

EXTERNAL

AI Index: AMR 51/58/97

EXTRA 126/97

Death Penalty / Legal concern

29 September 1997

USA (Missouri)

A J Bannister

Alan Jeffrey ("A J") Bannister, white, is scheduled to be executed in Missouri on 22 October 1997. He was convicted of the murder-for-hire killing of Darrell Ruestman, white, in August 1982 and sentenced to death on 10 March 1983. In 1994 he came within one day of execution (see UA 404/94, AMR 51/94/94).

At trial, the prosecution's theory was that A J Bannister was a hired "hit man", which was not refuted by the court-appointed defence. According to the clemency petition, A J Bannister received "woefully inadequate defense". His court-appointed attorney, who met with him only about three or four times prior to the trial, did little or no investigation of the facts surrounding the case, and presented "absolutely no defense" during either the guilt or penalty phases of the trial. The trial lasted just three days and the jury convicted him after less than an hour of deliberation.

Investigations conducted since 1991 suggest that A J Bannister was not hired to kill Ruestman, but was instead persuaded that Ruestman wanted to kill him because of a mix-up over a drugs deal. Bannister visited Ruestman's home and shot him, allegedly during a struggle.

A J Bannister's attorneys say that his execution would be disproportionate to the nature of the crime, and a clear miscarriage of justice. They are calling on Governor Carnahan to order a thorough investigation of the facts surrounding the crime, and to consider the issue of inadequate defence counsel at trial, which has never been addressed by any state or federal court because of a procedural technicality. They claim that had this issue been considered it "would have resulted in a new and fair trial".

In August 1997, Governor Carnahan stayed the execution of another death row prisoner, William Boliek, on the grounds that Boliek may have received inadequate legal representation at his original trial (see EXTRA 107/97, AMR 51/45/97, 24 July and follow-up, AMR 51/53/97, 27 August). The Governor appointed a board of inquiry to investigate the matter further and make a recommendation to him.

The police officer responsible for arresting Bannister has issued statements supporting his application for clemency to Governor Carnahan on the grounds that the punishment of death is not appropriate to the crime, that Bannister was ineffectively represented at trial and that his colleagues "embellished" statements made by Bannister after his arrest.

Bannister's appeal was denied by the 8th Circuit Court of Appeals. However, in a dissenting opinion Judge Bright stated: "*These roadblocks [to allowing Bannister appeal] I emphasize, are procedural and in no way reflect on the merits of Bannister's claims. If these issues remain unaddressed Missouri may execute a man without offering him a fair trial or competent legal representation. Because this court cannot address those issues on their merits, we must rely on other authorities - either the United States Supreme Court or, if not, the Governor of Missouri - to review the record and address Bannister's contentions.*"

BACKGROUND INFORMATION

As of 1 July 1997 there were 94 prisoners under sentence of death in Missouri. The most recent person to be executed in the state was Andrew Six, on 27 August 1997. The method of execution is lethal injection. Twenty-seven prisoners have been put to death in the state since the resumption of executions in 1989.

In Missouri, the Governor has final clemency authority; the Board of Pardons and Paroles submit a recommendation to the Governor.

RECOMMENDED ACTION: Please telephone or send e-mail/telegrams/faxes/express and airmail letters in English or your own language:

- expressing concern that A J Bannister is scheduled to be executed in Missouri on 22 October 1997;
- urging Governor Carnahan to grant clemency to A J Bannister by commuting his sentence of death;
- quoting from Judge Bright's dissent and pointing out that the arresting police officer does not believe Bannister to be deserving of the death penalty;
- urging Governor Carnahan to review the facts of the case which were never heard at trial due to the inadequacy of A J Bannister's trial attorney, and which may have resulted in a sentence less than death.

APPEALS TO

The Honorable Mel Carnahan
Governor of Missouri
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Salutation: Dear Governor

COPIES TO:

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

PLEASE SEND APPEALS IMMEDIATELY.