

12 October 1999

Further information on UA 230/99 (AMR 51/144/99, 3 September 1999) - Death penalty / Legal concern**USA (North Carolina) Johnnie Lee McKnight, aged 19**

A psychologist for the defence has found Johnnie Lee McKnight incompetent to stand trial. The defence have therefore filed a pre-trial "motion to determine capacity of defendant to stand trial". The motion was due to be heard on 11 October 1999, but was postponed when the prosecution announced that it would arrange its own assessment of Johnnie McKnight's competency.

Jury selection for Johnnie McKnight's trial is still scheduled to begin on 13 October. However, it is likely that the trial proper, originally due to begin on 18 October, will be delayed while pre-trial motions on the defendant's intellectual capacity and his age at the time of the crime are heard. The defence has filed a motion arguing that the prosecution's pursuit of the death penalty against Johnnie McKnight is illegal under international law because the defendant was 17 years old at the time of the crime. The motion also states that the use of the death penalty against a mentally retarded defendant violates international standards.

The defence team's psychologist, who has worked in the field of learning disabilities for 25 years, found that Johnnie McKnight "has mental retardation and is not competent to stand trial." He found that the defendant's "cognitive, adaptive, perceptual, and emotional functions are very significantly impaired." Furthermore, the psychologist established that "educational records throughout Johnnie's life indicate that his capacity to learn has probably been significantly impaired since birth."

The psychologist's affidavit continues: "The results of this testing strongly suggest that Johnnie Lee McKnight does not adequately possess the fundamental skills required for standing trial on the crimes he is charged with committing... Johnnie appears to have only a very rudimentary understanding of the nature of the courtroom proceedings, and does not even remotely fathom the very serious nature of his situation. At 19 years of age, Johnnie McKnight is little more aware of the subtle implications in courtroom procedures that he would have been at age ten." The psychologist measured Johnnie McKnight's IQ at 53 (an IQ under 70 is considered to be in the mental retardation range).

Earlier, Johnnie McKnight had been examined by two other mental health professionals who also found him to suffer from mental retardation. The teenager was also diagnosed as suffering from mental illness, including auditory hallucinations, for which he remains on medication.

It is now 10 years since the international community formally recognized that the death penalty should not be used against learning-disabled defendants. On 24 May 1989 the United Nations Economic and Social Council adopted resolution 1989/64, which urged member states to "eliminat[e] the death penalty for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution".

In the same year, 1989, the US Supreme Court ruled that the execution of the mentally retarded did not violate the US Constitution. It reached its decision after concluding that there was no "national consensus" against such executions

given that, at the time, only one US state banned them. A decade later, an emerging US consensus is reflected in the fact that 12 of the states which use the death penalty now forbid the execution of the mentally retarded. North Carolina is not one of them.

Johnnie McKnight and a co-defendant, who was 18 at the time of the crime, are accused of killing Rodney C. Perry, 17, Renetta Andrea Brookes, 22, and Joseph Devane Petty, 19. The three were shot on 25 October 1997 in the mobile home of James Williams, 45, who was also shot and wounded.

UA participants had been asked to send letters to the *Fayetteville Observer-Times*. The paper published several of these letters, but on 10 October printed the following: *"And now a word about letters. A reader inquired, not long ago, about a spate of letters decrying a local prosecutor's move to secure the death penalty for accused murderer Johnnie McKnight. The reader wondered if the letters were part of an organized campaign. They were. And they are -- we're getting as many as a dozen a week, from all corners of the globe. Many in English, others, so far, in French, German, Spanish and Japanese. The campaign appears to be orchestrated by Amnesty International, and the letters generally follow the same form. Since we don't publish form letters, or copies of letters to someone else, or participate in orchestrated campaigns, we stopped running them. But it's significant anyway that we've gotten more than 100 of those letters so far, and no sign of them stopping."*

Participants can now stop sending letters to this paper. It is clear, however, that Amnesty International has got its message across. Many thanks to all who sent letters to the paper.

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

- expressing deep concern that Cumberland County still intends to seek the death penalty against Johnnie Lee McKnight in violation of the global ban on the death penalty against those under 18 at the time of the crime;
- noting that almost every country in the world adheres to this principle;
- noting with concern evidence that Johnnie McKnight has serious learning disabilities and pointing out that under international standards the death penalty should not be used against those suffering from mental retardation (you may also note that 12 US states prohibit such use);
- urging that the prosecution drop its pursuit of the death penalty.

APPEALS TO:

The Honourable Margaret R. Russ (prosecuting this case)
 Assistant District Attorney
 117 Dick Street
 Fayetteville, NC 28301, USA

Faxes: + 1 910 678 2949

Tel: + 1 910 678 2915

Salutation: Dear Assistant District Attorney

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

You may also write brief (about 250 words) letters to:

The People's Forum, *Raleigh News and Observer*, PO Box 191, Raleigh, NC 27602, USA. **Faxes: + 1 919 829 4872. E-mails: forum@nando.com**

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 15 November 1999.