

EXTRA 02/01

Death pen**USA (North Carolina) Bobby Lee Harris, white, aged 34**

Bobby Harris is scheduled to be executed on 19 January 2001 in North Carolina. He was sentenced to death in 1992 for the murder of John Redd.

Bobby Harris and Joseph Simpson worked for John Redd, a shrimp fisherman. During a shrimping trip in August 1991, Redd was stabbed with his knife after an argument erupted between the three men, who had been drinking. Harris and Simpson took Redd's truck. The two men had earlier discussed robbing Redd. Available evidence suggests that it was Simpson who urged Harris to attack Redd during the argument. Both men were charged with first-degree murder. Simpson subsequently accepted a plea bargain and was sentenced to 14 years in prison. His projected release date is 2006.

In 1994, two North Carolina Supreme Court Justices dissented against the Court's decision to uphold Bobby Harris's death sentence on appeal. They said that the facts of the case, including the lack of premeditation, rendered the death sentence excessive and disproportionate, and that it was "more like murder cases in which life imprisonment has been imposed". They wrote: "The fatal stabbing was not planned but took place on the spur of the moment... [T]he evidence also shows that, after the stabbing occurred, defendant and Simpson took measures which they thought might save Redd's life. They assisted Redd after the stabbing and left him in a place where he might be rescued. Redd was, in fact, rescued alive, and he lived for almost 24 hours after defendant stabbed him". The Justices also pointed to the fact that Bobby Harris voluntarily went to the police, and gave a full confession, in which he showed his remorse. He had allegedly decided to commit suicide after learning that Redd had died, but when he realised he could not do it, he turned himself in to the authorities.

At his trial, Bobby Harris was represented by a lawyer who was dying of cancer. As a result of his illness, the lawyer was unable to adequately prepare for the trial. He was in constant pain during the proceedings and was forced to withdraw prior to the sentencing phase. His co-counsel, only three years out of law school, replaced him, but had neither the time nor the experience to offer adequate representation. As a result, the sentencing jury never heard important mitigating evidence of Bobby Harris's low IQ of 73-75, which indicates borderline mental retardation, and of his severe depressive illness, which was untreated at the time of the crime.

The jury was also left unaware of the severity of Harris's substance abuse problem. He had suffered from alcohol and crack cocaine addiction since he was an adolescent. Four months before the killing of John Redd, Harris had been involuntarily committed to a substance abuse clinic. He was released from the program on the condition that he continue outpatient treatment. He never did, and his case was not followed up by the health authorities.

The five jurors from the case whom the appeal lawyers have been able to contact have given affidavits supporting commutation of his death sentence.

BACKGROUND INFORMATION

There is a strong moratorium movement in North Carolina, and on 8 January the council of the small town of Cofield became the 10th local government in the

state to pass a resolution calling for a moratorium on executions in North Carolina.

A legislative commission studying the death penalty in North Carolina has also voiced its support for a moratorium. It is recommending ending the use of the death penalty against people with mental retardation and taking measures to eliminate racial bias in the application of the death penalty. Its legislative recommendations have yet to come before the legislature.

Studies have repeatedly shown that a death sentence in the USA becomes much more likely if the murder victim was white. North Carolina has executed 16 people since executions resumed in the USA in 1977. In 15 cases the murder victim was white. John Redd was white.

In North Carolina, the Governor has the exclusive authority to grant clemency. The new Governor of North Carolina is Mike Easley, the state's former Attorney General, who was sworn into office on 6 January. He has previously voiced his opposition to a moratorium. The case of Bobby Harris is the first to come before him since assuming the governorship.

The outgoing governor, James Hunt, commuted the death sentence of Marcus Lois Carter in November 2000, shortly before Carter was due to be executed. Governor Hunt cited the unfairness of Carter's trial (see follow-up to EXTRA 83/00, AMR 51/180/00, 22 November 2000).

Two men have been executed in the USA this year, bringing to 685 the total number of executions since 1977. Bobby Harris is one of 11 more prisoners facing execution in the USA before the end of January.

RECOMMENDED ACTION: Please send faxes/express/airmail letters in English or your own language, in your own words, using the following guide:

- expressing sympathy for the family and friends of John Redd and explaining that you do not seek to condone the manner of his death;
- noting that two state Supreme Court justices concluded that Bobby Harris's death sentence is disproportionate and excessive, and that the case is more like those which have resulted in life prison terms;
- expressing concern that his inadequate legal representation meant that the jurors never heard important mitigating evidence, including of Harris's mental impairments;
- noting that several of the jurors from the trial support commutation;
- noting that former Governor Hunt commuted the death sentence of Marcus Carter because of doubts about the fairness of his trial;
- urging Governor Easley to commute Bobby Harris's death sentence and to support the widespread calls for a moratorium on executions.

APPEALS TO:

Governor Michael F. Easley
 Office of the Governor
 20301 Mail Service Center
 Raleigh, NC 27699-0301, USA
Fax: + 1 919 715 3175 or + 1 919 733 2120
Salutation: Dear Governor

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

You may also write brief letters of concern (not more than 250 words) to:

- Letters to the Editor, *Raleigh News and Observer*, PO Box 191, Raleigh, NC 27602, USA. **Fax: + 1 919-829-4872. E-mail: forum@nando.com**
- Letters to the Editor, *Charlotte Observer*, PO Box 20848, Charlotte, NC 28230, USA. **Fax: + 1 704 377 6214. E-mail: opinion@charlotteobserver.com**

PLEASE SEND APPEALS IMMEDIATELY.