

PUBLIC

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Further information on EXTRA 81/00 (AMR 51/157/00, 25 October 2000) and follow-up (AMR 51/181/00, 23 November) - Death penalty / Legal concern

USA (Texas) John Paul Penry, aged 44

On 27 November, the US Supreme Court announced that it would consider the merits of John Paul Penry's appeal. This means that he is no longer at threat of imminent execution. The Court will hear oral arguments in the case some time next year.

The US Supreme Court blocked John Penry's execution on 16 November, less than four hours before he was due to be lethally injected, in order to allow more time to decide whether to consider the case. If the Court had rejected the case, the stay of execution would automatically have been lifted, and Texas could have set another execution date.

John Penry was sentenced to death in 1980, and again at a retrial in 1990, for the murder of Pamela Moseley Carpenter in 1979. He has serious mental impairment and suffered a childhood of appalling torture and abuse.

This is the second time that the US Supreme Court will have considered the merits of an appeal in this case. In 1989, in a landmark decision, the Court overturned Penry's death sentence because the trial jury had not been able to give mitigating effect to his mental impairment, but ruled that it was not unconstitutional to execute a prisoner with mental retardation.

The Court will consider whether the jury at Penry's 1990 retrial was able to give mitigating effect to his mental impairment. It will also consider whether the prosecution's use of a 1977 psychiatric examination of Penry was improper because he had not been warned that the results might be used against him in obtaining a death sentence. The state used the findings of the examination, carried out while Penry was in custody in 1977 for an unrelated crime, to argue that Penry posed a future danger to society and should be sentenced to death.

For further information on this case, see *Beyond Reason: The imminent execution of John Paul Penry* (AMR 51/195/99, December 1999), available at www.amnesty.org. See also *An open letter to Governor Bush of Texas on the planned killing of John Paul Penry* (15 November 2000, AMR 51/170/00).

John Penry's lawyers have expressed their gratitude for Amnesty International's worldwide action in this case. No further action by the UA network is requested at present. Many thanks to all who sent appeals.