

# URGENT ACTION

## EXECUTION SET AFTER 26 YEARS ON DEATH ROW

**Patrick Hannon is scheduled to be executed in Florida at 6pm on 8 November. He was convicted in July 1991 of two murders committed six months earlier. Twenty-six years old at the time of the crime, he is now 53, having spent half of his life on death row.**

According to the evidence, on 10 January 1991, **Patrick Hannon**, Ron Richardson and Jim Acker went to the Tampa apartment where Brandon Snider and Robert Carter lived. Brandon Snider was attacked when he opened the door; he was stabbed and had his throat cut. Robert Carter was shot dead upstairs. Patrick Hannon was brought to trial in July 1991. Several days into the trial, Ron Richardson, charged with first-degree murder but due to appear as an alibi witness for Patrick Hannon, changed his story and reached an agreement with the state to plead guilty to being an accessory after the fact, and to testify for the prosecution. Patrick Hannon was convicted of two counts of first-degree murder and the jury voted for death. His appeal lawyers continue to challenge his death sentence arguing it is “disproportionate and disparate in comparison to his co-defendants”. Ron Richardson was sentenced to five years, eventually serving 14 months. In 1992, Jim Acker, against whom the state originally pursued the death penalty, was convicted of two counts of first-degree murder and sentenced to life imprisonment. At a retrial in 2001, he was sentenced to life for first degree murder and 22 years for second degree murder.

At the sentencing phase, the defence lawyer continued solely to argue and present testimony that Patrick Hannon was innocent and did not have the type of character to commit these murders, despite the jurors having already rejected that at the conviction stage. At a post-conviction hearing in 2002, Patrick Hannon’s appeal lawyers showed that he had a history of serious substance abuse from a young age – including with alcohol, LSD, crystal methamphetamine, hallucinogenic mushrooms and crack cocaine – as well as possible neurological impairments resulting in poor impulse control. One psychologist testified that Patrick Hannon was an “extreme follower”.

In 2006, by a vote of four to two, the Florida Supreme Court upheld the death sentence, rejecting the claim that his lawyer had been constitutionally ineffective by failing to investigate and present such evidence. The majority ruled that the lawyer’s decision to continue to argue innocence and “not to investigate and develop mitigation” had been reasonable. Two judges disagreed, arguing that the lawyer’s decision not to present mitigation could not have been strategic because his lack of investigation meant that he was unaware of such evidence. According to the dissent: “At this critical juncture, with his client’s life on the line, instead of presenting evidence and arguments as to why the death penalty was not appropriate, defense counsel essentially defaulted. His only defense was that his client was not really guilty”. This, they argued, was “a classic case of ineffectiveness of counsel” leading to a “breakdown of our adversarial system” and a jury that was given “no meaningful choice in its penalty phase deliberations”. Patrick Hannon, they argued, should get a new sentencing. His execution has been set for 6pm on 8 November.

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

- Calling for Patrick Hannon’s execution to be halted and his death sentence commuted;
- Noting that two state Supreme Court Justices believed he should get a new penalty phase because of a “classic case of ineffectiveness of counsel” leaving the jury with “no meaningful choice” in its sentencing decision.

### PLEASE SEND APPEALS BEFORE 8 NOVEMBER 2017 TO:

Governor Rick Scott  
Office of the Governor, The Capitol  
400 S. Monroe St.  
Tallahassee, FL 32399-0001, USA  
Email: Rick.scott@eog.myflorida.com  
**Salutation: Dear Governor**

Office of Executive Clemency  
Florida Parole Commission, 4070 Esplanade Way  
Tallahassee, FL 32399-2450, USA  
Email: ClemencyWeb@fpc.state.fl.us  
Fax: +1 850 414-6031 or +1 850 488-0695  
**Salutation: Dear Members of the Clemency Board**

