

10 February 1999

Further information on EXTRA 66/98 (AMR 51/64/98, 21 September 1998) and follow-up (AMR 51/66/98, 22 September) - Death Penalty / Legal concern

USA (Illinois)Anthony PORTER, aged 41, black

On 5 February 1999, Anthony Porter was released on bail after more than 16 years under sentence of death. He had been convicted of the murder of a young couple, Jerry Hillard and Marilyn Green, in a park on Chicago's South Side in August 1982.

Anthony Porter came within two days of execution in September 1998. The execution was stayed by the Illinois Supreme Court so that a hearing could be held to establish whether he was mentally competent to be put to death. Illinois law requires that inmates understand their punishment before they are executed. In August 1998, Anthony Porter's IQ had been measured at 51, which would have made him the most severely mentally retarded prisoner put to death since the USA resumed executions in 1977.

The competency hearing got underway on 1 February 1999. However, in a dramatic turn of events, proceedings were suspended on 2 February when evidence came to light that Anthony Porter had been wrongfully convicted. Five journalism students and their professor from Northwestern University had been investigating the case for the past few months, and, together with a private investigator, had unearthed evidence apparently exonerating the prisoner.

The students' investigation culminated in a videotaped interview with Alstory Simon conducted by one of the students and the private investigator on 3 February. In this interview Simon admitted to the killings, saying he had shot Jerry Hillard in self-defence during an argument over drug money. He said that the killing of Marilyn Green had been accidental.

The state's lead witness at the trial had earlier retracted his eyewitness testimony, which identified Porter as the gunman. Alstory Simon's estranged wife and her nephew signed affidavits implicating Simon as the killer.

Anthony Porter was released on 5 February and Alstory Simon was arrested two days later and charged with the 1982 killings.

If Anthony Porter's conviction is overturned, he will become the 10th condemned inmate to be exonerated and released from death row in Illinois since 1977. Concern over this rate of wrongful conviction has fuelled demands for a moratorium on executions in Illinois, at least until the capital justice system can be shown to be safe from irrevocable error. Following Anthony Porter's release, Chicago's two biggest newspapers - the *Sun-Times* and the *Tribune* - both called for a moratorium.

On the day of Anthony Porter's release, a spokesperson for Governor Ryan reportedly said: "I know people use these reversals as an argument for a moratorium or why the death penalty should be revised, but an argument can also be made that the system is working as designed." He said it was the long appeals process that gave the journalism students time to uncover the evidence of wrongful conviction, adding, "the media is part of the system". The spokesperson failed to point out that "the system" has apparently kept a wrongfully convicted man on death row for over 16 years and would have executed

him in September 1998 if his IQ had not been measured as abnormally low a month earlier. Furthermore, it was only by chance that a group of students had chosen to investigate Anthony Porter's case as part of their studies. One of the students recently said: "One of the things I'll take with me as I start a journalism career, is that journalists really need to do this kind of stuff. Basically, the press just reported it at the time - Porter was arrested for this murder and nobody cared. It was a couple of people on the South Side. People get killed there regularly."

Pressure is mounting on the Illinois state authorities to at least conduct a review of death row cases in the state to establish whether there have been any other wrongful convictions. On 8 February, Governor Ryan reportedly stated that he is willing to discuss a moratorium on executions, and several Illinois legislators are said to be planning to introduce bills to the state legislature that would impose a moratorium.

In its November 1998 report *Fatal Flaws: Innocence and the Death Penalty in the USA* (AMR 51/69/98), Amnesty International featured the case of Aaron Patterson, currently on death row in Pontiac Prison, Illinois. There are serious doubts about his guilt.

Many thanks to those who sent appeals in this case. Further recommended action: if possible, please send additional appeals to add to the pressure for a moratorium following the release of Anthony Porter;

- noting the release of Anthony Porter, who would have been executed in September 1998 if his IQ had not been measured as being abnormally low a month earlier;
- noting that, if he is exonerated, Anthony Porter will be the 10th wrongfully convicted prisoner to be released from death row since 1977;
- urging that steps be taken to abolish the death penalty in Illinois - the only way of ensuring that innocent people are not executed;
- urging that, at the very least, a moratorium be imposed so that the state's death penalty procedures can be investigated and a review of all death sentences in Illinois can be conducted to establish if there are other wrongfully convicted people on death row (you can mention the case of Aaron Patterson as a possible example of wrongful conviction).

APPEALS TO:

Governor

The Honorable George Ryan
 Capitol Building
 Springfield, IL 62706, USA

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Salutation: Dear Governor

Copies to:

Chicago Tribune, 435 N Michigan Avenue, Chicago, IL 60611, USA. Fax: +1 312 222 2598

Chicago Sun-Times, 401 North Wabash Ave, Chicago, IL 60611, USA. Fax: +1 312 321 3084 or 2980 E-mail: letters@suntimes.com

and to diplomatic representatives of the USA accredited to your country.