

EXTERNAL

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EXTRA 45/96

Death Penalty / Legal concern

22 March 1996

USA (NEVADA) Richard Allen MORAN

Richard Allen Moran is scheduled to be executed in Nevada on 30 March 1996. He was sentenced to death in 1985 for the murders of Sandra Devere and Russell Rhodes during a robbery.

Nine days after the murders, Moran killed his ex-wife and attempted suicide by shooting himself in the stomach and slashing his wrists. Two days later he called the police to his hospital bed and confessed to his crimes. Moran also received a death sentence for the murder of his ex-wife. However that sentence was overturned by Nevada's Supreme Court.

Nevada has executed five inmates since the resumption of executions in 1979; all five had chosen to abandon their appeals and allow the state to execute them. The execution of Richard Allen Moran - who had previously abandoned his appeals but changed his mind - would be the first non-consensual execution in Nevada since the execution of Thayne Archibald in 1961.

The authority to commute a sentence of death rests with a panel comprised of the Governor, the justices of the State Supreme Court and the Attorney General. The Governor must vote with the majority in order for clemency to be granted.

Amnesty International is concerned that two-thirds of the bodies making up the panel considering clemency will have been involved in the prisoner's case during the legal process. There is a clear conflict of interest in the role played by the office of the Attorney General and the State Supreme Court in the clemency proceedings.

The Attorney General, as the legal official responsible for prosecuting the case on appeal, cannot be said to be impartial in his role as one of the members of the panel considering clemency.

The State Supreme Court will have also reviewed Moran's case on several occasions. In its 1993 ruling in *Herrera v. Collins*, the US Supreme Court ruled that "clemency is deeply rooted in our Anglo-American tradition of law, and is the historic remedy for preventing miscarriages of justice where the judicial process has been exhausted." The State Supreme Court will have upheld the conviction and sentence of a death row inmate at the end of his appeal process on at least two occasions. It is unlikely therefore that judges of the same court, sitting on the clemency panel, will be best suited to consider the possibility of the prisoner's innocence or other mitigating factors of a legal nature.

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

- expressing concern that Richard Allen Moran is scheduled to be executed on 30 March 1996;
- urging that Richard Allen Moran's death sentence be commuted;
- stating that for Nevada to have its first non-consensual execution for 35 years would be a retrograde step which goes against the international trend against the use of the death penalty;
- expressing concern at the role of the Attorney General and the State Supreme Court in the clemency proceedings;

- acknowledging the serious nature of the crime for which Richard Allen Moran was convicted; expressing sympathy for the victims of violent crime and their families.

APPEALS TO:

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Salutation: Dear Governor

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