

PUBLIC

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Further information on UA 142/08 (AMR 51/048/2008, 29 May 2008) – Death penalty/Imminent execution

USA (Georgia)                      Curtis Osborne (m), black, aged 37 (age corrected)

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Curtis Osborne was executed in Georgia on 4 June. He had been sentenced to death in August 1991 for the August 1990 murder of Linda Seaborne and Arthur Jones.

At a clemency hearing on 30 May, the Georgia Board of Pardons and Paroles had been presented with statements supporting clemency from a number of former high-ranking officials, including former President Jimmy Carter, former FBI Director and federal judge William Sessions, former US Attorney General Griffin Bell, former Deputy US Attorney General Larry Thompson, and former Georgia Supreme Court Chief Justice Norman Fletcher.

Among their concerns was that Curtis Osborne had been denied effective legal representation at his trial, particularly at the sentencing phase. For example, Osborne's trial lawyer had failed to present expert mental health evidence in mitigation, despite evidence that Osborne was suffering from major depressive disorder and post-traumatic stress disorder at the time of the crime. It has been alleged during federal appeals that the trial lawyer's failure to conduct an adequate investigation of his client by hiring expert witnesses was born of that white attorney's racial animosity towards his African-American client (detailed in original UA).

Norman Fletcher, who as state Supreme Court Chief Justice had voted in 1993 to affirm Osborne's death sentence, told the Board that the issue before them was "the legitimacy of executing a human being whose lawyer did not zealously represent him, refused to investigate avenues that might well have led to a sentence of life in prison rather than death, and was motivated by racial bias, as the facts now reveal". He continued: "We cannot rely on the decision [the jury] reached... Experience shows that the importance of preparation for the sentencing phase and development of mitigating factors for consideration by the jury cannot be overstated... Without the presentation of such mitigating factors, the jury is effectively denied the right to consider a sentence other than death. And that is exactly what happened in this trial... Knowing what has now been presented to me and is being presented to you, I deeply wish I could have done more to see that the system provide a just trial and just appeal for Mr Osborne, that justice be meted out to him without regard to race as promised by our State Constitution. It has not been up to this point."

As well as appealing to the Board for clemency, former FBI Director William Sessions wrote in the Atlanta Journal-Constitution: "Osborne admits that he is guilty of the murders for which he was sentenced to die, but that sentence has been permanently stained by the acute inadequacy of his counsel. When a person accused of murder is failed by his or her attorney, our faith in the verdict and in the criminal justice system itself is shaken."

The Secretary General of the Council of Europe also appealed to the Board to stop the execution, noting that Curtis Osborne's case was "particularly distressing inasmuch as it is reported that the jury which sentenced him to death never heard expert mental health evidence which could have helped to explain the defendant's conduct at the time of the crime. His execution would contravene international human rights standards, including the recently adopted United Nations General Assembly Resolution calling for a worldwide moratorium on executions."

The Board denied clemency on 2 June. On 4 June, the Georgia Supreme Court refused to issue a stay of execution. The execution was scheduled for 7pm. This was delayed by nearly an hour as the US Supreme Court considered a last-minute appeal. When that was denied, and the execution process was initiated, the execution was further delayed as the execution team struggled for more than half an hour to find suitable veins for the lethal injection. Curtis was pronounced dead at 9.05pm, 14 minutes after the first of the three drugs was injected.

This was the fourth execution to be carried out in the USA this year, and the 1,103<sup>rd</sup> since judicial killing resumed in 1977. Georgia accounts for 42 of these executions.

**No further action by the UA Network is requested. Many thanks to all who sent appeals.**