

Last-minute appeal denied before 6 p.m. execution

John Marek's will be the 68th Florida execution since 1979.

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The Florida Supreme Court denied convicted killer John Richard Marek's last-minute appeal and his execution is scheduled for 6 p.m. Wednesday at the Florida State Prison in Raiford.



Marek, who was convicted of the 1983 kidnapping, rape and murder of Adella Marie Simmons, has maintained that co-defendant Raymond Wigley was the predominant actor in Simmons' brutal death.

Wigley died serving a life sentence in prison for his involvement in the murder, but Marek was presented to the jury as the initiator of the crime and sentenced to death in part because it was particularly heinous.

Marek's attorney has other appeals in the works, including a request for clemency from Gov. Charlie Crist, who signed Marek's death warrant in March.

Barring intervention by a higher court, Marek will have a series of lethal chemicals injected into his body tonight.

Marek has only had a handful of visitors since his incarceration on death row 26 years ago.

Marion Dollinger, of Eppelheim, Germany, identified herself as Marek's girlfriend when she visited in May, and Wednesday morning she was with Marek for three hours, the last time they will be able to have contact.

Marek's final meal, which was not to exceed \$40, consisted of a bacon, lettuce, tomato sandwich; onion rings; french fries; berries with whipped cream; and a Dr. Pepper.

Florida has executed 67 people since the death penalty was reinstated in 1976.

Marek will be the fourth person executed since an execution in December 2006 when the needle administering the lethal drugs missed the veins of Angel Diaz, causing the inmate to wince in pain and the death to be prolonged.

Since then protocols have been put in place to ensure the execution is swift and painless.

Adella Simmons was a 47-year-old mother of two when she accepted a ride from Marek and Wigley in 1983, while her friend Jean Trach remained with their broken-down car on the Florida Turnpike.

That was the last time Trach saw Simmons.

Simmons' body was discovered hours later in a Dania Beach lifeguard shack. She had been badly beaten, burned in places with a lighter or match and a handkerchief had been used to strangle her.

Police encountered both Marek and Wigley on the beach hours before Simmons' body was discovered, and both of their fingerprints were found on the lifeguard stand. Only Marek's prints were inside the shack.

New testimony that Wigley was the killer was denied on appeal, and Marek's attorney, Martin McClain, has now filed a last-minute request for a stay based on other jail-house testimony that Wigley was in fact the killer.

McClain calls Florida's execution process both "arbitrary and capricious."

Of the 392 inmates on Death Row, between 30 and 50 have exhausted their appeals process and are awaiting the issuance of a death warrant by the governor, which then initiates a new appeal process.

"Out of 50 or more people, only two get picked," said McClain. "It's sort of like a lottery."

Crist hasn't disclosed how or why he selected Marek and another convicted murderer, David Johnston, in April for the death warrants.

Todd Doss, counsel for Johnston, has filed what he calls a "Lackey appeal" alleging his client's 24-year stint on death row equates to cruel and unusual punishment.

"The general experience is that they fight and they fight and generally once you are in post conviction you lose," Doss said. "It's almost like a repeated exercise in futility until you get that day you are granted relief or until the day of your execution. I don't know if that's something that we in the free world can comprehend."

Yet it's hard for most people to sympathize with convicted killers in crimes like the murder of Simmons who left behind two children.

Simmons and her friend, Jean Trach, were returning from a short vacation in Clearwater when their 1982 Chevy Monza broke down near the Turnpike, according to court documents.

The last time Trach saw her friend was as she climbed into a truck with Marek and Wigley.

Trach couldn't be reached for comment but told The Associated Press in May that Marek "deserves anything the country wants to give him."

"She had no choice. She died a horrible death. They burned her, raped her, beat her up and strangled her," Trach is quoted as saying by The Associated Press .

In 2008, the Florida Supreme Court received 68 death penalty reviews which are automatic after a court initially rules for the death penalty.

In contrast, only two or three death warrants are signed by the governor every year. Yet, experts caution signing more death warrants wouldn't expedite the process.

Once a death warrant is signed, it remains open until the person is executed or exonerated, said Craig Waters, spokesman for the Florida Supreme Court.

A third inmate, Robert Trease, also has a death warrant currently open, but Trease was declared incompetent to stand trial and, according to law, cannot be executed.

Many people note the high rate of exoneration in Florida as evidence that the system is working as it should be.

"These cases are picked over with a fine tooth comb and a magnifying glass and there have been a whole boat load of them that have been found innocent," said Eaton. "In fact I inherited one and ordered a new trial in 1995."

But Mark Elliot, with Floridians to Alternatives to the Death Penalty, sees that as evidence the death penalty should never be imposed.

"We have more wrongful convictions on death row than any other state and the risk of making a fatal mistake is high," Elliot said.