

PUBLIC

AI Index: AMR 51/156/00

EXTRA 79/00

Death penalty / Legal concern

20 October 2000

USA (Missouri) James W. Chambers, white, aged 48

James Chambers is scheduled to be executed in Missouri on 15 November 2000 for the murder of Jerry Oestriker in May 1982. The two men had been arguing in a bar: they went outside when the owner asked them to stop or leave, and a few seconds later Oestriker was shot dead.

Chambers was convicted of capital murder and sentenced to death in December 1982. The Missouri Supreme Court reversed his conviction in 1984 because of an error by the trial judge in the instructions given to the jury. Chambers was retried in 1985 and again sentenced to death. This was overturned in 1990 by the 8th Circuit Court because he was ineffectively represented at trial. In 1991 he was retried and sentenced to death for a third time.

Under Missouri law, the state Supreme Court reviews each death sentence to determine if it is excessive in comparison to similar cases. When the Court upheld Chambers's second death sentence in 1986, one of its judges dissented: "This is an ordinary barroom altercation... Under these circumstances, I cannot impose the death penalty." The judge said that failure to reduce the sentence to one of imprisonment would render proportionality in Missouri "totally meaningless". Dissenting in another case in 1992, one of the judges said that the Court had "continually refused to face up to its responsibilities in proportionality review."

At all three trials the jury rejected the claim that James Chambers had acted in self-defence, and accepted the prosecution's version that it was a premeditated attack. Chambers's current lawyers argue that his trial attorneys failed to present vital witnesses to back up the self-defence claim or to effectively challenge the credibility of the prosecution's main witness, who gave inconsistent and contradictory accounts of what happened when the two men left the bar. They state that the defence also failed to present evidence showing that Oestriker had attacked Chambers with a pair of pliers during the incident, and that he had a reputation as a violent bar-room brawler.

The foreman of the jury at the third trial has stated in an affidavit that he does not believe that Chambers should be executed. He stated that during jury deliberations, "one of the jurors, an elderly woman...was steadfast for several hours in her opposition to voting for the death penalty. I harangued the juror until, nearly in tears, she agreed to vote in favor of Mr Chambers' execution. Without my pressure I am confident the woman would not have done so."

The affidavit claims that the experienced and skilful prosecutor entirely out-performed the defence lawyer, and argues that the jury would not have sentenced Chambers to death if it had heard evidence of his mental limitations. A mental evaluation of Chambers in 1982 found that he had suffered from depression for about two months prior to the shooting, and that he had an IQ of 78, which places him in the borderline mental retardation range. He is reported to have spent time in five mental hospitals for evaluation and treatment during his lifetime. He suffered a serious head injury at the age of six, and is alleged to have been regularly beaten by his father. He was diagnosed as "mildly retarded" at the age of 14 and at 17 was found to suffer from "mental retardation, borderline, with psycho-social environmental deprivation". In 1977 he was diagnosed as suffering from "incipient paranoid schizophrenia". None of this evidence was presented to the jury who sentenced him to death at his third trial.

James Chambers was the subject of EXTRA 146/99, AMR 51/170/99, 20 October 1999. His execution was stopped a few hours before it was due to be carried out on 10 November 1999. A federal court granted a stay pending a US Supreme Court ruling in a separate case in Nevada in which a similar legal issue had been raised. After the Supreme Court upheld the death sentence in that case, Missouri set a new execution date for James Chambers.

BACKGROUND INFORMATION

The death penalty in the USA is supposed to be reserved for the most “aggravated” murders. In reality, whether a defendant is sentenced to life or death can be strongly influenced by factors such as the quality of defence representation or the enthusiasm of the prosecuting authority in pursuing death sentences. Since the USA resumed executions in 1977, 668 prisoners have been put to death, 70 of them this year.

RECOMMENDED ACTION: Please send faxes/express/airmail letters in your own words, using the following as a guide, in English or your own language:

- explaining that you do not wish to belittle the seriousness of Jerry Oestrick’s killing, but expressing concern that James Chambers is facing execution for what a Missouri Supreme Court judge has said would be a disproportionate punishment for an “ordinary barroom altercation”;
- expressing concern that James Chambers was sentenced to death on the basis of disputed eyewitness testimony, and by a jury which did not hear important evidence supporting his claim of self-defence or mitigating evidence about his mental impairment;
- noting that the foreman of the jury has since stated his belief that the defence attorney was not competent enough to match the prosecutor, and that had the jurors heard evidence of Chambers’s mental limitations they would not have sentenced him to death;
- urging the Lieutenant Governor to commute this death sentence.

APPEALS TO:

Roger B. Wilson (acting governor following recent death of Governor)
Office of the Lieutenant Governor
State Capitol, Room 121
Jefferson City, Missouri 65101, USA
Fax: +1 573 751 9422
E-mail: wilson@mail.state.mo.us
Salutation: Dear Lieutenant Governor

COPIES TO: diplomatic representatives of the 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**
- Letters to the Editor, *Jefferson City News Tribune*, 210 Monroe St., Jefferson City, MO 65101, USA. **E-mail: editor@newstribune.com**

PLEASE SEND APPEALS IMMEDIATELY.