

EXTERNAL (for general distribution)

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EXTRA 53/93

Death Penalty

28 May 1993

USA (Missouri): Chuck Lee Mathenia

Chuck Lee Mathenia is scheduled to be executed by the state of Missouri, USA, on 4 June 1993.

Chuck Mathenia, white, was sentenced to death in January 1985 for the murders of Daisy Nelson and Louanne Bailey, both white, in April 1984. Mathenia waived his right to counsel, and confessed to the crimes in a video-taped statement after he had been detained in jail for two weeks following his arrest. An attorney was later appointed to represent him at trial.

Mathenia was born to an alcoholic mother, who died when he was aged 6; he then lived with an aunt, who according to reports, severely abused him physically and emotionally. Mathenia has a well documented history of mental health problems. School records indicate that at age 14, Chuck Mathenia was mentally retarded with an IQ of 59. In 1975, at age 16, Mathenia was admitted to hospital for alcohol related problems, and diagnosed as mentally retarded. He was then admitted to hospital on three subsequent occasions for evaluation or treatment.

In 1979, following mental and psychological tests, he was found to be suffering from mild mental retardation. A physician's report in 1982 indicated mental deficiency and recommended further evaluation. In further hospital tests in 1982, Mathenia was found to be, in the words of a hospital doctor, "a seriously damaged young man". At age 23, Mathenia was determined mentally disabled by the Social Security Administration, and was granted benefit on these grounds.

Mathenia was represented at trial by an attorney who spent little time in the preparation of his case, who failed to present any of the above mitigating evidence relating to Mathenia's medical history to the jury at his trial, and who called no witnesses for the defence. One month prior to trial, a physician from the state hospital conducted a three and a half hour examination of Mathenia for the defense. He did not review any of Mathenia's medical records and prepared no report of his evaluation, but testified at sentence determination phase of the trial that Mathenia was "mildly mentally retarded".

In July and December 1991, and March 1993, Mathenia was evaluated by two psychologists at the request of his present attorneys. In a recent affidavit, one of these, Dr William A O'Connor said " I conclude, beyond a psychological certainty, that Chuck Mathenia is mentally retarded and severely brain damaged, and that he suffered from both of these mental impairments in April 1984...".

Following substantial testing of Mathenia in 1993, Dr Richard D Wetzel stated "I have reached certain conclusions about Chuck Mathenia with a reasonable degree of psychological certainty. I can state, that in my opinion, Mr Mathenia is moderately retarded, [and] brain damaged..."

Amnesty International is concerned that Chuck Mathenia's execution will be in contravention of United Nations Economic and Social Council (ECOSOC) resolution 1989/64, adopted in May 1989, which recommends "eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence".

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BACKGROUND INFORMATION

As of January 1993 there were 84 prisoners on death row in Missouri. The method of execution is lethal injection. Missouri has executed eight prisoners under its present laws. The last prisoner to be executed was Martsay Boulder in January 1993.

Amnesty International opposes the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment, as proclaimed in the Universal Declaration of Human Rights.

RECOMMENDED ACTION: Telegrams/telexes/faxes/express and airmail in English if possible:

Appeals to the Board of Pardons and Paroles ONLY:

- urging that they recommend that the Governor grant clemency to Chuck Mathenia;

Appeals to Governor Carnahan ONLY:

- urging that he grant clemency to Chuck Mathenia;

Appeals to both:

- expressing concern that important mitigating evidence about Chuck Mathenia's mental retardation was not presented to the jury responsible for sentencing him to death;

- referring to the psychologists' conclusions given above;

- citing the ECOSOC resolution also given above;

- urging that at the very least, a stay of execution be granted to allow thorough review of Chuck Mathenia's medical history and mental condition.

APPEALS TO

1) 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

2) 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

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

PLEASE SEND APPEALS IMMEDIATELY TO ARRIVE BY 3 JUNE 1993.