

URGENT ACTION

VIRGINIA EXECUTION RESET AS DOUBTS PERSIST

Ivan Teleguz, a Ukrainian national, is scheduled to be executed in Virginia on 25 April. He maintains his innocence of the 2001 murder for which he was sent to death row in 2006.

Stephanie Sipe was found dead in her apartment in Harrisonburg, Virginia on 23 July 2001. Police suspected **Ivan Teleguz**, Stephanie Sipe's high school boyfriend and the father of her child, but DNA tests showed that blood evidence left at the crime scene did not match his. In 2003, Aleksey Safanov, who was seeking to avoid deportation due to federal criminal charges, offered to provide information that Ivan Teleguz had hired a "black man" to kill his former girlfriend. The "black man", Edwin Gilkes, denied this, but when police threatened him with a potential murder charge, he steered them to a third man, Michael Hetrick, whose blood matched blood found at the apartment. Police told Michael Hetrick that he could avoid the death penalty only if he testified against Ivan Teleguz. Michael Hetrick eventually claimed that he had carried out the murder for \$2,000 paid by Ivan Teleguz.

Ivan Teleguz was sentenced to death for hiring Michael Hetrick to commit murder. Michael Hetrick, Edwin Gilkes and Aleksey Safanov each received deals in exchange for testifying against Ivan Teleguz. Michael Hetrick avoided the death penalty, while Edwin Gilkes was given a deal that would allow his release in 2018. Edwin Gilkes testified that Ivan Teleguz was involved in another arranged murder in Ephrata, Pennsylvania. The prosecutor urged jurors to sentence him to death based on this evidence of a pattern of how he "solves problems" with arranged murder.

In a 2010 affidavit, Edwin Gilkes said that he had "fabricated" most of his trial testimony in order to avoid the death penalty, saying that "The truth is I don't have any evidence that Teleguz hired Hetrick". He said that his testimony about the murder in Ephrata was untrue. It has since been shown that the alleged murder in Ephrata never happened. Aleksey Safanov also recanted his previous testimony in an affidavit: "Ivan has never told me that he had arranged to have Stephanie Sipe killed, and my testimony at his capital murder trial, that he did tell me this, was false." A federal judge found it was necessary to hear live testimony in order to assess Teleguz's innocence, and held a hearing in 2013. Neither Aleksey Safanov nor Edwin Gilkes testified. The former had been deported and was outside the court's jurisdiction and the latter was threatened with losing his plea deal if he testified differently than he had at trial, so he refused to testify at all. Officials these two claimed had coerced them into false testimony denied having committed misconduct. Michael Hetrick, who was told that he could lose his plea deal and face a death sentence, testified as he had at the trial. The judge ruled that Ivan Teleguz had not proven he was innocent.

In late March 2016, Ivan Teleguz was two weeks from execution when he received a stay from the Court of Appeals for the Fourth Circuit to determine whether he could get back into court for consideration of his inadequate legal representation claim. After this was denied, a new execution date was set by a county court judge.

Please write immediately in English or your own language:

- Calling for the execution of Ivan Teleguz to be stopped and his death sentence commuted;
- Noting that two witnesses have recanted their trial testimony, and that the threat of the death penalty was used to secure the cooperation of a third principal witness at trial, the person who killed Stephanie Sipe;
- Expressing concern that before its sentencing decision, the jury heard highly prejudicial aggravating evidence against the defendant pointing to his involvement in a murder that did not occur as alleged;
- Explaining that you are not seeking to downplay the seriousness of violent crime or its consequences.

PLEASE SEND APPEALS BEFORE 21 APRIL IF POSSIBLE (for early decision by governor) TO:

Governor Terry McAuliffe

Common Ground for Virginia, P.O. Box 1475, Richmond, VA 23218, USA

Fax: +1 804-371 6531

Email (via website): <https://governor.virginia.gov/constituent-services/communicating-with-the-governors-office/>

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.

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ADDITIONAL INFORMATION

The federal judge who ruled against Ivan Teleguz in 2014 dismissed the claim that his state appeal lawyers had been deficient in failing to challenge the prosecution's use of the Ephrata murder evidence at the sentencing. In 2015, a three-judge panel of the US Court of Appeals for the Fourth Circuit split over this, with one of the judges arguing that the case should be sent back to the lower court for further evidentiary development. The dissenting judge, Senior Circuit Judge Andre Davis, wrote, in reference to the alleged Ephrata murder scenario portrayed in Gilkes' testimony: "Gilkes testified that the man standing with Teleguz told the other two men that someone 'would be killed' if certain debts went unpaid. Gilkes then testified that someone was in fact killed a few days later on Main Street in Ephrata. It has since been established that the Ephrata murder, as Gilkes described it, never occurred." During the 2013 evidentiary hearing, a Pennsylvania police officer testified that a man had been murdered "a short distance from Ephrata in Elizabeth Township, Pennsylvania... Although Teleguz first came to law enforcement's attention during the Elizabeth Township murder investigation, the officer established that another individual was convicted for the murder. Teleguz was not present at the scene of the murder, and he was neither charged nor arrested in connection with the crime".

Judge Davis noted that the state used Gilkes' Ephrata testimony to argue for Teleguz's "future dangerousness", an aggravating factor supportive of a death sentence under Virginia law, in addition to the other aggravator of the "vileness" of the Sipe murder. He continued: "[T]wo independent aggravating factors equal more than just multiple legs to stand on if one breaks. The stakes here are high and the jury was tasked with a nuanced moral judgment; prejudice is inherent when an invalid aggravating factor is considered in combination with a valid one. However 'vile' and therefore deserving of capital punishment the murder of Stephanie Sipe was under controlling Virginia law, the jury knew that the actual killer got a pass from the Commonwealth [of Virginia]. [The prosecution's] introduction of evidence of a murder in Ephrata... could very well have skewed Teleguz's sentence toward the ultimate one. For the prosecution, who portrayed Teleguz as a man who 'solves problems' with murder, the implication was not just that Teleguz had previously been involved in taking a life, but also that he associated with unsavoury characters who also take lives. The Ephrata murder reference during the penalty phase most certainly had its desired effect."

In 2004, the Inter American Commission on Human Rights found that a US death sentence passed against federal defendant Juan Garza was "arbitrary and capricious" because the prosecution had used evidence at the sentencing of Garza's involvement in four unsolved murders in Mexico. There was no clear evidence linking Garza to these crimes, for which he had never been prosecuted or convicted. Amnesty International considers that the use of the Ephrata murder evidence against Ivan Teleguz in support of a finding of "future dangerousness" was similarly prejudicial.

There have been five executions in the USA this year, bringing to 1,447 the total number of executions nationwide since 1976 when the US Supreme Court approved new capital statutes. Virginia accounts for 112 of this national total. The death penalty in the USA is marked by arbitrariness, discrimination and error, and prosecutorial misconduct and ineffective defence representation have been regular contributors to errors in capital cases that have been revealed over the past four decades. Amnesty International opposes the death penalty in all cases, unconditionally and regardless of questions of guilt or innocence, the seriousness of the crime, or the method used to execute the prisoner. Today, 141 countries are abolitionist in law or practice.

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