

11 May 1999

Further information on EXTRA 67/97 (AMR 51/23/97, 13 May 1997) and follow-ups (AMR 51/106/98, 11 December 1998, 51/31/97, 10 June 1997 and AMR 51/85/98, 26 October 1998) - Death Penalty

USA (TEXAS) Joseph Stanley FAULDER, Canadian national

Joseph Stanley Faulder, aged 61, is a Canadian citizen scheduled for execution in Texas on 17 June 1999. His case illustrates many of Amnesty International's long-standing concerns over the administration of the death penalty in Texas, including grossly deficient trial procedures, inadequate appellate review, violations of international law and the absence of any meaningful clemency process. Serious doubts exist about the credibility of the testimony used to obtain Faulder's conviction and death sentence. Despite compelling grounds for clemency, the Texas Board of Pardons and Paroles (BPP) has so far refused either to investigate the case or to recommend the commutation of Faulder's death sentence (for further details, see: *Adding Insult to Injury: the case of Joseph Stanley Faulder*, AMR 51/86/98).

Faulder last faced execution on 10 December 1998. The case gained international prominence after the US Secretary of State, Madeleine Albright, took the unprecedented step of sending detailed letters to the Texas authorities, urging them to give "serious consideration" to Faulder's clemency petition. The letters noted the admitted failure of the Texas authorities to inform Faulder upon arrest of his right to consular assistance. Madeleine Albright wrote that she was "deeply troubled by the failure of consular notification in this case" and that the USA "must not have a double standard" in its compliance with international treaty obligations. She pointed out that Faulder's trial attorney "has been found by the courts to be deficient in his handling of the sentencing phase of trial", that "no mitigation evidence was presented to the jury" and that these defects "are all areas in which Canadian consular officials might well have taken some action". However, the Secretary of State stopped short of actually calling for clemency.

In Texas, a jury may only impose the death penalty if it unanimously concludes that the defendant poses a continuing danger to society. Prosecutors hired by the victim's son relied on psychiatric testimony, primarily from the notorious Dr. James Grigson, to establish Faulder's "future dangerousness". Without conducting any clinical testing of the defendant, Grigson assured the jury that Faulder was a "sociopath of the worst kind" who would certainly commit further violent crimes even if imprisoned. Grigson was later expelled from the American Psychiatric Association for his unethical and grossly unscientific testimony in death penalty trials (for further information see *USA: The Death Penalty in Texas: Lethal Injustice* AMR 51/10/98).

Despite editorials supporting commutation in major US newspapers, appeals from the Canadian government and the intervention of many prominent organizations and individuals, on 9 December 1998 the Texas Board of Pardons and Paroles announced that it had voted 17-0 not to recommend clemency. Texas authorities provided no substantive response to the Secretary of State's letters.

On 10 December, less than 40 minutes before his scheduled execution, the US Supreme Court granted Faulder a stay of execution. On 25 January 1999 the Supreme Court lifted the stay, dismissing his appeal without explanation.

Two weeks after their decision, Board of Pardons members testifying at a court hearing revealed that they had almost no memory of the particulars of the Faulder case and had paid little attention to the concerns expressed by the State Department. The presiding judge was sharply critical of the Texas clemency process, describing it as "extremely poor and certainly minimal".

Stanley Faulder's prison record is exemplary and he had no history of violent behaviour at the time of his conviction. Although an appeal court later found that available medical evidence would have disqualified Grigson's diagnosis, Faulder has now exhausted all normal avenues of appeal.

BACKGROUND INFORMATION

Under Texas law, the governor may commute a death sentence only upon a favourable recommendation from the Board of Pardons and Paroles. However, the governor may grant a 30-day reprieve and also has the authority to request that the BPP investigate a clemency application. Amnesty International remains deeply concerned over the failure of the Board to convene clemency hearings or to recommend commutations. Since the resumption of executions in 1982, Texas has executed 176 prisoners. Only one commutation has been granted in response to a prisoner's petition for clemency.

FURTHER RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in English or in your own language:

Note: Please write in a private capacity, not mentioning your involvement with Amnesty International or your opposition to the death penalty.

To Secretary of State Albright:

- commending her for intervening in the Faulder case, while pointing out the failure of Texas authorities to provide any meaningful response;
- urging her to uphold the integrity of international treaty law by calling for the commutation of Stanley Faulder's death sentence.

To Governor Bush:

- expressing deep concern that Joseph Stanley Faulder is scheduled to be executed on 17 June;
- noting that the jury which sentenced Faulder to death may have used discredited psychiatric testimony to come to their decision not to spare his life;
- pointing out the consistent failure of the Board of Pardons and Paroles to convene hearings in death penalty cases;
- urging the governor to formally request a full investigation of the Faulder case by the Board of Pardons and Paroles;
- requesting that he act on any favourable recommendation from the Board by commuting Stanley Faulder's death sentence to a term of imprisonment.

APPEALS TO:

The Honorable Madeleine Albright
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salutation: Dear Secretary of State

The Honorable George W. Bush

Governor of Texas

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Salutation: Dear Governor

and to diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.