

URGENT ACTION



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30 May 2008

UA 148/08

Death penalty

USA (South Carolina)

David Mark Hill (m), white, aged 47

David Hill is scheduled to be executed in South Carolina on 6 June. He was sentenced to death in 2000 for the murder of three social workers in an office shooting in 1996. David Hill has given up his appeals.

Josie Curry, Michael Gregory and James Riddle were shot dead by David Hill in the office of the Department of Social Services (DSS) in North Augusta, South Carolina, on 16 September 1996. The next morning police found David Hill lying on railway tracks not far from the DSS building. He had shot himself in the head, but survived, with critical injuries.

David Hill was brought to trial in 2000. A doctor testified that although Hill had sustained frontal lobe damage to his brain when he shot himself, and was suffering from a degree of memory loss, he could understand the charges against him and would be able to follow the proceedings if he paid attention. Several experts testified that David Hill was suffering from serious mental health problems at the time of the crime, and was apparently not taking his medication on the day of the shootings. A psychiatrist who had been treating him in the months before the crime testified that Hill was suffering from three major mental disorders: post-traumatic stress disorder, panic disorder and major depressive disorder. He stated that a number of traumatic events in Hill's life had contributed to this, including his near-drowning when he was a teenager, his guilt over causing a car accident when he was 18 which killed his sister, witnessing an explosion at his workplace, and the stress of his daughter being left paraplegic in a car accident in 1995 (she died in 1998). David Hill made a number of suicide attempts in the months before the crime. In July 1996, police had been called to his home when he was threatening to kill himself with a shotgun. He was eventually talked out of it by his psychiatrist and taken for treatment for depression. The shootings at the DSS office took place about a week after his three-year-old daughter and his twin two-year-old sons had been taken into DSS custody.

The jury returned a death sentence and Hill's automatic appeal was rejected by the South Carolina Supreme Court in 2004. In May 2007, David Hill wrote to the prosecuting authorities asking them to assist him to "drop the rest of my appeals and have an execution date set." The following month, he changed his mind, but in July 2007 again decided to abandon his appeals. A hearing was held before a judge in August 2007 to establish whether Hill was competent to make this decision. A psychiatrist testified that Hill had suffered from severe depression and other mental disorders in the past, but that these were now in remission and he was not currently on medication for any mental illness. She testified that although he had sustained brain damage and neurological impairments as a result of shooting himself in 1996, he had made a good recovery.

The psychiatrist testified that David Hill's decision to drop his appeals appeared to be rational, that he knew the consequences of his decision and even believed that he could win an appeal if he proceeded to challenge his death sentence. Hill had apparently decided to wait until his father, whose health was failing, would no longer be aware of his son's decision to waive his appeals. After the father was taken to hospital and placed on "do not resuscitate" status, David Hill decided that he could now take the decision to expedite his own death. The psychiatrist also concluded that Hill's religious beliefs as a Mormon had contributed to his decision. Hill himself testified that "part of my religious

beliefs are that if you kill somebody, you shed somebody else's blood, that your blood has to be shed or you have to die in order to be forgiven for that, and that's one of my concerns and then there's some health issues that I'm dealing with that's...bothersome at times...There's not really one big reason. There is just – several different factors.” The judge found that Hill was competent to waive his appeals, and this was upheld by the state Supreme Court on 28 April 2008.

BACKGROUND INFORMATION

About one in 10 of the more than 1,100 men and women put to death in the USA since judicial killing resumed there in 1977 had given up their appeals (see *Prisoner-assisted homicide – more 'volunteer' executions loom*, May 2007, <http://www.amnesty.org/en/library/info/AMR51/087/2007>). Any number of factors may contribute to a condemned inmate's decision not to pursue appeals, including mental disorder, physical illness, remorse, bravado, religious belief, a quest for notoriety, the severity of conditions of confinement, including prolonged isolation and lack of physical contact visits, the bleak alternative of life imprisonment without the possibility of parole, or pessimism about appeal prospects. In some cases it appears that the detainee may have committed the crime in order to receive a death sentence. Pre-trial or post-conviction suicidal ideation seems to motivate the decision-making of some such inmates, including some whose abusive childhoods have left them traumatized or suffering mental health problems. With such cases in mind, the execution of “volunteers” is often compared to state-assisted suicide. However, “prisoner-assisted homicide” may be a more appropriate description of this phenomenon.

Rational or irrational, an inmate's decision to waive appeals may simply stem from a desire to gain a semblance of control over a situation in which they are otherwise powerless. As the US Supreme Court recognized over a century ago, “when a prisoner sentenced by a court to death is confined in the penitentiary awaiting the execution of the sentence, one of the most horrible feelings to which he can be subjected during that time is the uncertainty during the whole of it...as to the precise time when his execution shall take place.” One way for a prisoner to end this cruel uncertainty is to ask to be killed by the state. Given the rate of error found in capital cases on appeal, if the more than 120 “volunteers” executed since 1977 had pursued their appeals, there is a significant possibility that a number of them would have had their death sentences overturned to prison terms. To look at it another way, the phenomenon of “volunteers” contributes to the arbitrariness that is a part of the death penalty in the USA.

There have been 1,102 executions in the USA since judicial killing resumed there in 1977, 37 of them in South Carolina. Today, 137 countries are abolitionist in law or practice. In late 2007, the UN General Assembly passed a landmark resolution calling for a worldwide moratorium on executions. Amnesty International opposes the death penalty in all cases, unconditionally (see *The pointless and needless extinction of life: USA should now look beyond lethal injection issue to wider death penalty questions*, <http://www.amnesty.org/en/library/info/AMR51/031/2008/en>).

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible:

- expressing sympathy for the relatives and co-workers of Josie Curry, Michael Gregory and James Riddle, and explaining that you are not seeking to excuse the manner of their deaths or to downplay the suffering caused;
- opposing the execution of David Hill and the death penalty in general;
- noting the global abolitionist trend and last year's vote at the United Nations General Assembly calling for a worldwide moratorium on executions;
- calling on the governor to support a moratorium on executions in South Carolina and to work towards abolition of the death penalty in his state.

APPEALS TO:

Governor Mark Sanford
Office of the Governor
P.O. Box 12267
Columbia, SC 29211
USA

Fax: 1 803 734 5167

Email: via website: <http://www.scgovernor.com/contact/email/default.htm>.

Salutation: Dear Governor

PLEASE SEND APPEALS IMMEDIATELY.