

URGENT ACTION

EXECUTION WOULD VIOLATE INTERNATIONAL LAW

Marcellus Williams, a 55-year-old Black man, is scheduled to be executed in Missouri on 24 September 2024. He was convicted by an almost all-white jury in 2001 of the 1998 murder of a white woman and sentenced to death. The primary evidence at trial was informant testimony provided by two individuals incentivized by reward money and the possibility of leniency on their own charges. None of the forensic evidence ties Marcellus Williams to the crime. Male DNA on the murder weapon that was not his was contaminated by officials, meaning it cannot be used to identify a possible perpetrator. We urge Missouri governor to grant clemency and commute Marcellus Williams's death sentence.

TAKE ACTION: WRITE AN APPEAL IN YOUR OWN WORDS OR USE THIS MODEL LETTER

Governor Michael L. Parson
Capitol Building, Room 216. PO Box 720
Jefferson City, Missouri 65102, USA
Webform: <https://governor.mo.gov/contact-us>
Fax: +1 573 751 1495

Dear Governor

Marcellus Williams is due to be executed on 24 September 2024, despite the efforts of the St Louis County Prosecuting Attorney to have the conviction vacated. I am appealing for your intervention to stop the execution.

At his trial, in a county with a record of discriminatory prosecutorial jury selection tactics and significant racial disparities in application of the death penalty based on the race of the murder victim, the prosecutor dismissed six of the seven Black would-be jurors. The jury comprised 11 white people and one Black person. Furthermore, a US District Court in 2010 ordered that Marcellus Williams receive a new sentencing hearing, having found that his trial lawyer had failed to present any mitigating evidence of Marcellus Williams's violently abusive childhood. That decision was reversed by a divided Court of Appeals.

There are serious concerns regarding the reliability of the evidence used to convict Williams. The prosecution's case relied primarily on the testimony of two informant witnesses whose family and friends have since signed affidavits that both were known police informants, with a history of lying to seek leniency in their own cases, who were also incentivized by the prospect of reward money. Forms of incentivized informant testimony are leading contributors to wrongful convictions in capital cases in the USA. Furthermore, none of the forensic evidence tied Marcellus Williams to the crime. Three DNA experts have concluded independently of each other that he was not the source for male DNA on the murder weapon. However, this DNA evidence that could have helped to exonerate Marcellus Williams was contaminated by prosecutorial mishandling of the evidence at trial. Under international law, States must take all feasible measures to avoid wrongful convictions in death penalty cases.

International standards prohibit execution of anyone whose guilt is not based on "clear and convincing evidence leaving no room for an alternative explanation of the facts". This standard has not been met. There is strong evidence that the integrity of the trial in Marcellus Williams's case was undermined by racially discriminatory jury selection tactics and ineffective defence representation.

I urge you to grant clemency and to commute Marcellus Williams's death sentence.

Yours sincerely,

ADDITIONAL INFORMATION

The murder victim, a 42-year-old white woman, was stabbed to death in her home in University City, St. Louis, Missouri, on 11 August 1998. With no leads, the police suggested that the victim's family offered a \$10,000 reward

for information leading to identification of the perpetrator. A man (H.C.) contacted police to claim that Marcellus Williams (arrested in a separate case) had told him while sharing a cell that he had committed the murder. H.C. directed police to L.A., a former girlfriend of Marcellus Williams, who also implicated Marcellus Williams. The authorities charged Marcellus Williams with the murder.

The perpetrator left behind a crime scene with much forensic evidence, including fingerprints, hair, bloody shoeprints, as well as the murder weapon, a knife from her kitchen, still lodged in her neck. However, none of this forensic evidence tied Marcellus Williams to the murder. At the 2001 trial, the prosecutor dismissed six of the seven Black would-be jurors. The jury comprised 11 white people and one Black person. The prosecution's case rested primarily on the testimony of H.C. and L.A. The only other evidence was from a witness who said that Marcellus Williams sold him a laptop computer taken from the victim's house. The jury voted to convict him of first-degree murder and for the death penalty, which the judge imposed on 27 August 2001.

