

EXTERNAL (for general distribution)

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Further information on UA 423/91 (AMR 51/65/91, 4 December 1991) and follow-ups AMR 51/05/92, 8 January 1992 and AMR 51/10/92, 14 January 1992 - Death Penalty

USA (North Carolina): John Sterling Gardner

John Sterling Gardner, who was scheduled to be executed in North Carolina, USA, on 10 January 1992 and received a stay of execution, is now scheduled to be executed on 23 October 1992.

Gardner, white, aged 34, was sentenced to death on 23 September 1983 for the murders in December 1982 of Richard Adams and Kimberley Miller, both white, during a restaurant robbery.

Gardner's trial counsel was reprimanded by the state some four months before his trial, and was later suspended from the practice of law in North Carolina, for professional negligence: he was abusing drugs and alcohol at the time of Gardner's trial. He failed to conduct any sentencing investigation or contact potential sentencing witnesses for the crucial penalty phase of Gardner's trial. An expert criminal defense attorney reportedly testified that Gardner's trial attorney had failed to satisfy even the minimal standards of competence.

John Gardner suffered an abused and troubled childhood. He was born to alcoholic parents, and abandoned by his mother when he was very young. As a child he was regularly beaten and terrorized by his father. He was placed in several foster homes, only to be returned to his father and further ill-treatment. None of this mitigating evidence was presented to the jury as a reason not to sentence Gardner to death.

BACKGROUND INFORMATION

As of August 1992, there were 110 prisoners under sentence of death in North Carolina. Four prisoners have been executed by the state since 1984, the most recent being Michael Van McDougall on 18 October 1991. Prisoners in North Carolina may choose between execution by lethal injection or lethal gas.

Governor Martin (who has full power to grant clemency) has commuted one death sentence during his term in office. On 10 January 1992 he granted clemency to Anson Avery Maynard, a Native American prisoner, a week before he was to have been executed. (See AMR 51/10/92, 14 January 1992, for details).

Amnesty International opposes the death penalty in all cases as a violation

of the right to life and the right not to be subjected to cruel, inhuman and degrading treatment or punishment, as proclaimed in the Universal Declaration of Human Rights.

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RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express and airmail letters in English:

- urging Governor Martin to grant clemency to John Sterling Gardner by commuting his death sentence;

- expressing concern that Mr Gardner may have been inadequately represented at trial by an attorney who has since been suspended from practising law in North Carolina;

- referring to the important mitigating evidence concerning John Gardner's background which was never presented to the jury which sentenced him to death.

APPEALS TO:

The Honorable James Martin
Governor of North Carolina
State Capitol
Capitol Square
Raleigh, NC 27601-2905
USA

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COPIES OF YOUR APPEALS TO:

diplomatic representatives of the USA in your country.

PLEASE SEND APPEALS IMMEDIATELY, to arrive in North Carolina by 22 October 1992.