

22 January 1999

Further information on EXTRA 79/98 (AMR 51/90/98, 3 November 1998) and follow-up (AMR 51/95/98, 18 November 1998) - Death Penalty / Legal Concern

USA (California) Jaturun SIRIPONGS, Thai national, aged 43

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Jaturun Siripongs is scheduled to be executed on 9 February 1999. He was sentenced to death in 1983 for the murder of Packovan Wattanaporn and Quach Nguyen during a robbery at Pantai market in Garden Grove, California, in 1981, 18 months after he arrived in the USA from Thailand.

Siripongs came within six hours of execution in November 1998. He had had his final meal when he was granted a stay by a federal judge on the grounds that Governor Wilson may have denied the prisoner due process when he denied clemency. The judge lifted the stay in early December, noting that Siripongs would have another opportunity to request clemency. That request will be considered by the new Governor who took office in January 1999.

The clemency petition raises doubt about whether Jaturun Siripongs committed the double murder. He does not deny that he took part in the robbery but maintains that an accomplice, whom he refuses to identify because he does not want to shirk his own responsibility in the crime, killed the two people without his consent. There is evidence to indicate that cuts sustained to Jaturun Siripongs' hands during the robbery were caused when he tried to prevent the stabbing of one of the victims, rather than as a result of wielding the knife himself. Siripongs' current lawyers maintain that a witness called by the prosecution at the trial to testify that she was not present at the crime, may have been the accomplice and actual killer. According to the clemency petition, there were fingerprints, blood, and a clump of hair left at the scene of the crime which came from neither the victims nor Jaturun Siripongs. The latter's lawyers are calling for, at the very least, a reprieve so that this and other physical evidence can be scientifically tested.

After his arrest, Jaturun Siripongs should have been informed of his right to contact and seek assistance from the Thai Consulate, as provided by Article 36 of the Vienna Convention on Consular Relations, ratified by the USA in 1969. However, like most of the more than 70 foreign nationals currently on death row in the USA, he was not informed of this right. Access to consular legal expertise and resources, such as interpreters and cultural advice, can be crucial in a capital system where defence representation at trial is often shown to be inadequate.

At Jaturun Siripongs' trial, his defence lawyer reportedly tried to convince the jury that the defendant had not been at Pantai Market at the time of the crime, despite Siripongs telling him that he had participated in the robbery. In addition, the lawyer did not investigate or present any mitigating evidence to the jury concerning Jaturun Siripongs' life in Thailand, marked by a seriously unstable and deprived childhood.

By all accounts, Jaturun Siripongs has been a model prisoner in San Quentin prison where he has continued to study and live by his Buddhist beliefs. Before his previous execution date in November 1998, one prison officer wrote a note to him: "At this time, not knowing what to say, I want you to know that knowing you and having worked for you has enriched my life." Another officer supports clemency "based on his contribution to the safety and well-being of correctional

officers and other inmates." In 1998 a former warden of San Quentin wrote to Governor Wilson "to urge your favourable consideration of clemency", concluding that "clemency will promote the safety and security of the institution". This former warden favours the death penalty and has never previously supported clemency.

Several jurors from the original trial have since expressed reservations about the appropriateness of the sentence. For example, one has appealed for clemency after learning about Siripongs' background for the first time, his "adjustment to prison", and his "questionable defence" at trial.

Suruchai Wattanaporn, the widower of Packovan Wattanaporn, has also stated that, as a Buddhist, he does not seek revenge for his wife's death and in November wrote to Governor Wilson appealing for clemency for Jaturun Siripongs. Neither do the relatives of Quach Nguyen seek his execution. The Thai Government has also appealed for clemency, stating that it is willing to imprison him in Thailand if his death sentence is commuted.

The Governor has sole power to grant clemency. This will be the first request for clemency to come before Governor Davis since he assumed office. There are over 500 people under sentence of death in the state, the largest death row in the USA. Five prisoners have been executed there since 1977, most recently Thomas Thompson on 14 July 1998. In the same period, 508 inmates have been put to death nationwide. The most recent execution, that of Mark Arlo Sheppard, was carried out in Virginia on 20 January 1999.

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

- expressing deep concern that Jaturun Siripongs is scheduled to be executed on 9 February 1999, noting continuing doubts over whether he carried out the killings for which he was sentenced to die;
- expressing sympathy for the relatives of murder victims;
- urging clemency for Jaturun Siripongs;
- noting the widespread opinion that Jaturun Siripongs has been a model prisoner and noting the support for clemency from prison personnel, the relatives of the victims of the crime, and former jurors;
- expressing concern that Jaturun Siripongs' rights under the Vienna Convention on Consular Relations were violated after arrest, and urging that, at the very least, the execution be stayed to assess the impact of this violation on the outcome of his trial and to allow for tests of physical evidence not yet carried out.

**APPEALS TO:**

State Governor

The Honorable Gray Davis

State Capitol Building, Sacramento, CA 95814, USA

**Telegrams: Governor Davis, Sacramento, California, USA**

**Telephone: +1 916 445 2841**

**Faxes: + 1 916 445 4633**

**Salutation: Dear Governor**

**COPIES TO:**

The Honorable Madeleine Albright

Office of the Secretary of State

2201 C Street, N.W., Washington DC 20520, USA

**Faxes: + 1 202 647 1533**

and to diplomatic representatives of USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.**