

EXTERNAL

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EXTRA 149/95

Death Penalty

27 November 1995

**USA (ARIZONA) Paris CARRIGER**

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Paris Carriger is scheduled to be executed in Arizona on 6 December 1995. He was convicted of the murder of Robert Shaw during a robbery of the victim's jewellery store in March 1978.

The main prosecution witness against Carriger was his former prison cell-mate, Robert Dunbar. On the day of the murder the two men had visited the jewellery store to have a watch repaired. One of the men later returned to the store and murdered Shaw.

Dunbar went to the police claiming that Carriger had confessed to him that he had robbed the store and murdered Shaw. Dunbar offered to cooperate with the police in exchange for immunity from prosecution for another robbery he had committed and for having illegally brought a gun (supposedly for Carriger).

Carriger was represented by a court-appointed attorney who apparently made no preparation for the trial and who did not cross-examine Dunbar adequately, failing to uncover his lengthy criminal record of armed robberies, his history of violence and that he had spent time in the state hospital for the insane. No information regarding Dunbar's reliability as a prosecution witness was heard by the jury.

In 1982, Paris Carriger's death sentence - but not his conviction - was overturned after judges found his court-appointed lawyer to be ineffective. In the ruling judges described the attorney's conduct as that of a "neutral observer" that amounted to no representation at all. The death sentence was reimposed at a second sentencing hearing.

In 1984, an appeal court denied Paris Carriger's second appeal against his conviction, based on his claim of being ineffectively assisted by counsel because the appeal had been filed too late. In the ruling the judges described the attorney's trial representation as a "mockery of effective trial representation".

In a court hearing in October 1987, Dunbar confessed to the murder stating that he and his wife had robbed the store. Other evidence confirmed Dunbar's confession; his fingerprints were found on the stolen jewellery and he was able to sketch the inside of the store in great detail. Other witnesses came forward stating that Dunbar had boasted about the murder to them. However, three weeks after his confession Dunbar recanted saying that he had confessed to get back at his wife and the state of Arizona.

At the same hearing, Dunbar's ex-wife (the couple divorced in 1983) gave evidence that on the day of the murder her husband came home, hid some bloody clothing and told her she had to lie and say he was taking a nap or he would kill her and her children. At Carriger's trial she had testified that Dunbar was at home on the day of the murder.

Amnesty International is further concerned that the execution of Paris Carriger, if carried out, may violate United Nations safeguards. The UN Economic and Social Council (ECOSOC) Resolution 1984/50, safeguard 4, states: "*Capital punishment may be imposed only when the guilt of the person charged is based upon clear and convincing evidence leaving no doubt for an alternative explanation of the facts.*"

**BACKGROUND INFORMATION**

Other prisoners on Arizona's death row have been successful in proving their innocence. As recently as June 1995, Robert Charles Cruz, originally sentenced to death in Arizona in 1981, was acquitted of murder at his fifth trial. Cruz's 1981 conviction was overturned by the Arizona Supreme Court in 1983 and he was tried twice in 1987. However, the juries were unable to agree on a verdict and a mistrial resulted both times. Cruz was convicted again in 1988 and again sentenced to

death. That conviction was also overturned by the Arizona Supreme Court in 1995 on the grounds that Cruz, who is hispanic, was denied a fair trial when prosecutors removed three hispanics from the pool of prospective jurors.

As of 31 August 1995, there were 124 prisoners under sentence of death in Arizona. The most recent execution was that of James D. Clark on 14 April 1995. Three prisoners have been executed under Arizona's current death penalty laws. The method of execution is lethal injection. Prisoners sentenced to death before Arizona changed its method from lethal gas to lethal injection in 1992 may choose between the two methods. In Arizona the Governor may grant clemency only on recommendation of the state Board of Executive Clemency.

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

To the Arizona Board of Pardons and Paroles:

- urging the Board to recommend that Governor Symington grant clemency to Paris Carriger;

To Governor Symington:

- requesting that he commute Paris Carriger's death sentence;

to both:

- expressing concern that Paris Carriger was represented at trial by an inexperienced, court-appointed attorney who made no preparation for his capital trial. You may quote from the two appeal court rulings on the effectiveness of the attorney;

- asking them to give this case most careful consideration and to examine in particular evidence which casts doubt on Carriger's guilt that came to light after the trial, but which cannot be considered by the courts for procedural reasons;

- expressing sympathy for the victims of violent crime and their families;

- emphasising the finality of death and the inappropriateness of this penalty in a case where there are lingering doubts about a prisoner's guilt.

**APPEALS TO:**

Chairperson

Arizona Board of Executive Clemency

1645 West Jefferson, Suite 326

Phoenix, AZ 85007, USA

**Telephone: +1 602 542 5656**

**Faxes: +1 602 542 5680**

**Telegrams: Arizona Board Executive Clemency, Phoenix, USA**

**Salutation: Dear Chairperson and Board Members**

**COPIES TO:**

The Honorable Fife Symington

Governor of Arizona

1700 West Washington

Phoenix, AZ 85007, USA

**Faxes: +1 602 542 7601**

The Letters Editor

Arizona Republic

Box 1950

Phoenix, AZ 85004, USA

**Faxes: +1 602 271 8500**

and to diplomatic representatives of USA (Arizona) accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**