

19 September 2000

EXTRA 75/00 Death penalty / Legal concern**USA (Virginia) Bobby Lee Ramdass, black, aged 29**

Bobby Lee Ramdass is scheduled to be executed in Virginia on 10 October 2000. He was sentenced to death in 1993 for the murder of Mohammed Kayani during a robbery of a 7-Eleven store on 2 September 1992.

The 7-Eleven robbery occurred during an eight-day crime spree, involving Bobby Ramdass and others, in Fairfax County, Virginia. At two trials in January 1992 and January 1993, he was convicted of robbing a Pizza Hut and a Domino's Pizza, for which he received prison terms. At the third trial, for the 7-Eleven murder, the prosecution used Ramdass's involvement in these and other crimes to argue that he was a future danger to society and should be executed.

During their deliberations, the jury asked the judge: "If the defendant is given life, is there a possibility of parole at some time before his natural death?" Rather than give a straight answer, the judge replied: "You should impose such punishment as you feel is just under the evidence... You are not to concern yourselves with what may happen afterwards." Under Virginia's then "three strikes" laws, a person convicted of three separate crimes of murder, rape, or armed robbery becomes ineligible for parole. The jurors, unaware that Ramdass's third strike meant that he would never get out of prison if they sentenced him to life, voted for death. The defence lawyer reported that three jurors later told him that they would have voted for life if they had known that Ramdass would not be released from prison.

In 1994 the US Supreme Court ruled in *Simmons v. South Carolina* that "where a defendant's future dangerousness is at issue, and state law prohibits his release on parole, due process requires that the sentencing jury be informed that the defendant is parole ineligible". However, the Virginia Supreme Court, which has reversed fewer death sentences than any other state supreme court in the USA, ruled on Ramdass's appeal that *Simmons* did not apply to Bobby Ramdass because of a legal technicality. The Court reasoned that because the judge in the second of the three cases - the Domino's Pizza robbery - had not yet formally signed the jury's verdict in that case when the 7-Eleven jury asked its question on 30 January 1993, technically Bobby Ramdass was not at that moment ineligible for parole. That, the state argued, only occurred 19 days later on 18 February when the Domino's Pizza judge signed the jury verdict.

In 1998 a federal judge, citing *Simmons*, ordered a new sentencing hearing. However, the notoriously conservative 4th Circuit Court of Appeals reversed his decision, deferring to the Virginia Supreme Court's hyper-technical ruling. One of the three 4th Circuit judges dissented: "Splitting hairs when a man's life is at stake is not becoming to a judiciary or a legal system. I do not believe that due process requires or allows such arbitrary results... Ramdass had a constitutional due process right to inform the jury of the wholly accurate information that by the time the sentence they were deliberating was officially entered by the judge [on 6 April 1993], he would be ineligible under state law for parole."

On 23 November 1999 the US Supreme Court stopped Ramdass's execution three hours before it was due in order to examine his *Simmons* claim. On 12 June 2000 it upheld the death sentence. Four of the nine Justices dissented. They

described as an "acute unfairness" the fact that the state had been allowed to use the Domino's Pizza conviction to argue Ramdass's future dangerousness, while simultaneously denying the defence the opportunity to argue that conviction made him ineligible for parole. The dissenting opinion said: "Even the most miserly reading [of *Simmons*] supports the conclusion that [Ramdass] was denied one of the hallmarks of due process in our adversary system, namely, the defendant's right to meet the State's case against him". The dissent continued: "We know this jury thought the information was critical; we know this jury would have recommended life instead of death if it had known that Ramdass was parole ineligible".

Bobby Ramdass's childhood in Washington DC was marked by poverty, abuse and neglect. A psychiatrist has referred to his "unbelievably dysfunctional family which has presented the worst possible role models for him." He was physically abused by his mother's husband, who denied that Bobby was his child. Bobby witnessed his mother shoot her husband (he survived) in an act of self-defence when he attempted to kill Bobby's infant brother. After she and her husband separated, she and her children allegedly lived for a while in a storage bin and stole food to survive. Ramdass's criminal record began at the age of 14. The Kayani murder occurred when he was 20, shortly after his release from a four-year prison term.

In a November 1999 letter to Governor Gilmore, Bobby Ramdass wrote: "You've already heard about all the bad things I've done in the past, and I did rob and murder... But now I'm not the same person I was then. I finally grew up... If I could, I would take all the pain away and change everything I've done. But I can't. All I can tell you is I know the value of life now." He wrote that he wants to help young prisoners avoid his mistakes: "I feel if I can help someone, if just one person, then I may have saved a life... I will do everything in my power if you spare my life to make a difference."

RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in English or your own language, in your own words:

- acknowledging the seriousness of Bobby Lee Ramdass's crimes;
- expressing concern that the state was allowed to use a prior crime to argue for a death sentence, while the defence was denied the opportunity to use the same case to confront the state's argument of future dangerousness;
- expressing concern that Bobby Lee Ramdass's trial jury were left uninformed about its sentencing options, and his appeals under *Simmons* have been unsuccessful because of a legal technicality;
- noting that numerous federal judges have cited the unfairness of this case, and arguing that the power of executive clemency exists to act as a safeguard against inequities caused by the rigidities of the law, as well as to allow for the possibility of rehabilitation;
- urging the Governor to grant clemency to Bobby Lee Ramdass.

APPEALS TO:

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**E-mail: <http://www.state.va.us/governor/govmail.htm> or
governor@gov.state.va.us**

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Salutation: Dear Governor

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

You may also write brief letters of concern (not more than 250 words) to:

- Letters to the Editor, *Richmond Times-Dispatch*, PO Box 85333, Richmond, VA 23293, USA. **Fax: +1 804 775 8090. E-mail: letters@timesdispatch.com**
- Letters to the Editor, *The Washington Post*, 1150 15th Street Northwest Washington, DC 20071, USA. **E-mail: letterstoed@washpost.com**

PLEASE SEND APPEALS IMMEDIATELY