

PUBLIC

AI Index: AMR 51/032/2006

2 March 2006

UA 46/06

Death Penalty

USA (North Carolina)

Patrick Moody (m)

Patrick Moody is scheduled to be executed on 17 March. He was sentenced to death in 1995 for the murder of Donnie Robbins in September 1994.

On 16 September 1994, Moody went to the home of Donnie and Wanda Robbins, where he said he was interested in purchasing Donnie Robbins's car. While he was being shown the car in a nearby field, Moody shot Donnie Robbins in the back of the head. The next morning, Moody reportedly confessed to the murder and directed police to the murder weapon.

At trial the state alleged that Moody and Wanda Robbins, Donnie Robbins's wife, with whom Moody was having an affair, had planned together to kill Donnie Robbins to claim his life-insurance money. At his trial Moody admitted to the murder, but denied doing it for money, saying that he had been coerced by Wanda Robbins, who had threatened to turn him over to the police in connection with other unrelated crimes.

Wanda Robbins received a life sentence for her role in the killing.

Moody's childhood and adolescence was marked by abuse and neglect. From the age of four or five, he was brought up by his father and stepmother. At trial his step-brother testified that Moody's father beat Moody with a board as a child, broke plates over his head and locked him in his room for up to 18 hours without meals. He also said that Moody had moved in with him temporarily at the age of 17 to escape the abuse. Moody also reportedly suffered physical and verbal abuse at the hands of his school mates.

At his trial, clinical psychologist Dr Jerry Wayne Noble testified for the defense that Moody had told him that he was physically abused as a child, and that Moody suffered from "attention deficit hyperactivity disorder, borderline intellectual functioning (with IQ scores ranging from 74 to 82), alcohol dependence, a mixed personality disorder, child abuse syndrome and physical problems resulting from psychological difficulties." (Court record, 12 May 2005.)

Moody's current attorneys have presented a clemency petition to Governor Easley which includes the above concerns as well as concerns that Moody received ineffective legal representation from his trial attorney, who they say, among other things, failed to properly investigate mitigating evidence for his trial.

On 2 July 2004, Indiana Governor Joseph Kernan commuted the death sentence of Darnell Williams, whose IQ was measured at a similar level to Moody's, shortly before he was due to be executed (see UA 207/04, AMR 51/104/2004, 24 June 2004). Governor Kernan noted the 2002 US Supreme Court decision, *Atkins v Virginia*, outlawing the use of the death penalty for those who have mental retardation. The Governor wrote: "Williams's IQ has been measured at 78 and 81, and he attended special education classes throughout his schooling. The usual 'cut-off' for mental retardation is IQ of 70-75, and Williams falls above that level... The courts have set a clear legal standard, but it remains problematic to confidently place the solemn decision of life or death on a few percentage points on either side of a line. Williams's mental status weighs as a factor in the clemency process."

BACKGROUND INFORMATION

There is strong support for a moratorium on executions in North Carolina because of concerns about the fairness and reliability of the death penalty. Almost 1,100 resolutions calling for a moratorium have been

passed by town councils, private businesses, church congregations and religious organizations, political parties and student and community groups. Many North Carolina newspapers have carried editorials in favour of a moratorium on executions

Since 1977, when the USA resumed judicial killing, the US Supreme Court has provided some constitutional protections for mentally impaired people facing the death penalty. In 1986, in *Ford v. Wainwright*, the court ruled that the execution of people who are insane violates the US Constitution's prohibition on 'cruel and unusual punishments'. A decision by the Supreme Court in 2002 (*Atkins v. Virginia*) prohibited the death penalty for people with mental retardation, reasoning that mental retardation diminishes personal culpability, and renders the death penalty difficult to justify on deterrence and retribution grounds.

On March 1 2005, citing the "overwhelming weight of international opinion" and "evolving standards of decency" the Supreme Court, in *Roper v. Simmons*, finally outlawed the death penalty for offenders who were under the age of 18 at the time of their crime. The *Roper* majority quoted the *Atkins* decision: "Capital punishment must be limited to those offenders who commit a narrow category of the most serious crimes and whose extreme culpability makes them the most deserving of execution".

Amnesty International does not seek to excuse the perpetrators of violent crime. However, it opposes the death penalty in all cases. Amnesty International believes that there is a profound inconsistency in exempting people with mental retardation from the death penalty while those with serious mental illness remain exposed to it. Similarly, exempting juvenile offenders from the death penalty because of their diminished culpability is incongruous with executing those suffering from serious mental illness or impairment other than retardation. The UN commission on Human Rights has repeatedly called on those countries which still retain the death penalty not to use it against anyone suffering from a mental disorder.

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

- expressing sympathy for the family and friends of Donnie Robbins and explaining that you are not seeking to excuse the manner of her death or to minimize the suffering that their deaths will have caused;
- opposing the execution of Patrick Moody;
- noting reports of Patrick Moody's low IQ and his background of abuse and neglect;
- calling on the governor to stop this execution and 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 27699-0301, USA

Fax: +1 919 715 3175

+1 919 733 2120

Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY.