

EXTRA 12/01

Death penUSA (Missouri) Antonio Richardson, black, aged 26

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Antonio Richardson is scheduled to be executed in Missouri on 7 March 2001 in violation of international law, which prohibits the use of the death penalty against those who were under 18 at the time of the crime. He was convicted in 1993 of first-degree murder in the death of Julie Kerry and second-degree murder in the death of her sister, Robin.

On the night of 4 April 1991, Julie and Robin Kerry, white, aged 21 and 19 respectively, and their cousin, Thomas Cummins, also aged 19, were on an abandoned bridge spanning the Mississippi River near St Louis, when they were confronted by Reginald Clemons, aged 20, Marlin Gray, aged 23, Antonio Richardson, aged 16, and 15-year-old Daniel Winfrey. The sisters were raped and pushed off the bridge into the river 25 metres below. Cummins was forced to jump. He survived, but both sisters drowned.

Clemons and Gray allegedly threatened to hurt anyone who did not cooperate in the crime or said anything about it afterwards. Nevertheless, Richardson contacted the police the next day and confessed his involvement in the crime, saying that he had not pushed the sisters off the bridge.

Daniel Winfrey, white, testified against his three co-defendants in exchange for a prison sentence. Then Marlin Gray and Reginald Clemons, both black, were sentenced to death at their trials and remain on death row. Finally, Antonio Richardson, a mentally impaired teenager, rejected a prosecution offer of a life sentence in return for a guilty plea, against the advice of his lawyer. He was allegedly persuaded to do so by a local activist who, assigning racial motives to the prosecution, believed that Richardson should go to trial to prove his innocence. Under Missouri law, a defendant involved in a murder does not have to have been the actual killer to be convicted of first-degree murder.

The jury convicted Antonio Richardson, but were unable to agree on his punishment. In this situation, under Missouri law, the judge became the sentencer, and condemned the teenager to death. Neither judge nor jury heard any expert testimony about Richardson's brain damage or mental disabilities. The defence had hired a neuropsychologist to testify about this, but Richardson's lawyer, who had no experience of capital sentencing, decided not to present the witness for "strategic" reasons. When the jury deadlocked, the lawyer asked the judge to hear the expert testimony prior to determining punishment. The judge refused.

Antonio Richardson's mental disability is well documented. When he was 13, his IQ was measured at 70, placing him in the borderline mental retardation range. The assessment described him as "learning disabled" and "easily lead by others". After his arrest, the expert hired by the defence found that Richardson "did not know the difference between an ocean and a lake, did not know the season that came after winter, did not know what made a sailboat move through the water, did not know simple nursery rhymes, did not know the country or even the state in which he lived... It is quite apparent from the test results that Mr Richardson is significantly compromised... in all complex mental activity. Most noteworthy are severe impairments in attention and concentration, memory, learning..., speech and language skills, spacial and perceptual skills...".

In 1993, Antonio Richardson's IQ was assessed at 73, also within the borderline retardation range. In 1994, a psychologist found that the then 19-year-old Richardson operated at the level of a seven-year-old in the area of communication and social skills, and functioned as a 12-year-old in the area of daily living skills.

Antonio Richardson's childhood was marked by poverty and parental neglect. He never knew his father, and his mother had drug, alcohol, and health problems. By the age of 15, Antonio Richardson had himself developed drug and alcohol problems.

#### **BACKGROUND INFORMATION**

In recognition of children's immaturity and potential for rehabilitation, the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC) forbid the execution of those who were under 18 at the time of the crime. While 191 countries have ratified the CRC, only the USA and Somalia have not. When the USA ratified the ICCPR, it reserved the right to execute child offenders, a move widely condemned. The Human Rights Committee, the body which oversees compliance with the ICCPR, has called for the US reservation to be withdrawn. In 2000, the UN Sub-Commission on the Promotion and Protection of Human Rights affirmed that "the imposition of the death penalty on those aged under 18 at the time of the commission of the offence is contrary to customary international law". A principle of customary international law is one that is a general practice accepted as law and is binding on all countries, regardless of which treaties they have or have not ratified.

The USA is the leading perpetrator of this violation of international law. Since 1990, it has executed 14 child offenders out of a known world total of 26 in seven countries. Since then, two of these countries, Yemen and Pakistan, have abolished this use of the death penalty (although some child offenders remain on death row in Pakistan). The USA accounts for eight of the 11 executions of child offenders documented in the past three years; the three others were carried out in Iran (2) and the Democratic Republic of Congo (1). All the child offenders executed in the USA since 1977 were 17 at the time of the crime, except Sean Sellers who was 16. More than 80 people are on US death rows for crimes committed when they were 16 or 17.

It is now over a decade since the UN General Assembly adopted a resolution recommending that retentionist countries abolish the death penalty "for persons suffering from mental retardation or extremely limited mental competence". The American Association on Mental Retardation, now in its 125<sup>th</sup> year, holds that the death penalty is disproportionate to the level of culpability possible for people with mental retardation. Thirteen US states ban the use of the death penalty against defendants with mental retardation. Missouri is currently considering such legislation.

#### **RECOMMENDED ACTION: Please send faxes/express/airmail letters in English or your own language, IN YOUR OWN WORDS, using the following guide:**

- expressing sympathy for the family and friends of Julie and Robin Kerry, and explaining that you do not seek to condone the manner of their deaths;
- expressing opposition to the execution of Antonio Richardson, citing his age at the time of the crime, his mental impairment and questions about the extent of his culpability in the killings;

- expressing concern that neither the jury, nor the judge, heard any expert evidence about Antonio Richardson's significant mental impairments;
- urging the Governor to respect commonly held standards of justice and decency in force across the world, and to grant clemency.

**APPEALS TO:**

The Honourable Bob Holden  
Governor of Missouri,  
Missouri Capitol Building, Room 216  
P.O. Box 720, Jefferson City, MO 65102-0720, USA  
**Tel: + 1 573 751 3222**  
**Fax: + 1 573 751 1495**  
**E-mail: [constit@mail.state.mo.us](mailto:constit@mail.state.mo.us)**  
**Salutation: Dear Governor**

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

You may also send brief letters (not more than 250 words) to:

- Letters to the Editor, *St. Louis Post-Dispatch*, 900 North Tucker Blvd., St. Louis, MO 63101, USA. **E-mail: [letters@postnet.com](mailto:letters@postnet.com)**
- Letters to the Editor, *Jefferson City News Tribune*, 210 Monroe St., Jefferson City, MO 65101, USA. **E-mail: [editor@newstribune.com](mailto:editor@newstribune.com)**

**PLEASE SEND APPEALS IMMEDIATELY.**