

16 August 2002

Further information on EXTRA 60/02
- Death penalty / Legal concern

(AMR 51/125/2002, 1 August 2002)

USA (Virginia) Shermaine Ali Johnson, (m), black, aged 24

On 14 August, a jury in Petersburg, Virginia, voted that Shermaine Johnson should be sentenced to death for the rape and murder of Hope Denise Hall, committed in July 1994 when Johnson was 16 years old. International law, respected in almost every country in the world, prohibits the use of the death penalty against people who were under 18 at the time of the crime.

This was a re-sentencing hearing, which took place because Shermaine Johnson's original death sentence, passed in 1998, had been overturned in 2001 by the Virginia Supreme Court. That decision was made on the grounds that his trial jury had not been informed that he would be ineligible for parole if they sentenced him to life imprisonment.

Shermaine Johnson's official sentencing by the judge has been scheduled for 28 October. Although the judge is not obliged to follow the jury's recommendation, it is considered highly likely that he will do so in this case.

During jury selection on 12 August, the judge warned jurors not to read the local newspaper, *The Progress-Index*, because it contained an article about the case. The article reported on the fact that the prosecutor's office and the offices of *The Progress-Index* had been "inundated with letters from as far away as Belgium, Germany and France from death penalty opponents asking that the death penalty not be sought for Johnson" because of his age at the time of the crime. The newspaper has published some of the letters from Amnesty International Urgent Action activists.

On 14 August, the letters of appeal led the *The Progress-Index* to feature an editorial on the case, supporting the execution of people for crimes committed when they were under 18 years old. It argued that "anybody who is old enough to commit rape and murder is not a child, not matter what the date on the birth certificate... Since Johnson was not a child when he killed Hall, his execution would not be a violation of any international treaties. That law, by the way, should be altered to reflect the fact that true childhood ends not when a person turns 18, but when the innocence of childhood is lost." This proposal that international law should be amended suggests the possibility that the editorial writer is unaware of, or has chosen to ignore, the fact that the Convention on the Rights of the Child, which prohibits such use of the death penalty, has been ratified by all countries except the USA and Somalia.

The newspaper disagreed with those appeal-writers who had said that the international reputation of the USA was affected by such use of the death penalty. The editorial was written just a few hours before a Mexican national, denied his consular rights, was executed in Texas in violation of international law; an execution that was officially protested by 17 individual countries as well as various United Nations and Inter-American bodies. Indeed, the execution of Javier Suárez Medina led the President of Mexico to cancel a meeting with President Bush in protest (see update to EXTRA 54/02, AMR 51/133/2002, 15 August 2002). The *International Herald*

Tribune of 16 August wrote that "the execution of Suárez has given Bush his highest-level indication yet of the breadth and depth of near-global opposition to the death penalty in America."

In addition to the very obvious damage done to the USA's reputation and its diplomatic relations as a result of this recent execution, the editorial-writer could perhaps also consider what nine former senior US diplomats argued in a brief in the US Supreme Court in 2001. They suggested that executions which violate international standards of decency "strain diplomatic relations with close American allies, provide ammunition to countries with demonstrably worse human rights records, increase US diplomatic isolation, and impair the United States foreign policy interests". The use of the death penalty against child offenders, almost unknown outside the USA, is the clearest example of an aspect of the death penalty which violates contemporary global standards of justice and decency.

The editorial continued: "Many of the letter writers cite membership in Amnesty International. The organization's web site states that 'the death penalty is the ultimate cruel, inhuman and degrading punishment. It violates the right to life. It is irrevocable and can be inflicted on the innocent and has never been shown to deter crime more effectively than other punishments.' Actually, it does deter crime. No one who has ever been executed has ever killed again." The editorial-writer's counsel of despair goes against one of the main reasons behind the overwhelming international consensus against the execution of child offenders, namely a young offender's capacity for rehabilitation. The editorial also ignores the ever-mounting evidence that the US capital justice system is marked by arbitrariness, discrimination and error.

No further action by the UA Network is requested. Shermaine Johnson's lawyers have asked for their thanks to be forwarded to all who sent appeals.