

PUBLIC

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Death Penalty

USA (California)

Clarence Ray Allen (m), aged 75, Choctow Indian

Clarence Ray Allen is scheduled to be executed in California on 17 January, the day after his 76th birthday. He is confined to a wheelchair and nearly blind: he has advanced heart disease and diabetes.

He was sentenced to death in 1982 for commissioning the murders of Bryon Schletewitz, Josephine Rocha and Douglas White, while serving a life sentence for arranging the 1974 murder of Mary Sue Kitts, a potential witness against him in a burglary case. The three were among eight witnesses who had testified against Allen in the Kitts case. Clarence Allen was also convicted of conspiracy to murder the other five witnesses. Billy Hamilton, the man who actually carried out the three murders, was also sentenced to death.

Clarence Allen suffered a major heart attack in September 2005. His attorneys have been quoted in the *Los Angeles Times* as saying that there is evidence that he suffers from organic brain damage (a general term referring to physical disorders of the brain arising from disease or trauma that cause decreased mental function such as problems with attention, concentration and memory, confusion, anxiety and depression). His attorneys recently filed a lawsuit in Federal District Court claiming that his poor health had made it impossible for him to meaningfully assist his attorneys in the preparation of a clemency petition. The Court rejected this appeal.

According to his attorneys, Allen, a Choctow Indian, was tried in a predominantly white, rural county and received poor legal representation at trial. The 9th Circuit Court of Appeals acknowledged this in January 2005, while rejecting an appeal. They said: "Trial counsel admits he did nothing to prepare for the penalty phase [of the trial] until after the guilty verdicts were rendered, and even then, in what little time was available, he failed sufficiently to investigate and adequately present available mitigating evidence." The 9th Circuit also stated that it was "overwhelmingly plain" that trial counsel's performance "fell below an objective standard of reasonableness." According to Allen's attorneys, the state at trial relied on the testimony of witnesses who were admitted participants in the crimes and who, in exchange for their testimony, were promised they would not be charged in the crimes. Each of these witnesses are later reported to have admitted they lied at trial.

BACKGROUND INFORMATION

The results of a study into the fairness of California's death penalty system, released in September 2005, showed that race and location were significant factors in whether a defendant is sentenced to death. In January 2006, a bill proposing a moratorium on the death penalty will be introduced into the California state legislature. The bill proposes suspending executions while a commission appointed by the state Senate studies inequities in the state's criminal justice system.

Amnesty International does not seek to excuse the perpetrators of violent crime. However, it believes the death penalty is wrong in all cases. This is a punishment that is a part of a culture of violence rather than a solution to it. It is an affront to human dignity that has not been shown to deter crime more effectively than other punishments; it denies the possibility of rehabilitation and reconciliation, carries the risk of irreversible error as well as inconsistent and discriminatory application, and consumes resources that could be used to fight violent crime and assist those affected by it. In addition, in the USA capital justice system is marked by arbitrariness, discrimination and error.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- expressing sympathy for the family and friends of Bryon Schletewitz, Josephine Rocha and Douglas White, and explaining that you are in no way seeking to excuse the manner of their deaths;
- expressing deep concern at the imminent execution of Clarence Ray Allen;
- noting that Clarence Ray Allen is an infirm and elderly man;
- urging Governor Schwarzenegger to grant clemency to Clarence Allen.

APPEALS TO:

Governor Arnold Schwarzenegger, State Capitol Building, Sacramento, CA 95814, USA

Fax: +1 916 445 4633

Salutation: Dear Governor Schwarzenegger

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

PLEASE SEND APPEALS IMMEDIATELY.