

URGENT ACTION

EXECUTION LOOMS AFTER DECADES ON DEATH ROW

The governor of Florida has signed a death warrant for Askari Abdullah Muhammad, a 62-year-old man originally sentenced to death in 1975 when he was 24 years old. He has a long history of serious mental illness, including diagnoses of paranoid schizophrenia.

Askari Abdullah Muhammad, formerly known as Thomas Knight, was sentenced to death in 1975 for the murder in July 1974 of Sydney and Lillian Gans near Miami. That death sentence was overturned in 1988, but he was again sentenced to death in 1996. Meanwhile, in 1983, he received a death sentence for the murder of a prison guard, James Burke, in October 1980. Although Askari Abdullah Muhammad's execution is currently stayed pending a hearing on the state's new lethal injection protocol, he could receive an execution date within weeks. The Florida Governor denied clemency when he signed the death warrant in October. Askari Abdullah Muhammad's lawyers are challenging the fairness of the clemency process.

The lawyers are also challenging the death sentence on the grounds of Askari Abdullah Muhammad's long history of serious mental illness. He was hospitalized in 1971 and treated for the early stages of schizophrenia, then diagnosed with paranoid schizophrenia prior to his 1975 trial. At that trial, one expert concluded that he was legally insane at the time of the crime while three others found that he was not, but that he did suffer from mental illness. At his 1996 re-sentencing in the Gans case, the defence presented expert evidence that Askari Abdullah Muhammad suffered from schizophrenia and that his mental illness had contributed to the murders.

In the year before the murder of Officer Burke, a doctor diagnosed Askari Abdullah Muhammad as "paranoid schizophrenic" and "clearly a man with a major psychiatric problem in need of appropriate medication and treatment responses". In the Burke case, two separate judges denied Askari Abdullah Muhammad's motion to represent himself due to questions about his mental competency. The first of these judges had noted that he "exhibits symptoms consistent with extreme paranoia" and that his lawyers had reported that he had a "severely disabling mental illness". That judge then withdrew from the case. The defence lawyers filed a motion with the replacement judge asserting that their client was suffering from paranoid schizophrenia, and a doctor reported that "Mr Askari has been suffering for many years from a schizophreniform illness." After the trial ended in mistrial, the judge withdrew from the case. A third judge allowed Askari Abdullah Muhammad to represent himself.

On appeal, the case was remanded for a hearing in the trial court, which in 2001 overturned the death sentence because of the prosecution's alleged withholding of witness evidence indicating that Askari Abdullah Muhammad may have been suffering from mental illness at the time of Officer Burke's death. However, the Florida Supreme Court reinstated the death sentence on the grounds that the alleged state misconduct had not change the outcome.

Please write immediately in English or your own language:

- Opposing the execution of Askari Abdullah Muhammad, who has been on death row for decades;
- Urging the governor to use the court stay of execution in this case to reconsider the denial of clemency;
- Noting Askari Abdullah Muhammad's history of serious mental illness;
- Acknowledging the seriousness of the crimes for which Askari Abdullah Muhammad was convicted.

PLEASE SEND APPEALS BEFORE 8 JANUARY 2014 TO:

Governor Rick Scott

Office of the Governor

The Capitol, 400 S. Monroe St. Tallahassee,

FL 32399-0001, USA

Email: Rick.scott@eog.myflorida.com

Salutation: Dear Governor

Also send copies to diplomatic representatives accredited to your country.

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

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ADDITIONAL INFORMATION

In 1988, the US Court of Appeals for the 11th Circuit overturned Askari Abdullah Muhammad's 1975 death sentence in the Gans case because the trial court had restricted consideration of mitigation evidence. It ordered the state "within a reasonable time" to either hold a resentencing or impose a sentence of less than death. A resentencing was not held for eight years, until early 1996, when Askari Abdullah Muhammad was again condemned to death for the Gans murders. Then in 2012, a US District Court ordered the state to hold a new sentencing within a year or commute the death sentence to life, on the grounds that Askari Abdullah Muhammad's right to confront a witness at his resentencing had been violated when the state presented that witness's evidence in the form of hearsay. In September 2013, the 11th Circuit overturned this ruling, two votes to one.

On 21 October 2013, Florida Governor Rick Scott signed a death warrant for Askari Abdullah Muhammad in the James Burke murder case, and the execution was set for 3 December. On 18 November, however, the Florida Supreme Court issued a stay of execution and remanded the case to the trial-level court for an evidentiary hearing on Florida's revised execution protocol issued in September 2013. In this protocol, the state Department of Corrections has replaced pentobarbital, the first drug in its three-drug procedure, with midazolam hydrochloride. The first drug is supposed to induce unconsciousness before the other two drugs are injected. Lawyers for Askari Abdullah Muhammad are challenging the efficacy of midazolam hydrochloride, which has been used in two executions so far in Florida. The Florida Supreme Court stayed Askari Abdullah Muhammad's execution until 27 December. If the courts rule against him, a new execution date could be set for as early as the first week of January 2014.

In 2009, the then most senior Justice on the US Supreme Court, Justice John Paul Stevens, wrote that "our experience during the past three decades has demonstrated that delays in state-sponsored killings are inescapable and that executing defendant after such delays is unacceptably cruel". Ten years earlier, in the Askari Abdullah Muhammad case and one from Nebraska, Justice Stephen Breyer had dissented against the Court's refusal to consider the constitutionality of holding a prisoner for so long on death row – by then it had been nearly 25 years since Askari Abdullah Muhammad had been sentenced to death (and the delays involved, Justice Breyer noted, had resulted "in large part from the States' failure to apply constitutionally sufficient procedures at the time of initial sentencing"). Another 14 years have passed since Justice Breyer's dissent, in which he wrote: "It is difficult to deny the suffering inherent in a prolonged wait for execution... And death row conditions of special isolation may well aggravate that suffering". After the stabbing of Officer Burke, Askari Abdullah Muhammad was placed in solitary confinement in the particularly harsh conditions of Q Wing in Florida State Prison. A forensic psychologist later testified in the case about the "tomb-like" conditions of Q Wing, in which Askari Abdullah Muhammad was held for nine years until 1989.

Dozens of countries have abolished the death penalty since Askari Abdullah Muhammad was first sentenced to death in 1975 and today 140 countries are abolitionist in law or practice. The US Supreme Court approved new capital statutes in 1976, including Florida's, and there have been 1,355 executions in the USA since then, 81 of which were carried out in Florida, putting it behind only Texas, Virginia and Oklahoma in the number of executions. Seven of the 35 executions in the USA so far this year have been in Florida. This is the most executions carried out in a single year in Florida since 1984. The annual number of death sentences in the USA has declined by more than two thirds since peaking in the 1990s. Florida remains one of the states bucking this trend. In 2012, there were 22 death sentences passed in Florida, more than in any year since 1998 and more than 25 per cent of all new death sentences nationally.

In an assessment of Florida's death penalty system published in 2006, the American Bar Association concluded that the lack of transparency surrounding the state's clemency process meant that it was impossible to determine the extent to which "inappropriate political considerations" impacted that process. Executive clemency has not been granted in a Florida case for 30 years, a period which has seen nearly 80 executions.

Amnesty International opposes the death penalty in all cases and all countries, unconditionally, regardless of the crime for which the person was condemned or the execution method the state uses.

Name: Askari Abdullah Muhammad

Gender m/f: m

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