

EXTERNAL

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EXTRA 50/96

Death Penalty

3 April 1996

USA (DELAWARE) James B CLARK

James B Clark, white, is scheduled to be executed in Delaware on 19 April 1996. He has chosen to abandon his legal appeals and allow the state to carry out his execution.

James Clark was reportedly born to a 15-year-old girl who gave him up for adoption to an older couple. In 1994, after serving 22 years of a 30-year sentence for kidnapping a 16-year-old girl, he was released against his wishes, apparently after telling the Parole Board that he could not cope with release and asking that his parole be denied. Within a few weeks of his return to his adoptive parents, James Clark had shot them both dead. At his trial in 1994 he asked for the death sentence, and after he was sentenced, he was put in the psychiatric unit of the prison hospital where he was reportedly treated with anti-depressant medication. He refused to eat and was force-fed until July 1995. He was often on "suicide watch" (around-the-clock observation by prison staff to prevent prisoner suicide).

Following a suicide attempt in the death watch cell to which he had been transferred on 1 February 1996, James Clark was taken to the prison hospital unit and placed in a "ram room" (a cell with a hole in the floor for a toilet, and with no lighting, books, television, radio or pen and paper). He was placed on "strip suicide watch" where he was stripped naked 24-hours-a-day. When his attorney came to visit, he was given paper towels to cover himself. He remained in this cell for about 30 days. On 8 March he was taken before a judge and asked if he wanted to pursue his appeals. He reportedly replied that he did not, stating that he "couldn't stand the pain anymore".

Amnesty International opposes the death penalty in all cases as a cruel and inhuman punishment, and as a violation of the right to life as proclaimed in the Universal Declaration of Human Rights. The execution of prisoners who have chosen to abandon their appeals, and to allow the state to execute them, is no less a gross human rights violation than any other execution. The fact that an individual makes such a choice does not relieve the state of its responsibility in taking the life of one of its citizens.

An additional concern in James Clark's case is that his execution may be in contravention of United Nations Economic and Social Council (ECOSOC) resolution 1989/64, adopted in May 1989, which recommends "*eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence*".

BACKGROUND INFORMATION

As of 30 October 1995 there were 14 prisoners under sentence of death in Delaware. The most recent execution in Delaware was William Flamer, black, on 30 January 1996, five days after the execution of Billie Bailey, white. The method of execution is lethal injection; prisoners sentenced to death before 13 June 1986 may choose between lethal injection or hanging.

In Delaware the Governor may commute sentences or issue pardons or stays only on the recommendation of the state Board of Pardons, although the Governor does not have to follow a favourable recommendation of the Board.

The number of prisoners giving up their appeals in the USA has increased in recent years. In 1995, seven prisoners were executed after abandoning appeals.

James Clark is the fourth person in Delaware to give up his appeals since executions resumed in the state in 1992.

RECOMMENDED ACTION: Please telephone, or send telegrams/faxes/express/airmail letters in English if possible:

To the Governor and the Delaware Board of Parole:

- expressing concern that James B Clark is scheduled to be executed on 19 April 1996;
- acknowledging the seriousness of the offence for which James Clark was sentenced to death; expressing sympathy for the families and friends of the victims of violent crime; stating that you are not advocating that perpetrators of violent crime should go unpunished, but that you oppose the death penalty unconditionally as a violation of the right to life;
- expressing concern that after 30 days in solitary confinement, Clark would not have been in a fit state of mind to make rational decisions concerning dropping his legal appeals;
- referring to the ECOSOC guidelines.

To the Board of Pardons:

- urging the Delaware Board of Pardons to recommend that Governor Carper commute James B Clark's sentence of death;
- urging that, as a minimum measure, James B Clark be granted a stay of execution to allow him time to reconsider his decision not to pursue the many avenues of legal appeal still left open to him.

APPEALS TO:

Delaware Board of Pardons
Dover Town Send Building
Dover, DE 19901, USA

Telegrams: Delaware Board of Pardons, Dover, DE 19901, USA

Telephone: +1 302 739 4111

Faxes: +1 302 739 3811

Salutation: Dear Board Members

The Honorable Tom Carper
Governor of Delaware
Office of the Governor
Tatnall Building, 2nd Floor
Dover, DE 19901, USA

Telephone: +1 302 577 3118

Faxes: +1 302 739 2775

Telegrams: Governor Carper, Dover, Delaware, USA

E-mail: gcarper@gov.state.de.us

Salutation: Dear Governor Carper

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

PLEASE SEND APPEALS IMMEDIATELY.