

**PUBLIC**

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**Death penalty / Legal concern**

**27 September 2004**

**USA (North Carolina)**

**Sammy Crystal Perkins (m), black, aged 50**

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Sammy Perkins is scheduled to be executed in North Carolina on 8 October 2004. He was sentenced to death for the murder of a seven-year-old girl, LaSheena Renae "JoJo" Moore, in 1992.

At the trial, the state presented evidence that Sammy Perkins had sexually assaulted JoJo Moore and smothered her to death during the early hours of 19 April 1992. JoJo Moore was the grandchild of a woman whom Sammy Perkins had known for several years and whom he had been dating for a few weeks. Sammy Perkins testified that on the night and morning in question he had been drinking and smoking crack cocaine. He said that the child had woken up while he was having sex with her grandmother and that he had covered her face with a pillow so that she would not see them. The jury found Sammy Perkins guilty of capital murder and sentenced him to death.

During the trial, before all the evidence had been presented, the judge was told that one of the jurors had said to her baby-sitter that the jurors had already decided that Sammy Perkins was guilty and all but one of them had decided that he should be executed. The jury had not yet heard all the evidence; the judge questioned them about this conversation, and they denied that they had already reached a verdict. The judge found that the contents of the conversation between the juror and her baby-sitter could not be ascertained, and refused to declare a mistrial or to dismiss the juror in question. The appeal courts have not allowed a full hearing on this issue.

According to Sammy Perkins's clemency lawyers, the trial jurors were not presented with the full picture of the man they sentenced to death. Several of his family suffered from bipolar disorder (manic depressive illness), and he had begun showing signs of this serious mental illness from his late teens. Being from a poor family he was unable to get appropriate treatment, and used cocaine, heroin and alcohol to alleviate his symptoms. He was also on prescription drugs for myasthenia gravis, a disease that causes muscle weakness. Although his trial lawyers presented evidence of this disease, they had not investigated his bipolar condition, and the jury did not hear expert evidence about this illness and its effects on the defendant.

Sammy Perkins's current lawyers are challenging the lethal injection process in North Carolina, on the grounds that it violates the constitutional prohibition on cruel and unusual punishment. The lethal injection process involves three chemicals: sodium thiopental (a short-acting anaesthetic), pancuronium bromide (which paralyzes the muscles, but does not affect the brain or nerves) and potassium chloride, which causes death by cardiac arrest. A person injected with pancuronium bromide alone remains conscious but cannot move or speak. Legal challenges have been made against its use in executions in various states on the grounds that if the anaesthetic fails, the pancuronium bromide may throw a "chemical veil" over the reality of lethal injections by masking the suffering caused by the potassium chloride. In a challenge in Tennessee, a woman testified that she had undergone surgery during which the anaesthetic had failed. She testified that she was able to hear, perceive and feel everything that went on during her surgery, but was unable to move or speak because of an injection of pancuronium bromide. She has described the experience as "worse than death". The use of pancuronium bromide for pet euthanasia is not acceptable under American Veterinary Medical Association guidelines, and its use for this purpose has been banned in several states.

#### **BACKGROUND INFORMATION**

Amnesty International opposes the death penalty in all cases, regardless of the gravity of the crime, the guilt or innocence of the condemned, or the method used to kill the prisoner. The death penalty is an affront to human dignity and a symptom of a culture of violence, and consumes resources that could otherwise be

used towards constructive strategies to combat violent crime and to offer assistance to its victims and their families. In addition, the capital justice system in the USA is marked by arbitrariness, discrimination and error.

The United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty require that capital defendants receive "adequate legal assistance at all stages of the proceedings". The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has said that in capital cases, all mitigating evidence must be taken into account. In repeated resolutions in recent years, the UN Commission on Human Rights has called on all states that still have the death penalty not to use it against anyone suffering from a mental disorder.

Today, a clear majority of countries have abolished the death penalty in law or practice. In contrast to this, there have been 929 executions in the USA since it resumed judicial killing in 1977. There have been 44 executions this year.

**RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words:**

- expressing sympathy for the family of JoJo Moore, and explaining that you are not seeking to excuse the manner of her death or to minimize the suffering it has caused;
- opposing the execution of Sammy Perkins;
- expressing concern that the jury did not hear expert or other evidence that Sammy Perkins suffered from bipolar disorder, a serious mental illness;
- expressing concern that the appeal courts have not allowed a full hearing into allegations that the jurors had formed an opinion about punishment before they had heard all the evidence;
- calling on the Governor to grant clemency to Sammy Perkins;
- urging the Governor to support a moratorium on executions in North Carolina.

**APPEALS TO:**

Governor Michael F. Easley  
Office of the Governor  
20301 Mail Service Center  
Raleigh, NC 27699, USA

**Fax:** + 1 919 715 3175  
+ 1 919 733 2120

**Email via website:** <http://www.governor.state.nc.us/email.asp?to=1>

**Salutation:** Dear Governor

**COPIES TO:** diplomatic representatives of the USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** All appeals must arrive by 8 October 2004.