

EXTRA 14/01

Death pen**USA (North Carolina) Willie Ervin Fisher, black, aged 38**

Willie Fisher is scheduled to be executed in North Carolina on 9 March. He was sentenced to death for the murder of Angela Johnson.

Angela Johnson was stabbed to death in the early hours of 2 April 1992. Fisher turned himself in to the police later the same day and confessed to the murder. He and Johnson had been in a relationship for seven years, and had recently decided to marry. The stabbing followed an argument the previous night about the care of their young son, during which Fisher hit Johnson. Angela Johnson reported the incident, but told police that Fisher had "never" abused her before and that his conduct was "out of character".

Willie Fisher was tried before a jury which consisted of 11 whites and one black person. At the jury selection, the prosecutor removed three African American men from the jury pool using peremptory strikes, that is the right to remove individuals deemed to be unsuitable without giving a reason. When the defence objected, the prosecutor explained his reasons, which included: one juror was a painter (decorator) and people in his profession frequently have criminal records; one was inattentive during jury selection; and one had studied psychology and sociology at college, and displayed a "liberal attitude". The prosecutor was looking for "conservative" jurors.

Under US constitutional law jurors can only be removed for "race neutral" reasons (*Batson v Kentucky*, 1986). However, to win an appeal on this issue, the defendant must show that "purposeful discrimination" took place. Amnesty International believes that the *Batson* decision has failed to prevent racial bias in jury selection. Proving "purposeful discrimination" is nearly impossible, since prosecutors need only present a vaguely plausible non-racial reason for dismissing potential jurors.

Willie Fisher was represented by an attorney who was suffering from severe depression and other serious health problems, and who spent little time preparing for the trial. He did not present expert pharmacological testimony despite the defence being one of voluntary intoxication, that is that alcohol and drugs had rendered Fisher incapable of forming the intent necessary for first-degree murder. He also failed to tell the jury of the important evidence that Angela Johnson herself had told the police that Fisher's conduct the evening before the murder had been unprecedented.

During the time between Fisher's arrest and trial, the lawyer was sanctioned twice by the State Bar for failing to properly represent clients. Following Fisher's conviction, the lawyer asked to be removed from the case when it went to appeal, but the state Supreme Court rejected his request. A week after the lawyer argued Fisher's appeal to the Court, the State Bar suspended his licence for three years. In 2000 he was reportedly arrested and charged with various offences relating to his law practice.

In the opinion of some mental health experts, Fisher was in an alcohol and drug-induced black-out when he committed the murder, having consumed large quantities of alcohol and crack cocaine in the hours preceding the crime. He had begun drinking and using crack cocaine more heavily after the death of his mother six months earlier. His mother was an alcoholic, and as a child Fisher had begun drinking with her as a way of keeping her at home and out

of trouble. The youngest of nine children, Fisher's childhood was reportedly marked by poverty, his own substance abuse, his mother's drunkenness and violent arguments between his parents. He is reported to have been a model inmate, who has not been the subject of a single disciplinary report while on death row.

BACKGROUND INFORMATION

A North Carolina newspaper, *The Charlotte Observer*, carried out a six-month study of the death penalty in North and South Carolina last year. It found that "in too many cases defendants are represented by incompetent lawyers poorly prepared for trials". The paper also concluded that "minority defendants start out with an intolerable and indefensible disadvantage compared to white defendants... black citizens are under-represented on juries. Prosecutors often excuse potential black jurors because they are less likely to vote for a death penalty conviction."

There is a strong moratorium movement in North Carolina, and on 25 January the council of the small town of Cary became the 12th local government in the state to pass a resolution calling for a moratorium on executions. A legislative commission studying the state's death penalty has also voiced its support for a moratorium. It is recommending ending the use of the death penalty against people with mental retardation and taking measures to eliminate racial bias in the application of the death penalty. Its legislative recommendations have yet to come before the legislature.

Fourteen prisoners have been executed in the USA this year, bringing to 697 the total number of executions since 1977. In North Carolina, the Governor has the exclusive authority to grant clemency.

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

- expressing sympathy for the family and friends of Angela Johnson, and explaining that you do not seek to excuse her murder;
- expressing concern at the prosecutor's exclusion of African Americans from the jury, noting that the legislature is due to consider proposals to eliminate racial bias in the application of the death penalty;
- expressing concern that Willie Fisher's lawyer, who was later disbarred for failing to properly represent his clients, was seriously ill and ill-prepared to defend Fisher from the death penalty;
- noting that Fisher had no prior criminal record, and has been a model inmate;
- urging the Governor to commute this death sentence as part the state's commitment to finding constructive responses to the problem of violence, including domestic violence;
- noting the widespread concern over the fairness and reliability of the death penalty and the strong movement for a moratorium in North Carolina, and urging the Governor to support a moratorium.

APPEALS TO:

Governor Michael F. Easley
 Office of the Governor
 20301 Mail Service Center
 Raleigh, NC 27699-0301, USA
Fax: + 1 919 715 3175 or + 1 919 733 2120
Salutation: Dear Governor

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

You may also write brief letters of concern (not more than 250 words) to:

- Letters to the Editor, *Raleigh News and Observer*, PO Box 191, Raleigh, NC 27602, USA. **Fax: + 1 919-829-4872. E-mail: forum@nando.com**
- Letters to the Editor, *Charlotte Observer*, PO Box 20848, Charlotte, NC 28230, USA. **Fax: + 1 704 377 6214. E-mail: opinion@charlotteobserver.com**

PLEASE SEND APPEALS IMMEDIATELY.