

PUBLIC

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Further information on UA 136/04 (AMR 51/060/2004, 2 April 2004) and follow-up (AMR 51/079/2004, 11 May 2004) - Death penalty / Legal concern

USA (Oklahoma) Osvaldo Netzahualcóyotl Torres Aguilera (m), Mexican national, aged 29

On 14 May, Governor Brad Henry commuted the death sentence of Mexican national Osvaldo Torres to life imprisonment without the possibility of parole, in line with the recommendation made by the state Pardon and Parole Board on 7 May. Osvaldo Torres was sentenced to death in 1996 for the murders of Francisco Morales and Maria Yanez, committed in 1993. His co-defendant, George Ochoa, whom the state considers to have been the actual gunman, remains on death row.

In a statement, the Governor said: "My heart goes out to the family of Mr. Morales and Ms. Yanez. This was difficult decision, but I believe clemency is warranted by a number of issues involved in this case. It is important to remember that the actual shooter in these horrific murders was also sentenced to death and faces execution." He added that "Osbaldo Torres will spend the rest of his life behind bars for his role in this deplorable crime."

The Governor also noted that Osvaldo Torres had been denied his consular rights under the Vienna Convention on Consular Relations. The Governor's statement noted that "that treaty is also important in protecting the rights of American citizens abroad." He said: "I took into account the fact that the US signed the 1963 Vienna Convention and is part of that treaty", adding that "the US State Department contacted my office and urged us to give 'careful consideration' to that fact."

President Vicente Fox had been among those appealing to Governor Henry to stop the execution.

Shortly before the Governor made his decision, the Oklahoma Court of Criminal Appeals voted 3-2 to grant Osvaldo Torres an indefinite stay of execution in order to review the consular rights issue and whether Torres' trial representation had been adequate.

Since taking office in January 2003, this is the first time Governor Henry has granted clemency in a death penalty case. He had previously rejected three recommendations for clemency from the Board.

No further action is requested. Many thanks to all who sent appeals.