

UA 61/99

Death Pen**USA (CALIFORNIA)Manny BABBITT, Vietnam veteran**

Manny Babbitt, a black former US Marine, is scheduled to be executed in California on 4 May 1999 - the day after his 50th birthday. He was sentenced to death in 1982 for the murder of Leah Schendel. Babbitt has completed the appeals process; his only hope of avoiding execution is clemency from Governor Davis (also a Vietnam veteran). A clemency hearing is scheduled for 26 April.

Babbitt's childhood was traumatic and impoverished. At an early age he was sent out to do back-breaking work. He left school at 17 unable to read. His alcoholic father beat and brutalized both him and his mentally ill mother. Babbitt and his other siblings were ridiculed daily with racist taunts from members of their community. Babbitt's father died a slow death from cancer, forcing extra responsibility on Babbitt, who became a surrogate parent to his siblings. Psychiatric and neurological disorders ran rampant in the family.

In June 1967, Babbitt joined the US Marines. He initially failed the screening exam, but with "help" from the recruiter he passed on the second attempt. Upon arriving in Vietnam in December 1967 he went straight into active service in the siege of Khe Sanh, the longest and bloodiest battle of the war. On 17 March 1968 Babbitt was wounded in action but returned to his unit almost immediately because the policy at the time was to keep returning men to the field until they had been wounded three times. Promoted to Corporal, Babbitt was awarded the Cross of Gallantry, the Purple Heart and other decorations. He returned to the USA in August 1969, remained in the Marines but had severe difficulties adjusting to life outside combat. After taking unauthorized leave he was finally discharged after being deemed "unsuitable".

Babbitt has a severe, chronic case of combat-induced Post Traumatic Stress Disorder ("PTSD"). A leading expert on Vietnam combat related PTSD concluded "to a reasonable medical certainty that [Babbitt] was suffering from severe chronic post-traumatic stress disorder, aggravated by alcohol and drug abuse, resulting in his experiencing... a dissociative state at the time of the offense." PTSD, a now-recognized debilitating disorder, was neither understood nor officially recognized until the end of the 1970s. The symptoms of PTSD include dissociative states during which the individual relives the original traumatic event. For those trained in combat, re-experiencing the event may cause unpredictable explosions of aggressive behaviour. From 1974 Manny Babbitt suffered from increasing periods of mental instability, spending eight months in a mental hospital and attempting suicide. A psychiatrist diagnosed Babbitt as suffering from "schizophrenic reaction, paranoid type, who shows tendencies toward self-destruction". A federal magistrate described the conditions in the mental hospital that treated Babbitt as "shocking" and "unconstitutional" one month after Babbitt was released from it.

Before he was sent to Vietnam, Babbitt had no history of serious criminal or violent behaviour, but from 1973 onwards he was increasingly involved in crime. His declining mental health was diagnosed but never treated. After taking hallucinogenic drugs, Babbitt is said to have experienced a combat-related flashback which lasted for two days and resulted in amnesia. During that time he killed Leah Schendel and tried to rape another woman, Mavis Wilson. The body of Schendel was hidden and tagged as soldiers hid and tagged their fallen comrades in Vietnam.

The crimes were unsolved until Babbitt's brother, Bill Babbitt, discovered his involvement in the crime and told the police, in the hope that Manny would finally get the mental health treatment he needed. Bill Babbitt is now campaigning to save his brother's life.

Although a compelling PTSD case could have been presented in mitigation to persuade the jury to spare his life, Babbitt's lawyer appears to have performed incompetently. The jury never heard evidence necessary to a successful PTSD defence, either because the witnesses who were prepared to relate it were not contacted or because counsel was unable to elicit such testimony at trial. Babbitt's attorney has admitted that he had no coherent theory of Babbitt's mental state, that he had not "adequately planned or researched or... investigated", and that his approach in presenting evidence of Babbitt's mental illness was simply to "throw mud" and "hope some of it would stick". An appeal court found that the attorney's failure to present evidence constituted "classical tactical decisions". Amnesty International fails to understand how neglecting to present evidence that the defendant had been severely damaged in "the service of his country" could be presented as a tactic.

In a comment to the press, the prosecuting authorities showed no understanding or sympathy for sufferers of PTSD. A deputy district attorney was recently quoted as stating: "It's spin that's put on the case to take advantage of the national sense of guilt over Vietnam. The event [the murder] occurred 12 years after Khe Sanh and 10 years after he was discharged."

Many Vietnam veterans are campaigning against the execution, including one ex-Marine, now a retired police officer, who has identified Babbitt as the soldier who saved his life at the siege of Khe Sanh.

In California, the Governor has sole authority to grant clemency. To date, clemency has not been granted to any prisoner since the reintroduction of the death penalty.

RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters in English or your own language:

- expressing concern that Manny Babbitt is scheduled to be executed on 4 May 1999;
- expressing sorrow at the murder of Leah Schendel and sympathy for her family and friends;
- stating that, while you do not believe that Post Traumatic Shock Disorder can excuse the crime for which Manny Babbitt was sentenced, it should be taken into consideration when determining the granting of clemency;
- stating that, had the jury fully understood Babbitt's PTSD, they may well have chosen to spare his life;
- urging Governor Gray Davis to grant clemency to Manny Babbitt by commuting his death sentence.

Note: Please do not mention Amnesty International or your opposition to the death penalty in your appeals.

APPEALS TO:

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and to diplomatic representatives of USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.