

EXTERNAL

AI Index: AMR 51/42/93
Distrib: PG/SC

To: Medical professionals
From: Medical Office / Research Department - Americas
Date: 18 May 1993

MEDICAL LETTER WRITING ACTION

Bobby Shaw
USA (Missouri)

Keywords

Theme: death penalty/mental illness/mental handicap

Summary

Bobby Shaw, a 43 year old black prisoner, is held in Potosi Prison, Missouri, under sentence of death. The execution is set for 9 June 1993. There is a considerable body of evidence that he is mentally ill, mentally retarded¹ or both. Amnesty International is urging that his sentence be commuted.

Recommended Actions

Letters from medical professionals, preferably written in English, otherwise your own language, should be sent to the addresses below. Please use fax or express letter wherever possible.

Appeals to Governor Carnahan:

- urging that he grant clemency to Bobby Shaw and commute his death sentence to one of imprisonment;

Appeals to the Board of Pardons and Paroles:

- expressing concern that Bobby Shaw is scheduled to be executed on 9 June 1993 and urging that they recommend that the Governor grant clemency;

Appeals to both:

- noting that Bobby Shaw is borderline mentally retarded and has been diagnosed as suffering from mental illness including possible schizophrenia. (You could mention the number of reputable opinions testifying as to his mental state.)
- citing the relevant international standard (UN ECOSOC resolution 1989/64) on execution of those suffering "mental retardation or extremely limited mental competence".

¹ In the USA, the term "mentally retarded" is used in legal circles when referring to cases of persons with limited capacity to learn (known in the UK as "mental handicap" or "special learning difficulties")

Addresses

The Honorable Mel Carnahan
 Governor of Missouri
 PO Box 720
 Jefferson City
 MO 65102, USA
 Telegrams: Governor Carnahan, Jefferson City, MO 65102, USA
 Faxes: +1 314 751 2128
 Telephone: +1 314 751 3222

Salutation: Dear Governor

Mr Cranston Mitchell
 Chairman
 Missouri Board of Pardons and Paroles
 PO Box 267
 Jefferson City
 MO 65102, USA
 Telegrams: Chairman Mitchell, Missouri Pardon Board, Jefferson City,
 MO 65102, USA
 Faxes: +1 314 751 4099
 Telephone: +1 314 715 2389, +1 314 715 4949

Salutation: Dear Mr Mitchell

Copies to**Newspaper:**

Kansas City Star
 1729 Grand Avenue
 Kansas City
 MO 64108, USA

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

Please check with the International Secretariat, or your section office, if sending appeals after 9 June 1995.

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MEDICAL CONCERN

Bobby Shaw
USA (Missouri)

Bobby Shaw, a 43-year-old prisoner, is held in Potosi Prison, Missouri under sentence of death. He was convicted and sentenced to death in 1980 for the murder of a white prison officer in the previous year. His execution is set for 9 June 1993. There is a considerable body of evidence that he is mentally ill, mentally retarded or both. Amnesty International opposes the death penalty without reservation and is urging that his sentence be commuted. In this particular case, the organization believes that the execution of Bobby Shaw would conflict with international standards on the execution of the mentally ill or mentally retarded.

Background

Bobby Shaw, who is black, was sentenced to death in November 1980 for the murder of a white prison officer in July 1979. At the time of the crime he was serving a life sentence for the murder of his sister's boyfriend. Bobby Shaw has a history of mental illness, including possible schizophrenia, and borderline mental retardation. He was first treated for psychotic episodes while in prison for attempted robbery in 1974 when he was placed on the anti-psychotic drug Mellaril (thioridazine hydrochloride). He exhibited continued symptoms of mental illness after his release in 1975.

Bobby Shaw was reportedly given no mental evaluation before the trial for the murder of his sister's boyfriend. Although his low IQ was mentioned at his capital murder trial, his court-appointed lawyer conducted no investigation into his mental history and did not learn that he had been treated for psychotic episodes or that he had been placed in special education classes at school.

Since his trial, there have been a number of psychiatric and psychological evaluations of Shaw which present a picture of limited mental capacity and possible mental illness. According to a court submission made by Shaw's lawyers mental health evaluations made by treating health professionals suggest a number of different mental disorders and deficits. An examination in October 1986 by Dr Mri Jagaratna resulted in a "diagnostic impression" of "Axis I: Dysthymic disorder; Axis II: Schizoid personality disorder". An examination by the Potosi prison psychologist, Ms Betty Weber, also in 1986, concluded with a diagnostic impression that ruled out schizophrenia, organic personality syndrome and depression. She recommended psychiatric evaluation. The diagnostic impression of Dr Zvi Ajans was suspected chronic, undifferentiated schizophrenia; mixed substance abuse, by history; alcohol abuse, by history; and he ruled out organic personality syndrome.

In 1990, Dr Bruce Harry MD, after reviewing documentation and following an interview with Shaw to assess his competence to be executed, concluded that he suffered "Axis I: Dementia.... Axis II: Borderline intellectual functioning.... Axis III: history of closed head trauma, history of possible chemical insult to the central nervous system..." as well as noting features on Axes IV and V. He concluded that Shaw expresses an "understanding of the nature and purpose of the punishment about to be imposed on him, and has very limited understanding of the matters in extenuation, arguments for executive clemency, and reasons why the sentence should not be carried out." Dr Steven M Kory MD drew similar conclusions in 1992, diagnosing organic personality syndrome and ruling out schizophrenia. He found that Shaw understood the nature and purpose of punishment.

In 1990 Dr Daniel J Cuneo PhD examined Shaw and concluded that he had "Axis I: Dementia; Axis II: borderline intellectual functioning; Axis III: history of head trauma". He concluded that Shaw "does *not* have, as a result of his mental disease or defect, the ability to understand those matters in extenuation, arguments for executive clemency, or reason why the sentence should not be carried out." (Emphasis in original.) Prof. Jonathan Pineus examined Bobby Shaw in late December 1992 and concluded that he "is a deteriorated schizophrenic with a thought disorder in a normal sensorium which is manifested by auditory hallucinations, paranoia, autism, loose associations, a flattened affect and inability to care for himself." Several other medical or psychological evaluations of Shaw have been made.

It is clear that there are inconsistencies and differences among the medical and psychological opinions assembled on the case of Bobby Shaw. In some cases the differences extend to perceptions of his physical appearance - several reports spoke of a dishevelled unkempt prisoner; others of a prisoner with normal dress and hygiene. Similarly, some reports note a cool demeanor throughout, while others suggest a warming towards the end of the interview.

The court-appointed psychiatrist who interviewed him before trial was not given full information about his background and has since revised his conclusion that Bobby Shaw was mentally competent to stand trial and has stated that he now believes that Bobby Shaw "was suffering from the early stages of dementia, and possibly the early onset of schizophrenia" (affidavit of Dr S Parwatiker dated 17 March 1993).

In view of the range of evidence of mental illness and mental deficit (some of it conflicting) Amnesty International is concerned that Bobby Shaw's execution would contravene the United Nations Economic and Social Council Resolution 1989/64, adopted in May 1989, which recommends "eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence". Amnesty International is urging the responsible authorities in Missouri to commute the death sentence of Bobby Shaw.

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