innocence of the 1993 rape and murder of Sarah Wisnosky, for which he was sentenced to death. He had been on death row for five years.

The case has generated widespread attention, particularly in Italy. According to one Virginia newspaper, the *Richmond Times-Dispatch*, Governor Gilmore received 364 appeals for clemency and 31 appeals supporting the execution from within Virginia. From outside the state, the Governor received no communications supporting the execution, and 13,271 appeals against it.

The governor denied clemency on 11 September after Barnabei's DNA was identified on fingernail clippings from the victim. The governor ordered the testing against the defence lawyers' objection. They wanted their own experts to establish whether the evidence had been compromised when it went missing for three days at the end of August (see earlier updates). The Governor said that he had been assured by the Virginia Division of Forensic Science, which did the testing, that the package containing the evidence had not been tampered with.

The courts rejected last-minute appeals to stop the execution on the grounds that Barnabei's constitutional rights had been violated when the evidence went missing. A supplementary request for clemency was filed with the governor on 13 September, noting that the police investigation into the circumstances of the disappearance of the evidence was still ongoing.

In denying clemency, Governor Gilmore said: "Now that the guilt of Barnabei has been confirmed, there remains the generalized assault on capital punishment by many in this country and foreign countries. I believe we are entitled to set a moral standard that violent murder will not be tolerated by civilized people. The rule of law requires that at some point the community is likewise entitled to justice."

Among those who appealed from "foreign countries" were the European Union and Pope John Paul II. The Speaker of the European Parliament described the execution as "sad and revolting", saying that "up to the last minute I had hoped for a gesture of clemency. But once again a state of the United States, Virginia, allowed the macabre scenario of an execution to take place". The Prime Minister of Italy wrote an open letter to a leading Italian national newspaper condemning the USA's continuing use of the death penalty. The Italian Justice Minister wrote to the US authorities calling for clemency for Derek Barnabei.

Derek Barnabei is the 666th person executed in the USA since it resumed judicial killing in 1977. He was the 68th person to be executed this year, the sixth in Virginia. Virginia has now executed 79 prisoners since resumption, second only to Texas.

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No further action by the UA Network is requested. Many thanks to all who sent appeals.