

EXTERNAL (for general distribution)

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Death Penalty

5 July 1995

USA (Arizona)

Luis MATA

Luis Mata, of Mexican origin, is scheduled to be executed in Arizona on 12 July 1995.

Luis Mata was convicted by a jury and sentenced to death by a judge (in Arizona the trial judge alone decides on sentence) in 1977 for the murder of Debra Lopez in March 1977. Mata was then granted a resentencing hearing which took place before the same judge in 1978, who again passed the death sentence. Luis' brother, who was also convicted in the crime, was sentenced to life imprisonment.

Mata's current attorneys state that his trial was presided over by a judge who is under investigation because of derogatory racial remarks he made in another Arizona case which has resulted in the African-American defendant being granted a new sentencing hearing before a different judge. During proceedings on Mata's case, the judge used the term "wetbacks" - an offensive term for a Mexican in the US, especially a labourer who crossed the US border illegally.

A motion to withdraw this judge from further proceedings in Mata's case was denied by the Arizona Supreme Court in July 1994.

According to his present attorneys, Mata received poor legal representation at trial, at his resentencing in 1978, and on appeal. The attorney who represented Luis Mata in his appeal to the Arizona Supreme Court was a recent law school graduate who was admitted to the bar less than one month before he appeared in court on Mata's behalf. Mata's state post-conviction attorneys had no experience in representing capital defendants in post-conviction proceedings, and attorneys who represented him in federal court had no experience of capital cases. Subsequently, it was discovered that substantial mitigating evidence relating to Mata's severely deprived childhood and family background had not been presented to the courts. This evidence was first presented to the Arizona courts in November 1993 by Mata's current attorneys, but relief on these grounds has been denied.

In a petition to the US Supreme Court, Mata's attorneys describe how Mata was born to a poor family of migrant Mexican farm workers which involved constant moving, insufficient food, poor living conditions, exposure to pesticides, no medical attention, and family violence. He suffered damage to his head at birth and was a sickly child who suffered from intense headaches, which increased after an accident when he was six caused him a serious head injury.

His father had severe drinking problems, and often beat his wife and children, especially Luis, whom he kicked and punched in the head, and sometimes beat with electric cords. Luis began drinking when he was 9 years old. By the age of 15 he drank daily, sniffed glue and smoked marijuana. At school he was a slow learner, and was placed in a special education class at age 11. At the time of the crime, Luis had consumed large amounts of alcohol.

According to his attorneys, a recent report by a Clinical Psychologist describes Luis Mata as having "significant brain damage that affects almost every aspect of his life". Another expert has reportedly testified that he "suffers from organic brain dysfunction. Mr Mata is unable to control his conduct in the way that normal people do because of his brain damage". Further information

describes Mata as having achieved scores of 64-70 in I.Q. tests (an average person would score 100).

Amnesty International opposes the death penalty unconditionally as the ultimate form of cruel, inhuman and degrading punishment, and as a violation of the right to life as enshrined in the Universal Declaration of Human Rights. Furthermore, the organization believes that the execution of Luis Mata would be in contravention of United Nations Economic and Social Council (ECOSOC) resolution 1989/64, adopted in May 1989, which recommends "eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence."

BACKGROUND INFORMATION

As of 30 April 1995, there were 122 prisoners under sentence of death in Arizona.

The most recent person to be executed in the state was James D Clark, on 14 April 1993. The method of execution in Arizona is lethal injection. Prisoners who were under sentence of death before the state's method of execution was changed from gas chamber to lethal injection in November 1992 may choose between lethal injection or the gas chamber. In Arizona the Governor may grant clemency or reprieves only on recommendation of the state Board of Executive Clemency.

RECOMMENDED ACTION: Please telephone, or send telegrams or faxes:

- urging the Arizona Board of Executive Clemency to recommend that Governor Symington grant clemency to Luis Mata by commuting his sentence of death;
- expressing deep concern that evidence relating to Luis Mata's deprived family background and mental health problems was not presented at his trial;
- stating that the execution of Luis Mata would be in contravention of United Nations Economic and Social Council (ECOSOC) resolution 1989/64, adopted in May 1989, which recommends "eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence";
- expressing concern at reports that Luis Mata was sentenced to death by a judge who used derogatory racial remarks during proceedings on his case, and who is under investigation for racially offensive comments he made in another Arizona case.

Appeals from Mexican nationals living in countries outside Mexico to relevant Mexican officials/embassies in those countries would be particularly welcome.

APPEALS TO

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

PLEASE SEND APPEALS IMMEDIATELY.