

URGENT ACTION

EXECUTION DUE WITHIN DAYS IN TEXAS

Steven Woods is due to be executed in Texas on 13 September. Convicted of a double murder in 2002, he is seeking commutation of his death sentence to life imprisonment. His co-defendant pleaded guilty to killing both victims and received a life sentence.

On 2 May 2001, the body of Ronald Whitehead and the fatally injured Bethena Brosz, who died the following day without regaining consciousness, were found in Denton County, north of Dallas, Texas. Both had been shot. Two young men in their early 20s, Marcus Rhodes and Steven Woods, were arrested and charged with the crimes.

Although Marcus Rhodes was arrested within three days of the murders, several months before Steven Woods, it was Woods who was brought to trial first, in August 2002. He was convicted and sentenced to death. Three months later, Marcus Rhodes reached a plea agreement with the prosecution in which he pleaded guilty to having personally shot both the victims, was sentenced to life imprisonment and transferred to California where he was facing charges for a murder committed before the Texas killings. He was sentenced to 25 years to life imprisonment for that murder. He is currently serving his life sentences in prison in Texas.

Steven Woods, now 31, is seeking clemency from the Texas Board of Pardons and Paroles and Governor in the form of commutation of his death sentence to life imprisonment, arguing that it is "irreconcilable" that he is to be executed for a crime for which his "no less culpable" co-defendant is serving a life sentence.

On appeal, lawyers for Steven Woods have argued that it was fundamentally unfair that the prosecution adopted inconsistent theories of his and Marcus Rhodes' guilt. At Woods' trial, the prosecution argued that while Rhodes had participated in the murders and supplied the car and the guns used in the crime, Woods had planned the crime and committed the shootings. Then in Rhodes' own sentencing under the plea deal in November 2002, Rhodes stipulated that he, Rhodes, had shot both the victims. The Texas appeal courts dismissed Steven Woods' claim of unfairness. In 2009, a federal court decided that because the US Supreme Court had never ruled on the constitutionality of the state presenting different theories in separate proceedings against co-defendants, it was not contrary to federal law for the state courts to have denied the claim that Woods had been denied due process.

The courts have also rejected the claim that Steven Woods' trial lawyers were constitutionally ineffective for failing to thoroughly investigate mitigating evidence of his history of abuse, neglect and mental health problems to use at the sentencing phase of his trial to try to persuade the jury to vote for a life sentence rather than death.

PLEASE WRITE IMMEDIATELY in your own language:

- Acknowledge the seriousness of the crime for which Steven Woods was sentenced to death;
- Expressing concern at inconsistent prosecution theories against the two defendants in this case and at the unfairness of an outcome where one defendant receives a death sentence and another who pled guilty to personally shooting the two victims receives a life sentence;
- Call for the execution of Steven Woods, prisoner number #999427, to be stopped and clemency granted.

PLEASE SEND APPEALS BEFORE 13 SEPTEMBER 2011 TO:

Clemency Section, Texas Board of Pardons and Paroles
8610 Shoal Creek Blvd. Austin, TX 78757-6814, USA
Fax +1 512 467 0945
Email: bpp-pio@tdcj.state.tx.us

Governor Rick Perry, Office of the Governor,
PO Box 12428, Austin, Texas 78711-2428, USA
Fax: +1 512 463 1849

Salutation: Dear Governor

Salutation: Dear Board members

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

Steven Woods had just turned 21 years old at the time of the crime for which he is facing execution. At the sentencing phase of his trial in 2002, the defence lawyers presented a single witness, a social worker, who had reviewed certain medical, school and juvenile justice records relating to the defendant's history. She presented some mitigating evidence, including that Steven Woods had been hospitalized as a child for self-mutilation and suicidal behaviour, that his father was violent, and that the boy had not received family or institutional support when he began to get into trouble with the law. Since the trial, a psychologist who has evaluated Steven Woods has said that because the social worker had never met Steven Woods or conducted any assessment of him, "she could only provide cursory testimony about what she had read in the records. Moreover, much of her testimony lacked the specificity and important detail about Steven's life needed to help the jury understand the links between his history of child abuse and neglect and his long-standing psychological problems. This seems to have occurred because trial counsel did not gather the data necessary for constructing an adequate social history."

Further mitigation investigation has been conducted during the appeal process, revealing information with which the jury was not presented. This includes evidence of possible sexual abuse of Steven Woods by his father (who left home when Steven was six), physical and emotional abuse at the hands of his stepfather, evidence of a family history of substance abuse and further evidence of Steven Woods' abuse of drugs from the age of 13, including LSD, cocaine, heroin, methamphetamines, codeine and marijuana. Steven Woods was homeless between the ages of 17 and 19, living in Detroit, Chicago and New York. During this time, he worked as a prostitute to obtain money for drugs. In addition, Steven Woods has been diagnosed with serious depression and other mental health problems and there is evidence of a family history of mental illness.

In 2009, the US District Court found that Steven Woods' trial lawyers should at least have attempted to interview their client's siblings when preparing for the sentencing phase. As a result this federal judge ruled that it had been unreasonable that the state appeal court found it was not deficient that the defence counsel failed to conduct a more thorough investigation into Steven Woods' family background. However, the judge said that he could not find that the outcome of the trial would have been different even if the lawyers had conducted a more thorough investigation. He upheld the death sentence and this was affirmed in 2010 by the US Court of Appeals for the Fifth Circuit.

Amnesty International opposes the death penalty unconditionally, in every case, in every country. The death penalty's fundamental flaws have led to what once seemed a permanent part of the legal landscape in many countries being dissolved, with 139 countries today abolitionist in law or practice. The US administration has dismissed appeals from such countries for the USA to abolish the death penalty as reflecting "continuing policy differences, not a genuine difference about what international human rights law requires." While it is true that international human rights law, including article 6 of the International Covenant on Civil and Political Rights (ICCPR), recognizes that some countries retain the death penalty, this acknowledgment of present reality should not be invoked "to delay or to prevent the abolition of capital punishment", in the words of article 6.6 of the ICCPR. The USA ratified the ICCPR nearly 20 years ago. The UN Human Rights Committee, the expert body established under the ICCPR to monitor the treaty's implementation, has said that article 6 "refers generally to abolition in terms which strongly suggest that abolition is desirable. The Committee concludes that all measures of abolition should be considered as progress in the enjoyment of the right to life".

There have been 1,266 executions in the USA since judicial killing resumed there in 1977, 473 of which have been carried out in Texas. There have been 32 executions in the USA this year, nine of them in Texas. There have been 273 executions in Texas since late 2000 under the governorship of Rick Perry (see <http://www.amnesty.org/en/library/info/AMR51/057/2009/en>)

Name: Steven Michael Woods

Gender: m

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