

PUBLIC

AI Index: AMR 51/026/2003

18 February 2003

Further information on UA 300/02 (AMR 51/157/2002, 3 October 2002) and follow-up (AMR 51/167/2002, 7 December 2002) - Death penalty / Legal concern

USA (Texas)

James Blake Colburn (m), white, aged 43

James Colburn's execution has been rescheduled for 26 March. He was sentenced to death in Texas in October 1995 for the murder of Peggy Murphy in 1994. James Colburn has an extensive history of paranoid schizophrenia, a serious mental illness whose symptoms include delusions and hallucinations.

James Colburn was arrested on the day of Peggy Murphy's murder after he told a neighbour to call the police because he had killed a woman. Colburn waited until the police came, and at the police station gave a videotaped confession. He told police that he suffered from schizophrenia, and during his statement there were indications that he was struggling with his illness.

At the time of the murder, James Colburn was being treated on an outpatient basis, although his care was irregular. For periods in pre-trial detention, the Montgomery County Jail withheld his medication when Colburn refused to pay for it. Consequently, in October 1994, he was suicidal, and urinating and defecating on himself. Two weeks later, he was "very agitated and contemplating suicide" and was placed in restraints. In May 1995 he was again put in restraints as he reported having auditory hallucinations telling him to kill himself.

During his 1995 trial, James Colburn received injections of Haldol, an anti-psychotic drug which can have a powerful sedative effect. A lay observer, a nurse with experience of mentally ill patients, has stated in an affidavit that Colburn appeared to fall asleep on frequent occasions during the proceedings. In her opinion, his "lethargic state prevented him from participating in his defence or even paying attention to his own murder trial". The defence lawyers have stated that they believe that Colburn was competent to stand trial; that is that he had a rational understanding of the proceedings and could assist in his defence. However, at one stage of the trial one of the lawyers had to ask for (and was granted) a recess in order that he could "walk my client around the room a little bit. He's snoring kind of loud". In an affidavit, the lawyer acknowledged that "Mr Colburn dozed occasionally during the trial".

Before the trial, a psychologist was appointed by the court to evaluate whether James Colburn was sane at the time of the murder, and whether he was competent to stand trial. The psychologist concluded that he was both sane and competent. However, his examination of Colburn was conducted 10 months before the trial. In a post-conviction affidavit, the psychologist said that having learned of the Haldol injections and the apparent sedative effect they had on James Colburn, "it is my opinion that during the trial itself, as opposed to the date on which I examined him...it is not reasonably probable that... Mr Colburn was legally competent to stand trial". He further suggested that proceedings should have been suspended to "adjust Mr Colburn's medication so that he was oriented and aware".

A psychiatrist who conducted an assessment of James Colburn in 1997, and reviewed the records in the case, concluded that there were "serious questions and concerns regarding [Colburn's] competency to stand trial at that time", and that Colburn had been "seriously sedated during the time of his trial".

James Colburn's sister told Amnesty International in an interview on 29 October 2002: "When my parents' insurance wouldn't cover him after he was 18, he didn't have insurance coverage. But James himself tried to check himself in to Tri County (hospital) in Conroe. James begged for help. He had been in Galveston

mental hospital; he had been at one here in Houston. He had been in a lot of different facilities, but when he turned 18 and the insurance was cut off, my mother, we begged for help, begged for help... My grandparents and my parents drained their finances pretty much trying to help him. He tried himself, he went to the Tri County, he himself wanted help, and they, you know, just pushed him out on the street, gave him his SSI [social security] check, and just pushed him out there, and he was scared in society. He likes being in confined places, because he feels like he can fight those voices off if he is by himself."

On 6 November 2002, the *Houston Chronicle* asked "what justice is there, really, in carrying out a capital punishment sentence for a person who suffers from voices and hallucinations caused by a disabling major mental illness? Adequate mental health services may have spared Colburn years of suffering and might have spared his victim's life. It is no secret that Texas has inadequate resources for helping the mentally ill lead normal lives. Looked at another way, it would be better for all and a service to justice if such serious mental health issues were addressed before there is any need to deal with them within the criminal justice system and on death row." The US Supreme Court stopped James Colburn's execution shortly before it was due to be carried out on 6 November 2002. However, on 21 January 2003, it announced that it was refusing to take his appeal, which had raised questions surrounding his current competency to be executed.

Repeated resolutions in recent years at the United Nations Commission on Human Rights have called on retentionist countries "not to impose the death penalty on a person suffering from any form of mental disorder or to execute any such person".

There have been 12 executions in the USA this year, eight of them in Texas. Texas now accounts for 297 of the 832 executions carried out nationwide since the USA resumed judicial killing in 1977. For more information see: *Texas: In a world of its own as 300th execution looms* (AMR 51/101/2003, 23 January 2003). Also see: *USA: James Colburn: Mentally ill man scheduled for execution in Texas* (AMR 51/158/2002, October 2002).

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 friends and family of Peggy Murphy;
- noting that James Colburn has long suffered from schizophrenia, for which he struggled to get appropriate treatment because he lacked medical insurance, and noting evidence that he was suffering from his illness at the time of the crime, and that he may have been incompetent to stand trial;
- noting the repeated resolutions at the United Nations calling for the death penalty not to be used against the mentally ill;
- calling for clemency for James Colburn in the interest of decency and the reputation of Texas.

APPEALS TO: (In your appeals, please quote James Colburn's death row number: 999169)

Gerald Garrett, Chairperson, Texas Board of Pardons and Paroles
P.O. Box 13401, Austin, Texas 78711-3401, USA

Fax: + 1 512 463 8120

Salutation: Dear Mr Chairperson

The Honorable Rick Perry, Governor of Texas
State Capitol, PO Box 12428, Austin, TX 78711, USA

Fax: +1 512 463 1849 / 0039 / 1932

Salutation: Dear Governor

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

You may copy appeals to and/or send brief letters to the editor of (not more than 250 words):

Viewpoints, c/o *Houston Chronicle*, PO Box 4260, Houston, Texas 77210, USA

Fax: + 1 713 220 3575. E-mail: viewpoints@chron.com

PLEASE SEND APPEALS IMMEDIATELY.