

PUBLIC

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Death penalty / Legal concern

1 August 2002

USA (Virginia)

Shermaine Ali Johnson, (m), black, aged 24

At a re-sentencing hearing scheduled to begin on 12 August in Petersburg, Virginia, the prosecutor intends to seek a death sentence against Shermaine Johnson. The crime he has been convicted of committing occurred in 1994 when he was 16 years old. International law, respected in almost every country in the world, prohibits the use of the death penalty against people who were under 18 at the time of the crime.

In 1998, Shermaine Johnson was sentenced to death for the rape and murder of Hope Denise Hall in July 1994. Shermaine Johnson had become a suspect in the crime after a search of the state's DNA databank in August 1996 linked him to the murder. At the time, he was serving a 100-year prison sentence for other rapes committed in July and August 1994. His DNA profile had been added to the database as a result of these rape convictions.

At his trial for the murder, Shermaine Johnson pleaded not guilty. The day before the trial was due to begin, his state-appointed defence lawyer sought to withdraw from the case on the grounds that he was not competent to handle the highly technical nature of the DNA evidence that would be presented by the state. His request was denied.

Shermaine Johnson's death sentence was overturned in 2001 by the Virginia Supreme Court and sent back for re-sentencing because his trial jury had not been informed that he would be ineligible for parole if they sentenced him to life imprisonment.

BACKGROUND INFORMATION

There is an unequivocal international legal prohibition on the use of the death penalty against people who were under 18 at the time of the crime. The Geneva Conventions, the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child, the American Convention on Human Rights and the United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, all have provisions exempting this age group from the death penalty.

When the USA ratified the ICCPR, it filed a "reservation" purporting to exempt it from the prohibition on the execution on child offenders. The UN Human Rights Committee, the body established by the ICCPR to monitor that treaty's implementation, has stated that the reservation is invalid and should be withdrawn. It has confirmed that the prohibition cannot be derogated from, even in times of emergency, and has "deplored" the USA's continuing execution of child offenders. The USA is the only country apart from Somalia not to have ratified the Convention on the Rights of the Child. In May 2002, Somalia signed the treaty and indicated its intention to become the 192nd country to ratify it.

In 2000, the UN Sub-Commission on the Promotion and Protection of Human Rights affirmed that the imposition of the death penalty against people who were under 18 at the time of the crime violates customary international law, binding on all countries regardless of which treaties they have or have not ratified.

There are currently around 80 child offenders on death row in the USA. Since January 1993, 14 such prisoners have been executed in the United States, including three in Virginia. In the same period, Amnesty International has documented eight such executions in the rest of the world combined - three in Iran, two in Pakistan, one in Nigeria, one in Democratic Republic of Congo (DRC), and one in Yemen. Yemen and Pakistan have now legislated to abolish such use of the death penalty. It was recently reported that 74 child offenders who had remained on death row in Pakistan had had their death sentences commuted. In 2001, the death sentences of five child offenders in DRC were commuted and there is currently a moratorium on executions there. China, which accounts for most of the world's executions each year, nevertheless in 1997 abolished the use of the death penalty against defendants who were under 18 years old at the time of the crime.

Amnesty International opposes the death penalty in all cases, regardless of questions of guilt or innocence, the seriousness of the crime, the existence or absence of mitigating evidence, or the method used by the state to kill the prisoner. The organization believes that every death sentence is an affront to human dignity, and every execution a symptom of a culture of violence rather than a solution to it.

A clear majority of countries - currently 111 - have abolished the death penalty in law or practice. The international community has ruled out the death penalty as a sentencing option in international courts for even the worst crimes - genocide, war crimes, and crimes against humanity.

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

- acknowledging the seriousness of the crime and the suffering it will have caused, and explaining that you are not seeking to excuse the manner in which Hope Denise Hall died;
- expressing concern that the Commonwealth Attorney's Office intends to seek another death sentence against Shermaine Johnson in violation of international law respected in almost every country of the world;
- pointing to the immense damage being done to the international reputation of the United States by its continuing resort to this use of the death penalty in the face of an overwhelming global consensus against such use;
- urging the prosecutor to reject this human rights violation and to rule out the death penalty as an option in this case.

APPEALS TO:

The Honourable Cassandra S. Burns
Office of the Commonwealth's Attorney
City of Petersburg
150 N. Sycamore Street
Petersburg, VA 23803, USA
Fax: + 1 804 861 2811
Salutation: Dear Ms Burns

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

You may also copy your appeals to the following newspaper, and/or send letters to its editor:

People's Forum, *The Progress-Index*, P.O. Box 71, Petersburg, VA 23804, USA.
Fax: +1 804 732-8417. E-mail: lettertoeditor@progress-index.com

PLEASE SEND APPEALS IMMEDIATELY.