

PUBLIC

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UA 88/06      Death penalty/legal concern

USA              Dexter Lee Vinson (m)

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Dexter Lee Vinson is scheduled to be executed on 27 April. He was sentenced to death in February 1999 for the April 1997 murder of his former girlfriend, Angela Felton. Ms Felton's mutilated body was discovered in a deserted house in the city of Portsmouth. She had last been seen the previous day, with Dexter Vinson.

According to Vinson's current attorneys, there are serious doubts that Vinson killed her. One supposed eyewitness has since admitted, and the state has accepted, that the testimony she gave at Vinson's preliminary hearing, and which was presented by a police investigator to a grand jury (the body which decides whether a defendant has a case to answer and should therefore stand trial) was false. She claimed to have seen Dexter Lee Vinson assaulting Angela Felton at the house where her body was found. In fact it was her boyfriend's mother who had seen the events at the house, and the boyfriend had passed this on to her. The boyfriend's mother, who had actually been an eyewitness, never contacted police herself about what she had seen and did not identify Vinson as the perpetrator until 18 months later, at his trial, after agreeing to testify against him because the state had threatened to prosecute her son and his girlfriend for giving false statements and committing perjury at the preliminary hearing.

After the trial, Vinson's appeal attorneys reportedly obtained evidence that the actual eyewitness told prosecutors the assailant returned to the crime scene when Vinson was at work, more than 30 miles away, and that she had seen the assailant drive by her house the day after the crime, at a time when Vinson was already in police custody. She also reportedly gave contradictory statements to the prosecution, saying at one point that she had, and at another that she had not, seen the assailant return to the scene of the crime. Further evidence reportedly indicates that another supposed eyewitness, who only identified Vinson as the perpetrator at his trial, initially told police she was not sure she would be able to identify the man she had seen.

Before his trial, Dexter Lee Vinson was assessed by a clinical psychologist who initially found that Dexter exhibited some characteristics of psychiatric illness and who recommended that he should receive further interviewing and psychological evaluation. During post-conviction proceedings, this psychologist provided an affidavit in which he stated that Vinson's trial counsel had not provided him with critical information, including previous psychological evaluations, medical and school records, and information that Vinson had suffered physical, sexual and emotional abuse during infancy and childhood at the hands of his father, grandparents, mother and elder brother. This information had later been supplied to him by appeals attorneys. He further said this information "could have had an enormous impact on the clinical picture and thus the diagnosis(es) given to Mr Vinson". In his affidavit he stated: "Trial counsel's failure to provide critical data left me with incomplete information and, consequently, potentially invalid conclusions. This failure erodes confidence in the accuracy, appropriateness, and competency of the evaluation, and this concern is confirmed through the significant mental health information discovered by attorneys who actually investigated the case after trial." He further stated: "I considered Ms Lomax's (Vinson's trial attorney) preparation, understanding, presentation, and development of the mental health evidence in this case to be grossly inadequate. It was most distressing to observe a decision about a man's life being made on the basis of such inadequate and incomplete testimony, and with such poor legal presentation. It was also embarrassing for me to have been placed in a position to have presented testimony in such a way as to have been completely ineffectual." Vinson's post-trial attorneys have attempted to secure a re-evaluation of his mental condition through the courts, but this has never been granted.

## **BACKGROUND INFORMATION**

Since 1977, when the USA resumed judicial killing, the US Supreme Court has provided some constitutional protections for mentally impaired people facing the death penalty. In 1986, in *Ford v. Wainwright*, the court ruled that the execution of people who are insane violates the US Constitution's prohibition on "cruel and unusual punishments". A decision by the Supreme Court in 2002 (*Atkins v. Virginia*) prohibited the death penalty for people with mental retardation, reasoning that mental retardation diminishes personal culpability, and renders the death penalty difficult to justify on deterrence and retribution grounds. Virginia's Governor Kaine has reportedly stated that he is morally opposed to the death penalty.

Today, 122 countries are abolitionist in law or practice, and there are strict international safeguards applying to those countries which have not yet abolished the death penalty. For example, the United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty prohibit the execution of "persons who have become insane". The UN commission on Human Rights has repeatedly called on those countries which still retain the death penalty not to use it against anyone suffering from a mental disorder.

Amnesty International does not seek to excuse the perpetrators of violent crime. However, it opposes the death penalty in all cases. Amnesty International believes that there is a profound inconsistency in exempting people with mental retardation from the death penalty while those with serious mental illness remain exposed to it. Similarly, exempting juvenile offenders from the death penalty because of their diminished culpability is incongruous with executing those suffering from serious mental illness or impairment other than retardation.

## **RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:**

- expressing sympathy for the family and friends of Angela Felton, explaining that you are not seeking to condone the manner of her death or to minimize the suffering caused;
- expressing concern at information that Dexter Lee Vinson suffers from a mental disorder which has not been properly evaluated;
- noting international standards which prohibit the execution of people with mental illness;
- expressing concern at reports that testimony used at Dexter Lee Vinson's trial was perjured, and that the prosecution was aware of this;
- urging Governor Kaine to grant clemency to Dexter Lee Vinson.

## **APPEALS TO:**

Tim Kaine

Governor of Virginia

Office of the Governor

Patrick Henry Building, 3<sup>rd</sup> Floor

111 East Broad Street

Richmond, Virginia 23219

**Fax:** +1 804 371 6351

**Email:** <http://www.governor.virginia.gov/AboutTheGovernor/contactGovernor.cfm>

**Salutation:** Dear Governor

**COPIES TO:** diplomatic representatives of the USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 25 May 2006.