

USA (Texas) John Paul Penry, aged 43

John Paul Penry is scheduled to be executed in Texas on 13 January 2000. He was sentenced to death in 1980, and again at a retrial in 1990, for the murder of Pamela Moseley Carpenter in 1979. John Paul Penry has serious mental impairment and suffered a childhood of appalling torture and abuse.

John Penry's first death sentence was overturned by the US Supreme Court in 1989. In a landmark decision (*Penry v Lynaugh*), the Court ruled that it was not a violation of the US Constitution to execute a mentally retarded individual as long as the jury had been able to consider the mitigating value of such impairment when deciding the sentence. The Court ruled that Penry's 1980 jury had not been able to do so because of the rigid format of the Texas capital sentencing scheme. As a result, the Texas legislature amended the state's sentencing scheme, but this change had not come into force by the time of John Penry's 1990 retrial, at which he was again sentenced to death. The claim that Penry's second jury had been restricted like his first is currently before the federal US Court of Appeals for the Fifth Circuit. For more information see *Beyond Reason: The imminent execution of John Paul Penry* (AMR 51/195/99, December 1999).

Irrespective of the outcome of this appeal, the use of the death penalty against John Penry violates international standards. In May 1989, a month before the US Supreme Court's ruling in *Penry v Lynaugh*, the United Nations adopted a resolution recommending that 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" (UN Economic and Social Council Resolution 1989/64). It is now more than a decade since this standard was agreed by the international community.

John Penry's 18-year-old mother suffered a nervous breakdown after his birth, which had almost killed her. After her return from mental hospital, she subjected him to vicious abuse for much of the next decade. She would burn him with cigarettes all over his body and beat him severely, breaking his left arm several times. When he was four, she dipped him in scalding water in the kitchen sink, causing permanent scarring. Another time she tried to drown him in the bath. She would often lock him in a room alone for long periods, where he would be forced to soil himself. At times she would make him eat his own faeces and drink his urine. One time, she took a knife and threatened to cut off his penis for wetting his bed. Neighbours would later tell of the toddler's daily "terrible, terrible screams".

By the age of 10, it was apparent that John Penry was mentally retarded. He had been unable to learn in school and never finished the first grade (age 6-7). Various institutions made various diagnoses of his impairment, including "organic brain syndrome with mental retardation and behavioural disturbances" and "organic brain syndrome with psychosis due to repeated trauma and mild retardation". His Intelligence Quotient (IQ) scores ranged between 50 and 63. To this day, he can barely read or write.

Taken out of a school for the mentally retarded at the age of 16, he then lived with relatives in Livingston, Texas. At 17, he was briefly committed to psychiatric hospital after an act of arson. At 21, he was given a five-year prison sentence for rape, but was released on parole in August 1979 after serving

two years. A psychological report indicated that his mental impairment might lead to aggressive acts.

On 25 October 1979, 23-year-old John Penry went to the home of Pamela Moseley Carpenter, a member of one of Livingston's best known families (her brother was a professional football star). John Penry beat and allegedly raped the 22-year-old woman, before stabbing her with the scissors she had tried to fend him off with. She died in hospital.

The American Association on Mental Retardation (AAMR) states: "The death penalty is disproportionate to the level of culpability possible for people with mental retardation. Executing people with mental retardation does not serve justice."

An *amicus curiae* (friend of the court) brief filed for John Penry in the Fifth Circuit appeals court in November 1999 by the AAMR and others working in the field of mental retardation, also suggests that society must accept some responsibility for its failures to respond adequately to those whose mental impairments make them a risk to others.

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

- acknowledging the appalling murder of Pamela Moseley Carpenter in 1979 and expressing sympathy for her family and friends;
- expressing concern, however, that John Paul Penry is facing execution, in contravention of international standards against the use of the death penalty "for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution";
- noting that in 12 of the USA's 38 death penalty states, the execution of John Paul Penry would be prohibited (Arkansas, Colorado, Georgia, Indiana, Kansas, Kentucky, Maryland, Nebraska, New Mexico, New York, Tennessee and Washington have all legislated against executing the mentally retarded);
- urging that John Paul Penry's sentence be commuted as a first step towards Texas joining this growing national consensus, and in line with international standards of justice;
- noting that Governor Bush has been campaigning for the US Presidency under the slogan "compassionate conservatism", and suggesting that John Paul Penry has a compelling case for executive compassion.

APPEALS TO:

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

You may also send letters of concern (not more than 250 words) to:

Letters to the Editor, *Dallas Morning News*, PO Box 655237, Dallas, TX 75265, USA. **Faxes: +1 972 263 0456. E-mails: letterstoeditor@dallasnews.com**

PLEASE SEND APPEALS IMMEDIATELY.