

URGENT ACTION

MAN FACES EXECUTION DESPITE TRIAL CONCERNS

Gregory Wilson, a 53-year-old African American man, is scheduled to be executed in Kentucky State Penitentiary, USA, on 16 September after more than two decades on death row.

According to the state's case, on 29 May 1987, a 36-year-old woman, Deborah Pooley, was abducted at knifepoint outside the restaurant where she worked by **Gregory Wilson**, then 30, and Brenda Humphrey, a 34-year-old white woman. Deborah Pooley was forced into her car, raped, killed and her body left in a wooded area in central Indiana, a state neighbouring Kentucky. Gregory Wilson and Brenda Humphrey were tried jointly in 1988 with the state seeking the death penalty for both. Gregory Wilson was sentenced to death, Brenda Humphrey to life imprisonment.

The first lawyer appointed to represent Gregory Wilson withdrew in late 1987. Another lawyer was appointed but he withdrew in mid-1988. The trial judge then posted a notice outside his courtroom appealing for defence lawyers. Two attorneys volunteered, but serious concerns were raised about their qualifications to represent someone who was facing the death penalty (one of the lawyers had never even worked on a criminal case before). Having learned of their alleged unsuitability, Gregory Wilson sought to have them dismissed and others appointed. The judge held a hearing but terminated it after ruling that he was not going to hear any evidence regarding the background of the volunteer lawyer who was to serve as lead counsel, including allegations of malpractice and unethical conduct.

At the trial, Gregory Wilson again asserted that he did not have confidence in the lawyers, to which the judge responded that he had the right to represent himself. Gregory Wilson said that he did not know how to, but also said that the lawyers "don't represent me". The judge ruled that he had therefore chosen to represent himself, and Wilson told the judge that he was only doing so in the absence of being provided competent defence attorneys. The trial went ahead, with only one defence witness called – co-defendant Brenda Humphrey who testified that Wilson had strangled the victim. Humphrey's sister, who had apparently told police that Brenda Humphrey had said that she had killed Deborah Pooley, was not called. Key prosecution witnesses were not cross-examined.

On 2 September 2010, a judge ruled against two motions seeking a stay of execution. One raised the claim that Wilson has "mental retardation" and that his execution would therefore be unconstitutional. The judge noted that as a 14-year-old, Gregory Wilson had been assessed as having an IQ of 62 and that he was "mildly retarded", but denied the motion without a hearing. He also denied a motion for DNA testing of evidence from the crime scene.

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

- Acknowledging the seriousness of the crime for which Gregory Wilson was sentenced to death;
- Noting the serious concerns that have been raised surrounding the qualifications of his court appointed trial lawyers and the validity of his subsequent decision to represent himself rather than be represented by them;
- noting that Gregory Wilson's claim of mental retardation has been dismissed without a hearing;
- Calling on the Governor to stop this execution and to commute Gregory Wilson's death sentence.

PLEASE SEND APPEALS BEFORE 16 SEPTEMBER 2010 TO:

Governor Steve Beshear
Commonwealth of Kentucky
700 Capitol Avenue, Suite 100
Frankfort, Kentucky 40601, USA
Fax: +1 502 564 2517
Salutation: Dear Governor

Also send copies to diplomatic representatives of the USA accredited to your country. Please check with your section office if sending appeals after the above date.

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ADDITIONAL INFORMATION

Like all people charged with a criminal offence, a person charged with a capital crime has the right under international law to be represented by counsel of choice at trial and on appeal. If counsel is appointed free of charge, the accused is not entitled to an absolute right of choice. However, the UN Human Rights Committee, the expert body established under the International Covenant on Civil and Political Rights to oversee its implementation, has said that in death penalty cases the accused should be represented by counsel of choice, even if it requires adjournment of proceedings. In Gregory Wilson's case, the appeal courts have rejected the claim that his waiver of his right to counsel was invalid because he was forced to choose between representing himself and being defended by allegedly incompetent lawyers. In 2008, the Sixth Circuit Court of Appeals ruled that "indigent defendants do not have the right to counsel of their choice". It also ruled that "To the extent [the two lawyers] failed to act during trial, Wilson merely suffered the consequences of his decision to [represent himself]".

Another issue raised on appeal concerned the relationship between Brenda Humphrey and another of the judges in the courthouse where the trial took place. According to information which emerged in 2001, she and the judge in question had a sexual relationship from 1985, she had called him after her arrest in the Pooley murder case, and she had continued to see him in his chambers after each day of the 1988 trial. In 2002 the prosecutor admitted that he had seen a letter sent from the judge to Brenda Humphrey after her arrest in 1987, the contents of which he said were along the lines of "things will work out". While the prosecutor admitted that the letter was unusual, he said that it did not lead him to think there was an intimate relationship between the defendant and that judge. In its ruling upholding Gregory Wilson's death sentence in 2008, the Sixth Circuit Court of Appeals ruled that the prosecution's failure to disclose the fact that the judge and Brenda Humphrey were corresponding had not prejudiced Gregory Wilson by denying him an opportunity to impeach his co-defendant's credibility. It said that "Wilson had ample opportunity and motive to cross-examine Humphrey without knowing about the affair. Humphrey was facing the death penalty and attempted to minimize her role in the crimes by shifting blame for the murder to Wilson. Given the opportunity to cross-examine Humphrey, Wilson declined."

There have been three executions in Kentucky since the USA resumed judicial killing in 1977. Kentucky's current method of execution is lethal injection. In April 2008, the US Supreme Court upheld the constitutionality of the method of lethal injection used by Kentucky and most other US states with the death penalty, involving the use of three drugs. In November 2009, the Kentucky Supreme Court again halted executions in the state on the grounds that the authorities had not followed the proper administrative process when adopting its lethal injection protocol. The state Department of Corrections re-implemented the protocol in May 2010. A judge is currently considering whether this has ended the Supreme Court's November 2009 injunction.

Amnesty International opposes the death penalty unconditionally in all cases, regardless of the crime or the method used to kill the prisoner. The USA has carried out 1,224 executions since 1977. There have been 36 executions in the USA this year.

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