

PUBLIC

AI Index: AMR 51/115/2006

14 July 2006

UA 194/06 Death penalty / Legal concern

USA (Virginia) Brandon Wayne Hedrick (m), white, aged 27

Brandon Hedrick is scheduled to be executed in Virginia on 20 July for the murder of a 23-year-old black woman, Lisa Yvonne Crider, in 1997. He has been on death row since 1998.

Lisa Crider was shot dead near Lynchburg, Virginia, in the early hours of 11 May 1997. Two young males were arrested for the crime a week later in Nebraska: Brandon Hedrick, then aged 18, and Trevor Jones, who was 19 or 20. Brandon Hedrick told the police that he had been the person who had pulled the trigger. Trevor Jones did not cooperate with police until confronted with Hedrick's statement. Jones had initiated and directed the crime. Indeed, according to Hedrick's clemency petition, the trial judge who presided over both men's cases said: "Make no mistake about it, without [Jones'] actions, Lisa Crider would still be alive today". Trevor Jones had formulated the plan to rob Lisa Crider as he knew that her boyfriend was a crack cocaine dealer and that she might be carrying drugs. Hedrick and Jones had been drinking alcohol and smoking crack cocaine and marijuana during the night of 10 May.

The two defendants were tried separately. Jones received a life sentence. He was a key witness for the state in Brandon Hedrick's trial. It was his testimony that Hedrick had raped Lisa Crider; a factor in the crime that contributed to the death sentence and one that Hedrick has always denied (like Jones, he claimed to have had consensual sex with Lisa Crider). Hedrick was not charged with rape until Jones told police his version of events. When Trevor Jones was on the witness stand at Hedrick's trial, the defence lawyers failed to question his credibility, despite being in the possession of evidence that Jones's animosity towards Hedrick gave him a motivation to lie. For example, the lawyer who cross-examined Jones had information that when the two suspects were in pre-trial custody, Jones had said that he would see to it that Hedrick was killed for having talked to the police. The lawyer was also aware of an incident in the jail of an apparent assault on Hedrick by Jones.

One of the lead police investigators in the murder of Lisa Crider testified that Brandon Hedrick had done "everything in his power that he could to aid [police] in the investigation". However, this testimony was given in a separate hearing where Jones was the defendant. Hedrick's jury did not hear this indicator of his remorse because his lawyers had not spoken to the investigator.

According to Hedrick's clemency petition, the preparatory work of the two trial lawyers was minimal and the communication between them was poor. For example, the lead lawyer did not even discover until after the trial that Hedrick had attempted suicide in pre-trial custody and had been hospitalized for 10 days. Similarly, it was only long after the trial that he learned of three previous suicide attempts by Hedrick. At the sentencing phase of the trial – in which the jury decides between a life imprisonment and a death sentence – the defence called witnesses to the stand to whom they had never spoken, a clear sign of inadequate preparation for the trial. These witnesses had only been in the court because they had accompanied Brandon Hedrick's grandmother to the courtroom to support her.

In the year that they represented him leading up to the trial, the lead lawyer worked for 53 hours on the case, while his co-counsel worked for 119 hours. In contrast, the clemency petition points to another recent Virginia death penalty case – that of Lee Boyd Malvo – in which the lawyers spent approximately 6,540 hours preparing for trial. Malvo received a life sentence.

Brandon Hedrick has a long history of learning difficulties. At the time of his trial, his IQ was assessed at 76, which is in the borderline mental retardation range. The appeal lawyers have argued that with the margin of

error, Brandon Hedrick may have mental retardation. This claim has been rejected by the courts. Earlier this year, one of the judges on the US Court of Appeals for the Fourth Circuit dissented against dismissal of the issue, arguing that the court was “allow[ing] the execution of a man whose death sentence might be unconstitutional without a full and fair consideration of that claim”. The US Supreme Court prohibited the execution of people with mental retardation in 2002; it was left up to states as to how to comply with that ruling.

A doctor who has evaluated Hedrick and his family history has concluded that the family had a genetic vulnerability to drug addiction and depression. This assessment was supported by the evidence of substance abuse in the family, including by Hedrick and his siblings from an early age. The doctor concluded that Hedrick’s chaotic and traumatic family environment caused “a variety of initial and long-term psychological, cognitive, and emotional effects, including low self-esteem, depression, poor concentration, excessive compliance, regressive behaviour, withdrawal, poor peer relations, anxiety disorders, and drug and alcohol problems”.

According to his clemency petition, the trial lawyers presented no testimony relating to “the relationship between Hedrick’s low intelligence and his propensity to be easily led”, or to the evidence about the impact of the “chaotic and traumatic family environment” on Hedrick’s actions. Such evidence, the clemency petition argues, “would have changed dramatically the prosecutor’s picture of Hedrick as a young man who had every opportunity in life and chose to throw it all away in order to enjoy drugs”.

There have been 1,031 executions in the USA since judicial killing resumed there in 1977. Virginia accounts for 95 of these executions.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language:

- expressing sympathy for the family of Lisa Yvonne Crider, explaining that you are not seeking in any way to excuse this crime or to downplay the suffering it will have caused;
- opposing the execution of Brandon Hedrick;
- expressing concern at the serious questions that have been raised about the adequacy of his legal representation at trial, and expressing concern that the jury were not provided with a full picture of Brandon Hedrick, including the impact of his chaotic upbringing and his borderline mental retardation on his conduct;
- calling on the Governor to commute Brandon Hedrick’s death sentence.

APPEALS TO:

Governor Tim Kaine, Office of the Governor

Patrick Henry Building, 3rd Floor, 1111 East Broad Street, Richmond, Virginia 23219, USA

Fax: +1 804 371 6351

Email via website: <http://www.governor.virginia.gov/AboutTheGovernor/contactGovernor.cfm>

Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY.