

PUBLIC

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Death penalty / Legal concern

24 November 2004

USA (North Carolina)

Charles Anthony Walker (m), black, aged 39

Charles Walker is scheduled to be executed in North Carolina on 3 December 2004. He was convicted in 1995 of the first degree murder of Tito Davidson in 1992. Charles Walker, who has a history of mental illness, was convicted on the basis of testimony of accomplices, none of whom was subjected to a capital trial. The jury which sentenced him to death did so despite finding that he had not actually killed Tito Davidson, whose body was never found. Several of the jurors now support clemency.

Tito Davidson went missing on 11 August 1992, and is believed to have been murdered the next day at Pamela Haizlip's apartment in the town of Greensboro. On 13 August, police received an anonymous tip that there was a body in a rubbish bin at the apartment block, but none was found. A month's search through 10,000 tons of landfill refuse that included the contents of such bins collected between 11 and 17 August 1992 also revealed no dead body. After Antonio Wrenn, a suspect in an unrelated case, told police about some firearms that he claimed had been used in an unsolved murder in which the body had been thrown into a rubbish bin, the police began building a case based on statements of the alleged participants in Tito Davidson's suspected murder. Rahshar Darden, Pamela Haizlip, Jesse Thompson, Charles Walker and Antonio Wrenn were arrested and charged with first degree murder.

Rahshar Darden pleaded guilty to second-degree murder and was released in 2001 after serving six years in prison. Jesse Thompson accepted a second-degree murder plea and is now eligible for parole. Antonio Wrenn pleaded guilty to being an accessory to murder and served seven years in prison. Pamela Haizlip made a similar plea and was sentenced to time already served (two years). The state offered Charles Walker a second-degree murder plea, but he refused it, maintaining his innocence and firing his lawyer who had urged him to accept the plea. The lawyer has said that he puts this reaction down to Charles Walker's mental problems. After Walker rejected the plea bargain, the case then automatically proceeded as a capital case, which would not have happened under today's state law.

The state presented no physical evidence of any kind that linked Charles Walker to the murder: no fingerprints, no blood evidence, no autopsy, no DNA evidence, and no ballistics evidence. Indeed, there was no physical evidence of a murder, and no confession from the defendant. All the evidence against Walker came from the inconsistent testimony of witnesses who were themselves implicated in some way in the crime. Rahshar Darden, the only person who claimed to have seen Tito Davidson killed, testified that he and Jesse Thompson had repeatedly shot Davidson and slashed his throat. He claimed that Davidson was still alive when Charles Walker came in and killed him with a single shot. However, other testimony, provided by Antonio Wrenn's girlfriend, indicated that Darden and Thompson had said after the murder that Darden had shot Davidson four times in the chest and once between the eyes, and that Thompson had fired the last, fatal shot into Davidson's chest. Pamela Haizlip also testified that Thompson had admitted to her that he and Darden had killed Davidson.

The jurors clearly found it difficult to reach a verdict, taking two days to find Walker guilty. At the sentencing, the jury was not provided with a full picture of the man they were being urged to pass a death sentence against. The jury heard some evidence that he suffered from mental illness, bipolar disorder with paranoid features. This was consistent with the diagnosis of paranoid schizophrenia that he had received as a child, a mental illness which after his initial hospitalizations had remained untreated from the age of 12 when he lived on the streets of New York. The jurors were not presented with the records documenting this childhood mental illness, however. In 1982, aged 17, living in an abandoned building, he shot a man who he thought was following him with malicious intent. He was sent to prison with a recommendation of psychiatric treatment. He was released after six years without receiving the treatment. Eighteen months later his parole

was revoked and he was sent back to prison for another year, before being paroled again in August 1991. He has spent all but about two years of his adult life in prison. He has been prescribed anti-psychotic and other medication on death row.

The jury did not hear substantial available evidence of Charles Walker's early childhood abuse at the hands of his parents or their history of mental illness. His cousin has since recalled the physical abuse to which Charles was subjected as a young boy by his mother, including being whipped in the face with a belt, whippings with electrical cords, and being burned with a steam iron. His mother was addicted to cocaine, and he was exposed to her drug usage from an early age. At the age of five, he witnessed her being stabbed almost to death by one of her boyfriends in their home.

The jury deliberated for four days before recommending a death sentence. On their sentencing form, the jurors answered "no" to the question of whether Charles Walker had fired the fatal shot. Instead they found that he had intended to kill the victim while acting with others. Several of the jurors have recently said that they believe that the death sentence should be commuted to life imprisonment without the possibility of parole, an option that was not available to them at the time of the trial.

BACKGROUND INFORMATION

Amnesty International opposes the death penalty in all cases. The death penalty is an affront to human dignity and a symptom of a culture of violence. In addition, the capital justice system in the USA is marked by arbitrariness, discrimination and error. Since 1973, 117 people have been released from US death rows after evidence of their innocence emerged. Others have gone to their deaths despite serious doubts about their guilt. There have been 944 executions in the USA since it resumed judicial killing in 1977, 34 of them in North Carolina.

The United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty prohibits the execution of anyone whose conviction is not based upon "clear and convincing evidence leaving no room for an alternative explanation of the facts". In repeated resolutions in recent years, the UN Commission on Human Rights has called on all states that still have the death penalty not to use it against anyone suffering from a mental disorder.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words:

- expressing sympathy for the family and friends of Tito Davidson;
- opposing the execution of Charles Walker, and expressing concern about the reliability of his conviction, noting that the case against him was based on the inconsistent testimony of witnesses implicated in the case, a notoriously unreliable form of evidence;
- noting Charles Walker's history of untreated mental illness and his background of childhood abuse, substantial details of which the jurors did not hear;
- noting that several jurors have now said that they support commutation of the death sentence;
- calling on Governor Easley to commute Charles Walker's death sentence.

APPEALS TO:

Governor Michael F. Easley
Office of the Governor, 20301 Mail Service Center, Raleigh, NC 27699, USA
Fax: +1 919 715 3175/+1 919 733 2120
Email via website: <http://www.governor.state.nc.us/email.asp?to=1>
Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY. All appeals must arrive by 3 December 2004.