

PUBLIC

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Death penalty

22 March 2004

USA (Virginia) Dennis Mitchell Orbe (m), white, aged 39

Dennis Orbe is scheduled to be executed in Virginia on 31 March 2004. He was sentenced to death in October 1998 for the murder of Richard Burnett, a 39-year-old white man who was shot and killed in January 1998 during a robbery of the convenience store where he worked.

The crime occurred in the early hours of 24 January 1998. The video from a security camera revealed that a man had walked up to the checkout counter and pointed a gun at the clerk, Richard Burnett. After the latter opened the cash register, he was shot in the chest by the attacker who then walked around the counter and took money from the register. After the images from the security camera were distributed to the police and media, the authorities received information identifying Dennis Orbe as the gunman. He was arrested after a high-speed car chase on 31 January 1998. A forensic scientist concluded that the gun found on Orbe had fired the bullet that killed Burnett.

During the sentencing phase of Dennis Orbe's capital trial, to persuade the jury that the defendant was a future danger to society and should therefore be executed, the prosecution produced evidence of other criminal acts allegedly committed by Orbe shortly before and after the murder. In mitigation, the defence presented Dennis Orbe's mother, stepfather and a friend who variously testified about Orbe's struggles with alcohol and his troubled and abusive childhood at the hands of his mother's ex-husband, an alcoholic who was in the military. Dennis Orbe, whose own alcoholic father had abandoned the family when Dennis was less than two years old (he had no contact with his natural father until just prior to the murder), was raised for most of his childhood in a military family setting in Germany. He was of low average intelligence, in special education, and eventually dropped out of school. His mother testified that when her husband returned from the Vietnam War, he was very abusive to all three of her sons, and emotionally and physically abused Dennis Orbe. The witnesses also testified that Dennis Orbe had become depressed and withdrawn following the collapse of his marriage two months prior to the crime.

A psychologist testified that Dennis Orbe had shown suicidal tendencies at least a year before the crime and was suffering from major depression. The psychologist added that Orbe was remorseful and felt he should be dead rather than Richard Burnett. Dennis Orbe rejected his lawyer's plea to take the witness stand on his own behalf.

Dennis Orbe is scheduled to be executed by lethal injection. In many US states, lethal injections are carried out using a combination of three chemicals: sodium thiopental (a sedative), pancuronium bromide and potassium chloride. This is presumed to be the case in Virginia too. However, while Virginia acknowledges using three chemicals to kill its death row prisoners, it refuses to name the chemicals or the dosages used, claiming this secrecy "for security and safety purposes".

There is evidence that the pancuronium bromide, a neuromuscular blocking agent which is a derivative of curare and paralyses the muscles but does not affect the brain or nerves, may mask the condemned prisoner's suffering during the execution. A person injected with this chemical cannot move or speak. Lawyers in several states continue to file claims that a "chemical veil" may be masking the reality of the lethal injection process. During appeals in several states, a woman who underwent surgery on her eye has described her experience of how the sedative did not work but the neuromuscular blocking agent did: "I was able to think lucidly, hear, perceive and feel everything that was going on during surgery, but I was unable to move. It burnt like the fires of hell. It was the most terrifying, torturous experience you can imagine. The experience was worse than death."

The use of pancuronium bromide or other neuromuscular blocking agent in conjunction with a sedative in animal euthanasia, unacceptable under American Veterinary Medical Association guidelines, has been banned in animal euthanasia at least 20 US states, including Virginia.

Amnesty International opposes the death penalty in all cases, regardless of the gravity of the crime, the guilt or innocence of the condemned, or the method used to kill the prisoner. The death penalty is an affront to human dignity and a symptom of a culture of violence, and consumes resources that could otherwise be used towards constructive strategies to combat violent crime and to offer assistance to its victims and their families. In addition, the US capital justice system is marked by arbitrariness, discrimination and error. Since 1973, 113 people have been released from death row on the grounds of innocence. The latest case occurred on 18 February 2004 in North Carolina, the fourth such case in that state, where the legislature is considering a moratorium on executions. A moratorium has been in force in Illinois since 2000 because of the state's record of wrongful convictions in capital cases.

Today 117 countries are abolitionist in law or practice. In contrast, there have been 903 executions in the USA since it resumed executions in 1977, more than 750 of them since 1990. Virginia has carried out 90 executions. The Governor of Virginia has the authority to grant clemency on his own initiative and authority, even if not in receipt of a specific clemency petition.

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 Richard Burnett, and explaining that you are not trying to condone the manner of his death or to minimize the suffering it will have caused;
- opposing the execution of Dennis Orbe;
- noting that the Commonwealth of Virginia appears to be using a lethal injection procedure which it would not use in killing an animal, and noting evidence that the use of a neuromuscular blocking agent may mask the condemned prisoner's suffering during execution;
- urging the Governor to use his power of clemency to stop the execution of Dennis Orbe and to commute his death sentence.

APPEALS TO:

Governor Mark R. Warner
State Capitol, 3rd Floor
Richmond, Virginia 23219, USA

Fax: +1 804 371 6351

Salutation: Dear Governor

COPIES TO: Diplomatic representatives of USA accredited to your country.

In your own words, you may write brief letters (not more than 250 words) to "Letters to the Editor" at:

Richmond Times-Dispatch,
Box 85333, Richmond,
Virginia 23293, USA.

Fax: +1 804 819 1216

Email: letters@timesdispatch.com.

PLEASE SEND APPEALS IMMEDIATELY. ALL APPEALS MUST ARRIVE BY 31 MARCH 2004.