In 2010, a federal judge ordered that Marcellus Williams receive a new sentencing hearing, having found that his trial lawyer failed to present any mitigating evidence of how Williams was subjected to physical and sexual abuse by family members and of how he was exposed to guns, drug and alcohol use at an early age. The US Court of Appeals reversed the ruling by two votes to one, applying the highly deferential standard for federal review of state court decisions. The dissenting judge accused his two colleagues of "an unreasonable deference to an unreasonable strategy based on unreasonable investigation" by the trial lawyer.

Since the trial, new information calls into serious question the soundness of the conviction. There was trace male DNA on the murder weapon, a kitchen knife left lodged in the victim's neck. Three DNA experts have reviewed the post-conviction DNA testing of this knife and each independently excluded Marcellus Williams as the source of the DNA. Also, family members of H.C. provided sworn affidavits to the effect that he often lied, including to police to try to obtain leniency in his cases. One of his nephews, for example, said that "everyone in the family knew" that he "made up the story" about Marcellus Williams committing the murder, and that he did so because he wanted the reward money to leave town and go to New York. Friends of L.A. also signed affidavits that she was a known police informant and expected money for her testimony against Marcellus Williams. Finally, the trial witness who testified at trial that Marcellus Williams sold him the laptop signed an affidavit that Williams told him that the laptop belonged to L.A. and that if asked at the trial, he would have told the jury about this.

In January 2024 the current St. Louis County Prosecuting Attorney filed a motion to vacate Marcellus Williams's conviction. He had concluded that "new evidence suggests that Mr Williams is actually innocent". The exculpatory DNA evidence, he said, "when paired with the relative paucity of other, credible evidence supporting guilt, as well as additional consideration of ineffective assistance of counsel and racial discrimination in jury selection, casts inexorable doubt on Mr Williams's conviction and sentence". A court hearing was set for 21 August 2024 on the motion to vacate, but on the eve of the hearing, the Prosecuting Attorney discovered that the murder weapon had been contaminated by the DNA of members of the trial prosecution, destroying Marcellus Williams's opportunity to identify the source of the male DNA (and possible perpetrator). Given this development and to prevent his execution, Marcellus Williams entered an "Alford plea", not admitting guilt but agreeing to a sentence of life imprisonment without the possibility of parole. The Prosecuting Attorney agreed with this. However, the state Attorney General objected, and the Missouri Supreme Court blocked the judge from re-sentencing Marcellus Williams. The judge then held an evidentiary hearing on 28 August 2024. The office of the Prosecuting Attorney conceded that the prior administration had committed constitutional errors that had contributed to the unreliability of the conviction and death sentence. On 12 September, the judge issued his ruling, concluding that "There is no basis for a court to find that Williams is innocent, and no court has made such a finding. Williams is guilty of first-degree murder, and has been sentenced to death." He denied the motion to vacate, leaving the execution date in place.

The UN Human Rights Committee, established under the International Covenant on Civil and Political Rights (ratified by the USA in 1992), has said: "The execution of a person whose guilt has not been established beyond reasonable doubt constitutes an arbitrary deprivation of life".

Missouri accounts for 99 of the 1,595 executions in the USA since 1976, when the US Supreme Court upheld new capital laws. There have been 13 executions in the USA this year, two of them in Missouri. Since 1973 in the USA, at least 200 people have been convicted and sentenced to death and later exonerated, including four in Missouri. Amnesty International opposes the death penalty unconditionally in all cases.

PREFERRED LANGUAGE TO ADDRESS TARGET: English. You may also write in your own language.

PLEASE TAKE ACTION AS SOON AS POSSIBLE UNTIL: 24 September 2024.

NAME AND PRONOUNS: Marcellus Williams (He/Him)

LINK TO PREVIOUS UA: <https://www.amnesty.org/en/documents/amr51/6791/2017/en/>;
<https://www.amnesty.org/en/documents/amr51/6986/2017/en/>