

USA (Oklahoma) Scotty Lee MOORE, aged 42

Scotty Lee Moore is scheduled to be executed in Oklahoma on 3 June 1999. He was convicted in 1984 of the murder of clerk Alex Fernandez in the course of an armed robbery at a motel in Oklahoma City on 18 November 1983.

At the sentencing phase of his trial - when the prosecution argues for death and the defence for life - Moore's lawyer chose not to make a closing argument. The higher courts have rejected subsequent appeals that this, or other shortcomings in the defence, amounted to ineffective representation. However, in a strongly worded dissenting opinion in 1998, a US District Court Judge said: "The devastating effect of some errors simply should not be overlooked.

An attorney's failure to argue for his client's life during the sentencing phase of a capital case is that type of error... I can think of no stronger signal to a jury that a defendant's life is not worth sparing, than the failure of anyone to speak for him. When nobody in the courtroom stands up and argues for the defendant's life, it devalues the jury system, the court, and life itself... Counsel's decision to waive argument during the sentencing phase denied Mr Moore his day in court and denied the jury an opportunity to weigh the aggravating and mitigating circumstances [in order to decide between a death or a life sentence] on a fully informed basis."

Scotty Moore's defence team were not provided with the resources to fully investigate mental health-related mitigating factors. At the time of the crime, Moore had had a long history of alcohol and drug abuse stemming from underlying chronic depression, learning disorders, and organic brain damage. The jurors who sentenced him to death were not presented with the extent of this evidence, including a suicide attempt at the age of 20.

Scotty Moore was prosecuted by Bob Macy, who is reported to have obtained more death sentences - 53 - than any other US prosecutor. In numerous appeals to higher courts Mr Macy has been accused of prosecutorial misconduct in achieving these sentences. Scotty Moore's appeals have raised the content of Mr Macy's statements at the sentencing phase. These included his encouraging the jurors to diminish any concern they might have of their responsibility in the death of a human being, by saying that they were "a small piece of the machinery that is designed to take people like Scotty Lee Moore and put them on death row." The prosecutor appealed to the jurors' patriotism, comparing military service during wartime with handing down a death sentence. The appeal courts have rejected the argument that any such statements might have improperly influenced the jurors.

Scotty Moore's alleged accomplice in the crime was his first cousin, who struck a deal with the authorities and agreed to testify against Moore. Moore's current lawyers claim that evidence developed since the trial indicate that it was this cousin, rather than Scotty Moore, who shot Alex Fernandez. After the trial, Moore's attorneys found an entire investigative police file on the case, which had been illegally withheld from the defence, and which contained references to other suspects in the case.

While in prison, Scotty Moore has educated himself about the law, his case, and about mental illness, including his own depression. He has been an active campaigner for his and his fellow inmates' civil rights in the face of the cruelty inflicted by the State of Oklahoma on its death row prisoners. Male

death row inmates are held in H-Unit, Oklahoma State Penitentiary, an underground concrete maximum security prison in McAlester, whose conditions Amnesty International has denounced as cruel, inhuman and degrading, and in violation of international standards. In the early 1990's Moore played a key role in drawing the organization's attention to H-Unit. Despite being held in one of the harshest prison regimes in the USA, and despite suffering from bouts of chronic depression exacerbated by his conditions of confinement, Scotty Moore has been a model prisoner. He has often helped inmates with legal or other assistance when they were unable to help themselves, because of illiteracy, lack of education or deteriorating mental health.

One such prisoner was Ronald Williamson, whose serious and untreated mental illness Moore documented and brought to the attention of Williamson's attorneys.

On 15 April 1999 all charges against Williamson were dropped after new DNA evidence exonerated him. He had spent nine years on death row as a result of an ineffective defence and overzealous prosecution. His was the 78th exoneration of a US death row prisoner since 1973.

BACKGROUND INFORMATION

Oklahoma has executed 15 prisoners since it resumed state killing in 1990. The most recent execution there was of Sean Sellers on 4 February 1999, the first execution of a US prisoner for a crime committed at 16 since 1959, in blatant violation of international law banning the death penalty for those who commit crimes when under 18. Another 150 prisoners remain on death row, with the pace of executions accelerating. The Governor has the authority to grant clemency on the recommendation of the Pardon and Parole Board. Scotty Moore's appearance before the Board will be on 18 May 1999.

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

- expressing sympathy for victims of crime and their families/friends;
- noting that Scotty Moore was sentenced to death by a jury which was not in a position to weigh up mitigating and aggravating factors;
- noting that Scotty Moore has been an exemplary prisoner, who has always looked to help fellow inmates, especially those with mental health problems and lacking education;
- urging that Scotty Moore be granted clemency and that his death sentence be commuted.

APPEALS TO:

Oklahoma Pardon and Parole Board, 4040 N. Lincoln Street, Suite 219, Oklahoma City, OK 73105-5221, USA

Fax: +1 405 427 6648

Salutation: Dear Board Members

Appeals should arrive before 18 May. You may also write to Board members:

Currie Ballard, PO Box 171, Coyle, OK 73027-0171, USA

Flint Breckinridge, 2010 Utica Square, Suite 403, Tulsa, OK 74114-1635, USA

Susan Bussey, PO Box 636, Norman, OK 73070, USA

Ruby Smith, PO Box 18831, Oklahoma City, OK 73154-0831, USA

Ronald Worthen, PO Box 1902, Ardmore, OK 73402-1902, USA

2. Governor Frank Keating
212 State Capitol
Oklahoma City, OK 73105, USA

Telegrams: Governor Keating, Oklahoma City, OK, USA

Faxes: +1 405 521 3353

E-mail: governor@oklaosf.state.ok.us

Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY.