

PUBLIC

AI Index: AMR 51/027/2006

13 February 2006

UA 36/06

Death Penalty

USA (California)

Michael Morales (m), aged 46

Michael Morales is scheduled to be executed by lethal injection on 21 February. He was sentenced to death in 1983 for the rape and murder of Terri Winchell in 1981. A co-defendant, Rick Ortega, was sentenced to life without parole for his part in the rape and murder.

On 8 January 1981, Terri Winchell received a phone call from Rick Ortega asking her to go shopping with him for a present for his girlfriend. After she failed to return home her mother called the police. The next day police inquiries led them to Rick Ortega, who, after a search of his house and car, took them to where Terri Winchell's body lay at a vineyard on the outskirts of town. She had been beaten around the head and stabbed several times in the chest. The next day, police went to the home of Rick Ortega's cousin Michael Morales, and arrested him after carrying out a search of his home.

Among other issues, Morales's current attorneys are appealing against his death sentence on the grounds that the state prosecutor at trial knowingly used false testimony to convict and sentence him. Michael Morales was sentenced to death after the jury heard evidence from Bruce Samuelson, a jailhouse informant, who claimed that Morales had boasted to him that he planned to rape and kill Winchell. Following his testimony, the trial judge reportedly concluded that Morales was "lying in wait" to kill Winchell, a "special circumstance" which led him to impose a sentence of death, rather than life in prison.

After his testimony against Michael Morales, Bruce Samuelson was granted leniency in charges pending against him. However, new evidence has since emerged which casts doubt on Samuelson's testimony: Samuelson told the state Attorney General's office years later that the conversation he had had with Morales had been conducted in Spanish, a language which Morales reportedly does not speak. According to reports, the state denies that knowingly presenting false evidence and asserts that other sources corroborate Samuelson's evidence.

The judge who sentenced Michael Morales to death has recently written to California's Governor, Arnold Schwarzenegger, urging him to grant clemency in this case, because he is now convinced that he based the death sentence on false testimony. In a letter to Governor Schwarzenegger, he reportedly wrote that if he had known about the false statements, "I would not have let the death sentence stand; and the awesome decision to spare his life would not be before you at this time."

Michael Morales has reportedly always expressed remorse over the killing, which he said he did while he was under the influence of drugs and alcohol.

Morales's attorneys are also appealing that the state's method of execution, lethal injection, causes pain. In recent weeks the US Supreme Court has stopped two executions in Florida in order to consider claims presented in those cases that lethal injection causes pain. It has also allowed a lower federal court ruling, staying the execution of a Missouri death row prisoner bringing a similar challenge, to stand. However, it has allowed other executions to go ahead in Texas and Indiana, despite similar claims.

BACKGROUND INFORMATION

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 an affront to human dignity and a part of a culture of violence rather than a solution to it. It 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, 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 concern that Michael Morales is scheduled to be executed on 21 February;
- expressing sympathy for the family and friends of Terri Winchell and explaining that you are not seeking to condone the manner of her death or to minimize the suffering caused;
- expressing concern at reports of new evidence that casts doubt on the testimony used at trial to convict him and sentence him to death;
- noting the recent appeal from the trial judge to the Governor, in which he states his belief that the conviction was based on false testimony;
- urging the Governor to grant clemency to Michael Morales and commute his death sentence.

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.