

EXTRA 28/99

Dea

USA (Missouri) Roy Roberts

Roy Roberts is scheduled to die by lethal injection at 12.01 am on March 10, 1999.

Roberts was sentenced to death in 1984 for his alleged part in the murder of Officer Tom Jackson, a prison guard, during a riot at the Missouri Training Center for Men in Moberly on July 3 1983.

At his trial, witnesses gave conflicting testimony about where Roberts was at the time of the murder and what involvement he had in it.

Roberts was convicted primarily on the testimony of three guards, who testified that they saw him holding Officer Jackson in a head lock while two other inmates, Rodney Carr and Robert Driscoll, stabbed him to death. Roberts had a history of antagonistic relations with one of the guards who testified against him. Two of the guards were only able to recall the events after hypnosis. Testimony obtained via hypnosis is forbidden in several other states. The prison authorities confiscated the bloody clothing of the two other inmates convicted of the stabbing, but did not confiscate Roberts's clothes. Had Roberts been involved in the crime, it is reasonable to assume that his clothes would also have had the officer's blood on them, as state testimony established that Officer Jackson was stabbed three times in the heart, and once in the eye and abdomen, all while Roberts was supposedly holding him by the arm and head. However, as the clothes were not confiscated, it was not possible to undertake forensic tests on them that might have helped the defence plead Roberts was not involved in the murder.

Rodney Carr was convicted of capital murder and was sentenced to life in prison without parole in 1984. Robert Driscoll was also convicted of capital murder and sentenced to death in 1984, based on the testimony of two inmates. His conviction and sentence were later overturned, when it was discovered that the prosecution had misled the jury into believing that Officer Jackson's blood was on Driscoll's knife. He is awaiting a retrial.

Roberts has consistently denied any involvement in the stabbing, and at least eight other inmates testified that he was not holding Officer Jackson at the time of the killing. On 19 February 1999, he passed a polygraph (lie detector) test, administered by a former policeman from Kansas City, which showed no deception in his answers denying involvement in the murder, including specific denials that he was holding the victim during the stabbing.

Amnesty International cannot state categorically that all this establishes Roberts's innocence. However, discrepancies in the evidence against him may make his conviction unsafe. While Amnesty International opposes the death penalty in all cases, the execution of a possibly innocent person is particularly alarming. Seventy-six innocent prisoners have been released from death rows in the USA since 1973; it is not known how many innocent prisoners have been executed.

The Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, adopted by the UN Economic and Social Council in 1984, and endorsed by the UN General Assembly in December that year, state that 'Capital punishment may only be imposed when the guilt of the person charged is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts.'

BACKGROUND INFORMATION

As of January 1 1999, there were 3,549 prisoners on death row. A total of 520 inmates have been killed in the USA since the resumption of executions in 1977. Only three states, Texas, Virginia and Florida, have executed more condemned prisoners than Missouri. The last execution in Missouri took place on 23 February 1999.

The Governor of Missouri, Mel Carnahan, can grant clemency in capital cases.

He recently commuted the death sentence of a convicted triple murderer, Darrell Mease, to life without parole, citing a personal plea by His Holiness Pope John Paul II. During a visit to the USA in January, the Pope appealed for a consensus to end the death penalty, which he condemned as 'cruel and unusual', stating that the 'dignity of human life must not be taken away, even in the case of someone who has done great evil'.

In May 1996, the conviction of Lloyd Schlup, a Missouri death row inmate, was overturned when an appeal court judge ruled that he was 'more likely than not' innocent. Schlup had been convicted in 1984 of a murder committed in prison, but was found to have had inadequate legal representation at his trial. His trial lawyer had failed to interview inmates who witnessed the killing and said that Schlup was not involved in the murder. Lloyd Schlup had twice come close to execution. In 1993, Governor Carnahan stayed his execution eight hours before it was due to take place because of doubts about his guilt. (For further information, see *USA: Death Penalty Developments in 1996*, AI Index AMR 51/01/97, March 1997.

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

- expressing concern that Roy Roberts is to be executed;
- expressing sympathy for the victim of the crime, Officer Tom Jackson, and his relatives and his friends;
- expressing concern that the three defendants in this crime have received widely differing treatment from the justice system;
- noting that this case has similarities to that of Lloyd Schlup, in which the governor took action to halt his execution;
- commending the Governor for his recent commutation of the death sentence of Darrel Mease;
- urging the Governor to commute Roy Roberts's sentence to life imprisonment.

APPEALS TO:

The Honourable Mel Carnahan
 Governor of Missouri
 Office of the Governor
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 Jefferson City, MO 65102
 USA

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Salutation: Dear Governor

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and to diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after March 10 1999.