

8 September 2000

Further information on UA 230/99 (AMR 51/144/99, 3 September 1999) and follow-ups (AMR 51/164/99, 12 October 1999; AMR 51/184/99, 15 November 1999; AMR 51/209/00, 14 December 1999 and AMR 51/17/00, 27 January 2000) - Death penalty / Legal concern

USA (North Carolina) Johnnie Lee McKnight, aged 20

A hearing into Johnnie McKnight's competency to stand trial will resume on 18 September 2000 in Fayetteville, North Carolina. The prosecution is continuing to seek both to try this learning disabled, mentally ill young man, and to obtain a death sentence against him for a crime he allegedly committed when he was 17 years old.

The hearing began on 31 August, but was not completed. Four mental health experts - two forensic psychiatrists and two psychologists - testified that McKnight lacks the mental capacity and language skills to be capable of standing trial. No expert evidence was presented to the contrary.

A forensic psychiatrist at Dorothea Dix Hospital, a state-run mental facility in Raleigh, testified that Johnnie McKnight does not fully appreciate the seriousness of the charges, and that he would be unable to comprehend the court proceedings or to assist in his defence. She also testified that he has suffered hallucinations since he was 12, and takes anti-psychotic medication. An expert on learning disabilities testified that Johnnie McKnight, who has an IQ of around 52, pretends to understand more than he actually does. He also testified that this "cloak of competence" is common among people with learning disabilities, and that Johnnie McKnight has no short-term memory and is illiterate.

The judge may yet reject the expert opinion outlined above, if he decides that it does not prove incompetency. There were indications at the hearing that the judge may believe a trial is possible. The state hospital expert said that the trial "would have to be conducted at a second grade level [suitable for a child of about seven] for Johnnie Lee McKnight to understand what's going on". If McKnight is ruled incompetent to stand trial, he would be indefinitely confined in Dorothea Dix Hospital.

On 31 August, the judge rejected a defence motion to prevent the state from seeking the death penalty on the grounds that this is illegal under international law given Johnnie McKnight's age at the time of the crime. On 17 August, the United Nation (UN) Sub-Commission on the Promotion and Protection of Human Rights affirmed that "the imposition of the death penalty on those aged under 18 at the time of the commission of the offence is contrary to customary international law". Its resolution called on all offending states "to remind their judges that the imposition of the death penalty against such offenders is in violation of international law". A principle of customary international law is a general practice accepted as law, and is binding on all countries regardless of which international treaties they have ratified. The USA has carried out 12 of the 17 executions of child offenders known worldwide since 1993.

On 26 April, the UN Commission on Human Rights adopted a resolution urging all countries "not to impose the death penalty on a person suffering from any form of mental disorder or to execute any such person". Eleven years earlier,

on 24 May 1989, the UN Economic and Social Council adopted resolution 1989/64 urging states to "eliminat[e] the death penalty for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution". Thirteen of the US states that use the death penalty forbid the execution of people with mental retardation.

Johnnie McKnight and a co-defendant, who was 18 at the time of the crime, are accused of killing Rodney Perry (17), Renetta Brookes (22), and Joseph Petty (19). The three were shot on 25 October 1997 in the mobile home of James Williams (45), who survived the attack. According to reports, the prosecution is preparing to present Williams as a witness in its attempt to persuade the judge to allow the trial to proceed.

FURTHER RECOMMENDED ACTION: Please send faxes/express/airmail letters in English or your own language, in your own words, using the following guide:

- expressing sympathy for the relatives of the crime, and explaining that you are not seeking to condone this crime or to express an opinion about Johnnie Lee McKnight's guilt or innocence;
- noting that four mental health experts, including a psychiatrist from the state-run Dorothea Dix Hospital, testified on 31 August that Johnnie Lee McKnight is incompetent to stand trial;
- noting that no expert has testified to the contrary;
- noting that if ruled incompetent, he will be confined in hospital;
- pointing out that international standards require that the death penalty is not used against people with mental retardation, and that 13 retentionist US states prohibit such use of capital punishment;
- expressing concern that if Johnnie Lee McKnight goes to trial, Cumberland County intends to seek a death sentence against him in violation of international law, binding on all jurisdictions in all countries, which forbids the use of the death penalty against those under 18 at the time of the crime;
- urging that the prosecution drop its pursuit of the death penalty.

APPEALS TO:

The Honourable Margaret R. Russ (prosecuting this case)
 Assistant District Attorney
 117 Dick Street
 Fayetteville, NC 28301, USA
Faxes: + 1 910 678 2949
Tel: + 1 910 678 2915
Salutation: Dear Assistant District Attorney

You may also write to the Governor of North Carolina expressing your deep concern that his state continues to flout international law, damaging to the international reputation of North Carolina and the USA as a whole. You may note the UN Sub-Commission's 17 August ruling.

Governor James B. Hunt Jr.
 Office of the Governor
 20301 Mail Service Center
 Raleigh, NC 27699-0301, USA
Fax: +1 919 715-3175 or +1 919 733-2120
Salutation: Dear Governor

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

You may also write brief (about 250 words) letters to:

- The People's Forum, *Raleigh News and Observer*, PO Box 191, Raleigh, NC 27602, USA. **Faxes: + 1 919 829 4872. E-mails: forum@nando.com**
- *Fayetteville Observer-Times*, 458 Whitefield St., P.O. Box 849, Fayetteville, NC. 28302, USA. **Faxes: + 1 910 486 3545. E-mails: eletters@fayettevillenc.com**

PLEASE SEND APPEALS IMMEDIATELY.