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Death penalty / Legal concern

25 November 2003

USA (Arkansas)

Charles Laverne Singleton (m), black, aged 44

Charles Singleton is scheduled to be executed in Arkansas on 6 January 2004. He was sentenced to death in 1979 for the murder of Mary Lou York who was stabbed to death on 1 June that year in the grocery where she worked. Charles Singleton has been on death row for almost a quarter of a century.

Charles Singleton suffers from serious mental illness that, without treatment, may rise to the level of insanity. The execution of the insane – those who do not understand the reason for, or reality of, their punishment – is prohibited in the USA under the 1986 Supreme Court decision, *Ford v Wainwright*. The Court held that such executions violate the constitutional ban on “cruel and unusual” punishment.

Charles Singleton's mental condition has worsened in the years that he has been on death row, and he has been diagnosed as likely suffering from schizophrenia. By the late 1980's he had begun to suffer delusions, including that his cell was possessed by demons, that a prison doctor had implanted a device in his ear, and that his thoughts were being stolen when he read the Bible. Over the years, he has described himself as the Holy Ghost and “God and the Supreme Court”, expressed the belief that he had been freed by the Supreme Court, that execution is just a matter of stopping breathing and that a judge could restart his breathing again, that Sylvester Stallone and Arnold Schwarzenegger were between this universe and another and trying to save him, and, in a letter to a federal court, that Mary Lou York “is somewhere on this earth waiting for me – her groom”.

By the early 1990s Charles Singleton was regularly on anti-psychotic drugs. When he did not take the medication, or he needed increased or different medication, his symptoms would worsen. When his illness became severe, he was put on an involuntary medication regime, under a 1990 US Supreme Court decision (*Washington v Harper*) which allows state authorities “to treat a prison inmate who has a serious mental illness with antipsychotic drugs against his will, if he is dangerous to himself or others and the treatment is in his medical interest.” His psychotic symptoms abated, and the state set an execution date. His lawyers appealed that it was unconstitutional to restore his *Ford* competency through forcible medication – in other words, that it cannot be in the prisoner's medical interest to make him competent to be executed. The execution was stayed while the courts considered the issue.

In October 2001, a three-judge panel of the US Court of Appeals for the Eighth Circuit ruled 2-1 that the death sentence should be commuted to life imprisonment. The state appealed for a rehearing by the full court and in February 2003, the Eighth Circuit ruled 6-5 that Arkansas officials could forcibly medicate Charles Singleton even if that made him competent for execution. The majority wrote that “Singleton presents the court with a choice between involuntary medication followed by an execution and no medication followed by psychosis and imprisonment.” In a breathtaking understatement, it added: “Eligibility for execution is the only unwanted consequence of the medication.”

Dissenting, Judge Gerald Heaney wrote: “Charles Singleton suffers from mental illness that makes him psychotic. At times he has been forced to take powerful psychotropic drugs; at other times he takes the medication voluntarily. The drugs often mask his underlying psychosis. The majority believes this makes him fit for execution. I believe that to execute a man who is severely deranged without treatment, and arguably incompetent when treated, is the pinnacle of what [Supreme Court] Justice [Thurgood] Marshall called ‘the barbarity of exacting mindless vengeance’”[in *Ford v Wainwright*]. Judge Heaney continued: “Based on the medical history of this case, I am left with no alternative but to conclude that drug-induced sanity is not the same as true sanity. Singleton is not “cured”; his insanity is merely muted, at times, by the powerful drugs he

is forced to take. Underneath this mask of stability, he remains insane. *Ford's* prohibition on executing the insane should apply with no less force to Singleton than to untreated prisoners”.

Despite this dissent, which was joined by three other judges (a fifth dissented on different grounds), the US Supreme Court refused to intervene. On 6 October 2003, it dismissed Singleton's appeal, thereby allowing the Eighth Circuit's ruling to stand and the state to set an execution date. Charles Singleton is currently not being forcibly medicated, but is taking medication voluntarily. He has refused to apply for clemency, but his lawyer has filed a petition on his behalf.

The United Nations Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, adopted in 1984, prohibits the execution of “persons who have become insane”. In recent years, the UN Commission on Human Rights has repeatedly adopted resolutions calling for an end to the use of the death penalty against anyone suffering from any form of mental disorder.

At the sentencing phase of Charles Singleton's trial, no witnesses were called on his behalf, despite their availability to testify about his difficult childhood and intoxication at the time of the crime. His lawyer's entire closing argument was: “Ladies and gentlemen, it's been a long trial. You've sat and listened to the evidence and you've made your decision. I don't believe any one of you would like to take a man's life and I think you will do what's proper. I know you are people of conviction, and if it is required then that's what you'll do. If you don't think it's required, you will not. I know that none of you will make this decision lightly. I have absolutely nothing to say to you in regard to it. I do not envy you having to make the decision. And I trust that you would deliberate now and reach what you feel is proper in this case.”

Charles Singleton was tried in front of an all-white jury for the murder of a white woman. At least one in five of the 300 African Americans executed in the USA since 1977 were tried in front of all-white juries. Eighty per cent of the more than 880 people put to death since 1977 were convicted of crimes involving whites, even though whites and blacks are the victims of murder in almost equal numbers. Race of murder victim has consistently been shown to be a factor in capital sentencing in the USA.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words, using the above information as you see fit:

- expressing sympathy for the family of Mary Lou York;
- opposing the execution of Charles Singleton, whose serious mental illness is not in dispute;
- expressing shock at the Eighth Circuit's decision to allow the execution of an inmate whose likely insanity has been masked by medication, but noting that the Eighth Circuit was sharply divided on whether this execution would violate the US Constitution;
- expressing concern that the all-white jury was presented with no mitigation witnesses;
- noting that the power of executive clemency exists to compensate for the rigidity of the judiciary;
- calling on the governor to commute Charles Singleton's death sentence in the interest of decency and the reputation of the State of Arkansas and the USA as a whole.

APPEALS TO:

Governor Mike Huckabee

Governor's Office, State Capitol Rm 250, Little Rock, Arkansas 72201, USA

Fax: +1 501 682 3597

Email: <http://www.arkansas.gov/governor/staff/index.html>

Salutation: Dear Governor

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

You may also write brief letters (not more than 250 words), suggesting that the execution of Charles Singleton would cause serious damage to the international reputation of Arkansas, to: Letters to the Editor, *Arkansas Business*, Arkansas Business Publishing Group, P.O. Box 3686, Little Rock, AR 72203, USA. **Fax:** +1 501 375 7933. **Email:** info@abpq.com

PLEASE SEND APPEALS IMMEDIATELY.