

EXTERNAL

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6 February 1997

Further information (2) on EXTRA 154/95 (AMR 51/154/95, 5 December 1995) and follow-up AMR 51/159/95, 15 December 1995 - Death Penalty / Legal Concern

USA (Virginia)

Coleman GRAY

Coleman Gray, black, is scheduled to be executed in Virginia on 28 February 1997. He was sentenced to death in December 1985 for the abduction and murder of Richard McClelland.

The prosecutor at the sentencing phase of Gray's trial reportedly presented information to the jury which linked Gray to other murders with which he had never been charged, and in which Gray reportedly denies he was involved.

In August 1994 a US District Court judge ruled that the sentencing phase of Gray's trial was flawed, and ordered a new sentencing hearing, reportedly stating that Gray had been "ambushed" by the prosecution's introduction of evidence linking him to other murders. However, on appeal to the US Court of Appeal for the 4th Circuit, it was ruled that the evidence presented at the sentencing phase was proper because it gave the jury information about Gray's potential for posing a future danger to society.

On subsequent appeal to the US Supreme Court, Coleman Gray claimed that his rights had been violated because he became aware of the evidence presented against him at the sentencing hearing too late to develop an adequate defence. In rejecting his appeal by a 5 to 4 vote, on 20 June 1996, the court ruled that Gray was improperly asking it to establish a new rule of constitutional law at too late a stage in his appeals. While the US Supreme Court acknowledged that a defendant has a right to know the charges he faces, it said he does not have a right to have advance notice of evidence the state plans to use to prove the charges. In a dissenting opinion, US Chief Justice Ruth Bader Ginsburg reportedly wrote: "There is nothing 'new' in a rule that capital defendants must be afforded a meaningful opportunity to defend against the state's penalty phase evidence."

However, the US Supreme Court ordered a review of the case by the US Court of Appeals for the 4th Circuit, saying it must determine whether Gray may make a separate claim that prosecutors misled him for strategic reasons about the evidence they used at sentencing. The Court of Appeal for the 4th Circuit subsequently rejected his claim and an execution date was scheduled.

BACKGROUND INFORMATION

As of 31 July 1996 there were 53 prisoners under sentence of death in Virginia. Thirty-seven prisoners have been executed in the state under its present death penalty laws. Virginia ranks third in the list of states which have carried out the most executions (Texas is first with 107, and Florida second with 38) since executions resumed in the US in 1977. The most recent person to be executed in Virginia was Ronald Hoke on 16 December 1996. Prisoners in Virginia choose their method of execution from either electrocution or lethal injection.

In Virginia the Governor has sole authority to grant commutations, although he may act on a recommendation for commutation from the state's Board of Pardons and Paroles.

Amnesty International opposes the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment, as proclaimed in the Universal Declaration of Human Rights.

FURTHER RECOMMENDED ACTION: Please make urgent appeals by telephone, telegram, fax, express or airmail letters in English or in your own language:

- expressing concern that Coleman Gray is scheduled to be executed on 28 February 1997;
- urging Governor George Allen to commute Coleman Gray's death sentence;
- expressing concern at reports that the prosecutor at Gray's sentencing hearing presented information to the jury linking Gray to other murders for which he was never charged, and that this information may have influenced the jury's decision to impose a sentence of death;
- explaining your opposition to the death penalty in all cases.

APPEALS TO:

The Honourable George Allen
Governor of Virginia
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Salutation: Dear Governor

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and to diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.