

EXTRA 118/99

Death penalty / Legal concern

27 August 1999

USA (Florida)

Thomas Harrison Provenzano, aged 50

Thomas Provenzano is scheduled to be executed in Florida on 14 September 1999. He was sentenced to death for killing a bailiff in Orange County Courthouse, Orlando, in January 1984. The shooting left two other bailiffs paralysed, one of whom died in 1991.

Diagnosed with paranoid personality disorder and paranoid schizophrenia before his trial, Thomas Provenzano's mental illness is reported to have worsened during his 15 years on death row. He is reported to engage in behaviour such as stuffing rags into his mouth to keep out the demons which he believes are attempting to enter his body. He is on medication to treat auditory hallucinations caused by his paranoid schizophrenia. He may also be suffering from Alzheimer's disease, a form of dementia.

Thomas Provenzano was originally due to be executed on 7 July 1999, but he received a two-day stay on 6 July after his lawyers appealed on the grounds that he may be insane. As a result, the state appointed three psychiatrists to determine if he was "competent" to be executed. They concluded that he "has the mental capacity to understand the nature of the death penalty and the reasons why it was imposed on him". Consequently, on 7 July a Circuit Judge ruled that although Provenzano "has engaged in bizarre behavior, that he has abnormal beliefs [for example, he has long held that he is Jesus Christ] and that he may suffer from mental illness", the execution could go ahead. It was set for 9 July.

On 8 July, another inmate, Allen Lee Davis, was executed in Florida's newly refurbished electric chair. During the execution, Davis was heard to cry out, and blood appeared on his shirt and from behind the face mask. His chest was said to have heaved repeatedly after the current was switched off. Thomas Provenzano's lawyers immediately appealed on the grounds that their client's execution would amount to cruel and unusual punishment because it would not result in instant death and would create a risk of pain. He was granted a two-month reprieve pending the outcome of an investigation into the functioning of the chair. After an evidentiary hearing in late July, the same judge who had earlier found Provenzano competent to be executed, ruled that the chair was working properly and that its use was constitutional. This issue is now before the Florida Supreme Court.

On 26 August, the state Supreme Court ruled that Thomas Provenzano's mental condition must be the subject of a full evidentiary hearing, which had not occurred before the Circuit Judge's ruling on 7 July. However, the execution is still set for 14 September.

If the courts do not grant a reprieve, Thomas Provenzano's lawyers will seek executive clemency on humanitarian grounds, including that his close and final handling by correctional officers - such as having his head shaved and being strapped down for execution - will lead to a very specific and acute terror. According to his clemency petition, Thomas Provenzano's long-held and profound fear of authority figures, particularly law enforcement officials is compounded by sexual abuse he allegedly suffered as a child at the hands of an uncle who was a police officer.

BACKGROUND INFORMATION

The execution of Allen Lee Davis was the first under Governor Jeb Bush and the 44th in Florida since the state resumed executions in 1979. After flames burst from the head of Pedro Medina during his electrocution in 1997, the state Supreme Court ruled that the chair was constitutional but urged the legislature to consider lethal injection. In March 1998, the legislators confirmed

electrocution as the method of execution, but endorsed the use of lethal injection if the electric chair is ever ruled unconstitutional.

Governor Bush, who remains a supporter of the electric chair, has the authority to grant clemency on the advice of the Board of Executive Clemency. He also has the power to grant reprieves of up to 60 days. In early July 1999, after he signed his first two death warrants - for Davis and Provenzano - Florida's Catholic bishops called on Governor Bush, who is Catholic, to grant clemency. The bishops wrote that "killing people to show that killing is wrong is a piercing contradiction... Executions coarsen us". Governor Bush is reported to have stated that he will not let his private religious beliefs interfere with his public duties.

Amnesty International opposes the death penalty in all cases, irrespective of the method used to end the life of the prisoner. Every death sentence is an affront to human dignity; every execution serves to deepen the culture of violence in society.

RECOMMENDED ACTION: Please send faxes/express/airmail letters in English or your own language, using the following points as a guide:

- acknowledging the seriousness of Thomas Provenzano's crime and the suffering of his victims and their families;
- urging the Governor and the Clemency Board to take full account of Thomas Provenzano's long-term mental illness, including paranoid schizophrenia;
- noting the view of the National Alliance for the Mentally Ill that "the death penalty is never appropriate for a defendant suffering from schizophrenia or other serious brain disorders";
- noting that in May 1999, the Governor of Virginia commuted the sentence of Calvin Swann, a paranoid schizophrenic, on humanitarian grounds;
- + **to the Clemency Board:** urging the Board members to recommend that Governor Bush grant clemency to Thomas Provenzano;
- + **to the Governor:** calling for, at the very least, a 60-day reprieve so that the extent of Thomas Provenzano's mental condition can be established.

APPEALS TO:

Board of Executive Clemency
2601 Blairstone Road
Building C, Room 229
Tallahassee, FL 32399-2450

Tel: +1 850 488 2952

Fax: +1 850 488 0695

Salutation: Dear Board Members

The Honourable Jeb Bush
The Capitol, Tallahassee
FL 32399, USA

Tel: +1 850 488 4441

Fax: +1 850 487 0801

Salutation: Dear Governor

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

PLEASE SEND APPEALS IMMEDIATELY.