

EXTRA 83/00

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USA (North Carolina) Marcus Lois Carter, aged 32

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Marcus Carter, who is half African American and half Korean, is scheduled to be executed in North Carolina on 22 November 2000. He was sentenced to death for the 1989 murder of a 20-year-old black woman, Amelia Lewis.

The case went to trial in 1991, but the jury was unable to reach a verdict. Five months later, Marcus Carter was retried. On the day the retrial was due to begin, Carter asked for his lawyers to be replaced. He stated that in the five months between the two trials they had not met with him once. The judge denied Carter's request, and said that he could keep the same lawyers or represent himself. Despite the fact that he had no legal training, he chose the latter. At jury selection, the prosecutor described Carter's decision as a "manoeuvre" to "gain the sympathy" of the jury.

The jury selected was all-white, after the prosecutor removed five blacks from the jury pool by using peremptory strikes, the right to exclude individuals deemed to be unsuitable without giving a reason. When Carter objected, the prosecutor gave his reasons. For example, he had rejected one of the blacks because she was a guard on death row and therefore might be sympathetic to the defendant. The jury at Carter's first trial had been deadlocked by a prison guard who did not believe that the state had proved the defendant's guilt beyond a reasonable doubt.

Under US constitutional law jurors can only be removed for "race neutral" reasons (*Batson v Kentucky*, 1986). To win an appeal on this issue, the defendant must show that "purposeful discrimination" took place. Amnesty International believes that the *Batson* decision has failed to prevent racial bias in jury selection. Proving "purposeful discrimination" is nearly impossible, since prosecutors need only fabricate a vaguely plausible non-racial reason for dismissing potential jurors.

The jury returned a verdict of first-degree murder and second-degree rape. Marcus Carter, who had only called one witness to the stand during the proceedings, asked his lawyers to represent him at the sentencing phase of the trial. They were unprepared. A psychologist whom the lawyers put on the witness stand to present mitigating evidence stated in a later affidavit that "as a result of the inadequate preparation, my testimony was more harmful than helpful to Mr Carter". He was the main, and only expert, defence witness. Marcus Carter was sentenced to death on 10 April 1992.

Carter's trial lawyers now claim that he dismissed them after the first trial. However, they never informed the court or prosecutor of this. In any event, Carter was effectively unrepresented in the five months prior to his retrial, during which time the state offered to drop its pursuit of the death penalty in return for a guilty plea.

Marcus Carter was born in South Korea, the child of a Korean woman and an African American soldier. He was given up for adoption to a US couple stationed in South Korea when he was less than a year old.

**BACKGROUND INFORMATION**

A North Carolina newspaper, *The Charlotte Observer*, recently carried out a six-month study of the death penalty in North and South Carolina. It found that "in too many cases defendants are represented by incompetent lawyers poorly prepared for trials. If these were traffic cases or breakings and enterings, the consequences would not be so extreme. But in capital punishment cases, where the death sentence takes the life of the defendant and ends forever any opportunity to correct a legal error or free a wrongly convicted person, an incompetent defense marks our system as fatally flawed. It puts that institution on the same footing of moral indifference as those who would casually condone murder. Murder is wrong; tolerating executions of defendants who have an inadequate defense is equally wrong."

The paper concluded that "minority defendants start out with an intolerable and indefensible disadvantage compared to white defendants...black citizens are under-represented on juries. Prosecutors often excuse potential black jurors because they are less likely to vote for a death penalty conviction." A state legislative committee is reviewing the impact of race in North Carolina's capital sentencing. The committee is due to report back and make recommendations to the state's General Assembly next year.

Since the USA resumed executions in 1977, 670 prisoners have been put to death, including 72 this year. There are growing calls for a moratorium in light of concern about the fairness and reliability of capital justice.

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

- acknowledging the seriousness of the crime, and expressing sympathy for the family and friends of Amelia Lewis;
- expressing concern that Marcus Carter was unrepresented in the five months prior to his retrial, was forced to represent himself at short notice, and was represented at the sentencing phase by unprepared counsel;
- expressing concern that he was tried by an all-white jury after the prosecutor had struck five blacks from the jury pool;
- noting the widespread local and national concern about the fairness and reliability of the death penalty, particularly in view of repeated cases of the inadequate defence representation of capital defendants;
- noting that there is a legislative committee currently investigating the impact of race in North Carolina's use of the death penalty, and that it would be unconscionable to allow the execution of a prisoner who could yet benefit from the committee's recommendations;
- urging the Governor to commute Marcus Carter's death sentence and to support a moratorium on executions in North Carolina.

**APPEALS TO:**

Governor James B. Hunt Jr.  
Office of the Governor  
State Capitol, 116 West Jones St.  
Raleigh, NC 27603, USA  
**Fax: + 1 919 715 3175/+1 919 733 2120**  
**Salutation:Dear Governor**

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

You may also write brief letters of concern (not more than 250 words) to:

- Letters to the Editor, *Raleigh News and Observer*, PO Box 191, Raleigh, NC 27602, USA

**Fax: + 1 919-829-4872**

**E-mail: [forum@nando.com](mailto:forum@nando.com)**

- Letters to the Editor, *Charlotte Observer*, PO Box 20848, Charlotte, NC 28230, USA

**Fax: + 1 704 377 6214**

**E-mail: [opinion@charlotteobserver.com](mailto:opinion@charlotteobserver.com)**

**PLEASE SEND APPEALS IMMEDIATELY.**