

USA (North Carolina) Joseph Timothy Keel, white, aged 35

Joseph Timothy (Timmy) Keel is scheduled to be executed by lethal injection in North Carolina on 6 August 1999. He was sentenced to death at a retrial in 1993 for the murder of his father-in-law, John Simmons, who was shot on his hog farm in 1990.

Timmy Keel suffers from mental impairment. His IQ has been measured at 78 which places him in the borderline mental retardation range (a person of average intelligence would score 100). He reportedly suffers from organic brain damage, possibly as a result of a pre-natal injury. He is also said to have sustained several brain injuries, including one from being hit on the head by a 1,600 pound steel beam in a workplace accident. At the time of the murder, Keel was under the influence of cocaine and alcohol.

At a US capital trial, the proceedings are split into two separate stages, verdict and sentencing. At the verdict phase of Keel's 1993 trial, at which he was convicted of first-degree murder, his lawyer presented no evidence of Keel's history of drug abuse and mental problems, or of his intoxication at the time of the crime, in support of a possible claim of diminished responsibility and a lesser verdict of second-degree murder.

Keel has not been able to pursue, in the state courts, the claim that this amounted to ineffective defence representation, or any other appeal against his conviction or death sentence. Misunderstanding an instruction from the North Carolina Supreme Court in 1995, Keel's post-conviction lawyer missed the 60-day deadline to file for state post-conviction review of the case. Due to this error, any further appeals in the state courts were ruled to be procedurally barred. The post-conviction process is the stage during which claims of error by trial counsel can be fully investigated and presented to the state appeal courts.

Furthermore, since 1996, all post-conviction capital defendants in North Carolina have been entitled to full disclosure of the state's investigative files to determine whether any evidence exists which may be favourable to them. The importance of this right was demonstrated in May 1999, when the murder conviction of North Carolina death row inmate Charles Munsey was overturned as a result of evidence uncovered during his state post-conviction appeals process. In his ruling, the judge cited evidence that the state's key witness had lied, that prosecutors had withheld exculpatory evidence, and that another man's confession to the crime was probably true. Timmy Keel has been denied his entitlement to full disclosure of the state's records on his case because of his attorney's mistake in 1995.

Keel's federal appeals, necessarily based on a lesser record of evidence since there had not been a thorough state post-conviction process, have been unsuccessful.

The full extent of Timmy Keel's alleged exposure to alcohol from an early age, and his subsequent mental and emotional problems, have not been heard in court. From the age of nine he reportedly became involved in his grandfather's moonshine (illicit liquor) business in rural eastern North Carolina. He allegedly began to drink at the age of 11 with the encouragement of his grandfather and uncles. His grandfather later died of cirrhosis of the liver. Timmy Keel dropped out

of school at 16, the age at which he began using drugs, including amphetamines, in addition to drinking large quantities of vodka. It is reported that his mother had him committed to a mental health treatment program after he began having blackouts, during which he would become violent to himself and others.

Timmy Keel has a nine-year-old son who visits him monthly.

BACKGROUND INFORMATION

Amnesty International opposes the death penalty in all cases. Any death sentence is an affront to human dignity; any execution serves only to create more victims and deepen a culture of violence. More than 400 prisoners have been executed in the USA since 1992, including 59 in 1999.

In resolution 1989/64, adopted on 24 May 1989, the United Nations Economic and Social Council recommended that UN member states eliminate the death penalty "for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution".

The last person executed in North Carolina was James David Rich on 26 March 1999. The Governor has sole authority to grant clemency.

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

- expressing concern that Joseph Timothy Keel is scheduled for execution;
- expressing concern that due to attorney error he has been denied post-conviction review in the state courts, and the right to full disclosure of state files on his case (you may cite the Charles Munsey case);
- expressing concern that claims of the full extent of his mental health, drug and alcohol problems have not been heard in court;
- noting that Joseph Timothy Keel's IQ, measured at 78, puts him in the borderline mental retardation range, and pointing out that it is now 10 years since governments agreed that the death penalty should not be used against prisoners who suffer from mental retardation;
- urging the Governor to grant clemency to Joseph Timothy Keel.

APPEALS TO:

The Honourable James Hunt Jr.
Office of the Governor
State Capitol, 116 West Jones Street
Raleigh, NC 27603-8001, USA

Fax: +1 919 733 2120 or 715 3561

Telegrams: Governor Hunt, Raleigh, North Carolina, USA

Salutation: Dear Governor

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

You may also write brief letters (no more than 250 words) to the editor of:

The People's Forum, *Raleigh News and Observer*, PO Box 191, Raleigh, NC 27602, USA. **Fax: +1 919 829 4872. E-mail: forum@nando.com**

PLEASE SEND APPEALS IMMEDIATELY.