

EXTERNAL (for general distribution)

AI Index: AMR 51/56/91  
Distr: UA/SC

UA 389/91

Death Penalty

12 November 1991

USA (Oklahoma)

Robyn Leroy PARKS

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Robyn Parks is scheduled to be executed in Oklahoma on 6 December 1991. Parks, who is black and now aged 37, was convicted of the 1977 murder of Abdullah Ibrahim, of Bangladeshi origin. The victim was a petrol station attendant in Oklahoma City who was found dead on 17 August 1977. He had been shot once in the chest. No money, petrol or other property was missing. There were no eye-witnesses to the crime.

The state's evidence against Parks was weak. They used an incriminating statement by Parks which he later retracted. The prosecution's theory was that Parks had used a stolen credit card to buy petrol and had killed the victim to avoid being identified. But no physical evidence that a stolen credit card had been used, or even existed, was introduced by the state.

Parks was represented at trial by a single defence attorney who was terminally ill with cancer. He presented alibi evidence that Parks was elsewhere at the time of the crime. The jury disbelieved the defence and convicted Parks of the murder.

At the sentencing phase of the trial the prosecution invited the jury to consider three statutory aggravating circumstances to support a sentence of death. The jury refused to find two of them. They did not find the killing to be "heinous, atrocious or cruel;" they did not find Parks to pose a continuing threat to society (he had only a very minor prior criminal record). The jury did find that the victim was killed to avoid lawful arrest or prosecution (despite no physical evidence of robbery or other illegal act).

During his closing arguments the prosecutor encouraged the jury to deliberate "cold-bloodedly," telling them:

"You're not yourself putting Robyn Parks to death. You just have become a part of the criminal justice system that says when anyone does this, that he must suffer death. So all you are doing is you're just following the law... God's law is the very same. God's law says that the murderer shall suffer death. So don't let it bother your conscience, you know."

Following this, the judge instructed the jury to "avoid all influence of sympathy" when deciding whether the penalty should be life imprisonment or death. The jury returned a sentence of death. Parks' death sentence is unusual in that he is one of only three of Oklahoma's 123 death row inmates to be sentenced to death on the basis of the single aggravating circumstance described above.

In 1988, the federal Court of Appeals reversed Parks' death sentence on the grounds that the judge's instruction had created an impermissible danger that the jury may have thought they were being told to disregard the mitigating evidence Parks had presented.

The state of Oklahoma appealed and the US Supreme Court agreed to hear the case. The ruling, Saffle v. Parks (1990), reinstated Parks' death sentence on a five-to-four vote. The majority held that Parks was not entitled to relief for procedural reasons. The minority said that he was. The minority opinion noted: "Until today, the Court

consistently has vacated a death sentence and remanded for resentencing when there was any ambiguity about whether the sentencer actually considered mitigating evidence...The Court's failure to adhere to this fundamental Eighth Amendment principle is inexcusable."

Parks has been on death row since December 1978. His behaviour in prison is described as exemplary. He earned a reputation as a mediator in race-related problems on death row and has won the respect of prison guards and inmates. He has a large, devoted circle of friends and a supportive family.

#### **BACKGROUND INFORMATION**

Oklahoma has carried out one execution since its current death penalty statute was enacted in 1976. Charles Coleman was executed on 10 September 1990 by lethal injection. As of 20 September 1991 there were 123 prisoners under sentence of death in Oklahoma.

The five-member Oklahoma Board of Pardon and Parole will meet to consider Robyn Parks' clemency petition on 2 December 1991. This will be the first clemency hearing in a death penalty case in Oklahoma in more than 25 years. When a clemency application is made, the Board examines its merits and makes an advisory, non-binding recommendation to the Governor. The Governor makes the final decision.

#### **RECOMMENDED ACTION: Telegrams/telexes/faxes/telephone calls/express and airmail letters:**

- urging the Board of Pardon and Parole to recommend to the Governor in favour of commuting Robyn Parks' death sentence;
- urging the Governor to grant clemency to Robyn Parks by commuting his death sentence;
- expressing concern that the jury may have interpreted the judge's anti-sympathy instruction as an instruction to disregard mitigating evidence presented by Parks;
- expressing concern at the narrowly divided US Supreme Court ruling which reinstated Parks' death sentence on procedural (ie technical) grounds, while the four dissenting judges strongly argued that Parks' petition should be granted on its merits;
- appealing to both the Board and the Governor to consider other factors in the case which provide good grounds for granting clemency (for example, the jury's refusal to find that the crime was "heinous, atrocious or cruel," or that Robyn Parks posed a continuing threat to society; and Parks' reportedly exemplary behaviour in prison).

#### **APPEALS TO**

1) Oklahoma Board of Pardon  
and Parole  
4040 N Lincoln, Suite 219  
Oklahoma City, OK 73105  
USA

**Telegrams: Oklahoma Pardons Board,  
Oklahoma City, OK 73105, USA**

**Phone: + 405 427 8601**

**FAX: + 405 427 6648**

2) The Honorable David Walters  
Governor of Oklahoma  
State Capitol  
Oklahoma City, OK 73105  
USA

**Telegrams: Governor Walters, Oklahoma  
City, OK 73105, USA**

**Phone: + 405 521 2342**

**FAX: + 405 521 3089 or 3353**

**COPIES TO:** diplomatic representatives of the USA in your country

**PLEASE SEND APPEALS IMMEDIATELY TO REACH THE PARDONS BOARD BY 1 DECEMBER AND TO REACH THE GOVERNOR BY 5 DECEMBER.** Check with the International Secretariat, or your section office, if sending appeals after 5 December 1991