

URGENT ACTION

EXECUTION OF MENTALLY ILL MAN IN OHIO IMMINENT A 66-year-old man diagnosed with paranoid schizophrenia is facing imminent execution in Ohio, after nearly three decades on death row. Convicted of killing his three sons in 1982, Reginald Brooks is due to be put to death by lethal injection on 15 November.

Reginald Brooks, then aged 37, was arrested in Utah two days after the murder of his three sons, Reginald Jr. (aged 17), Vaughn (15), and Niarchos (11). The boys had been shot on 6 March 1982 in the family home in East Cleveland, Ohio. Their father was found competent to stand trial, waived his right to a jury trial, and was tried in front of a three-judge panel. He was found guilty of the murders and, on 30 November 1983, sentenced to death.

In October 2011, a judge conducted hearings on whether the prisoner is competent to be executed – that is whether he has a rational understanding of his punishment. The judge found that Reginald Brooks “continues to be mentally ill, as he was at the time he committed these killings”, that he suffers from paranoid schizophrenia, and that he currently presents with “persecutory delusions that he has been framed for a crime that occurred while he was leaving town”. However, he ruled that he is competent to be executed. This ruling is being appealed.

During the litigation, the appeal lawyers obtained documents, apparently from the trial prosecutor’s file, pointing to evidence that in the period leading up to the killings Reginald Brooks had displayed bizarre, aberrant and paranoid behaviour indicative of deteriorating mental health. Reginald Brooks’ trial lawyer has said that none of the documents was disclosed to the defence, and that this “secretion of the witness statements totally prevented me from properly and competently representing Mr Brooks”. The current lawyers are seeking a stay of execution, arguing that the information was unlawfully withheld from the defence and that it would have been relevant to a plea of not guilty by reason of insanity, and as mitigating evidence against the death penalty.

A clemency hearing was held before the Ohio Parole Board on 21 October. Among the witnesses was one of the three judges from the 1983 trial. Judge Harry Hanna said that he would not have voted for the death penalty if he had been presented with the information about Brooks’ behaviour prior to the shootings. He has also said in a sworn statement: “the new information from the prosecutor’s file paints a different picture than what was presented to me and the other two judges. My review of the police reports and statements indicates quite convincingly that Brooks was suffering from paranoid schizophrenia which related directly to the murder of his three children”. The Parole Board has recommended that Ohio’s Governor, John Kasich, deny clemency to Reginald Brooks, who it acknowledges “suffers from mental illness”. The Governor does not have to accept their recommendation.

Please write immediately in your own language:

- Acknowledge the seriousness of the crime and the suffering caused;
- Note the evidence that Reginald Brooks has long suffered from serious mental illness;
- Express concern that the defence lawyers and judges at the trial were unaware of evidence in the possession of the state of the defendant’s deteriorating mental health in the period leading up to the shooting
- Call on the governor to stop the execution of Reginald Brooks and to commute his death sentence.

PLEASE SEND APPEALS BEFORE 15 NOVEMBER 2011 TO:

Governor John Kasich, Riffe Center, 30th Floor, 77 South High Street, Columbus, OH 43215-6117, USA

Fax: +1 614 466 9354

Email via website: <http://governor.ohio.gov/Contact/ContacttheGovernor.aspx>

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.

**AMNESTY
INTERNATIONAL**



URGENT ACTION

EXECUTION OF MENTALLY ILL MAN IN OHIO IMMINENT

ADDITIONAL INFORMATION

Scores of individuals with serious mental health problems have been executed in the USA since judicial killing in 1977 (see USA: Execution of mentally ill offenders, <http://www.amnesty.org/en/library/info/AMR51/003/2006/en>).

At the clemency hearing last month, a psychiatrist stated that he had diagnosed Reginald Brooks as suffering from paranoid schizophrenia, a serious brain disorder that interferes with a person's ability to think clearly, to distinguish reality from fantasy, to manage emotions, to make decisions and to relate to others. In a signed statement Dr Rahn Bailey stated that, "As a forensic psychiatrist I can say with reasonable psychological and psychiatric certainty that the evidence contained in the prosecutor's files would have supported a not guilty by reason of insanity defense at trial. This is based upon a diagnosis of Schizophrenia, Paranoid type and supported by the anecdotal evidence made clear to outsiders around the time of the homicides. This evidence supports Mr Brooks as having been actively psychotic at the time he killed his children."

In addition to their efforts to obtain a stay of execution on the basis of their client's mental illness and the related question of whether evidence was unlawfully withheld from the defence at the time of the trial, Reginald Brooks' appeal lawyers have sought a stay while the Ohio capital justice system is studied. On 8 September 2011, the Chief Justice of the Ohio Supreme Court announced the formation of a Joint Task Force to Review the Administration of Ohio's Death Penalty. She explained that this was to "ensure that Ohio's death penalty is administered in the most fair, efficient, and judicious manner possible". The Task Force, she said, would be composed of judges, prosecutors and defence lawyers, legislators and academics and would answer the question "is the system we have the best we can do?" The retired Ohio judge who is to chair the Task Force has said that he is "terribly concerned about whether in fact the death penalty is properly applied in this state and I hope we ask all the hard questions that need to be asked". Despite such pronouncements, the Ohio Supreme Court has refused to grant a stay of execution in Reginald Brooks' case.

In the past four years, three states – New Jersey, New Mexico and Illinois – have legislated to abolish the death penalty. Signing these bills into law, the respective state governors pointed to the death penalty's flaws, such as the risk of irrevocable error and unfairness, its discriminatory application, its costs and diversion of resources from crime prevention and victim-assistance, the lack of any proven special deterrent effect, and its potentially brutalizing effect on society. In January 2011, Senior Ohio Supreme Court Justice Paul Pfeifer, who when he was a state legislator was a co-author of Ohio's death penalty statute enacted in 1981, wrote: "I helped craft the law, and I have helped enforce it. From my rather unique perspective, I have come to the conclusion that we are not well served by our ongoing attachment to capital punishment... I ask: do we want our state government – and thus, by extension, all of us – to be in the business of taking lives in what amounts to a death lottery? I can't imagine that's something about which most of us feel comfortable. And, thus, I believe the time has come to abolish the death penalty in Ohio".

Amnesty International opposes the death penalty in all cases, regardless of the crime, the offender or the method of execution. There have been 1273 executions in the USA since judicial killing resumed there in 1977, including 39 so far this year. Ohio has put 45 prisoners to death since resuming executions in 1999, all by lethal injection. In late 2009 Ohio switched from a three-drug to a one-drug execution protocol, carrying out the first execution in the USA under this method (See USA: An embarrassment of hitches, <http://www.amnesty.org/en/library/info/AMR51/058/2011/en>).

Name: Reginald Brooks

Gender m/f: m

UA: 331/11 Index: AMR 51/091/2011 Issue Date: 9 November 2011