

# URGENT ACTION

## CLEMENCY BOARD TO HEAR WHAT JURY NEVER DID

**Marcel Williams, aged 46, is due to be executed in Arkansas on 24 April. The jury never heard any mitigating evidence about his childhood of severe abuse and trauma. That evidence is now before the clemency board which will consider his petition on 27 March.**

On 5 December 1994, police found the body of Stacy Errickson, a 22-year-old woman, in a shallow grave near Little Rock, Arkansas. Marcel Williams, then aged 24, was charged with abducting, raping and killing the victim, who had disappeared on 20 November 1994. He was brought to trial in January 1997. His lawyers did not contest his guilt, instead seeking to persuade the jury to pass a sentence of life imprisonment rather than death. However, at the sentencing phase they provided no mitigating evidence. The only witness they presented was an inmate whose death sentence had been reduced to life and who testified that, in his opinion, conditions on death row were better than in the general prison population. The trial lawyers knew about, but did not present, compelling mitigating evidence relating to Marcel Williams' background of poverty, deprivation and abuse.

In 2007, after the death sentence had been upheld in the state courts, a federal judge ruled that "by clear and convincing evidence" the performance of the trial lawyers had been constitutionally inadequate because of their failure to present this mitigating evidence. After conducting a three-day evidentiary hearing, the US District Court judge summarized this evidence as follows: "Marcel Wayne Williams was subject to every category of traumatic experience that is generally used to describe childhood trauma. He was sexually abused by multiple perpetrators. He was physically abused by his mother and stepfather, who were his primary care[givers]. He was psychologically abused by both of his primary care[givers]. He was subjected to gross neglect in all categories of neglect: medical, nutritional, educational. He was a witness to violence in the home and in his neighbourhood throughout his childhood. As an adolescent, he was violently gang-raped in prison". The judge concluded that had the jurors heard such evidence it was likely that they would have returned a life rather than a death sentence. He ordered the state to give Marcel Williams a new sentencing hearing or change his sentence to life imprisonment without parole.

The state appealed, and in 2009 a three-judge panel of the US Court of Appeals for the Eighth Circuit reversed the District Court's ruling on procedural grounds, concluding that under US law Marcel Williams had not been entitled to the federal evidentiary hearing. The Eighth Circuit therefore itself disregarded the evidence introduced at that hearing and upheld the death sentence. In 2010, the US Supreme Court declined to take the case, over the dissent of two Justices, who argued that the Eighth Circuit's opinion came "at an unacceptable cost to the interests of justice". The Arkansas parole board is due to consider Marcel Williams' clemency petition on 27 March 2017.

### **Please write immediately in English or your own language:**

- Calling for clemency for Marcel Williams and for his death sentence to be commuted;
- Expressing concern that the jury heard no evidence about his background of poverty, deprivation and abuse and its effects, noting that the only judge to hear this evidence said that the death sentence should not stand;
- Explaining that you are not seeking to condone violent crime or to downplay its consequences.

### **PLEASE SEND APPEALS BEFORE 27 MARCH (to parole board) and 24 APRIL (to governor) 2017 TO:**

Arkansas Parole Board  
Two Union National Plaza  
105 W Capitol Avenue #500  
Little Rock, AR 72201-5730, USA  
Fax: +1 501 683-5381

**Salutation: Dear Board Members**

The Honorable Asa Hutchinson  
Governor of the State of Arkansas  
State Capitol, Suite 250  
500 Woodlane St, Little Rock, AR 72201, USA  
Fax: +1 501 682 3597  
Email: <http://governor.arkansas.gov/contact-info/> (use US detail)  
**Salutation: Dear Governor**

**Also send copies to diplomatic representatives accredited to your country.** HIS EXCELLENCY THE HONOURABLE MATTHEW BARZUN  
American Embassy, 24 Grosvenor Square, London W1A 6AE, tel: 020 7499 9000. Salutation: Your Excellency

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

**AMNESTY  
INTERNATIONAL**



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### ADDITIONAL INFORMATION

According to the Eighth Circuit's summary of the hearing held by US District Court Judge Leon Holmes in December 2006, "living in poverty and neglect, [Marcel] Williams began stealing and shoplifting to support his siblings", and spent time in juvenile facilities when he was between 12 and 14. "He resumed stealing shortly after his release and was convicted of aggravated robbery as an adult in 1986, when he was sixteen. He was sentenced to eight years in prison, where he allegedly was raped by three fellow inmates". A key witness at the District Court hearing was Dr David Lisak, an expert in psychological trauma, child abuse, and the relationship between abuse and violence. The summary of his testimony provided by Judge Holmes states that: "The physical abuse that Mr Williams endured was unrelenting. He was beaten by his stepfather, and by his mother. His mother was probably the major perpetrator simply because she was around for a longer period of time. The abuse was really hideous. They both beat him with their fists. They used belt buckles. They used extension cords. On two occasions, his mother deliberately burned him, once with boiling water and the other time with an electric coil... There were many occasions in which Mr Williams was left with welts, cuts, bleeding cuts... There is no meaningful way to quantify the severity of the physical abuse inflicted on Mr Williams, but if you were to divide it up into mild, moderate, and severe, there is no question that this is extremely severe". Dr Lisak also described the sexual abuse to which the young boy was subjected between the ages of nine and 14, and "by the time he was twelve years old, his mother was routinely pimping him". Also the psychological abuse "was constant".

Dr Lisak addressed the possible effects of such abuse. The summary of his testimony at the hearing continues: "It should be fairly obvious that, for somebody who has been subjected to that kind of unrelenting trauma up to the point of his incarceration at the age of fifteen, who then gets raped in prison and then spends essentially ten years in prison, there's not going to be a good outcome to this. Where would he learn anything that he needs to know in order to function in society?... During the six months that he was out before these terrible crimes, his life rapidly spirals out of control. I don't know how anybody would have bet very much money that he was going to be able to make it without a lot of external support, and he didn't." As Amnesty International has pointed out, while the links between trauma suffered by individuals during childhood or later in life and their own propensity to violence may be complex and variable, the death penalty denies such complexity and diverts resources from efforts to explain past violence and prevent its recurrence. The death penalty is a simplistic solution that denies any causation and is itself a part of a cycle of violence that does not move our understanding of the roots of violence forward one iota.

Like many states, Arkansas has faced problems sourcing chemicals for its lethal injection protocols and implementing protocols that courts find constitutional. On 23 June 2016, the Arkansas Supreme Court upheld the state's three-drug execution protocol, which uses a barbiturate or midazolam as a sedative, vecuronium bromide as a paralytic agent, and potassium chloride to induce fatal cardiac arrest. After the US Supreme Court declined to intervene in February 2017, Governor Hutchinson set execution dates for the eight men on whose behalf the legal challenge to the protocol had been brought: Bruce Ward and Don Davis on 17 April; Ledelle Lee and Stacey Johnson on 20 April; Marcel Williams and Jack Jones on 24 April, and Jason McGehee and Kenneth Williams on 27 April. See <https://www.amnesty.org/en/documents/amr51/5816/2017/en/>.

There have been six executions in the USA this year, bringing the total to 1,448 since judicial killing resumed in the USA in 1977 under new capital statutes approved by the US Supreme Court in 1976. The last execution in Arkansas – its 27<sup>th</sup> since 1977 – was carried out in 2005. In Arkansas the Governor has independent clemency authority even without a clemency recommendation from the parole board. Amnesty International opposes the death penalty unconditionally, in all cases and under any circumstances. Today some 141 countries are abolitionist in law or practice.