

3 April 2007

UA 79/07

Death penalty

USA (Federal)

Bruce Carneil Webster (m), black, aged 33

Bruce Webster is due to be executed at the Federal Correctional Complex, Terre Haute, Indiana, on 16 April. He was sentenced to death in federal court in Texas in 1996 for the murder of a 16-year-old girl, Lisa Rene.

Lisa Rene was abducted in Texas on 24 September 1994 during a conflict between individuals involved in a drug deal, two of whom were her brothers. After a two-day ordeal, during which she was raped, Lisa Rene was bludgeoned and buried in a grave dug in a park by her attackers. Bruce Webster, Orlando Hall, Demetrius Hall, Marvin Holloway and Steven Beckley were charged with involvement in the crime. Bruce Webster and Orlando Hall were sentenced to death and remain on death row.

Bruce Webster was sentenced to death under the Federal Death Penalty Act (FDPA) signed into law by President Bill Clinton on 13 September 1994. This legislation expanded the death penalty under federal law to cover more than 50 offences. This was contrary to international standards, which seek progressively to limit the scope of capital punishment, with a view to its abolition. In their 1995 conclusions on US compliance with the International Covenant on Civil and Political Rights, the UN Human Rights Committee wrote that they "deplore the recent expansion of the death penalty under federal law".

Bruce Webster was 21 years old at the time of the crime. One of eight children, his childhood in Arkansas was marked by severe abuse. His father routinely beat the children with objects such as hoses, fan belts and fireplace pokers. According to his clemency petition, the paternal abuse included "forced sex between the children or between a child and the mother, forcing children to 'kiss the cat's behind', placing a clothespin on a child's penis, forcing a child to eat black pepper, 'slop', human waste and 'piss in bread', and other heinous acts such as dropping the children on concrete, burning or branding them with a hot iron, shocking a child with the spark plug wire from a lawnmower, and placing a concoction of hot sauce, pepper and alcohol on a child's anus". At Bruce Webster's 1996 trial, all 12 jurors found that he had suffered an abusive upbringing.

Bruce Webster and his four brothers were all placed in special education classes at school, and several were labelled "mentally retarded". Webster's trial counsel raised this issue at his trial as the FDPA prohibits the death penalty in the case of a defendant who has mental retardation (while failing to provide any guidance as to how this statutory requirement should be met, as a federal court noted in Webster's appeals). The extent of Bruce Webster's mental impairment was disputed at trial, although all of the prosecution and defence experts who testified agreed that he had a low IQ; his highest ever IQ score is reported to be 72. While a low IQ alone does not necessarily signify mental retardation, his lawyers have argued that this highest score was determined under questionable testing techniques, and that other lower scores combined with evidence of his adaptive deficits point to Bruce Webster indeed having such a mental disability.

Immediately before the 1996 trial, Dr Raymond Finn assessed Bruce Webster's IQ at 65, and concluded that he had mental retardation given Webster's lack of adaptive skills. Dr Denis Keyes, a specialist in mental retardation, assessed Webster's IQ score at 51. Dr Keyes retested using other techniques and concluded that Webster was not malingering. Dr Keyes also examined Bruce Webster's adaptive functioning, and concluded that Webster functioned at the level of a six- or seven-year-old child. According to the clemency petition, Dr Keyes concluded that Webster has mental retardation and "was unable to see the consequences of his actions, unable to plan situations appropriately, unable to think in abstract methods and ways, unable to communicate under certain circumstances and had a poor short-term memory. He had difficulty concentrating on a task, was very distractible, and could not learn from his mistakes in many situations."

A neuropsychologist, Dr Fulbright, concluded that Bruce Webster has "significant intellectual limitations", and "is not able to think in an abstract manner, not able to consider different alternatives from one point to the next and, basically, has just severe impairment in his ability to think through, reason and plan, and kind of critically judge situations". Another

expert, Dr Mark Cunningham, concluded that Bruce Webster suffered from psychological disorders, including auditory and visual hallucinations, and had mental retardation. He further concluded that his background of abuse had impaired his capacity for self-control and his self-esteem.

Four of the 12 jurors found that Bruce Webster "is or may be mentally retarded", but the jury voted for a death sentence. After hearing evidence from the various experts and other witnesses, the judge made a finding that "Webster is not mentally retarded", and so was not exempt from the death penalty under the FDPA. Since then, the US Supreme Court has outlawed the execution of offenders with retardation (*Atkins v. Virginia*, 2002). The Court wrote that "clinical definitions of mental retardation require not only sub-average intellectual functioning, but also significant limitations in adaptive skills such as communication, self-care, and self-direction that became manifest before age 18. Mentally retarded persons frequently know the difference between right and wrong and are competent to stand trial. Because of their impairments, however, by definition they have diminished capacities to understand and process information, to communicate, to abstract from mistakes and learn from experience, to engage in logical reasoning, to control impulses, and to understand the reactions of others". Assessing mental retardation is not an exact science. In this regard, executive clemency can be an important failsafe against error, and can compensate for the rigidity of the law.

#### **BACKGROUND INFORMATION**

Amnesty International opposes the death penalty in all cases, unconditionally. Today, 128 countries are abolitionist in law or practice. Of the 1,069 executions carried out in the USA since 1977, three have been of federal prisoners. All three were put to death under the administration of President George W. Bush, whose term in office has also seen federal death row more than double in size. There are currently 44 prisoners on federal death row. There are marked racial disparities. Twenty-five of these 44 prisoners (57 per cent) are black, an even greater disparity than at state level where 42 per cent of death row inmates are black.

In 2006, the US government reported to the Human Rights Committee that law and practice in the USA "has prevented the racially discriminatory imposition of the death penalty". Amnesty International strongly disagrees with this assertion. Studies have consistently concluded that race plays a part in who is sentenced to death in the USA. In *McCleskey v. Kemp* in 1987, in a 5-4 decision, the US Supreme Court ruled that statistical evidence of racial disparity in capital sentencing was not enough to warrant a remedy; the prisoner had to prove discriminatory intent on the part of the prosecution in his or her specific case. The author of the *McCleskey* opinion, Justice Lewis Powell admitted after his retirement from the Supreme Court that he wished he had voted differently in that particular opinion. Bruce Webster is due to be executed six days before the 30th anniversary of the *McCleskey* ruling.

#### **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 Lisa Rene, and explaining that you are not seeking to condone the manner of her death or to downplay the suffering caused;
- opposing the execution of Bruce Webster, and the death penalty in general;
- noting evidence of Bruce Webster's actual or borderline mental retardation, and of his severely abusive upbringing, and expressing concern at the racial disparities on federal death row;
- urging President Bush to commute Bruce Webster's death sentence, and to support a moratorium on federal executions.

#### **APPEALS TO:**

President George W. Bush, Office of the President, The White House  
1600 Pennsylvania Avenue, Washington, DC 20500, USA

**Email:** [president@whitehouse.gov](mailto:president@whitehouse.gov)

**Fax:** +1 202 456 2461

**Salutation:** Dear Mr President

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

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 16 April 2007.\*\*\*\*\*