

URGENT ACTION

OHIO GOVERNOR IS LAST HOPE FOR CLEMENCY

The Ohio Parole Board has voted against clemency for Kevin Keith, a 46-year-old African American man who is facing execution on 15 September. He maintains that he did not commit the three murders for which he was sentenced to death. The Ohio Governor will now consider his petition for clemency.

On 19 August, the Ohio Parole Board published its unanimous decision recommending that Governor Ted Strickland deny clemency to Kevin Keith. The Board said that, in a case such as this in which the prisoner asserts their innocence, "we believe that considerable deference should be afforded to the findings of the jury and trial court as well as subsequent... reviews." The Board's recommendation to the Governor is non-binding. Governor Strickland has already said that he finds aspects of Kevin Keith's case "troubling".

Kevin Keith was sentenced to death in May 1994 for the murders three months earlier of Marichell Chatman, her seven-year-old daughter Marchae Chatman and her aunt Linda Chatman who were fatally shot in Marichell's flat in Bucyrus in mid-Ohio. Her two young cousins and her boyfriend, Richard Warren, were also shot, but survived. Central to the prosecution's case was the claim that, in hospital after the shooting, Richard Warren had named Kevin Keith as the gunman, despite having told four people immediately after the crime that he could not identify the masked gunman. A number of US experts in eyewitness identification have noted that mistaken eyewitness identification has been a leading contributor to wrongful convictions in the USA, and maintain that Richard Warren's identification of Keith was "tainted by many factors", including suggestive police techniques. Although the parole board acknowledged that the police photo display shown to Warren may have been "suggestive", it decided that there was "nothing in the record to confirm that Richard Warren's recollection and testimony was the result of suggestive influences or coaching".

In 2009, a three-judge panel of the US Court of Appeals for the Sixth Circuit considered whether to review new evidence, including evidence pointing to an alternative suspect in the Bucyrus murders. Kevin Keith lost the decision, 2-1. The dissenting judge argued that "any reasonable factfinder would have serious, and reasonable, doubt as to whether it was Keith or [the alternative suspect] who committed the murders. Under these circumstances, [Keith] could establish by clear and convincing evidence that a *reasonable* factfinder could not find Keith guilty of three counts of murder." Among the thousands of people who have called for clemency for Kevin Keith are several former federal and state judges and prosecutors. They include former Ohio Supreme Court Justice Herbert Brown and former state Attorney General Jim Petro who said that he is "gravely concerned that the State of Ohio may be on the verge of executing an innocent person".

PLEASE WRITE IMMEDIATELY in English or your own language, in your own words:

- Noting the doubts that have been raised about Kevin Keith's guilt;
- Noting the fallibility of eyewitness identification, central to the prosecution's case here;
- Calling on the Governor not to allow this irreversible penalty to be carried out and to commute Kevin Keith's death sentence.

PLEASE SEND APPEALS BEFORE 15 SEPTEMBER 2010 TO:

Governor Ted Strickland, Governor's Office, Riffe Center, 30th Floor
77 South High Street, Columbus, OH 43215-6108, USA

Fax: +1 614 466 9354

Salutation: Dear Governor

Also send copies of your appeals to diplomatic representatives of the USA accredited to your country. Please check with your section office if sending appeals after the above date. This is the first update of UA 151/10 (AMR 51/056/2010). Further information: <http://www.amnesty.org/en/library/info/AMR51/056/2010/en>

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ADDITIONAL INFORMATION

More than 130 people have been released from death rows on grounds of innocence in the USA since 1976. At the original trial in each case, the defendant had been found guilty beyond a reasonable doubt. A number of prisoners have gone to their execution despite doubts about their guilt. One of the obstacles against remedying miscarriages of justice is the high level of deference that federal courts must give to state court decisions in capital cases under US law. Against such a backdrop, executive clemency becomes an even more crucial failsafe against injustice.

While international law is abolitionist in outlook, it recognizes the fact that some countries still retain the death penalty. Pending abolition, the international community has agreed that certain safeguards must be met in capital cases. One of these safeguards concerns the burden of proof on the death penalty state: "Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts". According to the information presented in Kevin Keith's clemency petition, the state has not met this standard in his case.

Amnesty International opposes the death penalty in all cases, regardless of the guilt or innocence of the condemned prisoner. This is a punishment that is incompatible with human dignity. There have been 36 executions in the USA this year, seven of them in Ohio.

Further information on UA: 151/10 Index: AMR 51/075/2010 Issue Date: 24 August 2010

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