**Also send copies to diplomatic representatives accredited to your country.** HIS EXCELLENCY WOODY JOHNSON, Embassy of the United States of America, 24 Grosvenor Square W1A 6AE, tel: 020 7499 9000 *There is at present no general embassy email address*  
**Please check with your section office if sending appeals after the above date.**

**AMNESTY  
INTERNATIONAL**



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### ADDITIONAL INFORMATION

The two judges dissenting from the Florida Supreme Court's decision to uphold Patrick Hannon's death sentence in 2006 said: "Shockingly, the record reflects that Hannon's counsel did no investigation for mitigation, and, in fact was not going to present any form of mitigation during the penalty phase, even a continuing claim of not guilty". The "trial judge actually directed him to reconsider this irrational strategy; thereafter, Hannon's counsel presented the evidence relating to the 'my client is too nice to have done this' strategy." The dissent said that the lawyer, a former prosecutor, testified at the 2002 evidentiary hearing that he had not investigated his client's background because he "expected this case to go back to trial", perhaps after "someone" came forward or there was a "confession in jail just like you read about all the time". The dissent said that "such naiveté would be surprising anywhere, but it is shocking and inexcusable on the part of a lawyer charged with defending a capital offense".

Under state law, the Florida Governor can grant reprieve from execution of up to 60 days, but can commute a death sentence only with the approval of two members of the Board of Executive Clemency. The Board is comprised of the Governor and members of the Cabinet. The Governor can deny clemency for any reason, regardless of the Board's vote on the matter. Executive clemency has not been granted in a Florida capital case since 1983. In 2006, the American Bar Association concluded that the lack of transparency surrounding Florida's clemency process meant that it was impossible to determine the extent to which "inappropriate political considerations" impacted that process. As is usual in Florida, Patrick Hannon's death warrant signed by Governor Scott in October 2017 stated that "it has been determined that executive clemency is not warranted". Patrick Hannon's lawyers are challenging the "unknown" and "arbitrary" process by which the Governor exercised his "absolute discretion" to choose Patrick Hannon over any other condemned inmate for a death warrant.

On 12 January 2016, in *Hurst v. Florida*, the US Supreme Court ruled Florida's capital sentencing scheme unconstitutional because it gave juries only an advisory role in sentencing. This, it said, was incompatible with its 2002 *Ring v. Arizona* decision that the US Constitution requires juries, rather than judges, to make the factual findings necessary to sentence a defendant to death. In December 2016, the Florida Supreme Court ruled that *Hurst* applied retroactively to just over half of the nearly 400 prisoners then on death row, who would be entitled to resentencing if the state failed to prove that the "*Hurst* error" was "harmless". Justice James Perry dissented, arguing that the majority had decided "to arbitrarily draw a line between June 23 and June 24, 2002 – the day before and the day after *Ring* was decided", but "does not offer a convincing rationale as to why 173 death sentenced persons should be treated differently than those whose sentences became final post-*Ring*...The majority's application of *Hurst v. Florida* makes constitutional protection depend on little more than a roll of the dice." Justice Barbara Pariente also argued that *Hurst* should apply retroactively to all death sentences, pointing out that "we must be extraordinarily vigilant in ensuring that the death penalty is not arbitrarily imposed".

Amnesty International opposes the death penalty unconditionally. Today 141 countries are abolitionist in law or practice. In 1972, Florida became the first state in the USA to legislate for the death penalty after the US Supreme Court had overturned the country's capital laws earlier that year because of the arbitrary manner in which death sentences were being handed down. The Court upheld new statutes, including Florida's, in July 1976. In 1979, Florida carried out the USA's first "non-consensual" execution under these laws, three-and-a-half years before any other state did the same thing. It carried out its first post-*Hurst* execution on 24 August 2017, and the second on 5 October. There have been 1,463 executions in the USA since 1976, 21 of them this year. Florida is the US state which accounts for most wrongful convictions discovered in capital cases. For more information on Florida's death penalty, see *Death in Florida* (<https://www.amnesty.org/en/documents/amr51/6736/2017/en/>).